

**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/352/2016

Order reserved on: 26th September, 2017

Order issued on: 18th January, 2018.

Shri Anup Kumar Agarwal

...Complainant

Vs.

**Shri Sital Prasad Swain
FCS-6338 CP-6814**

...Respondent

FINAL ORDER

1. A complaint in Form 'I' dated 27th May, 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 Anup Kumar Agarwal (hereinafter referred to as 'the Complainant') against Shri Sital Prasad Swain, FCS-6338, CP- 6814 (hereinafter referred to as 'the Respondent').
2. The Complainant's letter dated nil received on 11.9.2017 inter-alia informing that he does not have any more grievances against the Respondent and requested to dispose of the complaint as withdrawn is placed before the Board of Discipline.
3. The Board of Discipline considered the said request letter dated nil received on 11.9.2017 of the Complainant for withdrawal of the Complaint. 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 the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage."



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C.A. Manning

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Rule 6 of the Rules:

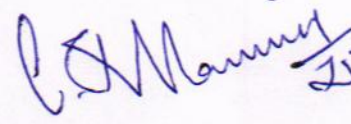
"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant,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

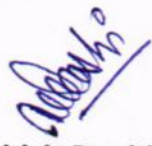
Provided that in case, the Director has not yet formed his prima facie opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal."

4. The Board of Discipline observed that in the instant complaint, the Director (Discipline) has not yet formed her *prima facie* opinion.
5. **The Board of Discipline after considering the material on record; *vis-a-vis* the provisions of the Act and the Rules *supra* governing withdrawal of a complaint; permitted the withdrawal of this complaint against the Respondent and closed the matter.**

Accordingly, the complaint stands disposed-off.


CS Dinesh Chandra Arora
Member


CS C Ramasubramaniam
Member


CS Ashish Doshi
Presiding Officer

