

Challenges Relating to Adjudication of Contraventions under Section 43 of the Information Technology Act, 2000

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Abstract

The Information Technology Act, 2000 was comprehensively amended in the year 2008. The Information Technology (Amendment) Act, 2008 brought in significant change in the contraventions under Section 43 of the Act. Since the inception of the Information Technology Act, 2000, this was the second comprehensive amendment in the Act which affected Section 43. Previously, in 2004 the amendment was made to facilitate the remedy and provide a separate forum for the adjudication of contraventions under Section 43.

Since the Information Technology Act, 2000 was enforced in India, within 8 years two major amendments were made in it which had a major impact on the contraventions and adjudication of contraventions under Section 43 of the Information Technology Act, 2000. This shows the volatile nature of the technology and the attempt of legislature to cope with the expectation to facilitate adequate remedy to the victims of contraventions.

The Information Technology (Amendment) Act, 2008 had a major impact on Section 43, which prescribed for contraventions and provided remedy to the victims of contraventions in the form of compensation. The Amendment in 2008 made a comprehensive change in the way the contraventions were dealt with in the Indian legal framework.

The multiplicity of courts and over-riding jurisdiction of certain courts are the biggest issue post Amendment of 2008. The paper is a small attempt to re-look into the adjudication of contraventions in the existing legal framework and suggesting some recommendations to reform it.

KEYWORDS: Information Technology Act, Section 43 of IT Act, UNCITRAL Model Law, multiplicity of courts

Introduction

The growth and development of information technology in India is happening since late 1990s in leaps and bound, and still continues. The development of the information and communication technology in India can be analysed by the following figures and statistical information: India is one of the three countries that make supercomputers (the US and Japan are the other two). India has the second largest community of software developers after the U.S. In India, there are more number of mobile phones than toilets. More than 50% of the high-tech start-ups in Silicon Valley and Washington, D.C. are owned by Indians or Indian-Americans¹. Obviously, the

development and growth in the field followed with the need for regulation and India catered to that need by passing The Information Technology Act, 2000.

UNCITRAL Model Law

The Information Technology Act, 2000 in India is based on the Resolution² adopted by the General Assembly of United Nations on 30th January, 1997 regarding Model Law on Electronic Commerce earlier adopted by the United Nations Commission on International Trade Law (UNCITRAL). The UNCITRAL was created by the United Nations General Assembly by resolution³ dated 17th December, 1966. In India, The Information Technology Act, 2000 received the assent of the President of India on 9th June, 2000 and later on was notified in the Official Gazette on 17th October, 2000.

The aim of UNCITRAL is to further the progressive harmonization and unification of the law of International Trade and in that respect to bear in mind the interests of all people in particular to those of developing countries in the extensive development of international trade⁴ by adopting Model Law of different genre. The Information Technology Act, 2000 is based on the UNCITRAL Model Law on E-commerce which is to give legal recognition to electronic records, promote e-commerce⁵ and e-governance⁶, treat electronic records at par with paper based documents and regulate cyber-crimes.

The Model Law is just a guideline for the countries to evolve a law according to the standards of technology being used in each single country. The entire idea of providing a Model Law was only to bring e-contracts⁷ on one standard footing for all the countries. Even after having different levels of technology in different countries, there was a need for some commonality of principles in the area of electronic commerce which was satisfied with the application of the UNCITRAL Model Law in the domestic sphere of the legislations in the developing countries like India. The Model Law was just a specimen created for the member countries who were members of UNCITRAL and the countries were expected to draft legislation based on the Model Law specifically for the purpose of regulating E-commerce. This provided an opportunity for developing countries like India to come up with the first-ever legislation in the domestic sphere on the subject matter of information technology.

While drafting the legislation based on the UNCITRAL Model Law, the care was taken by the legislature that it must not only address the regulation on e-commerce as per the expectations of the UNCITRAL Model Law but also include the provisions relating to other facets of information technology, such as Digital Signatures, Certifying Authorities, Adjudicating Authorities to address the technical, legal and procedural issues, liability of Internet Service Providers (ISP), contraventions which enforce civil liability and separate provisions for the punishment for cyber-crimes. After enacting the Information Technology Act, 2000, India became 12th nation in the world to pass the exclusive legislation on the information technology.

