



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

DISCIPLINARY DIRECTORATE

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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(22)/2014 –

Shri S.K. Bhatt (M/14652).....Complainant

Vs

Shri Vijender Sharma (M/18513).....Respondent

ORDER

1. The Disciplinary Directorate was in receipt of a complaint dated 15th December 2014 in Form 'I' in triplicate together with the prescribed complaint fee from Shri Sandip Kumar Bhatt (hereinafter referred to as the "complainant") bearing membership number 14652 against Shri Vijender Sharma (hereinafter referred to as the "respondent") bearing membership number 18513 during the period the latter was Chairman of the Northern India Regional Council (NIRC) of the ICAI, containing certain allegations, the details of which are as follows:

That the respondent while working as Chairman w.e.f. 26th July 2014 made wrong use of public office for his personal gain and has been found carrying gross professional misconduct in following affairs:

- i) He terminated, appointed, transferred gave increment to staff without any power given to him by the Regional Council violating regulation 126 of CWA Regulations.
- ii) He constituted committees at his own and not by council violating regulation 127 and is trying to enforce decision of the committee without consulting council.

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- iii) He has expended funds of the council without any authorization by the council violating regulation 132 of CWA Regulations.
- iv) He did not implement any decision of the Regional Council Meeting held on 19.09.2014 and tried to cancel the meeting after issue of notice of which a due letter was sent. This was against the will of Regional council. He has abused the public democratic setup of the Institute and is guilty of professional misconduct.
- v) Without any authorization from the Council he was discharging the functions of Secretary and treasurer also and finalizing tenders, contracts, making payments as per his will.
- vi) He announced various programmes visited chapters made expenditure from the funds of the Regional council without any approval of the Regional Council thus violated Regulation 132 of the CWA Regulations, 1959.
- vii) He directed the staff members not to give any information/show any document to any Regional Council member.
- viii) On repeated demands he could not produce any minutes duly signed by the Regional Council Members authorizing him to do all above acts at his own.
- ix) Being a Fellow member of the Institute, he was required to follow the CWA Act, Rules and Regulations which have been violated at large, thus using public office as personal office with the motive of personal gain and due to his various acts, the profession went in dark and council could not work.

The complainant has alleged that the respondent was guilty of professional misconduct under clause 1 of part II of Second Schedule i.e., professional misconduct in relation to Members of the Institute generally.

2. The respondent has adduced the following evidence in support of his contention:

- i) Letter addressed by him to the then President, the then Vice President and Secretary of the Institute related to gross violation of CWA Act and Regulations.
- ii) Mail given to staff and to the respondent to follow the directions of the Regional Council meeting held on 19.09.2014 with copy of minutes.
- iii) Email circulated by the then Deputy Executive Officer, NIRC confirming that every act was being done by the respondent only.
- iv) The complainant has enclosed with the complaint copies of several letters inviting the respondent's attention to the irregularities alleged to have been committed by the respondent including a letter No. NIRC/475/SKB dated 30th August 2014 wherein the then Secretary, (who is the complainant himself) and one Shri Ravi Sahni, the then Treasurer, invited the

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attention of the respondent to certain irregularities alleged to have been committed at NIRC including insubordination of NIRC staff members by not showing copies of bills and vouchers to some of the RCMs (including the complainant himself) of NIRC and misbehaviour of staff members which they have claimed was as per the direction of the respondent.

v) The complainant has also enclosed a list which is believed to have been placed at Members Meet on 21st November 2014 wherein the following acts have been alleged to have been committed by the then Chairman of NIRC, respondent in this case:

