

THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: NI /2014

In the matter of complaint of professional or other misconduct filed by Prof. Shiva Billava against Shri Bolar Abdul Azia, FCS No. 5623 (CP No. 7866).

Date of decision: 14th August, 2014

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

ORDER

1. A complaint dated 6th June, 2014 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 Prof. Shiva Billava (hereinafter referred to as 'the Complainant') against Mr. Bolar Abdul Azia (hereinafter referred to as 'the Respondent').
2. The Complainant *vide* letter dated 19th June, 2014 was *inter-alia* asked to specify his allegations along with relevant documents against the Respondent and the particular clause(s)/part(s) of the relevant Schedule(s) of the Company Secretaries Act, 1980 under which the said allegations would fall. The Complainant *vide* letter dated 26th June, 2014 *inter-alia* informed that he has decided to withdraw the instant complaint against the Respondent and requested for refund of the fees paid by him along with the complaint.
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."



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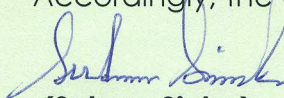
Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:

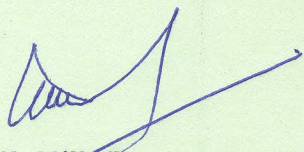
"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant, 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 complaint, the Director (Discipline) has not yet formed his *prima facie* opinion. The Board also noted the letter dated 26th June, 2014 of the Complainant seeking the withdrawal of this complaint.
5. We after considering the material on record; *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 *supra* governing withdrawal of a complaint; permit the withdrawal of the complaint against the Respondent and close the matter. Further, since, there is no provision in the Company Secretaries Act, 1980 for refund of the fee, we do not order for refund of the fee.

Accordingly, the complaint stands disposed-off.


(Sutanu Sinha)
Member


(P. K. Mittal)
Presiding Officer

Date: 5th September, 2014

