



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
Website: : www.icmai.in

DISCIPLINARY DIRECTORATE

**The Institute of Cost Accountants of India
Disciplinary Committee u/s 21B of The Cost and Works Accountants Act 1959**

**In the matter of – Complaint No. Com/21-CA(110)/2022 – CMA Vijender Sharma
(M/18513) [Complainant] Vs. CMA Sandeep Kumar (M/38413) [Respondent]**

**CMA Vijender Sharma (M/18513).....Complainant
Vs.
CMA Sandeep Kumar (M/38413)Respondent**

Quorum

1. CMA Ashwin G Dalwadi - Presiding Officer
2. CMA Manoj Kumar Anand - Member
3. CMA TCA Srinivasa Prasad - Member
4. Shri Saraswati Prasad, IAS (Retd.) - Nominee of Central Government, Member
5. Smt. Meenakshi Sharma IA & AS (Retd.) - Nominee of Central Government Member

ORDER

Facts

1. The Disciplinary Directorate is in receipt of a complaint dated 2nd July 2022 in Form I in triplicate accompanied by the prescribed complaint fee, as specified in Regulations 15B of the Cost and Works Accountants Regulations, 1959 from CMA Vijender Sharma, bearing membership number 18513 (hereinafter referred to as "the complainant") alleging acts of misconduct against one CMA Sandeep Kumar, bearing membership number 38413 (hereinafter referred to as "the respondent").
2. The complaint of the complainant is reproduced in verbatim:

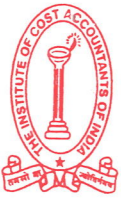
FORM I

[See sub-rule (1) of Rule 3]

1.	Name of the Complainant : (with membership number, if member of *Institute of Cost Accountants of India)	CMA Vijender Sharma (M/18513)
2.	Name of the member/firm against whom complaint is being made: (with membership	CMA Sandeep Kumar (M/38413)



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	number/registration number of the firm, if known)	
3.	Latest address of the complainant for communication.	Vijender Sharma, 11 (3 rd floor) Hargovind Enclave, Vikas Marg, Delhi- 110092
4.	Last available professional address of the member or the firm against whom the complaint is made.	96A/9, Shalom Apartment, Block-A, Flat No. 9, Kishangarh, Vasant Kunj, New Delhi Pin Code- 110070.
5.	Particulars of allegation(s) serially numbered together with corresponding clause/part of the relevant Schedule (s), or Particulars of allegation(S) serially number together with clause /part of the relevant Schedule(s) under which the alleged acts of commission or omission or both would fall.	1. He has at or around 11.16 AM on 27 th June 2022 uploaded resignation letter of the Managing Director of IPA of the Institute of Cost Accountants of India, which is a confidential documents not meant to be on public domain on his profile (CMA Sandeep Kumar – Jobs/Trainees Network) on Face Book. 2. He had also uploaded another write up along with the resignation letter the Managing Director of IPA of the Institute of Cost Accountants and India containing false, malicious and baseless allegations against the complainant. Along with these, he has uploaded two letters of Director (Discipline) of the Institute of Cost Accountants of India which are confidential documents and thereby he has abused the process of law. 3. He has deliberately done this mischief so as to malign my image and it is a conspiracy hatched by him for his own vested interest.
6.	Particulars of evidence(s) adduced in support of the allegation(s) made	Face Book downloads of 47 pages
7.	Name(s) of person who have knowledge of the facts of the case.	CMA Balwinder Singh.

3. The complaint was accompanied by annexure consisting of 14 (fourteen) pages consisting, among others, the following:

- i. Postings on social media where notices of Director (Discipline) issued to the respondent in respect of three other cases have been posted on Facebook.



