

**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**

ICSI/DC/424/2018

Order reserved on: 30th November, 2018

Order issued on : 17 JAN 2019

Shri Vikas Yashwant Khare, FCS 3541

.... Complainant

Vs

Shri Makarand M Lele, FCS 3453

... Respondent

CORAM:

CS Atul H Mehta, Presiding Officer
CS C Ramasubramaniam, Member
CS Ashok Kumar Dixit, Member

Present:

Mrs. Meenakshi Gupta, Director (Discipline)
Mrs. Anita Mehra, Assistant Director

FINAL ORDER

1. The Board of Discipline examined the Complaint, material on record and prima-facie opinion of the Director (Discipline).
2. The Board of Discipline noted the following: -
 - 2.1 A complaint dated 5th January, 2018 in Form-'I' has been 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 Vikas Yashwant Khare, FCS-3541 ('the Complainant'), against Shri Makarand Madhusudan Lele, FCS-3453 (hereinafter referred to as 'the Respondent').
 - 2.2 The Complainant in his aforesaid complaint has inter alia alleged against the Respondent that :-
 - a) The Respondent has abated (abetted) violation of Guidelines for conducting Management Skill Orientation Programme (MSOP) for the Professional Examination Passed Students. As per the Guidelines of the Council of the ICSI during the relevant period, the prescribed fee was Rs. 5,000/- per student but the Respondent by unduly influencing the members of the Management Committee of Pune Chapter, four (4) of whom were trainees of MRM Associates (a firm of the Respondent), one (1) of the members was treating the Respondent as his mentor, the Respondent was Ex-Officio member of the Western India Regional Council (WIRC), two (2) of the members were Ex-Officio members of WIRC.



- b) Because of the influence of the Respondent the Pune Chapter charged a fee of Rs. 11,000/- per student as against the prescribed fee of Rs. 5,000/- per Student even after the violation was pointed out by the Complainant in one of the meetings of the Management Committee of Pune Chapter. The Respondent put pressure on the members of the Management Committee and dictated them not to change the amount of fees. The Respondent played pivotal role in violation of the Guidelines and is guilty of Professional misconduct in terms of Item (1) of Part II of Second Schedule of the Company Secretaries Act, 1980.
- c) The Respondent was the Editor of monthly News Letter of WIRC named as "Focus" in the year 2013 and in the year 2014. As an Editor of 'Focus' he violated the Guidelines for News Letter/E-News Letter of the Councils and Chapters. The Respondent used "Focus" for creating his own visibility keeping an eye on the then forthcoming Central Council elections and for a free promotion and free publicity of self and his Firms at the cost of WIRC. He misused 'Focus' by writing page as an Editor of 'Focus' and also by publishing his two (2) individual photographs at prominent places and pages of 'Focus' against the Guidelines for the Newsletter. He also included in the 'Focus' his personal profile as an image building exercise at the expenses of and against the Newsletter Guidelines. He also made promotion of his Firm M/s MRM Associates and M/s MRM Corporate Advisors Pvt. Ltd. in the 'Focus'. He thus misused the position. There was sheer conflict of interest with the position he was holding but gave Annual Certificate as per the ICSI Code of Conduct and Ethics and Senior Management of the Institute knowing it to be false.
- d) The Respondent also proclaimed himself as "Proficient"/"Expert" Company Secretary in the personal profile illegally published in 'Focus'. He thus violated Clause (1) of Part II of Second Schedule of the Company Secretaries Act, 1980, by contravening the Guidelines issued by the Council.
- e) The Respondent without the permission of the Managing Committee of the Pune Chapter and without disclosing it to other Ex-Officio members of Managing Committee, secretly participated in the meeting organised by the WIRC with the Registrar of Companies, Mumbai, on the issues of MCA Portal and he falsely stated that the said meeting was organised by Pune Chapter and got it published in newspapers widely circulating in and around Pune City and falsely represented, of course, for self-promotion, that the said meeting was organised at the initiative of the Respondent. The Respondent also put undue influence on junior members of the Managing Committee to join them without disclosing the fact that Pune Chapter was not invitee for the meeting.
- f) The Respondent used undue influence on then Chairman, WIRC, for entering into a Memorandum of Understanding (MOU) with Camplace Private Limited without the approval of the Executive Committee of the ICSI or the Council of the ICSI. The Respondent never disclosed his relationship with Camplace Private Limited. As per the Company Secretaries Act, 1980, the Regional Council has no power to enter into contract in its name. The Executive Committee of the Council of the ICSI after receiving the complaint from the Chairman, WIRC, directed WIRC to terminate the Memorandum of Understanding (MOU). The Respondent also gave a platform of WIRC to Camplace Private Limited for its



