

**THE BOARD OF DISCIPLINE  
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA  
IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT  
UNDER THE COMPANY SECRETARIES ACT, 1980**

DC/228/2014

Order reserved on : 9th April, 2018

Order issued on : 3<sup>rd</sup> May 2018

Shri Kolanda Reddy

....Complainant

Vs

Ms. Anju Sharma, ACS-12799

....Respondent

**Present:**

Mrs. Meenakshi Gupta, Director (Discipline)

**FINAL ORDER**

1. A Complaint dated 28<sup>th</sup> March, 2017 in Form I filed under Section 21 of the Company Secretaries Act, 1980 (hereinafter referred to as 'the Act') 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 (hereinafter referred to as 'the Rules') by Shri Kolanda Reddy (hereinafter referred to as 'the Complainant') against Mrs. Anju Sharma, ACS-12799 ( hereinafter referred to as 'the Respondent').
2. The Complainant in his aforesaid complaint inter-alia stated as under :
  - (i) The Respondent has convened an EGM of M/s. Velankani Information Systems, Inc. (hereinafter referred to as 'VISPL) on 8<sup>th</sup> June, 2012 to remove the Complainant without the knowledge and participation of the majority of shareholders.
  - (ii) that minority shareholders of VISPL convened an EGM on 22<sup>nd</sup> November, 2013 for diluting shareholding of majority shareholders from 99.71% to 22% without sanction of the parent company M/s. Velankani Mauritius Limited ( hereinafter referred to as 'VML').
  - (iii) that the board members of VISPL with active co-operation of the Respondent and Mr. Ramakrishnaiah, CFO circumvent the provisions



of the Companies Act, 1956, conducted the Extra Ordinary General Meeting of VISPL for issuing further shares to defraud the parent company.

- (iv) that the respondent has become instrumental in siphon off funds of the VISPL using the loopholes in the corporate law structure and regulatory system

3. The Respondent in her written statement dated 3<sup>rd</sup> April, 2014 has *inter-alia* stated as under :

- (i) that she is employed as Company Secretary of "VISPL" since 1<sup>st</sup> May, 2008.
- (ii) that the Complainant has failed to make out any case of professional misconduct on her part and .
- (iii) that "Agreement of 2005 " which the Complainant has mentioned in his complaint was only a draft for review which had been made on the basis of inputs provided by the Complainant and she is not aware of any action in furtherance of the draft.
- (iv) that the Complainant himself has signed the audited financials of VISPL from the financial years 2003-04 to 2009-10. The Complainant has also chaired the Board meeting at which the Preference share were issued to allotted Velankani Holding Pvt Ltd( hereinafter referred to as 'VHPL') and signed the sanction letters of all lenders under the consortium financing arrangement in the year 2009.The Complainant was also present at the meeting for last tranche of consortium bank financing documentation.
- (v) That all the above transactions of issue of preference shares, aggregation of land and availment of consortium bank financing have been done in accordance with applicable requirements including approval by Board of Directors of VISPL at meetings chaired by the Complainant himself.
- (vi) that the decision of removal of the Complainant from directorship of VISPL is taken by VML which is majority shareholder of VISPL
- (vii) that as the Respondent of VISPL has acted as per instructions of the Board of Directors and as per law. Further, she had never corresponded on behalf of Mauritius Companies, as falsely alleged. None of the e-mails produced, showed any fraudulent and unethical intentions as alleged by the.

4. The Complainant in his Rejoinder dated 12<sup>th</sup> May, 2014 to the written statement has reiterated his allegations and inter-alia stated as :



*[Handwritten signature]*

- (i) that the entire investment in VISPL was made by him i.e. US \$ 7.9 Million. The Complainant has transferred part of his shares from VML to Mr. Kiron Shah and Mr. Gurdeep Singh to enable them get stake in both VML and VISPL. Post transfer his (the Complainant) shareholding diluted from 100% to 60% in VML.
  - (ii) that the Complainant has signed the VISPL financials until 2010 and also signed the bank loan agreements in 2009.
  - (iii) that the Complainant did not approve or sign the VISPL financials of 31<sup>st</sup> March, 2011. He has written to the authorities including banks because the VISPL management did not want to be transparent and did not heed to the request of the founder promoter.
  - (iv) that the Respondent was fully aware and actively participated in relation to the Mauritius companies matters shown by an email dated 19<sup>th</sup> December, 2013 wherein she has corresponded with Mauritius Lawyers for negotiation of fees with Mauritius Lawyers on behalf of VML and VHML.
  - (v) that the major and shocking action of Mr. Kiron Shah is the transfer of his 15 shares held in VISPL to 3 new shareholders to constitute the quorum for the Extraordinary General Meeting ('EOGM') without the participation of majority shareholder VML holding 99.71% shares.
  - (vi) that the Complainant had written to the Respondent to postpone the EOGM in view of the inability of the VML board to meet and make decisions in view of the Court order, however, his request was ignored. Resolutions were passed in the EOGM for the following:
    - (a) Redemption of preference shares issued to VHPL, India at a premium price of Rs. 120/- per share.
    - (b) Issuance of 259,799,933 new equity shares of Re 1/- (Rupee One only).
5. The Board of Discipline at its meeting held on 6<sup>th</sup> January, 2016 considered the *prima-facie* opinion dated 7<sup>th</sup> October, 2015 of the Director (Discipline) that the Respondent is "Not Guilty" of professional misconduct under the Act as the Complainant could not substantiate the allegations of circumvention of the provisions of the Companies Act, 1956 and connivance of the Respondent with the directors of VISPL.
6. The Board of Discipline advised the Director (Discipline) to investigate the matter further. Pursuant to the decision of the Board of Discipline for further investigation in the matter, a letter dated 27<sup>th</sup> April, 2016 was sent to the



