

IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 11.10.2017

+ **W.P.(C) 8413/2016 & CM Nos. 34783/2016 & 14495/2017**

PARTHA GHOSH & ANR

..... Petitioners

Versus

**THE INSTITUTE OF CHARTERED ACCOUNTANTS
OF INDIA & ORS**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr S. Ganesh, Senior Advocate with Ms
Priyanjali Yadav, Mr Dwaipayan Banerjee.

For the Respondents : Mr Ramji Srinivasan, Senior Advocate with Ms
Pooja M. Saigal & Mr Tushar Bhardwaj.

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HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioners have filed the present petition, *inter alia*, praying for a direction to respondent no.3 to quash the disciplinary proceedings instituted against them and the Show Cause Notice dated 06.12.2006 issued pursuant thereto.

2. The petitioners are chartered accountants and were at the material time working with Price Waterhouse & Co. (hereafter 'PwC'), a firm of Chartered Accountants; petitioner no. 1 was one of the Partners and petitioner no. 2 was holding the designation of a Senior Manager in PwC. The petitioners are members of respondent no.1, the Institute of Chartered Accountants of India, (hereafter 'ICAI').

3. The context in which the controversy involved in the present petition arises, is briefly set out hereafter:

3.1 PwC was the statutory auditor of the banking company - Global Trust Bank Limited (hereafter 'the Bank') - for the year ended 31.03.2003. The petitioners in their respective capacities as a constituting partner and a Senior Manager of the firm, conducted the statutory audit and signed a qualified audit report on 30.09.2003 in respect of the affairs of the said Bank. The audit report for the year ended on 31.03.2003 estimated the gross non performing assets (NPAs) as ₹915.8 crores and accounts were qualified to the extent of ₹311.61 crores.

3.2 Prior to the audit of the Bank for the financial year ended 31.03.2003, The Reserve Bank of India (hereafter 'the RBI') had appointed a special auditor, M/s M Bhaskar Rao & Co., to conduct an independent review of the account of certain major borrowers - thirty six in number - of the Bank for the year ended 31.03.2002. The special audit report was submitted on 09.05.2003 and directions were issued to the Bank to follow the recommendations contained in the report after adjusting for any material developments/recoveries post 31.12.2002. The RBI had recommended additional provisioning upto ₹596.30 crores while the report prepared by the special auditor recommended provisioning upto ₹373.43 crores, for the year ended 31.03.2002.

3.3 Thereafter, RBI conducted an Annual Financial Inspection (hereafter 'AFI') of the said Bank for the Financial Year ended 31.03.2003. The AFI report, 2003 (AFI 2003) recommended provisioning requirements much in excess of those contained in the report made by the

special auditor as well as those contained in the accounts for the year ended 31.03.2003, audited by the petitioners.

3.4 By letter dated 25.02.2005 sent to the petitioners, ICAI referred to certain documents provided by the RBI and sought clarification on those. Thereafter, a series of correspondence was exchanged between the parties.

3.5 On 06.12.2006, PwC received a Show Cause Notice issued by the ICAI wherein reference was made to various articles that appeared in the newspapers in July 2004 as well as the extracts of AFI 2003 for the year ended 31.03.2003. It was claimed that in regard to some of the accounts mentioned in the AFI 2003, the clarifications received from PwC in respect of the statutory audit of the Bank for the financial year ending 31.03.2003 were not satisfactory. The said notice listed the items which, the ICAI had decided to be treated as “information” for the purposes of Section 21 of the Chartered Accountants Act, 1949 (hereafter ‘the Act’). In terms of Regulation 12(6) of the Chartered Accountants Regulations, 1988, (hereafter ‘Regulations’), PwC was called upon to disclose the names of the members answerable to the charge of alleged misconduct. By letter dated 05.01.2007, PwC submitted the names of the petitioners to ICAI.

3.6 Thereafter, ICAI issued a Show Cause Notice dated 23.10.2007 to the petitioners, whereby it was informed that the above matter was considered in light of the written statements and the Council (ICAI) was *prima facie* of the opinion that the petitioners were guilty of professional misconduct and therefore, an enquiry would be instituted by the Disciplinary Committee, ICAI (respondent no.3) in the matter. Thereafter, by letter dated 03.12.2007, the petitioners were notified of the date and venue fixed for the hearing and were called upon to appear along with

evidence. The said letter also indicated the procedure to be followed by the Disciplinary Committee (ICAI).

