

OFFICE OF THE FIRST APPELLATE AUTHORITY
(Appointed under the Right to Information Act, 2005)
The Institute of Company Secretaries of India ICSI House
C-36, Sector-62, Institutional Area
Noida - 201 309 (U.P.)

Appeal No.430/2023

IN THE MATTER OF:

Sh. Sundaresan Viswanatahier
D 211 Lok Terrace Plot 16 Sector 17
Vashi Navi Mumbai -400703

Appellant

Vs.

Central Public Information Officer (EXAM)
The Institute of Company Secretaries of India
C-37, Sector 62, NOIDA- 201309

Respondent

Date of Order: 8th November, 2023

ORDER

- (1) The Appellant has filed first Appeal- No. ICSOI/A/E/23/00430 on 09.10.2023 under Section 19(1) of the Right to Information Act, 2005 in connection with Response Ref No. ICSOI/R/E/23/21770 dated 29.09.2023 against the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
- (2) The Appellant vide his application dated 03.09.2023 has requested to provide the following information:
- (1) Copy of the notification(s) indicating the dates with respect to which Sec 16(i),20,21,22,23,25,26,27, 36(i),37(ii),51(i),55,56,57,58,60,61,62,72,73,84(i),88,89,90,91,93,94,95 of the Chartered Accountants, Cost Accountants, Company Secretaries Amendment Act 2022 came into force pls furnish
 - (2) Delegated laws if any which amended or repealed the delegated laws in force immediately preceding the date of coming into effect of the said provisions pursuant to the said notifications issued at para 1 and copies of the same indicating the delegated laws which were amended or repealed.
 - (3) Vide Sec 21(2) of the Chartered Accountant Act/Company Secretaries Act/Cost Accountants Act the Discipline Director shall arrive at a prima facie opinion on receipt of information of misconduct and receipt of complaint of misconduct with prescribed fee. This law continues to be in place till the effective date of the notifications mentioned at para 1 are issued with respect to Sec 21 of Company Secretaries Act (and equivalent provisions of other laws)
 - (4) Vide The Company Secretaries (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007 (which till its repeal or amendment following revisions in delegated laws stated above), a unique reference number is to be allotted by Discipline Director.
 - (5) In respect of several acts of misconduct including those mentioned here both the legislature enacted laws in force (para 3) and the ultra vires delegated laws (para 4) have been flouted.
 - (6) Since I have no reference numbers as none are allotted I mention some of the mails addressed to "president@icsi.edu" or "discipline@icsi.edu" from my mailid "sunsun47@gmail.com" which along with mails trailing them are information of misconduct, information of auditors wilfully refusing to forewarn on insolvencies, fraud etc, information of auditors conspiring in fraud with auditees, information of auditors

habitually doing so etc- where the evidences have also been forwarded by me and in many cases such unlawful acts by auditors resulted in insolvencies and losses in insolvencies and impossibilities in clawing back the losses in insolvencies due to auditors not forwarding us timely pursuant to their duties under eg Sec 143 (3)(f), under Companies Audit Report Orders etc, copying modus operandi of fraud perpetrated by auditors of CPSUs by fraudsters in DHFL, extortion of fees by auditors (wherever required key matters have been highlighted in this font in sub paras of this para below)- ATRs alongwith list of dates of significant events is the information sought (at paras 6.1 to 6.12, dates of mail to president@icsi.edu or “discipline@icsi.edu” and the contents/extracts from contents of the header to those mails and other relevant details including key matters wherever required have been mentioned)

