

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 03RD DAY OF JULY 2020 / 12TH ASHADHA, 1942

WP(C).No.10968 OF 2020(U)

PETITIONER:

PRANAV S.R.

AGED 20 YEARS

S/O. SHAJI R., KADAYIL VEEDU, MEVANAKONAM, KADAKKAL
P. O., KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:

1 THE BRANCH MANAGER
STATE BANK OF INDIA, KADAKKAL BRANCH, KADAKKAL P.
O., KOLLAM - 691 536.

2 THE TAAN UNION CIBIL LIMITED
ONE INDIA BULL CENTRE, TOWER 2A, 19TH FLOOR,
SENAPATHY BAPAT MARG, ELPHISTONE ROAD, MUMBAI - 400
013, REPRESENTED BY ITS MANAGING DIRECTOR.

R1 BY ADV. SHRI.JAWAHAR JOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-06-2020, THE COURT ON 03-07-2020 DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 3rd day of July 2020

1. This writ petition is filed seeking the following prayers
 - i) To call for the records leading to Ext.P4 and P6 from the Respondents and issue a writ of certiorari or other appropriate writ order of direction quashing Ext.P4 and P6 orders declining Education Loan to the Petitioner.
 - ii) To Issue a writ of mandamus or other appropriate order or direction commanding the Respondents to sanction and disburse Education Loan Rs.5,70,000/- to the Petitioner for his 4 Years B.Tech Course in Dhanalakshmi Srinivasan College of Engineering, Perambalur, Tamil Nadu within a stipulated time as directed by this Hon'ble Court.
 - iii) To declare that the Petitioner is entitled to get sanction and disburse Education loan Rs.5,70,000/- for his 4 Years B.Tech Course In Dhanalakshmi Srinivasan College of Engineering, Perambalur, Tamil Nadu."
2. Heard the learned counsel for the petitioner, learned standing counsel appearing for the 1st respondent bank and the learned counsel for the 2nd respondent.
3. It is submitted that the petitioner, a 1st year B.Tech student in Food Technology had applied for an education loan for pursuing his studies in an Engineering College in Tamil Nadu. It is stated that the application had been declined as per Exhibit P4 order on the ground that the CIBIL report of the petitioner's father showed that there was a default in a commercial vehicle loan availed by him. It is submitted that in the hope of getting the

education loan sanctioned, the petitioner's father closed the commercial vehicle loan and got the fact endorsed in the registration particulars of the vehicle. It is submitted that even thereafter and after the closure of the loan was brought to the notice of the 1st respondent, the application for education loan was declined by Exhibit P6 stating that the credit history of both the parents reveal multiple default.

4. The learned counsel for the petitioner submits that after the default had been cleared, the continued rejection of the education loan on the ground of past default is completely illegal. Reliance is placed on Exhibit P7 judgment of the Madras High Court as well as Exhibit P8 judgment of this Court where directions had been issued to grant education loans in similar circumstances.
5. A counter affidavit has been placed on record by the 1st respondent. It is submitted therein that the writ petition to release an education loan is not maintainable. It is stated that while processing the loan application submitted by the petitioner it was seen that the petitioner's parents had earlier been sanctioned vehicle loans, cash credit loans and gold loans from the State Bank and from other banks. It is stated that the vehicle loan was repaid only after the loan became overdue. The cash credit loan has become NPA on multiple occasions and the

credit history of the petitioner's parents did not permit the sanction of the educational loans. Exhibit R1(a) model education loan scheme of the Indian Banks Association and Exhibit R1(b), Office Memorandum prescribing guidelines issued by the State Bank of India are relied on to contend that the credit score is liable to be taken into account where education loan is sought for prosecution of studies in management quota in colleges outside the State. It is further contended that the CIBIL score of the petitioner's father and mother which are produced as Exhibits R1(c) and R1(d) respectively do not justify the grant of loan.

6. The learned counsel appearing for the 2nd respondent would submit that Exhibits R1(c) and R1(d) are not issued by the 2nd respondent and the characterisation of those documents as CIBIL scores is completely unwarranted. It is contended that the petitioner's father had availed a commercial vehicle loan from ICICI bank which had been closed and it is further stated that the 2nd respondent had not submitted any adverse credit report to the 1st respondent to justify the contentions in the counter affidavit.
7. I have considered the contentions advanced on either side. It is clear that the petitioner's application for education loan has been rejected by the 1st respondent on the sole reason that the

CIBIL report of the petitioner's father is unsatisfactory. Exhibit P6 also refers to credit history of both parents revealing multiple defaults. Relying on SBI circular dated 2.12.2019, it is contended that the loan sought for cannot be sanctioned. This Court in Exhibit P8 judgment has considered a similar situation. The petitioner therein was also an OBC candidate who secured admission for BDS course in a private college in Thiruvananthapuram. The contention of the bank was specifically that the guidelines issued by the Indian Bank Association did not permit the issuance of the education loan. The specific contention was that the credit score of the parents of the petitioner therein did not justify the issuance of the loan.

