

Cyber Regulations Appellate Tribunal (Procedure) Rules, 2000

CONTENTS

1. Short title and commencement
2. Definitions
3. Procedure for filling applications
4. Presentation and scrutiny of applications
5. Place of filing application
6. Application fee
7. Contents of application
8. Paper book, etc. to accompany the application
9. Plural remedies
10. Service of notice of application on the respondents
11. Filing of reply and other documents by the respondent
12. Date and place of hearing to be notified
13. Sittings of the Tribunal
14. Decision on applications
15. Action on application for applicants default
16. Hearing on application ex-parte
17. Adjournment of application
18. Order to be signed and dated
19. Publication of order
20. Communication of orders to parties
21. No fee for inspection of records
22. Orders and directions in certain cases
23. Registration of legal practitioners clerks
24. Working hours of the Tribunal
25. Sitting hours of the Tribunal
26. Powers and functions of the Registrar
27. Additional powers and duties of Registrar
28. Seal and emblem

Cyber Regulations Appellate Tribunal (Procedure) Rules, 2000

G.S.R. 791 (E). In exercise of the powers conferred by Sec. 87 of the Information Technology Act, 2000 (21 of 2000), the Central Government hereby makes the following rules, namely:

1. Short title and commencement :-

(1) These rules may be called the Cyber Regulations Appellate

Tribunal (Procedure) Rules, 2000.

(2) They shall come into force on the date of publication in the Official Gazette.

2. Definitions :-

In these rules, unless the context otherwise requires,

(a) "Act" means the Information Technology Act, 2000; (21 of 2000);

(b) "Agent" means a person duly authorised by a party to present an application or reply on its behalf before the Tribunal;

(c) "application" means an application made to the Tribunal under Sec. 57.

(d) "legal practitioner" shall have the same meaning as is assigned to it in the Advocates Act, 1961 (25 of 1971);

(e) "Presiding Officer" means the Presiding Officer of the Tribunal;

(f) "Registrar" means the Registrar of the Tribunal and includes any officer to whom the powers and functions of the Registrar may be delegated;

(g) "registry" means the Registry of the Tribunal;

(h) "section" means a section of the Act;

(i) "transferred application" means the suit or other proceeding which has been transferred to the Tribunal under sub-sec. (1) of Sec. 29;

(j) "Tribunal" means the Cyber Regulations Appellate Tribunal established under Sec. 8.

3. Procedure for filling applications :-

(1) An application to the Tribunal shall be presented in Form 1 annexed to these rules by the applicant in person or by an agent or by a duly authorized legal practitioner, to the Registrar or sent by registered post addressed to the Registrar.

(2) The application under sub-rule (1) shall be presented in six complete sets in a paper-book form along with one empty file size envelope bearing full address of the respondent. Where the number of respondents is more than one, sufficient number of extra paper-books together with required number of empty file size envelopes

bearing the full address of each respondent shall be furnished by the applicant.

(3) The applicant may attach to and present with his application a receipt slips as in Form No. 1 which shall be signed by the Registrar or the officer receiving the applications on behalf of-the Registrar in acknowledgment of the receipt of the application.

(4) Notwithstanding anything contained in sub-rules (1), (2) and (3), the Tribunal may permit :

(a) more than one person to joint together and file a single application if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have the same interest in the service matter; or

(b) An Association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the names of all the persons on whose behalf it has been filed.

4. Presentation and scrutiny of applications :-

(1) The Registrar, or the officer authorised by the Registrar shall endorse on every application the date on which it is presented or deemed to have been presented under that the rule and shall sign the endorsement.

(2) If, on scrutiny, the application is found to be in order, it shall be duly registered and given as serial number.

(3) If the application, on scrutiny, is found to be defective, and the defect noticed is formal in nature, the Registrar may allow the party to rectify the same in his presence, and if the said defect is not formal in nature, the Registrar may allow the applicant such time to rectify the defect as he may deem fit.

(4) If the applicant fails to rectify the defect within the time allowed under sub-rule (3), the Registrar may, by order and for reasons to be recorded in writing, decline to register the application.

(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within 15 days of the making of such order to the Tribunal whose decision thereon shall be final.

5. Place of filing application :-

The applicant shall file application with the Registrar.

6. Application fee :-

Every application filed with the Registrar shall be accompanied by a fee of Rs. 2,000/- (rupees two thousand) only which shall be either in the form of a crossed demand draft or a pay order drawn on a Scheduled Bank in favour of the Registrar and payable at New Delhi.

7. Contents of application :-

(1) Every application filed under rule 3 shall set forth concisely under distinct heads, the grounds for such application and such grounds shall be numbered consecutively and typed in double space on one side of the paper.

(2) It shall not be necessary to present a separate application to seek an interim order or direction if the application contains a prayer seeking an interim order or direction pending final disposal of the application.

