



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-I (2023-2024)]]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949
READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT
OF CASES) RULES, 2007.**

In the matter of:-

**CA. Hazra Timir Kanti (M. No. 054696), Kolkata in Re:
[PPR/587/19-DD/49/INF/19-DC/1453/2021]**

MEMBERS PRESENT:-

**CA. ANIKET SUNIL TALATI, PRESIDING OFFICER
SHRI JUGAL KISHORE MOHAPATRA, IAS (RETD.), (GOVERNMENT NOMINEE)
SHRI PRABHASH SHANKAR, IRS (RETD.), (GOVERNMENT NOMINEE)
CA. GYAN CHANDRA MISRA, MEMBER**

1. That vide findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was inter-alia of the opinion that **CA. Hazra Timir Kanti (M. No. 054696)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (1) of Part II of Second Schedule and 'Other Misconduct' falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act 1949.
2. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communications were addressed to him thereby granting opportunities of being heard in person / through video conferencing and to make written & verbal representation before the Committee on 22.03.2023.
3. The Committee noted that on the date of hearing held on 22.03.2023, the Respondent was present through video conferencing and the Respondent made his verbal submission on the findings of the Disciplinary Committee.
4. The Committee observed that the Respondent reiterated his earlier submissions and did not make any new representation on the findings of the Disciplinary Committee.
4. The Committee considered the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis verbal submissions of the Respondent.
5. Keeping in view the facts and circumstances of the case, material on record including verbal submissions of the Respondent on the findings of the Committee, the Committee is of the view that the professional misconduct on the part of the Respondent is established, and the ends of



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

justice would be met if harsh punishment is awarded to the Respondent in this case. Accordingly, the Committee ordered that **name of the Respondent, i.e., CA. Hazara Timir Kanti (M. No. 054696)** be removed from the Register of members for a period of one year, and a fine of **Rs. 25,000/- (Rupees Twenty Five Thousand only)** be imposed upon the Respondent to be paid within 90 days of receipt of the Order. If the Respondent fails to pay the fine within the stipulated period, his name be removed from the Register of Member for an additional period of one month.

Sd/-
(CA. ANIKET SUNIL TALATI)
PRESIDING OFFICER,

Sd/-
SHRI JUGAL KISHORE MOHAPATARA, I.A.S.
(RETD.), (GOVERNMENT NOMINEE)

Sd/-
(SHRI PRABHASH SHANKAR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. GYAN CHANDRA MISRA)
MEMBER

DATE: 10.05.2023
PLACE: New Delhi

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

मेनू गुप्ता / Meenu Gupta
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, मीनवास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Mehlwas Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – I (2022-2023)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No. PPR/587/19-DD/49/INF/19-DC/1453/2021

In the matter of Information treated against:-

CA. Hazra Timir Kanti
Plot No. 24, Sabuj Kanan
Gopalpur House
KOLKATA (WEST BENGAL) - 700071

.....Respondent

MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer
Shri Prabhash Shankar (Govt. Nominee), Member
CA. Gyan Chandra Misra, Member
CA. Priti Paras Savla, Member

DATE OF FINAL HEARING : 21.12.2022

PLACE OF FINAL HEARING : ICAI, I.P. Marg, New Delhi (Through VC)

PARTIES PRESENT:

Respondent : Not Present

BRIEF OF THE DISCIPLINARY PROCEEDINGS: -

1. On the day of hearing held on 21st December 2022, the Committee noted that neither the Respondent nor his Counsel was present. The Committee noted that the earlier hearing(s) fixed in the above matter were adjourned twice at the request of the Respondent. The Committee also noted that the notice of hearing was duly sent to the Respondent through post and e-mail. However, the copy of notice sent to the Respondent through post was not delivered but the copy of e-mail sent to the Respondent was delivered to him. In view of above,

since the notice of hearing was duly sent to the Respondent through e-mail and response was duly received from the Respondent in past against notice of hearing sent through e-mail, the Committee is of the view that in spite of notice of hearing being delivered to the Respondent through e-mail, he failed to appear before the Committee. Accordingly, the Committee decided to continue with the hearing **ex-parte the Respondent**.

Brief Background of the matter

2. It had come to the notice of the Examination department that a video clip was in circulation on social media; whereby a person was seen evaluating answer books while travelling in bus/tram. On scrutiny, it was found by the Informant Department that the aforesaid person was CA. Timir Kanti Hazra (M. No.054696) Kolkata i.e., the Respondent, who was an examiner of Paper 2, Strategic Financial Management, Final old course November 2019 examination.

