IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition Nos.4539 & 5150 of 2018
and W.M.P.Nos.5591, 5592 & 6323 of 2018

R. Sanskrit ... Petitioner in both W.Ps.

Vs.

1. The Secretary,
Medical Council of India,
Pocket - 14, Sector 8,
Dwarka Phase-I,
New Delhi - 110 077, India.

2. University Grant Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

3. The Registrar,
Sri Balaji Vidyapeeth Deemed University
(Declared Under Section 3 of UGC Act, 1956)
Pondy Cuddalore Main Road,
Pillayarkuppam, National Highway 45A,
Puducherry - 607 402.

4. The Dean,
Shri Sathya Sai Medical College & Research Institute
Tiruporur-Guduvancherry Main Road,
Ammapettai, Nellikuppam - 603 108,
Chengalpet Taluk,
Kancheepuram District. ... 1 to 4 Respondents in both W.Ps.

5. The Branch Manager,
Indian Bank,
Pallikaranai Branch,
Chennai - 600 100. ... 5th Respondent in W.P.No.4539 of 2018

PRAYER in W.P.No.4539 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 5th respondent to sanction the education loan for a sum of Rs.63,90,000/- (Rupees Sixty three lakhs ninety thousand only) towards revised tuition fee for the petitioner's MBBS course in the 4th respondent college within the time frame fixed by this Court.

PRAYER in W.P.No.5150 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to permit the petitioner to attend the 2nd year MBBS course in the 4th respondent college, within the time frame fixed by this Court.

For Petitioner in both W.Ps. : Mr.M.Vijayakumar

For 1st Respondent in both W.Ps. : Mr.V.P.Raman

For 2nd Respondent in both W.Ps. : Mr.P.R.Gopinathan

For Respondents 3 & 4 in both W.Ps. : Mr.L.Swaminathan

For 5th Respondent in W.P.No.4539/2018 : Mr.L.Sripathi

C O M M O N   O R D E R

W.P.No.4539 of 2018 has been filed for the issuance of a Writ of Mandamus to direct the 5th respondent to sanction the education loan for a sum of Rs.63,90,000/- (Rupees Sixty three lakhs ninety thousand only) towards revised tuition fee for the petitioner's M.B.B.S course in the 4th respondent-College, within the time frame fixed by this Court.

2. W.P.No.5150 of 2018 has been filed for the issuance of a Writ of Mandamus to direct the respondents 1 to 3 to permit the petitioner to attend the 2nd year M.B.B.S course in the 4th respondent-College within the time frame fixed by this Court.

3. The petitioner completed XII standard (+2) in March, 2016, and that pursuant to successful result in NEET, the petitioner attended counselling and was admitted to the 4th respondent-College. The petitioner will have to pay fees as per the fee structure and according to the petitioner, she has paid partial amount towards fees and that for the remaining amount, she applied loan.

4. According to the petitioner, the loan application was made in the year 2016 and the bank has not processed the same and the petitioner received a sum of Rs.6,00,000/- as scholarship for pursuing medical course. Though the petitioner is a meritorious student, for the best reasons known to the College, the College has not permitted the student to attend the classes and attendance has not been marked. Hence, the petitioner has come forward with the aforesaid two prayers.

5. The learned counsel appearing for the 4th respondent-College would submit that the petitioner was admitted in the College to the first year for the academic year 2016-2017 and that she has given a joint declaration along with her father, to pay the Tuition Fees for a sum of Rs.18,90,000/- as well as the Annual Hostel Fees and Application Fees, and that the petitioner was allowed to participate in the counselling and there is commitment of fees by the petitioner and her father, but they have failed to honour their commitment. The Management has offered scholarship of Rs.6,00,000/- and the candidate was asked to pay the balance amount of Rs.12,90,000/-. Since the petitioner had to pay the balance amount, necessary testimonials have been given by the petitioner for availing bank loan.

6. According to the 4th respondent/College, every student who joins M.B.B.S., will have to obey the Rules and Regulations of the University and that there was a joint undertaking given by the student and her father, wherein, the responsibilities were made clear and the same was duly signed and accepted by the student and her father. The relevant clauses are extracted below:-

(a) Passing in 1st Professional is compulsory before proceeding to Phase II training.
(b) Attendance aggregate should be 75% for theory, practical for the whole academic year.

(c) Internal Assessment Marks must be aggregate of 35%.
(d) Assurance to attend all tests/examinations conducted.
(e) Abiding by the Rules and Regulations of the College/University in force.
(f) Undertake to remit the fees before the stipulated date throughout the student's study.

7. The petitioner was asked to pay the balance amount and that a sum of Rs.50,000/- was paid vide Demand Draft dated 27.07.2017 and another Demand Draft dated 16.07.2017 for similar amount was handed over towards payment of fees and an

undertaking had been given that the balance mount would be paid within 15 days.

8. It is further stated by the learned counsel for the 4^{th} respondent-College that the petitioner has not paid the balance amount and she has stated that the educational loan was under process. That apart, the petitioner did not have sufficient attendance in the first year and she cannot be permitted to enter into the second year, unless the first year course is redone by her after paying the balance fees due to the College.

9. The 5^{th} respondent has also filed a counter stating that the petitioner has not applied for loan at all in the year 2016 and for the first time, they have applied for loan through Portal in the year 2017.

