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EVOLUTION OF THE COMPETITION LAW TILL THE PRESENT-DAY ACT: A CRITICAL OVERVIEW

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Competition law is a legal body which aims to promote and ensure fair market place for both the consumers and the producers by prohibiting unfair and unethical trade practices resulting from the anti-competitive practices adopted in the market place.

It further prohibits the companies to get involved in the appreciable adverse effect which disrupts the efficient competition in the relevant market. Thus, ensuring a competitive and an open market for the fair play by the market players.

Competition law is a dynamic law which changes time to time which is further explained below in detail.

In Europe, the United States, Canada the Competition law is also known as the Anti-trust law, which is further explained in the below case-

John Sherman introduced the world's first Anti-Trust law targeting the Trust system in the United States in the early 1880s, giving it another name, which is after him only The Sherman Act.

The United States is the biggest Capitalist country of all where resources are owned, managed and distributed by private heads and nothing was under the control of Government, unlike India.

This Trust system was seen in the leading case for the first time in the case of **Standard Oil** Company

This company was involved in the oil and petroleum and was a huge company in the United States covering 60-70% market.

Sammuel Dord, the attorney of the company converted the left over 30% competitors in the market to facilitators and developed a trust-based system, acquiring all the rail-roads system which is not under the government heads unlike India. Thus, covering the entire market.
The Standard Oil company shifted to Trust system for better penetration in the market and by reducing their transportation cost, as bow they only are the owner of the transportation system.

Drawbacks of the Trust System

No innovation in the market.
No pricing benefits as all are facilitator among themselves.
Penetration and impact on other market.

After 10-15 years, market in the US ceased development. Hence the Sherman Act was introduced as it intended to work against all types of agreement understandings and trust which are created in the market hampering the growth of the market.
Thus the Anti-Trust law came into emergence which targets all such Trust systems as in the case of Standard Oil Trust, they didn't dissolve the trust itself instead a mandatory dissolution of big companies into smaller company was seen so that market becomes more competitive.

Now coming towards the India's scenario of the competition law, just after the independence during 1950-9170s there was no concept of competition law and the government tried to control everything from the eligibility criteria, labour laws to day-to-day activities of the enterprises. There was a complete government control over the market in the mid and late 90s in India. This scenario of ultra-conservatism or the License Raj by the government is also known as the command and Contrology theory.

Why this system of control?

As the government was working in accordance to the provision of Article 38 and Article 39 of the Constitution of India which says that the government has the best decision making when it comes to efficient utilization of the resources of the State.

Further Article 38 of the constitution aims firstly for proper ownership and control of the material resources pf the community, distributed to serve the common good.

Secondly, the economic system should not result into concentration of economic powers in few hands.

This system of total control and command by the government resulted in extreme poverty instead of eliminating it from the society therefore the government established three committees to oversee the economic policies-

1. **Hazari committee (1965)**

The committee established in 1965 under the Chairmanship of R.K Hazari was constituted to study the impact of industrial development and regulation Act 1951 and corresponding government policies on the market.

The committee concluded that the License system developed by the Government has indirectly resulted in disproportionate growth to the extent that big houses are being bigger and others are languishing themselves.

2. **Mahalanobis committee**

The second committee was formed in October 1964 under the chairmanship of P.C. Mahalanobis to study the-

Disproportionate growth- 10%people are controlling 40% population and remaining 90% are adjusting themselves to 60% of the remaining resources.

Concept of planned economy does not lead to growth instead clogged the development and has indirectly flourished unethical means i.e corruption in the market.

So, the report of the 2nd committee was given in the magazine named Dinwan which briefly described the real impact in terms of economy from license planned economy to chocked economy.

Government on the basis of the reports of the above two committed realized that the big houses are controlling resources through licensing further paving ways for corruption. So, from moving from licensing to liberalisation and in the view to curb this Licensing by the monopolies, the government planned the third committee targeting monopolies giving proposal to control them

3.Monopolies Inquiry Commission

Chairman- Mr. K.C. Das Gupta

This Commission was based on the negative premise controlling monopolies by checking and targeting them.

