



# 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

Complaint No. Com/21-CA(23)/2014

Shri Ravi Sahni (M/16339)----- Complainant

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

### ORDER

Dated 12/06/2020

1. A complaint dated 27/12/2014, in Form- I was filed under Section 21 of the Cost Accountants Act, 1959, ("the Act") read with Sub- Rule (1) of Rule 3 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, ("the Rules), by Shri Ravi Kumar Sahni (hereinafter referred to as 'the Complainant'), against CMA Shri Vijender Sharma (M/18513), (hereinafter referred to as 'the Respondent').
2. The Complainant *inter-alia* stated/alleged that:-
  - I. CMA Vijender Sharma has paid /agreed to pay and allow, directly or indirectly, brokerage in the professional fees to a person other than the member of the Institute (salaried employee(s) of the company) to source and retain professional work in the company M/s Bellsonica Auto Components India Private Limited, Haryana, India (contravention of Para (2) of part I of first schedule (professional misconduct in relation to cost Accountants in practice) annexed to the Cost and Works Accountant Act, 1959.
  - II. CMA Vijender Sharma has accepted a position as a cost accountant previously held by another cost accountant in the company M/s Bellsonica Auto Components India Private Limited, Haryana, India, without first communicating with him in writing willingly and deliberately at lower fees so as to constitute undercutting. (Contravention of Para (8) of part I of first schedule (professional misconduct in relation to cost Accountants in practice) annexed to the Cost and Works Accountant Act, 1959.



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- III. CMA Vijender Sharma while acting as elected Chairman of Northern India Regional Council (hereinafter referred as Region Council) w.e.f 26 July 2014 made a force and illegal use of public office for his personal gain and has been found conducting gross professional misconduct in the following manner
- a) He terminated, appointed, transferred, gave increment to Staff without any power assigned to him by the Regional Council violating Regulation 126 of the CWA Regulation 1959.
  - b) He constituted, committee at his own sweet wish without any reference to or approval of the Regional Council violating Regulation 127 and has been trying to enforce illegal decisions of the Committees on the Regional Council and its elected members. (Multiple violations)
  - c) He has expended funds of the Regional Council without any authorization by the Council violating Regulation 132 of the CWA Regulation, 1959 (Multiple violations)
  - d) He did not implement any decision of the Regional Council Meeting held on 19.09. 2014 and used his undue influence and coercion to cancel the meeting after issue of notice of the meeting was duly issued by the Secretary NIRC, as required under extant rules. By doing so he has abused the public office and democratic setup of the Regional Council of the institute and is guilty of professional misconduct. (Multiple violations)
  - e) Without any expressed authorization from the Regional Council, he has been forcibly occupying the public offices of the Secretary and Treasurer of the Regional Council by the denying them the access to the books of accounts and vouchers and other official documents thereby preventing the Secretary and Treasurer from performing their statutory duties by approving and releasing payments finalizing tenders, contact, etc. himself, without any express approval of the Council, despite regular questioner letters/ mails/ requests/ complaints sent to him by Secretary and Treasurer with copies marked to all Regional Council Members, Central Council Member, President, Vice- President and Director (Discipline). (Multiple violations)
  - f) During members meet held, which was called by him against Draft Cost Audit Rules, he made great nuisance and broken the Glass and TV of the Institute along with members and abused the then President publically thereby bringing disrepute to the Institute and profession. (Contravention of Para (2) of Part IV of First Schedule (other misconduct in relation to members of the institute generally) annexed to the Cost & Works Accountants Act, 1959.





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- g) He announced various programmes, visits chapters, made expenditure from the funds of the Regional Council without any express approval of the Regional Council thus violated Regulation 132 of the CWA Regulations.
- h) He directed the staff members not to provide or give any information/show any document to any Regional Council member.(Multiple violations)
- i) On repeated demands, he could not produce any minutes of approval duly signed by the Regional Council Members authorising him to do all above acts at his own.

