(2010) 12 MAD CK 0071

In the Madras High Court

Case No : Writ Petition No. 4767 of 2010

A. Boopal APPELLANT

Vs

The Branch Manager, Canara Bank of India RESPONDENT

Date of Decision : 01-12-2010

Acts Referred:

Citation : (2010) 12 MAD CK 0071

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Advocate : C. Prakasam, for the Appellant; T.M. Hariharan, for the Respondent

Judgement

R. Sudhakar, J.—The Writ Petition is filed praying to issue a Writ of Mandamus, to direct the Respondent to sanction educational loan to

the Petitioner.

2. The grievance of the Petitioner is that his son by name B. Manikandan is studying in B.E.(ECE) First year at Bhajarang Engineering College,

Ayathur Village, Veppampattu, Tiruvallur District. Petitioner is hailing from very poor family and he could not able to pay the college fees and other

expenses. He submitted an application under Scheme Cent Vidyarthi Educational Loan Scheme on 21.9.2009. He expressed his willingness to

execute third party sureties and all formalities for issuing educational loan, but the Respondent has not shown any interest to sanction educational

loan for the reasons best known to the Respondent. Hence, he filed this writ petition for a mandamus.

3. In a similar matters this Court (R.SUDHAKAR,J.) passed a detailed order in W.P. Nos. 17507 and 17508 of 2010 dated 28.10.2010 as to

how an application for grant of educational loan should be considered. Relevant paragraphs 5, 6 and 10 to 14 reads as follows:

5. The Government considering the importance of education and its pivotal role in human resource development and to drive the economic growth

of the country has formulated the Model Educational Loan Scheme as early as in the year 2001. The Reserve Bank of India has also issued

circular No. RPCD.PLNFS.BC. No. 83/06.12.05/2000-01 dated April 28, 2001 together with certain modifications suggested by the

Government of India. This was based on the Hon''ble Financial Minister''s Budget Speech in the year 2004-2005. The educational loan is being

extended by all Nationalised Banks and the Government of India has impressed upon the banks to extend facility to deserving/meritorious students

to avail educational loan on certain affordable terms for pursuing higher education in India and abroad. The basis for introducing the scheme and

the objectives is as follows:

1. INTRODUCTION:

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 investment for economic development and prosperity. Knowledge and information

would be the driving force for economic growth in the coming years.

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 changes in the security norms applicable to educational loans with limits

above Rs. 4 lakhs and upto Rs. 7.5 lakhs.

We have been receiving enquiries from members seeking clarifications on the various provisions of the scheme based on feedback received from

the branches. With a view to ensure that the scheme is implemented in letter and spirit, it was decided to review the scheme and make modifications in the scheme to facilitate smooth operation at bank branches. Towards this, a Working Group of General Managers drawn from

select banks was constituted at IBA. This revised model scheme has been prepared based on the suggestions made by the Group.

(emphasis supplied)

2. OBJECTIVES OF THE SCHEME:

3. APPLICABILITY OF THE SCHEME:

The scheme details are as under:

4. ELIGIBILITY CRITERIA:

a. Studies in India:(indicative list)Graduation courses: B.A., B. Com., B. Sc., etc., Post Graduation courses: Masters & Phd. Professional courses:

Engineering, Medical, Agriculture, Veterinary, Law, Dental, Management, Computer, etc., Computer certificate courses of reputed institutes

accredited to Dept. of Electronics of Institutes affiliated to university. Courses like ICWA, CA, CFA, etc., Courses conducted by IIM, IIT, II Sc,

XLRI, NIFT, etc., Regular Degree/Diploma courses like Aeronautical, pilot training, shipping etc., approved by Director General of Civil

Aviation/Shipping, if the course is pursued in India. In case the course is pursued abroad ,the Institute should be recognized by the competent local

aviation/shipping authority. Courses offered in India by reputed foreign universities.

Evening courses of approved institutes. Other courses leading to diploma/degree etc., conducted by colleges/universities approved

byUGC/Govt./AICTE/AIBMS/ICMR etc.

Course offered by National Institutes and other reputed private Institutions, Banks may have the system of appraising other institution courses

depending on future prospects/recognition by user institutions. Courses, which are not covered under the criteria mentioned above, individual

banks may take a view to consider extending.

education loan under the scheme taking into account the future prospects/ recognition by user institution.

b. Studies abroad:

Graduation: For job oriented professional/ technical.

