



**THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA**  
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)  
CMA BHAWAN  
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**DISCIPLINARY DIRECTORATE**

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

**In the matter of**

**Complaint No. Com/21-CA(26)/2015 –**

**Shri Prakash Anant Sevekari (M/5978) .....Complainant**

**Vs**

**Shri Neeraj Dhananjay Joshi (M/24118) ..... Respondent**

**ORDER**

1. A complaint dated 27<sup>th</sup> 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 Shri Neeraj Dhananjay Joshi (hereinafter referred to as the 'Respondent') bearing membership number 24118 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

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taken in 266<sup>th</sup> Council meeting dated 30<sup>th</sup> 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.

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(26)/2017 was allotted to the complaint.
3. The Complaint was registered by the Disciplinary Directorate and thereafter a copy thereof was sent to the respondent vide this Directorate's letter Ref No. G/DD/Com-CA(26)/1/06/2015 dated 11<sup>th</sup> June 2015 requesting for his response in the matter by way of a written statement within 21 days from the date of receipt of the complaint.
4. The respondent, by his letter dated 30<sup>th</sup> June 2015 prayed for grant of additional time for providing response to the complaint filed by the complainant. Accordingly, additional period of one month was granted vide this Directorate's letter Ref No. G/DD/Com-CA(26)/2/07/2015 dated 6<sup>th</sup> July 2015. The respondent, in his written statement dated 1<sup>st</sup> 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 denying the allegations levelled by the complainant submitted *inter alia* as follows:
  - 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



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as a result of his action whether or not related to his professional work. Since, the complaint has been filed by the complainant 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 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 thereunder 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 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.
- v. 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.
- vi. Regarding 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.
- vii. 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

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expenses, according to the respondent, were incurred in the interest of the profession.

- viii. 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 266<sup>th</sup> Council meeting dated 30<sup>th</sup> December 2012 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.
- ix. Also, 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.
- x. 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.
- xi. 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 266<sup>th</sup> Council meeting dated 30<sup>th</sup> December 2010 read with Explanation to Regulation 114 of the CWA, regulations, 1959.
- xii. The respondent has also not understood as to how an ordinary member could get a copy of the minutes of the 266<sup>th</sup> 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.
- xiii. He was not aware of the decisions taken by the Council at its 266<sup>th</sup> meeting held on 30<sup>th</sup> 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.
- xiv. The respondent finally submits that the complainant has taken a "selective approach" while filing his complaint which was against junior most Cost

