IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.12.2021
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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24412 of 2021
And
W.M.P.No.25732 of 2021

G.B.Sai Kiran ... Petitioner

Vs.

1.The Assistant General Manager
State Bank of India
Retail Assets Centralised Processing Centre,
No.50, AR Plaza, Mount Poonamallee High Road,
Ayyappanthangal,
Chennai – 600 056.

2.The Manager,
State Bank of India,
Paruthipattu Branch,
Chennai – 600 071. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned letter dated 02.07.2021 issued by the first respondent and quash the same as unconstitutional, illegal and direct the respondents to sanction the educational loan of Rs.4,40,000/- to me to complete B.E. Mechanical Engineering in Sri Sai Ram Engineering College, Leo Nagar, West Tambaram, Chennai.

For Petitioner : Mr.R.Sreedhar
For Respondents : Mrs.R.S.Sumathy for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned letter dated 02.07.2021 issued by the first respondent and to quash the same as unconstitutional, illegal and to direct the respondents to sanction educational loan of Rs.4,40,000/- to the petitioner to complete B.E. Mechanical Engineering in Sri Sai Ram Engineering College, Leo Nagar, West Tambaram, Chennai.

2.The learned counsel appearing for the petitioner would submit that the petitioner completed Diploma in Mechanical Engineering at Murugappa Polytechnic College, Sathyamurthy Nagar, Chennai - 600 062 during the academic year 2018-19 and secured 85.20% marks. Thereafter, he applied for B.E.Mechanical Engineering in Sri Sai Ram Engineering College, Leo Nagar, West Tambaram, Chennai and got second year lateral entry seat in Government quota for the academic year 2019-20.

3.The learned counsel appearing for the petitioner would further submit that thereafter, the petitioner applied for educational loan to the second respondent and since the said application was rejected without any reason, the petitioner filed W.P.No.17533 of 2021 before this Court and pursuant to the order dated 24.08.2021, passed in the said writ petition, the first respondent passed the impugned letter dated 02.07.2021 stating that the loan application was rejected since the petitioner's father possess only 628 CIBIL score. The learned counsel would further submit that the petitioner's father's loan was write off by the respondent Bank and hence, citing the CIBIL score and rejecting the petitioner's application is un-sustainable one.

4.In support of his contentions, the learned counsel appearing for the petitioner relied upon the decision of this Court made in W.P.No.6286 of 2011 dated 18.08.2011 (Miss.S.Hannah Dotris Vs. Assistant General Manager, State Bank of Mysore).

5.The learned counsel appearing for the second respondent would submit that the petitioner's father is a defaulter and he has only 628 out of 685 CIBIL score and would further submit that the petitioner's father is a defaulter of two loans and that was not mentioned in the impugned letter and would further submit that if a person possess only 628 out of 685 CIBIL score, then his son is not eligible for getting educational loan.

6.In support of her contentions, the learned counsel appearing for the second respondent relied upon the decision of the Division Bench of this Court, wherein I was a party in the Division Bench made in W.A.No.1499 of 2018 dated 25.07.2018 (A.Deepika Vs. The Branch Manager, State Bank of India).

7.Heard the submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the second respondent and perused materials placed on record.

8.The facts in the present case is not in dispute. Admittedly, the petitioner completed Diploma in Mechanical Engineering at Murugappa Polytechnic College, Sathyamurthy Nagar, Chennai – 600 062 during the academic year 2018-19 and secured 85.20% marks. Thereafter, he applied for B.E.Mechanical Engineering in Sri Sai Ram Engineering College, Leo Nagar, West Tambaram, Chennai and got second year lateral entry seat in Government quota for the academic year 2019-20. Thereafter, the petitioner applied for educational loan to the second respondent, however, the said application was rejected on the ground that the petitioner's father possess only 628 CIBIL score.

9.The learned Single of this Court in the decision made in W.P.No.6286 of 2011 dated 18.08.2011 (Miss.S.Hannah Dotris Vs. Assistant General Manager, State Bank of Mysore) has elaborately discussed the policy of the Government for granting educational loan and ultimately arrived at a conclusion that default referred against student's parents cannot be cited as reason for denying educational loan to the student. The relevant portion of the said decision reads as follows:

> "7. The issue, which has to be decided is as to whether, the petitioner can be denied education loan on the ground that her father was defaulter in another transaction with the respondent bank. Before we examine the rival claims, it is necessary to have a broad view about the policy decision taken by the Government in this regard.
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> 8.Based on the policy decision of Government of India, the Model Education Loan Scheme was announced during the month of November 2007. Under the scheme, it has been stated that Education is central to the Human Resources Development and empowerment in any country. National and State level policies are framed to ensure that this basic need of the population is met through appropriate public and private sector initiatives. While government endeavour to provide primary education to all on a universal basis, higher education is progressively moving into the domain of private sector. With a gradual reduction in government subsidies higher education is getting more and more costly and hence the need for institutional funding in this area. It has been further stated that the scope of education has widened both in India and abroad covering new courses in diversified areas. Development of human capital is a national priority and it should be the endeavour of all that no deserving student is denied opportunity to pursue higher education for want of financial support. Loans for education should be seen as an investments

for economic development and prosperity. Knowledge and information would be the driving force for economic growth in the coming years. It has also been stated that based on recommendations made by a study Group, IBA had prepared a Model Educational Loan Scheme in the year 2001 which was advised to banks for implementation by Reserve Bank of India vide circular

No.RPCD.PLNFS.BC.No.83/06.12.05/2000-01 dated April 28, 2001 along with certain modifications suggested by the Government of India. In line with the announcement made by the Hon'ble Finance Minister in his Budget Speech for the year 2004-05, IBA had communicated certain changes in the security norms applicable to educational loans with limits above Rs.4 lakhs and up to Rs.7.5 lakhs.