3.7 It is stated that no substantial progress was made in the disciplinary proceedings between December 2007 to April 2010 as the petitioners were unable to submit the relevant documents; this was so as the RBI had instructed that confidentiality of the borrowers' accounts be maintained. The documents were finally submitted under the cover of a letter dated 31.07.2008. Thereafter, there was a change in the constitution of the Disciplinary Committee (ICAI) and the proceedings were required to be held *de novo*.

3.8 Thereafter, the petitioners successively filed three writ petitions, which are briefly noticed hereafter.

3.9 The petitioners filed a writ petition, being (Writ Petition (L) No. 634/2009), before the Bombay High Court, *inter alia*, alleging that the Disciplinary Committee failed to adhere to the prescribed procedure. It was alleged that the Disciplinary Committee recorded evidence of the witnesses (officers of the RBI and the special auditor) in the absence of working papers or other relevant documents in support of their respective reports. By an order dated 16.04.2009, the Division Bench of the Bombay High Court held that the Disciplinary Committee had failed to adhere to the provisions of Section 21 of the Act, as well as Regulations 15 and 16 and the principles of natural justice. The Court directed that the petitioners be afforded an opportunity of hearing as per Regulation 15(3) and the hearings be conducted in conformity with procedure stated in the letter dated 03.12.2007. In case any other procedure was chosen to be adopted,

the Disciplinary Committee was required to ensure that the procedure adopted be just and fair.

3.10 Thereafter, the petitioners filed another petition being (Writ Petition No. 1555 of 2009), *inter alia*, praying that the respondents be directed to comply with the order dated 16.04.2009, passed in (Writ Petition (L) No. 634/2009) and to furnish certain documents.

3.11 At the hearings held on 06.04.2010 and 07.04.2010, the petitioners raised objections that the *prima facie* opinion formed by the ICAI was without any substantial evidence and therefore, the Disciplinary Committee did not possess the jurisdiction to conduct an enquiry against them as required under Section 21 of the Act. However, their objections were disregarded.

3.12 After a lapse of three years, the petitioners received a letter dated 22.02.2013 informing them about the date of next hearing in the disciplinary proceedings against them. In reply to the same, the petitioners sent a letter dated 26.02.2013, *inter alia*, stating that since three years had been passed during the last hearing and since then Disciplinary Committee had been reconstituted three times, the hearings were required to be held *de novo*. They also requested that the witnesses of ICAI be called upon to produce the relevant working papers to establish the charges against the petitioners.

3.13 In the meanwhile, the petitioners once again moved the Bombay High Court by way of (Writ Petition No.1354/2013). They now prayed that the respondents be restrained from conducting further proceedings or passing any order in the enquiry instituted against the petitioners till the

decision of the Supreme Court in Civil Appeal no.6142/2012 captioned as “***P Ramakrishna v. The Institute of Chartered Accountants***”. The said appeal arose from a decision rendered by a Division Bench of this Court in a matter, wherein it was held that the unamended provisions of Sections 21, 22 and 22A of the Act would be applicable to pending proceedings and information cases. In that case, the Supreme Court has not stayed the proceedings but had restrained ICAI from passing a final order as far as the appellant (therein) was concerned, until disposal of the appeal. By an order dated 23.06.2016, the Bombay High Court dismissed the petition on the ground that pendency of the matter in the Supreme Court concerning the applicability of the amendment of the Act, would not be a ground for granting an indefinite stay of the proceedings instituted against the petitioners. However, it was directed that respondents would not proceed until 17.12.2013.

3.14 At the hearing held on 07.07.2015, the petitioners once again submitted their objections on the *prima facie* opinion formed by the Council. Subsequently, hearings were fixed by the Disciplinary Committee on 30.05.2016 and 31.05.2016. The same were adjourned and the next hearing took place on 14.07.2016 and 15.07.2016. The petitioners again raised an objection on the jurisdiction of the Disciplinary Committee on the same ground as mentioned above.

