

A CRITICAL ANALYSIS OF COMPETITION LAW IN INDIA

**A DISSERTATION TO BE SUBMITTED IN PARTIAL
FULFILLMENT OF THE REQUIREMENT FOR THE AWARD
OF DEGREE OF**

MASTER OF LAWS

SUBMITTED BY

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BBD UNIVERSITY

SESSION- 2020-21

CERTIFICATE

This is to certify that the dissertation titled, “**A CRITICAL ANALYSIS OF COMPETITION LAW IN INDIA**” is the work done by **Hitendra Kumar Singh**, under my guidance and supervision for the partial fulfilment of the requirement for the Degree of Master of Laws in School of Legal Studies Babu Banarasi Das University, Lucknow, Uttar Pradesh.

I wish her/his success in life.

Date: 10-07-2021

Place-Lucknow

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DECLARATION

I, **HITENDRA KUMAR SINGH** do hereby declare that this dissertation on “**A CRITICAL ANALYSIS OF COMPETITION LAW IN INDIA**” is the result of the research undertaken by me in the course of LL.M. Programme at BBD University, under the guidance and supervision of **MS. TRISHLA SINGH**.

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Place: Lucknow

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L.L.M. (Corporate and Commercial law)

Session 2020-21

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ABBREVIATION

- 1- CMA – COMPETITION AND MARKET AUTHORITY
- 2- CTC – COMPETITION TRANSITION CHANGE
- 3- CICA – COMPETITION IN CONTRACTING ACT
- 4- CC- - COMPETITION COMMISSION
- 5- COMF- COMPETITIVE
- 6- COMP- COMPILATION COMILATION CMPLATIVLITY
- 7- LF – LOOKNG FOR
- 8- CCI – COMPETITION COMMISSION OF INDIAN
- 9- MRTP ACT – MONOPOLOISTIC AND RESTRICTIVE TRADE PRACTICE UNDER MRTP ACT 1969.
- 10- DG – DIRECTIOR GENERAL

CASES BEFORE THE CCI DURING THE FILE -2009-10 TRENDS ANALYSIS 2014 - 2015

Spending before CCI and about 8.5% of these cases were cases transferred from the MRTP Commission. Approximately 83.1% of the cases were cases where someone approached the CCI and in approximately 4.6% of the cases, CCI has taken cognizance. From 2013 till May 2015, CCI disposed off matters as follows:

- Section 26 (1) – 12 orders in 2013; 13 orders in 2014 and 10 orders in 2015;
- Section 26 (2) – 52 orders in 2013; 83 orders in 2014 and 29 orders in 2015;
- Section 26 (6) – 9 orders in 2013; 4 orders in 2014 and 3 orders in 2015;
- Section 26 (7) – 1 order in 2013;

SECTION 19 – INQUARY IN TO CERTAIN AGREEMENT PUBLISHER EBC COMPETITION ACT 2002

Premium Member device virtual Legal Assistant

Print India vs Spring India Limited and or July 2012 CCI Opposite Party

India Academy of Science (b) India Association for the cultivation of science

Access content by New media platform – A review of the Competition Law Problem by internet Author/ D. European Law Review 2005 - Competition Law European law review February to provide a discussion of the Competition Law issued Press by Access premium content.

Calcutta High Court Ratanlal Bansilal And Others vs Kishorilal Goenka And Others on 18 December, 1992

Equivalent citations: AIR 1993 Cal 144, (1993) 1 CALLT 162 HC, 1993 (1) CHN 307, 97 CWN 227

Author: A K Sengupta

Bench: A Bhattacharjee, A K Sengupta, U C Banerjee, S Ahmed, N K Mitra

ORDER Ajit Kumar Sengupta, J.

1. These two Full Bench References involving interpretation of S. 100 of the Code of Civil Procedure, 1908 as amended, arise out of two several appeals entertained by a Division Bench of this Court. Each of the said appeals is directed against the judgment and decree of the District Court in first appeal reversing the decree for eviction of the sole defendant-tenant in each of the two several suits decreed by the trial court.

2. Kishorilal Goenka, respondent in S.A. No. 354 of 1982 and Satya Narain Goenka, respondent in S.A. No. 355 of 1982 are brothers who had been occupying the second and first floors of the suit property respectively as tenants under separate tenancy.

3. There are three-plaintiffs, who are the appellants herein. The first plaintiff, a Partnership firm, claims to be the owner of the one-half undivided share of the property and the second plaintiff is the owner of the rest half. Initially, the first two plaintiffs filed two several suits jointly for eviction of the respective tenant (the respective respondent) on diverse grounds. The first ground is that they had made unauthorised constructions in the respective parts of the suit property under their tenancy. During the pendency of the suit, the third plaintiff was added and the plaint allowed to be amended because meanwhile the third plaintiff purchased the suit property from the first and second plaintiffs and sought for eviction of the tenants on grounds of reasonable requirements. The trial Court on appreciation of evidence of witnesses and documents passed the decree for eviction finding all the grounds to be valid. The first appeal Court, however, reversed the decree on holding that the first plaintiff, the Partnership firm, is not the owner of the one-half share, but they said share was owned by its partner. Therefore, the notice for eviction was bad. The appeal Court also found that the constructions were not unauthorised and were made with consent of the owners. It further held that the third plaintiff viz. Shankara Hall and Shankara Institute of Philosophy and Culture cannot be said to have reasonable requirement to occupy the whole property for the fulfilment of its objects.

4. It is from that judgment and decree of the first appellate Court that the present appeal has been filed. The gist of the grounds of appeal is that the decision in the first appeal is perverse, the finding of facts being contradictory of evidence on record, based on no evidence and on illegal assumptions and vitiated by irrelevant consideration and, exclusion of relevant materials and erroneous application of law.

5. The Respondents now challenge the maintainability of these second appeals under the provisions of S. 100 of the Code as amended in 1976.

6. Before the Division Bench of this Court presided over by Shamsuddin Ahmed, J. the Respondents-Defendants relied on an earlier decision of the Division Bench of this Court presided over by A.M. Bhattacharjee, J. (as he then was), in *Debokinandan Boobna v. Harasunder Sarkar*, reported in (1988)

1 Cal LJ 278. There it was decided that no second appeal could lie under amended S. 100 of the Code solely on the ground that the finding of the first appellate Court has been arrived at on no evidence or is such as could not be arrived at on the evidence on record by any reasonable man or even on ground of the finding having been arrived at on an erroneous application of law which is, otherwise, settled.

7. However, the Division Bench presided over by Shamsuddin Ahmed, J., hearing the instant appeals on this preliminary question could not persuade itself to share the view taken in Boobna's case (supra) and is inclined to hold that legality of inference on facts is as well justiciable under S. 100 of the Code as a substantial question of law within the meaning of its amended provision.

8. If we go by the decision in Boobna's case (supra) the appeal is not maintainable. The earlier Division Bench in Boobna's case (supra) held that the expression "substantial question of law" as now appearing in the amended S. 100 of the Code should be construed in the light of the tests laid down by the larger Bench of the Supreme Court consisting of five Judges in Sir Chunilal v. Mehta & Sons Ltd. v. Century Spinning and Manufacturing Co., .

9. The tests laid down by the larger Bench of the Supreme Court are in the following terms (at p. 1318 of AIR):--

"The proper test for determining whether a question of law raised in the case is substantial would, in our opinion, be whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so, whether it is either an open question in the sense that it is not finally settled by this Court or by the Privy Council or by the Federal Court or is not free from difficulty or calls for discussion of alternative views. If the question is settled by the highest court or the general principles to be applied in determining the question are well-settled and there is a mere question of applying those principles or that the plea raised is palpably absurd, the question would not be a substantial question of law."

10. According to the reading of that earlier Division Bench of this Court, this passage from the judgment of the Supreme Court clearly shuts out a second appeal to the High Court under amended S. 100, where the grounds therein raise merely the question of perversity of fact-finding or erroneous application of law otherwise settled, since under the amended Section a second appeal involving a "substantial question of law" alone is to be entertained by the High Court.

10.1 The tests of "substantial question of law" as emerging from the said passage determines the scope of the amended S. 100 of the Code, according to the decision in Boobna's case (1988 (1) Cal LJ 278) (supra). For this support was drawn from the observations of a three-Judge Bench of the Supreme Court in Mahindra & Mahindra Ltd. v. Union of India, , to the effect that the tests in Sir Chunilal v. Mehta & Sons Ltd. (supra) apply to determine whether the appeal raises a question of law and a substantial question of law, to be maintainable under amended S. 100, CPC. In the sand

decision in Mahindra & Mahindra Ltd. (supra) the same passage from Sir Chunilal v. Mehta (supra) has been quoted as the authoritative construction of the expression "substantial question of law". The Division Bench in Boobna's case held that the Supreme Court in Mahindra & Mahindra Ltd. (supra) having applied the same tests, which the larger Bench of the Supreme Court had earlier laid down; it is now settled law that the amended S. 100 of the Code does not admit of any second appeal where the fact-finding is challenged on grounds of perversity of the finding of fact or the finding being otherwise vitiated.

10.2 The decision in Mahindra & Mahindra Ltd. (supra) adopting the same tests as laid down in Sir Chunilal v. Mehta (supra) for construing the expression "substantial question of law" in S. 100 was held by that Division Bench as binding.

10.3 Of course, the presiding Judge in Boobna's case (supra) in all fairness mentioned that the declaration as regards the import of the expression "substantial question of law" appearing in amended S. 100 of the Code was not a necessary issue in Mahindra & Mahindra Ltd. (supra). The appeal in Mahindra Ltd. (supra) was one under S. 55 of the Monopolies and Restrictive Trade Practices Act, 1969 (MRTP Act). Section 55 of the MRTP Act, incorporated S. 100 of the Code as it obtained at the commencement of that Act in 1969, i.e. before its amendment. S. 55 being an instance of legislation by incorporation is to continue to be governed by the un-amended S. 100. But, yet the Supreme Court in Mahindra & Mahindra Ltd. (supra) while holding the appeal before it as maintainable under un-amended S. 100 of the Code observed, en passant, that if hypo-theatrically amended Section could apply even then appeal would have been maintainable because the grounds of appeal in the case before it satisfied the tests laid down in the decision in Sir Chunilal v. Mehta (supra).

10.4 The Division Bench in Boobna (1988 (1) Cal LJ 278) (supra) negative the contention that the incidental observation on a hypothesis is an obiter. According to that Division Bench, the Supreme Court in Mahindra & Mahindra Ltd. (supra) not only made a declaration of law as to the scope of and the tests applicable to the present S. 100 of the Code, but also applied the law so declared in deciding the question of maintainability of the appeal before it.

10.5 The Division Bench further held that even if the observation in Mahindra & Mahindra Ltd. (supra) is an obiter, it, being that of the Supreme Court, binds all the High Court's because it is after all not merely an observation but a declaration of law, immaterial that the declaration was not necessary. Being a declaration of law it has the authoritative value in terms of Art. 141 of the Constitution. Thus, the obiter also binds High Courts and resultantly the tests in Sit Chunilal v. Mehta (supra) combined with the declaration in Mahindra & Mahindra Ltd. (supra) should also apply to a second appeal to the High Court under amended S. 100 of the Code. It has binding effect.

10.6 Before the Division Bench that decided Boobna's case (supra), another decision of the Supreme Court (a three-Judge Bench) in Hooghly Jute Mills v. Their Employees, , was cited. In that case the Supreme Court held that the finding of fact reached by the Industrial Tribunal can be subject-matter of appeal as a substantial question of law if there was no evidence to support the finding or the finding was perverse or was such as no reasonable man could arrive at it. The decision was in the context of an appeal under S. 7 of the Industrial Tribunal (Appellate Tribunal) Act, 1950, which allows appeals to the Tribunal only if a substantial question of law is involved. The scope of appeal under S. 7 of that Act is *pari materia* with that under amended S. 100 of the Code.

10.7 However, A. M. Bhattacharjee, J. (as he then was) in Boobna's case (1988 (1) Cal LJ 278) did not consider this decision in Hooghly Jute Mills (supra) as expository of the meaning of the expression "substantial question of law". According to His Lordship, the tests of substantiality of the question of law in Hooghly Jute Mills (supra) are laid down by a three-Judge Bench and, therefore, the tests in Sir Chunilal v. Mehta (supra), being a decision of a larger Bench of five Judges should prevail.

10.8 Again, in Boobna's case (supra) attention of the Court was invited to Budhwanti v. Gulab Chand Prasad, , where the Supreme Court similarly held that the finding of fact when based on assumption and no evidence becomes justiciable in second appeal. But the Division Bench considered the decision to be of no avail because it was a decision of a Bench comprising two Judges. Secondly, it did not in specific terms examine the effect of the amendment.

11. But, the Division Bench presided over by Shamsuddin Ahmed, J., was not in agreement with the decision in Boobna's case (supra) on multiple counts. The first and foremost point of dissent is the equation of the import of the expression "substantial question of law" as appearing in Article 133(1)(a) of the Constitution and Section 100 of the Code. Sir Chunilal v. Mehta (supra) deals with the scope of appeal under Article 133(1) of the Constitution. Article 133(1) of the Constitution after 13th Amendment Act, 1972 requires that an appeal from the High Court to the Supreme Court and the grant of certificate under Article 134A shall require not only that the case involves "substantial question of law" but the substantial question of law must be of general importance as well. In the context of this limiting factor the decision in Sir Chunilal v. Mehta (supra) had to be what it is and should not be followed as the precedent defining the scope of amended Section 100 of the Code.

