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Court : Chennai

Decided On : Aug-30-2012

Judge : D. Hariparanthaman

Appeal No. : W.P. No. 16673 of 2012

Appellant : E. Mathivanan

Respondent : The State Bank of India, Rep. by Its Branch Manager

Advocate for Pet/Ap. : For the Petitioner: D. Prasanna, Advocate. For the Respondent: P.D. Audikesavalu, Advocate.

Judgement :

(Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of writ of Ceratiorarified Mandamus calling for the records in the impugned order in No. BRI/12-13/16/060, dated 25.06.2012 passed by the respondent and quash the same and direct the respondent to sanction the Educational Loan in Application No. BRI/12-13/16/060 dated 27.10.2011 to the petitioner's Son M. Gokul.)

1. The petitioner's son joined B.E. (Civil Engineering) course in Sree Sastha Institute of Engineering and Technology during the academic year 2011-12. He obtained 59.5% in plus two examination. He made an application dated 27.10.2011 to the respondent-Bank for educational loan. He claimed Rs.3,83,000/-, but, restricted it to Rs.3,36,000/-. His request was rejected by the respondent-Bank by the impugned order dated 25.06.2012.

2. The petitioner has filed this writ petition seeking to quash the order dated 25.06.2012 and for a direction to the respondent-Bank to sanction the educational loan as sought for in his application.

3. Heard both sides.

4. The learned Counsel for the petitioner submits that the impugned order is contrary to the Division Bench common judgment dated 20.04.2012 in W.A.(MD)No.1629 of 2011 and W.P.(MD) Nos.8213, 9172, 10367, 3810, 8654, 9922, 12025, 13143 and 13155 of 2011,.

5. On the other hand, learned counsel for the respondent-Bank submits that as per the revised scheme, as circulated by the Indian Bank Association in their letter dated 30.8.2011, no loan could be given to a student, who got admission under the management quota.

6. I have considered the submissions made on either side.

7. The circular dated 30.8.2011 of the Indian Bank Association revising the educational loan scheme could be applied only from the academic year 2012-13 onwards. Prior to the said scheme, there was no bar for granting educational loan to a student, who joined under the management quota. However, the learned single Judge applied the scheme and rejected the writ petition in W.P.(MD) No.10425 of 2011 which wa filed seeking to quash the order, refusing the grant of educational loan, on the ground that he got admission under the management quota. The said view of the learned single Judge was disapproved by a Division Bench of this court in the aforesaid Writ Appeal.

8. The Division Bench of this court has categorically held that revised Educational Loan Scheme dated 30.8.2011 of the Indian Bank Association would come into operation from the academic year 2012-13. The relevant paragraphs in the aforesaid judgment are extracted hereunder:-

"11. As per the IBA Model educational Loan Scheme merit is to be the sole criteria for eligibility and that admission under and quot; Management Quota and quot; is to be kept outside the scope of the scheme. As per the modified IBA Educational

Scheme, emphasis is on Educational Loan Scheme to provide need based assistance to meritorious candidates. Worried over a rise in default on repaymetn of educational loans, in August, 2011, IBA asked the Banks to keep admission under" Management Quota" outside the scope of the scheme. In the said IBA Model Educational Loan Scheme, it was emphasized that merit, employment potential and consequent ability to repay the loan should be the criterion for sanctioning Educational Loan. Banks were asked to keep admission under Management Quota outside the scope of the scheme. Banks were asked to impose stringent terms and conditions and Banks would decide on the courses for which they will be given the student loans based on employability and consequent ability to repay the loan. IBA Model Educational Loan scheme, which kept the "Management Quota" outside the scope of the Scheme. Was sent to Government of INdia, Ministry of Finance, Department of Financial services for their perusal and suggestions. However, the said Scheme would come into force in the coming academic year 2012-2013.

12. In the order dated 12.12.2011 made in W.P.(MD)No.10425 of 2011, learned single Judge in extenso extracted IBA Model Educational Scheme - Circular No.CE/159 dated 30.08.2011. As rightly contended by Mr.A.Haja Mohideen, learned counsel for the appellant and also Mr.Maheswaran, learned Counsel appearing for the writ petitioner in W.P.(MD)No.1993 of 201, IBA Model Educational Loan Scheme dated 30.08.2011,which come into effect fro the academic year 2012-2013, is not applicable to the appellant. When the appellant is governed by revise IBA Guidelines in Circular No.83/2011, dated 28.4.2001, learned single Judge was not right in referring to the circular CE/159 dated 30.08.2011. Tot his limited extent we differ from the learned single Judge.

9. Hence, the respondent cannot decline to sanction educational loan.

10. At this juncture, learned counsel for the respondent-Bank has submitted that the petitioner could not ask for the loan for the amounts that were not authorised by the Committee on fixation of fee in respect of Self Financing Professional Colleges. In my view, the submission made by the learned counsel for the respondent-Bank is correct. The Committee on fixation of fee in respect of Self

Financing Professional Colleges was constituted pursuant to the judgment of the Apex court in Islamic Academy of Education v. State of Karnataka reported in2003(6) SCC 697 and P.A. Inamdar v. State of Maharashtra reported in2005(6) SCC 537.

11. In view of the categorical pronouncement of this court, the impugned order is quashed. Further, the respondent-Bank is directed to sanction the educational loan for the eligible amount as per the proceedings of the Committee on fixation of fee in respect of Self Financing Professional Colleges.

12. The writ petition is allowed on the above terms. No costs.

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