



GAHC010168842022

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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5649/2022

MASUM ANSARI
S/O ISLAM UDDIN, R/O VILL-HATIKURI GRANT, P.O.-BINNAKANDI, P.S.-
LAKHIPUR, DIST-CACHAR, ASSAM

VERSUS

PUNJAB NATIONAL BANK (PNB) AND ANR
TO BE REPRESENTED BY ITS ZONAL MANAGER, PUNJAB NATIONAL
BANK, ZONAL OFFICE, GUWAHATI, UBI BUILDING, 2ND FLOOR, H.B.
ROAD, PANBAZAR, GUWAHATI, ASSAM-781001

2:THE BRANCH MANAGER
PUNJAB NATIONAL BANK (PNB)
BINNAKANDI BRANCH
P.O.-BINNAKANDIGHAT
DIST-CACHAR
ASSAM-78812

Advocate for the Petitioner : MR. M H LASKAR
Advocate for the Respondent : MR. A GANGULI, SC, PNB

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

JUDGMENT & ORDER (ORAL)

Date : 05-10-2023

Heard Mr. M.H. Laskar, learned counsel appearing for the writ petitioner. Also heard
Mr. A. Ganguli, learned standing counsel, Punjab National Bank (PNB) appearing for the

respondent Nos. 1 and 2.

2. The petitioner herein has approached this Court being aggrieved by the refusal on the part of the respondent Nos. 1 and 2 to disburse the educational loan applied by him by contending that the stand of the Bank is arbitrary and discriminatory. It is the settled position that in matters of granting loan, the decision is entirely up to the Bank and in such matters, the Courts would ordinarily be very slow in interfering. However, in the present case what would be relevant for the Court to consider is whether, the stand of the Bank is arbitrary and discriminatory and if so, does the same have the potential of jeopardizing the educational future of the petitioner. In order to answer the aforesaid queries it would be necessary to briefly narrate the facts and circumstances of the case.

3. The writ petitioner herein claims that he belongs to the OBC community in Assam and he comes from a very poor family. The father of the petitioner is earning his livelihood as a tea garden labourer. The petitioner had passed his High School Leaving Certification (HSLC) examination conducted by the Board of Secondary Education, Assam (SEBA) in the year 2015 by securing 72.6% marks (1st Division) where-after, he had also completed his Higher Secondary (HS) examination in the Science stream, in the year 2018, securing 50% marks. It is the projected case in the writ petition that due to certain health issues faced by the petitioner at the relevant point of time, his performance in the HS examination was unsatisfactory, inasmuch as, the petitioner had to re-write as many as 04 papers under the improvement scheme. Upon completion of HS course, the petitioner had applied for admission in the Two Years Diploma course in Pharmacy (D.Pharm) under the "Shifa Pharmacist Institute" situated at Botertol, Meherpur, Silchar-



15 in the district of Cachar. Shifa Pharmacist Institute (herein after referred to as 'Shifa') is affiliated to Srimanta Sankardeva University of Health Sciences, Guwahati and is also duly recognized by the Pharmacy Council of India (PCI), which is a statutory body under the Govt. of India in the Ministry of Health & Family Welfare, entrusted with the responsibility of regulating Pharmacy Education in the country. As per the case projected by the petitioner, he had appeared in a selection test conducted in the Assam Institute of Nursing at Silchar for admission to the aforesaid course, where-after he, along with 05 other candidates, were selected for admission. The course fee for the entire diploma course was Rs. 2,00,000/- excluding book fee, hostel fee and mess fee. However, the total expenses that would be involved in pursuing the above course would be to the tune of Rs. 2,84,000/- (Two lakhs eighty four thousand).

4. Since the petitioner's father was unable to bear the financial expenses for him to pursue the aforesaid course, he had applied for educational loan of Rs. 2,84,000/- (Two lakhs eighty four thousand) from the respondent No. 2 through the Binakandi Branch of the Bank on 06-04-2022, under the "Punjab National Bank Saraswati Educational Loan" scheme. The application for loan was made online, where-after, the petitioner had also submitted necessary supporting documents for processing the loan. According to the petitioner, the respondent No. 2 had initially assured that the loan would be sanctioned but ultimately, did not do so and on the contrary, had verbally informed the father of the petitioner that the loan will be sanctioned only if collateral security of suitable value is provided so as to secure the loan. Aggrieved thereby, the petitioner has approached this Court by filing the instant writ petition.

