

**IN THE INDEPENDENT
LEGAL SERVICES COMMISSION**

NO. 15 OF 2013

BETWEEN : **CHIEF REGISTRAR** Applicant

AND : **NAVEED NADEEM SAHU KHAN** Respondent

Applicant : Mr. A Chand
Respondent : In Person

Dates of Hearing : 14th August 2013
Date of Judgment : 22nd August 2013

JUDGMENT

1. The Respondent has been charged with professional misconduct contrary to section 83(1) (g) of the Legal Practitioners' Decree 2009.

The allegation reads:

"Mr Naveed Sahu Khan a legal practitioner, between the 12th of August 2010 until to date failed to respond to a complaint lodged by one Dorsami Goundar within the time stipulated in the notice issued by the Chief Registrar pursuant to section 105 of the Legal Practitioners Decree and thereafter failed to respond to a subsequent reminder notice issued by the Chief Registrar pursuant to section 108(1) of the Legal Practitioners Decree which conduct was a contravention of section 108(2) of the Legal Practitioners Decree 2009 and was an act of professional misconduct."

2. The then Chief Registrar first wrote to this Respondent on 11th of August 2010 seeking explanation of a complaint made against him. He did not respond. She wrote again on the 21st of September 2010, reminding him of his dereliction. Neither letter elicited any response. This allegation of professional conduct as a consequence of that omission was made on 8th of July 2013.
3. The Respondent on first call asked for time to search his files to see if he could find more information which might enable him to counter the allegation.
4. On the 14th of August 2013 he told this Commission that as the matter is as old as 2010 he cannot possibly remember why he would not have replied and in any event he is no longer in practice, he having sold his practice, including all his files and goodwill to another practitioner. This transfer was effected on 7th of August 2012.

5. It is a Defence to this allegation to furnish a "reasonable explanation for such failure" but the delay in making the application against the Respondent has effectively deprived him of this Defence. Had the application been made timeously and not three years after the event, the Respondent would have been in a far better position to explain his failure, if indeed he could. This Commission is of the view that it is an abuse of process to make the application so late.

6. It is impossible to say what time frame would be would be appropriate in making an application for failure to respond because each case will turn on its own peculiar circumstances, but to make an application after three years in respect of a practitioner no longer in practice and without access to his files or other records is unfair.

7. In the premises, the application to commence proceedings against the Respondent is **refused**.



**JUSTICE PAUL MADIGAN
COMMISSIONER**



22 AUGUST 2013