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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 17271 of 2015 (H)

PETITIONER(S) :-

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1. ARYA K.R.
   KURIYAPPASSERI, VETTACKAL P.O., ALAPPUZHA DISTRICT.

2. DAYANA MICHAEL
   MOOTHEDATH, ANDHAKARANAZHI P.O., ALAPPUZHA DISTRICT.

3. ANAKHA V.A.,
   VALIYAKATTUNKAL , VETTACKAL P.O., ALAPPUZHA DISTRICT.

BY ADV. SRI.SEBASTIAN DAVIS

RESPONDENT(S) :-

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1. THE ASSISTANT GENERAL MANAGER
   RESERVE BANK OF INDIA
   RURAL PLANNING AND CREDIT DEPARTMENT
   BAKER JUNCTION, P.B NO 6507,
   THIRUVANANTHAPURAM - 695 033.

2. STATE BANK OF TRAVANCORE,
   REPRESENTED BY ITS MANAGER, PATTANAKKADU BRANCH
   VASUDEV SHOPPING COMPLEX, PONNAMEVELI,
   PATTANAKKADU P.O., ALAPPUZHA - 688 531.

BY SRI.R.S.KALKURA, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 1-10-2015 ALONG WITH WPC.NoS.17272/2015, 17313/2015 & 20420/2015, THE COURT ON 13.10.2015, DELIVERED THE FOLLOWING:

JVT

WP(C).No. 17271 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS :-

EXT.P1 : TRUE COPY OF THE MARK LIST IN HIGHER SECONDARY EXAMINATION OF THE 1ST PETITIONER.

EXT.P2 : TRUE COPY OF THE CERTIFICATE DATED 19/5/14 ISSUED TO THE 1ST PETITIONER.

EXT.P3 : TRUE COPY OF THE MARK LIST IN HIGHER SECODARY EXAMINATION OF THE 2ND PETITIONER.

EXT.P4 : TRUE COPY OF THE CERTIFICATE DATED 14/7/14 ISSUED TO THE 2ND PETITIONER.

EXT.P5 : TRUE COPY OF THE MARK LIST IN HIGHER SECODARY EXAMINATION OF THE 3RD PETITIONER.

EXT.P6 : TRUE COPY OF THE CERTIFICATE DATED 14/6/14 ISSUED TO THE 3RD PETITIONER.

EXT.P7 : TRUE COPY OF THE LETTER DATED 19.12.2014 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER.

EXT.P8 : TRUE COPY OF THE LETTER DATED 19.12.2014 ISSUED BY THE 2ND RESPONDENT TO THE 2ND PETITIONER.

EXT.P9 : TRUE COPY OF THE LETTER DATED 19.12.2014 ISSUED BY THE 2ND RESPONDENT TO THE 3RD PETITIONER.

EXT.P10 : TRUE COPY OF THE LETTER DATED 16/1/2015.

EXT.P11 : TRUE COPY OF THE EDUCATIONAL LOAN SCHEME DATED 2/5/11 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS :-

EXT.R2(a) : TRUE COPY OF THE EDUCATION LOAN SCHEME ISSUED BY THE RESERVE BANK OF INDIA DATED 2.5.2001 BEARING No.RPCD. PLNFS.VC.NO.83/06.12.05/2000-01.

EXT.R2(b) : TRUE COPY OF THE COMMUNICATION DATED 31.5.2012 ISSUED TO THE CHIEF EXECUTIVES OF ALL MEMBER BANKS BY THE INDIAN BANKS ASSOCIATION.

EXT.R2(c) : TRUE COPY OF THE MASTER CIRCULAR BEARING No.PSB18/2011 DATED 13.6.2011 RELATING TO SBT EDUCATION LOAN SCHEME.

WP(C).No. 17271 of 2015 (H)

EXT.R2(d) : TRUE COPY OF THE MASTER CIRCULAR ON EDUCATION LOAN BEARING No.PSB 01 OF 2012 DATED 10.1.2012.

EXT.R2(e) : TRUE COPY OF THE IBA MODEL EDUCATION LOAN SCHEME DATED SEPTEMBER 2012.

EXT.R2(f) : TRUE COPY OF THE MASTER CIRCULAR BEARING No.PSB/ 23/2012 DATED 20.11.2012.

EXT.R2(g) : TRUE COPY OF THE REVISED GUIDANCE NOTES DATED 31.5.2012 ISSUED BY THE INDIAN BANKS ASSOCIATION.

EXT.R2(h) : TRUE COPY OF THE CENTRAL SCHEME TO PROVIDE INTEREST SUBSIDY ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF HUMAN RESOURCES DEVELOPMENT, DEPARTMENT OF HIGHER EDUCATION.

EXT.R2(i) : TRUE COPY OF ORDER No.8-8/2009-EE.3 OF THE GOVERNMENT OF INDIA, MINISTRY OF HUMAN RESOURCES DEVELOPMENT, DEPARTMENT OF SCHOOL EDUCATION AND LITERACY EE-3 SECTION DATED 14.9.2009.

EXT.R2(j) : TRUE COPY OF THE ORDER No.F.11-3/2006-U.5 OF THE GOVERNMENT OF INDIA, MINISTRY OF HUMAN RESOURCES DEVELOPMENT, DEPARTMENT OF HIGHER EDUCATION DATED 8.9.2009 TO M.V.NAIR, CHAIRMAN, INDIAN BANKS ASSOCIATION.

EXT.R2(k) : TRUE COPY OF THE LOAN APPLICATION SUBMITTED BY 1ST PETITIONER BEFORE THE SECOND RESPONDENT FOR GRANT OF LOAN.

EXT.R2(l) : TRUE COPY OF THE LOAN APPLICATION SUBMITTED BY 2ND PETITIONER BEFORE THE SECOND RESPONDENT FOR GRANT OF LOAN.

EXT.R2(m) : TRUE COPY OF THE LOAN APPLICATION SUBMITTED BY 3RD PETITIONER BEFORE THE SECOND RESPONDENT FOR GRANT OF LOAN.

EXT.R2(n) : TRUE COPY OF THE LETTER SENT TO THE 1ST PETITIONER HEREIN INFORMING OF THE REJECTION OF THE LOAN APPLICATION.

EXT.R2(o) : TRUE COPY OF THE LETTER SENT TO THE 2ND PETITIONER HEREIN INFORMING OF THE REJECTION OF THE LOAN APPLICATION.

