Final Paper

Your Name (First M. Last)

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**Introduction**

Business laws play a major role in organizations. Non-compete law refers to an agreement that is a covenant between an employer and employee taking into account that it stops the employee from using the skills and other information that is learned during the course of employment. By agreeing with a non-compete agreement, an employee confirms that he would not enter into any of the markets and businesses that would be having a direct and indirect competition within a particular geographical location or any duration (Trevino, et al., 2017). It is asserted that the aim of this agreement is to assert the essence of investment where an employer should not invest too much money and time in the training of the employee, taking into account the experience and skills that are to be transferred to the competitors. Moreover, this contract prevents the employees from sharing the trade secrets that comprises of client lists, formulas, software and processes that are learned while doing a job. In addition, this contract also limits the employees from sharing and using the secrets and the terms and potent strategies to other employers and the businesses. *Non-Compete law is one of the current phenomena that is liked and preferred by the employers but it is equally opposed by the competitor, having the potential to reaffirm social, economic, political and legal structure of organizations.*

**Business Situation**

Taking into account the scenario of Greenfield Projects, it is found that 100% of the foreign direct investment is allowed automatically where there is no need for the any approval from the FIPB (Pharmaceutical Sector: DIPP’s Approval required for Non-Compete Clauses, 2014). The subject company has the option to invest either 100% so as to formulate a subsidiary in India or opt for a joint venture with any of the Indian Company. In case, Greenfield established a venture with Indian Pharmaceutical then their foreign investors would be facing strange conflicts because the foreign partner would try its best to ensure that the Indian subsidiary would be exclusively dedicated to exploring joint opportunities in the sectors and they could look ahead to restrict the ability to breach such exclusion by applying and using non-compete clause. According to this clause, the agreement characteristics of Indian partner would be counted. It is asserted that any change in the position that is concerned with the non-compete clause would become mandatory for the Greenfield projects, where permission from FIPB should be taken. In this scenario, there would be a conflicting situation in which the foreign company who would be investing under the impact of the automatic route would have to seek and ask for approval from the FIPB, where the actual and underlying purpose of the automatic route would be denied and detected (Pharmaceutical Sector: DIPP’s Approval required for Non-Compete Clauses, 2014).

 It can be found that while the pharmaceutical industry would be relieved by the government’s stand to continue with the policy, the conditional scrapping of a non-compete clause is assumed and indicated. It is asserted that the domestic industry is of the view that removing this clause would be possible of reducing the negotiation powers in order to achieve a high valuation where the foreign businessmen and players are concerned with the competition. When a country would be liberalizing foreign investment, the potential foreign direct investment would be reduced. This situation will also highlight the confusion and conflicts in the foreign investments in India as well that will be affecting the reforms driven by the government and it will affect the confidence of investors in a highly adverse way. Moreover, other frameworks highlight that this negotiation can also reveal positive outcomes under non-compete law (Pharmaceutical Sector: DIPP’s Approval required for Non-Compete Clauses, 2014).

**Ethical Theories**

**Utilitarian Theory**

In accordance with the utilitarian theory, all those actions are acceptable that can benefit the masses. Intellectual property is differentiating from the material property in a number of ways, taking into account the role of human capital. It is asserted that the intellectual property is included in the category of human capital, it is questioned either it is capable of providing some rights to the human capital or not. Moreover, it is questioned either, it is creating any kind of incentives for the investment of human capital or not. Adhering to the notion of providing an exclusive right in human capital, the echoes of indentured servitude is created. It can be concluded that the non-compete law state the tantamount to servitude. In a simplified form, the context of utilitarian theory infers that majority matters in terms of decision making adhering to the outcome (Shaw, et al., 2016). According to the utilitarian theory it is asserted that deals with the fact that either something is good or bad, right or wrong or it is capable of producing a large amount of pleasure for the greatest number of people or it is something that should be granted a practical approach.

