



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

PPR/NP/67/18-DD/197/INF/18/BOD/535/2019

ORDER UNDER SECTION 21A(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949  
READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF  
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF  
CASES) RULES, 2007.

CA. Neeraj Kumar Arora (M.No.518618), Faridabad In Re:- ...Respondent  
[PPR/NP/67/18-DD/197/INF/18/BOD/535/2019]

MEMBERS PRESENT: (Through video conferencing)

CA. Prasanna Kumar D., Presiding Officer

Mrs. Rani Nair, (IRS, Retd.), Government Nominee

CA. Satish Kumar Gupta, Member

Date of Final Hearing: 28<sup>th</sup> October, 2021

1. The Board of Discipline vide Report dated 11<sup>th</sup> February, 2021 held that CA. Neeraj Kumar Arora (M.No.518618) is Guilty of "Other Misconduct" falling within the meaning of Item (2) of Part-IV of the First Schedule of the Chartered Accountants Act, 1949 read with section 22 of the said Act.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Neeraj Kumar Arora and communication dated 21<sup>st</sup> October, 2021 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 28<sup>th</sup> October, 2021.
3. CA. Neeraj Kumar Arora appeared before the Board on 28<sup>th</sup> October, 2021 through video conferencing and made his oral representation thereat.
4. CA. Neeraj Kumar Arora in his oral representation reiterated his earlier submissions made at the time of hearing in the case and prayed to take a lenient view in the matter. The Board noted the earlier submissions made by him wherein he, inter-alia, submitted as under:
  - i. He had made his video individually and had not circulated to the group of teachers. As soon as he received the notice from the Institute, he deleted the video from the Youtube channel or wherever the same was published.



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- ii. The said video was for general awareness and he was addressing the teachers of the CA profession and not the CA students at all.
- iii. Nothing was published about the exam policy in the entire video. He was actually discussing the Writ Petition filed in the High Court regarding the declaration taken by the Institute which itself was removed by the ICAI since it was not right.
- iv. He discussed about the reforms and he motivated students not to get distracted and keep on studying.
- v. He intimated about the change in the suggested answers without any intimation which was very well accepted by the ICAI that there was change in suggested answers and it was not intimated to the students at all.
- vi. He further offered unconditional apology for his conduct in the said video.

5. The Board has carefully gone through the facts of the case along with the representation of the Respondent and the information regarding status of the writ filed in the Honorable Delhi Court in context of the issue considered in the aforesaid case, the reply of the Institute in this regard alongwith the copy of the final Order passed therein.

6. As per the Findings of the Board as contained in its report, only the relevant content of the video on the basis of which the instant case had been initiated as 'Information' had been transcribed and shared with the Respondent. In the relevant part of the transcript of video, the Respondent was shown instigating the members, faculties, students and other stake holders with remarks as under:

*"Sab golmaal hai....if suggested answers are withdrawn, it is proved that something is there. If it is done, it will come back as boomerang..... What happened to a chapter on Holding. In May, 2018, one question came and its answer was written on the basis of old AS. Suggested answer has been changed. From 1st October, 2018, it has been changed and no announcement has been changed. Students for November, 2018 are thinking "akkad baddad Bombay bo, ab kya pad ke paper do"....."*

The said remarks clearly show the conduct of the Respondent which is against the interest of the Institute and shows his involvement in maligning the image of the ICAI and creating an environment against the overall vision of the Institute. The Board, viewed that the Respondent has not disputed the surfacing of said video wherein the language used contain derogatory remarks about the syllabus and curriculum of the Institute and through which the



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Respondent provoked the members, faculties and students to constrain the conduct of November, 2018 examinations of the Institute. The tone and tenor of Respondent infers his malicious intent to discredit the evaluation system of ICAI. The said action on the part of the Respondent, being member of the esteemed Institute and conducting preparatory classes for students undergoing CA Course at various levels, is clearly unbecoming to a Chartered Accountant and has also brought disrepute to the profession and the Institute. Thus, it has already been held that **CA. Neeraj Kumar Arora** is Guilty of "Other Misconduct" falling within the meaning of Item (2) of Part IV of the First Schedule of the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

7. Upon consideration of the facts of the case, the consequent misconduct of **CA. Neeraj Kumar Arora (M.No.518618)** and keeping in view his representation before it, the Board decided to Reprimand **CA. Neeraj Kumar Arora, (M.No.518618)**.

