BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.23706 of 2019

S.Selvakanagavalli ... Petitioner

Vs.

1.The Zonal Manager,
Corporation Bank,
1st Floor, Sivasakthi Complex,
No.174, 10th Cross West,
Thillai Nagar,
Trichy.

2.The Branch Manager,
Corporation Bank,
Bye Pass Road Branch,
Madurai. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the impugned order of the second respondent dated 09.12.2019 in Ref.MDUBPR/2078/OR/272/2019-20 and consequently, direct the respondents to sanction the educational loan to the petitioner's son M.S.Hemanthsiva, who is pursuing his I-year B.Tech. Chemical Engineering Course in V.S.B. Engineering College, Karur.

For Petitioner : Mr.R.Rajamohan
For Respondents 1 & 2 : Mr.B.Kasirajan
Standing counsel

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondents / Bank.

2.The writ petitioner's son Thiru.M.S.Hemanthsiva, got admission in B.Tech. Chemical Engineering Course in V.S.B. Engineering College, Karur, under Management quota during the academic year 2019-2020. The petitioner applied to the Respondent Bank for availing education loan to the tune of Rs.3,56,500/-. The tuition fees and other fees payable to the College comes to Rs.4,36,500/-. The petitioner's request was rejected by the

Respondent Bank on the ground that the petitioner's son had secured less than 60% marks in the pre-qualifying examination. This rejection is put to challenge in this writ petition. The petitioner wants this Court to direct the respondent Bank to sanction educational loan in favour of the petitioner's son.

3.The respondent Bank had filed a detailed counter affidavit. The stand of the respondent's is that since the petitioner's son did not obtain the eligibility mark in the pre-qualifying examination, and since the norms and guidelines laid down by the Reserve Bank of India were not satisfied, the request for educational loan was rightly rejected. The learned Standing counsel appearing for the respondent Bank reiterated the contentions set out in the counter affidavit.

4.Heard, the learned counsel on either side.

5.It is true that the model education loan scheme prescribed the condition that the student in order to be eligible for the loan should have scored minimum 60% in the qualifying examination for admission to graduation courses. But then this requirement had been dropped. This is evident from the communication bearing No.RPCD.PLNFS.BC.No.83/06.12.05/2000-01, dated 28.04.2001, issued by the General Manager of Reserve Bank of India.

6.The learned counsel appearing for the petitioner harps on this aspect. He also would draw my attention to the decision of the Hon'ble Division Bench reported in **2014(4) CTC P.363.** The Hon'ble Division Bench referred to the fact that when review meeting was subsequently held on 27.09.2012, it was nowhere stated that education loan can be sanctioned only for those, who have secured 60% and more marks. This decision of the Hon'ble Division Bench was followed in W.P.No.44649 of 2016 vide order, dated 14.02.2019. Therefore, there is considerable merit in the contention of the petitioner's counsel that the respondent Bank erred in insisting on obtaining of 60% marks in the qualifying examination. But the question is whether this is conclusive of the issue. In my view it is not so. While clause 4(ii) setting out the eligibility criteria underwent amendment in the year 2001, the other conditions namely, that the student should have secured admission to Professional / Technical courses, through entrance test / selection process is still holding the field, the said clause presently reads 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."

7. The respondent Bank had instead relied on a clause that had since been dropped. The respondent had not applied his mind in respect of the second criteria set out in clause 4.2.

8.The learned counsel appearing for the respondent also draws my attention to the decision reported in **AIR 2017 NOC 215 (76), Sekar Vs. The Regional Manager, Indian Overseas Bank and another**, in which, a learned Judge observed as follows :

> "8.The petitioner is seeking for a Mandamus to grant educational loan for his daughter. It is not in dispute that the petitioner's daughter has obtained only 49% mark in the qualifying H.SC. examination. No doubt, the petitioner's daughter has got admission in the Nursing course in the above-said private college under management quota. But at the same time, it is not in dispute that the scheme under which, the petitioner is seeking educational loan, stipulates the eligibility criteria for seeking loan as follows:-
>
> "1.ELIGIBILTY CRITERIA:
>
> 1.1.Eligibility of Student:
>
> - Should be an Indian National
>
> - Should have secured admission to higher education course in recognized institutions in India through Entrance Test/Merit Based Selection process after completion of HSC (10 plus 2 or equivalent).
>
> - In the states where there is no common entrance test (CET) the applicant must secure 60% for others and 55% for SC/ST students in the qualifying examination as Cut-off marks."
>
> 9.The fact remains that the petitioner has not chosen to challenge the above-said scheme and on the other hand, he is seeking for issuance of Mandamus only. Even otherwise, the question whether the respondents are justified in prescribing such eligibility criteria, namely, fixing minimum marks

for extending the educational loan, has already been considered by the learned single Judge of this Court in his order dated 12.12.2011 made in W.P(MD)No.10425 of 2011. It has been observed therein that the prescription of 60% marks in the qualifying examination, for a student admitted under the management quota, to be eligible for the grant of educational loan, cannot be found fault with. The above-said decision was confirmed by the Division Bench of this Court in a decision reported in **2012 W.L.R. 640** (as cited supra).

10.No doubt, the learned counsel appearing for the petitioner relied on a decision of the another Division Bench of this Court reported **2014(4) CTC 363** (as cited supra) in support of his submission. But a careful perusal of the above-said decision would show that the relevant guidelines framed in that particular case did not stipulate that the educational loan can be sanctioned only for those who have secured 60% and more marks. Therefore, the Division Bench found that in the absence of any prescription of the minimum mark, the concerned bank therein cannot refuse to grant the educational loan. In this case, the facts are totally different as stated supra. The relevant scheme herein stipulates specifically the eligibility criteria by fixing the minimum marks in the qualifying examination. Therefore, I find that the above decision of the Division Bench relied on by the petitioner is not helping him in any manner. On the other hand, I find that the decision made in W.P(MD)No.10425 of 2011 confirmed in Writ Appeal reported in **2012 W.L.R. 640** (as cited supra) squarely applies to the present case against the petitioner. Hence, I find no merits in this writ petition for issuing Mandamus as sought for."

9. Therefore, even while quashing the order, impugned in the writ petition, the matter is remitted to the file of the respondent Bank to reconsider the issue afresh and in accordance with the aforesaid guidelines. The respondent will take a decision within a period of three weeks from the date of receipt of a copy of this order.

10. It is submitted by the learned counsel on either side that the Corporation Bank has since merged with Union Bank of India. Therefore, the corresponding Authority will take a call in the matter within the time stipulated above.

11.This Writ Petition is allowed on these terms. No costs.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Zonal Manager,
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2.The Branch Manager,
Corporation Bank,
Bye Pass Road Branch,
Madurai.

+1 CC to Mr.R.RAJAMOHAN, Advocate (SR-17626[F] dated 21/09/2020)
+1 CC to Mr.B.KASIRAJAN, Advocate (SR-17597[F] dated 21/09/2020)

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CS(22.09.2020) 5P 5C