

**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**

Complaint (DF) 02 of 2018

Order reserved on : 30<sup>th</sup> November 2018

Order issued on : 17 JAN 2019

M/s Diligent Capital Pvt. Ltd  
Through Shri Rajesh P. Nair

.....Complainant

Vs.

Shri Maharshi Ganatra (ACS-37221 CP-14520)

.....Respondent

**CORAM:**

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

**Present:**

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

**FINAL ORDER**

1. A complaint in Form I dated 6<sup>th</sup> May, 2018 was received from Shri Rajesh P. Nair Director of M/s Diligent Capital Pvt. Ltd (hereinafter referred to as 'the Complainant') against Shri Maharshi Ganatra (ACS-37221, CP-14520) (hereinafter referred to as 'the Respondent') *inter-alia* alleging therein as under: -
  - i) The Respondent who was never authorized to represent the Complainant's company, colluded with his long term friend, Director Shri Yogesh Dhanve to appoint Shri Yogesh Dhanve's wife as Additional Director in the Company, without the knowledge or consent of MD (50% shareholder). Even though the MD was always reachable on phone, email and whatsapp.
  - ii) At no point of time, the Respondent tried to reach out to the MD to verify the facts.
  - iii) Violation of Article 161 & 152 of the Articles of Association of the company.
  - iv) Alleged violation of Section 447, 448 Companies Act, 2013.
2. On scrutiny of the complaint, following defects were observed in the complaint: -
  - i) In the Form-I at Sl. No. 5 allegations serially numbered together with corresponding clauses/part of the relevant Schedule(s) to the Company Secretaries Act, 1980 under which the alleged acts of commission or omission or both would fall are not mentioned.
  - ii) Address of the Complainant was not mentioned in Form-I.



*(Handwritten signatures)*

*(Handwritten mark)*

- iii) The complainant filed complaint as a Director of M/s Diligent Capital Pvt. Ltd but certified copy of Board Resolution duly passed by or on behalf of a company, M/s Diligent Capital Pvt. Limited, authorizing the complainant to file this complaint on behalf of the company, as required under sub-rule (4) of the Rules 3 of the Rules, 2007 read with the Act (Name and designation of the person certifying the resolution should be clearly indicated).
- iv) Mr. Rajesh P. Nair was also asked as to whether he has filed the instant complaint in individual capacity; however no reply was received.
3. Pursuant to sub- rule (5) of Rule 5 of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (the Rules), the Complainant vide letter dated 18<sup>th</sup> May, 2018 was asked to rectify the defects in his complaint. However, the same was received back in the Institute as undelivered on 31<sup>st</sup> May, 2018. The Complainant vide letter dated 8<sup>th</sup> June, 2018 was again asked to rectify the defects in his complaint. However, the same was also received back in the Institute as undelivered on 14<sup>th</sup> June, 2018.
4. The Board of Discipline in its meeting held on 30<sup>th</sup> November 2018 considered the prima-facie opinion dated 15<sup>th</sup> November 2018 of the Director (Discipline) for closure of the Complaint pursuant to sub-rule 6 of Rule 5 of the Rules on account of non-rectification of defects within the stipulated time provided pursuant to sub-rule 5 of Rule 5 of the Rules.
5. The Board of Discipline observed that sub-rule 5 and sub-rule 6 of the Rule 5 of the Rules provides as under: -
- (5) If, the complaint, on scrutiny, is found to be defective, including the defects of technical nature, the Director may allow the Complainant to rectify the same in his presence or may return the complaint for rectification and resubmission within such time as he may determine.*
- (6) If, the complainant fails to rectify the defect or defects within the time allowed under sub-rule (5), the Director shall form the opinion that there is no prima facie case and present the complaint before the Board of Discipline for its closure."*
5. The Board of Discipline after considering the prima-facie opinion of Director (Discipline), material on record and relevant provision for the closure of Complainant under the Rules, agreed with the prima-facie opinion of the Director (Discipline) for closure of the complaint under sub-rule (6) of Rule 5 of the Rules on account of non-rectification of the Complaint within the stipulated time provided by the Director (Discipline) under the Rules. Accordingly, the matter was closed.



  
**Member**

  
**Member**

  
**Presiding Officer**