

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. : PR-204/2014-DD/220/14/BOD/292/2017

QUORUM:

CA. Prasanna Kumar D., Presiding Officer (Attended Physically)

Mrs. Rani Nair (IRS, Retd.), Government Nominee (Attended through VC)

CA. Satish Kumar Gupta, Member (Attended through VC)

In the matter of:

Shri M. Sriram,

Ex-serviceman, Block-1, Flat 2,

Ramaraja Nagar Colony,

Near Suchitra

Hyderabad - 500 067

.....Complainant

Versus

CA. Ramanjane Yulu Gadiparthi (M. No.222327)

D No. 42-488/44, Flat No. 202

Sai Santoshi Street No. 6

Gayathru Nagar, Moulali

Hyderabad - 500 040

.....Respondent

DATE OF HEARING : 30th July, 2021

PLACE OF HEARING : ICAI Bhawan, Vishwas Nagar, New Delhi

PARTIES PRESENT:

Counsel for the Respondent : CA. Sunil Appaji (at ICAI Bhawan, Hyderabad)

FINDINGS:

1. The facts of the case in brief are as under:-
 - a. The Complainant was one of the members of Ramaraja Nagar Residents Welfare Association, a Registered Body under Andhra Pradesh Societies Registration Act, 2001 having registration no. 573 of 2006. The Complainant received Audit Report of Ramaraja Nagar Resident Adhoc Committee (Society No. 463/2013) dated 14/04/2014 (Sic. 16/04/2014) alleged to be audited by Gadiparthi & Associates (Respondent Firm).
 - b. The Ramaraja Nagar Resident Adhoc Committee was a totally different body without any legal sanctity working for the interest of the ex-builder, M/s Maytas Housing Pvt. Ltd. The receipts for the monthly maintenance were taken on Ramaraja Nagar Residents Welfare Association (573/2006) and they were showing the audit report on another which is purely a different entity. This has been done intentionally by the Respondent because the Respondent tried to interfere in the affairs of the Colony for many years. The Complainant supported his claim and stated that name of Respondent Firm was mentioned in FIR 485 lodged at Pet Basheerabad dated 01/12/2012 and the same is pending before the Court.
 - c. The Financial Statements of Ramaraja Nagar Resident Adhoc Committee for the period January 2013 to March 2013 contains signature of the Respondent only and there was no signature of President, Secretary and Treasurer of the Committee. Further the Financial Statements of Ramaraja Nagar Resident Adhoc Committee for the period April, 2013 to March 2014 contains signature of Respondent and Secretary and there was no signature of Treasurer and the President of the Adhoc Committee.
 - d. The Complainant has sought clarifications on the Audit Report done by the Respondent Firm relating to Rama Raja Nagar Resident Adhoc Committee 463/2014 on 26/04/2013 by registered post to him but the same was returned back without accepting intentionally.
 - e. The Complainant further stated that the said violation is serious intentional forgery/ cheating committed by the Respondent and ACES Registered No. AMYPG7826QCA001 to help the land sharks who are inclined with M/s. Maytas Housing Pvt. Ltd. famous scam Ramalingaraju Family.



Charge alleged:

2. Against the above backdrop, following charges were alleged against the Respondent:-
 - a. It has been alleged that Ramaraja Nagar Residents Welfare Association has charged maintenance charges from the members in the name of the Association, however, the same has been shown in the Financial Statement of Ramaraja Nagar Resident Adhoc Committee which is a separate entity.
 - b. Moreover, the Financial Statements of Ramaraja Nagar Resident Adhoc Committee were signed by the Respondent even before the signatures of the President and Treasurer.

Brief of the proceedings held:

3. The Board at the time of hearing held on 30th July, 2021 noted that the Counsel for the Respondent was present before it through video conferencing. However, neither the Complainant was present before the Board nor was there any intimation as regards his non-appearance. Since the case had been adjourned earlier also at the request of the Complainant, the Board decided to proceed ahead in the case. Since there was a change in the composition of the Board since it was last heard, an option of De-novo enquiry was given to the Respondent to which the Counsel for the Respondent stated that he would like to continue with the proceedings in the case. The Counsel for the Respondent made oral submissions against the charges alleged against the Respondent.

The Board, on consideration of the submissions and documents on record decided to conclude the proceedings in the case.

