(2024) 07 JH CK 0093

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3709 Of 2024

Shubhangi Singh	APPELLANT
Vs	
Union Bank Of India	RESPONDENT

Date of Decision : 22-07-2024

Acts Referred:
Banking Regulation Act, 1949 — Section 21, 35A, 56

Citation : (2024) 07 JH CK 0093

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Amit Kumar Das, Siddharth Jain, Saurabh Kumar, Preetam Mandal, P.A.S. Pati

Final Decision : Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Amit Kumar Das, the learned counsel appearing on behalf of the petitioners as well as the learned counsel Mr. P.A.S. Pati, appearing on behalf of the respondent Union Bank of India.

2. The prayer in this petition has been made for quashing of the letter as contained in Ref. No.RLP/2024-25 dated 09.05.2024, whereby the application made for educational loan by the petitioners has been rejected on the ground that CIC score of the petitioner no.2 is below 650.

3. The further prayer in this petition has been made for quashing of the communication made by the respondent-bank in their e.mail dated 20.06.2024 whereby the request for reconsideration of the educational loan was further rejected.

4. The further prayer in this petition has been made for direction upon the respondent-Bank to sanction the educational loan of the petitioner no.1 so that she can pursue and complete her studies and the course of M.B.B.S from K.S.

Hedge Medical Academy, Mangalore.

5. Mr. Das, the learned counsel appearing on behalf of the petitioners submits that that the petitioner no.1 is a student of first year MBBS from K.S. Hedge Medical Academy, Mangalore. She had passed her matriculation in the year 2019 and thereafter she has passed plus-II examination in the year 2021 from B.S.N. Academy, Nanta (Kunari) Ladpura Kota (Rajasthan). He submits that the petitioner no.1 thereafter applied for admission in medical colleges through National Eligibility Cum Entrance Test (UG) -2023 and scored 434 marks. He submits that the petitioner no.1 was called upon for counselling and she was allotted a seat for MBBS at K.S. Hedge Medical Academy, Mangalore vide allotment letter dated 29.07.2023. He submits that thereafter the petitioner no.1 has taken admission and petitioner no.2 has paid fees for the first year and thereafter she has got admission. He submits that first year fees to the tune of Rs.22 lacs have already been paid.

6. He further submits that to encourage students for pursuing higher education and also to ensure that no students fail to pursue their education due to financial constraints, the Government of India had laid down a policy for extension of financial help for the students pursuing professional courses. In view of such policy, the Indian Bank’s Association (IBA) has drafted a model scheme being IBA Model Educational Loan Scheme for pursuing higher education as contained in Annexure-5. He further submits that Reserve Bank of India had issued guidelines for floating schemes by the banks for promoting educational loans and extending the loans to the desirous candidates as contained at Annexure-6. He submits that in view of the aforesaid guidelines, the respondent Union Bank of India has also framed Special Union Education Loan Scheme for premier medical institutions. As per the eligibility criteria, the students who secured admission in full time medical courses (MBBS, MD, MS) in the premier institutions mentioned in the list through entrance examination are eligible to apply for the said loan. Under the said scheme, the parent or the spouse has to be co-applicant/ guarantor and the minimum CIC score of the co-borrower/ guarantor prescribed in the scheme is 650 and above and minus 1, further the scheme offered a loan up to Rs.40 lakhs without any collateral. By way of referring the said scheme, he further submits that the said scheme is without any collateral for loan up to Rs.40 lacs. He submits that the petitioners have applied for educational loan for the medical study of petitioner no.1 and the entire course fee has been annexed as Annexure-8 to the writ petition. He submits that in this background, the petitioners have applied for educational loan of Rs.40 lacs which was denied by the respondent Bank by the letter Reference No.RLP/2024-25 dated 09.05.2024 on the ground that the said CIS score of the petitioner no.2 is less than 650. He submits that the petitioner no.2 has applied for CIBIL score from Credit Information Bureau (India) Limited (CIBIL) and it was informed that the CIBIL score of the petitioner no.2 was 666 as contained in Annexure-10. He further submits that the petitioner no.2 has taken housing loan from LIC Housing Finance Limited, Top up of housing loan from LIC Housing Finance Limited and

