

THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
ICSI/DC: 159/2012

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

Date of Decision: 3rd October, 2013

Ms. Shashikala L Rao, FCS – 3866

....Complainant

Vs

Ms. Sejal K Parikh, ACS - 11972

....Respondent

ORDER

1. A complaint dated 26th October, 2012 in Form 'I' was 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 Ms. Shashikala L Rao (FCS-3866)(CP No. 9482) (hereinafter referred to as the 'Complainant') against Ms. Sejal K Parikh (ACS-11972) (CP No. 2652) (hereinafter referred to as the 'Respondent').
2. The Complainant *inter-alia* alleged that the Respondent while being in full time employment in Canada is also holding a Certificate of Practice of the ICSI and has issued Compliance Certificate under section 383A of the Companies Act, 1956.
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 1st November, 2012 calling upon her to send the written statement. A letter dated 16th






November, 2012 was received from the Respondent wherein she requested for additional time to submit the written statement, which was granted *vide* letter dated 20th November, 2012. The Respondent submitted the written statement dated 3rd December, 2012.

4. The Respondent in her written statement cited Sub Section (2) of Section 2 of the Company Secretaries Act, 1980 and Sub regulation (2) of Regulation 168 of the Company Secretaries Regulations, 1982. She denied all the averments made by the Complainant and stated that the complaint deserves no consideration and is fit to be dismissed.
5. The Respondent *vide* her letter dated 3rd December, 2012 addressed to the Directorate of Membership, ICSI requested to keep her Certificate of Practice in abeyance till adjudication of the complaint.
6. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy of the written statement was sent to the Complainant *vide* letter dated 11th December, 2012 asking her to file the rejoinder, if any. The Complainant submitted her rejoinder dated 26th December, 2012, wherein she re-iterated that the Respondent while in full time employment in Canada is also holding the Certificate of Practice of the ICSI. She also attached a snapshot of the profile of the Respondent on the Facebook social website taken on 26th October, 2012 indicating that the Respondent is allegedly working at M/s. Hydro One Brampton. She further stated that the signatures of the Respondent are different in each papers signed by her namely the Compliance Certificate dated 6th June, 2011, the NOC given to her dated 1st August, 2012 and the letter dated 3rd December, 2012 sent to the Directorate of Discipline, ICSI.

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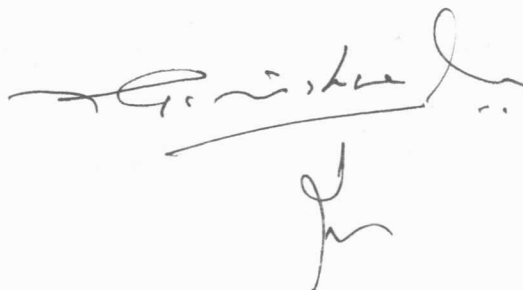
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7. A letter dated 11th February, 2013 was sent to the Respondent asking her to submit certain clarifications. A letter dated 19th February, 2013 was received from the Respondent wherein she requested for additional time to provide the clarifications sought. A Letter dated 2nd March, 2013 was received from the Respondent on the clarifications sought.
8. Pursuant to Rule 9 of the Rules, the Director (Discipline) examined the complaint, written statement, rejoinder and other material on record and opined that the Respondent is *prima-facie* 'Guilty' of professional misconduct under Clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980 as she, while being in employment in Canada was also holding a Certificate of Practice of the ICSI which is in violation of the resolution passed by the Council of the Institute prohibiting the members holding the Certificate of Practice to engage in any business or occupation other than that practising as Company Secretaries without general or specific permission of the Council.
9. The Disciplinary Committee on 22nd April, 2013 considered the *prima-facie* opinion dated 1st April, 2013 of the Director (Discipline); the material on record and agreed with the *prima-facie* opinion of the Director (Discipline) dated 1st April, 2013 that the Respondent is *prima-facie* 'Guilty' of professional misconduct under clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980; and decided to proceed further in the matter in accordance with Chapter V of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.









10. Accordingly, pursuant to the decision of the Disciplinary Committee, a copy of the *prima-facie* opinion of the Director (Discipline) was sent to the Respondent and the Complainant *vide* letters dated 25th April, 2013 asking them to submit the written statement and rejoinder, respectively. The Respondent *vide* letter dated 4th May, 2013 requested to grant extension of time up to 3 weeks which was granted *vide* letter dated 8th May, 2013. The Respondent *vide* letter dated 18th May, 2013 submitted the written statement. The Complainant *vide* letter dated 24th May, 2013 submitted the rejoinder to the written statement of the Respondent.
11. The Directorate of Membership, ICSI was asked to provide the copy of the specimen signature of Ms. Sejal K Parikh which was provided to the Disciplinary Directorate *vide* e-mail dated 10th June, 2013. The Respondent was asked *vide* letter dated 11th June, 2013 to confirm as to whether she was in Mumbai on 6th June, 2011 or not which she did not reply. The Respondent and the Complainant *vide* letters dated 14th June, 2013 were called upon to appear before the Disciplinary Committee on 30th July, 2013. The Respondent *vide* letter dated 19th June, 2013 stated that she will submit clarification in response to Institute's letter dated 11th June, 2013 at the time of hearing. The Complainant *vide* letter dated 4th July, 2013 stated that she will not be able to appear before the Disciplinary Committee due to her professional and other commitments and requested the Committee to consider the matter in light of her complaint, rejoinder(s) and further requested the Committee to decide the matter on merits and in the interest of the profession in general.
12. The Committee took note of the letters of the parties and after due consideration decided to provide last and final opportunity to the parties to appear before the Committee at its next meeting.

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13. Accordingly, *vide* letter dated 27th August, 2013 the parties were called upon to appear before the Disciplinary Committee on 3rd October, 2013.
14. The Complainant appeared in person and made oral submissions. Dr. S Kumar, Advocate appeared for the Respondent and made oral submissions. He also submitted a copy of the letter dated 28th September, 2013 of the Respondent wherein she stated that she is working with M/s. Hydra One Brampton in Canada and has not accepted any assignment as a PCS after the said complaint was lodged. She also stated in the said letter that she had already surrendered her Certificate of Practice which has been cancelled *vide* letter dated 28th June, 2013 of the ICSI. She also admitted that she held the Certificate of Practice while in employment and tendered her unconditional apology for any lapse whatsoever that might have occurred inadvertently and unintentionally and requested to take a lenient view in the matter.
15. The Committee considered the oral/written submissions made by the parties and the letter dated 28th September, 2013 of the Respondent; and the material on record, concluded that the Respondent is 'Guilty' of professional misconduct under clause (1) of Part II of the Second Schedule of the Company Secretaries Act, 1980. The Committee communicated the same to the Advocate of the Respondent.
16. Thereafter, the Disciplinary Committee gave an opportunity of being heard to the Respondent before passing any order under Section 21B (3) of the Company Secretaries Act, 1980. The Advocate of the

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Respondent accepted the decision of the Committee and requested for a lenient view.

17. The Disciplinary Committee after considering the material on record; and in the totality of the issues involved in the matter, passed the following order:


(i) Removal of name of the Respondent from the Register of Members of the ICSI for a period of 60 days; and (ii) fine of Rs.50,000/-.

This order shall be effective after 60 days of issue of the communication of this order to the Respondent.


(S Balasubramanian)
Member


(B Narasimhan)
Member


(Gopalakrishna Hegde)
Member


(S N Ananthasubramanian)
Presiding Officer

Date:
New Delhi

