



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

[PR/248/2020-DD/252/2020/BOD/668/2022]

**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**

In the matter of:-

**CA. Devendra Kumar Lodha**  
6A/1, WEA,  
First Floor, Office No. 105, Karol Bagh,  
Delhi – 110 005.

.....Complainant

Versus

**CA. Bihari Lal Chakravarti (M. No. 401638)**  
GC-901, Aditya Mega City,  
Vaibhav Khand,  
Indirapuram,  
Ghaziabad–201014.

..... Respondent

[PR/248/2020-DD/252/2020/BOD/668/2022]

**MEMBERS PRESENT (through video conferencing):**

**CA. Rajendra Kumar P, Presiding Officer**  
**Ms. Dolly Chakrabarty (IAAS, retd.), Government Nominee**

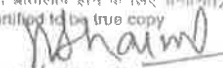
**Date of Hearing and passing Order: 17<sup>th</sup> December 2023**

1. The Board of Discipline vide its Findings dated **6<sup>th</sup> December 2023** was of the view that **CA. Bihari Lal Chakravarti (M. No. 401638)** is **GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountant 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. Bihari Lal Chakravarti** and communication dated 12<sup>th</sup> December 2023 was addressed to him thereby granting him an opportunity of being heard on 17<sup>th</sup> December 2023 which was exercised by him by being present through video conferencing. He confirmed receipt of the Findings of the Board. He also made his written representation on the Findings of the Board and requested the Board to take a lenient view in the case.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Bihari Lal Chakravarti (M. No. 401638)** and keeping in view his representation before it, the Board decided to remove the name of **CA. Bihari Lal Chakravarti (M. No. 401638)** from the Register of Members for a period of 15(fifteen) days.

Sd/-

**CA. Rajendra Kumar P**  
(Presiding Officer)

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

  
निसा शर्मा / Nisha Sharmas  
वरिष्ठ कार्यकारी अधिकारी / Sr. 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, Shahdara, Delhi-110032

Shri Devendra Kumar Lodha -Vs- of CA. Bihari Lal Chakravarti (M. No. 401638)

Sd/-

**Ms. Dolly Chakrabarty (IAAS, retd.)**  
(Government Nominee)

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.: [PR/248/2020-DD/252/2020/BOD/668/2022]**

**CORAM (Present in Person):**

**CA. Rajendra Kumar P, Presiding Officer**

**Ms. Dolly Chakrabarty (IAAS retd.), Government Nominee**

**In the matter of:**

**Shri Devendra Kumar Lodha,**

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**.....Complainant**

**Versus**

**CA. Bihari Lal Chakravarti (M. No. 401638)**

**GC-901, Aditya Mega City,**

**Vaibhavkhand,**

**Indirapuram,**

**Ghaziabad–201014.**

**..... Respondent**

**DATE OF FINAL HEARING : 17<sup>th</sup> May 2023**

**PLACE OF FINAL HEARING : New Delhi**

**PARTIES PRESENT(in person):**

**Complainant : CA. Devendra Kumar Lodha**

**Respondent : CA. Bihari Lal Chakravarti**

**FINDINGS:**

**BACKGROUND OF CASE:**

- 1.1. The Complainant is a Chartered Accountant who has authored (co-author with his wife) the book namely 'Multiple Choice Question on Valuation Exam under Assets class Securities or Financial Assets' which is in the form of a multiple-choice questions on

valuation exam under the assets class securities or financials under Insolvency and Bankruptcy Board of India. To safeguard the contents of his book so that no other person can misuse the same, he moved an application for approval of copyright of his book before the Registrar of Copyright under the Department of Industrial Promotion Ministry of Commerce & Industry, Dwarka (Delhi). The same was granted to him and the copyright of the book vests with him and his wife. The main feature of the book was MCQ which were based on the sample paper of exams for registered valuers under IBBI. The book got famous in the Indian market among various professionals.