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- ii. A copy of the notice No. G/DD/(M-38413)/1/12/2021 dated 3rd December 2021 issued to the respondent in respect of another information received against him from the office of the Secretary of the Institute which has been posted on Facebook.
 - iii. A copy of notice No. G/DD/CA-Com(104)/(M-38413)/1/02/2022 dated 24th February 2022 issued to the respondent in respect of another information received against him from the office of the Secretary of the Institute, which has been posted on Facebook.
 - iv. A copy of the resignation believed to have been tendered by the Managing Director of Insolvency Professional Agency of the Institute of Cost Accountants of India which has also been posted on the Facebook.
4. On receipt of the instant complaint, the same was registered by the Disciplinary Directorate after it was found to be in order and the same was proceeded with in the manner as prescribed in Chapter III of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. A unique complaint number Com/21-CA(110)/2022 was allotted to the complaint.
 5. The respondent was intimated vide letter No. G/DD/CA-Com(110)/(M-38413)/1/07/2022 dated 26th July 2022 of the Disciplinary Directorate to send his response to the complaint through a written statement in his defence within 21 days from the date of service of the letter. The above referred letter, however, was returned undelivered on 1st August 2022 with the remarks "left". His address was taken from the database maintained by the Membership Department and the notice was sent this time vide letter No. G/DD/CA-Com(110)/(M-38413)/2/08/2022 dated 11th August 2022 to another address of Delhi.
 6. The respondent vide letter dated 15th September 2022 submitted his written statement which is reproduced below in verbatim:

Quote

"Sub.: In reply to your letter Com/21-CA (110)/ 2022, dated 11.08.2022, regarding a complaint of professional misconduct against the Undersigned/Respondent.

Dear Sir,

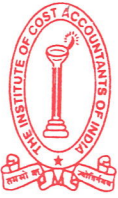
With reference to your aforesaid letter, the Undersigned/Respondent refutes all 3 allegations raised by the Complainant in the complaint dated 2nd July, 2022, and raises the following objections apart from the para-wise reply given below.

PRELIMINARY OBJECTIONS:

1. That all the very outset, the Undersigned/Respondent denies all the contents, contentions and allegations made in the aforesaid complaint as the same, in to, are baseless, frivolous and tarnish my reputation & goodwill and are fully inked with malafide intentions.



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2. That it is humbly submitted that the Undersigned/Respondent has only exercised his fundamental rights of free speech and expression enshrined in the Constitution of India under Article 19(1)(a), by expressing his views on social media, and, has not in any way brought disrepute to the Institute, either intentionally or, inadvertently.
3. That it is humbly submitted that the Undersigned /Respondent was an awakened and duly sensitized member of the ICAI has been consistently raising his voice against the prevailing high-handedness, arbitrariness, lawlessness and various other sorry state of affairs which continue to plague the institution.
4. That this complaint is nothing but an attempt to suppress the voice of dissent of a whistle-blower who has been raising serious concerns regarding multiple counts of allegations of corruption against the highest echelons of the ICAI, which go un-inquired by the Institute.
5. That the alleged Facebook Post which is at the core of the present complaint, titled as **'HARASSMENT & ABUSE OF WOMEN, MALTREATMENT HUMILIATION AND ASSAULT OF A RETIRED ARMY OFFICER AND MOUNTING CORRUPTION BY VIJENDER SHARMA, VICE PRESIDENT OF ICAI; AND THIS DOES NOT CALL FOR A QUIT?'** raked up the serious issues involving "hostile work-conditions", suppression of "events of corruption", the present complainant "abusing his powers", "post-traumatic stress" suffered by an employee, resignation of a retired IAF Veteran member of this institution citing the complainant as the reason and other issues concerning the institute and its repute.
6. That the alleged Facebook post should have been taken as a bonafide expression of opinion by a loyal member of the institution whose sole intention was to flag the simmering pot of crises/discontentment before those at the helm of affairs, rather than an act which has brought disrepute to the profession under sub-rule (3) of the rule (8) of The Cost and Work Accountants (Procedure of Investigation of Professional And Other Misconduct and Conduct of Cases) Rules, 2007. On the contrary, if the Undersigned/Respondent is persecuted for voicing his genuine concerns, then it will surely cause disrepute to the Institute.
7. That the alleged Face book Post does not constitute an act of defamation which would be against the interest of the institute due to the following:
 - a. It is not defamation to express in a good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.
 - b. It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.



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- c. It is vital for a democratic institution to always be open to opposing/criticising/dissenting opinion of the members, otherwise it would transform into a dictatorial and totalitarian entity. **“Democracy dies in darkness”**, hence this piece by the Undersigned/Respondent is to be seen as a sanitizing attempt by the Undersigned/Respondent to being the dealings of the Institute into public gaze which would invite further honest reactions from the masses and add up in its independence, transparency and credibility.
- d. It should be taken as a basis upon which the institution should be taking suo-moto cognizance and start an enquiry against the concerned persons who abuse their designations for personal gains, rather than for working towards the betterment of the institution and members therein.
8. That the present complaint is a product of ill-motivated hue and cry by the same member whose misdeeds are at the center of the whistle-blower Facebook post, in consequence of which, the present complaint, which is baseless, false, and a product of personal vendetta of the interest complainant CMA Vijender Sharma, has been filed. Hence this complaint should be out rightly dropped at the threshold itself for the wants of bonafide.

