

THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC/226/2014

In the matter of complaint of professional or other misconduct filed by Mr. Gaurav Sinha, ACS-25923 (CP No.10891) against Mr. Bharat Shah, FCS-1180 (CP No. 510).

Date of decision: 29th October, 2014

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

ORDER

1. A complaint dated 6th March, 2014 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. Gaurav Sinha (hereinafter referred to as the 'Complainant') against Mr. Bharat Shah, FCS-1180 (CP No. 510) (hereinafter referred to as the 'Respondent'). The complaint was dealt with in accordance with the Company Secretaries Act, 1980 and the Rules.
2. Pursuant to rule 9 of the Rules, Director (Discipline) after examination of the complaint, written statement, rejoinder and material on record, formed his *prima-facie* opinion dated 15th October, 2014 wherein he observed that there is an allegation about non communication on the part of the Respondent to the Complainant before accepting the assignment as Company Secretary on a Compounding Application under Section 621A of the Companies Act, 1956. On the other hand, the Respondent had *inter-alia* stated that he had accepted the position based on his communication with Mr. Kishore Ved and a resolution passed by the Board of Directors of the company on 10th October, 2013. The Respondent further stated that before he accepted the position of Company Secretary in practice, he communicated to Mr. Kishore Ved, who had previously held the position of the Company Secretary in practice and not Mr. Gaurav Sinha. Mr. Kishore Ved in reply has issued the no objection to him. On perusal of the documents, it is evident that the Respondent has communicated to the previous incumbent before taking up the alleged assignment. More so, the Council of the ICSI has clarified the scope of the words 'accepting a position of Company Secretary in Practice' under the Company Secretaries Act, 1980. Hence, the





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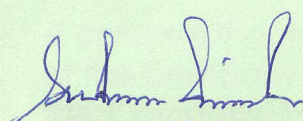


Respondent is *prima-facie* not guilty of Professional or other misconduct under the Company Secretaries Act, 1980.

3. On 29th October, 2014, the Board of Discipline considered the *prima-facie* opinion dated 15th October, 2014 of the Director (Discipline) and the material on record. The Board of Discipline agreed with the *prima-facie* opinion that Mr. Bharat Shah, FCS-1180 (CP No. 510), the Respondent is not guilty of professional or other misconduct under the Company Secretaries Act, 1980.

We accordingly, conclude that Mr. Bharat Shah, FCS-1180 (CP No. 510), 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


(P. K. Mittal)
Presiding Officer

Date: 19th Dec, 2014

