

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/425/2018

Order reserved on: 28th February, 2019

Order issued on : 26 APR 2019

M/s Bihariji Ispat Udyog Limited
Through: Shri Deepak Kumar Garg

.....Complainant

Vs

Ms. Vandana Kaushik (ACS-31054)

.....Respondent

CORAM:

Shri Deepak Kumar Khaitan, Presiding Officer
Shri Manish Gupta, Member
Shri Ashok Kumar Dixit, Member

Present:

Mrs. Meenakshi Gupta, Director (Discipline)
Shri Gaurav Tandon, Assistant Director, Disciplinary Directorate

ORDER

1. A complaint dated 26th December, 2017 in Form 'I' was filed by M/s Bihariji Ispat Udyog Limited, through Shri Deepak Kumar Garg (hereinafter referred to as 'the Complainant') against Ms. Vandana Kaushik, ACS-31054 (hereinafter referred to as 'the Respondent') 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).
2. The Complainant in his complaint dated 26th December, 2017 has mainly made the following allegations;
 - A. Blackmailing of company by demanding money as settlement.
 - B. Mis-Representing the facts of her working.
 - C. Tarnishing the reputation of the company by making false wrong and baseless allegations.
 - D. Non-compliance of the duties.



3. The Complainant further *inter-alia* stated as under:-

- i. That the Respondent i.e. Mrs. Vandana Kaushik was the Company Secretary of M/s Bihariji Ispat Udyog Limited w.e.f. 12th January, 2017 to 12th December, 2017. That there were certain issues between the Management of the company and the Respondent related to her unsatisfactory performance and her signature style, but the Respondent always ignored by giving excuses and also stated that she can't do the signature in same fashion. It was further alleged that the Respondent further crossed all limit and demanded bribe of Rs. 5 lakhs from the Board on 15th November, 2017.
- ii. That the dispute between the Board and the Respondent led to filing of complaints against the Respondent. Further, the Respondent filed false and fabricated complaints against M/s Bihariji Ispat Udyog Limited with the ROC and other authorities' *inter-alia* alleging that the company was concealing information and was involved in money laundering. The Complainant further alleged that the Respondent has also threatened the company.
- iii. That the Complainant i.e. M/s Bihariji Ispat Udyog Limited is listed with Delhi Stock Exchange Limited and Metropolitan Stock Exchange of India Limited and is an NBFC registered with RBI. All the compliances as per requirement under the SEBI Regulation Act, 1992 and RBI Act, 1934 are regularly made by the company and regularly uploaded/disclosed all the required documents with SEBI/Stock Exchange. It may be mentioned that the company has disclosed all its financial transactions in its Annual report that has been filed with ROC. Hence, there is no matter of concealing information and money laundering.
- iv. That a FIR against the Respondent has been filed on 21st November, 2017 for demand of bribe and the matter is under investigation. That by considering all the issues made by the Respondent the Management decided to file a complaint against her with the ICSI for the matter of blackmailing, threatening, mis-representation facts and tarnishing the goodwill of the company.

4. The Respondent in her written statement dated 15th February, 2018 denied the allegations levied against her and has *inter-alia* stated as under:-

- i. That the instant complaint has been filed to tarnish her reputation more particularly to suppress her voice against the misdeeds, forgery and fraudulent acts of the company and its management. That the Complainant has not come with clean hand and is guilty of mis-representation and non-disclosure of material facts. Further,



the Respondent has challenged the authority of Shri Deepak Kumar Garg to file the instant complaint on behalf of the company.

- ii. That the company had prepared Financial Statement for the FY 2016-17 to file the same before regulatory authorities including but not limited to the Ministry of Corporate Affairs and the Reserve Bank of India. Further as per Section 134 of the Companies Act, 2013 the signatures of the Company Secretary are also required on the same for the purpose that such financial statement are in compliance with applicable laws. Therefore, the company asked the Respondent to do signature on the same.
- iii. That the Respondent found that there were many transactions done by the company as per the Financial Statement of 2016-17 mainly for the purpose of siphoning of funds from the company to their group companies (which *prima-facie* indicated acts of money laundering being made by the promoters and management of the company), in order to meet the statutory responsibilities vested in the position of a Company Secretary and to safeguard the vested interests of all stakeholders, the Respondent refused to sign on such financial statements for financial year 2016-17 of the company. That after refusal to sign the said financial statements, the Respondent was threatened several times and pressurized for signing the Financial Statement for Financial Year 2016-17 of the company, However, in order to meet the statutory responsibilities vested in the position of Company Secretary, she didn't sign the said financial statements.
- iv. That after some time, the Respondent was shocked to know that the directors of the company had forged her signatures on aforesaid financial statements of the company and filed the said financial statements with the Ministry of Corporate Affairs and with various other authorities including Reserve Bank of India. The filing of the financial statements with Ministry of Corporate Affairs was done with the DSC of Shri Navneet Kumar Sureka, the Director of M/s Bihariji Ispat Udyog Ltd.
- v. That on perusal of the complaint and its annexure the Respondent also confirmed that the company, Shri Navneet Kumar Sureka and Shri Deepak Kumar Garg created a trail of forged, fabricated and false records including but not limited to screen shots of some text message supposedly made from mobile no. 9953881830. That it is also particularly submitted that mobile no 9953881830 which was referred by the Complainant in his complaint, does not belong to Respondent and *prima facie* it seems that this mobile number and/or text message were fraudulently misused by Complainant to serve their fraudulently intentions of falsely framing the Respondent.