As per procedure; examiners are advised to download and take printout of 5 sample answer books and Model Solutions from the examiners portal and evaluate these sample answer books in accordance with the model solution and bring these sample answer books to workshop for getting it reviewed by the Head/ Associate Head Examiner. It is also brought on record by the Informant that the Respondent has admitted on WhatsApp that he was evaluating the sample answer books while travelling thus the Respondent is in serious violation of Clause E of Instruction to Examiners whereby examiners are instructed not to carry the answer books from one place to another and also should not undertake the evaluation work while travelling from one place to another. The Informant had withdrawn assignment of November 2019 examination from the Respondent and debarred him from examinership assignment for next ten years.

CHARGES IN BRIEF: -

3. The allegation against the Respondent is that Respondent has violated **Clause E of the Instruction to Examiners** whereby examiners are instructed not to carry the answer book from one place to another and also should not undertake the evaluation work while travelling from one place to another e.g., by train, Air etc. Clause E Para 14 of the General Instructions to Examiners Evaluation of Physical Answer Books is reproduced below: -

XXXXX

“E. Confidentiality, Fidelity and Secrecy

14. You should not carry the answer books from one place to another for evaluation and also should not undertake the evaluation work while travelling e.g., by train, Air etc.”

XXXXX

SUBMISSIONS OF THE PARTIES AND FINDINGS OF THE DISCIPLINARY COMMITTEE: -

4. Since the Respondent did not appear before the Disciplinary Committee, there was no verbal submission of the Respondent on record. However, it is noted that the Respondent has submitted his written submissions on the allegations. On perusal of the written submissions made at hearing stage and prima facie stage as well, the Committee observed that the Respondent has submitted the following submission in his defense: -

i) The Respondent stated that the Instructions to Examiner are applicable to the physical answer books and the same are different from the alleged dummy/sample answer books. The Respondent stated that a set of 5 answer books of each paper are scanned and hosted on the examiner's portal along with their Model Solutions. Examiners are required to download and print the answer books and evaluate them with the help of Model Solution and marking scheme. He further mentioned that as per Instructions, examiners are expected to come along with the answer books so evaluated by them at their location, to the workshop and get them reviewed by the Head Examiner (HE)/ Associate Head Examiners (AHEs). In addition, the examiners are also given another set of 5 answer books at the venue which they are required to evaluate at the venue, based on the input given by the HE/AHEs. Accordingly, the Respondent submitted that the whole scheme of dummy answer book has no relevance as regards to the instructions to the physical answer books and hence Clause 'E' has not been violated. These answer books in the shape of training material have no confidentiality value and there is no communication of any sort whatsoever that such dummy/sample answer books are also required to be opened in isolation. Therefore, there is no intention to bring disrepute and tarnish the image of the Institute.



ii) The Respondent further submitted that nearly 15 days from the date of examination, the examiners are invited to attend one day workshop. In this case, it was on 17.11.2019 at Kolkata Premises of the Institute. He had to evaluate the 5 dummy/sample answer books at home and went to the workshop with them. In the workshop AHE reviewed the 5 dummy/sample answer books and gave his observation and reasons for modifications, if any, to all the examiners. Further 5 more dummy/sample answer books were provided at the center to all the examiners who attended the workshop. These were evaluated by the examiner and also reviewed by the Associate Head Examiner like 5 previous dummy/sample answer books and given reasons for modification, if any. All the said 10 answer books were handed over to the examiners to keep with them and these dummy/sample answer books are for training purpose only.

iii) The Respondent submitted that physical answer books are not allotted along with dummy/sample answer books. He reached to ICAI Center (workshop) at 9.30 A.M. on 17.11.2019 along with dummy/sample answer books and received physical answer books on 26.11.2019. The Respondent admitted that he was carrying dummy/sample answer books while travelling to reach the workshop center. He submitted that although it is his habit to keep the pen open when reading any article etc. for marking the relevant portion, however he was not checking the said answer book at that time.

iv) The Respondent stated that the story of concrete evidence by way of WhatsApp message and Video Clip has been used to make mountain out of mole hill. The Director (Discipline) has tried to project a non-issue by importing the alleged violation of Clause E Para 14 which is totally unwarranted. The Director (Discipline) did not tell the source of such video clip.

v) The Director (Discipline) has also tried to give undue emphasis to a small fact that the Respondent was holding the sample answer sheet in the public place while travelling. The sample answer books, which are nothing more than the books, could be read wherever the Respondent was located at any point of time. It has nothing to do with the public perception. By no stretch of imagination, the credibility of the Examination system of the Institute is not tarnished by simply reading the study material.

