(2017) 04 MAD CK 0088

In the Madras High Court

Case No : 4584 of 2017 and W M P(MD)No 3659 of 2017

S.Paramasivam APPELLANT

Vs

The Assistant General Manager, Canara Bank, Circle Office, & Anr. RESPONDENT

Date of Decision : 26-04-2017

Acts Referred:

Citation : (2017) 04 MAD CK 0088

Hon'ble Judges : V.Parthiban

Bench : SINGLE BENCH

Advocate : V.Parthiban

Final Decision : Dismissed

Judgement

1. This writ petition has been filed by the petitioner challenging the impugned order passed by the second respondent in MSCR : :2017, dated

02.02.2017 and seeking a consequential direction to the respondents to disburse the Education Loan to the petitioner''s daughter, namely, P.Siva

Ilakkiya towards admission fee, tuition fee, hostel fee, book fee, food etc., for completion of Medical course for the academic year 2014-15 to

2019-20 forthwith.

2. The case of the petitioner is that his daughter, namely, P.Siva Ilakkiya, after completing her 12th Standard in the year 2017 desired to pursue

her higher studies in Medicine. According to the petitioner, his daughter applied for admission of the medical course in a University at Philippines

and the college has been recognised by the Medical Council of India as per the averment of the petitioner. In order to pursue the education of the

petitioner''s daughter, he has approached the second respondent bank for educational loan in October 2014. However, the loan application has

not been considered favourably by the respondents under one reason or other. In this connection, a number of representations are said to have

been submitted by the petitioner to the respondent bank. But no favourable action was forthcoming.

3. While matter stood thus, by the impugned proceedings dated 02.02.2017, the respondent bank rejected the request of the petitioner seeking

educational loan to the petitioner. The reasons for rejection as stated in the impugned proceedings are extracted hereunder:-

1.As per extant guidelines prevailed in Feb 2016, for Educational Loan of Rs.7.50 locs, collateral security in the form of suitable

third party guarantee with adequate Networth and Income or collateral security in the form of tangible assets (Movable/ Immovable)

with stipulated margin covers 100% of the loan is to be offered. The above stipulation was not complied with.

2. As per extant guidelines, the applicant should submit a declaration / an affidavit confirming that no loans are availed from other

Banks. If coborrower is having overdues at the time of sanction / disbursement of education loan, such defaulter need not be

accepted as co-borrower. You have availed a Personal Loan of Rs.30000.00 with our B/o Valiampatti on 24.02.2005. Despite

continuous remainders, there was no repayment in the account from 13.04.2006. Subsequently, the account was slipped into NPA.

The above fact was not disclosed by you in the application.

3.Further, it is informed that the total estimated expenses towards pursuing MBBS course is approximately Rs.25.00 lacs. The

application for EL is submitted only for Rs.7.50 lacs. Details/Proof of other source of income to meet out the differential amount of

Rs.17.50 lacs is not on record. Incidentally, we observe that your SB account with our Vilampatti branch is inoperative for more than

2 years with meager balance.

The above said proceedings is under challenge before this Court.

4. The learned counsel appearing for the petitioner would submit that the loan which is sought by the petitioner, is an educational loan and not a

commercial loan and the reasons cited in the impugned proceedings may not be valid. The reason that the petitioner had defaulted in payment of

personal loan cannot be held against the grant of educational loan for the simple reason that the scheme provided for educational loan does not lay

down any such condition and therefore, the reason is unsustainable in law.

5. The learned counsel appearing for the respondent bank would submit that unless the bank is satisfied about the fulfilment of the condition for

grant of educational loan, the same will not be considered favourbly in favour of the petitioner. In fact, the learned counsel drew this Court''s

attention to the revised guidelines issued by Indian Banks Association dated 2015, in which, it is stated that the bank may, as the prudent measure,

insist on the joint borrower acceptable to the bank, in case of adverse credit history of the parent/guardian of the student. According to the bank,

they are acted prudently since credit history of the parents was not satisfactory.

6. In the counter affidavit filed by the respondent bank, it is stated that as per the revised guidelines, it has been stressed that bankers while

entertaining educational loan applications are to study the merit of the students and the employment opportunities, the course and the colleges fetch

to the students on completion of the course. According to the bank, the petitioner''s daughter was a mediocre student having 713 marks out of

1200 in the qualifying Higher Secondary Examination. According to the bank, many foreign universities admit the students liberally without insisting

on merits through intermediary and pursue such education in foreign universities is not a positive factor for the bank to consider the application for

the grant of educational loan. Moreover, it is stated in the counter affidavit that the petitioner had borrowed hand loans viz., Rs.30,000/-and

another Rs.25,000/- on two occasions and failed to repay the loan amount and bank was ultimately forced to write off of the loan. In such

circumstances, the bank is legitimately concerned with the repayment of the loan to be advanced to the petitioner under the scheme. In all the

above said reasons, the learned counsel for the bank would submit that the claim of the petitioner has been rightly rejected and the same is not

liable to be interfered with.

7. I have given my anxious consideration to the rival submissions of the parties and I do not find any infirmity in the impugned proceedings passed

by the respondents rejecting the claim of the petitioner. From the materials, pleadings made available on record, it could be seen that the petitioner

is not a bona fide borrower who can be extended the helping hand by way of grant of educational loan. In fact, the petitioner is an officer in the

State Government service and in spite of his position, he could not repay the small hand loan obtained by him on two occasions earlier. Moreover,

there was no valid explanation from the petitioner as to how the expenses for the entire education of his daughter would be met over and above,

the loan amount sought by the petitioner.

8. The learned counsel appearing for the petitioner would also cite a decision of this Court reported in 2011(1) CWC 843 (G.Dhivya vs. The

Branch Manager, Canara Bank). However, the said decision cannot be applied to the factual matrix of the present case.

9. Since I have already concluded that there was no infirmity in the impugned proceedings passed by the respondents dated 02.02.2017, I have no

hesitation in dismissing the writ petition as devoid of merits. Hence, the writ petition fails and the same is dismissed. No costs.

Consequently, connected miscellaneous petition is also dismissed.