

This proceeding was initiated on the complaint of Raj Kishore Singh of village Jalalpur, P.O. Apahar, district Saran. The complaint is in fact addressed to the Finance Minister, Government of India; copy thereof was sent to this Commission amongst others.

The complainant stated that his son Amit Kumar Singh (hereinafter referred to as 'the candidate') was prosecuting the Mechanical Engineering course in Karmavir Dadasaheb Kannamwar College of Engineering, Nagpur after taking admission on the basis of all India entrance test in 2008. He managed to pay the fees for the first year by his resources. Being unable to meet the further expenses at the second year stage he applied for education loan in the Central Bank of India at its Apahar Branch and deposited the certificates along with the application. He went to the Bank/ Branch several times but without success. The Branch Manager asked him to part with some money ("kuchh kharch karne ko kahe") which he declined. He then took the pretext of some direction of Regional Manager of the Bank at Siwan not to grant the loan. The complainant made a telephonic call to the Regional Manager in the presence of the Branch Manager and explained the situation upon which the Regional Manager directed the Branch Manager to prepare the papers. After one week the Branch Manager asked his son to appear at a written test and on the next day told the complainant that his son did not deserve the loan as he had failed in the test. The complainant stated that his son had been admitted on the basis of an all India competitive examination and there was no rule to disqualify him for the loan on the basis of so-called test. He again approached the Branch Manager but was told that without paying money loan is never sanctioned. The complainant alleged that being under the hope that he would be able to get financial assistance from the bank he did not raise funds from other sources and the denial caused lots of inconvenience and harassment including mental harassment to his son. The complainant asked for independent enquiry into the episode as to how students desirous of pursuing higher studies are being denied the benefit of education loan.

The complaint was received in the office of the Commission on 15.6.2009 and on 26.6.2009 taking cognizance of the matter, report was called from the Zonal Manager. While issuing notice, the Commission observed that it was beyond comprehension that eligibility for loan could be decided by a bank official on the basis of written test conducted by him. The Commission noticed the allegation that the official demanded bribe and, allegedly, loan is not granted without gratification. The Commission also observed that if the allegations are true, stringent action is required to be taken against the concerned bank official.

Having regard to the allegations, the Branch Manger was asked to personally appear on 3.8.2009.

No report was submitted either by either the Zonal Manager or the Branch Manager on 3.8.2009 or even thereafter. On 5.11.2009 the Commission directed the said officials to appear in person on 7.12.2009 making reference to the provisions of sections 13(1) and 14(2) of the Protection of Human Rights Act, 1993 observing that in default of appearance coercive orders may be passed against them. On 7.12.2009 the Branch Manager, Shri B.P. Singh (Birendra Prasad Singh) Apahar Branch (hereinafter referred to as the 'officer') appeared. Along with him the Senior Manger of the Chapra Bench of the Bank also appeared only to inform the Commission that the address of the Zonal Manager was not correctly mentioned in the notice. Whereas the Zonal Manager sits at Muzaffarpur, notice was sent to the Chapra office of the Bank. The Commission observed that in such situation notice could have been redirected to the Muzaffarpur office. However, the proceeding was adjourned to 19.1.2010 and fresh notice was issued to the Zonal Manager at his Muzaffarpur office address. On 19.1.2010 the officer i.e. Shri B.P. Singh appeared in person. The Zonal Manager did not appear nor sent any report or request for adjournment. As a matter of fact, he has not acknowledged receipt of the notice till date. Be that as it may, after hearing the officer i.e. Shri B.P. Singh it appeared that the proceeding can finally be disposed of with appropriate directions.

In course of personal hearing Shri Singh admitted that he had held written test of the candidate. According to him, the test was held to judge the candidate's knowledge of the subject. Asked about the nature of test, he stated that textual questions such as Newton's laws of motion, formula of Calcium Chloride etc. were asked. In response to our observation as to how merit of an engineering student could be tested by a bank official on the basis of written test he claimed that he had knowledge of science and he was competent to test his merit. He took the stand that the candidate had himself volunteered to take the test. When asked to produce the answer sheet he stated that the candidate forcibly took back the answer sheets and other papers but, curiously, no report was lodged with the police or the higher officials of the Bank. When he was asked to produce the relevant record/case file in respect of the application for loan, he took the stand that the candidate had forcibly taken the entire record and there was no available record. In fact, he went to the extent of stating that the application (for loan) was not registered and that there was no record of any such application in the records of the Branch. In response to our observation that the loan could not be granted or refused by holding written test, he repeatedly stated that he is competent to

determine the viability of loan. He, however, agreed that viability in the context of bank loan means repayability and does not include the academic merit of the candidate.

