BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.07.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.S.RAMESH
W.P(MD)No.15026 of 2018
and
W.M.P(MD)No.13564 of 2018

S.Vijayaraghavan ... Petitioner

vs.

1.The Regional Manager,
Indian Overseas Bank,
College Road,
Subramaniyapuram,
Karaikudi.

2.The Senior Manager,
Indian Overseas Bank,
Ambalpuram,
Pudukkottai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in AMB/2303/2018-19 dated 14.05.2018 and to quash the same and further direction the second respondent to sanction the top up educational loan to the tune of Rs.2,50,000/- to the petitioner's son for pursuing the Pre-Graduation Internship of MBBS Course in Sichuan Medical University, China as per Clause No.3 of the Indian Bank Association's Revised Model Educational Loan Scheme for pursuing higher studies in India and abroad within a period that may be stipulated by this Court.

For Petitioner : Mr.G.Sridharan
For Respondents : Mr.Pala Ramasamy,
Standing Counsel.

O R D E R

The petitioner's son was earlier sanctioned Educational Loan of Rs.7,50,000/- for pursuing the MBBS Course in Sichuan Medical University, at China. Subsequently, since further demand from the university for the one year Pre-Graduation Internship from July, 2018 to July 2019, the petitioner herein made an application, seeking additional loan of Rs.2,50,000/- to the second respondent.

2.By relying upon the Indian Bank Indian Bank Associations's Revised Model Educational Loan Scheme, the second respondent herein, by an order, dated 14.05.2018, had sought for co-obligation of parents together with tangible collateral security, for the proposed sanction of the loan amount to the tune of Rs.2,50,000/-. When the petitioner had approached the second respondent Bank, he was informed that the collateral security should be for the entire loan amount of Rs.10,00,000/-. In view of his inability to furnish collateral security, the present writ petition has been filed, challenging the impugned order, dated 14.05.2018.

3.The learned counsel appearing for the petitioner submitted that since the present top up loan is the continuance of the earlier loan availed, the respondents are not justified in seeking for collateral security, for the entire loan amount of Rs.10,00,000/-.

4.On the other hand, the learned Standing Counsel appearing for the respondents submitted that their banks are bound by the guidelines of the Indian Bank Association's Educational Loan Scheme and as per Clause No.7 of the Scheme, any loan application over and above Rs.7.5 lakhs should be secured with co-obligation of the parents together with tangible collateral security of the suitable value, along with the assignment of future income of the student for payment of instalments and in view of the specific provision in the scheme for furnishing collateral security, there is no infirmity in the impugned order and as such, the writ petition is liable to be dismissed.

5.I have given my careful consideration to the rival submissions made by the respective counsel.

6.It is no doubt true that the Indian Bank Associations's Revised Model Educational Loan Scheme provides for co-obligation of the parents together with tangible collateral security for any loan amount claimed over and above Rs.7.5 lakhs. In the instant case, the petitioner was sanctioned with a loan of Rs.7.5 lakhs earlier for the MBBS Course in Sichuan Medical University, China and in connection with the same Course, the petitioner has sought for sanctioning of the top up educational loan towards a further sum of Rs.2.5 lakhs.

7.The second respondent in the impugned order has also referred to as the petitioner's representation as a top up loan application. The scheme does not specify as to the value for which the collateral security has to be given, when the loan application exceeds a sum of Rs.7.5 lakhs. All that is stated is that whenever the loan amount is claimed over and above Rs.7.5 lakhs, the applicant is obliged to offer collateral security for a suitable value. In other words, what is required under the scheme is that the applicant is obliged to furnish the tangible collateral security for the amount that exceeds a sum of Rs.7.5 lakhs. Just because an additional top up loan is sought for over and above Rs.7.5 lakhs, it may not be justifiable to direct the applicant to furnish the collateral security for the amount of Rs.7.5 lakhs also, the security for which amount has been explicitly exempted in the scheme.

8.In the light of the above observations, I am of the view that the respondents are entitled to seek for tangible collateral security only that the loan amount that exceeds Rs.7.5 lakhs.

8.In the result, this Writ Petition is allowed with liberty to petitioner to make a representation including co-obligation of parents together with tangible collateral security to the tune of the top up loan amount of Rs.2,50,000/- to the second respondent herein and on receipt of such representation along with co-obligation of parents together with tangible collateral security, the second respondent shall sanction the top up loan of Rs.2,50,000/- to the petitioner's son for pursuing the Pre-Graduation Internship of MBBS Course in Sichuan Medical University, China. Such an exercise shall be completed within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar (CS-II)

To:
The Senior Manager,
Indian Overseas Bank,
Ambalpuram,
Pudukkottai.

+1cc to Mr.G.Sridharan, Advocate, SR.No.74982
+1cc to Mr.Pala Ramasamy, Advocate, SR.No.75067

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