



**THE INSTITUTE OF
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(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
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DISCIPLINARY DIRECTORATE The Institute of Cost Accountants of India Website: www.icmai.in

**Disciplinary Committee u/s 21B of The Cost and Works
Accountants Act 1959**

In the matter of

Complaint No. Com/21-CA(25)/2015 –

Shri Prakash Anant Sevekari (M/5978)Complainant

Vs

Shri Ashish Prakash Thatte (M/27543)Respondent

ORDER

1. A complaint dated 27th May 2015 in Form I was filed with prescribed application fee of Rs 2500/- 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 Prakash Anant Sevekari (hereinafter referred to as the 'Complainant') bearing membership number 5978) against Dr. Ashish Prakash Thatte (hereinafter referred to as the 'Respondent') bearing membership number 27543, alleging contravention of the provisions of the Cost and Works Accountants Act and Regulations. The contravention, according to the complainant, was on the following grounds:
 - i. Undertaking Research Projects during 2013-14 by WIRC in violation of the Cost and Works Accountants Act and Regulations.
 - ii. Spending a sum of Rs 124.62 lakhs by WIRC during 2013-14 Council/Council not backed by budgetary sanction.
 - iii. Sanctioning a loan of Rs 2 crores to Pune Chapter stated to be in 2012 for construction of a building which is not permitted in terms of the decision taken in 266th Council meeting dated 30th December 2010 read with Explanation to Regulation 114.

The complainant stated that the above misconduct falls under Clause (2), Part-IV, First Schedule and Clause (1) of Part-II of the Second Schedule to the Cost and Works Accountants Act, 1959. The complainant has along with his complaint enclosed an extract of copy of Annual report of the Institute for FY 2013-14 which contains certain qualifications made by the statutory auditor on the issues mentioned above by the complainant.

Disciplinary Board



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2. The complaint was registered by the Disciplinary Directorate after it was found to be in order and the same proceeded 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. A unique complaint number Com-21/CA(25)/2015 was allotted to the complaint.
3. The Complaint having been registered by the Disciplinary Directorate, a copy thereof was sent to the respondent vide Disciplinary Directorate's letter Ref No. G/DD/Com-CA(25)/1/06/2015 dated 11th June 2015 requesting for his response in the matter by way of a written statement within 21 days from the date of service of the letter of the Disciplinary Directorate.
4. The respondent, by his letter dated 2nd July 2015, prayed for grant of additional period of one month. Accordingly, an additional period of one month was granted to the respondent in terms of Rule 8(3) of the Rules vide letter Ref No. G/DD/Com-CA(25)/1/07/2015 dated 13th July 2015. The respondent by his letter dated 1st August 2015 wanted to know if the complainant has paid the complaint fee of Rs 2500/- and if the same has been paid, the complaint could be entertained.
5. The respondent submitted his written statement dated 1st August 2015 denying the allegations made against him and stated *inter alia* as below:
 - (i) He is not guilty of any professional misconduct, let alone falling under First schedule Part-IV, clause (2) and Second Schedule, Part-II, Clause (1).
 - (ii) Clause (2) of Part-IV of First Schedule stated that a member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if in the opinion of the Council he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work. Since, the complaint has been filed by Shri Prakash Anant Sevekari in his individual capacity, it cannot be considered as entertained under Clause (2) of Part-IV of First Schedule to the CWA Act, 1959. Here, the respondent contends that to bring any act of omission or commission within the purview of the above mentioned clause, "opinion of the Council....." is the essence.
 - (iii) In regard to allegation made by the complainant on violation of Clause (1) of Part-II of the Second Schedule which states that a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of this Act or the regulations made there under or guidelines issued by the Council, the respondent contends that the complainant has not brought out as to which particular provisions of the CWA Act/CWA Regulations made there under are contravened by the respondent.
 - (iv) Regarding undertaking research projects during 2013-14 by WIRC, the respondent contended that whatever research projects were undertaken, the same was carried



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out by Western India Regional Council (WIRC) and not by the respondent in his individual capacity. It was the decision of the "Executive Committee/Council" to undertake the research projects and not of individual members of the Executive Committee. The income and expenditure from such projects were also accounted for in the books of the WIRC and the WIRC had sent request letter to the Council for post-facto approval to such research projects which was specifically provided under the CWA Act/CWA Regulations.

