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jks/
saswata 12.05.2022

**FMA 314 of 2022**
**With**
**CAN 1 of 2021**

**Smt. Chandana Laru**
**Vs.**
**Union of India & Ors.**

Mr. Achyut Basu
Ms. Sonam Basu
Ms. Punam Basu
Mr. Srikumar Chakraborty
… … for the appellant
Ms. Mary Datta
… … for the Union of India
Mr. Debashis Saha
Ms. Dipika Banu
… … for the respondent nos. 5 to 8

By this appeal writ petitioner has challenged the order of the learned Single Judge dated 14.09.2021 whereby WPA 13052 of 2021 has been dismissed.

The appellant had filed writ petition questioning the communication dated 07.11.2020 whereby the educational loan application of the appellant was rejected.

The appellant's plea before the learned Single Judge was that after passing the requisite qualifying examination she had taken admission in East West School of Nursing, Bengaluru and is pursuing studies therein. She had approached the respondent/ bank for grant of financial assistance/ loan for a sum of ₹3,50,500/- but the application was wrongly rejected.

Learned Single Judge has considered the educational loan Scheme of the bank and has noted that the financial support is provided to the meritorious students for pursuing higher studies in India or abroad and has also taken note of the fact that the appellant had secured only 49 per cent marks i.e. below 50 per cent marks. Therefore, she was not found eligible for the loan. Hence, the learned Single Judge has refused to interfere in the order of rejection and has dismissed the writ petition.

Leaned counsel for the appellant has submitted that the appellant is entitled to the loan and the application cannot be rejected only on the ground that she had obtained 49 per cent instead of 50 per cent and in support of his submission he has placed reliance upon the learned Single Bench judgment of the Kerela High Court dated 9th July, 2021 in WP(C) 6593 of 2021 in the matter of Devika Soniraj versus the Zonal Manager, Bank of India and another.

Learned counsel for the respondent / bank has opposed the writ petition and has submitted that as per the Scheme, the financial assistance is to be extended to the meritorious students and that in order to have a uniform policy the bank has devised a software i.e. Loan Originating Software with a cut off marks of 50 per cent and since the appellant had secured less than 50 per cent, therefore she has not been found to be eligible and her application has been rejected. It is also pointed out by the learned counsel for the bank that it is an unsecured loan, therefore merit criteria is required to be applied.

We have heard the learned counsel for the parties and perused the record. The Model Education Loan Scheme for pursuing higher education in India and abroad issued by the Indian Banks' Association which has been placed on record clearly states that the objective of the Scheme is outlined to provide financial support from the banking system to the meritorious students for pursuing higher education in India or abroad.

The eligibility condition mentioned in the Scheme is required to be read in consonance with the object of the Scheme and even otherwise note therein clearly mentions that it would be for the banks to consider if a meritorious student (who qualifies for a seat under merit quota) is eligible for loan under this Scheme even if the student chooses to pursue a course under Management Quota.

Undisputedly, in this case the appellant had secured only 49 per cent marks in the qualifying examination and therefore the loan application has been returned by rejecting the case by communication dated 07.11.2020 which clearly records the reasons for rejection. It mentions that the appellant's RSM score achieved in LOS is less than 50.

So far as the judgment in the matter of Devika Soniraj versus the Zonal Manager, Bank of India and another is concerned though the said judgment has only persuasive value but we have perused the judgment and we find that the learned Judge in that case also had taken note of the various schemes and had reached to the conclusion that the object of the Educational Loan Scheme formulated by the bank in compliance with the circular issued by the Reserve Bank of India having statutory force is to ensure that meritorious students should not be deprive of the opportunity to pursue higher education merely on the ground that he/she does not have resources for the same. In that case, learned Single Judge had granted relief taking note of the fact that the petitioner therein was allotted seat in BAMS course through the centralised allotment process of the State Government on the basis of her rank in the National Eligibility Entrance Test. Hence, that was the case for seeking loan on merit.

Hence, the judgment relied upon by the learned counsel for the appellant cannot be applied in the present case where the rejection is on the ground of not meeting the merit criteria.

Having regard to the above factual and legal position we are of the opinion that no error has been committed by the learned Single Judge in dismissing the writ petition. We find no ground to interfere in this appeal which is accordingly dismissed.

The connected application is also dismissed.

**(Prakash Shrivastava, C.J.)**

**(Krishna Rao, J.)**