

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.29780 of 2014

S.Arvindkumar

... Petitioner

- Vs -

1. The Indian Overseas Bank
Rep The Regional Manager
Regional Office,
IOB Tower,
No.12/1, APT Road,
Erode 638 003.

2.The Branch Manager,
Indian Overseas Bank, Poonachi Branch,
Mugasipudur Post,
Olagadam (via),
Andhiyur, Erode District 638 314.

3. The Nanda Engineering College,
Pitchandampalayam Post,
Vaikkal Medu,
Perunthurai Road,
Erode- 638 052

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, directing the 1st and 2nd respondents to sanction education loan of Rs.3,88,000/- towards the annual fee for the year 2013-2014 to 2016-17.

For Petitioner : Mr.P.Sesubalan Raja
For Respondents : Mr.Ananda Gomathi (R1)
No appearance (R2 and R3)

O R D E R

Heard the learned counsel for the petitioner, and the learned counsel appearing for the first respondent.

2. The petitioner is a student of the third respondent college studying B.E. (Mechanical Engineering), for the academic year 2013-2014. The petitioner applied for educational loan for a sum of Rs.3,88,000/- towards annual fee for the entire course. The request made by the petitioner was not considered favourably on the ground that the petitioner has obtained only 57.2% instead of 60% which is fixed by the respondent bank.

3. The learned counsel for the petitioner submitted that very same issue has been considered and dealt with by this Court in W.P.No.3270 of 2015, on 09.03.2015.

4. The learned counsel for the respondent submitted that the request of the petitioner was rejected since he obtained only 57.2% marks which is less than 60% as fixed by the respondent bank for sanctioning the loan. She has further submitted that as against the orders of this court, appeals have been filed and interim stay have been obtained. Therefore, no interference is required, by this Court.

5. Considering the very same issue, this Court in a case in A. Vasantha Kumar Versus The Branch Manager, Indian Overseas Bank (W.P.No.3270 of 2015) has held as follows:

"4. The issue involved in this Writ Petition is as to whether the petitioner's application could be rejected solely on the ground that he has not secured 60% marks in the qualifying examination i.e., +2 examination. The competency of the respondent Bank and the jurisdiction to impose 60% cut off mark has been upheld by the Division Bench of this Court in A.Kasinathan V. The Branch Manager, Canara Bank, Town Hall Road, Madurai reported in 2012 Writ Law Reporter 640. Therefore, in terms of the Indian Banks Association guidelines, the respondent Bank is entitled to insist upon the 60% marks cut off. However, in certain cases, a slight latitude and discretion could be exercised by the respondent Bank for good and sufficient reasons.

5. In fact an identical case was considered by the Madurai Bench of this Court in W.P.(MD) No.2099/2014, dated 04.08.2014. In that case also candidate secured less than the cut off marks

prescribed by the IBA guidelines. This Court, considering the entire issue and object, for which, the educational loan scheme was introduced, while upholding the power to fix cut off marks, observed that the respondent Bank could consider the cases, where, the candidates have secured more than 55% marks in the qualifying examination or nearing 60% and they could also assess the performance of the students in the course they are studying at present, for which, they seek for educational loan. In the instant case also, such benefit could be extended to the petitioner by the respondent Bank by calling for the present academic performance of the petitioner in B.E. Course from the Annamalai University.

6. Considering the fact that the petitioner has secured 57% marks and he belong to M.B.C. and his father is an agriculturist and the petitioner secured a seat in the Annamalai University, which has now been taken over by the Government and it is not a management quota seat and he secured a seat under the Government quota, this Court is of the view that these factors could also be taken into consideration by the respondent Bank, while examining the petitioner's application.

7. In the light of the above facts, this writ petition is disposed of directing the respondent Bank including the Chief Manager, IOB, Rapid Retail Centre, Kadirkamam, Pondicherry, to reconsider the petitioner's request in the light of the above observations and the respondent Bank shall do the needful in the matter to enable the petitioner to continue his education. The above direction shall be complied with within a period of four weeks from the date of receipt of a copy of this order. No costs."

6. Considering the same taking note of the facts of the case, this Court is of the view that a mere pendency of the appeal would not debar this Court from passing final order.

7. Hence, this Writ Petition is allowed directing the respondents 1 to 2, to reconsider the petitioner's request on the same terms. The above direction shall be complied with within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CSII)
dt:29/9/2015

True Copy

Sub-Assistant Registrar

To

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Erode- 638 052

+1 cc to M/S.Ananda Gomathy Advocate sr.50098

+1 cc to M/S.P.Sesubalan Rajan Advocate sr.50756

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