



PROCESS OF ADJUDIUCATION IN CYBER LAW

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SIGNIFICANCE OF CYBER LAW

- Cyber regulations are important in nations, where the internet is widely utilized.
- Cyber laws are in place to regulate the digital exchange of information, software, information security, e-commerce, and monetary transactions.
- India's cyber laws have paved the way for electronic commerce and electronic governance in the nation, as well as increased the scope and use of digital media, by ensuring optimum connection and reducing cybersecurity risks. But there are several detriments that walk along with the existing laws as well.
- The Information Technology Act, which was enacted in 2000, governs Indian cyber legislation. The main goal of this Act is to provide eCommerce with trustworthy legal protection by making it easier to register real-time information with the government. However, as cyber attackers became more cunning, coupled with the human predisposition to misuse technology, a number of adjustments were made.

The background of the slide is a dark blue overlay on a photograph. The photograph shows several hands of different people pointing at a large document or map spread out on a table. The hands are in various positions, some pointing directly at the camera, others pointing towards the document. The document itself has some faint lines and text, but it is not legible.

DISPUTE RESOLUTION MECHANISM UNDER THE IT ACT, 2000

- The Information Technology Act, 2000 establishes quasi-judicial bodies, such as adjudicating officials, to resolve disputes (offences of a civil nature as well as criminal offences). The adjudicating officer has the jurisdiction to award compensation as a civil remedy as well as impose fines for violating the Act, giving them civil and criminal court-like powers.

THE ADJUDICATING OFFICER UNDER IT Act, 2000

- The Central Government appoints an “Adjudicating Officer” (AO) with the authority to make decisions. The secretary of each state’s department of information technology is designated as the AO for that state by default, according to the **Ministry of Electronics and Information Technology**. The AO is a quasi-judicial entity since it has the ability to:
 1. Order investigation, i.e. hold an inquiry into a breach of the IT Act, 2000 based on the evidence presented to it; and
 2. Adjudicate, i.e. determine the amount of compensation or punishment to be awarded in the event of a violation.

ADJUDICATION PROCESS

- ❑ The adjudicating officer shall exercise jurisdiction in respect of the contraventions in relation to Chapter IX of the IT Act.
- ❑ To receive a complaint from the complainant on the basis of the location of computer system, computer network as defined in sub-section (2) of Section 75 of IT on a plain paper on a plain paper on the proforma attached to these Rules along with the fee payable which is computed on the basis of damages claimed by way of compensation.
- ❑ To issue notices together with all the documents to all the necessary parties to the proceedings, fixing a date and time for further proceedings.

- ❑ On the date so fixed, the person to whom the notice has been issued about the contravention alleged to have been committed shall be explained by the adjudicating officer about the contravention alleged to have been committed in relation to any of the provisions of this Act.
- ❑ Suppose the person who is alleged to have committed the contravention, pleads guilty. In that case, it shall be recorded by the adjudicating officer, and penalty might be imposed upon him or award such compensation as deemed fit in accordance with the provisions of this Act, rules, regulations, order, or directions made thereunder.
- ❑ Alternatively, on the date fixed, the person who has committed the alleged contravention may show cause as to why an enquiry should not be held in the alleged contraventions or why the report alleging contraventions against him should be dismissed.

- ❑ On the basis of the submissions made, the adjudicating officer shall form an opinion that there is sufficient cause to hold an enquiry or dismiss the matter or may get the matter investigated.
- ❑ If any person or persons fails, neglects, or refuses to appear, or present himself before the adjudicating officer, he shall proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.
- ❑ The adjudicating officer shall fix a date and time for the production of documents (including electronic records) or evidence.

- ❑ To hear and decide every application, as far as possible, in four months and the whole matter in six months.
- ❑ And if in a case, the adjudicating officer is convinced that the scope of the case extends to the offences under Chapter XI of IT Act (the Cyber Appellate Tribunal) instead of contravention, needing appropriate punishment instead of mere financial penalty, should transfer the case to the magistrate having jurisdiction to try the case, through presiding officer.

APPEALS

Telecom Dispute Settlement and Appellate Tribunal (TDSAT), established under Section 14 of the Telecom Regulatory Authority of India Act, 1997, has substituted CAT and since 2017 has been working as appellate tribunal for the purposes of the IT Act. The TDSAT exercises the jurisdiction, powers, and authority bestowed upon it by or under IT Act.

As per Section 57 of the IT Act, a person who is aggrieved by the order passed by the controller or an adjudicating officer under this Act may file an appeal before the appellate tribunal having jurisdiction in the matter. It is to be noted that no appeal shall lie to the appellate tribunal from an order passed by the adjudicating officer when it is arrived at with the consent of the parties. The limitation period for filing an appeal from the order of the adjudicating officer is 45 days from the date on which a copy of the order made by the controller or the adjudicating officer is received by the person aggrieved, and it shall be in such form and be accompanied by such fee as may be prescribed. The limitation period of appeal is provided under Section 57(1) of the IT Act, 2000. In case the appeal is filed after the expiry of the limitation period, the appellate tribunal may entertain an appeal if it is satisfied that there was sufficient cause.

CONCLUSION

To conclude, it can be said that, despite setting up of redressal mechanism such as the adjudicating officer and vesting it with powers of a civil court to adjudicate the matters concerning the cyber contraventions under the Information Technology Act, 2000, the role played by them has not been deployed to the fullest by the persons affected due to cyber contraventions.

Further, another point of consideration is e-governance, which signifies the application of information technology and communication by the government for the purposes of facilitating government services as well as to achieve the objectives of governance and has been taken up by the Indian government in 2006 by the launch of National e-Governance Plan (NGP). An initiative under this plan was the launch of the Digital India Campaign in the year 2015 to empower the country digitally. Apparently, from the launch of the Digital India Campaign and the lack of development of websites by the Department of Information Technology that we see today, it is explicit that there is a contradiction in what was promised by the government and what is being provided.

SUGGESTIONS

- There should be mechanisms to keep track of whether the state governments in India are taking necessary efforts to improve their technological infrastructure in order to comply with the order of Central Government.
- The mechanism of Adjudicating Officers can prove to be truly effective if the government can create IT websites.



THANKYOU