



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(85)/2019

Shri Sudeep Satyendra Saxena ----- Complainant

CMA Ravindra Dubey (M/9873)----- Respondent

ORDER

Dated 06/07/2020

1. Shri Sudeep Satyendra Saxena filed a complaint dated 5th December, 2019 against CMA Ravindra Dubey (M/9873) in Form I along with requisite fee which was registered vide Complaint No.Com/21-CA (85)/2019.
2. The complaint was made on the following ground:
 - I. Illegal and unauthorized possession of the confidential documents of the Institute: CMA Ravindra Dubey has obtained the copy of the nomination form of CMA Sudeep Saxena filed for the election of Indore-Dewas Chapter for the term 2019-23 in an illegal and unauthorized manner. He is guilty of misusing the office of Vice-Chairman to obtain illegal possession of documents illegally. The proof that the documents were not shared with him by the election officer is attached as per Annexure II.
 - II. Misuse of position held at the Indore-Dewas Chapter: CMA Ravindra Dubey misused his office of the Vice-Chairman, that he was holding, to illegally obtain confidential documents of the Institute. CMA Ravindra Dubey has submitted the document along with his complaint against CMA SudeepSaxena dated August 29, 2019. The proof of his obtaining the documents and the proof that he was in possession of the documents in an unauthorized manner is enclosed as Annexure-I.
 - III. Hiding information from the Institute which is material to the status of membership: CMA Ravindra Dubey deliberately concealed the fact that he has been convicted in a case and has been sentenced to penalty by the Honorable Court. The same affects his membership status as per the Cost and Accountants Act, 1959. The proof of the same is attached as per Annexure-III.
 - IV. Misstatement in hiding information in the complaint against the member: CMA Ravindra Dubey has deliberately hidden the fact that there has been no notice of the nomination fees due towards the chapter. He being the office bearer during the tenure (Chairman for 2017-18 and Vice Chairman for 2018-19) has not carried out his responsibility of depositing the DD's, despite repeated reminders for the same by the Internal Auditor. This makes him guilty of professional misconduct and using the office of the chapter for his malafide intentions. The decision was later reversed by the Institute's higher authorities, upon being presented the cause.



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

V. Deliberate underperformance for a malicious cause: CMA Ravindra Dubey deliberately kept the DD's under the possession of the Chapter and did not take the efforts to deposit the same because he had ulterior motives in him mind. He wanted to use the same, at a later time, to use the same as a reason to prevent a member from contesting elections. His behavior of not depositing the DD's and not giving due notice to the concerned members of the same clearly indicates that he wanted to use it as a tool for his malafide intentions of preventing certain members from contesting the elections.

VI. Harassment of member by depriving him of his rights to contest in election: CMA Ravindra Dubey, along with other office bearers of the Indore Dewas Chapter for the term 2017-19 deliberately struck-off the name of CMA Sudeep Saxena and 5 other members without even giving a prior intimation to them. The act was committed with only one motive, to devoid a certain list of members from contesting the elections. This is a gross misuse of position held by him and was a deliberate move to suppress the prospective candidates from contesting the elections.

3. Director (Discipline) vide his letter dated 24th December, 2019 asked the respondent to quote the corresponding clause/part of the relevant Schedule (s) of the CWA Act, 1959 under which the alleged acts of the respondent is covered as prescribed in Form 'I'.

4. Respondent vide his letter dated 20th January, 2020 stated inter alia as below:-

This is with respect to the clarification sought with reference to the complaint made by the undersigned against CMA Ravindra Dubey whereby I am asked to quote the corresponding clause/part of the relevant Schedule(s) of the CWA Act, 1959 under which the alleged acts of the respondent is covered.

Sir, any incidence of theft of a movable property, be it documents or otherwise is covered under Section 378 of the Indian Penal Code. And the act of stealing of documents is committed by CMA Ravindra Dubey, as proven by the proof submitted by me in my original complaint. Hence, CMA Ravindra Dubey is guilty of professional misconduct because he stole documents from the office of the Indore Chapter and took copies of it under illegal manner.

It is highly unfortunate that we, under CWA Act, 1959, are not covering any clauses pertaining to the Indian Penal Code. I most humbly suggest that the CWA Act, 1959 be amended to give effect to the punishment for the crimes and conduct of members punishable under Acts like IPC which supersede the CWA Act, 1959.

Also, as this is an offence punishable under the IPC Section 378, I request you to consider the same and take necessary action. Since the offence is sufficiently proven by the documentary evidence I have already submitted, I humbly request you to revoke the membership of CMA Ravindra Dubey based on the theft committed by him.



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

If suitable action is not taken on the member charged with the offense just for the reason that the same is not covered under the CWA Act, 1959 but is a punishable offence under the IPC Section 378, this shall be utter injustice and, I would say, complete ignorance on the part of the Institute which calls itself, custodian of certain Acts.

Also, if necessary action is not taken, I reserve my right to move to the Court of Law for a complaint against the actions of CMA Ravindra Dubey and also I reserve the right to question the Institute as to why a suitable action was not taken when the matter came to the hands of the Institute.

5. 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. As per clause 6 of Rule 5 of Cost and Works Accountants (Procedure of Investigation of Professional and other Misconduct and Conduct of Cases) Rules, 2007, if, the complainant fails to rectify the defect or defects within the time allowed under sub-rule (5), the Director shall form the opinion that there is no prima facie case and present the complaint before the Board of Discipline for its closure.
6. In view of totality of all the facts and circumstances of the case and after detailed deliberations, the Board held that the information 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 Respondent accordingly.

Accordingly, the complaint stands disposed off.


Presiding Officer