3.15 On 23.06.2016, the petitioners filed an application under the Right to Information Act, 2005 (hereafter ‘RTI’) with the ICAI requesting for certain information including "the minutes recorded by the Council for reaching the *prima facie* opinion and the views expressed by the Members/Nominated Members of the Council who were present at the

time when the "*prima facie*" opinion was formed by the Council." By letter dated 03.08.2016, ICAI disclosed certain documents including the extract of the minutes of the 271st meeting of the Council. It was further disclosed that no record of the oral discussions of the proceedings of the Council at the time of formation of the *prima facie* opinion was maintained.

4. The petitioners have filed the present petition, *inter alia*, contending that the proceedings before the Disciplinary Committee are without jurisdiction as there was no valid *prima facie* opinion formed by the Council of ICAI for referring the matter to the Disciplinary Committee. The petitioners claim that in terms of Section 21(1) of the Act (as applicable at the material time), the requirement of the Council forming a *prima facie* opinion that a member is guilty of professional misconduct was a jurisdictional condition. And, in absence of a valid *prima facie* opinion, further disciplinary proceedings would be wholly invalid and without jurisdiction.

5. In this petition, the petitioners have averred that they became recently (only a few weeks ago) aware - on receipt of information pursuant to their request under the RTI - that apart from a bald statement in the minutes of the Council's meeting regarding formation of a *prima facie* opinion, there was no record whatsoever as to how the *prima facie* opinion was formed and what was the material considered for such opinion. The petitioners submit that the record only shows that there were oral discussions and there is no record as to who were the members of the Council participating in the discussion; whether the *prima facie* opinion was unanimous or by majority; and how was the opinion ascertained (whether by way of show of hands, voice vote etc.). According to the

petitioners, such *prima facie* opinion is invalid and further proceedings pursuant thereto are without jurisdiction.

6. Mr S. Ganesh, learned Senior Counsel appearing for the petitioners earnestly contended that there was no reason to support the *prima facie* opinion or indicate the basis thereof and, therefore, the *prima facie* opinion that the petitioners were guilty of professional misconduct, was not legally valid. He further contended that this was a jurisdictional requirement and the failure of a valid *prima facie* opinion had rendered further proceedings as invalid. He relied on the decision of the Punjab and Haryana High Court in ***Institute of Chartered Accountants of India v. V.K. Verma: AIR 1965 Punjab 295*** and the decision of the Kerala High Court in ***V.K.S. Narayanan Nambudiri v. Institute of Chartered Accountants and Anr.: AIR 2006 Kerala 1997*** in support of its contention. He drew the attention of this Court to paragraphs 5 and 6 of the decision of the Kerala High Court and contended that formation of the *prima facie* opinion was a condition precedent for referring the matter to the Disciplinary Committee and further the formation of the opinion ought to be discernable from the proceedings of the Council.

7. At the outset, Mr Ramji Srinivasan, learned Senior Counsel appearing for ICAI had raised an objection as to the maintainability of the present petition. He had submitted that the issue regarding the *prima facie* opinion was a subject matter of dispute in earlier writ petitions filed by the petitioners before the Bombay High Court. This was contested by Mr S. Ganesh and he made a categorical statement that the disputes raised were never subject matter of any earlier proceedings. This statement as it turns out can most charitably be described as misleading.

8. As noticed above, ICAI had informed the petitioners by a letter dated 23.10.2007, that as per the provisions of the Regulations , the information was considered by the Council of ICAI alongwith the petitioners' written statement and the Council was *prima facie* of the opinion that the petitioners were guilty of professional misconduct.

9. Thereafter, the Disciplinary Committee of the ICAI, by its letter dated 03.12.2007, called upon the petitioners to submit documents and names of witnesses. The Procedure for inquiry by the disciplinary Committee was also informed to the petitioners. According to the petitioners, the procedure so indicated was followed by the Disciplinary Committee. However, it is alleged that thereafter the constitution of the Disciplinary Committee changed and this Committee attempted to change the procedure.

10. The petitioners filed a writ petition (being W.P.(C) No. 634/2009) before the Bombay High Court, *inter alia*, challenging the *vires* of Regulation 15(4) of the Regulations and the procedure adopted by the Disciplinary Committee. This was the first writ petition filed by the petitioners regarding the matter relating to the inquiry against them. In their petition, the petitioners had referred to the letter dated 23.10.2007 , informing the petitioners by the respondent no.2 that ICAI had formed a *prima facie* opinion, however, they did not seek any specific relief in that regard. However, one of the relief sought by them was as under:-

"(c) this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ; order or direction calling for the records and proceedings relating to the present case and after considering the legality and validity thereof

be pleased to quash and set aside the show cause notice dated 6th December, 2006 and any proceedings taken in pursuance thereof."

