



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

[PR-01/2015-DD/13/15/DC/606/2017]

**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:

Shri Sanjay Chiripal, New Delhi

-VS-

CA. Rajnish Kumar Agrawal (M. No. 072913), New Delhi

[PR-01/2015-DD/13/15/DC/606/2017]

Date of Order : 22nd September, 2020

MEMBERS PRESENT:

1. CA. Nihar N Jambusaria, Presiding Officer
2. Shri Arun Kumar, IAS (Retd.), Government Nominee
3. Ms. Nita Chowdhury, IAS (Retd.), Government Nominee
4. CA. (Dr.) Debashis Mitra, Member
5. CA. Jay Chhaira, Member

1. That vide report dated 03rd February, 2020, the Disciplinary Committee held **CA. Rajnish Kumar Agrawal (M. No. 072913), New Delhi** (hereinafter referred to as the “Respondent”) **GUILTY** of professional Misconduct falling within the meaning of Clause (7) Part I of Second Schedule to the Chartered Accountants Act, 1949 as amended from time to time.

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on on 22nd September, 2020.



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3. The Respondent did not appear before the Committee on 22nd September, 2020, but through e-mail dated 19th September, 2020, he had submitted that *“he would not like to attend the hearing. Have mentioned his arguments in the document sent across you.”*

4. The Committee perused the submissions of the Respondent dated 16th September, 2020, which are as under:-

“The Respondent stated that he undertook the audit of the Society for the year 2013-14 at the request and pressure of the management of the Society considering that the audit is a routine financial activity and that the last date of submission of the audited accounts for the year 2013-14 to the RCS office was approaching fast.

The Respondent admitted that he had inadvertently missed on the procedural aspect of obtaining the approval from the appropriate authority before commencing the audit, but all audit procedures were duly conducted by him and there were no changes in the auditor’s report of the same period conducted by other auditor appointed by RCS.

Further, he assures to be more diligent and prudent before accepting any audit engagement in future”.

5. The Committee considered the above written submissions made by the Respondent and findings of the earlier Committee holding the Respondent guilty of professional misconduct. The Committee observed that as per Section 60 of Delhi Co-operative Societies Act, 2003 and Rule 79 of the Delhi-Cooperative Societies Rules, 2007, a co-operative society is required to get its accounts audited by an auditor selected from the panel prepared by the Registrar. The subject Society made an application in the prescribed format to office of the Registrar of Co-operative Societies, New Delhi on 17th April, 2014 for appointment of the Respondent firm as auditor for the year 2013-14. In the said application, the Respondent has signed the acceptance certificate wherein he has given his consent for conducting the audit of the Society subject to the approval by the office of the Registrar of Cooperative Societies, New Delhi.



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5.1 The Committee also noted that the Registrar of Co-operative Societies, New Delhi vide its order dated 20th November, 2014 rejected the audited accounts of the Society.

5.2 After considering all these facts and findings, the Committee was of the view that there was procedural lapse at the end of the Respondent and as no effect was given to the audited financial statements of the Society, thus the Respondent be directed to be more vigil and careful in future to comply with such procedural aspects and any professional negligence in future would be considered strictly.

6. Thus, keeping in view the facts and circumstances of the case as aforesaid, the material on record and submissions of the Respondent before it, this Committee orders that the Respondent i.e. CA. Rajnish Kumar Agrawal (M. No. 072913), New Delhi, be reprimanded.

Sd/-

(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

Sd/-

(SHRI ARUN KUMAR, IAS (RETD.)
GOVERNMENT NOMINEE

Sd/-

(MS. NITA CHOWDHURY, IAS (RETD.))
GOVERNMENT NOMINEE

Sd/-

(CA. (DR.) DEBASHIS MITRA)
MEMBER

Sd/-

(CA. JAY CHHAIRA)
MEMBER



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CONFIDENTIAL

**DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]
[Constituted under Section 21B of the Chartered Accountants 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. PR- 01/15-DD/13/15/DC/606/17

In the matter of:

Shri. Sanjay Chiripal, Delhi
N-1, Riviera Apartments,
45, Mall Road,
DELHI – 110054
Complainant

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-Vs-

CA. Rajnish Kumar Agrawal,
Partner, M/s. SKR & Associates
Chartered Accountants
Flat No. G-2, 4348/4C,
Ansari Road,
Darya Ganj,
NEW DELHI – 110002
Respondent

....

