

**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) 01 of 2018**

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

**Order issued on : 17 JAN 2019**

**M/s. Shelter Infra Projects Limited  
through Shree Chinmoy Mazumdar**

.....Complainant

Vs.

**Shri Rahul Srivastava (ACS- 33930)**

.....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 of professional or other misconduct in Form-I dated 12<sup>th</sup> March, 2018 was received from M/s. Shelter Infra Projects Limited (hereinafter referred to as 'the Complainant') against Shri Rahul Srivastava, ACS-33930 (hereinafter referred to as 'the Respondent') *inter-alia* alleging as under :-
  - (i) Breaking of Service Rules by the Respondent in respect of terms of resignation from the post of Company Secretary- cum- Compliance Officer at M/s. Shelter Projects Limited without serving the notice period of 3 (Three) months.
  - (ii) Negligence in handing over of professional responsibility by the Respondent to his substitute Company Secretary or any competent person duly authorized by the Board of Directors of the company.
  - (iii) The valuable records, documents, books, etc. which were in the custody of the Respondent during his tenure of service are apparently not in place and/or traceable creating suspicion of misplacement of such documents, records, book, etc.
  - (iv) The Respondent failed to complete the pending works during his tenure of service which includes procuring Central Government approval for remuneration paid to one of the Directors, IEPF transfer of shares.



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*[Handwritten signature]*

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- (v) The Respondent deposited an amount of Rs. 27,930/- (Rupees Twenty Seven Thousand Nine Hundred Thirty Only) towards part payment of amount payable in lieu here of notice period (i.e. in case the notice period of resignation is less than 3 (Three) months, salary of 3 (Three) months is payable in lieu thereof) without any permission from the company accepting his resignation.
- (vi) The Respondent has fraudulently filed his resignation with the Bombay Stock Exchange (BSE)
- (vii) The Respondent has, with malafide intention, tampered with the minutes, agendas and resolutions of the meeting of the Board and the committee of the company.
- (viii) The Respondent had received financial assistance from the Company but he had intentionally neglected to repay the amount of assistance provided to him.
2. On scrutiny 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 was asked vide letter dated 26<sup>th</sup> March, 2018 to rectify the following defects -
- (i) Fee for filing complaint pursuant to Rule 4 of the Company Secretaries (Procedure of Investigation of professional and Misconduct and Conduct of Cases) Rules, 2007 ('The Rules') read with sub Regulation (1) of Regulation 15A of the Company Secretaries Regulations, 1982 in form of Demand Draft of Rs. 2500/- (Rupees Two Thousand Five Hundred only) in favour of 'The Institute of Company Secretaries of India' payable at New Delhi, has not been received.
- (ii) Certified copy of the Board Resolution duly passed by/or on behalf of M/s. Shelter Infra Projects Limited., authorizing Mr. Chinmoy Mazumdar to file the instant complaint on behalf of the Company, as required under sub-rule (4) of Rule 3 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 read with the Company Secretaries Act, 1980 has not been received.
- (iii) Mr. Chinmoy Mazumdar was also asked as to whether he has filed the instant complaint in individual capacity; however no reply was received.
3. The Complainant vide letter dated 26<sup>th</sup> March, 2018 was also asked to resubmit the complaint in Form I within 14 days of receipt of the said letter after removing the aforesaid defects, however no communication was received from the Complainant. It may be mentioned that as per the speed post tracking, the Institute's letter dated 26<sup>th</sup> March, 2018 was delivered to the Complainant on 31<sup>st</sup> March, 2018.



*[Handwritten signatures]*

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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 instant Complaint pursuant to sub-rule 6 of Rule 5 of the Rules on account of non-rectification of defects by the Complainant 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 Complainant within the stipulated time provided by the Director (Discipline) under the Rules. Accordingly, the matter is closed.



Member



Member



Presiding Officer