Nature and Scope of Section 43

Within the first 10 years of enforcement of the Information Technology Act, 2000, there were two major amendments passed; one in 2004 and the other 2008. Both these amendments had a major impact on Section 43 of the Information Technology Act,

2000. The very nature of the Information Technology Act, 2000 is prescribing civil law with provisions applicable to e-commerce and in turn digital signatures and civil liability in relation to certain acts prescribed under Section 43. At the same time, the Information Technology Act, 2000 also prescribes computer related offences under Section 65 to 74⁸ which make the nature of the law as a mixed blend of civil and criminal liability in terms of misuse of computers.

The provision prescribing civil liability under Section 43 is a unique provision and has been subjected to various controversies, judicial and legislative scrutiny and amendments. There are few stringent implications which hint towards the tough and strong regulations to combat the evil of computer related prohibited acts under Section 43 of the Information Technology Act, 2000. But it also carries certain inherent drawbacks and limitations of this particular provision in terms of applicability, jurisdiction and other procedural aspects. For the purpose of understanding the limitations of the said provision, the scope of Section 43 needs to be studied minutely right from the origin of the Information Technology Act, 2000.

The Chapter IX⁹ which provided for the Penalties and Adjudication included the set of five sections from Section 43 to 47 in the Information Technology Act, 2000. The major emphasis under this chapter was on the certain set of prohibited acts which are not as serious as cyber-crimes but are of such a nature that might cause damages to an individual. Securing unauthorized or illegal access¹⁰, downloading, copying, extracting data or information¹¹, introducing computer virus or computer contaminant¹², damage or causing damage¹³, disruption or causing disruption¹⁴, denial of access to a person authorised¹⁵, assisting someone else to commit any contravention¹⁶, theft of internet hours¹⁷, destroying, deleting or altering any information in the computer by diminishing its value¹⁸ and stealing, concealing, destroying or altering the information residing in the computer¹⁹ are some of the acts which are made contraventions under Section 43 of the Information Technology Act, 2000.

Section 43, right at the outset provides for the pre-requisites to enforce the liability under this Section. The two requirements which are discussed in the beginning of the Section 43 are:

- i. The acts committed under this Section must have been committed without the permission of the owner or any person who is in charge of a computer, computer system or computer network.
- ii. There must be some kind of damage caused to the person affected by such acts.

Such acts were prohibited under Section 43 and the remedy provided to the victim is in the form of compensation. Before the Information Technology (Amendment) Act, 2008, the compensation under Section 43 was up to Rupees ten lakh and later on was increased up to Rupees one crore. After the Information Technology (Amendment) Act, 2008, this limit to the grant of compensation is removed²⁰ and therefore, there is no limit because a victim can get maximum compensation as a remedy under Section 43.

Section 43 of the Information Technology Act, 2000 provides for certain set of acts; if committed by any person without the permission of the owner or person in charge of a computer²¹, computer system²² or computer network²³ commits any of the acts provided under the sub-sections (a) to (j) of Section 43, the person is liable to pay damages by way of compensation to person affected.

Section 66: Ancillary Provision

Section 43 provides for the remedy in the form of compensation to the victim. But that is not the only remedy under the Information Technology Act, 2000 for the victim. According to Section 66²⁴ of the Information Technology Act, 2000;

“If any person, dishonestly or fraudulently, does any act referred to in Section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.”

Section 66 has provided another form of remedy for the victims of the acts committed against them under Section 43. The major difference between Section 43 and Section 66 is as below:

i) The pre-requisite of Section 66 is the existence of *mensrea*, which could be reflected by the words used in Section 66 which are, “*dishonestly or fraudulently*”. In turn, this pre-requisite is not the condition for Section 43. The only pre-requisite which applies in case of Section 43 is whether the act committed by the person under Section 43 is without the permission of the owner or person who is in charge of the computer, computer system or computer network.

ii) Section 43 provides for the remedy for the victim in the form of damages to be paid to the person affected by way of compensation by the person committing any contravention under Section 43 (a) to (j). Whereas, Section 66 provides for the sanction on the person committing the act under Section 43 with dishonest and fraudulent intention with the punishment for the imprisonment which may extend to three years or with fine which may extend to five lakh rupees.

