BLOGS

# How to Attempt Questions in CLAT PG Exam?

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## Introduction

One key change that has occurred in the CLAT PG examination pattern is that it is no longer a memory test. The questions, in a comprehension-like pattern, now test an overall understanding of law and knowledge of contemporary legal developments happening in the country.

The 2021 Question Paper had numerous questions on recent case laws, for instance. CLATalogue, in an attempt to help CLAT aspirants get an idea about these recent developments, has started a recent case law series in which monthly lists of new Supreme Court cases are discussed. You can follow this here and here. Some posts contain dedicated case comments on important decisions.

However, while case laws and the law laid down in them take a huge chunk of the paper, questions relating to substantive provisions of law are always considerably present.

This post analyses one such question from the 2021 Question-Paper and answers how to attempt questions in CLAT PG exam.

## Analysis

The following is question from the CLAT PG examination held in July, 2021. While the contents of the passage seem to strictly relate to the Companies Act, 2013, a student not well-versed with the specific provisions of law could also attempt and successfully solve at least 3 of these questions, if not all, using the techniques of interpretation based on a 5-year/3-year study of law.

*A question regarding the scope of Section 212 of the Companies Act, 2013 was considered in Serious Fraud Investigation Office v. Rahul Modi, [2019 SCC OnLine SC 423]. The court observed that the Central Government is empowered under Section 212(1)(c) of the Companies Act, 2013 to order investigation into the affairs of a company in public interest by the Serious Fraud Investigation Office (SFIO).*

*Section 212(3) of the Companies Act provides that the investigation orders are required to be completed within the specified time. If it not so done, what should be the consequences and*

*whether further proceedings or investigations shall be unlawful. The provision has to be seen in the context in which it occurs in the statute.*

*Therefore, the stipulation of Section 212(3) regarding submission of the report 'within such period as may be specified in the order' is not to be taken as mandatory, but as purely directory. On the objective interpretation of the statutory provision, it cannot be said that on the expiry of that period the mandate in favour of SFIO must come to an end. If it was to come to an end, the legislation would have contemplated certain results thereof.*

*In the absence of any clear stipulation, an interpretation that with the expiry of the period, the investigation must come to an end, will cause great violence to the scheme of legislation and with the expiry of mandate SFIO would also be powerless which would lead to an incongruous situation that serious frauds would remain beyond investigation.*

1. As per the provision of Section 211(3) of the of the Companies Act, 2013, Director of Serious Fraud Investigation Office, shall be an officer not below the rank of a Joint Secretary to the Government of India having knowledge and experience in dealing with matters relating to corporate affairs. The nature of the provision is:

(A) Mandatory

(B) Purely directory

(C) Elective

(D) Non-binding

CORRECT OPTION-A: MANDATORY

- The language mentioned in the question is specific and in the nature of a command. The use of the term "shall" also indicates the mandatory nature of the provision, although it shouldn't be understood to be a fixed rule of interpreting mandatory provisions.

1. Which principle of interpretation has been adopted by the court for the interpretation of Section 212(3) of the Companies Act, 2013?

(A) Literal

(B) Liberal

(C) Strict

(D) Both (A) and (C)

CORRECT OPTION-B: LIBERAL

- This is the kind of question that imports its context from the preceding passage. Specifically:

*Therefore, the stipulation of Section 212(3) regarding submission of the report 'within such period as may be specified in the order' is not to be taken as mandatory, but as purely directory.*

This sentence suggests a liberal interpretation taken by the Court. If literal interpretation was taken up, the Court would take the provision as mandatory, and not simply directory. However, this conclusion presupposes an understanding of the general rules of interpretation which law graduates are required to be aware of.

1. The court has considered that the investigation beyond the time prescribed in the order of investigation shall be:

(A) Void

(B) Valid

(C) Irregular

(D) Unconstitutional

CORRECT OPTION-B: VALID

- This follows from the previous question in which "within such period as may be prescribed…" was understood to be liberally interpreted. In cases of merely directory provisions, as is this one (see passage), noncompliance doesn't lead to invalidity.

[Key terms/phrases: merely directory, liberal interpretation]

1. As per the given excerpt, a strict interpretation of expression 'within such period as may be specified in the order' will:

(A) Attain the intention of the legislation

(B) Defeat the intention of the legislation

(C) Not prejudice the functions of the Serious Fraud Investigation Office

(D) Both (A) and (C)

CORRECT OPTION-B: Defeat the intention of the legislation.

- This answer comes from the preceding passage as well. Consider this part: “In the absence of any clear stipulation, an interpretation that with the expiry of the period, the investigation must come to an end, will cause great violence to the scheme of legislation and with the expiry of mandate SFIO would also be powerless which would lead to an incongruous situation…”. This specifically suggests that if construed strictly, the objective of the provision would itself be frustrated.

1. Considering the expression of Section 212(6) of the Companies Act, 2013, an offence under Section 447 of the Companies Act, 2013 shall be:

(A) Cognizable

(B) Non-cognizable

(C) Non-bailable

(D) Both (A) and (C)

CORRECT OPTION-D: Both (A) and (C)

- This question requires specific knowledge of the particular offence under consideration, in order to determine the categorization. This requires a memory of the relevant provision.

1. The expression ‘officers and employees’ under Section 212(5) of the of the Companies Act, 2013 denotes:

(A) Existing employees of the company

(B) Person who has been in employment of the company

(C) Persons who are or who have been in employment of the company

(D) Only directors of the company.

CORRECT OPTION-C: Persons who are or who have been in employment of the company

- This question also requires provision-specific knowledge.

## Conclusion

Approaching the question paper with an understanding of the objectives of the Question Paper is key in examinations like these. Some insights can be taken from this video. What is essential here is a proper understanding of law, jurisprudence of developing laws and the ability to interpret a provision/judgment accurately—minding the specific context in which the questions are framed.

One cannot hack into an exam without an acquired understanding of the laws. However, specific memorization of legal provisions isn't essential.

***Finding trouble in tackling comprehension-based questions? Click here to read our advisory piece on improving reading, comprehension and speed.***