

**THE DISCIPLINARY COMMITTEE OF
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA**

DC:NI:01/2011

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

Shri Bipin S Acharya(Late)

.....COMPLAINANT

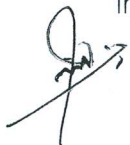
Versus

Shri R R Mallar

.....RESPONDENT

ORDER

1. The Institute had received a complaint dated 1st February, 2011 from late Shri Bipin S Acharya, the Complainant against Shri Ram Rukayya Mallar, (FCS-1029), the Respondent *inter-alia* alleging as under:
 - a) that the Respondent while holding Certificate of Practise of the Institute is also occupied in other profession as a lawyer/ advocate in contravention of the provisions under Regulation 168 of the Company Secretaries Regulations, 1982.
2. Pursuant to sub-rule (3) of Rule 8 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules) a copy of the complaint was sent to the Respondent *vide* letter dated 25th February, 2011 asking him to submit his written statement.
3. The Respondent *vide* his letter dated 15th March, 2011 requested for extension of time to file the written statement, which was granted to him *vide* Institute's letter dated 21st March, 2011. The Respondent *vide* letter dated 26th March, 2011 requested for further extension of one month time to submit his written statement. The Institute *vide* letter dated 2nd May, 2011 informed the Respondent that the maximum time limit for submitting the written statement under Rule 8 (3) of the Rules has expired and asked him to submit the written statement at the earliest. The Respondent *vide* his letter dated 11th May, 2011 acknowledged the receipt of Institute's letter dated the 2nd May, 2011 and informed that he would be filing the written statement shortly.



4. The Respondent submitted his written statement dated 20th June, 2011 wherein inter-alia he at the outset has denied all the allegations made in the complaint and had submitted that he has never appeared in any court of law in India. The Respondent further submitted that he had retired as Senior Executive Vice President, General Counsel & Corporate Secretary of Johnson & Johnson and has been teaching regularly for last 25 yrs in the management Institutes and is a regular faculty on corporate law & Corporate Governance of WIRC of the ICSI and is a legal Consultant. The Respondent had further submitted that he does not have a significant practice as a Practising Company Secretary and he became a Practising Company Secretary only after his retirement more for pride than for making money and by restricting himself only as Practising Company Secretary, it may hamper his name as Professor of law & Governance in the Bombay University and also in the various Institutes of Management.
5. The Disciplinary Committee at its 28th meeting held on 9th December, 2012 considered the *prima-facie* opinion of the Director (Discipline) and the material on record, decided to proceed further in accordance with Chapter V of the Company Secretaries (Procedure of Investigation of Professional and other Misconduct and Conduct of Cases) Rules, 2007.
6. Accordingly, *vide* letter dated 16th December, 2011, Shri R R Mallar, was provided with the copy of the *prima-facie* opinion of the Director (Discipline) calling upon to submit his written statement along with supporting documents and list of witnesses, if any.
7. The Committee had noted that the Respondent *vide* letter dated the 21st December, 2011 had sought time upto January, 2012. The Respondent was granted time up to 15th January, 2012 *vide* letter dated the 27th December, 2011.
8. The Respondent *vide* his letter dated 17th January, 2012 had submitted his written statement in which he had *inter alia* stated that he is not in concurrence with the *prima-facie* opinion of the Director (Discipline) and also reiterated the reasons as mentioned in his earlier letter dated 20th June, 2011. He further stated that he is not interested in agitating the complaint against the Complainant and decided to surrender his COP with effect from June end 2012 as two of the trainees are undergoing training with him.
9. The Committee at its meeting held on 1st June, 2012 noted that Shri Bipin S Acharya, had expired on 28th January, 2012.



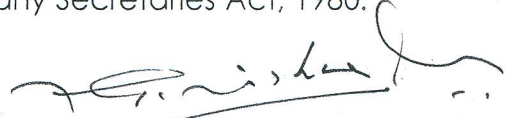
10. The Committee at its meeting held on 1st June, 2012 considered the *prima-facie* opinion of the Director (Discipline) and the material on record and decided to proceed further in the matter in accordance with Chapter V of the Company Secretaries (Procedure of Investigation of Professional and other Misconduct and Conduct of Cases) Rules, 2007 and to call upon the Respondent to appear before the Committee at its next meeting scheduled to be held on Monday, the 9th July, 2012.
11. Accordingly, a letter dated 4th June, 2012 was sent to the Respondent calling upon him to appear before the Disciplinary Committee today.
12. The Respondent vide his letter dated 27th June, 2012 has *inter-alia* stated that he has offered to surrender his Certificate of Practice by the end of June, 2012, but since he has commitments of compliance to some clients for the FY ended March, 2012, the filings may go upto 31st December, 2012 and therefore, he would surrender his COP immediately after 1st January, 2013. He has also stated that in the circumstances it is not necessary for him to attend the hearing fixed on 9th July, 2012, that too in New Delhi.
14. The Committee considered the *prima-facie* opinion of the Director (Discipline) and material on record came to the conclusion that the Respondent is 'guilty' under clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980, as he, while holding the Certificate of Practice is also in occupation as Lawyer /Advocate. The 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 hereby affords an opportunity of being heard to the Respondent in its next meeting before passing order under Section 21B of the Company Secretaries Act, 1980.




(B Narasimhan)
Member



(S K Tuteja)
Member



(Gopalakrishna Hegde)
Member



(Nesar Ahmad)
Presiding Officer

New Delhi
Date: 9th July, 2012