EXT.R2(p) : TRUE COPY OF THE LETTER SENT TO THE 3RD PETITIONER HEREIN INFORMING OF THE REJECTION OF THE LOAN APPLICATION.

EXT.R2(q) : TRUE COPY OF THE NOTIFICATION No.HFW 208RGU 2013, DATED 21-09-2013, OF THE GOVERNMENT OF KARNATAKA.

EXT.R2(r) : TRUE COPY OF THE BROCHURE FOR ADMISSION TO BSc.NURSING AND BPT COURSES, 2014, ISSUED BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

WP(C).No. 17271 of 2015 (H)

EXT.R2(s) : TRUE COPY OF THE NOTIFICATION DATED 15-07-2014 ISSUED BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

EXT.R2(t) : TRUE COPY OF THE APPLICATION-FORM FOR ADMISSION TO B.Sc NURSING COURSE FOR THE YEAR 2014-2015, ISSUED BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

EXT.R2(u) : TRUE COPY OF THE NOTIFICATION No.RGUHS/UG/11/2014-15, DATED 10-10-2014, ISSUED BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

EXT.R2(v) : TRUE COPY OF THE NOTIFICATION No.RGUHS/UG/11/2014-15, DATED 21-10-2014, ISSUED BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

EXT.R2(w) : TRUE COPY OF THE NOTIFICATION No.HFW 347 RGU 2014, DATED 03-11-2014, ISSUED BY THE HEALTH & FAMILY WELFARE DEPARTMENT (MEDICAL EDUCATION), GOVERNMENT OF KARNATAKA, ALONG WITH THE RELEVANT PAGES OF ANNEXURE I APENDED THERETO.

EXT.R2(x) : TRUE COPY OF THE NOTIFICATION No.DSW/COE/2013-14, DATED 22-04-2014, ISSUED BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

EXT.R2(y) : TRUE COPY OF THE PROVISIONAL LIST OF CANDIDATES ISSUED VIDE NOTIFICATION DATED 28-10-2014, BY THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES, BANGALORE.

//TRUE COPY//

P.A. TO JUDGE

'CR'

ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.
--
W.P.(C) Nos.17271, 17272,
17313 & 20420 of 2015
--
Dated this the 13th day of October 2015

J U D G M E N T

Ashok Bhushan, CJ.

These writ petitions were being heard by the learned Single Judge, who, by a common order dated 30.7.2015 directed the writ petitions to be placed before the Honourable Chief Justice, so as to obtain orders as to whether the above cases could be posted before a Division Bench. Thus, these writ petitions came to be placed before this Bench for hearing.

2. All the writ petitions consist of similar issues of facts and law and hence, all have been heard together. W.P.(C) No.17271 of 2015 is being treated as the leading writ petition and the references and pleadings in the aforesaid writ petition shall be sufficient to decide all the writ petitions.

Facts :-

W.P.(C) No.17271 of 2015

The petitioners, who are three in number passed their Higher Secondary Examination in March 2014. They applied for B.Sc Nursing in Rev. Noorunnissa College of Nursing, Andersonpet, Karnataka State. The College conducted a selection test, on the basis of which, all the petitioners were given admission in the first year B.Sc Nursing 2014-'15 batch. The petitioners submitted an application for grant of educatioal loan to the 2nd respondent, State Bank of Travancore (for short 'SBT'), Pattanakkadu Branch, Alappuzha. In the application submitted by the petitioners, they have given all necessary details as required in the educational loan proposal, including the marks obtained by them in the Higher Secondary School. The SBT, by letter dated 19.12.2014, informed the first petitioner that since he has got admission under the Management Quota, he has not secured minimum marks of 60% in the qualifying subjects and in aggregate for eligibility as required under the bank's educational loan policy and therefore, he was not eligible for educational loan. An identical letter of the same date was issued to the 2nd and 3rd petitioners informing the rejection of their application for educational loan. The petitioners also sent a complaint to the Reserve Bank of India (for short 'RBI'), which was forwarded by the RBI to the concerned branches of SBT. The RBI, by letter dated 16.1.2015, informed one of the petitioners that since she has not secured 60% marks in the qualifying examination as well as in the qualifying subjects, which is mandatory for those students, who have got admission under the Management Quota, the action taken by the SBT was as per the extant guidelines on the subject. The petitioners, aggrieved by the rejection of their application for education loan has filed the writ petition, seeking for following reliefs :-

> "(i) to quash Exts.P7 to P9 orders passed by the 2nd respondent by the issue of a writ of certiorari or any other writ, order or direction.
>
> (ii) to issue a writ of mandamus directing the 2nd respondent to disburse the loan amount to the petitioners within a short period fixed by this Hon'ble Court to enable them to continue their studies."

<u>W.P.(C) No.17272 of 2015</u>

The petitioner passed the Higher Secondary Examination in March 2014 and took admission in B.Sc Nursing in Rev. Noorunnissa College of Nursing on the basis of the selection test conducted the College. The application submitted for educational loan was rejected by the 2nd respondent, SBT on the ground that the petitioner had not secured 60% marks in the qualifying subjects. The petitioner sent a complaint to the RBI, who communicated the petitioner that the action of the SBT was in accordance with the extant guidelines. Aggrieved by the same, the petitioner approached this Court praying for a mandamus directing the 2nd respondent to disburse the loan amount to the petitioner.

W.P.(C) No.17313 of 2015

The petitioner passed the Higher Secondary Examination in March 2014 and applied for B.E. Mechanical Engineering in Dr.Thimmayya Institute of Technology, Oorgaum, Kolar Gold Fields, Karnataka State. The petitioner was directed to appear for a selection test conducted by the institution and he was declared selected. He got admission in the first year B.E.Mechanical Engineering 2014-'15 batch. The petitioner applied for educational loan to the SBT, Muhamma Branch, Alappuzha. The said application was rejected and the same was communicated by the Bank by a letter dated 30.10.2014, Ext.P3, informing that since the petitioner has not secured the minimum stipulated 60% marks in Physics, Chemistry and Mathematics in his qualifying examination, his educational loan could not be sanctioned. The petitioner submitted a complaint to the RBI, who, also by a letter dated 21.1.2015, informed the petitioner that the action taken by the 2nd respondent Bank is in accordance with the extant guidelines. Aggrieved by the same, the petitioner approached this Court praying for quashing Ext.P3 and a mandamus to disburse the loan amount.