- Posting, appointing and transferring staff by the Chairman without any authority.
- Directing staff not to share, discuss, show any document to any RCM.
- Discharging the functions of Secretary and Treasurer.
- Inviting quotations, finalization, payments and purchases by his signature only.
- Stopping the visits of RCMs, secretary & Treasurer to other locations and not clearing travelling bills.
- Stopping programmes at Corporate from where NIRC receives payments with the direction to staff not to co-operate.
- Directing an employee by the name of Shri Sarin to misbehave with the members and RCMs.
- Despite their best attempts, NIRC did not implement any council decision and worked in autocratic style.
- Did not make any programme for professional attainments i.e. Government Liaoning, GST VAT and has not implemented the advice of RCMs of the NIRC regarding professional matters.
- Misbehaved with members by not opening the gate in member's meet on 6th November 2014, did not open council room and Hall for meet, deputed police and members conducted meeting by sitting on floor whereas three RCMs and one CCM was present in meeting.
- Did not order to make any basic arrangements for members during members meet on 9th November 2014.
- Stopped calling Regional Council Meeting without reasons so that he may continue to work in autocratic manner.

3. On receipt of the complaint in triplicate Form I dated 4th July 2020 of the complainant, the instant complaint was registered by the Disciplinary Directorate after it was found to be in order and the same 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(22)/2014 was allotted to the complaint.

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4. A copy of the complaint together with the annexure was sent by the Disciplinary Directorate to the respondent vide letter No. G/DD/(M-18513)/Com-C-22/1/01/2015 dated 9th January 2015 requesting the respondent to send in his response by way of a written statement within 21 days from the date of service of the letter.
5. The respondent vide his letter dated 21st January 2015 forwarded his written statement in due compliance with Rule 8(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The respondent inter alia replied that:
 - a) As regards the issue on termination, appointment, transfer, giving of increment to staff without any power given to him i.e., the complainant by the Regional Council violating Regulation 126 of CWA Regulations, 1959, the respondent stated that this issue was raised by the complainant in the meeting of the Regional Council held on 17th January 2015. In regard to other allegations levelled by the complainant, the respondent remarked 'do' meaning thereby that all these issues were raised by the complainant in the capacity of the Secretary, NIRC in the meeting of the Regional Council held on 17th January 2015.
 - b) The respondent also stated that that since the complainant has been elected to NIRC for the first time, he may not be fully aware of the procedure for conduct of the business. All matters/decisions were as per the Regulations and resolved in the meeting with majority.
 - c) He further stated that the respondent has approached the Disciplinary Committee with a view to create sensation and score unwarranted political point. The respondent prayed for closure of the matter citing ignorance of the complainant.
6. A copy of the written statement was sent to the complainant by the Disciplinary Committee under the cover of letter No G/DD(M-14652)/CA(22)/2/1/2015 dated 10th February 2015 requesting for the rejoinder from the complainant in terms of Rule 8(4) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
7. The complainant, by his letter dated 10th March 2015, submitted the rejoinder wherein he stated that the reply submitted by the respondent was unjustified, beyond the factual matters and acts done by the respondent as a Chairman, NIRC violating the CWA Act, Rules & regulations which has been attempted to be justified under the shelter of Regional Council meeting of 17th January 2015 was wrong and unacceptable.
8. The complainant further stated that the point wise allegations stood valid and there was no justification or document available with the respondent to rebut the allegations where as the complainant claimed to have a number of documents and proof available with him. The wrongs done earlier was attempted to be justified by manipulating the minutes of 17th January 2015 meeting where as all the acts have been claimed to have been done

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without the approval of Regional Council and in an autocratic style "by killing the democracy".

9. A letter No. G/DD(M-14652)/CA(22)/3/4/2015 dated 8th April 2015 was addressed to the complainant seeking cogent evidence with respect to the following allegations levelled by him:

- i. Posting / appointing ` transferring staff by the Chairman without any authority
- ii. Directing staff not to share, discuss, show any document to any RCM
- iii. Discharging the functions of Secretary and Treasurer on his own.
- iv. Inviting quotations, finalization, Payments and purchases by his sign only.
- v. Stopping the visits of RCMs, secretary & Treasurer to other location and not clearing travelling bills.
- vi. Stopping programmes of corporates from where NIRC gets payment with direction to staff not to co-operate.
- vii. Directing Shri Sarin, an employee of NIRC, to misbehave the members and RCMs.
- viii. Not implementing any Council (NIRC) decision and worked in an autocratic style.
- ix. Did not organize any programme for professional purposes ie Government Liaoning, GST, VAT
- x. Misbehaved members by not opening gate in member's meet on 6th November 2014 and did not open council room and Hall for the meet and deputed police.

