
(2012) WritLR 640

Madras High Court (Madurai Bench)

Case No: W.A. (MD) No. 1629 of 2011, W.P. (MD) No"s. 8214, 9172, 10367, 3810, 8654, 9922, 12025, 13143 and 13155 of 2011 and W.P. (MD) No"s. 120, 1040, 1065, 1066, 1993, 3289 and 4109 of 2012 and M.P. (MD) No. 1 of 2012

A. Kasinathan

APPELLANT

Vs

The Branch Manager,
Canara bank, Town
Hall Road,
Madurai-625001

RESPONDENT

Date of Decision: April 20, 2012

Acts Referred:

- Banking Regulation Act, 1949 - Section 21, 21(2), 35A
- Constitution of India, 1950 - Article 21A, 41
- Reserve Bank of India Act, 1934 - Section 21(1), 21(2)

Citation: (2012) WritLR 640

Hon'ble Judges: R. Banumathi, J; B. Rajendran, J

Bench: Division Bench

Advocate: Haja Mohideen, Mr. K. Samidurai, M/s. Jeyapaul Associates, Mr. N.C. Ashok Kumar, Mr. B. Jameel Arasu, Mr. R. Venkatesan, Mr. P. Muthusamy, Mr. P.T. Rajnesh Raja, Mr. Deenadayalan, Mr. T.A. Ebenezer, Mr. K.J. Associates, Mr. R. Maheswaran, Mr. G. Karnan, Mr. J. Jeya Kumaran, for the Appellant; C. Jawahar Ravindran, R. Anandaraj, Government Advocate, Mr. C. Jegadish Ilango, M/s. Karthi Associates, Mr. K. Rajendran, D. Nallathambi, V.S. Karthi, R. Manoharan, Pala Ramasamy, N. Murugesan, V.S. Kumara Guru, for the Respondent

Final Decision: Dismissed

Judgement

R. Banumathi, J.

Revised guidelines of Educational Loan Scheme - 2011 of Indian Banks Association (IBA) imposing restriction of 60% marks for considering educational loan in case of students who secured admission under "Management Quota" is under challenge. The appellant

and other writ petitioners are the students, who secured admission in "Management Quota" and secured less than 60% marks as stipulated by the Banks as per the revised guidelines in Circular No. 83/2011 dated 17.03.2011 of Canara Bank and revised guidelines of other banks.. On the ground that issues involved in the writ petitions are similar to the issues arising in the Writ Appeal, on reference by the learned single judge, all the writ petitions were posted along with Writ Appeal. With the consent of all the counsel appearing for writ petitioners and also the Banks, arguments in the writ petitions were heard along with the Writ Appeal.

2. Educational Loan Scheme - Background facts:- Education is central to the Human Resources Development and empowerment in any country. National and State level policies are framed to ensure that this basic need of the population is met through appropriate public and private sector initiatives. While government endeavour to provide primary education to all on a universal basis, higher education is progressively moving into the domain of private sector. With a gradual reduction in government subsidies higher education is getting more and more costly and hence the need for institutional funding in this area, (vide Reserve Bank of India Guidelines for "A Model Educational Loan Scheme").

3. It was felt that loans for education should be seen as an investment for economic development and prosperity. In the meeting held on 13.06.2000, the Honourable Finance Minister highlighted the role of commercial Bank in facilitating pursuit of higher education by poor and meritorious students and expressed the need to have a comprehensive educational loan scheme prepared that could be adopted by all the Banks.

4. In pursuance thereof, Indian Banks Association (in short, "IBA") constituted a study group to examine the issue. Based on the recommendations of the Study Group, a comprehensive Model Educational Loan Scheme was prepared by the Indian Banks Association for adoption by all Banks. The Scheme aids at providing financial support from the Banking system to deserving/ meritorious students for pursuing higher education in India and abroad.

5. Objectives of the Scheme: Model Scheme prepared by IBA was accepted by Government of India, Ministry of Finance, Department of Economic Affairs. The Model Educational Scheme so prepared by IBA was circulated by Reserve Bank of India in RPCD.PLNFS.BC.No. 83/ 06.12.05/2000-01 dated 28.4.2001 for implementation by Banks. The Educational Loan Scheme outlined below aims at providing financial support from the banking system to deserving/ meritorious students for pursuing higher education in India and abroad. The main emphasis is that every 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. No deserving student is denied an opportunity to pursue higher education for want of financial support. In short, the scheme aims at providing financial assistance on reasonable terms:

to the poor and needy to undertake basic education.

to the meritorious students to pursue higher/professional/ technical education.