Courses offered by reputed universities.

Post graduation: MCA, MEA, MS, etc., Courses conducted by CIMA-London, CPA in USA etc., 4.3. Expenses considered for loan: Fee

payable to college/school/hostel Examination/Library/Laboratory fee.

Purchase of books/equipments/instruments/ uniforms.

Caution deposit, Building fund/refundable deposit supported by Institution bills/ receipts, subject to the condition that the amount does not exceed

10% of the total tuition fees for the entire course.

Travel expenses/passage money for studies abroad.

Purchase of computers # essential for completion of the course.

Insurance premium for student borrower.

Any other expense required to complete the course # like study tours, project work, thesis, etc.,

5. In order to consider the plea of the Petitioners, it will be relevant to refer to Clause 15 of the Revised Model Educational Loan Scheme For

Pursuing Higher Studies in India and Abroad. Clause 15 reads as follows:

a. Meritorious Students Banks which wish to support highly and exceptionally meritorious/deserving students without security may delegate such

powers to a fairly higher level authority.

b. Multiple Loans In case of receipt of application for more than one loan for student borrower from a family, the ''family'' as a unit has to be taken

into account for considering the loan and security taken in relation to the total quantum of finance disbursed, subject to margin and repaying

capacity of the parent/student.

c. Minimum Age xxxx

d. Change of address xxx

e. Top up loans Banks may consider top up loans to students pursuing further studies within the overall eligibility limit, with appropriate re-

schedulement, subject to taking required security.

f. Co-obligator xxx No due certificate No due certificate need not be insisted upon as a pre-condition for considering educational loan. However,

banks may obtain a declaration/an affidavit confirming that no loans are availed from other banks.

Disposal Application Loan applications have to be disposed of within a period of

15 days to 1 month, but not exceeding the time norms stipulated

for disposing of loan applications under priority sector lending.

Flexibility in terms In order to bring flexibility in terms like eligibility, margin, security norms, banks may consider relaxation in the norms on a case-

to-case basis delegating the power to a fairly higher level authority.

10. The emphasis is that no deserving/meritorious students of this country should be denied the opportunity to pursue higher education for want of

financial support. The first Respondent bank cannot deny the Petitioners, their legitimate right to get educational loan under the scheme if they

qualify and are eligible. If the bank adopt this narrow interpretation it will be retrograde and go against the State''s endeavour to promote

education. The scheme is intended to improve the human capital of the nation and the banks are given a role in the development of the human

resources of our country.

The emphasis in the scheme is that the bank should adopt a customer friendly method to cater the needs of the meritorious students. In this

background, the two Petitioners are justified in approaching this Court for a direction to the bank to issue the loan application form. The

Respondents bank ought to have given the same promptly and immediately. The attitude of the Bank should be positive and encourage students to

avail education loan and pursue their education. The role of the Bank Manager in rural India is even more important to promote this scheme.

Considering the laudable purpose of this scheme, the Chairman of all the Nationalised Banks/Commercial Banks should suitably instruct the Bank

Managers, especially at the rural areas to ensure that as and when eligible and poor students seek application form and apply for educational loan,

their case should be considered sympathetically and in a customer friendly manner to promote the cause of education and nation building as the

scheme is intended to fill up the vacuum that the State is feeling difficult to fill. The education loan should not be denied on hyper technicalities. The

authority should not forget that it is because of education that he is holding the post of Manager. The educated youth are the bulwark of the nation.

They are the building blocks of the nation. If their eyes are opened by proper education, it will benefit our country and uplift the family. Education is

still a far dream to millions in this country and that is why the scheme has used the words ""endeavour of all"" in the ""Introduction"" to the Scheme.

The Bank Managers should not develop retrograde attitude and deny education loan arbitrarily. They have to promote the cause of education,

which will empower youth of our nation.

Keeping the above principle in mind the Respondents are directed to issue the loan application form immediately on production of a copy of this

order and process the application for grant loan to the students on complying with other formalities. The writ petitions stand ordered as above. No

costs.

4. The above decision will squarely applies to the fact of this case. In view of the above decision, the Respondent is directed to consider the

Petitioner''s application for grant of loan to the Petitioner''s son on complying with other formalities immediately. The writ petition is ordered as

above. No costs.

