

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
Tuesday, the 30th day of May 2023 / 9th Jyaishta, 1945
WP(C) NO. 17222 OF 2023(C)

PETITIONER:

NOEL PAUL FREDY, AGED 23 YEARS, S/O. FREDY PAUL, CHAKKALAKKAL HOUSE, KUNNEL CHURCH, ALANGAD, ALUVA, ERNAKULAM DISTRICT, PIN - 683511

RESPONDENTS:

- 1. STATE BANK OF INDIA, MALIKAMPEEDIKA BRANCH, V.R. COMPLEX, KOTTAPPURAM JUNCTION, ALANGAD P.O., ALUVA, ERNAKULAM DISTRICT, PIN - 683511 REPRESENTED BY ITS BRANCH MANAGER**
- 2. THE ASSISTANT GENERAL MANAGER, STATE BANK OF INDIA, RASMECCC, 1ST FLOOR, KAJA COMPLEX, RAILWAY STATION ROAD, ALUVA, ERNAKULAM DISTRICT, PIN - 683101**

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an Order enabling the Respondents to sanction and disburse Education Loan of Rs.4,07,200/- to the petitioner within a stipulated time as directed by this Hon'ble Court.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.GEORGE POONTHOTTAM(SR.), NISHA GEORGE & ANN MARIA FRANCIS, Advocates for the petitioner, M/S.JITHESH MENON, STANDING COUNSEL, K.K.CHANDRAN PILLAI (SR.) and Ambily S., Advocates for the respondents, the court passed the following:

P.V.KUNHIKRISHNAN, J.

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Dated this the 30th day of May, 2023

ORDER

Admit. Learned Standing Counsel takes notice for respondents.

2. The learned Senior Counsel Adv.K.K.Chandran Pillai appearing for the respondents seriously opposed in granting any interim order in this case. On the other hand Adv.George Poonthottam, learned Senior counsel appearing for the petitioner takes me through Exts.P3 and P4 judgments and submitted that, unless the amount is received immediately, the petitioner will be in trouble. Senior counsel appearing for the respondents submitted that, as per the CIBIL score, the petitioner's score is only 560. It is submitted that the petitioner availed two loans and one loan is overdue for Rs.16,667/-. It is also submitted that the

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other loan is written off by the Bank. That is why the CIBIL score is low. But this Court in Ext.P3 judgment considered a similar issue. It is true that this Court only considered the CIBIL score of the parents. It will be better to extract the relevant portion of Ext.P3 judgment:

"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."

[underline supplied]

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3. Similarly in Ext.P4 judgment also, this Court passed a similar order. The relevant portion of the above judgment is also extracted hereunder:

"It was specifically held that the rejection of the application for the deficiency in the credit score of the father of the applicant is arbitrary and violative of the spirit of the circular issued by the Reserve Bank of India. It is seen that the petitioner was granted scholarship by the University itself towards the fee of the first two semesters in recognition of his merit. The respondent Bank has not assessed the repaying possibilities on the basis of either the potential of the course the petitioner is undergoing or his future earning capabilities on completion of the course while rejecting his application and thereby denying the opportunity of the petitioner, who is a meritorious student, to pursue his studies. I am also unable to accept the contention of the learned counsel for the Bank that Exts.P5 and P6 judgments cannot be applied to the case of petitioner, since parents/co-applicants had closed their loan accounts in those cases. The interpretation of the scheme of education loan and findings as to the arbitrariness in rejecting on the basis of the CIBIL score were not made because the loan accounts were closed in those cases, though it happened so in those cases.

In these circumstances, I am of the view that the respondents have to reconsider the application for loan submitted by petitioner. Ext.P3 is therefore set aside.

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Fresh orders shall be passed taking note of the observations made by this Court in Ext.P5 judgment as extracted above. Orders shall be passed taking a liberal approach, irrespective of the CIBIL score of the father. Appropriate action shall be taken within a period of three weeks from the date of receipt of a copy of the judgment.

Accordingly, the writ petition is disposed of."

[underline supplied]

4. The learned Senior counsel appearing for the respondents seriously opposed in granting interim order in this case, stating that it will be against the scheme framed by the Indian Banks Association as directed by the Reserve Bank. It is also submitted that the Credit Information Companies Act, 2005, the Credit Information Companies Rules, 2006 and the Circulars issued by the State Bank of India prohibits disbursement of loan in such situation. The Senior counsel appearing for the petitioner takes me through paragraph No.3 of the writ petition in which it is stated that the petitioner has got an offer for a job in a Multi National Company and therefore the petitioner will be

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able to clear the entire loan amount.

5. It is true that, some legal contentions are raised by the counsel appearing for the respondents. But the balance of convenience, according to me, is in favour of the petitioner. The petitioner is a student. He is completing his course on 31.05.2023. He obtained a job also in Oman as evident by Exts.P2 and P2(a). While considering Education Loan application, a humanitarian approach is necessary from the Banks. Students are the nation builders of tomorrow. They have to lead this country in future. Simply because, there is low CIBIL score to a student, who is an applicant for Education loan, I am of the considered opinion that, Education loan application ought not have been rejected by Bank. Here is a case, where the petitioner obtained a job offer too. Banks may be hyper technical, but a court of law can not ignore the ground realities. Therefore, I am of the considered opinion that the respondents shall disburse the loan to the College of

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the petitioner forthwith.

Therefore, there will be a direction to the respondents to sanction and disburse the Education loan of Rs.4,07,200/- to the College of the petitioner forthwith. All the contentions of the respondents are left open and the respondents are free to file a counter affidavit and can file a petition for early hearing of this writ petition. If such a petition is filed, the Registry will post this writ petition for hearing forthwith.



Sd/-

P.V.KUNHIKRISHNAN
JUDGE

DM

APPENDIX OF WP(C) 17222/2023

- Exhibit-P2** A TRUE COPY OF THE EMAIL COMMUNICATION RECEIVED FROM GLOBAL MONEY EXCHANGE, OMAN DATED 13.01.2023
- Exhibit-P2(a)** TRUE COPY OF THE EMAIL COMMUNICATION RECEIVED FROM GLOBAL MONEY EXCHANGE, OMAN DATED 16.01.2023
- Exhibit-P3** A TRUE COPY OF THE JUDGMENT IN W.P (C) NO. 10968 OF 2020 DATED 03.07.2020 PASSED BY THIS HON'BLE COURT.
- Exhibit-P4** A TRUE COPY OF THE JUDGMENT DATED 23.09.2020 IN W.P(C) 18559 OF 2020 PASSED BY THIS HON'BLE COURT.