11.1 Moreover, Sir Chunilal v. Mehta (supra) was a case decided before the amendment of Article 133(1)(a) of the Constitution by Amending Act 1972, or 1973 amendment of Sections 109 and 110 of the C.P.C. Therefore, the Supreme Court in Chunilal's case (supra) had no opportunity to consider the effect of amendment in Article 133(1)(a) of the Constitution and Section 100 of the Code. By implication the Bench holds that the tests in Chunilal (supra) are neither relevant nor of lasting value.

11.2 The Bench also observed that the legislature had in mind different meaning of the expression "substantial question of law" while using it in Article 133(1)(a) of the Constitution, and Sections 109 and 110 of the Code on the one hand and in Section 100 of the Code on the other. Thus, the grounds for entertaining an appeal to the Supreme Court under Article 133(1)(a) of the Constitution and Section 109 of the Code and the grounds on which an appeal lies to the High Court under Section 100 of the C.P.C. were clearly distinguished. An appeal to the Supreme Court, besides being on substantial question of law, has to be at the same time on a question of law to which attaches general importance. So the equation of Section 100 of the Code with Article 133(1)(a) of the Constitution or for that matter Section 109 of the Code is impressive.

11.3 Secondly, the construction of any expression in a Section should be such as harmonises with the rest part of the same legislation. If perversity of fact-finding for irrational or vitiated approaches and capricious assumptions is a total anathema to Section 100, it cannot go hand in hand with Section 103 of the Code, or Order XLI read with Order XLII of the Code. These provisions are clear pointer that the legislature contemplates interference by the High Court in second appeal even on finding of facts where such finding is vitiated. That construction of a provision which pieces together with the totality of the legislative scheme of a particular enactment incorporating the provision is the only construction permissible. No expression in any part of it can be understood de hors the rest of the enactment. If the tests laid down in *Chunilal v. Mehta* (supra) as rigidly interpreted in *Boobna* (1988 (1) Cat LJ 278) (supra) are taken to apply for entertainment of appeals under Section 100 of the Code, the provisions of Section 103 of the Code become nugatory. The same can be said of Order XLII. But Sections 100, 103 and Order XLI, XLII all stand as a range of provisions each being part of a unity of pattern. Those companion provisions predicate the room for the High Court to go into evidence and facts in second appeal. No embargo as inflexible as conceived in *Boone's* case against review of the inference on facts can be thought of.

11.4 The Division Bench presided over by Shamsuddin Ahmed, J., also differed on the question of the authoritative value of obiter of the Supreme Court. It has poignantly referred that the smaller Benches of the Supreme Court have not accepted the obiter in *Mahindra & Mahindra Ltd.* (supra) as binding. Therefore, the obiter cannot bind the High Court.

12. This difference of opinion created difficulties and resulted in the reference of the matter to this Full Bench.

13. In the tradition of judicial system of this country Section 100 of CPC provides for a second appeal as a check against error of judgment at the District Court level, being the first appellate Court. But the facility for second appeal is not an absolute right. The right from the commencement was restricted. As we will see presently, Section 100 before its amendment had three clauses (a), (b) and (c). Nothing short of a question of law could be subject-matter of a second appeal. Clause (a) permitted second

appeal where the first Appellate Court has decided the dispute contrary to law. Clause (b) provided for appeal where the Appeal Court of the first instance failed to determine some material issue of law. Clause (c) dealt with a substantial error of law or defect in the procedure adopted causing possible error or defect in the decision of the case upon the merits. This Clause (c) earned infamy as it had allegedly permitted litigants to degrade the High Court into a Court of first appeal because Clause (c) would be satisfied if the party appealing could show a substantial error or defect in the procedure adopted possibly affecting the decision on merits. Clause (c) was too widely worded and the litigants had successfully crafted their grounds to assail the decision on facts in second appeal, contrary to the intent and purpose of second appeal which is based on the fundamental principle that there should not be more than one appeal on a question of fact.

14. One may wonder if there has been a substantial error or defect in the procedure or the process of adjudication and the same affects the soundness of the decision, how its correction by the High Court could bring mischief. Rather, mischief would arise from passivity of the High Court. It would tend the judicial system to discredit if miscarriage of justice has to go un-remedied. Perhaps exception can be taken if the High Court hastens to re-evaluate evidence to examine the soundness of the decision on fact on each such complaint of procedural error, howsoever, inconsequential. It may be unwholesome and against public interest in that justice shall elude the successful party but economically weak. Whether the trend of judicial history justifies such fears is a question that does not belong here. But a view, though in minority, gained ground that the inference on fact should not be interfered with in second appeal. Even before the amendment there had been a few decisions that held that under Section 100 (unamended) the High Court has no jurisdiction to entertain a second appeal on the ground of an erroneous finding of fact, however, gross or inexcusable the error may seem to be (See: Durga Chowdharin v. Jawahir, (1891) ILR 18 Cal 23 (PC)).

1)AUTHOR A SARKAR Bench Sarkar A. k

Hridas and another's Vs state of west Bengal and another's on 16 March 1964

(1) Equivalent citation on 1964 Air 1173 , 1964 sct (7), 237

Author: A Starker Bench : sarkar A. k

Harridans and Another's Vs state of West Date 16/3/1964

The appellants were ordered to proceed against under 193 , 199 and 211 of the Indian Penal code 1860 . they appealed to this court against that order under certificate granted under article 134(1) (c) of the Constitution granted under Art 134(!) (C) of the constitution.

It was contended before this court that for a person to be charged and tried Under s – 211 penal code he must either have instituted a Criminal proceeding or cause such a person with having a committed a criminal offence and since what the appellant is was to intivaate a proceeding for

Committal for Contempt of court they cannot be proceeded cannot be proceeding for committed by falsely changing person with the commission of an offence it does not Intended that the offence must be one which gives raise to criminal proceeding offence is denied by section 40 of the Penal code meaning an offence under the code or under special Law Contained s- 41 as meaning a law applicable to particular subject in , will be seen that an offence under contempt of Court act is an offence with in ambition of section 211 .

The apple ants have by falsely bring a change of Contempt of Court made, them sleeves liable to be preceded against under s – 211 penal code

ABSTRACT

Competition Law and Completion policy correlated with the public Policy .In this Dissertation topic Critical Analysis of Competition law in, Effect of International Trade law and Correlated with Constitutional parameter .what is the Role of Competition Policy and Competition Act 2002 Replace the M.R.T.P ACT 1969. Why Indian Parliament amend the M.R.T ACT 1969 and produce the Competition Act 2002 and latest Competition Act 2009.

Competition Law policy can be seen as just one of breed set of policy tool required to create an efficient market economy and such as Competition Law cannot be considered is an isolated manner. The Law itself never guarantee effectively unless a range other government policies confirm to the basic principles.

LITREATURE REVIEW

Social aspects

Jyoti nisha Bomby base author/writer

Indian Cinema and the Bahujan Spectatorship

Bahujan spectatorship relates to an oppositional gaze and a political strategy of Bahamans to reject the Brahmin cal representation of caste and marginalized communities in Indian cinema. It is also an inverted methodology to document a different sociopolitical Bahujan experience of consuming popular cinema.

“Indians today are governed by two different ideologies. Their political ideal set in the preamble of the Constitution affirms a life of liberty, equality and fraternity. Their social ideal embodied in their religion denies them.” (Narake et al 2003)

This dual imagination of Indian nation, as B R Ambedkar forewarned, finds its manifestation even on the silver screen. India’s popular imagination of its colonial past has been that of a “haloed” history of Indian nationalism. Ambedkar has not been part of this popular imagination, and neither do the politics, history, and social movements of the marginalized. The assertion of the marginalized has hardly made it to the pre- and post-independence Indian cinema. Largely, the image of Indian nationalism in the popular imagination has been that of M K Gandhi, and Ambedkar and his social justice movements against Brahmanism have been absent from the public conscience.

This gaze of “mothering,” silencing, and appropriating the existence of history, knowledge, and symbols of the marginalized communities have been tools employed by the upper-caste film-makers deliberately. Evidently in that process, they have not only capitalized on such discourses, but have also stripped the marginalized characters of their dignity and agency replicating the same hierarchical structures of caste on screen.

Author, feminist, and social activist Bell Hooks (1992) talks about the “traumatic relationship” with “gaze,” and how the gaze informed black parenting and black spectatorship in the United States (US). Her understanding of gaze resonated with my social position, and I began looking through the marginalized history of Buddha, Ambedkar, Jyotirao Phule, Prayer Ramsey, and others. I have observed that the history documented by Eleanor Zelliot, Valerian Rodrigues, and political scientist Christopher Jaffrelot has been markedly different from the popular discourse sanctioned by the state.

This article is a critical reading of the Indian cinema as an institution and a site of ideological production. An “ideological state apparatus” (ISA) is basically a certain number of realities which present themselves to an immediate observer in the form of distinct and specialized institutions, such as religion, education, family, legal system, political domain, trade union, and communications systems (press, radio, and television). Cultural ISAs specifically include literature, art, sports, and cinema. As ISAs are institutions of private domain, cinema functions predominantly by ideology and impacts people at a private level (Althusser: 16–18). Thus, Indian cinema’s trajectory of expression can be traced one way or another to the sociopolitical ideology of the Indian state.

Indian film criticism has covered major sociopolitical themes of reform, including caste and communal representation, women’s identity and sexuality, as part of its analysis vis-à-vis film theory. The popular gaze, although touched upon caste from a periphery, the depth and reason to understand the “politics of caste” have been missing from the popular discourse. In its study of representation of the marginalized women on the screen, the popular discourse remains passive on the politics of caste and its intersection with gender. The question as regards the genesis of patriarchy and the political

quest of a marginalized character on the silver screen remain unexplored. Drawing inspiration from Hooks' "oppositional gaze," the article explores Hollywood cinema from the lens of a spectator of marginalized communities, and analyses the trajectory and politics of caste and marginalized representations in them

In this paper Critical Analysis in Competition law in India . Under this paper Critical Analysis in Competition Law in India . **Competition Commission of India** was established to prevalent the activities of that have an adverse effect on Competition in India. This act extends to whole of India except Jammu and Kashmir

In this Dissertation topic Critical Analysis of competition law in india I code many author and writer and social and Competition Commission filed 2009-2010 case chart and also give the trends Analysis theory of Competition Commission Act 2009, fy cases of 2014 -15 chart and I put the why parliament amend the MRTP ACT 1969 , High level committee report Raghvan Committee report and his consequences, Become the globalisation what is Effect of Indian Economy and present government produce and amend the 40 central Labour code bill and 100 state Labour code bill in Industrial sector the present government produce 4 Social

Security code for benefit of industrial sector . I think present central government discriminate the labour and farmer , Health , Education, issues .My comment on welfare of the state concept issues the present study on competition law in India competition law benefit and loss both.

I give the viswanth Pigali . Faculty of Economics era Indian institute of of Management of Ahmadabad ,Pyal malice , (Associates Professor of Economics University of Delhi)MANAS KUMAR CHAUDHRIEE Antitrust practices Delhi) by internet search . And Completed from Annual Report published by CCI

IN this topic my Hypothesis is based the real condition of Social Structure of India and this **DESSERTATION TOPIC– A CRITICAL ANALYSIS OF COMPETITION LAW IN INDIA.** I use the Doctrinal research Methodology . In this topic I give the many books and Article Related to Role of international Trade law. In this topic I give the very constitutional parameter and social aspect, many cases and judgment of court.

. I think if any international law is not support the public law and public policy then that type of law over looks the maximum people of that country. its meaning by this is the duty of the state and policy maker those who hold the maximum executive and legislative post of the country . our most of the Indian people service class and employment class most of the productive assets is captured like land , money and industry is 2% percent people execution of power in built in state and judicial sector but in other hand international law policy always focus on business thing ,dispute of WTO , WHO , TRIIPS AGREEMENT, MRTP ACT 1969 and competition law 2002 , changes of social security code , Right

curtail by Ruling /Ruler class of -labour farmer , Education and health issue , in other hand Competition commission of India focus the Right perspective of state and public law and Restrictive barrier of Good and sale and tariff impose in that type of goods that of goods not use in largely in Indian people , the developed country like America , Japan always promote or help the health and education policy but i think this is a big failure of Ruling class of India and it. meaning by the commercialization of education sector and state government primary education is vast and poor condition It meaning by the Elide class and Ruling class both are not emphasize the betterment of primary and higher education , it meaning they don't believe the welfare of the state concept of the constitution .

RESEARCH PROBLEM

RESEARCH PROBLEM OF COMPETITION LAW IS DANGEROUS IN INDIA

The underlying position of these who see Competition Law as a danger to Competitiveness is that firm need to be large enough to Complete in International market and any such law would be the creation of large firms. Competition Law is also seen to limit the ability of domestic firms to become internationally Competition because it makes it difficult to coordinate their business policies and strategies with domestic rivals by Agreement Equally, a law directed at the control of mergers also hider such – tragic amalgamations necessary to obtain international Competitiveness . Additionally the risks uncertain and lower profit rates associates with competitive domestic market would prevent domestic firm from engaging in sufficient Rand D innovation and improvement in product quality.

