BLOGS

Passage-Based Questions on Constitutional Law for CLAT PG [Part 2]

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The 2018 Constitution Bench decision held that NCTD is not similar to other Union Territories. The decision elucidates the manner in which the insertion of Article 239AA accorded a sui generis status to NCTD setting it apart from other Union Territories.

The judgment noted that the constitutional entrenchment of a Legislative Assembly, Council of Ministers, and Westminster style cabinet system of government brought into existence the attributes of a representative form of government.

As a consequence, the residents of Delhi have been, through their elected representatives, afforded a voice in the governance of NCTD, while balancing the national interests of Union of India. The majority decision, speaking through Chief Justice Dipak Misra, held:

Thus, NDMC v. State of Punjab, 1997 7 SCC 339 makes it clear as crystal that all Union Territories under our constitutional scheme are not on the same pedestal.

It is perceptible that the constitutional amendment conceives of conferring special status on Delhi. This has to be kept in view while interpreting Article 239-AA.

At the outset, we must declare that the insertion of Articles 239-AA and 239-AB, which specifically pertain to NCT of Delhi, is reflective of the intention of Parliament to accord Delhi a sui generis status from the other Union Territories as well as from the Union Territory of Puducherry to which Article 239-A is singularly applicable as on date. The same has been authoritatively held by the majority judgment in NDMC case to the effect that the NCT of Delhi is a class by itself.

The exercise of establishing a democratic and representative form of Government for NCT of Delhi by insertion of Articles 239-AA and 239-AB would turn futile if the Government of Delhi that enjoys the confidence of the people of Delhi is not able to usher in policies and laws over which the Delhi Legislative Assembly has power to legislate for NCT of Delhi.

Further, the Statement of Objects and Reasons for the Constitution Seventy-fourth Amendment Bill, 1991 which was enacted as the Constitution Sixty-ninth Amendment Act, 1991 also lends

support to our view as it clearly stipulates that in order to confer a special status upon the National Capital, arrangements should be incorporated in the Constitution itself.

The concurring opinion of Justice Chandrachud emphasized the significance of legislative and constitutional history in interpreting Article 239AA. In that context, the judgment notes, having regard to this history and background, it would be fundamentally inappropriate to assign to the NCT a status similar to other Union Territories. Article 239-AA(4) is a special provision which was adopted to establish a special constitutional arrangement for the governance of the NCT, albeit within the rubric of Union Territories.

Having imparted a purposive interpretation to Article 239AA, the judgment underscores that the governance structure which Parliament adopted for NCTD is unique and different from that of other Union Territories. It was held that the constituent power of Parliament was exercised to treat the Government of NCT of Delhi as a representative form of Government. The judgment of the majority held that –

Article 239-A gives discretion to Parliament to create by law for the Union Territory of Puducherry a Council of Ministers and/or a body which may either be wholly elected or partly elected and partly nominated to perform the functions of a legislature for the Union Territory of Puducherry.

On the other hand, Article 239-AA clause 2, by using the word shall, makes it mandatory for Parliament to create by law a Legislative Assembly for the National Capital Territory of Delhi. Further, sub-clause (a) of clause 2 declares very categorically that the Members of the Legislative Assembly of the National Capital Territory of Delhi shall be chosen by direct election from territorial constituencies in the National Capital Territory of Delhi.

[Extract adapted from Government of NCT of Delhi v. Union of India]

Q1. The constitutional significance of Article 239AA lies primarily in the fact that it:

a. Converts Delhi into a full-fledged State

b. Places Delhi on the same footing as all Union Territories

c. Creates a representative government within the Union Territory framework

d. Transfers all executive powers to the Union Government

Q2. The phrase “sui generis status” used for NCT of Delhi signifies that:

a. Delhi is constitutionally indistinguishable from a State

b. Delhi is governed entirely by Parliament

c. Delhi occupies a unique constitutional position distinct from other Union Territories

d. Delhi has absolute legislative autonomy

Q3. The mandatory nature of Article 239AA(2) is reflected in the use of the word:

a. “May”

b. “Ought”

c. “Shall”

d. “Can”

Q4. The constitutional entrenchment of a Legislative Assembly and Council of Ministers in Delhi primarily aims to ensure:

a. Administrative convenience

b. Central supervision

c. Democratic self-governance

d. Judicial independence

Q5. Which of the following best distinguishes Article 239AA from Article 239A?

