



2026:DHC:1884



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

Date of Decision: **16.02.2026**

IN THE MATTER OF:

+ W.P.(C) 3979/2021 and CM APPL. 12038/2021

RISHIKESH GAGAN VYAS

SHIV DARSHAN, 'B' WING, 1102,
AHIMSA MARG, OFF LINK ROAD,
MALAD (WEST), MUMBAI – 400064

.....Petitioner

(Through: *Mr. Shaurya Kuthiala, Adv.*)

versus

1. **THE INSTITUTE OF COMPANY SECRETARIES OF INDIA,**
THROUGH ITS JOINT SECRETARY,
ICSI HOUSE,
22, INSTITUTIONAL AREA,
LODHI ROAD, NEW DELHI - 110003
2. **THE DIRECTOR (DISCIPLINE)**
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA,
THROUGH ITS JOINT SECRETARY,
ICSI HOUSE,
22. INSTITUTIONAL AREA,
LODHI ROAD, NEW DELHI - 110003
3. **THE DISCIPLINARY COMMITTEE**
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA,
THROUGH ITS JOINT SECRETARY.
ICSI HOUSE,
22, INSTITUTIONAL AREA,

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KUMAR KAURAV



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LODHI ROAD, NEW DELHI - 110003

.....Respondents

(Through: Mr.Sangram Patnaik, Mr.Shivam Pal Sharma, Mr.Kunal Malhotra, Ms.Vanya Sharma, Advocates)

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+ W.P.(C) 5439/2021 and CM APPL. 16857/2021

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CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G E M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. These two petitions relate to the disciplinary proceedings initiated against the petitioner by respondent no. 1-Institute of Company Secretaries of India (ICSI). Respondent no. 3 is the Disciplinary Committee of respondent no. 1-ICSI and has passed the impugned orders dated 09.01.2020, 06.10.2020, and 07.04.2021.
2. The petition bearing no. W.P.(C) 3979/2021 is for setting aside orders dated 09.01.2020 and 06.10.2020, whereby, the petitioner's applications dated 27.12.2019 and 15.01.2026 have been rejected.
3. *Vide* application dated 27.12.2019, the petitioner had prayed that respondent no. 3 should summon all persons whose statement/depositions are being relied upon by the complainant in the disciplinary proceedings and he be permitted to cross-examine them, under Rule 18(9) of the Company Secretaries (Procedure of Investigations of Professional and Other

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Misconduct and Conduct of Cases) Rules, 2007 (hereinafter '**the Rules**') read with Order IX Rule 1 and 2 of the CPC, 1908.

4. *Vide* application dated 15.01.2026, the petitioner had prayed that the depositions/statements or documents of persons who have not been examined by the complainant be struck off from the record. *Vide* the impugned order dated 06.10.2020, respondent no. 3-Disciplinary Committee has noted that, under Rule 18(14) of the Rules, it is not required to summon any witness if, in its opinion, the request for the same is made for the purpose of delaying the proceedings. It is noted that the petitioner was directed to justify his request for cross-examination of witnesses, but he had not provided any reasons for the same. Therefore, respondent no. 3-Disciplinary Committee formed the opinion that the petitioner was only trying to delay the proceedings. The petitioner was also directed to respond to or file documents against various documents submitted by the complainant. Subsequently, according to the petitioner, he had filed certain documents.

5. In the other petition i.e. W.P.(C) 5439/2021, apart from the reliefs prayed in W.P.(C) 3979/2021, the petitioner seeks setting aside of order dated 07.04.2021, whereby respondent no. 3 has found him guilty of the charges against him.

6. The impugned orders are challenged by the petitioner on the ground that the petitioner is entitled, in accordance with the principles of natural justice, to cross-examine all persons whose statements/depositions have been relied on in the disciplinary proceedings. According to him, since his applications dated 27.12.2019 and 15.01.2026 have been rejected by

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respondent no. 3, principles of natural justice have been violated, thereby vitiating the entire proceedings.

7. Learned counsel for the petitioner submits that his grievance has been noted by the Court *vide* its order dated 21.05.2021, whereby, it had formed an opinion that the impugned action was in violation of the principles of natural justice. He further submits that the said order has not been challenged by the respondent before the Division Bench.

