



# 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(78)/2019 :

CMA Shri Ravindra Dubey -----Complainant

Vs

CMA Shri Sudeep Saxena (M/30265)-----Respondent

Order  
06/07/2020

1. Shri Ravindra Dubey filed a complaint dated 29<sup>th</sup> August, 2019 against CMA Shri Sandeep Saxena (M/30265) in Form I along with requisite fee which was registered vide Complaint No.Com/21-CA (78)/2018.
2. The complaint was made on the following ground:
  - i. Being outstanding dues of Indore Dewas Chapter against CMA Sudeep Saxena since December 2017 till May 2019, his membership is to be declared vacated as per clause 10(2) of Chapter's Bye-Laws.
  - ii. Being outstanding dues as on 01/10/18 against CMA Sudeep Saxena, his Election as committee member for the term 2019-23 is to be declared as null and void.
  - iii. Due to filing of wrong declaration in the nomination form for election of Chapter for the term 2019-23. CMA Sudeep Saxena is guilty for professional Misconduct as per Second Schedule, Part II, clause (1) and (3) of The Cost & Works Accountants Act, hence the name of CMA Sudeep Saxena be removed from the register permanently and fine be imposed as may think fit as per section 21B of Cost & Works Accountants Act.
  - iv. Being outstanding dues against CMA Sudeep Saxena as on 01/10/18, election as committee members of the candidates, whose name was proposed and or seconded by CM Sudeep Saxena or any of the members whose dues was outstanding as on 01-10-2018, for the term 2019-23 be declared as null and void





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3. The respondent was intimated vide letter dated 04/09/2019 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.

4. The respondent vide his letter dated 02/10/2019 denied the allegations made against him and stated inter alia as below:-

The allegations made in para No. 1 are- "Dues of nomination fees for election for the term of 2017-19 was outstanding against CMA Sudeep Saxena since December 17 till May 2019, therefore their membership should be deemed to be vacated as per clause 10(2) of Chapter's Bye-Laws Until and unless he files fresh request for membership" whereas the truth is that the nomination fees was duly paid vide Demand Draft Number 266423 dated 10/10/2017 and the receipt for the same duly issued by the Chapter Office on 11/10/2017. The copy of the receipt is enclosed for reference (Annexure-I). Further as per the Negotiable Instruments Act, a Demand Draft is a prepaid instrument where the drawee Bank undertakes to make payment in full when the instrument is presented by the payee for payment. And hence on due submission of the Demand Draft to the Chapter and having obtained a valid receipt for the same I was absolved of my responsibility towards the payment of the nomination fee.

The allegations made in para No. 2 are- "These dues are also outstanding as on 01/10/2018, thus they are not eligible to cast vote and also to contest election for the term 2019-23 as per clause 19(2) of the Chapter's Bye-Laws. Contesting Election inspite of dues, falls under misconduct as per Second Schedule, Part, Clause (1) of the Cost & Works Accountants Act" whereas the truth is that I have duly paid the dues as mentioned in the response to point 1 above.

The allegations made in para No. 3 are- "After knowing the fact CMA Sudeep Saxena filed nomination for Chapter's Election with false declaration that no dues as on 1st October is outstanding against them. Filing wrong declaration falls under misconduct as per Second Schedule, Part II, clause (1) and (3) of The Cost & Works Accountants Act" whereas the truth is that I have duly paid the dues as mentioned in point No. 1 above and hence I was not in default of any fees and hence the declaration made by me in the nomination from was correct.

## Vital Submissions

1. That CMA Ravindra Dubey is acting on a personal vendetta against me and hence he has filed complaint on a completely baseless point.





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2. That, the mentioned DD is under Chapter's possession and has not been returned to me till date. This clarifies that I have already paid the fees and am not in default.
3. That, I have not revoked the Demand Draft and have not taken any steps for stopping the payment of the same.
4. That, in no way CMA Ravindra Dubey has been able to prove that I have an intent not to pay the fees.
5. That, I have used a prepaid instrument to pay the fees. As per the Negotiable Instruments Act, 1881, a Demand Draft is a prepaid Instrument, where the drawee Bank undertakes to make payment in full when the instrument is presented by the payee for payment.

