(2015) 06 MAD CK 0204

In the Madras High Court

Case No : Writ Petition No. 10729 of 2015

Vinay	APPELLANT
Vs	
The Branch Manager	RESPONDENT

Date of Decision : 25-06-2015

Acts Referred:
Constitution of India, 1950 — Article 14

Citation : (2015) 06 MAD CK 0204

Hon'ble Judges : M. Sathyanarayanan, J

Bench : Single Bench

Advocate : M. Ravi, for the Appellant; S. Sethuraman, SC, Advocates for the Respondent

Final Decision : Allowed

Judgement

M. Sathyanarayanan, J.—By consent, the writ petition is taken up for final disposal.

2. The petitioner at present is a third year student of B.E. Electrical and Electronics Engineering in ER.Perumalmanimekalai Engineering College, Krishnagiri and he approached the respondent bank for educational loan on the ground that he is having a poor economic background and that is why he seeks educational loan to pursue his higher education.

3. The petitioner has further stated that the respondent bank did not chose to pass any orders on his application and with great difficultly he has completed two years of the Course by borrowing from outsiders and at last his application was rejected on 06.11.2013 on the ground that under Management Quota, the student should have obtained 50% and above in the main subjects and the petitioner has secured only 85 marks in physics and challenging the legality of the same, has filed the present writ petition.

4. The learned counsel appearing for the petitioner has drawn the attention of this Court to the judgment reported in S. Saran Kumar Vs. The Regional

Manager, Karur Vysya Bank and The Branch Manager, Karur Vysya Bank , wherein this Court in similar facts and circumstances has set aside the impugned order rejecting the application for educational loan, with a positive direction, directing the respondents therein to sanction educational loan to the petitioner based on his application and therefore, prays that similar orders may be passed.

5. Per contra, Mr. Sethuraman, learned standing counsel appearing for the respondent bank has drawn the attention of this Court to the counter affidavit as well as to the Educational Loan guidelines and would submit that the student who is applying for educational loan has to secure a minimum marks of 50% both for the qualifying examinations and qualifying subjects individually (Viz., Physics, Chemistry and Mathematics for Engineering and Physics, Chemistry and Biology for Medical/Nursing) and since, the petitioner did not fulfill the said criteria, his loan application was rightly rejected.

6. This Court upon considering the rival submissions and on perusal of the materials placed before it, is of the view that the impugned order has to be quashed for the following reasons.

7. This Court in the judgment reported in S. Saran Kumar Vs. The Regional Manager, Karur Vysya Bank and The Branch Manager, Karur Vysya Bank has considered the similar issue and it is relevant to extract the following paragraphs.

11. In the impugned order the second respondent has stated that since the petitioner has secured admission in management quota and not went through the selection process, the petitioner is not eligible to get sanction of education loan. The said stand of the respondents is contrary to the scheme announced by the respondents viz., Vidya Jyothi Educational Loan Scheme. Though in the said scheme it is stated that admission could be claimed by writing entrance examination, it is common knowledge to all concerned that in the state of Tamil Nadu no entrance examination is conducted for admission to B.E. Degree course or for any professional course. Admittedly there are two modes of admissions to professional course in self-financing colleges in the state of Tamil Nadu viz., Government quota, i.e., candidates are selected through single window selection and management quota. The said allocation of seats is also approved every year by the Monitoring Committee headed by a retired High Court Judge, constituted by the State Government as per the Judgment of the Supreme Court in the decision reported in Islamic Academy of Education and Another Vs. State of Karnataka and Others, AIR 2003 SC 3724 : (2003) 3 CTC 719 : (2003) 6 SCALE 325 : (2004) 13 SCC 3 : (2003) 6 SCC 697 : (2003) 2 SCR 474 Supp : (2003) AIRSCW 4240 : (2003) 6 Supreme 303 and P.A. Inamdar and Others Vs. State of Maharashtra and Others, AIR 2005 SC 3226 : (2005) 4 CTC 81 : (2005) 3 ESC 373 : (2005) 7 JT 313 : (2004) 8 SCC 139 : (2005) 2 SCR 603 Supp : (2005) 2 UJ 1176 : (2005) AIRSCW 3923 : (2005) 5 Supreme 544 .

