

The Information Technology Act, 2000

Section 46 - Power to adjudicate

(1) For the purpose of adjudging ¹[under this Act] whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, ²[direction or order made thereunder which renders him liable to pay penalty or compensation,] the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

³[(1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for ⁴**** damage does not exceed rupees five crore: Provided that the jurisdiction in respect of the claim for ⁴**** damage exceeding rupees five crore shall vest with the competent court.]

(2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.

(3) 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.

(4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

(5) Every adjudicating officer shall have the powers of a civil court which are conferred on the ⁵[Appellate Tribunal under sub-section (2) of section 58, and--

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974);

⁶[(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908 (5 of 1908).]

1. Subs. by *ibid.*, s. 2 and Schedule, for "under this Chapter" (w.e.f. 30-11-2023).

2. Subs. by Act 10 of 2009, s. 23, for "direction or order made thereunder" (w.e.f. 27-10-2009).

3. Ins. by s. 23, *ibid.* (w.e.f. 27-10-2009).

4. Words omitted "injury or" omitted by Act 18 of 2023, s. 2 and Schedule (w.e.f. 30-11-2023).

5. Subs. by Act 7 of 2017, s. 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017) 6. Ins. by Act 10 of 2009, s. 23 (w.e.f. 27-10-2009).