WHAT SOCIAL IMPACT WOULD COMPETITION CREATE

We concentrate upon employment effects. Increasing Competition in a given Sector of the economy will typically raise efficiency and lower prices. In many economics the increasing in efficiency will be achieved by an increase in Labor productivity. Whilst one expects the full in prices to simulate demand and raise employment in the Sector this will typically.

They have never been universally accepted in the Societies most Closely identified with them, nor are their implications by any means so clear and unamigrious that the course to before allowed in particular .situation in self – evident. on me contrary , these values are particularly nature of the governmental structures through which decision are arrived at is critically important for the actual content of these decisions ,

This has therefore been .since earliest times, a continuous concern with articulation of the Institution of the political system, and with the extent to which they have ported those valued that are considered. Central of polity this will typically be offset by the labor productivity effect resulting in

fall sector in sector employment howler the full in prices Stimulates demand in other sector and imperial work suggest that employment in the economy as while will raise .

SOCIAL STRUCTURE

Question-What are the 5 social classes in India ?

Answer – T. B Bottom ore has advances a fourfold discussion of Social Cases Such as the upper class, the middle Class the working class and personality

2 – Economic development has reduced the emphasis on caste (Large Scale ur b animation has demoted the awareness of Cast, as people the awareness of caste, as people up shoulder in bases , train and officer

3 growth of literary and dedication has helped to decrease the belief in caste

Q- Here are six of the most significant?

Brahmin – The highest of all caste and rationally priest or teacher , Brahmin make.

Q-Here are six of the most Significant?

Answer- Brahmin -The highest of all the castes , and traditionally present or teacher , Brahamins make up a small part the India population.

Khatriyaas – Meaning (protectotors) of the gentle people ‘ khatriya were traditionally the milltory class.

- Vasishyaes
- Shudra
- Advasi
- Dalit

RESEARCH PROBLEM OF COMPETITION LAW IN TIME OF COVID 19

Business across the world have been impacted by the global pandemic – covid 19 and measures brought have brought may economics to stand small. The outbreak of the covid19 pandemic has disrupted business globally including, in some cases, the disrupts then selves. Companies around the world prepare to respond to the effects of this pandemic come aware of challenges and opportunities that Competition Law presents.

Business that are expecting significant loss due to reduced revenue may look at cooperation with their competitorors as the one way of overcoming these tough time. On the other hand companies selling

identical/ scare product capitalise. on this situation by increasing prices or building non essential product with the essential one. whilst coordination between competitors (either by way of collimation through contract practices) or imposition of unfair and / or discriminatory prices or condition may seems to an obvious and efficient way to respond to or benefit from the challenges combines that to be mindful of the fact the provision of competition Act 2002 continuous to apply ever during tough time perhaps over more .

MR.S.V.S RAGHVAN COMITEE REPORT RESARCH PROBLEM

Mr. S.VS.VS ARAGHVAN to examine the services of MRTP ACT and adoption of new law called the Indian similar to that in foreign countries . the committee recommended the scrapping of MRTP ACT AND the adoption of a new law called the Indian competition Act 2002 . After passing the Act, there was a unique situation where two Acts were in force for person of two years to deal with pending cases.

Personal views

Social Sector judicial sector Administrative, Educational

Social Issues

In this topic in my personal opinion our society is based on vertical and Heterogeneous

Competition between group of people or companies, firms extra , But in India there is huge difference in Social Structure due to the negligence of education policy,

In India maximum of marginalised society is lived in village Sector ,In village social discrimination in huge level due to unawareness of state policy maker .Because I think Primary education is very important part of upliftment of every society .Our constitutions very good .in the Constitution Article 21 A Right to **Education** – the state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may by law, determine , But in the article 46 provision for early childhood care and education to children below the age of the six.

The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Personal opinion –In my opinion our Constitution concept is welfare of state concept Meaning by Upliftment of marginalized community of the country.

But in practical behaviour . After the independence of the country there is no more change in village area in primary education, I think this is the failure of the policy maker of education policy . In practical manner our primary education institute is very poor condition , in village area our primary

education and technical education institute structure is very poor condition . No one government focus on this issue our politicians only work for his own party and his own interest. I think our politicians interest only his own level and they don't focus the educational policy and execution in practical behaviour . I think this the big failure of executive and judicial level.

I think our constitution provide Article 14 fundamental right , says Equality before law and Equal protection of Law It meaning by In the Article 15 and 1(4) Sub Clauses (2) of Article 29 shall prevent the state from making any special provision for the advancement of any Socially and educationally backward class of citizens or of the schedule Cast and Scheduled tribe but in practical behaviour day by day see in news paper and T,v and social media discrimination in huge level in village due to negligence of judiciary and lack of knowledge and ignorance of administrative level .So this is the black spot of our administration and judicial system.

Health and administrative level ignorance

In my personal opinion WHO AND WTO provide best health and education fund for development of health and primary education but the administrative and middle men and unfairness of villager due to social structure and administrative loo pools the actual beneficiary of the facility of education and health they don't get the benefit of the government policy .

Doctrine of separation of power of Judiciary Doctrine

Regarding the doctrine of separation of judiciary has been given in our constitution. But there are some directive of principle are given in the constitution as in Part 4th Directive principle of state policy and part5 the article 50 Separation of power of Judiciary from executive from executive) of our Constitution is separating the Judiciary from the state shall take steps to separate judiciary from the executive in the public services of the state .

Competition law and role of the public policy

Competition Law and Competition policy can be seen as just one of breed set of policy tool required to create an efficient market economy and such as competition Law cannot be considered is an isolated manner.

Competition policy a New Public Policy for new India

What makes public policy exciting and potentially inventive sphere. It is increased in a diversity of perspectives which challenges is the Contested nature of the public sphere. It is anchored in diversity of perspectives which challenges the dominance of the subject.

India is country full of paradoxes. The elite in the country are forward looking they emphasise the need for deskilling but backward looking institution.

COMPETITION POLICY

Even as it confronted either the like hood of negotiations on Competition policy after the Curricula Ministerial of the WTO , India an translation between it Monopolies and restriction trade (MRTP) ACT and new competition act . This paper undertakes a detailed analysis of various aspects of the situation

SUB CONTENT OF COMPETITION LAW--

DIFFERENT FORMS OF COMPETITION IN MARKET

Before understanding the different forms of competition in the market it is essential to understand which Market is an exchange mechanism that bring together seller and buyers of any commodity of Service.

Large Number of sellers and Buyers identifiable good free entry exist. This form of competition is called 'Perfect Competition the existence very large number seller producing identical goods result in same price for these goods

A single individual producer which share in the market is very smaller cannot influence the market .the degree of Competition (price or onion price) is so low that if can be said that competition is virtually absent here .

Example –**PERFECT COMPETITION IS AN IDEAL SITUATION AND DOES NOT EXISTING PRACTICE BUT A NEAR PERFECT Competition can be seen in the market for vegetables.**

Why competition law in India important given below question and quarry.

ANTI COMPETITION AGREEMENT SECTION 3

1 Creation of barriers to new in heart to the market

2- Driving existing Competitors out the market

3 Foreclosure of Competition by hindering entry in to the market

4 Actual of benefit to consumers

5 Improvements in production or distribution of goods or provisions of services

6promotions of technical Science and economic development by means of production courts distributor of goofs or provision of Services section 3(4) of the act Prohibits in arrangements, exclusive

ABUSE OF DOMINANT POSITION SECTION -4

- 1. Regulatory trade Barriers**
- 2. Local specification policies**
- 3. National procurement policies**
- 4. Adequate distribution facilities**
- 5. Transport Costs**
- 6. Language**
- 7. Consumers prudence's**

- **MERGER**

Extent of Barriers to entry in to the market

2 : : Leave of competition.

3 like hood that the competition would result in the prices 3 Combination and sustainably increase prices or profit margin

4 Extent of effective competition likely to Sustain in a market

5 Extant of effective completion likely to sustain in the market

Market share in the relevant market of the persons for Enterprises in a Combination

7 Nature and extent of vertical Integrative in the Market.

Risk of competition Law—

We have considered above the Complementary role that Competition Law with other key Policy are devoted to economic development . we have also stressed at outset that competition Law is to be seen as one aspect of a wide set of policies designed Competition in an economy .

However some risk are associated with the scope and application of Law . Our Dissertation is that if law is framed and applied Correctly the benefits of such Law will outweigh any cost and conflicts with other policies with other polices can be resolving in way which confers the greatest benefits on the economy.

HYPOTHESES

In this topic Critical Analysis Competition Law in India the Terms Competition refers to economic rivalry amongst the suppliers and service providers present in relevant market. Who are engaged in similar trade or provision of Service and policies by the Government for building market Structure.

Healthy Competition amongst the market players lead to maximization of consumer welfare.

COMPETITION POLICY CO-RELATE WITH THE PUBLIC LAW AND COMPETITION POLICY AND STATE LAW

Competition Policy has been defined as those Government measure that directly affect the behavior of enter prices and the structure of industry KHEMNI R.S AND Market A Dutta 1996) proper implementation of Competition Policy leads to promotion of efficiency or person association of person shall enter into any agreement respect of production supply distribution storage accusation or control of goods or provisions of services , which causes or is likely to cause appreciable adverse effect on competition within India

In this topic my focus of Definition of Completion is Contest sports matter or rivalry. The Super Bowl is an Example of Competition . An American Idol is an example of a Completion Rivalry between two or more business Striving of the same customs.

INDIAN PERSPECTIVE PERSONAL OPINION

I Think our society is based on vertical and Heterogeneous Society. When we Create and formed any law we should always focus that type of law correlated with public policy and state subject , Competition Law and Correlate with WTO , W.H. O TRIPSS AGREEMENT , I think WHO is always helped the member of U.N.O , I think India is also the member of WHO but the Indian perspective the middle men of India Misinformation by Administrative level there is big issue of ADMINISTRATIVE change .Because Execution of Law is depend upon Executive Level.

COMPETITION ACT 2002 PASSED BY PARLIAMENT –

In 2002 the Parliament of India enacted the Competition Act, replacing the Monopoly and Restrictive archaic Monopoly and Restrictive Trade Practices Act

(Popularly referred to is the MRTP ACT) 1969 , The primary goal of the Act , as Stated in the preamble is keeping in view of the economic development of the country to prevent practices having adverse effect on Competition , to promote and sustain Competition in markets , to products interests of Consumers and to ensure freedom of trade in economic they clearly shows that the total profit in industry charized monopoly is greater than the combined profit of all firms in the industry of case Indian is competition in nature

SOCIAL ASPECTS

The real situation of the country our society is divided into many social and cultural aspect . Our society structure of the society is Heterogeneous and vertical structure. But in other hand our constitution is very good and it is a social document of the Indian citizen of India and also benefit for the backward class of citizen because Article 14 says equality before law and equal protection of law it meaning by in the territory of the India the state shall not discriminate any citizen of India cast gender and religion but in other hand Equal protection of law with in the territory of India if meaning by if the territory of India group of people and Individual person can deprived in Education and social sector then Constitution provide in article 15(4) of Indian constitution the state from making any especial provision for the advancement of Amy socially and education backward class of the citizen and article (29) (2) provider of Indian constitution of minority in special benefit.

How Do We Measure the Role of competition law and Trade between Nations? To evaluate the nature and consequences of its international trade, A nation looks at two key indicators. We determine a country's balance of trade. By subtracting the value of its imports from the value of its exports.

It meaning the education and employment and social security all the matter of state subject matter.

Role of completion act 2002 and 2009 in correlation between international trade law .Both law is promote the business and promote the technical and new laws but I think the Indian society structure is different from another country like America and Japan and Russia but in other hand In India three is much more huge level education and agriculture, employment and socially difference because after the independence of the country no one Government focus the Government Education structure and Education policy and huge level unemployment and Agriculture issue Of curse development of the country the business policy promote by all over world business is very necessary and essential for development and creation of job opportunity but in other hand the government policy maker always focus and never denied the basic principle of the welfare of the state concept with regarding the socially and educationally backward class and marginalised people .The education and industrialist policy , health , agriculture policy all the subject of the state .If any government neglect the government structure and they neglect the welfare of the state concept, and over look the government structure body in education , health and business sector or agriculture sector then our Constitution is totally collapsed and most of the essential and productive assets captured by business lobby .

GOVERNMENT SHOULD FOCUS THE ADMINISTRATIVE CHANGE WITH RIGHT PERSPECTIVE OF CONSTITUTIONAL PARAMETER

I think every law is good . Our constitution is very good, Our Constitution is very good , Our Constitution Concept is Welfare of the State Concept but when we make any law the Execution of Law is depend upon the Administrative Structure and Social Structure if any Law is support and

correlate with the public policy , health policy and education policy then that type of law is not Execute in right perspective then.

COMPETITION ADVOCACY---

SECTION 49 -- The Central Government may in formulating a policy on competition (including review of laws related Competition) or on another matter as the case may be , make a references to the Commission for its opinion on possible effect of such policy on competition making such reference, give its opinion to the Central Government, or the state deems fit)

The opinion given by the commission under sub- section (1) Shall binding upon the Central government or the State Government as the case may be in formulation such policy

3 – The Commission shall take suitable measures for the promotion Competition advocacy, creating awareness and imparting training about competition issues.