Banner/Brand "Talenttick" which is a private commercial organisation to promote its business without any consideration. The Respondent also conspired with Camplace Private Limited, Pune, for illegal use of ICSI Logo without any permission from the Council. On termination of the Memorandum of Understanding (MOU) by WIRC, Camplace Private Limited served a Legal Notice on WIRC and ICSI asking compensation of Rs. Fifty Lakhs. Even after termination of the Memorandum of Understanding (MOU) with Camplace, the Respondent did not disclose it on his Facebook page the fact of termination and instead of that he continued to show his photo with the Banner of Talenttick to public at large and that amounted to holding out himself for Talenttick on behalf of WIRC of ICSI to Student community at large, the Respondent when travelled with the Camplace Private Limited, Pune at various programmes in Western Region and for programme with SIRC at Belgaum. The scam of Camplace architected by the Respondent needs to be investigated.

- g) The Respondent has been projecting and promoting himself as an expert in the field of Corporate Law, Foreign Exchange Law, misusing his position of Central Council member. In the year 2015-16, the Respondent being a member of Central Council and Editorial Team of the ICSI Publication titled as "Primer on Company Law" and projected himself as expert in the field of Corporate Law, Foreign Exchange Law by misusing his position of Central Council Member. The Respondent thus violated, while sitting as a Central Council member, Guidelines for Advertisement by Company Secretary in Practice which formally needs to be investigated.
- h) The Respondent has violated the Code of Conduct and Ethics for Council Members and Senior Management of the Institute. Para 6 of the aforesaid Code of Conduct provides *inter-alia* that the Institute's confidential information is a valuable asset. The Institute's confidential information includes information about members, Students, employees, Council discussions, decisions, future plans, proposal and list of associates, affiliates, stakeholders, dealers and employees and financial information. The Respondent who was a member of the Central Council of the ICSI on 03rd September, 2015 at 11.00 A. M. from the Council Room of the ICSI uploaded on the Facebook the decision of the Council to allow two (2) more attempts to the Students of Professional Programme (Old Syllabus). He thus violated the Code which requires that the Council members and the members of the Senior Management must maintain the confidentiality of the information which comes to their knowledge/custody by the Institute and any other information which comes to them about the Institute, except when disclosure is authorised or is legally required. The Respondent had no authorization to disclose the same as the participant of the said meeting. It is proven practice and protocol that the President or Secretary of the Council announces such policy decisions once draft minutes are prepared or exact announcement is issued in writing. The Respondent wanted to be the first on the Social Media in order to promote himself. By indulging into misconduct stated above, the Respondent as a routine and normal practice deliberately and intentionally violated the ICSI Code of Conduct and Ethics for members and Senior Management of the Institute. Consequently, the Respondent has committed misconduct under Section 21 of the Company Secretaries Act, 1980 read with First Schedule or, as the case may be, the Second Schedule of the Act. It is



stated by the Complainant that the matter has to be investigated quickly and fairly and without any fear as the Respondent is known for interfering in the executive functions of the ICSI hierarchy.

