

**OFFICE OF THE ADJUDICATING OFFICER,  
GOVERNMENT OF GUJARAT,  
DEPARTMENT of SCIENCE & TECHNOLOGY,  
Block No: 7, 5<sup>th</sup> Floor, Sachivalaya, Gandhinagar.  
No.: SCA-102012/357503/IT**

**SPECIAL CIVIL APPLICATION NO. 9**

**DATE OF DECISION: 1-3-2016.**

**IN THE MATTER OF**

1. M/S KANDALA ENERGY & CHEMICALS LTD, AHMEDABAD

.....Complainant

Versus

1. SHRI MANIKLAL P. DEY, AHMEDABAD

.....Respondent

**HON'BLE MR. DHNANJAY DWIVEDI  
ADJUDICATING OFFICER UNDER  
INFORMATION TECHNOLOGY ACT, 2000**

1. In the present case, the Complainant is a registered public limited company under the Indian companies Act, 1956 and is in the business of energy and Petro-chemicals. The Complainant had lodged a complaint on 4/6/2012 along with requisite fees of Rs. 23,050/- and sought a claim of Rs. 10 Lacs under Section 43 and Section 45 of the INFORMATION TECHNOLOGY ACT, 2000.
2. The complainant , in his complaint, has mentioned that the Respondent was employed in the office of the Complainant as a Technical Director for energy and petro-chemical related technical processes since 2006 and was entrusted with the functional areas of technical affairs, plans, design, estimate to prepare project report, diagrams, process flow, heat and mass balance lay out, recruitment of technical people etc and to work in the interest and benefit of the Complainant company. In order to perform the job in a better way, he was provided Laptop and mobile phone with other Hardware



Components and Portable Storage devices. It is alleged by the Complainant that the Respondent has carried out unauthorized copying and selling and has transferred confidential files through his personal Email ID mldey51@gmail.com. It has been alleged by the Complainant that the Complainant's MD Mr. Sanjay Prakash Rai called the Respondent on 18.05.2012 and conveyed all contraventions to the Respondent. It has also been alleged by the Complainant that the Respondent later on confessed and agreed for all cyber contraventions on an affidavit executed in presence of a public notary. The Copy of the Respondent's alleged Confession letter on affidavit was produced by the Complainant as one of the evidence marked as Annexure B of the complaint.

3. The matter was heard on 1/12/2012, 29/1/2013, 18/2/2013, 15/3/2013, 10/4/2013, 17/6/2013, 6/7/2013, 3/8/2013, 31/8/2013, 14/5/2014, 27/6/2014 and 30/7/2014. During the course of proceedings in the above matter, the originality of the affidavit produced by the Complainant as evidence was challenged by the Respondent. The Respondent also raised suspicion regarding authenticity of the affidavit.
4. Therefore, the Adjudicating Officer, as per powers vested in the Adjudicating officer under Rule 12 of "Information Technology (Qualification and Experience of Adjudicating Officers and Manner of Holding Inquiry) Rules, 2003" notified by the Central Government on 17<sup>th</sup> March 2003, asked the Director, Forensic Science Laboratory, Gujarat to review the case and to depute a forensic officer to investigate authenticity of the affidavit thoroughly and submit report vide his order dated 4/10/2014.
5. Meanwhile an application for withdrawal of the Case was received from Shri M.S. Modh, Advocate, Legal Advisor to the Complainant KECL by an e Mail dated 18/11/2015.
6. On 3/12/2015, Forensic Science Laboratory has submitted its report and has mentioned that "The person who wrote the blue enclosed standard signatures marked



S1 to S44 and N1 to N8 did not write the red enclosed disputed signatures marked D1 to D4”.

7. Subsequent thereto the Respondent has, on 28-1-2016, submitted his written submission. However, the submission is not examined as the Petitioner submitted his application for withdrawal of his petition beforehand.

8. A perusal of the compliant reveals that the allegation pertains to alleged stealing of so-called confidential files through Complainant’s personal e-mail ID. A list of 37 such files / list has been enclosed though no evidence has been produced to substantiate this allegation. The Petitioner has in para-6 of his petition alleged that Petitioner’s MD one Mr. Sanjay Prakash Rai called Respondent on 18-5-2012 and conveyed all contraventions to the Respondent, the Respondent confessed and agreed to the alleged contraventions on an affidavit executed in presence of a Notary. A copy of the Respondent’s alleged confession letter on affidavit has been produced with the petition as the sole evidence to substantiate the allegation and seek remedies. The report of Forensic Science Laboratory disapproves the authenticity of signature of the Respondent on the alleged affidavit. Under the circumstances, it comes out that the document submitted as an evidence is doctored and does not bear signature of the Respondent though it carries a signature looking similar to the signature of the Respondent. In that context, the Petitioner has not come with clean hands to the Adjudicating Officer. Considering this material fact, even if the Petitioner had persisted with his petition, on merits the petition would have been disallowed. However, in the instant case, the Petitioner, while the material evidence produced by him was under examination at Forensic Lab, has sought to withdraw the case. In the face of such withdrawal from the procedural perspective, the Petitioner’s request for withdrawal is allowed.

9. While agreeing to the withdrawal, however, it is necessary to put on record that Petitioner produced documents allegedly as evidence, to substantiate his allegation, which later on came out as unauthentic. By doing so, Complainant not only wasted



time of the Adjudicating Officer but also caused the Respondent to suffer through the process which otherwise he should not have been. The Information Technology (Qualification and Experience of Adjudicating Officers and Manner of Holding Inquiry) Rules, 2003 in Rule 10 detail procedure in relation to frivolous complaint, the provision provides that the Adjudicating Officer in his discretion may order the complainant, to make good cost of the person against whom the complaint was filed and to pay damage of not exceeding Rs. 25,000/- and payment of a fine not exceeding Rs. 10,000/- only.

10. In the instant case, submission of fabricated evidence and thereafter while the scientific evaluator process was on, the withdrawal of the petition justify terming of the entire petition and the process as frivolous complaint.

### ORDER

Under the circumstances, in accordance with the powers vested in the Adjudicating officer under Rule 10 of "Information Technology (Qualification and Experience of Adjudicating Officers and Manner of Holding Inquiry) Rules, 2003" notified by the Central Government on 17<sup>th</sup> March 2003, I hereby direct the Complainant to pay Rs. 15,000 to the Respondent for the damages incurred by him and a further Rs. 10,000/- as fine by 31-3-2016. I also order to forfeit the fees of Rs. 23,050 deposited by the Complainant.



(Dhananjay Dwivedi)

**Adjudicating Officer under  
Information Technology Act, 2000  
For the State of Gujarat.**