The most important facet about these two provisions of the Information Technology Act, 2000 is that, no single provision of the Information Technology Act, 2000 provides for the alternative application of Section 43 and 66. It means simultaneous actions under Section 43 and 66 under the Information Technology Act, 2000 can be initiated by the victim against the person who commits any contravention under Section 43 of the Information Technology Act, 2000.

Adjudication of Contraventions under Section 43

A very interesting aspect of these acts provided under Section 43 of The Information Technology Act, 2000 is related to the jurisdiction of the courts. The Adjudicating Officer has the jurisdiction to try the contraventions of the provisions under Chapter IX of The Information Technology Act, 2000²⁵. Taking into consideration the technical aspects of the acts provided under Section 43, the jurisdiction of civil courts is expressly barred under The Information Technology Act, 2000.²⁶ A special court in the form of Adjudicating Officer is provided in The Information Technology Act, 2000 to try the contraventions under Chapter IX related to Penalties, Adjudication and

Compensation. Whereas, there is no special court created for the offences prescribed under Chapter XI consisting of Section 65 to 74 related to offences. The regular criminal courts have the jurisdiction depending upon their respective power to adjudicate depending upon the quantum of the punishment which is prescribed in the Code for Criminal Procedure, 1973²⁷.

The Information Technology Act, 2000 under Section 46 provides that there shall be an Adjudicating Officer for adjudicating the contraventions under Chapter IX of The Information Technology Act, 2000²⁸. There is an exclusive jurisdiction granted to an Adjudicating Officer over the matters under Section 43 to 47 of The Information Technology Act, 2000.

The Central Government shall appoint any officer not below the rank of Director to the Government of India or an equivalent officer of the State Government to be appointed as an Adjudicating Officer²⁹ for holding an inquiry in the manner prescribed by the Central Government.

According to Section 46(2), the inquiry shall be conducted by the Adjudicating Officer after giving the opportunity to the parties. After the Adjudicating Officer is satisfied with the inquiry that any person has committed contravention, he may impose penalty or such compensation in accordance with the provisions, rules and regulations under the Information Technology Act, 2000.

Section 46(3) of the Information Technology Act, 2000 provides that;

“No person shall be appointed as an Adjudicating Officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.”

Finding a person with dual qualification of having knowledge and experience in information technology and law was difficult for the Central Government. A Division Bench of the Mumbai High Court consisting of Justice A. P. Shah and Justice Ranjana Desai by an order dated 9th October, 2002 directed the Central Government to announce the appointment of Adjudicating Officers in the public media to make people aware of appointments. Following this, the Central Government has directed that the IT Secretaries of each state and Union Territory should be appointed as Adjudicating Officers.

Accordingly, the Central Government passed a notification and appointed the Secretary of Department of Information Technology of each States and Union Territories as Adjudicating Officer³⁰.

Pursuant to the further developments, the Adjudicating Officers under the Information Technology Act, 2000 have been appointed since 2003 in every state and in union territories of India. They are also conferred with the powers of Civil Court under Section 46(5) of the Information Technology Act, 2000. For the purposes of Chapter IX of the Information Technology Act, 2000, Adjudicating Officer shall be deemed to be a civil court for the purpose of Order XXI of The Civil Procedure Code, 1908 (5 of 1908)³¹.

The above mentioned provision gives all the powers of the civil court to the Adjudicating Officer appointed under the Information Technology Act, 2000. That means, it is a *quasi-judicial* authority. Adjudicating Officer is a court and the proceedings before Adjudicating Officer are judicial proceedings. The arrangements of the provisions of The Information Technology Act, 2000 clearly indicate that the Adjudicating Officers are not appointed from the judicial cadre and they are mix blend of executives who know bit of law and technology. The lack of political will in this respect from the previous governments at the center has laid to apathy in the field of Information Technology and Law.

