

**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/427/2018

Order reserved on: 10th July, 2018

Order issued on : 31st July, 2018

CS Jitesh Gupta, FCS-3978, CP-2448

....Complainant

Vs

CS Mahindra Singh, ACS-25085, CP-9899

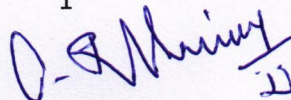
....Respondent

Present:

Mrs. Meenakshi Gupta, Director (Discipline)

FINAL ORDER

1. A complaint dated 23rd March 2018 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 CS Jitesh Gupta, FCS-3978, CP-2448 (hereinafter referred to as 'the Complainant') against CS Mahindra Singh, ACS-25085, CP-9899 (hereinafter referred to as 'the Respondent'). The Complainant *inter-alia* alleged that CS Mahindra Singh, the Respondent has violated Item (8) of Part I of First Schedule to the Act as he had accepted the position of Practising Company Secretary in M/s Medicamen Biotech Limited for certification and signing of the Annual Return for the year 2013-14 without prior written communication with him i.e. the Complainant.
2. Pursuant to sub-rule (3) of Rule 8 of the Rules read with the Act, a copy of the complaint was sent to the Respondent *vide* letter dated 24th April, 2018 calling upon him to submit his written statement. However, no written statement has been received from him.
3. In the mean time, a withdrawal letter dated 22nd May, 2018 was received from the Complainant wherein he *inter-alia* stated that he wants to withdraw the complaint and does not wish to pursue the matter further.
4. The relevant provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of


O. S. Meenakshi

5. Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing the withdrawal of the complaint 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."

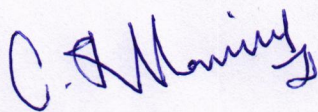
Rule 6 of the Rules:

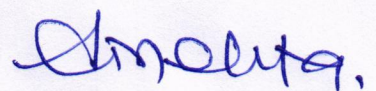
"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant,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

6. The Board of Discipline observed that in the instant complaint, the Director (Discipline) has yet to form her prima facie opinion in the matter.
7. **The Board of Discipline after considering all the facts and circumstances in the case, decided to permit 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.**


CS Dinesh Chandra Arora
Member


CS C Ramasubramaniam
Member


CS Atul H Mehta
Presiding Officer