

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8009 of 2023

1. Rajat Kumar Tiwary, (Advocate), aged about 33 years, Male, Son of Sri Rajendra Kumar Tiwary, Resident of Tribhuwan Chandeshwar Kamla Enclave, West Patel Nagar, Patna, Bihar- 800023.
2. Rajendra Kumar Tiwary, aged about 66 years, Male, Son of Late Nagendra Tiwary, Resident of Tribhuwan Chandeshwar Kamla Enclave, West Patel Nagar, Patna, Bihar- 800023.

... .. Petitioner/s

Versus

1. The Reserve Bank of India through The Chief General Manager, Consumer Education and Protection Department, 1st Floor Amar Building, Sir P.M. Road, Mumbai- 400001.
2. The State Bank of India through Chief General Manager, Local Head Office, West Gandhi Maidan, Patna- 800001.
3. The Zonal Manager, State Bank Of India, Muzaffarpur, Bihar.
4. The Regional Manager, State Bank Of India, Regional Business Office (RBO), Siwan, Bihar.
5. The Credit Manager, State Bank of India, Regional Business Office (RBO), Siwan, Bihar.
6. The Branch Manager, State Bank of India, Gopalpur Branch, Siwan, Bihar.
7. The Branch Manager, State Bank of India, Alankar Branch, Boring Road, Patna, Bihar.
8. The Managing Director, TransUnion CIBIL Limited, One India Bull Center, Tower 2A, 19th Floor, Senapathy Bapat Marg, Elphinstone Road, Lower Parel, Mumbai, Maharashtra-400013.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Adv. Ms. Deepika Sharma, Adv.
For the Respondent/s	:	Mr. Amit Prakash, Adv.
For the Respondent No 8:		Mr. Ray Saurabh Nath, Adv. Ms. Manjari Nath, Adv.
For the Bank	:	Mr. Binoj Bihari Singh, Adv. Mr. Amarjeet Chaudhary, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT
Date : 07-02-2024

Heard learned counsel for the parties.



2. The present Writ Petition has been filled for the following reliefs:-

“(i) To issue a writ/order/direction in the nature of mandamus directing the Respondent Nos. 2 to 6 to close the Education Loan Account bearing Education Loan Account No. 33835700340 of the Petitioner No. 1 after waiving of the interest of the education loan.

(ii) To issue a writ/order/direction in the nature of mandamus directing the Respondent Nos. 2 to 6 to un-hold the Savings Account of the Petitioner No. 1 bearing Savings Account No.-20055091371 at SBI, Alankar Branch, Boring Road, Patna, which has been illegally put on hold by the Respondent No. 6.

(iii) To issue a writ/order/direction in the nature of mandamus directing the Respondent No. 7 to rectify the CIBIL Score of the Petitioners having CIBIL Score of 673 and 617, which has been deliberately made low due to an outstanding over-due amount of Rs. 26,248/- and the same is reflecting in the CIBIL Report of the petitioners.

(iv) To issue a writ/order/direction in the nature of mandamus directing the Respondent Nos. 2 to 6 to pay a total amount of Rs. 20,00,000/- (Rupees Twenty Lakhs only) @ 18% P.A. to the Petitioners as a compensation towards the inconvenience, loss, trauma, harassment and mental



agony caused deliberately to them.

(v) To issue a writ/order/direction holding and declaring that during the pendency of the writ petition pass an appropriate interim/ex-parte interim order preventing the Respondents from taking any further coercive action against the petitioners and/or No further interest be levied by the Respondent Nos. 2 to 6 against the Education Loan Account bearing Education Loan Account No. 33835700340 of the petitioners.”

3. Learned counsel appearing on behalf of the petitioners has stated that the petitioners have taken a loan on 14.05.2014 and immediately thereafter, the petitioner No.1 has repaid the loan on 30.08.2014. However, the authorities have calculated the interest for the above period on a monthly basis contrary to the guidelines issued by the Reserve Bank of India in respect of the student loans by all the Banks. Learned counsel has stated that the authorities have till date not taken any steps for recovery of the amounts due to them even though more than nine years have elapsed. Learned counsel has stated that the amounts due which are shown in the loan account of the Petitioner No.1 are time barred and the interest which was calculated between the period from 14.05.2014 to 30.08.2014 i.e. the date of taking loan and the date of the return of the



amounts has already expired way-back in the year 2017 itself. Further, it is stated that the action of the authorities in calculating the interest on the interest from 2014 onwards is also time barred and, therefore, the authority could not had written to the Respondent No. 8 about the outstanding loan amount of the petitioner. That based on the letter written by the Respondent-Bank, the respondents has reduced the CIBIL scoring of the petitioners thereby affecting his right to get loans. Learned counsel has relied on the Judgement of the Hon'ble Supreme Court in the case of ***Vashdeo R. Bhojwani Vs. Abhyudaya Co-Operative Bank Limited and Another*** reported in **(2019) 9 Supreme Court Cases 158**. In the aforesaid judgement, the Hon'ble Supreme Court has held as under:-

“B.K. Educational Services (P) Ltd. Vs. Parag Gupta and Associates, para 42 of which reads as follows: (SCC p. 664)

42. It is thus clear that since the Limitation Act is applicable to applications filed under Sections 7 and 9 of the Code from the inception of the Code, Article 137 of the Limitation Act gets attracted. “The right to sue”, therefore, accrues when a default occurs. If the default has occurred over three years prior to the date of filing of the application, the application would be barred under Article 137 of the Limitation Act, save and except in those



cases where, in the facts of the case, Section 5 of the Limitation Act may be applied to condone the delay in filing such application.”