10. By a letter No G/DD(M-18513)/CA(22)/3/04/2015 dated 8th April 2015, the respondent was requested to provide with a copy of the Agenda and the Minutes of meeting of 17th January 2015. The respondent by his letter dated 19th May 2015 sent a copy of the agenda but regarding minutes, he replied that the minutes were not ready due to non-availability of audio-video recordings which were in the possession of the complainant. The respondent referred to an e-mail dated 21st January 2015 of the complainant wherein the latter stated that he was in the possession of the audio video recording of the proceedings of the meeting of NIRC of the 17th January 2015 meeting.

11. By another letter No G/DD(M-14652)/CA(22)/3/09/2015 dated 23rd September 2015, the complainant was requested to furnish cogent evidence with supporting documents regarding the following: –

- o Without any authorization from the Council, the Respondent is discharging the functions of Secretary and Treasurer also and is finalizing tenders, contracts, making payments as per his will.



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- The Respondent directed the staff members not to give any information/show any document to any Regional Council Member..
 - On repeated demands, he could not produce any minutes duly signed by the Regional Council members authorizing him to do all above acts at his own. .
12. Since no reply to the above mentioned letter was received even after the expiry of three months, another letter dated 23rd December 2015 was sent to the complainant requesting for the above mentioned information. The respondent vide his letter dated 5th January 2016 *inter alia* submitted that in contravention of approval of the Regional Council dated 19th September 2014, huge amount were spent and distributed to chapters and also made expenses during election, conducted programmes without approval of the approved authority and without budget. In other words, the respondent is believed to have indulged in certain official activities unilaterally and without approval from the Regional Council.
13. On perusal of the complaint it appears that the complainant's main allegation was that the respondent had acted without authority, ignoring majority, taking decisions unilaterally, including misutilization of funds though no specific instance have been specified by the complainant in the complaint.
14. In the 34th Meeting of the Disciplinary Committee held at New Delhi on 8th January 2018, the Prima facie opinion was put up before the Disciplinary Committee but the Committee advised the Director (Discipline) to further investigate the matter as per Rule 9(2) (c) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
15. In the 49th meeting of the DC held on 10th & 11th February 2021 at Chennai, the learned members noted that the complaint filed by the complainant mainly relates to misuse of authority, if any, and administrative actions with respect to grant of authority from competent authority and there was no evidence suggesting any professional or even other misconduct on the part of the respondent. The Director (Discipline) was directed by the Disciplinary Committee to place all the important points of the complaint before the President of the Institute for examining the same in the light of the Cost and Works Accountants Act, 1959 and the Rules & Regulations framed there under.
16. The Disciplinary Committee felt that this type of complaint is an outcome of political conflicts and advised that a committee of officials of the Institute be constituted for examining the misuse of authority, if any, and administrative actions with respect to grant of authority from competent authority in the light of the CWA Act, 1959 and the rules and regulations framed there under.
17. The Committee of Officials submitted their report on 27th July 2021 which is reproduced below:



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**'Report of Committee constituted for examining the misuse of authority, if any,
by CMA Vijender Sharma, Chairman, NIRC (2014-2015)**

As per the decision taken in 50th meeting of the Disciplinary Committee held on 12th March 2021, a Committee of officials of the Institute was constituted vide Office Order No. 15/2021-2022 dated 18th June 2021 consisting of following officials:

1. CMA T.R.Abrol, Joint Director (Admin-Delhi).
2. CMA Indu Sharma, Joint Director (P.D.)
3. Ms. Vibhu Agarwal, Deputy Director (Legal)

to examine the misuse of authority, if any, by CMA Vijender Sharma, Chairman, NIRC (2014-2015) and the administrative actions taken by him during 2014-2015 with respect to grant of authority from competent authority in the light of the CWA Act, 1959 and the rules framed there under.