ALLEGATION – WISE REPLY:

9. VIDE ALLEGATION 1:

That the Undersigned/Respondent has posted the Resignation letter only with the purpose of adducing credence to his contentions in the concerned Facebook post. This letter of resignation is not an ordinary document, rather it contains a substantial insight into the allegations cited by another CMA office-bearer of the institution, who happens to be a decorated 2 –Star General Rank Officer (retd.) of the Indian Air Force, with a glorious service to this nation in its line of defense. The said resignee has cited the very same reasons in his resignation which have been the subject matter of the alleged Facebook post. Furthermore, the resignee has expressly and exclusively named the said complainant to be the reason behind his tendering his resignation which further concretely substantiates the claims by the Undersigned/Respondent in his Facebook post.

As far as the confidentiality of the Resignation letter is concerned, it is a vague contention raised by the complainant as he has been directly named as the impediment in the honest working of the said resignee, by the resignee himself. Therefore, this crying out of breach of confidentiality can't be given undue weight age when this publishing of the Resignation by the retired veteran further the ends of justice and was necessary for maintaining reputation, transparency, independence of this institution.

10. VIDE ALLEGATION 2:



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That the alleged 'write up' in this allegation is nothing but an honest opinion of the Undersigned/Respondent upon the state of affairs of the Institution and the shoddy role of the members in the institution. Moreover, the interests of the institution subsides the interest of a/some of the members therein.

As far as the confidentiality of the letters of the Director (Discipline) is concerned, there has been no such breach as these letters nowhere mention or censure themselves to be confidential.

11. VIDE ALLEGATION 3:

That the complainant can't cry defamation as the alleged Facebook post is a bonafide opinion of the Undersigned/Respondent upon the professional conduct of complainant, and it nowhere breaches his private sphere so as to constitute malignant and defamatory attempt. Moreover, let it be known to the complainant that he holds a public office in ICAI, which is a statutory body under an Act of the parliament. Hence, democratic voices with respect to his professional conduct should always be welcomed, rather than being objected to by him.

12. That the Undersigned/Respondent may be permitted to urge such other or further grounds as may be available to him during the later course of events.
13. That all the future correspondence regarding the present complaint Com/21-CA (110)/2022 be made at my new updated address which is 30/26A. Street No. 9, Vishwas Nagar, Delhi 110032 for all legal purpose.

It is therefore, most respectfully prayed to this Hon'ble Authority that the complaint may be kindly closed as it lacks merits and smacks of personal vendetta against the Undersigned/Respondent and/or pass any other order as this Hon'ble Authority deems fit and proper in light of the facts and circumstances of the above mentioned submissions for interest of justice.

Verification

I CMA Sandeep Kumar, the Respondent do hereby verify that the contents of Para 1 to 8 of my above written submission are believed to be true on account of information received and believed to be correct and of Para 9 to 13 are believed to be true on account of my personal knowledge.

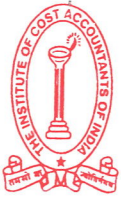
Verified today the 15th day of September 2022

SIGNATURE

CMA Sandeep Kumar"
M. No. 38413



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7. The five-page written statement dated 15th September 2022 was sent to the complainant vide letter No. G/DD/Com-CA(110)/(M-18513)/02/08/2022 dated 29th September 2022 requesting to submit a rejoinder within 21 days from the date of service of the letter under reference. The complainant submitted his rejoinder on 30th May 2023 which is reproduced below in verbatim:

"Sub:- Rejoinder in the matter of - Complaint No. Com/21-CA(110)/2022 - CMA Vijender Sharma (M/18513) Vs. CMA Sandeep Kumar (M/38413)"

Sir,

Kindly refer to your letter No. G/DD/Com-CA(110)/(M-18513)/02/08/2022 dated 29th September 2022 with the written statement dated 15th September 2022 of the respondent as an enclosure.