Being a Fellow Cost Accountant, he is supposed to follow the CWA Act, Rules and Regulations which has been violated at large by him thus using public office as personal office with the inferior motive of personal gain and due to his various acts, the profession and Institute was defamed and Council could not work properly and democratically. He is therefore guilty of Professional Misconduct under the various clauses as mentioned earlier vide First and Second Schedule annexed to the Cost and Works Accountant Act, 1959 and Rules framed there under.

- 3. The respondent was intimated vide letter dated 13<sup>th</sup> January, 2015 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.
- 4. The respondent vide his letter dated 24/01/2015 denied the allegations made against him and stated inter alia as below:-

The complaint is baseless, roving, frivolous and politically motivated. The allegations are denied. We are auditor for M/s Bellsonica Auto Components India Private Limited Haryana, since 2011, when it was covered for the Cost Audit for the first time. The question of communication with the previous auditor does not arise. The issue was raised by Mr Ravi Sahni in the Regional Council Meeting held on 17th January 2015 and his note of dissent was agreed to be taken on record. Mr Ravi Sahni is first time elected member of the NIRC and may not be fully aware about the procedure for the conduct of business. All matters/ decisions are as per the Regulations and resolved in the meeting with majority. It seems that the member has approached the DC with a view to create sensation and score unwarranted political point. Further bringing in frivolous issue of professional competition is in bed taste and bad in law. Every decision taken by the Regional Council is to be taken by majority as per Rules. The issues raised in the instant case have been taken on record and all decisions taken by majority. Also this matter is not related to one individual (Vijender Sharma) but Regional Council. I do not wish to press for defamatory action as he is a colleague in the Regional Council and may be





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ignorant on the matters of procedures. The matter therefore may be treated accordingly and closed.

5. The written statement of the respondent was sent to the complainant vide letter dated on 10<sup>th</sup> February, 2015 for sending rejoinder on the same.
6. In rejoinder/addendum dated 2<sup>nd</sup> March, 2015 Shri Ravi Sahni had mentioned the following:

The reply given by Mr Sharma is incomplete, vague, unjustified and attempt to disown the responsibility for Misdeeds carried out by him, hence not acceptable. In addition my earlier complaint dated 27 December 2014 the following matters may also be incorporated at serial number 5 against item number 3.

CMA Vijender Sharma while acting as elected Chairman of NIRC w.e.f 26/07/2014, made a forced and illegal use of public office for his personal gains and has been found conducting gross professional misconduct in the following manner :

- j) He appointed one external agency named Swastik Consultancy for doing career counselling for promoting CMA course amongst budding students of class 12th and onwards without, explicit approval of the Regional Council of the Institute and without checking the credentials of the firm and without entering into a proper agreement with the firm, ostensibly in a bid to favour someone. This agency allegedly conducted some career counseling sessions which were also publicized by means of official organ NIRC News of the Northern India Regional Council of the Institute. The Treasurer NIRC (myself) while doing the routine verification of the same found lack of transparency, glaring gaps and irregularities in the manner such counselling sessions were claimed to have been conducted by the agency. Detailed information was called from and NIRC and the agency. Under written directives of the Chairman, Shri Vijender Sharma none of the information was provided and access to the books of account of NIRC were denied to Secretary and Treasurer NIRC. While unable to receive further information/ details, Secretary NIRC resorted to direct confirmation procedure and wrote request letters under his signature to all school and colleges where sessions were claimed to have been conducted. Written confirmation have been received from a number of schools confirming that actually no career counseling sessions were conducted in their school on the date claimed by the agency and admitted and duly paid by NIRC to the agency clearly suggesting some foul play. In a bid to prevent and block the Treasurer NIRC (Ravi Kumar Sahni the complainant) from further investigating the case, a false and misleading case of sexual harassment was filed by one of the counselor of the agency, which has since been decided in the favour of the Treasurer NIRC by ICC formed for investigation of the case by the Institute of Cost Accountants of India. The agency was operating from four different addresses and even the PAN details did not match with the name of the agency, no agreement between the agency and NIRC could be produced. Mr Vijender Sharma was quite aware of the facts and was also cautioned by Ravi Kumar Shani but instead of taking cognizance of the seriousness of the matter, he tried and ensured to protect the external agency for reasons





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better known to him and allowed NIRC to suffer loss of funds in a clear bid to give benefit to external agency with inferior and malafide intention.

