(2014) 04 KL CK 0056

In the High Court Of Kerala

Case No : W.P. (C) No. 27948 of 2013

Runa Varghese		APPELLANT
	Vs	
Federal Bank		RESPONDENT

Date of Decision : 07-04-2014

Acts Referred:
Constitution of India, 1950 — Article 14

Citation : (2014) 2 KLT 764

Hon'ble Judges : A.V. Ramakrishna Pillai, J

Bench : Single Bench

Advocate : P.B. Sahasranaman, T.S. Harikumar, K. Jagadeesh and Raajesh S. Subramanian, Advocate for the Appellant; John Jospeh Roy, Mathew Jacob (Kunnathu), Lawrence D''Cunha, R.S. Kalkura and P. Fazil, Sr. Government Pleader, Advocate for the Respondent

Final Decision : Allowed

Judgement

A.V. Ramakrishna Pillai, J.—The petitioner belonging to a financially backward family, who got admission to B.Sc. (Nursing) Course for the Academic Year 2013-2014 in Hillside College of Nursing, Bangalore has approached the first respondent bank for an educational loan for Rs. 4 lakhs. However, her application was rejected vide Ext. P5 for the reason that she does not have 65% marks in the qualifying examination. The petitioner alleges that Ext. P5 order of rejection and Ext. P7 communication are arbitrary, illegal and violative of the rights guaranteed under Article 14 of the Constitution of India. Respondents 1 and 2 countered that the loan could not be sanctioned by the first respondent due to the fact that the petitioner did not fall within the level of meritorious performance in the academic performance, as defined in Reserve Bank of India circular dated 28.4.2001. They maintained the stand that the petitioner secured admission not through Common Entrance Test. According to them, in area where Common Entrance Tests are not in place as per the Model Education Scheme, the bank can adopt appropriate criteria based on employability and reputation of the institution concerned. According to them, in such cases, the first respondent bank is relying on the marks obtained by the student in the basic qualifying examination for deciding the eligibility as per the norms laid down by the respondent bank. It was contended that as per the norms, a student who secures 65% marks in the basic qualifying examination is considered by the respondent bank as a deserving/meritorious student, for getting financial assistance from the bank by way of Special Vidhya Loan. According to the respondents, the petitioner does not fall within the said category. Therefore, she is not entitled to obtain the loan as prayed for.

2. Arguments have been heard.

3. The fact that the petitioner has approached the first respondent bank with an application stands admitted. The petitioner passed Higher Secondary Examination conducted by the Board of Higher Secondary Examination, Thiruvananthapuram. Ext. P1 reveals that she has secured Grade C in three subjects, Grade C in two subjects and Grade B+ in other subjects in the examination. According to the petitioner, she preferred application to various colleges and finally she obtained a seat under merit category for B.Sc. Degree in Nursing at Hillside College of Nursing, Bangalore. Ext. P2 is the copy of the communication issued by the said college. According to the petitioner, the said college is approved by the Indian Nursing Council, as evident from Ext. P3 order. Ext. P4 is the true copy of the estimate certificate issued by the said college showing the details of the fee payable for the course.

4. In 2001, a Model Educational Loan Scheme was prepared by the Indian Banks Association which was modified and after necessary modifications, the Reserve Bank of India (the 3rd respondent) accepted the same and gave statutory force through Ext. P8 circular. The respondents cannot deny the fact that Ext. P8 circular is binding on all banks, including the first respondent bank. Ext. P8 was subsequently modified by Ext. P9 circular. Admittedly, the second respondent in compliance with Exts. P8 and P9 circulars formulated the present educational loan scheme.

5. The grievance of the petitioner is that the Indian Banks Association which is a non-statutory body without the sanction of the sixth respondent regularly modified Ext. P8 circular so as to deny educational loans to a large section of students. The latest modification was a circular in 2012 which is produced as Ext. P. 11.

6. The educational loan scheme enclosed with Ext. P8 circular of Reserve Bank of India shows that the conditions of minimum qualifying marks in the last examination stands dropped. The object of Ext. P8 is to pursuit higher education for poor and meritorious students. The same would be defeated by the issuance of Ext. P5 order of rejection; it was argued by the learned counsel for the petitioner.

7. In this case, the petitioner has gone through the selection process before getting admission. This is evident by Ext. P2 score sheet. As rightly pointed out,

a student has every right to join a college of his choice. In the instant case, the institution to which the petitioner was admitted, was approved by the Indian Nursing Council. Therefore, the stand taken by the respondents that financial assistance cannot be extended to the petitioner on the ground that she did not secure 65% marks in the qualifying examination is illegal and against the spirit of Exts. P8 and P9 circulars.

8. The petitioner was admitted to the college provisionally and if she does not pay the full fees of the first year, her admission would be cancelled and she would not be able to sit in the examination. On a consideration of the entire facts and circumstances of this case, this Court is of the definite view that the petitioner is entitled to succeed.

Therefore, the Writ Petition is allowed. Exts. P5 and P7 are quashed. Respondents 1 and 2 are directed to sanction the educational loan to the petitioner as requested forthwith.