

THE CONSTITUTION OF INDIA, 1950

SOLVED PROBLEMS

1. THE UNION AND ITS TERRITORIES [ART. 1 - 4]

FORMATION OF A NEW STATE [ART. 3]

PROBLEM NO. 1

Without obtaining the consent of the particular State, the Union Parliament passed a law under Article 3 bifurcating the State into two States. Discuss its validity of the bifurcation.

ANSWER:

Under Art. 3, a new State may be formed or established in the following ways:-

1. by separation of territory from any State; or
2. by uniting two or more States; or
3. by uniting any parts of States; or
4. by uniting any territory to a part of any State.

The Indian Constitution empowers the Parliament to alter the territory or names, etc. of the States without

their consent or concurrence. It can form new States, and can alter the area, boundaries or names of the existing States by a law passed by simple majority.

The conditions laid down for making of such a law are –

1. no bill for the formation of new States or the alteration of the boundaries or the names of the existing State shall be introduced in either House of the Parliament except on the recommendation of the President.
2. if the bill affects the area, boundaries or names of the States, the President is required to refer the bill to the Legislature of the State so affected for expressing its views within the period specified by the President. The President may extend the period so specified.
3. If the State Legislature to which the bill has been referred does not express its views within the period so specified or extended, the bill may be introduced in the Parliament even though the views of the State have not been obtained by the President.

If the State Legislature expresses its views within the time so specified or extended, the Parliament is not bound to accept or act upon the views of the State Legislature.

PROBLEM No. 2

A bill was introduced in Parliament on the recommendation of the President and after obtaining an opinion from the concerned state legislature regarding division of the state. However contrary to the opinion expressed by the concerned state legislature, parliament passed the law. Decide on the constitutional validity of the law passed by the Parliament.

ANSWER:

As per Art. 3 of the Indian Constitution, a new State may be formed or established in the following ways-

- 1) by separation of territory from any State; or
- 2) by uniting two or more States; or
- 3) by uniting any parts of States; or
- 4) by uniting any territory to a part of any State.

The Indian Constitution empowers the Parliament to alter the territory or names, etc., of the States **without their consent or concurrence**. It can form new States, and can alter the area, boundaries or names of the existing States by a law passed by simple majority.

The conditions laid down for making of such a law are –*First*, no bill for the formation of new States or the alteration of the boundaries or the names of the existing

State shall be introduced in either House of the Parliament except on the recommendation of the President.

Secondly, if the bill affects the area, boundaries or names of the States, the President is required to refer the bill to the Legislature of the State so affected for expressing its views within the period specified by the President. The President may extend the period so specified.

If the State Legislature to which the bill has been referred does not express its views within the period so specified or extended, the bill may be introduced in the Parliament **even though the views of the State have not been obtained by the President**.

If the State Legislature expresses its views within the time so specified or extended, the Parliament is **not bound to accept or act upon the views of the State Legislature**.



2. STATE AND AUTHORITIES
[ART. 12]

PROBLEM No. 3

A State Electricity Board constituted under the Electricity (Supply Act), 1948 had taken action against its employees. They approached the High Court for certain remedies for violation of Fundamental Rights. It was contested by the Board that the Board is not "State" and hence not amenable to fundamental rights. Decide.

ANSWER:

Art. 12 of the Indian Constitution defines the term 'State.' The term 'State' includes the following-

1. The Government and Parliament of India, i.e., Executive and Legislature of the Union.
2. The Government and the Legislature of each State. i.e., Executive and Legislature of States.
3. 'All local or other authorities' within the territory of India.
4. 'All local and other authorities' under the control of the Government of India.

In **Electricity Board, Rajasthan v. Mohan Lal**, AIR 1967 SC 1857, the Supreme Court held that the

expression 'other authorities' is wide enough to **include all authorities** created by the Constitution or Statute on whom powers are conferred by law.

It is not necessary that the statutory authority should be engaged in performing governmental or sovereign function. On this interpretation, the expression '**other authorities**' **includes Rajasthan Electricity Board.**



PROBLEM No. 4

A society registered under the Societies Registration Act, 1860, was running an Engineering college and it was sponsored by the Government of India. The petitioners were denied admission to the college. They have approached the High court for violation of fundamental rights. It was contended by the society that it was not state and hence not amenable to fundamental rights. Decide.

ANSWER:

Art. 12 defines the term 'State' as used in different Articles of Part III of the Constitution. It says that the term 'State includes the following-

1. The Government and Parliament of India, i.e., Executive and Legislature of the Union.