In the context of a non-compete clause, it is a universal approach of retaining employees and it is one of the major concern to be addressed while analyzing the utility approach of an organization. In accordance with the non-compete law, employees are not allowed to compete and ultimately it confirms an employee to work in a particular organization where he or she can practice all the skills and perform with the best of abilities. Research has proven that under the influence and impact of the Non-compete agreement, employees are less likely to leave because there is no way out that an employee can payback the clause of the agreement (Trevino, et al., 2017). It requires all the employees to reimburse the training cost so, in a longer-term, it is utilitarian in nature. it is causing a positive impact on both employees and the employers because the attention of employees will not eb diverted to other companies and parties. It allows employers to get a huge benefit of the cost that is spent on the training of the employees because they are made to work in the same or a particular organizational framework. In the stance of a pharmaceutical company, adhering to the approach of utilitarian, it is a positive initiative because only those investments are successful and helpful that can address the privacies and the code of conduct that is employed on the universal framework.

 Investment and negotiation in the pharmaceutical company would lead to positive intentions because there would be a benefit of masses because both the pharmaceutical agencies would be entering different markets and it will help to increase the market value (Shaw, et al., 2016). Moreover, both the connecting ventures would work on certain and set pattern of market values that could collectively produce and work for the benefit of masses, void of any conflict. Although, the automatic route would be defeated it will open other options that can allow the pharmaceutical agencies to invest freely and with massive productivity in the subject market.

**Justice Theory**

Justice theory is an ethical theory that works adhering to the basic principle of the self-interest of the person who is doing or considering something. An individual is not affected by the action taking into account there is no harm to the companies or people and organizations that are found in the same scenario of work (Martin, et al., 2013). According to this theory, those actions are stressed and preferred in which one can realize interest without harming others or choosing the actions that are welfare in nature and in the long run. It works in coordination with the concept of self-interest rationale, that is termed as a basic component of business models and capitalist economy. In the context of the business environment, it is highlighted that the international company is thinking of its interest and it has nothing to do with the positive and negative sides of others. Moreover, there are two-dimensional approaches associated with this fact, at one side there is a limitation on the other company to get itself under the framework of non-compete law and on the other end it is just concerned with the future aspects and profits that are in association with the core and underlying objectives of the company (Martin, et al., 2013). It would not be wrong to say that under the impact of justice theory a just framework is followed in which both the pharmaceutical companies are working in synchronization with each other. They are investing with positive aims in which none of the party is harmed. Moreover, there is no breaching of the code of conduct that directs the framework of actions of different pharmaceutical industries. Both the pharmaceutical industries would be working in a way that would be concerned with the future prospects and plans that are the cause of this negotiation, defying negative attributes that can hamper the set pattern under which a pharmaceutical company should work (Martin, et al., 2013).

An exegetical analysis of the two theories reveals that both of them are directed to same objectives and goals that do not breach or abrogate the framework of the code of law. It would not be wrong to say that both the theories, “Utilitarian theory” and “justice Theory “are equally productive and beneficial but on the same platform, utilitarian stand out of the two theories. The utilitarian theory would result in the best outcomes as applied to the situation of pharmaceutical companies because all the actions would be directed to a welfare thought in which all the objectives are achieved by adhering to a positive outcome. In the case of justice theory, there may be some points in which some of the laws and rights can be violated but in case of Utilitarian approach, there is a universal justification of positivity and positive outcomes. It is asserted that both the organizations, Greenfield and the Indian Pharmaceutical Agency would be entering an international or new market that would be enhancing the productivity of both the pharmaceutical companies (Nathan, et al., 2017). The implication of non-compete law would result in a unified framework in which there would be maximum benefits by adhering to the set framework whereby multidimensional goals are achieved, refereeing to investment and business development. As a result, the masses and capital mass would be benefited because it is a pharmaceutical agency and all the products would be directed in a way that would be productive in both long term and short term (Nathan, et al., 2017).

**Role of Laws**

There are different laws and with their background that is in direct contact with the subject scenario, adhering to a direct effect or association

**Environmental Law**

Environmental law is defined as the collection of regulation, common laws, and agreements that govern and direct humans to intact in the subject environment. The underlying aim of environmental law is to protect the environment and chalk out rules that can help and guide people to use natural resources. Research asserts that the aim of environmental law is not confined to the realms of environment protection against any harm, in fact, it also provides the framework under which the usage of resources is justified (Jrank. et al., 2011). These laws may regulate issues such as pollution, forest protection, harvesting f minerals, and the population of fish and animals. In the context of the subject scenario, it is asserted that environment law is one of the best fits because it provides a complete guideline to all the happenings and the decision that would be taken by the pharmaceutical agency. All the resources that are used by the two organizations would be in synchronization with the guidelines that are provided by the environmental law, where none of the human character or the animal species or population is harmed. As production of medicines and the reaction of chemical produce a lot of waste material that can harm the life of the species such as fish and other aquatic animals, here, environmental law act as a guard or shield (Jrank. et al., 2011).