And hence on the submission of the Demand Draft to the Chapter and having obtained a valid receipt for the same I was absolved of my responsibility towards the payment of the nomination fee.

6. That, this started with the election notification issued by the Election Officer of the Indore Dewas Chapter of ICMAI. The election officer, suo-moto removed my name and the name of 5 other members from the list of Voters without giving us any notice of the same, in his election notification dated April 16, 2019.

This clearly shows that the information was being deliberately kept hidden from me to be used against me at a suitable time and to stop me from participating in the democratic process. When I was informed about this by another member of the Chapter, I took the matter up with the Hon. Secretary, ICMAI and the HR Department. The department took notice of the facts behind the case and instructed the Chapter Election Officer to include the name of all the 6 members in the List of Voters Annexure-11). It is on the basis of the same that I contested the election.

7. That, as referred, there was only a mail sent to Shri Sachin Sanchora, the then Chapter executive on May 18, 2018. Please see that the contents of the mail instruct Shri Sachin Sanchora to submit the DD's under his possession to the Chapter Office. There was no communication made to me after that which led me to believe that the DD's must have been received by the Chapter and duly accounted for.
8. That, after the Internal Auditor pointed out the case of stale DD's in the meeting held on 30.03.2019, I requested the Chapter to return to me the DD and so that I can deposit the Amount immediately. However, no such action was taken by the Chapter



*[Handwritten signature]*



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Office Bearers including CMA Ravindra Dubey, who was then holding the position of the Vice Chairman of the Indore Dewas Chapter at that point in time.

This means that I have rightly paid the dues of the Chapter, in terms of nomination fees for election, the DD being a prepaid instrument.

9. That, the internal Auditor in his report annexed to the mentioned that the DD's have been returned to the members, but it was not the case as the DD's were under the possession of either the Chapter Office or CMA Sushil Mantri. But the same was never returned to me. The DD's are still under the possession of Chapter Office or CMA Sushil Mantri only.

This shows that the Office Bearers of the Chapter including CMA Ravindra Dubey, who was holding the position of Vice Chairman, deliberately held the information back from the Internal Auditor to induce him to write the report in a certain manner. Hence CMA Ravindra Dubey was not discharging his duties to the office properly.

10. That, without any authority and without passing the same through the Management Committee, the DD's be handed over to CMA Sushil Mantri. So, if CMA Ravindra Dubey has given the property of the Chapter i.e. the demand drafts of nomination, to any member without any approval of the managing committee, he as the Vice Chairman of the Branch, stands as a managing committee member in default of misusing the property of the Chapter office and hence the Institute.

11. That, there was not even a single formal communication or notice from the Indore Dewas Chapter regarding the payment of fees due on this account. And directly the names were removed. This shows the malafide intentions of the Office Bearers of that time which includes CMA Ravindra Dubey being the vice president, for the term 201819. The names were deliberately removed in an unlawful manner to detain a few members of the institute from contesting in a democratic process.

12. That, Considering the facts of the case, when an application was made to the Secretary ICMAI and the HR Department, the authorities reversed the suo-moto decision taken by the Office Bearers of the Indore Dewas Chapter of Cost Accountants and allowed myself, along with the other 5 members to vote and to contest in the elections. This shows that the grounds on which my name and the names of other members were removed were not valid.

