

\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
10-13

**W.P.(C) 10384/2009 & CM 9019/2009(stay)**

THE INSTITUTE OF CHARTERED ACCOUNTANTS  
OF INDIA

..... Petitioner

Through: Mr. Ramji Srinivasan, Sr. Advocate  
with Mr. Rakesh Aggarwal, Mr. Zeyaul Haque  
and Mr. Pukit Agarwal, Advocates.

versus

MUKESH R. SHAH

..... Respondent

Through: Mr. Sunil Fernandes, Amicus Curiae  
for Respondent.

**W.P.(C) 11875/2009 & CM 12003/2009(stay)**

THE INSTITUTE OF CHARTERED ACCOUNTANTS  
OF INDIA

..... Petitioner

Through: Mr. Ramji Srinivasan, Sr. Advocate  
with Mr. Rakesh Aggarwal, Mr. Zeyaul Haque  
and Mr. Pukit Agarwal, Advocates.

versus

MUKESH R. SHAH

..... Respondent

Through: Mr. Sunil Fernandes, Amicus Curiae  
for Respondent.

**W.P.(C) 13173/2009 & CM 14308/2009(stay)**

THE INSTITUTE OF CHARTERED ACCOUNTANTS  
OF INDIA

..... Petitioner

Through: Mr. Ramji Srinivasan, Sr. Advocate  
with Mr. Rakesh Aggarwal, Mr. Zeyaul Haque  
and Mr. Pukit Agarwal, Advocates.

versus

V.S. KARJINNI

..... Respondent

Through: Mr. Anand Sanjay M. Nuli, Advocate

**W.P.(C) 4063/2010 & CM 8083/2010(stay)**

INSTITUTE OF CHARTERED ACCOUNTANTS  
OF INDIA

..... Petitioner

Through: Mr. Ramji Srinivasan, Sr. Advocate  
with Mr. Rakesh Aggarwal, Mr. Zeyaul Haque  
and Mr. Pukit Agarwal, Advocates.

versus

NK BHASIN

..... Respondent

Through: Mr. Kunal Tandon, Advocate.

**CORAM: JUSTICE S. MURALIDHAR**

**ORDER**

**01.12.2010**

%

1. The Institute of Chartered Accountants of India ('ICAI'), the Petitioner in all these four petitions is aggrieved by the orders passed by the Central Information Commission ('CIC') directing disclosure of information to the respective Respondents arising out of the disciplinary proceedings against each of them.

2. In W.P.(C) No. 10384 of 2009 by the impugned order dated 17<sup>th</sup> April 2009, the ICAI has been directed to furnish to the Respondent Mukesh R. Shah not only the records of the proceedings of the Council which took its decision in the disciplinary proceedings against him but "the file notings in respect of the proceedings of the disciplinary case and other related issues". The ICAI was permitted to invoke Section 10(1) of the Right to Information Act, 2005 ('RTI Act') and withhold the identity of the Council's members who contributed to the deliberations in the said meeting.

3. In W.P.(C) No. 11875 of 2009 by the impugned order dated 6<sup>th</sup> July 2009, the CIC has directed the ICAI to disclose to the Respondent "the entire records pertaining to the disciplinary action" against him, including the notesheets of the disciplinary proceedings.

4. In W.P.(C) No. 13173 of 2009, the CIC has, by its impugned order dated

11

13<sup>th</sup> July 2009 directed the Central Public Information Officer ('CPIO') of the ICAI to furnish to the Respondent the records of discussion of the meeting of the Council members of the ICAI within 15 days.

5. In W.P.(C) No. 4063 of 2010, the CIC has, by the impugned order dated 19<sup>th</sup> January 2010 directed the CPIO of the ICAI to disclose to the Respondent the detailed verbatim proceedings of the Council of ICAI in a complaint against the Respondent by the Deputy General Manager (DGM), Bank of India, after severing such portions which according to the ICAI were sensitive and likely to attract exemption under Section 8(1) of the RTI Act.

6. Mr. Ramji Srinivasan, the learned Senior counsel, appearing for the Petitioner ICAI submitted that while the ICAI was not averse to disclosing the information contained in the record of the disciplinary proceedings of the ICAI, which in effect were the authenticated minutes of the proceedings of the Disciplinary Committee and the Council, the ICAI had difficulty in disclosing the verbatim transcripts of the deliberations that took place at the meetings either of the Disciplinary Committee or the Council of the ICAI. Such transcripts may ultimately not have got reflected in the signed minutes of the proceedings of either body and, therefore, was not part of the official 'record of proceedings'. He submitted that what was relevant to be looked into as constituting the 'record' of either the Disciplinary Committee or the Council was the signed minutes of their proceedings.

7. Mr. Sunil Fernandes, the learned Amicus Curiae appearing on behalf of

the Respondent Mr. Mukesh R. Shah in W.P.(C) 10384 and 11875 of 2009, Mr. Anand M. Sanjay Nuli, the learned counsel appearing for the Respondent V.S. Karjinni and Mr. Kunal Tandon, the learned counsel appearing for N.K. Bhasin submitted that as long as the proceedings concerning each of the Respondents is made available to them, and it constituted the authenticated record of the disciplinary proceedings against each of them, they would be satisfied.

8. It appears to this Court that for the purposes of the RTI Act the information which can be said to be relevant is thus available with the ICAI in the course of the disciplinary proceedings in the form of the authenticated minutes of the proceedings of either the Disciplinary Committee and or the Council. The reason for this is that whatever may be the deliberations of members at the meetings of the Disciplinary Committee or the Council of the ICAI, it is the final authenticated minutes of the proceedings of each of the bodies, signed by all the attending members that can be said to be the 'record of the proceedings' of either body. This is what constitutes the material on the basis of which the decisions have been taken either by the Disciplinary and/or the Council. The verbatim recording of the remarks made by the members in the course of the deliberations as noted by the stenographers cannot constitute the 'record of proceedings'. Where a particular member feels that a view expressed by her or him at the meeting has not been reflected in the minutes, then such member can add a note of dissent or seek correction of the minutes.

9. In that view of the matter, the impugned orders of the CIC are modified,

and it is directed that the Petitioner ICAI will disclose to each of the Respondents the authenticated minutes of the meetings of the Disciplinary Committee and the Council in each of the disciplinary cases concerning the Respondents within a period of four weeks from today. The ICAI can in terms of Section 10(1) RTI Act, withhold the identity of the individual members whose views may be recorded in such minutes.

10. The writ petitions and applications are disposed of in the above terms.

11. Order be given dasti to the counsel or the parties.

S. MURALIDHAR, J.

DECEMBER 01, 2010

akg

- fresh Review petition no. 730/11 filed  
 - High CM 19185/11 for delay  
 - " " 19186/11 for delay