W.P.(C) No.20420 of 2015

The petitioner claims that she belongs to Scheduled Caste community. She had passed the Higher Secondary course and applied for admission in B.Sc Nursing Course in Nirmala College of Nursing, Anantapur, Andhra Pradesh. On the basis of some test conducted by the said college, the petitioner was admitted in B.Sc Nursing course for the academic year 2013-'14. The petitioner submitted an application for educational loan to SBT, Peermade Branch, Idukki. The bank, by a letter dated 8.10.2014 communicated the petitioner that since she got admission under the Management Quota to undergo B.Sc Nursing course at Nirmala College of Nursing, Anantapuramu and has not obtained the minimum stipulated marks in the qualifying subjects, she was not eligible for educational loan. The petitioner filed the above writ petition challenging Exts.P6 and P7 and to quash the same to the extent it requires 60% minimum marks in aggregate for qualifying subjects. The following prayers have been made by the petitioner in the above writ petition :-

> "i) Call for records pertaining to Exhibits P6 and P7 and quash the same to the extent, which requires 60% of minimum mark in aggregate for qualifying subjects by issuing a writ of certiorari;
>
> ii) Issue a writ of mandamus or appropriate writ, order or direction, directing the 2nd respondent to disburse the educational loan amount to the petitioner within a time frame manner."

In all the writ petitions, applications for educational loan submitted by the petitioners were rejected by the SBT.

3. A detailed counter affidavit as well as an application to accept additional documents have been filed by the 2nd respondent, SBT in the leading writ petition. In the counter affidavit, the SBT has justified its action and has pleaded that the action was in consonance with the Education Loan Scheme as framed and modified by the SBT and the relevant Education Loan Scheme framed by the Indian Banks Association (IBA). The scheme framed by the SBT has been brought on record along with the counter affidavit, which shall be referred to while considering the issue in detail.

4. We have heard Sri.Sebastian Davis and Sri.A.X.Varghese for the petitioners. We have also heard

Sri.R.S.Kalkura and Sri.Sathish Ninan, the learned Standing Counsel appearing for the SBT.

5. Learned counsel for the petitioners, in support of the writ petitions, contends that the admissions granted to the petitioners in B.Sc Nursing Course and B.E.Mechanical Engineering were on the basis of a test conducted by the concerned institutions and hence, the admissions granted to the petitioners were on merit basis and need not be treated as admission under Management Quota. It is submitted that the requirement of possessing 60% marks in the qualifying subjects is not necessary to be fulfilled.

6. Sri.A.X.Varghese, the learned counsel appearing for the petitioner in W.P.(C) No.20420 of 2015 has challenged the guidelines of the SBT requiring to possess minimum 60% marks both in the qualifying examination and in the qualifying subjects for Management Quota admission. It is submitted that when the selection to the course has not been made on the basis of qualifying marks, the requirement of possessing 60% marks in qualifying examination is uncalled for. It is submitted by Sri.A.X.Varghese that since the petitioner belongs to a Scheduled

Caste community, she is entitled for the benefits, which are extended to the Scheduled Caste community candidates. It is submitted that since the bank is performing an important function for providing financial support to higher education, the bank cannot ignore the interest of the candidates belonging to Scheduled Caste community. It is submitted that Article 46 of the Constitution of India empowered the State to promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes and non-granting of education loan to the petitioner, who belonged to the Scheduled Caste and is economically poor, is nothing but denial of justice.

7. Learned counsel for the petitioners submits that the issues raised in the writ petitions are fully covered by the two Division Bench judgments of this Court in **Manager, Andhra Bank, Tvm** v. **Reshma Syam S.** [2014 (4) KHC 704 (DB)] and **Branch Manager, Kerala Gramin Bank, Kollam and another** v. **Rajendran P. and another** [2015 93) KHC 561 (DB)]. It is submitted that the Division Bench in the aforesaid cases had accepted that when the admission of the candidate is based on a

test conducted by the college itself, it cannot be said that the admission is not on the merit basis. Learned counsel for the petitioners submits that the writ petitions deserve to be allowed in view of the above two Division Bench judgments of this Court.

8. Sri.R.S.Kalkura, the learned Standing Counsel appearing for the Bank, disputing the submission of the learned counsel for the petitioners, contended that the admission of the petitioners are under the Management Quota and not on the merit seats. It is submitted that the admission in the merit seat either in a Government college or in a private college should be conducted by the Government or the Government nominated agencies. The petitioners did not claim that their admission was by any common entrance test conducted by the Government or Government nominated agencies. The petitioners' admission was only under the Management Quota and for admission under the Management Quota, as per applicable Scheme, there is requirement of having minimum 60% marks in the qualifying examination and since the petitioners have not fulfilled the said requirement, the bank has rightly rejected the applications for granting educational loan. It is submitted that on the complaint submitted by the petitioners,

the RBI, after obtaining reports from the concerned banks, approved the action taken by the banks in rejecting the applications due to non-fulfillment of 60% marks in the qualifying examination. It is submitted that granting of educational loan is regulated by the Scheme framed by the Indian Banks Association (IBA), as adopted by the SBT. It is submitted that the IBA has issued modified guidelines, where it is provided that admission under the Management Quota for all courses including Nursing course would be kept outside the scope of the Scheme. It is submitted that the present admissions made in the two courses are under the Management Quota and not under the merit quota and in the said admissions, the requirement as provided in the Scheme of having 60% marks in the qualifying examination is must. Learned counsel has referred to the Schemes forwarded by the IBA as well as the Master Circular issued by the SBT and the modified Master Scheme of the SBT as Exts.R2(c) to R2(g). Learned counsel for the Bank has further referred to the notification of the Government of Karnataka dated 21.9.2013 and certain other materials pertaining to admission in Nursing course in the State of Karnataka. It is submitted that admission to the merit seat in the Government institutions as well as in the private institutions are being conducted by the Rajiv Gandhi University of Health Sciences as the agency nominated by the Government and that since the petitioners' admission in the B.Sc Nursing course have not been conducted by the said Rajiv Gandhi University of Health Sciences, the said admission cannot be treated as merit basis and the said admissions are only under the Management quota. It is submitted that in the private colleges, the Management quota is provided by the Government and admission in the said quota is by a test conducted by the concerned institutions.

