

**MOCK TEST PAPER – 1**  
**INTERMEDIATE (IPC): GROUP – I**  
**PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION**  
**SUGGESTED ANSWERS/HINTS**

**DIVISION A**

1	2	3	4	5	6	7	8	9	10
(d)	(d)	(c)	(a)	(b)	(d)	(c)	(a)	(c)	(a)
11	12	13	14	15	16	17	18	19	20
(a)	(c)	(b)	(b)	(b)	(b)	(c)	(b)	(c)	(b)
21									
(b)									

**DIVISION B**

1. (a) The problem as asked in the question is governed by Section 58 of the Companies Act, 2013 dealing with the refusal to register transfer and appeal against refusal.

In the present case the company has committed the wrongful act of not sending the notice of refusal of registering the transfer of shares.

Under section 58 (4), if a public company without sufficient cause refuses to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer, appeal to the Tribunal.

Section 58 (5) further provides that the Tribunal, while dealing with an appeal made under sub-section (4), may, after hearing the parties, either dismiss the appeal, or by order—

- (a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or
- (b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

In the present case Ms. Receiver can make an appeal before the tribunal and claim damages.

- (b) **Businesses as trustees:** Mahatma Gandhi, the father of the nation, had aptly said that trusteeship provides a means for transforming the present capitalist order of society into an egalitarian one. A business man has to act only as a trustee of the society for whatever he has gained from the society. Everything finally belongs to the society. Society bestows upon business the authority to own and use land and natural resources. In return the society has the right to expect that productive organizations will enhance the general interests of consumers, employees and community.

Business ethics is required to implement the laws of land, customs, expectations of community, principles of morality, etc. The products and services of an organization affect its employees, the community and society as a whole. Business ethics also subserve the management discipline. Business houses may also use their financial and public influence to address social problems like poverty, crime, equal rights, environmental problems, public health and education. Society at large has also come to realize that since businessmen are making profits by using the country's resources, they owe it to the country to work for its development. Sound workplace ethics ensure that a company's employees are highly motivated and identify themselves with their employer.

Following ethical business practices safeguard a company from getting entangled with law enforcement agencies. A reputation for highly ethical behaviour also ensures increased sales and customer loyalty. Certain eco-friendly practices also reduce operation costs. Thus, society derives benefits as well as business prospers when businesses are ethically driven.

- (c) The grapevine becomes active when the following factors are present:
  - (a) Feeling of uncertainty or lack of sense of direction when the organisation is passing through a difficult period.
  - (b) Feeling of inadequacy or lack of self confidence on the part of the employee, leading to the formation of groups.
  - (c) Formation of a coterie or favoured group by the manager, giving other employees a feeling of insecurity or isolation. People operating in such circumstances will be filled with all sorts of ideas and will share them with like minded companions, at whatever level they may be. Mostly they find them at their own level, but other levels are not barred. This type of communication is being seriously studied by psychologists and management experts.

2. (a) **Computation of Salary / Wages:** According to Section 2(21) of the Payment of Bonus Act, 1965 salary and wages means all remuneration other than remuneration in respect of overtime work, capable of being expressed in terms of money, which would if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment, or of work done in such employment and includes dearness allowance, i.e. all cash payment by whatever name called, paid to an employee on account of a rise in the cost of living. But the term excludes:

- (i) Any other allowance which the employee is for the time being entitled to;
- (ii) The value of any house accommodation or of supply of light, water, medical attendance or other amenities of any service or of any concessional supply of food grains or other articles;
- (iii) Any traveling concession;
- (iv) Any bonus including incentive, production or attendance bonus;
- (v) Any contribution paid or payable by the employer to any pension fund or for benefit of the employee under any law for the time being in force.
- (vi) Any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any ex-gratia payment made to him; and
- (vii) Any commission payable to the employee.

It has been clarified in the explanation to the section that where an employee is given, in lieu of the whole or part of the salary or wage payable to him, free food allowance or free food by his employer, such food allowance or the value of such food shall be deemed to form part of the salary or wage for such employee.

In view of the provisions of Section 2(21) explained above, the payment of dearness allowance and value of free food by the employer forms part of salary of Manish while remaining three payments i.e. payment for overtime, commission on sales and employer's contribution towards pension funds shall not form part of his salary.