INTRODUCTION TO AGREEMENT ON AGRICULTURE

ARTICLE 20

ARTICLE 20 of international Trade law the reforms to be undertaken are set out in the Agreement on agriculture and the individual commitments on agriculture in included in national schedules attached to the Marrakesh protocol . The main elements of the agreement are it s provision there of policy: market accesses, domestic support and exports subsidies . Article 20 of the agreement on future. accordingly, the agreement is mandated for the agreement on future . WTO before the end of 1999 . Thus Agriculture is at the very core of the Seattle Round.

SUBJECT TO THE REQUIREMENT THAT SUCH MEASURES ARE NOT APPLIED IN A MANNER WHICH WOULD CONSTITUTE A MEANS OF ARBITRARY OR UNJUSTIFIABLE DISCRIMINATION BETWEEN COUNTRIES WHERE THE SAME CONDITIONS PREVAIL , OR A DISGUISED RESTRICTION ON INTERNATIONAL TRADE, NOTHING IN THIS AGREEMENT { THE GATT } SHALL BE CONSTRUED .

METHODOLOGY OF THE STUDY

In this topic I give the many example of books and give the CCI case and case law study by internet and guide by Assistant Professor Ms .Trishala Singh.

Methodology of the study is doctrinal (or black Letter) methodology refers to a way of Conducting research which is usually through of as typical legal **Research** - Doctrinal approach to Research will focus on case Law s

The Competition Act, 2002 by the Parliament of India and Governns. INDIAN COMPETITION LAW . It replaced the archaise. The Monopolies and Restrictive Trade Practices Act 1969 .To Prohibit the abuse of dominance in a market, To prohibit acquisitions, To prohibit acquisition, market etc.

STATE OTHERS LEGAL SOURCES

(B) The essential two value collection presents leading article Covering, the Breathe of Comparative competition Law. The set comprehensively examines the theories behind competition Law throes behind the abuse of dominance or monopolization and the vertical restraints of trade , as well as cartels and mergers along with an insight into practice and production by the editor the articles in their collection provide an invaluable window in to scholarly and professional reflection on this diverse subject .

India's economic reforms, started in 1991, have this brought competition in to Indian market and the both in terms of faster economic growth and consumer welfare are clearly visible. For the first time since independence the ordinary Indian consumer has become sovereign and enterprises have to complete of his patronage , particularly in some sectors like telecommunication , aviation , consumers electronics automobiles etc.

The competition commission of India CCI) IS THE STATUTARY BODY Created to 2022 the act is being brought into force in a phrased manner section 3 and section 4 of the act relating to anticompetitive agreement and abuse of dominance

BASIC TOOLS OF DOCTRINAL RESEARCH

Basic tools; the Basis tools of doctrinal legal research, materials these are

- 1 - Statutory material
- 2-Case report
- 3- Standard textbook and reference book
- 4- Legal periodicals
- 5- Parialiamentory Debate and governed reports

Premium Member device virtual Legal Assistant

Print India VS Spring India Limited and or July 2012 CCI Opposite Party

India Academy of Science (b) India Association for the cultivation of science

Access content by new media platform – A review of the Competition Law Problem by primary and secondary sources.

Author/ D. Gerdain European Law Review 2005 - Competition Law

European law review February to provide a discussion of the Competition Law issued Press by Access premium content

COMPETITION LAW NATION LAW UNIVERSITY JODHPUR REPORT

Including Competition Act 2002 of India (hence for the referred as the act) commission of New Delhi available at or in other wards oligopoly is a dilated from monopoly .

Head line of ESR SPECIAL –HOW AMERICAN **Magazine** the texture of America today.

1--A Significant amount of literature has been published on the application of captivation New to premium content resign. **Author D. geradain Europe law Revive 2005**

Competition Law Review February to provide a discussion of their competition Law issued pretended by Access premium content.

Significant amount of Literature has been published on the application of competition rules to premium content resign.

Thesis outline

In this topic Critical Analysis of Competition Law in India in CHAPTER 1 GIVE THE SUMMARY OF DESSERTATION AND OVERVIEW

The Indian Competition Law regime recent regime. It barely four year Since our new Competition Law Competition. Law the Competition Act in may 2002 MRTP was operational Law that regulated Certain aspects of Competition .

The report discuss the legislative history of the Competition Act and Analysis Sailor Jurisprudential trends law enforcement over the period of last year's .This report is divide in to nine parts.Part1 of this Report deals with trends analysis of Cases brought the Competition Commission of India CCI . **Part second of these Report deals with the evolutionary history of the Competition Law in India.**

Part 3rd of focus on MRTP ACT . PART 4TH Of this report focuses on the Competition Law framework envisaged under the Competition .

Part 5th and Part 6th of this report discuss Anti competitive agreements and abuse of dominance , respectively Part 7 and Part 8th of this Report discuss trends in the enforcement of the Competition Act Part 9th of this Report Summarizes Some of the International trends in Competition Law Jurisprudence .. This Report also includes an annexure that provides details, up to February ,2013 , of all the order passed by CCI With respect to the information received by the CCI about alleged violation of SECTION 3 And section 4 of the Competition Act and combination notification field .

NEED FOR PRESENT RESEARCH AND WHY IT IS IMPORTANT

Competition Law that promotes or seeks to Maintain **COMPETITION** by regulating **Anti – Competition** Conduct by Companies **COMPETITION LAW** is implemented through public and private enforcement Since 20th Century Completion Law has become global of the world.

CHAPTER-1

INTRODUCTION

COMPETITION POLICY A NEW PUBLIC POLICY FOR NEW INDIA

What makes public policy exciting and potentially inventive is the Contested nature of the public sphere. It is increased in a diversity of perspectives which challenges the dominance of one subject.

India is country full of paradoxes .The elite in the Country are forward looking they emphasise the need for rescaling but hey conduct all this with backward looking Instruction .In Indian perspective in business, Competition law promote the better atmosphere for small Industries and create In this topic Role of competition law, Restrict the black marketing

DEFITNITION OF ACQUISITION – In this Act, unless the context otherwise requires,

A- Acquisition “ means , directly or indirectly , accruing or agreeing to acquire

B- Share , voting rights or assets of any enterprise :

C- Control over management or control over assets of any enterprise:

D- Agreement “ Includes any arrangement or understanding or action in concept—

1-wether or no such arrangement, understanding or action intended to be enforceable by legal proceeding:

2--Appellate Tribunal” means the national Company Law Appellate Tribunal referred to in sub – section (1) of section 53 A;

3--Chairperson “ means the Chairperson of the Commission appointed under sub section 1 of Section 8

4—Commission means the Competition Commission of India established under sub – section (1) of Section 7

1-Anti Competitive Agreement section 3

2 Abuse of dominant position section 4

3- Combination section 5

Completion Law is the body of legislative on Intended to prevent market Dissertation caused by anti Competitive practices on the part of business

THE COMPETITION ACT 2002, WAS ENACTED BY THE PARLIAMENT OF INDIA AND GOVERNS INDIAN COMPETITION.

It replaced the archaic . The Monopolies and Restrictive Trade Practices Act 1969 (MRTP ACT)

To prevent the abuse of dominance in market to prohibit acquisitions, merger amalgamation etc.

NEED FOR PRESENT RESEARCH AND WHY IT IS IMPORTANT

Competition Law that promotes or Seeks to maintain Competition by regulating anti – Competitive by companies .Competition Law is implemented through public and private enforcement Since 20th century Competition Law has become global.

AND WHY IT IS IMPORTANT

In Indian perspective Competition Act 2002, the Primary goal of the Act as Stated in the Preamble is keeping in view of the economic development of the country to prevent practices having adverse effect on Competition , to promote and Sustain in the preamble is keeping in view of the economic development of the Country to prevent practices having adverse effect on Competition , promote and Sustain Competition in market to protect interest of consumers .

ADVANTAGES OF COMPETITION

Competition drives firms to become more efficient and to offer prices because of the fear that only the fittest will survive utilisation of available resources, Since consumers purchasing power increase as a result of Lower prices

For example

A poor person used by battery all for Rs. 5 each .due to competition the price have come down to Rs. 2 the poor fellow save Rs. 3 which s/he use to by something else.

Way competition

Section (2) Acquisition “A acquisition “means directly, accruing or agreeing to acquire.

2- Share, voting right or assets of any enterprises

Fair competition

This relates to the adoption to in sub-clause

3 Shall not include such discriminatory, Condition or price which may adopted be adopted to meet the competition.

4 technical or scientific, developments relating to goods or services to the prejudice Customer.

SECTION 6 Regulation of combination – No person or enterprises shall in to a Competition which cause or is likely to cause or appreciable adverse effect on competition within the relevant market in India and such a Combination shall be void.

SECTION 9 Selection Committee for chairperson and Members of commission –

The Chairperson and other Members of the Commission shall be appointed by the Central government a panel of names recommended by Selection Committee Consisting of

A The chief justice of India or his nominee chairperson

b- The secretary in the ministry of Law and Justice Member

d Two experts of repute , who have special knowledge of , and professional experience in International trade economics biasness, commerce law , finance accountancy management industry. Public affairs or Competition Law and policy member

SECTION 27 ORDERS BY COMMISSION AFTER INQUIRY IN TO AGREEMENT OF DOMINANT POSITION—

Where after inquiry the Commission find that any agreement referred to in section 3 action an enterprise in a dominate position , is in contravention of section 3 or section 4 as the case may be, if may pass all or any of the following order , namely-

Direct any enterprises or association of enterprise or person or association of persons, as the case may be, involved in such agreement , or abuse of dominant position , to discontinue and not re-enter such agreement or discontinue such abuse of dominant position, as the case may be:

b- impose such penalty, as it may deem fit which shall be not more than ten per cent . of the average of the turnover for the last three preceding financial years, upon each of such person or enterprises which are parties to such agreements or abuse: provided that in case any agreement referred to in section 3 has been entered into by any cartel , the Commission shall provider included in that cartel , a penalty equivalent to three the cartel or ten per cent .of the average of the turnover of the cartel for the last preceding three financial years, whichever is higher,

c award compensation to parties in accordance with the provisions contained in section 34,

d- Direct that the agreements shall stand modified to the extent and in the manner as may be specified in the Oder by the Commission.

e- direct the enterprises concerned to abide by such other orders as the Commission may pass and comply with the directions, including payment of costs ,if any:

f. recommend to the Central Government for the division of an enterprise enjoying dominant position:

g- pass such other order as it may deem fit.

AIM / OBJECTIVE -

An Act to give keeping in view of the economic development of the Country for the establishment of a Commission. of practictces having adverse effect on Competition.

The main Aim/objectives of Competition Law is to per mote economic efficiency using Competition as one of means of assisting the creation of market .The advantages of perfect Competition are threefold.

A locative efficiency – which ensures the effective allocation.

Productive efficiency –which ensure the cost of production are pet at a minimum and dynamic efficiency which promotes innovative practices.

These factors by and large have been a accepted all over the world as the guiding principles for effective implementation of Competition Law.

Definition of Competition Law in India

The Competition Act, 2002 by the Parliament of India and Governs . INDIAN COMPETITION LAW . It replaced the archaise . The Monopolies and Restrictive Trade Practices Act 1969 .To Prohibit the abuse of dominance in a market, To prohibit acquisitions, To prohibit acquisition, market etc.

Competition Law example

Directly or Indirectly , determining purchase o sale prices,(b) imitating or controlling production , market (s) technical development or investment.

(c) Arrangement for the sharing market or sources of production and replaced. The Monopolies and restrictive trade Practices Act 1969.

A core objective of Competition

Law is prohibit firms for engaging in Conduct which will distort the Competitive process and harm competition by for example , preventing firms from including in Anti Competitive firms with a powerful position on a market from abusing their market power.

WHAT IS COMPETITION

The act or process of Competing : rivalry Such as a the effort of two or more parties acting independently to secure the business of a third party offering the most fireable offering the most favarable firms Contractor in Competition for the Contractor provisions of services .

2—Directly or indirectly Engaging in bid rigging or collusive bidding .

MAIN PURPOSE OF COMETITION LAW

A Core objective of Competition Law is to Prohibits firms for engaging in Conduct Which will distort the Competitive process and harm Competition by, example , in Anti Competitive agreements preventing firms with a powerful position on market from abusing their market .

DEFINTION OF COMPETITION LAW

Competition is the body of legislation on Intended to prevent market distortion caused by ANTI Competition Act 2002 was enacted by Parliament of India and governs Indian Competition Law It replaced the archaic . The Monopolies and Restrictive .Trade practices Act and Restrictive, Act 1969 (MRTP) ACT to prohibits the abuse of dominance in market to prohibit acquisition merger amalgamation etc.

INTRODUCTION SUB CONTENT

The Indian Competition Law regime recent regime. It barely four year Since our new Competition Law Competition. Law Competition that become Abbreviation is prior to the operational of the Competition Act in may 2002 MRTP was operational Law that regulated Certain aspects of Competition .

The report discuss the legislative history of the Competition Act and Analysis Sailor Jurisprudential trends law enforcement over the period of last year's .This report is divide in to nine parts.Part1 of this Report deals with trends analysis of Cases brought the Competition Commission of India CCI . **Part second of these Report deals with the evolutionary history of the Competition Law in India.**

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all the order passed by CCI With respect to the information received by the CCI about alleged violation of SECTION 3 And section4 of the Competition Act and combination notification field .