9. Sri.Sathish Ninan, the learned Standing Counsel appearing for the respondent Bank in W.P.(C) No.20420 of 2015 has also adopted the arguments raised by Sri.R.S.Kalkura. Referring to the statement submitted by the 2nd respondent in the writ petition, it is submitted that the admission secured by the petitioner to the Nursing course in the Nirmala College of Nursing, Andra Pradesh is the admission under the management quota. It is submitted that the IBA Educational Loan Scheme has been formulated to provide financial support to meritorious

students who may not be able to pursue studies because of their financial constraints. It is aimed at the "meritorious but poor", who may not be able to pursue studies but for financial support. It is submitted that the action of the bank in rejecting the applications of the petitioners is fully in consonance with the said Scheme. Referring to notification dated 18.5.1998 issued by the Government of Andhra Pradesh, it has been submitted that for all 50% free seats selection is made by a Selection Committee appointed by the University of Health Sciences and only those selections are treated as merit selection. The management is free to make admission under the Management Quota.

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

11. From the submissions made by the learned counsel for the parties and the pleadings on record, the following are the issues, which arises for consideration in these writ petitions :-

(i) Whether as per the Education Loan Scheme framed by the SBT and as applicable on date, the admission of the petitioners on the basis of selection conducted by the college can be treated to be merit basis selection, eligible

for loan under the IBA model or such admission can be treated only as the admission under the Management quota ?

(ii) Whether for admission on the basis of a test conducted by the private management, as per the Education Loan Scheme, condition of possessing 60% marks in the qualifying examination is applicable ?

(iii) Whether the condition to secure 60% minimum marks in the qualifying examination in the management quota seats is arbitrary and liable to be struck down ?

(iv) Whether the Education Loan Scheme is applicable to the petitioner in W.P.(C) No.20420 of 2015 or Whether any exemption can be granted to a candidate belonging to a Scheduled Caste community in so far as fulfilling the condition of possessing 60% marks in the qualifying examination ?

(v) Whether the petitioners are entitled for any relief as claimed in the writ petitions ?

All the issues are interconnected and are being taken together.

12. All the writ petitions relate to non-sanction of educational loan for pursuing professional courses by the petitioners. Education plays a pivotal role not only in the life of a human being but also plays a main role in building up an orderly society in a country. Since the number of institutions offering higher education and professional courses provided by State being limited in number, the private institutions are coming up more and more in number offering higher education and professional courses.

13. The Government of India, Nationalised banks and all subsidiary banks functioning in the country are under the regulatory control of different parliamentary enactments. The Reserve Bank of India Act, 1934 and the Banking Regulation Act, 1949 are the two enactments, which regulate and control the banking institutions in India. As per Sec.21 of the Banking Regulation Act, 1949 the RBI is empowered to control advances by banking companies. The RBI is also empowered to determine the policy in relation to advances to be followed by banking companies generally and all banking companies are bound to follow the policy

so determined by the RBI. It is useful to quote Sec.21(1) of the said Act, which is to the following effect :-

> **"21. Power of Reserve Bank to control advances by banking companies**.- (1) Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest or in the interests of depositors or banking policy so to do, it may determine the policy in relation to advances to be followed by banking companies generally or by any banking company in particular, and when the policy has been so determined, all banking companies or the banking company concerned, as the case may be, shall be bound to follow the policy as so determined."

14. The RBI, who facilitate pursuit of higher education by deserving/meritorious students issued a Model Education Loan Scheme by its Circular dated 2.5.2001. The RBI, in the aforesaid Circular has given an introduction about the said Scheme, which reads as under :-

> "Education is central to the Human Resources Development and empowerment in any country. National and State level policies are framed to ensure that this basic need of the population is met through appropriate public and private sector initiatives. While government endeavour to provide primary education to all on a universal basis, higher education is progressively moving into the domain of private sector. With a gradual reduction in government subsidies

> higher education is getting more and more costly and hence the need for institutional funding in this area.
>
> The scope of education has widened both in India and abroad covering new courses in diversified area. Development of human capital is a national priority and it should be the endeavour of all that no deserving student is denied opportunity to pursue higher education for want of financial support. Loans for education should be seen as an investment for economic development and prosperity. Knowledge and information would be the driving force for economic growth in the coming years.”

The RBI further directed that the Education Loan Scheme as circulated provides broad guidelines to the banks and the implementing bank will have the discretion to make changes, if any. Paragraph 4.2 in the said Scheme provides for 'Student Eligibility', which is to the following effect :-

> “<u>4.2 Student Eligibility</u>
>
> * Should be an Indian National
> * Secured admission to professional/technical courses through <u>Entrance Test/Selection process.</u>
> * Secured admission to foreign university/ Institutions.
> * Should have scored minimum 60% (50% for SC/STs) in the qualifying examination for admission to graduation courses.”

The RBI has issued the aforesaid guidelines on the basis of the recommendations of a Study Group constituted by the Indian Banks' Association (IBA). All banks including the SBT are formulating their educational policies from time to time. The Indian Banks' Association has also been issuing revised guidelines for guidance to the banks, which were forwarded to the members of the bank for implementation from time to time. It is apparent from the relevant materials brought on record on behalf of the 2nd respondent in the counter affidavit filed in the leading writ petition that the Education Loan Scheme which was implemented from time to time deferred in its operation.

15. The SBT itself has issued different schemes for educational loan from time to time. The SBT has circulated a Master Circular dated 13.6.2011 regarding its Education Loan Scheme, in which, 'Student Eligibility' was provided in paragraph 2, which is to the following effect :-

"**2. STUDENT ELIGIBILITY**

i. Should be an Indian National

ii. Secured admission to Professional/ Technical courses through Entrance Test/Selection process.

iii. Secured admission to reputed foreign university/ Institutions.

iv. Education Loans may also be considered for meritorious students getting admissions to Colleges/ Institutions on Management Quota subject to Govt approved fees and other expenses.

In certain cases, the student/parents are required to deposit a part of the admission fee etc. on the day they go for counseling. It becomes difficult for them to raise funds in the absence of a firm admission letter. In such cases, the sanctioning authority is authorized to sanction and release the loan in the name of the institution, provided the admission is sought in cases where the results of the entrance test such as All India Engineering Entrance Examination (AIEEE) etc., has been announced and the student has secured a good position in the merit list and will be in a position to secure admission in a reputed institution after counselling/finalisation of the admissions.

The payment will be released in the name of the institution only

Minimum Marks: There is no minimum marks for eligibility, provided the applicant has qualified through entrance test or merit based selection procedure.

The entrance test conducted by Government Departments or Universities approved by UGC/AICTE only may be reckoned for this purpose.