second Top up of housing loan from LIC Housing Finance Limited and one personal loan and all the loans have already been re-paid by the petitioner no.2 and inspite of that, the Bank has not considered the application of the petitioner on the flimsy ground that the said loan accounts were settled. He submits that after taking the CIBIL report from the Credit Information Bureau, again request was made by the petitioner to re-consider the decision of sanctioning of loan in favour of the petitioners. However, by the e.mail dated 20.06.2024, again the same was turned down and in view of that a ground was taken that CIBIL score of the petitioner was 609 which is less than 650. He further submits that after the rejection, when the enquiry was made from the Bank, the Bank has further asked the petitioner’s brother to be as co-applicant and in view of that, the elder brother of the petitioner no.1 namely Shaswat Anand who after completing his engineering course is presently employed with Price Waterhouse Copper (PwC), a Multinational Company, he has also become a co-applicant and the maternal uncle of the petitioner no.1, namely Rajesh Bihari, who is a renowned businessman having good financial background, became the guarantor against the said loan. He submits that when these further two criterias were met out, there was no occasion to the Bank to refuse the same without collateral guarantee in terms of the scheme. He submits that the total fee of entire course is almost Rs.One crore and only Rs.40 lacs are being taken as loan and rest of the amount are being arranged by the parents of the petitioner no.1 and in spite of that, the Bank has not cooperated and that is in violation of the scheme of the Bank as well as the Reserve Bank of India. On these grounds, he submits that the writ petition may kindly be allowed.

7. Per contra, Mr. P.A.S. Pati, the learned counsel appearing on behalf of the respondent-Union Bank of India submits that the petitioner no.2 has not fulfilled the criteria and in view of that the request was turned down by the respondent Bank. He submits that once the scheme was there, the bank is bound to follow the said scheme. He submits that the CIBIL score of the petitioner no.2 was less than the criteria and as such, the Bank has rightly rejected the same. He further submits that the petitioner no.1 is admitted in the institution under the management quota and as such, she is not entitled for the security-free loan. He further submits that the Bank has also made correspondences with the said institution with regard to the quota of the petitioner no.1 and till date, the communication was not met out by the said institution. He further draws the attention of the Court to the supplementary counter affidavit and submits that how the CIBIL score of the petitioner is less than 650 as disclosed in Annexure-B. He submits that now the CIBIL score of the petitioner has gone further higher and the report shows that he has settled the loan and that has been settled within one year period and in view of that the further criteria with regard to said loan is coming in view of Annexure-A wherein it is disclosed that even under compromise, one year cooling period will be there. On this ground, he submits that respondent Bank has rightly passed the order. He relied in the case of Aayush Sampat v. Chief Manager, State Bank of India reported in 2018 SCC

OnLine Guj. 4931 and submits that in view of this judgment, the case of the petitioners is fit to be rejected.

