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CHAPTER X : THE CYBER REGULATIONS APPELLATE TRIBUNAL

1. Establishment of Cyber Appellate Tribunal

(1) The Central Government shall, by notification, establish one or more appellate tribunals to be known as the Cyber Regulations Appellate Tribunal.

(2) The Central Government shall also specify, in the notification referred to in sub-section (1), the matters and places in relation to which the Cyber Appellate Tribunal may exercise jurisdiction.

2. Composition of Cyber Appellate Tribunal

A Cyber Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Cyber Appellate Tribunal) to be appointed, by notification, by the Central Government.

3. Qualifications for appointment as Presiding Officer of the Cyber Appellate Tribunal

A person shall not be qualified for appointment as the Presiding Officer of a Cyber Appellate Tribunal unless he-

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) is or has been a member of the Indian Legal Service and is holding or has held a post in Grade I of that Service for at least three years.

4. Term of officer

The Presiding Officer of a Cyber Appellate shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixtyfive years, whichever is earlier.

5. Salary, allowances and other terms and conditions of service of Presiding Officer

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The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Presiding Officer or a Cyber Appellate Tribunal shall be such as may be prescribed: Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after appointment.

6. Filling up of vacancies

If, for reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of a Cyber Appellate Tribunal, then the Central Government shall appointment another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Cyber Appellate Tribunal from the stage at which the vacancy is filled.

7. Resignation and removal

(1) The Presiding Officer of a Cyber Appellate Tribunal may, be notice in writing under his hand addressed to the Central Government, resign his office :

Provided that the said Presiding Officer shall, unless he is permitted by the Central Government to relinquish his officer sooner, continue to hold office until 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 terms of office, whichever is the earliest.

(2) The Presiding Officer of a Cyber Appellate Tribunal shall not be removed from his officer except by an order by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, be rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid presiding Officer.

8. Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings

No order of the Central Government appointing any person as the Presiding Officer of a Cyber Appellate Tribunal shall be called in question in any manner and no act or proceeding before a Cyber Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Cyber Appellate Tribunal.

9. Staff of the Cyber Appellate Tribunal

(1) The Central Government shall provide the Cyber Appellate Tribunal with such officer and employees as that Government may think fit.

(2) The officers and employees of the Cyber Appellate Tribunal shall discharge their functions under general superintendence of the Presiding Officer.

(3) The salaries, allowances and other conditions of service of the officers and employees of the Cyber Appellate Tribunal shall be such as may be prescribed by the Central Government.

10. Appeal to Cyber Appellate Tribunal

(1) Save as provided in sub-section (2), any person aggrieved by an order made by Controller or an adjudicating officer under this Act may prefer an appeal to a Cyber Appellate Tribunal jurisdiction in the matter.

(2) No appeal shall lie to the Cyber Appellate Tribunal from an order

made by an adjudicating officer with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five 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 :

Provided that the Cyber Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the Cyber Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Cyber Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Controller or adjudicating officer.

(6) The appeal filed before the Cyber Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

11. Procedure and powers of the Cyber Appellate Tribunal

(1) The Cyber Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Cyber Appellate Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sitting.

(2) The Cyber Appellate Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely : -

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses of documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex parte;
- (g) any other matter which may be prescribed.

(3) Every proceeding before the Cyber Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code and the Cyber Appellate Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

12. Right to legal representation

The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the Cyber Appellate Tribunal.

13. Limitation

The provisions of the Limitation Act, 1963, shall, as far as may be, apply to an appeal made to the Cyber Appellate Tribunal.

14. Civil court not to have jurisdiction

No court shall have jurisdictions 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.

15. Appeal to High Court

Any person aggrieved by any decision or order of the Cyber Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Cyber Appellate Tribunal to him on any question of fact or law arising out of such order : Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

16. Compounding of contraventions

(1) Any contravention under this Chapter may, either before or after the institution of adjudication proceedings, be compounded by the Controller or such other officer as may be specially authorised by him in this behalf or by the adjudicating officer, as the case may be, subject to such conditions as the Controller or such other officer or the adjudicating officer may specify : Provided that such sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed under this Act for the contravention so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar contravention within a period of three years from the date on which the first contravention, committed by him, was compounded.

Explanation- For the purpose of this sub-section, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Where any contravention has been compounded under sub-section (1), no proceeding of further proceeding, as the case may be, shall be taken against the person guilty of such contravention in respect of the contravention so compounded.

17. Recovery of penalty

A penalty imposed under this Act, if it is paid, shall be recovered as an arrear of land revenue and the licence or the Digital Signature Certificate, as the case may be, shall be suspended till the penalty is paid.



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