A minimum mark of 50% for General and 45% for SC/ST category candidates aggregate for qualifying subjects in the qualifying exam has been fixed for students who have not qualified through Entrance Test (there being no entrance test for admission).

> Students who have secured admission through Management Quota should have obtained the minimum marks as specified above.”

Copy of such Scheme has been filed as Ext.R2(c) in the counter affidavit filed on behalf of the 2nd respondent in the leading writ petition. Another circular dated 10.1.2012 was issued by the SBT, which provided the following two Education Loan Schemes :-

1. IBA Model Education Loan Scheme (Modified)
2. Model Education Loan Scheme for Loans under Management Quota (Non-IBA Scheme)

Under the IBA Model Education Loan Scheme, the 'Eligibility Criteria' of a student was described as “those who have secured admission to a higher education course in recognized institutions in India or Abroad through Entrance Test/Merit Based Selection process after completion of HSC (10 plus 2 or equivalent) and there is no minimum marks prescribed for eligibility”. It is also stated that the entrance test conducted by Government/Approved Regulatory Bodies or Universities approved by UGC/AICTE have to be reckoned for this purpose. Under clause 'B' Loan Scheme, loans under Management Quota was prescribed and the eligibility for admission is described as “a minimum of 50% mark both for the qualifying examinations and qualifying subjects individually (viz. Physics, Chemistry and Mathematics for Engineering and Physics, Chemistry and Biology for Medical/Nursing) will be stipulated for granting Education Loan under Management Quota”.

16. Thereafter the Indian Banks' Association made some modification and a Revised Guidance Notes on Model Educational Loan Scheme was circulated to all the banks vide circular dated 31.5.2012, where, one of the salient aspects communicated was that admission under Management Quota for all courses including Nursing course be kept outside the scope of the Scheme. After the aforesaid modified Scheme by IBA, the SBT again made amendments in its Educational Loan Scheme. A Master Circular dated 20.11.2012 [a copy of which was produced as Ext.R2(f)] has been issued by the SBT, which Scheme is applicable for the purpose of present writ petitions. The said Circular contains two Schemes, namely; (A) IBA Model Education Loan Scheme (Modified) and (B) Model Education Loan Scheme for Loans under Management Quota (Non-IBA Scheme) (Modified). Under category 'A', 'Eligibility Criteria' is prescribed as under :-

"2. <u>ELIGIBILITY CRITERIA</u>

2.1 Student eligibility

* Should be an Indian National

* Should have secured admission to a higher education course in recognized institutions in India or Abroad through Entrance Test/Merit Based Selection process after completion of HSC (10 plus 2 or equivalent). It would be in order for banks to consider a meritorious student (who qualifies for a seat under merit quota) eligible for loan under this scheme even if the student chooses to pursue a course under Management Quota seat in an institution for reasons of convenience (proximity) or choice of course.

The entrance test conducted by Government/ Approved Regulatory Bodies or Universities approved by UGC/AICTE may be reckoned for this purpose.

* Entrance test or selection purely based on marks obtained in qualifying examination may not be the criterion for admission to some of the post graduate courses or research programmes. In such cases, we may take into consideration the reputation of the institution concerned and the employability of applicant on the completion of the course, for sanction of loans.

* As Education Loan is, henceforth, restricted to applicants securing admission through merit based selection process only **all stipulations regarding minimum marks stand** withdrawn."

From the above, it is clear that under the IBA Model Education Loan Scheme a student has to secure admission to a higher education course in recognized institutions in India or Abroad through Entrance Test/Merit Based Selection Process. It was further stipulated that the Entrance Test conducted by Government/Approved Regulatory Bodies or Universities approved by UGC/AICTE may be reckoned for this purpose.

17. Now, we refer to 'Model Education Loan Scheme for Loans under Management Quota', which was prescribed as category 'B', in which, 'Eligibility' was described as under :-

> “1. <u>ELIGIBILITY</u>
>
> (i) Students securing admission to seats under management Quota through entrance exams conducted by private self financing colleges in Kerala State.
>
> * Any admissions to courses outside the State of Kerala except admissions through common entrance test like CAT, MAT, GATE, IIT, All India Medical and Engineering Entrance tests, NIIT or any common entrance test conducted by Govt. of India/approved regulatory bodies.
>
> (ii) Admissions secured to courses without any entrance exams.
>
> (iii) A minimum of **60%** Marks both for the qualifying examinations and qualifying subjects individually (viz Physics, Chemistry and Mathematics for Engineering and Physics, Chemistry and Biology for Medical/Nursing)

> will be stipulated for granting Education Loan under Management Quota."

Category 'B' is applicable for admission under the Management Quota. It is stated that admissions to courses outside the State of Kerala were treated to be admissions under Management Quota except admissions through common entrance test like CAT, MAT, GATE, IIT, All India Medical and Engineering Entrance Test, NIIT or any common entrance test conducted by Govt. of India/approved regulatory bodies.

18. Applying the aforesaid Education Loan Scheme, we have to find out whether the petitioners' admissions can be treated as admission through Entrance test/Merit based as contemplated under the IBA Model Education Loan Scheme or the admissions of the petitioners fall under category 'B', that is; Management Quota admission.

19. Petitioners' case in the writ petitions is that they were admitted in the professional course after Higher Secondary School examinations and on the basis of a test conducted by the college itself. For example :- The petitioners in W.P.(C) No.17271 of 2015 have relied on a certificate issued by Rev.Noorunnissa College of Nursing, copy of one such certificate dated 14.6.2014 issued to the

3rd petitioner is produced as Ext.P6 in the said writ petition, which reads as under :-

"TO WHOMSOEVER IT MAY CONCERN

This is to certify that MISS.ANAKHA V.A., D/o. Appukuttan, Valikattunkal House, Vettackal P.O., Cherthala, Kerala has been admitted into First Year B.Sc Nursing course for the academic year 2014-15 in our College of Nursing. She has attended for the entrance test conducted by our College during the admission time and she scored 93% of marks in it and the marks which she had scored for her Plus Two exam was also satisfactory. So the selection committee got satisfied with her performance and they decided to give admission for her in First Year B.Sc Nursing 2014-2015 batch.

SECRETARY,
Rev. Noorunnissa College of Nursing
Al Hajama Noorunnissa Road,
ANDERSONPET K.G.F 563 113."

Similar effect is the admissions obtained by the petitioners in the other writ petitions, that is; they have been admitted on the basis of Entrance Test conducted by the college itself.

