

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WA.No. 1123 of 2015 () IN WP(C).2198/2015

**AGAINST THE ORDER/JUDGMENT IN WP(C) 2198/2015 of HIGH COURT OF KERALA
DATED 25/02/2015**

APPELLANT(S)/RESPONDENTS:

- 1. THE BRANCH MANAGER,
KERALA GRAMIN BANK, CHATHANNOOR BRANCH
CHATHANNOOR P.O., KOLLAM-691 572.**
- 2. KERALA GRAMIN BANK,
REPRESENTED BY ITS REGIONAL MANAGER
KERALA GRAMIN BANK, REGIONAL OFFICE, PANAVILA
THAMPANNOOR, THIRUVANANTHAPURAM-695 001.**

**BY ADVS.SRI.DEVAN RAMACHANDRAN
SRI.K.M.ANEESH**

RESPONDENT(S)/PETITIONERS IN WP:

- 1. RAJENDRAN P.,
R.S.BHAVAN, THAZHAM MIDDLE, CHATHANNUR P.O.
KOLLAM-691 572.**
- 2. SHINE RAJ.R.
S/O.RAJENDRAN, R.S.BHAVAN, THAZHAM MIDDLE
CHATHANNUR P.O., KOLLAM-691 572**

BY SRI.G.BHAGAVAT SINGH

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 15-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. No. 1123 of 2015

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Dated this, the 15th day of June, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for appellants as well as learned counsel for respondents/writ petitioners.

2. This writ appeal has been filed against judgment dated 25th of February, 2015 passed in W.P (C) No. 2198/15. The 2nd petitioner had applied for education loan on the basis of the selection in the merit quota for the course of BPT. The test was conducted on 30th June, 2015 in KTG College of Physiotherapy. On the basis of the said selection, 2nd petitioner has made an application for loan to the Bank. 2nd petitioner submitted certificate from the College dated 30th of June, 2014 and other materials to prove that he was declared selected and got admission. The Bank did not sanction the education loan to the 2nd petitioner. Hence, the writ petition was filed praying for following reliefs.

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“a) declare that this 2nd petitioner is eligible to get educational loan from the respondent Bank.

b) direct the respondents to disburse the educational loan to the 2nd petitioner enabling him to continue BPT course without any break.

3. A counter statement was filed on behalf of the Bank where it was stated that in the scheme which is applicable to Kerala Gramin Bank, that is Annexure R1(a) circular dated 19/11/2013, the admission of the 2nd petitioner cannot be treated as a merit admission. It is submitted that admission was taken outside the State of Kerala which has to be treated under management quota. It was further stated that 2nd petitioner has not secured 55% in Physics and Chemistry and more over the total aggregate marks is below 60% and hence not eligible for educational loan.

4. Learned Single Judge heard the writ petition and relying on the Division Bench judgment of this Court reported in ***Andhra Bank v. Reshma Syam*** (2014 (4) KLT 855) allowed the writ petition. It was held that the second petitioner had taken part in the admission test conducted by educational institution and secured admission under the merit quota. Hence, the 2nd

petitioner was entitled for loan. Writ petition was allowed against which this writ appeal has been filed.

5. Learned counsel for the appellants referring to Clause 1.2.2. submits that the admission for course outside Kerala is deemed as management quota admission. Hence, in any view of the matter, petitioners were not entitled for the loan. He submits that in the Division Bench judgment in **Andhra Bank** (supra), there was no such clause as is now interpreted in the Annexure to circular dated 19/11/13. He submits that Bank did not commit any error in refusing educational loan and learned Single Judge committed error in directing for sanctioning of the loan. Learned counsel for the respondents/writ petitioners submitted that a certificate was issued by KTG College of Physiotherapy that 2nd petitioner has been admitted to first year BPT Course for academic year 2014-15 and that he was selected through entrance examination conducted by the College under merit quota. It is submitted that the College was fully authorised to conduct the examination by the Government/Government approved agency. Hence, as examination was by Government approved agencies, it cannot be said that College was not

authorised to conduct the examination.

6. We have considered the submissions of the learned counsel for the parties and perused the records.

7. Before we proceed to enter into the respective submissions of the parties, it is useful to refer to the eligibility certificate issued by College, Exs.P6 and P7. Ext.P7 certificate states thus;

“This is to certify that Mr.Shine Raj. R S/o Rajendran, has been admitted to 1st year B.P.T. Course for the academic year 2014-15. He has selected through entrance exam conducted by the college under merit quota.”

8. From the materials brought on record by the petitioners, it is clear that 2nd petitioner was admitted in the merit quota, he having appeared in the entrance examination conducted for BPT Course in their institution. Ext.P6, eligibility certificate, issued by the College reads as under;

“ELIGIBILITY CERTIFICATE

Eligibility certificate of Mr.Shine Raj. R you have been selected through entrance exam conducted for B.P.T. Course in our institution, for the academic year 2014-15. You have obtained 79 mark Physics,

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*80 marks in Chemistry and 84 marks in Biology
(Each subjects in out of 100).*

Your Rank is 17 (SEVENTEEN)

Admission No.14”

9. The case of the bank that the 2nd petitioner ought to have secured 55% marks in the science subject does not stand and atleast 55% marks in individual core subjects and atleast 60% in aggregate is not attracted. The said clause is applicable for the students who secured admission in courses without entrance test conducted by Government/Government approved agencies. The specific case of the respondents/petitioners in this appeal is that the College was entitled to conduct examination which has to be treated as a Government approved agency. Hence, clause 1.2.2 is not attracted. Clause 1.2.2. of which Bank has placed reliance is as follows:

“1.2.2. Courses eligible:

*The education loan (IBA Model) scheme covers only merit channel seats for the various courses detailed hereunder. **All other admissions under management quota for all courses are kept outside the scope of Educational Loan (IBA Model) scheme. Such cases can be considered under Educational Loan (MQ) scheme.***

Admission for courses outside Kerala is deemed as Management Quota admission, except those admissions secured through common entrance test conducted by Govt./Govt.Approved Agencies."

10. Although Clause 1.2.2. clearly indicated that those admissions for courses outside Kerala is deemed as management quota, it is with an exception to those admissions secured through common entrance test conducted by Government/Government approved agencies. Neither in the appeal nor in the counter affidavit filed by the Bank, there is any material to indicate that the institution which has conducted the entrance examination was not authorised to conduct examination by the Government/Government approved agencies. There is further no material to indicate that there is some other common entrance test conducted by the Government or by any other Government approved agency for BPT admission. There being no materials to prove that the College was not authorised to conduct the entrance test, we are of the view that the learned single Judge did not commit any error in allowing the writ petition. The Division Bench judgment of this Court in **Andhra Bank** (supra) was rightly

-:7:-

relied by the learned Single Judge. We, thus, do not find any good ground to interfere in the judgment of the learned Single Judge.

11. Appeal is dismissed subject to the observations made above.

Learned counsel for the Bank lastly prayed that Bank be allowed one month's time to comply with the directions of the learned Single Judge. Time as prayed for is allowed. Bank may take further steps within one month from today.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge