BLOGS

SAMPLE LEGAL REASONING QUESTIONS

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Read the passage below and answer the questions that follow.

Passage 1

The seminal ruling in **Kesavananda Bharati**, in which the Supreme Court laid down the "basic structure" doctrine on the limits of Parliament's power to amend the Constitution, completes 50 years on Monday.

Over the decades, the basic structure doctrine has been criticized repeatedly — for diluting the principle of separation of powers and undermining the sovereignty of Parliament, and as a vague and subjective form of judicial review.

A scrutiny of the application of the doctrine over the past half-century reveals a telling pattern: although the highest court has invoked "basic structure" sparingly, it has mostly struck down amendments where judicial powers have been curtailed. Consider:

• Since 1973, the year of the Kesavananda Bharati judgment, the Constitution has been amended more than 60 times. In these five decades, the Supreme Court has tested constitutional amendments against the doctrine of basic structure in at least 16 cases.

• In nine of these 16 cases, the Supreme Court has upheld constitutional amendments that had been challenged on grounds of violation of the basic structure doctrine. Six of these cases relate to reservations — including the quota for Other Backward Classes (OBC) and Economically Weaker Section (EWS), and reservations in promotions.

• The Supreme Court has struck down a constitutional amendment entirely just once — The Constitution (Ninety-ninth Amendment) Act, 2014, which established the National Judicial Appointments Commission (NJAC), the body that would have been responsible for the appointment and transfer of judges, replacing the current Collegium system. The amendment was struck down by a five-judge Constitution Bench in 2015 on the grounds that it threatened "judicial independence", which the court ruled was a basic feature of the Constitution.

• In six instances since 1973, including the Kesavananda ruling itself, the Supreme Court has "partially struck down" a constitutional amendment. In all these cases, the provision that was struck down related to the denial of judicial review.

Just one of these six rulings involve an amendment that was not made during the Indira Gandhi era — in Kihoto Hollohan, which dealt with the Tenth Schedule.

Kihoto Hollohan vs Zachillhu And Others (1992): The Supreme Court upheld The Constitution (Fifty-second Amendment) Act that introduced the Tenth Schedule or the so-called "anti-defection law" in the Constitution. The only portion of the amendment that was struck down was the one that stated that the decisions of the Speaker relating to disqualification cannot be judicially reviewed.

Source: [Excerpt taken from *"50 years of Kesavananda Bharati case and its legacy: How Supreme Court has invoked the basic structure doctrine over the years", The Indian Express]*

1. Article 145(3) states that "any case involving a substantial question of law as to the interpretation of the Constitution" must be decided by a Bench of at least ____ judges. Such a Bench is called a Constitution Bench. a. 3 b. 5 c. 7 d. 9
2. Who has the authority to form a Constitutional Law Bench and refer issues to it? a. President of India b. Attorney General of India c. Chief Justice of India d. None of the above
3. The largest constitutional bench of 13 Judge Bench delivered judgement in which of the following case- a. Kesavananda Bhrati Case b. Minerva Mills Case c. Golak Nath Case d. None of the above
4. In which of the following judgements of a Constitutional Bench of the Supreme Court of India was the "rarest of rare" was first laid down? a. Bachan Singh v. State of Punjab b. Santa Singh v. State of Punjab c. Macchi Singh v. State of Punjab d. Jagmohan Singh v. the State of Uttar Pradesh
5. Article 143 of the Indian Constitution defines the conditions in which a constitution bench can be formed. Which of the following points are a part of Art. 143? a. If a case involves a substantial question of law related to the interpretation of the Constitution. b. If a two-judge bench and later a three-judge bench deliver conflicting judgements on the same issue. c. If a three-judge bench delivers a judgement that is different from the judgement delivered by a previous three-judge bench on an issue. d. All of the above

Answers

1. b
2. c
3. a
4. a
5. d

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