Sd/-

**CA. PRASANNA KUMAR D.**  
**(PRESIDING OFFICER)**

Date: 1<sup>st</sup> February, 2022

सही प्रतिलिपि होने के लिए प्रमाणित /  
Certified to be true copy

  
अरुण कुमार / Arun Kumar  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

CONFIDENTIAL

BOARD OF DISCIPLINE

Constituted under Section 21A of the Chartered Accountants Act 1949

Findings under Rule 14(9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No. : [PPR/NP/67/18-DD/197/INF/18/BOD/535/2019]

CORAM: (Through video conferencing)

CA. Prasanna Kumar D., Presiding Officer

Mrs. Rani Nair (IRS, Retd.), Government Nominee

CA. Durgesh Kumar Kabra, Member

In the matter of:

CA. Neeraj Kumar Arora (M. No. 518618) in Re:

B-1436, Green Fields,

Aravali Hills,

Faridabad 121010

...Respondent

DATE OF FINAL HEARING : 6<sup>th</sup> November, 2020

PLACE OF HEARING : Delhi/ Through video conferencing

PARTIES PRESENT:

Respondent : CA. Neeraj Kumar Arora (Through video conferencing)

Background of the case:

1. The brief background of the case is as under:-

(a) During October 2018, few videos on social media platform surfaced wherein it was noticed that members of the Institute had highlighted deficiencies in the evaluation mechanism of answer books of CA Exams and challenged the procedure of the Institute for conduct of examinations.

(b) With the circulation of said videos on WhatsApp, YouTube and other social media platforms, the speakers shown therein had incited and instigated stakeholders against the Institute. The Respondent was one of the speakers and participated in such videos which caused immense consternation amongst the public thereby brought disrepute to the Institute and the profession at large. The said video was also available at link: <https://youtu.be/gcXULiUxCVQ>.

(c) The said video surfaced just before the conduct of November, 2018 examinations of the Institute and the same created an uncertainty in the minds of the students, members and other stakeholders with respect to syllabus and curriculum of the examinations.

- (d) During the period under question, few teachers/ faculties of subjects of CA syllabus used the social media platform and challenged the procedure of examinations and appropriate proceedings were initiated by the Institute to curb the said practices.

**Charge alleged :**

2. The charge alleged against the Respondent is that the Respondent through certain videos available on social media such as Whatsapp, YouTube etc., has incited the stake holders against ICAI. The Respondent by participating in such videos caused immense consternation amongst the public thereby bringing disrepute to the Institute and the profession and thus, amounting to 'Other Misconduct' falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act.

**Proceedings held:**

3. During the hearing held on 6<sup>th</sup> November, 2020, the Respondent appeared before the Board through video conferencing and made his oral submissions. The Respondent further prayed for lenient view in the matter.

**Observations and findings of the Board:**

4. The Board on consideration of the submissions of the Respondent and other documents available on record observed as under:-
- a. The Respondent in his defence, inter-alia, submitted as under:-
- i. The Respondent had made his video individually and had not circulated to the group of teachers. He raised doubt that the entire content of the said video was not written in the notice initiating the instant case and the communication sent to him.
  - ii. He did not had the copy of the video because as soon as he received the notice from the Institute, he deleted the video from the Youtube channel or wherever the same was published.
  - iii. The said video was for general awareness and he was addressing the teachers of the CA profession and not the CA students at all.
  - iv. As regards the exam policy, there was nothing published in the exam policy in the entire video. He was actually discussing the Writ Petition filed in the High Court regarding the declaration taken by the Institute which was itself removed by the ICAI since it was not right.
  - v. He discussed about the reforms and he motivated students not to get distracted and keep on studying.
  - vi. He intimated about the change in the suggested answers without any intimation which was very well accepted by the ICAI that there was change in suggested answers and it was not intimated to the students at all.
  - vii. He further offered unconditional apology for his conduct in the said video.
- b. As regards the submission of the Respondent that he had not circulated the video and that the video was meant for the teacher of the CA profession and not CA students, the Board was of the view that the misconduct for which the

Respondent had been charged in the instant case is primarily his participation in the said video and not circulation of the said video and who the target viewers/audience was. Moreover, on perusal of the transcript of the video under question, the Board noted the following language used by the Respondent which clearly makes the intent with which the video had been made by the Respondent crystal clear:

