BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.7389 of 2021

Dr.D.Venkatraman ... Petitioner

Vs.

1.The Chairman,
Bank of India,
Star House,
C5-G Block,
Bandra,
Kurla Complex,
Mumbai – 400 005.

2.The Branch Manager,
Bank of India,
Panangkombu Branch,
Panangkombu,
Manapparai Taluk,
Trichy District.

3.The Union of India,
Represented by its Secretary,
Ministry of Human Resource Development,
New Delhi. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 herein not to claim interest for petitioner's education loan account number 831477221000244, for delayed period of sanction of subsidy by third respondent herein, and further direct them to abide the terms and conditions of Central Sector Interest Subsidy Scheme, 2009, issued by the third respondent herein within a stipulated period as may be fixed by this Court.

For Petitioner	: Mr.R.Sundar
For R-1 and R-2	: Mr.M.Senthilkumaran
For R-3	: Mr.K.Govindrajan Deputy Solicitor General of India Assisted by Mr.S.Sivakumar Central Government Standing Counsel

O R D E R

This Writ Petition has been filed for issue of a Writ of Mandamus directing the respondent Bank to not to claim any interest on the educational loan availed by the petitioner during the period of moratorium and not to insist for payment of interest for the delayed period of subsidy payment.

2. When the matter came up for hearing on 21.11.2023, this Court passed the following order:

On hearing the grievance on either side, it is seen that the grievance is not merely confined to the petitioner, but there is also a genuine grievance for the Bank in this case. As per the available scheme, the student who avails the educational loan is entitled for interest subsidy on the loan for the period of moratorium, which is the period of study plus one year. During this period, for the educational loan availed by the student, no interest is chargeable to the student and in turn, the Bank has to receive that interest portion subsidy from the Ministry of Human Resource and Development, Government of India.

2.The learned Counsel appearing on behalf of the respondent Bank submitted that the Bank keeps debiting the interest on the educational loan availed by the student and as and when the subsidy is received from the Ministry, the corresponding amount is credited to the bank account of the person who availed the loan. In short, whatever interest subsidy is given for the moratorium period, that amount is collected by the Bank from the Ministry of Human Resource and Development and that liability is not mulcted on the student, who avails the loan.

3.The learned Counsel for the respondent Bank submitted that in the instant case, the Ministry had settled and released the subsidy upto 68.96% of the claim amount for the year 2015-16 and 14.59% for the year 2016-17.

Therefore, whatever amount that has been received as subsidy, has been credited to the beneficiaries' accounts. Since, the entire subsidy has not been received by the Bank, the Bank is not in a position to credit the amounts to the beneficiaries' accounts. It is also brought to the notice of this Court that in many cases involving educational loan, such a difficulty is faced by the Banks, which expects the Ministry to release the subsidy in order to correspondingly credit the beneficiaries' accounts.

4.In view of the above, it is clear that the grievance of the petitioner as well as the respondent Bank has to be attended. Hence, this Court directs Mr.K.Govindarajan, learned Deputy Solicitor General of India to take notice and get instructions from the third respondent. The learned Deputy Solicitor General of India shall not confine the instructions only to this case, but the instructions must include the mechanism that is now being followed by the third respondent in remitting the subsidy amount to the Banks, which grants educational loan to the students.

5.Post this case under the caption "for orders" on 05.12.2023.

3. When the matter was taken up for hearing today, the learned Deputy Solicitor General produced the written instructions received from the under Secretary to the Government of India, Department of Higher Education, New

Delhi. The written instructions clearly answers the query that was posed by this Court and for proper appreciation, the same is extracted hereunder:

