

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

ICSI/DC/333/2015

Order Reserved On: 19th August, 2017

Order Issued On: 28th December, 2017

Shri Sanjay Seth

.....Complainant

Vs.

Shri Madhava Kaimal, ACS-10641

.....Respondent

Present

Mrs. Meenakshi Gupta, Director (Discipline)

None for the Complainant.

Respondent, in person.

FINAL ORDER

1. A complaint dated 19th November, 2015 in Form 'I' was filed under Section 21 of the Company Secretaries Act, 1980 (herein after referred to as 'the Act') read with sub rule (1) of the of Company Secretaries (Procedure of Investigation of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (herein after referred to as 'the Rules') by Mr. Sanjay Seth (herein after referred to as the 'Complainant') against Mr. Madhava Kaimal, ACS-10641 (herein after referred to as the 'Respondent').
2. The Complainant is a shareholder of M/s. Laffans Petrochemicals Ltd (herein after referred to as the 'LPL') and was a Director of LPL from 30.03.2002 till 08.06.2012. A Company M/s. LPL was incorporated on 18.08.2010 in which, he was shown as subscriber to Memorandum of Association and Articles of Association of the Company for which the Respondent signed as a witness. Form 32 for appointment of the Complainant as Director of M/s. LPL was certified and filed by the Respondent on the basis of consent letter dated 01.07.2010 of the Complainant. The Complainant has also stated that the Respondent has witnessed his fake signature in Power of Attorney, supposedly giving the Respondent authority to act on his behalf to affix his signature as a subscriber to the Memorandum of Association and Articles of Association of M/s. LPL. The Complainant was not aware of the formation of the Company and he had never consented to be appointed as a Director of the same. The Complainant further stated that there is complete variation in the signature on the Memorandum of Association, Articles of



[Handwritten signature]

[Handwritten signature]

[Handwritten mark]

[Handwritten signature]

Send

THE HON'BLE DEPT. SECRETARY OF INDIA
IN THE MATTER OF THE ...

...

Order dated ...

...

...

...

A company ...

...



...

...

Association and consent letter for M/s. LPL and his signature on the other documents /Annual Report filed by the Respondent. The Complainant has alleged that the Respondent has attested fake signatures in crucial documents which were used towards setting up of a company. Hon'ble Gujarat High Court on the basis of these documents has given an order to demerge M/s. LPL, through the said demerger, the manufacturing division of the M/s. LPL comprising of manufacturing and marketing division, was transferred to M/s. Laffans Fine Chemicals Pvt. Ltd., which was incorporated only to hold the assets of LPL and thereafter, these assets were sold to Huntsman Performance Chemicals, an American Company. It is alleged by the Complainant that the, sale consideration has been shown in the records of Registrar of Company as Rs. 56,57,00,000 (Rupees Fifty Six Crores and Fifty Seven Lacs Only) whereas, consideration shown on the website of United States Security & Exchange Commission was USD 23,00,00,000/-. Because of the dishonest and fraudulent acts of Mr. Sandeep Seth and his co-conspirators, the entire net worth of LPL has been completely eroded and it has become a loss making entity, which is ultimately a loss to be borne by the innocent shareholders. It is also alleged by the Complainant that the Directors of M/s LPL in connivance with the Respondent held fictitious meetings and fabricated the attendance of directors. However, no document has been provided by the Complainant substantiating the allegation.

3. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the Complaint was sent to the Respondent vide letter dated 27th November, 2015 calling upon him to submit the written statement. The Respondent stated that the Draft Memorandum and Articles of Association along with other required documents were drafted by him and handed over to Mr. Sandeep Seth, Executive Director of M/s Laffans Petrochemicals Ltd., for his signatures. The Respondent further stated that Mr. Sandeep Seth told him that he would obtain the signature of the Complainant during his next visit to Delhi and on his return from Delhi, he handed over to the Respondent the papers signed by the Complainant. The Respondent further stated that he has verified the signature of Mr. Sanjay Seth on the Consent Letter and other specimen signatures available with M/s Laffans Petrochemicals Ltd., and being satisfied, witnessed the signature.

