



**THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA**  
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)  
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**Order**

**Complaint No. Com/21-CWA(9)/2010.**  
**IN THE MATTER OF:**

**Complaint No. Com/21-CWA(9)/2010 - Shri Biswarup Basu (M/8237) Vs.  
Dr. Sanjiban Bandyopadhyaya (M/8601)**

Shri Biswarup Basu (M/8237) filed a complaint dated 8<sup>th</sup> January, 2010 against Dr. Sanjiban Bandyopadhyaya (M/8601) in Form I along with requisite fee of Rs.2500/- alleging defalcation of funds of E.I.R.C of the Institute of Cost & Works Accountants of India (now The Institute of Cost Accountants of India). The Disciplinary Directorate having scrutinized the complaint and finding the same in order and on being satisfied that it is a fit case to be dealt with in the manner as prescribed in Chapter III of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, proceeded to register the complaint vide Complaint No. Com/21-CWA(9)/2010 and a copy of the said complaint was sent to Dr. Sanjiban Bandyopadhyaya, Respondent vide Ref No. G/DD(M-8237)/Com-C-9/1/01/2010 dated 21<sup>st</sup> January 2010 pursuant to Rule 8(1) of the said Rules.

1. Dr. Sanjiban Bandyopadhyaya, Respondent filed the first written statement dated 11<sup>th</sup> March 2010 pursuant to Rule 8(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 denying the allegations made by the Complainant stating that the instances of complaint against him are not genuine in nature.
2. The said written statement of the Respondent was forwarded to Shri Biswarup Basu, Complainant for rejoinder on the same and a rejoinder dated 7<sup>th</sup> April 2010 was sent by the Complainant stating that the irregularities complained of were on record and proves the allegations complained of.
3. The Director (Discipline) on perusal of the complaint, written statement and rejoinder and documents relied upon in formulation of prima facie opinion formed the prima facie opinion dated 28<sup>th</sup> June 2010, a copy of which was duly served on the Complainant and the Respondent in terms of Rule 18(2) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
4. The Respondent submitted his second written statement dated 12<sup>th</sup> March 2012 pursuant to Rule 18(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 denying once again the allegations which were leveled by the Complainant in his complaint and in the subsequent rejoinder.
5. The Complainant in his second rejoinder stated that the matters complained of are on record and the Respondent has taken about 11 months to submit the second written statement. He submitted that the Respondent has defalcated funds of EIRC of ICWAI (now ICAI) and prayed that the case be disposed off at the earliest.

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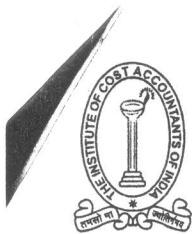
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6. The Respondent submitted his third written statement on 5<sup>th</sup> March 2014 wherein he stood by his earlier submissions made in the earlier written statements.
7. Letters Ref No. G/DD(M-8601)/Com-C-9-2)/11/2014 and Ref No. G/DD(M-8237)/Com-C-9-12)/11/2014 dated 5<sup>th</sup> November 2014 were sent both to the Complainant and the Respondent for their personal appearance before the Disciplinary Committee in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 at Kolkata office of the Institute on 18<sup>th</sup> November 2014.
8. The Respondent was not present on 18.11.2014 to make oral submissions but the Complainant was present who made an oral submission. The Complainant was advised by the Disciplinary Committee to submit an affidavit as to his views preferably written 2 weeks from the date of the oral submission made by him. The Complainant submitted an Affidavit as per direction of the Disciplinary Committee retaining the allegations against the Respondent along with documentary evidences which was duly received by the Institute on 5<sup>th</sup> December 2014.
9. In the meeting of the Disciplinary Committee held on 18.11.2014, the Secretary to the Committee informed the Committee members that two sealed envelopes addressed to Shri Debasish Bandopadhyay and Shri Alok Kumar, both Government nominees, have been received from Dr. Sanjiban Bandyopadhyaya, Respondent for handing over the same to Shri Debasish Bandopadhyay and Shri Alok Kumar which they had refused to receive.
10. The next date for making oral submissions by the Respondent was fixed at the next meeting held at Delhi office of the Institute on 6<sup>th</sup> January 2015 and the Respondent was also informed to this effect by the Disciplinary Committee vide letter Ref No. G/DD(M-8601)/Com-C-9-4)/12/2014 dated 22<sup>nd</sup> December 2014 requesting him to be present for making oral submissions before the Disciplinary Committee in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
11. The Committee at its meeting dated 6<sup>th</sup> January 2015 held at the Institute's Delhi office noted that Dr. Sanjiban Bandyopadhyaya, Respondent, on this occasion too, did not make himself convenient to attend the oral submission pursuant to Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 even though a notice dated 22<sup>nd</sup> December 2014 was duly served on him and received by him. The charges framed against the Respondent was, however, read out in terms of Proviso to Rule 18(7) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct

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and Conduct of Cases) Rules, 2007 in the absence of the Respondent. The Committee, in the said meeting, decided that a final opportunity of being heard be given to Dr. Sanjiban Bandyopadhyaya in the next meeting of the Disciplinary Committee.

