

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

ICSI/DC/227/2014

Order Reserved on: 20th February, 2019

Order issued on: 11 MAR 2019

Shri Suresh Shantilal Thakkar

.....Complainant

Vs.

Shri Mayur Maganlal Buha

.....Respondent

Present

Mrs. Meenakshi Gupta, Director (Discipline)

Ms. Anita Mehra, Assistant Director

Respondent in person along with his counsel Mr. Piyush Luktuke

FINAL ORDER

1. The Disciplinary Committee vide its Order reserved on 6th October, 2018 issued on 24th December, 2018, after considering the submissions made by the parties; the material on record and the nature of issues involved in this matter and in totality of circumstances related to this case held the Respondent as 'Guilty' of professional misconduct under Item (7) of Part-I of the Second Schedule of the Company Secretaries Act, 1980 for not exercising due diligence while issuing a certificate dated 17.10.2013 in respect of directors of M/s Bicycle Manufacturing Industries Private Limited.
2. 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, further decided to grant to the Respondent an opportunity of being heard before passing Final Order under Section 21B(3) of the Company Secretaries Act, 1980.
3. Accordingly, a copy of the aforesaid Order of the Disciplinary Committee was sent to the parties on 26th December, 2018 and the Respondent was called upon to appear before the Disciplinary Committee on 20th February, 2019 at New Delhi to be informed of the penalty which will be imposed.
4. On 20th February, 2019, the Respondent appeared in person along with his Counsel Mr. Piyush Luktuke and was given due opportunity of being heard only for the limited purposes of making such submissions he may choose, in the context of the penalty proposed to be levied, since he has already been held 'Guilty' of professional misconduct by the previous Disciplinary Committee.

The Counsel for the Respondent started arguments on the matter and inter-alia largely argued that the said Order is not a reasoned Order as per the guidelines of the Supreme Court and merely a verbatim reproduction of



[Handwritten signature]

[Handwritten mark]

[Handwritten signature]

[Handwritten signature]

what was stated by the Complainant in his Complaint. He also wanted a fresh hearing of the matter.

6. The Disciplinary Committee informed the Respondent that he has already been held 'Guilty' of professional misconduct vide its Order dated 6th October, 2018 and today the matter is listed for submissions, if any, by the Respondent on the quantum of penalty to be imposed by an Order to be passed by this Disciplinary Committee under Section 21 B (3) of the Company Secretaries Act, 1980 read with Rule 19(1) of the Act.
7. The Respondent in his personal submissions reiterated his earlier defence in this matter, explaining the circumstances under which the certification was done. The certification was done he stated, in the honest belief, that the documents relied upon would suffice the requirement for the certification to be done. He has now understood the implications of the certifications which were done in the early stages of his career as a PCS. He also mentioned that in future, he would implement more adequate checks and balance, in doing such certificates. The Respondent therefore, requested the Disciplinary Committee to take a lenient view in the matter, keeping in view that at the time of issue of the Certificate dated 17th October, 2013 he had only two years of standing as a Company Secretary in Practice.
8. The Disciplinary Committee after considering all the material on record, the previous orders of the Disciplinary Committee in this matter, and the totality of the circumstances, passed the following order against the Respondent 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) Reprimand; and

ii) Fine of Rs. 25000/- (Rupees Twenty Five Thousand Only) payable within 45 days from the date of receipt of this final order.

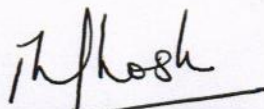
In the event of default in payment of fine within time allowed, the name of the Respondent shall be removed from the Register of Members of the Institute for a period of 75 days.



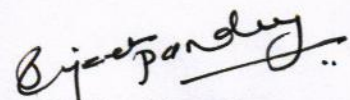
Nagendra D Rao
Member



B Narasimhan
Member



Meenakshi Datta Ghosh
Member



Ranjeet Pandey
Presiding Officer