

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

ICSI/DC: 167/2012

Date of decision: 28th August, 2014

Mr. Rajendra Jain

....Complainant

Vs.

Mr. Manish Kumar Maheshwari, FCS-5174

....Respondent

ORDER

1. On 31st May, 2014, the Disciplinary Committee after considering the complaint, written statement, rejoinder and other material on record held the Respondent 'Guilty' of professional misconduct under Clause (7) of Part-I of the Second Schedule of the Company Secretaries Act, 1980 as he did not exercise due diligence while certifying and filing Form 32 and Form 23 for removal of the Complainant from the directorship of M/s. R R Home Developers Pvt. Ltd., as he failed to see as to whether the notice was served to the Complainant. The Complainant was removed from the directorship of the company under Section 284 of the Companies Act, 1956 without giving proper opportunity of being heard to him before his removal from the directorship of the company which is in violation of Section 284(3) of the Companies Act, 1956.
2. The Committee, in terms of 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, had decided to afford an opportunity of being heard to the Respondent. Accordingly, vide letter dated 8th August, 2014, a copy of the order dated 8th August, 2014 was sent to the Respondent and he was called

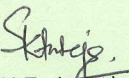


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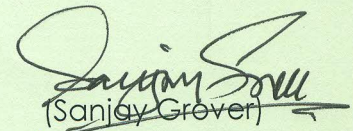
upon to appear before the Disciplinary Committee on 28th August, 2014 vide letter dated 11th August, 2014. The Respondent vide email dated 26th August, 2014 requested for an adjournment on medical grounds.

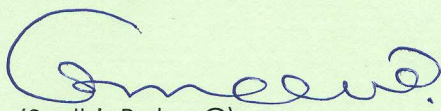
3. On 28th August, 2014, however, the Respondent appeared before the Disciplinary Committee and made oral submissions and assured that he will be very careful in future in discharging his professional duties and requested for a lenient view in the matter.
4. The Disciplinary Committee considered the oral submissions of the Respondent; the material on record; the nature of issues involved and in the totality of the circumstances of this case, passes the following order 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) Removal of name of the Respondent from the Register of Members for a period of 30 days; and
 - (ii) fine Rs.5,000/-.


The order shall be effective after the expiry of 30 days of issue of the order.


(S K Tuteja)
Member


(S Balasubramanian)
Member


(Sanjay Grover)
Member


(Sudhir Babu C)
Member


(R Sridharan)
Presiding officer

Date: 07th Oct, 2014