Moreover, if the compensation demanded by the victim is five crore rupees or more, the Competent Court shall have jurisdiction for the purpose of Chapter IX of the Information Technology Act, 2000³². Interestingly, the establishment of the competent courts and their hierarchy are neither discussed in the Information Technology Act, 2000 nor in the Rules and Regulations under the Information Technology Act, 2000.

The competent court under Section 46(1A) is a civil court. Looking at the pecuniary jurisdiction which is conferred under Section 46(1A) is five crore rupees in which only District Court can have the jurisdiction. Adjudicating Officer is appointed as the first court for the purpose of contraventions under Section 43 only to have a special court which has knowledge and expertise in the Information Technology. The very objective of appointment of Adjudicating Officer for the purpose of Chapter IX of The Information Technology Act, 2000 seems to have miserably failed. Initially, the Adjudicating Officers were not appointed from pure judicial or technological cadre. They all were appointed by their ranks as Secretary of Department of Information Technology in each State and Union Territory. Subsequently, under Section 46(1A) of the Information Technology Act, 2000, it is provided that if the compensation asked for under Chapter IX is Five Crore or more, the Adjudicating Officer shall not have jurisdiction. Such matters will be tried by the competent court. As there is no specification given to the establishment of competent court, the civil court without any maximum pecuniary jurisdiction is District Court will have jurisdiction. The purpose of appointing Adjudicating Officer as a special technical court other than usual civil court seems to exist like a substitution for substitution with original jurisdiction prevailing with civil court.

Furthermore, the theory of competent court fails due to one more provision of the Information Technology Act, 2000. Section 61 of the Information Technology Act, 2000 provides that:

Section 61: Civil Court not to have jurisdiction:

“No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Officer appointed under this Act or the Cyber Appellate Tribunal constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”

The head note and the provision clearly indicate that there is an express bar on the jurisdiction of civil court on the matters which are to be decided by the Adjudicating Officer and Cyber Appellate Tribunal. But there is an anomaly in law created due to the pecuniary jurisdiction provided in favour of competent court under Section 46(1A). The competent court for the purpose of Section 46(1A) could be District Court due to no limit on its pecuniary jurisdiction under the Civil Procedure Code, 1908³³.

Section 61 of the Information Technology Act, 2000 takes away the jurisdiction of the civil court expressly but grants the jurisdiction to District Court impliedly and submissively through Section 46(1A). There has to be a clarity and certainty at least in relation to the primary issue of jurisdiction to the specific court appointed for such a technical subject matter.

Cyber Appellate Tribunal

The Information Technology Act, 2000 provides for a special Tribunal known as Cyber Appellate Tribunal³⁴ for the appellate jurisdiction from that of the decisions and orders passed by the Adjudicating Officer who has the exclusive jurisdiction to try the contraventions under Section 43 with a pecuniary jurisdiction limiting up to Rupees Five Crore.

Section 48(1) of the Information Technology Act, 2000 provides that;

“The Central Government shall, by notification, establish one or more appellate tribunals to be known as the Cyber Appellate Tribunal.”

Even though Section 48(1) provides for one or more tribunals to be established as Cyber Appellate Tribunals, the Cyber Regulation Appellate Tribunal (Procedure) Rules, 2000 provide that there shall be only one tribunal and the sittings of the tribunal shall be at New Delhi³⁵. But there is a lot of flexibility for the rule of sitting of the tribunal as the Chairperson may direct to hold the sittings of the Cyber Appellate Tribunal at any such appropriate place³⁶.

Section 49 of the Information Technology Act, 2000 provides for the composition of Cyber Appellate Tribunal as follows:

“The Cyber Appellate Tribunal shall consist of a Chairperson and such number of other members, as the Central Government may, by notification in Official Gazette may, appoint”.

This shows the interference of Central Government with the appointment of Cyber Appellate Tribunal.