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Complainant under Section 21C of Act asking him to submit the following documents / information for which no reply has been received from the Complainant :

- (i) To produce the evidence in support of the allegations made in the complaint.
  - (ii) To state the amount of money siphoned off in the connivance of the Respondent and the manner in which it has been done with proof and/or evidence.
  - (iii) To provide un-rebuttable evidence in support of the allegations that the Respondent has connived with other faction of the management in violation of law.
7. The Board of Discipline in its meeting held on 8<sup>th</sup> April 2017 considered the Further Investigation Report dated 3<sup>rd</sup> April, 2017 of Director (Discipline) wherein she has reiterated the prima-facie opinion dated 7<sup>th</sup> October, 2015 that the Respondent is "Not Guilty" of professional misconduct under the Act.
8. The Board of Discipline considered the prima-facie opinion dated 7<sup>th</sup> October, 2015 of the Director (Discipline) along with further Investigation Report dated 3<sup>rd</sup> April, 2017 in the Complaint and advised the Director (Discipline) to further investigate the matter and call for the following documents from the Respondent: -
- (i) Notice calling Extra Ordinary General Meeting on 8<sup>th</sup> June, 2012 along with proof of its service, at which the complainant was removed.
  - (ii) Minutes and Notice of Board meeting along with proof of its service, at which removal of the Complainant (subject to approval of the Shareholders) was approved by the Board and the Notice for calling Extra-Ordinary General Meeting on 8<sup>th</sup> June, 2012 was approved by the Board.
  - (iii) Form 32 filed with the Registrar of Companies for removal of the Complainant.
  - (iv) Any other document of relevance, as may deem fit by the Director (Discipline).
9. The Respondent vide letter dated 4<sup>th</sup> September, 2017 has provided the aforesaid documents, which were placed before the Board of Discipline by the Director Discipline vide her note dated 25<sup>th</sup> September 017 alongwith prima facie opinion dated 7<sup>th</sup> October, 2015 and further investigation report dated 3<sup>rd</sup> April, 2017.

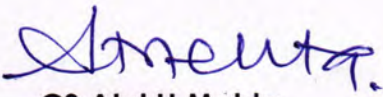


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10. The Board of Discipline in its meeting held on 9<sup>th</sup> April, 2018, considered the prima-facie opinion dated 7<sup>th</sup> October, 2015 alongwith, further Investigation Report dated 3<sup>rd</sup> April, 2017 and note dated 25<sup>th</sup> September 2017 and the documents received from the Respondent and material on record wherein she is prima facie of the opinion that the Respondent is **"Not Guilty"** of professional or other misconduct under any of the provisions of the Act and made the following observations :
- (i) The Complainant has inter-alia alleged that the respondent has convened an EGM held on 8<sup>th</sup> June, 2012 to remove the Complainant without the knowledge and participation of the majority of shareholders.
  - (ii) The Complainant further alleged that VISPL Board and VISPL Management convened an EGM dated 22<sup>nd</sup> November, 2013 for diluting 99.71% majority i.e. M/s. Velankani Mauritius limited (hereinafter referred as 'VML') to 22% by a 0.29% minority shareholder without sanction of VML, the parent Company.
  - (iii) Further, the Complainant alleged that the Board Members of VISPL, Mr. Kiron Shah and his associates with active cooperation with the Respondent and Mr. Ramakrishnaian, CFO circumvent the provisions of companies Act, 1956 conducted the EOGM of VISPL by issuing further shares to defraud the parent company.
  - (iv) Though, the complainant has alleged the Respondent has connived with others to circumvent the provision of the companies Act, 1956 but there is nothing which sustains the allegations.
11. he Board of Discipline after considering the material on record, prima-facie opinion of the Director (Discipline), all the facts and circumstances of the case and the observations made by Director Discipline in prima facie opinion dated 7<sup>th</sup> October, 2015 and further investigation report dated 3<sup>rd</sup> April, 2017 has agreed to the prima-facie opinion of the Director (Discipline), that the Respondent is **"Not Guilty"** of Professional or other misconduct under the Company Secretaries Act, 1980. Accordingly, the Board of Discipline ordered the closure of the matter.

  
CS Dinesh Chandra Arora  
Member



  
CS Atul H Mehta  
Presiding Officer