

THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC/210/2013

In the matter of complainant of professional misconduct filed by Mr. Gurvinder Singh Suri against Ms. Supreet Kaur Rekhi ACS-29545, (CP No. 10938).

Date of decision: 5<sup>th</sup> September, 2014

**Coram:** Mr. P K Mittal, Presiding Officer  
Mr. Anil Murarka, Member  
Mr. Sutanu Sinha, Member

ORDER

1. A complaint dated 19<sup>th</sup> August, 2013 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 Mr. Gurvinder Singh Suri (hereinafter referred to as the 'Complainant') against Ms. Supreet Kaur Rekhi ACS-29545, (CP No. 10938) (hereinafter referred to as the 'Respondent'). The Complainant has *inter-alia* alleged that the Respondent has certified two Form 32, one pertaining to the appointment of six directors in M/s. BHL Forex and Finlease Ltd., with effect from 2<sup>nd</sup> April, 2013 and the other one pertaining to the appointment of six directors in M/s. M K Sachdeva Builders Ltd., with effect from 2<sup>nd</sup> April, 2013 without exercising due diligence. The Complainant further alleged that both the Form 32 are bogus and forged as none of the directors who were on the board on 2<sup>nd</sup> April, 2013 were issued or had received a notice pertaining to the meeting purported to be held on 2<sup>nd</sup> April, 2013. The Complainant further alleged that the two Form(s) 32 for appointment of the 6 directors in the two companies were filed by misusing the DSC of Mr. Sarabjeet Singh Suri as Mr. Sarabjeet Singh Suri has submitted an Affidavit declaring that he has not attended any such meeting(s) and his DSC on the said Form 32 was used fraudulently without his knowledge.
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 22<sup>nd</sup> August, 2013 calling upon her to submit the written statement. A letter dated 10<sup>th</sup> September, 2013 was received from the



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[Handwritten signatures]

Respondent requesting for additional time to submit the written statement which was granted *vide* letter dated 12<sup>th</sup> September, 2013. The Respondent submitted the written statement dated 24<sup>th</sup> October, 2013, wherein the Respondent has denied all the allegations levied against her in the complaint. The Respondent has *inter-alia* stated that she had certified Form 32 filed for the appointment of the directors in two companies viz., M/s. M K Sachdeva Builders Pvt. Ltd., and M/s. BHL Forex & Finlease Ltd., after verifying the relevant documents. The Respondent further stated that in both these companies a requisition from the shareholders under section 169 of the Companies Act, 1956 was sent to both the companies along with a Special Notice on 7<sup>th</sup> January, 2103. However, since the requisition of the shareholders was not considered by the Board of directors of these companies within the time prescribed under section 169 of the Companies Act, 1956, the Notice of the EOGM was sent by the requisitionists themselves to the shareholders dated 4<sup>th</sup> March, 2013. In pursuance of the Notice dated 4<sup>th</sup> March, 2013, EOGM of both the companies were held on 2<sup>nd</sup> April, 2013 under Section 169 (6) of the Companies Act, 1956, wherein the directors whose Form 32 have been filed were appointed in due compliance of the provisions of the Companies Act, 1956. Since the meeting held on 2<sup>nd</sup> April, 2013 was an EOGM, the notice for the said meeting was only sent to the shareholders and not to the directors.

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 28<sup>th</sup> October, 2013 asking him to submit the rejoinder. A letter dated 20<sup>th</sup> November, 2013 was received from the Complainant requesting for additional time to submit the rejoinder which was granted *vide* letter dated 21<sup>st</sup> November, 2013. However, no rejoinder was received from the Complainant.
4. Pursuant to rule 9 of the Rules, the Director (Discipline) after examination of the complaint, written statement and other material on record, prima-facie observed that apparently there is dispute in the Suri family. Further, the Respondent has admitted that the Notice for the EOGM was not sent to the Complainant by the requisitionists. The Respondent appears to have relied on the minutes of the EOGM held on 2<sup>nd</sup> April, 2013 and the consent letters of the directors to be appointed as director in the respective companies.



*Abheer*

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*Subramaniam*

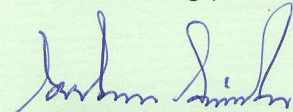
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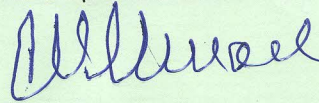
In *Bikkina Gopalakrishna Rao Vs Seavalley Resorts (P) Ltd. (2007) 27 SCL 242(AP)* and in *Maneckchowk & Ahmedabad Mfg. Co. Ltd., In re (1970) 40 Comp. Case 819(Guj)* it has *inter-alia* been held that an omission to give notice to any one of members or other persons to whom it should have been given shall not invalidate proceedings at meeting of company. Even otherwise, the Companies Act, 1956 does not specifically provides for mandatory service of notice to the director of a company for convening an EOGM by the requisitionists.

It was further observed that the Respondent has based her certification of Form on the minutes of the EOGM of the two companies held on 2<sup>nd</sup> April, 2013. She could reasonably presume that Mr. Sarabjeet Singh Suri has affixed his signatures on the alleged Form 32 even though Mr. Sarabjeet Singh Suri has subsequently given an affidavit declaring that he has not attended any such meeting(s) and his DSC on the said Form 32 was used fraudulently without his knowledge. Furthermore, the Complainant did not advance any rebuttal to the replies advanced by the Respondent in her written statement despite seeking time to file the rejoinder. Therefore, the Respondent is *prima-facie* not guilty of professional misconduct under the Company Secretaries Act, 1980.

5. The Board of Discipline at its meeting on 5<sup>th</sup> September, 2014 considered the *prima-facie* opinion dated 21<sup>st</sup> August, 2014 of the Director (Discipline); the material on record and agreed with the *prima-facie* opinion.
6. We conclude that Ms. Supreet Kaur Rekhi, ACS-29545 (CP No.10938), the Respondent is not guilty of professional or other misconduct under the Company Secretaries Act, 1980 and therefore close the matter.

Accordingly, the complaint stands disposed-off.

  
(Sutanu Sinha)  
Member

  
(Anil Murarka)  
Member

  
(P. K. Mittal)  
Presiding Officer

Date: 19<sup>th</sup> Dec, 2014