The said Educational loan scheme contains broad outlines as to student eligibility, expenses considered for loan, quantum of finance, security, sanction/disbursement, repayment, follow up, processing charges, capability certificate and other conditions.

6. As per the IBA Scheme, for studies in India, students will be eligible for a maximum loan of Rs. 7.50 lakhs and for studies abroad, the students will be eligible for a maximum of Rs. 15 lakhs. The students, who borrow the amount need not repay the loan during the course of education plus one year. After one year of their studies, the students will have 5-7 years to repay the loan amount.

7. Based on the guidelines framed by IBA circulated by the Reserve Bank of India (RPCD.PLNFS.BC.No. 83/06.12.05/2000-01 dated 28.04.2011), the Nationalised Banks have been implementing guidelines while granting educational loan to students. In March 2011, the competent authority has permitted implementation of certain revised guidelines as advised by the IBA Sub-Committee on educational loans (Vide Circular No. 83/2011 dated 17.03.2011 of Canara Bank and ADV.94/2011-12 of Indian Bank dt. 16.09.2011. As per the existing guidelines, for considering educational loan for students who secure admission under Management Quota, minimum marks in qualifying examination is stipulated. As per the Revised Guidelines, in case of students who have secured admission under Management Quota, educational loan can be considered only if candidates have secured 60% marks in qualifying examination. Thus as per the revised guidelines, in case of students, who secured admission under "Management Quota", educational loan can be considered only if students have secured 60% marks in the Board Examination and also subject to other terms and conditions. The revised guidelines had also brought about certain modifications in respect of collateral security as well as the credibility status of co-borrower, whether he is a defaulter etc.

9. Further, under the Revised Guidelines, while granting educational loans, Banks were asked to keep in view the following additional action points for implementation:-

The Educational institutions maybe requested to communicate to the branches the academic achievements and placement details of the students which will help the Branch to a great extent in tracking the students.

Branches, in turn, on receiving the annual academic performance details of the student borrower from the college/ institution to write to students either appreciating their performance where the same is good or advising them to improve the same where the performance is poor. This will strengthen the communication channel and bond between the student and the Branch.

Branches to obtain two local references (who have close relationship/ contact with the applicant's family) in the Educational Loan application for the purpose of tracking. Steps have been initiated for suitable modification/ incorporation in the Education Loan application. Till such time, branches to ensure that the details are invariably noted in the application.

Copy of PAN card to be insisted from applicable parents wherever applicable.

The details of Unique Identity Number(UDI), wherever applicable is to be mentioned in the Educational loan application.

The appellant and other writ petitioners, who applied for Educational Loan in 2011 are governed by IBA Revised Guidelines-

9. Modification to the IBA Model Educational Loan Scheme in CE/159 dated 30.08.2011:- Taking note of the operational difficulties in implementing the "IBA Model Educational Loan Scheme", a sub-committee was formed to address the following issues:-

Merit as the sole criteria for eligibility.

Admission under management quota kept outside the scope of the scheme.

The quantum of loan to be justified by the employment potential.

Extension of repayment period to reduce burden on the beneficiaries.

10. As per the IBA Model Educational Loan Scheme, merit is to be the sole criteria for eligibility and that admission under "Management Quota" 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 repayment 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.

11. 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 2012, IBA Model Educational Loan Scheme dated 30.08.2011, which come into effect for the academic year 2012-2013, is not applicable to the appellant. When the appellant is governed by revised 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. To this limited extent, we differ from the learned single judge.

12. As pointed out earlier, the objectives of the Educational Loan Scheme is to provide financial assistance to the poor and needy to undertake basic education. The revised IBA Guidelines in respect of Model Educational Loan Scheme stipulated 60% marks in the qualifying examination. We may usefully refer to the then existing guidelines and the revised guidelines.

Sl. No.	Issues/Existing guidelines	Revised guidelines
1	Stipulation of minimum marks in Qualifying examination for students who secure Admission under "Management Quota."	In case of students who have secured admission under "Management Quota", Educational Loan can be considered only if students have secured 60% marks in the Board Examination. However, students who secured admission under State selection process but opt for "Management Quota"½ for a different Branch/stream can be considered under IBA scheme.

