IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.826 OF 2015

Mr. O.K. Varghese …Petitioner
Versus
The Institute of Chartered
Accountants of India & Ors. ...Respondents

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Mr. Ajit Anekar and Mr. Thomas James i/b. M/s. Auris Legal for the Petitioner.
Mr. Kapil Maye with Mr. Shreeyas Patel, Mr. Meit Sampat i/b. M/s. Little and Co. for the Respondent Nos.1 to 3.

CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 26th JUNE, 2018.

P.C.:-

Heard the learned counsel for the Petitioner and the learned counsel for the Respondent Nos.1 to 3.

Petition is filed for the following reliefs :-

> “a) That this Hon'ble Court be pleased to declare that Section 22G of the Chartered Accountants Act, 1949 in so far as it denies a Non-member a right to appeal against the decision of Respondent No.2 dismissing complaint, is ultra vires and contrary to Articles 14, 19 and 21 of Constitution of India and is consequently illegal, invalid, null and void and of no effect whatsoever.
>
> b) That this Hon'ble Court be pleased to issue a writ of certiorary or writ in the nature of certiorari or any other appropriate writ, order or direction under

> Articles 226 of the Constitution of India calling for the records of proceedings in the complaint dated 4.2.2011 filed by the Petitioner and upon examining the legality thereof, quash and set aside the Order dated 15.2.2014, (EX F hereto) for closure of Petitioner's complaint and restore the complaint of the Petitioner."

2. Section 22G of the Chartered Accountants Act, 1949 enables any member of the Institute of Chartered Accountants to institute an appeal to the Authorities in case he is aggrieved by the order of the Disciplinary Committee imposing any of the penalties referred to in sub-section (3) of Section 21A and sub-section (3) of Section 21B may within 90 days from the date on which the order is communicated to him. The proviso to Section 22G also enables the Director (Discipline) to file an appeal against the decision of the Board of Discipline or the Disciplinary Committee to the Authority within a period of 90 days. A plain reading of this provision clearly indicates that a person aggrieved by the order or decision of the Board of Discipline or the Disciplinary Committee can challenge the order of the Board or the Disciplinary Committee. Such provision is not arbitrary, unreasonable or discriminatory.

3. Coming to the facts of the petition, it appears that there was a dispute between the Petitioner and his brother. The Petitioner

has lodged a complaint against the Respondent No.5 for giving an adverse report against him in the litigation between him and his brother. The Petitioner had therefore lodged a complaint with the Respondent No.3- Disciplinary Directorate, the Institute of Chartered Accountants of India. This complaint was investigated by the Respondent No.1-Institute of Chartered Accountants of India and prima facie an opinion is recorded that the Respondent No.5 is not guilty of professional misconduct falling within the meaning of clauses 6, 7, 8 and 9 of Part-I of the Second Schedule to the Chartered Accountants Act, 1949. The said decision does not prejudicially affect the Petitioner's right or interest. The Petitioner, who has no personal or individual right in the subject matter, cannot be said to be an “aggrieved” person so as to have a right to challenge the order passed by the Board of Discipline or the Disciplinary Committee.

4. In the light of above, the petition is devoid of any merit and is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.) **(RANJIT MORE, J.)**