Section 50 of the Information Technology Act, 2000 provides the qualification for the appointment as Chairperson and Members of the Cyber Appellate Tribunal as follows:

*“A person shall not be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal unless he is or has been, or is qualified to be, a Judge of a High Court”.*³⁷

For the members of the Cyber Appellate Tribunal, there is a different criterion laid down within subsequent sub-sections of Section 50 of the Information Technology

Act, 2000. Section 50(2) and Section 50(3) provide for the separate qualification for the judicial and non-judicial members of the Cyber Appellate Tribunal respectively.

Judicial members of the Cyber Appellate Tribunal shall be appointed by the Central Government from the persons who are or have been a member of the Indian Legal Service and have held the post of Additional Secretary for a period of not less than one year or Grade I post of that service for a period of not less than five years³⁸.

A person can be appointed as a member if he is or has been in the service of the Central Government or a State Government, and has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or a State Government for a period not less than one year or joint secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years³⁹.

Any person aggrieved by the decision or order passed by the Controller⁴⁰ or Adjudicating Officer under this Act may prefer an appeal to Cyber Appellate Tribunal.⁴¹

The major limitation restricts the enlarged scope of rights being granted under Section 57(1) by its subsequent sub-clause. Section 57(2) provides that no appeal shall lie to the Cyber Appellate Tribunal from an order made by an Adjudicating Officer with the consent of the parties. Even though this looks like a speedy remedy before the parties and compromise and settlement becoming prominent in civil disputes, it affects the rights of parties adversely. Such a restriction should not be imposed through law as it affects the spirit of the legislation to grant and recognize the rights of the parties in such a technical subject matter.

Section 62 of the Information Technology Act, 2000 provides that any person aggrieved by any decision or order passed by the Cyber Appellate Tribunal may file an appeal to High Court within sixty days from communication of the decision or order to him on any question of fact or law. It seems to be an additional junction in the entire set up of hierarchy within the provisions of the Information Technology Act, 2000.

In principle, appeal should be made in higher forum in the hierarchy of the courts. What is happening in the case of Cyber Appellate Tribunal is that a decision or order of the Adjudicating Officer or Controller will lie in appeal before Cyber Appellate Tribunal and the Chairperson must have a prescribed qualification of being a judge of High Court⁴² and again when a party is aggrieved by the decision or order by the Cyber Appellate Tribunal, appeal can be filed in the High Court in the concerned state. This is turning out to be an appellate jurisdiction with equivalent authority. From an authority that is qualified to be a High Court judge again the appeal is preferred in High Court which does not solve the purpose of creating a Tribunal with special subject matter jurisdiction with the aim of speedy disposal matters.

Generally, any tribunal under a special law is established to avail speedy disposal of cases and to avoid regular delays in the traditional hierarchy of courts and procedural latches. This purpose is not served as the parties to the litigation will be travelling from their own state to Cyber Appellate Tribunal which has its initial set up at Delhi

and again from there, back to the High Court in their own states and again from High Court to Supreme Court in Delhi. Equivalent jurisdiction in the Cyber Appellate Tribunal and High Court is an area where the law requires a change. Amendment to enforce the appeal directly from Cyber Appellate Tribunal to Supreme Court will be a welcome change.

Another factual reality is that the seriousness towards establishments and operations of the Tribunals in India has been in dire state of affairs for last few years. There are instances where the Cyber Appellate Tribunal had to direct the Adjudicating Officers to take cognizance of the matter. For instance, in *Roohi Jindal v. ICICI Bank*⁴³, the Cyber Appellate Tribunal had to direct to the Adjudicating Officer to take cognizance of the complaint filed by an account holder for an alleged fraud against ICICI. Justice Rajesh Tondon, Chairperson of the Cyber Appellate Tribunal gave the directions to take cognizance.

