

# Judgement In Disciplinary Matter

In the High Court of Karnataka, Bangalore  
N.K. Jain, C.J. and V.G. Sabhahit, J.

Civil Petition No.299/2000/DOD  
17.12.2003

In the matter of the Institute of Chartered  
Accountants of India New Delhi

Vs.

Shri. H.R. Shetty, Chartered Accountant

## ORDER

This reference under Section 21(5) of the Chartered, Accountants Act, 1949 (hereinafter called as the 'Act'). A complaint was received that the respondent-H.R.Shetty while working as Lecturer in St.Aloysius Evening College, Kodiabail, Mangalore had conducted audit of accounts for the years 31.12.1986 and 31.12.1987. The Council being prima facie of the opinion that the respondent was guilty of professional misconduct, referred the case to the Disciplinary Committee constituted under the said Act for enquiry. After giving sufficient opportunity to the respondent, the Disciplinary Authority submitted the report dated 12.1.1997, holding that the respondent was guilty of misconduct as alleged in clause (4) of Part I of Second Schedule to the Act. The Council after considering the contention raised by the respondent, accepted the report. The penalty of reprimand has been imposed and accordingly made this reference to the Court.

2. The contention of the respondent is that, after the death of his father-in-law who was conducting audit in the said Institute, he continued the audit in the said institution. It is also stated that the work was done honourarily and he has already resigned from the post and the remuneration received has also been donated to the Society. Therefore imposing punishment and the reference made to this Court is uncalled for.

3. On the other hand, the learned counsel appearing for the petitioner-Institute for Chartered Accountants, submits that admittedly the respondent has not intimated that he has done audit work and the C.A. was only granted permission to teach but nevertheless in absence of any specific permission to audit, it was not proper for him to conduct the audit. Even though he has resigned from the post in the college and the remuneration received has also been donated, the same will not absolve him the liability of professional misconduct. He has also conducted audit of accounts and certified the financial statements for the years 31.12.1986 and 31.12.1987 pertaining to the said institution which is contrary to code of conduct. The Disciplinary authority has discussed and has rightly reprimanded the respondent which is not to be interfered, but rather has to be accepted.

4. We have heard the learned counsel for the parties and perused the material placed on record.

5. It is not necessary to go into the facts of the case as the same are not disputed. It is also not in dispute that the respondent has certified the financial statements for the years ended 31.12.1986 and 31.12.1987 pertaining to the said Institute which is contrary to the code of conduct as discussed in detail by the Disciplinary Authority and the Council. The fact remains that the respondent has not intimated about conducting the audit work. In the circumstances, when he has not intimated the authority, the mere fact that he has resigned to the said post and donated the amount received for conducting audit, will not absolve the respondent of the liability for the misconduct for the relevant period as held by the Disciplinary Committee and the Council. The said finding has been arrived at after giving sufficient opportunity to the respondent, which has not been disputed. In view of the above said facts, we are not inclined to accept the arguments of the learned counsel appearing for the respondent.

On overall consideration and in exercise of the power under Section 21 (6) of the Act, we approve the recommendation and the respondent H.R.Shetty is reprimanded. A copy of this order duly certified by the Registrar shall be sent to the petitioner-Institute. ■