(b) **Correct:** The success of the business depends very much on fairness and honesty in the business. Fairness and honesty are at the heart of the business ethics and relate to the general values of decision makers. At a minimum, business professionals and persons are expected to follow all applicable laws and regulation. Even then, they are expected not to harm customers, employees, clients or competitors knowingly through deception, misrepresentation, coercion or discrimination.

One aspect of fairness and honesty is related to disclosure of potential harm caused by product use. For *example*, Mitsubishi Motors, a Japanese automaker, faced criminal charges and negative publicity after executives admitted that the company had systematically covered up customer

complaints about tens of thousands of defective automobiles over a 20 year period in order to avoid expensive and embarrassing product recalls.

Another aspect of fairness relates to competition. Although numerous laws have been passed to foster competition and make monopolistic practices illegal, companies sometimes gain control over markets by using questionable practices that harm competition.

Rivals of Microsoft, for *example*, accused the software giant of using unfair and monopolistic practices to maintain market dominance with its Internet Explorer browser.

These aforesaid *examples* show that fairness and honesty pay in the long run; they secure the stability of the business and overall reputation in the business world. Therefore, we may say that fairness and honesty are the pillars of success in the business.

- (c) **Functions of Interpersonal Communication:** Interpersonal communication is important because of the following functions it achieves:

**Gaining Information:** One reason, we engage in interpersonal communication, is to gain knowledge about another individual. We attempt to gain information about others so that we can interact with them more effectively.

**Building Understanding:** Interpersonal communication helps us to understand better what someone says in a given context. Words can mean very different things depending on how they are said or in what context. **Content Messages** refer to the surface level meaning of a message. **Relationship Messages** refer to how a message is said. The two are sent simultaneously, but each affects the meaning assigned to the communication and helps us understand each other better.

**Establishing Identity:** We also engage in interpersonal communication to establish an identity based on our relationships and the image we present to others.

**Interpersonal Needs:** We also engage in interpersonal communication to express interpersonal needs. William Schutz has identified three such needs: inclusion, control, and affection.

- Inclusion is the need to establish identity with others.
- Control is the need to exercise leadership and prove one's abilities.
- Affection is the need to develop relationships with people. Groups are an excellent way to make friends and establish relationships.

3. (a) As per Section 10 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the amount standing to the credit of any member in the fund or of any exempted employee in a provident fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member or exempted employee, and neither the official assignee appointed under the Presidency Town Insolvency Act, 1909, nor any receiver appointed under the Provincial Insolvency Act, 1920, shall be entitled to or have any claim on, any such amount. This protection also applies to provident fund, pension and insurance amount receivable by employee under the scheme.

The amount standing to the credit of the person at the time of his death is payable to his nominees under the scheme or the rules under this Act.

Further, the amount shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or of the exempted employee and shall also not be liable to attachment under any decree or order of any Court.

- (b) The Companies Act, 2013 by virtue of provisions as contained in Section 39 (1) and (2) regulates and restricts the minimum subscription and the application money payable in a public issue of shares as under:

### **Minimum subscription [Section 39 (1)]**

No Allotment shall be made of any securities of a company offered to the public for subscription; unless; -

- (i) the amount stated in the prospectus as the minimum amount has been subscribed; and
- (ii) the sums payable on application for such amount has been paid to and received by the company-

**Application money:** Section 39 (2) provides that the amount payable on application on each security shall not be less than 5% of the nominal amount of such security or such amount as SEBI may prescribe by making any regulations in this behalf.

Further section 39 (3) provides that if the stated minimum amount is not received by the company within 30 days of the date of issue of the prospectus or such time as prescribed by SEBI, the company will be required to refund the application money received within such time and manner as may be prescribed.

In case of any default under sub-section, the company and its officer who is in default shall be liable to a penalty, for each default, of one thousand rupees for each day during which such default continues or one lakh rupees, whichever is less.

Section 40 (3) provides that all moneys received on application from the public for subscription to the securities shall be kept in a separate bank account maintained with a scheduled bank.

- (c) **Corporate Governance:** Simply stated, 'Governance' means the process of decision making and the process by which decisions are implemented. The term corporate governance is understood and defined in various ways. Corporate governance can be defined as the formal system of accountability and control for ethical and socially responsible organisational decisions and use of resources and accountability relates to how well the content of workplace decisions is aligned with the organisations strategic direction. Control involves the process of auditing and improving organisation decisions and actions. Good corporate governance has the following major characteristics:

- (i) Participatory
- (ii) Consensus oriented
- (iii) Accountable
- (iv) Transparent
- (v) Responsive
- (vi) Effective and efficient
- (vii) Equitable and inclusive and
- (viii) Follows the rule of law.

