

CYBER REGULATIONS APPELLATE TRIBUNAL

WELCOME SPEECH OF JUSTICE RAJESH TANDON, PRESIDING OFFICER, CYBER REGULATIONS APPELLATE TRIBUNAL FOR INAUGURATION OF NEW OFFICE & COURT ROOM ON 27.7.2009

First of all I welcome Hon'ble Shri Justice K.G.Balakrishnan, Chief Justice of India, Hon'ble Mr.Justice Altamas Kabir, Hon'ble Mr.Justice V.S.Sirpurkar, Hon'ble Judges of the Supreme Court and Shri A.Raja, Hon'ble Minister of Communications & IT and Dr.M.Veerappa Moily, Hon'ble Minister of Law & Justice, Smt.Shiela Dikshit, Hon'ble Chief Minister of Delhi, Diplomats of the Embassy, other dignitaries, media, lawyers, officers of DIT and all others present.

I express my gratitude to His Lordship Hon'ble Shri Justice K.G.Balakrishnan who in spite of various commitments has very kindly accepted my request for inaugurating office and court room of Cyber Regulations Appellate Tribunal. During his life, His Lordship has been devoted to the legal fraternity and has won laurels in the legal field.

His Lordship Hon'ble Mr. Justice Altamas Kabir is backbone of the Cyber Regulations Appellate Tribunal being Patron-in-Chief. I am thankful to His Lordship for giving the precious time to this Tribunal as normally His Lordship remain occupied in the Court till 8.00 PM.

His Lordship Hon'be Mr.Justice V.S.Sirpurkar was the Chief Justice of Uttrakhand High Court at Nainital and I had the privilege to share on the Bench along with His Lordship and His Lordship has acted as a GURU of mine. I have learnt various lessons from His Lordship and due to his inspiration; I have been able to work on this Cyber law. The words are not sufficient to give compliments to His Lordship for the training, which His Lordship has given to me.

His Lordship Hon'ble Mr. Justice Markandey Katju is an encyclopedia of various laws. His Lordship's Book "Memansa" and other literary work speaks about the legal acumen of his Lordship.

Dr.M.Veerappa Moily, Hon'ble Law Minister is really a commendable jurist of the country and I have the occasion to attend the Seminar at Trivendrum where his speech has reflected his qualities and deep knowledge of the legal field and even on the Cyber Law.Hon'ble Ministers, namely, Sh.A.Raja, Sh.Sachin Pilot and Sh.Gurudas Kamat have a vast knowledge regarding Information Technology.

Our Secretary, Shri R.Chandrashekhar is hard working and remains in the office upto 8.00PM. We have often have a meeting at about 8.00 PM.

Sh.N.Ravi Shanker, Joint Secretary is not only very intelligent but has devoted himself in the construction of this office and Court room from very inception. We have a long association with him when I was Additional Advocate General of Utrakhand.

Sh.J.S.Bhatia, our Director is very accommodating and takes pain in my working and helps me a lot. The list will not be completed and a day will pass and I may just mention that I feel myself at home with all other officers of the department either in Delhi or elsewhere.

Sh.Jaspal Singh, Joint Directory (Security) has been very accommodating in finalizing the programme..

Sh.B.D.Sharma, Executive Engineer, (DIT), Sh.Rajiv Gangal, Director, Sh.Gautam Bhattacharya and Sh.V.K.Jain, Joint Directors have been very accommodating in the construction of this office and Court room from very inception. I am thankful to the entire DIT officers and our Secretary who have taken pains to make this programme successful

I am also thankful to our personal staff, namely, Mr.Bhushan Kumar, Mr.Verma and other staff members.

Regarding Cyber law, the same is a product of the Information Technology Act,2000 which came into force on 17th October, 2000. The definition of the Information Technology Act provides "Computer" means any electronic, magnetic, optical or other high speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network;

Section 3 provides with regard to Digital signature and the Authentication of electronic records.

Section 4 provides the legal recognition of electronic governance. For short known as E. governance. For adjudicating of the dispute under the Information Technology Act, Section 46 was enacted which has given the power for adjudication of the crimes. The power has been given to the Secretary, Information Technology and he has power to adjudge the quantum of compensation under Sections 46 and 47 of the Act.

In order to come to the definition of the Cyber space, it is well known that it covers the offences not only within the territory of India but also to the offences of contravention committed outside India by any person. Relevant provisions have already been enacted under the Information Technology Act,2000.

The crimes which are being adjudicated by the Adjudicating Officer have also been defined under the Information Technology Act.

For the tampering with computer source documents is Section 65.

For the hacking with computer system is Section 66.

For publishing of information which is obscene in electronic form is Section 67.

For adjudicating the aforesaid crimes, the power has been given to the Adjudicating Officer. After the decision of the Adjudicating Officer, the appeal lies to the Appellate Tribunal under Section 48 of the Information Technology Act,2000. He exercises the powers contained under Section 58 of the Information Technology Act.

The General Assembly of the United Nations adopted the United Nations Commission on International Trade Law's (UNCITRAL) Model Law on Electronic Commerce on January 30,1997. This resolution recommended to the member nations of the United Nations to enact and modify their laws according to the Model Law. This was a significant development in global recognition of the importance of Electronic Commerce law.

The United Nations Commission on International Trade Laws (UNCITRAL) adopted the UNCITRAL Model Law on Electronic Commerce in 1996 with the objective

to provide a common legal platform to the countries to model their domestic laws relating to electronic commerce. The idea behind having a model law is to have a “functional equivalent approach”. The law basically provides a media-neutral environment in which other laws could operate.

The Model Law also provides for authentication of a document by means of digital signatures under Article 7.

It must however be noted that the UNCITRAL Model Law provides only the basic frame work on which the nations can build up their domestic laws relating to electronic commerce. It is not a comprehensive code.

Our request is to have a Conference at the International level for its enforcement as there arises a great difficulty in pursuing the wrong doer due to domestic laws of various countries.

I am sure that our sovereign persons will immediately take steps to call an International meeting on the issues relating to Cyber enforcement.

Internet connection is not only present in the electronic media but the same is also present in our heart. This is called spiritual backing of the electronic media

In Chapte-7 of Bhagwat Geeta, Lord Krishna has stated,

“God is the origin of the whole creation. Wielding His own nature, He brings forth the whole creation. This nature is called the lower Nature (Apara prakrti), while the embodied should, which is a fragment of God, is called higher nature (para prakrti). The lower nature, is inferior, insentient and changeful while higher nature is superior, sentiment and changeless.”

In the Bhagwat Gita, Lord Krishna has described meditation as one of the method to reach to Almighty. Thus the Internet facilities were available in the old times also which has been suitably described in the Bhagwat Gita in various chapters.

In Chapter IV of the Bhagwat Geeta, Lord Krishna has stated,

“As the sun absorbs all sorts of essence and the fire is the consumer of everything, in the same manner yogi enjoys (all the sense) objects, but being pure, he is never polluted either by meritorious deeds or sinful actions.”

In the end thus we have to protect our Internet by securing measures. It should not be allowed to pollute for the wrong Emails. Further we must remember the words of the Bhagwat Geeta, **MATRA KARAM APNE LEEYE KARNA BANDHAN HAIN, SANSAR KE LEEYE KARNA SEWA HAIN, AUR BHAGWAN KE LEEYE KARNA POOJA HAIN.**