IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER 2020

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

CIVIL MISCELLANEOUS PETITION NO.46 OF 2020

BETWEEN:

M/S JUST BOOK SOLUTIONS
PRIVATE LIMITED, #972/1
13TH CROSS, 16TH MAIN
BANASHANKARI, 2ND STAGE
BENGALURU – 560 070
REP. BY AUTHORISED SIGNATORY
MR. PRASHANTH R. ... PETITIONER

(BY SRI. UDAY SHANKAR R. ADV. AND
SRI. MANJESHWAR, ADV.)

AND:

M/S PROFESSIONALS DEVELOPMENT
FOUNDATION (EDUCATIONAL TRUST)
NO.4, KVS COMPLEX, NRI LAYOUT
KALKERE MAIN ROAD
BENGALURU, KARNATAKA – 560 043
PROPRIETOR MRS. PRATIBHA
SINGH MAURYA … RESPONDENT

(BY MS. BEENA P. K. ADV.)

THIS CMP IS FILED UNDER SECTION 11(5) AND (6) OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO APPOINT A COMPETENT PERSON AT KARNATAKA ARBITRATION CENTRE AS AN ARBITRATOR TO ARBITRATE THE DISPUTE BETWEEN THE PARTIES; IN TERMS OF CLAUSE 14.9 OF ANNEXURE-A IE., THE FRANCHISE AGREEMENT DATED 09.06.2017 AND ETC.

THIS CMP COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The present petition under Section 11 of the Arbitration and Conciliation Act, 1996, has been filed by the petitioner-M/s. Just Books Solutions Private Limited against respondent-M/s. Professionals Development Foundation (Educational Trust) seeking an appointment of an Arbitrator in pursuance of Clause-14.9 of the Franchise Agreement vide Annexure-A dated 09.06.2017.

2. Clause-14.9 of the said Agreement, which is an Arbitration clause reads as under:-

> *"14.9. GOVERNING LAW AND DISPUTE RESOLUTION:*
> *This Agreement shall be governed by and construed in accordance with the laws of India. All disputes and differences arising between the Franchisor and the Franchisee including any dispute or differences in regard to the interpretation*

of any provision or term or the meaning thereof shall be referred to and resolved by arbitration under the Arbitration and Conciliation Act, 1996, as amended from time to time. Only a sole arbitrator will be appointed with the consultation of both the Parties and the arbitrator appointed shall pass a reasoned award which shall be binding upon the Parties. All such arbitration proceedings shall be conducted in English language and conducted at Bangalore. Notwithstanding the provisions of this Article, the Parties hereby submit to the exclusive jurisdiction of the Bangalore courts of competent jurisdiction insofar as it relates to obtaining any injunctive or equitable relief from such Bangalore court of competent jurisdiction."

3. It is submitted that the requisite notice of request for reference to arbitration was given by the petitioner to the respondent vide Annexure-D dated 22.12.2018. A reply to the said notice was given by the respondent vide Annexure-E dated

17.01.2019. Subsequently, the parties have somehow failed to mutually agree for the appointment of the Sole Arbitrator in the present case. Hence, the petitioner is before this Court by way of this petition to appoint the Sole Arbitrator to resolve their disputes.

4. In view of the aforesaid facts and circumstances coupled with the submissions made by the learned counsel from both sides, since the Arbitration clause exists in the aforesaid agreement entered into between the parties and an arbitrable dispute also exists, this Court is of the opinion that the present petition deserves to be allowed under Section 11 of the Act and an independent Arbitrator deserves to be appointed.

5. Both the learned counsel have fairly agreed to the appointment of Sri.M.G.Sudheendra, Judicial Member (Retd.) K.S.A.T. to act as the sole Arbitrator to resolve the dispute between the

parties under the provisions of the Arbitration and Conciliation Act, 1996, as per the Rules governing the Arbitration and Conciliation Centre (Domestic & International) at Bangalore.

6. Accordingly, this petition under Section 11 of the Act, 1996 is disposed of by appointing Sri.M.G.Sudheendra, Judicial Member (Retd.) K.S.A.T. to enter into the said reference of Arbitration and act as the Sole Arbitrator in the present case in the Arbitration and Conciliation Centre (Domestic & International), Bengaluru, as per the Rules governing in the said Arbitration Centre.

(i) All claims and contentions of any of the parties including jurisdiction, limitation, etc., are left/kept open to be decided by the Arbitral Tribunal.

(ii) A copy of this order be sent forthwith to the Arbitration and

Conciliation Centre, Khanija Bhavan, Bengaluru, for proceeding further in the matter, on administrative side and also to Sri.M.G.Sudheendra, Judicial Member (Retd.) K.S.A.T. to the address available with the said Arbitration and Conciliation Centre (Domestic & International), Bengaluru.

(iii) Registry is directed to return all original documents produced by any of the parties after obtaining Photostat copies of the same.

Sd/-
JUDGE

MH/-