Market should balance out itself but instead according to this committee's principle this market approach is targeting that which it has only created taking itself back to 1947

Hence there should be some other corresponding approach of this negative premise. For this purpose, MRTP Act 1969 with effect from June 1 came into existence

The Monopolies and Restrictive Trade Practices Act was proposed by the 3rd committee and got its acceptance from the Parliament too for restraining the big houses who had concentrated resources.

Preamble of The Monopolies and Restrictive Trade Practices Act

This law is about regulation of market and not the consumers.

Economic system should not mandate to concentration of economic power which leads to common determent. Thus, targeting and penalizing Monopolies and restricting unfair trade practices. Hence heading towards a genuinely planned and controlling economy as compared to the one in the 1950s.

Important thrust areas of the Monopolies and Restrictive Trade Practices Act-

1. Prevention of concentration of economic powers.
2. Control of Monopolies
3. Prohibition of Unfair trade practices.

Doctrine of The Monopolies and Restrictive Trade Practices Act-

The monopolies and restrictive Trade Practices Act is a behavioural and reformative law. Behavioural in terms of as it is based on the behaviour of the market and not to punish the market but to reform it. Thus, further establishing that this act is based on conduct rather than punishment.

Working of the Monopolies and Restrictive Trade Practices Act-

This law shall establish a commission called the Monopolies and Restrictive Trade Practices Commission (MRTPC) which is a judicial body for the application of fair dealing and conducts the whole inquiry from the investigation to the pronouncement of the decision.
For instance, Competition Commission of India is of present Competition Act,
2002

Who may bring complain in the Monopolies and Restrictive Trade Practices Commission (MRTPC)

1. Individual consumer
2. Registered association of consumer
3. Trade Association or any other business body.

Moving forward is **the Rajendra Sachar Committee**

Set up in 1984, brought changes in the The Monopolies and Restrictive Trade Practices Act. The said committee was formed for the unfair trade practices faced by the consumers and was to be included in this MRTP Act.

But this committee was consumer oriented instead of market oriented hence contradicting the aim laid and the preamble of the monopolies and restrictive Trade Practices Act.

Therefore, the government passed another law in 1986 called the Consumer Protection Act.

Raghavan Committee

This committee was set up for the economic reform in 1991. Meaning more market presented and less enterprise-oriented laws, syncing with liberalization policies and laws should reflect that all the players in the market should get a fair chance. For insurance free entry without any barriers in the market.

Therefore, the parliament passed the Competition Act, 2002 bill suggested by the Raghavan committee, and it was the first comprehensive act which took comparative study of the other jurisdiction hence being more fact oriented rather than percentage oriented. Further driving the nature of the current Competition Act,2002 as to be more inclusive in nature and trying to maintain a fair play in the market.

The Competition Act,2002 got enforced in parts and not in one go as the 3 fundamental pillars of the present-day Competition Act, 2002 consists of-

1. Anti-competitive agreement
2. Abuse of Dominance
3. Regulation of Combination (Merger and Acquisition)

The above mentioned first two points of anti-competitive agreement and the abuse of dominance came into existence by 2002 Act and the last point of combination in June 2011.

Conclusion

The whole emergence of the competition Act from being no law to the Monopolies and Restrictive in Trade Practices Act to the current Competition Act, 2002, completed two decades this year in the market. The current Competition Act,2002 is of utmost importance in the relevant market of the economy for the smooth running of the enterprises resulting in healthy competition among them and restricting powers in a way of concentration of resources only in few hands. India being a mixed economy which consists of both the private sector and the public sector efficiently runs with the provisions laid down in the Act formulating competition in the market.
The monopolies and restrictive Trade Practices Act was the 1st codified law of India which was market oriented and later got repealed by the present Competition Act, 2002.