The committee had gone through the relevant provisions of CWA Regulations vis-à-vis the allegations of violation thereof were concerned and submitted its report on 5.7.2021 to the Presiding Officer, Disciplinary Committee through Secretary of the Institute.

In response, the Committee was in receipt of mail from Director Disciplinedated 20.7.2021 wherein thelearned members of the Disciplinary Committee, nominated by the Central Government observed that the report submitted by this committee was a generalized one and did not deal with specific instances as was required and felt that the whole issue was not addressed with seriousness and was not of any assistance to the Discipline Committee for it to come out with any logical conclusion.A detailed report, therefore, is to be re-submitted by the Committee of Officials by 31.7.2021.

The Committee held its meeting on 22.7.2021 and 27.7.2021 wherein it has considered the records i.e. annexures of the complaints again, so received from Director Discipline.

Hence, the revised detailed report is placed below:

Allegation as per Compliant in Form I	Corresponding Regulation against the observations of the Committee	Remarks of the Committee
A. Mr. Vijender Sharma while working as Chairman w.e.f. 26 th July 2014 made wrong use public office for his personal gain and has been found carrying gross professional		

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misconduct in following affairs:		
1 He terminated, appointed, transferred, gave increment to staff without any power given to him by the Regional Council violating regulation 126 of CWA Regulations.	<p>Regulation 126 Other Staff: For the purpose of carrying out its functions, a Regional Council may appoint such staff and servants for its office as it may from time to time consider necessary.</p> <p>Regulation 123. Power and Duties of a Chairman of a Regional Council: (a) The Chairman of a Regional Council shall exercise such powers and perform such duties as are conferred or imposed on him by the act or these regulations, or as may be delegated to him by the Regional Council from time to time. (b) The Chairman may direct any business to be brought before Regional Council or any committee for consideration. (c) If the office of the Chairman is vacant or if the Chairman is unable to exercise the powers or perform the duties of his office, the Vice Chairman shall act in his place and shall exercise the powers and perform the duties of the Chairman.</p>	<p>The Committee do not find any specific instance/ document in the records so received from Director Discipline which indicate termination, appointment, transfer or gave increment to any staff by the CMA Vijendar Sharma as Chairman of NIRC at the relevant time therefore the refrain itself from giving any observations on the same.</p> <p>The Committee further observed that there were some instances found in the compliant/documents wherein the then Secretary and Treasurer have used their authority of issuing Show cause notice, Termination of employees and issuing office orders to the employees which are specified herein below:</p> <p>It is seen that the</p>

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		<p>Complainant (then Secretary) has issued a show cause notice to Mr. Ajeet Tripathi Dy EO dated 29.8.2014, and terminated one contractual staff Mr. VikasRazak vide letter dated 29.8.2014. and also lodged Police complaint with local police station vide letter NIRC/477/SKB dated 30.8.2014.</p> <p>The Complainant (then Secretary) had exercised their administrative powers by issuing various office orders and direction to the employees vide NIRC/423 and NIRC/424 dated 29.8.2014.</p>
<p>2. He constituted committees at his own and not by council violating regulation 127 and is trying to enforce decision of the committee without consulting council.</p>	<p>Regulation 127 The Committees of the Regional Council:</p> <p>(1) The Regional Council at a meeting shall constitute a Students' Facilities Committee and such other Committees as the Council may direct and may constitute any other committee as it deems necessary for the purpose of carrying out the provisions of these Regulations.</p> <p>(2) Constitution of Committees: Each of the Committees shall consist of the Chairman or the Vice-Chairman of</p>	<p>The Committee does not came across any averment to the effect as to which Committee in particular has been formed by CMA Vijendar Sharma in violation of Regulation 127 as alleged. In absence of any specific averment to this effect the</p>

