07.07.2022
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Sl. No. 05
Ct. No. 05

WPA 9696 of 2022

Miss Sudeshna Banik
-Versus-
The Government of West Bengal & Ors.

Ms. Sudeshna Banik
..... petitioner-in-person

Mr. Naren Ghosh Dostidar
.... for the State

Mr. Debasish Saha
Mr. Moniruzzaman
.... for the SBI

Ms. Somi Ojha
Mr. S. B. Chatterjee
.... for the CIBIL

Mr. Prolay Kar
Ms. Debasree Dhamali
Ms. Riya Ghosh
.... for the respondent no. 2

The petitioner is pursuing her Masters in Politics of Development at the Royal Holloway, University of London. The estimated cost of completion of her studies in the said University for the academic year 2021-22 was assessed at GBP 17,200 (equivalent to Rs. 19 Lacs INR) towards tuition fees and GBP 8,890 (Rs. 9.5 Lacs INR) for accommodation and other expenses. The petitioner has already deposited a sum of Rs. 17 Lacs for tuition fees and miscellaneous charges and now seeks to avail of a loan of Rs. 10 Lacs as financial support under the West Bengal Student Credit Card Scheme. The petitioner claims such financial support on account of the expenses involved for completing the course. The petitioner hence seeks a direction on the State Bank of India for disbursing the loan applied for under the Scheme. The petitioner seeks this order on an urgent basis since the petitioner has to travel to the U.K. to continue with her studies for the present academic session.

The hurdle to the grant of the loan amount, as brought to the notice of the Court, is a figure of Rs. 82,34,096/- being shown as 'overdue' balance in the account number of the petitioner's father, Santanu Banik. The petitioner's father is a co-borrower of the loan applied for. The documents produced by the SBI further show that a suit was filed against the petitioner's father for wilful default and that the petitioner's father availed of several education and other loans from SBI, pursuant to enquiries undertaken from 2019-2022. The objection to the loan, as would appear from the submissions of learned counsel appearing for the SBI is that the petitioner's father, the co-borrower, has also been given a low CIBIL score on account of the amounts outstanding.

The CIBIL score of the petitioner's father as of 27.06.2022 is 592 for CreditVision and 532 on the personal loans score. The range indicated is 300 (high risk) to 900 (low risk).

Since TransUnion CIBIL was not made a party to the writ petition, the petitioner was directed to serve the writ petition on TransUnion CIBIL for a proper assessment of the facts.

SBI and the State are represented.

The petitioner was also directed to file a supplementary affidavit with a sworn and notarized statement of the current financial status of the petitioner's father. This affidavit is on record. The affidavit also contains documents from various financial institutions showing that the co-borrower has cleared all the outstanding dues as of January-February, 2022.

The declaration given by the co-borrower/petitioner's father states that there are presently no dues to any bank or financial institution. The statement also contains the declaration that all previous dues have been discharged by the co-borrower and all previous bank loans and credit card dues have also been discharged. The petitioner, appearing in person, further submits that the co-borrower has not availed of any loan from any bank or financial institution in the last 15 years.

The Student Credit Card Scheme as notified by the State Higher Education Department on 30th June, 2021 intends to provide such facility to meritorious students with limited financial means to encourage such students to pursue higher studies both within India and outside the country. The objective of the Scheme states that the Scheme aims at providing financial support to the students who are residing in West Bengal for at least 10 years at a nominal interest rate with suitable guarantees to the bank. The main emphasis is to provide students with an opportunity to pursue higher studies with financial support from banking system with affordable terms and conditions. The purpose of the Scheme as outlined in clause 4 is for students to be able to avail a loan to meet course fees, accommodation and purchase of books/computer/laptop and other equipment for higher studies.

Clause 8 - Security - mandates that the Bank should not put any unnecessary restrictions regarding collateral security and "will not insist on any security/collateral security in tangible/intangible form other than co-obligation of the parents/legal guardians". Clause 8(b) also provides that the State Government will enter into an agreement with the banks separately in this regard. Clause 11 provides for the timeline and requires that the loans shall be sanctioned and disbursed in a time bound manner. The "Repayment Holiday" of the loan - Clause 12 - provides for a moratorium/ repayment holiday of one year after completion of the course and Clause 13 sets out the manner of the repayment of the loan availed under the credit card.

The Scheme hence makes it clear that the bank cannot put any unreasonable conditions with regard to providing security for the loan. More significantly, Clause 8 provides that the State Government will enter into a separate agreement with the banks with regard to any security for the loan or the obligation of the parent. The Scheme is hence an enabler for grant and disbursement of loans to eligible students for pursuing higher studies.