At the outset, all points mentioned in the written statement dated 15th September 2022 are denied except those which are matters of record and expressly admitted.

I now proceed to refute/disprove the para wise reply made under the headings "PRELIMINARY OBJECTIONS" in your written statement of 15th September 2023:

1. That the contention of the respondent that the allegations made by the undersigned in the subject complaint are baseless, frivolous and "are fully inked with malafide intentions" are wrong and denied. I reiterate that the allegations complained of against the respondent, substantiated by evidence, are genuine, justified and indisputable.
2. That the respondent's contention that he has "only exercised his fundamental rights of free speech and expressions enshrined in the *Constitution of India under Article 19(1)(a)*" by expressing his views on social media is completely untrue and utterly baseless as every citizen of India should be cautious in what he or she expresses. In the name of free speech and expressions, the respondent certainly cannot upload confidential documents and/or post false concocted and fictitious stories on the social media. A responsible citizen, more so, a senior member of the Institute should exercise self-restraint in his conduct and dealings whether in his personal or professional capacity. I reiterate that by posting concocted and cooked up stories with malafide intention, the respondent has brought disrepute to the profession in terms of Clause (2) of Part IV of Schedule I to the Cost and Works Accountants Act, 1959.
3. It is stated that the counter allegations of high handedness, arbitrariness, lawlessness alleged by the respondent are wrong and denied. The respondent has also mentioned of "sorry state of affairs" plaguing the institution. By this rejoinder, I call upon the respondent to provide instances of "sorry state of affairs" that he claim to be plaguing the institution. I also put the respondent to strict proof of the counter



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allegations of high handedness, arbitrariness, lawlessness alleged by the respondent in his written statement.

4. The content of Para 4 are denied. The respondent who himself has committed sever illegal acts at various points in time and against whom several disciplinary proceedings/complaints are pending is not a 'whistle blower'. It is categorically stated that I raise serious objections to his counter allegations of corruptions which he had leveled against the highest echelons of this Institute. When he has alleged of corruption he must provide evidence to substantiate his statement.
5. The respondent had no business to upload the resignation letter dated 16th June 2022 of AVM Rakesh Kumar Khattri (Retd) who was an utter failure during his tenure as the Managing Director of the IPA of the Institute of Cost Accountants of India and had chosen this strategy of venting his disgust through his resignation letter. It is pertinent to state that the letter of resignation is a confidential document between two parties and in no case should the same be made public as it is not to be made public. However, the respondent in violation of all norms of decorum, equity and good conscience, had uploaded the resignation letter containing statements which are not only false and baseless but are contumelious and highly insolent. The respondent without even verifying the veracity of the statements made in the resignation letter dated 16th June 2022 of AVM Rakesh Kumar Khattri (Retd) overzealously embarked upon to post the same on the social media. The usage of such words and expressions like "events of corruption, hostile work-conditions are not only extremely offensive but harsh too. I urge upon the Director (Discipline) to undertake a full-fledged inquiry as to how the resignation letter dated 16th June 2022 of the MD of the IPA of the Institute of Cost Accountants of India got leaked and take such miscreants to task.
6. The respondent, I reiterate, had posted the resignation letter dated 16th June 2022 of AVM Rakesh Kumar Khattri (Retd) without verifying the veracity of statements made in the resignation letter and uploading the same on social media has brought disrepute to the profession in terms of Clause (2) of Part IV of Schedule I to the Cost and Works Accountants Act, 1959. Such an act of the respondent is not only odious by all means but unpardonable too. He has also contravened the provisions of Clause (1) of Part II of Schedule II to the Cost and Works Accountants Act, 1959.
7. The respondent was neither authorized nor competent to express his opinion on the social media. The language used clearly indicates that the same was not in good faith but to tarnish and malign the image of the undersigned. The reasons cited from a. to d. of para 7 are therefore untenable and not sustainable.



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8. I deny the content of para 7 as the respondent has deliberately tried to malign my image and being politically motivated had resorted to such heinous acts. I further state that the respondent is a notorious member who has left no stone unturned to create trouble and mischief for reasons best known to him.
9. Thus, I request Director (Discipline) to take appropriate action as he deems fit in accordance with the Cost and Works Accountants Act, 1959 and the rules thereunder so that the respondent is given exemplary punishment in the interest of justice.

I crave leave to add/alter/amend/modify/substitute any or all of the above grounds either at the time of hearing of the complaint or at any time thereafter.

