



W.P.(MD).No.28870 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.28870 of 2024

S.Nimalan

... Petitioner

Vs.

1.The Zonal Manager,
Indian Bank, Zonal Office,
2nd Floor, G.R.R. Building,
New Bus Stand,
Tirunelveli District.

2.The Branch Manager,
Indian Bank,
Kovilpatti Branch,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to disburse the education loan of Rs.7,26,000/- to the petitioner vide the application bearing No.2473739 and the representation dated 23.08.2024, by accepting third party guarantor.

For Petitioner

: Mr.S.Sivailayaraja

For Respondents

: Mr.C.Karthick

Standing Counsel



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ORDER

This Writ Petition is filed, to direct the respondents to disburse the education loan of Rs.7,26,000/- to the petitioner vide the application bearing No.2473739 and the representation dated 23.08.2024, by accepting third party guarantor.

2.Heard the learned counsels on either sides and carefully perused the materials available on record.

3.The petitioner got admission into the course, namely, Bachelor of Naturopathy Yogic Science, a professional course of medicine at Thangapazham Medical College, Vasudevanallur, Tenkasi District, a college affiliated to Dr.MGR Medical University, Chennai. The petitioner got selected through the admission process by the Government of Tamil Nadu conducted for the academic year 2023-2024 and got selected under the management quota on merit basis. The petitioner hailed from a lower middle class family and his father passed away before 3 years. Before joining the BNYS course at Thangapazham Medical College at Vasudevanallur, Tenkasi, he was informed that the course is eligible for education loan and subsidy sponsored by the Central Government, namely Central Sector Interest



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Subsidy Loan Scheme and the college ensured him that they would arrange the education loan. Only based on such assurance, he joined the course in their College and however, later he was directed to approach any bank in his residential area for education loan. Following which, the petitioner approached the second respondent bank within whose jurisdictional limit the petitioner had his permanent residence and savings bank account. The second respondent instructed him to apply the loan through the dedicated portal, namely Vidyalakshmi, an online portal initiated by the Government of India for the purpose of availing education loan and services. He applied through the said portal on 18.04.2024 along with requisite documents such as income certificate, mark statements, Aadhaar, etc, vide application No. 2473739. However, even after a passage of 100 days, his application was kept pending. Thereafter, the designated official of the second respondent bank during paperwork on the request of the petitioner, reduced the loan amount from Rs.9,26,000/- to Rs.7,26,000/-. However, the official found that the credit score of the petitioner's mother, who is a co-applicant, is only 627 and hence, they cannot forward the petitioner's application to the first respondent for sanctioning the same. The reason behind the reduced credit score of the petitioner's mother is that she had been a guarantor of a SME loan availed by the petitioner's bereaved father at IDBI Bank, Kovilpatti. However, due to the untimely death of the petitioner's father under the



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penurious circumstances suffered by the petitioner's family, the officer concerned of the said IDBI Bank has written off the loan which is a meagre amount of Rs.1,05,000/-. Due to the said written-off, the credit score of the co-applicant, that is, the petitioner's mother fell short. Although she had no credit facility, she had never availed any credit facility elsewhere. However, the said written-off was not at all informed by the officer at IDBI Bank before scrapping the same to the petitioner or his family. When the petitioner communicated the bank's designated official on 22.08.2024 and requested the bank officials to consider third party guarantee acceptable to the bank in addition to the co applicant, the second respondent bank replied that, reduced cibil score of his parent having fallen below 730 would make it difficult for them to process the petitioner's application for education loan. In this regard, the petitioner made a representation on 23.08.2024 to disburse the education loan of Rs.7,26,000/- to the second respondent bank. The same was not considered and hence, this Writ Petition came to be filed.

4.The matter in hand is no more *re integra*. This Court has dealt with a similar case of educational loan in a petition in W.P.(MD)No.5144 of 2018 and this Court by order dated 12.04.2018, has passed a favourable order therein and the relevant portion is extracted as follows:-



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"2. This Court by an earlier order dated 10.04.2018 in W.P. (MD) No.5296 of 2018 had an occasion to deal with such a reasoning for rejection of educational loan and the relevant portion of the said order reads as under:

"3. The learned counsel for the respondents 3 and 4 submitted that in view of these clarifications sought for against the petitioner's application, they are unable to pursue any further on the petitioner's request. The educational loan scheme based on the policy decision of the Government of India, came to be introduced with the object of enriching the meritorious student to pursue his or her education with financial support from the banking system under reasonable terms and conditions. The student who seeks educational loan is the principal borrower in all the cases and that the loan availed by such a student is for the sole purpose of utilising it for his educational needs. As such, any reasonable restrictions imposed by the financial institution can only be in conformity with the object of the scheme and any factor which is beyond the scope of the scheme as a bar for availing the loan, could only be deemed to be prima facie illegal.