- 6.1) Mail dt 3.7.2023 to president@icsi.edu on network wipe out, insolvencies, losses on insolvencies due to auditors etc” The needful may pls be done at the earliest. As has been evidenced by me in several instances of insolvencies and wipe out of net worth and fraud whether fraud as defined under Contract Act or Companies Act or fraud attracting IPC etc etc the same modus operandi has been employed ie of creating adverse interests by approving audit reports /secretarial audit reports /CAG reports/corporate governance reports/ Board Reports which do not forewarn us on adverse matters and /or adverse /disclaimed/qualified and secretarial audit reports , audit reports, CAG reports not reporting of fraud /violation of law etc creating unlawful adverse interests but unclawable on account of wilful refusal of auditors/secretarial auditors/ directors to forewarn us timely resulting in inabilities in making out a case for clawing back such defrauded and other amounts . All citizens associated in the same may pls discharge their duties in true spirit of Art 51A and make matters easier for those at NALSA and for each citizen- also any report by cost auditors and secretarial auditors – also in have not noticed any report on fraud by secretarial auditors and cost auditors mentioned in Board Reports by cost auditors and secretarial auditors – Copied to NFRA cost accounting standards equivalent to SA 720 in place?
- 6.2) Mail dt 13.3.2023 and 14.3.2023 to discipline@icsi.edu”Re ATRs on misconduct etc. and on fraud etc and specialised anti-corruption bodies as mandated by UNCAC which included on “some of the common frauds mentioned below information of misconducting auditors and secretarial auditors and of AGM fraud was informed to Discipline Directors ICAI and ICAI and Ministry of Corporate Affairs
- 6.3) Mail dt 30.3.2023 to “discipline@icsi.edu” on Audit standard fraud, secretarial audit report fraud, Board Report fraud and annual report to Parliament fraud “Re: Audit standard fraud, secretarial audit report fraud, Board Report fraud and annual report to Parliament fraud all raised for the first time and in addition also raised is association of legal aid counsels in per petuating these frauds and legal aid counsels suppressing my attempts to prevent accounting standard fraud in 1989”
- 6.4) mail dt. 13.4.2023 multiple acts of misconduct to discipline@icsi.edu; misconduct; An audit one perpetrating such fraud will have a track record of such fraud and gets emboldened to perpetrate such fraud habitually in absolute confidence more particularly when Ministry Corporate Affairs, SEBI etc do not act – Not only that – organizations, their 100 % shareholders, shareholders, their auditor etc become habitual perpetrators of fraud – central information commission, CAG, legal aid counsels, public servants so perpetuate fraud and place false and misleading annual reports to Parliament to cover up their fraud and hat too habitually. Auditors so perpetrating fraud also come in the way to those in finance and others from identifying optimal avenues of revenue generation of organisations”
- 6.5) Mail dt 7.05.2023 to “ discipline@icsi.edu ”- primary emphasis on MTNL and BSNL “ SINCE 1990S I AM EVIDENCING UNLAWFUL ACTS BY ICAI – NOW I AM NOTING THAT EVEN ICSI IS NOT ATTENDING ON INFORMATION OF MISCONDUCT – AUDIT STANDARD FRAUD , SECRETARIAL AUDIT REPORT FRAUD AUDIT REPORT FRAUD, CAG REPORT FRAUD ANNUAL REPORT TO PARLIAMENT FRAUD – EVEN LEGA AID COUSNELS ISSUE FRADULENT LEGAG OPINIONS TO PERPETUATE AGM FRAUD AND NALSA DOES NOT ACT – I DO NOT HAVE BAR COUNCIL REGISTRATION NUMBERS OF THE COUNSELS TO COMPLAIN—PRESIDING OFFICERS CENTRAL INFORMATION COMMISSION CONSPIRE WITH CPIO ICAI AND OTHER CPIOs – COMPLAINING ALL THESE TO LOKPAL WILL TAKE TIME – JUST SEE THE EXCUSES ICAI TRIES TO MAKE FOR NOT ACTING ON COMPLAINTS – FIRST IT WILL CAST PERVERSE ASPERSIONS AGAINST ME ETC – present complaint in pipeline to Lokpal, mail forwarded in the hope that recipients will act”
- 6.6) mail dt 5.5.2023 to “ discipline@icsi.edu ” on “ many matters of misconduct have been