Yours faithfully,

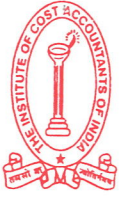
Thanking you

(Vijender Sharma)"

8. The Disciplinary Directorate was of the view that the alleged face book positing made by the respondent was done by the respondent only to garner public attention and with a malafide motive and was driven by perfidious intentions as the respondent had no business to upload the resignation letter of someone with whom he was not even remotely connected. Furthermore, a letter of resignation was supposed to be a letter stating cessation of employee employer relationship which is a confidential document and should not have been made to float on public domain.
9. The prima facie opinion formed by Director (Discipline) holding the respondent guilty of violation of the following provisions of the Cost and works Accountants Act, 1959 was placed in the 76th meeting of the Committee held on 20th July 2023:
 - Clause (2) of Part IV of The First Schedule to the CWA, Act, 1959
 - Clause (1) of Part II of Second schedule to the CWA, Act, 1959

The said meeting was presided by CA Nalini Padmanabhan, esteemed Government nominee of the Disciplinary Committee for the said agenda item (i.e., Agenda Item no. 7) as the complainant, being an interested party, recused himself from the meeting. The Committee discussed and deliberated amongst themselves and opined that there was a prima facie case of 'other misconduct' against the respondent. The Committee members directed that disciplinary proceedings are to be continued against the respondent in accordance with law. The prima facie opinion formed by Director (Discipline) against the respondent in terms of Rule 9(2)(a)(ii) was agreed to by the Committee in terms of Rule 9(2)(b) and Director (Discipline) was directed to ensure compliance of Rules 18(2)/18(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and





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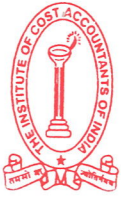
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Other Misconduct and Conduct of Cases) Rules, 2007. The Committee members advised Director (Discipline) to give 21 days' time to the respondent file his second written statement.

10. In accordance with such directives of the Committee, the prima facie opinion together with the documents relied upon were sent both to the complainant and the respondent vide letter Nos. G/DD/Com-CA(110)/(M-18513)/PFO/3/07/2023 & G/DD/Com-CA(110)/(M-38413)/PFO/3/07/2023, both dated 28th July 2023 requesting the latter to file a written statement within 21 days from the date of service of the letter under reference. However, since the respondent did not respond, a reminder to this effect was duly forwarded to the respondent vide letter No. G/DD/Com-CA(110)/(M-38413)/PFO/4/09/2023 dated 25th September 2023 calling upon the respondent to file his written statement together with the supporting documents within 07 (seven) days from the date of receipt of the said communication. A further reminder, vide letter No. G/DD/Com-CA(110)/(M-38413)/PFO/5/12/2023 dated 8th December 2023 was again sent to the respondent which reached him on 15th December 2023.
11. In the 80th meeting of the Disciplinary Committee held on 4th January 2024, the Committee took note of the above and directed Director (Discipline) to issue notice to both the complainant and the respondent under Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 for making oral submissions, if any, in the next meeting of the Committee.
12. The complainant, by an email dated 18th January 2024 at or about 1.28 PM stated that he was greatly obliged for giving him an opportunity to represent his case before the Hon'ble Disciplinary Committee and stated that he wished to attend the hearing through video conference. The respondent, by an email dated 19th January 2024 sent at or about 8.19 PM stated that he has permanently settled from Ranchi to Delhi last year (Sept. 2023) and spends maximum time in Delhi after July 2023. The membership department did not confirm the address. He had attached the change request that he had submitted. He further stated that "we do not have any information regarding communication made after July 2023. If we had received any kind of letter, I would have been ready to respond to it and would have replied. You are requested to send the letter by mail and a hard copy to my New Delhi address and give appropriate time so that we can reply to it. Allow us to send a reply on prima facie opinion before making an oral submission".
13. In the 81st meeting of the Disciplinary committee held on 24th February 2024, Director (Discipline) apprised the learned members of the Committee that in accordance with the directives of the Committee, both the complainant and the respondent were issued letters Ref. Nos G/DD/Com-CA(110)/(M-18513)/PFO/4/01/2024 and G/DD/Com-CA(110)/(M-38413)/PFO/7/01/2024 both dated 17th January 2024 calling upon them to appear before the Committee for making oral submissions under Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.