8. He places great emphasis on the said order and submits that the observations made therein, would fully justify the prayer made herein. Further, reliance is placed on the the decision passed by the Supreme Court in the case of *State of U.P. vs. Mohammad Nooh*,¹ to assert that in cases where there is a violation of principles of natural justice, a writ petition would be maintainable. He has specifically placed reliance on paragraph nos. 10 and 11 of the said the decisions, which are extracted below, for reference:

“10. Then, thirdly, were the principles of natural justice ignored in this case? That also is, I think, settled by authority.

11. What happened here? The District Superintendent of Police examined a certain witness in the course of the enquiry. It seems that that witness's evidence was considered a vital link in the chain of evidence against the respondent. The District Superintendent of Police reached the conclusion that the witness had turned hostile. He may have been right about that, but he also considered it necessary to refute this evidence and make good the lacuna by bringing other material on record. Apparently, no other witness was available, so the District Superintendent of Police, who seems to have had personal knowledge about the facts, stepped down from the Bench and got his testimony recorded by another authority, once before charge and again after charge, and each time, after that was done, stepped back on to the Bench in order solemnly to decide whether he should believe his own testimony in preference to that of the witness who, in his judgment, had committed perjury and gone back on the truth. It hardly matters whether this was done in good

¹ 1957 SCC OnLine SC 21



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faith or whether the truth lay that way because the spectacle of a judge hopping on and off the Bench to act first as judge, then as witness, then as judge again to determine whether he should believe himself in preference to another witness, is startling to say the least. It would doubtless delight the hearts of a Gilbert and Sullivan Comic Opera audience but will hardly inspire public confidence in the fairness and impartiality of departmental trials; and certainly not in the mind of the respondent. Even before the Constitution, departmental trials were instituted to instill a sense of security in the services and inspire confidence in the public about the treatment accorded to government servants. The question in these cases is always:

“Whether it is likely to produce in the minds of the litigant or the public at large a reasonable doubt about the fairness of the administration of justice.” (Manak Lal v. Dr Prem Chand) [1951 SCC 217 : (1951) SCR 344] .

One of the English cases relied on by this Court in the case just cited was the House of Lords' decision in Frome United Breweries Co. v. Bath Justices [(1926) AC 586] . At p. 600 Lord Atkinson cited an instance which is almost on all fours with the present case. He said:

“It could not possibly have been intended by this statute to authorise a practice which would, I think, be inconsistent with the proper administration of justice — namely, that a licensing justice, one of the members of the compensation authority, should, on a given occasion, descend from the Bench, give his evidence on oath, and then return to his place upon the Bench to give a decision possibly based on his own evidence.”

The matter is, as I said, covered by authority and I need say no more except that, even if it were not, I would have had no hesitation in reaching the same conclusion.”

9. Further, reliance is placed on the decisions of this Court in **Talluri Srinivas v. ICAI**,² **Partha Ghosh v. ICAI**,³ and **Naresh Tharad v. ICAI**,⁴ in this regard.

10. The aforesaid submissions are opposed by learned counsel for the respondent. According to him, the petition is premature as the Disciplinary Committee is yet to determine the penalty to be imposed on the petitioner. He submits that against the imposition of penalty, the petitioner would have an appropriate remedy by way of appeal under Section 22E of the Company Secretaries Act, 1980.

² Judgment dated 13.03.2012 in W.P. (C) 8945/2011

³ 2009 SCC OnLine Bom 593

⁴ 2015 SCC OnLine Del 6677



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11. I have heard learned counsel for the parties and perused the record.
12. It is seen that respondent no.3-Disciplinary Committee, as per Rule 18(14) of the Rules, is not bound to summon witnesses if it is of the opinion that the request for the same is only to delay the proceedings. The case of the plaintiff is that several of the documents relied on against him, suffer from non-application of mind and, therefore, in the interests of natural justice, he is entitled to cross-examine the deponents.
13. In disciplinary proceedings, there is no absolute right to cross examination. Reference may be made to the decision of the Supreme Court in *State of J&K vs. Bakshi Gulam Mohammad*.⁵ In the said case, the Supreme Court was dealing with proceedings under the Jammu and Kashmir Commission of Inquiry Act, 1962, and has held as under:

“20. The next point is as to the right of cross-examination. This claim was first based on the Rules of natural justice. It was said that these rules require that Bakshi Ghulam Mohammad should have been given a right to cross-examine all those persons who had sworn affidavits supporting the allegations against him. We are not aware of any such rule of natural justice. No authority has been cited in support of it. Our attention was drawn to Meenglas Tea Estate v. Workmen but there all that was said was that when evidence is given viva voce against a person he must have the opportunity to hear it and to put the witnesses' questions in cross-examination. That is not our case.”

