



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

Phone : +91-11-24622156-57-58
Website : www.icmai.in

The Board of Discipline u/s 21A

The Institute of Cost Accountants of India

Information No. Inf/21-CA(22)/2015

Shri Neeraj Joshi (M/24118) ----- Informant

V/s

Shri Bharat Nuti (M/36630)-----Respondent 1

ORDER

Dated 15/05/2020

1. A letter dated 17/11/2015, was received under Rule 7 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, ("the Rules), from Shri Neeraj Joshi (hereinafter referred to as 'the Informant'), to treat this as an information to initiate disciplinary proceedings against CMA Bharat Nuti (M/36630), (hereinafter referred to as 'the Respondent).

2. The Informant *inter-alia* stated/alleged that:

The allegation against Shri Bharat Nuti, Respondent No 1 is that he had circulated to members at large a copy of Special Audit Report on financial statements of WIRC of ICAI for the FY 2013-14 by R.R. Ponshe & Co. Chartered Accountants, Pune, which was addressed to Dr. A.S. Durga Prasad, President of this Institute for 2014-15 being Respondent No. 2. This report was a confidential one and the auditors on page 4 under Disclaimer have clearly mentioned that "The following Special Audit Report is strictly Confidential". Shri Bharat Nuti has mentioned that "he has received copy of the Special Audit Report of WIRC". He has also alleged that it is absolutely unprofessional on the part of Shri Bharat Nuti to publicly circulate a confidential Report addressed only to the President of ICAI. He has also not disclosed any source from where he has received the confidential report supposed to be in the custody of Shri A S Durga Prasad.

Shri Joshi, the informant has also alleged against Dr. A.S. Durga Prasad, the then President (2014-15), that how the confidential report of R.R. Ponshe & Co. Chartered Accountants, Pune, which was addressed to the latter only and marked 'confidential' on each page and containing a specific disclaimer to this effect could get leaked. He further alleged that since the report was addressed



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

Phone : +91-11-24622156-57-58
Website : www.icmai.in

specifically to the President (2014-15) it was the complete responsibility of the President to ensure complete security of the document. Since, a confidential document addressed to the President got leaked, it was necessary to investigate the role of the then President, ICAI in the whole incidence and take appropriate action in accordance with CWA Act and CWA Regulations.

It may be mentioned here that in regard to the information given by Shri Joshi against Dr. A.S. Durga Prasad, (President for the year 2014-15), Respondent, the same has already been put up before the Board of Discipline and the case is closed.

The instant complaint against Shri Bharat Nuti (M/36630) is now being put up before the Board of Discipline.

3. The respondent was intimated to send response to the Information through a written statement in his defence within 21 days of the service of the letter.
4. The respondent sent his written statement wherein he submitted as follows:-
 - *The respondent is a young associate member from Pune and is not involved in the Institute's politics.*
 - *He received a hard copy of the Special Audit Report and on inquiry with some of his CMA friends, he came to know that quite a few members had received the hard copy of the same.*
 - *After perusing the report he found that it may be of interest to members and hence, shared it with other members of the Institute.*
 - *He is neither a Council Member nor a Regional Council Member or member of the Managing Committee of any Chapter and as such, he has absolutely no access to any documents of the Institute, whether confidential or otherwise.*
 - *The complainant who was the Chairman of WIRC and is very active in the institute politics was making unnecessary allegations against the respondent.*

The respondent humbly prays that under the circumstances:-

- *The complaint filed by Shri Neeraj Joshi be quashed and the proceedings initiated against him be dropped.*
- *Cost of the present proceedings may be paid to the respondent.*
- *He may be granted personal hearing before the matter is decided.*
- *He reserves the right to call any witness.*
- *He craves permission to add/subtract/amend any of the submissions made above or submit any further documentary evidence.*



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

Phone : +91-11-24622156-57-58
Website : www.icmai.in

Shri Bharat Nuti, respondent submitted his second written statement vide his unsigned letter dated 5th May 2017 wherein he submitted that:-

- *The complainant is making frivolous complaint without any evidence.*
- *The respondent denies that he has behaved in an unprofessional manner.*
- *The complainant falsely alleges that the respondent was involved in Institute politics. The respondent has behaved in good faith and he wanted to inform all members about the content of the Special Audit Report and the misdeeds of the complainant.*
- *It is to be noted that the irregularities at WIRC occurred when the complainant was the Chairman of WIRC. Further, the respondent considered it important in the light of the minutes of the WIRC RCM circulated by the then Treasurer Shri A.B. Nawal.*
- *Having close ties with any body do not prove the respondent's intention of maligning the image of anyone. This is a baseless allegation without any concrete evidence submitted by the complainant.*
- *It is a fact that the respondent has received a hard copy of the Special Audit Report. There was no need to preserve the copy as proof, since the respondent did not have agUILTY mind and had no ulterior motive in circulating the copy to members of the Institute.*
- *The respondent will disclose the names of the members who had received hard copy at the appropriate time.*
- *It is the responsibility of the complainant to give all proofs and not the responsibility of the respondent.*
- *When elections take place majority are interested in it. The complainant himself has sent so many mails for canvassing his political ambition. The fact that none of the other CMA friends have circulated does not mean that only the respondent has political motive.*
- *Since there was no ulterior motive on the part of the respondent, there was no question of enquiry. Further, there were many e-mails floating in the groups as well as the minutes of the WIRC meeting where the complainant was found wanting in many issues of WIRC circulated officially by the then Treasurer of WIRC.*
- *If the report was marked 'confidential', it should not have been available to the public at large. The complainant should have filed a complaint against all CCMs and staff of the Institute. The respondent did not know anybody in the Council.*
- *The complainant is targeting the wrong person. He should target the Council Members.*

5. The written statement of the respondent was sent to the Informant for sending rejoinder on the same but no rejoinder has been received.



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

Phone : +91-11-24622156-57-58
Website : www.icmai.in

6. The Director (Discipline) vide his prima- facie opinion dated 17/08/2019 stated that on perusal of the Information and written statement, it is observed that there was nothing on record to prove the allegations against the respondent and the complainant has not been able to adduce any evidence regarding the same.

On perusal of the complaint, written statement, related material on record and in totality of all the facts and circumstances of the case, prima facie opinion of the Director (Discipline), Board arrived at the conclusion that the Special Audit Report on the financial Statements of WIRC for the financial year 2013-14 signed by Mr. Rajendra Ponkshe, RR Ponkshe & Co. Chartered Accountant on 18th May, 2015 was placed at the 293rd Meeting of the Council held on 20th May, 2015. The report was allegedly circulated by the respondent on 30th May, 2015. Hence, the Board could not find any breach of confidentiality by the respondent as alleged by the Informant.

Further, the same matter was closed by the Disciplinary Committee in the matter of Com/21-CA 34A/2015 Shri Ashish P Thatte Vs. Shri Bharat Nuti, the matter may be closed in accordance with Rule 9(3) (a) of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.

Accordingly, the complaint stands disposed off.


Presiding Officer