

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

ICSI/DC: 121/2012

ICSI/DC: 122/2012

ICSI/DC: 123/2012

ICSI/DC: 132/2012

ICSI/DC: 133/2012

Date of Decision: 13th January, 2014

Shri Ramhari Deorao Ganage

....Complainant

Vs

Shri Arun Madhukar Deshpande

....Respondent

ORDER

1. These complaints in Form-I were filed under Section 21 of the Company Secretaries Act, 1980 read with sub-rule (1) of Rule 3 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules) by Shri Ramhari Deorao Ganage (hereinafter referred to as the 'Complainant') against Shri Arun Madhukar Deshpande, FCS-5135 (CP No. 2905) (hereinafter referred to as the 'Respondent').
2. Pursuant to Rule 9 of the Rules, the Director (Discipline) has examined the complaints and has formed his *prima-facie* opinion in the matters and the same are pending adjudication before the Committee.
3. The Respondent *vide* his letter dated 25th December, 2013 has *inter-alia* informed that the cases against him had arisen due to the dispute



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between the directors of the companies. He further stated that the directors of the said companies are also related to each other. He further stated that the parties to the disputed have entered into an Agreement dated 22nd December, 2013 to settle their disputes. One of the terms of the said settlement agreement is that the Complainant will withdraw the case filed by him against the Respondent. Hence, the Respondent requested to keep the matter pending for hearing till the Complainant files application for withdrawal.

4. The Respondent vide his email dated 13th January, 2014 forwarded a letter dated 10th January, 2014 of Shri Ramhari Deorao Ganage, the Complainant addressed to the Institute withdrawing the following cases filed by him against Shri Arun Madhukar Deshpande, the Respondent.

- ICSI/DC: 121/2012
- ICSI/DC: 122/2012
- ICSI/DC: 123/2012
- ICSI/DC: 125/2012*
- ICSI/DC: 126/2012*
- ICSI/DC: 127/2012*
- ICSI/DC: 132/2012
- ICSI/DC: 133/2012

* Already disposed-off

5. The relevant provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing the withdrawal of the complaint are as under:

Section 21 (5) of the Company Secretaries Act, 1980:

"Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or as the case may be, the Disciplinary Committee, and the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage."



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Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:


"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant, permit the withdrawal, at any stage, including before or after registration of the Complaint.

Provided that in case, the Director has not yet formed his prima facie opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal".

6. The Director (Discipline) had already formed his prima-facie opinions in these matters.
7. The Disciplinary Committee considered the aforesaid provisions for the withdrawal of the complaint; withdrawal letter dated 10th January, 2014 of Shri Ramhari Deorao Ganage, the Complainant received under the email dated 13th January, 2014 of Shri Arun Madhukar Deshpande, the Respondent; material on record and in totality of the issues involved in the cases, permitted the withdrawal of the cases.

Accordingly, the complaints stand disposed-off.



(S K Tuteja)
Member


(B Narasimhan)
Member


(Gopalakrishna Hegde)
Member



Date: 07/02/2014


(S N Ananthasubramanian)
Presiding Officer