8. This Court, after considering the contentions advanced, held as follows:-

“9. Insofar as the object of the Educational Loan Schemes formulated by the Bank in compliance with the circular issued by the Reserve Bank of India having statutory force is to ensure that a meritorious student shall not be deprived of the opportunity to pursue higher education merely on the ground that he/she does not have resources for the same, and insofar as the Model Scheme formulated by Indian Banks' Association which was forwarded by the Reserve Bank of India to lending Banks for formulation of appropriate Educational Loan Schemes was one in which the repayment possibilities of the loan were contemplated to be made not on the financial position of the parents but solely on the projected future earnings of the students on employment after education, I am of the view that the rejection of the request for loan on the ground that the

father of the petitioner does not have the requisite credit score is arbitrary and violative of the spirit of the circular issued by the Reserve Bank of India dated 28.04.2001 which is binding on the Bank. ”

9. Having considered the contentions advanced on either side, I am of the opinion that the only difference in the instant case is that the petitioner seeks the loan for joining a B.Tech course in a college outside the State. The contention of the respondents that the admission is in the management quota is not borne out by any documents. The orders of rejection also do not disclose any such consideration for the rejection of the loan. A reading of Exts. R1(a) and (b) also does not support the said contention. The petitioner belongs to OBC community and he is seeking the educational loan for continuing his B.Tech studies. Taking note of the findings in Exhibit P8 judgment, I am of the opinion that unsatisfactory credit scores of the parents of the petitioner cannot be a ground to reject an educational loan in view of the fact that the repayment capacity of the petitioner after his education should be the deciding factor as per clause 10 of Ext R1(a) scheme.
10. In the above view of the matter, Exhibits P4 and P6 orders are set aside. There will be a direction to the respondents to reconsider the application preferred by the petitioner for education loan within two weeks from the date of receipt of a copy of this judgment. The 1st respondent shall abide by the RBI

guidelines and the model scheme and shall take all efforts to see that the petitioner is granted all benefits due thereunder. Exts. R1(c) and (d) shall not be pressed into service to deny the loan, if the petitioner is otherwise found eligible.

The writ petition is disposed of accordingly.

sd/-

Anu Sivaraman, Judge

sj

APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 THE TRUE COPY OF THE RATION CARD
NO.1208056899 ISSUED BY THE TALUK SUPPLY
OFFICE, KOTTARAKKARA TO THE PETITIONER.
- EXHIBIT P2 THE TRUE COPY OF THE CERTIFICATE
NO.PLR/2019/LOAN CERTIFICATE DATED
06.09.2019 ISSUED BY THE DEAN, DHANALAKSHMI
SRINIVASAN COLLEGE OF ENGINEERING,
PERAMBALUR, TAMIL NADU TO THE PETITIONER.
- EXHIBIT P3 THE TRUE COPY OF THE COURSE CERTIFICATE
NO.PLR/2019/ CERTIFICATE/04 DATED 06.09.2019
ISSUED BY THE DEAN, DHANALAKSHMI SRINIVASAN
COLLEGE OF ENGINEERING, PERAMBALUR, TAMIL
NADU TO THE PETITIONER.
- EXHIBIT P4 THE TRUE COPY OF THE COMMUNICATION DATED
07.02.2020 ISSUED BY THE 1ST RESPONDENT TO
THE PETITIONER.
- EXHIBIT P5 THE TRUE COPY OF THE RELEVANT PAGES OF THE
RC BOOK AND THE ENDORSEMENT RELATING TO
HYPOTHECATION CANCELLATION OF THE AGREEMENT
WITH THE BANK BY THE SUB REGIONAL TRANSPORT
OFFICER, KOTTARAKKARA DATED 17.12.2018.
- EXHIBIT P6 THE TRUE COPY OF THE COMMUNICATION DATED
21.05.2020 ISSUED BY THE 1ST RESPONDENT TO
THE PETITIONER.
- EXHIBIT P7 THE TRUE COPY OF THE JUDGMENT IN W.P. (MD)
NO.7788/2018 DATED 18.04.2018 OF THE MADRAS
HIGH COURT IN MADURAI BENCH.
- EXHIBIT P8 THE TRUE COPY OF THE JUDGMENT IN W.P. (C)
NO.19248/2019 DATED 03.12.2019 OF THIS
HON'BLE COURT.

RESPONDENTS' EXHIBITS

- EXHIBIT R1(B) TRUE COPY OF THE AMENDED CIRCULAR ISSUED BY THE
INDIAN BANKS ASSOCIATION IN THE YEAR 2016.
- EXT R1(B) TRUE COPY OF THE RELEVANT PAGES OF THE CIRCULAR ISSUED
BY THE STATE BANK OF INDIA.

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**EXT.R1(C) TRUE COPY OF THE CIBIL SCOSRE REPORT OF THE
PETITIONER'S FATHER.**

**EXT.R1(D) TRUE COPY OF THE CIBIL SCORE REPORT OF THE
PETITIONER'S MOTHER.**

TRUE COPY

PS TO JUDGE