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	<p>the of the Regional Council, ex-officio, as Regional Council may decide and not less than two other members of the Regional Council elected by that Council:</p> <p>Provided that, in the case of any Committee constituted at the direction of the Council, out of the member elected, one shall be nominated by the Council from the members of the Council representing the region:</p> <p>Provided, however, that notwithstanding anything contained in these Regulations, any Committee formed under this Regulation may with the sanction of the Regional Council co-opt one member of the Institute belonging to the region as a member of the Committee and any member so co-opted shall be entitled to exercise all rights of a member of the Committee:</p> <p>Provided further that the Regional Council may sanction such co-option for not more than two of its Committees:</p> <p>Provided further that the student of not less than three members of the Regional Council and shall have the power to co-opt not more than two persons who shall be Registered Student. Any person so co-opted shall be entitled to exercise all the rights of a member of the Committee.</p>	Committee cannot form its views.
3. He is expending funds of the council without any authorization by the council violating regulation 132 of CWA Regulations.	<p>Regulation 132 Expenditure from Funds</p> <p>(1) The funds of a Regional Council shall not be employed for any purpose without previous sanction in writing by the Regional Council and may only be utilized for such purposes as may be expressly sanctioned by the Regional Council.</p> <p>(2) No part of the funds of a Regional Council shall be expended unless, bills, invoices and in</p>	There is a no specific incident/ violation quoted in the complaint which can be gone into to consider whether the same was in violation of 132 of CWA



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	<p>the event bills/invoices are not available, vouchers signed by the competent person are produced before the competent authority of the Regional Council and such authority is satisfied that the expense is genuine and authorized: Provided that no funds thereof shall be applied, either directly or indirectly, for payment to the members of the Regional Council or officers and staff of Regional Councils except for reimbursing them for any expenses incurred by them in connection with the business of the Regional Council in the region concerned unless prior approval for making expenses including travelling or any other expenses outside the territorial boundaries of the region concerned is obtained from the Council in writing: Provided further that no fund of Regional Councils shall be applied, directly or indirectly, for payment of any kind in relation to any foreign travel or programme held in a foreign country.</p>	Regulations.
<p>4. He did not implement any decision of the Regional Council Meeting held on 19.09.2014 and tried to cancel the meeting after issue of notice of which a due letter was sent. This is against the will of Regional Council. He has abused the public democratic setup of the Institute</p>	<p>135. Meetings of the Regional Councils.—The provisions of Chapter VIII shall apply to the meetings of the Regional Councils, mutatis mutandis, except that a notice of not less than ten days shall be given for meetings of the Regional Councils. Chapter VIII of the CWA Regulations, 1959 regarding Meeting and Proceeding of the Council 71. Meetings of Council.—The Council shall meet at least once in every six months at such time and place as the President may determine. 72. Notice of Council meeting—</p>	<p>It is seen that there no decision in specific which has been pointed out (taken in the meeting held on 19.09.2014) which has not been implemented. The Committee feels that it cannot sit in the place of complainant and conduct a roving inquiry in the matter. Regulation 130 and Regulation 135 read</p>

