IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.3499 of 2018

P.Sharma
Rep.by his Power Agent / Father,
R.V.A.Paramasivam .. Petitioner

Vs.

1.The Bank of Baroda,
Rep.by Divisional Manager,
Divisional Office,
82, Bank Road,
Coimbatore – 641 018.

2.The Branch Manager,
Bank of Baroda,
Tiruchengode – 637 211,
Namakkal District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to grant educational loan of Rs.7,38,000/- to the petitioner by considering the application dated 19.06.2017.

For Petitioner .. Mr.N.Manokaran

For Respondents .. Mr.S.Pandurangan

ORDER

This writ petition has been filed in the nature of Mandamus, seeking a direction against the respondents primarily the 2^{nd} respondent / the Branch Manager, Bank of Baroda, Tiruchengode, Namakkal District, to grant educational loan of Rs.7,38,000/- to the petitioner herein.

2.The petitioner had given an application on 19.06.2017. Since according to the petitioner, the respondents had not taken any effective steps, the writ petition has been filed in the nature of Mandamus.

3.On 06.01.2023, when the writ petition came up for consideration, the petitioner was directed to go over to the 2^{nd} respondent, the Branch Manager, Bank of Baroda, Tiruchengode on 19.01.2023 and thereafter, that both the petitioner and the 2^{nd} respondent may enter into discussion about the grant of loan.

4.The learned counsel for the respondents forwarded the Minutes of Meeting of 19.01.2023 and stated that the respondents have sought for a letter from the applicant, that they had already given a loan application in the year 2017, which letter the applicant refused to give. If, the petitioner is interested in receiving the loan, then he must abide by the request of the respondents. Let the petitioner therefore give a fresh application seeking loan.

5.The learned counsel for the petitioner forwarded the Model Educational Loan Scheme for pursuing higher education in India and abroad of the year 2015 amended in the year 2016 issued by the Indian Bank Association, wherein, with respect to the security, it had been stated that for loans between 4 lakhs and 7.5 lakhs, besides the parent / parents executing documents as joint borrowers, collateral security in the form of suitable third party guarantee will also be taken. It is also provided that the bank at its discretion, in exceptional cases, waive the third party guarantee, if they are satisfied with the net-worth / means of parents who would be executing the documents as joint borrowers. It is also stated that the third party guarantee will be waived, if the loan is eligible for Credit Guarantee coverage. It is also stated that provisions relating to margin should also be examined.

6.It is for the petitioner to comply with the rules and regulations of the respondents. The respondents, if they have a discretion, should also exercise such discretion only prudently and in appropriate cases. There cannot be general rule binding the respondents even when discretion is provided as a small leverage. A perusal of the above shows that, the parent must execute documents as joint borrowers. It also provides that collateral security by a third party may also be given. It is the discretion of the bank to waive such collateral security from being provided.

7.I leave it to the discretion of the 2nd respondent to examine the credentials of the petitioner and take an appropriate decision. The Court cannot thrust a particular customer on the bank or even a borrower on the bank and direct the particular bank to definitely issue loan. That is beyond the scope of this Court and this Court also cannot step into the shoes of the Bank Manager and examine the documents of the petitioner and record satisfaction, whether loan can be granted or loan cannot be granted. It is the discretion of the respondents and I am confident that such discretion would be exercised in prudent manner. The respondents are also bound by their guidelines, which according to the learned counsel for the petitioner are the latest guidelines. I am also confident that the 2nd respondent / Bank Manager, would be aware of those guidelines and would abide by those guidelines.

8.With the above observations, this Writ Petition stands disposed of. No costs.

27.01.2023

Index:Yes/No
Internet:Yes/No
smv

To

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Coimbatore – 641 018.

2.The Branch Manager,
Bank of Baroda,
Tiruchengode – 637 211,
Namakkal District.

C.V.KARTHIKEYAN,J.

smv

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