4. Various orders have been passed by this Court justifying that the students/ applicants would be entitled for educational loan subject to the terms and conditions of the scheme and as such the financial institutions may not be justified in rejecting such loans on grounds which are out side the scope and object of the scheme. Among such orders, the order dated 18.08.2011 passed in W.P.No. 6286 of 2011 of the Principal Bench of this Court had dealt with the issue in detail and the relevant portion of the said order reads as follows:-



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"....8. Based on the policy decision of Government of India, the Model Education Loan Scheme was announced during the month of November 2007. Under the scheme, it has been stated that Education is central to the Human Resources Development and empowerment in any country. National and State level policies are framed to ensure that this basic need of the population is met through appropriate public and private sector initiatives. While government endeavour to provide primary education to all on a universal basis, higher education is progressively moving into the domain of private sector. With a gradual reduction in government subsidies higher education is getting more and more costly and hence the need for institutional funding in this area. It has been further stated that the scope of education has widened both in India and abroad covering new courses in diversified areas. Development of human capital is a national priority and it should be the endeavour of all that no deserving student is denied opportunity to pursue higher education for want of financial support. Loans for education should be seen as an investments for economic development and prosperity. Knowledge and information would be the driving force for economic growth in the coming years. It has also been stated that based on recommendations made by a study Group, IBA had prepared a Model Educational Loan Scheme in the year 2001 which was advised to banks for implementation by Reserve Bank of India vide circular No.RPCD.PLNFS.BC.No. 83/06.12.05/2000-01 dated April 28, 2001 along with certain modifications suggested by the Government of India. In line with the announcement made by the Hon'ble Finance Minister in his Budget Speech for the year 2004-05, IBA had communicated certain



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changes in the security norms applicable to educational loans with limits above Rs.4 lakhs and up to Rs.7.5 lakhs.

9. *With the above mentioned avowed object, the Model Scheme was prepared based on the suggestions of the Study Group. The object of the scheme was that every meritorious student though poor is provided with an opportunity to pursue education with the financial support from the banking system with affordable terms and conditions.*

10. *The scheme could be adopted by all commercial Banks. It is further stated that the scheme only provides broad guidelines to the banks for operationalising the educational loan scheme and the implementing bank will have the discretion to make changes suiting to the convenience of the students/parents to make it more customer friendly.*

11. *Admittedly, the principal borrower insofar as the education loan is concerned is the student, who avails the loan. It is brought to the notice of this Court by the learned counsel for the petitioner that it is the petitioner, who has to repay the loan after the completion of her course of study and the bank gives moratorium for the repayment of the loan. Therefore, it is contended that the position of the co-obligant / co-borrower is hardly a factor, which could be basis for rejection of an application. Identical issue as in this case came up for consideration before this Court in W.P.No.12432 of 2011 [R.Sahana vs. The manager, Oriental Bank of Commerce and others] and the learned Judge (Justice D.Hariparanthaman), while considering the similar case, where the student's father was a defaulter in respect of a loan availed by him, after analyzing the*



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scheme relating to the education loan, which was produced by the respondent bank therein held as follows:-

10. According to the Bank, since the petitioner's parents became defaulters and their loan accounts became NPA, the Bank could not disburse the educational loan to the petitioner.

11. In my view, the educational loan could not come within the purview of the loan that is mentioned in the Loan Policy Review and Modification (2009-10) produced by the Respondents Bank. If the petitioner's parents want the disbursal of any loan amount even after they became defaulters, the Bank could refuse to disburse the amount. In this case, it is not the request of the petitioner to disburse the loan to her parents. On the other hand, it is her case that the sanctioned educational loan should be disbursed to her and the same cannot be stopped citing that her parents became defaulters. In my view, the submissions made by the learned counsel for the petitioner is well founded and the respondents Bank could not stop the educational loan that too for the final year. If the arguments of the Bank is accepted, the same could not advance the object of the scheme providing assistance by way of educational loan. If the Bank refuses to disburse the loan for the 4th year, that would frustrate the very purpose of the scheme and if the petitioner discontinues her studies at the final year, the loan amount so far paid without security could become sticky. Even for the interest of the Bank, they should see that the loanee student completes education so that the Bank could get back the loan advanced. Though the parents are to be made as co-applicants, it is stated in the scheme that irrespective of their means, loan upto Rs.