5. It appears from the materials on record that having been selected for the Two Years Diploma course (D.Pharm), the petitioner was provisionally admitted to the course on payment of an amount of Rs. 50,000/- which could be somehow managed by his father with great hardship. In the meantime the petitioner has completed the one year of the Two Years Diploma course. Not only that, it also appears that the writ petitioner has secured good marks in the examination held for the first year. However, the institution had issued a notice dated 28-03-2023 asking the petitioner to pay the balance amount of Rs. 1,45,400/- along with late fees, failing which, his admission would be terminated and he will not be allowed to sit for any further examination. It appears that due to the pendency of this proceeding, no coercive action has been taken by the institution against the petitioner till date.

6. The respondent Nos. 1 and 2 have filed counter affidavit taking a stand that since the petitioner neither took part in any entrance test nor was he selected in the D.Pharm course in 'Shifa' through "merit based selection process", as such, he was not eligible for receiving the educational loan in terms of Clause 2(i)(b) of the "Punjab National Bank Saraswati Educational Loan" scheme.

7. Mr. Laskar has vehemently argued that the admission of the petitioner to the D.Pharm course was based on a selection process which included interview and consideration of marks obtained in the HS examination by the candidates. As such, it cannot be said that the selection was not based on merit. Mr. Laskar has further argued that in a course of this nature, there is no scope of holding National level common entrance test, as can be done in many other courses and therefore, the said criteria

cannot be made applicable in case of the writ petitioner. The learned counsel, therefore, submits that viewed from any angle, since it is not in dispute that the admission of the petitioner in 'Shifa' was preceded by a selection process it cannot be said that the petitioner's admission was not merit based.

8. Referring to the terms and conditions contained in the "PNB Saraswati Educational Loan" scheme as well as the IBA Model Educational Loan Scheme for pursuing higher education in India and abroad, Mr. Laskar submits that the basic objective behind introducing the scheme is to extend financial support to the poor and meritorious students, who are unable to pursue higher education due to financial constraints. Since the petitioner is a meritorious student and considering the fact that the loan amount of Rs. 2,84,000/- sought by the petitioner does not call for any collateral security even under the scheme floated by the Bank, the stand taken by the respondent No. 2 insisting on collateral security is wholly arbitrary and illegal and hence, liable to be declared so by this Court. Mr. Laskar submits that the father of the petitioner does not have any property to offer as collateral security for the loan.

9. By inviting the attention of this Court to the annexures appended to the additional affidavit dated 27-09-2023 filed by the petitioner, Mr. Laskar submits that by following the same IBA Model Educational Loan Scheme, two other nationalized Bank, viz. Canara Bank and State Bank of India have already extended educational loan for a sum of Rs. 2,50,000/- each to two different candidates for undergoing the same course under 'Shifa' and therefore, there can be no justification for the respondent No. 2 to deny the educational loan sought by the petitioner on the ground stated in the affidavit. To sum up



his argument, Mr. Laskar has submitted that the Punjab National Bank being a nationalized bank is required to follow uniform policy as envisaged by the IBA Model Educational Loan Scheme as well as that which is followed by the other Nationalized Bank. In the present case, since the loan application submitted by the petitioner had never been rejected by the Bank and considering the fact that the petitioner has already completed first year of the two year course, if the loan is denied to him at this stage, submits Mr. Laskar, the same would seriously jeopardize the future of the petitioner. As such, an appropriate writ order or direction be issued by this Court so as to protect the interest of the petitioner.

10. Mr. Ganguli, learned counsel for the respondents, on the other hand, has argued that accepting or rejecting a loan application is a matter of discretion of the Bank which is exercised on case to case basis. According to Mr. Ganguli, PNB has its own policy for disbursement of loan and therefore, the mere fact that two other nationalized Banks, viz. State Bank of India and Canara Bank have accepted similar applications for educational loan made by two other candidates for pursuing the same course by itself would not cast any obligation upon the respondent No. 1 Bank to grant educational loan to the writ petitioner without collateral security. Reiterating the stand of the Bank as projected in the counter affidavit, Mr. Ganguli has further argued that this is not a case where the petitioner is eligible to receive the loan and that is the reason, the loan amount has not been disbursed till today.

11. I have considered the submissions made at the bar and have also carefully gone through the materials available on record. At the very outset, it deserves to be mentioned



herein that the fact that the petitioner belongs to the OBC community and is from a poor family background is not in dispute. From the HSLC mark-sheet of the petitioner, it is apparent that he is a meritorious student. Although there was a dent in the performance of the petitioner in the HS level, yet, the explanation furnished by the petitioner for his mediocre performance in the HS examination has not been denied or disputed by the respondents. Subsequently, the petitioner has appeared in the first year examination conducted by 'Shifa' and has secured reasonably good marks. From the above, it is clearly established that the petitioner can be treated as a student who would generally come in the category of 'meritorious' student, belong to the poor economic strata.