8. In view of above submission of the learned counsels appearing on behalf of the parties, the Court has gone through the materials on record and finds that the petitioner no.1 after completing her plus-II examination, she has appeared in the National Eligibility Cum Entrance Test (NEET-UG), 2023 and scored 434 and she was called by medical counselling committee for counselling and thereafter she was allotted K.S. Hedge Medical Academy, Mangalore. The allotment letter is contained in Annexure-3. Looking into the said Annexure-3, which is allotment letter, it is not disclosed that the petitioner no.1 was admitted on the management quota. It is further admitted position that the petitioner no.2 has paid a sum of Rs.22 lacs which is the fee for the first year and further the Government of India has come forward with the scheme of financial help and the Reserve Bank of India (RBI) had issued guidelines for floating the schemes with regard to higher education of the students. The document as contained in Annexure-10 has been issued by the Credit Information Bureau (India) Limited which clearly suggest that the CIBIL score of the petitioner no.2 is 666 wherein the scheme says that CIBIL score of the guardian should be 650 only. In the first rejection order, the Bank has only stated that it was less than 650 and that is why it was rejected on the request for reconsideration and the score is said to be 609, according to the Bank. However, the case of the petitioners is further strengthened in view of the statement of the Bank itself in the supplementary counter affidavit wherein the CIBIL score is brought as Annexure-B and wherein the CIBIL score of the petitioner no.2 is said to be 672. The document of the Bank further strengthens the case of the petitioners as the CIBIL score is said to be 672. It was pointed out by Mr. Pati, the learned counsel appearing on behalf of the respondent Union Bank of India in course of the argument that so far the history of settlement is concerned that is the part of the said CIBIL score as contained in Annexure-B and further the Bank account has been settled which is further contradictory to the document brought on the record in the writ petition as contained in Annexure-10 and in the subsequent pages with regard to the loan, which is disclosed to the effect that so far the LIC first loan is concerned, the amount over due was only Rs.13,564/- and the LIC has certified it by way of Annexure-11 series that the remaining amount has already been paid. Thus, it is crystal clear that the said account was not on the settlement. The further document with regard to other loans further suggest which is part of the Annexure-10 that there was no over-due, there were no suit, there were no written-off amount and there were no written-off amount (principal) which further strengthens the case of the petitioners.

9. The rejoinder to the counter affidavit has been filed by the petitioners wherein the document of another candidate namely, Piyush Kaushik has been brought as Annexure-19/1, the provisional allotment letter of the petitioner is similar to Piyush Kaushik and in both the documents it is said deemed/paid seats quota and the same bank has sanctioned the loan amount in favour of Piyush Kaushik

to the tune of Rs.40 lacs in absence of any collateral securities. The petitioner has also made correspondence with the said institution with regard to the quota on which the petitioner no.1 was admitted and the institution has informed by way of Annexure -16 to the rejoinder that she was admitted on the first round of All India Counselling for Deemed Universities conducted by the Medical Counselling Committee (DGHS) during the academic year 2023-24. Thus, this stands with regard to quota of the Bank is further frivolous.

10. Mr. Pati, the learned counsel appearing on behalf of the respondent Bank has relied in the case of Ayush Sampat v. Chief Manager, State Bank of India(supra), in that case, Hon'ble Gujarat High Court has not considered the scheme of 2022 on the basis of which the application was made by these petitioners. Further the bank has requested the petitioner no.2 and asked the brother of the petitioner no.1 to be co-borrower which was also complied with and in spite of that, the refusal is made. The scheme contained in Annexure-7, provides that Bank should include in their credit appraisal process/loan policies, suitable provisions for obtaining Credit Information Reports from one or more of the Credit Information Companies. The scheme of the Bank as contained in Annexure-7 with regard to the co-applicant/ guarantor is as under:

"9.Co-Applicant/ Guarantor

a. Either of the parents or spouse to be made co-applicant/ guarantor,

b. income/ means of the co-applicant/ guarantor is not to be considered while sanctioning the loan

c .if the parent/ spouse has not accompanied the student at the time of application/ sanction, the formalities with regard to the co-applicant / guarantor such as obtaining credit informant, guarantee bond, etc can be complied with subsequently.

d. All the formalities with regard to the co-applicant/guarantor will have to be completed before release of loan.

E .For the sake of convenience, RLP/ Branch nearest to the place of residence of co-applicant guarantor to complete all the formalities, in case the co-ap[applicant /guarantor does not accompany the student to the institute or is not present at the city where the applicant is presently employed. Otherwise, the RLP/ Branch at the institute city or city where applicant is presently employed can complete the co-applicant/ guarantor formalities at the time of sanction of loan. The due diligence formalities have to be completed by RLP/ Branch nearest to permanent place of residence of the co-applicant / guarantor.

f. Minimum CIC score or equivalent CIC score of the co-borrower/ guarantor shall be 650 and above and (-)1."