Brief of the Submissions:

(A) submissions of the Respondent:

4. The Respondent, in his defence, inter-alia, submitted as under:



- a. The Respondent has not conducted the audit of the so called body "Ramaraja Nagar Residents Adhoc Committee" for the periods mentioned in the complaint and not signed the Financial Statements of the said body as alleged by the Complainant.
- b. The Respondent categorically stated the above fact of not doing the audit in his Written Statement dated 23/10/2014 filed before the Director(Discipline), wherein he clearly submitted that he has never audited the accounts of the above Society / Body and further stated that the signature on the statements furnished by the Complainant is not his signature at all, but a forged one. The Respondent also urged the Director(Discipline) to compare his signature as available with the ICAI with the one on the Financial Statements .
- c. The Director(Discipline) having compared the signature of the Respondent as available with the ICAI with the one on the Financial Statements of the Ramaraja Nagar Residents Adhoc Committee alleged to have been signed by the Respondent, concluded as under:
"the flow of the signature appears to be different from the one affixed on the purported Financial Statements " (Para 9.5 of the Prima Facie Opinion).
This itself is a conclusive proof that the Respondent's signature has been forged by somebody on the Financial Statements of the body as submitted by the Complainant and the Respondent has not signed the said statements.
- d. Having held that the signature on the Financial Statements is not that of the Respondent, the Director(Discipline) ought to have rejected the complaint at the Prima Facie stage itself. For reasons best known to the Director(Discipline), he has held the Respondent Prima Facie Guilty of Other Misconduct and referred the matter to the Board of Discipline.
- e. The Respondent re-iterated that he has not conducted the audit of either "Ramaraja Nagar Residents Adhoc Committee" or "Ramaraja Nagar Residents Welfare Association", the body which the Complainant is claiming as the actual society to whom all the residents of the said society pay the monthly subscription, for the periods alleged in the complaint and

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not signed any Financial Statements nor issued any audit report on such Financial Statements .

- f. In the Financial Statements attached to the complaint, there is neither any reference to audit report nor the membership number of the auditor or the firm registration number is mentioned which in the normal course, is generally mentioned on any Financial Statements audited and signed by a qualified CA accompanied by his report on the same duly containing the membership number of the auditor as well as the Firm registration number. In the given case, no such references are found. Hence, this is a proof that the Financial Statements have not been audited and signed by any qualified CA, lest the Respondent.
- g. Pursuant to the appointment letter dated 12/04/2012 received from "Ramaraja Nagar Residents Welfare Association", the Respondent accepted to conduct the audit of the said Society's accounts for the period from 01/04/2009 to 31/12/2011 vide his letter dated 19/04/2012 (Refer: R-6 in the Prima Facie Opinion Booklet). Copy of this acceptance letter was furnished by the Complainant to the ICAI. Having noted that the appointment letter and acceptance letter are only for the period from 01/04/2009 to 31/12/2011, the Complainant should not have believed that the Respondent has signed the accounts of 2013 (3 months) and F.Y. 2013-14. He seems to have simply enclosed some Financial Statements that were made available to him while filing the complaint. His statement in the complaint that the Respondent was unprofessional and unethical was highly deplorable and shows his lack of clarity on the Audit and accounting profession, particularly the Chartered Accountants and their functions.
- h. Except receiving the above referred appointment letter, the Respondent has not received any further communication or Financial Statements from the said Society till date for conducting the audit. Hence, the Respondent has not conducted the audit of accounts of the said society for any period. The Respondent is also not aware of the internal disputes among members of the said Society. There are some complaints against the Complainant herein filed by other members of the Society. A copy of which was forwarded to ICAI also.



- i. With respect to the observations of the Director(Discipline) in Prima Facie Opinion that the Respondent should have taken a serious view of the alleged misuse of his signature and his silence on this aspect does raise an iota of doubt regarding his alleged involvement in the matter, the Respondent submitted as under:-
 - i. The Respondent is a young CA passed out in 2009, born and brought up in a village in Guntur District and did his CA articleship also in a small town in Guntur District. So he doesn't have familiarity with city life and not exposed to various aspect of mitigating the risks. Having starting his practice in 2009 in Hyderabad with a hope to settle down in Hyderabad, as he could not get enough professional work to lead a decent life, he shifted his profession to Guntur in 2014.
 - ii. The Respondent came to know of the fact that his signature has been forged only when he got the complaint papers from ICAI in October 2014. Initially, the Respondent approached the Guntur police for filing a complaint but he was advised to approach Cyberabad police as the matter falls within their jurisdiction. Not being fully familiar with the procedure involved in the closure of Disciplinary cases, he thought that with submission of his written statement to Director(Discipline), viz-a-viz ICAI the regulator to whom he is answerable, wherein he has categorically denied having conducted the audit and signing the Financial Statement the matter would be closed by ICAI. Also, the fact that there was no communication on the matter from ICAI from February 2015 to August 2017, the Respondent thought that the matter was closed at ICAI. Hence, he has not filed any complaint before police or any other agency about the forgery of his signature on the Financial Statements of the society. Moreover, as he has shifted his profession and residence to Guntur, which is in AP, he had no contacts in Hyderabad, which is in Telangana, for filing the police complaint. Further, as the Respondent has no contact with the said Society or any of its members, he could not get any details about the Society and its office bearers and the people who had forged his signature on the Financial Statements. Therefore, he did not file a police complaint on the matter with Cyberabad Police. However on 14th October, 2017, the