12. The petitioner has categorically asserted that the D.Pharm course conducted by 'Shifa' is in high demand and there is good chance of employability of the petitioner once he completes the course. The said assertion has also not been specifically denied by the respondent Bank. It is also not denied or disputed that the 'Shifa' is an institution recognized by the PCI and is affiliated to a recognized university, viz. Srimanta Sankardev University of Health Sciences, Assam. The fact that the petitioner is pursuing his course with due diligence and his securing reasonably good marks also stands fully established from a perusal of the first year's mark-sheet, which is appended to the writ petition. Therefore, it is evident from the materials on record that the writ petitioner is pursuing a professional course which carries reasonably good chance of employability, with all seriousness.

13. This Court also finds from the materials on record that the "PNB Saraswati Educational Scheme" introduced by the respondent Bank is aimed at providing financial

support to meritorious students for pursuing higher education in India and the main emphasis of the scheme is to ensure that meritorious students though poor, are provided with a opportunity to pursue education with the financial support from the banking system with affordable terms and conditions. Therefore, it is apparent that there is a generous object behind the scheme which is to promote the welfare of meritorious students belonging to the economically weaker section of the society.

14. It is no doubt correct that as per Clause 2(i)(b) of the "PNB Saraswati Educational Loan Scheme" pertaining to eligibility criteria, the candidate, in order to be eligible to apply for educational loan, must have secured admission to a higher educational course in a recognized institution in India through an entrance test/ merit based selection process after completion of HS (10+2) or equivalent. In case of the petitioner, it is the admitted position of fact that there was no common entrance test. However, the materials brought on record by the petitioner, as noted above, clearly indicates that there was a merit based selection process which preceded the admission of the petitioner in the D.Pharm course. The scheme document nowhere defines as to what would be the criteria of merit based selection so as to qualify for educational loan under the scheme and hence, there is no basis for this Court to hold that the admission of the writ petitioner in the D.Pharm course was not merit based. Therefore, the stand of the Bank that the petitioner is not eligible for the loan under Clause 2(i)(b) of the scheme does not commend for acceptance for this Court.

15. It is also to be noted herein that similarly situated nationalized banks have already extended educational loan to some other candidates who had sought admission in the

same course, under the same institution. Although there can be variance in the clauses of the scheme pursued by the different Banks, yet, the broad principles laid down by the IBA Model Educational Loan Scheme would be uniformly applicable to all the Nationalized Banks including the respondent No. 1. If the eligibility criteria under the IBA Model scheme is examined then this Court finds that the petitioner meets the requirements for availing educational loan even under the principles laid down under the IBA Model Educational Loan Scheme. Therefore, viewed from any angle, this Court is of the opinion that the petitioner fulfills the eligibility criteria both under Clause 2(i)(b) of the "PNB Saraswati Educational Loan Scheme" as well as the "IBA Model Educational Loan Scheme".

16. It may further be noted herein that the loan application made by the writ petitioner was never rejected by the Bank. As per clauses contained in the IBA Model Educational Loan Scheme, more particularly, Clause 11(b) rejection of the loan application is to be communicated within 15 days of receipt of the duly completed application with supporting documents. No such communication has been admittedly issued to the petitioner by the respondent Bank till today. On the contrary, the stand of the Bank is that the petitioner's father should arrange for collateral security for availing the loan. From the above, it is apparent that the Bank is merely insisting a additional security for extending the educational loan by ignoring the fact that the petitioner belongs to a poor family and is seeking educational loan merely because his father did not have the means to arrange for the funds to pursue the course. Situated thus, this Court is of the opinion that the stand of the respondent Nos. 1 and 2 is not only arbitrary and irrational but the same also runs



counter to the basic object of the "PNB Saraswati Educational Loan" scheme.

17. As has been noted above, the petitioner has already completed half the term of the two years diploma course and at this stage, if he is unable to pay the course fees and other dues as demanded by the institution then there is a strong possibility that his career would be seriously jeopardized. Since the petitioner is pursuing a professional course which has good chance of employability and considering the amount of educational loan he is seeking, this Court would be reasonably justified in presuming that the Bank would have sufficient opportunity to recover the amount availed by the petitioner as educational loan and therefore, for the ends of justice, this is a fit case where a writ of mandamus ought to be issued so as to secure the future of the petitioner.

For the reasons stated hereinabove, this writ petition stands allowed.

The respondent Nos. 1 and 2 are directed to process the application for educational loan submitted by the petitioner and release the amount within 15 days from the date of receipt of a certified copy of this order.

The writ petition stands disposed of accordingly.

Parties to bear their own cost.

JUDGE

GS

Comparing Assistant