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and is guilty of professional misconduct.	<p>(1) Notice of the time and place of an intended meeting shall be sent to the registered address of every member of the Council not less than twenty-one days before such meeting and such notice shall so far as practicable contain a statement of the business to be transacted at such meeting, provided that in the case of a special meeting, the President may inform the members of the subject-matter for discussion at the meeting.</p> <p>(2) Notwithstanding anything contained in sub-regulation (1), the President may call an extraordinary meeting of the Council in any emergency, giving such shorter notice as circumstances may permit.</p> <p>73.Special meetings of Council— (1)At least 1/3rd of the members of the Council for the time being may, at any time, request the Secretary in writing, jointly or severally to convene a Special Meeting of the Council and the requisition shall contain the business to be transacted at the Special Meeting.</p> <p>(2) The Secretary on receipt of a requisition from the members shall issue notice of a special meeting according to Regulation 72.</p> <p>(3) A Special Meeting of the Council under clause (1) of Regulation 73 cannot be requested to be held by the members within 3 months of a meeting already held under clause(1) of Regulation 73 or in case a meeting of the Council is scheduled to be held within the next 30 days from the date on which the written request is received by the Secretary.</p> <p>(4) In case condition specified under clause(3) above is fulfilled, the Secretary shall intimate, the members requesting for the meeting, in writing of the same and the members shall withdraw the request made under clause(1) above:</p>	<p>with regulation 71,72, 73 and 78 of Chapter VIII regarding provisions of meeting of the Regional Council, the Chairman is authorized to call a meeting of the Regional Council Members and sign the minutes of such meeting.</p> <p>As per Regulation 124on Functions of Secretary of the Regional Council, the Secretary of the Regional Council shall be responsible for the performance of general duties of the office of the Regional Council under the <i>guidance of the Chairman...</i>"</p>
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	<p>Provided however, that the President or in his absence the Vice President shall not refuse holding of the meeting under clause(1) of Regulation 73 where no meeting of the Council has been held for a period of at least 90 days from the date of the last meeting of the Council.</p> <p>Provided further that the President may include any business to be transacted at the Special Meeting but cannot modify or exclude businesses given under clause (1) above.</p> <p>Explanation- The validity of any decision of the Council of any item considered by a validly convened meeting of the Council shall not be called in question merely because notice of the said item had not been given to the members who did attend the said meeting.</p> <p>73A. Postponement of meetings—</p> <p>Any meeting of the Council, which is called to be held on a particular date or dates, may be postponed by the President to a subsequent date or dates, by a notice if in his opinion, such postponement is warranted, which may also include change of time and place of the meeting. Notice of the postponement and the date and place of the postponed meeting along with explanation and reason for the postponement shall be sent including by electronic means to the registered address or email -id of every member of the Council not less than seven days before such postponed meeting. The business to be transacted at the postponed meeting shall be same as was intended for the original meeting, unless any other business is admitted by the President.</p> <p>Explanation-In case at a meeting of the Council held under clause (1) of Regulating 73, the President or the Vice President is not the Chairman of the meeting, no additional items</p>	
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	<p>of business can be admitted by a Chairman elected for the meeting as per Regulation 74 other than the items of business already specified in the requisition as per clause (1) of Regulation 73.</p> <p>74. Chairman of Council—At all meetings of the Council, the President, or in his absence the Vice-President, shall be the Chairman, or, in the absence of both, the Chairman shall be elected from among those present: Provided that, at the first meeting of any Council, the President of the outgoing Council, or in his absence its Vice-President, shall act as the Chairman until such time as a president is elected under the provisions of sub-section (1) of Section 12.</p> <p>78. Record of minutes.—Minutes shall be kept of all resolutions and proceedings of the meetings of Council, which shall be approved by the members and signed by the Chairman of the meeting.</p> <p>130. Meetings.—The provisions regarding meetings of the Committees of the Council* in Regulations 80 to 84 shall, so far as may be, apply to the meetings of the Committees of the Regional Councils.</p> <p>80. Constitution of Committees. —In pursuance of the provisions, contained in sub-section (1) of Section 17, the Council shall constitute three Standing Committees, namely:— (a) Executive Committee (b) Finance Committee (c) Examination Committee (2) The Council may constitute other Committees including a Training and Educational Facilities Committee, Professional Development Committee, Research and Publications Committees from amongst its members as it deems necessary</p>	
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for the purpose of carrying out the provisions of Act in accordance with the provisions of sub-section (2) and sub-section (6) of Section 17 of the Act.