- (d) **Negotiation:** Negotiation occurs when two or more parties either individuals or groups discuss specific proposals in order to find a mutually acceptable agreement. Whether it is with an employer, family member or business associate, we all negotiate for things each day like higher salary, better service or solving a dispute with a co worker or family member. Negotiation is a common way of settling conflicts in business. When handled skillfully, negotiation can improve the position of one or even both but when poorly handled; it can leave a problem still unsolved and perhaps worse than before.

Techniques for Negotiation:

- (a) **Spiraling agreements:** Begin by reaching a minimum agreement even though it is not related to the objectives and build, hit by hit, on this first agreement.

- (b) Changing of position: Formulate the proposals in a different way, without changing the final result.
  - (c) Gathering information: Ask for information from the other party to clarify their position
  - (d) Making the cake bigger: Offer alternatives that may be agreeable to the other party, without changing the terms.
  - (e) Commitments: Formalize agreements orally and in writing before ending the negotiation.
4. (a) (i) According to Section 11 of the Indian Contract Act, 1872, a person who is of the age of majority to the law to which he is subject is competent to enter into any contract. A person who has completed the age of 18 years is a major and otherwise he will be treated as minor. Thus Rajesh who is a minor is incompetent to contract and any agreement with him is void [Mohori Bibi Vs Dharmodas Ghose 1903, 30 Cal, 539 (PC)]. Section 68 of the Indian Contract Act, 1872 however, prescribes the liability of a minor for the supply of the things which are the necessaries of life to him. It says that though minor is not personally liable to pay the price of necessaries supplied to him or money lent for the purpose, the supplier or lender will be entitled to claim the money/price of goods or services which are necessaries suited to his condition of life provided that the minor has a property. The liability of minor is only to the extent of the minor's property. This type of contract is called a Quasi-contract and the right of the supplier/lender is based on the principle of equity. Thus, according to the above provision, Suresh will be entitled to recover the amount of loan given to Rajesh for payment of the college fees from the property of the minor.
- (ii) As per section 41 of the Indian Contract Act, 1872, when a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor. That is, performance by a stranger, accepted by the promisee, produces the result of discharging the promisor, although the latter has neither authorised nor ratified the act of the third party.
- Therefore B can sue A only for ₹ 4000.
- (b) The objectives of the Central Consumer Protection Council in India are to promote and protect the rights of the consumers such as:-
- (i) the right to be protected against the marketing of goods and services which are hazardous to life and property;
  - (ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods/services so as to protect the consumer against unfair trade practices;
  - (iii) the right to be assured, whichever possible, access to a variety of goods and services at competitive prices;
  - (iv) the right to be heard and to be assured that consumers interest will receive due consideration at appropriate terms;
  - (v) the right to seek redressal against unfair trade practices;
  - (vi) the right to consumer education.
- (c) **The Press Communiqué:** The press communiqués are issued when some important government decisions or announcements are made such as cabinet appointments, conclusion of the foreign dignitaries' visits, international agreement, etc. The press communiqué is formal in character. It carries the name of the ministry or department and the place the date at the bottom left-hand corner of the release. Generally, the press is expected to reproduce the press communiqué without any substantial change. No heading or subheading is given on press communiqués.
5. (a) (i) The prescribed particulars of the charge together with the instrument, if any by which the charge is created or evidenced, or a copy thereof shall be filed with the Registrar within 30 days after the date of the creation of charge [Section 77 (1)]. In this case particulars of charge have not been filed within the prescribed period of 30 days.

However, the Registrar is empowered under proviso to section 77 (1) to extend the period of 30 days by another 300 days on payment of such additional fee as may be prescribed. Taking advantage of this provision, MNC Limited, should immediately file the particulars of charge with the Registrar and satisfy the Registrar that it had sufficient cause, for not filing the particulars of charge within 30 days of creation of charge.

There will be no change in the situation if the charge was created on 12th February, 2019.

- (ii) **Notice of Charge:** According to section 80 of the Companies Act, 2013, where any charge on any property or assets of a company or any of its undertakings is registered under section 77 of the Companies Act, 2013, any person acquiring such property, assets, undertakings or part thereof or any share or interest therein shall be deemed to have notice of the charge from the date of such registration.

