

**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**

ICSI/DC/339/2015

Order reserved on : 27th February, 2018

Order issued on : 22nd March, 2018

Shri Rajiv Bajaj, FCS-3662

....Complainant

Vs

Shri K K Singh, FCS-4092, CP No. 4082

....Respondent

Present:

Mrs. Meenakshi Gupta, Director (Discipline)

FINAL ORDER

1. A complaint dated 4th January, 2016, in Form-'I' 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'), by CS Rajiv Bajaj (FCS-3662) (hereinafter referred to as 'the Complainant'), against Mr. K. K. Singh, FCS-4092, (C.P. No.-4082), (hereinafter referred to as 'the Respondent').
2. The Complainant has inter-alia alleged that:
 - (i) the Respondent has violated Section 2 (2) of the Company Secretaries Act, 1980 (the Act) by providing all kinds of services related to FRRO Registration, Working VISA, PIO, OCI Cards etc. from the Ministry of External Affairs and Ministry of Home Affairs, Govt. of India, violated Clause (6) of Part I of the First Schedule to the Company Secretaries Act, 1980, by soliciting Clients and/or professional work , either directly or indirectly, by circular, advertisement, personal communication or interview and violated Clause (7) of Part I of the First Schedule to the Company Secretaries Act, 1980, by advertising his professional attainments or services.
 - (ii) The Complainant has further alleged violation of Advertisement Guidelines issued by the Council of the ICSI and in particular Items 4.3 (vi) (b), 4.3 and 4.2 :-



- a) by publishing on his Website statements viz : describing K. K. Singh & Associates as a dynamic and progressive firm with global vision and highest professional standard, a dynamic and progressive firm with global vision and highest professional standard.
- b) by stating that K. K. Singh & Associates the team members i. e. Chartered Accountants, Cost and Works Accountants, Advocates and Valuers are proficient in their respective fields and committed to excel with the backing of sound knowledge and wisdom thereby providing utmost Client satisfaction.
- c) by stating that the team members i. e. Chartered Accountants, Cost and Works Accountants, Advocates and Valuers are proficient in their respective fields and committed to excel with the backing of sound knowledge and wisdom thereby providing utmost Client satisfaction.
- d) by stating that he has to his credit an experience of eighteen (18) years in the secretarial, legal, finance, corporate consultancy and advisory fields.
- e) by stating that he has a strong belief in the principles of Corporate Social Responsibility. He believes in nurturing young talent and sharing his rich and vast experience with the youth to help them grow professionally.
- f) by describing that the Respondent holds honoured positions with Government and Non-Government Bodies and has given the list of such positions.
- g) By using the National Flag and the Flag of the ICSI.

3. The Respondent in his written statement dated 26th February, 2016 has inter-alia stated that:

- (i) The complainant has filed the present complaint as a revenge exercise and a counter blast to the complaint of the Respondent with respect to his wrong and misleading representation in the nomination papers filed by him in the Institute pertaining to contesting of ICSI Council Elections 2014. The Respondent has further stated that his website came in existence in 2009 and the same has also been intimated to the ICSI vide email dated 2nd April, 2009. The Website is very much in the knowledge of the ICSI and till date no objection or guidance has been received from the ICSI or any member of the fraternity.
- (ii) The Respondent has rebutted the allegations of the Complainant that the availability of the Power Point presentation on Website amounts to advertisement and solicitation of work are based on wrong surmises and conjectures. The Respondent has stated the Power Point presentation is the declaration indicating the firm's willingness to accept work or unwillingness to accept work in



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certain areas which is duly covered by sub-clause 4.2.19 of Clause 4 regarding permitted list of information in Advertisement Guidelines.

4. Adequate opportunity has been provided to the Complainant for filing rejoinder to the written statement. However, no rejoinder to the written statement has been received.
5. The Director (Discipline) in her *prima-facie* opinion dated 12th September, 2017 opined that the Respondent is "Not Guilty" of professional or other misconduct as alleged by the complainant under any of the Items of the First and Second Schedule to the Act for violation of section 2(2) of the Act and/or Advertisement Guidelines issued by the Council of the ICSI.
6. On 27th February, 2018, the Board of Discipline, considered the material on record, *prima-facie* opinion of the Director (Discipline) observed as under:
 - (i) if any member of the Institute provides any of the services mentioned in clause (a) to (e) of Sub-Section (2) of Section 2 of the Act, he shall be deemed to be in practice as Company Secretary and would be required to obtain a Certificate of Practice as provided in Section 6 of the Company Secretaries Act, 1980, and Regulation 10 of the Company Secretaries Regulations, 1982. The Respondent does not appear to have violated section 2 (2) of the Act, as he already held a Certificate of Practice of the Institute and can practice in any one or more of the areas specified in Items (a) to (l) of Section 2 (2) of the Act. He cannot be held guilty of professional or other misconduct under item (1), Part II of Second Schedule to the Act.
 - (ii) the Complainant has alleged that by stating on the Website about the appearance and representation before the Quasi-Judicial Authorities on behalf of the Company including drafting and preparation of concerned documents, papers, statements etc. the Respondent is guilty of professional misconduct for violation of Section 2 (2) of the Act without stating as to how such a statement on the Website violates the provisions of Section 2 (2) read with item (1), Part II of Second Schedule to the Act.
 - (iii) in regard to the statements on the Website regarding approval /permission before judicial or prescribed Authorities like Labour Law Authorities State/Local Authorities, SEBI, CLB, RBI etc. IPR Solution provisions of services related to FRRO Registration, Working VISA, PIO, OCI Cards etc. the complainant has not stated how and in what manner such statements are violated of



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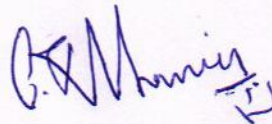
Section 2 (2) read with Item (1), Part II of the Second Schedule to the Act.

- (iv) Para 4.3 (ii) of The Guidelines for Advertisement by Company Secretary in Practice dated 29th December, 2007, provides that the write-up shall not claim superiority over any or all other Company Secretaries in Practice. A reading of the statements on the Website does not show that the Respondent has claimed any superiority over any other members of the Institute. He has only made certain claims about himself and his firm.
- (v) There is no guideline of the Council for usage of ICSI flag; hence the same is not covered under the Guidelines for Advertisement by Company Secretary in Practice dated 29th December, 2007.

7. The Board of Discipline after considering prima-facie opinion of the Director (Discipline), the material on record, the observations held in para 6 above, and keeping in view all the facts and circumstances of the case, agreed with the prima-facie opinion of the Director (Discipline), that the Respondent is "Not Guilty" of Professional or other misconduct under the Act as the allegations do not constitute professional misconduct under any of Item(s) of the First and Second Schedule to the Act and accordingly decided to close the complaint.



CS Dinesh Chandra Arora
Member



CS C Ramasubramaniam
Member



CS Atul H Mehta
Presiding Officer

