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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.01.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 34400 OF 2019

C.Ashok Kumar

.. Petitioner

- Vs -

1. The Registrar
Anna University, Guindy
Chennai 600 025.
2. The Commissioner of Technical Education
The Directorate of Technical Education
No.53, Sardar Patel Road
Guindy, Chennai 600 025.
3. The Branch Manager
Indian Bank
SCSVMV University Branch
Enathur, Kancheepuram - 631 561.
4. The Principal
Rajalakshmi Engineering College (REC)
Thandalam, Chennai 602 105.
5. Permanent Committee constituted for
fixation of fee for Private Professional
Educational Institutions, rep. by its
Secretary, Higher Education Department
Chennai 600 009.
6. The Director
Adi Dravidar & Tribal Welfare
Directorate, Chepauk
Chennai 600 005.
(RR-5 & 6 impleaded vide order dated
22.1.2020 made in WMP 1250/2020)

.. Respondents

Writ Petition has been filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st and 2nd respondents to consider the representation sent to them and to recover from the 4th respondent the entire education fee paid to the 4th respondent



under various heads during the course and along with interest and other incidental charges incurred by the petitioner on the educational loan account and refund the same to the petitioner to enable him to pay the outstanding loan amount.

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For Petitioner : Mr. Leo Valan L

For Respondent: Mr. L.P.Shanmugasundaram Spl. GP for R-1
Mr. P.Gurumurthy, AGP for RR-2, 5 & 6
Mr. N.Ramakrishnan for R-4
Mr. S.R.Sumathi for R-3

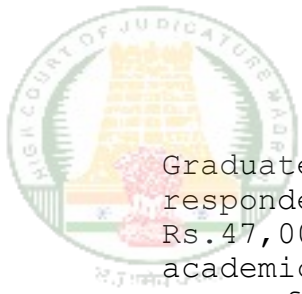
ORDER

The present petition has been filed by the petitioner for direction to respondents 1 and 2 to take action against the 4th respondent for recovery of the entire education fee paid to the 4th respondent under various heads during the course and along with interest and other incidental charges incurred by the petitioner on the educational loan account and refund the same to the petitioner to enable him to pay the outstanding loan amount.

2. It is the case of the petitioner that through lateral entry, the petitioner had joined B.E. (Mechanical Engineering) in the 4th respondent college in the year 2011-2012 and completed the said course in the year 2013-2014. It is the further case of the petitioner that he belongs to economically weaker section of society and is the first generation graduate from his family. The petitioner was admitted to the 2nd year Mechanical Engineering course through single window system of counselling and was provided with fee structure approved by the 5th respondent.

3. It is the further case of the petitioner that he was entitled to various scholarships, waiver and/or refund of the annual educational fee under the various schemes sponsored by the State and the Central Governments through the G.O. Ms. No.85, Higher Education (J2) Dept., dated 16.4.2010, G.O. Ms. No.142, Higher Education (J2) Dept., dated 9.6.10, G.O. Ms. No.06, Adi Dravidar & Tribal Welfare (ADW-1) Dept. dated 9.1.2012 and G.O. Ms. No.92, Adi Dravidar & Tribal Welfare (ADW-1) Dept., dated 11.09.2012.

4. It is the further averment of the petitioner that the 4th respondent college collected fees over and above the fees fixed by the 5th respondent for the seats filled up through the Government quota. It is the further averment of the petitioner that the fee structure-cum- bona fide issued by the 4th respondent college though stated that an amount of Rs.20,000/- each every year would be waived under the First Generation



Graduate Scheme, yet, in contravention of the same, the 4th respondent college collected fees to the tune of Rs.48,000/-, Rs.47,000/- and Rs.47,000/- respectively towards fees for the academic years 2011-2012, 2012-2013 and 2013-2014. It is the case of the petitioner, that in all, the petitioner had paid a sum of Rs.1,42,000/- towards the entire course fee, though as per the schemes and the eligibility of the petitioner, the petitioner was entitled for complete waiver of the fees paid towards tuition fees. It is the further averment of the petitioner that in all, a sum of Rs.1,20,000/- has been paid by reimbursed by the Directorate of Technical Education in respect of each student who are entitled for the benefits of the aforesaid schemes, but curiously, the 4th respondent, though had received the amounts, have not paid the amounts in its entirety to the petitioner, thus, unjustly enriching itself twice by receiving tuition fees from the petitioner, once through the bank in the form of educational loan obtained by the petitioner and the other in the form of the reimbursement made with regard to the petitioner under the various schemes.