9.With the above mentioned avowed object, the Model Scheme was prepared based on the suggestions of the Study Group. The object of the scheme was that every meritorious student though poor is provided with an opportunity to pursue education with the financial support from the banking system with affordable terms and conditions.

11.Admittedly, the principal borrower insofar as the education loan is concerned is the student, who avails the loan. It is brought to the notice of this Court by the learned counsel for the petitioner that it is the petitioner, who has to repay the loan after the completion of her course of study and the bank gives moratorium for the repayment of the loan. Therefore, it is contended that the position of the co-obligant / co-borrower is hardly a factor, which could be basis for rejection of an application. Identical issue as in this case came up for consideration before this Court in W.P.No.12432 of 2011 [R.Sahana vs.

The manager, Oriental Bank of Commerce and others] and the learned Judge (Justice D.Hariparanthaman), while considering the similar case, where the student's father was a defaulter in respect of a loan availed by him, after analyzing the scheme relating to the education loan, which was produced by the respondent bank therein held as follows:-

> 10.According to the Bank, since the petitioner's parents became defaulters and their loan accounts became NPA, the Bank could not disburse the educational loan to the petitioner.

11.In my view, the educational loan could not come within the purview of the loan that is mentioned in the Loan Policy Review and Modification (2009-10) produced by the Respondents Bank. If the petitioner's parents want the disbursal of any loan amount even after they became defaulters, the Bank could refuse to disburse the amount. In this case, it is not the request of the petitioner to disburse the loan to her parents. On the other hand, it is her case that the sanctioned educational loan should be disbursed to her and the same cannot be stopped citing that her parents became defaulters. In my view, the submissions made by the learned counsel for

the petitioner is well founded and the respondents Bank could not stop the educational loan that too for the final year. If the arguments of the Bank is accepted, the same could not advance the object of the scheme providing assistance by way of educational loan. If the Bank refuses to disburse the loan for the 4th year, that would frustrate the very purpose of the scheme and if the petitioner discontinues her studies at the final year, the loan amount so far paid without security could become sticky. Even for the interest of the Bank, they should see that the loanee student completes education so that the Bank could get back the loan advanced. Though the parents are to be made as co-applicants, it is stated in the scheme that irrespective of their means, loan upto Rs.4,00,000/- should be sanctioned without any security. Further, as per the scheme, repayment has to be made by the petitioner student. Repayment clause states that repayment has to be made twelve months after completion of the course or six months after getting job, whichever is earlier. The clause relevant to the repayment is extracted herender:

"Repayment In 84 months in Equated Monthly Installments.

Moratorium Period

12 months after completion of the course or 6 months after getting the job, whichever is earlier.

> Regional Heads are empowered to permit extension in study period upto a maximum of two years, in cases where the student is not able to complete the course/ study for reasons beyond his/ her control after examining the facts and genuineness of the case.
>
> Note: In the cases where loan has been sanctioned for the two/ dual courses, moratorium period may be considered after completion of the studies as per the extant guidelines."
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> 12.Therefore, the Bank is not justified in refusing to disburse loan to the petitioner for the final year on the ground that her parents became defaulters. Hence, I am inclined to direct the respondent Bank, to forthwith disburse of the loan to the 3rd respondent college payable for the final year B.Tech Course of the petitioner The writ petition is disposed of in the above terms. No costs."

10.The Division Bench of this Court, wherein I was a party in the Division Bench in the decision rendered in W.A.No.1499 of 2018 dated 25.07.2018 (A.Deepika Vs. The Branch Manager, State Bank of India) rejected the request of the appellant therein for grant of educational loan on the ground that the appellant therein was admitted on Management quota and not on Government quota and merits. Hence, the said decision is not applicable to the present case on hand.

11.In view of the ratio laid down by the learned Single of this Court in the decision made in W.P.No.6286 of 2011 dated 18.08.2011 (Miss.S.Hannah Dotris Vs. Assistant General Manager, State Bank of Mysore), I am inclined to set aside the impugned letter and remand the matter back for fresh consideration.

12.Accordingly, the impugned letter dated 02.07.2021 issued by the first respondent is set aside and the matter is remanded back to the respondents for fresh consideration of the loan application submitted by the petitioner. The respondents are directed not to refer the petitioner's father's default as the same has been subsequently write off and further directed to take a decision for granting loan in terms of the Central Government Scheme and in accordance with the RBI guidelines.

13.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant General Manager
State Bank of India
Retail Assets Centralised Processing Centre,
No.50, AR Plaza, Mount Poonamallee High Road,
Ayyappanthangal,
Chennai - 600 056.

2.The Manager,
State Bank of India,
Paruthipattu Branch,
Chennai - 600 071.

+1 cc to Mr.R.Sreedhar, Advocate Sr.NO. 67452

W.P.No.24412 of 2021
And
W.M.P.No.25732 of 2021

MG(CO)
A.SK(30.12.2021)