

THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

DC/370/2016

Order Reserved on: 27th July, 2019

Order issued on: 19 AUG 2019

Mrs. Shashibala Singh
M/s Hind Tools (India) Private Limited

...Complainant

Vs.

Shri Ashok Javarilal Surana, FCS-3559, CP No. 6233

.....Respondent

CORAM:

CS Ranjeet Pandey, Presiding Officer

CS B Narasimhan, Member

Mrs. Meenakshi Datta Ghosh, Member

Present:

Mrs. Meenakshi Gupta, Director (Discipline)

Shri Vikash Kumar Srivastava, Deputy Director, Disciplinary Directorate

Shri Abhishek Kumar, Advocate, on behalf of the Respondent

FINAL ORDER

1. A Complaint dated 8th November, 2016 filed in Form I by Mrs. Shashibala Singh (hereinafter referred to as 'the Complainant') against Shri Ashok Javarilal Surana, FCS-3559, CP No. 6233 (hereinafter referred to as 'the Respondent') under Section 21 of the Company Secretaries Act, 1980 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 (hereinafter referred to as 'the Rules').
2. Pursuant to Section 21 of the Act, the Director (Discipline) has formed *prima-facie* opinion dated 26th August, 2017, wherein it is opined that the Respondent is 'Guilty' of Professional or other misconduct under Item (7) of Part – I of the Second Schedule to the Company Secretaries Act, 1980 as the Respondent has not exercised due diligence as required of him and has just relied upon the information provided by the management and does not appear to have carried out any inspection of statutory records of the Company, before verifying and certifying the Annual Returns for M/s Hind Tools (India) Private Limited.



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3. The Disciplinary Committee at its meeting held on 8th September, 2017 agreed with the aforesaid prima-facie opinion dated 26th August, 2017 of the Director (Discipline) and decided to adjudicate the matter in accordance with Rule 18 of the Rules to finally conclude as to whether the Respondent is guilty or not in the matter.
4. A copy of the *prima-facie* opinion of the Director (Discipline) was sent to the Respondent and the Complainant vide letter(s) dated 10th November 2017 asked them to submit their Written Statement to *prima-facie* opinion and Rejoinder to Written Statement to *prima-facie* opinion, respectively. The Respondent in his written statement dated 15th January, 2018 to *prima-facie* opinion has reiterated his submissions and inter-alia stated that the Complaint is outcome of discord in the family of the Complainant. The Complainant in her Rejoinder dated 13th February, 2018 has stated that the Share Transfer deed and Resignation letter submitted by the Respondent are forged documents.
5. The Complainant vide letter dated 7th January, 2019 requested for withdrawal of the Complaint and not to proceed in the matter.
6. The Disciplinary Committee at its meeting held on 21st February, 2019 after considering the withdrawal request vide letter dated 7th January, 2019 of the Complainant decided not to permit withdrawal of the Complaint in the matter at this stage, and accordingly, decided to proceed with the case further, as per the provisions of the Act read with the Rules.
7. The parties vide letter dated 30th April, 2019 were called upon to appear before the Disciplinary Committee on 15th May, 2019. The Respondent vide letter dated 9th May, 2019 has requested for an adjournment.
8. The Complainant vide letter dated 13th May, 2019 has again requested for withdrawal of the Complaint stating that she does not want to proceed in the matter and the Respondent has acted diligently in performing his duties on the basis of Audited Balance Sheet and Other record/documents submitted before him. The Complainant has already informed her Advocate to withdraw other legal cases also.
9. The Respondent vide letter dated 18th June, 2019 submitted that the Complainant has withdrawn criminal case filed in Nasik Court and has admitted that the signatures for which she has complained were done by her, but due to long period was over after signing, she has forgotten. She admitted that signatures belongs to her only. Because of doubt, confusion and misunderstanding, she filed the complaint.



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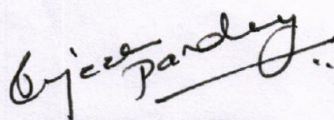
10. The parties vide letter dated 4th July, 2019 have been called upon to appear before the Disciplinary Committee on 27th July, 2019.
11. The Complainant vide letter dated 12th July, 2019 has again requested for withdrawal of the Complaint stating that the Respondent has acted diligently in performing his duties and she had digitally signed Form 20 B and 23AC for the Financial Year ending on 31st March, 2012.
12. Shri Abhishek Kumar, Advocate appeared on behalf of the Respondent before the Disciplinary committee on 27th July 2019 and prayed that in view of the request of the Complainant vide letter(s) dated 7th January, 2019, 13th May, 2019 and 12th July, 2019 the Complainant may be allowed to withdraw of the complaint.
13. The Disciplinary Committee after considering the repeated requests of the Complainant and all the facts and circumstances of the case, decided to permit the withdrawal of the Complaint under Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 read with Section 21 (5) of the Company Secretaries Act, 1980.

Accordingly, the Complaint stands disposed off.


Member


Member




Presiding Officer