LECTURES ON INDIAN COMPETITION LAW

INTRODUCTION TO INDIAN COMPETITION LAW

Dr. Sagar Kumar Jaiswal, Assistant Professor, Department of Law, GGV, Bilaspur

INTRODUCTION INDIAN COMPETITON LAW

Significance of Competition

- Competition offers very important benefits. Not only it stimulates innovation and efficiency, it also provides the consumer with a wider set of alternatives. There are due to competition enhanced product differentiation. Moreover, there are scope of better satisfaction of consumer demand.

- Opposite to competition is Monopoly. In the state of monopoly there is no option for the consumer. Given that producers can control prices by reducing or increasing production, production may be less than optimal and efficient. Buyers cannot switch to other sellers even though the price is relatively high. Profit is cantered on producers because consumers have no other choice. After all, the product is essential

INTRODUCTION (Continue)

to meet their needs.

- But just the prospect of competition made it realize that the consumer could not be taken for granted, competition builds a pressure on account of which firms improve their offeringsand bring price down to the bare minimum. It is Competition which awards work ethics and penalize laziness.

Market and Market Conditions

- The idea of competition drags to us to the notion of market. This is because it the market competition which is expected to lies therein. Markets which are not competitive are not a market but are traps. But what is market?
- A market is a place where parties can gather to facilitate the exchange of goods and

INTRODUCTION (Continue)

services. Market allow a space where governments, businesses person, and individuals can buy and sell their goods and services. But that's not all. They help to determine the pricing of goods and services.

- The market may be physical like a retail outlet, where people meet face-to-face, or virtual like an online market, where there is no direct physical contact between buyers and sellers. Other examples include illegal markets, auction markets, and financial markets.

A market transaction may involve goods, services, information, currency, or any combination of these that pass from one party to another. In short, markets are arenas in which buyers and sellers can gather and interact.

INTRODUCTION (Continue)

Market and Economy and Competition

- Markets are an important part of the economy. An economy is a complex system of interrelated production, consumption, and exchange activities that ultimately determines how resources are allocated among all the participants. The production, consumption, and distribution of goods and services combine to fulfil the needs of those living and operating within the economy. An economy may represent a nation, a region, a single industry, or even a family.
- In the modern world, few nations are purely market-based or purely command based. United States is mostly a market economy. Market based economies allow people and businesses to freely exchange goods and services according to supply and demand. Command based economies depends on a central government that controls the production levels, pricing, and distribution of goods and services.

INTRODUCTION (Continue)

Contemporary examples are Cuba and north Korea. A command-based economy attempts to supersede the workings of supply and demand. There are also third kind of economy, we say it mixed economy. As the name suggests a mixed economy is combination of a command economy and a market economy. So, it follows both price mechanism and central economic planning. The means of production are held by both private companies and public company. And while market forces decide the price, demand, supply, etc., there are some government interventions which try to prevent monopolization and discrimination.

- A truly competitive economy has to be free from public or private constraints on market. Otherwise, it cannot be competitive. In free competitive markets, prices tend to adjust to the levels that just clear the market. It is a market condition where neither buyers, nor sellers exercise any influence on price.

INTRODUCTION (Continue)

- But, it is to be noted that pure market economies rarely exist in the modern world, even the US. China had a command economy only until 1978. After than economic reform took places and now it is a good example of mixed economy. The same is the story of India. We are, in India, living in the age of mixed economy.
- But the aim of every economy is to achieve growth/development. In this regard, Industries is viewed playing a big role for achieving economic development. Industries helps in growth of national and per capita income. The more the industries, the more will be economic development. This gives us the idea of industrial development. Industrial development means a development that involves a manufacturing or industrial process. Industrial development releases dynamic and competitive economic performance which generates income and employment, facilitates international trade and increases resource efficiency, and is thus a major driver of poverty alleviation and shared prosperity.

INTRODUCTION (Continue)

The Nature of Early Industrial Policies and of Economy

- The Quest for industrial development began in India after independence. The Industrial Policy of 1948 and policy resolution of 1956 marked the beginning of the evolution of Industrial development in India.
- These Industrial Policies has not been static. We can identify differences between the Industrial policies of initial years and present policies. The policies of initial years were being driven by the force of regulated economy, whereas the present one is being driven by the force of free marked economy.
- Among the initial industrial policies:
  - the 1948 policy delineated the role of the state in industrial development both as an entrepreneur and as an authority to control the economy;

INTRODUCTION (Continue)

- the 1956 policy of whose the objectives were to ensure growth, social justice and self-reliance in the industrial sector. This policy also defined the parameters of government's regulatory mechanism.

- Interestingly, in both initial policies, agriculture was left to the private initiatives. In initial policies, license to production in the core section was allowed to private sectors in a very limited capacity. In contrast, public sectors had scope to achieve a commanding heights by controlling major share of production.
- Again, the Government could intervene directly through monopoly purchase and distribution agencies like the STC (State Trading corporation), MMTC (Mines and Minerals Trading Corporation) etc.
- Also, the government could regulate the international trade, and the trade regulatory

INTRODUCTION (Continue)

mechanism were in the form of licensing of import quota.

- The model of Industrial development of then was structural model (popularly known as Nehruvian Model) with the objectives of achieving a defined set of investment allocations based on the State determined priorities.
- In addition, the desired allocation was to be achieved by the administrative mechanism of licensing and production and granting quotas in the case of scarce resources like foreign exchange, etc.
- This model dominated the policy till 1980. And some of the politically induced measures of the seventies like bank nationalization, the takeover of the wholesale trade in food grains, the increasing government control through MRTP Act 1969 and FERA, 1973 increased the control power of the Government over the means of production and industrialization.
- The model served its purpose and became anachronistic in 1980s and 1990s.