NEED FOR PRESENT RESEARCH AND WHY IT IS IMPORTANT

Competition Law that promotes or seeks to maintain **COMPETITION** by regulating **Anti – Competition** Conduct by Companies **COMPETITION LAW** is implemented through public and private enforcement Since 20th Century Completion Law has become global of the world.

AN ACT PROVIDE , KEEPING IN VIEW OF THE ECONOMIC DEVELOPMENT OF THE COUNTRY ,FOR ESTABLISHMENT OF A COMMISSION TO PREVENT PRACTICSE HAVING ADVERSE EFFECT ON COMPETITION , TO PROMOTE AND SUSTAIN COMPETION .

Market, to protect the Interests of consumers and ensure freedom of trade carried on by market, in India and or incidental there.

AND WHY IS IMPORTANT

In India perspective Competition Law Act 2009 . The Primary goal of the Act as stated in the preamble is keeping in view of the economic development of the country to prevent practice Arriving adverse effect on Competition in market to product interest of consumers.

IMPORTANCE OF COMPETITION POLICY AND LAW IN A LIBERALIZED MARKET ECONOMY

MODEL OVERVIEW –

The proposes of this Modules is to understand the features of Globalisation Liberalization and gearing up Industrial protection /Production and market towards Achieving these goal with the objectives of growth stability the need of the hour is Global Competitiveness , Enhanced investment .technological capabilities , and consumer welfare

Q- WHY COMPETION IMPORTANT IN MARKET ECNOMY?

ANSWER- **Competition** from many different companies and individuals through free enterprise and open **markets** is the basis of the U.S. **economy**. When firms **compete** with each other, consumers get the best possible prices, quantity, and quality of goods and services. ... One **important** benefit of **competition** is a boost to innovation.

Q1: E-TEXT Module ID: 3 IMPORTANCE OF COMPETITION POLICY AND LAW IN A LIBERALISED MARKET ECONOMY Module Overview The purpose of this module is to

understand the features of Globalization, liberalization and gearing up industrial production and market towards achieving these goals with the objectives of growth with stability. Liberalization of the economic policies of the eighties, and the globalization of the development models of the participating countries in the nineties saw the world entering into broad spectrum of changes viewed with the strength of competitive capabilities of the respective domestic markets. The objective of Competition Policy and Law is to sustain such reforms in the collusive world. The need of the hour is Global competitiveness; Enhanced investment; Technological capabilities; and Consumer welfare. Competition policy sets guidelines to the working of the competition in the market with objectives of growth with producers-consumers welfare. The Competition Act, 2002 is satisfactorily employed in the desired direction since then. The Act envisage consumer welfare and small firms' competitive strength vis-à-vis the big corporate giants. The Act embarks on the abuse of dominance; anti-competitive agreements and undesired combinations. Pre-requisites Knowledge on the features of Globalization and consequent liberalization and privatization goals are presumed to be obtained

Objectives To make the students understand the features of globalization and the consequent liberalization of the industrial development and the market. To highlight on the importance of competition policy and law for the regulation of the behavior of the market under liberalization. To make the students to understand the protection and enhancement of competition for the growth and development of the economy.

Keyword

Liberalization of the economic policies of the countries began in the eighties, and the nineties saw the world entering into globalization of the development models of the participating countries. The challenges brought with them a broad spectrum of producer welfare, consumer welfare

Learning outcomes

The purpose of this module is to understand the features of Globalization, liberalization and gearing up industrial production and market towards achieving these goals with the objectives of growth with stability. The Competition Policy and law are intended towards protection and enhancement of competition for consumer and producer welfare and the control and regulation of abuse of dominance, combinations and anti-competitive agreements

2.1 Liberalization and challenges

Liberalization of the economic policies of the countries began in the eighties, and the nineties saw the world entering into globalization of the development models of the participating countries. The challenges brought with them a broad spectrum of changes viewed with the strength of competitive capabilities of the respective domestic markets.

Market oriented reforms became imperative to continue with the objectives of development and growth by the developed and developing countries.

The objective of competition policy and law is to sustain such reforms in the collusive world. The scarcity definition of resource availability vis-à-vis the demands of development and the consumer welfare maximization are the driving forces of production management and market enhancement beyond borders. The paradigm shift of public to private sector growth with its efficiency rationale is sought to find answers to international anti-competitive practices, cross border mergers and acquisitions leading to market dominance and restrictive trade practices. Within the country in the pre-reform era various restraints to healthy competition existed. The License Raj, the state monopoly in infrastructure building, product reservation for small-scale sector, the lackadaisical MRTP Act provisions, the catastrophic

FDI ventures are some of the pitfalls.

The need of the hour is

1. Global competitiveness
2. Enhanced investment
3. Technological capabilities,
4. Consumer welfare.

It is not market protection, but market promotion; not market concentration and market power but market empowerment; not exploitative market but an all encompassing market which are required to be part of the global race.

Accordingly Restraints to healthy competition Catastrophic FDI ventures The License Raj state monopoly in infrastructure building product reservation for small-scale sector lackadaisical MRTP Act provisions

Competitive policy relates to trade comprising of market access, both domestic and international, investment aspects and technology development like the IPRs, and the R &D technology licensing.

The financial and the labor sectors are integral to the whole exercise of empowerment of the economy and form part of the objectives of the competition policy and law in India. Competition policy directly affects the behavior of enterprises and the structure of industry.’ The clear objectives are the balancing of the producers-consumers surplus keeping in mind the macro economic objectives of ‘growth with stability’. Competition law is ordained to prevent any anti-competitive behavior of the firms affecting market access and abuse of market power.

Liberalization alone cannot create a level playing field, both domestic and international, but has to be inextricably supported by competition policy and law. Competition Policy: Competition policy is at the tail end of the body polity of the Government consisting of a whole array of the industrial policy, sectoral growth of the economy, public-private partnership, monetary and fiscal policy, trade-national and international policy, land-labor-capital use policy and monitoring of all the above said. 2.2 Trade liberalization and its effects-a common view Trade liberalization is the cause and effect of globalization. The meeting point of all countries –both developed and developing is trade in goods and services in which the movement of resources (factors of production) is also part of the transactions. Trade between countries is the higher form of market in reciprocity. The players evolve strategies based on different levels of economic development of the participating countries, the competitive entrepreneurship and asymmetric information flow in which the transaction costs are high. The obvious result is exploitation of the market (for resources and goods and of people) of the underdeveloped countries which do not enjoy the economies of scale and whose consumers have no knowledge of consumer rights but live under consumer protection.

There is the possibility of high level of market concentration among the few rich in the domestic front and

Structure of industry behavior of enterprises Government measures

Among the developed over the underdeveloped countries in the global arena. The abuse of dominance is with inherent price elasticity of demand. Higher the degree of price inelasticity higher is the possibility of abuse of dominance. Other issues also arise. Anti-competitive forces may dampen or reverse the benefits of trade liberalization. The complex entry regulations have a negative impact on larger countries and the import restrictions affect the competition in the small countries. The vertical agreements between domestic producers and distributors can effectively restrict market access to foreigners. Sometimes the anti-competitive agreements in the foreign countries may also victimize the domestic producers. As observed in recent times, the MNCs with their access to capital influence the market access due to economies of scale and are better placed in the acquisition game, highlighting the institutional gaps.

The MNCs may dump their Indian partners once they establish themselves in the local market. Under the Open General License (OGL) of product reservation, the foreign firms compete directly with the small firms only. The Vendor development necessary for getting skilled and unskilled labor from the small firms is also denied access due to the OGL. Anti-competitive arrangements are intended to operate as substitute for government-imposed barriers following trade liberalization. These practices that affect market access to imports include domestic import cartels, international cartels that allocate national markets among participating firms, exclusionary abuses of a dominant position, undue obstruction of parallel imports, control over importation facilities, vertical market restraints that

foreclose markets to foreign competitors, certain private standard-setting activities and other anti-competitive practices of industry associates

AIM /OBJECT –

The Rational of free market economy is that the Competitive offers of different suppliers allow the buyers to make the best purchase the motivation of each participant in a free economy is maximize self – interest economy is maximize Self but the result is favorable to Society.

OBJECT –

The main object of Competition Law is to promote efficiency using Competition as one of the means of assisting the creation of market responsive to consumer's preferences. The Advantage fold : Locative efficiency , which ensure that costs of production are kept a minimum , and dynamic efficiency which promotes innovative practices . These factors and large have been accepted all over the world as the guiding principles for effective implementation of completion law .
Competition Commission of India Vs SAIL (2010) 10- SCC744

In this topic Critical Analysis Competition Law in India the Terms Competition refers to economic rivalry amongst the suppliers and service providers present in relevant market. Who are engaged in similar trade or provision of Service and polices by the Government for building market Structure .

Healthy Competition amongst the market players lead to maximization of consumer welfare.

APPLICABILITY-

Provision of Act are attracted only when agreement is entered in to between practices concerned after grant of license. when application is Still pending Competition ac will have no application P.G NARYAN VS UNIOUN OF INDIA (2005)

STATEMENT OF OBJECT AND RESONS

In the purist of globalization, India has responded by open up it economy. Removing Controls and restoring to liberalization. The natural Corollary of this is that the India market should be geared to face competition from within the Country and outside

MONOPOLIES AND RESTRICTIVE Trade Practices act 1969 has become obsolete in Certain respect in the light of International economic development relating more particularly to completion Law and there is a need to shift our focus from cousin monopolies to prompting competition.

CENTRAL GOVERNMENT CONTITUTED AT HIGH LEVEL COMMITTE –

The Central Government Constituted high Level Committee on Competition Policy and Law . The Committee Submitted its report on the 22nd may .2000 to the Central Government. The Central Government Consulted all Concerned including the trade and industry association and the central public.

THE CENTRAL GOVERNMENT AFTER CONSIDERING THE SUGGESTIONS OF THE TRADE AND INDUSTRY AND THE GENERAL PUBLIC DECIDED TO ENACT A LAW COMPUTER

TRENDS ANALYSIS –

From the data available on the website of the CCI , the natural magazine – fair play we wrote that CCI has received a total of 271 cases under Section 19(1) of the Competition act till February 2013 .Brief Analysis the financial year of the CCI FUNCTION IS PROVIDED BELOW . We have also presented information pirating to all the Cases that , have been brought before the CCI UNDER Section 3 4 and 5 of CCI Competition act as Annexure a to this Report

CHAPTER -II

CASES BEFORE THE CCI DURING THE FY – 2009 -10

Description	Information received 19(1)	Cases received from M.R.T.P on transfer	Suo moto category	Reference received from central gov.	Reference received from Central gov	Reference received from local	Total
Nature of pending begnig of the year	NIL	NIL	NIL	NIL	NIL	NIL	NIL
Nature of pending begnig of the year	32	50	NIL	NIL	NIL	NIL	82
Toyal no matter	32	50	NIL	NIL	NIL	NIL	82
No of matter which prima faice violation notice	17	7	NIL	NIL	NIL	NIL	24
As above	5	2	NIL	NIL	NIL	NIL	7
Investigation report received on prima faice matter order for investigation	6	NIL	NIL	NIL	NIL	NIL	6
	NIL	NIL	NIL	NIL	NIL	NIL	NIL

The Indian competition law regime has grown considerably in the last six years ever since the Act became operational in 2009. Prior to the operational of the Competition Act in May 2009, MRTP Act was the operational law that regulated certain aspects of competition.

This Report discusses the legislative history of the Competition Act and analyzes salient jurisprudential trends in competition law enforcement in India since the First Report. This Report is divided into nine parts. Part I of this report deals with the trend analysis of cases brought before the Commission. Part II of this Report deals with the evolutionary history of competition law in India. Part III focuses on MRTP Act, Part IV of this report focuses on the competition law framework envisaged under the Competition Act. Part V and Part VI of this report discuss anticompetitive agreements and abuse of dominance, respectively. Part VII and Part VIII of this report discuss trends in the enforcement of the Competition Act till date and relevant decisions/orders passed by the Commission and COMPAT. Part IX of this report summarizes some of the international trends in competition law jurisprudence. This Report also includes an annexure that provides illustrative details

of orders passed by CCI since the First Report, up to May 2015 in respect of anti-competitive agreements and abuse of dominance (i.e., orders in relation to matters under Section 3 and Section 4 of the Act

5 Nishith Desai Associates 2015 Competition Law in India. A Report on Jurisprudential Trends portals such as Amazon, Snap deal and Flip kart by which the latter are able to offer huge discounts.⁴ In *M/S Jasper InfoTech Private Ltd. v. M/S Kaff Appliances (India) Private Ltd.*⁵, the CCI while examining practices of online trading portals held that prescription of price by e-commerce companies to its dealers and insistence to follow a particular pricing regime is in violation of Section 3(4) (e) read with 3(1). Quantitatively, there may not be a substantial increase in cases filed or disposed off in 2014, qualitatively, CCI has addressed a lot of important issues. Perhaps the most important issue is in public procurement in relation to the power industry, which will be addressed in later sections.

II. Diverse Nature of Informants

As observed in the First and Second Report and discussed below CCI can begin inquiry of the alleged anti-competitive practice either on the basis of information received from private parties or on reference received from the Central or the State Government or by taking *suo moto* cognizance. There has not been much change in the nature of informants and as observed in the previous reports, there is a healthy mix of private individuals, trade associations, chambers of commerce, direct competitors in the market, enterprises engaged in distributing activity for a dominant manufacturer and others. The varied nature of informants and the limited instances of *suo moto* cognizance shows that competition law and its enforcement has permeated significantly across class of informants and various industries.