11. In the said scheme, the note is made that collateral-free loan up to Rs.40 lacs shall be made available to the students who has secured admission based on

merit and the students who secured admission through the management quota, tangible collateral security with minimum value of 50% of total loan amount and interest accumulation during course and moratorium period, shall be submitted. In the case in hand, in light of the documents, it is crystal clear that the petitioner no.1 has been qualified on her own merit and she is not pursuing her studies on the mercy of the management. As such, the petitioner is entitled for loan amount of Rs.40 lacs in absence of any collateral security. Further clause of co-applicant/ guarantor, particularly, clause 9(c) stipulates that if the parent/ spouse has not accompanied the student at the time of application/ sanction, the formalities with regard to the co-applicant/ guarantor such as obtaining credit informant, guarantee bond, etc. can be complied with subsequently. It has been pointed out that the brother of the petitioner who is working in a multinational company as well as one relative have come forward to satisfy those criteria and in spite of that, the loan in favour of the petitioner no.1 was not sanctioned by the Bank. The aforesaid guidelines of the Bank have been issued pursuant to the guidelines of the Reserve Bank of India (RBI) for the purpose of maintaining accounting standards. With a view to enable poor and middle-class students to pursue higher education of their choice without any constraint of funds, a Scheme was provided by the Government of India to ensure that no student misses out on higher education for lack of funds. Vidya Lakshmi Portal for students seeking Education Loan has been developed under the guidance of Department of Financial Services, (Ministry of Finance), Department of Higher Education (Ministry of Education) and Indian Banks Association (IBA). This has been done in exercise of the powers conferred by Sections 21 and 35A read with Section 56 of the Banking Regulation Act, 1949, the Reserve Bank of India, in public interest, has issued Reserve Bank of India (Priority Sector Lending - Targets and Classification) Directions, 2020. The Banks including the nationalised Banks are within their competence to sanction student/education loans dehors any special Scheme framed by the Government or RBI and if such an scheme is there, the object of grant of sanction by the Bank is required to be considered. 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 and the Banks are not allowed to make a condition so that the entire scheme itself is frustrated. Further, the said education loan of Rs.40 lacs is further required to be considered considering that the re-payment possibilities are to be decided not on the financial position of the parents but solely on the projected future earnings of the students on employment after education. So far as the stand of the Bank with regard to cooling period is concerned, the document contained in Annexure-10 and 11 clearly suggest that those loans of the credit card were not written off and as such the stand of the Bank with regard to one year cooling period is also not a hinderance in granting the said loan.

12. In view of above facts and reasons, this Court comes to the conclusion that the grounds taken by the Bank with regard to the management quota and CIBIL

score is arbitrary one.

13. The Court finds that the petitioner no.1 has completed the eligibility test in a competition for medical examination (National Eligibility Cum Entrance Test-U.G) in which she has passed the examination and the counselling in this regard has also been made and she was allotted a good medical college in the country as well as the first year fee has also been paid and such students are required to be encouraged in the country like-India where the ratio of the doctor-patient ratio is 1:834 meaning thereby, upon one doctor, 834 patients are dependent and prima-facie, it appears that these are the factors of encouraging the students by the Government to come out with such schemes.

14. Accordingly, the communication/letter as contained in Ref. No.RLP/2024-25 dated 09.05.2024 and the communication/e.mail dated 20.06.2024, whereby the request for reconsideration of the educational loan was further rejected, are quashed.

15. The Bank shall re-considered the loan application submitted by the petitioners, disregarding the low credit score and the ground of admission taken on the management quota as well as the cooling off period and sanction and disburse eligible loan amount, if the petitioners are otherwise eligible, within a period of two weeks from the date of receipt/ production of a copy of this order.

16. In view of the submission of Mr. Das, the learned counsel appearing on behalf of the petitioners, the Bank may involve the brother of the petitioner and maternal uncle of the petitioner in this regard as disclosed in paragraph no.23 of the writ petition.

17. W.P.(C) No.3709 of 2024 is allowed in the above terms and disposed of.