(3) An application may, subsequent to the filing of application under Sec. 57 of the Act, apply for an interim order or direction. Such an application shall, as far as possible, be in the same form as is prescribed for on application under Sec. 57 and shall be accompanied by a fee of Rs. 5/- (Rupees five only) which shall be payable in court fee stamps affixed on such application.

8. Paper book, etc. to accompany the application :-

(1) Every application shall be accompanied by a paper book containing:

(i) a certified copy of the order against which the application has been filed;

(ii) copies of the documents relied upon by the applicant and referred to in the application; and

(iii) an index of documents.

(2) The documents referred to in sub-rule (1) may be attested by an advocate or by Gazetted Officer.

(3) Where an application is filed by an agent, documents authorising him to act as such agent shall also be appended to the application : Provided that where an application is filed by an

advocate it shall be accompanied by a duly executed 'vakalatnama'.

9. Plural remedies :-

An application shall be based upon a single cause of action and may seek one or more reliefs provided they are consequential to one another.

10. Service of notice of application on the respondents :-

(1) A copy of the application in the paper-book shall ordinarily be served on each of the respondents by the Registrar in one of the following modes:

(i) hand delivery (dasti) through the applicant or through a process server; or

(ii) through registered post with acknowledgement due.

(2) Notwithstanding anything contained in sub-rule (1), the Registrar may, taking into account the number of respondents and their places of residence or work and other circumstances direct that notice of the application shall be served upon the respondents in any other manner including any manner of substituted service, as it appear to the Registrar just and convenient.

(3) Every applicant shall pay a fee for the service or execution of process, in respect of an application where the number of respondents exceeds five, as under:

(i) a sum of Rs. 50 (Rupees fifty) for each respondent in excess of five respondents; or

(ii) where the service is in such manner as the Registrar may direct under sub-rule (2), a sum not exceeding the actual charges incurred in effecting the service as may be determined by the Registrar.

(4) The fee for the service or execution of processes under sub-rule (3) shall be remitted by the applicant either in the form of a crossed Demand Draft drawn on a Scheduled Bank in favour of the Registrar and payable at the station where Registrar's office is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable in General Post Office of the station where the Tribunal is located.

(5) Notwithstanding anything contained in sub-rules (1), (2), (3) and (4). if the Tribunal is satisfied that it is not reasonably

practicable to serve notice of application upon all the respondents, if may for reasons to be recorded in writing, direct that the application shall be heard notwithstanding that some of the respondents have not been served with notice of the application, provided that no application shall be heard unless:

(i) notice of the application has been served on the Government, if Government is respondent;

(ii) notice of the application has been served on the authority which passed the order against which the application has been filed; and

(iii) the Tribunal is satisfied that the interests of the respondents on whom notice of the application has not been served are adequately and sufficiently represented by the respondents on whom notice of the application has been served.

11. Filing of reply and other documents by the respondent

:-

(1) The respondent shall file six complete sets containing the reply to the application alongwith the documents in a paper-book form with the Registrar within one month of the date of service of the notice of the application on him.

(2) The respondent shall also serve a copy of the reply along with copies of documents as mentioned in sub-rule (1) to the applicant or his advocate, if any, and file proof of such service with the Registrar. The Tribunal may, on application by the respondent, allow filing of the reply after the expiry of the period of one month.

12. Date and place of hearing to be notified :-

The Tribunal shall notify to the parties the date and the place of hearing of the application.

13. Sittings of the Tribunal :-

The Tribunal shall ordinarily hold its sittings at New Delhi: Provided that, if at any time, the Presiding Officer of the Tribunal is satisfied that circumstances exist which render it necessary to have sittings of the Tribunal at any place other than New Delhi the Presiding Officer may direct to hold the sittings at any such appropriate place.

14. Decision on applications :-

(1) Tribunal shall draw up a calendar for the hearing of transferred

cases and as far as possible hear and decide the cases according to the calendar.

(2) Every application shall be heard and decided, as far as possible, within six months of the date of its presentation.

(3) For purposes of sub-rules (1) and (2), the Tribunal shall have the power to decline an adjournment and to limit the time for oral arguments.

15. Action on application for applicants default :-

(1) Where on the date fixed for hearing of the application or on any other date to which such hearing may be adjourned, the applicant does not appear when the application is called on for hearing, the Tribunal may, in its discretion, either dismiss the application for default or hear and decide it on merit.

(2) Where an application has been dismissed for default and the applicant appears afterwards and satisfies the Tribunal that there was sufficient cause for his non-appearance when the application was called on for hearing, the Tribunal shall make an order setting aside the order dismissing the application and restore the same.

16. Hearing on application ex-parte :-

(1) Where on the date fixed for hearing the application or on any other date to which hearing is adjourned, the applicant appears and the respondent does not appear when the application is called on for hearing, the Tribunal may, in its discretion, adjourn or hear and decide the application ex-parte.

