IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

WP(C).No. 9811 of 2015 (B)

PETITIONER :

FAYIZ K., AGED 19 YEARS,S/O.UMMER K,
KANNANKULAM VEEDU, THOTTAPOYIL,
AMARAMBALAM P.O., MALAPPURAM.

BY ADV. SMT.P.P.BLESSY MOL

RESPONDENTS :
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1. UNION OF INDIA
REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE,
DEPARTMENT OF ECONOMIC AFFAIRS (BANKING DIVISION)
NEW DELHI.

2. THE SENIOR MANAGER,
KERALA GRAMIN BANK, KARULAI BRANCH, P.O.KARULAI
MALAPPURAM DISTRICT - 679 344.

R1 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY T.V. VINU CGC
R2 BY ADV. SRI.T.R.RAVI, SC, S.MALABAR G. BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-07-2015 ALONG WITH WPC NO. 11295/2015 & WPC 10755/2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 9811 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:	**TRUE COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER'S FATHER, ISSUED BY PRASANTHI HI-TECH HOSPITAL, MANJERI DATED 10/09/2012.**
EXT.P2:	**TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF THE PETITIONER FOR 2012.**
EXT.P2(A):	**TRUE COPY OF THE MARK LIST BEARING NO. 2/2014/37490 ISSUED BY BOARD OF HIGHER SECONDARY EXAMINATION.**
EXT.P3:	**TRUE COPY OF THE CERTIFICATE ISSUED BY SRINIVAS COLLEGE OF PHYSIOTHERAPY AND RESEARCH CENTER, TO THE PETITIONER.**
EXT.P4:	**TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER'S MOTHER TO THE 2ND RESPONDENT DATED 23/02/2015.**
EXT.P5:	**TRUE COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT DATED 09/03/2015.**
EXT.P6:	**TRUE COPY OF THE CIRCULAR DATED 28/04/2001.**
EXT.P7:	**TRUE COPY OF THE CIRCULAR DATED 12/04/2010.**
EXT.P8:	**TRUE COPY OF THE CIRCULAR DATED SEPTEMBER 2012.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K. VINOD CHANDRAN, J.

W.P(C). Nos.9811, 10755 & 11295 of 2015

Dated this the 02nd day of July, 2015.

JUDGMENT

The petitioners in the above writ petitions assert their entitlement to an educational loan, as notified by a scheme, applicable to the 2nd respondent Bank. The contentions raised by each of the petitioners and the defence of the respondent Bank are identical, despite there being certain factual differences between the petitioners, which need only be noticed.

2. On facts, WP(C) No.9811 of 2015 is filed by a student, who has got himself admitted to one Srinivas College of Physiotherapy and Research Centre, said to be affiliated to the Rajiv Gandhi University of Health Sciences, Bangalore. The petitioner therein has passed the Higher Secondary Examination of the Government of Kerala, mark list of which is produced at Ext.P2(a), in which for Biology, the petitioner has a grade of less

than 'B', meaning less than 60% of the marks. The total marks in aggregate for the Science subjects would be below 60%.

3. The petitioner in WP(C) No.11925 of 2015 seeks loan for being admitted to a College of Nursing called Spurthy College of Nursing, Bangalore, which is recognised by the Indian Nursing Council, Karnataka Nursing Council, and also affiliated to the Rajiv Gandhi University of Health Sciences, Bangalore. WP(C) No.10755 of 2015 is by a student, who has joined B.E. Mechanical Engineering in Global Institute of Engineering and Technology, Bangalore. The marks of the petitioners in both the writ petitions are also less than 60%.

4. The petitioners, on the basis of a scheme introduced by the Central Government in 2001 and modified by the Indian Banks Association in 2010, respectively produced at Exts.P6 and P8 in WP(C) Nos.9811 & 10755 of 2015, assert their entitlement.

5. The specific case projected by the learned counsel for the petitioners is that, by Ext.P6, the scheme of 2001 introduced by the Central Government, which approved the model scheme prepared by the Indian Banks Association, the implementation

was to be carried out with certain modifications. The condition of minimum qualifying marks in the last examination was directed to be dropped. In such circumstances, relying on Ext.P8, it is submitted that there could be no insistence of a minimum mark in the last qualifying examinations. It is also contended that all the petitioners have got admission in a merit-based selection, as certified by each of the Colleges and hence the petitioners ought to be granted the educational loan.