13. That, when the list of voters was sent to HO for approval, the same might not have been backed by complete truth which led to this action, else the HO would have rejected this ground then and there itself. This poses a serious question as to the





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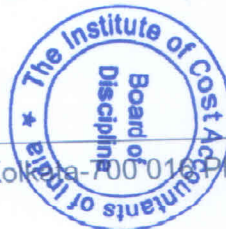
- sanctity of the decision taken by the Office bearers who have been involved in the process, including CMA Ravindra Dubey as the Vice-Chairman of the Chapter.
14. That, the Chapter Office Bearers could not deposit the same it is the sole responsibility of the Office Bearers of the committee including CMA Ravindra Dubey, who held the position of Chairman during the term 2017-18 and the position of Vice Chairman for the term 2018-19. Hence, CMA Ravindra Dubey stands in default for not discharging the duty of the post held by him.
  15. That, since the Demand Draft was not deposited in due course of time, I question the actions of the Office Bearers in the discharge of their duties. And since a formal notice was not issued before removal of my name from the list of voters, I accuse the then Chairman-CMA Surendra Agrawal, Vice-Chairman-CMA Ravindra Dubey and Secretary-CMA Rahul Jain of professional misconduct and sitting on an issue to be used in future for their personal benefits. Also, since the Demand Draft was never returned to me, as per the Negotiable Instruments Act, I was in due payment of the fees all this while.
  16. That, CMA Ravindra Dubey was not bothered to file such a complaint against the order issued by the Secretary, ICMAI on April 30, 2019 or at the time of result declared on May 26, 2019 in which I was elected as a member of the Managing Committee. He only took cognizance of the fact once the election of the Office Bearers was complete and lodged a complaint on September 2nd, 2019.

This shows that the act is undertaken only with one motive, since a learned and senior member like CMA Ravindra Dubey would have known the procedure already, and I request the Director (Discipline) to look into the reason for undue delay in the filing of this complaint.

17. That, CMA Ravindra Dubey has enclosed a copy of my Nomination Form along with the complaint. I want to know how CMA Ravindra Dubey happen to have the possession of the copy of my nomination form.

I have a statement on mail from the Chapter executive (who was the election officer) (Annexure-III), stating that he neither received any request for a copy of my nomination from CMA Ravindra Dubey nor did he have any instruction from any higher authority to that effect.

This clearly proves that CMA Ravindra Dubey has unlawfully acquired a copy of my nomination form. This proves that CMA Ravindra Dubey was in unlawful possession of





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the confidential documents of the Institute of Cost Accountants of India which in itself is a punishable offence.

And that he has used his position of Vice Chairman to illegally obtain the copy of my nomination form from the Chapter Office.

I humbly request the Director (Discipline) to look into the way CMA Ravindra Dubey obtained the possession of my nomination and take suitable action against him. if the same was done in an unlawful manner.

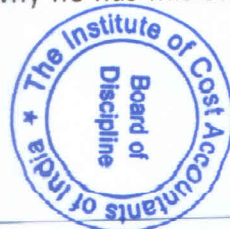
18. That, I urge the Director (Discipline) to instruct the local Chapter Office to File an FIR against CMA Ravindra Dubey for illegal possession and usage of a confidential document of the Institute of Cost Accountants of India.
19. That, CMA Ravindra Dubey has mentioned about a case filed against him by Mr. Fransis Fernandes. To my knowledge, Mr. Fransis Fernandes filed a case against CMA Ravindra Dubey and he has won the case in the Court of Law. He has duly filed a copy of the Decision made by the Court with an application to the Indore Dewas Chapter.

The Managing Committee, of which I was a part, discussed the matter and asked the reply of CMA Ravindra Dubey in the matter. CMA Ravindra Dubey orally mentioned, without submitting any documentary evidence of the same, that he has appealed against the referred decision in the higher court, and the decision is pending. The facts of the case were duly forwarded to the Secretary, ICMAI at that time, and the matter was left to his wise counsel.

That time we acted in good conscience and supported CMA Ravindra Dubey without him giving any proof of his innocence in the matter. Now, since he has made a baseless allegation against me, I humbly request the Director (Discipline) to ask CMA Ravindra Dubey the current status of the case. Also, since he was found guilty in the case and had just filed an appeal in the higher Court, isn't CMA Ravindra Dubey guilty till the time he is acquitted.