- (v) Regarding the allegation on spending a sum of Rs 124.62 lakhs by WIRC during FY 2013-14 without obtaining prior approval of the Regional Council/Council nor backed by budgetary provision, the respondent denied this allegation and re-affirms that spending a sum of Rs 124.62 lakhs by WIRC during FY 2013-14 was with the prior approval of the Regional Council/Council and was backed by Budgetary sanction.
- (vi) It has also been contended by the respondent that there exists no guidelines of the Institute specifying the procedure for pre-approval of expenditure. Thus, pre-approved budget by the Headquarters was considered as the pre-approval for all expenses till the time they are within the sanctioned budget limit. All the expenses, according to the respondent, were incurred in the interest of the profession.
- (vii) Regarding the last allegation of the complainant of sanctioning a loan of Rs 2 crores to Pune Chapter stated to be in 2012 for construction of a building which is not permitted in terms of the decision taken in 266th Council meeting dated 30th December 2010 read with Explanation to Regulation 114, the respondent contends that it was the WIRC which had sanctioned loan of Rs 2 crore to Pune Chapter in the year 2012. It is not the respondent who enjoys such authority to sanction the loan and he has never sanctioned any loan in his individual capacity.
- (viii) The respondent further contended that the loan to Pune Chapter was given by WIRC during FY 2011-12 and no irregularity has been observed by the statutory auditors of the Institute for the years 2011-12, 2012-13. The statutory auditor who had conducted the audit for FY 2013-14 was the same as one who had conducted audit during FY 2011-12 & FY -13. Even during the course of internal audits conducted at WIRC, this point was never raised which has been raised by the statutory auditor only during FY 2013-14.
- (ix) The complainant, according to the respondent, has not made any assertive statement as to how the sanctioning of loan by WIRC to Pune Chapter in the year 2012 was not permitted in terms of the decision taken in the 266th Council meeting dated 30th December 2010 read with Explanation to Regulation 114 of the CWA Regulations, 1959.
- (x) The respondent has also not understood as to how an ordinary member could get a copy of the minutes of the 266th meeting of the Council. Presuming that he has obtained such copy through the legal mode, he has to explain and substantiate the source from where he has obtained the copy in question. The respondent also



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submitted that he not aware of the decisions taken by the Council at its 266th meeting held on 30th December 2010. No such decision was ever circulated to the WIRC by the Headquarters to the best of his knowledge of the respondent. Such decision of the Council was also not in public domain.

- (xi) The respondent finally submits that the complainant has taken a "selective approach" while filing his complaint which was against junior most Cost Accountants with a view to harassing them as the complaint was without any substance. The respondent reiterated that the misconduct complained of by the complainant does not fall within Clause (2), Part-IV, First Schedule and Clause (1) of Part-II of the Second Schedule to the Cost and Works Accountants Act, 1959 and the complainant has made a sweeping and wild allegation.
- (xii) The respondent in his written statement dated 1st August 2015 had given the names of some persons who have knowledge of the facts of the case. He has made a request to record the submission of those persons as witness at the time of hearing of the case. Some of these names include Hon'ble Minister Shri Venkaiah Naidu – Minister for Urban Development, Dr. Pawan Kumar Ruia, industrialist, Justice S.N. Dhingra, Retired High Court Judge, Shri B.N. Sahoo, General Manager SEBI etc etc. The respondent submits that the complaint of the complainant may be quashed and proceedings be dropped.
6. The written statement of the respondent was forwarded to the complainant vide letter Ref No. G/DD(M-5978)/Com-CA(25)/2/08/2015 dated 20th August 2015 requesting for the latter's rejoinder on the written statement in terms of Rule 8(4) of the Rules who, by his letter dated 8th September 2015, submitted a rejoinder, important submissions of which are as follows:
- (i) The complaint has been filed against persons (another similar complaint has been filed by the same complainant against a Regional Council Member) who were then holding positions of authority in fiduciary capacity, viz, Shri Ashish Thatte, Chairman of WIRC and Shri Neeraj Joshi, Vice Chairman, WIRC. Both these persons were related and having personal interest.
- (ii) Since the respondent has mentioned that these decisions were taken in the Executive Committee and the Regional council, the complainant had called upon the Director (Discipline) to make available record of proceedings of relevant meetings of executive Committee and Regional Council.
- (iii) Payments were made to resource persons of the Mint project of the Mint project who were related parties of the respondent.
- (iv) The complainant contended that the respondent should be fully aware about the rules and regulations etc relating to the said subject matter as he was an elected representative and an office bearer holding fiduciary position in WIRC.