1.2 The RVO (PVAI VALUATION PROFESSIONAL ORGANISATION') appointed the Respondent as his agent to conduct valuation training programme at Ghaziabad (UP). The Respondent published a book in two volumes under the '*IBBI Valuation in Examination Securities or Financial Assets*' for valuation exam under the assets class- securities or financials under Insolvency and Bankruptcy Board of India. The book has been listed on the online platform of Amazon and also is available on sale through offline mode. The Respondent was selling the book with the help of RVO throughout India.

**CHARGE ALLEGED:**

2. The Respondent indulged himself in copying the original book of the Complainant and copied all the MCQ exactly the same in comparison with the book of the Complainant and thus has violated the provisions of Copyright Act of India. The Complainant, in order to safeguard his interest issued legal Notice to the Respondent challenging his right to publish the work of the Complainant as his own work.

**BRIEF OF PROCEEDINGS HELD:**

3.

<u>S.No.</u>	<u>Date of Hearing</u>	<u>Status</u>
1.	17 <sup>th</sup> May 2023	Heard and concluded.

*(Signature)*

**BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:**

**(a) Respondent:**

4. The Respondent in his submissions, inter-alia, stated as under:

4.1 The Respondent passed the IBBI Limited Insolvency Examination on 19 June 2019 and IBBI Valuation Examination on 16th August 2019, and it took more than 9 months to publish the book on IBBI Valuation Examination having two volumes (consisting more than 1000 pages). Each and every page of the book has water marks of "Aum Logo" in the centre and name of the Respondent at the footer to show that the book is possessed by the Respondent which was not seen in the pages received in WhatsApp group which the Complainant has claimed to be copyrighted content.

4.2 The Respondent before bringing out the book titled as IBBI Valuation Examination Guide - Security or Financial Assets has compiled lot of exercises/questions from various sources and has also used his own hard work and mental aptitude to put together the organized and sequenced content in the said book. The Respondent admittedly having used few MCQs from the Complainant's book, however, he beside incorporated literatures and key notes has further made lot of improvements in the book and thus the Final book of the Respondent turned out to be a voluminous compilation consisting of two volumes. Volume 1 had 476 pages containing 13 Chapters and Volume 2 had 410 pages containing 10 Chapters and thus is distinguishable from the Complainant's book which has only 440 pages.

4.3. The material used by Respondent was freely available on WhatsApp group which the Complainant has claimed to be copyrighted content. In this context, provisions of Section 52 of the Copyrights Act, 1957 may kindly be noted which provides for certain exceptions to infringement of copyright and the said provision allows limited use of copyrighted works without the permission of the copyright holder. Such use of copyrighted works is usually termed as fair use or fair dealing of such works which does not amount to infringement.

Section 52 of the Copyright Act, 1957 provides an exhaustive list of defences to copyright infringement. The following provision is relevant to the extant case:


*"52. Certain acts not to infringement of: (1) The following acts shall not constitute an infringement of copyright, namely:- (o) a fair dealing with a literary, dramatic, musical or artistic work for the purposes of -- [...](i) criticism or review, whether of that work or of any other work."*

*4*

4.4 The Respondent used his own aptitude and has added value to the book by using his own interpretation and explanation which makes his book clearly distinguishable and cannot be termed as replication of the complainant's work. Thus, the Opinion formed by the Director (Discipline) in Para 12 of Prima Facie Opinion that the Complainant has all the right to defend any infringement of copyright of the work published by him is duly replied as provisions of Section 52 of the Copyright Act, 1957 provides an exhaustive list of defences to copyright infringement. Thus, it is evident that the case of the Respondent in the extant matter squarely falls within the purview of the exceptions to infringement of copyright.

4.5. These MCQs and Other Content contained in the Book Namely "Multiple Choice Question on Valuation Exam under Assets Class Securities or Financial Assets' are not original creation of the Complainant but have been compiled and arranged from some other books and material available and thereafter, the Complainant allegedly took the Copy Right for the content belonging to other authors and publishers.