Moreover, under this law, all the organizational heads are directed to undergo certain training sessions that help to address environmental concerns that can appear in the long run. It is found that the environmental laws redirect and allow all the objectives to be “eco-oriented” and adhere to the core principles of natural resources. As the production of medicines and another article may require a natural resource, environmental law act as a guideline that can help to ensure maximum productivity and minimization the risk to other living beings or natural resources. It will be addressing the air quality, water quality, management of wastes, cleanup of all the contaminations, safety from chemical and incorporate direction for fishing and hunting. It is asserted that this law is guided by the federal and state environmental laws so these laws are directly applicable in the realms of pharmaceutical companies (Jrank. et al., 2011).

**Employment Law**

Employment law is defined as the collection of those rules and regulation that can regulate the relationship that exists between an employee and the employers. According to this law, an employer can hire only those employees who are eligible to work and the employer has to pay an employee for the type of services received. Under this, law certain laws are embedded that act as a guideline for the practical implication of the organizational framework such as mitigation of discrimination, provision of the safe working environment and the provision of health insurance (Boatright, et al., 1993). It also includes the role of payroll taxes on behalf of employees. There are some significant platforms that are counted under this law, such as family and medical leave, collective bargaining, safe and protective working conditions, protection of civil rights and the mitigation of discrimination. In the context of the subject scenario, it is asserted that as both the organizations are working on the strong basis of an organization in which people are hired as employees and they are paid for performing some specific tasks. When there are employees and employers, employment law is applicable that provides guidelines for the functioning of an effective and complete organization. Employment law will direct the organization to treat the employees with equality, all the employees would be treated with equity with the same approach and pattern of salaries (Boatright, et al., 1993). There would be no discrimination on any of the platform, either it is related to the issue of leaves or it is something related to personal attributes that are the cause of promotions.

In a nutshell, it can be asserted that employment laws are more like the underlying framework because if both the pharmaceutical industries would be working in coordination with the laws only then they would be called legalized organizations. Any breaching and mitigation of any of the laws in the pharmaceutical industries would lead to the breaching of law that direct an employee to get in touch with the employment lawyers where disputes go on trial and then a course of restoring positive and best practices along with negotiating contracts can be achieved. Employment lawyers are also one of the evidence of the necessity of this law, taking into account the necessity of stable organizational framework and code of conduct that can keep employees satisfied (Boatright, et al., 1993).

**Contract Laws**

Contract Laws are defined as a body of law that is responsible for making and reinforcing agreements. In a simple form, contract laws are defined as an agreement that is responsible for regulating and directing contracts, in terms of their practice and fashioning of a remedy whenever any of the laws get breached. It would not be wrong to say that all the business is settled on the basis of contract laws because both companies and the consumers are in contract with each other, in which one party is formulating certain goods and the other party is using those goods (Ashcroft, et al., 2003). In case of two companies who are making a contract, the principles of contract law are followed because both the companies decide to undergo some actions in negotiation and synchronization whereas some of the actions are denied adhering to the code of conduct on which two companies are connected to each other. There are some major features of contract law, offer, acceptance, consideration and a mutual intent to enter into an agreement. None of the contracts is completed without a strong reliance on any of these features. In the subject scenario where Greenfield is planning to get in negotiation and partnership with Indian venture, either joint or collective, both the agencies would be working in coordination with the principles of contract laws.