III. Industries in which Opposite Parties are Engaged

In earlier years, CCI scratched the surface of examining transactions relating to SOEs. In 2013 and 2014, CCI cracked the whip! 2013 concluded with a momentous ruling against Coal India.

In 2013, CCI also gave a green signal to the Jet – Etihad (Jet – Etihad Case). In September 2014, CCI also rendered a landmark ruling on automobile ancillary products and services in the auto industry.

In 2015, CCI penalized automobiles⁹ and pharmaceuticals sector companies involved in anti-competitive activities. CCI till date has examined various issues in industries across the spectrum from those directly affecting consumers (such as real estate, auto ancillaries etc.) to heavy industries (such as cement, steel, coal, defense industry etc.). It is also important to note that CCI has not approached the cases or pursued against these industries with misplaced zeal – approximately 4.6% cases are ones where CCI has taken *suo motto* conzinnence

IV. Complaints Received Against SOEs

2013 and 2014 are probably watershed years for prosecution of SOEs with CCI pursuing regulators such as Institute of Chartered Accountants of India, several SOEs in the power sector, and procurement by the Union Ministry of Railways. In Maharashtra State Power Generation Company Ltd. v. M/s. Mahanadi Coalfields Ltd. & Anr., constitutional mandate for state monopoly was raised by Opposite Parties placing reliance on Supreme Court ruling in Asoka Smokeless Coal (P) Ltd. v. Union of India.

However, this did not preclude 4. Future Group's Koshier Biyani, vendors accuse Flip kart of undercutting to destroy competition, available at Nishith Desai Associates 2015 provided upon request only examination of Coal India's business practices by CCI. A similar order was passed in M/s. Madhya Pradesh Power Generating Company Limited v. M/s. South Eastern Coalfields Ltd. & Anr., (MP Gen Co Case). In these cases, while CCI was alive to regulatory framework and formulation of policy, CCI did not exempt the applicability of the Act to SOEs. Additionally, although cases relating to FSAs and Coal India are in appeal, it does not look like CCI will be changing its approach towards other SOEs

.V. Inquiry, Enforcement and Penalty by the CCI

A material change in enforcement in 2013 - 2014 was introduction of the Competition Bill seeking to confer more powers on the DG towards enforcement and realization of penalties. CCI has passed several orders providing for 'cease and desist' along with orders imposing penalty. To ensure compliance, it was thought fit to confer more powers on the DG. However, the Competition Bill has lapsed and it remains to be seen if it is reintroduced or any further action is taken by the Central Government. CCI has imposed billions of Rupees of penalty – Rs. 25 Billion in Shamsheer Kataria v. Honda Sael Cars Ltd. & Ors. (Automobiles Case), Rs. 17 billion in M/s. Maharashtra State

Power Generation Company Ltd. v. M/s. Mahanadi Coalfields Ltd. & Anr., Maharashtra State Power Generation Company Ltd. v. M/s. Western Coalfields Ltd. & Anr. and M/s. Gujarat State Electricity Corporation Limited v. M/s. South Eastern Corporation Limited & Anr. (Coal India Case) and Belaire Owners' Association vs. DLF Limited & Ors.¹⁵ being notable instances. While in some cases, appellate courts have granted stay, pending disposal of the appeal, in other cases, the appellate court has refused stay on recovery of penalty.

However, an area of the Act where application is not certain and CCI adjudication lacks clarity is imposition of penalty. CCI orders imposing penalty do not have a discernible rationale which provides a legal or economic basis for imposition of a particular percentage of penalty. This issue was addressed by COMPAT in M/s. Excel Crop Care Limited v. Competition Commission of India & Ors. It is important to note that COMPAT accepted the ruling on merits of CCI in this case and modified the CCI order on imposition of penalty. In this case, COMPAT held that it was important to articulate

the reasons as to why a particular percentage of penalty was being imposed and secondly, what would be the relevant turnover for such imposition. In this case, COMPAT held:

While arriving at a conclusion about the relevant turn over it would be open to the authorities like CCI to rely on the general principles expressed in those guidelines regarding the method of calculation etc. However, it should be an endeavor of the authorities to apply those principles not mechanically or blindly but after carefully considering the factual aspects. Such factual aspects could include the financial health of the company, the necessity of the product, the likelihood of the company being closed down on account of unreasonable harsh penalty etc. At the same time the authorities would be well advised in considering the general reputation and the other mitigating factors like the first time breaches as also the attitude of the company. This list is certainly not exhaustive and the authority can and should consider all the relevant factors while considering the relevant turn over as also considering the extent of penalty on that basis. It should also be reiterated at this stage that there should be proportionality in the award of penalty, which principle has been enshrined in several judgments of the Apex Court. Two landmark cases on imposition of penalty relate to failure on the part of opposite party to provide information. In *Re: Consim Info Private Limited v. Google Inc., USA and Google India Private Limited* and

Case No. 5 of 2013, along with Case No. 7 of 2013, M/s. Madhya Pradesh Power Generating Company Limited v. M/s. South Eastern Coalfields Ltd. & Another.

Case No. 37 of 2013 M/s. West Bengal Power Development Corporation Ltd.¹⁴. See NDA Hotline, More Powers to Director General under the Competition (Amendment) Bill 2012 available at <http://www.nishithdesai.com/information/research-and-articles/nda-hotline/nda-hotline-single-view/article/more-powers-to-director-general-under-the-competition-amendment-bill->

Case No.. 19 of 2010.¹⁶ See particularly Supreme Court Order dated August 27, 2014 in Civil Appeal No. 6328 of 2014,

M/s. DLF Limited v. Competition Commission of India. Appeal 79 of 2012, Order dated October 29, 2013.¹⁸ M/s. Excel Crop Care Limited, supra.

Case No. 7 of 2012, In Re: Consim Info Private Limited v. Google Inc., USA and Google India Private Limited and Case No. 30 of 2012, Consumer Unity & Trust Society (CUTS) v. Google Inc., USA and Google India Private Limited and Case No. 67 of 2010 Magnolia Flat Owners Association v. M/s. DLF Universal Limited & Ors. Trend Analysis

Competition Law in India Report on Jurisprudential Trends Case No. 30 of 2012, Consumer Unity & Trust Society (CUTS) v. Google Inc., USA and Google India Private Limited, (Google Case), penalty

was imposed due to delayed furnishing of information / failure to furnish information²⁰ and in *Magnolia Flat Owners Association v. M/s. DLF Universal Limited & Ors.* (Magnolia Flat Owners Case), penalty was imposed due to non-compliance with prior orders of CCI. **Companies** should bear in mind consequences of non-compliance while engaging with CCI.²¹ However, from a jurisprudential perspective, the Google Case and the Magnolia Flat Owners Case along with landmark cases such as Automobiles Case and Coal India Case do not offer any jurisprudential insight on imposition of penalty.

VI. Cartel v/s Abuse of Dominance

As observed in the previous reports, there are almost an equal number of anti-competitive agreements and abuse of dominance cases, in majority of the cases informants raised allegations under Section 3 and Section 4. Based on CCI orders under Section 26 (1) of the Act, directing DG to investigate, it would appear that the allegations are raised under Section 3 and Section 4 of the Act as a matter of strategy.

VII. Dissenting Opinion in CCI Orders

Dissenting opinions have been made public and this is a welcome trend. Internationally, landmark dissenting views have subsequently become the prevailing view. Transparency in the decision-making process permits room for debate and reinforces faith in the system.

VIII. Competition Law Litigation

The Competition Act provides for a statutory appellate forum, the COMPAT. However, in 2014 and 2015 there have been significant numbers of writ petitions which have been filed challenging orders of the CCI including orders directing investigation or penalty. In 2014 and 2015 alone, there have been nearly 43 writ petitions filed in the Delhi High Court. In certain cases, the writ petitions were dismissed and appeals against these dismissal orders have been filed to the appellate court within the Delhi High Court. In 2015 (till May), there were as many as 11 cases involving Competition Commission in Delhi High Court which were initiated with only one case being disposed off. Some cases relate to procedural due process while some cases appear to be related to substantive due process or merits. It is a settled principle of law that when there is a statutory appellate mechanism, writ petitions should not be entertained by High Courts. It is equally well settled that even if there is a statutory appellate mechanism, the same is not a bar to writ petitions where an authority acts in violation of principles of natural justice or acts beyond jurisdiction. Additionally, in certain cases, the Supreme Court has held that when there is no challenge to constitutionality of the relevant statute, writ petitions are not to be entertained by courts. In the appeals against the Automobiles Case, a challenge to the constitutionality of 20.

A review of the Delhi High Court website would reveal that the Google Case has been challenged in Delhi High Court by Google Inc. See NDA Hotline, Google's Failure to Show Cause to CCI costs Rs. 10 Million available at http://www.nishithdesai.com/information/research-and-articles/nda-hotline/nda-hotline-single-view/article/googles-failure-to-show-cause-to-cci-costs-rs-1-crore.html?no_ Writ Petitions are filed almost exclusively in the Delhi High Court since the Commission is situated within the territorial jurisdiction of the Delhi High Court.

State of Madhya Pradesh v. Nerbudda Valley Refrigerated Products Company Private Limited & Ors. (2010) 7 SCC 751, State of H.P. & Ors. v. Gujarat Ambuja Cement Ltd. & Anr. (2005) 6 SCC 499.24.

Paradip Port Trust v. Sales Tax Officer & Ors. (1998) 4 SCC 90.25. Karnataka Chemical Industries & Ors. v. Union of India & Ors. (2000) 10 SCC 13.

2015 Provided upon request only the decision making process has been raised and as per news reports, Section 27 (b) of the Act has been challenged.²⁶In *Google Inc. v. CCI*²⁷, the Delhi Court in April 2015, held that CCI may recall or review its order subject to certain restrictions and the same should be done sparingly and not in every case where an investigation has been ordered without proper hearing. In 2014 and 2015 (till May), several cases decided by CCI have reached to the Supreme Court. In 2014 and 2015, approximately 72 cases were filed and interestingly in 64 cases private parties have approached the Supreme Court and in only 8 cases, the Competition Commission has approached the Supreme Court. This would seem to indicate that in a fairly high percentage of cases, COMPAT is upholding rulings of CCI. While some cases do raise issues relating to constitutionality, more than 90% of the 64 appeals are statutory appeals under the Act.²⁸As these appeals would be decided over the next few years, the position of law under the Act, including, conflict of jurisdiction between CCI and certain regulators such as TRAI and PNGRB, will come to be settled. An important case decided in 2014 was a challenge to the Jet – Etihad Case.²⁹ The combination was approved by CCI in November 2013. While examining the proposed combination, views of Air India were solicited which raised certain concerns. These were considered and disposed off when CCI finally approved the proposed combination by way of an order under Section 31 (1) of the Act (Jet – Etihad Order). An appeal under Section 53B was made to COMPAT challenging the Jet – Etihad Order by Jitender Bhargava, a public citizen with over 20 years association with Air India. COMPAT dismissed the appeal on the point of locus standing without examining the merits of the Jet – Etihad Order. Although Section 53A provides that ‘any person, aggrieved’ may challenge an order of CCI, COMPAT interpreted ‘any person’ to mean, a person ‘aggrieved’ by the CCI order and that it could not mean ‘any’ and ‘every’ person. It is possible that in the near future, COMPAT is called upon to examine the legality of CCI orders passed in relation to combinations and it is equally possible that proceedings relating to combinations are brought before the Delhi High Court in its writ

jurisdiction. In a relatively short period of time, CCI and COMPAT have shown their ability to handle litigation and going forward, both institutions may require additional infrastructure to handle litigation

CHAPTER -III

CASE BEFORE THE CCI DURING TH FY, 2104-2105

Description	Information received u/s 19(1)case received from (MRTP)	Case recived from (mrtp) Transfer	Suoo motoo conginance	Refrence recived from gov.	Refrences recived from stautiory authority	Total
Number of pending at the begning year	380	50 1	16	14	14	461
Number of matterrecived during the year	110	Nil	15	8	Nil	129
Total number of cases	490	50	27	22	1	590

Extent of concentration of economic power in India prior to the setting up of the Commission. The terms of reference were limited and had kept the industries under the public sector undertakings and agriculture out of the purview of the scrutiny of the commission. The intent perhaps would not have been to cause any disruption in the development of the industries under the public sector since the Government of India would have spent initial sunk costs in establishing these undertakings until 1964, the date of the notification setting up this Commission. Among the different manifestations of economic power in the other fields of economic activity, the Commission believed one manifestation to be important which was the achievement by one or more units in an industry of such a dominant position that they were able to control the market by regulating prices or output or eliminating competition. Another manifestation that was considered by the Commission was the adoption by some producers and distributors, even though they did not enjoy such a dominant position in the market, of business practices which restrained competition and thereby deprived the community of the beneficent effects of the rivalry between producers and producers, and distributors and distributors, to give the best services. The Commission appeared to have assessed the market conditions then prevailing in India by analyzing such commercial practices that may have impeded the best utilization of the nation's means of production. The Commission very emphatically opined the market realities of India then prevailing inter alia as under: Economic power may also manifest itself in obtaining control of large areas of economic activity, by a few industrialists by diverse means. Apart from affecting the economy of the country, this often results in the creation.