2.2 The Respondent in his Written Statement dated 26.03.2018 to the complaint has denied all the allegations made in the complaint and has inter-alia stated that: -

- a) The complaint filed by the Complainant is a vindictive and desperate act arising out of loss in the Central Council Election of ICSI held in 2014. The Complainant filed a complaint under Section 10A of the Company Secretaries Act, 1980, challenging the election of the Respondent. The Appeal of the Complainant to the Election Tribunal was rejected.
- b) The timing of the present complaint which was filed in January, 2018, makes it amply clear that the Complainant had only been waiting to abuse the process for political/personal vendetta against the Respondent. While the allegations in the complaint relate to the year 2013, the Complainant chose to file a complaint on the eve of forthcoming election to the Central Council of the ICSI.
- c) The Complainant admitted before the Election Tribunal that during his term as a Central Council member he, his partners and his wife had a stake in a coaching academy being run right next to his office. He also misused his position as Examination Committee Chairman/member to woo Students and offer exam pattern to the Students. The Respondent has narrated in the Written Statement, a few of the violations committed by the Complainant during his tenure as a Central Council member.
- d) The Complainant filed a false and frivolous complaint on 21.01.2015 against the Respondent under Section 10A of the Company Secretaries Act, 1980 raising a dispute regarding election to the Central Council from WIRC constituency. The Election Tribunal, after considering all the documents, submissions and after hearing the Parties, dismissed the Petition saying *inter-alia* that the dispute raised by the Complainant against the Respondent was devoid of merits. The Complainant has filed a Writ Petition before the Hon'ble High Court of Mumbai challenging the validity of the order of the Election Tribunal and re-hearing of the entire case. The said Writ Petition has not yet been admitted by the Hon'ble High Court of Mumbai.
- e) In regard to the first allegation relating to contravention of the Guidelines issued by the Council, the Respondent has stated that Section 15 (1) and 15 (2) provides for duties of the Council. The Council derives its powers under Section 15 (2) (e) of the Act for making "Guidelines" in respect of grant or refusal of Certificate of Practice under the Act. Other than the specific power to make Guidelines the Council further has a power to make Regulations under Section 39 of the Act.
- f) In addition to the above, the Council, from time to time in order to carry out its functions, issues Administrative Guidelines for its own functioning and for the functioning of the Regional Councils and Chapters. Accordingly, the ICSI has, from time to time, issued Academic Administrative, Examination, Financial, Information Technology, Library and Student Services Guidelines. The ICSI has also from time to time



issued ICSI Code of Conduct and Ethics for Council members and Senior Management of the Institute and Guidelines for good Council practices for its Elected members. These Codes and Guidelines appear to be of non-binding nature and are directory rather than mandatory. In Case No. DC 235/2014 of Mr. G. Somnathan Nair Vs. Mr. Vimal S V the Disciplinary Committee decided that *the matters relating to the Administrative functioning of the Chapter do not come within the ambit of professional misconduct.*