- informed to discipline director ICSI. No reference numbers are allotted on receipt of such mails and of course no action taken”.
- 6.7) mail dt 22.5.2023 to discipline@icsi.edu on casting aspersions “ Whenever Ministry corporate Affairs gets time (some time can always be spared being time spent in conspiring with ICAI and CIC to perpetrate fraud in judicial proceedings under RTIA). Delegated laws not legislated since 2006 on procedures to be followed by Discipline Directors ICAI, ICSI, CCWAI when looking into misconduct under any circumstances have not been mandated wilfully to accord undue advantages to habitual misconductors”
 - 6.8) mail dt 25.5.2023 to “ discipline@icsi.edu “ on “ no action at ICAI, ICSI, Ministry Corporate Affairs for 9 months on misconduct informed and matters being complained including suppression by my legal aid counsel and others
 - 6.9) mail dt 7.06.2023 to “discipline@icsi.edu “ UN convention against corruption, Lokpal act and Prevention of Corruption Act Chartered Accountants Act company Secretaries act etc according undue advantages and not acting on information of misconduct and rendering abortive infructuous and useless SICA 1985. IBC etc etc”
 - 6.10) mail dt 4.06.2023 to “discipline@icsi.edu “ “What i meant to emphasize is that auditors , secretarial auditors, branch auditors for several reasons mostly malefic do not even verify if their appointment is in order in full awareness that ICAI, Ministry Corporate Affairs, RBI, SEBI etc will just not look into these matters as they are preoccupied with casting aspersions on me and according undue advantages “
 - 6.11) mail dt 12.6.2023 to “ discipline@icsi.edu “ – header including on multiple acts and misconduct fraud etc “ MSKA Associates and PTC We need cooperative housing societies, banks, corporates, mutual funds, auditors, bankers, regulators, public servants (from peon to President of India) legal aid counsels etc and regulators and public servants to discharge their duties at levels higher than highest achievable levels even better than those mandated under Art 51A constitution and we also need regulators and public servants to ensure that cooperative housing societies, banks, corporates, mutual funds, auditors, bankers, regulators, public servants, legal aid counsels discharge their duties “
 - 6.12) mail dt 28.06.2023 to “discipline@icsi.edu “ on “ interface of Art 51a of our constitution, Sec 4 Legal Services Authorities Act, Sec 129, 130, 134, 143, 447 and other relevant provisions of companies Act 2023, Sick Industrial Companies Special Provisions Act, Right to Information Act, IBC etc including areas willfully ignored by Ministry Corporate Affairs, ICAI, SEBI, IBBI etc and not reported in annual reports -- financial statements Board Reports not meeting the requirements of law of affairs of the company were mismanaged and casting doubt on management of affairs, overstatement of net worth and income tax liability, adverse audit reports etc etc --- details in petitions after receipt of certified copies from Honble High Court Guwahati -- ATRs pending from NALSA”
7. NFRA has issued several orders and review reports – any action taken against secretaries auditors involved in the AGM fraud associated with orders and review reports of NFRA and if so – any action taken against those members – if so names of the members and the web pages of the members and the web pages of the ICSI where details are available and indicate the web addresses – ATRs along with list of dates of significant events is ALSO the information sought ;
 8. Any action taken against multiple acts and misconduct against any member, names and membership numbers and other details including web addresses where these are hosted at ICSIs web site --- ATRs along with list of dates of significant events is ALSO the information sought
 9. If Discipline Director has utilized his powers under Sec 21C company Secretaries Act in respect to any of the matter stated above in this application on which information is sought – para wise sub para wise pls
 10. RTIA suo motto;
 - a. Functions of Institute ; does it not regulate the conduct of members --- pls incorporate the same in suo motto disclosures
 - b. Disciplinary committee details are not noted is suo motto disclosures
 - c. Pls examine in details the suo motto disclosures and comply with them eg budgets, remuneration etc etc
 11. Any matters referred by IBBI to the ICSI AND A TR. ATRs along with list of dates of significant events is ALSO the information sought any references made to others by ICSI and action taken by those to whom

they were referred by ICSI and sub sequent action by ICSI in this matter

(3) The Appellant has informed in the instant appeal that “Provided incomplete, misleading or false information”.

