

## How to Answer Practical Questions.

**Q4\_01/05/2020** 'X' agreed to become an assistant for 2 years to 'Y' who was practicing Chartered Accountant at Jodhpur. It was also agreed that during the term of agreement 'X' will not practice as a Chartered Accountant on his own account within 20 kms of the office of 'Y' at Jodhpur. At the end of one year, 'X' left the assistantship of 'Y' and started practice on his own account within the said area of 20 kms. Referring to the provisions of the Indian Contract Act, 1872, decide whether 'X' could be restrained from doing so?

Section 27 of The Indian Contract Act, 1872 deals with agreements in restraint of trade. According to the said section, every agreement by which any person is restrained from exercising a lawful business, trade, profession of any kind, is to that extent void. However, in case of service agreements restraint of trade is valid provided the terms are reasonable. In an agreement of service by which a person binds himself during the term of agreement not to take service with anyone else is not in restraint of trade, so it is a valid agreement.

In the instant case, 'x' agreed to become an assistant of 'Y' for 2 years. He also agreed not to practice on his own account within 20 kms of office during the period of agreement. The agreement entered by 'x' with 'Y' is reasonable and does not amount to restraint of trade and is hence enforceable.

Therefore, 'x' can be restrained from practicing on his own account within the said area of 20 kms for another one year.