

**ICSI INSTITUTE OF INSOLVENCY PROFESSIONALS**  
**(Membership Committee)**

ICSI IIP/MC/1/2020

Date: 21<sup>st</sup> January, 2020

**IN THE MATTER OF APPLICATION OF MR. K SURESH KUMAR FOR GRANT OF CERTIFICATE OF ENROLMENT AS PROFESSIONAL MEMBER UNDER BYE LAW 10 OF THE BYE LAWS OF ICSI INSTITUTE OF INSOLVENCY PROFESSIONALS.**

**ORDER**

**UNDER BYE LAW 10 (9) OF THE BYE LAWS OF ICSI INSTITUTE OF INSOLVENCY PROFESSIONALS**

An appeal is preferred by Mr. K Suresh Kumar (appellant) before the Membership Committee of ICSI Institute of Insolvency Professionals (ICSI IIP) against the rejection of enrolment application by the ICSI IIP.

The brief facts of the case are as mentioned below:

1. Mr. K Suresh Kumar was submitted an application for enrolment as Professional Member to the ICSI Institute of Insolvency Professionals on 24<sup>th</sup> December, 2018.
2. While examining the application, it was observed by the concerned official that Mr. K Suresh Kumar has mentioned in the enrolment application that he is into employment.
3. Further, the appellant was apprised about the following provision of law:
  - a. Code 23 of the Code of Conduct for the Insolvency Professionals under First Schedule of IBBI (Insolvency Regulations) Regulations, 2016 and Bye Law 9 of ICSI IIP Bye Laws read with IBBI (Model Bye Laws and Governing Board of Insolvency Professionals Agencies) Regulations, 2016.
  - b. Regulation 5 of the IBBI (Insolvency Professionals) (Amendment) Regulations, 2018, the validity of Limited Insolvency examination (LIE)
4. In view of the same, Mr. Suresh was requested to submit documents for cessation of his employment wherein the appellant has failed to provide the requisite document/s.

Instead, the appellant stated that **“he will relinquish the job before submitting application for registration as IP with IBBI”**.

In view of the aforementioned facts and circumstances, his application for enrolment as a Professional Member was rejected by ICSI IIP on 18<sup>th</sup> July, 2019.

On aggrieved against the rejection of application for enrolment Mr. K Suresh Kumar filed an appeal before the Membership Committee of ICSI Institute of Insolvency Professionals on 10<sup>th</sup> September, 2019 on the following grounds:

- i. Alleged that no document sought by ICSI IIP.

- ii. Alleged that the IBBI (Insolvency Professionals) Regulations, 2016 and IBBI (Model Bye Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 do not stipulate that at the time of enrolment with IPA as its professional members, the appellant should not be in employment.
- iii. Alleged that the ICSI IIP statement regarding expiry of validity of LIE is incorrect due to the fact that the validity period of LIE should be calculated from the date of passing of the said exam up to the date of application for enrolment with IPA.

The Membership Committee carefully examined the application submitted for enrolment, email communications, submissions of appellant and other documents available on record.

The undisputed facts of the case are as under:-

- (i) The appellant on the date of filing application for enrolment was in employment which is also evident from his application filed for enrolment.
- (ii) ICSI IIP has given sufficient time to the appellant for rectification of deficiencies and the same were not rectified by the appellant

Therefore, the Membership Committee of ICSI IIP relied upon the provisions of the Code as applicable as on the date of application for enrolment received. The Code of Conduct for the Insolvency Professionals under First Schedule of IBBI (Insolvency Regulations) Regulations, 2016 and IBBI (Model Bye Laws and Governing Board of Insolvency Professionals Agencies) Regulations, 2016, as under:

➤ Code of Conduct -23

“An insolvency professional must not engage in any employment, except when he has temporarily surrendered his certificate of membership with the insolvency professional agency with which he is registered”

➤ Bye Law-9: Eligibility for Enrolment.

“No individual shall be enrolled as a professional member if he is not eligible to be registered as an insolvency professional with the Board”

In view of the aforementioned facts and on the basis of information and documents available on record, the Membership Committee has decided to dismiss the appeal.

(Ashishkumar Chauhan)

Chairman, Membership Committee

For and on behalf of Membership Committee of ICSI IIP