MEMBERS PRESENT:

Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee) & Presiding Officer
Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee)
CA. Babu Abraham Kallivayalil, Member
CA. Dayaniwas Sharma, Member

DATE OF FINAL HEARING/ORDER : 28.08.2019

PLACE OF FINAL HEARING/ORDER : ICAI, New Delhi



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PARTIES PRESENT:

Complainant : **Not Present**
Respondent's Counsel : **CA. Navya Agarwal**

BRIEF OF THE DISCIPLINARY PROCEEDINGS :-

1. The Committee noted that on the day of hearing held on 28th August, 2019, the Complainant was not present whereas the Counsel for the Respondent was present for hearing. Since the Complainant was not present and he also did not ask for time or adjournment, in view of the same the Committee decided to hear the case ex-parte the Complainant. On being enquired, the Counsel for the Respondent stated that he is aware of the charges and he pleaded not guilty to the same. The Counsel for the Respondent decided to make submissions in the case. The Counsel for the Respondent made submissions in defence of the Respondent. The Committee also raised questions to the Counsel for the Respondent. After hearing the submissions, the Committee decided to conclude the hearing in the matter.

CHARGES IN BRIEF AND FINDINGS OF THE COMMITTEE

2. In the instant case, it was alleged that the Respondent wilfully, deliberately and intentionally made non-compliance / violation of the order dated 04.06.2013 of the Registrar of Co-operative Society vide which the Managing Committee of the Society was restrained from taking any major financial or policy decisions. The Complainant stated that even though such order of Registrar of Co-operative Society was known to the Respondent still he carried out Statutory Audit of the Society for the financial year 2013-14. This was evident from the audit report of the Respondent stating therein that *"Our consent is subject to the approval from the office of Registrar of Co-operative Society"*. Further it was also alleged that even though the minimum required strength of the members of the said society has fallen below 7, the audit was conducted by the Respondent.

3. During the course of hearing, the Counsel for the Respondent intimated that the Respondent has filed an application for seeking the approval of Registrar of Society,



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however there was no response from the Registrar within the stipulated time for either approval or denial. The Committee was of the view that there are statutory provisions in the Companies Act, 1956 and RBI Act, 1934 which lay down the procedures for appointment of auditor and auditor is required to ensure the compliance of the same before conducting the audit. Similarly, in this case, the Respondent was required to get permission of the Registrar of Co-operative Society before conducting audit of the Society.

4. The Committee observed that as per Section 60 of Delhi Co-operative Societies Act, 2003 and Rule 79 of the Delhi-Cooperative Societies Rules, 2007, a co-operative society is required to get its accounts audited by an auditor selected from the panel prepared by the Registrar. The Society made an application in the prescribed format to office of the Registrar of Co-operative Societies, New Delhi on 17th April, 2014 for appointment of the Respondent firm as auditor for the year 2013-14. In the said application, the Respondent has signed the acceptance certificate wherein he has given his consent for conducting the audit of the Society subject to the approval by the office of the Registrar of Cooperative Societies, New Delhi. It is further observed that when the Respondent himself has given his consent that his appointment is subject to the approval by the office of the Registrar of Co-operative Societies, he should not have conducted the audit till the time the approval is received by the Society from the Registrar of Co-operative Societies.
5. The Committee also noted that the Registrar of Co-operative Societies, New Delhi vide its order dated 20th November, 2014 rejected the audited accounts of the Society due to the following reasons:-
 - i) The Managing Committee of the Society was directed vide order dated 04.06.2013 not to take any major financial and policy decisions and to carry out only day to day affairs till further intimation.
 - ii) The approval for appointment of the Respondent firm was not granted to the Society by the audit branch of the office of the Registrar of Co-operative Societies and the Society got the accounts audited without approval.



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6. Further, the Committee read out the language of document submitted by the Complainant pertaining to a form wherein the Registrar of Co-operative society inviting acceptance of the auditor for conducting the audit of a society. The Committee noted that title of the form says that it is an option-cum-appointment letter for conducting the statutory audit of a society. The Committee observed that the same is only an option and not the authorization for conduct of statutory auditor. In this regard, the Counsel for the Respondent submitted that the aforesaid requirement is just a procedural aspect and is not a serious non-compliance. However, the Committee viewed that the conduct of an audit by the Respondent which is not authorized by the concerned regulator is a serious non-compliance. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

7. Thus, in the considered opinion of the Committee, the Respondent is held **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))
GOVERNMENT NOMINEE & PRESIDING OFFICER

Sd/-

(MS. RASHMI VERMA, I.A.S. (Retd.))
GOVERNMENT NOMINEE

Sd/-

(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Sd/-

(CA. DAYANIWAS SHARMA)
MEMBER

DATE: 03rd February, 2020

PLACE: NEW DELHI