BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.12292 of 2016

Seahujahuna ... Petitioner

Vs.

The Branch Manager,
UCO Bank,
VOC Street,
Sivagangai. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondent herein to sanction the education loan of Rs.1,71,150/- to petitioner's son for the year of 2015 - 16 and all other continuous academic years.

For Petitioner : Mr.N.Senthil Kumar
For Respondent : Mr.K.Periyasamy

O R D E R

Heard both sides.

2. By consent, the main writ petition itself is taken up for final disposal.

3. According to the petitioner, she belongs to a backward class community and hails from a poor family. Her husband was working as a labour in Dubai and returned to India on 25.07.2016 (as informed by the Learned Counsel for the Petitioner before this Court). Her son Mohamed Rejas completed his +2 studies in Kendra Vidhyalaya Higher Secondary School, Sivagangai during the academic year 2014-2015 and secured 82.87% and after school studies, his son participated in the joint entrance examination (Advanced 2015) conducted by the Indian Institute of Technology and he passed the said examination on merits. Later, he was sponsored to the Indian Institute of Crop Processing Technology, Thanjavur, as per allotment letter of the Central Seat Allocation Board. Based on that, he joined the college immediately.

4. The stand of the petitioner is that a structure of the fees for first year to fourth years runs as under:

"Ist year - 117150/-
II nd year - 101200/-
III rd year - 101200/-
IVth Year - 101200/- + 175800.
Totally, Rs.5,96,550/- is fixed by the college for completing the course."

5. Because of the petitioner's poor family background and financial crisis, she is unable to mobilize the said amount, for which, she has decided to apply before the Respondent/Bank. In fact, in the said application, her son had affixed her signature. After all verifications, the official of the Respondent/Bank orally instructed her to get signature from her husband (her son's father) and also informed that after that only, that application will be considered. The grievance of the petitioner is that her husband, since he was in abroad, unable to obtain his signature and therefore, she projected a representation to the Respondent/Bank on 28.03.2016 narrating all the facts and requested to sanction the education loan to her son.

6. The core stand advanced on behalf of the petitioner is that there is no bar for the petitioner (being a mother) to apply for the education loan on behalf of her son and in fact, the condition imposed by the Respondent/Bank that her husband viz., the father of her son could also apply for the loan is an unreasonable one, besides the same is an arbitrary, illegal and discriminatory one. Hence, she has filed the present writ petition praying for passing of an order by this Court in directing the Respondent/Bank to sanction the education loan of Rs.1,71,150/- to her son for the year 2015-16.

7. Per contra, it is the submission of the Learned Counsel for the Respondent/Bank that the Respondent/Bank never issued any loan application to the petitioner. But the petitioner had down loaded the application on 'on-line request' for the UCO education loan and filled the same including the Appraisal Form, Statement of Means, Pre Sanction Visit Report in her residence, which are to be filled up by the Respondent Bank's Manager and produced the same together with other certificates by way of typed set of papers before this Court. Further, it is represented on behalf of the Respondent/Bank that neither the petitioner nor her son had never approached the Respondent/Bank and never applied for education loan.

8. At this juncture, the Learned Counsel for the Respondent/Bank proceeds to take a plea that as per serial No.10 of the Master Circular of UCO Bank Loan Scheme for Studies in India and Abroad, dated 25.10.2012, (updated upto 10.10.2012) security is required for grant of loan for a sum of Rs.5,96,550/- and the same reads as follows:

Sl.No.10. **Security** **Upto Rs.4.00 lac:**

»No Security.
»Co-obligation of Parents.

Above Rs.4.00 lac and upto Rs.7.50 lac-

»Co-obligation of Parents.
»Collateral in the form of a suitable third party guarantee.
»The bank, may, at its discretion, waive third party guarantee if satisfied with the net-worth means of parent who would be executing the document as “Joint Borrower”.

Above Rs.7.50 lac:

»Co-obligation of Parents.
»Tangible collateral security equivalent to full value of loan.

The security may be in the form of land/

> building/Govt. Securities/PSU Bonds/Units of UTI /NSC/KVP/LIC Policy/Gold, Shares, debentures, bank deposits in the name of student/parent/guardian or any other third party with suitable margin. Where the land/building is already mortgaged the unencumbered portion be taken as security as second charge provided that covers the required loan amount.