4. Per contra, the learned counsel for the Respondent-Bank has stated that the petitioners are due an amount of Rs. 26,248/- as outstanding loan. That even if the contention of the petitioners that the interest is to be calculated on a quarterly basis is taken to be true the petitioners are due an amount of Rs. 26,248/-. That as long as the loan amount is not repaid to the Bank, the same will be shown as outstanding as against the name of the petitioners. That as per the banking rules, the Respondent-Bank is obligated to inform the credit rating agencies about any outstanding loans against any individual. That based on the communication of the Bank, the CIBIL authorities will maintain the credit rating of the individual. That the Respondent-Bank is no-way concerned with the credit rating maintained by the Respondent No. 8.

5. Learned counsel appearing on behalf of the Respondent No. 8 has stated that as per the guidelines issued by the Credit Information Companies (Regulation) Act, 2005 (CICRA), the rating agencies on the communication received by the creditor maintain the CIBIL ratings. That unless and until the Respondent-Bank communicates to the authority that there



are no outstanding dues or that the loan taken by the petitioners has been repaid, the question of changing the rating does not arise. Learned counsel has stated that, if any, communication is received from the Bank with respect to the clearance of the loan or any order is passed by this Hon'ble Court, the credit agencies will look into the same and take appropriate steps.

6. Admittedly, in the present case, the petitioner No.1 has obtained student loan for the purpose of pursuing his higher studies and to that effect loan was sanctioned to the Petitioner No.1 on 14.05.2014. However, due to the some reason, the Petitioner No.1 could not secure admission in the college which he wanted to pursue his higher studies and immediately, thereafter, the Petitioner No.1 has returned the demand drafts which were taken by him and the said amount was credited to the loan amount. It Is pertinent to note that the petitioner was issued demand drafts by the very bank which had sanctioned the loan for the purpose of paying the tuition fees.

7. Admittedly, the loan was taken on 14.05.2014 and the demand drafts which were issued to the Petitioner No.1 were also returned and encashed on 30.08.2014. Even though the Petitioner No.1 has returned the original loan amount on 30.08.2014, the authorities have calculated the interest for the



interregnum period i.e. from 14.05.2014 to 30.08.2014 on monthly basis.

8. A perusal of the guideline issued by the Reserve Bank of India reads as follows:

“Banks who wish to support highly meritorious/deserving students without security may delegate such powers to a fairly higher level authority.”

9. As per the above guidelines, the interest has to be calculated on quarterly basis. Moreover, the repayment schedule as per the said education loan policy is as under:-

“The interest to be debited quarterly/half yearly on simple basis during the Repayment holiday/Moratorium period.”

after the completion of the studies.

10. Learned counsel for the petitioners has relied on the Judgement of the Hon’ble Supreme Court in the case of ***Vashdeo R. Bhojwani Vs. Abhyudaya Co-Operative Bank Limited and Another*** reported in ***(2019) 9 Supreme Court Cases 158***. In the aforesaid judgement, the Hon’ble Supreme Court has held as under:-

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11. Further, it is pertinent to note that the demand drafts which was issued in favour of the Petitioner No.1 have not been encashed by the college in which the Petitioner No. 1 was seeking admission nor by the petitioners but were returned to the original Bank which had sanctioned the loan. In effect, the loan amounts which was sanctioned to the petitioners was lying in the Bank itself, may be for the purpose of accounting the loan account was shown separately and the demand drafts were issued to the petitioners to pay the amounts to the college but the loan amount was lying with the very same Bank as it was not encashed by any third party. Further, It is to be noted that the loan amount was sanctioned way-back in the year 2014, thereafter, there is absolutely no communication from the bank



to the petitioners to either pay the interest part or any correspondence to the effect to show that the petitioners were made aware of the fact that the interest was due to the Bank and that the interest on the interest was also been calculated.

12. Even for the sake of argument if the Respondent-Bank approaches any civil court for recovery of the loan amounts by way of a civil suit, the said suit in all probability will be dismissed as the loan has already become time barred. Therefore, the action of the Respondent-Bank in writing letters to the Respondent No. 8 and also trying to force the petitioners for repaying the outstanding loan amounts is without jurisdiction and the said action has to be termed as arbitrary, illegal and bad in law. The Respondent-Bank cannot initiate any action against the petitioners herein by taking recourse to some other means when the loans have already become time barred. Further, the Hon'ble Supreme Court has held that once, the loan is held to be time barred, the question of taking any action on the time barred loan cannot be countenanced and the same is illegal.

13. Having regard to the same, the Respondent-Bank is directed to close the loan account of the petitioners and the letters dated 16.06.2023 and 30.07.2023 (Annexure 17 & 17/A



of the rejoinder affidavit) are set aside, consequently, the Respondent-Bank are directed to communicate to the Respondent No. 8 about the order passed by this Court and take necessary steps for correcting the CIBIL rating maintained by the Respondent No. 8.

14. With the above direction, the present writ petition stands **allowed** to the extent indicated above.

(A. Abhishek Reddy , J)

shakir/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2024
Transmission Date	NA