80A. Time and place of meeting—

(1) The Chairman of a Committee may at any time and shall, on a written requisition of any two members of the Committee, call a meeting of the Committee.

(2) The meeting of a committee shall be held at such place and at such times as its Chairman may direct.

(3) A notice of not less than seven days of every such meeting shall ordinarily be given to every member of the Committee.

(4) Any meeting of a committee which is called to be held on a particular date or dates may be postponed by the Chairman of the Committee to a subsequent date or dates, if, in his opinion, such postponement is warranted, which may also include change of time and place of the meeting.

(5) Notice of the postponed meeting shall be sent to the registered address of every member of the Committee not less than seven days before such postponed meeting. The business to be transacted at the postponed meeting shall be same as was intended for the original meeting, unless any other business is admitted by the Chairman of the postponed meeting.

81. Quorum.—

(1) No business shall be transacted at a meeting of a Committee unless there are present at least three members in the case of the Executive Committee, and two members in other cases, including the Chairman, provided that in the case of Committees formed under

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DISCIPLINARY DIRECTORATE

	<p>sub-section</p> <p>(2) of Section 17 the Council shall determine the quorum for the Committee.</p> <p>(2) In the event of there being no quorum within half an hour of the time fixed for the meeting, the meeting shall stand adjourned to a date, time and place specified by the Chairman of the Committee:</p> <p>Provided that, where a meeting of a Committee has been adjourned for want of a quorum, any business which was intended to be transacted at the original meeting may be transacted at such adjourned meeting, notwithstanding that there is no quorum.</p> <p>82. Procedure for transaction of business.—</p> <p>(1) The business of a Committee shall ordinarily be transacted at a meeting of the Committee, provided that the Chairman may in emergent cases circulate papers among the members of the Committee for the decision of any question:</p> <p>Provided further that, where any two members of the Committee require that any question should be decided at a meeting, the Chairman shall withdraw the papers from circulation and have the question determined at a meeting of the Committee.</p> <p>(2) When the papers relating to any question are circulated among the members, a period of not less than ten days, commencing from the date of circulation of the papers shall elapse before any decision is arrived at on the question.</p> <p>(3) Every resolution passed by circulation of papers shall be communicated to all the members.</p> <p>83. Casting vote.—</p> <p>All questions before a Committee shall be</p>	
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DISCIPLINARY DIRECTORATE

	<p>decided by a majority of votes. In the event of equality of votes, the Chairman shall have a casting vote.</p> <p>84. Minutes.—</p> <p>(1) The Secretary of the Council shall be the Secretary for each Committee, unless the Council otherwise directs.</p> <p>(2) The Secretary shall maintain a record of all the business transacted by the Committee either by circulation of papers or at a meeting of the Committee</p>	
<p>5. Without any authorization from the council, he is discharging the function of secretary and treasurer also and is finalizing tenders, contracts. Making payment as per his will.</p>	<p>Regulation 123. Power and Duties of a Chairman of a Regional Council:</p> <p>(a) The Chairman of a Regional Council shall exercise such powers and perform such duties as are conferred or imposed on him by the act or these regulations, or as may be delegated to him by the Regional Council from time to time.</p> <p>(b) The Chairman may direct any business to be brought before Regional Council or any committee for consideration.</p> <p>(c) If the office of the Chairman is vacant or if the Chairman is unable to exercise the powers or perform No specific incidence has been quoted in the allegation made by the complainant.</p> <p>Chairman can perform the function as per regulation 123 of the Cost and works Accountants Regulation, 1959. the duties of his office, the Vice Chairman shall act in his place and shall exercise the powers and perform the duties of the Chairman.</p>	<p>The Committee do not find any such instance from the records of the case and no specific reference is also quoted which may made us go into the same to give any observations wherein the Chairman was discharging the function of secretary and treasurer also and finalizing tenders, contracts and making payment.</p>
<p>6. He announced various programmers visited chapters, made</p>	<p>Regulation 123. Power and Duties of a Chairman of a Regional Council:</p> <p>(a) The Chairman of a Regional Council shall exercise such powers and perform such duties as are conferred or imposed on him by the act</p>	<p>No specific incidence has been quoted in the documents so provided to the Committee.</p>