In view of the contents of the Scheme, the objection put forth by the Bank is not tenable.

Learned counsel appearing for the State clarifies that the State will and shall have to stand as guarantor for the loan availed of under the Scheme and produces a document from the State Bank of India to the Student Credit Card Guarantee Cell, State Higher Education Department dated 28.12.2021 in this regard.

The objection of SBI is primarily of the co-borrower/petitioner's father having low net-worth and hence a risk towards repayment of the loan. Considering the purpose and object of the Scheme, which has been stated above, this objection is without basis since the State Government is mandated to provide the security for the loan and is under an obligation to enter into a separate agreement with the bank in this respect.

The other objection is based on an eCircular of the SBI dated 31st January, 2022 which outlines the eligibility of the student borrower/co-borrower. Clause

2(e) and (f) provide for examining the financial net-worth of the borrower and co-borrower. These clauses further provide that in the absence of parents or guardians, the grand-parent or a major sibling/relative may be accepted as co-borrower to the loan account. These clauses are not really relevant to the dispute since the petitioner's father has stood as the co-borrower and the only issue is whether the Bank can take into account the co-borrower's net-worth in the present facts.

The sworn declaration given by the petitioner's father on 4th July, 2022 states that petitioner's father does not have any outstanding dues to any bank or financial institution. The other documents in the affidavit also point to the said fact. The documents handed over to the court also show that a part of the outstanding amounts were settled in a Lok Adalat held in 2009. There is hence every reason to come to a finding that the documents produced by the SBI require updating and need to be verified. The eCircular is also contrary to the Student Credit Card Scheme. The Standard Operating Procedure of the SBI disregards Clause 8 of the Scheme which provides for the State standing in as surety for the loan.

The position of CIBIL is clarified by learned counsel appearing on its behalf who submits that the CIBIL scores of the co-borrower reflect the outstanding amounts at the relevant period of time. Counsel however submits that these loans were subsequently written off by the financial institution. It is also submitted that the CIBIL depends on the information from the concerned banks and does not have any independent mechanism to assess the correctness of the information.

In *Irina Mullick vs. The State of West Bengal* (*WPA 5134 of 2022*), this Court had considered a similar question where the petitioner had also sought to avail of an educational loan under the Scheme from the State Bank of India. By an order dated 1st April, 2022, the SBI was directed to process the loan within a specific time frame and provide necessary assistance to the petitioner in the facilitation of the loan. The petitioner in that case was a third year law student who was in financial distress and availed of the loan to pay for her remaining 2 years of the 5- year law course.

In view of the above reasons and taking into consideration the objective and purpose of the West Bengal Student Credit Card Scheme, WPA 9696 of 2022 is allowed with a direction on the State Bank of India to process the loan and to disburse the loan amount applied for by the petitioner within two weeks from the date of the application made by the petitioner, if not already done.

The SBI shall be entitled to recover the loan in the manner as prescribed under the Scheme. In this context the undertaking given by the petitioner is recorded, namely, that the petitioner will pay back the loan under Clauses 11 and 12 of the Scheme (moratorium and repayment, respectively). The petitioner has also urged that her father, the co-borrower presently has the financial means to pay back the loan under the terms of the Scheme. The stand of the State which is relevant for the present purpose is also recorded, namely, that the State shall stand as guarantor for the loan and will enter into a separate agreement with the Bank in this regard as provided under Clause 8 of the Scheme. It should also be noted that this decision is based entirely on the principal facts of this case and on the individual submissions made by the parties.

As a matter of concern, this Court has taken judicial notice of several articles including a write-up in The Telegraph on 6th July, 2022 where the hurdles faced by the students who seek to avail of the West Bengal Credit Card Scheme as notified on 30.06.2021 was addressed and the fact that several of the students are forced to arrange for alternative funds despite the Scheme by reason of the delay and casual attitude of the Bank in question. The Scheme provides for a monitoring system under Clause 14 where the Higher Education Department of the State and the School Education Department is under an obligation to set up a Monitoring Committee at the State and District levels to ensure proper implementation of the Scheme. The State Higher Education Department shall urgently look into this aspect of the matter so that needy students who are in need of financial assistance for education both in the country and outside are not deprived of a chance to fulfil their aspirations.

WPA 9696 of 2022 is disposed of in terms of the above.

To make this order effective, the other agencies which may be involved in disbursing the loan are also made subject to the above direction.

Urgent Photostat, certified copied of this order, if applied for, be supplied to the respective parties upon fulfillment of requisite formalities.

(Moushumi Bhattacharya, J.)