5. It is the further averment of the petitioner that the amount of Rs.40,000/- was paid by the bank with respect to the petitioner in pursuant to the educational loan availed by him and the amount was disbursed on various dates to the account of the 4th respondent. It is the further averment of the petitioner that due to the aforesaid act of the 4th respondent, the petitioner was made to suffer the payments to be made towards the educational loan, including interest, though the petitioner was entitled to interest subsidy during the period of moratorium as per the schemes floated by the Central Government. In spite of the oral and written representations to the 3rd respondent to take necessary action to reverse the interest charged during the moratorium period, however, there was no response. The petitioner was made to run from pillar to post in the form of multiple demand notices and multiple petitions before different forums, including the Lok Adalat, which had caused grave harm and prejudice to the petitioner. In spite of the various representations sent to the various authorities along with proof thereof, including lodging of criminal complaint, none of the said representations elicited proper response, which has resulted in the petitioner filing the present petition before this Court for the relief supra.

6. Learned counsel appearing for the petitioner submitted that pursuant to the selection of the petitioner through lateral entry in the second year in the 4th respondent college, the petitioner obtained educational loan to continue his studies, but had also applied under the various schemes of the Central and State Government and the petitioner was provided with scholarship under the First Generation Graduate Scheme and SC/ST



community and the amount towards the said scholarship was sent directly to the college by the 6th respondent. The petitioner had also paid the fees from the educational loan obtained from the 3rd respondent bank, which was paid in the form of demand draft. In spite of dual payment having been made, the 4th respondent had not reimbursed the amount received towards the scholarship in spite of very many requests and legal notices issued to the 4th respondent.

7. It is the further submission of the learned counsel for the petitioner, that the petitioner being from a very economically weaker section of the society, was provided with scholarship by the Government, but the 4th respondent has usurped the amount without returning the same back to the petitioner. Though the petitioner caused multiple legal notices to the 4th respondent, except for seeking time for the first notice, there was no reply from the 4th respondent. It is the further submission of the learned counsel for the petitioner that due to the act of the 4th respondent in not returning the amount, the petitioner was not only made to suffer monetarily, but was made to face very many legal proceedings in the form of Lok Adalat, etc.

8. It is the further submission of the learned counsel for the petitioner that the 6th respondent has categorically stated that they have paid the amount to the credit of the college/4th respondent and that being the position, it is the duty of respondents 1 and 2 to see to it that the amount, which is the rightful share of the petitioner, ought to be refunded by the college back to the petitioner. Since no action was forthcoming from respondents 1 and 2 for the representation submitted by the petitioner, this Court may pass appropriate directions to respondents 1 and 2 to take action on the 4th respondent college and enable the petitioner to get back the money from the 4th respondent.

9. Per contra, learned counsel appearing for the 3rd respondent, relying on the counter filed on behalf of the 3rd respondent, submitted that the bank had sanctioned a sum of Rs.1,20,000/- to the petitioner as educational loan and further to the said approval of educational loan, demand drafts were issued in favour of the college on 18.5.2012 and 6.6.13. It is the further submission of the learned counsel that pursuant to the provision of scholarship facility to the petitioner by the Government under the First Generation Graduate Scheme and SC/ST community scheme, through the various Government Orders, in and by which the tuition fees of the petitioner was taken care of by the Government, the respondent bank had requested the college authorities to refund the amount back to the bank towards the tuition fees of the petitioner. It is the further submission of



the learned counsel that neither the petitioner nor the 4th respondent paid the amount received towards the tuition fees of the petitioner back to the bank, which the bank is due and rightfully entitled to receive. It is the further submission of the learned counsel that scholarship having been granted to the petitioner, the amounts received to that extent would not be entitled for moratorium and that the bank is entitled to take strenuous action for any lapse on the part of the petitioner.