13. Mr. R. Krishnamoorthy, learned counsel appearing for the petitioner contended that students hailing from rural background have studied under different environment, different family background and in schools without teachers and without any infrastructure and the Banks cannot determine that for the eligibility for loan under "Management quota" the students should have secured 60% marks. It was further contended that educational loan is a part of inherent right to education. It was further submitted that when the Courts have protected water bodies, natural resources, the Court has to come to the rescue of the students, who secured admission under "Management quota", who are denied educational loan mainly on the ground that they have not secured the stipulated marks of 60%.

14. Mr. R. Maheswaran, learned counsel for writ petitioner contended that it is the public duty on the part of Nationalised Banks to perform its public duties of social objectives and while so prescribing marks stipulating 60% marks to the students, who secured

admission, under "Management Quota" is discriminatory. It was further contended that in the Single Window system, everybody gets a seat and while so it cannot be said that only the students, who got 60% marks, under "Management Quota" is a meritorious student and the stand taken by IBA in revised guidelines stipulating 60% marks is arbitrary.

15. Mr. Haja Mohideen, learned counsel for appellant contended that the single Judge ought to have seen that it is the mandatory duty of the constitutional machinery to enrich the benefit of educational loan to complete the course. He would further contend that the appellant got admission in the year 2010 and approached the respondent Bank for educational loan in the year 2010 itself and at the time of application there was no specific stipulation by the IBA and the Court ought to have directed the respondent to sanction the educational loan of Rs. 1,43,000/- as per the fee structure dated 6.9.2011 and funds for educational aids for the appellant's study of MBA.

16. We have heard the learned counsels appearing for the writ petitioners. Guidelines. In sum and substance, the arguments of the appellant and the other writ petitioners are:-

When the Government is exercising on the need for education and investment in education in promoting the economic development and prosperity, imposing any restriction for the students, who secured admission under "Management Quota", would deprive them of their right to education.

Students have opted for "Management Quota" for various reasons either the College is nearer to their residence or availability of Course of their choice. While so, to impose restrictions on marks for "Management Quota" is undesirable. Prescription of 60% marks to students who secured admission under "Management Quota" will deprive them of the opportunity to get educational loan.

17. We have heard the arguments of Mr. C. Jawahar Ravindran, learned counsel appearing for Canara Bank and Mr. R. Pandivel, learned counsel appearing for State Bank of Travancore and the counsel for other Banks.

18. The learned counsel for the Banks contended that Banks are acting only as per the revised scheme and the students cannot compel the Banks to grant the loan. It was submitted that in most of cases, students have not passed even a single subject and while so grant of educational loan is only discretionary power of the Bank and the students cannot compel the Bank to grant loan. It was further argued that education may be a matter of right, but loan is not a matter of right and it is only a commercial process, subject to viability of the scheme. Learned counsels would further submit that Non-Performing Assets in education loans are as high as 6%.

19. No inherent right to educational loan:-From the Scheme of Article 21A of the Constitution, it is the primary obligation of the State to provide free and compulsory education to all children of the age of 6-14 years and in the recent judgment dated 12.4.2012, the Supreme Court upheld the constitutional validity of right of children to free

and compulsory education under Right to Education Act, 2009 which provides for free and compulsory education to children between age of 6 and 14 years and mandates government/aided/non-minority and unaided schools to reserve 25% of the students for these children. There is no such fundamental right to higher education. Of course, under Article 41, the State, shall within its economic capacity and development, make effective provision for securing the right to education. In terms of Article 21A and Article 41, while there is a right to education, there is no inherent right to educational loans.

20. Principles of lending loans:- The essence of Banking business is receiving money on current account for deposit from the public, repayable on payment by cheque, draft or otherwise and lending or investing the same. Only from out of the interest that is earned the banks will have to pay the salary to their staff, pay interest to their depositors and transact bank's business, maintain the Bank and meet other expenses.

21. Banks should follow the well known principles of sound lending, (i) safety - the foremost principle of sound lending is to ensure the safety of the funds lent. While lending money, the Banks must carefully consider the chance of its being repaid by the borrower along with interest; and (ii) Profitability -- Commercial Banks are profit-earning institutions; and nationalized banks are no exception to this. They must employ their funds profitably so as to earn sufficient income out of which the banker is to pay interest to the depositors, salaries to the staff and to meet various other establishment expenses and distribute dividends to the shareholders. The rates of interest charged by bankers primarily depend on the directives issued by the Reserve Bank of India.

22. Social objectives:- Nationalised banks, while sanctioning loans, should give priority to the national interest and also the economic empowerment to the downtrodden. Of course, it is responsibility of the Banks to ensure that the credit flows to the neglected sections and underprivileged sections of the society. It is with this objective the Educational Loan Scheme introduced as socially and economically relevant from the Indian Banking Industry. Rightly the Reserve Bank of India has included "Educational Loans" as a part of priority sector lending of Banks.