a. Article 239A applies to all Union Territories

b. Article 239AA mandates a legislature, while Article 239A leaves it to parliamentary discretion

c. Article 239A confers full Statehood

d. Article 239AA abolishes the office of the Lieutenant Governor

Q6. The 2018 Constitution Bench emphasized that treating Delhi like any other Union Territory would:

a. Enhance federal uniformity

b. Promote national security

c. Defeat the purpose of constitutional amendment

d. Strengthen parliamentary supremacy

Q7. The representative character of Delhi’s government primarily flows from:

a. Nomination by Parliament

b. Election of Members of Legislative Assembly

c. Appointment by the President

d. Delegation by the Union Cabinet

Q8. The constitutional scheme for Delhi attempts to balance:

a. Federalism and presidential authority

b. Judicial independence and executive power

c. Democratic governance and national interest

d. Local autonomy and municipal governance

Q9. The purposive interpretation of Article 239AA requires courts to:

a. Restrict legislative powers of Delhi

b. Treat Delhi as a mere administrative unit

c. Give effect to the democratic intent behind the provision

d. Subordinate Delhi's institutions entirely to the Union

Q10. The role of the Lieutenant Governor, after the 2018 judgment, is best described as:

a. Equivalent to a State Governor

b. A parallel executive authority

c. A constitutional functionary bound by aid and advice

d. A representative of Parliament

Q11. Which principle underlies the Court's refusal to equate Delhi with other Union Territories?

a. Doctrine of basic structure

b. Doctrine of constitutional silence

c. Doctrine of constitutional differentiation

d. Doctrine of separation of powers

Q12. The requirement that Delhi's MLAs be chosen by "direct election" reflects:

a. Parliamentary supremacy

b. Democratic legitimacy

c. Judicial oversight

d. Administrative decentralisation

Q13. The judgment implies that excessive control by the Union over Delhi would:

a. Strengthen cooperative federalism

b. Render Article 239AA redundant

c. Enhance efficiency in governance

d. Promote national unity

Q14. The comparison with Puducherry under Article 239A highlights that:

a. Puducherry enjoys greater autonomy

b. Delhi and Puducherry are constitutionally identical

c. Delhi's constitutional status is more entrenched

d. Puducherry has no legislature

Q15. Which earlier decision was relied upon to affirm that "all Union Territories are not on the same pedestal," thereby supporting Delhi's unique status?

a. Rameshwar Prasad v. Union of India

b. NDMC v. State of Punjab

c. SR Bommai v. Union of India

d. State of Rajasthan v. Union of India

Answers with Elaborated Explanations

1. Correct Answer: C – Creates a representative government within the Union Territory framework

Explanation: Article 239AA does not convert Delhi into a State, but it embeds democratic institutions – Assembly and Council of Ministers – within the UT framework, giving Delhi a representative government.

2. Correct Answer: C – Delhi occupies a unique constitutional position distinct from other Union Territories

Explanation: "Sui generis" signifies that Delhi cannot be equated either with States or with ordinary Union Territories. It stands in a constitutionally unique category.

3. Correct Answer: C – "Shall"

Explanation: The use of "shall" in Article 239AA(2) imposes a mandatory obligation on Parliament to establish a Legislative Assembly for Delhi.

4. Correct Answer: C – Democratic self-governance

Explanation: The constitutional design aims to give residents of Delhi a meaningful voice in governance through elected representatives.

5. Correct Answer: B – Article 239AA mandates a legislature, while Article 239A leaves it to parliamentary discretion

Explanation: Article 239A uses permissive language (“may”), whereas Article 239AA makes the creation of a legislature compulsory for Delhi.

6. Correct Answer: C – Defeat the purpose of constitutional amendment

Explanation: Treating Delhi like any other UT would nullify the intent behind inserting Article 239AA, which was to grant special constitutional status.

7. Correct Answer: B – Election of Members of Legislative Assembly

Explanation: Direct elections confer democratic legitimacy and distinguish Delhi’s governance from purely administrative UT models.

8. Correct Answer: C – Democratic governance and national interest

Explanation: The constitutional arrangement balances local self-government with the Union’s interest in the national capital.

9. Correct Answer: C – Give effect to the democratic intent behind the provision

Explanation: A purposive interpretation ensures that Article 239AA operates in harmony with its democratic objectives.

10. Correct Answer: C – A constitutional functionary bound by aid and advice

Explanation: The judgment limits the LG’s independent discretion, aligning the role closer to a constitutional head acting on ministerial advice.

11. Correct Answer: C – Doctrine of constitutional differentiation

Explanation: The Court recognises that the Constitution itself differentiates Delhi from other UTs, requiring a distinct interpretive approach.

12. Correct Answer: B – Democratic legitimacy

Explanation: Direct elections ensure that Delhi’s legislature derives authority from the people.

13. Correct Answer: B – Render Article 239AA redundant

Explanation: Over-centralisation would negate the democratic architecture created by the constitutional amendment.

14. Correct Answer: C – Delhi’s constitutional status is more entrenched

Explanation: Unlike Puducherry, whose legislature depends on parliamentary discretion, Delhi's is constitutionally guaranteed.

15. Correct Answer: B – NDMC v. State of Punjab

Explanation: The 2018 judgment relied on *NDMC v. State of Punjab* (1997) to hold that Union Territories are not constitutionally identical. It affirmed that NCT of Delhi forms a "class by itself," justifying a distinct interpretive approach to Article 239AA.