- g) The Respondent submitted that the entire complaint of alleged violation of Administrative Guidelines of the ICSI for its Chapters or Regional Councils and other non-mandatory Guidelines and Code of Conduct and Ethics of ICSI by the Respondent are not maintainable and ought to be rejected at the outset.
- h) In regard to the Management Skills Orientation Programme (MSOP) by the Chapters and the Regional Councils of the ICSI, the Respondent has stated that the Managing Committee of any Chapter is independent body elected by following a process prescribed in the ICSI Chapter Regulations by the members belonging to Chapter Constituency of which the Complainant is also a member. In addition to this the members elected to the Regional Council and Central Council having professional address under the Chapter also become Ex-Officio members of the Managing Committee of the said Chapter.
- i) The Complainant was also one of the Ex-Officio members of the Managing Committee of Pune Chapter. In addition to this, there were two (2) more Ex-Officio members including the Respondent being the elected Regional Council members from the jurisdiction of Pune Chapter. The Managing Committee had also co-opted two (2) eminent outsiders as co-opted members.
- j) In view of the entire structure of the Managing Committee, it would be out of context to claim that the entire Managing Committee including the Complainant, Ex-Officio members and co-opted members were functioning as proxies for the Respondent or were under the Respondent's undue influence or that the Pune Chapter was run by the Respondent de-facto.
- k) It has also been stated that the Guidelines for conducting MSOP are purely Administrative Guidelines issued by the ICSI and are applicable to the Chapter and more specifically to the Office Bearers of the Chapter and not even remotely required to be observed by the Ex-Officio Non-Executive members of the Managing Committee like the Respondent because the function of Ex-Officio members is not to involve in the day to day affairs but to provide Guidance wherever asked. The charging of fees and conduct of MSOP was exclusively under the control of the Office Bearers and Executive Officers of the ICSI and, therefore, the Respondent denies his participation in the alleged violation of the MSOP Guidelines by the Pune Chapter.
- l) The Complainant has tried to colour the email communication dated 17th June, 2013 of the Respondent to the Managing Committee members as the Respondent instructions to the Managing Committee of Pune Chapter for charging higher fees. To the best of the Respondent's



knowledge the issue of charging excess fees by the Pune Chapter and other Chapters was administratively dealt by the ICSI Head Office and explanations were called from the Office Bearers and Executive Officers of the Chapter and was concluded by way of instructions to Chapters to not charge any such excess fees.

- m) It is pertinent to note that the Complainant was a Central Council member and Ex-Officio member of the Regional Council and Chapter during that period and was a Party to approval of accounts and consolidation process at Head Office and to the best of the Respondent's knowledge no one has raised any objection at any such level and allowed the Balance Sheet to be approved and submitted to the Government with such excess fees.
- n) In regard to violation of Guidelines for publication of News Letters by the Regional Councils and Chapters, the Respondent has stated that during the year 2013-14 the WIRC of the ICSI of which the Respondent was one of the elected members had selected the Respondent to hold position as an Editor of its newsletter "Focus". As per the then prevailing practice and procedure laid down at WIRC, the Editor was supposed to function under the directions and control of Chairman and Secretary of WIRC and was supposed to report to the Chairman. The Respondent took over the charge of the Editorship in the month of February, 2013 from the then Editor Shri Amit Jain. Shri Amit Jain was the Editor for the year 2012-13 and while taking over the charge the Respondent was advised to continue and follow the similar pattern. The Respondent studied all the newsletter issues published by the WIRC under the Editorship of Mr. Amit Jain and found that the WIRC has a practice of writing Editorial in addition to the Chairman's communique.
- o) The Respondent was not holding any personal interest or any intention to not to follow the custom and practice at WIRC. This is evident from all the Editorials written by the Respondent and its contents. They were only providing the insight about the newsletter and nothing else. Nowhere did the Respondent exercise any discretion as an Editor or tried to overpower any Office Bearers or entered into the domain of the Chairman to communicate his thought about the Regional Council and its functioning through the Chairman's communiqué or being a spokesperson of WIRC. The then Chairman had never expressed any sort of displeasure about the Respondent writing the Editorial and it was all the time approved by him.
- p) In view of the above the Respondent has not violated the Guidelines for any personal publication rather whatever was printed was completely according to the established practices and procedures at WIRC within the full knowledge and consent of the then Chairman and other Office Bearers of WIRC and only after their approval. The Complainant is misrepresenting a publication as an advertisement which is contrary to the practice.
- q) In regard to the alleged violation of utilization of funds of Pune Chapter by the Respondent without approval of the Managing Committee of Pune Chapter, the Respondent has stated that the allegation is not only false and vexatious but also frivolous and he has denied the allegation as no funds were utilized much less without the approval of the Managing



