

**State of Meghalaya Higher Judicial Service Examination-2018**

**Time: 2Hours**

**Maximum Marks-100**

**PAPER-III**

Note: the paper comprises of three parts. The candidates are required to answer two questions each from part I and Part II and all questions from part III.

**PART-I**

Q.NO.1 "Custom and law seem to create a dichotomy so far the species of law are concerned, but in reality if custom is looked as an expression of *lex eterna*, the boundaries of both seem to be identical". Explain how far this statement in a given legal order remains inapplicable in so far as its applied aspect is concerned.

Q.NO.2 Austin described "ownership as a right indefinite in point of user –unrestricted in point of disposition –and unlimited in point of duration-over a determinate thing". However, from the middle of the 19<sup>th</sup> century the emphasis began to shift from individual to society necessitating changes in the concept of ownership-Explain

Q.NO.3 The system in India is based on competing inequalities and in order to rationalize it, it's absolutely essential that the legal solutions based on social and economic realities should be worked out by its legal system- Comment

(15X2=30 Marks)

**PART-II**

Q.NO.4 Do you agree with view that by upholding the constitutional legality of the AADHAR project, the Supreme Court effectively approves the role of the state as the arbiter of individual's choice?

Q.NO.5 Discuss critically as to how far the narco analysis , polygraphy and brain finger printing tests of the accused are softer alternatives to the regrettable use of third degree methods by the investigating agencies violating the right against self incrimination and the Convention against Torture and other cruel, inhuman and degrading treatment or punishment 1984?

Q.NO.6 How far do you agree with the view that the striking down by the Supreme Court an amendment made by the Parliament seeking to dilute judicial primacy in the appointment of judges to the higher judiciary, has brought to the fore the serious trust deficit between judiciary and the government?

(15X2=30 Marks)

**PART-III**

- i) What are the hallmarks of a good judgment so that the readers find their way through it easily and quickly? (5 Marks)

- ii) What are the essentials of a judgment in a civil original case under law? (5 Marks)
- iii) Can a judgment in civil original matter be altered or can something be added to it, after it had been signed and pronounced so. Explain the circumstances (5 Marks)
- iv) While writing a judgment on civil original side in a small cause case and a regular suit, what is the difference to be kept in view by the court? (5 Marks)
- v) What are the requirements of a judgment in criminal matters under Chapter XXVII of the Code of Criminal Procedure, 1973? (5 Marks)
- vi) The Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973 have provided sufficient guidelines for writing a judgment. However, these are not exhaustive. How far do you agree with the view that a wide discretion is left with the judges to choose their style of writing, language, the manner of statement of facts, discussion of evidence and the reasons for the decision. (5 Marks)
- VII. How far is it correct to say that a judgment is not written only for the benefit of the parties? It is also written for the benefit of the legal profession in general, other judges and especially for the appellate courts? It is not only for the exercise of an appellate right but also to uphold the intellectual integrity of the system of law, impartiality and logical reasoning? Explain. (10 Marks)