

**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/322/2014**

**Order reserved on: 04.09.2017**

**Order issued on : 26<sup>th</sup> September, 2017**

**M/s. Manjushree Plantations Limited**

**.....Complainant**

**Vs**

**Shri Rajib Kumar Gope (ACS- 24365)**

**.....Respondent**

**Present:**

Mrs. Meenakshi Gupta, Director (Discipline)

**FINAL ORDER**

1. The Board of Discipline considered the complaint dated 29<sup>th</sup> June, 2015 in Form 'I' of M.s Manjushree Plantations Limited (hereinafter referred to as the 'Complainant') against Mr. Rajib Kumar Gope, (ACS - 24365) (hereinafter referred to as the 'Respondent') filed under Section 21 of the Company Secretaries Act, 1980 (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 (the Rules).
2. The Board noted that the Complainant has *inter-alia* alleged that:-
  - (i) the Respondent had stopped attending office unilaterally from 1st November 2014 and had subsequently sent a resignation letter dated 1st November 2014 by post, which was received on 6<sup>th</sup> November 2014. He did not inform the Company about his intention to resign from the company.
  - (ii) Thereafter he had concealed his professional address hence could not be contacted. Such unilateral and indifferent action taken by the respondent is against professional ethics as he neither served the notice period nor gave a proper charge.
3. The Respondent submitted his written statement dated 12<sup>th</sup> August, 2015; wherein he denied the allegations levied against him and *inter-alia* stated :-
  - (i) That he had worked in the company for more than 5 years, and during his tenure he was humiliated by the Directors in the presence of seniors and subordinated for insignificant issues;



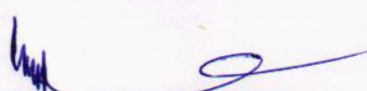
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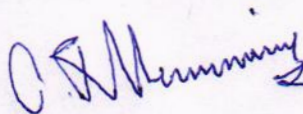
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That he had handed over all the pending assignments and had visited Complainant Company's office at least 5-6 times and had spent entire day each time during his visits to handover the charges. Despite handing over everything to Ms. SnehaKajaria, Executive Secretarial, Ms. ManishaSaboo, Compliance Officer and Ms. DiptiPansari, Executive Accounts, they did not relieve him on the pretext of missing Balance sheet of the company for FY 2009-10. Later he was informed by Ms. SnehaKajaria that they have found the Balance Sheet.

- (ii) That, despite of the repeated e-mails to Mr. PinakiSircar, Shri Kalyan Sen, Director and Board of Directors for relieving Letter, no action was taken;
  - (iii) That he shifted to another place in that period and in the process of intimating the new address to all the concerned persons. I could have been contacted on email or on phone There was no such concern to conceal the address or misguide the complainant.;
4. The Complainant submitted his rejoinder dated 29<sup>th</sup> September, 2015 wherein he reiterated his earlier submissions and stated that the Balance sheet for 2009-2010 signed by the Auditors are still missing and the photocopies thereof are also cannot be traced in the Premises.
  5. The Board considered the *prima-facie* opinion of Director (Discipline) dated 11<sup>th</sup> August, 2017 and observed that the Respondent was the Asstt. Company Secretary of the Complainant Company had abruptly resigned from the said company without giving proper notice.
  6. Director (Discipline) in her opinion further stated that In case there is a breach of the employment terms by the Respondent the Complainant, Company can take appropriate action as per the terms of the appointment letter issued to the Respondent. It may be mentioned that the company cannot force the employee to serve the full notice period. More so, it is a matter involving employer and employee relationship and is to be governed in accordance with the terms and conditions of employment. In case of a breach of notice period the company has the liberty to deduct one month salary or recover the said amount at appropriate forum.
  7. **The Board of Discipline after considering the material on record, aforesaid observations of Director (Discipline), prima-facie opinion of the Director (Discipline) and all the facts and circumstances of the case, agreed to the prima-facie opinion of the Director (Discipline) that the matter relates to the dispute between employer and employee therefore the Respondent is held "Not Guilty" of Professional or other misconduct under the Company Secretaries Act, 1980 for the acts and/or omissions alleged by the Complainant in his complaint.**

  
CS Dinesh Chandra Arora  
Member

  
CS C Ramasubramaniam  
Member

  
CS Ashish Doshi  
Presiding Officer