(4) of Rule

4. Pursuant to sub-rule 8 of the Rules, a copy of the written statement was sent to the Complainant vide letter dated 23rd December, 2015 asking him to submit the rejoinder. The Complainant reiterated his earlier submission along with certain additional plea.

Pursuant to rule 9 of the Rules, the Director (Discipline) after considering the records and all the facts and circumstances of the matter, formed her prima-facie opinion dated 10th December, 2016 and placed the same before the Disciplinary Committee on 19th December, 2016. The Director (Discipline) was of the opinion that the Respondent is prima-facie 'Guilty'



Handwritten signature

Handwritten signature

2

Handwritten signature

of Professional or other misconduct under Item (7) of Part I of the Second Schedule of the Company Secretaries Act, 1980, as he did not exercise due diligence while certifying Form 32 for appointment of the Complainant as Director of M/s. Laffans Fine Chemicals Pvt. Ltd., and while witnessing Power of Attorney, Memorandum of Association, Articles of Association w.r.t of M/s. Laffans Fine Chemicals Pvt. Ltd.. The Committee agreed with the *prima-facie* opinion of the Director (Discipline) and decided to proceed further in the matter in accordance with the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.

6. Accordingly, a copy of the *prima-facie* opinion of the Director (Discipline) was sent to the parties *vide* letters dated 23rd January, 2017 asking them to submit the written statement and rejoinder, respectively. The Respondent *vide* letter dated 10th February, 2017 submitted the written statement and opposed the *prima-facie* opinion of the Director (Discipline). The Complainant has submitted his rejoinder *vide* letter dated 28th February, 2017 and reiterated his earlier submissions.
7. The parties *vide* letters dated 27th July, 2017 were called upon to appear before the Disciplinary Committee on 19th August, 2017. On 19th August, 2017 the Respondent appeared before the Committee and made oral submissions. The Committee advised to send a copy of the written statement dated 24th June, 2015 of the Respondent to the Complainant(s) asking them to submit their rejoinder(s), if any. Thereafter, the matter was adjourned.
8. The Complainant *vide* letter dated 14th August, 2017 had been intimated that due to family settlement with his brother, he wishes to withdraw the complaint against the Respondent.
9. On 19th August, 2017 the Respondent appeared before Disciplinary Committee and contested his case. He admitted that he has adopted very callous and casual approach in discharge of his duty professional responsibility and exercising due diligence.
10. The Disciplinary Committee recorded the plea of the Respondent pleading guilty and decided to take action as per the provisions under Rule 19 of the Rules. Further, on the request of the Respondent, the Disciplinary Committee decided to provide him an opportunity of being heard before it under Rule 19 (1) of the Rules on the same day i.e. 19th August, 2017 itself before passing any order by the Disciplinary Committee.



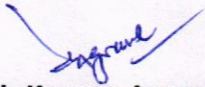
[Handwritten signature]

[Handwritten signature]

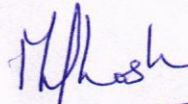
11. The Disciplinary Committee after considering the oral submission made by the Respondent before it; the materials on record and the nature of issues involved and in totality of the circumstances of this case passes the following order under Section 21B (3) of the Company Secretaries Act, 1980 read under Rule 19 (1) of the Company Secretaries (Procedure of Investigation of Professional and other Misconduct and Conduct of Cases) Rules, 2007-

- (i) Fine of Rs. 25000/- (Rupees Twenty Five Thousand only), payable within 30 days from the date of issue of this order.

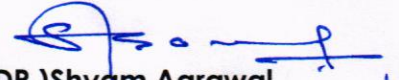
In the event of the Respondent does not deposit the aforesaid fine within the stipulated period, the Committee is entitled to proceed ex-parte and take a view of removal of the name of the Respondent from the Register of members for 60 days which the Respondent agreed during the hearing.



CS Santosh Kumar Agrawala
Member



Meenakshi Datta Ghosh
Member



CS (DR.) Shyam Agrawal
Presiding Officer