CHAPTER-IV

COMPETITION LAW IN INDIAN PERSPECTIVE

In 2002 the Parliament of India enacted the Competition Act, replacing the archaic Monopoly and Restrictive Trade Practices Act (Popularly referred to as the MRTP Act) 1969. The primary goal of the Act. As Stated in the preamble, keeping in view of the economic development of the country to prevent practices having adverse effect on Competition, to promote and sustain competition in markets, to protect interest of consumers and to ensure freedom of trade. Economic theory clearly shows that the total profit in an Industry characterized by industry is competitive in nature.

ECONOMIC LIBERALIZATION AND ITS EFFECT IN INDIA

The core issues of the Indian economy in 2016 largely similar to what commission opined 1964-1965 in the foregoing. Unemployment, poverty, no – availability of basic health care and educational facilities, poor allocation of natural and national wealth etc continue to haunt Indians even today

CONSEQUENCES OF THE RECOMMENDATION OF RAGHAVAN COMMITTEE

RAGHAVAN Committee inter alia recommended repealing, of the MRTP Act and enacting a modern competition law to meet the change, if any of trade liberalization. Article 19 (1) (g) of the Constitution of India guarantees all citizens of India a right to practice any profession or to carry on any occupation, trade or business subject to the condition that the state shall in business subject to the condition that the state shall in public interest impose reasonable restriction to such public interest impose reasonable restriction to such freedom by in action suitable legislation. Article 301 of the constitution of India. read with Articles 302 and 304(b) empower the Parliament to enact suitable laws to reasonably restrict freedom of trade throughout the territory of India. Thus, it emerges to impose reasonable restriction upon enterprises from enjoying unfettered freedom of trade and commerce. Coupled with the recommendations of the Raghavan Committee and the Constitutional mandate, the Parliament enacted the competition Act, is thus a legislation that imposes reasonable restriction upon citizens and enterprises to the freedom of trade and commerce while operation in India. In view of the foregoing principles, it would be prudent to briefly examine the necessity of passing of the Competition Act in 2002.

The History of Competition Law & International Enforcement

Emperors, rulers and governments in different countries tried for years to regulate competitive markets by stabilizing prices and supporting local productions using tariffs which gradually leads to the modern competition or antitrust laws around the world. Laws related to competitive markets are found in over two millennia of history.

The earliest efforts to control price fluctuations and unfair trade practices can be traced back to the Indian and Roman civilizations. **Competition is “a situation in a market in which firms or sellers independently strives for the buyers’ patronage in order to achieve a particular business objective for example, profits, sales or market share”** (World Bank, 1999). Competition Law is structured to promote and provide a fair chance for healthy competition between contending competitors in the market and to protect the consumer’s interests.

The earliest ancient example of modern competition law’s ancestors is Lex Julia de Annona, during the Roman Republic around 50 BC. To protect the corn trade, heavy fines were imposed on direct, deliberate and insidious attempt to stop supply ships. The study of competition began formally in the 18th century by using different terms to describe this area like restrictive practices, the law of monopolies, combination acts and the restraint of trade in works like Adam Smith’s The Wealth of Nations.

European rulers and legislators repeatedly cracked down on monopolies in the Middle Ages. The end of the 19th Century saw a number of laws being enacted in the United States of America to restrict monopoly in business practices, popularly known as anti-trust laws. The doctrine of restraint of trade in English common law leads to modern competition law and the United States antitrust statutes, which in turn had great influence on the development of European community competition laws after the World War II.

Increasingly the focus has moved to international competition enforcement in a globalized economy. The Treaty of the European Community (EC Treaty of Rome) was signed by six Western European countries in 1957. **Modern competition law begins with the Sherman Act of 1890 and the Clayton Act of 1914 in the United States.**

Competition law has been substantially internationalized and the US model is followed globally. Presently recommendations about the competition law for the neo-liberal business economy are being made by two internationally famous organization for the world economy – (i) The United Nations Conference on Trade and Development [UNCTAD] (ii) The Organization for Economic Co-operation and Development [OECD]

At present more than 90 countries have Competition Laws.

Provision of Constitution Leading to the Enactment of MRTP Act 1969

India has had a history of competitive markets. Kautilya's Arthashastra, deals with statecraft and economic policy. Articles 38 and 39 of the Constitution of India mandate that the government shall secure and protect the society where people will get social, economic and political justice and it shall address all the organizations of the nation, and the State shall direct its policy as-

1. The ownership and control of material resources are so distributed as best to assist the common good.
2. The economic system does not operate as it creates a concentration of wealth and means of common detriment

Evolution of MRTP as a Competition Law

Even before the Glasnost and globalization which took place in the early 1990s, India took regulatory measures by means of an antitrust act named **Monopolies and Restrictive Trade Practices (MRTP) Act in 1969.**

From 1969 to 2003 Govt. provided the regulation to the monopolistic trade for the first time by virtue of the enactment of this Monopolies and Restrictive Trade Practices Act (MPTP Act) which inspired by the mandate of the Directive Principles of State Policy in the Constitution of India. **The Preamble of the MRTP Act preached a socialistic philosophy intended to ensure that the operation of the economic system did not led to the concentration of economic power to the common detriment.**

The Act advocated for the prohibition of Monopolistic and Restrictive Trade Practices. However, it was not meant for all sectors of the economic system and did not apply to the public sector, government undertakings and undertakings by state & central Govt. Corporation, banks, the State Bank of India and insurance companies of India which restricted the scope of the Act. As a result, the Parliament of India enacted Competition Act, 2002 in 2003. **Competition Act deals with anti-competitive agreements, abuse of a dominant position and a combination or an acquisition.**

Showing results for

Monopolies and Restrictive Trade Practices (MRTP) Act, 1969 was revoked and replaced by Competition Act, 2002....

Comparison Chart.

Basis of Comparison	MRTP Act	Competition Act
Nature	Reformatory	Punitive

Dominance

Determined by firm's size.

Determined by firm's structure.

Difference between MRTP Act 1969 and Competition Act 2002

The Competition Act, 2002

The Competition Act, 2002	
Parliament of India	
Long title	
Citation	Act No. 12 of 2003
Enacted by	Parliament of India
Assented to	13 January 2003
Commenced	31 March 2003
Introduced by	Arun Jaitley
Repeals	
The Monopolies and Restrictive Trade Practices Act, 1969	
Status: In force	

The Competition Act, 2002 was enacted by the Parliament of India and governs Indian competition law. It replaced the archaic The Monopolies and Restrictive Trade Practices Act, 1969. Under this legislation, the Competition Commission of India was established to prevent the activities that have

an adverse effect on competition in India. This act extends to whole of India except Jammu and Kashmir.

It is a tool to implement and enforce competition policy and to prevent and punish anti-competitive business practices by firms and unnecessary Government interference in the market. Competition laws are equally applicable on written as well as oral agreement, arrangements between the enterprises or persons.

The Competition Act, 2002 was amended by the Competition (Amendment) Act, 2007 and again by the Competition (Amendment) Act, 2009.

The Act establishes a Commission which is duty bound to protect the interests of free and fair competition (including the process of competition), and as a consequence, protect the interests of consumers. Broadly, the Commission's duty is:-

- To prohibit the agreements or practices that have or are likely to have an appreciable adverse effect on competition in a market in India, (horizontal and vertical agreements / conduct);
- To prohibit the abuse of dominance in a market;
- To prohibit acquisitions, mergers, amalgamations etc. between enterprises which have or are likely to have an appreciable adverse effect on competition in market(s) in India?
- In addition to this, the Competition Act envisages its enforcement with the aid of mutual international support and enforcement network across the world.

History

The Government of India in April 1964 appointed the Monopolies Inquiry Commission under the Chairmanship of Justice K. C Das Gupta, a judge of the Supreme Court, to inquire into the extent and effect of concentration of economic power in private hands and prevalence of monopolistic and restrictive trade practices in important sectors of economic activity other than agriculture.^[3]

To regulate advertising, in 1984, Parliament inserted a chapter on unfair trade practices in the **Monopolies and Restrictive Trade Practices Act, 1969.**^[4]

The Monopolies and Restrictive Trade Practices Commission was constituted in the year 1970.

The Monopolies and Restrictive Trade Practices Act, 1969 had its genesis in the Directive Principles of State Policy embodied in the Constitution of India.^[6] It received the assent of the President of India on 27 December, 1969.^[7] The Monopolies and Restrictive Trade Practices Act was intended to curb

the rise of concentration of wealth in a few hands and of monopolistic practices.^[8] It was repealed on September 2009. The Act has been succeeded by The Competition Act, 2002¹

The Competition Bill, 2001 was introduced in Lok Sabha by Finance Minister Arun Jaitley on 6 August 2001.

Definitions

- **Acquisition:** Acquisition means, directly or indirectly, acquiring or agreeing to acquire shares, voting rights or assets of any enterprise or control over management or assets of any enterprise.^[1]
- **Cartel:** Cartel includes an association of producers, sellers, distributors, traders or service providers who, by agreement among themselves, limit control or attempt to control the production, distribution, sale or price of goods or provision of services.
- **Dominant position:** It means a position of strength, enjoyed by an enterprise, in the relevant market which enables it to operate independently of competitive forces prevailing in the market or affect its competitors or consumers in its favors.
- **Predatory pricing:** Predatory pricing means the sale of goods or provision of services, at a price which is below the cost of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors.
- **Rule of reason:** It is the analysis of any activity under the challenge on the basis of business justification, competitive intent, market impact, impact on competition and on consumer. It is the logic behind the conclusion for any order.

Salient Features

Anti-Competitive Agreements

Enterprises, persons or associations of enterprises or persons, including cartels, shall not enter into agreements in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which cause or are likely to cause an "**appreciable adverse impact**" on competition in India. Such agreements would consequently be considered void. Agreements which would be considered to have an appreciable adverse impact would be those agreements which-

- Directly or indirectly determine sale or purchase prices,
- Limit or control production, supply, markets, technical development, investment or provision of services,

- Share the market or source of production or provision of services by allocation of inter alia geographical area of market, nature of goods or number of customers or any other similar way,
- Directly or indirectly result in bid rigging or collusive bidding.

Types of agreement

A 'horizontal agreement' is an agreement for co-operation between two or more competing businesses operating at the same level in the market. A vertical agreement is an agreement between firms at different levels of the supply chain. For instance, a manufacturer of consumer electronics might have a vertical agreement with a retailer according to which the latter would promote their products in return for lower prices.

Abuse of dominant position

There shall be an abuse of dominant position if an enterprise imposes directly or indirectly unfair or discriminatory conditions in purchase or sale of goods or services or restricts production or technical development or create hindrance in entry of new operators to the prejudice of consumers. The provisions relating to abuse of dominant position require determination of dominance in the relevant market. Dominant position enables an enterprise to operate independently or effect competitors by action

Combinations

The Act is designed to regulate the operation and activities of combinations, a term, which contemplates acquisition, mergers or amalgamations. Combination that exceeds the threshold limits specified in the Act in terms of assets or turnover, which causes or is likely to cause adverse impact on competition within the relevant market in India, can be scrutinized by the Commission.

Competition Commission of India

Competition Commission of India is a body corporate and independent entity possessing a common seal with the power to enter into contracts and to sue in its name. It is to consist of a chairperson, who is to be assisted by a minimum of two, and a maximum of six, other members. It is the duty of the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade in the markets of India. The Commission is also required to give opinion on competition issues on a reference received from a statutory authority established under any law and to undertake competition advocacy, create public awareness and impart training on competition issues.

Commission has the power to inquire into unfair agreements or abuse of dominant position or combinations taking place outside India but having adverse effect on competition in India, if any of the circumstances exists:

- An agreement has been executed outside India
- Any contracting party resides outside India
- Any enterprise abusing dominant position is outside India
- A combination has been established outside India
- A party to a combination is located abroad.
- Any other matter or practice or action arising out of such agreement or dominant position or combination is outside India.

To deal with cross border issues, Commission is empowered to enter into any Memorandum of Understanding or arrangement with any foreign agency of any foreign country with the prior approval of Central Government.

Review of orders of Commission

Any person aggrieved by an order of the Commission can apply to the Commission for review of its order within thirty days from the date of the order. Commission may entertain a review application after the expiry of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from preferring the application in time. No order shall be modified or set aside without giving an opportunity of being heard to the person in whose favor the order is given and the Director General where he was a party to the proceedings.

Appeal

Any person aggrieved by any decision or order of the Commission may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Commission. No appeal shall lie against any decision or order of the Commission made with the consent of the parties.

Penalty

If any person fails to comply with the orders or directions of the Commission shall be punishable with fine which may extend to 1 lakh for each day during which such non compliance occurs, subject to a maximum of 10 crore. If any person does not comply with the orders or directions issued, or fails to pay the fine imposed under this section, he shall be punishable with imprisonment for a term which

will extend to three years, or with fine which may extend to RS 25 crores or with both. Section 44 provides that if any person, being a party to a combination makes a statement which is false in any material particular or knowing it to be false or omits to state any material particular knowing it to be material, such person shall be liable to a penalty which shall not be less than 50 lacs but which may extend.

