3 05.08.2022
PA(RB)

MAT 1142 of 2022
With
CAN 1 of 2022

The Branch Manager, State Bank of India, PBB
Deshapriya Park Branch
Vs.
Miss Sudeshna Banik and Others

Mr. Subrata Kumar Sinha
Mr. Debashis Saha
Ms. Dipika Basu
... for the appellant
Ms. Sudeshna Banik
... respondent no. 1-in-person
Mr. Asish Kumar Guha
Mr. Naren Ghosh Dastidar
... for the State
Mr. Pralay Kar
Ms. Debasree Dhamali
... for the respondent no.3
Ms. Soni Ojha
Ms. Sambrita B. Chatterjee
... for the respondent no. 4

This appeal, at the instance of the respondent Bank, is directed against the order of the learned Single Judge dated 7th of July, 2022, whereby WPA 9696 of 2022 filed by the respondent no. 1 (writ petitioner) has been allowed and the appellant Bank has been directed to process the loan and disburse the loan amount applied for by the writ petitioner within two weeks.

The respondent no. 1, writ petitioner, had filed the writ petition with the plea that in terms of the Student Credit Card Scheme of the State published in the gazette notification dated 30th of June, 2021, the writ petitioner was entitled for financial assistance with the maximum limit of Rs. 10 lakhs at nominal rate of 4 % simple interest rate per annum. The petitioner after completing Bachelor of Arts (in sustainable product design) had applied for pursuing Masters Degree in Politics of Development in Royal Holloway, University of London where she was selected and admitted for the academic year, 2021-22 and the petitioner had deposited Rs. 17 lakhs (approx.) for tuition fees and on account of miscellaneous charges and was attending classes virtually on account of covid pandemic. Further case of the petitioner was that since now the normalcy has returned, the University was insisting attendance of classes by physical presence mode by being on campus. Hence, now the petitioner needs financial support under the West Bengal Student Credit Card Scheme, therefore, she had registered her name in the designated portal on 27th of December, 2021 by choosing Punjab National Bank, a listed Financial Institution/Bank for disbursement of the financial assistance. Thereafter, the petitioner had submitted the revised application through West Bengal Portal on 12th of April, 2022 with the State Bank of India. Though the petitioner was eligible, the appellant, State Bank of India, had not extended the financial assistance, therefore, a prayer was made in the writ petition seeking a mandamus to the appellant Bank to disburse the required loan amount in terms of the application.

Learned Single Judge has considered the Scheme and has noted that the petitioner will pay back the loan amount under Clauses 11 and 12 of the Scheme and that the petitioner's father, the co-borrower, has the financial means to pay back the loan under the terms of the Scheme and also recorded the stand of the State that the State shall stand as guarantor for the loan and will enter into separate agreement with the Bank in this regard as provided under Clause 8 of the Scheme.

In view of the aforesaid, the learned Single Judge has allowed the petition and had directed the appellant Bank to process the loan and disburse the loan amount applied by the petitioner.

Submission of the learned counsel for the appellant is that the State only extends guarantee upto Rs. 10 lakhs but if the borrower does not pay the principal amount of Rs. 10 lakhs, then with interest the amount will exceed to more than Rs. 15 lakhs and therefore, the balance amount of above Rs. 10 lakhs remains unsecured. He further submitted that the co-borrower, i.e., the father of the writ petitioner had taken as many as fourteen loans, some of which were settled in OTS or written off, therefore, his credit score is very low and in these circumstances, the Bank cannot extend the financial limit of Rs. 10 lakhs to the writ petitioner putting the public money in jeopardy as the financial assistance is without any collateral security.

Learned counsel for the State has submitted that the Bank is only required to act on the basis of the application forwarded by the State for extending the financial assistance and if the amount is not repaid, then the Bank has option to take legal action.

Learned counsel for the respondent no. 1 (writ petitioner) has supported the impugned order and has submitted that the credit score of the petitioner's father was gradually increasing and that out of 14 accounts, in 9 accounts, there is NIL balance and there is no amount due and payable by the petitioner's father as on today. She has further submitted that the physical classes have started, therefore, now the petitioner is required to go and attend the classes and financial assistance is necessary.