Credible evidence is available with the complainant for the illegal gratification made by Vijender Sharma to the employees of the said company, which shall be produced at the appropriate time. Mr. Vijender Sharma is advised to read the law carefully the word stated in the statute are a **position as a Cost Accountant previously held by another Cost Accountant**. Please notice the words stated are "**Position**" and not "**Auditor**". Moreover for the sake of the clarity it may be informed that the Complainant was firstly appointed as Cost Auditor of the company at a fee of rupees 5 lacs per annum, the same assignment was accepted by Mr Vijender Sharma at almost 1/4 of the fees subsequently, which may be got verified from the records. The copy of Ringi or approval letter of the management for the same is available with the Complainant and Shall be produced in the due course. This is a clear admission of fault by Mr Vijender Sharma. The note of dissent issued/ raised by the complainant does not give a clean chit to the defaulter Mr Vijender Sharma nor he stands cleared /absolved of all his false and misdeeds. The matter prevails as it was. Getting elected first time does not mean and confirm lack of knowledge. Law is not slave of experienced. Ignorance of law is not an excuse even for an experienced person like Mr Vijender Sharma rather it proves willful violation at his end as he was well versed with law, as claimed by him. None of the matter/ decisions was as per the Regulations and therefore nothing could be resolved in the meetings as claimed. The complainant has approached DC as a alternative resort as all earlier resources like personal counseling, making repeated complaints to regional colleagues in Regional and Central Council, President, Vice-President did not entail any response and may be construed as an intervening point, after which Legal Recourse would follow and the last remedy available. Being a sensible and responsible Council member and ordinary member of the Institute, the complainant wished to exploit the internal avenues available for redressal of grievances. Bringing the inside stories out straightaway and making it know to general public and other stakeholders may not be in good taste and may also impact the reputation of our esteemed profession. The Misdeeds and willful violation committed by Mr Vijender Sharma rather are not in good taste.

His claim that all his earlier acts done violating the CWA Act, Rules and Regulations were subsequently justified by the Regional Council meeting is totally wrong. No member commented on any point and the minutes were finalized after considering view points of all ,with clearly proves that the Chairman acted without any authority of the Regional Council, deprived Secretary and Treasurer to function, misutilise funds, expended funds of the Council without any explicit approval, declared programs without any pre-sanction of programs budget by the Council and it is still continuing the same. If all the decisions were taken by majority, as claimed by Mr Vijender Sharma, he is once again requested to provide the duly certified copies of the minutes of such decision of the Council for all acts and deeds done by him on behalf of the Regional Council, as detailed in our complaint dated 27th December 2014. The point wise allegation made by the complainant therefore, stand valid and there is not justification of document available with the respondent to justify the allegations whereas we have a number of documents and proves available with the complainant. The wrongs





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done earlier are attempted to be justified by manipulating minutes of 17th January 2015 whereas all the acts have been done without any approval of the Regional Council and in autocratic style by killing the democracy at NIRC. The matter is clearly related to Mr Vijender Sharma and his willful violation of law and misdeeds. In case he still feels that the complainant is ignorant of law and procedure, he may kindly enlighten him. The issues raised and the matter discussed is of high importance and content having substantial impact on the reputation and self-esteem of our profession and its Council members, hence, it is to be addressed by the disciplinary directorate with utmost care, urgency and transparency.

