



2026:DHC:4216



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 16324/2023 & CM APPL. 65728/2023**

Date of Decision: **25.04.2026**

**IN THE MATTER OF:**

**ANIL KUMAR AGGARWAL**

.....Petitioner

Through: Mr. Chetan Lokur and Mr. Shiv  
Verma, Advs.

versus

**BOARD OF DISCIPLINE ICAI THR SECRETARY AND ORS**

.....Respondents

Through: Ms. Pooja Mehra Saigal, Sr. Adv.  
with Mr. Ankit Mittal and Mr. Jatin  
Dua, Advs. for R-1 and 3.

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+ **W.P.(C) 16424/2023 & CM APPL. 66112/2023**

**RADHEY SHYAM BANSAL**

.....Petitioner

Through: Mr. Shiv Verma, Adv.

versus

**BOARD OF DISCIPLINE THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA & ORS.**

.....Respondents

Through: Ms. Pooja Mehra Saigal, Sr. Adv.  
with Mr. Ankit Mittal and Mr. Jatin  
Dua, Advs. for R-1 and 3.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**



2026:DHC:4216



## JUDGEMENT

### PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

*(The matter has been taken up today, as 03.03.2026 was declared as a holiday.)*

1. The petitioners in both the petitions are chartered accountants who are governed under the provisions of the Chartered Accountants Act, 1949 [Act], and the rules and regulations made thereunder.
2. They pray for setting aside a common order dated 19.10.2023, whereby, the petitioners' appeals against orders dated 30.01.2020 and 11.02.2020 of the Board of Discipline [BoD] were rejected by the Appellate Authority.
3. The impugned action has been taken pursuant to a sting operation conducted by a third-party news agency, alleging that the petitioners had represented that they would legitimize 'black money' in return for a commission. The said sting operation was treated to be information under Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional Misconduct and other Misconduct and Conduct of the Cases) Rules [Rules], and the charge against the petitioners was that they had brought grave disrepute to the chartered accountant fraternity.
4. The petitioners were, *prima facie*, found to be guilty in the preliminary inquiry conducted by the concerned authority. Thereafter, the BoD, *vide* two separate orders dated 26.04.2017, held the petitioners guilty. Further, punishment orders dated 30.05.2017, were passed directing removal of the petitioners' names from the Register of Members of the Institute of Chartered Accountants of India [ICAI] for a period of three months and imposition of fines of Rs. 1,00,000/- (Rupees One Lakh only) each.



2026:DHC:4216



5. Aggrieved by the said orders, the petitioners preferred appeals before the Appellate Authority, which were disposed of on 18.10.2018 with directions to the BoD to readjudicate the matter after affording a fresh opportunity of hearing. The BoD, subsequently, passed orders dated 30.01.2020 and 11.02.2020, again finding the petitioners guilty of misconduct and imposing the same punishment. The petitioners' appeals against these orders have been dismissed by the Appellate Authority *vide* the impugned order dated 19.10.2023. The petitioners, therefore, have challenged the entire action before this Court.

6. On 31.07.2024, the Court granted interim stay on the impugned order. However, the respondents have not filed their counter affidavit despite having been given various opportunities. Therefore, on 30.01.2026, the concerned Registrar closed their right to file a counter affidavit.

7. Ms. Pooja Mehra Saigal, learned senior counsel appearing for respondent nos.1 and 3, submits that they do not have any role to play.

8. Learned counsel appearing for the petitioners confines his submissions to the aspects of the impugned order of the Appellate Authority having been passed by only two members out of the four members who finally heard the final arguments on the appeals.

9. He submits that, in compliance with the principles of natural justice, the judgment ought to have been delivered by the very members who heard final arguments and reserved the matter. The opportunity of personal hearing which was granted to the petitioners, otherwise, would be meaningless. He places reliance on the decision of this Court in the case of *Jindal Films*



*India Ltd. v. Delhi Development Authority*,<sup>1</sup> and submits that the impugned order deserves to be set aside on this ground.

10. Further, he submits that as per Rule 13 of the ‘Procedure to be followed for appeals by the Appellate Authority, 2013’ [**Procedure**], framed under Section 22D(2) of the Act, the *quorum* of the Appellate Authority for hearing appeals is a minimum of three members including the Chairman. According to him, since the third member who has signed the judgment had not heard final arguments of the parties, the judgment ought to be deemed to have been passed by only two members. Therefore, according to him, the impugned judgment is *coram non-judice*.

