BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.6572 of 2017

and

W.M.P(MD)No.5157 of 2017

R.Manoj Kumar ... Petitioner

vs.

1.The Union of India,
Represented by the Secretary to
The Finance Ministry, New Delhi.

2.The Chief General Manager,
Central Office,
Indian Overseas Bank,
763, Anna Salai,
Chennai - 600 022.

3.The Chief Manager,
Indian Overseas Bank,
Advance Department,
Regional Office, Tirunelveli District.

4.The Branch Manager,
Indian Overseas Bank,
Pambukovil Shandy Branch,
Tirunelveli District.

5.The District Registrar,
Tirunelveli District. ... Respondents
(R-5 is suo motu impleaded vide Court order
dated 24.07.2018)

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 passed by the third respondent in his proceedings DEABD/E/2016/11033 dated 15.09.2016 and quash the same consequently direct the respondents to sanction the education loan of INR 40,00,000(forty lakhs) pending with the second respondent to petitioner to facilitate his higher studies.

For Petitioner	:	Ms.Ragaventheree for Mr.K.Prabhu
For R1	:	Mr.R.Murugappan
For R2 to R4	:	Mr.A.Thiagarajan for Palaramasamy
For 5	:	Mr.J.Gunaseelanmuthiah Additional Government Pleader

<u>O R D E R</u>

When the petitioner herein had applied for educational loan for a sum of Rs.40 lakhs so as to enable him to pursue the Master degree in Astrophysics at the University of Bristol, his request came to be rejected through an order dated 15.09.2016 passed by the fourth respondent. Challenging the same, the present writ petition has been filed.

2.As per the submissions of the learned Standing Counsel for the respondent bank, which are reiterated in the counter affidavit, the respondent bank, while considering the petitioner's application, had sought for a collateral security. Accordingly, the petitioner herein had offered an immovable property measuring about 2.65 acres comprised in S.Nos.99/2D and 100/3, situated at Vadanathampatty- Aryanayagipuram Road, Vadanathampatty , Veerasigamani Village Panchayat, Sankarankovil Taluk, Tirunelveli District. The respondent bank had then obtained a valuation report dated 26.09.2014, wherein the value of the property was opined as follows:

"Fair Market Value	:	Rs.34,63,000/-
Open Marker Value	:	Rs.37,00,000/-
Forced Sale Value	:	Rs.30,00,000/-
Comparable Value	:	Rs.32,25,000/-

3. Taking the forced sale value of Rs.30,00,000/- into consideration, the respondent bank had rejected the petitioner's request.

4. I am not in agreement with the said justification, in view of the fact that, while the petitioner's application was processed in the year 2014, the forced sale value was shown as Rs.30,00,000/-. Since three years had lapsed after the valuation report, this court had *suo motu* impleaded the District Registrar, Tirunelveli District for the purpose of ascertaining the present value of the properties furnished by the petitioner herein as collateral security. Pursuant to the directions of this Court, the

learned Additional Government Pleader produced a copy of the proceedings of Tahsildar, Sankarankovil, Tirunelveli District in e.f.vz;.M2/4490/2018, wherein the guideline value of the property comprised in Survey No.99/2D has been determined at Rs.25,73,250/- and for the property comprised in Survey No.100/3, the guideline value has been determined at Rs.16,06,000/-. As such the total guideline value for both the properties is Rs.41,79,250/-, which is over and above the loan amount claimed by the petitioner herein.

5. It is to be borne in mind that the scheme is a special scheme unlike the other loans extended by the respondent bank. The scheme is extended for the students who are financially unserved and as well as meritorious. In the instant case, the value of the property is over and above the amount arrived at by the valuer of the respondent bank. It is needless to point out that the value is only a guideline value and there is a possibility that the market value of the property could be much higher. Even otherwise, there is no clause in this scheme, which states that the value of the property must be much higher than the forced sale value.

6. In my view the guideline value if equivalent to the loan amount should be taken as a factor. The other reasoning given in the counter affidavit that the property is not situated in a conducive atmosphere cannot be a ground for rejection since there is no guideline to that effect under the IBA norms.

7. In view of the same, there is no justification on the part of the respondent to reject the petitioner's application for educational loan. In the result, the impugned order dated 15.09.2016 is set-aside. Consequently, the respondent is directed to process the petitioner's application by taking into account the immovable property furnished by him in Survey Nos. 99/2D and 100/3, Vadanathampatty- Aryanayagipuram Road, Vadanathampatty , Veerasigamani Village Panchayat, Sankarankovil Taluk, Tirunelveli District as a collateral security and thereby sanction the educational loan amount as Rs.40 lakhs. Such an exercise shall be done within a period of three weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-IV)

To

1.The Union of India,
The Secretary to the
Finance Ministry, New Delhi.

2.The District Registrar,
Tirunelveli District.

+1 CC To MR.K.PRABHU, Advocate SR. NO.76879
+1 CC To MR.R.MURUGAPPAN, Advocate SR. NO.76891
+1 CC To MR.PALA RAMASAMY, Advocate SR. NO. 77080
+1 CC TO The Special Government Pleader SR.NO. 77046

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