# CASE COMMENT: NIRANJAN SHANKAR GOLIKARI VS THE CENTURY SPINNING AND MFG. CO

**Harmanpreet Kaur***

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| **YEAR** | 1967 |
| **CITATION** | AIR 1967 SUPREME COURT 1098 |
| **JUSTICE** | SHELAT, J.M. AND BACHAWAT, R.S. |

## INTRODUCTION

In this evolving world, much of the populous substantially contributes to the economy as part of the working class. It's imperative to note that contracts are the fundamental covenant to lay down the set of protocols for both sides to have a healthy work environment. However, the question arises whether these terms may infringe the provisions of the Indian Contract Act, of 1872. In this case, interpretation of section 27 of the Indian Contract Act will be done where the agreement is held void under the restraint of trade or the secrecy of trade must be upheld making the contract valid and binding.

As the country just completed 20 years of independence, many companies learned trade secrets from the former European companies. Here, the respondent is a spinning company specifically involved in the manufacture of tire cord yarn, so the secrecy of manufacturing was prudential.

## FACTS

The company mentioned produces various products, including tire cord yarn, at its facility in Kalyan, which is known as the Century Rayon. Through a contract signed on January 19, 1961, the Algemene Kunstzijde Unie of the Netherlands (AKU) and Vereinigte Clanzstoff Fabrikan AG of West Germany (hereinafter referred to as VCF) consented to share their technical expertise with the company, which would be exclusively utilized at the company's tire cord yarn plant in Kalyan. In exchange for this knowledge transfer, the company agreed to pay the AKU and VCF a sum of 1,40,000 Deutsche Marks and it is essential to note that this agreement shall be binding until the termination within 3 three years.

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The appellant, Niranjan Shankar Golikari, was recruited in the respondent company as a shift supervisor where the training commenced in March 1963 and concluded in November of the same year. In the training, the appellant was supposed to acquire the knowledge of procedures to manufacture and enhance his skills precisely in yarn production. As he was appointed, the contract was signed under several conditions, indicating that during the course of employment, he must not indulge in any other firm and should solely work for the respondent company.

Until September 1964, the employment was going smoothly but Mr.Niranjan took sudden notification and unnotified leaves including 28 days of privileged leave. In November he informed the company regarding his resignation but the company did not accept so. Whereas he replied that he had been already recruited by another firm.

This legal dispute was raised as the appellant breached the contract as he was trained to the secrets of the company and joined a competing company, Rajasthan Rayon situated in Kota. The trial court ordered an injunction against the appellant also respondent demanded compensation and expenses incurred to train the appellant. Now the appellant has appealed in the apex court for relief. The issue brought by the appellant that injunction by the subordinate court [1]infringes section 27 stating that *"every agreement by which anyone is abstained from practicing a lawful profession, trade of any type, is to that extent void".* The Court made it evident that there's a distinction between a limitation in a job contract that is recognized while the employee is working and another one that is intended to take effect after the employee leaves.



**PROCEDURAL HISTORY**

The company undersigned on January 19, 1961, an agreement with AKU AND VCF of the Netherlands and West Germany respectively for acknowledging and incorporating the measures and techniques used by them in its manufacturing. Clause 4 of the contract stipulated that Century Rayon was obligated to maintain confidentiality until the conclusion of the contract, with an additional three years following the termination. During this period, all technical data, know-how, experience, and documents received from the aforementioned AKU and VCF needed to be safeguarded. [2]Furthermore, Century Rayon was required to implement appropriate confidentiality agreements with its staff.

[1] Bombay high court Appeal No. 526 of 1965
[2] Scribd post on contract act

In December 1962, the appellant submitted an application detailing his qualifications. Shortly thereafter, on March 1, 1963, the company he applied to responded with an offer for a Shift Supervisor position in their tire cord division. They indicated that if the appellant accepted the job, he would need to sign a standard five-year contract. On March 5, 1963, the appellant accepted the job offer and signed the standard contract. A few months later, on March 16, 1963, he officially joined the company and completed the signing of the contract on that same day.

Differences in opinion between the appellant and the respondent company didn't surface until roughly September 1964. Following this, the appellant was noticeably absent from work between the 6th and 9th of October 1964, without getting permission to be absent. On the 10th, he took a day off as a casual leave. By October 12, he submitted a request for leave to last for 28 days, which was issued. During this period, he was absent from work from the 14th to the 31st of October, 1964. On October 31st, he was paid for the 9 days of work he had completed that month. On November 7, 1964, he let the respondent company know that he had decided to resign, effective from October 31st, 1964. The respondent company responded with a letter on November 23, 1964, requesting his return to work, stating that his resignation was not yet recognized. By November 28, 1964, the appellant had found a new job.

On the 15th of March 1968, an injunction was issued upon the appellant for being restrained from being employed as shift supervisor and doing the same duties elsewhere.



**ISSUES**

Whether the contract among the involved parties is considered immoral and contrary to public policy.

Whether the contract was void according to section 27.

Whether the subordinate court order of injunction is justified and reasonable.

**CONTENTIONS**

**Appellant**

The counsel of the appellant emphasized clauses 9 and 14 where the former states as long as Mr.Niranjan continues working and after, he must maintain secrecy and avoid sharing any company information materials, documents, etc., that he becomes aware and acknowledges of.