10. According to the 5^{th} respondent-Bank, the guidelines with regard to educational loan are available and that it will be sanctioned to the eligible students, wherein, for the amount upto Rs.4,00,000/-, no security is required and beyond that, conditions are stipulated, which have got to be followed by the student and the parents of the student and only then, the eligible amount will be sanctioned towards education loan.

i. Upto Rs.4,00,000/-: No security
Parents are to be joint borrower(s). However, Zonal Managers are permitted to consider relaxation in this aspect. In case of parents having NPA, third party may be brought in as co-borrower and parents to stand as guarantor for the loan.

ii. Above 4 Lakhs and upto Rs.7.50 Lakh: Besides the parent(s) executing the documents as Joint borrower(s), collateral security in the form of suitable third party guarantee to be taken. The bank may, at its discretion in exceptional cases, waive third party guarantee if satisfied with the net-worth/means of parent/s who would be executing the document as Joint borrower(s). However, in case of the co-borrower is found to be a NPA account holder, a third party may be obtained as co-borrower and parents having NPA to stand as guarantor/s.

iii. Above Rs.7.50 Lakh: Parent(s) to be joint borrower(s)
Tangible collateral security, the market value of

> which is not less that the loan value acceptable to bank, along with the assignment of future income of the student for payment of instalments.
>
> The security can be in the form of land/building/ Government securities/Public Sector Bonds/ Units of UTI, NSC, KVP, Life Policy, gold and shares/mutual fund units/debentures, bank deposit in the name of the student/parent/guardian/any other third party or any other tangible security acceptable to the bank with suitable margin.
>
> Wherever the land/building are already mortgaged, the unencumbered portion can be taken as security on second charge basis provided it covers the required loan amount.

11. It is further stated by the 5th respondent-Bank that the application made by the petitioner has not reached the 5th respondent-Bank; however, the application, if any, pending with the Indian Bank will be processed by the respective branch that has received the said application and the eligible loan would be sanctioned to the petitioner.

12. In reply, Mr.M.Vijayakumar, learned counsel appearing for the petitioner would submit that the petitioner has applied for loan in the year 2016 and the application through Portal came to effect in the year 2017. However, on his advise, the student/parent has also applied through Portal. As on date, the application has not been processed and in view of the non-sanction of loan, she is unable to pay the necessary fees to the College.

13. However, the learned counsel appearing for the 4th respondent-College stated that the petitioner would be permitted to attend the classes if she gives an undertaking to the College that she will pay the balance amount towards fees, once the loan is sanctioned by the Bank and thereafter, she can take up the examination.

14. It is further submitted by the learned counsel for the Bank that the petitioner’s loan application is pending before the Indian Bank, Kallipattu.

15. Heard the learned counsel appearing for the parties and perused the materials placed on record.

16. It is not in dispute that the petitioner, after completing +2, being a successful candidate in NEET, attended counselling and was admitted to the 4^{th}respondent-College. From the records placed, it is seen that the loan amount has not been sanctioned by the Bank and that the petitioner has not got attendance. The petitioner has also applied loan through Portal, which was admitted by the Indian Bank. But the loan application is pending before a different Branch of Indian Bank and not with the 5^{th} respondent's Branch. The petitioner has also had the benefit of scholarship of Rs.6,00,000/- and that the petitioner has paid part of the tuition fees and not the entire tuition fees as per the undertaking given by her and her father.

17. Even though the petitioner has stated about the various marks obtained by her in the internal assessment with regard to attendance, this Court is not going into that aspect of the matter, as the petitioner lacks sufficient attendance.

18. As it is stated that the petitioner is hailing from a poor family and that the application is pending before the concerned Branch of the Indian Bank, the 4^{th} respondent-College may permit the student to attend the classes for the first year, as the petitioner will have to redo the course again by taking necessary undertaking with regard to payment of balance fees, and the same shall be paid on receipt of loan from the Bank. If the petitioner is unable to get the entire amount as loan, she may have to pay the balance amount from her personal funds.

19. The loan application may be processed by the concerned Branch of Indian Bank with respect to each academic year and eligible amount may be sanctioned by the Bank to the petitioner in order to enable her to pay the fees to the College.

20. The Bank will have to necessarily process the application form as per the guidelines fixed and sanction the education loan as per the scheme.

21. The petitioner, as a matter of right, cannot demand a higher amount as loan without any security and that sanction of loan is covered by the Guidelines issued by the 5^{th} respondent-Bank for availing education loan. If the fee is not paid, the petitioner will not be permitted to sit for the examination.

With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.04.2018

Today (28.04.2018), the matters are listed under the caption "for clarification". Learned counsel for the fourth respondent submitted that the student shall not be affected on account of the payment of fees belatedly and that she would be entitled to attend the classes even before receipt of fees, but however, she will be permitted to take up the examination only after payment of fees.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

asi/cs

To

1. The Secretary,
Medical Council of India,
Pocket - 14, Sector 8,
Dwarka Phase-I,
New Delhi - 110 077, India.

2. University Grant Commission,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

3. The Branch Manager,
Indian Bank,
Pallikaranai Branch,
Chennai - 600 100.

+2cc to Mr.M.Vijayakumar, Advocate, S.R.No.28805, 28806
+3cc to Mr.P.R.Gopinathan, Advocate, S.R.No.28624,28625 & 32448
+1c c to Mr.L.Swaminathan, Advocate sr.29479
+1cc to Mr.M.S.Sripathi, Advocate Sr.28688

Writ Petition Nos.4539 & 5150 of 2018

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srg 21/05/2018