



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH
RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF
PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

In the matter of:

CA. Kamal Mehta (M. No. 071500), JAIPUR 302017

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

MEMBERS PRESENT:

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, Member**

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 05.02.2019, the Disciplinary Committee was inter-alia of the opinion that **CA. Kamal Mehta (M.No. 071500)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the Act.
2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 03rd May, 2019 was addressed to him thereby granting an opportunity of being heard in person and/or to make oral/ written representation before the Committee on 15th May, 2019 at New Delhi.
3. Further, on 15th May, 2019, the Committee noted that the Respondent was not present, however, he has made his written submissions dated 14/05/2019 before the Committee on findings of earlier Committee, stating as under:-



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

3.1 *“There is no charge-sheet filed in the Court of the Law even after lodges of FIR in 2014, while hearing on last date police was not able to make any charge against anyone name in FIR.*

3.2 *There is no demand from bank as on date against myself, my family or my NGO’s.*

3.3 *I have already lodged a complaint against the erring officers who has made false report against me which is under investigation in Anti-Corruption Department, Jaipur.*

3.4 *After so many requests, no documents/voucher or verification report was made available to me or to your office, which is well within the knowledge of Institute.*

3.5 *When any agency i.e. Police, Court of law, bank could not make any case against me, how without evidence, the Institute is bent upon holding me guilty for no fault of mine.*

3.6 *Only on the basis of RBI report, without verifying the facts and figures with bank, your good office has passed a non-speaking order, wherein no opportunity is given to me to provide my defense through evidence.*

3.7 *I once again request you to please defer the case till any conclusive evidence is available against me or any of the agency held me guilty whether Court of law. Because, if your good office without evidence, held me guilty and if other agencies found no substance against me then then your punishment, if any, will be irreversible.*

4. The Committee noted the above written submissions and also noted the following observations as contained in the findings of earlier Committee as under:-

4.1 The Respondent was elected as Chairman of the Bank for the period 1998 to 2004 and from 2006 to February 2009. The Committee noted that serious observations have been brought out in the Scrutiny Report of the RBI against the Respondent in his capacity as the Chairman of the bank. However, from the modus operandi as regards all the irregularities pointed out in RBI report, it has come on record that the Respondent as Chairman was very well aware of the day to day functioning of the bank and he was interfering/managing the day to day affairs and that too for his own advantage or to the advantage of the concerns in which he was interested. Further –



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

- He was withdrawing the funds from Bank, by taking overdrafts against Bank's deposits, without bringing it in Bank's books. Similarly, he was often putting money in the bank/bank's customers' account, by even extending over drafts (without requisite application/documentation/security) in various current accounts of other customers of the Bank.
- He was influencing the day to day functioning of the bank and the bank officials/staff were following the oral instructions of the Respondent as Chairman of the bank given from time to time.
- The various irregularities which has been pointed out by the RBI inspection report regarding sanctioning of overdraft without proper documentation, misuse of payment order account, taking loan against bank FDs of the bank wherein the money was not routed through the bank book.

All the above mentioned irregularities would not have taken place without the active interference and connivance of the Chairman of the bank. The main purpose of appointing a professional on the board of the bank was to ensure compliance to statute, guidelines another statutory provisions of Banking Regulations Act, 1949 of the RBI. But In this case the Respondent willingly and knowingly misused the same for his own interest/personal benefit. It appears that as a result of all such mismanagement and irregularities, the Bank went in to liquidation. In view of all the above facts, it can be concluded that the Respondent has brought disrepute to the Institute and Profession by his own conduct and such conduct is unbecoming of a Chartered Accountant falling under 'other misconduct' within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the Act.

5. The Committee noted that the above acts of the Respondent has brought disrepute to the profession. Accordingly, the Committee is of the view that ends of justice would be met, if the Respondent is punished in commensurate with the gravity of the offence. Hence, the Committee pronounced maximum punishment as prescribed under First Schedule I to the Chartered



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

Accountants Act, 1949. The Committee is of the view that ends of Justice would be met if the Respondent is punished in commensurate with the gravity of the offence.