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Navneet Sureka

Deepak Kumar Garg

vi. The Respondent has logged a complaint for the aforesaid forgery and fraud before the Kalkaji Police Station, New Delhi and the same is pending investigation.

5. The Complainant in his rejoinder dated 16th March, 2018 has *inter-alia* stated as under:-

- i. That Shri Deepak Garg is an authorized signatory in the Complainant Company 'Bihariji Ispat Udyog Limited'. The power of making application before the Institute of the Companies Secretaries of India and before other authorities has been granted by passing the Resolution in the Board Meeting of the Company held on 14th November, 2017 on the behalf of the company 'Bihariji Ispat Udyog Limited'. It is further informed that a copy of extracts of the resolution passed in the Board Meeting was submitted as an annexure with the complaint.
- ii. That in the written Statement of the Respondent, she is trying to cover-up her malafide intensions, misdeeds and guilt regarding text message and has made a false reply to misrepresent the fact that mobile number 9953881830 does not belong to her/associate. The Complainant has already submitted a copy of screen shot and copy of FIR thereof to the jurisdictional Police Thana, Sector-58 NOIDA to clarify this matter and further for ready reference a copy of mail received from the e-mail id gauravvardhan1986@gmail.com, acting on behalf of Ms. Vandana Kaushik clearly mentioned the mobile no 9953881830.
- iii. That regarding the signature of the Respondent, the Complainant has affirmed that it has been signed and given to the company by herself on all the financial statement filed by the company to the ROC and all other Reports filed by the company to Stock Exchange/SEBI from time to time as required under the Companies Act, 2013 and SEBI (Listing obligations & Disclosures) Requirement, 2015 respectively as was required from her to carry out her duties as the Principal Officer/ Company Secretary. The Complainant once again reiterated that the same has never been forged at our end as the Respondent has alleged in her reply. There is no valid reason to forge her signature that too only of her signature when Auditors, Chief Financial Officer, Directors has verified signed and submitted the Financial Statement to the Board.
- iv. That it is further to bring your kind attention that the Complainant is a public listed company and all the documents are published or disclosed from time to time in the website of the company and with Listing Portal of the MSEI/SEBI and nothing can be concealed. If there was any wrong in the company's statement then why the Respondent never made a complaint to the chairman of the Audit-



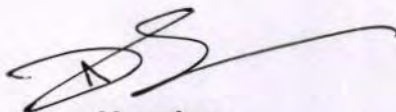
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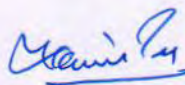
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committee or before Board of Directors or before any authority against the company during her entire tenure of 9-10 months. Hence, the Respondent failed to obtain the amount/ bribe demanded from the company and she started blackmailing and harassing the management and filed false complaint thus tarnishing the goodwill of the company.

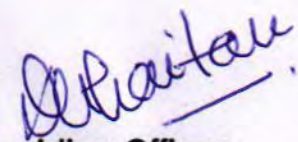
- v. That a Complaint had also been filed by the Respondent before the Registrar of the Companies, NCT of Delhi & Haryana against the company M/s Bihariji Ispat Udyog Limited' on 09.12.2017. However, the Registrar did not find any such irregularities as alleged and the Complaint/case has been dropped and closed in the favour of the Company M/s Bihariji Ispat Udyog Limited.
6. The Director (Discipline) after examining the complaint, written statement from Respondent, Rejoinder from Complainant, and also the related material on record and all the facts and circumstances of this matter, in *prima facie* of the opinion dated 22nd February, 2019 opined that the Respondent is '**Not Guilty**' of professional misconduct under any of the item(s) of First and/or Second Schedule to the Act at this stage as the alleged of bribery/ blackmailing against the Respondent has not yet been proved before the Competent Court.
7. The Board after considering the material on record, *prima-facie* opinion of the Director (Discipline) and all the facts and circumstances of the case, agreed to 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 in the complaint as the allegations of bribery/blackmailing have not been proved yet by the Competent Court.
8. Accordingly, the Complaint stands closed and disposed off.




Member



Member



Presiding Officer

AD(GT)