In this scenario, Greenfield is giving an offer that would accepted by the India Pharmaceutical company, both the pharmaceutical agencies would be working on the basis of some considerations under which both the parties would be giving up on something (Ashcroft, et al., 2003). The implication of non-compete law reveals that the Indian venture would be giving up on getting into competition and partnership with the companies that are related to or found in the geographical areas of Greenfield. On the other hand, Greenfield would also be abiding by some features in which it would be giving up on some actions. Under the stance of non-compete law, Greenfield would be giving up on competing and getting in partnership with the companies that are found in the geographical areas of the Indian venture (Ashcroft, et al., 2003). All of the above, one of the significant features and evidence of the contract laws is the fact that both the pharmaceutical agencies are mutually getting in contract, there is nothing enforced in fact both the companies are getting into the contract by using their free will. Moreover, the two pharmaceutical companies would be abiding by the universal code of employment contract resulting in the achievement of common goals, in which nothing would be manipulated and the two organizations would be equally benefited (Ashcroft, et al., 2003).

**Recommendation**

There are certain recommendations that could be applied in this business scenario taking into account that these recommendations are in direct connection with the social, moral, legal and ethical framework of the organization.

**Empowerment of the Employees**

Employees are the code of conduct who are the ultimate sources of all the progress and benefits that a company avail. It would not be wrong to say that only those companies have achieved the millstone of success who have maintained a code of conduct for employees. In order to extract maximum talent from the employees, it is necessary to make strategies that can empower employees because empowering of employees will lead to the fulfillment of employee expectations (Ames, et al., 2011). Unfulfillment of employee expectation is the major cause because of which employers have to face employee resigns. It is more added that the empowerment of employment also includes the promotion and appraisal of the employees is that the latest strategies of employee retention can be applied. In case of any abrogation or mitigation, employment laws would ultimately lead to reaching an employment lawyer because it is also a basic necessity of an employee.

**Communication of policies and procedures**

In the case of this scenario as well as the other scenarios, communication of policies and procedures is one of the most fundamental ways that can help an organization to reach the heights of success (Ames, et al., 2011). If Greenfield will communicate all the policies and major instructions to the Indian Venture than there would not be any mismanagement that could lead to misinterpreted ideas and actions because there are a number of cases in which issue arise because of lack of adequate communication. Moreover, it is also asserted that the organization should convey major polices and code of action to the employers so that the required goal can be achieved. In accordance with the universal codes of conduct, it is asserted that the organizations in which employers and employees are dealt on the same platform are more successful as compared to other organizations in which there are significant communication gaps between employers and the employees. In a nutshell, it is asserted that the ethical framework, as well as a legal framework, required an organization to make employees a significant and central part of the organization in which all the codes of action are followed along with clarified policies so that product-oriented goals can be achieved (Ames, et al., 2011).

**Financial Transparency**

Financial transparency is one of the major elements of the contract laws, under which employees and the employers undergo a contract. It is also a central element of the contract under which different organization such as Greenfield and Indian venture would be working with each other. Any misinterpretation would be counted under the category of abrogation of policies and procedures (MridulaGoel, & E. Ramanathan, 2014). Financial transparency is not comforted to the realms of the resources and the investments that an organization made, in fact, it also includes the resources that an organization can avail in the achievement of organizational goals (MridulaGoel, & E. Ramanathan, 2014). However, in the contact of the environmental situation, it is asserted that the two organizations have to be very clear in terms of their investment and the long-term goals associated with this investment. It also directs subject pharmaceutical agencies to adhere to the strong rules of economic resources as well as the financial crisis that the company could face in the future so that issues can be addressed by mutual efforts.

**Conclusion**

After critical analysis and an evaluation of the business environment, it is found that there are certain legal and ethical issues that should be addressed under the impact of relevant theory so that any gaps can be mitigated and the aims for the which situation is created can be attained. In this context, non-compete laws are more like restricting shield that makes an organization work in synchronization with a set pattern that facilitates both the organizational and lead to productive goals in the long run. In the situation of Greenfield and Indian Venture, non-compete law would play a central role in guiding the two organization to opt for a platform that would prevent extra intervention and proceed under a code that would ensure mutual interest and benefit in terms of marketing, business, ethics as well as the promotion of business culture. In a nutshell, it can be concluded that all the businesses operate under the set pattern of some legal, ethical and moral obligation for which theories and rules are directed so that none of the organization would be left behind in the walk of life as the ultimate goals are to facilitate the masses.

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