Again, CMA Ravindra Dubey is misleading the Director (Discipline) by stating that a case against Mr. Fransis Fernandes is pending. Actually, to my knowledge, the case is pending against CMA Ravindra Dubey.

I humbly request the Director (Discipline) to take cognizance of the matter and ask CMA Ravindra Dubey as to why he has misled the Director (Discipline) by making a false statement.





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20. That, Mr. Fransis Fernandes has, a number of times in the past, approached the members of the Institute against the conduct of CMA Ravindra Dubey. It is quite a possibility that CMA Ravidra Dubey may be misreading the instances and is trying to use it to his advantage in the election process.
21. That, I am attaching a copy of the application made by Mr. Fransis Fernandes (Annexure-IV) along with the Order of the Court for reference as a proof that CMA Ravindra Dubey has been found guilty by the court of law earlier also, and humbly request the Director (Discipline) to enquire if CMA Ravindra Dubey is still guilty of the offence, in which case, his membership may be terminated under PART IV (OTHER MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY) OF THE FIRST SCHEDULE U/S 21(3), 21A (3) AND 22, PART I-PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE, if he is found guilty of a Professional Misconduct.
22. That, the firm mentioned by CMA Ravindra Dubey (SRAVS & Co.) was dissolved long back and the dissolution deed has been duly filed to the Membership Department. However, due to some error on the part of the Membership Department, the same was showing in the online list of Membership Firms. The same has now been removed from the list of firms after a number of correspondences to Higher Authorities, including the President.
23. That, as referred in the complaint, CMA Ravindra Dubey mentioned about a mail sent by CMA Satish Gupta in which he is accusing candidates. I have not received the mail as Annexure in the bunch of documents sent to me, hence I am unable to comment upon the same.
24. That, CMA Ravindra Dubey is charging myself along with CMA Satish Gupta and CMA Aniruddh Gupta with illusionary reasons such as approaching the elected members and offer employment, etc. I request the Director (Discipline) to ask CMA Ravindra Dubey to submit proof before making a baseless allegation. Only a word that he fancies shall not suffice in making a complaint.

As a consequence, I submit that the allegations made by CMA Ravindra Dubey are based on twisted and misleading facts and he has tried to mislead the Director (Discipline) with a baseless and intentionally misleading complaint, giving partial information to the Director (Discipline). I humbly request the Director (Discipline) to quash the complaint and issue a warning to CMA Ravindra Dubey with a cost so as to deter him from making baseless allegations against any respected member of the Institute in the future also. Also, I humbly request Director (Discipline) to reprimand





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CMA Ravindra Dubey for using the Position of Vice Chairman to illegally obtain a copy of the Confidential Documents of the Institute and I urge the Director (Discipline) to instruct the local Chapter Office to file an FIR against CMA Ravindra Dubey for obtaining possession of Confidential Documents of the Institute in an illegal manner.

5. The written statement of the respondent was sent to the complainant vide letter dated 15/10/2019 for sending rejoinder on the same.
6. In rejoinder dated 06/11/2019 Shri CMA Ravindra Dubey, had submitted on the written statement

In support of allegation made by me in para no. 1 i.e. "Dues of nomination fees for election for the term of 2017-19 was out standing against CMA Sudeep Saxena since December 2017 till May 2019, therefore their membership should be deemed to be vacated as per clause 10(2) of Chapter's Bye-Laws Until and unless he files fresh request for membership.", I had submitted various grounds along with documents from Annexure-I to Annexure-VII in my original complaint no.Com/21-C(78)/2019, which are not required to be reiterated. In addition to the above, kind attention of Disciplinary Committee is drawn toward the following facts: -