4.6. The Respondent along with his team compiled the book after thorough research and references from internet and freely available resources and solved the unsolved case studies and incorporated new case studies with solutions and one liner important questions to make the books useful for the reader and value for money. Therefore, the said book has been published by the Respondent solely on the basis of the extensive research carried out rather than simply extracting questions. The format of the said book as published by the Respondent consists of Theoretical Concept, MCQ, Solved case studies, Important Questions, and multiple Mock Test Papers. Additionally, 14 solved cases studies have also been appended in the said book. The strength of the material is the proper presentation while covering the entire syllabus at one place.

4.7. Lot of improvisation has been done by the Respondent with consistent efforts and research to make the material contained therein more effective and useful and the content and presentation of topics in the book of the Respondent were such that it gained widespread popularity in just 2-3 month. The sole motive behind publishing the Valuation Book was not to earn money but rather to help and support the CA Fraternity and Professionals to whom a book in simple and comprehensive form was not then available. The Respondent has not earned even Rs. 1 lac from selling of these valuation books as profit making was not the motive behind publishing this book. 

4.8. The Complainant called the Respondent on 31 July 2020 raising his concern and immediately respecting his words without asking evidence, the Respondent removed all the objected content from the books immediately. The Complainant sent legal notice and tried to blackmail the Respondent to extract money by using this tool. The Respondent requested him that he was not aware of any copy-right on this content, but the Complainant did not agree to resolve the issue amicably and told that if the amount is not paid, he would defame the Respondent on social media and other platform.

4.9. The Respondent tried to resolve it amicably but in vain as the Complainant demanded money. Further to resolve the matter amicably, on request, the Respondent alongwith CA. R K Gupta met the Complainant personally when the Respondent showed his CA Final and CA Intermediate books to the Complainant. However, the Complainant had on that day come with a different mindset to extract money and thus the meeting ended without any conclusion. Later, the Respondent got a call from CA. R K Gupta whereby he informed that the Complainant is ready to settle at an amount of Rs. 5 lacs else he would defame the Respondent on social media and would also file complaint with ICAI.

4.10. The Respondent agreed to share the miniscule amount of profit on the sale of books published by him with the Complainant out of humility and in an attempt to amicably resolve the issue with his professional brother. Various evidences have been adduced by the Respondent in the Written Statement submitted before the Director(Discipline) to showcase that the case studies in the book of the Complainant has been taken from the book Equity Assets Valuation Workbook Authored by Mr. Jerald E. Pinto CFA, Mr. Elaine Henry CFA, Mr. Thomas R. Robinson CFA and Mr. John D. Stowe, CFA and Raymond D. Rath, CFA, Published by John Wiley & Sons, Inc Hoboken, New Jersey but the Director(Discipline) has formed an opinion that since the Complainant has taken copyright, now the content belongs to him. The Copy Right Authority makes a public notice for 30 days and if no objection is received, it grants the Copy Right on the content.

4.11 The Respondent was really not aware of the fact that the contents have been copyrighted or else he would have avoided using it in the compilation of book. Further, if he had any criminal mind or culpable mind, he could have changed the MCQ option or numerical figure but as mentioned earlier also, he was not aware that it is copyrighted content. Further, the entire

content was removed on very first objection still the Complainant dragged the Respondent in the legal and disciplinary issues which reveals his intention.

4.12 The Respondent also brought on record a tabular comparison of his book with that of the Book of the Complainant:

<u>S.No</u>	<u>Respondent</u>	<u>Complainant</u>
1.	Each chapter of the Book consist conceptual theory and example and MCQ.	Only MCQ without conceptual notes
2.	Consist two volume Volume 1- Page 476 consists 13 chapter Volume 2- Page 410 consists 10 chapter	Consists of 440 pages
3.	Case studies was solved manually with clear working	No case studies were solved
4.	Chapter 23 consist the Model Paper an Important one liner question	No such chapter exist
5.	Price of each volume Rs. 999	Price= Rs. 2199

**(b) Complainant:**

5. The Complainant, in his submissions, inter-alia, submitted as under:

5.1 The Respondent, with the intention to earn money copied the complete set of MCQs from the copyright book of the Complainant in the same sequence and thus matched In line to line and word by word. The same fact is clear from the Certificate dated 14/10/2022 issued by one of the fellow chartered accountants namely CA. Kushaal Bansal who issued a Certificate wherein he categorically and specifically certified that the MCQs of the Respondent's book is having the same content and sequence.