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14. In the 81st meeting of the Committee, the respondent appeared through the virtual mode at the scheduled date and time and submitted that he has not received the copy of the prima facie opinion formed against him and as such he was unable to make his oral submissions under Rule 18(6). Director (Discipline) stated that a copy of the prima facie opinion formed against the respondent under Rule 9(2)(a)(ii) of the Rules together with the documents relied upon was sent to him three times under the cover of letter Nos. G/DD/Com-CA(110)/(M-38413)/PFO/3/07/2023 dated 28th July 2023, G/DD/Com-CA(110)/(M-38413)/PFO/4/09/2023 dated 25th September 2023 and G/DD/Com-CA(110)/(M-38413)/PFO/5/12/2023 dated 8th December 2023. All these letters were sent to his Ranchi address which was registered with the Disciplinary Directorate and the speed post acknowledgements have confirmed their receipts. The respondent stated that he had permanently shifted from Ranchi to Delhi last year (from Sept. 2023) and spends maximum time in Delhi after July 2023. He requested to once again forward a copy of the prima facie opinion together with the documents relied upon by the Director (Discipline) to his new address at Delhi which was registered with Membership Department. Only then, will he be able to make his oral submissions under Rule 18(6) of the Rules.
15. The complainant, however, was ready to appear through the virtual mode on the scheduled date and time. However, his submissions could not take place. The Committee decided that both the complainant and the respondent be given another opportunity to appear before the Committee in the next meeting of the Committee under Rule 18(6) of the Rules. In accordance with such directives of the Committee, letters No G/DD/Com-CA(110)/(M-18513)/PFO/5/02/2024 and G/DD/Com-CA(110)/(M-38413)/PFO/9/02/2024 both dated 19th February 2024 were sent both to the complainant and the respondent calling upon them to make oral submissions under Rule 18(6) of the Rules at the next DC meeting to be held on 27th February 2024.
16. In the 82nd meeting of the Committee held on 27th February 2024, both the complainant and the respondent appeared through the virtual mode on the scheduled date and time. The complainant submitted *inter alia* as follows:
- (a) He is a practicing cost accountant and the instant complaint has been filed in his individual capacity and not as a Vice President of the Institute.
 - (b) Being an elected member of the Institute he had to deal with the administration of various affairs of the Institute. The respondent managed to get a confidential document and had posted the same on the Face Book without looking at the complete backup of the information.
 - (c) The respondent with an ill mind set had only given half portion of the story along with his own write up questioning the working habits of the complainant with an intention to malign the latter's image as the respondent was harbouring political ambitions for winning the Elections which took place on 1st July 2023.
 - (d) In the write up, the respondent had acted as a judge as he had given his own opinion in the matter and tried to garner public support. He had also posted few letters of the Disciplinary Directorate in some other matters which is driven by malicious intent
 - (e) The respondent is a habitual offender and had acknowledged in his written statement the allegation levelled against him by the complainant.



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DISCIPLINARY DIRECTORATE

- (f) In the year 2015, the Council had taken a decision that no member should post any derogatory matter against any office bearer in the public domain. However, few members are not adhering to such decision of the Council.
- (g) The respondent in the garb of "freedom of speech and expression" enshrined under Article 19(1)(a) of the Constitution cannot defame and tarnish the image of the complainant.

Finally, the complainant prayed before the Committee that such cases of posting defamatory messages in public domain should be strictly dealt with because whatever verdict the Committee gives will become a citation for future cases and exemplary punishment should be meted out to the respondent.

The Committee heard the complainant and took note of the submissions made by him. The Committee members were of the view that in a democratic set up every citizen of India is entitled to have his views. In a healthy criticism, the question of defaming or tarnishing the image of the complainant does not arise.