7. The rejoinder/addendum of the complainant was sent to the respondent vide letter dated 31<sup>st</sup> March, 2015 for sending his response to the same.
8. In this connection, following information were also sought from the Complainant vide letter dated 2<sup>nd</sup> April, 2015
  - a. The detailed address of M/s Bellsonica Auto Components India Pvt Ltd
  - b. A copy of work Order/Letter of Intent/Appointment Letter issued to m/s Swastik consultancy which was engaged for career counseling and promotion of CMA Course as stated in your complaint.
9. In this connection, following information were also sought from the respondent vide letter dated 2<sup>nd</sup> April, 2015.

Copy of the letter of appointment which was received by him for the first time from Bellsonica Auto Components India Pvt Ltd as also copies of Form 23C & Form 23D for that particular year.

10. The complainant vide his letter dated 15/04/2015, provided the address of M/s Bellsonica Auto Components India Pvt Ltd and regarding work order, he mentioned that the same has not been provided to him or any of the Regional Council members and also the ICC constituted by the Institute despite repeated requests and reminders, therefore the same is not available with the undersigned.
11. The respondent, vide his letter dated 19/05/2015 stated that :

In this regard I wish to bring to your kind notice that it has been more than 6 months since the complainant has not been able to furnish the details/ Proofs of allegations against me. It becomes utmost important for me to reply only after getting /seeing the proof of allegation against me by the complainant. You will appreciate that ample time was available with the complainant to furnish the records and substantiate the allegations against me. But as they are baseless, false and with intent to malign my professional and public image, I hereby





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earnestly appeal to debar his membership and set exemplary example so that no one in future can try to damage or assassinate professional image of any member. Last but not the least, the complainant is adding new points as per his whims and fancies without giving proof of allegation. My humble submission is that this cannot be allowed.

12. In this connection, Director (Discipline) vide his letter dated 23/09/2015 asked the Complainant to produce cogent evidence with supporting documents in support of his allegations.

13. Complainant vide his letter dated 15/12/2015 stated that:

<p>CMA Vijender Sharma has paid /agreed to pay and allow, directly or indirectly, brokerage in the professional fees to a person other than the member of the Institute (salaried employee(s) of the company) to source and retain professional work in the company M/s Bellsonica Auto Components India Private Limited, Haryana, India (contravention of para (2) of part I of first schedule (professional misconduct in relation to cost Accountants in practice) annexed to the Cost and Works Accountant Act, 1959.</p>	<p>Live evidence is available with the complainant for the illegal gratification made by Mr. Vijender Sharma to the employee (s) of the said company.</p> <p>It will be confirmed by then salaried employee (s) of the company in person, which shall be produced at the personal hearing as and when called by your Directorate.</p>
<p>CMA Vijender Sharma has accepted a position as a cost accountant previously held by another cost accountant (the undersigned) in the company M/s Bellsonica Auto Components India Private Limited, Haryana, India, without first communicating with him in writing willingly and deliberately at a lower fees so as to constitute undercutting. (Contravention of para (8) of part I of first schedule (professional misconduct in relation to cost Accountants in practice) annexed to the Cost and Works Accountant Act, 1959.</p>	<p>No communication has been made by Mr Vijender Sharma with the undersigned before accepting a <b>position is a Cost Accountant previously held by another Cost Accountant</b> (the undersigned) in the company M/s Bellsonica Auto Components India Private Limited Haryana, in case it is claimed to have been <b>made has to be provided by Sh. Vijender Sharma and NOT by the undersigned.</b> It is therefore requested to direct Shri Vijender Sharma to provide proof of communication available with him if any.</p> <p>It may also be relevant to mention here that in response to your letter dated 02/04/2015, requesting me to provide details of the company, your good office has already been provided the details of the company and a direct communication has been preferred with the company by your good office which was aimed at directly confirming the facts and the same has</p>





