

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14129 OF 2018

Mr. Mahesh Anant Athavale ... Petitioner

Versus

The Disciplinary Committee, Institute
of Company Secretaries of India and Ors. ... Respondents

Mr. Parag Tilak for the Petitioner.

Mr. B.V. Samant, AGP for the respondent State.

**CORAM : B.P. DHARMADHIKAKRI &
SARANG V. KOTWAL, JJ.**

DATE : DECEMBER 20, 2018

P.C.:

Heard Mr. Tilak for the petitioner.

2. He submits that one of the partners of petitioner has challenged the election of the Presiding Officer of the Disciplinary Committee who has passed the interim order in disciplinary enquiry against petitioner. It is pointed out that separate complaint is also filed by that partner. After hearing learned counsel, we find that then interim order passed on 25/04/2018 has been communicated to the petitioner vide letter dated 2/5/2018 which looks into the opinion dated 11/12/2015 prima facie and then

further investigation report dated 25/9/2017 of the Director (Discipline). This Director (Discipline) appears to have endorsed the prima facie opinion dated 11/12/2015 about the alleged misconduct by the petitioner. The Committee has on 13/03/2018 considered these documents and passed interim orders to proceed in accordance with sub rule 3 of rule 8 of Company Secretaries (Procedure of Investigations of Professional and other Misconduct of cases) Rules, 2007.

3. It appears that the said interim order was questioned by the present petitioner on 12/6/2018 pointing out the conflict of interest with the Presiding Officer Shri. Lele. This application has been looked into by the Disciplinary Committee on 20/08/2018. At that time, another person has acted as Presiding Officer since Shri. Lele has recused himself. The Disciplinary Committee has found that it has no jurisdiction either to review its order or modify or reject the order or set it aside.

4. These two orders are now questioned before us by the petitioner.

5. There is no challenge on the basis of bias to the prima facie opinion dated 11/12/2015 and further investigation report dated 25/09/2017.

6. In this situation, when the disciplinary matter is pending for last more than three years, we are not inclined to intervene in the extra ordinary jurisdiction. The prejudice, if any, suffered by the petitioner can be demonstrated by him at appropriate juncture in accordance with law. Hence, with the said liberty, we dispose of the petition.

(SARANG V. KOTWAL, J.)

(B.P. DHARMADHIKARI, J.)