

THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 212/2013

In the matter of complaint of professional or other misconduct filed by Shri Sandeep Kumar Sharma against Ms. Kajal Ankit Shukla, ACS No. 22024 (CP No. 8267)

Date of decision: 14th August, 2014

Coram: Mr. P K Mittal, Presiding Officer
Mr. Sutanu Sinha, Member

ORDER

1. A complaint dated 21st December, 2013 in Form-I 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 Sandeep Kumar Sharma (hereinafter referred to as the 'Complainant') against Ms. Kajal Ankit Shukla, ACS-22024 (CP No. 8267) (hereinafter referred to as the 'Respondent').
2. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the Complaint was sent to the Respondent vide letter dated 13th January, 2014 calling upon her to submit the written statement. The Complainant vide e-mail dated 25th January, 2014 informed that he wants to withdraw the complaint filed by him against the Respondent and also attached copy of his withdrawal letter dated 25th January, 2014. The Respondent vide her letter dated 7th February, 2014 also submitted a copy of the same.
3. 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."



Sutanu Sinha

[Signature]

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".

4. In the instant case Director (Discipline) had not formed his *prima-facie* opinion. The matter was considered by the Board of Discipline at its meeting on 4th May, 2014 wherein it noted the letter dated 25th January, 2014 received from the Complainant for withdrawal of the complaint filed against the Respondent. The Board also noted that the Respondent vide letter dated 7th February, 2014 has also submitted a copy of the same. The Board considered the material on record and 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 withdrawal of the complaint. The Board was of the view that the withdrawal of the complaint be permitted subject to payment of costs of Rs 25,000/- to the Institute, since the machinery of Disciplinary Directorate of the Institute was set in motion and considerable time and expenses incurred towards processing of the complaint. In addition to this, considerable amount of expenditure has also been incurred towards convening the meeting of the Board of Discipline etc. Accordingly, the Board decided that the withdrawal of the complaint be permitted subject to payment of costs Rs. 25,000/-. The Board also decided that in case the Complainant does not pay the said cost within 15 days of the communication of the same to him, the Board at its discretion shall proceed further in the matter in accordance with the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Complainant was communicated accordingly vide letter dated 9th May, 2014.
5. The Board at its meeting on 21st July, 2014 considered the matter again and noted that the decision taken by it on 4th May, 2014 about payment of Rs.25000/- as cost for withdrawal of the complaint was communicated to the Complainant vide letter dated 9th May, 2014, however no reply was received from the Complainant. The Board after due deliberations, decided that the Complainant be provided a final



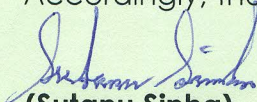
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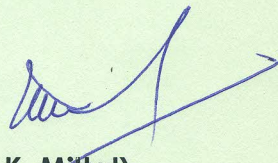
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opportunity for paying Rs.25000/- as cost for withdrawal of the complaint within 10 days of the communication. In case the Complainant does not pay the same within the time so given, the matter shall be proceeded with in accordance with Rule 8 of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Accordingly, the parties were communicated vide letter dated 30th July, 2014.

6. The Board at its meeting on 14th August, 2014 considered the matter again and noted that the Complainant vide letter dated 4th August, 2014 had submitted a demand draft No.695784 dated 8th August, 2014 for Rs.25,000/- towards the cost and requested to dispose of the matter. The Board also noted that the same has also been deposited in the ICSI.
7. We, after considering the material on record permit the withdrawal of this complaint and close the matter.

Accordingly, the complaint stands disposed-off.


(Sutanu Sinha)
Member


(P. K. Miffal)
Presiding Officer

Date: 5th September, 2014