(4) The reply of the Respondent against the instant appeal is as under: -

“It seems that, the queries pertains to Disciplinary mechanism of ICSI and the same have already been replied vide RTI reply dated 29th September, 2023.

Query wise reply with regard to the Appeal is as under:-

1. With reference to query no.1, the notification is available in public domain under <https://egazette.gov.in> and also in the website of ICSI i.e. www.icsi.edu

If still, the applicant is not able to get the said notification, CPIO can provide the notification.

2. With reference to query no.2, our answer that the query is not specific is correct since CPIO is not clear what the appellant wish to know.

3. With reference to query no.3 & 4, the CPIO has already provided information that the Chartered Accountants, the Cost and Works Accountants and the Company Secretaries (Amendment) Act, 2022 and notifications relating to it are available under <https://egazette.gov.in>.

If still, the applicant is not able to get the said notifications, CPIO can provide the notification.

The Appellant in query no. 3 & 4 has mentioned the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases), Rules, 2007, which we presume the appellant is aware of the same. Hence, it is upto the appellant to interpret the applicability of provisions of law which are available in the public domain. It is mentioned here that RTI is not an appropriate forum for interpretation of law. Hence, the allegation of the appellant with reference to query no 3 & 4 have not merit.

4. With reference to query no. 5 to 6.1 to 6.12, CPIO has provided necessary reply. In the said reply, the details of the guidance sent through e-mails by our Disciplinary directorate have been mentioned.

5. With reference to query no.7, the appellant suggested that query no.7 should have been transferred to Ministry of Corporate Affairs, ICAI, and SEBI etc. at the First Appeal stage. The same suggestion is not mentioned in the RTI application. Hence, no relief can be provided to the appellant with respect to query no.7.

6. With reference to query no. 8, there is no change in reply of CPIO as judgements of Board of Discipline and Disciplinary Committee are available on the web-site of the Institute i.e. www.icsi.edu which the appellant can himself access.

7. With reference to query no. 9, the same are interrogative in nature and seeking clarifications as such the same have been replied.

8. With reference to query no.10, Functions of the Institute and Disciplinary Committees details are already available in the web-site of ICSI i.e. www.icsi.edu. Seeking interrogation and clarification is not intended under the RTI Act.

9. With reference to query no.11, the suggestion to transfer the query to IBBI cannot be entertained at the First Appellant Stage.

Accordingly, it is prayed that the appeal may be closed being without any merit”.

- (5) This Office has carefully considered the application, the response, the appeal and the records made available and finds that the matter can be decided based on the material available on record.
- (6) The submission made by CPIO- ICSI is accepted on queries No. 4, 5 to 11. Query mentioned at Sl. No 2 is not specific. The Appellant is advised to provide clarity on the details sought within 7 days from the issue of this Order so that the matter can be evaluated at the end of CPIO- ICSI. For queries mentioned at Sl. No 1 and 3, CPIO-ICSI is advised to provide the Appellant with required notifications or with specific links of notifications within 7 days from the issue of this Order.

The appeal is accordingly disposed of.

Sd/-

(Sonia Baijal)
First Appellate Authority

Copy to:

1. Sh. Sundaresan Viswanatahier
D 211 Lok Terrace Plot 16 Sector 17
Vashi Navi Mumbai -400703
2. Central Public Information Officer (EXAM)
The Institute of Company Secretaries of India
C-37, Sector 62, NOIDA- 201309
3. Directorate of IT - For publishing on the website