

**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/343/2016**

**Order reserved on: 26.09.2017**

**Order issued on : 18.01.2018**

**Shri A P Dadoo**

**.....Complainant**

**Vs.**

**Shri Umesh Soni  
ACS-33301**

**.....Respondent**

**Present:**

Mrs. Meenakshi Gupta, Director (Discipline)

**FINAL ORDER**


1. A complaint in Form 'I' dated 5<sup>th</sup> February, 2016 was 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 Shri A P Dadoo (hereinafter referred to as 'the Complainant') against Shri Umesh Soni ACS-33301 (hereinafter referred to as 'the Respondent'). The Complainant has *inter-alia* alleged that the Respondent who was employed with M/s Nuevo Polymers Private Limited as a Company Secretary with effect from 1<sup>st</sup> January, 2014, has contravened the provision for notice period of three months for termination of employment and also did not complete the pending jobs, especially the Annual Return, XBRL and Board Meeting Paper and has not handed over the documents in professional manner.
2. The Respondent in his written statement dated 26<sup>th</sup> May, 2016 has *inter alia* stated that the Respondent was not required to serve notice for 3 months for termination of employment as he was not a confirmed employee of M/s Nuevo Polymers Pvt. Ltd. Further, after one week of tendering his resignation, the Respondent handed over all the assignments, documents and belongings to Mr. Akshay (who came as his replacement) and all other documents, files, online ids and passwords were handed over to the Complainant.
3. The Complainant in his Rejoinder, has reiterated his allegations and *inter-alia* stated that the Respondent has never asked for confirmation Letter;




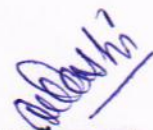


the Appointment letter dated 12.12.2013 issued to the Respondent on 12.12.2013 provides that there was a Probation Period of 6 months and thereafter it categorically states 3 months' notice or salary in lieu thereto by Company for termination of employment; if the Respondent was not permanent employee, issuance of relieving letter does not arise and the Respondent at this stage cannot invoke the provisions of Haryana Shop & Establishment Act, 1958 when there was no reference of it in the resignation letter.

4. The Board of Discipline considered the prima-facie opinion of the Director (Discipline) dated 14<sup>th</sup>September, 2017 , material on record and all facts and circumstances in the matter wherein the Director (Discipline) is prima facie of opinion that the Respondent is "Not guilty" of Professional or other misconduct under the Company Secretaries Act, 1980. The Director Discipline has observed that the matter basically relates to the dispute between employer and employee and is thus governed by the terms and conditions of employment and does not fall under any of the item(s) of First and/or Second Schedule to the Company Secretaries Act, 1980.
5. **The Board of Discipline after considering the Compliant, Written Statement, the related material on record, prima-facie opinion of the Director (Discipline) and 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 Company Secretaries Act, 1980 in view of the observations made by Director Discipline as stated in prima facie opinion and para 4 above specified. Accordingly, the Board of Discipline has decided to close the complaint.**

  
CS Dinesh Chandra Arora  
Member

  
CS C Ramasubramaniam  
Member

  
CS Ashish Doshi  
Presiding Officer