Committee for self-promotion and for secret participation in the meeting arranged by the WIRC with the ROC Mumbai, to address the issues relating to functioning of MCA Portal. The Respondent has stated that the then Chairman of WIRC advised him to participate as one of the members of the delegation of WIRC in the meeting organised by MCA at Mumbai. Upon instructions of the then Chairman, WIRC, the Respondent collected the details of several troubling issues from Pune members including from the Managing Committee members. Subsequent to the MCA meeting and as advised by the Chairman, WIRC, the Respondent prepared a detailed note of discussion and submitted it to the Chairman. This entire impartial effort was undertaken by the Respondent only to support and help Stakeholders and CS Professionals dealing with MCA 21 system. The Respondent had spent considerable amount of professional time, energy and money on this activity.

- r) On the basis of one press clipping, a story is being framed of allegation of violation of ICSI Guidelines. The press clipping attached as Exhibit E of the complaint does not in any manner indicate that Pune Chapter had arranged this meeting. The Respondent had represented professionals, Companies and Stakeholders of Pune about the difficulties faced by them while using MCA Portal for collection and compilation of various difficulties and suggestions.
- s) In regard to the allegations relating to unauthorised signing of MOU/Contract with Camplace Private Limited, the Respondent has stated that he only witnessed the signature of the Chairman of WIRC in the MOU with Camplace Private Limited. During that period the Respondent was neither an Office Bearer of the WIRC nor was holding Chairmanship of WIRC or Chairmanship of Placement Committee of WIRC or any other relevant Committee of WIRC. The execution of the said MOU and its implementation was the responsibility of WIRC and its Office Bearer. The usage of ICSI Logo or any action done under the said MOU by the Parties were not under the Respondent's control nor influenced by him.
- t) As advised to the Respondent from time to time by the WIRC, the Respondent fulfilled the Respondent's duties as a Regional Council member of WIRC for promotion of WIRC's placement initiative at various Forums including at Belgaum and other places. In view of the above, the allegation of the Complainant is absolutely wrong. The Respondent fails to understand the alleged financial losses caused to the ICSI because of this arrangement. The Complainant be put to provide strict proof. The Respondent denies any direct or indirect gain to him out of this arrangement and has requested that the Complainant be asked to provide strict proof thereof.
- u) In regard to the allegation that the Respondent has been projecting and promoting himself as an expert in the field of Corporate Law, Foreign Exchange Law by misusing his position of Central Council member, the Respondent has stated that the Guidelines in Para 4.2.3 permits the publication of name of Firm in which the member is a Partner and Para 4.2.8 allows the member to add recognized qualification of expression in his profile. It has been stated that Para 4.3 of the Guideline is to be read in conjunction with the list of information permitted to be provided at Para 4.2. The list of information provided is not barred by any provisions.



The said Guidelines were framed by the ICSI in the year 2007 and have not been revised thereafter. The Companies Act, 2013 positioned Company Secretary as Key Managerial Person and as an expert. It would, therefore, be essential for the Company Secretary to present himself as an expert in the areas of his professional excellence. The indicative expression of expert used by the Respondent in his profile is only with this perspective and not with any intention to hold himself superior over others or not with an intention to deceive the Advertisement Guidelines of ICSI. In view of the above, the Respondent believes that the Advertisement Guidelines issued by the ICSI in the year 2007 to be read in line and to be properly aligned with the new dimension of the provisions of the Companies Act, 2013. He has further stated that his profile was not with an intention to solicit any professional work to make any Advertisement but was used as expression as recognized by the Central Government under the provisions of the Companies Act, 2013.