6. Thus, keeping in view the facts and circumstances of the case, the material on record before it, the Committee ordered that the name of the Respondent i.e. CA. Kamal Mehta (M. No. 071500) be removed from the register of members for a period of 03 (three) months and a fine of Rs. 1,00,000/- (Rupees One Lakh only) plus applicable taxes (i.e. total sum of Rs. 1,18,000/- including GST as applicable) be also imposed upon him to be paid within 30 days of receipt of this order.

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

DATE : 15/05/2019
PLACE : New Delhi



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH - II (2018-2019)]

[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No. : [PPR-18/C/2013/DD/17/C/INF/DC/530/17]

In the matter of:

CA. Kamal Mehta (M.No 071500)

M/S. K. Mehta & Associates,
65, Sardar Patel Marg, C-Scheme,

JAIPUR 302001

.....Respondent

MEMBERS PRESENT:

CA. Prafulla P. Chhajed, Presiding Officer
CA. Amarjit Chopra, Government Nominee
CA. Mangesh P. Kinare, Member
CA. Sushil Kumar Goyal, Member



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

DATE OF FINAL HEARING : 07.01.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Jaipur

PARTIES PRESENT:

Respondent : CA. Kamal Mehta

Charges in Brief:-

1. The Respondent was the Chairman of Vaishali Urban Co-op. Bank Ltd. (hereinafter referred to as **the Bank**) from the year 1998 to 2009. Despite being a professionally qualified Chartered Accountant, the Respondent in collusion with the concurrent Auditors namely CA Karuna Bhansali, Proprietor of M/s K. Bhansali & Associates and CA. Punit Godawat, Proprietor of M/s Loonker & Co., was involved in fraud and embezzlement of funds of the bank, as reported in the Inspection Report submitted by the Reserve Bank of India and the reports submitted by the Statutory/Voucher Auditor appointed by the Registrar of Cooperative Societies, Rajasthan.

1.2 It is further alleged that the Respondent, as a Chairman of the Bank, in collusion with the concurrent auditors of the Bank were found flouting laws of the Reserve Bank of India and Banks Regulations, circulars, other norms and own bye-laws as laid down by the Board of the Bank.

1.3 The irregularities in bank during the tenure of Respondent based on above reports can be summarised as under:



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

- a) The Bank had not segregated inoperative deposit accounts from the operative accounts. Some of the inoperative account were reactivated unauthorized manner and clean overdrafts were sanctioned therein without any request from the account holders on record.
- b) Loans against NSCs in current accounts. The bank neither had copies of NSCs / IVPs on its record nor was it able to furnish details like numbers etc.
- c) Clean overdrafts given in fictitious current accounts. Six current accounts were opened and overdrafts were allowed in these accounts. These overdrafts were sanctioned without receiving any request for OD limits.
- d) Clean overdrafts in some new and existing current accounts without receiving any request for OD limits.
- e) Irregularities in opening of SB account no.3772 of Bharat Jain.
- f) Misuse of Payment order account to raise money / create money.
- g) Overdraft opened in the name of the Bank with the Bank of Rajasthan had not brought into books of the bank.
- h) The BOD of the Bank had authorized opening of the fixed deposits and OD accounts with Bank of Rajasthan. The BOD had authorized six people to operate the account. The account was to be operated by any two persons



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

(jointly) authorized to do so. The person so authorized included the Chairman and a clerk of the Bank.

