

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

DC: 93/2010

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

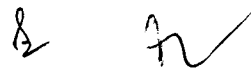
Shri Vinay Kumar Jalan - **Complainant**

Vs


Shri Arun Kumar Sinha - **Respondent**

ORDER

1. The Institute had received a complaint dated 14th April, 2011 from Shri Vinay Kumar Jalan, the Complainant against Shri Arun Kumar Sinha, ACS -23865, the Respondent, alleging *inter-alia* as under:
 - a) the Respondent has tampered with the publications of the Institute.
 - b) the Respondent has misrepresented the Institute for personal gains.
 - c) the Respondent has cheated the students and guardians in the name of the Institute.
 - d) the Respondent being a Company Secretary in practice engaged in whole time teaching.
2. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondent *vide* letter dated the 25th April, 2011 asking him to submit his written statement. The Respondent had submitted his written statement dated 11th May, 2011 wherein he had stated that the Complainant has not provided any evidence in support of his allegation. As regards the allegation with regards to whole time teaching, the Respondent had submitted that he is taking the teaching assignment for a period of three hours per day whereas the same is permitted by the Council of ICSI for four hours per day.



3. 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 1st June, 2011 to submit his rejoinder. The Complainant submitted his rejoinder *vide* letter dated 9th June, 2011. The Complainant in his rejoinder dated 9th June, 2011 has *inter-alia* stated as under —
- a) That the Respondent had completed training under their firm and after that requested the Complainant to allow him to conduct the classes at the chapter office.
 - b) That the Managing Committee granted permission to the Respondent. The Respondent later on stated that he intended to start his own coaching class and he left their firm without giving any prior notice or statement of accounts to the Chairman.
 - c) That the Respondent informed the students that the chapter office intends to hold classes at his newly established coaching centre.
 - d) That the Respondent brought study material from unknown sources and purchased examination forms as well as enrolment forms which were stamped and put a black ink on the telephone number of the chapter and mentioned his own number thereupon.
4. Pursuant to sub-rule 5 of Rule 8 of the Rules, the Complainant was asked to provide additional information *vide* letter dated 28th June, 2011 which were provided by the Complainant *vide* letter dated 9th July, 2011.
5. The Complainant *vide* his e-mail dated 4th October, 2011 forwarded a letter dated 10th October, 2011 of Ms. Annie Jain, a student from Ranchi. An email dated 8th November, 2011 was also received from Shri S B Prasad, EO, Ranchi Chapter forwarding therewith an email dated 27th October, 2011 of one Shri Vinod Kumar.
6. The Director (Discipline) pursuant to Rule (9) of the Rules examined the complaint, written statement, rejoinder and other material on record and was of the *prima-facie* opinion that the Respondent was 'Guilty' of professional misconduct under clause (2) of Part -IV of the First Schedule and Clause (1) of Part -II of the Second Schedule to the Company Secretaries Act, 1980. The Director (Discipline) placed his *prima-facie* opinion dated 15th November, 2011 before the Disciplinary Committee at its 28th meeting held on 9th December, 2011 for its consideration.



7. The Disciplinary Committee considered the *prima-facie* opinion of the Director (Discipline) and the material on record and 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. The Disciplinary Committee directed to call upon the parties to appear at its next meeting.

The Respondent and the Complainant were provided with the copy of the *prima-facie* opinion of the Director (Discipline) and were called upon to submit their written statement and rejoinder. They were also called upon to appear before the Disciplinary Committee at its 29th meeting on 5th January, 2012.

8. The Respondent *vide* his e-mail dated 23rd December, 2011 had requested ten days' time to submit his written statement as he was suffering from cold and high fever. The Respondent *vide* his letter dated 28th December, 2011 submitted the written statement with a copy to the Complainant which was noted by the Disciplinary Committee. Further, the Respondent *vide* e-mail dated 3rd January, 2012 had informed that he had fell ill and was confined to bed and was not in a position to appear before the Disciplinary Committee on 5th January, 2012. He had submitted a copy of the medical certificate and requested to grant an adjournment for at least 20 days for his appearance.
9. The Complainant had sent an e-mail dated 4th January, 2012, in which he had *inter-alia* stated that the statements made by the Respondent seeking time is false and frivolous.
10. The Complainant put in his appearance before the Disciplinary Committee on 5th January, 2012 and submitted his written arguments and stated that the written arguments dated 5th January, 2012 may be treated as his statement on oath. The Committee took note of the same and adjourned the matter.
11. Accordingly, the parties *vide* letters dated 27th March, 2012 were called upon to appear before the Disciplinary Committee at its meeting on 20th April, 2012. The Respondent appeared before the Disciplinary Committee and made oral submissions. The Complainant did not appear before the Disciplinary Committee; however, a letter dated 17th April, 2012 received from the Complainant was placed before the Disciplinary Committee, wherein the Complainant had *inter-alia* stated that due to his pre-



occupation he would not be in a position to appear before the Disciplinary Committee and his written submissions may be considered by it. The Disciplinary Committee took on record the written submissions of the Complainant.

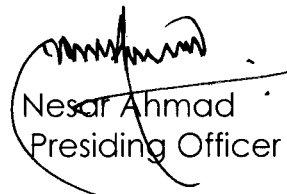
12. The Disciplinary Committee heard the oral submissions made by the Respondent. Thereafter, a copy of the written submissions dated 17th April, 2012 of the Complainant was given to the Respondent asking him to submit his reply to the same within two weeks with an advance copy to the Complainant. With this direction, the Disciplinary Committee closed the hearing and reserved its Order.
13. The Respondent *vide* his letter dated 7th May, 2012 submitted his reply to the written submissions of the Complainant wherein he had *inter-alia* submitted that the Complainant has personal enmity with him and is harassing and humiliating him in one way or the other, which became more severe when the Respondent was elected as member of the Managing Committee of the Ranchi Chapter.
14. The Disciplinary Committee at its 32nd meeting held on 1st June, 2012 considered the submissions made by the parties and other material available on record, came to the conclusion that the Respondent is not guilty of Professional or other Misconduct and ordered for closure of the case. The Committee further ordered to send a certified copy of the order to the Complainant, the Respondent and to the Director (Discipline) in terms of sub-rule(3) of Rule 19 of the Company Secretaries (Procedure of Investigations . of Professional and other misconduct and conduct of cases) Rules, 2007.



B Narasimhan
Member



S K Tuteja
Member



Nesar Ahmad
Presiding Officer

Date: 1st June, 2012