

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL. B DEGREE PROGRAMME-LEVEL 5
LLU5709 ADMINISTRATIVE LAW
FINAL EXAMINATION-2020/2021
DURATION-THREE (03) HOURS

DATE: 15TH SEPTEMBER 2021

TIME:09.30 am-12.30 pm

Answer **FOUR (04)** questions only.

Each question carries **Twenty-Five (25)** marks.

1. Public Utilities Commission which is established under the Public Utilities Commission Act No 40 of 2002 of Masitonia, has the authority to act as the economic, technical and safety regulator for the electricity industry and to protect the public from dangers arising from the generation, transmission, distribution and reliability of electricity supply services in Masitonia. Section 12 of the Act states that upon receipt of an application for a new electricity project; and where the Commission intends to grant the approval, the Commission shall publish a notice of its intention to do so in such manner as the Commission considers appropriate for bringing it to the attention of persons who are likely to be affected by the new electricity project. Section 12(a) further specified that the notice should be issued in three languages.

The Commission granted approval for the new electricity project to erect a high-tension electricity line along the left side of the Katuwala Road in order to supply electricity to 'Park View' hotel. Wimal, Rajendra and Namal are owners of properties that are located along the left side of Katuwala Road. They submitted a petition to the Commission under Section 14 of the Act and claimed that they were not aware of the proposed electricity supply project and it would expose them to a very dangerous situation as it would expose them to the threats of lightning and serious health risk including cancers.

Section 15 of the Act made it mandatory for the Commission to conduct the inquiry regarding any petition within a period of six weeks. And Section 4 of the Act made it mandatory for the Commission in order to place an electric line on or over a street, to obtain permission from the relevant Pradeshiya Sabha. Section 5 of the Act states that the Commission may submit a technical report regarding available alternative route to

the proposed power project as an extra document accompanied by a request to the Pradeshiya Sabha.

They claimed that they came to know that the Commission conducted an inquiry with the participation of a selected few those whom properties that are located along the right side of the Katuwala Road. Further the Commission had arrived at the aforesaid decision without submitting the technical report to the Pradeshiya Sabha.

Based on the above scenario answer the following questions.

- a) Identify the legal issues involving in this question (15 Marks)
- b) Advice the affected parties on suitable remedies (10 Marks)

Your answer should be supported with relevant legal principles and case law.

2. Section 38 (a) of the Land Acquisition Act No 15 of 1978 provided that the Minister may make an order where it becomes necessary to take immediate possession of any land on the ground of any urgency or public purpose at any time after a notice under section 2 is exhibited for the first time in the area in which that land is situated. According to section 39 (1), the Minister may revoke the order if the acquired land has not actually been utilized for any public purpose by a subsequent Order published in the Gazette.

In 2015 the Minister made an Order to acquire a 19 acres land which belonged to Bandara, informing that since the town had an acute shortage of proper facilities for commercial activities it was decided to construct a shopping complex under the town development project. Bandara discovered that, according to the approved town development plan, the total area required for constructing the shopping complex was only 35 perches. Over 18 acres of the remaining vested land have not been utilized for any public purpose in contemplation during the period 2015-2020. In January 2021 Bandara requested from the Minister to make an order retaining only the land actually required for the shopping complex. The Minister had promised to solve this matter within a month. However up to now no steps have been taken to sort out this problem.

Bandara seek your advice as to whether he can take any legal action against the Minister.

Advice Bandara.

Support your answer with relevant authorities.

3. The Commissioner of the Consumer Protection Authority is vested with the power *inter alia* to issue general and specific directions concerning the maximum prices of consumer goods to manufacturers or traders. He is authorized to conduct an inquiry either on his own motion or on receipt of any complaint in writing. The commissioner issued a specific direction specifying the maximum wholesale price of rice in May 2021 considering the situation of the country. The Commissioner received numerous complaints against KK Rice Mill. A manufacturer and wholesale trader alleged that Silva who is the owner of this rice mill refused to sell rice at the specified price and the quality of his production is very low. Subsequently the Commissioner appointed a committee to inquire into the matter. The committee consisted of the Assistant Commissioner and two senior staff members of the Authority. The committee decided to hold an inquiry on 15th July 2021 and issued the charge sheet based on these two allegations. Silva received the charge sheet on 12th July 2021 and since his mother was admitted to the hospital on that day, he requested to postpone the inquiry. However, the committee turned down his request. The committee called for evidence from those who had made allegations against Silva but his request to retain a lawyer was also turned down. The committee alleged that he purchased a Kilo from farmers for 30 rupees which is also below the minimum purchasing price specified by the Authority. On the day of the inquiry, Silva saw that Ruwan who is the owner of the well-known 'Kalani Rice Mill' having a discussion with the Assistant Commissioner in his room before starting the inquiry. The inquiry lasted for only one hour and the committee forwarded its decision to the Commissioner. Based on the findings of the committee the Commissioner suspended the wholesale license of Silva for one year.

Silva who is dissatisfied with the decision of the Commissioner consults you as to whether he could challenge the decision of the Commissioner.

Advise Silva.

Support your answer with relevant authorities.

4. The National Port Authority Act of Newland gives authority to the National Port Authority to make regulations *inter alia* on promotions, transfers and disciplinary matters of the employees of the Port Authority. Section 30 of the Act states that the parties who are dissatisfied with the decision of the Authority may appeal to the Administrative Appeal Court within a period of one month from the date of the announcement of the decision of the Authority. Section 40 of the Act states that all the applications related to promotions should be based on the higher educational qualifications which are listed in the Schedule I of the Act. The Act further states that anyone can apply for

transfers on an island wide basis. The Authority has issued the following regulations with effect from 01st August 2021.

- a) All future appeals should be made to the Minister in -charge as soon as possible and the decision of the Minister would be final and conclusive. (10Marks)
- b) All the applicants should attach the certified copies of the professional qualifications along with their promotion applications. (10Marks)
- c) All future applications for transfers will be restricted to the respective provinces. (05 Marks)

Discuss the validity of the above regulations.
Support you answer with relevant authorities.

5. National Health Act of No 20 2005 empowers the Minister to appoint a National Health Expert Unit (NHEU). This Unit has the power to regulate the import, production, and supply of pharmaceuticals in the country. Section 35 of the Act states that the NHEU is empowered to issue a license to import the drugs only after obtaining an approval from the National Drug Bureau which is a statutory body established under the Act. Section 50 of the Act declares that the NHEU's decision is final and conclusive and cannot be challenged in any court of law

Jayamanna, a registered importer of essential drugs forwarded an application to obtain a license to import Thyroxine tablets. However, the NHEU refused the application on the ground that Thyroxine tablets cannot be categorized as an essential drug without getting approval from the Drug Bureau. After appealing against the decision, the NHEU agreed to issue a license to import another brand of the same drug subject to the condition that he should pay a 15% extra tax of the total value of the quantity imported by him. The NHEU refused to give reasons for their decision.

Jayamanna consults you as to whether he could challenge the decision of the NHEU before a court of law.

Advise him with particular reference to the provisions of the Interpretation Ordinance as amended by the Interpretation (Amendment) Act No 18 of 1972.

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