BEFORE THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 157/2012

In the matter of complaint of professional or other misconduct filed by Mr. Chandra Kant Bhartia against Ms. Jyoti Mishra, ACS–27293.

Date of Decision: 11th September, 2013

Coram: Sudhir Babu C, Presiding Officer
Umesh H Ved, Member
Sutanu Sinha, Member

ORDER

1. A complaint dated 9th October, 2012 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 Mr. Chandra Kant Bhartia (hereinafter referred to as the ‘Complainant’) against Ms. Jyoti Mishra, ACS-27293 (hereinafter referred to as the ‘Respondent’).

2. The Complainant has inter-alia alleged that the Respondent in her capacity as a Company Secretary of M/s. OCL Iron & Steel Ltd., Rajgangpur has prepared and certified false Minutes of the AGM of the company held on 28th September, 2012 knowing fully well that the Minutes are false, misleading and does not present true picture of the proceedings of the meeting to comply with the listing requirement of BSE and NSE. The Complainant also stated that in the Minutes, the Respondent has shown her presence whereas she was not present in the meeting.

3. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondent vide letter dated 26th October, 2012 calling upon her to submit the written statement followed by a reminder dated 16th November, 2012. The Respondent submitted the written statement dated 10th November, 2012 (received on 21st November, 2012). The Respondent in her written statement has at the outset denied all the averments made by the Complainant and inter-alia stated that few shareholders who generally own 1 to 5 shares of different companies try to extract financial benefits from the companies on fictitious grounds/complaints or by threatening to create nuisances in the AGMs.
4. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy of the written statement was sent to the Complainant vide letter dated 23rd November, 2012 asking him to file the rejoinder. The Complainant submitted the rejoinder dated 10th December, 2012 wherein he inter-alia reiterated the contents of the complaint and also made certain additional submissions.

5. Letters dated 1st March, 2013 were sent to the Respondent and Mr. Rajeev Raj Kumar, a Company Secretary, whose name was referred in the matter, seeking certain clarifications. The Respondent vide her letter dated 12th March, 2013 provided the clarification. However, no reply was received from Mr. Rajeev Raj Kumar. A letter dated 11th April, 2013 was sent to the Respondent seeking further clarifications. The Respondent submitted an affidavit inter-alia deposing that she along with Mr. Sanjeev Bhasin was present in the AGM of the company held on 28th September, 2012, at Rajgangpur.

6. Pursuant to Rule 9 of the Rules, the Director (Discipline) examined the complaint, written statement, rejoinder and other material on record and was of the prima-facie opinion that though as alleged, the minutes are prepared by the Respondent but same are approved by the Chairman/Managing Director of the company. Further, the Respondent has also submitted an affidavit deposing that she along with Mr. Sanjeev Bhasin was present in the AGM of M/s. OCL Iron & Steel Ltd., Rajgangpur held on 28th September, 2012. Hence, the Respondent is prima-facie not guilty of Professional misconduct under the Company Secretaries Act, 1980.

7. The Board considered the prima-facie opinion dated 26th July, 2013 of the Director (Discipline); material on record and agreed with the prima-facie opinion that the Respondent is not ‘Guilty’ of professional or other misconduct under the Company Secretaries Act, 1980 and closed the matter.

Accordingly, the complaint stands disposed off.

(Sutanu Sinha)  
Member

(Umesh H Ved)  
Member

(Sudhir Babu C)  
Presiding Officer

Date: 13th September, 2013
New Delhi