- i) The Bank had a fixed deposit of Rs.280.93 lakhs with Rajasthan State Co-Op Bank Ltd against which it enjoyed a CC limit of Rs.200 lakh. A fresh overdraft of Rs.63 lakhs was sanctioned against the residual value of fixed deposit. Amount received against overdraft was used to repay the outstanding overdrafts in the books of the Bank in the name of members of Pacific DC & Hospital, Udaipur. This loan was not brought into books of the Bank.
- j) The Bank had availed overdraft facility of Rs.315 lakh against its fixed deposits of Rs.450 lakh with Jaipur Central Co-op Bank Ltd (JCCB Ltd). in the month of June, 2006. It was observed that with effect from 20th June, 2006, there were many transactions which appeared in the bank's account in the books of JCCB Ltd., but the same were not reflected in the books of the bank.
- k) As per the bank's statement of account received from Centurain Bank of Punjab on 30th June, 2007, Rs.200 lakh were deposited in cash in the said account. This transaction was not shown in the books of the Bank.
- l) The Bank had availed overdraft facility against its fixed deposit of Rs.45 lakh in its CC account number 0016-576960-050 with IndusInd Bank Ltd., during the period from 18th July, 2006 to 26th September, 2007. The amounts were withdrawn in the name of individuals. The transactions with IndusInd Bank Ltd. were also not shown in the books of the Bank.

Brief facts of the Proceedings:

2. On the day of hearing, the Committee noted that the Respondent in person was present and appeared before it.



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

2.1 As this case was part heard by the earlier Committee, the Committee proceeded ahead with de-novo hearing on the request of the Respondent. The Respondent submitted that he was Chairman of the Bank and allegations are against the auditors of the bank. The Respondent stated that in RBI report, it is stated at various places that documents were not available. The Committee drew his attention to a letter written by the Disciplinary Directorate to Administrator of the Bank in which it was requested to arrange to provide necessary documents to the Respondent and even the administrator also consented for the same.

2.2 The Committee also pointed out to him that Reserve Bank of India Report has clearly mentioned his involvement in the matter and has passed strictures against him for mis-management in Bank.

2.3 During the hearing, the Committee enquired regarding his involvement in alleged mismanagement/irregularities pointed out in RBI report. He gave evasive answers by saying that as a Chairman, he is not responsible to day to day functioning of the Bank and it is CEO who is responsible. However, when he was questioned regarding transfer of money to his accounts or accounts of concerns in which he was interested; the respondent could not answer it satisfactorily. He only mentioned that he has already closed these accounts.

2.4 The Committee recorded the submissions of the Respondent and directed him to file final submissions and documents, if any, within 15 days time.

With these directions, the Committee concluded the hearing in the captioned matter.

FINDINGS OF THE COMMITTEE

3. The Committee noted that the allegations against the Respondent are based on the RBI scrutiny report and on the basis of enquiry results and Direction dated 13.1.2012 under section 55 (5) (6) of Rajasthan Co-operative Societies Act, 2001 .



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

3.1 The Committee observed that the Respondent was elected as Chairman of the Bank for the period 1998 to 2004 and from 2006 to February 2009.

3.2 The Committee noted that some serious observations have been brought out in the Scrutiny Report of the RBI against the Respondent in his capacity as the Chairman of the bank.

Some of the observations are as under:

3.2.1 Para 5(i) in the current account No. CA-1521 of M/s Vasundara, a clean overdraft of Rs.112.35 lakhs was allowed on 10.05.2008 and the same was transferred to SB account No. 3992 of Indian Council for International Amity, where the account was opened on 07.05.2008. No request for OD limit was received, however on 23.05.2008, an amount of Rs.10.19 lakhs and Rs.12.18 lakhs were transferred to the A/c. No CA 1521 and thereafter the A/c. No. CA -7 and CA -8 of the Respondent and his spouse and this amount was again re transferred from these accounts to these a/c No. 1521 on 28.05.2008.

Thus, it is evident that the clean overdraft was allowed in one current account and the amount was transferred to the Respondent and his wife without any request for OD limit.

3.2.2 “The bank was found to have misused its Payment Order account to raise money/create money. It was observed that the bank was in the habit of issuing payment orders in its own name, when in need of funds wither for its own purpose or for providing irregular accommodation to others, without pre-funding the Payment Order account. E.g.