11. The petitioners gave up their challenge to Regulation 15(4) of the Regulations and the petition was disposed of by an order dated 16.04.2009, whereby the Hon'ble Bombay High Court directed the Disciplinary Committee to pass a speaking order in relation to petitioner's application and to grant a fair opportunity of hearing .

12. Thereafter, the petitioners filed another petition (being W.P.(C) No. 1555 of 2009), *inter alia*, challenging the procedure adopted by the Disciplinary Committee and sought compliance with the orders dated 16.04.2009. The petitioners also sought directions for being provided certain documents. This was their second writ petition. It is relevant to state that the petitioners also reiterated their prayer (similar to the prayer 'c' made in the earlier writ petition and as quoted above) to restrain the respondents therein from proceeding further or passing any order in the inquiry initiated against the petitioners pursuant to the Show Cause Notice dated 06.12.2006.

13. The aforesaid writ petition, being (WP (C) No. 1555 of 2009), was taken up for hearing on 18.08.2009 and the petitioners state that during the course of hearing, the counsel appearing for ICAI stated that the report of AFI 2003 as far as it relates to the petitioner and other documents would be furnished to the petitioner within a period of two weeks. According to the petitioners, the orders and directions given by the Court on 16.04.2009 in (W.P.(C) No. 634/2009) were violated and hence ,they filed a contempt petition (being Contempt Petition No. 88 of 2009) against ICAI.

14. Thereafter, the petitioners filed another writ petition (being W.P.(C) No. 1354 of 2013). This was the third petition filed by the petitioners regarding the Disciplinary Proceedings. In the synopsis and chronology of dates and events filed as a part of the writ petition, the petitioners averred as under:-

"In the hearings held on 6th and 7th April, 2010, the Petitioners through their Counsel raised various preliminary objections before Respondent No. 3. Respondent No. 3 has yet not giving any ruling on two preliminary issues raised by the Counsel for the petitioners i.e. no justification for formation of *prima facie* opinion by the Respondent No. 2 and non-production of work papers available with RBI.

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The petitioners are aggrieved by the arbitrary, irrational, manifestly, unfair, unreasonable and illegal manner in which the Respondent No. 2 has purported to arrive at a *prima facie* opinion. The gross delay in conduct of the enquiry, the refusal/failure of the Respondents and the said witness to produce the underlying working papers or documents, and passing of the Impugned Decision and oral rejection of the Application without assigning any reasons whatsoever for rejecting the Application, the Petitioners are constrained to file the present Writ Petition."

15. The petitioners also specifically alleged that there was non-application of mind by the Council of ICAI and a failure to form a *prima facie* opinion. Some of the relevant grounds urged in the petition are set out below:-

"(N) As per the provisions of the Act, prior to the amendment, (as made applicable by the Respondent No. 1 in the present case,) it is specifically provided that a *prima facie* opinion is required to be rendered by the Respondent No. 2 before referring the matter for enquiry to the Respondent No. 3. Section 21(1) of the said Unamended

Act, (as it stood prior to its amendment with effect from 17th November 2006) provided that only if the Respondent No. 2 has formed a prima facie opinion that a member of the Respondent No. 1 has been guilty of professional misconduct, that the case shall be referred to the Respondent No. 3. In other words, the formation of the prima facie opinion by the Respondent No. 2 is a sine quo non or jurisdictional condition precedent for the reference of the matter to the Respondent No. 3. The same provision is also contained in Regulation 12(11) of the Chartered Accountants Regulation, 1988 where it is specifically provided as under:

“12(11)(i)- If on a perusal of the complaint, the written statement, if any, the complainant’s rejoinder to the written statement, if any, and the Respondent’s comments on the complainant’s rejoinder, if any, and other relevant documents, the Council is prima facie of opinion that the Respondent is guilty of professional and or other misconduct, the Council shall cause an enquiry to be made in the matter by the Disciplinary Committee.”