- v) In regard to the allegation of violation of ICSI Code of Conduct, the Respondent has stated that he was well aware of the confidentiality and secrecy required to be maintained by the Council member in his functioning. The Council in its meeting held on 03rd September, 2015 considered the proposal to address the burning issue of Students switching over from old syllabus to new syllabus for the CS Professional examination. The Students were agitated and made representations and were largely continuously using the Facebook, Whatsapp and Social Media for raising their voice against the decision of the Council and of the ICSI. The image of the ICSI to that extent was jeopardized on the Social Media. In these facts and circumstances and demands of the Students, the Council decided to allow two (2) more attempts to the Students under old syllabus. The then President and other Council members after the decision in the meeting by taking a break rushed at the Main Gate of the ICSI, Lodi Road Building and communicated the decision to the Students who were demonstrating at the Gate and appealed them to go to their home and study hard. During that time, the Council members were also advised to share this decision with the Student's fraternity and accordingly Council members by using their Social Media accounts on Facebook or Whatsapp or by way of several telephone calls communicated the decision to large number of the Students spread all across India. This was done purely with a noble intent to bring peace and harmony and to provide a comfort to the Students community and to uplift the image of ICSI on Social Media and to control further damages to the reputation of the ICSI. In view of the aforesaid facts, the Respondent has stated that he did not disclose any classified information to the Students or general public through Social Media. Rather by placing the decision of the Council on the Facebook, after the President announced it publically and other members shared it, the Respondent had observed his duty towards ICSI. The said posting has not created any negative impact or image rather it has helped many Students to know the decision of the Council of the ICSI. In support of averments, the Respondent has attached Facebook post and FAQ of the ICSI on the same date.

- w) In regard to the allegation of violation of ICSI Code of Conduct as a matter of routine, the Respondent has denied the allegation. The Respondent has stated that he has not committed any acts of



misconduct under Section 22 read with First and Second Schedule of the Company Secretaries Act, 1980. He requested that the Complainant be required to provide strict proof in support of his allegation. The Respondent has reiterated that the Code of Conduct is of non-binding nature and is expected to be observed in spirit. The ICSI has not defined any yard stick for observations by the members.

- x) The Respondent has taken strong objection to the various attempts of the Complainant to abuse the disciplinary mechanism and other legal Forums for his personal benefits and to malign the Respondent's image, the image of the ICSI as a whole and the President Office. It has been stated that the Complainant has desperately resorted to give undesirable publicity of filing this disciplinary complaint and also to Writ against the order of the Election Tribunal at the Hon'ble High Court of Mumbai through various oral and written modes of communication. This act of the Complainant itself exhibits and proves beyond doubt that he has only ulterior motive to file this case to tarnish, malign and damage the image of ICSI as a whole. Disclosing information to the outsiders about Disciplinary proceedings of the disciplinary case and of the Writ Petition pending admission at the Hon'ble High Court of Mumbai is reprehensible.

- 2.3 The Complainant in his Rejoinder dated 23.05.2018 has reiterated the contents of the complaint. The Complainant in regard to the detailed contents of the Written Statement has only denied the allegations made by the Respondent against the Complainant in the Written Statement. The Complainant has stated *inter-alia* that these are false and incorrect. It has been stated that the Election Petition against the Respondent was dismissed on technical ground on 30.06.2016. The Appeal against the dismissal is pending before the Hon'ble High Court of Mumbai and the Respondent is attempting to delay the hearing on one pretext of some or other reason.

3. The Board of Discipline considered the following observations of the Director (Discipline) made in her prima facie opinion dated 27th November, 2018:

- 3.1 "As regards the abatement for violation of Guidelines for conducting Management Skill Orientation Programme (MSOP) for the Professional Examination Passed Students by the Chapters/ Regional Councils, it is observed that the matter has already been dealt with by the concerned Committee and the Council and necessary instructions were issued to be concerned Regions/Chapters on the matter.
- 3.2 As regards the violation of the Code of Conduct and Ethics for Council Members and Senior Management of the Institute, there are no documents on record to substantiate the allegations made in the complaint.
- 3.3 As regards the violation of the Guideline for publication of Newsletter by the Regional Council and the Chapters, the Respondent has been able to explain satisfactory that he did not commit any professional misconduct by writing an editorial in the Newsletter 'Focus' as he only continued to follow the established pattern and practices from the preceding Editor Shri Amit Jain, as the Respondent has also relied and placed on record copies of



'Focus' published prior to the Respondent being appointed as an Editor by the WIRC. The previous publications also show the same pattern and the publications made under the Respondent's editorship was duly approved by the WIRC before publication.

