

CYBER APPELLATE TRIBUNAL

The Information Act 2000 has established the Cyber Appellant Tribunal. As the name suggests the tribunal has appellant jurisdiction only. Thus, it has authority to exercise its appellant jurisdiction over both on facts as also in law over a decision or order passed by the Controller of Certifying Authorities or the adjudicating officer. In other words, it has the statutory authority to examine the correctness, legality or propriety of the decision or order passed.

ESTABLISHMENT OF THE CYBER APPELLATE TRIBUNAL

Section 48 of the IT Act 2000 talks about the establishment of Cyber Appellate Tribunal where the Central Government shall by notification establish one or more appellate tribunals. The powers of the Tribunal are no doubt limited. Its area of jurisdiction is well-defined within the boundaries of its jurisdiction. However, if at any time, the Chairperson of the Tribunal is satisfied that circumstances exist which render it necessary to have settings of the Tribunal at any place other than New Delhi, the Chairperson may direct to hold the sittings at any such appropriate place.

COMPOSITION OF THE CYBER APPELLATE TRIBUNAL

Sec 49 of the IT Act 2000 deals with the composition of Cyber Appellate Tribunal. It shall consist of a Chairperson and such number of other members as the Central Government may notify.

- *QUALIFICATIONS*

To be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal, a person has or qualified to be a judge of a High Court. Judicial members of the Cyber Appellate Tribunal so appointed from amongst persons who is or has been a

member of the Indian Legal Service and has 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 years. Members other than judicial member should have special knowledge and professional experience in information technology, telecommunication, industry, management or consumer affairs.

- *TERM*

Section 51 (1) provides a five year term for the Chairperson or Member of the Cyber Appellate Tribunal. The term starts from the date on which he enters upon his office. It will last for five years or until he attains the age of 65 years, whichever is earlier.

- *POWERS*

As per section 52A the Chairperson being the Head of the Cyber Appellate Tribunal has both executive and administrative powers of general superintendence and directions in the conduct of the affairs of that Tribunal which may include presiding over the meetings of the Tribunal. To exercise and discharge such powers and functions of the Tribunal as may be prescribed. The Chairperson has the power of the to transfer cases after either following the laid down procedure or *suo moto* may transfer any case pending before one Bench, for disposal to any other Bench.

- *RESIGNATION AND REMOVAL*

Section 54 deals with resignation and removal of the Chairperson and members of a Cyber Appellate Tribunal. In order to resign, Chairperson or the member of the Cyber Appellate Tribunal has to give notice in writing under his hand to the Central Government. It is for the Central Government to relieve him on the receipt of such notice or permit him to continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as

his successor enters upon his office or until the expiry of his term of office, whichever is the earliest. The Chairperson or a Member of the Cyber Appellate Tribunal can be removed on the ground of misbehaviour or incapacity after instituting an inquiry under a Judge of the Supreme Court. Under section 87 (2) (s) of the Act, the Central Government has the power to make rules regarding the procedure for investigation of misbehaviour or incapacity of the Chairperson or a Member.

PROCEDURE AND POWERS OF CYBER APPELLATE TRIBUNAL

The Code of Civil Procedure 1908 is an Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature. The objective of the section 58 is that the Tribunal is not bound by the procedure laid down by the Code of Civil Procedure 1908 and instead it shall be guided by the principles of natural justice. The principles of natural justice revolve around the premise that the authority should hear the person concerned before passing any decision, direction or order against him.

In *Union of India v. T. R. Verma*, AIR 1957 SC 882 it is said that it is established law that the tribunals should follow law of natural justice requires that a party should have opportunity of adducing all relevant evidence on which he relies. Evidence should be taken in the presence of the parties and the opportunity to cross examination be given.

Further the Cyber Appellate Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings. It is an established law that in the absence of any procedure laid down, the provisions of the Code of Civil Procedure should be followed.

The CYBER APPELLATE COURT shall have the powers of:

1. Summoning and enforcing the attendance of any person and examining him on oath;
2. Requiring the discovery and production of documents or other electronic records;
3. Receiving evidence on affidavits;
4. Issuing commissions for the examination of witness or documents;
5. Reviewing its decisions;
6. Dismissing an application for default or deciding it ex parte;
7. Any other matter, which may be prescribed.

APPEAL

- *APPEAL FROM CONTROLLER OR AN ADJUDICATING OFFICER TO THE CYBER APPELLANT TRIBUNAL*

Under section 57 of the IT Act 2000 lies right to appeal to the Cyber Appellant Tribunal if any person is aggrieved by an order made by Controller or an adjudicating officer. The right to appeal is a creature of a statute and it is for the legislature to decide whether the right of appeal should be given unconditional to an aggrieved party or it should be conditionally given.

- *APPEAL FROM THE CYBER APPELLATE TRIBUNAL TO HIGH COURT*

Within the scheme of the IT Act under section 62, the Cyber Appellate Tribunal is the final fact finding authority. The Act provides a second forum of appeal in the form of the High Court to any person aggrieved by any decision or order of the Cyber Appellate Tribunal. An appeal is to be filed within 60 days from the date of communication of the decision.

COMPOUNDING CONTRAVENTIONS

The proviso to the sub section (1) of section 63 provides that the maximum amount of the penalty, which may be imposed under this Act for the contravention, so compounded not to exceed the maximum amount prescribed for such contravention. A penalty imposed or compensation awarded under this Act, if it is not paid, shall be recovered as an arrears of land revenue and the license or the Electronic Signature Certificate as the case may be and shall remain suspended till the penalty.

CONCLUSION

Cyber world is entirely different from the real existing world but it has the capacity to engage crimes that happen in the real world. The Cyber Appellant Tribunal so established to stop cyber crimes and punish those who are part of it. The efficacy of the Cyber Appellant Tribunal can be improved by creating necessary awareness in the public & the authorities and with efforts to deploy adequate manpower. It is important to enhance technological ability to deal with any situation that will come across. It is necessary to maintain integrity, confidentiality and authentication of communication channels and processes. For certain types of crimes, there lies a requirement of certain kinds of courts for faster decision. Following the procedure of natural justice and not C.P.C, decision is expected faster.