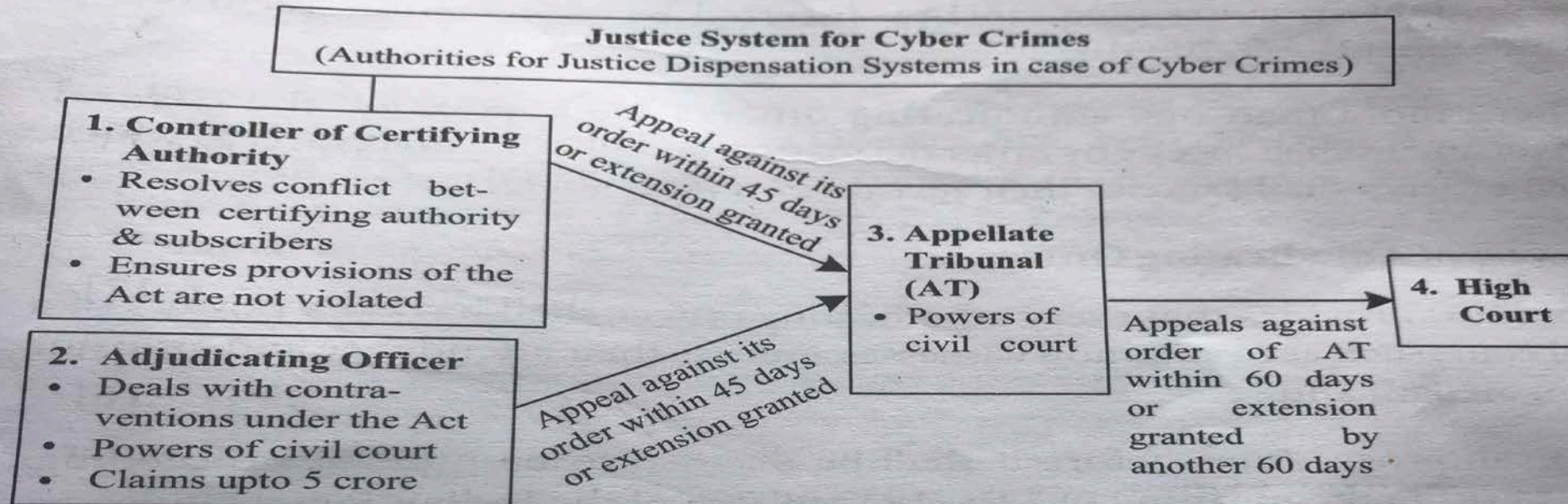


# ADJUDICATION AND APPELLATE TRIBUNAL

AAKRITI SAINI

# JUSTICE SYSTEM FOR CYBERCRIMES UNDER IT ACT



**Figure 30.1 : Justice System for Cyber Crimes under Information Technology Act**

# ADJUDICATION ON CONTRAVENTIONS BY ADJUDICATING OFFICER SEC. 46

- ▶ the central government shall appoint an officer to be known as Adjudicating Officer (AO) for holding an enquiry in the manner prescribed by the government.
- ▶ **Qualifications :**
  1. such officer shall not be below the rank of Director to the government of India or he shall be an equivalent officer of a state government.
  2. Relevant experience in the field of IT.
  3. Legal or judicial experience.
- ▶ **Jurisdiction : He can adjudicate matters in which claims can be made upto Rs 5 crore.**
- ▶ the jurisdiction for claims exceeding 5 crore shall vest with the competent court.

# POWERS OF AO

- ▶ Every AO shall have the powers of civil court such as to summon witnesses, enforce their attendance and examine them under oath.
- ▶ All the proceedings shall be deemed to be the judicial proceedings within the meaning of sec 193, 228 of IPC.
- ▶ Shall exercise the powers of civil court for the purpose of sec 345 and 346 of the code of civil procedure.

# FACTORS TO BE TAKEN INTO ACCOUNT BY AO

- ▶ The amount of gain or unfair advantage as a result of default.
- ▶ The amount of loss caused as a result of default.
- ▶ The repetitive nature of default.

# THE APPELLATE TRIBUNAL (AT)

- ▶ May 2017 IT Act was amended by the finance act 2017 that provided for the merger of Cyber Appellate Tribunal under IT Act with TDSAT (Telecom Dispute settlement and Appellate Tribunal ) under TRAI (Telecom regularity authority of India ) act 1997.
- ▶ Now it is known as AT (Appellate tribunal). It shall exercise the jurisdiction, power and authority conferred to it under this act.
- ▶ Former supreme court judge , Honourable justice Shiva Kirti Singh has been appointed as the chairperson for three years .

# APPEAL TO AT (SEC.57)

- a) **What is an appeal:** an appeal is a request made by the aggrieved party to modify or reverse an order.
- b) **Who can make appeal :** any person who is aggrieved by the order passed by CCA or AO.
- c) **No right to appeal:** where the order has been made with the consent of the parties
- d) **Period :** within a period of 45days of the receipt of order made by CCA or AO. Extension can also be granted .
- e) **Order by AT :** it can confirm, modify or set aside the order against which appeal is made.
- f) **Copy of the order :** to the parties and to CCA or AO.
- g) **Time period for the disposal of appeal:** within 6 months .



# PROCEDURE AND POWER OF AT (SEC . 58)

- ▶ The AT shall be guided by the principal of natural justice and shall have powers to regulate its own procedure including the place it shall have its sittings.
- ▶ summon witnesses, enforce their attendance and examine them under oath.
- ▶ Discovery or production of documents or electronic records.
- ▶ Receiving evidence on affidavits.
- ▶ Issuing commissions for the examination of witnesses or documents.
- ▶ Reviewing its decisions.
- ▶ Dismissing an application for default or deciding it *ex parte*.

- ▶ **Right to make legal representation (sec. 59)**
- ▶ **Civil court not to have Jurisdiction (sec. 61)**
- ▶ **APPEAL TO HIGH COURT (SEC. 62) :** any person aggrieved by the decision of AT can file an appeal to the high court within 60 days from the date of communication of such decision or order. An extension of another 60 days can also be granted in some cases if it is satisfied that sufficient cause prevented him from filing the appeal within the prescribed period.