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CHAPTER 5

CONCLUSION AND SUGGESTION

RISK OF COMPETITION LAW

We have consider above the complementary role that competition Law with other key policy areas devoted to economic development .we have also stressed at outset hat competition Law is to be seen as one aspect of a wider set of policies designed competition in an economy .

However some risk are associated with the scope and application of Law . our thesis is that the ,law is framed and applied Correctly the benefits of such law will out weight any cost and conflicts with after policies with other polices can be revolved benefit on the economy

While the CCI found that many of these practices may have to be analyses under the Act on a case-to-case basis, it observed that, inter alia, bargaining power imbalance and information asymmetry between e-commerce marketplace platforms and their users form the core of several issues faced by the stakeholders.1

COMPETITION LAW AS D DENGARIOUS TO F.D.I –

If Competition Law is applied inborn discretionary manner between domestic firms and foreign investors the a level playing field ensure given that dominate domestic firms will seek to erect barriers to new entrants, the existence of law which prevents such anti competition behavior should encourage FDI. Equally competition Law should domestic firms from Anti competitive practices by foreign Investors

We have carried out some empirical research suggest that the Strength of antitrust policies perceived by potential investors has significant influence upon FDI -FLOW COMPARE ACROSSS COUNTRIEES.

Secondary source Bases on Agriculture sector—

The World Bank Report on Agriculture and Achieving the MDGs noted that Current trade barriers and subsidies are high for Agriculture. There is growing agricultural trade among developing countries, but these countries also retain substantial trade barriers on agricultural products. The said report urged that the government agencies in developing countries need urgently to revisit the legal, regulatory, political, and institutional framework in the agriculture, research, extension and industrial sectors.

2.The World Food Summit , 2008encouragedthe international community to continue its efforts in liberalizing international trade in agriculture by reducing trade barriers and market distorting policies.

3.The World Development Report, 2008noted that regulation has to strike an appropriate balance, among different interest groups, avoiding both over regulation and under-regulation, especially if there are risks and uncertainties.

4. The establishment of informational competition policy in the form of multi-lateral rules on restrictive business practices is considered one of the approach to address the imbalance in trade relationship.

5.The (Indian) Union Budget speech 2011-12 contained three important policy formulations which had direct bearing on the elements of completion in Agriculture Sector:(i) The grant of interest subvention concession to those farmers who repay their crop loans on time.(ii) Contribution of Rs. 10,000/-core to NABARD with a view to enable NABARD to refinance the short term crop loans of the co-operative credit institutions and RRBs at concessional rates, and (iii) The need for state governments to review and enforce a reformed Agricultural Produce Marketing Acts owing to the fact that the governments regulated mandi sometimes prevent retailers from integrating their enterprises with the farmers.

6.The agriculture sector is vital for the food and nutritional security of the (any) Nation. The Sector remains the principal source of livelihood for more than 58 per cent of the population (India) though its contribution to the National GDP has declined to 14. 2 per cent (in the year 2010-11) due to high growth experienced in industries and services sectors. Compared to other countries, India faces a greater challenge, since with only 2.3 per cent share in world's total land area; it has to ensure food security of its population

In which is about 17.5 per cent of the world population opined the Government of India.

7.The subject 'agriculture' basically is a state subject under the Indian constitution, hence, respective state governments have also been vested with the power to enact laws on this subject. The list containing laws enacted by Union government and state governments on different aspects of agriculture are depicted in Annexure-I and Irrespectively.

8.The report on Facilitating Efficient Agricultural Markets in India; an Assessment of Competition and Regulating Reform Requirements,(August, 2011),came to the findings that agricultural supply chains in India are subject to numerous form of regulating interventions such as input subsidies, APMC (Agricultural Produce Market Committee) Markets and the activities of Food corporation of India. The said study noticed several policy impacts such as: a) Scientific Impacts, b) Capacity impacts, c) Economic impacts, d) Social impacts, e) Environmental impacts. Recognizing that policy

reform is the domain of the Indian Government, the study made several policy options for the consideration of government of India based on the project analysis.

9. The Committee of State Minister, In-Charge of agriculture marketing to promote reforms, appointed by Government of India, Ministry of Agriculture, April, 2011 has in its first report studied and analyzed in brief three major aspects i.e. :a) Present agricultural marketing system in India, b) Future challenges, c) The present agricultural marketing system: concerns and suggestions.

10. The concerns raised and suggestions made by the said committee include) Promotion of Markets in Private or Cooperative Sector, ii) Establishment of purchase centers and direct purchase from farmers, iii) Contract Farming, iv) Market Fee, v) Commission Agents) Establishment of Farmers' Markets (Direct Sale by Farmers), vii) Sale of Notified Agricultural Produce Outside the Market Yard by Farmers, viii) Declaration of some Markets as Special or Specific Commodity Markets, ix) Mandatory Utilization of Market Committee Fund/Development Fund for Marketing Development) Reorientation of activities of APMCs and State **Agriculture Marketing Boards** (SAMBs) xi) Lack of Competition in Regulated Markets .

11. The said Committee made several policy recommendations under the following major heads: (a) Reforms to Agriculture Markets, (b) Promotion of Investment in Marketing Infrastructure Development , (c)Rationalization of Market Fee/Commission Charges, (d) Contract Farming, (e) Barrier Free Markets, (f) Market Information system. These recommendations need to be addressed seriously and sincerely by all the stakeholders involved therein so as to infuse the elements of competition in the area of agricultural marketing in India.

12. The major problems faced in the process of Marketing agricultural Produce through APMC markets throughout the country generally include: i) Restriction to provide alternative marketing channels, ii) Compulsory requirement of owning shops within APMC premises, iii) Requirement of minimum distance of private/cooperative markets from existing APMC market, iv) Compulsory payment of market fee even if sale transaction takes place outside the market yard, v) Restriction on trading in another Mandi, vi) Regulator and license issuing authority one and the same, vii) Levy of Market fee at each stage.

13. The procurement of Agricultural Commodities at MSP are being carried out by the following Government agencies with monopoly status) Food Corporation of India (FCI) for food stuffs, ii) Cotton Corporation of India (CCI) for cotton, iii) Jute Corporation of India for Jute, iv) Central State Warehousing Corporation (CSWCs) for oil seeds and pulses, v) National Agricultural Marketing Federation of India (NAFED), vi) National Consumer Cooperative Federation (NCCF), vii) Tobacco Board.

14. An analysis of the state wise data of Agriculture Markets in India [Table 2.1] clearly reveal the following major inferences. (i) Not even a single state/UT is in any way nearer to the average areas to be served by each market (ie 5 sq. kms.), (ii) The farmers have to travel on an average between 55 sq. kms. to over 1200 sq. kms. for the purpose of marketing their harvested agricultural produce. (iii) Due to non-availability of agricultural markets for their Agricultural produce within a reasonable distance, the farmers, perhaps, are forced to sell their produce to the private traders at throw away price. In such a situation, the private trader virtually becomes the dictator of the price of agricultural produce, often, far below the cost of cultivation.

15. There is a need to encourage the entry of private markets in marketing agriculture produces as to avoid suicides by farmers. Such a move, will not only minimize the current problems faced by farmers towards marketing their agricultural produce but also shall definitely infuse competition among existing markets, private traders and proposed private markets.

16. The interest concession and facilities made applicable only to Public Sector Banks, Regional Rural Banks and Cooperative Banks, perhaps, pave way for exploitation of farmers who are in need of financial assistance in many ways including parting the benefits with banks, government and other officials. Hence, such benefits need to be extended to farmers availing financial assistance from other sources as well.

17. NABARD should provide financial assistance through refinance to NCDC under Rural Infrastructure Development Fund. The mandate of NCDC is to provide financial assistance to cooperative institutions with a view to undertake related activities of agriculture such as processing, marketing, storage etc. hence, the NCDC deserve concessional financial assistance and treatment from government, RBI and NABARD.

18. The National Food Security Bill (2011) introduced in the Lok Sabha has already created lot of debate and controversy. The additional demand owing to be created in the event of implementation of various entitlements provided therein shall warrant additional procurement and storage of food grains by FCI, CWC & SWCs and creation of housing facilities. The defective mechanism at present enforces in relation to procurement, sale, storage and distribution of Essential Commodities through Public Distribution Scheme, also, ipso facto, shall become applicable once this scheme is implemented. Hence, the Government should also study the issues discussed in this paper in relation to procurement, sale, storage and distribution of Essential Commodities.

19. The study broadly reviewed various legal provisions important agriculture laws enacted by parliament that affect, limit restrict or destroy the elements of competition. The laws reviewed include: a) The Essential Commodities Act, 1956, b) The Food Corporations Act, 1964, c) Agriculture Produce (Grading and Marking) Act, 1937, d) The Dangerous Machines (Regulation) Act, 1983, e) The Protection of Plant Varieties and Farmers' Rights Act, 2001, f) Insecticides Act, 1968, g)

National Cooperative development Corporation Act, 1962, h) The Seeds Act, 1966, i) Agriculture Produce Market Committee Acts, enacted by State Governments/UTS. The nature of impediments affecting, limiting restricting or destroying the elements of competition etc. are also indicated against sections.

20.As on 31stJuly, 2011 all the state governments and UTs except Kerala, Manipur, Andaman & Nicobar Island, Dadra & Nagpur hovel, Daman Diu and Lakhyadeep have vien-acted Agricultural Produce Market Committee Acts. These Acts contain several provisions which limit, restrictor distort the elements of competition. Due to the large number of legislations enacted by various state governments as mentioned above, it has become difficult to study and analyze all the said legislation for the purpose of identifying the nature of impediments affecting the elements of competition.

21.The excess control by govt. under sec. 3 of ESA, 1955 on storage and movement of goods through policy interventions pave way for corruption and bribery in large scale. The attempt to restrict the movement of food grains from surplus regions to deficit regions tend to enhance price variation across the region and affect the cost of marketing and branding. The Act also puts restrictions on interstate sale of agricultural commodities in many states. The ways, means and practice followed towards granting required entry permit to the state is a major source of harassment for dealers wishing to import goods into the consuming state. The collection of tax on the entry of commercial vehicle into the jurisdiction, of a state act as an impediment to inter-state trade and causes significant losses to the traders due to delays, payment of entry tax and possible bribes. Bribery and Corrupt practices in large scale is prevalent in the supply and distribution channel of Essential Commodities which is primarily due to lack of adequate legal machinery to deal with such offenders effectively, and meager punishment in the form of lesser imprisonment period and fine.

22.The regulatory barriers inbuilt in the development of storage and processing, hampered the development of effective market institutions and lowered the capacity of agricultural producers to be internationally competitive. Various provisions of ECA, 1955 conferred enormous monopoly and discretionary power upon the Government and its authorities. The Central, State and Union Territories issue, at regular intervals, various control orders. The over production often results in excessive stock of commodities in open space god owns leading toroth and losses. The power conferred upon Government to ensure adequate supply and equitable distribution often resulted in increase in prices and mal distribution of Essential Commodities.

23.The Committee of State Minister in charge of Agriculture Marketing to promote reforms constituted by Government of India in April, 2011 has identified several short coming in the functioning of APMCs and these issues need to be addressed seriously and quickly by the concerned governments and its authorities.

24. The National Policy for Farmers noted that the role of the Agriculture Produce Market Committees and State Agriculture Marketing Boards needs to be transformed from mere regulatory focus to promotion of grading, branding, packaging and development of markets for the local produce.

25. The Quality standard should be fixed for each and every product. There is an urgent need to promote grading and standardization for Agri-products.

26. Government has taken various steps to minimize pesticides residues. Certain pesticides were being used indiscriminately which had caused a lot of health problems to the habitants of that particular area.

27. Substantial proportion of the grain, mainly wheat and rice, that is meant to be distributed to eligible families under the PDS ends up being sold in the open market by corrupt intermediaries including some dealers who manage PDS outlets.

28. Working Group on Warehousing Development and Regulation for the twelfth plan period (2012-17). Noted that an additional 35 million MTs warehousing capacity is required during 12th Five year plan period for storage of all major crops. The storage space available in the country is not sufficient to cater to the procured stocks. As a result, a substantial quantity of food grains is stored in cover and plinth (CAP) storage. The Grossly inadequate storage capacity available with FCI, CWC & SWCs on the one hand and substantial loss of storage and transit losses of food grains on the other, demand for the entry and involvement of private traders with a view to meet the additional 35 million MTs warehousing capacity during the 12th Plan period. The Private Traders engaged in warehousing have already approached the Competition Commission of India alleging formation of cartel by FCI, CWC and SWCs. Though the Competition Commission of India rejected the said contention but the discriminatory approach adopted by SWCs and CWCs towards hiring warehousing facility available with private traders primarily with a view to indulge in corrupt practices have come to lime light.

29. The compulsory licensing of rights and the prevention of the import of varieties incorporating the Genetic Use Restriction Technology, make it obligatory for farmers to depend on companies for seeds, At the same time the right to sell seed by the farmer is restricted i.e. the farmer cannot sell seed in a packaged form labeled with the registered name.

30. The farmers are exempt from registering their seed varieties. The seeds produced by farmers have to conform to standards prescribed for commercial seeds. Due to this reason,

ix farmers may find it difficult to adhere to the standards required of commercially sold seeds. Hence, the commercial standards prescribed for farmers producing their own seeds need to be exempted, for purpose of own or local.

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