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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.1020 OF 2016

AND

W.M.P.NO.785 OF 2016

R.Loganathan

...Petitioner

.Vs.

1. The Chairman,
Tamil Nadu Chapter,
Indian Institute of Insurance
Surveyors and Loss Assessors,
Tamil Nadu Chapter,
No.255/54-D, Samiyappa Nagar,
Elambular Road,
Perambalur - 621 212.

2. The President,
Indian Institute of Insurance
Surveyors and Loss Assessors,
315, Door No.3-5-890, 2nd Floor,
Parachambers, Himayath Nagar,
Hyderabad - 500 029.

3. The Chairman,
Insurance Regulatory & Development
Authority of India,
Surveyor Licensing Department,
Gate No.3, Jeevan Tara Buildings,
First Floor, No.5, Parliament Street,
New Delhi - 110 001.

... Respondents

PRAYER:- Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in his communication in IRDA/Sur/MISC/6874/08/2015, dated 21.08.2015 rejecting the petitioner's application for grant of fresh Surveyor License to Quash the same and further direct the respondents to issue license on the basis of the Petitioner's Trainee Surveyor Enrollment No.6874 allotted by the third respondent.



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For Petitioner : Ms.G.Sudha

For Respondents : Mr.E.Sathiya Raj
(for R1)

Mr.S.V.Pravin Rathinam
(for R2)

Mr.M.B.Raghavan
(for R3)

ORDER

The order dated 21.08.2020, rejecting the candidature of the petitioner, for Surveyor Licence, under the Insurance Act, is under challenge in the present writ petition.

2. The claim of the petitioner is that he is fully qualified to get the Surveyor License, under the Act and submitted an application and the said application was rejected merely on the ground that the petitioner has not undergone the regular diploma course, but, completed the course by distance mode of education.

3. It is sufficient, if the rules in this regard are examined for the purpose of deciding the writ petition.

4. The rules governing the issue is 'The Insurance Surveyors and Loss Assessors (Licensing, Professional Requirements and Code of Conduct) Regulations, 2000'. Chapter II Rule 3 contemplates Application for, and matters relating to, grant of license. Sub section 2 to rule 3 reads as under.

(2) The Authority while considering the application made under sub-regulation (1) for grant of license as a SLA, take into consideration all matters relating to the duties, responsibilities and functions of surveyor and loss assessor and satisfy itself that the applicant is a fit and proper person to be granted a license. In particular and without prejudice to the foregoing, the Authority shall satisfy itself that the applicant, satisfy all the requirements of Section 64-UM, read with Section 42-D of the Act and rule 56-A of Insurance Rules, 1939 and fulfils the eligibility criteria set out in regulation 3-A of these regulations.



5. Rule 56-A of the Insurance Rules, 1939, which is referred in the above rules, deals with Additional technical qualifications for surveyors and loss assessors. Sub clause (g) reads as under:

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(g) A degree or diploma of a recognized Institute of Engineering secured after attending full time course and by passing the examination of such Institute.

6. Subsequently, the rules underwent changes and a new rule was notified i.e., Insurance Regulatory and Development Authority of India (Insurance Surveyor's and Loss Assessors) Regulations 2015. As per the said regulation, rule 3 (2) denotes Eligibility Criteria, i.e., the qualifications. Accordingly, academic / technical / professional / insurance qualifications given in Schedule - I, Annexure - 1 of the regulations is to be followed. The said Schedule - I, Annexure - 1, referred in Regulation 3 categorically states about the 'Motor' and the same reads as under:

B.E./B.Tech./B.Sc. (Engg.)/ A.I.M.I.E. Or its equivalent thereof (Mechanical/Automobile); Diploma in Mechanical Engineering/ Automobile Engineering of 3 years duration from a recognized institution or its equivalent thereof;

7. A specific note has been added in the Annexure-I to Schedule-1 to the regulation by stating that in order to qualify for enrolment and licensing, an applicant should have secured a degree or diploma of a recognised institute after attending full time course and passing the examination as a regular student.

8. A careful perusal of the erstwhile rules and the current regulations, it is made clear that the degree or diploma must be obtained through regular courses recognised by the University Grants Commission (UGC). In view of the the fact that the petitioner has secured the diploma qualification through distance mode of education, it is not recognised under the rules and subsequent regulation.

9. Under these circumstances, this Court do not find any infirmity in the order impugned in the writ petition. However, if the petitioner possess the required qualification, in subsequent years, he is at liberty to submit an application, by following the procedures as contemplated.



10. With this liberty, the Writ Petition stands disposed of.
No Costs. Consequently, the connected Writ Miscellaneous
Petition is closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
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Indian Institute of Insurance
Surveyors and Loss Assessors,
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+1cc to Mr.E.Sathiya Raj, Advocate, S.R.No.53062

W.P.NO.1020 OF 2016

SRA(CO)
PBS/28/10/2021