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COMMON FOR ALL INSTT.S

By Speed Post

No. 12/23/2010-PI
GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS

5th Floor, A Wing, Shastri Bhavan
New Delhi - 110001
Dated, the 13th December, 2010

To
The Secretary,
ICAI, New Delhi.

The Secretary,
ICSI, New Delhi

The Secretary,
ICWAI, KOLKATA

Subject: Members of the professional institutes arrested by law enforcement agencies for criminal offences - Directions of Central Government - issue of.

Sir,

In recent times, there have been several instances where members of the professional Institutes have been arrested by law enforcement agencies in connection with criminal offences. It has been noticed that disciplinary action is generally not initiated against such members *suo motu* by the professional institutes, unless and until pointed out by the Ministry.

2. Members of the three professional Institutes discharge important economic functions and render services to the public. **The confidence of the public in the integrity of the members is vital**. Part IV of Schedule I of the Acts governing the three professional Institutes specifically provides, that a member shall be deemed to be guilty of mis-conduct if he ".....brings disrepute to the profession or the institute as a result of his action whether or not related to his

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rofessional work". Under this provision, it is not necessary that there should be professional mis-conduct; if by his action, a member brings disrepute to the Institute, it is a sufficient ground for proceeding.

3. Keeping in view the need for public confidence in the integrity of the members of the professional Institutes, the Central Government hereby issues the following directions under Section 35 of the Cost and Works Accountants Act, 1959, Section 35 of the Company Secretaries Act, 1980 and Section 30C of the Chartered Accountants Act, 1949 for strict compliance:-

i. As soon as it comes to the notice of the Institute, either on the basis of press reports or otherwise, that a member of the Institute has been, or appears to have been, arrested by the police or any other law enforcement agency, it shall immediately take steps to obtain details in respect of the matter from the concerned agency and such other sources as may be appropriate. On receipt of details, if it is ascertained that the member was indeed arrested, the Institute shall treat this as "information" under Section 21(2) of the respective Acts, and shall initiate disciplinary action and take such further steps as may be necessary.

ii. If details as per (i) above are not received within 3 weeks of the matter coming to the notice of the Institute, the Institute shall nevertheless initiate disciplinary action on the basis of available information treating it as "information" under Section 21(2) of the respective Acts and take such other steps as may be necessary to pursue the matter. If details are subsequently received from the law enforcement agency or other appropriate source, they shall be appropriately taken into account.

iii. The Institute shall take steps to pursue such matters vigorously and bring them to a conclusion as early as possible, while following the procedures correctly.

iv. The Institute shall continuously monitor press reports and take note of matters involving its members which fall within the scope of these directions or otherwise bring disrepute to the profession.

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v. The Institute shall put out the factual details of such cases on its website in all such cases in the following format:-

INFORMATION REGARDING MEMBERS ARRESTED BY LAW ENFORCEMENT AGENICES.

Name of Member	Membership No.	Gist of information received by /available with Institute	Action initiated by the Institute

This information shall remain on the website till the disciplinary proceedings are concluded. The details in the above format shall also be published in the Institute's journal in the month following initiation of action.

4. These instructions shall be published in the next edition of the Institute's journal & also posted on the institute website.

Yours faithfully,

(T.V. Somanathan)
Joint Secretary to the Govt. of India

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