

**NOEL PAUL FREDY V. STATE BANK OF INDIA & ANR**

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**Shreya Pandey\*****INTRODUCTION**

Whether the rejection and acceptance of educational loans shall be judged on the basis of CIBIL? (Credit information bureau India Limited). Before the order of this case i.e. 30-5-2023<sup>1</sup> the issue of rejecting the loans in case a student or his or her parent has a low credit score was rejected was a great concern. In a country like India where the youths have enough talents fail to pursue good educational degrees just because of the reason that they don't have enough money to complete their education are provided with relief of educational loans, and if the bar of the CIBIL score was there it was a great concern for them

Raising such an issue before the honorable high court of Kerala and getting the decision in favor of the students was a relief to thousands of students facing the same issue and now the bar of taking loans is no further dependent on the CIBIL score

**CIBIL SCORE**

Now to have an in-depth analysis of what this prominent case is about we need to have a crystal clear understanding of the term CIBIL score and how is this score given, what is the minimum score that a person needs to have in order to get an educational loan from the banks.

So, a CIBIL score is a 3-digit numeric history of your credit score. A CIBIL score usually ranges from 300-900. A score closer to 900 is considered a good credit score in order to take loans, the generation of credit scores takes a longer period of time and the RBI authorizes Credit information bureau India Limited to generate credit scores of the people<sup>2</sup>, also a person's credit score can be increased by repaying credit card bills and all other credits from the banks.

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<sup>1</sup> SCC online <https://www.sconline.com> accessed on 15-07-2023

<sup>2</sup> HDFC online < <https://www.hdfcbank.com> > accessed on 15-07-2023

## FACTS OF THE CASE

In this case, the petitioner was a student whose application for a loan was rejected by the state bank of India due to a low CIBIL score of 560. The student has taken 2 loans one of which has been written off and the other was overdue by Rs 16, 667. Due to this, he had a low CIBIL score. The student already had an offer letter for a job from a company and he was capable of paying back the loan to the bank once he gets into the job and is being paid by the company so that his CIBIL score will increase but for the sake of the continuance of his education, he needs the loan to be financed immediately by the bank so he files a suit before the Honorable High court of Kerala to get his loan<sup>3</sup>.

## LEGAL ISSUES

- Whether the bank can deny loans for the education of students.
- Whether CIBIL score is the right criterion to decide the allotment of a loan or not.
- Whether it is necessary for banks to sanction loans to students under the guidelines of the credit information company act.
- Whether accessing that the student will get effective employment after being provided a loan for education is right or not.
- Whether the writ is maintainable or not.

## OBSERVATIONS OF THE HIGH COURT

The hon'ble high court of Kerala in the case of *NEOL PAUL FREDY V STATE BANK OF INDIA & ANR*. Under a single judge, Justice P.V. KunhiKrishnan<sup>4</sup> has made certain specific observations in the case where a student is denied a loan by the bank based on the low CIBIL score of their parent's account.

While having a glance into the arguments made by the petitioner and the respondent it is to be noted that both sides had strong arguments the petitioner argued that rejecting the educational loan even though the student has an offer letter from MNC is not valid also, they

<sup>3</sup> The Indian express <https://indianexpress.com> accessed on 18-06 2023

<sup>4</sup> Live Law < <https://www.livelaw.in> > accessed on 18-06-2023

referred to decided judgements *Pranav S.R. v. State Bank of India*, 2020<sup>5</sup>, similar facts related to CIBIL score of parents were considered and the Court held 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” and requested the court to pass interim orders based on these judgments where consideration of CIBIL score.

However, the respondent opposed the plea stating that it is the responsibility of the banks to ensure that when a loan is provided to a person they have an adequate amount of asset to pay the same back to the banks and has to work according to the guidelines of credit information company act, 2005 scheme made by RBI<sup>6</sup>.

But the court referred to significant previous judgments of the court

Also, while the loan of a student for education has to be sanctioned by the bank though the court ordered not to take into account the CIBIL scores of the parent's account and take humanitarian grounds while considering an educational loan. However the court also held that sanction of loans should be on valid grounds such as making sure that the student will get employment and can repay the loan with his or her salary or not and also by keeping a proper record of the student taking a loan so that the bank can reach them in case the debt is not paid back to the banks.

A significant remark made by the judge, in this case, is very eminent to be noted in this article which is the sole reason why the criteria of sanctioning loans by the banks on the basis of CIBIL score has been rejected by the court: “Students are the nation builders of tomorrow. They have to lead this country in the future. Simply because, there is a low CIBIL score for a student, who is an applicant for an Education loan, I am of the considered opinion that the Education loan application ought not to 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 cannot ignore the ground realities”, Justice P.V. Kunhikrishnan<sup>7</sup>.

