



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

In the matter of:- Complaint No Com/21-CA(39)/2016

CMA Debjit Sanyal (M/27937)----- Complainant

V/s

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

ORDER

Dated 15/05/2020

1. A complaint dated 18/02/2016, 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 Debjit Sanyal (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 CMA CMA Vijender Sharma while working as Chairman during 2014-15 made wrong use of public office for his professional gain and has been carrying gross professional misconduct in following affairs:-
 - i) *During his tenure as Chairman during 2014-15 made wrong use public office for his personal gain and has been carrying gross professional misconduct in following affairs*
 - 1) *He has mentioned in his website/ election advertisements/ firm CV/ orally that he is empanelled with SFIO/CBI/EOW and various high end government investigation agencies with an intention to make personal benefit /election benefit by making use of these government agencies. The SFIO has made it clear that it has no such procedure / provision of any such empanelment. Thus he has not only broken the Election Code of Conduct but also violated the ethical code of conduct as a Cost Accountant, as a Cost Accountant in Practice and as a member of the Institute. CWA regulation is also violated.*



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- 2) *During council election 2015 Mr. Vijender Sharma directly and indirectly used a web site called aicmas.com for his election campaigning. Several emails to the members and voters of this aicmas.com recommended his name to Vote for. Sadly this aicmas.com is registered in the name and address of the Institute. This was not only against election code of conduct but also an instance of using institute's name and resources for personal benefits. Such malpractices are not expected from an esteemed member and dignitary of the Institute.*
- ii) *Being a Fellow Cost Accountants, he is supposed to follow the CWA Act, Rules and regulations which has 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. He is therefore guilty of professional misconduct.*
3. The respondent was intimated vide letter dated 16th March, 2016 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 31st March, 2016 denied the allegations made against him and stated inter alia as below:-
- i) *As per Section 101 of the Indian Evidence Act, 1872- Burden of proof- Whoever desires any Court to give judgement as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person. In the absence of any evidence, he has no comments to offer.*
- ii) The Respondent further stated that:-
- As per the submission of complaint without any supporting documents is vague, it is acknowledged by the complainant that he has failed to produce any documentary evidence to establish his claim. He further added that as per CWA Act section 36 "No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council or the Authority or the Disciplinary Committee or the Tribunal or the Board or the Board of Discipline or the Disciplinary Directorate or any officer of that Government, Council, Authority, Disciplinary Committee, Tribunal, Board, Board of Discipline or the Disciplinary Directorate, for anything which is in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made there under."*
- iii) *The Complaint has totally frustrated due to his defeat in election and has approached the DC with a view to take political mileage and trying to make*



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DC as tool of revenge. 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 11th April, 2016 for sending rejoinder on the same.
6. In rejoinder dated 2nd May, 2016 Shri Debjit Sanyal had enclosed the following documents:-
 - i) NIRC Audit report (clearly mentioning that financial irregularities like payments without approval, appointment without approval, capex without approval, revised notes on accounts have not been submitted before the auditors, loans and advances without approval, internal control not commensurate, chairman dissented, career counsellor appointed without approval- prima facie the audit report is not only qualified but also enough an indicator that through investigation is needed.
 - ii) Email of Mr. Vijender Sharma to the NIRC Auditor Mr. M K Agarwal and a note carrying "Important facts for the notice of Members"- clearly stating that there are financial irregularities to the tune of Crores of Rupees. Copy of this mail and note was distributed among the members in the AGM, by Mr. Vijender Sharma the then Chairman.
 - iii) Debit Note of Rs. 41,00,000/- on Mr. Vijender Sharma, raised by NIRC of ICAI-CMA, after making preliminary enquiry.
 - iv) Police complaint no
 - a) DD No 21B dated 18/07/2015 at Lodi Road police Station, Delhi
 - b) D-5695 dated 10/08/2015 at Economic Offence Wing, Mandir Marg, Delhi
 - c) DD No 36B dated 27/11/2015 at Lodi Road police Station, Delhi
 - d) Email from Commissioner of Police, Delhi police dated 22/12/2015
 - e) DD No 17B dated 01/12/2015 Lodi Road police Station, Delhi
 - v) Copy of letter dated 07/01/2016 written to the president, ICAI- CMA, 3, Institutional Area, Lodi Road, New Delhi, with email copy to all Central Council Members, all Regional Council Members of NIRC, Chairman NIRC, Secretary MCA, Director SFIO, DCP EOW, Deputy Chief Minister of GNCT.
 - vi) Copy of letter dated 31/12/2015 written to the Secretary, MCA, GOI with further copy to the President of ICAI, 12, Sudder Street, Kolkata.
7. The Director (Discipline) vide his prima- facie opinion dated 17/08/2019 stated that on perusal of the Complaint, written statement and rejoinder of both the parties, Director (Discipline) observed that as per the last Para of the Report of the Committee which has been constituted by the Council in its 300th Meeting held on



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21st July, 2016 "Hence the question of any claim or debit note on the concerned members does not arise. Reverse entry should be passed immediately by the Finance directorate to show the true and correct position in its accounts."

8. The Board of Discipline perused that the Council of the Institute at its 316th meeting issued directions to the Northern India Regional Council of the Institute under Regulation 145A of the Cost and Works Accountants Regulations, 1959) clearly directing to nullify, cancel and withdraw the debit notes raised on Shri Vijender Sharma from the books of accounts of the Northern India Regional Council of the Institute with effect from 28.09.2018 as these debit notes lack merit. The accounts containing debit notes adopted / to be adopted / circulated/ to be circulated to the members containing there in these debit notes are totally against the directions of the Council under Regulation 145A issued to the Northern India Regional Council of the Institute.

The Board perused that in accordance with the decision taken in the 316th Council meeting, debit notes raised on Shri Vijender Sharma by the Northern India Regional Council of the Institute have no merit and these debit notes are hereby nullified, cancelled and stand withdrawn from the accounts of Northern India Regional Council of the Institute and also from the consolidated accounts of Institute with effect from 28/09/2018.

On perusal of the complaint, written statement, rejoinder, prima facie opinion of the Director (Discipline), related material on record and in totality of all the facts and circumstances of the case, the Board 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