

BEFORE THE BOARD OF DISCIPLINE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 110/2011

In the matter of complaint of professional or other misconduct filed by Shri Vijaya Bhasker Viswanath against Dr. Baiju Ramachandran, ACS-16505 (CP No.7071) and Shri A S Narayanan, ACS-6972(CP No.8147).

Coram: Sudhir Babu C, Presiding Officer
Sutanu Sinha, Member

ORDER

1. A complaint in Form-I dated 10th November, 2011 was filed 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 (the Rules) by Shri Vijaya Bhasker Viswanath (hereinafter referred to as 'the Complainant') against Shri Baiju Ramachandran (Dr.) (hereinafter referred to as 'Respondent No. 1') and Shri A S Narayanan (hereinafter referred to as 'Respondent No. 2').
2. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondents *vide* letters 16th November, 2011 calling upon them to submit their written statements. The Respondent No. 2 submitted the written statement dated 28th November, 2011. The Respondent No. 1 submitted the written statement dated 7th December, 2011
3. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy each of the written statement received from the Respondents were sent to the Complainant *vide* letters dated 7th December, 2011 and 15th December, 2011 respectively asking him to file the Rejoinders.
4. The Complainant filed the rejoinder dated 17th December, 2011 in response to the written statement of the Respondent No. 2. A reminder dated 9th January, 2012 was sent to the Complainant asking him to file his rejoinder in response to the written statement of the Respondent No. 1. The Complainant filed his rejoinder dated 4th January, 2012 in response to the written statement of Respondent No. 1.
5. The Complainant *vide* letter dated 7th June, 2013 forwarded a copy of the compromise agreement dated 7th January, 2013 and also conveyed his intention to withdraw his complaint against Dr. Baiju Ramachandran and Shri A S Narayanan and requested the Hon'ble Disciplinary Committee members to take appropriate action in this regard.



Sutanu Sinha

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6. Dr. Baiju Ramachandran, the Respondent No.1 and Shri A S Narayanan, Respondent No.2 vide their letters dated 13th and 14th June, 2013 respectively also forwarded a copy of the letter dated 7th June, 2013 of the Complainant.
7. The relevant provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing the withdrawal of the complaint are as under:

Section 21 (5) of the Company Secretaries Act, 1980:

"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."

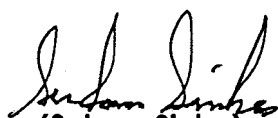
Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:

"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".

8. In the instant case, the Director (Discipline) has not yet formed his *prima-facie* opinion.
9. The Board on 13th August, 2013 considered the material on record; *vis-a-vis* the provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing the withdrawal of the complaint, permitted the withdrawal of the complaint and closed the matter.

Accordingly, the complaint stands disposed-off.


(Sutanu Sinha)
Member


(Sudhir Babu C)
Presiding Officer

New Delhi
Date: 13th August, 2013

