

W.P(MD)No.11541 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 06.06.2024

Delivered on : 08.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.11541 of 2021

and

W.M.P(MD)No.9061 of 2021

P.Sibiga Dharshini

: Petitioner

Vs.

1.The District Collector,
Tenkasi District, Tenkasi.

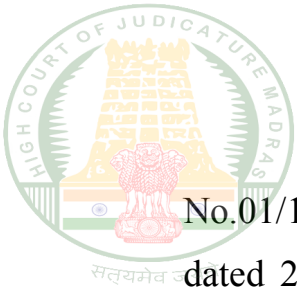
2.The Regional Manager,
Indian Overseas Bank,
Tirunelveli Region,
Tirunelveli.

3.The Branch Manager,
Indian Overseas Bank,
Serathamaram Branch,
Tenkasi District.

4.Gopalakrishnan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorarified Mandamus, to call for the records pursuant to the impugned pre-release condition No.6 in Ref :



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No.01/1/2020-21, dated 20.03.2021 and the consequential impugned letter, dated 25.04.2021 issued by the third respondent and quash the same and direct the respondents 2 and 3 to grant Educational loan to the petitioner as sanctioned in Ref:No.01/1/2020-21, dated 20.03.2021.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For Respondents : Mr.M.Prakash,
Additional Government Pleader for R1.

: Mr.N.Dilipkumar, for R2 & R3.

: No Appearance, for R4.

ORDER

The Writ Petition is directed against the impugned pre-release condition imposed in the educational loan sanction order, dated 20.03.2021 and consequential order, dated 25.04.2021 issued by the third respondent and for direction to the respondents 2 and 3 to grant educational loan to the petitioner as sanctioned in the order, dated 20.03.2021.

2. It is not in dispute that the petitioner was admitted in 5 ½ years BNYS medical degree course in Sree Ramakrishna Medical College of Naturopathy and Yogic Sciences Kanyakumari District. It is also not in dispute that the petitioner after payment of initial as well as first year fees,



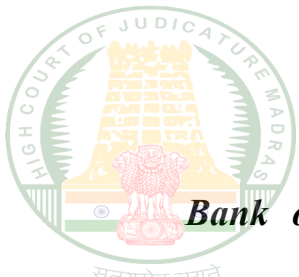
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applied for educational loan under Vidya Jyothi Education Loan with the third respondent on 04.01.2020.

3. It is evident from the affidavit filed by the petitioner and the counter affidavit filed on behalf of the respondents 2 to 4 and other records available that the petitioner as well as the respondents 2 to 4 are making allegations and counter allegations against each other. Meanwhile, one Non- Governmental Organization (NGO) has pasted posters in the locality condemning the Bank Manager for not sanctioning educational loan to the deserved poor students and cautioned the bank management not to create bad name to the Central Government and not to force them for agitation.

4. Thereafter, the third respondent has issued a loan sanction order, dated 20.03.2021 to the petitioner by imposing some pre-release conditions and one of the condition is that the concerned Branch has to obtain apology letter for pasting poster against the Bank, which is now impugned in the present writ petition.

5. The learned counsel for the petitioner would rely on the judgment of this Court in the case of ***K.Anitha Vs. The Branch Manager, Oriental***



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Bank of Commerce, Madurai, in **W.P.(MD)No.12503 of 2016**, dated

03.08.2016, wherein, a learned Judge, by observing that the “Education is a National Wealth and by relying on the objectives of the Education Loan Scheme that Education Loan Scheme outlined below aims at providing financial support from the banking system to meritorious students for pursuing higher education in India and abroad and the main emphasis is that a meritorious student, though poor, is provided with an opportunity to pursue education with the financial support from the banking system with affordable terms and conditions, has directed the concerned Bank to consider the loan application in a sympathetic and humane fashion and also keeping in mind of the periodical Circular/Instructions/Guidelines issued by the Reserve Bank of India.

6. The learned counsel for the respondents 2 to 4 would rely on the judgment of the Division Bench of this Court in the case of **A.Kasinathan Vs.The Branch Manager, Canara Bank, Town Hall Road, Madurai** reported in **2012 SCC Online Mad 1618**, [dated 20.04.2012], wherein the Division Bench by observing that there was a trend that educational loans have become a very powerful instrument in promoting private education and it is the collective wisdom of IBA in issuing guidelines stipulating 60%



marks for the students, who secured admission under "Management Quota" and it is not subject to judicial review, dismissed the writ appeals, confirming the orders rejecting the educational loan.

