BLOGS

Passage Based on Constitutional Law – Basic Structure Doctrine for CLAT PG

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The Supreme Court in Kesavananda Bharati v. State of Kerala (1973) held by a 7-6 majority that while Parliament has wide powers to amend the Constitution under Article 368, it cannot abrogate or destroy the “basic structure” of the Constitution. The Court did not exhaustively define basic structure, but identified features such as supremacy of the Constitution, republican and democratic form of government, secular character, separation of powers, and federalism as part of it. The doctrine operates as a limitation on the amending power: an amendment that alters or damages an essential feature of the Constitution to the extent of destroying its identity would be unconstitutional. In Indira Nehru Gandhi v. Raj Narain (1975), the Court struck down Clause 4 of the 39th Amendment, which sought to immunise the Prime Minister’s election from judicial scrutiny, as it violated the basic structure. Subsequently, in Minerva Mills v. Union of India (1980), the Court struck down clauses added by the 42nd Amendment that gave Parliament unlimited amending power, reaffirming that even the amending power itself is part of the basic structure and cannot be made absolute.

Question 1

Parliament passes a constitutional amendment that removes the power of the Supreme Court and High Courts to judicially review constitutional amendments. Based on the passage, which statement is most accurate?

(A) The amendment is valid as Article 368 grants Parliament unlimited amending power.

(B) The amendment is unconstitutional as it destroys the basic structure by eliminating judicial review.

(C) The amendment is valid since judicial review of amendments is not explicitly mentioned as a basic feature.

(D) The amendment is challengeable only if it also removes the secular character of the Constitution.

Correct Answer: Option (B)

Explanation: The passage states that Kesavananda Bharati limits Parliament's amending power and it cannot destroy basic structure. The Court in Minerva Mills specifically struck down the 42nd Amendment's attempt to make Parliamentary power absolute. Judicial review is integral to the supremacy of the Constitution, which is an identified basic feature. Option (A) is directly contradicted by the passage. Option (C) incorrectly treats the listed features as exhaustive. Option (D) introduces an irrelevant precondition.

Question 2

The 39th Amendment sought to exclude the Prime Minister's election from judicial review. The Court struck it down. What principle does this most directly illustrate?

(A) The judiciary has the power to review all governmental actions under Article 32.

(B) Free and fair elections are part of the basic structure, which cannot be abrogated by amendment.

(C) Constitutional amendments require ratification by state legislatures.

(D) Parliament may only amend the Constitution with a two-thirds majority.

Correct Answer: Option (B)

Explanation: The passage explicitly states that the Court struck down Clause 4 of the 39th Amendment in Indira Nehru Gandhi v. Raj Narain because it violated basic structure by immunizing the Prime Minister's election. This illustrates that free and fair elections are a core component of the democratic and republican form of government, a listed basic feature. Options (C) and (D) relate to procedural requirements for amendment, which are not discussed in the passage. Option (A) is a general statement about Article 32, not the principle illustrated by the 39th Amendment case.

Question 3

A constitutional amendment is passed that allows Parliament to override any judicial decision by a two-thirds vote. Under the reasoning in the passage, what is the most likely legal outcome?

(A) It would be valid as Parliament represents the sovereign will of the people.

(B) It would be valid only if ratified by more than half the state legislatures.

(C) It would be unconstitutional as it destroys the separation of powers, a basic feature.

(D) It would be valid since separation of powers is not explicitly protected under Article 368.

Correct Answer: Option (C)

Explanation: The passage identifies separation of powers as part of the basic structure. An amendment allowing Parliament to override judicial decisions would effectively destroy the separation of powers and subordinate the judiciary to the legislature directly violating the doctrine. The passage from Minerva Mills confirms that even the amending power cannot be made absolute. Options (A) and (B) do not engage with the basic structure doctrine. Option (D) is incorrect, the doctrine operates as a judge-made limitation beyond the text of Article 368.

Question 4

Which of the following best describes the relationship between the amending power under Article 368 and the basic structure doctrine?

(A) Article 368 is absolute and the basic structure doctrine is a judicial overreach with no legal basis.

(B) The basic structure doctrine renders Article 368 entirely redundant.

(C) Article 368 grants Parliament broad amending power, but that power is subject to the implied limitation of not destroying basic features.

(D) The basic structure doctrine applies only to fundamental rights and not to other parts of the Constitution.

Correct Answer: Option (C)

Explanation: The passage describes exactly this balance that Parliament has ‘wide powers’ under Article 368, but cannot ‘abrogate or destroy’ the basic structure. This is an implied limitation on an otherwise broad power. Minerva Mills reaffirmed that the amending power itself is part of the basic structure and cannot be made absolute. Option (A) is contrary to the entire premise of the passage. Option (B) overstates the doctrine as ordinary amendments remain valid. Option (D) incorrectly restricts the doctrine, which extends beyond fundamental rights to structural features like federalism and separation of powers.

Question 5

Which Constitutional Amendment Act is known as the “Mini-Constitution” due to its sweeping changes?

1. 24th Amendment Act, 1971
2. 42nd Amendment Act, 1976
3. 44th Amendment Act, 1978
4. 86th Amendment Act, 2002

Correct Answer: Option (B)

Explanation:

The 42nd Constitutional Amendment Act of 1976 is known as the “Mini-Constitution”. Enacted during the national emergency by the Indira Gandhi-led government, it brought the most sweeping and comprehensive changes to the Indian Constitution in history, amending over 40 articles and altering the Preamble