9. In view of the above, the Learned Counsel for the Respondent projects an argument that as per the aforesaid circular, other rules and norms of the Respondent/Bank, loan cannot be granted on the co-obligation of the petitioner (mother only). Also that, even, as per the representation of the petitioner dated 28.03.2016, her son was studying 2nd year course of Crop Processing Technology and as such, the petitioner is not entitled to seek for loan for the past two years, even, without making any application before the Respondent/Bank. As such, when there is no loan application for the loan, the representation of the petitioner cannot be considered.

10.It is to be borne in mind that the petitioner in the main writ petition has sought a relief of passing of an order by this Court in directing the Respondent/Bank to sanction education loan of Rs.1,71,150/- to her son for the academic year 2015-16 and all other continuous academic years. In fact, in the writ petition, at paragraph No.4, the petitioner had averred the following in regard to the fee structure and the same runs as under:

"Ist year - 117150/-
II nd year - 101200/-
III rd year- 101200/-
IVth Year - 101200/- + 175800. Totally, Rs.5,96,550/- is fixed by the college for completing the course."

11.The grievance of the petitioner is that she comes from a poor family background and financial crisis and therefore, she is unable to mobilize the aforesaid amount of Rs.5,96,550/-, for which, she had applied for the education loan before the respondent with all relevant documents. But, these facts are seriously disputed and denied by the Respondent/Bank. According to the Respondent/Bank, it never issued any loan application to the petitioner (mother of the student), but the student's mother viz., the petitioner had down-loaded the application on 'on-line request' for UCO Bank Education Loan and filled the same including the Appraisal Form, Statement of Means, Pre Sanction Visit Report in her residence etc., It is true that the petitioner in her representation, dated 28.03.2016, had averred that her son was studying in second year course of Crop Processing Technology.

12.It comes to be known that the petitioner relies on the Master Circular, dated 25.10.2012, issued by the Head Office of the Respondent/Bank in respect of the UCO Education Loan Scheme for Studies in India and Abroad, at serial No.10 under the head 'Security' enjoins as follows:

Sl.No.10 **Security** **Upto Rs.4.00 lac:**
»No Security.
»Co-obligation of Parents.
Above Rs.4.00 lac and upto Rs.7.50 lac-
»Co-obligation of Parents.
»Collateral in the form of a suitable third party guarantee.
»The bank, may, at its discretion, waive third party guarantee if satisfied with the net-worth means of parent who would be executing the document as "Joint Borrower".
Above Rs.7.50 lac:
»Co-obligation of Parents.
»Tangible collateral security equivalent to full value of loan.
The security may be in the form of land/ building/Govt. Securities/PSU Bonds/Units of UTI /NSC/KVP/LIC Policy/Gold, Shares, debentures, bank deposits in the name of student/parent/guardian or any other third party with suitable margin. Where the land/building is already mortgaged the unencumbered portion be taken as security as second charge provided that covers the required loan amount."

Also serial No.11, under the caption 'Repayment' reads as under:

Repayment Repayment of the loan will be in equated monthly installments (EMIs*) for period as under:

»For Loans upto Rs.7.50 lac
»For Loans above 7.50 lac upto 15 years.
»No prepayment penalty will be levied for prepayment of loan any time during the repayment period.
»Repayment holiday/Moratorium:Course period +1 year or 6 months after getting job, whichever is earlier.
»The interest accrued during the repayment holiday period to be added to the principal & repayment in EMI to be fixed.
»If the student is not able to complete the course within the scheduled time for reasons beyond his control, extension of time for completion of course may be permitted by sanctioning authority for a maximum period of 2 years.
In case, the student discontinues the course midway, appropriate repayment schedule will be worked out by the bank in consultation with the student/parent.
»Certificate shall be obtained from the Institute where the student is pursuing the course,

informing reason for extension of course period or discontinuance of the course to enable the sanctioning authority to take appropriate decision on the matter.
While EMI* based repayment is the generally accepted practice, many times the salary levels at the start of the career may not facilitate comfortable payment of EMI in certain cases. (e.g. Professionals like Doctors). Based on merit of the case, telescoping of repayment with stepped up installments with passage of time may be considered, on case to case basis, in such cases by the Sanctioning Authority.