12. Subsequently, the Respondent was informed by the Disciplinary Committee vide letter Ref No. G/DD(M-8601)/CWA(9)/5/01/2015 dated 29<sup>th</sup> January 2015 requesting him to be present for making oral submissions before the Disciplinary Committee in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
13. Dr. Sanjiban Bandyopadhyaya, Respondent appeared for making oral submissions in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. He stated that he was present in Delhi office at the 18<sup>th</sup> meeting of the Disciplinary Committee on 6<sup>th</sup> January 2015 for making oral submissions but he was not called for hearing by the Committee. This is however, factually incorrect as the Committee decided to send Director (Discipline) to look for him. Director (Discipline) could not locate him although, it is expected that persons called for hearing should wait for call from the Disciplinary Committee for giving their submissions where the meeting is being held.
14. The charges that were framed in terms of sub-rule (7) of Rule 18 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 were read out in the presence of Dr. Sanjiban Bandyopadhyaya who though, was physically present for the oral submissions stated that so long as the Disciplinary Committee consists of present members (excluding Government nominees), he will not make submissions. He added that he will make oral submissions if and only if, the Disciplinary Committee is re-constituted. He then left the meeting room without having denied the charges.
15. To give the Respondent a fair chance to present his case, the Committee felt that the Respondent be given an opportunity to be heard in terms of Rule 19(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 in the next meeting of the Committee before passing any order under sub-section (3) of Section 21B of the Cost and Works Accountants Act, 1959.
16. A letter Ref No. G/DD(M-8601)/Com-CWA(9)/7/04/2015 dated 13<sup>th</sup> April 2015 was sent by the Disciplinary Directorate to the Respondent requesting him to be present before the Disciplinary Committee on 27<sup>th</sup> April 2015 at 12.00 Noon at the Delhi office of the Institute to enable him an opportunity to be heard in terms of Rule 19(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 before any order is passed under sub-section (3) of Section 21B of the Cost and Works Accountants Act, 1959.
17. Dr. Sanjiban Bandyopadhyaya, Respondent appeared on the appointed date and time for the hearing before the Disciplinary Committee. The Respondent stated that he would not

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like to submit anything. He, however, handed over to the Secretary of the Disciplinary Committee two copies of written submissions meant for circulation only to the two members of the Committee, who are Government nominees. The Presiding Officer directed the Secretary, Disciplinary Committee to circulate copies of the written statements to all members of the Disciplinary Committee for their perusal and observation.

18. On perusal of the written submission along with the annexures (numbering 54 pages) of the Respondent, it is noted that he has not submitted any additional material evidence which justifies the claims for reimbursements made by the Respondent, for being considered by the Disciplinary Committee in the instant case and to decide whether such claims were bonafide.
19. The Respondent has submitted a letter Ref No. EIRC/Coml/09-10/001 dated 22<sup>nd</sup> January 2010 of Shri Manas Kumar Thakur, the then Chairman of EIRC to prove that the advance of Rs 50,000/- made to him was duly authorised. It is on record that taking an advance of Rs 50,000/- has never been a matter of dispute and neither the Complainant nor the Respondent has raised an issue in this connection. It was an accepted fact that the Respondent took an advance of Rs 50,000/- The matter under consideration is the manner of adjustment of the amount of advance against expenses claimed to have been incurred by the Respondent. Records show that many of such claims are false and fictitious which have already been noted by the Disciplinary Committee on the basis of documentary and other evidence on record. The submission of the Respondent has neither annulled nor disproved the charges of misappropriation of the amounts claimed by him.
20. The above referred letter dated 22<sup>nd</sup> January 2010 of Shri Manas Kumar Thakur also states that cold drinks brought from outside were served at Hotel Peerless Inn where a programme of EIRC was being held. It is on record that Hotel Peerless Inn in its letter dated 14.06.14 addressed to the Disciplinary Directorate has categorically stated that they do not allow snacks and beverages to be brought from outside to be served to guests in the hotel. Hence, it cannot be accepted that the Respondent bought large number of cold drinks from outside for serving to the guests at the programme.
21. The said letter of Shri Manas Kumar Thakur carried a statement in support of the Respondent that the IOC programme was inaugurated at Great Eastern Hotel but later on was shifted. Again, it is a matter of record that Hotel Hindustan International in its letter dated 24.11.14 addressed to the Disciplinary Directorate denied having held any such programme during the period under consideration. Hence, this contention of the Respondent also, cannot be accepted.
22. The Disciplinary Committee has duly considered the written submission made by the respondent on various facts. The Disciplinary Committee has also considered the submission made by the Complainant including the affidavit of the complainant on



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various facts. The Disciplinary committee has also considered various documents/record related to the case. Hence, it is concluded that the written submission made by Dr. Sanjiban Bandyopadhyaya, Respondent does not provide any evidence to prove that the allegations of false reimbursements claims made by him are in any way false or baseless. Based on the documentary evidence so far placed before the Disciplinary Committee and other hearings/submissions, it can be inferred that the Respondent has committed gross financial irregularity in making false reimbursement claims from the Institute.

23. The Disciplinary Committee having considered the written submission and perusing the documents on records is of the opinion that Dr. Sanjiban Bandyopadhyaya, Respondent is guilty of professional and other misconduct under the First Schedule and Second Schedule to the Cost and Works Accountants Act, 1959.
24. Accordingly, the Disciplinary Committee passes the following order in terms of Section 21B (3) the Cost and Works Accountants Act, 1959 read with Rule 19(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007:
- Reprimanding the member,
  - Repayment of the entire amount of Rs 61,461/- (Rupees Sixty one thousand four hundred and sixty one) only to EIRC of the Institute plus equivalent amount as fine to be paid within 30 days of the service of this Order and
  - Removal of the name of the member from the Register of Members for a period of 1 (one) year from the date of service of the Order.

Dated:- 27<sup>th</sup> May 2015

  
(Dr. A.S. Durga Prasad)  
Presiding Officer  
Disciplinary Committee