

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

(Authority specified by the Central Government under section 458 of the Companies Act, 2013)

21st July, 2020

ORDER

IN THE MATTER OF APPLICATION OF [REDACTED] FOR GRANT OF CERTIFICATE OF REGISTRATION AS A REGISTERED VALUER UNDER RULE 6 OF THE COMPANIES (REGISTERED VALUERS AND VALUATION) RULES, 2017.

Case under examination related to the application submitted by [REDACTED] (hitherto referred as applicant), under section 247 of the Companies Act, 2013, read with rule 6 (1) of the Companies (Registered Valuers and Valuation) Rules, 2017 (Rules), seeking a certificate of registration as a Registered Valuer (RV), in the asset class 'Land and Building' (L&B).

2. The [REDACTED], where the applicant is enrolled as a valuer member, forwarded the application to the Authority on 18th November, 2019, with a recommendation for registration of the applicant as a RV. Prior to being enrolled with the [REDACTED], the applicant was required to fulfil the eligibility requirement related to educational qualification which constitutes material aspect in consideration of his registration application.

3. In respect of educational qualifications, Rule 4 read with Annexure IV of the op-cited Rules require that an individual ***must possess*** the following educational qualification and experience in the relevant discipline to be eligible for registration as a valuer in the asset class of L&B:

- a. Graduate in Civil Engineering, Architecture, or Town Planning, or equivalent, from a University or Institute established, recognised or incorporated by law in India and five years of experience thereafter, or
- b. Post Graduate in Civil Engineering, Architecture, Town Planning, valuation of land and building, or real estate from a University or Institute established, recognised or incorporated by law in India and three years of experience thereafter.

Further, the Explanation II of the Rule 4 stipulates that the term 'equivalent' shall mean professional and technical qualifications which are recognised by the Ministry of Human Resources and Development (MHRD) as equivalent to professional and technical degree.

4. While considering the aforesaid application, it was observed that the applicant has sought for registration as RV on the basis of his educational qualification as having being passed the Direct Final Examination in Valuation Surveying from Institution of Surveyors (IOS) in the year 2016.

5. It is pertinent here to note that MHRD vide its letter No. 18-60/61-1.2 dated 09.06.1975 and further Notification No. 18-20/83/T.12/T.7 /T.13 dated 11.07.1988 had recognized the Direct Final Examination in Valuation Surveying conducted by IOS as equivalent to degree course. However, vide its Office Memorandum dated 06.07.2012 (OM no. 11-15/2011-AR(TS.II)), the MHRD had directed that the Institution shall not make any fresh admission. It was further clarified by the MHRD vide its Office Memorandum – F.No. 11-15/2011-AR (TS.II) dated 06.12.2012 that-

"All those students who are enrolled with the institutions with permanent recognition upto 31.05.2013 would be eligible for consideration in accordance with MHRD office

memorandum/order in force pertaining to their course for equivalence in Central Government jobs. However, these concerned orders will cease to have effect from 01.06.2013 onwards. After 31.05.2013, based on the review by the regulator i.e. AICTE, a decision on continuation of the certification of equivalence of degree/diploma shall be taken by statutory regulator”

6. Further, the AICTE vide a public notice Advt. No. P&AP/10(04)/2017 notified the decision of the AICTE in this regard as – “...*decided to recognize equivalence for all purposes including Higher Education & Employment to Technical Courses conducted by various Professional Bodies/Institutions which were duly recognized by MHRD with permanent recognition upto 31st may 2013.*”

7. In view of the foregoing, the Authority formed a prima facie opinion that the registration ought not to be granted to the applicant, as he does not meet the eligibility requirements as prescribed under rule 4. It communicated its prima facie opinion along with the reasons for the same to the applicant, vide email dated 17th January, 2020 and provided an opportunity to explain why his application should be accepted for registration as valuer. The applicant appeared before me for a personal hearing on 25th February 2020 and requested for additional time to submit supplementary documents to establish his eligibility for registration as valuer in accordance with the Rules and 15 days’ time was granted to submit additional documents in support of the case. There was considerable delay in submitting the additional documents, however, keeping in view the ongoing pandemic conditions, delay in submissions of additional records has been condoned. The applicant vide his email dated 16th June 2020 and subsequently on 07th July 2020 has forwarded supplementary documents regarding his professional qualification.

8. After considering the application, the oral and written submissions made by the applicant and the materials available on record, I observe that the applicant was admitted as student member of IOS on 01st July 2015 and passed the examination in September 2016 i.e. later than the cut-off date of eligibility as decided by AICTE. Further, Hon’ble Supreme Court in the matter of *Institution of Mechanical Engineers (India) Through Its Chairman v. State of Punjab & Ors.* 2019 has categorically stated that – “....*These communications also indicate that all those students who were enrolled upto 31.05.2013 would be eligible for consideration in accordance with MHRD office memorandum/order in course. Though we have laid down that the Certificates issued by the appellant on successful completion of its bi-annual examination to its Members cannot be considered to be equivalent to a Degree, an exception needs to be made in favour of students enrolled up to 31.05.2013 and benefit in terms of the Notification dated 06.12.2012 and Public Notice as aforesaid ought to be extended to such candidates. The candidates had opted to enroll themselves so that they could appear at the examinations conducted by the appellant under a regime which was put in place by the Central Government itself and the course content as well as the curriculum were reviewed by the AICTE. However, the aforementioned Notification and Public Notice were clear that after 01.06.2013 the concerned orders granting equivalence would cease to have any effect.*”

9. Further, in operative para no. 45 of the above referred judgment, Hon’ble Apex Court has opined that, “*In the circumstances we do make an exception in favour of such candidates enrolled upto 31.05.2013 and declare that the conclusions drawn in the present matter will apply after 01.06.2013. The Certificate awarded by the appellant to such candidates enrolled upto 31.05.2013 shall be considered equivalent to a Degree in Mechanical Engineering for the purpose of employment in Central Government.*”

10. In addition to the issue related to valid educational qualification, it is to point out that the applicant does not possess the mandatory experience of 5 years after obtaining the requisite educational qualification. On this ground too, the application does not survive.

11. In view of the above, it is beyond doubt that the applicant neither have any documentary evidence to establish that his educational qualification meets the requirement in terms of prescribed educational/professional qualification nor he possess the requisite experience, as prescribed under the Rules for registration as RV. Therefore, the application of [REDACTED] [REDACTED] for registration as valuer is rejected under rule 6 (9) (b) of the Companies (Registered Valuers and Valuation) Rules, 2017.

Date: 21st July, 2020
New Delhi

Sd/-
(Sudhaker Shukla)
Whole Time Member
Insolvency and Bankruptcy Board of India