(Rs. lakh)

Sl. No.	Payment Order No. and Date	Amount	Remarks
1	018231 dated	60.00	Cash withdrawal from



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

	4.2.2008			IndusInd bank.
2	016587 29.6.2008	dated	50.00	
3	016588 29.6.2008	dated	55.00	
4	016697 29.6.2008	dated	95.00	
5	018232 4.2.2008	dated	20.00	Cash withdrawal from Centrurian Bank of Punjab.
6	018233 4.2.2008	dated	12.00	
7	018187 25.1.2008	dated	225.00	
8	016536 4.6.2007	dated	3.00	Transferred to CA-1016 (KGL)**
9	016537 4.6.2007	dated	7.00	Transferred to CA-1022 (KET)*
10	016548 5.6.2007	dated	3.00	Transferred to CA-1016 (KGL)*
11	016549 5.6.2007	dated	2.00	Transferred to CA-1314 (SURYA Nagari Education Society, Jodhpur)
12	016597 14.6.2007	dated	5.00	Transferred to CA-1022 (KET)*
13	016614 18.6.2007	dated	5.00	Transferred to CA-1022 (KET)*

**KET – Kushal Education Trust ** Kushal Global Ltd. – Both institutions in which the Chairman of the bank has an interest.*

It had changed the very characteristic of this prefunded instrument.”

Thus, there was misuse of Payment Order account to raise money when in need of funds, to Institutions in which the Respondent had interest.

3.2.3 Further, in Paragraph 1 and 3 of category B of the Scrutiny Report, it is specified as under:



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

“The bank was having two fixed deposits – Rs.200.00 lakh and Rs.50.00 lakh – with The Bank of Rajasthan (BOR) Ltd., Nagar Nigam Branch, opened on October 9 and 11, 2007 respectively. It had opened OD account no. 0413301111041 with the BOR Ltd. on October 09, 2007. Originally an OD limit of Rs.190.00 lakh was sanctioned, which was reportedly enhanced to Rs.237.50 lakh on October 11, 2007. Though the account was opened in the name of Vaishali Urban Cooperative Bank Ltd., the bank had not brought this account into its books. While it enjoyed over drawings against the fixed deposits it continued to show the fixed deposits with BOR Ltd. at full value in its books. A perusal of the account revealed that high value transactions, whose ultimate beneficiaries were institutions where the Chairman and a Director were interested, were routed through the account” .

“The overdraft of Rs.250.00 lakh at Subhash Marg branch was liquidated partly on November, 01, 2008 using a cheque for Rs.170.00 lakh issued by VUB Ltd’s customer M/s Invention Digital Systems (proprietor Sanjay Bhansali). The residual amount of Rs.82,03,448.00 was repaid on November 06, 2008 by using a remittance in cash received from the BOR Ltd. Sojat Gate, Jodhpur from the account of M/s Kushal Education Trust, where the Chairman of the bank is an interested party. All this was done when an inspection of VUCBL by RBI under section 35 of the BR Act, 1949 (AACS) was under way. This overdraft account number 3140303117920 was also not reflected in the books of the VUCB Ltd. The aggregate debits in the account were to the tune of Rs.349.71 lakh at Nagar Nigam Branch and Rs.252.03 lakh at Subhash Marg branch”.

Thus, it is observed that the bank enjoyed overdrawing against fixed deposits but showed fixed deposits at full value in its books, and these overdraft accounts were not shown in books of Bank, whereas a perusal of the account showed that the ultimate beneficiaries were those institutions in which the Respondent had interest in.