17. In the same 82nd meeting of the Committee held on 27th February 2024, the Committee read out the charges as required under Rule 18(7) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 together with the summary of the prima facie opinion. The respondent refuted all charges and did not plead guilty and submitted *inter alia* as follows:
- (a) The allegations levelled by the complainant against him were devoid of any merit, baseless and lack substance.
- (b) That Article 19(1)(a) of the Constitution guarantees freedom of speech and expression to all citizens of the country.
- (c) That he did not post the confidential letter of the MD of the IPA of the Institute of Cost accountants of India on the Face Book but merely shared the same as it was already available on the social site.
- (d) That he was an awakened and duly sensitized member of the Institute and has been consistently raising his voice against the prevailing high-handedness, arbitrariness, lawlessness and various other sorry state of affairs plaguing the institution.
- (e) That the alleged Facebook Post which is at the core of the present complaint casts aspersion on the MD of the IPA of the Institute of Cost accountants of India who was a decorated 2 - Star General Rank Officer (Retd) of the Indian Air Force, with a glorious service to this nation.
- (f) That the alleged write up in this allegation is nothing but an honest opinion of the respondent commenting upon the state of affairs of the Institution and the shoddy role of the members in the institution.
- (g) The respondent acknowledged posting letters of Disciplinary Directorate on the Face Book as according to him, there has been no such breach as these letters nowhere mention themselves to be confidential.



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DISCIPLINARY DIRECTORATE

(h) Expressing opinion in good faith regarding the conduct of any individual related to public matter and commenting on their character does not amount to defamation.

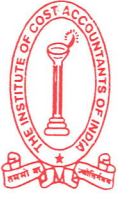
Finally, the respondent prayed for quashing the proceedings against him.

18. The Committee took note of the oral submissions made by the complainant and the respondent. The Committee directed Director (Discipline) to issue notice to the respondent for examination of witness and production of documents in terms of Rule 18(9) of the Rules. In accordance with such directives of the Committee, a letter No. G/DD/Com-CA(110)/(M-38413)/PFO/10/03/2024 dated 20th March 2024 was sent to the respondent informing him to make himself convenient to appear before the Disciplinary Committee on 27th March 2024 between 11.30 A.M. to 12.00 Noon at The Institute of Cost Accountants of India, Kolkata under Rule 18(9) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 Rules for examination of witness and production of documents. The respondent, by an email, dated 20th March 2024 received at or about 10.40 AM confirmed his presence for the same.
19. The respondent appeared through the online mode on the scheduled date and time. He did not produce any witness or documents but *inter alia* submitted as follows:
- The instant complaint was a politically motivated one as the complainant, apparently, did not want the respondent to contest for the Elections to the Council & Regional Councils – 2023 which was held on 1st July & 2nd July 2023.
 - That he did not post the confidential letter of the MD of the IPA of the Institute of Cost accountants of India on the Face Book but merely shared the same as it was already available on the social site.
 - That the alleged write up in this allegation is nothing but an honest opinion of the respondent commenting upon the state of affairs of the Institution and the shoddy role of the members in the institution.
 - That the respondent acknowledged posting letters of Disciplinary Directorate on the Face Book as according to him, there has been no such breach as these letters nowhere mention themselves to be confidential.
 - That the prima facie opinion formed by Director (Discipline) was agreed and accepted by the Disciplinary Committee at its meeting held on 20th July 2023 when the complainant himself was the Presiding Officer.
 - That the respondent did not belong to any so called 'group' who wanted to 'cleanse the system plaguing the institution'. However, he had no other option to draw the attention of the men at the helm of the Affairs since there was no way that he could formally lodge his grievance with the Institution. He thanked the Institute profusely for instituting a grievance portal for proper redressal of such type of issues/grievances.

The Committee took note of the submissions made by the respondent. The Presiding Officer explained that in fact, keeping all these issues in mind the Institute had instituted a Grievance Committee as well as an online 'Grievance Portal' which will take care of all such concerns and issues in the interest of all the stakeholders.



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**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.
DISCIPLINARY DIRECTORATE

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
Website: : www.icmai.in


Findings


20. Here the contentious matter for determination before the Committee was whether, the respondent, by his actions, had committed 'other misconduct' which brought disrepute to the profession. The Committee, after due consideration of the response made by the respondent in his written statement dated 15th September 2023 and various submissions made from time to time was of the considered view that there is no misconduct on the part of the respondent.

Order

21. The Committee unanimously decides that the respondent is not guilty of professional or other misconduct and the proceedings against the respondent be dropped. and the matter be closed in accordance with Rule 9(2)(c) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007
22. The matter thus, stands disposed of.

April 24, 2024


CMA Ashwin G Dalwadi
PRESIDING OFFICER


CMA M. K. Anand


CMA TCA Srinivasa Prasad


Shri Saraswati Prasad, IAS (Retd.)



Smt. Meenakshi Sharma, IA & A (Retd.)