- a. CMA Sudeep Saxena mentioned in his written statement that "the receipt for the same duly issued by the chapter office dated 11/10/17." On perusal of receipt no. 1109 dated 11/10/17, it is observed that on the receipt it is neither mentioned that receipt is for nomination fee for election 17-19 nor DD number, date, amount and name of drawee bank are mentioned.
- b. It is absolutely correct that as per Negotiable Instrument Act, a Demand Draft is a prepaid instrument where the drawee bank undertakes to make payment in full when the instrument is presented by the payee for payment. As per CMA Sudeep Saxena DD No. 266423 date 10/10/17 was remitted to the chapter by him on 11/10/17. At that time, he was Treasurer of the chapter till the new committee formed i.e. till 19/12/17. It is mentioned in the minutes of meeting date 19/12/17, in which Shri Sudeep Saxena was also present, (Copy enclosed at Annexure- VIII) under Item No. 2 that "A list of documents was handed over by new committee to Shri Saurabh Parikh Ex Vice Chairman with a request to hand over all document within a week. It is also mentioned in the minutes of meeting date 19/01/18 under item no 1 (Copy enclosed at Annexure-IX) that there was no proper handover of office charge to new staff and managing committee". It is evident from the above that DDs were with either Office Incharge Mr Sachin or with old Office bearers as on 19/01/18. In old committee Mr Saurabh Parikh was Vice







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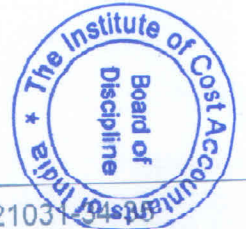
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- Chairman, Mr Satish Gupta was Secretary and Me Sudeep Saxena was Treasurer why the DDs were not presented to the bank by them till 19/01/18. DDs were drawn on 10/10/17 and not handed over as on 19/01/18 by that time DDs became staled, as evident from the above. Shri Sudeep Saxena was well aware that DDs were not handed over to new committee and became time barred and could not be presented to the bank by Office Incharge Mr Sachin or by old Office bearers, he would had taken initiative to collect DD and deposit nomination fee. The whole responsibility for not presenting DD to the Bank was of then Treasurer i.e. Shri Sudeep Saxena. He is trying to shift responsibility on the Committee for the term 2017-19 in order to save himself.
- c. In Para no. 7 of his vital submission he himself admitted that mail dt 18/05/18 (i.e. prior to 01/10/18) sent to Shri Sachin Sachora was in his knowledge. He also knows that DDs were drawn on 10/10/17 and mail sent to Sachora on 18/05/18 i.e. after a lapse of more than five months. Being a practicing cost accountants he must know that DDs became stale and can-not be presented before the bank, his statement is not understandable that "There was not communication made to me after that which led to me to believe that DDs must have been received by the chapter and duly accounted for. DDs were in possession of then office In-charge Shri Sachin Sachora or treasurer of the committee 15-17 CMA Sudeep Saxena till May 18 i.e. prior to the date when DDs became stale. It was his responsibility to cancelled the DD and remit nomination fee to the chapter. He intentionally did not do so, so that whole responsibility can be imposed on the new committee.
- d. In Para no. 8 of his vital submission he himself admitted that "After the Internal Auditor pointed out the case of stale DD' in the meeting held on 30/03/19, I requested the chapter to return to me the DD and so that I can deposit the amount immediately." Thus on 30/03/19 i.e. before the filing nomination he knows the facts that DDs were stale and could not be presented before the bank by the Chapter. Inspite of this fact he filed false declaration.

Vide mail dt. 23/04/2019 at 4.39pm by Office Incharge /election Officer of the chapter (Copy attached by Shri Sudeep Saxena at Annexure-II), informed regarding facts and outstanding dues against him. This also implies that on 30/03/19 and also on 23/04/19 i.e. before the filing nomination he knows the facts that DDs were stale and could not be presented before the bank by the Chapter. It is also mentioned by Office Incharge /election Officer of the chapter in the same mail dt 23/04/19, that "I also informed verbally many times by phone calls to pay the outstanding dues." But Shri Sudeep Saxena did not contradict the same.

