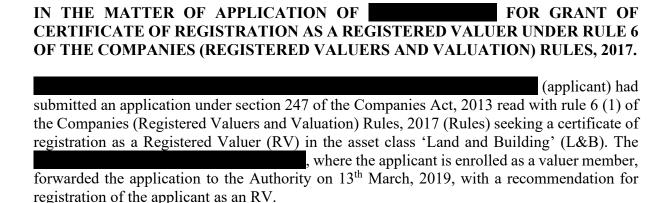
## INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

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

27th January, 2020

## **ORDER**



- 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-
11 11	-
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 I	ndia. Moreover, the
diploma course does not find mention in the prescribed eligible educationa	l 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 professiona	l or technical degree
in accordance with Explanation II of Rule 4, for being an eligible educ	ational 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	y requirements under
rule 4. It communicated, vide email dated 21st August, 2019, its prima faci	e 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.

- 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 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 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