(2014) 11 MAD CK 0534

In the Madras High Court

Case No : W.P. (MD) No. 17841 of 2014

R. Archana APPELLANT

Vs

The District Collector RESPONDENT

Date of Decision : 28-11-2014

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 11 MAD CK 0534

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Judgement

M. Venugopal, J.—Heard Mr. M.S. Jeyakarthik, the learned counsel for the petitioner, Mr. K. Guru, the learned Additional Government Pleader for the first respondent and Mr. Pala Ramasamy, the learned counsel for the second respondent.

2. According to the Petitioner, her parents died during the year 2004, by leaving behind their five children and she being the eldest. After the demise of her parents, her brothers, sisters as well as herself have been living with her grand-father and they are totally depending upon the income of their uncle, namely, Jothilingam, who is the brother of her father for their livelihood. Under the aforesaid pitiable circumstances, she had completed her school education and secured 1149 marks out of 200 marks in her 12th Standard Examination.

3. The petitioner aspired to join medical course and projected an application for B.D.S. Course. Considering her 12th Standard Examination''s marks, she secured admission to B.D.S. Course in the Best Dental Science College, Ultra Trust, situates in No. 4/235, College Road, Tahsildar Nagar, Madurai-20 through Counseling she joined into the B.D.S. Course in the aforesaid College and now she is studying in the First Year Course. She hails from a poor family and finds it very difficult to meet out her educational expenses. Since the Government of India had extended the system of disbursement of education loan to poor students for their welfare even without obtaining guarantee, and in view of the

object of the Scheme, which is to provide financial support from the banking system to the deserving and meritorious students for pursuing Higher Education in India and abroad, she and her uncle approached the Second Respondent/Bank in person and made representation to the Senior Manager and requested him to sanction the educational loan, so as to enable her to pursue her B.D.S. Course. Although, her representation was received, the second respondent has not chosen to consider her representation, seeking loan. On number of occasions, she had approached the second respondent, but in spite of the same, there was no response from the bank side. In as much as the second respondent had not considered her claim in respect of educational loan, through her uncle, made a representation on her behalf to the first respondent on 18.10.2014, thereafter requested the first respondent to grant educational loan to her. Considering her grievance, the first respondent recommended to the second respondent for the grant of Educational Loan to her studies, as per reference No. MDU LBO GDP RMP 2014 dated 18.10.2014.

4. Further, according to the petitioner, her college fee structure to pursue her B.D.S. Course comes around an estimated sum of Rs. 1,83,000/- per year for the purpose of applying Educational Loan to her. As such, she approached the Second Respondent/Bank on 20.10.2014 along with all relevant documents, Fee Structure to pursue her B.D.S. Course, Mark Sheets, Prospectus of the College and requested the bank to sanction educational loan.

5. In spite of the fact that she had approached the Second Respondent/Bank on numerous occasions, they had not taken any effective steps for granting educational loan by considering her future. She is ready to comply all the conditions of bank in the event of granting educational loan. She is purely dependant upon the educational loan for continuing her education. Apart from the educational loan, there is no source for guaranteeing her studies.

6. She has to pay the fees for her books, records and others within a month. Unless she pays the fees to the College, she could not pursue her studies any further. Hence, she made a representation to the second respondent on 28.10.2014, thereby requesting him to grant educational loan for pursing the B.D.S. Course. Although having received his representation, second respondent has not sanctioned the educational loan in her favour. Hence, her entire carrier is in jeopardy.

7. She had completed her Higher Secondary Education with 95.75% marks. Hence, she obtained admission in B.D.S. Course in her College. As stated above, she is a meritorious and satisfied all eligibility criteria determined by the Government to obtain the educational loan. Also that her sisters and brothers are also depending on their relative for their livelihood. She is fully deserving to obtain educational loan from the Second Respondent/Bank.

8. Per contra, the stand taken by the second respondent/Bank in his counter is that the Writ of Mandamus filed by the petitioner, seeking educational loan is per

se is not maintainable before this Court. Further, the petitioner came only once to the bank several months back and enquired about the process of obtaining educational loan from the dank. During the course of discussion, the following facts were gathered: (i) The petitioner is a minor and (ii) The petitioner''s parents died 10 years back. Hence, the bank guided the petitioner to obtain Guardianship Certificate and other particulars as to who is maintaining her. She had stated that she is residing with their father''s father. Also as per the bank documentation, which is enclosed in the bank''s typed set of papers, namely, the Educational Loan Agreement, the parent of the student has to be a co-obligant, and Bank Security documents have to be jointly executed by the student and the co-obligant and this is the request of the Bank. The petitioner had stated that she would gather all particulars and she would provide the same. But till date, she has not turned up.

9. It is incorrect to state that the bank did not sanction educational loan to the petitioner. In fact, the petitioner has not approached the Second Respondent/ Bank with particulars as required and till date no application is submitted in the prescribed format. Moreover, there is no personal inter se dispute between the petitioner and the Second Respondent/Bank and also the same is not alleged. That apart, the Writ of Mandamus would not lie against the bank compelling to grand loan. That apart, the petition is not maintainable in law and on facts.

10. It is to be borne in mind that when once the petitioner''s admission for eligibility is established and if a candidate is selected by any one the modes of selection, then it is not open to a bank ordinarily to refuse loan facility for educational purposes and that too to a needy and deserving candidate like the petitioner. That apart, when the petitioner''s B.D.S. Course is approved by a competent body and College, when the college is affiliated to a particular University, which conducts examination, then there may not be any impediment for the Bank to sanction the loan in question as opined by this Court.

11. It cannot be brushed-aside that the Schemes and Policies are framed by the Central Government and the benefit should reach the needy and deserving persons. As a matter of fact, the Bank is not entitled to take a lopsided/pedantic or hyper-technical approach so as to defeat the purpose of Scheme introduced by Central and State Governments.

12. In the present case, if the Second Respondent/Bank is not sanctioning/ granting educational loan to the Petitioner, then it may violate upon Article 14 of the Constitution of India, which prohibits discriminatory treatment to a citizen.

13. In view of the fact that the petitioner is in need of educational loan for her B.D.S. Course amounting to Rs. 1,83,000/- per year, as per fee structure given by the College Authority, this Court in the Interest of Equity, Fair Play, Good Conscience and even as a matter of Prudence and also on Equitable Considerations, directs the Petitioner to submit an application (if not submitted already) to the second Respondent/Bank, seeking educational loan and upon

receipt of the said application the Second Respondent/Bank is directed to consider the said application of the Petitioner for sanctioning of educational loan to her within a period of four weeks from the date of receipt of a copy of this order in accordance with the Policy of the Central Government as well as the Scheme framed by the Reserve Bank of India as held by the Division Bench of this Court in W.A. No. 144 of 2009, dated 12.10.2009. Moreover, in the order dated 16.11.2007 in W.P. No. 33933 of 2007, dated 16.11.2007, this Court held that just because a student failed in one subject, it does not mean that he is unqualified to obtain the educational loan. Further the Petitioner is also directed to lend her unstinted cooperation and assistance to the Second Respondent/Bank so as to enable the bank to sanction the loan to her within the time determined by this Court. Further, it is needless to state that the petitioner shall furnish all necessary documents which the Second Respondent/Bank seeks from her and in this regard she is expected to lend her cooperation also.

14. With the aforesaid observations and directions, this Writ Petition is disposed of. No costs.

