IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.12348 of 2016
and W.M.P.No.10684 of 2016

V.SUBRAMANIAN ... Petitioner

Vs

INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA,
REPRESENTED BY ITS JOINT SECRETARY,
ICAI BHAWAN, INDRAPRASTHA MARG,
NEW DELHI -110 002. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in 341st Meeting of the council held on 18th March, 2015 and communicated to the petitioner vide letter dated 28th January, 2016 and quash the same as illegal, incompetent and without jurisdiction and further direct the respondent not to upload the result of the meeting on its official website.

For Petitioner : Mr.K.Ravi Varun Ranganathan

For Respondent : M/s.Iyer & Thomas

ORDER

This writ petition is filed for a writ of Certiorarified Mandamus calling for the records relating to the 341st meeting of the council held on 18.03.2015 and communicated to the petitioner vide letter dated 28.01.2016 and to quash the same.

2. The case of the petitioner is that the petitioner was enrolled as an associate with the respondent organization on 02.02.1985 and was accorded fellowship on 30.05.1990. The petitioner did not renew his membership from 01.10.2001 to 30.04.2007. Subsequently, he was re-admitted on 01.05.2007 and has been in the roles of the respondent institute since then. While so, a charge was leveled against the petitioner with reference to the transactions relating to a company named Ujawala Foundation Limited, of which the petitioner served as the Director.

3. According to the petitioner, there was no misconduct committed by him, much less in the capacity of a chartered accountant, even with reference to functioning as a director. The concerned purchasers of the flat were well-informed about the mortgage that was generally made in respect of all the facilities in favor of the banks and as and when the plots were sold, the respective portions were being released by the bank. Therefore, the respondent organization initiated disciplinary proceedings based on a non-existent misconduct. In any event, during the said period, the petitioner was not even a member, so the respondent organization has no jurisdiction. Moreover, when

the final order of punishment was passed, it was considered another misconduct and the punishment was imposed.

4. The original regulations that were applicable, namely the Chartered Accountant Regulations, 1988, did not contain specific clauses with reference to 'other misconduct'. The first schedule was subsequently amended and the relevant entries were included. As such, there is a lack of jurisdiction on the part of the respondent and therefore, the petitioner has approached this Court with this writ petition.

5. The writ petition is resisted by the respondents on the grounds that, as per the rule position, the respondent organization is not entitled to pass the order of punishment by itself. The respondent organization only conducts an enquiry and makes a recommendation and the same has to be confirmed by this Court. The reference is pending in R.C. No. 1 of 2018 before the Hon'ble Division Bench. The petitioner can raise all the objections before the Hon'ble Division Bench. Therefore, this writ petition need not be entertained.

6. As far as the question of jurisdiction is concerned, the learned counsel appearing for the respondent points out that it cannot be contended in the

manner suggested by the petitioner. Even the definition of a 'member' contained in the Regulations, will include the petitioner and even under the unamended regulations, 'other misconduct' is also mentioned.

7. The learned counsel appearing for the petitioner also argued in detail and placed all the relevant judgments in support thereof.

8. No doubt, the petitioner can raise all the objections before the Hon'ble Division Bench, where the reference is pending. However, when the plea relating to jurisdiction is raised, this Court is inclined to consider it. But when arguments are made on behalf of the learned counsel for the respondent, pointing out that even those positions are arguable, it may not be appropriate for this Court to interdict when the reference is pending before the Hon'ble Division Bench. Therefore, leaving open to the petitioner to raise all the objections, including the objections relating to jurisdiction, before the Hon'ble Division Bench, this writ petiion is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

02.04.2025

Neutral Citation: Yes/No
nsl

D.BHARATHA CHAKRAVARTHY, J.

nsl

To
THE JOINT SECRETARY,
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA,
ICAI BHAWAN, INDRAPRASTHA MARG,
NEW DELHI -110 002.

W.P.No.12348 of 2016

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