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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 6926/2020**  
**KAPIL AGGARWAL**

..... Petitioner

Through: Mr.Maninder Singh & Ms.Smriti  
Asmita & Dr.Anurupita Kaur, Advs.

versus

**THE INSTITUTE OF CHARTERED ACCOUNTS OF INDIA**

..... Respondent

Through: Ms.Surbhi Mehta & Ms.Rishika  
Agarwal, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

% **24.09.2020**

This petition has been heard through video conferencing.

**CM APPL. 23755/2020 (Exemption)**

Allowed, subject to all just exceptions.

**W.P.(C) 6926/2020 & CM APPL. 23754/2020**

Issue notice.

Notice is accepted by Ms.Surbhi Mehta, Advocate on behalf of the respondent. She is granted three weeks to file counter affidavit. Rejoinder, if any, be filed within a period of three weeks thereafter.

It is the case of the petitioner that the Disciplinary Committee of the respondent has not followed the procedure prescribed in Rule 18 of the Chartered Accounts (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Referring to the Minutes of Meetings dated 22.08.2017 and 27.05.2019, the learned counsel for the petitioner submits that neither was the complainant called upon to lead



evidence nor the petitioner herein, as a respondent in such proceedings, was called upon to lead its evidence. He submits that in this manner, the procedure prescribed in Rule 18 of the Rules has been violated. In support of his arguments he places reliance on the judgment of this Court in ***Naresh Tharad vs. The Institute of Chartered Accounts of India and Anr.***, 2015 SCC OnLine Del 6677.

The learned counsel for the respondent, who appears on advance notice, on the other hand submits that the petitioner never raised a grievance regarding the conduct of proceedings before the Disciplinary Committee and thereby waived his rights to lead evidence and is now estopped from challenging the procedure adopted by the Disciplinary Committee.

I am prima facie not impressed with the arguments given by the learned counsel for the respondent as it is not evident from the Minutes of Meeting that the petitioner was warned or asked about waiving his rights under the said procedure prescribed under Rule 18 of the above stated Rules. Waiver has to be with knowledge.

In view of the above, the further proceedings in relation to the Impugned Communication dated 03.02.2020 bearing Ref. No. PR-320/14-DD/339/14/DC/486/2016 shall remain stayed till the next date of hearing.

List on 8<sup>th</sup> December, 2020.

**NAVIN CHAWLA, J**

**SEPTEMBER 24, 2020/rv**