The latter clause discusses that the company decides to shut down its operations or reduce its operations due to inevitable events, and if it determines that it can no longer keep the employee, it should have the option to end his employment with a notice period of three months or payment of three months' salary instead.

It was contended by Mr.Niranjan that the conditions of his agreement were unfair and contravened existing social norms. It was debated by him that his inability to change positions demonstrated that Century Spinning's agreement was limiting his "*right to trade or to carry on business, profession or vocation*[3]" arguing that this restriction was unnecessary for protecting the company's interests as his employer.

He also disputed section 9 of his agreement due to its extensive nature, which prohibited him from disclosing any confidential information related to Century Spinning throughout his lifetime. He contended that the agreement's restrictions based on his skill set to seek alternative employment infringed upon his right to pursue his career.

The following three arguments were made on behalf of the appellant: that the aforementioned contract is contrary to public interest since it was a restraint of business activity, the covenant is only valid and effective if it is reasonable in its scope and duration and extends only to the extent necessary to protect the employer's rights in the property, and that an injunction can be granted to enforce a covenant not to do certain acts only when it is made with the bona fide intention of protecting the company's confidential information and the present case was a deficit of such conditions and injunction is injuring the liberty of appellant as per common law.[4]



It was hence appealed to dismiss the order of injunction to provide the appellant with the freedom to be employed.

**Respondent**

The company contended that it is lawful to be entitled to work and trade in one’s capacity but it should be lawful. The training given to the appellant resulted in enhancing his capabilities as a shift supervisor, the techniques and secrets to boost manufacturing as well as trade where the situation arose from Century Spinning's agreements with European firms. Century Spinning

[3] Clause 17 of the agreement
[4] Halsbury's Laws of England (3rd ed.) Vol. 38, at page 15

was obligated to enforce confidentiality rules with its staff to honor its earlier agreements with the European firms.

**RATIO DECIDED**

It is on the basis of such information that Justice Shelat held it is permissible to impose direct restrictions on trade provided they do not go beyond what is required to protect the interest of the employer. Justice Shelat next considered the reasonableness of the contractual term requiring Mr. Niranjan to work exclusively for Century Spinning.

With respect to post-employment work restriction, it has been reiterated on many instances that the employer must be able to prove the actual theft of confidential and proprietary information to restrict an employee from becoming a competitor, that is, the loss of trade secrets and precisely how the competitor uses such secrets to its advantage has caused or is under threat of causing harm or financial loss to the employer. In such instances, the court might only prevent the employee from sharing confidential or proprietary information with the competitor but could not prevent them from joining the competitor's organization. The employer bears the responsibility for proof in such lawsuits.

**HOLDING**

If the limitations on an individual's ability to engage in various trades are fair, then these limitations are legitimate and justifiable. These limitations should not be severe, unfair, unconscionable, or contrary to the policies of the public.[5]

**JUDGEMENT**

The information gathered suggests that in October, the individual was in talks with Rajasthan Rayon Company in Kotah, which additionally produced tire cord yarn and subsequently offered him a position with a higher pay of Rs. 560/- per month compared to his previous salary at the respondent company. As a result, the respondent company initiated legal proceedings against the individual in a Kalyan court, seeking an injunction to prevent them from working in any capacity or being linked with anyone, including the Rajasthan Rayon Company, until March 15, 1968. Additionally, the company sought Rs. 2410/- in damages, representing six months' worth of salary, as stipulated in Clause 17 of the agreement, and a perpetual injunction to

[5] Contract law, trace your case

prevent them from sharing any information, tools, documents, reports, trade secrets, manufacturing methods, know-how, etc., of which they might have access.

In a final judgment, the High Court concluded that there was no evidence suggesting that if the appellant was not allowed to work in a similar role elsewhere, they would be left without work, or that being barred from working at that company would lead them to return, thereby indirectly making the contract for personal services valid. The appellant's attorney made three main arguments:

(1) that the agreement was a restriction on their profession, thus going against public policy

(2) that for the covenant to be valid and enforceable, it should be proportionate in duration and scope, necessary to protect the employer's property rights

(3) that an injunction to enforce a covenant against working could only be justified for the genuine purpose of protecting the employer's trade secrets.

Perhaps, the argument that the presence of such a damaging non-restraint covenant in a contract made the contract null and void because it impeded freedom of trade and went against section 27 of the Contract Act, rendering it invalid.[6]

The second question arising is whether the order in the terms prayed for should have been made. It is plain that the court has the de discretion to grant restraining orders in respect of threatened breaches of restrictive covenants. The concurrent findings of the tribunals below were that the apprehension of the respondent company that the appellant would disclose the information about the special processes and equipment it acquired through training and in fact used, was well-founded; the information and knowhow imparted to the pellant were different from the general knowledge and experience he might have gained while in the employ of the respondent company and the disclosure of the information to the competitor company which required protection, would be injurious. It was, however, submitted that the clause was too wide and the court could not fairly dichotomize the undesirable factors from granting a restraining order that was necessary to protect the employer.

[6] Jugdement bombay high court No. 526 of 1965.
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Yet the rule of severance is retained only for cases in which the covenant itself is held to be contrary to public policy, preventing the court from striking the injurious clauses and issuing a restrained restraining order that is overly broad. This rule does not, however, prevent the court from making a restraint restrained enough to adequately protect the interests of the employer when the restrictive covenant does not make the covenant void.

To conclude the appeal stands dismissed.[7]



[7] Indian kanoon document number 452434