30.11.2023
Sl. No.4
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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

W.P.A. No. 293 of 2020

Manoranjan Barman

Versus

The State of West Bengal & Ors.

Mr. Arijit Ghosh,
Ms. Swarnali Ghosh
….for the Petitioner.

Mr. Ankan Mitra
…..for Respondent Nos.6 & 7.

Mr. Subir Kumar Saha,
Ms. Patralekha Choudhury
...for the State-respondents.

In response to the order of this Court dated November 23, 203, Sri Lawrence Murmu, Branch Manager, Bank of Baroda, Golakganj Branch, Cooch Behar, is present in Court today. He submits that he joined the post of Branch Manager on October 25, 2021 and the case of the petitioner relates to the year 2019. Sri Murmu further submits that Swami Vivekananda Swanirbhar Karmasansthan Prakalpa (SVSKP) may not be alive at the present moment and it would be difficult for him to sanction the loan in favour of the petitioner. It is further stated that the Block Development Officer (BDO), Mathabhanga-I Block may ask for refund of the unutilized Rs.45,000/- subsidy, which was lying with the bank as the petitioner's loan amount had not been disbursed. It is further submitted that the loan amount was not processed finally, although the petitioner was found eligible as the petitioner's father had not paid the money due to the bank, against the Krishan Credit Card (KCC) account.

First and foremost, this Court finds from the statements in the affidavit filed by the concerned bank authorities that the loan in favour of the petitioner was not disbursed only on the ground that some money was recoverable from the petitioner's father against the KCC account, although the subsidy was released by the government. The petitioner was not liable to pay the money. Secondly, the loan amount payable to the petitioner was kept on hold only on this ground as per the affidavit. This appears to be highly irregular and an arbitrary action. It was an arm twisting method to extract the money from the petitioner's father.

It also appears that the father had paid up the money in 2019, yet the loan amount was not disbursed to the petitioner. The learned Advocate for the bank submits that the petitioner was called to the bank, but the petitioner failed to respond, there is nothing on record to show that either any letter or message or WhatsApp message or e-mail was ever sent to the petitioner. This contention of the bank is not accepted by the Court.

It appears that the petitioner lodged a complaint before the Mathabhanga Police Station alleging coercion and claim for bribe by the bank officials. Thus, the bank officials were also aware that a complaint of like nature had been filed before the police station.

The subsidy amount against the loan to be disbursed to the petitioner was already accepted by the bank and the same was kept in the internal account of the bank. From the affidavit filed by the bank it is further revealed that the money was debited from the office account and kept as a fixed deposit under the petitioner's customer ID. Such action amply proves that the bank was aware that the petitioner was eligible for the loan and that is why the money was kept against the petitioner's customer ID number. The subsidy was taken by the bank, kept unutilized but the loan was not disbursed.

Under such circumstances, this Court finds that the bank authorities have deprived the petitioner from his legitimate right to the loan under SVSKP. This Court also finds that Sri Murmu had joined subsequently and does not hold him responsible, but the Court is conscious of the mischief done at the relevant point of time. During such time the bank officials responsible for disbursement of the loan, acted in a manner not supported by law and had deprived the petitioner of his legitimate claim.

Even if there is a doubt whether the scheme is in place or not, this Court directs that the petitioner's suffering in the hands of the bank officials, should be redressed by the Court, on equitable considerations. The arbitrary action of the bank strikes at the very root. The approach of the bank was highly unreasonable and violative of Article 14 of the Constitution of India. There is not a single communication from the bank to the petitioner which would prove that the petitioner was responsible for this situation.

Under such circumstances, this Court directs the bank authorities, i.e., the Branch Manager, Bank of Baroda, Golakganj Branch, Cooch Behar to disburse Rs.1,50,000/- to the petitioner as the sanctioned loan under the SVSKP. Rs.45,000/- subsidy is already with the bank as a margin or security as per the scheme. The petitioner will furnish a bank guarantee of Rs.1,00,000/- to the Branch Manager, Bank of Baroda, Golakganj Branch, Cooch Behar as a security towards repayment of the loan, as it appears that the scheme may have exhausted its life. The bank guarantee shall be renewed and kept alive till the repayment of the loan amount.

The petitioner shall be bound by the repayment structure, which the Branch Manager shall indicate to the petitioner. If the petitioner fails to repay the loan, the bank shall encash the bank guarantee and also proceed against the petitioner for such default as per law.

The amount shall be disbursed on the basis of the server copy of the order of this Court, under SVSKP within 10 days from the receipt of the bank guarantee from the petitioner.

The personal appearance of Sri Murmu is dispensed with. The Court appreciates the cooperation.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)