23. Viability of the Scheme:- While the emphasis is on granting of educational loans as a priority sector lending of banks, the Banks cannot ignore its general principles of lending. Bank is dealing with public money entrusted by it. In any lending, Bank should carefully inquire into the reputation and standing of the borrower and his capacity to repay and viability of the scheme, lest, it would become a non-performing asset.

24. As is well known, while lending loan, the main concern of the Bank is safeguarding the amount which was sanctioned and advanced and chance of getting the money back with interest. In order to ensure prompt repayment of the educational loan, Bank is emphasizing the future prospects of the students, employment potential. For getting jobs/employment in different parts of the country/abroad, one of the criteria is academic performance and there is nothing wrong for the Banks in stipulating 60% marks for the

students who secured admission under "Management Quota".

25. In a competitive and dynamic global environment, everywhere where better standards are expected from private sector to Government employment, merit plays a key role. Like in other loans, Bank's main concern is that the educational loan amount advanced to students is repaid with interest within the stipulated period. Employability potential and merit are very relevant for which academic performance of the students is very much relevant. While so, there is nothing wrong in the Banks in insisting upon the merits i.e., students securing admission under Management quota and for grant of educational loans, ought to have secured 60% marks.

26. Re-contention - Discrimination of students opting for "Management Quota":-The learned counsel for petitioners contended that in single window system of admission, all the students get admission and students opt for "Management Quota" for various reasons either because it is nearer to their residence and availability of courses of their choice" and while so, it is an undesirable attitude from the Banks to discriminate between Management and Government quota.

27. There is no force in the contention that there is any such discrimination Let us recapitulate parano(13).As per the Revised Scheme (Circular No. 83/2011) dated 17.3.2011, the students, who secured admission under State Selection Process, but opt for a Management quota" and for a different branch/stream, would be considered under IBA Scheme and not under Revised Guidelines. As such, students, who secured admission under State Selection Process, but opt for "Management" quota for a different Branch/scheme, are not in any manner deprived of their legitimate right of getting educational loans.

28. On behalf of the writ petitioners, it was then contended that while Government is trying for inclusive growth in the field of education, such moves in fixing marks as 60% for those students, who secured admission, under "Management quota" will discriminate the students on quota. It was further contended that State and Nationalised banks should strive for equal opportunity both for securing admission in Government colleges and those who are admitted under "Management Quota" through single window system.

29. Management Quota:- Management quota refers to the number of seats in educational institutions other than government institutions, which is being offered by the management to the students on the basis other than merit. The admission to the management quota seats will be in the hands of the management where students are selected by the management through criteria set out by them. The students admitted under management quota will not be selected based on the performance in the entrance examinations or marks they have scored in the qualifying Examination. So the capacity of such students to secure jobs as other meritorious students are much less and as well as the probability of landing a good job is also less. This will impact the repaying capacity of the students admitted under management quota.

30. As per the Revised Guidelines, for grant of educational loans to students, who have secured admission, under "Management quota" can be considered only if students have secured 60% marks in the Board Examination. Such stipulation of 60% marks is with an objective of keeping merit as the criteria and assessment of potentials of salary a student will get on completion of course. It is stated that non-performing assets in educational loans are mounting. It was further stated that inasmuch as 6% of the outstanding loans to the Banks are the educational loans. In the present day context, employability of a person depends upon various factors, one of which is certainly academic performance. When the students have secured admission to the management quota through the criterion set out by the Management, the capacity of such students to secure jobs are much less. Loans given to such students could turn bad as their employment potential is less. It is in this context IBA stipulated 60% marks. So far as the Bank is concerned, Bank should never overlook the safety principle while advancing the loans or investment of its surplus funds.

31. Learned single Judge has succinctly observed as under:

... the Scheme attempts to remove only the financial handicap for otherwise meritorious students. If the banks considers that the student has any other handicap, such as lack of merit, it is open to the bank to refuse to advance loan. After all, the Scheme envisages the recovery of the loan after the completion of studies and after the student takes up employment....

... If the student has employment potential, the loan may not become a non-performing asset. But a student, who is not meritorious, may himself turned out to be a non-performing asset both to his parents and to the bank....

We fully endorse the above views of the learned single Judge.