*"I hope you will share this video with more and more people."*

- c. Further, as regards the submission of the Respondent that the entire content of the said video was not written in the notice for initiating the instant case, the Board was of the view that only the relevant content of the video on the basis of which the instant case had been initiated as 'Information' had been transcribed and shared with the Respondent and the context in which the same had been said is not quite germane to the issue.
- d. The Board took into view the relevant part of the transcript of video wherein the Respondent was shown instigating the members, faculties, students and other stake holders with remarks as *"Sab golmaal hai....if suggested answers are withdrawn, it is proved that something is there. If it is done, it will come back as boomerang..... What happened to a chapter on Holding. In May, 2018, one question came and its answer was written on the basis of old AS. Suggested answer has been changed. From 1<sup>st</sup> October, 2018, it has been changed and no announcement has been changed. Students for November, 2018 are thinking "akkad baddad Bombay bo, ab kya pad ke paper do"....."*. The said remarks clearly show the conduct of the Respondent which is against the Interest of the Institute and shows his involvement in maligning the image of the ICAI and creating an environment against the overall vision of the Institute.
- e. The Board also took into view judgment of the Hon'ble High Court of Delhi in case titled Subramani Gopalakrishnan Vs. Institute Of Chartered Accountants of India (30 May, 2011) wherein while dealing with the issue of applicability of strict standard of proof on Quasi-Judicial Proceedings, the Hon'ble Court observed as under:-  
*"26. In NOIDA Entrepreneur Association v. NOIDA & Ors.; JT 2007 (2) SC 620, the Apex Court has expressed thus:  
12. The purpose of departmental enquiry and of prosecution is two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty the offender owes to the society, or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would, therefore, be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible. It is not, therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in*

criminal case against the delinquent officer. Each case requires to be considered in the backdrop of its own facts and circumstances..... Offence generally implies infringement of public duty, as distinguished from mere private rights punishable under criminal law. When trial for criminal offence is conducted it should be in accordance with proof of the offence as per the evidence defined under the provisions of the Indian Evidence Act 1872 (in short the „Evidence Act“). Converse is the case of departmental enquiry. **The enquiry in a departmental proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory Rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position. Under these circumstances, what is required to be seen is whether the department enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances."**

Further while dealing with the issue of nature of proof, it has further observed as under:-

"27. In LPA No.730/2010 (National Insurance Company Ltd. v. Shri Sunil Kumar & Ors.) decided on 29th March, 2011, this Court, after referring to the aforesaid authorities, has stated as follows:

15. From the aforesaid enunciation of law, it can be stated with certitude that the scope, effect and consequence of a criminal trial and a departmental proceedings are distinct and different. Once the employer has reasonable basis regard being had to the sanctity, stability and the propriety of the administration and to avoid any kind of anarchy or chaos, it may be under an obligation to initiate departmental proceeding and simultaneously a criminal prosecution may be launched against the same delinquent employee. The circumstances should be such that there would be a warrant for directing stay of the disciplinary proceedings. It needs no special emphasis to state, the onus is on the delinquent employee that serious prejudice would be caused, if the parallel proceedings are allowed to continue. **It is well settled in law that the burden of proof in a criminal trial is quite stringent, as an accused is entitled to benefit of doubt and the consequent acquittal, but the test of preponderance of possibilities in departmental proceedings is different.** But regard being had to the nature of proof required in the departmental proceedings enquiry, a charged employee may not be entitled to exoneration. Regard must be given to the fact that in the departmental proceeding, the standard of proof is totally different. The cannons of service jurisprudence require that the departmental proceedings are put to an end as expeditiously as possible. The exception carved out is that the delinquent employee should be exposed to grave prejudice and the charges leveled against him should be so grave and involve complex questions of law and fact, so that it is undesirable and apposite to invite an interdiction in exercise of inherent

*jurisdiction by the Court. As has been stated by their Lordships, there cannot be any hard and fast rule or a strait jacket formulae and it depends upon many a factor and facts of each case."*

5. Considering the above, the Board, viewed that the Respondent has not disputed the surfacing of said video wherein the language used contain derogatory remarks about the syllabus and curriculum of the Institute and through which the Respondent provoked the members, faculties and students to constrain the conduct of November, 2018 examinations of the Institute. It is further observed that the tone and tenor of Respondent infers his malicious intent to discredit the evaluation system of ICAI. Thus, the said action on the part of the Respondent, being member of the esteemed Institute and conducting preparatory classes for students undergoing CA Course at various levels, is clearly unbecoming of a chartered accountant.
6. Thus, having regard to the attendant circumstances, the evidence put forth during the proceedings and the submissions of the Respondent on record, the Board is of the considered view that the Respondent has brought disrepute to the profession and accordingly holds him guilty of "Other Misconduct" falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act 1949 read with Section 22 of the said Act.

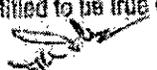
**CONCLUSION:**

7. The Board of Discipline, in view of the above, is of the considered opinion that the Respondent is **Guilty** of "Other Misconduct" falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountants Act 1949 read with Section 22 of the said Act.

Sd/-  
**CA. PRASANNA KUMAR D.**  
**(PRESIDING OFFICER)**

**DATE: 11<sup>th</sup> February, 2021**

Certified to be true copy

  
Mukesh Kumar Mittal  
Assistant Secretary,  
Disciplinary Directorate

The Institute of Chartered Accountants of India,  
ICAI Bhawan, Vistwa Nagar, Shaheed, Delhi-110032