(2) Where an application has been heard ex-parte against a respondent or respondents, such respondent or respondents may apply to the Tribunal for an order to set it aside and if such respondent or respondents satisfy the Tribunal that the notice was not duly served, or that he or they were prevented by any sufficient cause from appearing when the application was called on for hearing, the Tribunal may make an order setting aside the ex-parte hearing as against him or them upon such terms as it thinks fit, and shall appoint a day for proceeding with the application: Provided that where the ex-parte hearing of the application is of such nature that it cannot be set aside as against one respondent only. it may be set aside as against all or any of the other respondents also: Provided further that Tribunal shall not set aside

ex-parte hearing of an application merely on the ground that there has been an irregularity in the service of notice, if it is satisfied that the respondent had notice of the date of hearing and had sufficient time to appear and answer the applicant's claim.

17. Adjournment of application :-

The Tribunal may on such terms as it deems fit and at any stage of the proceedings adjourn the hearing of the application.

18. Order to be signed and dated :-

Every order of the Tribunal shall be in writing and shall be signed and dated by the Presiding Officer.

19. Publication of order :-

Such of the orders of the Tribunal as are deemed fit for publication in any report or the press may be released for such publication on such terms and conditions as the Tribunal may lay down.

20. Communication of orders to parties :-

Every order passed on an application shall be communicated to the applicant and to the respondent either in person or by registered post free of cost.

21. No fee for inspection of records :-

No fee shall be charged for inspecting the records of a pending application by a party thereto.

22. Orders and directions in certain cases :-

The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect or in relation to its orders or to prevent abuse of its process or to secure the ends of justice.

23. Registration of legal practitioners clerks :-

(1) A clerk employed by a legal practitioner and permitted as such to have access to the records and to obtain copies of the orders of the Tribunal in which the legal practitioner ordinarily practices shall be known as a "registered clerk".

(2) A legal practitioner desirous of registering his clerk shall make an application to the Registrar in Form 2.

(3) A legal practitioner shall have at a time not more than two registered clerks unless the Registrar by general or special order otherwise permits.

(4) A register of all the registered clerks shall, be maintained in the

office of the Registrar and after registration of the clerk, the Registrar shall direct the issue of an identity card to him which shall be non-transferable and shall be produced by the holder upon request by an officer or any other employee of the Tribunal.

(5) The identity card mentioned in sub-rule (4) shall be issued under the signatures of the Registrar of the Tribunal.

(6) whenever a legal practitioner ceases to employ a registered clerk, he shall notify the fact at once to the Registrar by means of a letter enclosing therewith the identity card issued to his clerk and on receipt of such letter the name of the said registered clerk shall be struck off from the register.

24. Working hours of the Tribunal :-

Except on Saturday, Sundays and other holidays, the offices of the Tribunal shall, subject to any order made by the Presiding Officer, remain open daily from 10.00 a.m. to 5.00 p.m. but no work, unless it is of an urgent nature, shall be admitted after 4.30 p.m. on any working day.

25. Sitting hours of the Tribunal :-

The sitting hours of the Tribunal shall ordinarily be from 10.30 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m. subject to any order made by the Chairman.

26. Powers and functions of the Registrar :-

(1) The Registrar shall have the custody of the records of the Tribunal and shall exercise such other functions as may be assigned to him under these rules or by the Presiding Officer.

(2) The Registrar may, with the approval of the Presiding Officer, delegate to another officer of the Tribunal any functions required by these rules to be exercised by the Registrar.

(3) In the absence of the Registrar, officer of the Tribunal authorised in writing by the Presiding Officer in his behalf may perform or exercise all or any of the functions and powers of the Registrar.

(4) The Registrar shall keep in his custody the official seal of the Tribunal.

(5) The Registrar shall, subject to any general or special direction by the Presiding Officer, affix the official seal of the Tribunal on any

order, notice or other process.

(6) The Registrar shall have the power to authorise in writing the affixing of the seal of the Tribunal on a certified copy of any order of the Tribunal.

27. Additional powers and duties of Registrar :-

In addition to the powers conferred elsewhere in these rules, the Registrar shall have the following powers and duties subject to any general or special order of the Presiding Officer namely:

(i) to receive all applications and other documents including transferred applications;

(ii) to decide all questions arising out of the scrutiny of the applications before they are registered;

(iii) to require any application presented to the Tribunal to be amended in accordance with the Act and the rules;

(iv) subject to the directions of the Tribunal fix dates of hearing of the applications or other proceedings and issue notices thereof;

(v) to direct any formal amendment of records;

(vi) to order grant of copies of documents to parties to the proceedings;

(vii) to dispose of all matters, relating to the service of notices of other processes, applications for the issue of fresh notices or for extending the time therefor; '

(viii) to requisition records from the custody of any Court or other authority;

(ix) to receive applications for the substitution of legal representatives of the deceased parties, during the pendency of the application;

(x) to receive and dispose of applications for substitution, except where the substitution would involve setting aside an order or abatement; and

(xi) to receive and dispose of application by parties for return of documents.

28. Seal and emblem :-

The official seal and emblem of the Tribunal shall be such as the

Government may specify.