

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

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

27<sup>th</sup> January, 2020

**ORDER**

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

██████████ (applicant) had submitted an application 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). The ██████████, where the applicant is enrolled as a valuer member, forwarded the application to the Authority on 13<sup>th</sup> March, 2019, with a recommendation for registration of the applicant as an RV.

2. Rule 4 read with Annexure IV of the 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.

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.

3. In the aforesaid application, the applicant has mentioned that she has completed her five-year Diploma in Architecture from ██████████ in 2001. The Authority observed that ██████████ was established by a private educational society rather than being established, recognized or incorporated by law in India. Moreover, the diploma course does not find mention in the prescribed eligible educational courses under Rule 4 r/w Annexure IV of the Rules. There was also no documentary proof to show that 5 year diploma course is recognised by MHRD as equivalent to any professional or technical degree in accordance with Explanation II of Rule 4, for being an eligible educational qualification under the Rules. Therefore, the Authority formed a *prima facie* opinion that the registration ought not to be granted to the applicant, as she does not meet the eligibility requirements under rule 4. It communicated, vide email dated 21<sup>st</sup> August, 2019, its *prima facie* opinion along with

the reasons for the same and provided an opportunity to explain why her application should be accepted for registration as valuer and was also communicated that she may avail opportunity of personal hearing.

4. The applicant, vide her communication dated 22<sup>nd</sup> August, 2019, made a written submission stating that the [REDACTED] is a recognised Architectural Institution under the Architects Act, 1972. A letter dated 31<sup>st</sup> December, 2015 from Council of Architecture (Ref. No. CA/2004/34024) was submitted in support of her submission. She also stated that as per the Council of Architecture, 5 years diploma course is equivalent to degree course in Architecture. However, no documentary proof in support of this claim was provided. She expressed her willingness for personal hearing in the matter. The applicant appeared before me for a personal hearing on 5<sup>th</sup> November, 2019. She submitted that [REDACTED] is a recognised educational institution and presented a letter dated 4<sup>th</sup> November, 2019 from AICTE which states that the [REDACTED] was accorded approval to conduct 5 year B. Arch course during 1995-2000. However, she sought time to make further submission in support of her earlier submission that 5 year diploma course is equivalent to the degree course.

5. The applicant vide her communication dated 18<sup>th</sup> November, 2019 provided a notification dated 26<sup>th</sup> May 1977 from Ministry of Education and Social Welfare (Department of Education Technical), wherein it is provided that *“Government of India have decided to recognise a Diploma in Engineering in appropriate discipline plus total ten years of technical experience in the appropriate field is recognised as equivalent to Degree in Engineering. It is considered valid for the purposes of selection to Gazetted posts and services under the Central Government or State Government.”* The applicant has also provided list of cases referring to the validity of abovesaid notification. On the basis of said notification, the applicant has claimed that since she possesses 10 years of experience post her diploma course, her diploma in Architecture should be considered as Degree in Architecture, and therefore eligible for registration as valuer.

6. After considering the oral and written submissions made by the applicant and the material available on record, I find that the *prima facie* opinion regarding ineligibility of applicant for registration as valuer was based on following two grounds :-

- (a) the institute [REDACTED] is not established, recognised or incorporated by law in India, and
- (b) the 5 year diploma course is not recognised as equivalent to any professional or technical degree by MHRD.

7. With regard to the first ground, it is found from the submission made by the applicant that the diploma course in Architecture, provided by the said institute was recognised by the MHRD vide its notification dated 25<sup>th</sup> January, 1996 and the same is mentioned under the Schedule of the Architects Act, 1972. Therefore, said institute is recognised by law in India.

8. With regard to the second ground, it is found that the issue pertaining to existence of said notification dated 26<sup>th</sup> May 1977 was raised in the case of *Salaudeen and others v H.V.P.N.L. and others [CWP No. 16224 of 2016 (O&M)]* which was decided by the Hon’ble High Court of Punjab and Haryana on 22<sup>nd</sup> December 2017 along-with three other petitions on similar issue. The Hon’ble High Court accepted the submission of Union of India that there was no notification dated 26<sup>th</sup> May 1977 as the Secretary of MHRD had furnished an affidavit stating that neither the Central Record Unit section of the Ministry nor the department of Publication

(which is the repository of the gazette notifications published by the Government of India) have any record of the said notification. The Hon'ble Court observed that- "*for the first time the unequivocal stand of the Union of India has emerged that in fact there was no notification dated 26.05.1977*".

9. In view of the above, the said notification dated 26<sup>th</sup> May, 1977 can not be relied upon to consider the eligibility of the applicant for registration as valuer. Hence, the applicant does not meet the eligibility requirements in terms of educational qualification prescribed under the Rules for registration as RV. Therefore, the application of [REDACTED] for registration as valuer is rejected under rule 6 (9) (b) of the Companies (Registered Valuers and Valuation) Rules, 2017.

Date: 27<sup>th</sup> January, 2020  
New Delhi.

Sd/  
(Dr. Mukulita Vijayawargiya)  
Whole Time Member  
Insolvency and Bankruptcy Board of India