6. The learned counsel for the petitioners rely on ***Runa Varghese v. Federal Bank [2014 (2) KLT 764]*** to contend that, this Court has already held against the prescription of minimum qualifying marks which violates the directions of the Central Government at Ext.P1. Further, a Division Bench decision of this Court in ***2014 (4) KLT 855 [Andhra Bank v. Reshma Syam]*** is relied on to contend that the various institutions under which the petitioners have sought admission, having been recognised by the respective Apex Bodies and being affiliated to Universities, the petitioners ought to be granted the loans. The petitioners hence assail the denial of the loans, as against the

specific scheme introduced by the Central Government.

7. The respondent Bank has filed a statement, in which it is specifically stated that the present scheme is not in accordance with Exts.P6 or P8. A scheme has been formulated by the respondent bank in 2013 and the decisions relied on by the petitioners have no applicability, in so far as the interpretation of the terms of the instant scheme. The learned counsel has also produced the Master Circular on educational loan scheme issued by the Kerala Gramin Bank, Credit Wing, Malappuram, the 2nd respondent, as Circular No.32/2013 dated 19.11.2013, produced with a Memo.

8. Looking at the Circular, there are three schemes, by which loans are granted to the eligible candidates, which are as under:-

> *"1. Educational Loan IBA Model Scheme (for meritorious students)*
> *2. Educational Loan MQ- (for Management Quota)*
> *3. Educational Loan VT- (for Vocational Training courses)"*

9. The learned counsel also would submit that the earlier schemes by experience of its working has been found to be

ineffective, since there had been many instances, where certificates were issued by the Colleges, that a merit-based selection has been conducted on the basis of the conditions stipulated in the earlier scheme, which mandated disbursement of loans. The same having been turned out to be an ineffective measure of deciding the eligibility, a different scheme was introduced again as per RBI guidelines based on the model scheme by Indian Banks Association.

10. The directions of the Central Government as also the IBI is directory and not mandatory. Individual Banks are entitled to frame schemes in accordance with its discretion and considering the financial discipline, which is the paramount consideration in the matter of disbursement of the loans. The Circular No.32/2013 specifically provides for educational loans for management quota students, wherein, the eligibility stipulations are as follows:

> *"**3.3. ELIGIBILITY CRITERIA***
> ***3.3.1. Student Eligibility***
> *> The student should be an Indian National.*
> *> Have secured admission in a course run or supported by a Ministry/Dept./Organisation of the Govt. or a Company/Society/ Organisation*

> *supported by National Skill Development Corporation or State Skill Missions/State Skill Corporations, preferably leading to a Certificate/ Diploma/Degree, etc. issued by a Govt. Organisation or an Organisation recognized/ authorized by the Govt. to do so.*
>
> ***3.3.2. Courses Eligible***
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> *Vocational/Skill development courses of duration from 2 months to 3 years run or supported by a Ministry/Dept./Organisation of the Govt. or a company/society/organisation supported by National Skill Development Corporation or State Skill Missions/State Skill Corporations, preferably leading to a certificate/ diploma/degree, etc. issued by a Govt. organisatiion recognized/authorized by the Govt. to do so."*

11. It is not mandatory that the students secure admissions through an entrance test, conducted by the Government or the Government approved agency. Hence, there is no question of any merit-based selection regulating the grant of loans at all. It is also not the case of the respondent Bank that the institutions, in which the various petitioners have sought admissions, are not recognized.

12. In such circumstances, neither of the decisions cited by the petitioners would apply. However, the eligibility conditions specifically stipulate that a student should have secured atleast

60% marks aggregate in four subjects, meaning Physics, Chemistry and Mathematics for Engineering courses and Physics, Chemistry and Biology for Medical/Nursing courses. The Physiotherapy and Nursing course definitely would fall under the Medical/Nursing courses and definitely, the Engineering course too required the minimum aggregate. A mere look at the mark lists would indicate that none of the above three petitioners satisfy the said criteria. The petitioner in WP(C) No.11295 of 2015 has not produced the mark list.

13. In any event, when a scheme is introduced by the Bank and that too one for disbursement of loan, the eligibility criteria is arrived at by the financial institution on considerations, which ensure recovery. In the matter of educational loans the repayment commences only after the course. The capacity of the student to qualify and get employed are relevant considerations, which can be assessed only by the marks obtained in the qualifying examinations. It is not for this Court to persuade the Bank to disburse such loans, since it is a matter of financial discipline. Further, public funds are involved and unless there is

arbitrariness in the terms of the scheme, it will not be proper for this Court to interfere with the said conditions. This Court, on an overview of the circumstances, finds that the petitioners are not eligible under the terms of the scheme and there is no reason to find any arbitrariness in the scheme as such.

In the said circumstances, these writ petitions are found to be devoid of merit and the same are dismissed. No costs.

Sd/-

K. VINOD CHANDRAN,
JUDGE

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