3.2.4 Also, it is noted:

“Some unusual transactions practices also came to light during the course of scrutiny of books at BOR’s end.

i) The BOD of VUCB Ltd. had authorized opening of the fixed deposits and OD account with Bank of Rajasthan Ltd. The account was to be



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

operated by any two persons (jointly) authorized to do so. The BOD had authorized six people to operate the account. The persons so authorized surprisingly included the Chairman as also a clerk of the bank.

ii) The account opening form, however, contained the signature of only two persons-one of whom was the clerk. He had signed the account opening form as Assistant Manager and this was accepted without demur by the BOR Ltd. This showed that the bank had decided from the very beginning to use the facility only for irregular personal transactions and had therefore kept the others out of the loop.

iii) The Bank of Rajasthan had accepted a letter from VUCB Ltd., signed by the two signatories to the account opening form authorizing the BOR Ltd. to act upon telephonic instructions from them to transfer funds from the account without insisting on cheques/instruments. The officials had absolved BOR Ltd. of any liability on account of actions taken on the basis of telephonic instructions. Though this was a self authorization the BOR Ltd. did not find it out of order and accepted the same. Paperless transactions were carried out over the phone by the banks”.

“Many transactions were booked by VUCB Ltd. in its books, in the JCCB Ltd account, while the same were not reflected in its account with JCCB Ltd. It was observed that the account of JCCB Ltd. in VUCB Ltd., books was debited and amounts transferred to the Payment order account. The same was then used for issuing Payment Orders favouring VUCBL and the amount credited to several current accounts (where the Chairman of the bank was interested) by transfer (instead of presenting through clearing) despite the fact that the Payment orders were made out in the name of VUCB Ltd., examples are given below (A15):-

Sl. No.	Date of transaction	Debit to JCCB Rs.	Credit to Current a/c no.	Remarks
1	4.6.2007	7.00 lakh 3.00 lakh	1022 of KET 1016 of KGL	The Chairman of the bank is interested in these party in these institutions.
2	5.6.2007	3.00 lakh 2.00 lakh	1016 of KGL 1314 of Surya Nagari Education	



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

			<i>Society, Jodhpur</i>	
3	14.6.2007	5.00 lakh	1022 of KET	
4	18.6.2007	5.00 lakh	1022 of KET	

Thus, some serious observations have been brought out by the Scrutiny Report of the RBI against the Respondent in his capacity as the Chairman of the bank. These Observations as regards becoming joint signatory with clerk, giving telephonic instructions for transfer of funds to related concerns, rotation of money from different accounts; clearly shows active involvement of Chairman.

3.3. The Respondent on being enquired about the above transaction could not reply satisfactorily to the Committee. The Respondent at the time of hearing could not produce or satisfy the Committee that there was a request given by the party for overdraft limit. The Respondent started giving evasive answers and mentioned that it is not his duty to check day to day transactions. However, he could not explain or give satisfactory reply as to why these amounts were transferred to his personal account. He further mentioned that the RBI inspection report is totally false and misleading.

3.4 During the hearing, the Respondent accepted that M/s. Kushal Global Ltd., Kushal Education Trust and Surya Nagari Education Society, Jodhpur belong to him.

3.5 Further, during the examination of the Respondent by the Committee, it came on record that there were large scale misuse of payment order account. On a specific question, the Respondent replied that in one case party deposited Rs. 1.5 crore in cash and the pay order was issued against it, as it was a normal practice in the cooperative banks. He further submitted that there is no limit for the pay order which can be issued against deposit of cash, even issuing of pay order of Rs.10.00 crores in cash is a normal practice in such banks.



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

3.6 On being asked whether as a Chartered Accountant, he could not feel that there are violation of any provisions of Income Tax Act, whether he has taken precautions as regards PAN, Money laundering etc., the respondent gave again evasive answers that it was not his responsibilities.

3.7 The Respondent also accepted that he used to give funds to the bank as loan whenever the bank require the fund, however he could not produce the related documents. On a specific question being posed by the Committee, the Respondent accepted that bank has given a loan in the form of overdraft which was not routed through the books of the bank. The matter was placed before the audit Committee, the audit Committee has full power to regularize/approve such transaction.

3.8 During the hearing the Respondent raised the issue that he does not have the relevant documents/vouchers to justify/defend himself in respect of the various transactions which were reported in RBI Inspection Report. He requested the Committee to arrange the same from the bank, however, it was brought to the notice of the Respondent that the Directorate vide a letter dated 08.08.2017 has written to Administrator of the bank for the documents. In response, the bank stated that the copy of the documents is available in the enquiry report dated 6th September 2011 and result and directions dated 13th January 2012 under Section 55 of RCS Act, 2001, also the Respondent can procure the same from the concerned department.

