

THE DISCIPLINARY COMMITTEE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

ICSI/DC: 207/2013

Date of decision: 20th November, 2014

Mr. S. Radhakrishnan

....Complainant

Vs.

Mr. Ajay S. Srivastava, FCS-3489

.... Respondent

ORDER

1. The Disciplinary Committee in terms of sub-rule (1) of Rule 19 of the Company Secretaries (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007, had decided to afford an opportunity of being heard to the Respondent before passing any order under Section 21B(3) of the Company Secretaries Act, 1980.
2. We have noted that a copy of the order dated 7th November, 2014 passed by the Disciplinary Committee was sent to the Respondent *vide* letter dated 7th November, 2014 and he has been asked to appear before the Disciplinary Committee today i.e. on 20th November, 2014.
3. Mr. Ajay S Srivastava, the Respondent along with Mr. K Rajendran, Advocate has appeared before us. Mr. K Rajendran, Advocate made oral submissions and submitted the following:
 - (i) An application dated 20th November, 2014 under Rule 18(14) of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 along with affidavit of the Respondent dated 19th November, 2014.
 - (ii) Written submissions dated 20th November, 2014 of the Respondent.
 - (iii) An application dated 20th November, 2014 to receive documents filed by the Respondent along with an affidavit of the Respondent dated 19th November, 2014.
 - (iv) An application dated 20th November, 2014 of the Respondent for taking certain documents on record.
4. We have heard Mr. K Rajendran, Advocate and decide that the stage for filing/submission of applications, documents etc., is already over as the Respondent has been given the opportunities for submission of documents and hearing; and he has been *de-facto* heard in detail in the presence of the Complainant on 24th September, 2014. This attempt of filing/submission of applications by the Respondent at this stage is only to delay and defeat the ends of justice. We, after



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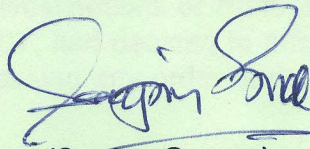
considering all the submissions made by the Respondent have held him 'Guilty' as nothing could substantiate that he followed proper due diligence while certifying and filing Form 32 for removal of the Complainant from the directorship of M/s. HPCL more particularly when it was a case of removal of a director and he being aware about the dispute existed in the management. Therefore, the application under Rule 18(14) of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 of the Respondent is dismissed.

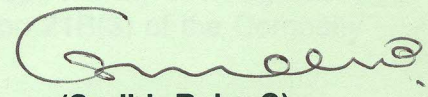
5. We, after detailed deliberations and considering the material on record; nature of issues involved and in the totality of the circumstances of this case, passed the following order under Section 21B (3) of the Company Secretaries Act, 1980 read with Rule 19(1) of the Company Secretaries (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007:

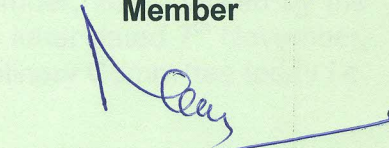
- (i) Removal of name of Mr. Ajay S Srivastava, the Respondent from the Register of Members for a period of 60 days; and
- (ii) Fine Rs.10,000/- on the Respondent.

This order shall be effective after the expiry of 30 days of issue of the order.


(S K Tuteja)
Member


(Sanjay Grover)
Member


(Sudhir Babu C)
Member


(R Sridharan)
Presiding Officer

Date: 12th Jan, 2015