20. In the present cases, we are concerned with the admissions in B.Sc Nursing course and B.E.Mechanical Engineering in the State of Karnataka and one admission in B.Sc

Nursing course in Nirmala College of Nursing, Anantapur, Andhra Pradesh (W.P.(C) No.20420 of 2015).

21. Learned Standing Counsel appearing for the Bank has brought on record the relevant materials to indicate the manner and process of admissions conducted in the State of Karnataka and in the State of Andhra Pradesh. In the leading writ petition, the learned Standing Counsel for the Bank has brought on record the notification dated 21.9.2013 issued by the Government of Karnataka, Ext.R2(q). The said notification refers to seat sharing ratio as to 20:80 between the Government and the Management. Learned Standing Counsel has also brought on record the Brochure for admission to B.Sc Nursing and BPT Courses as Ext.R2(r). The opening paragraph of the said Brochure reads as under :-

> "Government of Karnataka in its Notification No.HFW 103 MPS 2008, Bangalore, dated 28th May 2008, has authorized Rajiv Gandhi University of Health Sciences as an agency for selection of candidates for admission to B.Sc Nursing, and BPT courses for the seats in Government colleges and Government seats in private colleges. Henceforth, the rules and regulations framed by the committee for the selection of candidates for admission to the above courses in accordance with

> Government Order No.HFW 44 MPS 2003(2), Bangalore, dated 03rd July 2003 and subsequent amendments, revised rules if any as on the date of admission will apply."

From the above it is clear that for admission into seats in Government college and Government seats in private colleges, it is the Rajiv Gandhi University of Health Sciences, who is entitled to conduct selection and the selection in the Management seat is to be conducted by the Management itself. Learned counsel for the Bank has also filed various notifications issued by the Rajiv Gandhi University of Health Sciences, Karnataka notifying various seats for counselling and admissions by Rajiv Gandhi University of Health Sciences, Karnataka.

22. The certificate which has been filed by the 3rd petitioner in the leading writ petition is a certificate which indicates that the admission of the said petitioner was made by the private college itself allegedly on the basis of the entrance test conducted by the said college. Any admission in the college either by entrance test or by any other mode of selection is to be treated as admission under the Management Quota as per the Scheme dated 20.11.2012 of the SBT and the relevant statutory provisions

regulated for admission in the State of Karnataka in B.Sc Nursing and B.E.Mechanical Engineering. Further, according to IBA Model Eligibility Criteria, the entrance test conducted by the Government/approved regulatory bodies of the University approved by UGC, AICTE only is permissible and further, the exemption as carved out in paragraph (i) of the 'B' Model, that is; Management Quota admission through common entrance test like CAT, MAT, GATE, IIT, All India Medical and Engineering Entrance tests, NIIT or any common entrance test conducted by Government of India/approved regulatory bodies. Thus, those admissions which are excluded from the category of 'Management Quota' are the admissions which are through common entrance test as mentioned therein or a test conducted by approved regulatory bodies.

23. The test, by which, the petitioners were admitted cannot be said to be the test conducted by any regulatory bodies or any other test as referred to in exempted categories of paragraph (i). Hence, the admission of the petitioners has to be treated as under category 'B', that is; Management Quota and as per the requirements of clause 1(iii), a minimum of 60% marks

both for the qualifying examinations and qualifying subjects individually is required to be passed by the candidates.

24. The prescription of 60% marks in the qualifying examination and qualifying subjects although has been challenged in W.P.(C) No.20420 of 2015, but no substantial grounds have been raised to treat it as arbitrary, perverse or illegal. In this context, the learned counsel for the Bank has rightly placed reliance on the Division Bench judgment of Madras High Court reported in **A.Kasinathan** v. **Branch Manager, Canara Bank, Town Hall Road, Madurai** [Laws (Mad)-2012-4-52]. In the said case, revised guidelines of Educational Loan Scheme-2011 of Indian Banks Association (IBA) imposing restriction of 60% marks for considering educational loan in case of students who secured admission under "Management Quota" was under challenge. The Madras High Court held that there is no inherent right to educational loan, which is referred in paragraph 10 of the said case, which is to the following effect :-

> "10. No inherent right to educational loan :- From the Scheme of Article 21A of the Constitution, it is the primary obligation of the State to provide free and compulsory education to all children of the age of 6-14 years and in the recent judgment dated 12.4.2012, the

Supreme Court upheld the constitutional validity of right of children to free and compulsory education under Right to Education Act, 2009 which provides for free and compulsory education to children between age of 6 and 14 years and mandates government/aided/non-minority and unaided schools to reserve 25% of the students for these children. There is no such fundamental right to higher education. Of course, under Article 41, the State, shall within its economic capacity and development, make effective provision for securing the right to education. In terms of Article 21A and Article 41, while there is a right to education, there is no inherent right to educational loans.

Principles of lending loans:- The essence of Banking business is receiving money on current account for deposit from the public, repayable on payment by cheque, draft or otherwise and lending or investing the same. Only from out of the interest that is earned the banks will have to pay the salary to their staff, pay interest to their depositors and transact bank's business, maintain the Bank and meet other expenses.

Banks should follow the well known principles of sound lending. (i) safety - the foremost principle of sound lending is to ensure the safety of the funds lent. While lending money, the Banks must carefully consider the chance of its being repaid by the borrower along with interest; and (ii) Profitability - Commercial Banks are profit-earning institutions; and nationalized banks are no exception to this. They must employ their funds profitably so as to earn sufficient income out of which the banker is to pay interest to the depositors, salaries to the staff and to meet various other establishment expenses and distribute dividends to the shareholders. The rates of interest charged by bankers primarily depend on the directives issued by the Reserve Bank of India."

The Division Bench further held that there is nothing wrong in the banks stipulating any restriction for the students who secured admission under Management Quota. The Division Bench, repelling the challenge, laid down in paragraphs 12 and 14 of the said judgment as follows :-

"**12.** As is well known, while lending loan, the main concern of the Bank is safeguarding the amount which was sanctioned and advanced and chance of getting the money back with interest. In order to ensure prompt repayment of the educational loan, Bank is emphasizing the future prospects of the students, employment potential. For getting jobs/employment in different parts of the country/abroad, one of the criteria is academic performance and there is nothing wrong for the Banks in stipulating 60% marks for the students who secured admission under "Management Quota"

In a competitive and dynamic global environment, everywhere where better standards are expected from private sector to Government employment, merit plays a key role. Like in other loans, Bank's main concern is that the educational loan amount advanced to students is repaid with interest within the stipulated period. Employability potential and merit are very relevant for which academic performance of the students is very much relevant. While so, there is nothing wrong in the Banks in insisting upon the merits i.e. students securing admission under Management quota and for grant of educational loans, ought to have secured 60% marks.