DISCIPLINARY DIRECTORATE

expenditure from the funds of the Regional council without any approval of the Regional Council thus violated regulation 132 of the CWA Regulations.	or these regulations, or as may be delegated to him by the Regional Council from time to time. (b) The Chairman may direct any business to be brought before Regional Council or any committee for consideration. (c) If the office of the Chairman is vacant or if the Chairman is unable to exercise the powers or perform the duties of his office, the Vice Chairman shall act in his place and shall exercise the powers and perform the duties of the Chairman.	However, it is relevant to note that power and duties of Chairman are given in Regulation 123 of the Cost and works Accountants Regulation, 1959.
7. He directed the staff members not to give any information/show any document to any Regional Council Member.	Regulation 123. Power and Duties of a Chairman of a Regional Council: (a) The Chairman of a Regional Council shall exercise such powers and perform such duties as are conferred or imposed on him by the act or these regulations, or as may be delegated to him by the Regional Council from time to time. (b) The Chairman may direct any business to brought before Regional Council or any committee for consideration. (c) If the office of the Chairman is vacant or if the Chairman is unable to exercise the powers or perform the duties of his office, the Vice Chairman shall act in his place and shall exercise the powers and perform the duties of the Chairman.	Chairman can perform the function as per regulation 123 of the Cost and works Accountants Regulation, 1959.
8. On repeated demands, he could not produce any minutes duly signed by the Regional Council Members	Regulation 123. Power and Duties of a Chairman of a Regional Council: (a) The Chairman of a Regional Council shall exercise such powers and perform such duties as are conferred or imposed on him by the act or these regulations, or as may be delegated to him by the Regional Council from time to time.	As noted above once there is no specific incident quoted therefore the question of going into the fact whether it has backing of any decision taken by the Regional



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authorizing him to do all above at his own.	(b) The Chairman may direct any business to be brought before Regional Council or any committee for consideration. © If the office of the Chairman is vacant or if the Chairman is unable to exercise the powers or perform the duties of his office, the Vice Chairman shall act in his place and shall exercise the powers and perform the duties of the Chairman.	Council does not arise.
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As noted above the Committee is of the considered view that the documents so forwarded by Director Discipline to it has vague allegations and does not spell out the specific violations. A mere bold statement cannot be gone into for giving any specific finding to the effect that the same is in line with the applicable provisions of law or not.

Moreover, with hesitance we draw the attention of the Disciplinary Committee to the documents furnished by the Complainant himself wherein he under a mind frame to prove allegation proves otherwise. As per those documents attached it is the Complainant (incidentally the then Secretary NIRC) who has discharged administrative functions. Now, that being the case where the complainant tried to impress upon that the Chairman NIRC does not have any power even to handle the staff in that situation can it be safely said that it rests with Secretary of the Regional Council.

However, it is not appropriate for this Committee to record any findings on the same being outside the scope it has been given".

18. The Report of the Committee of Officials was placed before the Disciplinary Committee at its meeting held on 5th August 2021. The Committee noted that it is a fact that the complaint entirely hinges on the misuse or otherwise of the respondent which has nothing to do with professional or other misconduct. The Committee perused the Report of Officials of the Institute and observed that vague allegations and does not spell out the specific violations. After discussion and deliberation, the Disciplinary Committee concluded that the complaint is a frivolous one lacking merit and decided to drop the proceedings against the respondent.

19. There being no merit in the complaint, the proceedings against Shri Vijender Sharma, respondent are dropped and the case is closed in terms of Rule 9(2)(c) of the Rules.

20. The complaint stands disposed of.

Biswarup Basu
18.9.2021
CMA Biswarup Basu
PRESIDING OFFICER