

OFFICE OF THE ADJUDICATING OFFICER,
GOVERNMENT OF GUJARAT,
SCIENCE & TECHNOLOGY DEPARTMENT,
Block No: 7, 5th Floor, Sardar Patel Bhavan, Sachivalaya, Gandhinagar.

Special Civil Complaint No: 02/2020

Date of Decision: 08/12/2021

IN THE MATTER OF:

To,

Mr. Shriprakash Lalbahadur Singh

Director of GUNGUNWALA FOOD Equipment Pvt Ltd.

(Unit-1) 6-B, (Unit-2) 4/1, Aatshuthosh Industrial Estate, Kadadara Road, ZAK-GIDC.,
Dehgam Road, Gandhinagar, Ahmedabad-3802330, Gujarat

Vs

1) **Mr Mehul Jesingbhai Barad**

Director of Harsh Food Equipment Pvt., 30, Shidhar Industrial Park,
Opp. Simla Motors, Nr. Shrinathji Estate, Nikoi-Kathwada Ring Road, Kathwada,
Ahmedabad-382430, Gujarat

2) **Mr Bhagirath Harish Kumar Sharma**

Director of Harsh Food Equipment Pvt., 30, Shidhar Industrial Park,
Opp. Simla Motors, Nr. Shrinathji Estate, Nikol-Kathwada Ring Road, Kathwada,
Ahmedabad-382430, Gujarat

**MR. VIJAY NEHRA
ADJUDICATING OFFICER UNDER
INFORMATION TECHNOLOGY ACT, 2000**



1. This matter has been filed by the petitioner under Section 43-A of the Information Technology Act, 2000.

2. The brief of the case as mentioned by the petitioner is as follows:

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- a) That the above named petitioner is a law abiding citizen of India and a permanent of above mentioned address.
- b) That the above named petitioner is the proprietor of GUNGUNWALA FOOD EQUIPMENT (Firm) and Director of GUNGUNWALA FOOD EQUIPMENT PVT. LTD.

- c) That M/s. GUNGUNWALA FOOD EQUIPMENT (Firm) and GUNGUNWALA FOOD EQUIPMENT PVT. LTD. is a reputed firm / company and deals in manufacturing of food processing equipment since 2011 as Gungunwala food equipment (Firm) and since 2016 as Gungunwala food equipment Pvt. Ltd.
- d) That on 25/03/2014, the petitioner appointed accused no 1 on the post of Design, Production and Supervisor and on dated 17/02/2019 the accused no 1 given resignation from this post and leaved company on 10/03/2016 with the excuse that he want to work with his relative regarding tools business. But after leaving Gungunwala food equipment Pvt. Ltd. company the accused no 1 with accused no 2 open his own company named HARSHA FOOD EQUIPMENT PVT. LTD. and having address 30 Shidhar Industrial Park, Opp. Simla Motors, Nr. Shrinathji Estate, Nikol Kathwada ring road, Kathwada, Ahmedabad-382430 and used malpractice / bad practice by using Gungunwala food equipment Pvt. Ltd. private data, equipment design, customer's contacts, cutting (Hijacking) clients, manipulating Gungunwala food equipment Pvt. Ltd. workers, etc. and uploaded petitioners company data on different website and also rated company with comments- "Bad company and Bad owner. Bad service." By which they directly started demolish the name and fame of petitioners company.
- e) That on 21/04/2015 the petitioner appointed accused no 2 on the post of Marketing, Quality Control, Selling and Service in his company. On 12/03/2019 the accused no 2 was terminated but on the request of accused no 2 to accept resignation latter because if you terminate me my future and career will be demolished so we accept resignation latter, on the basis of his behaviour, his body language and suspicious activity which was changed after the termination of other employee on 01/03/2019 (due to some criminal conspiracy against the company by theft of company's valuable documents), which was worked on the post of accountant in the same company.
- f) That after the termination of the accused no 2 the petitioner asked to return the official mobile, then the accused no 2 told that he is not having any other mobile and there is some personal information in such mobile so, the petitioner provide him a brand new mobile to transfer the personal data into new mobile.





- g) That at on the time of terminating of the accused no 2 the petitioner asked from the accused no 2 that have you any company personal / private data then the accused no 2 replied that he did not have any personal data (hard / soft copy) of this company which he given in written to the petitioner.
- h) That after receiving mobile from accused no 2 the petitioner came to know that the accused no 2 committed data theft and criminal breach of trust after checked the mobile and found that the accused was transferred company personal data to his personal email id.
- i) That after above mention incident took place the petitioner complaint to police on dated 12/05/2019 where the both accused no 1 and 2 unconditional compromised with the petitioner and signed for not to do any act which can loss the petitioner or complaint's company. Where accused no 1 stated that he had not committed any data theft and not to do any such activity which may petitioner / petitioner's company get loss but accused no 2 already committed data theft which is offence under section 191 and penalised under section 193 of I.P.C
- j) That after even promised or assure by accused no 1 and 2 not to do any act which can loss the petitioner or complaint's company these both accused no 1 and 2 are not stopping with their mala-practice by using Gungunwala food equipment Pvt. Ltd. private data, contacts, cutting (Hijacking) clients, manipulating Gungunwala food equipment Pvt. Ltd. workers, etc. and also the both respondents used part of stolen electronic data from petitioner's computer, uploaded on different website.
- k) That the respondents such stolen data from Petitioners company are uploaded on different website to make money or profit and by this act of respondent the petitioner is suffering from very big loss.
- l) Thereafter, in this regard petitioner filed Magistrate Complaint on dated 05.02.2020 u/s. 156(3) and Hon'ble Court pleased to pass order to inquire the complaint and submit the report or chargesheet within 30 days.



3. The matter was heard before the Hon'ble Adjudicating Officer on dated 25th August, 2020, 29th September, 2020, 29th July, 2021 and 05th October, 2021.
4. It was observed that during the service time period of Respondent was authorized by the Petitioner to use Petitioner's Company data related to his employment.
5. Therefore, there is a clear employee-employer relationship existing between Complainant & respondent. Prima facie it is at best a case of IP infringement for which remedy lies elsewhere. Therefore, Petitioner claim for any redressal, under the provisions of IT Act, is not sustainable.

Accordingly, the following orders:

ORDER

Petitioner's claim for redressal of his grievance under the provisions of IT Act is not substantiated. Accordingly, the petition is rejected.




(Vijay Mehra)

Adjudicating Officer & Secretary,
Department of Science and Technology,
Government of Gujarat