32. Whether directives issued by Reserve Bank have statutory force:- As per Section 21(1) of Reserve Bank of India Act, Reserve Bank of India may determine the policy in relation to advances to be followed by banking Companies generally or by any banking Company, in particular and when the policy is so determined, all banking companies or the banking company concern, as the case may be, shall be bound to follow the policy so determined.

33. Section 21(2) deals with nature and scope of the directives and announce the Reserve Bank of India to give directions relating to any or all of the aspects mentioned thereon i.e., (i) the purposes for which advance may or may not be made,(ii) the margins to be maintained in respect of secured advances, (iii) the maximum amount of advances or..... paid-up capital, reserves and deposits of a banking company.....(iv) the maximum amount up to which,...guarantees may be given by a banking company.... and (5) the rate of interest and other terms and conditions on which advances or other financial accommodation may be made or guarantees may be given.

34. The Reserve Bank of India may, from time to time, issue directions as it deems fit, to a banking company in particular or to the banking companies in general and the banking company or companies shall be bound to comply with such direction. The Reserve Bank of India may, of its own or on representation made to it, modify or cancel any of its directions. But in so cancelling or modifying, it may impose some other conditions subject to which the cancellation or modification shall have effect.

35. The power conferred by Sections 21 and 35A of the Banking Regulation Act, 1949 is coupled with duty to act. The Reserve Bank of India is the prime banking institution of the country entrusted with a supervisory role over banking and conferred with the authority of issuing binding directions, having statutory force, in the interest of the public in general and preventing banking affairs from deterioration and prejudice as also to secure the proper management of any banking company generally. The Reserve Bank of India is one of the watchdogs of finance and economy of the nation. It is, and it ought to be, aware of all relevant factors, including credit conditions as prevailing, which would invite its policy decisions. RBI has been issuing directions from time to time which, inter alia, deal with the rate of interest which can be charged and the periods at the end of which rests can be struck down, interest calculated thereon and charged and capitalised. It should continue to issue such directives, Its circulars shall bind those who fall within the net of such directives. For such transaction which are not squarely governed by such circulars, the RBI directives may be treated as standards for the purpose of deciding whether the interest charged is excessive, usurious or opposed to public policy [vide 2002 (1) SCC 367 (Central Bank of India v. Ravindra and others)].

36. Indian Banks Association constituted a Study Group to examine the issue of Educational Loan Scheme. Based on the recommendation of the Study Group, a comprehensive model Educational Loan Scheme was prepared by IBA for adoption of all Banks and the same was accepted by the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division). The said Educational Loan Scheme prepared by IBA approved by the Government was circulated by the Reserve Bank of India in its Circular RPCD. PLNFS.BC.No. 83/06.12.05/2000-01 dated 28.04.2001. Again, in 2011, Reserve Bank of India has permitted implementation of certain revised guidelines, based on which IB A/respective Banks have framed revised guidelines. The question falling for consideration is, whether these guidelines can be taken to have any statutory force in terms of Section 21(2) and Section 35A.

37. The Educational Loan Scheme has been framed by IBA approved by the Government and circulated by Reserve Bank of India for implementation by Banks. In this regard, the learned single judge has referred to Website of Reserve Bank of India, wherein they have published "RTI disclosures of Common Interest". The Information sought on several issues by the members of the public under the Right to Information Act, has been publicised now by the Reserve Bank, to the extent that such information is of common interest. It is seen from the information furnished therein by the Reserve Bank itself on 21.6.2006, Response to the query in RIA 718/05-06 RPCD is as under:-

"A "New Education Loan Scheme" was formulated by IBA in consultation with the Govt. of India and circulated by RBI to all scheduled commercial banks vide circular RPCD.PLNFS.BC. 83/06.12.05/2000-01 dated April 28, 2001 for implementation. The circular is available on our website www.rbi.org.in. The Scheme provides broad guidelines to the banks and implementing bank will have the discretion to make changes suiting to the convenience of students/parents etc.

38. Guidelines/Revised guidelines for educational loan were framed only by IBA and circulated by Reserve Bank of India. Therefore, as rightly pointed out by the learned single judge, the question as to whether the guidelines for educational loan can be taken to have any statutory force in terms of Section 21(2) and 35A itself is in great doubt. As rightly pointed out by the learned single Judge, assuming that these directives have statutory force, then IBA, body of experts, has taken a decision to fix the cut-off mark as 60% for those who secured admission under Management Quota. Sitting in writ jurisdiction, Court cannot issue a direction to the respondents to dilute the said policy.