Interestingly, though the Information Technology Act was enacted in the year 2000, but the Cyber Appellate Tribunal came into existence only in 2006. Litigants were not approaching the Adjudicating Officers, probably due to ignorance of this route of law. This lack of judicial work before the Adjudicating Officers probably did not inspire earlier setting up of the Tribunal⁴⁴. Another major setback was seen in the year 2011 when Justice Rajesh Tondon completed his tenure. The Chairperson or any member of the Cyber Appellate Tribunal shall hold the office for a term of five years from the date on which he enters upon the office or until he attains the age of sixty five years, whichever is earlier⁴⁵.

Once Justice Rajesh Tondon retired as a Chairperson of Cyber Appellate Tribunal, there was no Chairperson and member appointed on Cyber Appellate Tribunal by the then Congress led Central Government. In *M/s Gujarat Petrosynthese Ltd. and Mr. Rajendra Prasad Yadav v. Union of India*⁴⁶, the High Court of Karnataka directed the Central Government to appoint the Chairperson for the Cyber Appellate Tribunal. In a hurry to comply with the orders of the High Court of Karnataka and to avoid further non-compliance, the Central Government appointed Justice K.S. Krishnan as a Member Judicial as an acting Chairperson on Cyber Appellate Tribunal. Currently, he is acting as Member Judicial on the Cyber Appellate Tribunal but his appointment is still awaited as a Chairperson of Cyber Appellate Tribunal.

It is necessary to look into establishment like Cyber Appellate Tribunal as a special court created as an appellate forum and there has to be an assurance by the Central Government that the office and the chair of the Chairperson of Cyber Appellate Tribunal shall not remain vacant for long time.

The current position of the courts of Adjudicating officer is way below the expectations, if we consider the number of cases filed under Section 43 of the Information Technology Act, 2000. For every state in India, there is only one Adjudicating Officer, as mostly the Secretary of Ministry of Information Technology is appointed as the Adjudicating Officer in that respective state. The Adjudicating Officers are located mostly in the capital city of the states. There are many non-capital cities in every state in India, which are technologically driven and have many matters involving Section 43 of the Information Technology Act, 2000. In such a situation,

the idea of providing the remedies under The Information Technology Act, 2000 seems to be too remote.

There are few technologically driven states where the matters are more in number and only one Adjudicating Officer cannot deal with such a huge number. There is a lenient approach and lack of attention even towards appointment of Adjudicating Officers in certain technologically advanced states. For example, in Maharashtra, since 2009, 124 matters are pending under Section 43 of The Information Technology Act, 2000 as there is no appointment of Adjudicating Officer in the state and the post is vacant⁴⁷.

Conclusion

Even after passing two major amendments in the Information Technology Act, 2000 in the year 2004 and 2008, having made a major impact on Section 43 of the Information Technology Act, 2000, there are many limitations and short-comings in adjudication of contraventions under the Information Technology Act, 2000.

The first major limitation is that the Adjudicating Officer is a quasi-judicial authority and is a primary court of jurisdiction in the matters pertaining to Section 43. Secondly, Section 61 of the Information Technology Act, 2000 expressly bars the jurisdiction of civil courts in the matters under Section 43. But, under Section 46(1A), when the victim asks for the compensation of more than rupees five crores, the jurisdiction is conferred to a Competent Court, which is mostly a civil court. This creates a conflicting situation under Section 46(1A) and Section 61 of the Information Technology Act, 2000. Thirdly, a person aggrieved by the order passed by the Adjudicating Officer has to appeal to Cyber Appellate Tribunal located in Delhi, where the chairperson is of the rank of the judge of a High Court. Furthermore, if the person is not satisfied by the orders of the Cyber Appellate Tribunal, the appellate jurisdiction lies with the High Court. This creates multiplicity of jurisdiction and two similarly ranked judges decide the matter and the litigants and lawyers have to travel from their own states to Delhi again and again.

For the interest of litigants, providing speedy remedies and removing the inconvenience of the parties and lawyers, the judicial officer shall be appointed as Adjudicating Officer, conflict between Section 46(1A) and Section 61 of the Information Technology Act, 2000 shall be removed and multiplicity of jurisdiction of the High Court shall be removed.

