BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.7796 of 2017

P.Sivasubramanian : Petitioner

Vs.

The Manager,
Indian Overseas Bank,
Achanpudur,
Tirunelveli District. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order passed by the respondent Bank dated 15.03.2017 and quash the same and consequently direct the respondent to sanction and grant the Education Loan to the petitioner's son Piruthiv Raja pursuing Four Year (2016-2020) B.Sc., Nursing Course in Sardar Rajas College of Nursing, under Dr.M.G.R. Medical University, Thirurajapuram, Kavalkinaru Junction, Tirunelveli District.

For Petitioner : Mr.P.Saravanakumar
For Respondent : Mr.N.Dilip Kumar

ORDER

The petitioner has come forward with this Writ Petition seeking a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the respondent Bank dated 15.03.2017 and quash the same and consequently direct the respondent to sanction and grant the Education Loan to the petitioner's son Piruthiv Raja pursuing Four Year (2016-2020) B.Sc., Nursing Course in Sardar Rajas College of Nursing, under Dr.M.G.R. Medical University, Thiruuajapuram, Kavalkinaru Junction, Tirunelveli District.

2. Heard Mr.P.Saravanakumar, learned counsel appearing for the petitioner and Mr.N.Dilipkumar, learned Standing Counsel appearing for the respondent.

3. The petitioner's son who had obtained 44.5% of marks in Higher Secondary Examination, has been admitted to the course of

B.Sc., Nursing, Full Time Course in the Sardar Rajas College of Nursing, under M.G.R. Medical University, Thirurajapuram, Kavalkinaru Junction, Tirunelveli District. When the petitioner had made an application seeking for educational loan to the tune of Rs.3,67,000/-, the same has been rejected by the respondent herein on 15.03.2017, on the ground that as per the Vidya Jyothi Educational Loan Scheme, the minimum criteria of mark is 55%.

4. According to the norms governing educational loan under Vidya Jyothi Educational Loan Scheme, students who had not secured at least 60% marks (MBC) and 55% (SC/ST Category), are not eligible as per the respondent circular dated 24.06.2015. Challenging the same, the present writ petition has been filed.

5. The issue of fixation of the marks scored in the Higher Secondary Examinations as a criteria for grant of educational loan has come before this Court on various occasions and this Court had categorically held that imposition of such an eligibility condition is not permissible, in view of the recommendations of the Indian Bank Association. In one such order of this Court in W.P.(MD).No.13134 of 2016, dated 04.10.2016, it has been observed as follows:-

> ".....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. The above order is self explanatory. In the absence of any guidelines in the Indian Bank Association's recommendations, inclusion of such a condition in the Vidya Jyothi Educational Scheme is arbitrary and defeats the very object of the scheme.

7. Curiously, there is no logic on the part of the respondent to introduce such an onerous eligibility criteria in the Vidya Jyothi Educational Loan Scheme. The students, who had already secured a seat in the Colleges based on the marks scored in the Higher Secondary Examination, have approached the bank seeking for educational loan. When the college themselves have accepted the marks scored by the students and given them seat, there is no justification for the respondent Bank to quote the marks secured by the student as a disqualification. On the basis of the marks scored by the student, the admission has been granted and the fees required for tuition and other fees have been demanded by the college. While that being so, it is highly arbitrary for the bank to impose such a condition in the scheme. As such, the petitioner would be eligible for the educational loan, without reference to the Vidya Jyothi Educational loan scheme.

8. In the result, the writ petition stands allowed. The rejection order of the second respondent dated 15.03.2017 is quashed. Consequently, the respondent is directed to sanction the educational loan to the petitioner's son and disburse the same to the petitioner's son within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-I)

+ 1 CC TO Ms.P.KALAIYARASI BHARATHI, ADVOCATE IN SR No. 76156
+ 1 CC TO Mr.N.DILIP KUMAR, ADVOCATE IN SR No. 76174

GNS
TE/SKN/SAR-1 : 07/09/2018 : 4P/3C