BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.4457 of 2017
and
W.M.P(MD)No.3576 of 2017

S.K.Ashli mol : Petitioner

Vs.

1.The Chief Manager,
Indian Overseas Bank,
Attoor Branch,
Attoor Post,
Kanyakumari District.

2.Thasiah College of Nursing,
rep, by its Chairman,
Marthandam,
Vellivilagam,
Viricode,
Kanyakumari District. : Respondents

Prayer : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records on the files of the respondents pertaining to its order bearing No.Nil dated 10.02.2017 and to quash the same and consequently direct the respondent to disburse the educational loan of Rs.4,97,600/- to the petitioner to pursue her studies within a time frame that may be stipulated by this Court.

For Petitioner : Mr.S.C.Herold Singh
For Respondents :Mr.N.Dilipkumar

O R D E R

This writ petition has been filed by the petitioner challenging the impugned order dated 10.02.2017 and consequently seeking a direction to the respondent to disburse the educational loan of Rs.4,97,600/- to the petitioner to pursue her studies within a time frame that may be stipulated by this Court.

2.The petitioner has successfully completed her 12th Standard in the Government Higher Secondary School, Marthandam. She applied for B.Sc., Nursing course and the petitioner was allotted to Thasiah College of Nursing, Marthandam in the academic year 2014-15. The petitioner is required to pay course fee to the tune of Rs.62,400/- per year and as such, the petitioner is required to pay a sum of Rs.4,97,600/- for four years. According to the petitioner, a *bona fide* certificate was also issued by the college to that effect. The petitioner's father is working as a coolie and he has no sufficient income to support the education for the petitioner. Therefore, the petitioner has applied for educational loan to the first respondent. Since her application for education loan was not processed, she filed the writ petition in W.P(MD)No.6600 of 2016 seeking for issuance of a Writ of Mandamus directing the respondent to disburse educational loan of Rs.4,97,600/- to the petitioner. This Court, vide order dated 02.08.2016, has directed the first respondent to pass a reasoned order within a period of three weeks. Pursuant to the above said direction passed by this Court, the first respondent passed an order on 10.02.2017 rejecting the claim of the petitioner. Challenging the said order, the present writ petition has been filed.

3.As per the impugned order, the educational loan claimed by the petitioner could not be considered favourably in view of the fact that the petitioner has secured only 57% of mark in qualifying the Higher Secondary Examination, whereas, as per the Educational Loan Scheme in vogue in our Bank, a candidate who applies for educational loan should have secured at least a minimum of 60% of marks in the qualifying examination, if he/she belongs to Other Backward Category (OBC). Since the marks obtained by the petitioner in the Higher Secondary Examination as 57% which falls short of the minimum eligibility criteria stipulated in the loan scheme, the first respondent expressed their inability to sanction the educational loan as sought for by the petitioner.

4.The learned counsel appearing for the petitioner would strenuously contend that the reason for rejecting the claim of the petitioner cannot be countenanced in law. The paramount consideration for sanctioning the loan should be the financial capacity of the person, who seeks loan and the performance in the qualifying examination cannot be the sole criteria for rejecting the claim.

5.Per contra, the learned counsel appearing for the respondents would submit that the respondent bank can sanction loan only within the frame of the loan scheme and cannot sanction any loan outside the scheme.

6.Heard both sides.

7.At the out set, it might be noted that the petitioner has secured 57% of marks in the qualifying examination. Since she belongs to OBC category, she is required to secure 60% of the marks in order to become eligible for grant of educational loan as per the scheme, which condition is *per se* unreasonable and arbitrary, since as contended by the learned counsel for the petitioner that the paramount consideration for grant of educational loan is a financial status of the persons, who seek the loan and the same cannot be linked to the performance by the students in their qualifying examination.

8.The educational loan scheme is formulated only to help the poor students to pursue their higher education and they have fundamental right to be treated fairly and justly. The stipulation of minimum of 60% of marks has no relevance to the object sought to be achieved by the Educational Loan Scheme. Such stipulation does not advance the letter and spirit of the scheme for grant of educational loan to the poor students, who notwithstanding all odds, come out successfully in their qualifying examination and was eagerly waiting to pursue their higher education. If the nationalized bank refused such grant of educational loan to the successful students, the right to higher education of the aspiring students stand completely negated and their educational aspiration would come to an end. Such a situation does advance the cause of the welfare state. In the above said circumstances, the stipulation of 60% of marks for the purpose of eligibility for grant of educational loan is violative under Article 14 of the Constitution of India as the same is arbitrary, unreasonable, unfair and also discriminatory

9.In such view of the matter, the impugned order, dated 10.02.2017, passed by the first respondent is set aside and the first respondent is directed to disburse the educational loan sought by the petitioner, as a special case, within a period of six weeks from the date of receipt of a copy of this order. The present order will not be cited as a precedent in the similar claim, in future.

10.With the above directions, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

sd/
Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

skn
To

1.The Chief Manager,
Indian Overseas Bank,
Attoor Branch,
Attoor Post,
Kanyakumari District.

+1cc to Mr.N.Dilipkumar, Advocate in SR.No. 15869
+1CC to Mr.S.C.Herold Singh, Advocate in Sr.No.15777

GJM/MSA/SR-3-10.5.17-3p-4c

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