References

¹ <https://www.track.in/ind/info/ict/pg> (Jan., 24, 2015 at 6:00 am)

² Resolution A/RES/51/162 of Jan. 30, 1997.

³ Resolution 2205 (XXI) of Dec. 17, 1966.

⁴ See, RESOLUTION, *Supra* Note 1

⁵ Henceforth for all the expressions the word '*e-commerce*' would mean electronic commerce.

⁶ Henceforth for all the expressions the word ‘*e-governance*’ would mean electronic governance.

⁷ Henceforth for all the expressions the word ‘*e-contract*’ would mean electronic contract.

⁸ The Information Technology Act, 2000, Chapter XI

⁹ The Heading of Chapter IX was amended and was substituted with “Penalties, Compensation and Adjudication”.

¹⁰ Section 43 (a) of The Information Technology Act, 2000

¹¹ Section 43 (b) of The Information Technology Act, 2000

¹² Section 43 (c) of The Information Technology Act, 2000

¹³ Section 43 (d) of The Information Technology Act, 2000

¹⁴ Section 43 (e) of The Information Technology Act, 2000

¹⁵ Section 43 (f) of The Information Technology Act, 2000

¹⁶ Section 43 (g) of The Information Technology Act, 2000

¹⁷ Section 43 (h) of The Information Technology Act, 2000

¹⁸ Section 43 (i) of The Information Technology Act, 2000

¹⁹ Section 43 (j) of The Information Technology Act, 2000

²⁰ By The Information Technology (Amendment) Act, 2008 (No. 10 of 2009), Section 21 (d), which came into force with effect from Oct. 27, 2009

²¹ The Information Technology Act, 2000, Section 2 (i)

²² The Information Technology Act, 2000, Section 2 (l)

²³ The Information Technology Act, 2000, Section 2 (j), which was substituted by The Information Technology (Amendment) Act, 2008 (No. 10 of 2009) which came into force with effect from Oct. 27, 2009

²⁴ The Information Technology (Amendment) Act, 2008 (No. 10 of 2009), Section 32 which came into force with effect from Oct. 27, 2009

²⁵ The Information Technology Act, 2000, Section 46

²⁶ The Information Technology Act, 2000, Section 61

²⁷ (2 of 1974)

²⁸ The Information Technology Act, 2000, Chapter IX consists of Section 43 to 47

²⁹ The Information Technology Act, 2000, Section 46(1)

³⁰ Gazette Notification G.S.R. 220(E) dated Mar. 17, 2003 and G.S.R. 240(E) dated Mar. 25, 2003.

³¹ The Information Technology Act, 2000, Section 46(5)(c)

³² The Information Technology Act, 2000, Section 46(1A)

³³ 5 of 1908

³⁴ Prior to The Information Technology (Amendment) Act, 2008, Cyber Appellate Tribunal was known as Cyber Regulation Appellate Tribunal.

³⁵ The Cyber Regulation Appellate Tribunal (Procedure) Rules, 2000, Rule 13

³⁶ The Cyber Regulation Appellate Tribunal (Procedure) Rules, 2000, Rule 12

³⁷ The Information Technology Act, 2000, Section 50(1)

³⁸ The Information Technology Act, 2000, Section 50(3)

- ³⁹ The Information Technology Act, 2000, Proviso to Section 50(2)
- ⁴⁰ Controller of Certifying Authorities under Section 17 of The Information Technology Act, 2000 who exclusively deals with disputes regarding the Digital and Electronic Signature in India
- ⁴¹ The Information Technology Act, 2000, Section 57(1)
- ⁴² The Information Technology Act, 2000, Section 50(1)
- ⁴³ Order passed by Justice Rajesh Tondon as Chairperson of Cyber Appellate Tribunal on Jul. 17, 2009
- ⁴⁴ VAKUL SHARMA, *Supra* note 2 at 141
- ⁴⁵ The Information Technology Act, 2000, Section 51(1)
- ⁴⁶ 2014 (1) KarLJ 121
- ⁴⁷ MAHARASHTRA TIMES, August 11, 2015, at 5