Course: Business Law

1. Explain the constitution of CCI under the Competition Act, 2002 and the procedure of handling complaints and enquiries.

Ans.) CCI means the Competition commission of India it as an organization which formed or appointed by the central govt. by notification in the official gazette for the purpose of this act.

CCI has its own Common Seal , Perpetual succession and such rights which is specified in the act.

It’s head office is in Delhi and have many branches or offices in other states or cities.

Constitution of Competition commission of India :

* CCI Comprises of one chairperson and Members not less than 2 and maximum by 10 and these are appointed by central Government by the official notification. The chairperson and all the members act as full time members of the CCI.
* The tenure of the chairperson and members are 5 years they can hold the the office for the term of 5 years and shall be eligible for further re appointment as well.
* No chairperson can hold the office after attains the age of 67 years and the members till the age of 65 years.
* Who can be appointed as chairman and Member of the CCI :

1. A person shall be of ability, Integrity, Honesty and Intelligent.
2. A person shall be the judge of high court or shall have special knowledge experience of not less than 15 years in prescribed fields or as Central Government may thinks fit.

* Vacancy of Chairperson or Member :

1. If vacancy is caused by death or by resignation then the senior most person will act as chairperson till the next appointment of chairperson.
2. If there is removal of Chairperson then the Fresh Chairperson will be appointed as per the specified method.
3. In case of Casual Vacancy the senior most person will act as chairperson till further action or appointment.

Powers of CCI Members:

The Central Government may give powers or designate any power to any member as financial power, administration power or any duty to any member as the govt. thinks fit. And if member have power to designate then they can delegate the duty or power to the sub members.

Procedure of handling complaints and enquiries:

Once the complaint is received or when the reference of complaint by the State govt or Central govt. then the CCI can order the Director general to initiate the case or start the case or investigation in subject matter. On receiving the direction for complaint Director general has to submit the findings of the subject matter within the prescribed time

If the CCI thinks that there is no prima fecia case then they can dismiss or reject the application and if there is a genuine complaint then they can impose the penalty or give them the punishment as prescribed in the act.

The CCI Carry the Investigation as follows:

1. Receipt of the complaint
2. Own Reference
3. State Govt.
4. Central Govt.

The CCI can Entertain the Complaint if finds it Genuine or correct. On receiving the complaint and then they have power to summon, to call the documents, evidence and to award the compensation as prescribed in the act or by govt.

The Complete procedure for Complaint, Award, Punishments has been prescribed in the act or by the Central Govt. In the Prescribed time or given time the Complaint has to be solved or disposed by the CCI or Director General.

1. What is Corporate Governance and explain any two (2) changes introduced in Companies Act, 2013 that has helped in better Corporate Governance in India.

Ans.) Corporate Governance was introduced by the Govt. in new act I.e 2013 or in Companies act 2013 before that it was not present in Companies act .

Corporate Governance is a system of direction and control to the affairs of company or how the BOD or governs or oversees a company. It something different form the day to day operations of the company of body incorporate enacted by the executives or members of the company and Its Director and Senior management as well.

Due to Corporate Governance the Interest of the Stakeholder or Shareholders or Members in also being protected by the company and the efficient practice is also ensured in operation of the working .

Corporate Governance is a set of System, Rules, policies , Procedures and practices that ensures how the directors of the company is carry out the work and Activities of the company. It implement the smooth system in company. It Includes Principles of transparency, accountability, Authority, Delegation and Security.

The better the Corporate Governance the Better the profits of the company and can easily achieve the goals and vice versa the poor the Corporate govern it can lead to cause the loss and failing in achieving the stated goals or worst it can collapse the company also.

The Companies Act, 2013 has taken a foot forward from SEBI’s Clause 49 of listing agreement by introducing provisions in the companies act 2013 which promotes corporate governorship code in such a manner that it will no longer be restricted to only listed public companies but also unlisted public companies.

**The two changes that introduced in Companies act 2013 that helped in Corporate Governance:**

The Corporate Governance played an important role in Companies Act 2013 or we can say Corporate governance is the major change or it’s been given relative importance in the corporate governance because it emphasized on the working of Organization , or achievement of goals and profit maximization. Let’s talk about the important changes in Companies Act 2013 that helped in Corporate Governance:

1. The Board of Directors : The Corporate Governance set a bench mark in company it set the standard for Directors or Board of Directors . Board of is the important element of Corporate Governance. It Defined it’s Structure, Style, process, their relationship and roles and activities . BOD is a crucial part of Corporate Governance. It address the issues the issues face by the directors and others . The main responsibilities of BOD is to govern the roles and responsibilities of company as the Tricker says”. The corporate government emphasizes on the role of director to maintain and keep the harmony between shareholder , members ,promoters and stakeholders. The eligibility , removal , appointment is determined and decided in the corporate government as well. It has also helped in achievement of corporate goals .

The objectives are:

1. To study the structure, size and composition of board of directors as per Indian regulations.
2. To draft the powers of board of Directors in the Indian Corporate.
3. To study the role of various Board Committees to ensure good Corporate Governance in the Indian Corporate.

b) To evaluate the role of Board of Directors for ensuring good Corporate governance.

## 2) The Following important changes due to corporate Governance are:

a) The Integrity and Ethics : It has created a company culture where employee feels proud of their behavior and makes it easier to identify cases of fraud , scandal or inappropriate business behavior.

b) Equal treatment of Shareholders : It prevents or keeps the interest the of shareholder and it balances the power between the group at the top and the lower level . The shareholders are free to give their opinion and if any discrimination arises they can easily complaint about it.

c) Compliances : Companies that ensure their corporate governance strategy includes compliance with all related governing agencies are at far less risk of regulatory punishments and fines since the process will ensure that products, goods and services all meet the required expectations.

3). a) Can you explain why was he denied information under Right to Information Act, 2005?

Ans) Mr. Inamdar was denied information under Right to Information Act , 2005 . Let’s understand the basics :

It must be Clearly understood that giving information is a general rule but not giving must be an exception . The constitution and RTI 2005 has made it one of the fundamental right to seek the information as per the limits prescribed. Let’s understand what may be the grounds for rejection of RTI or why Mr. Inamdar denied information under RTI:

1. The basic reason is the Developer is the Private Developer and the information only can be demanded or asked by the body’s prescribed in the act like Govt Dept but not by the organization which is not public like Corporative society, private corporates or Institution , not substantially financed or controlled by the Govt.
2. The Information what in not to be asked as prescribed in the act if asked then the Information can be denied or what do not exist for Seeking information cannot be given also can be denied. The information which is strictly forbidden by the act to not provide to anybody.
3. The information must not fall under the category of exemption.
4. There may be certain rare case as well which may bring a halt in work of public authorities.
5. The information asked must not be the Copyright Information

So The major reason why Mr. Inamdar was denied was because he asked the information from the private developer and Private body or Individual in not liable to give the information against the will.

b. What are the specific instances under which information under the Right to Information Act, 2005 can denied?

Ans.) The Specific Instances under which Information under Right to Information Act, 2005 can be denied:

1. If the information is asked from the private body or corporate.
2. If the information in asked from individual or anything which involves criminal state.
3. The specific information which comes under the exceptions of the act or which is prescribed in the that the following information must not be provided to any one.
4. The information which involves the interest , Sovergnity, Integrity, Security of the nation or any info which involves Country’s security.
5. Any Trade’s secret or the information which has been copyrighted or patented by anyone cannot be provided.
6. Information which has been expressively barred by the law or by the courts.
7. Information received in the form of confidentiality by the foreign Government.