vi) The statement of the Director (Discipline) that “the video clip clearly shows that he is evaluating the answer book” is most unfortunate. The Director (Discipline) has not stated how he could clearly see that the Respondent was evaluating the dummy answer book, disbelieving, the Respondent that he was merely reading the answer books.

vii) The Director (Discipline) has wrongly arrived at the conclusion that the Respondent showed complete disregard of the onerous responsibility and faith placed on him by the Examination Department. The Respondent stated that there was no occasion arose when the Respondent disregarded his responsibility and belied the faith of the ICAI. The Director (Discipline) has concluded on the basis of wrong appreciation of the facts.

viii) The observation of the Director (Discipline) that the Respondent put the image of ICAI and its examination system at stake in the eyes of all stakeholders, is totally wrong. It is a general statement without any linkage with the evidence and material on record.

ix) The Respondent stated that there was no case of “evaluation of answer sheet of the students”. Rather, it was a matter of checking of the dummy answer book for training purposes.

5. After detailed perusal of the documents on record including written submissions of the Respondent, the Committee observed that the Respondent did not submit any new facts on record. Rather, he has raised question on the Prima Facie Opinion by stating that the Director (Discipline) has not checked the source of evidence and reached conclusion on the basis of wrong appreciation of the facts. In this regard, on perusal of the documents on record, it is observed that on being enquired from the Respondent on WhatsApp by an office of the ICAI as to whether the Respondent was evaluating the actual or Dummy Answer Book while in bus / train, the Respondent had confirmed that he was checking one Dummy Answer Book while going to Kolkata Workshop on 17th November 2019. Hence, in view of the admissions of the Respondent that he was evaluating Dummy Answer Sheet while travelling in bus / train, it cannot be stated that the Director (Discipline) failed to appreciate the facts on record.

6. It is observed that it is admitted fact that the Respondent was carrying dummy answer books to the workshop venue on 17th November 2019. It is also observed that Clause “**E. Confidentiality, Fidelity and Secrecy**” are inherent and integral part of any sound examination system and thus, applicable to all the scheme of the examination and cannot be restricted to one or other type of the answer sheets, otherwise very purpose of training before every examination will be defeated. In this case, allegation i.e., violation of Clause ‘E’ point 14 is supported by the concrete evidence by way of WhatsApp message and video clip which shows that Respondent was checking the answer books while travelling and somebody has made video clip of this action of Respondent which later got circulated on social media.
7. It is observed that checking of the sample answer sheet in the public place while travelling by the Respondent is clear-cut violation of the Clause ‘E’ as stated above. Such an act on the part of the Respondent not only alters the public perception about credibility of the Examination system of the Institute, as public at large being unaware about the detailed procedure of evaluation, but also raises question in mind of public about the quality of checking being done at public place. Further, the public will have a perception in their mind that actual copies of the CA Examination are being evaluated in the public place.
- 7.1 In respect of General Instruction given to the Examiner, it is observed that there is clear cut instruction for Examiners not to undertake evaluation work while travelling e.g., by train, Air etc. and there is not any kind of relaxation for the dummy answer books in the said instructions. In view of the said instruction, the Respondent should not have checked the dummy answer books in public place. The action of Respondent in the public place while travelling has brought disrepute to the Institute as well as Examination system of the Institute of Chartered Accountants of India which has its global credibility.
- 7.2 It appear that the Respondent has showed complete disregard of the onerous responsibility and faith placed on him by the Examination Department and he has dealt the matter with not much amount of seriousness required of him and he has not exercised reasonable care and caution as expected from a professional/ Chartered Accountant. The negligent attitude of the Respondent not only put the image of ICAI and its examination system at stake in the eyes of

all stakeholders but also such an act on his part is clear-cut violation of the guidelines issued by the examination Committee of ICAI i.e., Clause E of General Instructions to the examiners as stated above.

Conclusion: -

8. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and 'Other Misconduct' falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. ANIKET SUNIL TALATI)
PRESIDING OFFICER

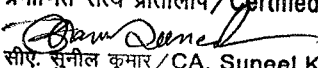
Sd/-
(SHRI PRABHASH SHANKAR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. GYAN CHANDRA MISRA)
MEMBER

Sd/-
(CA. PRITI PARAS SAVLA)
MEMBER

Date: 07/02/2023

Place: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy

सी.ए. सुनील कुमार / CA. Suneel Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट 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