



Forum Shopping

For Prelims: Forum Shopping, [CJI](#), [Supreme Court](#), Principle of Forum non-conveniens.

For Mains: Forum Shopping, its disadvantages and Prevention.

Why in News?

Recently, the [Chief Justice of India \(CJI\)](#) has condemned the practice of **Forum Shopping** after a [litigant](#) mentioned the hearing before CJI although he had mentioned the same case a day before another Judge.

What is the Practice of Forum Shopping?

▪ About:

- Forum shopping refers to the practice of **deliberately choosing a specific court for a legal case** in the hope of getting a favorable outcome.
- Litigants and lawyers often consider this strategy as part of their litigation plan.
 - For example, they might opt for a higher court like the [Supreme Court \(SC\)](#) to gain more attention for their case. However, if someone is clearly trying to manipulate the system or avoid a particular judge, **it is seen as unfair.**
- Similarly, **“Bench Hunting”** refers to **petitioners managing to get their cases heard by a particular judge** or bench to ensure a favourable order.

▪ Advantages:

- It can allow plaintiffs to **seek justice and compensation in a court** that is more sympathetic to their claims or interests.
- It can encourage **competition and innovation among courts** and judges to improve their efficiency and quality of service.

▪ Disadvantages:

- Forum shopping has been criticized by judges because it can lead **to injustice for the opposing party** and create an **imbalance in the workload** of different courts.
 - Judges have cited the **overburdening of some courts** over others and **interfering with judicial process.**
- It can **undermine the authority and legitimacy of courts** and judges by creating perceptions of bias or favoritism.
- It can increase the costs and complexity of **litigation by creating conflicts of laws and multiple proceedings.**

▪ Discouraging Forum Shopping:

- Even courts in the US and the UK discourage/prohibit forum shopping. In common law countries, the principle of **“forum non-conveniens”** is used to prevent the practice of Forum Shopping.
 - Common Law is a shared British heritage of the **U.S., Canada, and the Commonwealth**, and these countries have a legal system primarily based on **common law principles.**
- This principle allows a court to refuse **its jurisdiction over a case if another court is**

more appropriate to hear it. This helps **ensure fairness and allocates cases to the right judicial authorities.**

How Does Forum Shopping Affect Justice and the Judicial Process?

- It can compromise the **principle of natural justice**, which **requires that every person should have a fair hearing before an impartial tribunal.**
- It can violate the **principle of comity**, which requires that **courts should respect and defer to each other's decisions on matters of common interest.**
- It can hamper the **principle of finality**, which requires that **litigation should end at some point and not be prolonged indefinitely.**

What is the Judiciary's View on Forum Shopping?

- **Dr. Khair-Un-Nisa and Ors vs. UT of Jammu and Kashmir and Ors 2023:**
 - The Jammu, Kashmir, and Ladakh High Court imposed costs worth one lakh rupees on the **petitioners for indulging in forum shopping by filing multiple petitions** before different wings of the court, despite having the same cause of action.
- **Vijay Kumar Ghai vs. State of W.B. 2022:**
 - The SC termed forum shopping as a **“disreputable practice by the courts”** that **“has no sanction and paramountcy in law”**.
- **Dhanwantri Institute of Medical Science vs. The State of Rajasthan 2022:**
 - The Rajasthan High Court upheld an order imposing **costs worth 10 lakh rupees on a party for engaging in forum shopping.**
- **Union of India & Ors. vs. Cipla Ltd. 2017:**
 - The SC laid down a **“functional test” to be adopted** for Forum Shopping.
 - The "functional test" laid down by the Supreme Court was to determine whether a litigant is **genuinely seeking justice or engaging in manipulative tactics** through forum shopping.
- **Rosmerta HSRP Ventures Pvt. Ltd. vs. Govt. of NCT of Delhi & Anr 2017:**
 - The Delhi High Court imposed **costs on a private company that it found was indulging** in forum hunting in an arbitration matter.
- **Kamini Jaiswal vs. Union of India 2017:**
 - The SC said that **“unscrupulous elements”** are always on the hunt to find a court or forum of **their choice but are not permitted to do so** by law.
- **Chetak Construction Ltd. vs. Om Prakash 1988:**
 - The Supreme Court emphasized that litigants should not have the **freedom to choose the court for their convenience.** The court stated that any attempt at forum shopping should be strongly discouraged.

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