When he was asked as to whether he had held similar written tests in the case of other candidates, he stated that in the year 2009 he had sanctioned loan in three cases. In one case the written test would have been a formality because the candidate seemed to be intelligent; in other two cases he had consulted Regional Manager. He added that none of them finally received the loan. He finally submitted that in any view, the complainant has withdrawn the complaint and in this regard provided photocopy of application purportedly sent to the Commission to that effect.

Resume of whatever transpired in course of personal hearing – as mentioned above – would point to cock and bull explanation of the entire episode. It is sometimes said that to suppress or get away with falsehood one has to indulge in so many falsehoods and tell lies. It is a case of that kind. It is beyond comprehension that no file would be opened on receipt of application for loan and without registering the application, the case would be processed so much so that the candidate would be asked to take written test. Assuming it was so in the instant case, that would itself be serious violation of the procedure and dereliction of duty for extraneous considerations. It is also beyond comprehension that after appearing at the test the candidate would forcibly take away the answer sheet and other records and the matter would not be reported to police or the higher authorities on the administrative side. To cap it all, it is beyond imagination that a written test could at all be held in which textual questions would be asked to determine the eligibility of the candidate or – in the words of the officer – viability of the loan. It is to be kept in mind that the candidate had already been admitted to the engineering course on being successful at an all India competitive entrance examination and had completed one year of the four year course. Surely, leaving aside other things, where merit of the candidate has already been examined and he has been admitted on the basis of an entrance test by a competent examining body, 'merit' cannot be assessed while he is already pursuing his studies much less by a bank official. The officer was repeatedly asked to produce any circular of the Bank which permitted him to hold written test for the purpose; he kept harping on the plea that he has the power to determine the viability of the loan. As mentioned above, viability in the context of education loan could only mean repayability and therefore all that he could at best see and satisfy himself was whether the financial condition of the candidate or his family/guardian was such as to give rise to a bona fide doubt that loan would not be repaid. As a matter of

fact, more often than not, education loan is taken by students belonging to economically backward sections of the society, which is repaid by the student himself after getting employment on completion of the course, and financial condition of the family is hardly a relevant factor. It is the policy of the Government to liberally provide education loan to the needy students and in order to make the policy workable, instructions have been issued to grant loans without hassles. We have come across several complaints alleging denial of benefit under different schemes for extraneous considerations or due to apathetic attitude of the concerned bank officials, a common grievance in almost all cases is that loan is not sanctioned unless illegal gratification is paid. This, in fact, is the allegation in the present case too. From the fact that the official was not competent to hold any written test, the manner in which he tried to absolve himself by withholding the records at the time of hearing, taking of bald and absurd pleas that the candidate had forcibly taken away papers/records speak volumes about his conduct. We are not impressed by the fact that the complainant has withdrawn the complaint. No reason or circumstance under which it has been supposedly done is discernible. In any view, the violation is complete and it is immaterial that the complaint is withdrawn – even if it is so. In the opinion of the Commission, it is a clear case of ‘abuse’ of office resulting in harassment to both the complainant and his son. If, we may say so, persons like him give bad name to the Bank and they are responsible for failure of the policy underlying education loan. It is fit case for stringent disciplinary action against him. Right to receive education is a concomitant of the right to education and denial thereof amounts to violation of human right.

Section 18(a) of the Protection of Human Rights Act, empowers the Commission to recommend payment of compensation and initiation of proceeding or such other suitable action as the Commission may deem fit against the concerned person or persons.

We accordingly direct Zonal Manager, Central Bank of India, Muzaffarpur to initiate departmental proceeding against the officer, Shri Birendra Prasad Singh, the then Branch Manager, Apahar Branch, Central Bank of India and take the matter to its logical end keeping in view the findings and observations made hereinabove. Further, being satisfied that the conduct of Shri Singh amounts to violation of human rights of the candidate we direct that sum of Rs. twenty thousand be paid to him as compensation. The amount at the first instance shall be paid by the Bank and thereafter recovered from the salary of the officer.

Before we conclude we may also express our displeasure at the casual approach of the Zonal Manager of the Bank at Muzaffarpur who despite notices

did not submit any response much less appear in person. Though there was no allegation against him in this matter, the Commission expected that he would assist it in arriving at conclusions. Indeed, we expected that the Bank itself at the proper level would take suitable action suo motu rather than force the Commission to recommend action.

A copy of this order may be sent to the Chairman, Central Bank of India at Mumbai, besides the Zonal Manager, the officer himself and the complainant.

Compliance report be submitted within eight weeks.

Justice S.N. Jha
Chairperson

Justice Rajendra Prasad
Member

R.R. Prasad
Member