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NON-COMPETE CLAUSE IN EMPLOYMENT AGREEMENT VOID

The Calcutta High Court (HC), in *Parraj Automobiles Private Limited (PAPL)* case¹ reaffirmed on February 10, 2026, that post-employment non-compete clause in an employment agreement, prohibiting an employee from joining a competing business is void under Section 27 of the Indian Contract Act, 1872 (ICA).

The HC, however, subsequently upheld that post-employment obligations relating to confidentiality of trade secrets and non-solicitation of employees are enforceable and may be protected through injunction.

Brief Facts

Samiran Sinha (SS), who was employed as a marketing executive at PAPL had resigned from PAPL *via* an email dated October 8, 2025 and had, with effect from October 7, 2025, left PAPL to join a rival company. PAPL contended that SS was acting in violation of his appointment letter, which had various clauses pertaining to protection of trade secrets, confidentiality, non-solicitation and non-competition. PAPL sought an *ad interim* injunction against SS, which was refused by the trial court. Following, this PAPL filed an appeal before the HC to secure an injunction against SS.

PAPL' Contentions

- SS has acted in violation of his employment agreement by joining a rival company running the same business, which jeopardizes the trade secrets and sensitive information of PAPL.
- Liquidated damages of INR 30,000 (in lieu of notice pay) would not adequately address the aspect of violation of the non-compete clause.
- That the non-compete and non-solicitation clauses are interlinked with the confidentiality clause of the employment agreement and should be constructed together. Therefore, there was no violation of Section 27 of the ICA.²

SS' Contentions

- That Section 27 of the ICA does not permit employers to prevent former employees from joining competing businesses merely because they possess industry experience or expertise.
- That non-compete provision, which restrains an employee from joining a competitor is void as it deprives a person of his right to livelihood and therefore a provision relating to the same cannot be enforced.

¹ *Parraj Automobiles Private Limited v. Mr. Samiran Sinha*, 2026:CHC-AS:223-DB.

² Section 27 of the ICA mandates that any provision in an agreement that is restrictive of a person's right to livelihood, profession or trade shall be void.

- That the appointment letter clearly stated that if his service remains unconfirmed post his probation period, then no implied confirmation can be presumed. Considering, PAPL did not confirm SS' completion of probation in writing, he had rightfully taken a new employment.
- That SS was being coerced by PAPL to continue his services post his resignation and that the provisions of Section 27 of the ICA clearly apply as he was not in services on the date of his resignation.

HC's Judgement & Reasoning

The HC:

- Observed that the intent of Section 27 of the ICA is unambiguous and any agreement restraining anyone from exercising their right to livelihood is void.³
- Reiterated that the only exception to this provision is in respect of anyone selling the goodwill of a business, where the buyer may agree with the seller to refrain from carrying on a similar business and within specified local limits.⁴
- Held that the present case does not attract the exception of sale of goodwill of business and prevents SS from exercising his right to livelihood. Therefore, the clause pertaining to non-compete in SS' employment agreement shall stand void.⁵
- Observed that provisions pertaining to confidentiality, non-divulging of trade secrets and non-solicitation can be enforced by an order of injunction.⁶
- Partly allowed the appeal and modified the Trial Court's order that an order of injunction from soliciting any employee and against disclosure of confidential information shall continue to apply on SS.⁷

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³ Paragraph 27 of the Judgement.

⁴ *Ibid*.

⁵ Paragraph 28 of the Judgement.

⁶ Paragraph 70 of the Judgement.

⁷ *Ibid*.