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	since been done, as per my information, therefore it seems highly illogical and serves no logical purpose to ask these details from me again. It appears that your directorate is trying to protect the guilty and or waste the time to delay the justice by raising illogical carries unnecessarily.
CMA Vijender Sharma while acting as elected Chairman of Northern India Regional Council (hereinafter referred as Region Council) w.e.f 26 July 2014 made a force and illegal use of public office for his personal gain and has been found conducting gross professional misconduct in the following manner	Explained in greater detail
<p>He terminated, appointed, transferred, gave increment to Staff without any power assigned to him by the Regional Council violating Regulation 126 of the CWA Regulation 1959.</p> <p>He constituted, committee at his on sweet wish without any reference to or approval of the Regional Council violating Regulation 127 and has been trying to enforce illegal decisions of the Committees on the Regional Council and its elected members. (Multiple violations)</p> <p>He has expended funds of the Regional Council without any authorisation by the Council violating Regulation 132 of the CWA Regulation, 1959 (Multiple violations)</p>	<p>Already admitted by shri Vijender Sharma and your Directorate</p> <p>Credible evidences available, Minutes of the meeting of the NIRC for the relevant period, may be referred.</p> <p>NIRC in its recent meeting has found Shri Vijender Sharma guilty of spending Council Funds without approval of the Regional Council illegally and debited his account by 41.00 lakhs, the details may be got confirmed from NIRC. Owing to the above reasons, accounts of the NIRC could only be finalized with the intervention of HO and deputation of officers from HO, that too with delay of more than 3 months. Enclosed please find the relevant portions of the Statutory Auditor's Report for the year 2014-15 of the NIRC. These funds of the Council were primarily spent by Shri Vijender Sharma to promote and support his candidature as a candidate for elections to the Central Council which were due few weeks later.</p>





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He did not implement any decision of the Regional Council Meeting held on 19.09. 2014 and used his undue influence and coercion to cancel the meeting after issue of notice of the meeting was duly issued by the Secretary NIRC, as required under extant rules. By doing so he has abused the public office and democratic setup of the Regional Council of the institute and is guilty of professional misconduct. (Multiple violations)

Without any expressed authorisation from the Regional Council, he has been forcibly occupying the public offices of the Secretary and Treasurer of the Regional Council by the denying them the access to the books of accounts and vouchers and other official documents there by preventing the Secretary and Treasurer from performing their statutory duties by approving and releasing payments finalising tenders, contract, etc. himself, without any express approval of the Council, despite regular questionnaire letters/ mails/ requests/ complaints sent to him by Secretary and Treasurer with copies marked to all Regional Council Members, Central Council Member, President, Vice- President and Director (Discipline). (Multiple violations)

During members meet held, which was called by him against Draft Cost Audit Rules, he made great nuisance and broken the Glass and TV of the Institute along with members and abused the then President publically thereby bringing disrepute to the Institute and profession. (Contravention of Para (2) of Part IV of First Schedule (other misconduct in relation to members of the institute generally) annexed to the Cost & Works Accountants Act, 1959.

Considered accepted by the Directorate in absence of any queries/comments.

These facts have already been established after the detailed qualified report given by the statutory auditor of the NIRC for the year 2014-15. Ostensibly, all these deliberate practices of preventing the Secretary and Treasure from performing their statutory duties by approving and releasing payments, finalizing tenders, contracts, himself was aimed at supporting his malafide intention of using and spending Council's funds to support his candidature for Central Council during the months of June, 2015.

Eve witnesses, who are members of the institute and were present at the occasion are available and shall be requested to be present at the personal hearing/meeting in due course.