3.9 The Committee observed that the Bank was in the habit of issuing payment orders for its own purposes or for providing irregular accommodation entries to others without pre-funding the payment order accounts. Many of these accounts where the payment were made include account of Kushal Education Trust, Kushal Global Limited



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

in which the Respondent was having an interest. Hence the inference can be easily drawn that these transactions might have taken place at the behest of the Respondent.

3.10 The Committee also noted that bank had opened two fixed deposits of Rs.2 crores and 50 lakhs each with Bank of Rajasthan on 11th October, 2007 respectively. The Bank has taken the overdraft against said FDs. However, the amount was not brought into the books of the Bank.

3.11 The Committee asked the Respondent why the loan /overdraft taken against the FDs were not routed through or reflected in the books of the Bank. But he could not reply to the satisfaction of the Committee, however, still the Committee allowed him time to produce/submit the relevant documents, within 15 days from the date of hearing. Though the Respondent submitted his further submissions but no documentary evidence in respect of this allegation has been submitted by him.

3.12 The Committee observed that blatant irregularities have taken place in the books of the bank such as:-

- Large scale flouting of rules relating to sanctioning of overdrafts,
- Issue of payment orders as accommodation transactions,
- Overdraft taken against bank FDs of the bank, but the same were kept out of books of the bank and utilized as per Chairman's directions.
- The funds introduced in the books of the Bank at the whims and fancy of the Respondent as Chairman without following the due procedures or approval of the Board of Directors,



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

- There were large scale sanctioning of overdraft and loans to the concerns in which the Respondent as Chairman or his relatives has direct or indirect interest.

The Committee perused the various norms of master circular in order to arrive at a fair conclusion regarding the conduct of the Respondent and to assess whether the responsibility imposed on him as professionally qualified Chartered Accountant acting as Chairman were fulfilled as per the norms issued by RBI through master circular.

3.13 On perusal of the various norms of master circular issued on 3rd July, 2006 addressed to CEO of All Primary (Urban) Cooperative Banks, the Committee noted that under the broad heading titled Constitution of Board of Directors, it is mentioned under :-

Para 1.3 that the Board of Directors primarily concerned with the formulation of policies keeping in view the guidelines issued by RBI and state/Central Government. The Board should also exercised overall supervision and control over the functioning of the Bank leaving day to day administration of the bank to the Chief Executive Assistant.

Para 1.5 the Directors of primary (Urban) co-operative banks must be knowledgeable and person of high integrity. They must function in a cohesive manner and provide proper leadership for the smooth and efficient management of the affairs of the bank. This calls for certain degree of professionalism in the BODs.

Para 3.1 in order to ensure and enhance the effectiveness of internal audit/inspection as the management rule, an Apex Audit Committee should be set up at board level for overseeing and providing directions to the internal audit/inspection



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

machinery and other executives of the banks. The Committee may consist of the chairman and three/four directors, one or more of such directors being chartered accountant or having experience in management, finance accountancy and audit systems, etc.

Para 3.2 ACB should review the implementation of the guidelines issued by RBI and submit a note thereon, to the board, at quarterly intervals. The major duties/responsibilities of the ACB are given below:

Para 3.2(iii) compliance with statutory audit/concurrent audit/RBI inspection report

(iv) Omission on the part of the internal inspecting officials to deduct serious irregularities should be viewed seriously.

(vi) Periodical review of the accounting policies/systems in the bank with a view to ensuring greater transparency in the bank' accounts and adequacy of accounting controls.