14. The aforesaid decision has also been relied upon by this Court in the case of *M/s Nath International Sales v. Union of India and Ors.*⁶ The relevant portion of the decision is extracted below, for reference:

“24. Lastly, it is urged by Mr. Jaitley that the principles of natural justice demand that an opportunity should be given to the petitioners to cross-

⁵ 1966 SCC OnLine SC 70

⁶ 1992 SCC OnLine Del 31



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examine Mr. S.A. Khan, DLW's Inspector, to elicit the truth as to which of the two inspection reports is genuine. We do not feel persuaded to do so. As is observed by the Supreme Court in State of J & K v. Bakshi Gulam Mohammad, AIR 1967 SC 122 (3) a right of hearing does not include a right to cross-examine and the right to cross-examine must depend upon the circumstances of each case. As already observed, there is no difference in both the reports on the crucial point of filing of TRW's test certificate, which is sufficient to support respondents action."

15. The reliance placed by the petitioner on the decisions in **Talluri Srinivas, Partha Ghosh**, and **Naresh Tharad** is misplaced. The Court, in the said decisions has nowhere recognized any absolute right of cross examination in departmental proceedings. In fact, in the decision in **Talluri Srinivas**, the Court has specifically held that no such right exists. Paragraph 44 of the said decision is extracted below, for reference:

"44. I may observe at this stage itself that strictly speaking the petitioner is not entitled to the said relief in respect of the witnesses whose examination-in-chief was recorded on 09.07.2011, and the petitioner is solely responsible for landing himself in the present state. However, since the petitioner has agreed to bear the expenses that would be incurred for permitting the petitioner to cross examine these witnesses, so as to provide ample opportunity to the petitioner, even at this stage, I am inclined to grant one and only one opportunity to the petitioner to cross examine the respondent's witnesses, subject to conditions."

16. So far as the submissions that on the facts of this case, principles of natural justice required that the petitioner be allowed to cross-examine all persons whose statement are relied on by the complainant, the same cannot be accepted. The petitioner was called upon by respondent no. 3-Disciplinary Committee to file documents and written submissions to refute the same and the petitioner claims to have filed certain documents thereafter. The petitioner, therefore, could not have raised any objections with respect to the alleged infirmity in the remaining documents. Further, he was also given an opportunity to examine his own witnesses upon providing precise

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reasons. Since, as per the Committee, there was no justifiable reason to allow the petitioner to cross-examine the complainant-witnesses, therefore, right of cross-examination has been denied.

17. More importantly, in the order dated 09.01.2020, it is expressly recorded that the petitioner was given an opportunity to cross-examine witnesses on behalf of the complainant, upon incurring all costs towards their attendance. However, *vide* application dated 15.01.2020, the petitioner has equivocally asserted that the costs for procuring the attendance of witnesses relied on by the complainant ought to be borne by the latter.

18. Considering that the petitioner does not have any absolute right to cross examination, the fact that he was given sufficient opportunity to cross-examine witnesses at his own costs, and he was given an opportunity to file evidence in response to the documents of the complainant, the principles of natural justice do not seem to have been violated.

19. Another aspect that requires to be noted is that, at present, *vide* order dated 07.04.2021, the petitioner has only been found guilty of the charges against him. Under Section 21B of the Company Secretaries Act, 1980, prior to taking any action against the petitioner, he shall be given an opportunity of hearing. Further, under Section 22E thereof, he may prefer an appeal against any penalty that may be imposed by the Disciplinary Committee under Section 21B before the Appellate Authority. In view thereof, there does not seem to be any justification for piecemeal adjudication, first, at the stage of forming an opinion of guilt and thereafter, in the appeal against any penalty that may be imposed.

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20. The statute, under Section 22E, provides for appeal only against the final order passed under Section 21B. The petitioner, therefore, shall be at liberty to raise all objections once the final order is passed.

21. With the aforesaid, the petition, along with pending application(s), if any, stands deposited of.

**PURUSHAINDRA KUMAR KAURAV
(JUDGE)**

FEBRUARY 16, 2026/aks/amg

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