Ostensibly, all these deliberate practices of preventing the Secretary and Treasure from





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<p>He announced various programmes, visits chapters, made expenditure from the funds of the Regional Council without any express approval of the Regional Council thus violated Regulation 132 of the CWA Regulations.</p> <p>He directed the staff members not to provide or give any information/show any document to any Regional Council member.(Multiple violations)</p> <p>On repeated demands, he could not produce any minutes of approval duly signed by the Regional Council Members authorising him to do all above acts at his own.</p>	<p>performing their statutory duties by approving and releasing payments, finalizing tenders, contracts, himself was aimed at supporting his malafide intention of using and spending Council's funds to support his candidature for Central Council during the months of June, 2015.</p> <p>The autocratic letter issued by Shri Vijender Sharma, then Chairman, NIRC dt. 12/08/2014 is enclosed</p> <p>No such approval were given to him, hence no such minutes are available with him.</p>
<p>Being a Fellow Cost Accountant, he is supposed to follow the CWA Act, Rules and Regulations which has been violated at large by him thus using public office as personal office with the inferior motive of personal gain and due to his these various acts, the profession and Institute was defamed and Council could not work properly and democratically</p>	<p>Ostensibly, all these deliberate practices of preventing the Secretary and Treasurer from performing their statutory duties by approving and releasing payments, finalizing tenders, contracts, himself was aimed at supporting his malafide intention of using and spending Council's funds to support his candidature for Central Council during the months of June, 2015. By including himself in all these unethical practices, he has defamed the Institute and the profession in general.</p>
<p>He is therefore guilty of Professional Misconduct under the various clauses as mentioned earlier vide First and Second Schedule annexed to the Cost and Works Accountant Act, 1959 and Rules framed there under.</p>	<p>The issues raised above are well supported by the credible evidences available on record and the matter discussed is of high importance and content having substantial impact on reputation and self esteem of our profession and its council and general members, hence it is to be addressed by the Disciplinary directorate with utmost care, importance, urgency and transparency. A strict penal action is prayed to safeguard the broader interests of the Institute and profession.</p>





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14. In this connection, following information were also sought from the Bellsonica Auto Components India Private Ltd. vide letters dated 17/11/2017 and 07/08/2018.

- (i) Whether your company is subject to cost audit.
- (ii) If your answer to the above is in affirmative, the first year when it was subjected to cost audit.
- (iii) Who were your cost auditors from the year when it was subjected to cost audit?
- (iv) Who were the cost auditors of your company since FY 2011-12 till 2015-16?
- (v) Who are your cost auditors for the current financial year?
- (vi) Has there any time been change in cost auditors from the time, the company became subjected to cost audit.

15. The General Manager- Corporate Management, Bellsonica Auto Components India Private Ltd. Vide his letter dated 29/09/2018 confirmed that the Cost audit is not applicable on Bellsonica Auto Components India Private Ltd.

16. In this connection, Director (Discipline) vide his letter dated 12/03/2020 asked the Complainant to produce cogent evidence with supporting documents in support of his allegations and copy of letter of appointment as Cost Accountant which was received by him for the first time from Bellsonica Auto Components India Private Ltd. But till date no reply has been received.

17. In this connection, following information were also sought from the Bellsonica Auto Components India Private Ltd. vide letters dated 12/03/2020

- (vii) Whether your company is/was subject to cost audit.
- (viii) If your answer to the above is in affirmative, the first year when it was subjected to cost audit.
- (ix) Who were your cost auditors from the year when it was subjected to cost audit?
- (x) Who were the cost auditors of your company since FY 2011-12 till 2015-16?
- (xi) Who were your cost accountants since FY 2010-11 to 2015-16?
- (xii) Details of fees paid to the above mentioned Cost Accountants and Cost Auditors.

18. The above-mentioned Complaint has been examined in pursuance of Section 21 of the Cost and Works Accountant Act, 1959 as amended in 2006 read with Rule 9 of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007. 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.





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19. In view of totality of all the facts and circumstances of the case and after detailed deliberations, the Board held that the complaint lacks merit and decided to order for closure of the matter 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 and inform the Complainant and the Respondent accordingly.

Accordingly, the complaint stands disposed off.

  
Presiding Officer