

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

DC-114/2012

The complaint of professional or other misconduct filed by Shri M R Kulkarni (FCS-2012) against Shri Devendra S Ringangaonkar (FCS-6223) and Ms. Namrata Ahirrao (ACS-26880)

Date of Meeting: 18th December, 2012

Date of Judgement: 31st December, 2012

Coram: Harish K Vaid, Presiding Officer, Umesh H Ved, N K Jain, Members

ORDER

1. A complaint in Form-I dated 2nd January, 2012 was filed on 17th January, 2012 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 M R Kulkarni, FCS-2012 (hereinafter referred to as 'the Complainant') against Shri Devendra Sanjeev Ringangaonkar, FCS-6223 (CP No.6221) (hereinafter referred to as 'the Respondent No.1') and Ms. Namrata Ahirrao, ACS-26880 (CP No.10045) (hereinafter referred to as 'the Respondent No.2').
2. The Complainant had *inter-alia* alleged that the Respondents are guilty of violating Clause (6) and Clause (8) of the First Schedule of the Company Secretaries Act, 1980.
3. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondents *vide* letters dated 18th January, 2012 calling upon them to submit their written statements. The Respondents *vide* letters dated 27th January, 2012 submitted their written statements along with a copy of the letter dated 27th January, 2012 of the Complainant for withdrawal of the complaint. A letter dated 7th February, 2012 was sent to the Complainant asking him to confirm the withdrawal of the complaint. The Complainant *vide* letter dated 7th January, 2012 (received on 14th February, 2012) has *inter-alia* stated that he desires to withdraw the complaint after the approval of the Director (Discipline). The Complainant *vide* letter dated 15th February, 2012 was asked to express clearly the reasons for withdrawal of the complaint. The Complainant *vide* letter dated 18th February, 2012 expressed his conditional withdrawal of the complaint subject to clearance of his bills by M/s. Galaxi Gold Agro Pvt. Ltd. The Complainant was once again asked *vide* letter dated 28th February, 2012 to specify as to whether he would like to continue with the complaint or withdraw the same followed by the reminders dated 12th March, 2102 and 22nd March, 2012. The Respondents *vide* letters dated 13th April, 2012 were once again called upon to submit their written statements. The Complainant *vide* letter dated 16th May, 2012 confirmed withdrawal of the complaint against Shri Devendra S Ringangaonkar, the Respondent No. 1. The Respondent No.1 also *vide* letter dated 16th May, 2012 forwarded a copy of the withdrawal letter dated 16th May, 2012 of the Complainant.



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4. The Complainant vide letter dated 30th May, 2012 was asked to specify as to whether he would like to continue with the complaint against Respondent No. 2. An e-mail dated 18th December, 2012 was received by the Institute containing a letter dated 17th December, 2012 of the Complainant for withdrawal of the complaint against the Respondent No. 2.
5. In the instant case, the Complainant has withdrawn the complaint against the Respondents and the Director (Discipline) has not yet formed his *prima-facie* opinion.
6. 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 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:

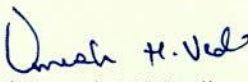
"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant,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

7. The Board, after considering the matter *vis-a-vis* the provisions of the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing withdrawal of a complaint; permits the withdrawal of the complaint against both the Respondents and orders closure of the matter.

Accordingly, the complaint stands disposed-off.


(N K Jain)
Member


(Umesh H Ved)
Member


(Harish K Vaid)
Presiding Officer