10. Learned counsel appearing for the 4th respondent, placing reliance on the counter filed, submitted that the 4th respondent has been collecting fees only as per the fees fixed by the 5th respondent. It is the further submission of the learned counsel that in addition to the tuition fees, certain amounts are charged as value addition fees for providing value added programs to the students. It is the further submission of the learned counsel that the petitioner received scholarships to the tune of Rs.32500/- for three years of which Rs.20,000/- for the first and second years were for the First Generation Graduate Scholarship amount and Rs.12,500/- for the first and second year and Rs.32500/- for the third year through SC & ST scholarship amount of which a total amount of Rs.38,200/- was paid to the petitioner on 25.06.2012 (Rs.11,480/-), 15.5.2013 (Rs.7,620/-), 28.11.2013 (Rs.6,600/-) and 17.02.2016 (Rs.12,500/-). It is the submission of the learned counsel that there is no amount due from the 4th respondent college to the petitioner.

11. Learned counsel appearing for the 6th respondent, placing reliance on the counter affidavit, submitted that an amount of Rs.32,500/- (Rs.20,000 + Rs.12,500) has been approved and credited to the account of the educational institution for the years 2011-2012, 2012-2013 and 2013-2014 and an amount of Rs.6,600/= for each of the aforesaid three years has been credited to the account of the student. It is the further submission of the learned counsel for the 6th respondent that the amount having been sanctioned and paid to the 4th respondent college, if at all the petitioner has any grievance, the petitioner has to approach the 4th respondent college to get the refund by filing necessary representation and the same cannot in any way be considered by the 6th respondent.

12. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and also perused the materials available in the typed set of records as also the counter affidavit and also the attendant documents filed along with the said counter.



13. There is no dispute about the fact that the petitioner was a student of the 4th respondent college, having been admitted through the Government counselling and admitted in the B.E. (Mechanical Engineering) course. It has also not been disputed that the petitioner has been granted First Generation Graduate Scholarship and SC & ST scholarship in terms with the various Government Orders issued by the State Government. It is also not in dispute that the petitioner had applied for educational loan with the 3rd respondent, which was sanctioned to the tune of Rs.1,20,000/- and the bank has also disbursed the amount towards the tuition fees directly to the 4th respondent college by way of Demand Drafts.

14. The moot question that arises in the aforesaid factual scenario is whether the 4th respondent college has received fees relating to the petitioner both from the 3rd respondent bank from out of the educational loan approved to the petitioner and also from the 6th respondent from out of the scholarship granted to the petitioner. If the answer to the question is in the affirmative, what is the relief to which the petitioner is entitled to.

15. As already pointed out above, the tuition fees has been paid directly to the 4th respondent college, by way of demand draft by the 3rd respondent bank and by way of cheque by the 6th respondent, which the college is also not disputing. The said fact stands established even through the very own document of the 4th respondent college, which has been provided by the 4th respondent college in response to the query made by the 1st respondent. The said letter pertains to the query made by the Legal Coordinator of the 1st respondent, on the basis of the representation of the petitioner and in response to the para-wise remarks to the present writ petition. Vide the said letter, while the 1st respondent has stated that the petitioner belongs to SC/ST community and, therefore, he was given the benefit of G.O. (Ms.) No.92, Adi Dravidar & Tribal Welfare (ADW-1) Dept., dated 11.09.2021 and, therefore, he need not pay the educational fee and that if already fee has been paid, the same to be reversed and refunded back to the source of payment. It is evident from the said letter that in response to the communication received from the 3rd respondent bank with regard to provision of scholarship and for reimbursement of the educational loan taken by the petitioner and for refund of the principal amount. With regard to the above, the details were provided by the college vide their letter dated 3.1.2020, wherein the details of fees disbursed to the petitioner for the period of study between 2011-2012 to 2013-2014 has been provided.



16. A perusal of the account statement maintained by the college with regard to the petitioner, which has been furnished by the college to the 1st respondent reveals that the 4th respondent college had received the amounts towards the first graduate concession and also SC/ST scholarship and maintenance fees from the 6th respondent of which the the SC/ST scholarship and maintenance fees have been paid to the petitioner through various instruments. However, the said statement reveals that for the years 2011-2012 and 2012-2013, the 4th respondent has stated that no amount has been received from the student towards fees to the tune of Rs.20,000/- and the amount received from the 6th respondent has been adjusted on the said head.

17. From the above, it is categorically evident that the 4th respondent has received an amount of Rs.20,000/- towards tuition fees from the 6th respondent on account of the petitioner for two years, though the 6th respondent, in its counter has categorically stated that for three years, tuition fees with regard to the petitioner has been borne by the Government, which has been disbursed to the 4th respondent.

