

THE DISCIPLINARY COMMITTEE  
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

ICSI/DC/409/2017

Order Reserved On: 27<sup>th</sup> July, 2019

Order Issued On: 19 AUG 2019

Serious Fraud Investigation Office (SFIO)

..... Complainant

Vs.

Ms. Chandani Mohta, ACS-24214, CP No.17231

.....Respondent

**CORAM:**

CS Ranjeet Pandey, Presiding Officer  
Mrs. Meenakshi Datta Ghosh, Member  
CS B Narasimhan, Member

**PRESENT**

Mrs. Meenakshi Gupta, Director (Discipline)  
Shri Gaurav Tandon, Assistant Director  
Shri Abhishek Misra, Advocate along with  
Ms Nidhi Agarwal for the Complainant

**ORDER**

1. A complaint dated 28<sup>th</sup> August, 2017, in Form-'I' 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 Serious Fraud Investigation Office (SFIO) through Additional Director, Shri Sanjay Rai ('the Complainant'), against Ms. Chandani Mohta, ACS-24214, CP No.17231, (hereinafter referred to as 'the Respondent').
2. The Complainant in his complaint dated 28<sup>th</sup> August, 2017 *inter-alia* alleged as under:
  - i. That during the course of investigation conducted by the SFIO, Ministry of Corporate Affairs; into the affairs of the Company namely M/s. Manglam Agro Products Ltd. (the Company/ MAPL), it was found that Ms. Chandani Mohta, the Respondent acted as Debenture Trustee of the debenture holders of MAPL. The Company created a charge on its immovable assets for Rs 5 Crores on 16<sup>th</sup> March, 2011 for the purported issue of debenture and filed e-Form-10 with charge ID 10297974.



*Ranjeet Pandey*



- ii. That the Respondent, verified and confirmed in the charge creation document that the charge instruments mentioned in the e-Form, are with her as Debenture Trustee of the Company. Moreover, the Respondent is not qualified to act as Debenture Trustee under Regulation 7 of SEBI (Debenture Trustees) Regulations, 1993.
  - iii. That during the investigation, it was also found that the block of immovable assets of the Company was Rs. 1.45 Crores as on 31.03. 2011 as per the Balance Sheet for the year ending 31.03.2011.
  - iv. The onus of maintaining accuracy and verification of existence and safe custody of original property deeds mentioned in the charge creation documents for Rs. 5 Crore (charge ID 10297974) lies on the Debenture Trustee, Ms. Chandani Mohta, the Respondent.
  - v. That during the examination under oath by the SIFO, the Respondent stated that original property deeds of the properties mentioned in the charge creation document (e-Form-10) as verified and confirmed by her, were not under her custody. The Company, by filing charge creation documents for Rs. 5 Crore and the Respondent acting as Debenture Trustee for the issue of its purported secured debentures, collected public funds which are not secured at all.
  - vi. That the Respondent, wrongly acting as Debenture Trustee of the Company as she was not qualified to act as a trustee and has falsely verifying and confirming the contents of e-Forms-10 (charge document) for 5 Crore on the immovable assets and not taking into custody the original property deeds of the Company mentioned in the charge creation documents is criminal breach of trust.
3. The Respondent in her written statement dated 15<sup>th</sup> December, 2017 *inter-alia* stated as under:
- i. That she had started her practice in April, 2010 and as a fresher, it was really a tough time to get assignment and due to lack of contacts, it was struggling phase for her to survive in the market. Further, She was having little kids of 5 year and 3 year at that time and was not financially equipped to meet the demand of today's life.
  - ii. That one of her friend named Ms. Mousumi Banerjee (Contact No. 9836283112) also in practice approached her for one assignment to act as Debenture Trustee for the Company Mangalam Agro Products Ltd.
  - iii. That she was told that the affairs of that Company was looked by her only, that's why she cannot act herself as Debenture Trustee and hence, requested the Respondent to act as Debenture Trustee of the Company .

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*Bijay Pandey*



- iv. That Ms. Mousumi Banerjee also convinced the Respondent that there is no misdeed or fraudulent activities in the Company, so the Respondent can rely on her (Ms. Mousumi Banerjee).
- v. That having full faith on Ms. Mousumi Banerjee, the Respondent trusted her and agreed to have the assignment and accordingly provided the necessary document like voter-id-card, pan card, photo etc. to Ms. Mousumi Banerjee for the said purpose and also signed the document as she was told.
- vi. That the Respondent had never indulged in the activity of the Company and had no malafide intention and, therefore, has requested the Committee members to kindly consider the matter with lot of kindness, mercy and assured that she will never be involved in any manner in future and maintain the dignity of the profession and the Institute at the higher level.
4. The Complainant in his rejoinder dated 11<sup>th</sup> January, 2018 *inter-alia* stated as under:-
- i. That the statement of the Respondent was recorded on 6<sup>th</sup> November, 2014, under oath by the SIFO. Further, the statement recorded before the SFO Inspectors is binding on the deponent, and the deponent was fully aware of the fact and legal situations before deposing.
- ii. That, the reply filled by the Respondent in this matter, is her personal information, which is not known to the Complainant. The statement made by the Respondent is of total denial, which is fit to be discarded at this juncture and the Respondent is liable for legal action as per law.
5. The Director (Discipline) in the *prima-facie* opinion dated 24th April, 2019 after examination of the complaint, Written Statement, rejoinder and other material on record, it is observed that the Respondent had acted as Debenture Trustee of the debenture holders of MAPL without being qualified to act as Debenture Trustee under Regulation 7 of SEBI (Debenture Trustee) Regulations, 1993. Moreover, the Respondent did not keep in her custody the original property deeds of the properties mentioned in the charge creation document (e-Form-10) acting as a Debenture Trustee. Further, the Respondent failed to exercise due diligence in certification of (e-Form-10) of the Company as that creation of charge was for Rs. 5 Crore on the immovable assets of the company whereas (as per the Balance Sheet) SFO found that the block of immovable assets of the company was Rs. 1.45 Crore as on 31.03.2011 as per the Balance Sheet for the year ending 31.03.2011. In view of the above, Ms. Chandani Mohta, the Respondent is *prima facie* **Guilty** of Professional Misconduct under Item (7) of Part I of the Second Schedule to the Act as she is neither qualified to act as Debenture Trustee under Regulation 7 of SEBI (Debenture Trustee) Regulations, 1993 nor kept in her custody the original property deeds of the properties mentioned in the charge creation document (e-Form-10) acting as a



