

IN THE OFFICE OF THE ADJUDICATING OFFICER

**SH. RAJESH AGGARWAL,
SECRETARY, (INFORMATION TECHNOLOGY),
GOVERNMENT OF MAHARASHTRA**

Complaint No. 1 of 2013 dated 16/01/2013

IN THE MATTER OF

Amit Dilip Patwardhan

..... Complainant

Versus

1. Rud India Chains Pvt Ltd.
2. Shri Vipin Rao

..... Respondents

This is proceedings of a complaint filed by the complainant for Adjudication under section 46 of the Information Technology Act, 2000. In keeping with the basic principles of natural justice and reasonable opportunity, detailed hearings were held in which both parties i.e. the Complainant and the Respondent(s) were presented with equal and adequate opportunities to present and defend their case. Following the completion of hearing and response of both the parties, conclusion has been arrived at and the judgment is being delivered herein.



ORDER

1. Briefly, the facts of this case are as follows: the complainant, Amit Patwardhan was an employee of the Respondent No. 1, i.e. Rud India Chains Pvt. Ltd. From April 2008 to March 2012. Later he left the company to join a rival company, Heko Chains. Respondent Rud India claims that he took away company secrets, and was getting gratification from Heko Chains to lure away their customers even while he was employed by them. They (Rud India) have filed a civil suit to claim damages for this theft of trade secrets. Now the complainant has come to this forum, saying that his bank statement was filed as evidence by Rud Chains in the court case, and it was obtained by hacking into bank system. Hence he is asking for relief under IT Act.
2. I have on record a statement by Bank Manager of Naupada, Thane branch of Bank of Baroda, filed before the police that the contents of the bank statement match with complainant's bank account data but the format is not the standard format in which bank gives a printout. Also, the bank policy is NOT to give the detailed bank statement to anybody without the approval of the customer. Hence the bank has no knowledge about how Rud India obtained the bank statement of their ex-employee Amit Patwardhan.
3. The complainant says that the respondents had no authority to get his bank statement and have committed offence under sections 43(b) and 66 of IT Act.
4. It is a fact that Rud India has somehow obtained this bank statement, and filed it as evidence in a civil suit. During hearing before me, as well as in the papers they have submitted, they have not explained how they got this statement. After the bank's denial that they did not give this statement to them, the only possibilities are they hacked into the computer systems, or



got someone in the bank to give it to them by some inducement or by pretending to be the customer, or employed a private eye to do it for them.

5. In light of the foregoing discussions, in my considered view:

- a) The bank manager of Bank of Baroda has completely denied any role of the bank in giving the bank statement of their customer to a third party. But the bank has done absolutely no investigation on its own to find how this has occurred. This speaks volumes about the apathy of the bank regarding the privacy of its customers' sensitive data. However, as they are not a party to this case, I am passing no further orders regarding the liability of the bank.
- b) The respondents have violated the privacy of the Complainant and accessed his personal sensitive data through some dubious means. They had no right to the bank details of their ex-employee. If they had any suspicion about bribes being paid, they should have voiced these to the police, and let them do the investigations. Any private investigations, by various dubious means, which violate individual's privacy and personal sensitive data need to be viewed seriously. In present case, the bank statement has not come from physical records kept with the bank, but definitely from electronic records with the bank. Hence the IT Act definitely comes into play. I hold both the respondents guilty of violating section 43(b) of IT Act, read with section 66.
- c) At the same time, the Complainant has not come to this forum with clean hands. Perusal of entire record before me prima facie shows that he was disloyal to his employer. While they were appreciating his work, and giving him promotions, he colluded with their rival company, got hefty amounts into his bank account from them, and diverted his employer's customers to their rivals. Later on, he joined the rival company. This forum cannot condone such behavior. However, a separate court case is on between the various parties, and I would not like to comment further. Suffice it to say,



that due to complainant not coming to this forum with clean hands, I am not imposing any punishment on the respondents, though I am holding them guilty of violating the privacy of the complainant.

- d) I must also comment on the investigation by the Police. They have just recorded the statement of the Bank Manager and not at all used the technology tools properly. It is a very simple case of cyber forensics – ask the bank to give details of when and from which IP and which username/password this specific bank account was accessed, and the detailed bank statement for particular period was saved or printed or viewed. The bank must be saving all these logs. That the police did not do even this simple cyber investigation properly is a sad commentary on knowledge of cyber laws, cyber forensics, and cyber investigations.

As per powers vested in Adjudicating officer under Rule 12 of the “Information Technology (Qualification and Experience of Adjudicating Officers and Manner of Holding Enquiry) Rules, 2003” notified by the Central Government on 17th March 2003, I hereby ask Director General of Police, Maharashtra to organize special training classes for all the personnel posted in cybercrime cells across the state, and to ensure that sufficient manpower is available to investigate cybercrimes.

- e) No orders as to costs.



Rajesh Aggarwal
15.4.2013

Rajesh Aggarwal
Secretary (Information Technology)

Government of Maharashtra,
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