Inspite of this fact he filed false declaration.





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- e. If he had not acknowledged the out-standing dues than why he has cleared the dues during the first meeting of Managing Committee date 03/06/19 vide receipt number 1229 date 03/06/19.
2. In support of allegation made by me in para no. 2 i.e. "These dues are also outstanding as on 01/10/18, thus they are not eligible to cast vote and also to contest election for the term 2019-23 as per clause 19(2) of Chapter's Bye-Laws. Contesting Election inspite of dues, falls under misconduct as per Second Schedule, Part II, clause (1) of The Cost & Works Accountants Act.", I had submitted various grounds in original complaint no. Com/21-CA (78)/2019 along with documents from Annexure-I to Annexure-VII, and in para no. 1.a to 1.e, which are not required to be reiterated.
3. In support of allegation made by me in para no. 2 i.e. "After knowing the fact CMA Sudeep Saxena filed nomination for Chapter's Election with false declaration that no dues as on 1st October is outstanding against them. Filing wrong declaration falls under misconduct as per Second Schedule, Part II, clause (1) and (3) of The Cost & Works Accountants Act.", I had submitted various grounds in original complaint no. Com/21-CA (78)/2019 along with documents from Annexure-I to Annexure-VII, and in para no. 1.a to 1.e, which are not required to be reiterated.

## Vital Submission

1. This is not the fact hence denied.
2. It was in the knowledge of CMA Sudeep Saxena on 19/01/18 (para 1.b), 18/05/18 (para 1.c), on 30/03/19 (para 1.d) and also 23/04/19 (para 1.d) that DD became stale and can not be presented to the bank and there was outstanding against him. DDs were in possession of then office incharge Shri Sachin Sachora or treasurer of the committee 15-17 CMA Sudeep Saxena till May 18 i.e. prior to the date when DDs became stale. It was his responsibility to cancelled the DD and remit nomination fee to the chapter. He intentionally did not do so, so that whole responsibility can be imposed on the new committee. Inspite of this fact he has filed false declaration.
3. Facts not known to me.
4. DDs were in possession of then office in charge Shri Sachin Sachora or Treasurer of the committee 15-17 CMA Sudeep Saxena till May 18 i.e. prior to the date when DDs became stale. Inspite of knowing this fact that DD became stale and cannot be presented to the bank by them and there was outstanding against him, he has not taken any step to



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clear the due. This implies that he has intent not to pay the fees only to distressing the then office bearers. After knowing all facts, he filed false declaration.

5. Reply already given in detail in para 1.a and 1.b.

6. Vide mail date 12/4/19 (Annexure-V), 16/4/19 (1.41pm) and 16/4/19 (2.38pm) (Annexure-VI) chapter intimated the facts and also clarifications to HO, thereafter name of six members were deleted by HO. It is learnt from the written statement of CMA Sudeep saxena that his name including five other members were added by HO on the basis of his representation, while, as far as my knowledge, nobody has authority to over-rule clause 19(2) of Chapters byelaws.

7. Replied at para 1.c.

8. Sudeep Saxena Mentioned that "After the Internal Auditor pointed out the case of stale DD' in the meeting held on 30/03/19, I requested the chapter to return to me the DD and so that I can deposit the amount immediately." This is neither appear in the minute of the meeting date 30/03/19 nor Shri Sudeep Saxena has objected Minutes so far. This implies that his statement is false and he is trying to mislead The Discipline Committee. Being affected person and also being member of Managing Committee, he must take initiative to clear the dues. If DD was not returned to him, he should demand in writing. DDs were in possession of then office incharge Shri Sachin Sachora or treasurer of the committee during 2015-2017 CMA Sudeep Saxena during the validity of DD as mentioned in para 1.c above.