12. The fact that the petitioner was selected and admitted in the management quota seat and pursuing his studies cannot be a debarment for submitting

application to avail education loan. It is not the case of the respondents that the petitioner is not eligible to be admitted in the B.E degree course due to lack of minimum marks, age or otherwise. Once eligibility for admission is established and a candidate is selected through anyone of the mode of selection, which is permitted by the Monitoring Committee and the University having approved the admission of the petitioner, it is not open to the respondent bank to refuse loan facility viz., education loan to a deserving candidate like the petitioner. The Central Government as well as the Reserve Bank of India gave guidelines to the banking sectors to sanction education loan to all deserving candidates. The requirements, the banks can insist upon is whether the candidate is eligible to be admitted in the course, whether the course is approved by the competent body, and whether the college is affiliated to the University which conducts examinations.

13. The Schemes and Policies are framed by the Central Government and the benefit should reach the deserving persons. Rejecting the claim of education loan to the petitioner by the second respondent by raising untenable and hypertechnical ground establishes the mindset of the person, who is in charge of the bank. The Bank is not entitled to take a rigid and hairsplitting interpretation in cases like this, without bearing in mind the object of the Scheme. In all other Banks, education loan is sanctioned to students admitted in management quota. In some cases though initially the loan applications were not considered favourably, on receiving notice, the concerned banks readily sanctioned loans on the basis of valuable legal advise given by the standing counsels. If the attitude of the respondent bank is accepted or given a seal of approval, it would be discriminatory and violative of Article 14 of the Constitution of India, which prohibit discriminatory treatment to a citizen. The higher officials of the respondent bank are bound to give proper instructions to branch Managers as to how the applications seeking education loan are to be processed, so that such kind of unreasonable attitude can be avoided.

15. Identical issue as to whether a candidate who was having poor academic career can be denied of educational loan by the Bank of Baroda was considered in W.P. No. 33933 of 2007 and by order dated 16.11.2007 this Court set aside the order rejecting the request and directed to sanction education loan to the petitioner therein within four weeks. In the said order, the learned Judge considered the object for which the educational loan is sanctioned, i.e., to encourage education among students. Finding that there is no prohibition to sanction education loan to academically poor students, the learned Judge allowed the writ petition.

16. Applying the principle laid down in the above said judgment to the facts of this case and the only reason to deny the educational loan by the respondent bank being that the petitioner is admitted in the management quota, I am of the view that the respondents are not justified in rejecting the claim of the petitioner as there is no prohibition to sanction education loan to students admitted in the

management quota. If the stand taken by the respondents is accepted, no student admitted under the management quota in any private self-financing college will be in a position to get education loan, which will defeat the purpose for which the Government of India and Reserve Bank of India introduced the scheme."

8. This Court can also take judicial notice of the fact that admission into management quota through counselling, as well as by approaching the concerned institution, is also permitted and therefore, in the light of the above said judgment, prescription of the minimum marks, formulated by the respondent is unsustainable.

9. In the result, the writ petition is allowed and the impugned order dated 06.11.2013, is set aside. The petitioner is permitted to submit a fresh application to the respondent by furnishing necessary particulars and by enclosing relevant documents within a period of two weeks from the date of receipt of a copy of this order and the respondent, on receipt of the same, is directed to consider the said application, if it is in order, in the light of the judgment reported in S. Saran Kumar Vs. The Regional Manager, Karur Vysya Bank and The Branch Manager, Karur Vysya Bank , and pass orders within a period of two weeks, thereafter and communicate the decision taken, to the petitioner. No costs.