We have heard the learned counsel for the parties and perused the record. The Government of West Bengal, Higher Education Department vide notification dated 30th of June, 2021 had notified the West Bengal Student Credit Card Scheme. In terms of the said Scheme, the eligible candidate is required to apply to the Higher Education Department, which after examining the application, is to forward it to the Bank for sanction. The maximum amount of loan available under the Scheme is Rs. 10 lakhs at 4 % simple rate of interest per annum, after interest subvention. The loan application is required to be submitted by the student and the parent/legal guardian as co-borrower. The Scheme also provides for mode of disbursement and that the moratorium or repayment holiday of year and repayment period of 15 years.

The Memorandum of Understanding (MoU) dated 31st of December, 2021 is entered into between the competent authority of the State with the appellant SBI whereby the State has undertaken in relation to loan up to Rs. 10 lakhs and the maximum loan limit under the Scheme is reiterated to be Rs. 10 lakhs without collateral securities. The Bank is required to extend financial assistance to eligible borrower without any collateral security and/or third party guarantee. In terms of Clause 8 of the MoU, the Bank is entitled to evaluate and sanction loans in accordance with the Scheme for pursuing studies in India and abroad and conduct the accounts of the borrowers with normal banking prudence and due diligence.

The record reflects that the application for financial assistance under the Scheme was made by the writ petitioner on 12th of April, 2022 whereas the duration of the MA Politics of Development Course joined by the writ petitioner was 12 months, from 20th of September, 2021. It is undisputed before this Court that the course will be over somewhere around 19th of September, 2022. The documents submitted by the petitioner further reveals that the petitioner has already paid the tuition fee of Rs. 15,78,667.89 up to 12 of April, 2022 and the balance amount payable is 2000.61GBP. It is also undisputed before this Court that the petitioner was pursuing studies till now through online mode and she intends to visit the Royal Holloway, University of London for attending the remaining about less than 2 months period of course. There is nothing on record that the petitioner will be required to pay the hostel charges for the entire period of 1 year though she will be staying in the hostel for only 2 months or less. The submission of learned counsel for the appellant is that in terms of the order of learned Single Judge and application of the petitioner, the appellant is required to disburse the entire amount in the writ petitioner's account, whereas the amount is payable to the institution by the Bank. In this regard, Clause 10 of the Scheme notified on 30th of June, 2021 relating to mode of disbursement is relevant which is provided as under:

"10. Mode of Disbursement:-

1. The amount of loan will be credited directly to the designated account of the Institution concerned in case of payment of course fees and other fees related to the Institution.
2. The amount of loan will be credited to the student's Bank account for purchasing of Computer/Laptop/books/stationeries/living expenses etc."

The Scheme also defines the living expenses as under:

"2. (h) "Living expenses" means an expense incurred by a student for living outside from his residence during the course of study."

Hence, the petitioner is entitled to receive financial assistance strictly in terms of the Scheme, therefore, the appellant Bank is directed to process the application of the writ petitioner as per the terms of the Scheme and sanction and disburse the amount keeping in view Clauses 2(h) and 10 of the Scheme.

In view of the above, we need not go into the issue of credit worthiness of the father of the writ petitioner because now, the requisite amount in terms of the Scheme is expected to be below Rs. 10 lakhs. We also find that the learned Single Judge has duly considered all the relevant aspects of the matter and has rightly issued a direction to the Bank to disburse the amount, however, the amount is now required to be disbursed as per the Scheme specially taking into account the Clauses noted above.

The record further reflects that the appellant Bank, after the order of the learned Single Judge had issued the loan sanction letter dated 16th of July, 2022 but the submission of learned counsel for the appellant is that under the threat of contempt, the said sanction letter was issued, therefore, it was kept in abeyance by the communication dated 19th of July, 2022.

We accordingly dispose of the present appeal and direct the appellant Bank to do the needful for sanctioning the loan amount to the respondent (writ petitioner) within 1 week from today.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)