- 3.4 In regard to the allegation of meeting the ROC, Mumbai regarding MCA Portal, the explanation given by the Respondent that he participated in a representative capacity as a member of WIRC delegation, is considered satisfactory and no case of professional misconduct can be made out on this ground.
- 3.5 As regard signing of MOU/Contract with Camplace Private Limited the Respondent signed as Witness as the same was signed by the then Chairman of WIRC. The execution of said MOU and its implementation was the responsibility of WIRC and its Office Bearers and not of a witness. Similarly, the usage of ICSI Logo was not under the Respondent's control and as such, cannot be termed as a professional or other misconduct.
- 3.6 In regard to the allegation that the Respondent has been projecting and promoting himself as an expert in the field of Corporate Law, Foreign Exchange Law, in this regard the Respondent's has explained and relied upon Para 4.2.3 and Para 4.2.8 of the relevant Guidelines, which permit the publication of name of firm and add recognized qualifications and has also relied on the Companies Act, 2013 recognizing experts who can be empaneled and engaged by Government, Ministry, SFIO or NCLT or various other bodies to undertake various functions and provide services. These expertise explained in such perspective are not violative and cannot be said to be an advertisement and therefore, can be accepted. Moreover, the allegation against the Respondent has not been proved by the Complainant.
- 3.7 Further, as per records of the Disciplinary Directorate in Case No. DC 235/2014 of Mr. G. Somnathan Nair Vs. Mr. Vimal S V the Disciplinary Committee has held that the matters relating to the Administrative functioning of the Chapter do not come within the ambit of professional misconduct by a member.
- 3.8 In so far as the other allegations made by the Complainant against the Respondent, the Director (Discipline) has the following observations:

(i) It is a matter of record that the election complaint filed by the Complainant under Section 10 A of the Company Secretaries Act, 1980, was dismissed by the Election Tribunal after considering all the documents, submissions and after hearing the Parties. The Election Tribunal inter-alia held that the disputes raised by the Complainant against the Respondent was devoid of merits and accordingly dismissed the petition.

(ii) In regard to the allegation relating to charging of higher fees than prescribed by the ICSI for Management Skill Orientation Programme (MSOP) by the Chapters and the Regional Council, the Respondent cannot be held guilty of professional misconduct as the decision was not taken by the Respondent but the elected body of the Chapter. There is no evidence to show that the Respondent influenced the decision in any manner. The allegation that the Respondent was



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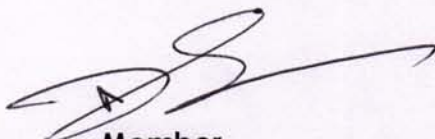
able to influence the functioning of Managing Committee of Pune Chapter which was alleged to be run by the Respondent de-facto is also not borne out from the facts or material on record.


(iii) In fact, the Complainant in his capacity as a Central Council Member in 2012-13, the Complainant was also the Ex-Officio member of the Regional Council as well as the Chapter at the relevant time, the Complainant also did not appear to have raised any objection while approving the consolidated Balance Sheet of the ICSI for Financial Year 2012-13."

4. Accordingly, the Director (Discipline) is prima-facie of the opinion that the Respondent is 'Not Guilty' of professional or other misconduct under any of the Items of the First and/or Second Schedule(s) to the Company Secretaries Act, 1980.

5. The Board of Discipline after considering the complaint, written statement, rejoinder and other 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 for the acts and/or omissions alleged by the Complainant.

Accordingly, the complaint stands disposed-off.


Member


Member


Presiding Officer