Re-contention - Discrimination of students opting for “Management Quota”:- The learned counsel for the petitioners contended that in single window system of admission, all the students get admission and students opt for “Management Quota” for various reasons either because it is nearer to their residence and availability of courses of their choice” and while so, it is an undesirable attitude form the Banks to discriminate between Management and Government quota.

14. On behalf of the writ petitioners, it was then contended that while Government is trying for inclusive growth in the field of education, such moves in fixing marks as 60% for those students, who secured admission, under “Management Quota” will discriminate the students on quota. It was further contended that State and Nationalised banks should strive for equal opportunity both for securing admission in Government colleges and those who are admitted under “Management Quota” through single window system.

Management Quota :- Management quota refers to the number of seats in educational institutions other than government institutions, which is being offered by the management to the students on the basis other than merit. The admission to the management quota seats will be in the hands of the management where students are selected by the management through criteria set out by them. The students admitted under management quota will not be selected based on the performance in the entrance examinations or marks they have scored in the qualifying Examination. So the capacity of such students to secure jobs as other meritorious students are much less and as well as the probability of landing a good job is also less. This will impact the repaying capacity of the students admitted under management quota.

As per the Revised Guidelines, for grant of educational loans to students, who have secured admission, under “Management Quota” can be considered only if students have secured 60% marks in the Board Examination. Such stipulation of 60% marks is with an objective keeping merit as the criteria and assessment of potentials of salary a student will get on completion of course. It is stated that non-performing assets in educational loans are mounting. It was further stated that inasmuch as 6% of the outstanding loans to the Banks are the educational loans. In the present day context, employability of a person depends upon various factors, one of which is certainly academic performance. When the students have secured admission to the management quota through the criterion set out by the Management, the capacity of such students to secure jobs are much less. Loan given to such students could turn bad as their employment potential is less. It is in

> this context IBA stipulated 60% marks. So far as the Bank is concerned, Bank should never overlook the safety principle while advancing the loans or investment of its surplus funds."

We fully endorse the view taken by the Division Bench of Madras High Court in the aforesaid case.

25. Now, we come to the two Division Bench judgments of this Court, on which, reliance has been placed by the learned counsel for the petitioners. The first judgment is delivered by this Division Bench in **Manager, Andhra Bank, Tvm** v. **Reshma Syam S.** [2014 (4) KHC 704 (DB)]. In the above case, the Division Bench had occasion to consider the guidelines dated 28.5.2012 issued by the Andhra Bank. The Scheme, which came for consideration was quoted in paragraph 6 of the said judgment, which is to the following effect :-

> "1) Revised Model Scheme on Educational Loans for Higher Studies in India and Abroad(2011).-
>
> (d) Should have secured admission to a higher education course in recognised institutions in India or Abroad through Entrance Test/Merit Based Selection process after completion of HSC(10 plus 2 or equivalent).
>
> (e) In case where admission is not through common entrance test and the marks secured in the

> qualifying examination is the only criteria adopted, the minimum cut off marks should be 65% in aggregate in the qualifying academic examination."
>
> Clause (f) is also relevant which is extracted below:
>
> "(f) The cut-off 65% marks in aggregate in the qualifying academic examination is also applicable to all courses offered by deemed universities and also to non-professional and nontechnical courses, irrespective of the common entrance test."

The Division Bench held that in the above case, the admission of the petitioner was based on a test conducted by a recognised college, the criteria, that is; 65% marks in aggregate was not applicable and the admission procedure under which the petitioner was admitted was clearly under the Merit based selection as indicated in clause l(d). The Scheme of Andhra Bank which came for consideration was not of the similar term as the Scheme now applicable in the SBT Circular dated 20.11.2012. Hence, the judgment of the Division Bench in the aforesaid case is clearly distinguishable and is not applicable.

26. Another Division Bench judgment of this Court reported in **Branch Manager, Kerala Gramin Bank, Kollam and another** v. **Rajendran P. and another** [2015 (3) KHC 561 (DB)]

was a case wherein this Division Bench was considering the circular dated 19.11.2013 of Kerala Gramin Bank. In the above case also the admission was obtained by the students on the basis of an entrance test conducted by the college. The submission of the bank was that requirement of 55% marks in individual core subjects and atleast 60% marks in aggregate being not fulfilled, the petitioner was not entitled for educational loan. The Division Bench considered Clause 1.2.2, wherein it was provided that "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." The Division Bench in the said case held that "no material was placed before the court to come to the conclusion that the college was not Government approved agency, which conducted the entrance test". Since there being no material placed before the Court, the Court proceeded on the premise that the college was entitled to conduct the entrance test and hence, the above admission in the course was in exempted category as provided under Clause 1.2.2 and no other clause of any Scheme came up for consideration before the Division Bench. The

Division Bench, in paragraph 10 has given its reason in the following words :-

> "**10.** xx xx xx 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."

It is clear from the above judgment that there was no material placed before the Division Bench to indicate that the college was not authorised to conduct the entrance test. It was further held that no material has been placed to indicate that there is some other common entrance test conducted by the Government or any Government approved agency for BPT admission. Thus, the above judgment was rendered on account of non-placing relevant materials before the court, which has been specifically noticed. Thus, the above judgment cannot be said to be laying down any ratio that the admission on the basis of entrance test conducted by college is not to be treated to be an admission under the management quota. The above judgment, considered a different Scheme and the conclusion was recorded by the Division Bench on account of non placing of relevant materials, which cannot held to be applicable in the facts of the present case. The above judgment does not help the petitioners in the facts of the present case, where, the Court is considering the educational loan scheme circulated by the SBT on 20.11.2012 and the statutory provision for admission, which are placed before us. We, thus, are of the view that both the Division Bench judgments, on which, the petitioners have placed self reliance are clearly distinguishable and do not squarely apply to the facts of the present case.

