IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.9184 of 2021

T.N.Kripanandan ... Petitioner

Vs.

1. Insolvency and Bankruptcy Board of India,
   Rep. by its Chairperson,
   7th Floor, Mayur Bhawan,
   Shankar Marketn
   Connaught Circus,
   New Delhi – 110 001.

2. ICMAI Registered Valuers Organisation,
   Rep. by its Co-ordinator,
   CMA Bhavan,
   4th Floor, Institutional Area,
   Lodhi Road,
   New Delhi – 110 003. ... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 14.03.2020 issued by the second respondent at the behest of the first respondent and quash the same and consequently direct the respondents to accept the applicaton of the petitioner dated 19.01.2020 and grant certificate of Registration as a Registered Valuer.

For Petitioner : Mr.Arvind Rajagopal
For Mr.M.S.Vishwanathan
For Respondents
For R1 : Mr.K.S.Jeyaganeshan
Central Government Standing Counsel
For R2 : No appearance

**ORDER**

This writ petition has been filed challenging the order dated 14.03.2020, passed by the second respondent thereby rejected the application seeking for registration as valuer of asset class SFA, ICMAI RVO.

2. The petitioner is a former employee of the State Bank of India. During the course of my employment, he passed the Associates exam conducted by the Indian Institute of Banking and Finance. He also an Associate of Indian Institute of Banking and Finance. Thereafter, he got retirement from the State Bank of India in the year 2011. After his retirement, he undertook the examination for Limited Insolvency Professional conducted by the first respondent and passed the said examination in the month of March, 2019. Upon becoming a Limited Insolvency Professional, the petitioner had underwent 50 hours training programme for Registered Valuers, conducted by the second respondent.

The petitioner also passed the Registered Valuers Examination conducted by the first respondent. Thereafter, the petitioner applied for registration as a Registered Valuer for securities or financial asset clause. The said application was rejected on the ground that the petitioner failed to meet the necessary professional qualification prescribed under the Rules. Aggrieved by the same, the petitioner filed the present writ petitioner with the above said prayer.

3. The learned counsel appearing for the petitioner submitted that the Rule 6 of the Companies (Registered Valuers and Valuation) Rules, 2017, (hereinafter referred to as "the Valuation Rules") prescribed that on receipt of the application for registration of valuer, the authority shall examine the application and grant twenty one days to the applicant to remore the deficiencies. The authority may require the applicant to submit additional documents or clarification within twenty one days. However, without giving opportunity of twenty one days to submit additional document and also clarification, the second respondent rejected the application submitted by the petitioner. Further as per Rule 4 of the Valuation Rules, the applicant must possess the post graduate degree or post graduate diploma for registration. Insofar as the petitioner is

concerned, he completed decree and also underwent the course and passed the Associates examination conducted by the Indian Institute of Banking and Finance.

4. The first respondent filed counter and the learned Central Government Standing Counsel submitted that even as per the Rule 4 of the Valuation Rules, the petitioner ought to have completed the post graduate decree of post graduate diploma with experience of three years. After passing the degree, he has to undergo five years experience in the specified discipline. Even assuming that the petitioner completed degree in the eligible discipline, the petitioner failed to produce any of the experience certificate.

4.1. He further submitted that, in order to comply the Rule 6 of the Valuation Rules, the petitioner is directed to answer about the educational qualification of the petitioner based on which registration is being sought for, were obtained as a regular full time course from a university or institute established, recognised or incorporated by law in India, by the E-mail communication dated 20.02.2020. Even on receipt of the same, the petitioner had replied by his E-mail communication dated

20.02.2020 stating that he obtained certificate from Indian Institute of Banking & Finance in accordance with law. He further stated that the said institution was established in 1928. Further, by the mail dated 21.02.2020, the petitioner further replied that he was informed that he is not eligible for registration as Registered Valuer. Therefore, expressed his greeting to the respondents. Therefore, the petitioner was given opportunity under Rule 6 of the Valuation Rules and the same was duly complied with.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. As per the Valuation Rules, the eligibility for registered valuer is as follows :-