9.a. As mentioned in para 1.c that DDs were not in possession of new Managing Committee as on 18/05/18 but were in possession of then office incharge Shri Sachin Sachora or treasurer of the committee 15-17 CMA Sudeep Saxena.

b. It was brought to the notice of six members, whose dues were pending, including Shri Sudeep Saxena by Office bearers of new committee (2017-19) and office incharge to collect the DDs and remit the dues out-standing over telephone several times but no action was taken any one of them. It is also mentioned by Office Incharge /election Officer of the chapter vide mail date. 23/04/2019 at 4.39pm by him (Copy attached by Shri Sudeep Saxena at Annexure-II), that "I also informed verbally many times by phone calls to pay the out-standing dues." But Shri Sudeep Saxena did not contradict the same.

c. DDs were in possession of then office incharge Shri Sachin Sachora and he deliberately not presented to the bank on the instruction of treasurer CMA Sudeep Saxena so that they can shift the responsibility to the new committee. During the election for the term 2017-19, I made various complaints against Shri Sachin Sachora to HO. One of the complaint mail dated 14/12/17 is at Annexure-X.





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Shri Sachin Sachora was full time employee of the chapter, who was appointed by Managing Committee for the term 2015-17, in which Shri Sudeep Saxena was the Treasurer, without following the due procedure and interview with an object that he will favour and support them. he has been awarded hike of salary from Rs 12000/- to 17250/- within a short span of two years. Hike of Rs. 17250/-pm from Rs. 15000/-pm was given to Shri Sachin in the meeting of Managing Committee date 30/09/17 in which Sachin was appointed as Election Officer with an object that he will support committee members.

Shri Sachin was the Election Officer for the election for the term 2017-19, inspite of this he had drawn the DDs for nomination on behalf of candidates including CMA Sudeep Saxena which is misconduct of serious nature on the part of election officer as well as on the part Shri Sudeep Saxena. Being Judicial Authority Disciplinary Committee may ask the details of DDs submitted by Shri Sudeep Saxena from the bank.

d. On non-receipt of DDs either from then office incharge or from then Treasurer, Chairman of the Chapter send a mail on 18/5/18 with a copy to Shri Sudeep Saxena for his information being affected person and being treasurer of the old committee. This also implies that DDs were not in possession of Committee for the term 17-19. Inspite of this mail neither he has taken any step to collect the DD or to clear the due.

f. Matter were discussed many times with the members whose dues were outstanding. CMA Sushil Mantri came forward and informed that since DDS were draw by then Office Incharge and Election Officer Shri Sachin Sachora. He assured that he will contact Shri Sachora and get DDs cancelled through Sachora. After discussion with office bearers of the committee, Office Incharge handed over DDs to CMA Sushil Mantri under intimation to other candidates including CMA Sudeep Saxena. Allegation, that I deliberately held the information back from the internal auditor to induce him to write the report in a certain manner is false and baseless.

10. DDs were in possession of Office Incharge and he handed over to the same Sushil Mantri after discussion with office bearers. He did not commit any mistake. For routine function there is no need to take the permission of managing committee. Allegation made on me is false and baseless.

11. He was well aware regarding due outstanding against him by way of various mails as mentioned in foregoing paras. Vide e-mail date 12/4/19 (Annexure-V), 16/4/19 (1.41pm) and 16/4/19 (2.38pm) (Annexure-VI) chapter intimated the facts to HO, thereafter name of six members were deleted by HO, hence allegation of malafide intention is false and baseless.

12. Decision of removing the name of six members was taken by HO and intimated vide e-mail date 15/04/19 at 5.07pm (Annexure-IV with original complaint). Hence allegation that





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suo-moto decision taken by Office Bearers of Chapter is false and baseless. He along five members were allowed to cast Vote by HO on the basis of his representation which is filed by Shri Sudeep Saxena hiding the facts and misleading the HO. Due to election process had been started, we did not interfere in the function of Election Officer.