27. The petitioners have also placed reliance on another Division Bench judgment of this Court in W.A.No.1147 of 2014 **State Bank of Travancore** v. **Chinchumol M.S.** In the above case, the writ petitioner was admitted in B.Sc Nursing course and the Bank has rejected her application on the ground that she did not secure 60% marks in aggregate. The learned Single Judge had allowed the writ petition, against which, the said writ appeal was

filed. It was noted by the Division Bench that the pleadings of the Bank before the learned Single Judge did not raise all the issues, which were sought to be raised in the writ appeal. The Division Bench held that since the issues raised in the appeal did not call for resolution, the appeal court refused to exercise jurisdiction under Sec.5 of the Kerala High Court Act, 1958 and hence, the appeal was dismissed, leaving the pleas open. Thus, the above Division Bench judgment does not lay down any ratio, on which reliance can be placed by the learned counsel for the petitioners.

28. One of the judgments of the learned Single Judge dated 17.7.2015 in W.P.(C) No.11421 of 2015 and connected cases in **Anupriya Sreedharan** v. **The Manager, SBT** has also been placed before us. The learned Single Judge has considered the case where, the applications for educational loan of the petitioners, who were admitted under the Management quota were rejected. Both the Division Bench judgments as noted by us, which were relied upon by the learned counsel for the petitioners were also placed before the learned Single Judge. The learned Single Judge has dismissed the writ petitions making the following observations in paragraphs 20, 21 and 22 :-

“**20.** The guidelines for educational loans were found to be framed by the IBA and Circular issued by the RBI. Even if the said scheme has statutory force, it was categorically held that the High Court under Article 226 of the Constitution of India cannot issue directions to the Banks to dilute the policy and ignore the cut of marks prescribed. The mushrooming of private colleges and the trend of admitting students indiscriminately to courses, merely with a profit aim, to collect the fees, without looking at the aptitude/capacity of the student, to complete the course was specifically emphasised to find that, though education is the duty of the Government, extension of a loan facility was not mandatory. Financial incapacity is what is sought to be overridden in providing an educational loan, and not the lack of merit.

21. Financial facilities cannot be, indiscriminately extended to even candidates, who do not have the academic merit and the necessary capacity to complete a technical or professional course. The marks in the qualifying examination thought not always conclusive, is definitely indicative of the academic capacity of a student. In fact the scheme provides for loans even to candidates admitted in the Management Quota, provided the candidate scored the required percentage of marks in the qualifying examination. In view of the revised scheme and the revised norms, the decisions cited by the petitioners will not be applicable. None of the petitioners have required minimum percentage of marks. They all are admitted to management seats and

> have not been admitted through a common entrance test.
>
> **22.** The educational loan scheme is brought out by the IBA, as a public policy measure to ensure that no meritorious student is denied admission to professional and technical courses for reason only of the financial incapacities of himself or his family. The scheme is not statutory in character and even the RBI, the regulatory authority has left it to the discretion of the Banks to lay down the terms; which has to be on a balancing consideration of the public policy and the financial discipline inherent to an institution dealing with public funds. The scheme intends to aid meritorious students to tide over their financial difficulties. It cannot in any manner supplement or supplant academic deficiencies or ineptitudes."

We fully endorse the view taken by the learned Single Judge in the aforesaid case.

29. One more submission made by Sri.A.X.Varghese, the learned counsel appearing for the petitioner in W.P.(C) No.20420 of 2015, which needs to be considered is whether with regard to candidate belonging to Scheduled Caste, any exemption can be granted from possessing 60% marks as required by the Scheme dated 20.11.2012. Learned counsel for the petitioner has referred to Article 46 of the Constitution of India, which reads as under :-

> **“46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.-** The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”

There cannot be any dispute to the directive principles, which are introduced in Article 46 and the responsibility is on the State to frame its policies to promote educational and economic interests of the weaker sections of the people, particularly, Scheduled Caste/Scheduled Tribe.

30. A perusal of the circular dated 2.5.2001 issued by the RBI, in paragraph 4.2 as quoted above would indicate that the requirement of minimum marks although was 60%, for SC/ST, it was reduced to 50%. Further, in Circular dated 13.6.2011 issued by the SBT, Ext.R2(c), under 'Student Eligibility', for candidates, who have not been admitted through entrance test, a minimum marks of 50% for general and 45% marks for SC/ST was provided, which relaxation was done away in the Circular dated 10.1.2012 issued by the SBT, Ext.R2(d), and minimum 50% marks for both

qualifying examination and qualifying subjects was prescribed. In the main circular dated 20.11.2012 issued by the SBT, which is applicable as on date, Ext.R2(f), again there is no different prescription for admission in the Management quota for SC/ST candidates. A minimum 60% marks both in the qualifying examination and qualifying subjects are required.

31. It is for the State, IBA and the banks to formulate its policies for enhancement of educational and economic interest of Scheduled Castes and Scheduled Tribes. Constitutional provisions in Article 46 is an enabling provision for State. Although in the circular dated 2.5.2001 issued by the RBI there was a reduced percentage of marks for SC/ST candidates, the same was done away subsequently as noted above. Since there being no provision for a different criteria for candidate of Scheduled Caste as on date, the claim of the candidate belonging to Scheduled Caste community cannot be considered on any different yardstick or this Court cannot exercise writ jurisdiction under Article 226 of the Constitution of India to carve out any exemption for any member of Scheduled Caste with regard to consideration of his application for educational loan. It is for the Government of India/IBA/

concerned banks to consider as to whether any reduction can be made in the requirement of minimum percentage of marks for candidates of SC/ST. Thus, on the basis of the submission made by Sri.A.X.Varghese, no relief can be granted to the petitioner in W.P.(C) No.20420 of 2015. We, however, leave it open for the Government of India/RBI/IBA/concerned banks to consider the question as to whether any reduction can be made in the requirement of minimum percentage of marks in the Management quota admission for candidates of SC/ST. It is further relevant to note that the action of the SBT in not sanctioning the educational loans of the petitioners was brought into notice of the RBI and the RBI communicated the petitioners that they have approved the action of the SBT in not sanctioning the petitioners' educational loan on the ground that they did not possess the requirement of 60% marks in the qualifying examination, since they have been admitted under the Management quota.

In view of the foregoing discussions, all the writ petitions are dismissed. We, however, leave it open for the Government of India/RBI/IBA/concerned banks, who implement the Educational Loan Scheme to consider as to whether for SC/ST candidates, any reduction of marks can be granted from the requirement of percentage of marks in the qualifying examination as provided for general category, in so far as the admission under the management quota is concerned. The parties shall also bear their own costs.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt/7.10.2015