> ***2. Para-wise response to Hon'ble High Court Order is as under:***
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> ***Para 3:*** *The learned Counsel for the respondent Bank submitted that in the instant case, the Ministry had settled and released the subsidy upto 68.96% of the claim amount for the year 2015-16 and 14.59% for the year 2016-17. Therefore, whatever amount has been received as subsidy, has been credited to the beneficiaries' accounts. Since, the entire subsidy has not been received by the Bank, the Bank is not in a position to credit the amounts to the beneficiaries' accounts. It is also brought to the notice of this Court that in many cases involving educational loan, such a difficulty is faced by the Banks, which expects the Ministry to release the subsidy in order to correspondingly credit the beneficiaries' accounts.*
>
> ***Reply:***
>
> *Interest subsidy pertaining to the period upto the Financial Year 2016-17 (claimed till 2017-18) was settled by the Ministry through the Head Office accounts of the financing Bank (Bank from which students had availed the loan). Subsidy was released by the Ministry to the Canara Bank (Nodal Bank for CSIS Scheme) and then Canara Bank was to disburse the subsidy to the respective Banks for onward*

adjustment to the student's loan Account. Interest subsidy for the financial year 2017-18 onwards is being disbursed in DBT mode through PFMS Portal.

1. The full amount of interest subsidy pertaining to financial year 2014-15, claimed by the Canara during the financial year 2015-16 in respect of various banks was released by the Ministry of Education in seven tranches as indicated below:

i. 19.31%-Released in Mar 2016

ii. 13.46%-released in Aug 2016

iii. 26.77% released in Sep 2016

iv. 19.81% released in Oct 2016

v. 15.53% released in Feb 2017

vi. 1.28% released in July 2017

vii. 3.84 % released in Oct 2017

Canara Bank has stated than full amount of interest subsidy of Rs. 27,903.00 in respect of Mr.D.Venkatraman was released to the Bank of India during the said period.

2. The full amount of interest subsidy pertaining to financial year 2015-16, claimed by the Canara Bank during the financial year 2016-17 in respect of various banks was released by the Ministry of Education in five tranches as indicated below:

(i) 25.00% released in July 2017

(ii) 1.25% released in Oct 2017

(iii) 31.32% released in Dec 2017

(iv) 11.39% released in Feb 2018

(v) 31.04% released on 17.05.2021 through DBT Mode directly to the Education Loan account of the student.

Canara Bank stated that full amount of interest subsidy of Rs. 88,007.00 in respect of Mr. D.Venkatraman was released to the Bank of India during the said period.

3. The full amount of interest subsidy pertaining to financial year 2016-17, claimed by the Canara Bank during the financial year 2017-18 in respect of various banks was released by the Ministry of Education in two tranches as indicated below:

(i) 14.59% released in Feb 2018

(ii) 85.41 % released on 13.05.2021 through DBT Mode directly to the Education Loan account of the student.

Canara Bank has stated that full amount of interest subsidy of Rs. 52735.00 in respect of Mr. D.Venkatraman was released to the Bank of India during the said period.

4. Full amount of subsidy for the financial years I.e. 2017-18, 2018-19 and 2019-20, claimed by Canara Bank *in 2018-19, 2019-20 and 2020-21 respectively, was disbursed to the Canara Bank which further disbursed in DBT Mode directly to Education Loan account of the student. The Canara bank has stated that entire amount claimed by the banks towards subsidy of the applicant was released by them.*

Para 4: *In view the above, it is clear that the grievance of the petitioner as well as the respondent Bank has to be attended. Hence, this Court directs Mr. K.Govindarajan, learned Deputy Solicitor General of India to take notice and get instructions from the third respondent. The learned Deputy Solicitor General of India shall not confine the instructions only to this case, but the instructions must include the mechanism that is now being followed by the third respondent in remitting the amount to the Banks, which grants educational loan to the students.*

Reply: *The lender bank (in this case Bank of India) has to compute the interest on education loan given under model education loan scheme of the Indian Banks Association (IBA) which is eligible for claim of interest subsidy under the CSIS scheme. Every Year a Web Portal is opened by the Canara Bank, on which every such bank has to upload their subsidy claims pertaining to the previous Financial Year. Canara Bank then consolidates all the claims of all the banks submits the claims received from the Banks to Ministry of Education for reimbursement. Ministry of*

Education based on the request of the nodal Bank (i.e. Canara Bank) and availability of funds disburses the funds to Canara Bank. Canara Bank then releases the subsidy to the Student's loan account in DBT mode through PFMS Portal. It is the sole responsibility of lending bank to claim interest subsidy on behalf of eligible beneficiary on yearly basis. If any lending bank fails to claim interest subsidy for current year, backlog claim of interest subsidy is not be entertained. In case of any delay in submission or non-submission of claim by the lender bank to Canara Bank, the Department of Higher Education is not responsible for such delay/non-submission of claim and non-payment of interest subsidy.