5.2 The Complainant is already engaged to sell the book at a price of Rs. 1799/- and there is no ground with the Complainant to circulate the same on social media platforms.

5.3 The Complainant created his own MCQs and the competent authority has issued the copyright Certificate without any objection and hence, the Complainant has succeeded to get the copyright on his book.

5.4 The Respondent has misled the Board by not providing the complete sale record as demanded during the proceedings as the Respondent has provided only few sale record of online platform of Amazon, and hidden the offline sale through their own premises and Book Seller in PAN India and sale through PVAI RVO platform.

5.5 As the Respondent has 100% copied the MCQs from the Complainant's Copyright Book to earn money by way of sale of the copied book through online platform, offline and through PVAI platform. Thus section 52 of the Copyright Act is not applicable in the present case.

#### **OBSERVATIONS OF THE BOARD:**

6.1 As regard the charge alleged against the Respondent that he indulged himself in copying the original book of Complainant and copied all the MCQ exactly the same in comparison with the book of the Complainant and thus violated the provisions of Copyright Act of India, the Board took into view the relevant provisions of the Copy Right Act, 1957:

*According to Section 2 (d) of the said Act, "author" means, (i) in relation to a literary or dramatic work, the author of the work; (ii) in relation to a musical work, the composer; (iii) in relation to an artistic work other than a photograph, the artist; (iv) in relation to a photograph, the person taking the photograph; 2 [(v) in relation to a cinematograph film or sound recording, the producer; and (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;]*

*Section 14, for the purposes of this Act, states "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely: —*

- (i) to reproduce the work in any material form including the storing of it in any medium by electronic means;*
- (ii) to issue copies of the work to the public not being copies already in circulation;*
- (iii) to perform the work in public, or communicate it to the public;*
- (iv) to make any cinematograph film or sound recording in respect of the work;*
- (v) to make any translation of the work;*



- (vi) to make any adaptation of the work;
- (vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to
- (viii) the work in sub-clauses (i) to (vi);

51. When copyright infringed.— Copyright in a work shall be deemed to be infringed—

(a) when any person, without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act—

**(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright, or**

*[(ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright; or]*

(b) when any person—

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or


(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports 2\*\*\* into India,

any infringing copies of the work:

*[Provided that nothing in sub-clause (iv) shall apply to the import of one copy of any work for the private and domestic use of the importer.]*

*Explanation.— For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an “infringing copy”* 

The Board further took into view the following requirements of Sec 52 of the said Act which provides for certain exceptions:

*52. Certain acts not to be infringement of copyright. —*

*(1) The following acts shall not constitute an infringement of copyright, namely, —*

*[(a) a fair dealing with any work, not being a computer programme, for the purposes of—*

*(i) private or personal use, including research;*

*(ii) criticism or review, whether of that work or of any other work;*

*(iii) the reporting of current events and current affairs, including the reporting of a lecture delivered in public.”*

6.2 The Board noted that the Copy Right Office, Government of India issued the Copy Right Certificate to the Complainant with respect to his Authored Book under the head 'Literary/Dramatic Work' on 25/01/2019. Furthermore, in the same Certificate no other person except the Complainant was authorized to assign or license of rights comprising the copyright under point no. 12 of the Certificate. Further, the case of the Respondent did not fall in any of the exceptions provided under Section 52 of the Copy Right Act, 1957.

