

“Non-Compete Situations”



Weekly Learnings 03 / 2024

There is a lot of chatter on non-compete as one company has taken an individual to court.

I looked at the issue.

1. Indian law is clear, one cannot enforce a non-compete clause.
2. In the US about 5 states do not allow it and a sixth New York is on the way.
3. The most innovative state California has not allowed a non-compete clause since 1872, that's how Intel was born etc.
4. Many industries are landlocked with talent and skills and people tend to move within companies. Examples are banking, consumer electronics, advertising agencies etc
5. The danger companies see is if the departing employee takes away some key customers or accounts as it happens in consulting or advertising. This is a genuine worry.
6. If you are a professor at a business school, where do you go except to another B school? That's what Prof Dipak Jain did.
7. Customer-facing people shift at lower levels in every industry. Today employees do not inform their next company because they feel the old company will talk to the new company.
8. When the life of a company is less than 15 years it makes it difficult to ask employees not to work for others in the industry.

This topic will rage on

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KEY FACTS

- Five states have fully banned non-compete clauses: California, Colorado, Oklahoma, North Dakota, and Minnesota.
- California, the largest economy in the United States, has banned all non-compete clauses since 1872, but **recently passed legislation** in September strengthening the ban to also apply to contracts signed outside of the state.

Non-compete clause is **prohibited under the Law of Contracts.**



Section 27 of the Contract Act provides – 'Every agreement by which anyone is restrained from exercising a lawful profession or trade or business of any kind, is to that extent void'. 31 Mar 2023