Thus, the section clarifies that if any person acquires a property, assets or undertaking for which a charge is already registered, it would be deemed that he has complete knowledge of charge from the date the charge is registered.

Thus, the contention of NRT Ltd. is correct.

- (b) **CORRECT:** Inclusion of environmental consideration as a part of corporate strategy improves corporate performance is a correct statement.

Environmental consideration is a part of corporate strategy, which means incorporating environmental issues in the process of developing a product, in new investments and in the organizational set up. A good environmental practice improves corporate performance. In many industries it has been found that environmental friendly practices have resulted in more saving; for example the process of recycling the waste. Thus, environmental considerations play a key role in corporate strategy. Markets of new millennium will be able to create wealth if they respond to the challenges of sustainable development, as unsustainable products will become obsolete.

- (c) A sustainable innovation organisation should have:

- (a) Vision and strategy for innovation
- (b) Culture supporting innovation
- (c) Processes, practices and systems supporting innovation
- (d) Top management team leading to innovation.
- (e) Effective cross-financial teams.
- (f) Empowered employees driving innovation.
- (g) Finding the right balance between bureaucracy and chaos.

6. (a) **Bearer and Order instruments:** An instrument may be made payable: (1) to bearer; or (2) to a specified person or to his order.

An instrument is said to be payable to bearer when it is expressed to be so payable to its bearer or when the only or last endorsement on it is an endorsement in blank.

**An instrument is payable to order**, (1) when it is payable to the order of a specified person or (2) when it is payable to a specified person or his order or, (3) when it is payable to a specified person without the addition of the words "or his order" and does not contain words prohibiting transfer or indicating an intention that it should not be transferable. When an instrument, either originally or by endorsement, is made payable to the order of a specified person and not to him or his order, it is payable to him or his order, at his option.

When an instrument is not payable to bearer (i.e., in case of order instrument), the payee must be indicated with reasonable certainty.

**(b) Alteration of Capital:** Under section 61(1) of the Companies Act, 2013, a limited company having a share capital may, if authorized by its Articles, alter its Memorandum in its general meeting to:

- (i) increase its authorized share capital by such amount as it thinks expedient;
- (ii) consolidate and divide all or any of its share capital into shares of a larger amount than its existing shares

However, no consolidation and division which results in changes in the voting percentage of shareholders shall take effect unless it is approved by the Tribunal on an application made in the prescribed manner.

- (iii) convert all or any of its paid-up shares into stock and reconvert that stock into fully paid shares of any denomination
- (iv) sub-divide the whole or any part of its shares into shares of smaller amount than is fixed by the Memorandum
- (v) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

Further, under section 64, where a company alters its share capital in any of the above mentioned ways, the company shall file a notice in the prescribed form with the Registrar within a period of thirty days of such alteration or increase or redemption, as the case may be, along with an altered memorandum. The memorandum shall be altered by a special resolution and in compliance with other relevant provisions of section 13 of the Companies Act, 2013

**(c) Creating an ethical environment in company:** A sound ethical environment in a company may be created and corporate scandals may be avoided by adopting the following methods:

- (i) Ensuring that employees are aware of their legal and ethical responsibilities.

Some ethical organisations are having policies to train and motivate employees towards ethical behaviour. To start with, such initiation should be from the top. A number of companies in India and abroad are being known for their quality and soundness of their ethics programmes. Companies like Raytheon, Texas Instruments, Wipro are pioneers in establishing ethical environment among the employees enabling them to take ethical decisions.

- (ii) Providing a communication system between the management and employees so that anyone in the company can report fraud and mismanagement without the fear of being reprimanded.

In India, Wipro has introduced a helpline comprising of senior members of the company, who are available for guidance on any moral, legal or ethical issues that an employee of the company may face.

- (iii) Ensuring fair treatment to those who act as whistle blowers:

This is perhaps the most important and sensitive issue. Fair treatment to whistle blowers is a basic necessity to check fraud. Some acts must be appreciated and that appreciation should be extended from within the company rather than outside.

**(d) Indemnity Bond**

Mr. A, S/o Mr. X residing at ....., Mumbai do hereby agree to indemnify Primal Bank for any loss that may occur for seeking re-issue of Deposit Certificates (for a sum of Rs.....) in duplicate. I further declare that personally I have not received the Deposit Certificates issued by the bank for which the bank is claiming that it has already been dispatched.

Date.....

Place: Mumbai

Signature

(Mr. A)