4. Heard the learned counsel appearing on behalf of the petitioner, the learned counsel appearing on behalf of the respondents 1 and 2 and the learned Deputy Solicitor General assisted by the Central Government Standing Counsel appearing on behalf of the third respondent.

5. On going through the written instructions received from the Ministry of Education and after carefully considering the submissions made by the learned Deputy Solicitor General, it can be seen that the Canara Bank is the nodal Bank which receives the subsidy from the Ministry and disburses the

same to the respective banks for onward adjustment towards the student's loan account. Admittedly in this case, the petitioner had applied for the loan in the year 2014 and it was sanctioned during the financial year 2014-2015. It is also not in dispute that the petitioner is entitled for interest subsidy on the loan for the period of moratorium, which is the period of study plus 1 year. The petitioner underwent MBBS course and the period of study is 5 years and hence, the petitioner is entitled for interest subsidy for 6 years (5+1).

6. The learned Deputy Solicitor General submitted that for the entire period from 2014-2015 till 2020-2021, the entire subsidy amount was disbursed to the Canara Bank and the Canara Bank had in turn disbursed the same to the respective Banks for onward adjustment. It was further submitted that in the case of the petitioner, the interest subsidy pertaining to the financial years 2014-2015, 2015-2016 and 2016-2017 was fully disbursed by Canara Bank to the Bank of India. Even insofar as the financial years 2017-2018, 2018-2019 and 2019-2020, all the subsidy amount was disbursed to the Canara Bank. In view of the same, it was contended that insofar as the Ministry is concerned, the subsidy amount has gone into the hands of the nodal Bank and thereafter it is the duty of the respective Banks to make their claim within the time stipulated. The learned Deputy Solicitor General submitted that every year a web portal is

opened by the Canara Bank and every other Bank which has granted educational loan must upload their subsidy claims pertaining to the previous financial year. These claims are consolidated and it is submitted to the Ministry of Education for reimbursement. The Ministry based on the request made by the Nodal Bank and availability of funds, disburses the funds to the Canara Bank. Thereafter, the Canara Bank releases the subsidy to the student's loan account in DBT mode through PFMS portal. If any of the lending Bank fails to claim interest subsidy for the current year and does not upload their subsidy claim, that Bank will not be entitled for the backlog claim of the interest subsidy. In such circumstances, the Department of Higher Education cannot be held responsible.

7. It is therefore pellucid that there is a particular system that prevails for disbursement of the subsidy claim and that system has to be followed strictly by the lending Banks. In the absence of following the scheme that is available, the lending Bank cannot put the blame on the Nodal Bank and it cannot mulct that liability on the borrowers who had availed the educational loan.

8. In the light of the above discussion, the interest subsidy on the educational loan for which the petitioner is entitled, has to be necessarily

extended in favour of the petitioner irrespective of the fact as to whether the Bank of India had made the subsidy claim and availed of the same. As a result, this Court holds that the petitioner is entitled for interest subsidy for the entire moratorium period (6 years). In view of the same, the interest that was paid by the petitioner during this period is liable to be credited to the Bank account of the petitioner. While undertaking this process, whatever interest has already been credited shall be taken into account and the balance amount shall be credited to the Bank account of the petitioner. This process shall be completed by the first and second respondents within a period of four (4) weeks from the date of receipt of a copy of this order.

9. This Writ Petition is disposed of in the above terms. No costs.

13.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

1.The Chairman,
Bank of India,
Star House,
C5-G Block,
Bandra,
Kurla Complex,
Mumbai – 400 005.

2.The Branch Manager,
Bank of India,
Panangkombu Branch,
Panangkombu,
Manapparai Taluk,
Trichy District.

3.The Secretary,
The Union of India,
Ministry of Human Resource Development,
New Delhi.

N.ANAND VENKATESH, J.

Nsr

W.P.(MD)No.7389 of 2021

13.12.2023