11. The Court has considered the submissions made by learned counsel appearing for the parties, and perused the record.

12. In order to appreciate the petitioner’s case, order dated 06.08.2023 of the Appellate Authority, when arguments were concluded on behalf of the petitioners, is extracted as under:

- “1. *The bench is convened through video conferencing.*
2. *Heard the Learned Counsel for the parties and perused the record.*
3. *Today, the learned Counsel for the parties concluded their respective arguments. Judgment is reserved.*
4. *Interim Order shall remain operative till the delivery of judgment.*

Justice Shashi Kant Gupta  
Chairperson

Praveen Garg  
Member

Sushil Kumar  
Member

Anil Satyanarayan Bhandari  
Member”

(Emphasis supplied)

13. A perusal thereto would indicate that when the parties concluded their

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<sup>1</sup> 2024 SCC OnLine Del 1127



final arguments before four members of the Appellate Authority, namely, Justice Shashi Kant Gupta, Chairperson, Mr. Praveen Garg, Mr. Sushil Kumar and Mr. Anil Satyanarayan Bhandari, members.

14. The relevant portion of the impugned judgment is also extracted below, for reference:

**“QUORUM:**

<i>Hon’ble Mr. Justice Shashi Kant Gupta</i>	<i>Chairperson</i>
<i>Hon’ble Mr. Praveen Garg</i>	<i>Member</i>
<i>Hon’ble Mr. Pankaj Tyagee</i>	<i>Member”</i>

15. If the impugned judgment passed by the appellate authority is seen, it clearly indicates that it is signed by a total of three members. Two of them, namely, Justice Shashi Kant Gupta and Mr. Praveen Garg had heard the final arguments and had reserved the judgment. Mr. Pankaj Tyagee, who is the third member, however, was not a part of the earlier Bench.

16. The Court finds that the impugned order is vitiated on account of this discrepancy alone. This Court, in *Jindal Films India Ltd.*, has taken note of the decision in *Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation and Anr.*,<sup>2</sup> wherein, a five-Judge Bench of the Supreme Court has held as under:

*“31. The second objection is that while the Act and the Rules framed thereunder impose a duty on the State Government to give a personal hearing, the procedure prescribed by the Rules impose a duty on the Secretary to hear and the Chief Minister to decide. This divided responsibility is destructive of the concept of judicial hearing. Such a procedure defeats the object of personal hearing. Personal hearing enables the authority concerned to watch the demeanour of the witnesses and clear up his doubts during the course of the arguments, and the party appearing to persuade the authority by reasoned argument to accept his point of view. If one person hears and another*

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<sup>2</sup> 1958 SCC OnLine SC 49



*decides, then personal hearing becomes an empty formality. We therefore hold that the said procedure followed in this case also offends another basic principle of judicial procedure.”*

17. The said decision of the Supreme Court has subsequently been followed in ***Automotive Tyre Manufacturers Association v. Designated Authority***,<sup>3</sup> wherein, the Court has held as under:

*“83. The procedure prescribed in the 1995 Rules imposes a duty on the DA to afford to all the parties, who have filed objections and adduced evidence, a personal hearing before taking a final decision in the matter. Even written arguments are no substitute for an oral hearing. A personal hearing enables the authority concerned to watch the demeanour of the witnesses, etc. and also clear up his doubts during the course of the arguments. Moreover, it was also observed in Gullapalli [AIR 1959 SC 308], if one person hears and other decides, then personal hearing becomes an empty formality.*

*84. In the present case, admittedly, the entire material had been collected by the predecessor of the DA; he had allowed the interested parties and/or their representatives to present the relevant information before him in terms of Rule 6(6) but the final findings in the form of an order were recorded by the successor DA, who had no occasion to hear the appellants herein. In our opinion, the final order passed by the new DA offends the basic principle of natural justice. Thus, the impugned notification having been issued on the basis of the final findings of the DA, who failed to follow the principles of natural justice, cannot be sustained. It is quashed accordingly.”*

18. The petitioners have correctly placed reliance on the decision in ***Jindal Films India Ltd.*** The final judgment in the petitioners’ appeals ought to have been passed by the same members who heard the arguments. Therefore, the Court finds that the impugned order dated 19.10.2023 cannot be sustained and deserves to be set aside on this short ground.

19. In view thereof, the submission on behalf of the petitioner with respect to inadequate *quorum* of the Appellate Authority would merely be an academic exercise and does not require to be looked into.

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<sup>3</sup> (2011) 2 SCC 258



2026:DHC:4216



20. Accordingly, the impugned order dated 19.10.2023 stands set aside. The Appellate Authority shall be at liberty to re-hear the petitioners and to pass a fresh order in accordance with law.
21. The Court has not expressed any opinion regarding the merits of the allegations or otherwise. All those aspects are left open to be considered by the Appellate Authority.
22. Petitions stand disposed of.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

**APRIL 25, 2026/p**