Respondent sent a letter of intimation to the Station House Officer, Pet Basheerabad, PS, Cyberabad about signature being forged.

- iii. When he has not conducted the audit and not signed any statements at all, merely not filing a police complaint or not initiating any other action on the forgery of his signature on a small unknown Society's Financial Statements cannot be a valid ground for the Director(Discipline) to hold the Respondent "Guilty" of Other Misconduct under Clause (2) of Part IV of First Schedule of Chartered Accountants Act, 1949. To hold the Respondent guilty under this clause, there should have been clinching evidence in support of the involvement of the Respondent in bringing disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.
- iv. When the Respondent has not conducted the audit and not signed any statements or reports, merely based on some Financial Statements which are containing forged signature of the Respondent, by no stretch of imagination, the Director(Discipline) can hold the Respondent guilty of Other Misconduct under this clause.
- v. The Complainant has locus standi with the association to which he belongs to and can file a complaint or case against them but not against the person who signed the accounts / financials / certificates unless he could establish the locus. He has no locus to be a party in this matter.
- vi. The Complainant could not establish anything conclusive and beyond reasonable doubt except making some allegations.

(B) Submissions of the Complainant:

5. To substantiate the case, the Complainant, inter-alia, submitted as under:

5.1 Vide letter dated 2nd September, 2017, the Complainant submitted the further bills/ receipts of Ramaraja Nagar Resident Welfare Association. The Complainant received letter of the Respondent on 21st August, 2017 evening and as per the said letter the Respondent is clearly intentionally helping all the nine accused members and is hand in glove with the accused.

5.2 On 23rd October, 2017 he appeared before the Board and submitted his grievances against the Respondent upon which he was directed to submit



original Audit report of 2013 to 2014 certified by the Respondent for Ram Raja Nagar Adhoc Committee. Thereafter, the Complainant submitted letter to the President and General Secretary of Rama Raja Nagar Resident Welfare Association to furnish the original Balance Sheet certified by the Respondent under RTI Act, 2005 vide his letter dated 01/11/2017 and the Complainant undertook that whenever he will receive the same he will produce the same before the Board and till such time, he requested the Board to keep the extant case pending till receipt of said documents.

- 5.3 The Complainant vide email dated 18th April 2018 expressed his inability to produce the original Audit Report signed by the Respondent as called for from him as the same is in the custody of the office bearers of the Ram Raja Nagar Adhoc Committee.

Observations and Findings of the Board of Discipline:

6. Upon perusal of the facts, submissions and documents available on record, the Board observed as under:-
- 6.1 The Board noted that the Complainant has submitted following documents alongwith his complaint:-
- a. The Complainant has addressed letter dated 29/04/2014 to the Respondent seeking clarification regarding audit report dated 16/04/2014 and also pointing various discrepancies in the said audit alleged to be conducted by the Respondent.
 - b. The Complainant vide his letter dated 29/04/2014 has also approached the Registrar of Society, Moosapet, Hyderabad with complaint against the issue of said audit report dated 16/04/2014 and vide his letter dated 13/06/2014 also submitted RTI with District Registrar, Ranga Reddy Dist., Sony Complex, Kukatpally, Hyderabad and early action against the Ramaraja Nagar Residents Ad Hoc Committee for false audit report dated 16/04/2014.
 - c. Financial Statements of Rama Rajanagar Residents' Adhoc Committee containing alleged signatures of Secretary of the Committee and the signatures/ rubber stamp of the Respondent:-



[Handwritten mark]

