BLOGS

Practice Important Legal Reasoning Questions for CLAT 2024

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PASSAGE

A writ of mandamus is a command issued by a court to an authority, directing it to perform a public duty imposed upon it by law. For example, when a body omits to decide something that it is bound to decide, it may be commanded to do so by the writ of Mandamus.

There are some important conditions for issuing a Mandamus. They are as follows:

Legal right: The petitioner must have legal rights; this is a condition precedent. There must be a legally protected and judicially enforceable right before claiming a mandate. And the petitioner's right must be infringed.

Legal duty: The second requirement for a writ of mandamus is the existence of legal duty. The opposite party must have a legal duty to perform, and the duty must be imperative, not discretionary or optional (statutory duty).

Demand and refusal: The legal right should be demanded by the petitioner, and that legal right should be refused by the authority.

Good faith: An application for Mandamus must have been made in good faith. The application will be rejected if it is made to harass the respondent or to carry out personal grievances.

Alternative remedies to the issue Mandamus, there should not be an alternative remedy available to the applicant.

The Supreme Court has the power to issue writs under the Constitution of India, Art. 32.

Art. 32 guarantees every person the right to move the Supreme Court directly for the enforcement of fundamental rights. It provides an inexpensive and expeditious remedy. In Ambedkar's memorable words, 'If I was asked to name any particular article in the Constitution as the most important—an article without which this Constitution would be a nullity—I could not refer to any other article except this one. It is the very soul of the Constitution and the very heart of it.

This provision states that there must be a clear breach of a fundamental right not involving disputed questions of fact. It also states that government policy may not be enforced by writ under the article. With regard to mandamus, Art. 32 states that it may be issued where a fundamental right is infringed upon by a statute. It may be a statutory order or an executive order.

However, according to some decisions, it is discretionary. The aforesaid provision also mentions continuing mandamus, where a mere issue of mandamus would be futile against a public agency guilty of continuous inertia, and thus continuing mandamus' may be issued.

This continuous mandamus has become the most commonly issued mandamus. Although the framework of law clearly states where a mandamus may be issued, the courts have not found it easy in many cases to issue a mandamus, and it has become an important question of law.

1) B wanted to convert his agricultural field into a housing plot as the field had turned barren and no longer yielded any crops. He applied for permission under the appropriate authority. However, the authorities did not respond. When he requested them for the same, the authority failed to respond or give reasonable answers. Can B move a writ of mandamus against the appropriate authority?

a) B can file a writ of mandamus against the appropriate authority as they have failed to perform a public duty that is imposed upon them.

b) B cannot move a writ of mandamus, as if the authorities have not replied, it is imperative that the application has been rejected.

c) The given case does not fulfil the prerequisites to file a mandamus.

d) B can file a writ of mandamus only in the high court of the concerned state.

2) B owned ZXC, a group called ZXC Builders. One A, a poor farmer, was building his house in an area where ZXC wanted to continue with a huge recreational project. However, the farmer had gotten a valid permit for his construction there. Now ZXC

wants to file a writ of mandamus against the order of the farmer's permit. Decide.

a) ZXC can file a writ of mandamus against the order, as they have a fundamental right to do so.

b) ZXC cannot file a writ petition as the required grounds for mandamus are not being met in the given case.

c) ZXC can file a writ of certiorari but not mandamus in the given case.

d) ZXC has to negotiate with the farmer and give him a better plot of land in some other place.

3) How has the passage presented the importance of the writ as a constitutional remedy?

a) The passage highlights the power of the Supreme Court to provide relief to any individual through writs by hearing their claims.

b) The passage has highlighted the importance of writs by stating the words of Doctor BR Ambedkar.

c) The passage does not explicitly provide any detail that highlights the importance of the writ petitions.

d) Both a and b

4) How has the court found to issue and deal with the writ of mandamus according to the passage?

a) The court has found mandamus to be an easy and straightforward writ.

b) The courts have commented that the mandamus is a very important writ that protects the rights of individuals in a straightforward manner.

c) The courts have rarely used the writ of mandamus and avoided using it unless it was deemed to be absolutely necessary.

d) The courts have not found it easy in many cases to issue a mandamus, and it has become an important question of law.

5) Which of the following is not a compulsory condition for issuing a writ of mandamus?

a) The legal right should be demanded by the petitioner, and that legal right should be refused by the authority.

b) There should not be alternative remedies available to the applicant.

c) An application for Mandamus must have been made in good faith.

d) It should be impossible to enter into any negotiation or mediation process.

ANSWERS

1) Option (a)

In the given case, the appropriate authority had a legal duty to duly consider the application of B. All other requisites of mandamus are being fulfilled in the given case; hence, option (a) is correct.

2) Option (b)

In the given case, the legal night of ZXC is not being violated, nor has there been any violation of duty by the authorities. Moreover, there was no bona fide intention from the side of the builders. Therefore, option (b) is the correct answer.

3) Option (d)

Refer to the last paragraph, 7th line onwards. It most meaningfully captures the essence and importance of writ petitions under Article 32 in this passage. Further, the importance of the writs as constitutional remedies is reinstated by Dr. B.R. Ambedkar.

4) Option (d)

Refer to the last two lines of the passage for the correct answer.

5) Option (d)

Option (d) is not a must for filing the writ of mandamus.

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