

**THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT**

ICSI/DC/154/2012

Order Reserved on: 30th June, 2017

Order issued on: 19th August, 2017

Mr. Omprakash S. Khandelwal

.....Complainant

Vs.

Mr. Chirag B Shah, FCS-5545 (CP No. 3498)

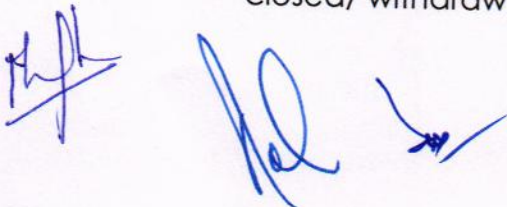
.....Respondent

Present

Mrs. Meenakshi Gupta, Director (Discipline)
Respondent in person along with Mr. Kamal Ahuja, Advocate
None for Complainant

FINAL ORDER

1. On 30th June, 2017, the Respondent appeared in person along with his Advocate Mr. Kamal Ahuja, before the Disciplinary Committee, inspite of sad demise of his Advocate, Late Dr. S Kumar.
2. The Disciplinary Committee expressed its severe displeasure because the Complainant has choosen not to appear in person or through his authorized representative; and has merely sent his written submissions through email only on 19th June, 2017.
3. The Disciplinary Committee is of view that the Complainant has taken the disciplinary proceedings very lightly, which is quite evident from the following: –
 - a) The Complainant vide letter dated 12th January, 2016 and email dated 16th February, 2016, stated that he intends to withdraw the complaint, which was placed before the Disciplinary Committee at its 59th Meeting held on 8th July, 2016 and it was decided to keep the matter aside till receipt of communication confirming that all the legal cases pertaining to issues cited in the complaint are closed/ withdrawn in various forums.





- b) The Complainant vide his email dated 21st July, 2016 has requested to proceed with this case/complaint and further to treat his withdrawal as withdrawn because of settlement of this dispute could not reach an amicable end.
- c) The Disciplinary Committee at its 62nd meeting held on 26th August, 2016, expressed its displeasure at the whimsical approach of the complainant for first withdrawing his complaint and now seeking withdrawal of his request to withdraw the complaint. The Disciplinary Committee also expressed its displeasure with regard to this forum being misused for pressure tactics to arrive at a settlement of disputes between two contesting parties.
- d) The Complainant vide his email dated 29th September, 2016 apologised for submitting withdrawal request and denied that he has ever misused this Hon'ble forum for pressure tactics to arrive at settlement of disputes. The Complainant also confirmed that no issues have been settled and no legal cases have been closed. This matter is also simultaneously pending before Hon'ble National Company Law Tribunal, Ahmedabad.
- e) The Disciplinary Committee at its 67th meeting held on 12th November, 2016, once again expressed its displeasure at the whimsical approach of the Complainant for first withdrawing his complaint and now seeking withdrawal of his request for withdrawal of the complaint. The Disciplinary Committee also expressed its displeasure with regard to this forum being misused for pressure tactics to arrive at a settlement of disputes between two contesting parties. The Disciplinary Committee directed the parties to submit any additional document, if the parties so desire, which is not a part of the pleadings so far. In case of non receipt of any additional document(s) from either party, it shall be presumed that the party has nothing further to add and the Disciplinary Committee shall proceed only on the basis of the documents received till date. The Disciplinary Committee further decided to call upon both the parties to appear before it at the next date of hearing in this case, as may be decided by the Presiding officer of the Disciplinary Committee.



- f) The Complainant vide his email dated 19th December, 2016 informed that the matter of Narmada Roller Flour and Pulse Mills Pvt. Ltd and Bhagyodaya Katha Products Pvt. Ltd is pending before Hon'ble NCLT, Ahmedabad and date of listing of matters are 20-12-2016 and 20-1-2017 respectively.
- g) On 24th December, 2016, the Disciplinary Committee expressed severe displeasure at the respondent taking this proceeding so lightly and treating it with evident lack of respect, countless hours of efforts of the Directorate of Discipline and thereafter, the Disciplinary Committee have been spent involving huge cost, both time and money. The Disciplinary Committee had decided to reject the request for withdrawal of the complaint considering its earlier Interim Order dated 19th September, 2016 and 12th November, 2016. It was also decided to take up this matter at the next date of hearing and in case any of the parties for sudden or personal reasons is unable to attend the hearing, the party can send an authorised representative along with a duly signed and attested letter of authority addressed to the Disciplinary Committee seeking exemption from personal appearance failing which, the matter will be heard ex-parte.
4. In light of all facts and circumstances, all material on record and whimsical approach of the Complainant, the Disciplinary Committee on 30th June, 2017 expressed its severe displeasure towards the Complainant and decided to dismiss this complaint against the Respondent without going into merits of the case.


Santosh Kumar Agrawala
Member


Meenakshi Datta Ghosh (Ms.)
Member


Nalin Kohli
Presiding Officer