5.1 Primary (urban) cooperative banks are prohibited to make, provide or renew either secured or unsecured loans and advances or extend any other financial accommodation to their directors, or their relatives and the firms/concerns/companies in which they are interested with effect from 1 October, 2003. However, the following categories of directors related loans are exempted from the purview of the above instructions.

i. Regular employee-related loans to staff directors on the Board of UCBs.

ii. Normal loans as applicable to members to the directors on the Boards of salary earners' co-operative banks and



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

iii. Normal employee-related loans to Managing Directors of Multi-State co-operative banks.

The existing advances may be allowed to continue upto the date when they are due.

5.2 The words 'any other financial accommodation' shall include funded and non-funded credit limits and underwritings and similar commitments, as under

a. The funded limits shall include loans and advances by way of bills purchase/discounting, pre-shipment and post-shipment credit facilities and deferred payment guarantee limits extended for any purpose including purchase of capital equipment and acceptance limits in connection therewith sanctioned to borrowers and guarantees by issue of which a bank undertakes financial obligation to enable its constituents to acquire capital assets.

4. The Respondent vide his letter dated 25th January, 2019 submitted his further submissions along with certain documents as per the directions of the Disciplinary Committee given at the time of hearing. In his submissions, the Respondent has denied all the allegations and mentioned that all the relevant documentary evidence in support of the transactions were there with the bank at the relevant time. He has no role in the day to day affairs of the bank. He alleged that the MD of the bank along with the staff at that time were involved in the irregularities. He again requested to call certain documents from the Administrator of the bank. The Committee noted that in para 3.8 of this Finding, the request of the Respondent has already been dealt with. However, he could not explain as to how he was operating bank account with Bank of Rajasthan so it cannot be said that he was not interfering with the day to day transactions. Also he could not explain why the money was transferred to bank account in which he was interested.



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

5. From the above referred para in the master circular, it gives clear directions to the Respondent that as Chairman of the bank, their main function is policy formation and overall supervision. However, from the modus operandi as regards all the irregularities pointed out in RBI report discussed in above paragraphs, it has come on record that the Respondent as Chairman was very well aware of the day to day functioning of the bank and he was in fact interfering/managing the day to day affairs and that too for his own advantage or to the advantage of the concerns in which he was interested. Further –

- He was withdrawing the funds from Bank, by taking overdrafts against Bank's deposits, without bringing it in Bank's books. Similarly, he was often putting money in the bank/ bank's customers' account, by even extending over drafts (without requisite application/documentation/security) in various current accounts of other customers of the Bank.
- He was influencing the day to day functioning of the bank and the bank officials/staff were following the oral instructions of the Respondent as Chairman of the bank given from time to time.
- The various irregularities which has been pointed out by the RBI inspection report regarding sanctioning of overdraft without proper documentation, misuse of payment order account, taking loan against bank FDs of the bank wherein the money was not routed through the bank book,

All the above mentioned irregularities would not have taken place without the active interference and connivance of the Chairman of the bank. The main purpose of appointing a professional on the board of the bank was to ensure compliance to statue, guidelines another statutory provisions of Banking Regulations Act, 1949 of the RBI. But In this case the Respondent willingly and knowingly misused the same for his own interest/personal benefit. It appears that as a result of all such mismanagement and irregularities, the Bank went in to liquidation. In view of all the above facts, it can be concluded that the Respondent has brought disrepute to the Institute and Profession by his own conduct and such conduct is unbecoming of a Chartered Accountant falling under 'other misconduct' within the meaning of



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the Act.

Conclusion:

6. Thus, in the considered opinion of the Committee, the Respondent 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 read with Section 22 of the Act. The Committee noted that there is no contravention of the provisions of the Chartered Accountants Act or the Regulations made thereunder or any guidelines issued by the Council. Hence, the Committee held the Respondent not guilty under Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(CA. PRAFULLA P. CHHAJED)

PRESIDING OFFICER

Sd/-

(CA. AMARJIT CHOPRA)

GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P. KINARE)

MEMBER

Sd/-

(CA. SUSHIL KUMAR GOYAL)

MEMBER



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[PPR-18/C/2013/DD/17/C/INF/DC/530/17]

DATE : 05th February, 2019

PLACE : New Delhi