39. The appellant completed B.B.A Degree Course at American College, Madurai, in 2007. After completion of his B.B.A Degree Course, the appellant joined M.B.A Course in the year 2010 in N.P.R. College of Engineering & Technology at N.P.R. Nagar, Natham, Dindigul District under Management Quota.

40. For the first year, the fee payable was Rs. 71,500/-. According to the appellant, his father managed to pay fee in three installments by pledging jewels. For the second year of the Course, the appellant gave application to Canara Bank for sanction of educational loan. Since there was no response, the appellant filed the Writ Petition. The appellant had secured only 48.4 % of marks in B.B.A. Examination. Since as per the revised guidelines Model Educational Loan Scheme, since the appellant had not secured 60% of marks in the qualifying examination, the Canara Bank had taken a stand that the appellant is not eligible for the loan.

41. The contention of the appellant is that the appellant secured 77% of marks in the first year M.B.A., and secured more marks in the Board Examination and While so, the Canara Bank was not justified for refusing to sanction loan.

42. In the revised guidelines, even though it is stated that the educational loan under management quota can be considered only if students have secured 60% of marks in the Board Examination, the expression, "Board Examination" could be meaningfully interpreted only as "qualifying examination". In the qualifying examination, namely, B.B.A., the appellant has secured 48.4% of marks in the B.B.A. Examination. Since the appellant has secured only 48.4% of marks in B.B.A. Degree Course, he has not satisfied the essential condition as per the revised guidelines and therefore, the Canara Bank was not able to provide educational loan amount to the appellant. Having not satisfied the essential condition for sanction of educational loan under the Management Quota, the appellant cannot seek for a Writ of Mandamus. We do not find any reason warranting

interference with the order of the learned single Judge.

43. In fact, the learned counsel for the petitioner argued that in the case of a student though he obtained less than 60% of marks, if he applied to the Government College Seat and obtained a Seat, he is eligible to get the loan whereas the very same student, if he applied to a Private College and obtained a seat and then applied, he is not given loan. Though the arguments are attractive but we have to analyse the same in another aspect. Here, revised guidelines enable the students to get loan, especially, the students who get accommodation in the Government sponsored college and even in the private colleges under the Single Window System. The only difference is he will not get the college of his choice. As per the merit, if a student does not get Government College Seat, he can get a seat in private colleges. Therefore, if he applies for a loan, it is a nominal amount, which has been fixed by the Government. On the contra, the student who got a seat in a private college of his choice, they may be charging at a different rate including other charges.

44. Now, the question arises, the student who is not eligible under the norms, who has got less than 60% of marks and not obtained under Single Window System and obtained a seat in a private college of his choice whether he can compel the banks that under law, educational loans are compulsory and he is eligible for all benefits and, under that guise, can he ask the bank necessarily to give the loan? definitely, not. The Hon"ble Supreme Court has held that right to education is the duty of Government but right to give loan is not mandatory. It is governed by guidelines framed by I.B.A.

45. In fact, it is a trend which we have seen that educational loans have become a very powerful instrument in promoting private education. Statistics point out that in case of Engineering Course, there are seats vacant because supply is more than the demand. Merely, because the student comes to a private college of his choice not through the Single Window System, he cannot specifically plead that the bank should not form any rules especially in the case of management quota seats.

46. Onbehalf of the petitioners, it was contended that when Banks are giving crores to Industries, why not to students. It was further submitted that there are any number of meritorious students, who apply for seats under "Management Quota" and the move in stipulating 60% marks will deprive them of the opportunity to get education. Leaned counsels appearing for the petitioners as well as the appellant have also advanced arguments raising objection as to the other parameters viz., security, inadequacy of quantum of finance and other directives. It is within discretion of the Bank either to grant or not to grant the educational loan to the students, who secured admission under "Management Quota" on case to case basis, subject to their academic performance. The Court cannot issue directions diluting the policy/guidelines issued by the IBA comprising body of experts.

47. Contending that the order of rejection of educational loans by various Banks is a non-speaking order and that those orders are vitiated by arbitrariness and therefore the writ petitioners seek for intervention of the Court. The above contentions may not be a ground to undo what was conceived as best in the interest of the Banks. 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. So long as the guidelines are within the zone of reasonableness, the Court would not substitute its judgment as to the matters within the power of IBA. The Court cannot supplant the guidelines framed by the experts by substituting its own values. In the result, the Writ Appeal and all the writ petitions are dismissed. However, there is no order as to costs. Connected Miscellaneous Petition is closed.