



# Digital Personal Data Protection Act (DPDP) PART – IX

**OZA PATEL & DOSHI**  
CHARTERED ACCOUNTANTS

# Proceedings under the Act and Powers & Functions of Board

- Data Protection Board of India (Board) can issue direction to the Data fiduciary;
  - on receipt of **intimation of personal data breach** or
  - on a complaint made by a Data Principal for **breach in observance of obligations by a Data Fiduciary** or the exercise of his/her rights or
  - on a **reference made by Central Government or State Government** or in compliance of the **directions of any court,**

and can exercise the powers to inquire into such breach and impose penalty under Digital Personal Data Protection Act.

# Proceedings under the Act and Powers & Functions of Board

- On a complaint made by a Data Principal for a breach in observance by a Consent Manager of its obligations, Board can inquire into such breach and impose penalty.
- On receipt of an intimation of breach of any condition of registration of a Consent Manager, to inquire and impose penalty by Board.
- The Board shall give opportunity of being heard and record the reasons in writing before issuing directions.
- Board can close the proceedings after recording the reasons in writing if board determines the grounds are insufficient.

# Proceedings under the Act and Powers & Functions of Board

- The Board can inquire into affairs of any person for ascertaining whether such person is complying with or has complied with the provisions of the Act.
- For discharging its functions, Board shall have same powers as vested in a civil court for matter relating to: Summoning, receiving evidences, inspecting documents.
- The Board or its officers shall not prevent access to premises or take custody of any equipment that may adversely affect day to day functioning of a person.
- Board can issue interim order if considers necessary, after giving opportunity of being heard to the concerned and recording the reasons.

# Proceedings under the Act and Powers & Functions of Board

- **Example**
- X, an individual, takes a loan from Y, a bank. X defaults in paying her monthly loan repayment instalment on the date on which it falls due. Y may process the personal data of X for ascertaining her financial information and assets and liabilities.
- The Central Government can notify Data Fiduciaries including Startups to whom the provisions related to accompanying or preceding of notice for the request for consent, provisions related to ensuring completeness, accuracy and consistency of personal data when used for making decision affecting the Data Principal or disclosing to another Data Fiduciary, provisions related to additional obligations of Significant Data Fiduciaries and right of Data Principal to access the information about personal data.

# Proceedings under the Act and Powers & Functions of Board

- On completion of inquiry, recording the reasons and giving opportunity of being heard to the concerned, Board can either close the proceedings or impose penalty as per the Act and shall.
- After receiving a complaint, if Board considers the complaint frivolous, it may issue a warning or impose costs on complainant.

# Appeal to Appellate Tribunal

Person aggrieved by an order or direction by Board



File appeal with Appellate Tribunal within 60 days of receipt of Board Order.



Appellate Tribunal to pass order after giving the parties to the appeal, an opportunity of being heard



Endeavour shall be made to dispose the appeal finally within 6 months from date of presenting the appeal



Appellate Tribunal shall comply with provision of Section 14A (Application for settlement of disputes and appeals to Appellate Tribunal) and Section 16 (powers to regulate its own procedure) of TRAI Act, 1997 while dealing with appeal

# Alternate Dispute Resolution and Voluntary undertaking

- If the Board is of the opinion that any complaint may be resolved by mediation, it may direct the parties to resolve the issue by mediation.
- While proceedings are pending with the Board, the Board may accept a voluntary undertaking from any person.
- The Board with the consent of the person giving voluntary undertaking vary terms of voluntary undertaking.
- Acceptance of undertaking shall mean a bar on proceedings. However, a person fails to adhere to term of voluntary undertaking, such breach shall be deemed to be breach of the provisions of the Act and Board can, after giving the opportunity of being heard, proceed to impose penalties which may go up to the extent applicable for the breach in respect of which the proceedings were instituted.




# General Penalty


- Breach of any provisions of the Act for which penalties not specifically provided would attract penalty up to fifty crore rupees.



# THANK YOU!

**OZA PATEL & DOSHI**  
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