From the perusal of the above, it is clear that an obligation is imposed on the Respondent No. 2 to consider the complaint and/or the information, entire evidence including replies given by the Petitioners before Respondent No. 2 draws a prima facie opinion. Further the prima facie opinion of the Respondent No. 2 has to be a fully reasoned opinion and in the absence of which the prima facie opinion of the Respondent No. 2 cannot be considered to be a prima facie opinion measuring up to the requirement of Section 21 of the said Act. The Respondent No. 1 however vide notice dated 23rd October 2007 had only informed the Petitioners that the Respondent No. 2 was of prima facie of the opinion that the Petitioners are guilty of professional and/or other misconduct and it was decided to cause an enquiry to be made by the Respondent No. 3. No reasoned opinion was

issued or provided to the Petitioners showing as to on what basis the Respondent No. 2 concluded to initiate enquiry against the Petitioners. It is submitted that merely on the basis of some alleged information the Respondent No. 2 could never have come to a conclusion that the Petitioners can be held guilty of professional and/or other misconduct as alleged. The purported prima facie opinion is ex-facie null and void.

- (O) It is further submitted that whilst arriving at the purported prima facie opinion the Respondent No.2 (as if then was constituted) totally failed to consider and ignore the submission by the Petitioners. Furthermore, the aforesaid letter was issued without disclosing the back ground material on the basis of which the so called prima facie opinion was formed by the Respondent No.2 and/or without even examining the back ground material. Thus the so called prima facie opinion of the Respondent No.2 is bad in law, void ab initio and consequently the direction of the Respondent No.2 to the Respondent No.3 to conduct the alleged disciplinary proceedings is also ex-facie bad in law, null and void."
- (P) The Petitioners submitted that since the Respondent No. 2 failed to form a reasoned prima facie opinion as required under Section 21(1) of the said Act any enquiry conducted or action taken or sought to be taken by the Respondent No. 3 pursuant to such an unreasoned prima facie opinion issued by the Respondent No. 2 is void ab initio. The respondent No. 3 has no jurisdiction to hear and/or decide the case of the Petitioners and consequently the entire proceedings are void ab initio and patently lacks jurisdiction.

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- (T) The Petitioners submitted that Respondent No. 2 did not independently apply its mind to the case to arrive at the prima facie view about the alleged misconduct of the Petitioners. The Respondent No. 2 at that time did not even know the full details of the accounts such as the true name of the Borrowers, code number assigned to the

Borrowers and working papers on the basis of which the charges of misconduct were made.

In any event the Respondent No. 2 has till date not provided any material, records or any other evidence to show what compelled the Respondent No. 2 to conclude that the Petitioners were prima facie guilty of alleged misconduct and how each of the Council members applied his mind to unanimously come to the said prima facie conclusion. The Petitioners submit that each of the members of the Respondent No. 2 has failed to apply his mind. The Respondent No. 1 mechanically cut and pasted the contents of the said extracts into the said notices without even considering the factual position with respect to each of the alleged misconducts. None of the members of the Respondent No. 2 even textually differed on the words in support of the so called prima facie opinion. No records or materials have been provided by Respondent No. 2 or Respondent No. 3 to the Petitioners inspite of several request to demonstrate the basis on which each of the council members unanimously reach the conclusion that the Petitioners were guilty of the alleged misconduct. It is unbelievable and it defies the logic that all the members of the Council agreed verbatim to the prima facie opinion conveyed to the Petitioners. If at all such a prima facie view was formed (in the same language) it could lead only to the conclusion that none of the members of the Respondent No. 2 applies their minds to the extracts but did not even read the same. In reality the work of drawing the prima facie opinion was completely and absolutely abdicated by them by asking the Secretary of the Institute to form the prima facie opinion by accepting whatever was mentioned in the said extracts of the AFI Report."

16. The petitioners also made specific prayers, *inter alia*, praying that the notice dated 23.10.2007 and the proceedings initiated pursuant thereto be set aside. The relevant prayers in this regard are set out as under:-

- "b) this Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction calling for the records and proceedings relating to the present case and after considering the legality and validity thereof be pleased to quash and set aside the show cause notice dated 6th December, 2006 issued to the Petitioners firm and the show cause notice issued to the Petitioners dated 23th October 2007 and any proceedings taken in pursuance thereof;
- (c) this Hon'ble Court be pleased to issue a writ of prohibition or a writ in the nature of prohibition or any other appropriate writ, order or direction prohibiting the Respondents herein from in any manner whatsoever conducting, proceeding further with or passing any order in the enquiry purported to be initiated against the Petitioners herein pursuant to the show cause notices dated 6th December, 2006 and 23th October 2007;"