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7. The learned counsel for the respondents 2 to 4 would also rely on the judgment of Kerala High Court in the case of ***Arya K.R. Kuriyappasseri and others Vs. The Assistant General Manager Reserve Bani of India, Thiruvananthapuram***, reported in ***2015 SCC Online Ker 231733*** and the judgment of this Court in the case of ***A.Kasinathan Vs.The Branch Manager, Canara Bank, Town Hall Road, Madurai*** reported in ***2012(1) CTC 582***, to the same point that the action of IBA in fixing cut off mark as 60%, for those who secured admission under the Management quota, cannot be gone into by the Courts and dismissed the writ petition, challenging the rejection of educational loan. But, in the case on hand, as already pointed out, the respondents 2 to 4 after considering all the aspects, has already granted the sanction order and the only dispute is whether the impugned condition seeking apology from the petitioner for pasting posters against the bank can be sustained.

8. The Hon'ble Supreme Court in the case of ***B.R.Singh and others Vs. Union of India and others*** reported in ***1989 2 LLJ 591***, has specifically



held that the publication of posters and distribution of handbills is a recognized fundamental right and the relevant passage is extracted hereunder :

“Publishing posters and distributing hand bills is a means to ventilate the grievances and free speech in our country is recognized as a fundamental right under Article 19(1) of the Constitution subject to reasonable restriction”.

9. At this juncture, it is necessary to refer the judgment of the Hon'ble Division Bench of this Court, in the case of **G.Arasukumar Vs. S.Gunasekar** passed in **W.A.No.336 of 2008** and batch, dated 01.07.2015, wherein the action taken by the Bank Management against its staffs for raising allegations against the Bank Officials and pasting wall posters, and the Division Bench while setting aside the order of dismissal and other action taken against its staffs, has specifically observed as follows :

“45. Therefore we do not think that the Respondent SBI was right in initiating a disciplinary action gainst the three appellants in respect of the poster in question either on the ground it had interfered with the commercial interest of the bank or it had defamed the bank We do not find anything defamatory in the contents of the poster which gave rise to the impugned charge memos against the appellants. Merely



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pointing out the lapses of the bank and also seeking for the resignation of the Officer in charge of the affairs can never be considered either as defamatory or against the interest of the institution. On the other hand, the appellants and their union have given petitions to the appropriate corrective machinery and thereafter had also taken the issue to public only with the bonafide view of finding solutions. We are of the view that neither 5(d) nor 5(j) of the Memorandum of Settlement describing misconducts will apply to the fact situation So is the case of Regulation 50(4) of the Service Rules.”

10. In the case on hand, as already pointed out, in the posters, the said organization has condemned the action of the Branch Manager for not granting educational loan to the deserved poor students.

11. As rightly contended by the learned counsel for the petitioner, even in the alleged poster, no allegations against the Bank Manager or any other official was raised personally.

12. As already pointed out, though the educational loan was applied as early as on 04.01.2020, the sanction order was issued on 20.03.2021, after the lapse of more than 15 months. The above wordings in the posters, by no stretch of imagination, can be taken as defamatory against the

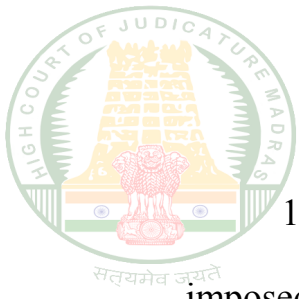


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officials or against the bank. Pasting a poster and distributing hand bills have been recognized as modes of protest. In a democratic society any one can raise voice against the omission or commission on the part of the official of the Government machinery or the public sector concerns, but they should not cross the Lakshman Rekha between the words of condemnation and abusive, offensive and defamatory language.

13. No doubt, according to the respondents, the petitioner's father was the then office bearer of the said NGO at the relevant point of time. Even assuming that the petitioner's father was the then office bearer of that NGO, pasting of posters condemning for non granting of educational loan cannot be taken as against the bank and that cannot be a ground for seeking apology from the petitioner, who has nothing to do with the pasting of posters. A nationalized Bank cannot be act so as to treat the loan applicant that too a student as their servant or as person at their command.

14. Considering the above facts and circumstances of the case, this Court has no hesitation to hold that the imposition of the impugned condition cannot be sustained and the same is liable to be quashed.



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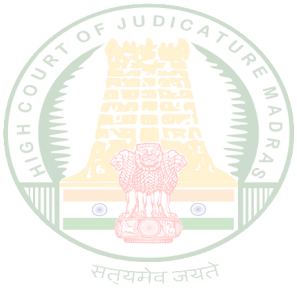
15. In the result, the Writ Petition is allowed and the condition imposed in the sanction letter, dated 25.04.2021, is quashed. The respondents 2 to 4 are directed to proceed in pursuance of their sanction letter, dated 20.03.2021, excluding the impugned condition. Consequently, connected Miscellaneous Petition is closed. No costs.

08.07.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
das

To

- 1.The District Collector,
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Tirunelveli Region,
Tirunelveli.
- 3.The Branch Manager,
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Sernthamaram Branch,
Tenkasi District.



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K.MURALI SHANKAR, J

DAS

Pre-delivery Order made in
W.P(MD)No.11541 of 2021
and
W.M.P(MD)No.9061 of 2021

Dated : 08.07.2024