*Chandani Mohta*



Debenture Trustee and also for not exercising due diligence in certification of (e-Form-10) of the Company.

6. The Disciplinary Committee at its meeting held on 24<sup>th</sup> April, 2019 considered and agreed with the *prima-facie* opinion of the Director (Discipline). The Disciplinary Committee further decided to proceed further in the matter in accordance with the provisions contained in the Act and the Rules to finally decide whether the Respondent is guilty or not. As per the Rules, a copy of the *prima-facie* opinion of the Director (Discipline) was sent to the parties *vide* letter dated 10<sup>th</sup> May, 2019 asking them to submit their written statement and rejoinder, respectively.
7. The Respondent *vide* Written Statement dated 24<sup>th</sup> May, 2019 *inter-alia* stated that one of her friend named Ms. Mousumi Banerjee) had approached her to act as Debenture Trustee for the Company M/s. Mangalam Agro Products Ltd. The Respondent further requested to kindly consider the matter with lot of kindness, mercy and assured that she will never be involved in any manner in future and maintain the dignity of the profession and the Institute at the higher level.
8. A copy of the Written Statement dated 24<sup>th</sup> May, 2019 of the Respondent was sent to the Complainant *vide* letter dated 3<sup>rd</sup> June, 2019 asking to submit the Rejoinder to the same. The Complainant in his Rejoinder dated 4<sup>th</sup> & 22<sup>nd</sup> July, 2019 mainly reiterating its earlier submissions made in the Complaint and Rejoinder.
9. The parties *vide* letter dated 4<sup>th</sup> July, 2019 were called upon to appear before the Disciplinary Committee on 27<sup>th</sup> July, 2019 at New Delhi.
10. On 27<sup>th</sup> July, 2019 Shri Abhishek Misra, Advocate along with Ms Nidhi Agarwal appeared before the Disciplinary Committee on behalf of the Complainant and gave a brief background of the Case and stated that the Respondent has not rebutted the allegations levied against her. The Respondent instead of appearing before the Disciplinary Committee *vide* her emails both dated 13<sup>th</sup> July, 2019 *inter-alia* stated that one of her friend named Ms. Mousumi Banerjee) had approached her to act as Debenture Trustee for the Company M/s. Mangalam Agro Products Ltd. She further stated that she is unable to attend the hearing before the Disciplinary Committee due to her financial condition and health of her husband. She once again requested to consider the matter with lot of kindness, mercy and assured that she will never be involved in any manner in future and maintain the dignity of the profession and the Institute at the higher level.
11. After considering the material on record, the *prima-facie* opinion of the Director (Discipline); and after examining the totality of facts and circumstances in this matter, the Disciplinary Committee holds that the Respondent is 'Guilty' of professional misconduct under Item (7) of Part I of the Second Schedule to the Company Secretaries Act, 1980 as the Respondent had acted as Debenture Trustee of the debenture holders of MAPL without being qualified to act as Debenture Trustee under Regulation 7 of SEBI (Debenture Trustee) Regulations, 1993. Moreover, the Respondent did not keep in her custody the

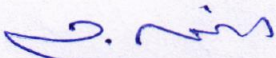


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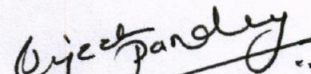


original property deeds of the properties mentioned in the charge creation document (e-Form-10) acting as a Debenture Trustee. Further, the Respondent failed to exercise due diligence in certification of (e-Form-10) of the Company as that creation of charge was for Rs. 5 Crore on the immovable assets of the company whereas SFIO found that the block of immovable assets of the company was Rs. 1.45 Crore as on 31.03.2011 as per the Balance Sheet for the year ending 31.03.2011.

12. Accordingly, the Disciplinary Committee decides to provide an opportunity of being heard to the Respondent pursuant to sub- rule (1) of Rule 19 of the Rules. The Disciplinary Committee further decides to call upon the Respondent to appear before it at the next date of hearing in this case, as may be decided by the Presiding Officer of the Disciplinary Committee. In case, the Respondent for any reason is unable to attend the hearing as may be decided; the Respondent may enter an appearance through an authorized representative along with a duly signed and attested letter of authority addressed to the Disciplinary Committee seeking exemption from personal appearance failing which, the matter will be heard **ex-parte**.

  
Member

  
Member

  
Presiding Officer

