

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

WP(C).No. 32643 of 2014 (E)

PETITIONER(S):

- 1. REJEENA D., AGED 26 YEARS,
W/O.MIJU, CARMEL HOUSE, DHANUVACHAPURAM,
THIRUVANANTHAPURAM - 695 503.**
- 2. T.DAVIDSON,
S/O.THAPASIMUTHU, CARMEL HOUSE,
DHANUVACHAPURAM, THIRUVANANTHAPURAM - 695 503.**

BY ADV. SRI.L.RAJESH NARAYAN

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY SECRETARY,
MINISTRY OF HUMANRESOURCE DEVELOPMENT, SHASTRIBHAWAN,
C-WING, DR.RAJENDRA PRASAD ROAD, NEW DELHI - 110 001.**
- 2. STATE OF KERALA,
REP. BY SECRETARY, HIGHER EDUCATION DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**
- 3. AUTHORISED OFFICER, FEDERAL BANK,
ASSET RECOVERY BRANCH, FIRST FLOOR, "SAMRUDHI ANUPAMA"
TC - 27/517(4), PATTOM JUNCTION, VANCHIYOOR P.O.,
THIRUVANANTHAPURAM - 695 035.**
- 4. BRANCH MANAGER,
THE FEDERAL BANK LIMITED, PALAYAM BRANCH,
THIRUVANANTHAPURAM - 695 035.**

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

R2 BY GOVERNMENT PLEADER SMT.M.T.SHEEBA

R3 & R4 BY ADVS. SRI.A.ANTONY

SMT.LEELAMMA ANTONY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 32643 of 2014 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE DEGREE CERTIFICATE DATED 30.3.2011.

EXT.P-2: TRUE COPY OF THE AFFIDAVIT DATED 16.7.2014.

**EXT.P-3: TRUE COPY OF THE CERTIFICATE SO PRODUCED CLAIMING SUBSIDY,
DATED 10.9.2013.**

EXT.P-4: TRUE COPY OF THE COMMUNICATION DATED 27.5.2014.

EXT.P-5: TRUE COPY OF THE REPRESENTATION DATED 15.7.2014.

EXT.P-6: TRUE COPY OF THE REPLY DATED 4.8.2014.

EXT.P-7: TRUE COPY OF THE NOTICE U/S.13(2) DATED 15.11.2014.

RESPONDENT(S)' EXHIBITS:

**EXT.R3(a): TRUE COPY OF THE STATEMENT OF ACCOUNT IN THE LOAN ACCOUNT
OF THE PETITIONERS MAINTAINED BY THE FEDERAL BANK LTD.**

//TRUE COPY//

P.S.TO JUDGE

Ms v/

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.32643 of 2014

Dated this the 23rd day of July, 2015

J U D G M E N T

The first petitioner availed an educational loan from the respondent Bank. The petitioner has approached this Court challenging 'SARFAESI' proceedings. It appears that, the Bank also filed a suit for recovery of the loan amount.

2. The learned Standing Counsel for the Bank submits that, the term of the loan is over and that, the total liability of the petitioners is around ₹7,14,000/- as on 31.11.2014.

3. The petitioners submit that, even though the educational loan was availed by the 1st petitioner, she could not obtain any employment and she is remaining unemployed. It is also submitted that, they have severe financial constraints to repay the loan amount. Therefore, they pray that, the Bank may take a lenient decision in the matter of giving waiver of interest and penal interest.

4. The petitioners also have a challenge against non crediting of the subsidy amount. However, it is seen from the counter affidavit filed by the 3rd respondent that, the subsidy amount has already been credited to the petitioner. In that view of the matter, the said issue does not arise for consideration.

5. The only question now remains is regarding the concession urged by the petitioners. For the same, this Court is of the view

that, the petitioners shall make an appropriate request before the DGM, Zonal Office, Thiruvananthapuram within two weeks from the date of receipt of a copy of this judgment. The DGM shall take an appropriate decision thereon, within a further period of one month.

Taking note of the overall facts and circumstances, this writ petition is disposed of with the following directions :

1. The petitioners shall deposit an amount of ₹50,000/- (Rupees Fifty thousand only) within a period of one month from today.
2. Thereafter, the petitioners shall remit an amount of ₹25,000/- (Rupees Twenty five thousand only) continuously for a period of six months from the next month onwards.
3. Thereafter in the succeeding month, the petitioners shall clear the entire loan amount payable to the Bank in lumpsum.
4. The liability would be depend upon the decision to be taken by the DGM with regard to the request made by the petitioners.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.