(2023) 05 KL CK 0020

In the High Court Of Kerala

Case No : Writ Petition (C) Nos.14907 and 15714 Of 2022

Ajith Sajeevan APPELLANT

Vs

State Bank Of India RESPONDENT

Date of Decision : 05-05-2023

Acts Referred:

Citation : (2023) 05 KL CK 0020

Hon'ble Judges : N.Nagaresh, J

Bench : Single Bench

Advocate : S.Shanavas Khan, S.Indu, S.Ambily, K.K.Chandran Pillai

Final Decision : Disposed Of

Judgement

N. Nagaresh, J

1. W.P.(C) No.14907 of 2022 has been filed by the petitioner seeking to quash Ext.P10 and to declare that the petitioner is entitled to get education loan of ☐ 4 lakhs. W.P. (C) No.15714 of 2022 has been filed by the petitioners seeking to set aside Ext.P2 and to command the respondents to allow Ext.P1 education loan application submitted by the petitioner.

2. In W.P.(C) No.14907 of 2022, the petitioner stated that he has secured admission in ECR Institute of Management Studies for the Course BBA and AHM (Aviation and Hospitality Management) under the Mangalore University during the year 2021. The petitioner after undergoing written tests and interview, got admission to the Course. The petitioner stated that he belongs to a Scheduled Caste Community and his father is a Coolie labourer. The Course to which the petitioner is admitted is a three year course and the total course fee is ☐ 5,25,000/-.

3. The petitioner's family cannot raise that much amount and hence applied for education loan of ☐ 4 lakhs from the 1st respondent. The petitioner submitted all documents in support of his application.

4. The application submitted by the petitioner stands rejected as per Ext.P10 communication stating that the credit report of the borrower is unsatisfactory, that the student preferred a distant area when facility was available in nearby area and that the KYC is not self attested.

5. The petitioner contended that the financial stability of the parent should not be a criteria for deciding the eligibility of a student for education loan. The Course opted by the petitioner in the Aviation and Hospitality Sector is a trending career in India and abroad. The fact that the petitioner has got admission in a distant college also cannot be a reason to deny education loan.

6. The education loan scheme is a priority sector scheme. The petitioner has been denied education loan in spite of the guidelines issued by the Government of India and RBI. The petitioner has applied for a loan of ☐ 4 lakhs. The petitioner's father, who is the co-obligant, holds property worth more than ☐ 30 lakhs. In the circumstances, the decision of the Bank can only be treated as arbitrary and illegal.

7. The 1st petitioner in W.P.(C) No.15714 of 2022 is a student of Viswajyothi College of Engineering and Technology at Vazhakkulam. The 1st petitioner is a first year B.Tech student in the subject Artificial Intelligence and Data Science. The petitioners submitted application for education loan for ☐ 4 lakhs. The 2nd respondent as per Ext.P2 letter has rejected the loan application on the ground that the applicant's CIBIL score is insufficient.

8. The petitioners urged that rejection on the said ground is unsustainable. Instability and insecurity of the co-obligant is not a reason for rejecting an education loan. The petitioner has obtained admission in a recognised Engineering College. Unless the respondent advance the loan amount, the 1st petitioner will be ousted from the college. The respondents are therefore compellable to allow the petitioner's Ext.P1 education loan application.

9. The respondents resisted the writ petitions filing counter affidavit. The respondents stated that the reason for rejecting loan applications is the low CIBIL score of the co-borrowers as per reports obtained from Credit Information Companies. In view of the provisions of the Credit Information Companies (Regulation) Act, 2005, the respondents are bound to verify the creditworthiness of the applicants while processing loan applications.

10. It is further urged on behalf of the respondents that in the matter of banking transactions, jurisdiction of the civil courts are barred. In view of the provisions contained in the Act, 2005 and the Rules and Regulations made thereunder, while considering an application for education loan, the Banks are bound to take into account the creditworthiness of the borrower as well as the guarantors.

11. The respondents further submitted that for education loans up to ☐ 7.5 lakhs, no immovable property can be demanded and accepted as security. The co-borrower can be any one of the parents of the applicant and in their absence,

any other near relative as specified can be co-borrower. The applicant-students have an option to offer any other near relative as co-obligant if the credit scores of the parents are unsatisfactory. The fees levied by the educational institutions in which the petitioners have obtained admission, are excessive. It is under these circumstances that the loan applications were rejected.

12. I have heard the learned counsel for the petitioners and the respective Standing Counsel appearing for the respondents.

13. The applications submitted by the petitioners for education loan of ☐ 4 lakhs stands rejected by the respondents mainly on the ground that the credit scores of the co-obligant / parent are unsatisfactory. This Court has considered the issue of creditworthiness of co-obligants in education loan applications. In Pranav S.R. v. The Branch Manager, State Bank of India and another [2020 KHC 4695], this Court held that unsatisfactory credit scores of the parents cannot be a ground to reject an education loan application in view of the fact that repayment capacity of the student after his education should be the deciding factor.

14. This Court followed the judgment in Pranav S.R. (supra) in Kiran David v. Assistant General Manager, State Bank of India [2022 (2) KLT 268]. In Kiran David (supra), this Court held that the Banks are within their competence to sanction education loans dehors any special scheme governed by the Government or RBI. But, when the Banks disburse loans as priority sector loans, the eligibility criteria fixed for sanction of such loans should necessarily have a nexus with the object sought to be achieved. This Court held that the Nationalised Banks and Scheduled Banks will not be justified in framing conditions for sanctioning of such priority sector loans so as to defeat the very purpose of grant of such loan.

In view of the above, the petitioners are entitled to succeed. W.P.(C) No.14907 of 2022 is therefore disposed of setting aside Ext.P10. The respondents are directed to reconsider the education loan application submitted by the petitioner without regard to the credit score of co-obligants and take a decision thereon within a period of one month. W.P.(C) No.15714 of 2022 is disposed of setting aside Ext.P2. There will be a direction to the respondents to reconsider the application for education loan submitted by the petitioners without regard to the credit report of the co-obligants and a decision shall be taken within a period of one month.