Serial No.12 refers to 'Rate of Interest', which reads as under:

Sl.No.12	**Rate of Interest**	Interest to be charged at rates linked to the Base Rate (Simple interest to be charged during the Repayment holiday/Moratorium period). Upto Rs.7.50 lacs:Base Rate +2.50% I.e 13.00% p.a (10.50+2.50) Above Rs.7.50 lacs:Base Rate +2.25% I.e 12.75% p.a (10.50 +2.25) In case of loan to the family members of staff, further 0.50% concession in ROI to be allowed. The above interest structure including concession to children of staff members has been made effective from 20.09.2012 and applicable on existing as well as new Education Loans. Students satisfying DRI norms-Any amount - 4%. Students satisfying 60% handicap - Any amount - 4% Servicing of interest during moratorium peirod optional. Accrued interest will be added to the principal amount borrowed while fixing EMI for repayment. Penal interest @ 2% p.a to be charged on overdue amount for the overdue period only for limits above Rs.4.00 lacs.

13.In fact, in the aforesaid circular, updated upto 10.10.2012, the OBJECTIVE is mentioned as under:

OBJECTIVE	The Educational Loan Scheme aims at providing financial support from the banking system to meritorius students for pursuing higher education in India and abroad. The main emphasis is that a meritorious student, though poor, is provided with an opportunity to pursue education with the financial support from the banking system under affordable

terms and conditions. The ultimate objective is that no deserving/meritorius student is denied an opportunity to pursue higher education merely for want of financial support.

The **Eligibility criteria at serial No.2** is mentioned as under:

Eligibility

a) student must be an Indian National.

b) Secured admission to a higher education course in India or abroad through Entrance Test or selection process after completion of HSC (10 plus 2 or equivalent)
However, regarding recognized Selection Process, in case of Institutes where process of selection is based on percentage of marks obtained in the qualifying examination, same shall be treated as recognized selection process.

c) In some of the post graduate courses or research programs criterion for selection may not be the Entrance Test therefore, selection based on marks obtained in qualifying examination, I.e cut off marks, may be reckoned/adopted as minimum eligibility criteria to determine merit for such courses.

d) In all other cases of PG and other Research Courses, Circle Head (Irrespective of scale), shall decide on case to case basis based on recommendation of the Zonal Manager on reputation, past tract re cord for placement & employability of the Institute to which admission is sought/obtained.

e) For candidates who have appeared in the entrance test & their name appears in the merit list but opted for management quota seats for admission in a specified college or course of his choice, will be also be considered for Education loan and they will be treated at part with candidates securing admission through Entrance test or recognized selection process. However, fees as approved by the State Government/Government approved regulatory body for payment seats will be considered, subject to viability of repayment.

f) Students securing admission through management quota for Degree/Diploma in Nursing Courses are eligible subject to condition that fee structure stipulated by respective State Govt. only has to be considered and they will be treated at par with candidates securing admission through Entrance test or recognized selection process.

Serial No.3 under the head 'Age Limit', speaks as under:

Age Limit	No Minimum age criteria. However in case of minors' loan will be jointly in the name of parents and the student and the student shall ratify the borrowing by acknowledging the debt on attaining major status I.e 18 years of age. **Maximum Age Limit.** a)28 years for Graduation & 30 years for post-graduation for general candidates. b)30 years for Graduation/diploma & 33 years for post-graduation for SC/ST candidates.

Serial No.4, under the head 'Courses eligible' (Indicative List), runs as under:

Courses eligible (Indicative List)	**Loan for Studies in India** a)Approved courses leading to graduate/post graduate (Masters & Ph D) degree and PG diplomas conducted by recognized college/Universities recognized by UGC/Govt.AICTE/AIBMS/ICMR etc. b)(Engg., Medical, Agriculture, Veterinary, Law, Dental, Management, Computer etc.,) c)Courses l ike ICWA, CA, CFA etc., d)Courses conducted by IIM, IIT, IISC, XLRI, NIFT, NID etc., e)Regular Degree/diploma courses like Aeronautical, Pilot Training, Shipping etc., approved by Director General of Civil Aviation/Shipping if course is pursued in India. f)Courses offered by National Institutes and other reputed private institutions. g)Computer Certificate Courses of reputed institutes accredited to DOE or institutes attributed to universities. h)Degree or Diploma Courses on Teacher Training, Nursing, B.Ed Courses conducted by Central/State Govt. approved private institutions. The conditions for Teacher Training course, Nursing and B.Ed are i) It should not be a certification course. ii)The fees should be as per the fees structure stipulated in Central/State Government colleges.

The above list is indicative in nature and apart from the above mentioned courses all other eligible courses approved by UGC/Govt. & other regulatory bodies so constituted by Central/State Govt. Act for setting and maintaining standards in the relevant areas of Higher Education such as UGC / Govt./ AICTE/ AIBMS / ICMR etc., and conducted by UGC recognized Colleges/Institutes will be considered based on employability & commensurate future income to repay the loan.