6.3 The Board also noted that the Complainant brought on record a Certificate dated October 20 issued by CA. Kushaal Bansaal on comparison and verification of both the books i.e. one of the Complainant and the Respondent and which provided as under:

*“I have examined, verified and compared the two Books as produced by CA. Devendra Kumar Lodha having title "Multiple Choice Question on Valuation Exam under Assets Class Securities or Financial Assets of CA. Devendra Kumar Lodha & CA. Chetna Lodha (hereinafter referred as Book 1) "and another Book having title "IBBI Valuation Examination Securities or Financial Assets (which is contained in two part i.e. Volume-I and Volume-II) of CA. B L Chakravarti (hereinafter referred as Book 2). As per the verification and comparison of above two books, it is certified that Multiple Choice Question (MCQs) of the book 2 are matched in same sequence with the MCQ's of Book 1.”*

6.4 The Board also noted that the Complainant brought on record an email dated 14/07/2022 addressed to one CA. Raveesh Chaudhary (Faculty and Committee Member of the Institute) with the following content:

*"Dear Sir*

*It is brought to your kind notice that you have informed us about the suspicious activities of CA. B L Chakravarti who has copied our all MCQ of Copyright book and published the same in his name in the f.*

*You informed us through WhatsApp message and the same is enclosed for your ready reference.*

*Please confirm this.*

*Now it is humble request to provide the name of the person who asked for the material of our book and copied our copyright book.*

*Also request to give your statement in brief what exactly happened and how you realized that our book has been copied.*

*Please confirm whether I can use your statement as evidence to get justice.*

*Please also mention your details as below:*

*Name: Raveesh Chaudhary*

*Email id: [raveeshchaudhary@live.in](mailto:raveeshchaudhary@live.in)*

*Mobile No: 8052188880*

*Address: C 401, 3<sup>rd</sup> Floor, 9 University Road, Lucknow."*

In response, CA. Raveesh Chaudhary vide email dated 15<sup>th</sup> July 2022 informed as under:

*"Mr. B I Chakraborty contacted me through Mr. Rajeev Singh. This was the first time I got to know him. Mr. Chakraborty asked me to send photo of some pages of book Lodha. I was taking some classes in Prayagraj and he was regularly following me up for those pages. I sent him the photographs but when I got to know his intention was to copy/include them in his books. I instantly search your personal number and told you about the same. I don't know if he has copied the questions as it is because I have not gone through his MCQ book."*

The Board also noted that the Complainant also stated that if you want to cross-examine the witness, namely CA. Raveesh Chaudhary you may directly confirm from him as his details are given by him in his email confirmation. However, looking into the submissions and documents on record, the Board was of the view that cross examination of the said witness is not considered essential in the case.

6.5 The Board also noted that during the course of hearing, the Respondent stated that he was not aware of the fact that the contents of the Complainant's book had copyright, and he took the PDF of his book which was available on social media platform. The Board did not accept the said contention of the Respondent as being a reputed faculty, he was supposed to have the said basic information and was duty bound to verify the authenticity of the sources from where the text of his book was drawn.

6.6 In view of the above, the Board held that by virtue of holding the Copyright of the book published by him, the content of the said book became the property of the Complainant and he had all the right to defend any infringement of copyright or other rights conferred under the Copyright Act 1957 to him. Also, the case of the Respondent did not fall in any of the exceptions provided under Section 52 of the Copy Right Act, 1957. The Respondent during the course of hearing admitted that the MCQs which were published in a book authored by the Complainant had been taken by him and published in his book which he had written along with his theory book without the consent of the Complainant. Accordingly, the Board held the Respondent guilty in respect of the charge alleged.

**CONCLUSION:**

7. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part IV of First Schedule to the Chartered Accountant Act, 1949 read with Section 22 of the said Act.

Sd/-

CA. Rajendra Kumar P


(Presiding Officer)

DATE: 06-12-2023

Sd/-

Ms. Dolly Chakrabarty (IAAS, ret'd.)

(Government Nominee)

राष्ट्रीय प्रमाणित प्रतियों के लिए प्रमाणित  
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सहायक निदेशक / CA Anurupa Ghosh  
सहायक निदेशक / Assistant Director  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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