18. Be that as it may. The 3rd respondent bank, in its counter, has stated that the petitioner was granted educational loan and an amount to the extent of Rs.40,000/- for each year has been given to the 4th respondent college by way of demand draft. However, the counter of the 4th respondent is silent on the aspect relating to the receipt of the demand drafts given by the bank pertaining to the tuition fees of the petitioner. It is nowhere the case of the 4th respondent that it has not received any payment from the bank. Further, the receipt of the amount by the 4th respondent college stands established by the fact that vide letter dated 27.12.14, the 3rd respondent bank had addressed the college bringing to their knowledge about the disbursal of the amount vide two different demand drafts and also pointing out the fact that an amount of Rs.40,000/- (Rs.20,000/- for each year - 2011-2012 and 2012-2013) have been sanctioned as scholarship and the 4th respondent was requested to take action to claim the said amount and reimburse the same to the bank. This letter has emanated from the branch attached to the said college. However, no communication seems to have been sent from the college to the aforesaid letter. Neither the college has said that it has not received any money from the bank nor the college has said that it has not received any money from the 6th respondent. However, the fact remains that the 4th respondent college had received the scholarship amount from the 6th respondent, which stands established from the discussion above. Therefore, this Court holds that the 4th respondent college has received fees relating to the petitioner both from the 3rd respondent bank from out of the educational loan approved



to the petitioner and also from the 6th respondent from out of the scholarship granted to the petitioner.

19. Once this Court has rendered an affirmative finding as above, the consequences from the same should flow to the petitioner. In this regard, it is to be pointed out that due to the fact that the 4th respondent college had held the money, which is due to the petitioner for being reimbursed to the 3rd respondent bank, the petitioner has been made to suffer ignominy, in that the petitioner has been visited with notices both legally and also from the Lok Adalat and had been pestered to such an extent, as if the petitioner has flown away with the money from the bank. For no fault of the petitioner, the petitioner has been made to suffer the mental ordeal and also the monetary ordeal by the bank not extending the period of moratorium. The petitioner cannot claim extension of the period of moratorium, but definitely the petitioner is entitled to the amount from the college, which, if it had been reimbursed at the earliest point of time would not have resulted in the situation faced by the petitioner and also the resultant monetary loss in the form of interest and penal interest. The said sufference of the petitioner definitely warrants compensation at the hands of the 4th respondent college towards interest for the amount being held by the 4th respondent, which was due to be paid to the petitioner towards reimbursement of the bank loan.

20. In the aforesaid facts and circumstances of the case, this Court directs respondents 1 and 2 to take appropriate action against the 4th respondent college for the wrongful withholding of the amount given towards financial assistance of the petitioner by the Government and the 4th respondent college is directed to return the amount of Rs.60,000/- (Rs.20,000/- for each year) along with interest at 7.5% per annum from the date of receipt of the amount by the college from the 6th respondent till the date of payment to the petitioner. Since the non-payment of the money taken towards educational loan by the petitioner from the 3rd respondent bank was not due to any fault of the petitioner, though this Court is conscious of the fact that period of moratorium cannot be extended for the cause of the petitioner alone, taking into consideration the aforesaid circumstances pointed out above, the higher authorities in the bank may look into the case of the petitioner for waiver of interest over and above the interest granted by this Court above so that the petitioner, who is from a economically weaker section of the society, can breathe a bit atleast after such a belated point of time.



21. This writ petition is disposed of with the aforesaid observations and directions. In the circumstances of the case, there shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

skt/GLN

To

1. The Registrar
Anna University, Guindy
Chennai 600 025.
2. The Commissioner of Technical Education
The Directorate of Technical Education
No.53, Sardar Patel Road
Guindy, Chennai 600 025.
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Chennai 600 009.
6. The Director
Adi Dravidar & Tribal Welfare
Directorate, Chepauk
Chennai 600 005.

+1cc to Mr.Leo Valan L, Advocate SR.No.58786

+1cc to M/s.Waraon Sai Rams, Advocate SR.No.58255

+2cc to Government Pleader SR.No.5254, 5164

W.P. NO.34400 OF 2019

JPL (CO)

GMV (15/03/2022)