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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10573/2017

M. JAYARAMAN AND ANR.

..... Petitioners

Through: Mr Anusha Nagarajan, Advocate.

versus

DISCIPLINARY DIRECTORATE, INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA AND ORS. .... Respondents

Through: Ms Ayushi Gupta and Mr Amit  
Meharia, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **17.08.2018**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- “(a) Issue an appropriate order or direction calling upon the Respondents to produce the complete record containing their deliberations, actions, decisions, correspondence, notings, and other information in relation to the complaint dated 08.07.2013;
- (b) Issue a writ of certiorari or any other appropriate writ or direction quashing the notices dated 23.03.2015 and 23.10.2017 issued by the Disciplinary Directorate and the prima facie opinion of the Director (Discipline) dated 4.07.2017 by declaring the same to be null and void;
- (c) Issue a writ of prohibition or any other appropriate writ or direction directing the Respondents to close the complaint dated 08.07.2013 purportedly made by Chief Vigilance Officer of Broadcast Engineering Consultants India Limited.

- (d) Issue a writ of prohibition or any other appropriate writ or direction to the Respondents restraining the Respondents, their, agents, officers and servants from taking any action, passing any orders, initiating or continuing any proceedings in any manner, pursuant to, in respect of, relating to, or touching upon the subject matter of the complaint dated 08.07.2013 purportedly made by Chief Vigilance Officer of Broadcast Engineering Consultants India Limited.”

2. A complaint dated 08.07.2013 was made against petitioner no.1 (one of the two partners of petitioner no.2 firm) by the Chief Vigilance Officer of Broadcast Engineering Consultants India Limited. The said complaint was defective and, therefore, could not be proceeded with as a complaint under the relevant rules. Notwithstanding the same, the Director (Discipline) considered the same as an ‘information’ and proceeded to investigate the matter in terms of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

3. Petitioner no.1 has serious objections as to the manner in which the proceedings have been conducted. According to petitioner no.1, if a complaint is found to be defective, the Director (Discipline) had no option but to hold that a *prima facie* case of misconduct has not been made out. According to petitioner no.1, it would not be open for the Director (Discipline) to treat a complaint as an ‘information’. Petitioner no.1 had raised the said objection; but, apparently, the same has not found favour with the Director (Discipline).

4. The Director (Discipline) has since formed a *prima facie* opinion that petitioner no.1 is guilty of “other misconduct” falling within the meaning of

Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949. This opinion is impugned in the present petition.

5. The learned counsel appearing for the respondents points out that the Board of Discipline of the ICAI has concurred with the opinion of the Director (Discipline) and, thereafter, has issued a notice dated 23.10.2017 calling upon petitioner no.1 to send his written submissions within a period of fourteen days of the receipt of the said notice. The said notice is also impugned in the present proceedings.

6. Undisputedly, the Board of Discipline is yet to take a final decision in the matter. Thus, notwithstanding the *prima facie* opinion formed by the the Director (Discipline), the Board of Discipline is required to re-examine the entire disputes and come to a firm decision.

7. It is pointed out that before the Director (Discipline), petitioner no.1 had raised objections limited only to the procedure adopted in the matter; he had not effectively responded to the merits of the allegations. Petitioner no.1 has now submitted a written statement before the Board of Discipline contesting the allegations made against petitioner no.1 on merits as well as on the procedure adopted by the Director (Discipline). This Court has no reason to believe that the Board of Discipline will not examine the contentions raised by petitioner no.1. In the above circumstances, this Court does not consider it apposite to entertain the present petition at this stage. It is, however, clarified that petitioner no.1 will have full opportunity to present his defence before the Board of Discipline and in the event the Board of Discipline does not concur with petitioner no.1's submissions, it would be open for petitioner no.1 to challenge the same in accordance with

law.

8. It is clarified that this Court has not expressed any opinion on the merits of the disputes between the parties or on the procedure adopted by the Director (Discipline).

9. The petition is disposed of.

**VIBHU BAKHRU, J**

**AUGUST 17, 2018**  
**MK**