



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(75)/2019

Shri Partha Sarathi Mistry -----Complainant

CMA Biswarup Basu (8237)-----Respondent

ORDER

Dated 12/06/2020

1. A complaint dated 25/06/2019, 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 Partha Mistry (hereinafter referred to as 'the Complainant'), against CMA Biswarup Basu (M/8237) (hereinafter referred to as 'the Respondent').
2. The Complainant *inter-alia* stated/alleged that the Respondent:
 - I. Shri Biswarup Basu is a bonafide Member of the Institute
 - II. On 29th June 2010, he made a complaint against a member mentioning voucher number and cheque number of the Institute. It proves that he was having information about voucher and cheque number either on mentioned date or earlier
 - III. On 2nd November, 2011, Institute has mentioned (vide RTI) that cheque number etc. only provided to the recipient but not others and no information was provided to anyone on or prior to 29th June, 2010
 - IV. It proves that Mr Basu managed to receive information by some illegal path, which attracts disciplinary action against him.
3. The respondent was intimated vide letter dated 1st July, 2019 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.



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

4. The respondent vide his letter dated 18/07/2019 denied the allegations made against him and stated inter alia as below:-
- I. That it is fact that I am a Bonafide member of the Institute of Cost Accountants of India
 - II. That a complaint has been made against me by Sri Partha Sarthii Mistry, who is not a member of our Institute.
 - III. That the complainant has stated that I had made a complaint against a member mentioning voucher number and cheque number of the Institute. The said fact is vehemently denied and disputed. It is matter of record that no such complaint was made against a member. The complainant has not annexed any documentary proof to establish his frivolous complaint.
 - IV. The complainant has annexed a letter dated 16th July, 2010 addressed to the undersigned by the Public Information Officer of the Institute and copy of the same was marked to Shri Pratyush Sarkar, APIO, EIRC of ICWAI. It is surprising to note that how the complainant managed to collect such document which clearly establishes that complainant has not come with clean hands and it is unfortunate that the disciplinary mechanism is being misused.
 - V. That it is also annexed by the complainant the letter of Institute dated 2nd November, 2011 the copy of RTI application of the undersigned dated 29th June, 2010 which are the documents of the Institute and thus is not available to any third party.
 - VI. Moreover, making a RTI application fulfilling the RTI Act, 2005 does not tantamount to misconduct.
- In the above circumstances you are requested to drop the proceeding against the undersigned and initiate the action against the complainant to victimize the whistle blower.
5. The written statement of the respondent was sent to the complainant vide letter dated 18th July, 2019 for sending rejoinder.
6. The Complainant vide his letter dated 12/08/2019 submitted his rejoinder and stated inter alia as below:-

In point number 1. Mr Basu mentioned that he is a bonafide member of the Institute, which I also mentioned. As per Act and Rules of the Institute is any bonafide member has the right to do malpractice?

In point number 2. Mr. Basu mentioned that I am not a member of the Institute. Please refer to my original complaint, where I never mentioned that I am member of the Institute. Further I am requesting you to respond that whether any Indian citizen has the right or not to complain against an apparent Malpractice committed by a bonafide member

In point number 3. He mentioned that I hav not attached any documentary proof which is not correct. How Mr Basu made sure that I am not correct. So it is proved that Mr Basu is misusing his administrative power from his chair in the judicial activity/ process. So it is confirmed that Mr Basu and Secretary of the department misusing their power with their malafide intention.



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

In point number 4 and 5. He mentioned that documents placed by myself were managed by me, where I clearly mentioned that I received all these documents from reliable source and as a proud Indian, I have right to show/ place improper action committed by present Council member and Vice President of the Institute.

In point number 6. He mentioned that RTI does not tantamount to misconduct but the reply to the said RTI clearly reflects his activity during that period as a member of the Institute. RTI is a process which is governed by law and depicted by Government of India. Hope the committee will judge the fact and take proper action.

7. It was noted that Mr. Basu has not made any complaint against any member on that date as has been alleged by the complainant.
8. 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.
9. 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