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

\+ W.P.(C) 16584/2022 and CM APPL.52136/2022

MADHUSUDAN BIHARILAL BAHETI AND ORS. .....Petitioners

Through: Mr. Satvik Varma, Sr. Advocate along with Mr. Manish Dhir, Mr. Shankar Parmar, Mr. Abhishek and Mr. Balram, Advocates.

versus

INSTITUTE OF COMPANY SECRETARIES OF INDIA AND ORS. .....Respondents

Through: Mr. Sangram Patnaik, Mr. Sohel Rishabh, Mr. Nilesh Kumar Bhardwaj and Mr. Swayamsidha Patnaik, Advocates for R-1 and 2.
Mr. Anandh K., Ms. Nishita Jagetia, Advs. for R-3 (through v/c)

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% 16.05.2025

1. The present petition has been filed by the petitioners assailing an order dated 14.12.2021 passed by the Disciplinary Committee, Institute of Company Secretaries of India (respondent no.2) dismissing the complaint of professional misconduct filed by the petitioner nos.1 to 5 under Section 21 of the Company Secretaries Act, 1980 [hereinafter '*the CS Act*'] read with Rule 3(1) of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 [hereinafter '*the CS Rules*'] against Mr. Amit Kishor Mehta (respondent no.3).

2. It is submitted that the aforesaid order has been passed, *inter alia*,

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without affording a proper opportunity of hearing to the petitioners (complainants).

3. It is further submitted that the order has been passed in violation of the procedure envisaged under Rule 18 of the CS Rules.

4. Mr. Satvik Varma, learned senior counsel for the petitioners, submits that in terms of the aforesaid Rules, the complaint of the petitioners was duly processed and the Director (Discipline) gave a *prima facie* opinion dated 19.03.2021 by way of a detailed order. The operative portion of the same reads as under:-

> *"3.6 Considering the facts and circumstances of the matter as given below, and, more particularly, in absence of any written statement from the Respondent, it is prima facie opined that the Respondent is 'Guilty' of professional misconduct under clause (7) of Part I of the Second Schedule to the Company Secretaries Act, 1980."*

5. It is submitted that in terms of the relevant Rules, the matter is thereafter required to be considered by the Disciplinary Committee under Rule 18 thereof. He contends that the hearing was scheduled before the Disciplinary Committee on 16.11.2021, on which date, the petitioners could not appear in view of the prevalent COVID-19 situation.

6. He points out that on a conjoint reading of the entire procedure envisaged under Rule 18, it is evident that the hearing scheduled on 16.11.2021 was only for the purpose of recording whether the respondent no.3 pleads guilty or not guilty to the charges made against him. In the event of respondent pleading not guilty (as happened on 16.11.2021), it was incumbent for the Committee to fix another date for examination of witnesses and production of documents.

7. He submits that the same was not done and instead, the Committee

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hastily proceeded with the matter on the same date and held the respondent no.3 to be not guilty of professional or other misconduct under the Companies Secretary Act, 1980. He submits that the procedure followed is not consistent with the statutory prescription, and is rather in utter violation thereof.

8. Learned counsel for the respondent no.1/Institute of Company Secretaries of India, has strongly refuted the contentions of the petitioner, as regards, the interpretation of the aforesaid Rules as canvassed by the learned senior counsel for the petitioners.

9. During the course of hearing, it has been suggested to the learned counsel for the respondent no.1 that without going into the petitioners' version as regards infraction of the procedural requirements under Rule 18 (supra), considered that the petitioners' non-appearance on 16.11.2021 was occasioned on account of the COVID-19 pandemic situation, the matter be remanded to the Disciplinary Committee for fresh consideration after affording an opportunity of hearing to the petitioners. Learned counsel for the respondent no.1 accedes to the same.

10. Learned counsel for the respondent no.3 also does not dispute that no opportunity of hearing was granted to the petitioners before the impugned order was passed, despite the *prima facie* opinion given by the Director (Discipline) on the complaint of the petitioners.

11. In the circumstances, the impugned order dated 14.12.2021 is set aside.

12. The matter is remanded to the Disciplinary Committee of the respondent no.1, which shall consider the matter afresh. It is clarified that the matter shall be taken up for consideration by the Disciplinary Committee

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from the same stage at which it stood on 16.11.2021 (when it was first taken up by the Disciplinary Committee).

13. It shall be open for the Disciplinary Committee to pass such order/s, as may be deemed fit, in the facts and circumstances of the case after affording an opportunity of hearing to the petitioners, and taking into account all relevant aspects of the matter.

14. It is made clear that this order shall not be construed as an expression of opinion of this Court on the merits of the controversy between the parties.

15. The present petition is disposed of in the above terms. The pending application also stands disposed of.

SACHIN DATTA, J

MAY 16, 2025/r

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