- i. Receipts and Payments for the period 01/04/2013 to 31/03/2014.
 - ii. Income and Expenditure Account for the period ended 31/03/2014.
 - iii. Balance Sheet as on 31/03/2014.
- d. Financial Statements of Rama Rajanagar Residents' Adhoc Committee containing alleged signatures/ rubber stamp of the Respondent:-
- i. Receipts and Payments for the period 01/01/2013 to 31/03/2013.
 - ii. Income and Expenditure Account for the period 01/01/2013 to 31/03/2013.
 - iii. Balance Sheet as on 31/03/2013.
- e. The copy of receipts issued to the Complainant by Rama Raja Nagar Residents Welfare Association on account of maintenance for the period January, 2013 to April, 2014.
- f. The Bank statement of Rama Rajanagar Residents' Adhoc Committee maintained with Andhra Bank bearing account number 019510100082038 for the period 16/08/2013 to 11/04/2014.
- g. The Receipts and Payments of Rama Rajanagar Residents' Adhoc Committee on 01/03/2014 to 31/03/2014 signed by A Venkata Reddy, G. Ramana Reddy, K. Venkata Rao and B.C. Prakash.
- h. The Certificate of Registration issued by Office of the Registrar of Societies, Ranga Reddy District dated 04/04/2006 issued in favour of Ramarajanagar Residents Welfare Association.
- i. The application for registration of society dated 01/04/2013 by Rama Rajanagar Residents' Adhoc Committee alongwith identity card of members of Society.

6.2 The Board further noted that as per letters produced by the Complainant i.e. letter dated 19th April, 2012 and 30th April, 2012, the Respondent firm was associated with audit/ re-audit work relating to Ramaraja Nagar Residents Welfare Association for the period 01/04/2009 to 31/12/2011 which has been admitted even by the Respondent. However, the Respondent categorically denied having audited the financial statement of Ramaraja Nagar Residents Welfare Association or of Rama Rajanagar Residents' Adhoc Committee for the period under question i.e. 01/01/2013 to 31/03/2013 and 01/04/2013 to 31/03/2014. The Board noted that the Respondent has also raised a plea that

his signatures on the said Receipts and Payments, Income and Expenditure Account and Balance Sheet were forged and he has duly intimated the SHO, Pet Basheerabad, Police Station Cyberabad vide his letter dated 14/10/2017.

- 6.3 The Board also noted that the Complainant could neither provide the Original of Financial Statements of Rama Rajanagar Residents' Adhoc Committee for the period under question i.e. 01/01/2013 to 31/03/2013 and 01/04/2013 to 31/03/2014 or the Certified copy of the same from the Court as advised in the Board meeting held on 23rd October 2017.
- 6.4 The Board observed that Rama Raja Nagar Residents Welfare Association and Rama Rajanagar Residents' Adhoc Committee are two different societies having separate registration numbers allotted by the respective Registrar of Societies. Further, on account of express denial by the Respondent, the Complainant has failed to bring on record any document which points that the Respondent was the auditor or has signed the Financial Statements of either Rama Rajanagar Residents' Adhoc Committee or Rama Raja Nagar Residents Welfare Association for the period under question i.e. 01/01/2013 to 31/03/2013 and 01/04/2013 to 31/03/2014. The Board also observed that the Complainant in the present proceedings failed to bring on record any evidence against the Respondent with respect to alleged forgery or involvement of Respondent in misuse of funds of Rama Raja Nagar Residents Welfare Association. Further, it seems that the Complainant has merely submitted the documents as available with him with his complaint however, there is no corroboration amongst them as far as alleged misconduct of Respondent is concerned.
- 6.5 The Board also noted that the Respondent referred to case titled Martin Burn Ltd. -Vs.- R.N. Banerjee, [AIR 1958 SC 79] wherein the Hon'ble Apex Court has dealt with the issue of formation of a Prima Facie case and contended that in the present case no Prima Facie case is made out against the conduct of the Respondent and thus, the Prima Facie Opinion formed by the Director (Discipline) is under challenge. The Board also observed that the Director(Discipline) in his Prima Facie Opinion compared the signature of the

Respondent as available with the ICAI with one on the Financial Statements of the Ramaraja Nagar Residents Adhoc Committee alleged to have been signed by the Respondent and opined as under:

"the flow of the signature appears to be different from the one affixed on the purported Financial Statements" .

The Board also observed on comparison that while the signatures do not seem to match, even the alleged Financial Statements did neither carry the Respondent's Membership number nor his Firm's registration number.

7. Thus, on overall examination of facts, submissions and documents on record, the Board observed that the Complainant failed to bring on record any conclusive/substantive evidence to substantiate the allegations leveled by him in his complaint. Accordingly, the Board decided to hold the Respondent Not Guilty in respect of the charge alleged.

CONCLUSION:

8. Thus, the Board of Discipline, in view of the above, is of the considered opinion that the Respondent is **NOT 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 said Act. Accordingly, the Board passed Order for closure of the case in terms of Rule 15(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

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

DATE: 1st February, 2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy


मुकेश कुमार मिश्रा / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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