The list of approved courses and institutions are available in the public domain i.e at www.ugc.ac.In, www.education.nic.in www.aicte-India.org.

i)Approved courses offered in India by reputed foreign universities.

For Foreign Universities/Institutions imparting technical education in India directly or through Collaboration with Indian Institutions. Following factors are to be ascertained.

1.Foreign University/Institution shall operate its educational activity in India with the specific prior permission/ approval of AICTE.

2.Indian Institution should be set up through Society/Trust/a company established under Section 25 of Companies Act, 1956, or the relevant Act in India.

3.Accreditation of Foreign University/ Institution by the authorized agency in parent Country.

4.In case of Collaboration valid approval of AICTE is required.

j) Evening courses of approved/ recognized institutes.

k)Regular part time class room courses, such as Business Management/Engineering etc., Courses for Working Executives/ others having employability potential, duly approved by AICTE & conducted by Colleges under UGC approved University.

? Distant/Off campus Courses with contact class shall be outside the purview of our UCO Education Loan Scheme, as off-campus courses on-site/partnership programmes are not eligible loan under the IBA Revises Education Loan Scheme.

Loan for Studies Abroad:
(a) Graduation: For job oriented professional/technical.
b) Post Graduation: MCA, MBA, M.S etc.
c) Courses conducted by CIMA-London, CPA in USA etc.,
d) Degree/diploma courses like aeronautical, pilot training, shipping etc., provided these are recognized by competent regulatory bodies in India/abroad for the purpose of employment in India/abroad.
- Only Post Graduate Diploma courses are eligible for studies abroad, accordingly existing provision of other Diploma courses under foreign study is discontinued. All existing courses upto world ranking 3000 shall be considered for studies abroad. (World ranking of Institutes/Universities is available in the website. Www.webometrics.Info).

14. Be that as it may, this Court has heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondent/Bank and noticed their contentions. On a careful consideration of respective contentions and also this Court taking note of the attendant facts and circumstances of the present case, in an integral fashion, comes to a resultant conclusion that the Respondent/Bank is to consider the representation of the petitioner, dated 28.03.2016, in a practical, pragmatic, purposeful, meaningful and in a diligent fashion, within a period of 10 days from the date of receipt of copy of this order. It is open to the Respondent/Bank to consider the representation of the petitioner, dated 28.03.2016 with a free, open, unbiased mind and also in a dispassionate manner, by passing a reasoned, speaking order, especially by outlining the process of reasoning, in a qualitative and quantitative fashion, of course, after affording necessary opportunity to the petitioner and others concerned, if any, by following the principles of Natural Justice in true letter and spirit.

15. Furthermore, in case, the Respondent/Bank is in need of the physical presence of the petitioner, her son (student) for whom, she seeks loan and also the presence of her husband and the father of the student, then, the Respondent/Bank shall issue memo or advance notice to her at a specified time in the particular Branch/Office of the Bank and soon after their appearance, the Respondent/Bank authorities are directed to furnish her the necessary loan application in prescribed format, for which, if any charge is to be paid by the petitioner, the Bank is at liberty to collect the same from the petitioner. The petitioner shall pay the requisite fee/necessary charges for the said loan application diligently. Liberty is also granted to the Respondent/Bank to call for any other records/documents from the petitioner, with a view to consider her representation, dated 28.03.2016, in the subject matter in issue. If

the petitioner receives any communication from the Respondent/Bank, as regards any records/documents to be produced by her, then, the petitioner shall produce the certified copy/xerox copies of any records without any haziness or hesitation or demur. Also, the petitioner is directed to render her assistance and co-operation to the Respondent/Bank so as to enable the later to do the needful in regard to her representation dated 28.03.2016, within the time adumbrated by this Court. Before parting with the case, it is needless for this Court to make a significant mention that it is open to the Respondent/Bank to adhere to the necessary instructions/guidelines issued by the Reserve Bank of India/Central Bank to the Constituent Banks, who come within the domain and to proceed further in the subject matter in issue, within the time stipulated supra.

16.With the aforesaid observation(s) and direction(s), the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To
The Branch Manager,
UCO Bank,
VOC Street,
Sivagangai.

+ 1 CC TO MR.V.S.KUMARA GURU, ADVOCATE IN SR No. 40968
+ 1 CC TO MR.P.T.S.NARENDRAVASAN, ADVOCATE IN SR No. 41030

VS
TE/ARK-PV : 08/08/2016 : 10P/4C

Writ Petition (MD).No.12292 of 2016
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