17. It is apparent from the above that the petitioners had specifically challenged the validity of the *prima facie* opinion before the Bombay High Court. They had also urged that a fully reasoned opinion was necessary and in absence of the same, a *prima facie* opinion of the Council of ICAI could not be considered as one that measured up to the requirement of Section 21 of the Act. The letter dated 23.10.2007 informing the petitioners that the Council had formed a *prima facie* opinion that the petitioners were guilty of professional or other misconduct, was specifically challenged before the Bombay High Court. Thus, indisputably, the subject matter of the present petition (which also seeks to impugn the Show Cause Notice dated 06.12.2006 as well as the *prima facie* opinion formed by the Council) was also the subject matter of the dispute in the petition filed before the Bombay High Court (W.P.(C) No. 1354/2013). Merely because the petitioners have now acquired further information pursuant to their request

under the RTI - which, at best, provides them with additional pleas in support of their earlier challenge - does not mean that the subject matter of the present petition was not included in the matter before the Bombay High Court.

18. The contention that the petitioners were unaware as to the manner in which the Council had formed a *prima facie* opinion at the time of filing the writ petition before the Bombay High Court and are thus, not precluded from challenging the formation of the *prima facie* opinion yet again, is unmerited. The knowledge as to how the Council had formed the *prima facie* opinion was always within the reach of the petitioners. The petitioners had recourse to the RTI. Further, the petitioners had also approached the Bombay High Court, *inter alia*, seeking that directions be issued to the respondents to furnish certain information and it was well within their rights to also request for information as to the formation of the *prima facie* opinion. However, the petitioners chose to challenge the validity of the Council's *prima facie* opinion, without seeking any further information. Having exhausted their remedies, they are now attempting to resuscitate their challenge, which cannot be permitted.

19. In ***Amalgamated Coalfields Ltd. & Anr. v. Janapada Sabha Chhindwara: 1963 (1) Suppl. SCR 172***, the Supreme Court had referred to the rule of constructive *res judicata* and observed as under:-

"This rule postulates that if a plea could have been taken by a party in a proceeding between him and his opponent, he would not be permitted to take that plea against the same party in a subsequent proceeding which is based on the same cause of action; but basically, even this view is founded on the same considerations of public policy, because if the doctrine of constructive *res judicata* is not

applied to writ proceedings, it would be open to the party to take one proceeding after another on new grounds every time; and that plainly is inconsistent with considerations of public policy to which we have just referred."

20. In ***State of Uttar Pradesh v. Nawab Hussain: AIR 1977 SC 1680***, the Supreme Court considered a case where the respondent, Nawab Hussain, a Sub Inspector of Police in Uttar Pradesh was dismissed from service by the Deputy Inspector General of Police pursuant to disciplinary proceedings. He filed a writ petition challenging the disciplinary proceedings, *inter alia*, on the ground that he was not afforded reasonable opportunity to meet the allegations against him and such action taken was *malafide*. The said writ petition was dismissed. He then filed a suit challenging his order of dismissal, *inter alia*, on the ground that he was appointed by the Inspector General of Police and, therefore, the Deputy Inspector General of Police was not competent to dismiss him from service. This ground was not urged by him in the writ petition filed earlier and the Allahabad High Court was of the view that the suit filed subsequently was not barred by the principles of *res judicata* or *constructive res judicata*. However, the Supreme Court found that view to be erroneous; the Supreme Court held that the subsequent action was clearly barred by the principle of *constructive res judicata* and the High Court had erred in taking a contrary view.

21. As stated earlier, in the present case, the petitioners had challenged the formation, *inter alia*, challenging that the *prima facie* opinion was not valid. The present petition seeks to re-agitate the same issue *albeit* on the basis of additional information claimed to have been received subsequently. Plainly, the petitioners cannot be permitted to do so.

22. This Court is of the view that the petitioners' contention that they had recently acquired the information as to how the *prima facie* opinion was formed is a mere ruse intended to delay and obstruct the disciplinary proceedings, which cannot be permitted.

23. The petition and the pending applications are, accordingly, dismissed.

OCTOBER 11, 2017
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VIBHU BAKHRU, J