The writ filed by the petitioner is maintainable in the court of law under Article 226 of the Constitution. There is also a significant case put forth in the Karnataka high court where

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<sup>5</sup> SCC online <https://www.scconline.com> accessed on 17-06-2023

<sup>6</sup> SCC online <<https://www.scconline.com>> accessed on 18-06-2023

<sup>7</sup> verdictum, <<https://www.verdictum.in/court-updates>> accessed on 18-06-2023

Justice Suraj Govindraj held that the writ petition under article 226 is maintainable in the high court <sup>8</sup>

Hence these significant observations of the court made in the case effectively address the issues mentioned and give us an insight into why there was a need to remove CIBIL from the criteria for sanctioning loans

## **DECISION**

In the ruling of the case the Kerala HC emphasizes the importance of providing loans to students for educational purposes and not providing loans to the student who has less CIBIL score is not a valid ground as the CIBIL score is just a number that tells how old a student's credit is or what all credit the student has<sup>9</sup>.

The judge also highlighted the fact that students play a significant role in shaping the future of their nation and he also suggested referring to humanitarian grounds when dealing with educational loans for students

Even after strong arguments made by the respondent that they have the responsibility to sanction loans as per the guidelines of Credit information companies Rules 2006. The court believed that the balance of convenience favored the petitioner who was a student and has applied for 2 loans one of which was written off by the bank and has an offer letter from an MNC. So the court rejected the educational loan solely based on a low CIBIL score and held it to be unwarranted

The court also stated that while banks may have their technicalities a court of law cannot overrule the ground realities and consequently the court directed the respondent to immediately burst this amount of rupees 47200 to the petitioner

Hence the decision was in favor of the petitioner and he got the loan even after a low CIBIL score

## **ANALYSIS AND CONCLUSION**

If we look into the present scenario in India where most of the students in the country who are talented and want to pursue a good quality of education even in India are suffering

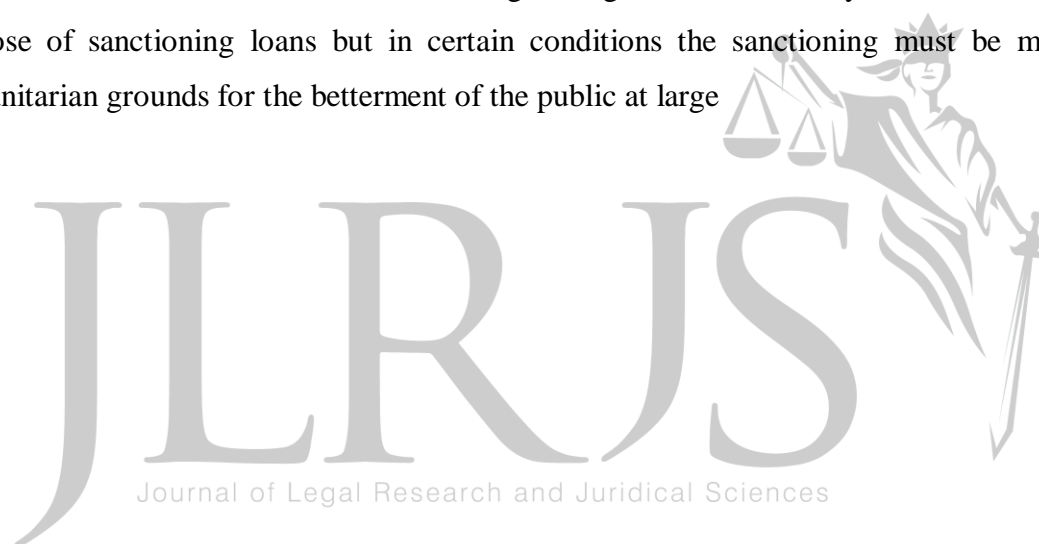
<sup>8</sup>Live law,< <https://www.livelaw.in>> accessed on 18-062023

<sup>9</sup> Drishthi Pandey, CIBIL score no longer a barrier ,legal vidhiya ( accessed on 19-06-2023, 6:30 pm)

because they don't have ample money to get admission into such reputed educational institutions, taking loans from the bank is the only way they can continue their study and achieve their ambitions, but the criteria made by the bank to take loans were earlier not so easy to be fulfilled as in to get the loans, removing the criteria of sanctioning loans by CIBIL score of their account is a relief to lakhs of them who are suffering from the same issue

If we look into the data in 2022, the education loan disbursement scenario witnessed a remarkable surge, with 1,200 students availing themselves of educational loans, a 400 percent increase compared to the previous year <sup>10</sup>and this figure of educational loan disbursement from banks has steadily risen, itself points to the fact how this judgment has played a significant impact in the lives of various students across the country.

Hence it must be concluded that even though the guidelines made by the RBI are for the purpose of sanctioning loans but in certain conditions the sanctioning must be made on humanitarian grounds for the betterment of the public at large



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<sup>10</sup> ABP news < <https://news.abplive.com> > accessed on 19 -06- 2023