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4,00,000/- should be sanctioned without any security. Further, as per the scheme, repayment has to be made by the petitioner student. Repayment clause states that repayment has to be made twelve months after completion of the course or six months after getting job, whichever is earlier. The clause relevant to the repayment is extracted hereunder:

"Repayment in 84 months in Equated Monthly Installments. Moratorium Period 12 months after completion of the course or 6 months after getting the job, whichever is earlier. Regional Heads are empowered to permit extension in study period upto a maximum of two years,

Note: In the cases where loan has been sanctioned for the two/ dual courses, moratorium period.

12. Therefore, the Bank is not justified in refusing to disburse loan to the petitioner for the final year on the ground that her parents became defaulters. Hence, I am inclined to direct the respondent Bank, to forthwith disburse of the loan to the 3rd respondent college payable for the final year B.Tech Course of the petitioner. The writ petition is disposed of in the above terms. No costs...."

5. The above order is self explanatory, restricting the scope for refusal to entertain a student's loan application on flimsy grounds. In the instant case, the respondent bank has raised queries in the form of clarifications, calling upon the student to explain his one year delay in admission and by placing reliance on the CIBIL report of the petitioner's father. As observed by this Court in the aforesaid judgment, the petitioner would be the principal borrower and the status of his parents or family members cannot be a factor for



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rejection of the petitioner application. It is rather unfortunate that the aforesaid order came to be passed in the year 2011 and various subsequent orders of this Court had also passed, even then the financial institutions have been continuing to reject applications of this nature on similar grounds. In my view, the rejection on the ground that the CIBIL reports of the petitioner's family members cannot be a ground for rejection of the application and that the bank may not be justified in seeking for an explanation for his delayed admission.”

5. In yet another case, this Court has passed a similar order in W.P. (MD) No. 16836 of 2018 and this Court by order dated 27.08.2018, has held as follows:-

“12. In the overall circumstances, this Court is of the view that the grant of educational loan to the aspiring students cannot be perilously depend on the whimsical approach of the concerned Branch of the Nationalized Banks. The Bank cannot be allowed to find and fish out norms in order to deny educational loan to the aspiring students. On the other hand, in the present context of higher education, being pursued mostly in Private Institutions, it is incumbent on the part of the Nationalized Banks to lend a succor to the meritorious students, who seek to pursue their higher education in order to achieve excellence in furtherance of their dream. This is more particularly so, when the State itself denuded of its fundamental duties to provide free higher education to all its citizens. When the State has abdicated its primary responsibility in providing free education to its



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citizens and when the State has allowed plethora of private players to run professional and other educational institutions in the State and the mushrooming of such private Institutions has rendered the education a costly affair. In such scenario, it is imperative on the part of the Nationalized Banks to grant educational loan as far as possible in order to help the students, particularly from the poorer background, to achieve their dream and goal. In the absence of any considered approach by the Banks in alleviating the grievances of the poor people, who find it difficulty to provide good education to their children, the result would be that many deserving students would be denied of pursuing higher education only because of their poverty and non-affordability. Such a situation would not advance the cause of a welfare State. In the said circumstances, the Nationalized Banks have to assume larger social responsibility towards realisation of legitimate ambition of tens and thousands of students belonging to poor social and economic background, who could otherwise ill-afford to pursue their higher education.”

6. Fully fortified by the mandates of the orders extracted supra, observing that the same are self-explanatory and as such, the second respondent bank may not be justified in rejecting the petitioner's request on the ground that the petitioner's mother's cibil ratings has fallen below 730 and that the aspect of the petitioner's deceased father's earlier loan which was written off, will not be a bar for consideration of his son's educational loan.



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7.In view of the same, the respondent bank is directed to consider the petitioner's representation dated 23.08.2024 and pass appropriate orders, appreciating his educational loan application bearing No.2473739 under the Vidyalakshmi scheme and forthwith disperse the education loan of Rs. 7,26,000/- to the petitioner within a period of two weeks from the date of receipt of copy of this order.

8.Accordingly, this Writ Petition stands allowed. No costs.

31.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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To

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L.VICTORIA GOWRI, J.

Mrn

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