

(2011) 04 MAD CK 0428

In the Madras High Court

Case No : Writ Petition (MD) No. 7789 of 2008 and M.P. (MD) No. 1 of 2008

K. Nathan

APPELLANT

Vs

The Assistant General Manager, State Bank of India and The
Branch Manager, State Bank of India, Mudukulathur Branch

RESPONDENT

Date of Decision : 12-04-2011

Acts Referred:

Citation : (2011) 04 MAD CK 0428

Hon'ble Judges : K. Suguna, J;A. Arumughaswamy, J

Bench : Division Bench

Advocate : T. Lajapathi Roy, for the Appellant; S. Sethuraman, for the Respondent

Final Decision : Dismissed

Judgement

1. The Petitioner has come forward with this writ petition for issuance of a Writ of Mandamus to direct the second Respondent to provide the educational loan amount to him to continue his studies within the period that may be stipulated by the Hon"ble Court.

2. The vehement contention of the Petitioner is that in spite of his representation, his loan application has been rejected since he passed the higher secondary exams in the second attempt and he cannot be termed as a meritorious student so as to be considered for the entitlement of educational loan. The contention of the Petitioner is that when once he has applied for the educational loan, the Authorities have to grant the educational loan. In support of his contention, learned Counsel appearing for the Petitioner has relied upon the decision reported in MINOR D. INIYAN GOWTHAM v. THE UNION OF INDIA and Anr. (2008 (1) C.L.T. 849) .

3. From a perusal of the records, it is seen that the Petitioner has applied for educational loan and he has given an application before the banking authorities and the same has been rejected. The second Respondent has filed a counter,

wherein in Paragraph 5 it has been stated that since the Petitioner has passed the XII standard exam in the second attempt and so far he has not produced the first year mark sheet, it is not known whether he has passed the first 3 year or he has got arrears and as per the educational loan scheme, it is intended only to a meritorious student.

4. In a similar situation, this Court in paragraph 9 of the decision reported in 2008 (1) C.L.T. 849 (cited supra), has held as follows:

9. On the face of it one can see that the order passed by the second Respondent is patently illegal and against the policy of the Government and it is against the concept of propagating education among the students especially to the students who come from down trodden community. A reference to the impugned order passed by the second Respondent bank which reads as follows:

We refer to the above and inform you that due to poor academic career of the student, we are unable to consider educational loan for your son

makes it very clear that the second Respondent has predetermined the issue even before the Petitioner has chosen to join in his B.E. Degree Course. The order merely because in his Plus Two (+2) examination he has failed in one subject does not mean that he is unqualified. Based on his qualification only the authorities competent have admitted him in an Engineering Degree Course and it is not for the second Respondent to under estimate the quality of any such candidate. On the other hand, even a reference to the guidelines shows that the basis of issuance of guidelines is to encourage education among the students and nowhere it is stated that only bright students should be given such loans. On the other hand the guidelines show that in the normal circumstances, while appraising the loan, the prospects of the future income of the student has to be considered and it is also open to the bank to consider the prospects of the parent / guardian.

5. From the above decision, it is clear that for sanction of educational loan, the qualifying mark is not the criteria. Therefore, the argument of the bank that the candidate should be meritorious for obtaining the educational loan cannot be countenanced. Consequently, we are of the view that the application of the Petitioner for educational loan has to be considered by the Respondents once again.

6. Accordingly, this writ petition is disposed of with a direction to the second Respondent to consider the application of the Petitioner for grant of educational loan bearing in the light of the decision reported in MINOR D. INIYAN GOWTHAM v. THE UNION OF INDIA and Anr. (2008 (1) C.L.T. 849) and pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. However, there will be no order as to costs. Consequently, the connected M.P.(MD) No. 1 of 2008 is closed.