BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.3486 of 2018

Malarvizhi : Petitioner

Vs.

1. The Branch Manager,
   United Bank of India,
   Mahibalanpatti Branch,
   Mahibalanpatti Post,
   Thirupathur Taluk,
   Sivagangai District 630203.

2. The Regional Manager,
   United Bank of India,
   Southern Regional Office,
   Chennai 6000028.

3. The Lead Bank Manager,
   Indian Overseas Bank,
   Lead Bank Office, C Block, T.S.No.4/2-B,
   Tondi Road, Sivagangai 630 561. :Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondent to provide educational loan to the tune of Rs.4,00,000/-(Rupees Four Lakhs only) for the academic years 2016-2020 in favour of the petitioner's minor daughter M.Pavithra to continue her under graduation studies in B.Sc. Nursing in the Ganga College of Nursing, Coimbatore - 641 022 within the time period stipulated by this Court.

For Petitioner : Mr.S.Ajay Justice
for Mr.T.Lajapathi Roy

For R-1 : Mr.H.Arumugam

For R-2 : No appearance

For R-3 : Mr.N.DilipKumar

ORDER

This Writ Petition has been filed seeking to issue a Writ of Mandamus directing the respondent to provide educational loan to the tune of Rs.4,00,000/-(Rupees Four Lakhs only) for the academic years 2016-2020 in favour of the petitioner's minor daughter M.Pavithra to continue her under graduation studies in B.Sc. Nursing in the Ganga College of Nursing, Coimbatore-641 022.

2. Heard Mr.S.Ajay Justice learned counsel appearing for the petitioner, Mr.H.Arumugam, learned counsel appearing for the first respondent and Mr.N.DilipKumar, learned counsel appearing for the third respondent.

3. The grievance of the petitioner's daughter is that her application seeking for educational loan for a sum of Rs.4,00,000/-(Rupees Four Lakhs only) for studying B.Sc. (Nursing) in the Ganga College of Nursing, Coimbatore, is kept pending by the respondents herein without any justification and hence, the present writ petition has been filed.

4. Today, when the matter is taken up for hearing, the learned Standing Counsels appearing for the respondents 1 and 3 submitted that the petitioner's daughter application has been rejected on 10.11.2016, on the ground that his daughter had secured only 68.75% marks in the Higher Secondary Examination, which is below 70% as prescribed in their circular dated 03.08.2013. This Court already dealt with this aspect, wherein in an identical case, the bank had rejected the loan application on the ground that the cut off marks in the Higher Secondary Examination were less than the cut off marks prescribed under the bank's scheme. In this connection, the learned Standing Counsels appearing for the first and third respondents relied upon a Judgment reported in **2009 (2) CTC 401 [B.R.Harish Babu vs. Union of India]** and also submitted that the request of the petitioner therein for educational loan was rejected on the ground that the candidate had obtained only 70% marks, which is contrary to the educational loan scheme, and therefore, the discretion exercised by the bank cannot be interfered with under Article 226 of the Constitution of India.

5. This Court, by an order dated 04.10.2016 made in W.P. (MD).No.13134 of 2016, passed the following order:-

> ".....7.The issue involved in this writ petition is squarely covered by the Division Bench Judgment of this Court reported in 2014 (4) CTC 363 (Branch Manager, Indian Overseas Bank, Tirupur v. A.Ravi and others), wherein the Division Bench of this Court considered the

parameters laid down by IBA for sanction of educational loan and in para-6, it is held as follows:

"6. The recommendations of the IBA (Indian Bank Association) with regard to Eligibility Criteria, Expenses considered for sanction of loan, Quantum of Finance and the Security to be made for sanction of education loan are as follows:

"4. ELIGIBILITY CRITERIA:
4 .1 Student eligibility:

* The student should be an Indian National.
* Should have secured admission to a higher education course in recognized institutions in India or Abroad through Entrance Test/Merit Based Selection process after completion of HSC (10 plus 2 or equivalent). However, entrance test or selection purely based on marks obtained in qualifying examination may not be the criterion for admission to some of the post graduate courses or research programmes. In such cases, banks will have to adopt appropriate criteria based on employability and reputation of the institution concerned.

Note: It would be in order for banks to consider a meritorious student (who qualifies for a seat under merit quota) eligible for loan under this scheme even if the student chooses to pursue a course under Management Quota.
....
4.3 Expenses considered for loan:

i.Fee payable to college/school/hostel
ii.Examination/Library/Laboratory fee
iii.Travel expenses/passage money for studies abroad
iv.Insurance premium for student borrower, if applicable
v.Caution deposit, Building fund/refundable deposit supported by Institution bills/ receipts.
vi.Purchase of books/ equipments / instruments / uniforms
vii. Purchase of computer at reasonable cost, if required for completion of the course.
viii. Any other expense required to complete the course - like study tours, project work, thesis, etc.

ix. While computing loan required, scholarships, fee waiver, etc., if any available to the student borrower may be taken into account.

5. QUANTUM OF FINANCE:

Need based finance to meet the expenses worked out as per para 4.3 above will be considered taking into account margins as per para 6 subject to the following ceilings:

In the guidelines framed in the Review Meeting held on 27.9.2012, nowhere it is stated that education loan can be sanctioned only for those who have secured 60% and more marks."

8.Even in similar matters, this Court has also followed the above cited judgment. In my view, a student can not be deprived of the educational loan merely because he has not secured 60% marks in the Plus Two Examination and that he has taken admission in a private college. At the risk of repetition, it is to be stated that in the Review Meeting held on 27.9.2012, nowhere it is stated that education loan can be sanctioned only for those who have secured 60% and more marks."

6. With regard to the judgment relied upon by the learned Standing Counsel appearing for the first and third respondents is concerned, the said order may not be applicable to the present case, since the object of the original scheme set forth in the recommendations of the Indian Bank Association, was not discussed therein.

7. In my view, the respondents are not justified in rejecting the application by citing the marks secured by the petitioner's daughter in the Higher Secondary Examination. When the petitioner's daughter was able to obtain a seat for Nursing degree, the rejection of her loan application on the ground that she is secured less than 70% is without any basis. The circular that has been relied upon by the first and second respondents is also not in confirmity with the Indian Bank Association's guidelines. Furthermore, the circular itself is against the object of the scheme set forth by the Indian Bank Association's guidelines.

8. In the result, the order of the first respondent dated 10.11.2016, rejecting the petitioner's daughter's application seeking for educational loan is set aside and consequently, the matter is remitted back to the first respondent, who in turn shall process the educational loan application of the petitioner's daughter, namely, M.Pavithra, positively. In any event, the loan

shall be disbursed to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

9. Accordingly, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(WRITS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Branch Manager,
   United Bank of India,
   Mahibalanpatti Branch,
   Mahibalanpatti Post,
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3. The Lead Bank Manager,
   Indian Overseas Bank,
   Lead Bank Office, C Block, T.S.No.4/2-B,
   Tondi Road, Sivagangai 630 561.

+ 1 cc TO Mr.N.Dilip Kumar , Advocate in SR No. 74867
+ 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No.75096

SJI
SP/VB/KAK/SAR 1/07.08.2018/5P/6C

W.P.(MD)No.3486 of 2017
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