

**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/347/2016**

**Order reserved on: 18<sup>th</sup> January, 2018**

**Order issued on : 18<sup>th</sup> January, 2018**

**Shri Vijay Kumar Jhalani**

**....Complainant**

**Vs.**

**Ms. Alka Kapoor, FCS-2950**

**....Respondent**

**FINAL ORDER**

1. A complaint in Form 'I' dated 10<sup>th</sup> March, 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 Vijay Kumar Jhalani (hereinafter referred to as 'the Complainant') against Ms. Alka Kapoor, FCS-2950 (hereinafter referred to as 'the Respondent').
2. The Complainant's letter dated 17<sup>th</sup> January, 2018 inter-alia informing that the Respondent has explained the circumstances under which she wrote a letter which is the subject matter of the Complaint. Hence, the Complainant does not want to pursue the complaint anymore and Respondent's letter dated 17<sup>th</sup> January, 2018 stated that she has nothing personal against the Complainant are placed before the Board of Discipline.
3. The Board of Discipline considered the said request letter dated 17<sup>th</sup> January, 2018 of the Complainant for not pursuing the Complaint further. The Board of Discipline also referred the relevant provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing the withdrawal of the complaint which reads as under:

**Section 21 (5) of the Act:**

"Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or as the case may be, the Disciplinary Committee, and



*[Handwritten signature]*

*[Handwritten signature]*

the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage."

**Rule 6 of the Rules:**

"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant, permit the withdrawal, at any stage, including before or after registration of the Complaint.


*Provided that in case, the Director has not yet formed his prima facie opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal."*


4. The Board of Discipline observed that in the instant complaint, the Director (Discipline) has formed her *prima facie* opinion and also placed on record her further investigation report. The Board of Discipline asked the Director (Discipline) to seek legal opinion from Legal Advisor of the Institute Mr. R D Makheeja whether the letter of the Complainant intimating about the non-pursuing the complaint anymore will be treated as "withdrawal of the complaint". Accordingly, the Board of Discipline deferred the matter. The matter was discussed with Mr. R D Makheeja, he vide his legal opinion dated 18<sup>th</sup> January, 2018 opined that:

*"that in this case, the Complainant after explaining the circumstances, has stated that **he does not want to pursue the complaint any more.** The statement of the Complainant is a deemed withdrawal of the Complaint and action on his complaint may be taken in accordance with the provisions of the Act and Rules as mentioned above."*

5. The Board of Discipline after considering the material on record; *vis-a-vis* the provisions of the Act and the Rules, legal opinion of Mr. R D Makheeja *supra* governing withdrawal of a complaint; permitted the withdrawal of this complaint, against the Respondent and closed the complaint.

Accordingly, the complaint stands disposed-off.

  
CS Dinesh Chandra Arora  
Member

  
CS C Ramasubramaniam  
Member

  
CS Ashish Doshi  
Presiding Officer

