IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 434 OF 2024

Nida Ahmed Ali Sayyad ...Petitioner

Versus

The Union of India and Others ...Respondents

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Mr. B. R. Kedar, Advocate for the Petitioner
Mr. S. W. Munde, Advocate for Respondent Nos. 1, 3 to 5

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CORAM : RAVINDRA V. GHUGE & R. M. JOSHI, JJ
DATE : MARCH 11, 2024

ORDER (PER R. M. JOSHI, J)

1. The Petitioner seeks to challenge the impugned communication dated 27.07.2023 issued by Respondent No. 5 with further direction to restore proposal of the Education Loan to its original stage.

2. This Petition came to be filed in the backdrop of following facts:

Petitioner has applied for the Education Loan for Rs. 3,73,000/- from Respondent No. 5, a Nationalized Bank. Since Petitioner's parents come from economically weaker section, they are not in a position to bear her educational expenses. She, therefore, approached Respondent No. 5 – Bank for Education Loan, but the same was not sanctioned. The Petitioner was asked to join her father as co-applicant, however, the application was not considered by the Bank for the reason that he has no good credit history. With regard to loan application, Petitioner has made several communications with Respondent No. 5 – Bank. Later on, due to the insistence of Bank to change co-applicant, Taffazul Khan Pathan became co-applicant. However, the Bank did not accept him as co-applicant on the ground that he has adverse credit history.

3. Learned Counsel for the Petitioner submits that the Respondent – Bank on technicalities is not considering the application for loan made by the Petitioner. It is his submission that the Bank has failed to consider no dues certificate issued in favour of co-applicant from Berar Finance Limited as well as The Chitnavispura Sahakari Bank Ltd, Narsala. Thus, it is his submission that the Bank cannot be allowed to refuse entertainment of the application of the Petitioner, by taking shelter of the circular, which is contrary to the scheme. It is contended that for any

educational loan up to Rs. 4 lacs no security is required and in complete ignorance of these facts and policy, the loan application is not entertained.

4. Respondent No. 5 by filing affidavit-in-reply of Prafulla Kishor Khond, Senior Manager, Union Bank of India, Bhusawal Branch opposed Petition. In the said reply, the master circular issued by the Bank dated 09.12.2022 is relied. It is the case of the Bank that the co-applicant has adverse credit history and as such, there is no error committed by the bank in not considering the request of the Petitioner for education loan as the loan application carries such a co-applicant.

5. There cannot be any dispute with regard to the facts that by its nature the education loan cannot be equated with any other loan. Whole purpose of the education loan is to extend help/assistance to a student who would be deprived of right to education, for want of adequate finances. It is with the aid of loan availed from the financial/banking institutions, education can be pursued. This intention of scheme of education loan gets further strengthened with the fact

that up to Rs. 4,00,000/-, no surety is required to be furnished for obtaining loan. As per scheme, eligibility criteria for a co-applicant is that he/she shall not have any adverse credit history.

6. As far as facts in the present case are concerned, Petitioner has placed on record documentary evidence indicating that the co-applicant has been issued no dues certificate by respective financial institutions from whom he had obtained loan. Thus, there is sufficient evidence on record to indicate that the co-applicant is not defaulter. The adverse credit history is not specified as to how many defaults in repayment of installments would be considered as adverse. There is nothing on record to indicate the number of defaults caused by co-applicant to pay his other loan installments. In any event, with issuance of no dues certificates in his favour, he cannot be said to be a person with adverse credit history. Thus, we do not find any justification in Respondent No. 5 – Bank in not considering him as co-applicant.

7. In the aforesaid circumstances, this **Writ Petition is allowed in terms of prayer clause 'B'**. The

application for education loan made by the Petitioner along with co-applicant - Taffazul Khan Pathan be considered by Respondent No. 5 and loan as sought by the Petitioner be considered for sanction, if there is no other legal impediment in doing so.

(R. M. JOSHI, J) **(RAVINDRA V. GHUGE, J)**

Malani