13. Vide mail di 12/4/19 (Annexure-V), 16/4/19 (1.41pm) and 16/4/19 (2.38pm) (Annexure-VI) chapter intimated the facts and clarifications to HO, thereafter name of six members were deleted by HO. Hence Allegation made was false and baseless.

14. DDs were in possession of then office Incharge Shri Sachin Sachora or treasurer of the committee 15-17 CMA Sudeep Saxena till May 18 i.e. prior to the date when DDs became stale hence the sole responsibility for presenting the DDs was of the then treasure CMA Sudeep Saxena. Allegation made was false and baseless.

15. Sole responsibility for presenting the DDs were on the then treasure CMA Sudeep Saxena before the date of stale of DDs. Decision of removal of name of Shri Sudeep Saxena was of HO not of the committee 17-19. Hence allegation made was false and baseless. As mention in above para no. 15 that DDs were in possession of then office incharge Shri Sachin Sachora or treasurer of the committee 15-17 CMA Sudeep Saxena till May 18 i.e. prior to the date when DDs became stale. It was his responsibility to cancelled the DD and rem nomination fee to the chapter. He intentionally did not do so, so that whole responsibility can be imposed on the new committee.

16. Since, I filed several complaints to HO regarding election but unfortunately could not attended therefore I compelled to file Complaint in form I.

17 & 18. a. Documents related to election including nomination form are not confidential documents after declaration of result but became public documents.

b. being a committee member, I have right to access the documents of the chapter.

c. If any abnormality and/or violation of rules and regulation is observed, it is the duty of member to report to HO regarding abnormality and/or violation of rules and regulation to take corrective action.

d. There were no mis-possession of the documents from the chapter premises at any time.

e. The present complaint is made against the elected member of the chapter who has filed nomination form with false declaration for being elected as the office bearer of the chapter. Such serious complaint has to be enquired on the merit of the allegations complained. The facts of the complaint are of much greater importance compare to the process by which document accompanied with the complaint are obtained. By raising the question on the





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process by which documents are obtained, an attempt is been made to manipulate the enquiry and diverts towards deciding the lawfulness of the procedure aspect of obtaining documents instead of going into truthfulness of the complaint and its merit. This, the concerned enquiry initiated to check the allegations made in the complaint and also whether any fraud is played during the election process or not, the Disciplinary Committee should remain focus on finding the truth of matter which is of great significance.

f. Copies of nomination form filed before Disciplinary Committee were with the sole objective of substantiating the fact of mis-conduct cannot be termed dishonest misappropriation.

g. In the judgement of various courts, including a recent judgment passed by the Hon'ble Supreme Court, it was held that filing of documents before a judicial authority shall not simpliciter amount to dishonest act. In cases where such documents are replicated solely with the purpose of placing them before a judicial authority to substantiate a claim, no dishonest intention would be made out.

19 to 24 These points are not raised by me in the Complaint No.: Com/21-CA (78)/2019 hence need not to reply.

Last para of reply of Sudeep is rejoindered at para 17 & 18 above.

From the above paras, it is crystal clear that dues were outstanding as of 01/10/18 and at the time of filing Nomination for election 19-23 against Shri Sudeep Saxena and is under his knowledge and he had filed nomination with false declaration. Complaint made by me are based on facts and figure.

Prayer:

1. Shri Sudeep Saxena committed serious misconduct by filing false declaration. To avoid such type of misconduct by the member in future and to maintain the dignity of the Institute, it is requested to hear the complaint on merit and penalized the member in default.

2. It is also requested to preserve my right to place additional evidences at the time of hearing.

7. 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





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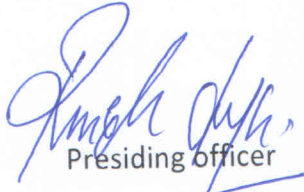
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record to prove the allegations against the respondent and the Complainant has not been able to adduce any evidence regarding the same.

8. On perusal of the Complaint, written statement, 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 arrived at the conclusion 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. After detailed deliberations, 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 of

  
Presiding officer