> *"3. Eligibility for registered valuers.?*
>
> *(1) A person shall be eligible to be a registered valuer if he-*
>
> *(a) is a valuer member of a registered valuers organisation;*
>
> *Explanation.? For the purposes of this clause, "a valuer member" is a member registered valuers organisation*

*who possesses the requisite educational qualifications and experience for being registered as a valuer;*

*(b) is recommended by the registered valuers organisation of which he is a valuer member for registration as a valuer;*

*(c) has passed the valuation examination under rule 5 within three years preceding the date of making an application for registration under rule 6;*

*(d) possesses the qualifications and experience as specified in rule 4;*

*(e) is not a minor;*

*(f) has not been declared to be of unsound mind;*

*(g) is not an undischarged bankrupt, or has not applied to be adjudicated as a bankrupt;*

*(h) is a person resident in India;*

*Explanation.? For the purposes of these rules 'person resident in India' shall have the same meaning as defined in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999) as far as it is applicable to an individual;*

*(i) has not been convicted by any competent court for an offence punishable with imprisonment for a term exceeding six months or for an offence involving moral turpitude, and a period of five years has not elapsed from the date of expiry of the sentence: Provided that if a person has been convicted of*

*any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be registered;*

*(j) has not been levied a penalty under section 271J of Income-tax Act, 1961 (43 of 1961) and time limit for filing appeal before Commissioner of Income-tax (Appeals) or Income-tax Appellate Tribunal, as the case may be has expired, or such penalty has been confirmed by Income-tax Appellate Tribunal, and five years have not elapsed after levy of such penalty; and*

*(k) is a fit and proper person:*

*Explanation.? For determining whether an individual is a fit and proper person under these rules, the authority may take account of any relevant consideration, including but not limited to the following criteria- (i) integrity, reputation and character, (ii) absence of convictions and restraint orders, and (iii) competence and financial solvency."*

7. Insofar as the qualification and experience, the Rule 4 of the Valuation Rules says as follows :-

*4. Qualifications and experience.?*

*An individual shall have the following qualifications and experience to be eligible for registration under rule 3, namely:-*

*(a) post-graduate degree or post-graduate diploma, in the specified discipline, from a University or Institute established, recognised or incorporated by law in India and at least three years of experience in the specified discipline thereafter; or*

*(b) a Bachelor's degree or equivalent, in the specified discipline, from a University or Institute established, recognised or incorporated by law in India and at least five years of experience in the specified discipline thereafter; or*

*(c) membership of a professional institute established by an Act of Parliament enacted for the purpose of regulation of a profession with at least three years' experience after such membership.*

*Explanation-I.? For the purposes of this clause the 'specified discipline' shall mean the specific discipline which is relevant for valuation of an asset class for which the registration as a valuer or recognition as a registered valuers organisation is sought under these rules.*

*Explanation-II.? Qualifying education and experience for various asset classes, is given in an indicative manner in Annexure–IV of these rules.*

*Explanation III – for the purposes of this rule and Annexure IV, 'equivalent' shall mean professional and technical qualifications which are recognised by the*

*Ministry of Human Resources and Development as equivalent to professional and technical degree."*

8. Further, as per Annexure 4 of the Valuation Rules, the eligibility and qualifications and experience for registration as Registered Valuer that member of Institute of Chartered Accountants of India, member of Institute of Company Secretaries India, member of the Institute of Cost Accountants of India, master of Business Administration or post graduate diploma in Business Management specialisation in finance. As per the Rules, the petitioner is not eligible for registration of Registered Valuer under the Valuation Rules. This Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits and liable to be dismissed.

9. Accordingly, the Writ Petition stands dismissed. There shall be no orders as to costs.

27.06.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts

**G.K.ILANTHIRAIYAN. J,**

rts

To

1. The Chairperson,
   Insolvency and Bankruptcy Board of India,
   7th Floor, Mayur Bhawan,
   Shankar Marketn
   Connaught Circus,
   New Delhi – 110 001.

2. The Co-ordinator,
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