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Cont.P.No.120 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Contempt Petition No.120 of 2021

S.K.Sugumaran,
No.54, Chandra Vilas,
Denmari Road,
Fernihll Post, Ootacamund,
The Nilgiris

...Petitioner/ Petitioner

-Vs-

Rev.Fr.Irudhayaraj
The Correspondent
Rex Higher Secondary School
Post Box No.54, Ootacamund
The Nilgiris – 643 001.

...Respondent/Respondent No.3

Prayer : Contempt Petition under Section 11 of the Contempt of Courts Act, 1971, to punish the respondent for having committed Contempt of Court for disobeying the order dated 04.10.2018 made in W.P.No.14840 of 2002.

For Petitioner : Mr.R.Sivakumar
For Respondent : Fr.Xavier Arulraj, Senior Counsel
for M/s.Fr.Xavier Associates

ORDER

This Contempt Petition has been filed for the alleged disobedience of the orders of this Court made in W.P.No.14840 of 2002 dated 04.10.2018. In

the said order, this Court gave the following directions.



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“23. In view of the aforesaid position and in order to meet the ends of justice, this Court is inclined to pass the following order for disposal of this writ petition.

There shall be a direction to both the petitioner as well as the third respondent to refer the matter of enhancement of salary as claimed by the petitioner, to the sole Arbitrator, before whom, the issue raised herein shall be referred to with the following definite terms of reference:

(i) as to what shall be the definite salary with periodical revision, payable to the petitioner during the period between 1988 and 2001. Once such reference is made to the Sole Arbitrator to be appointed in this regard, by mutual consent, the Sole Arbitrator shall decide the same after affording due opportunity to both the petitioner as well as the third respondent within a period of three months from the date of such reference.

(ii) Once the Sole Arbitrator decided the quantum of salary with periodical revision or enhanced salary, not necessarily on par with the exact salary of the Government and Government Aided School Teachers, such fixation made by the Sole Arbitrator shall be accepted by both the parties, as it would bind both of them and that it shall be implemented by the third respondent within a period of two months thereafter.

24. With these directions, the writ petition is ordered

accordingly. Consequently, connected miscellaneous petition



is closed. There shall be no order as to costs."

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2. As directed by this Court since the respondent has not come forward to identify the Sole Arbitrator, the petitioner has moved this Contempt Petition for the alleged disobedience.

3. On notice, on behalf of the respondent, Fr.Xavier Arulraj, learned Senior Counsel appeared and he wanted a particular day to be fixed for the appearance of the respondent also, since that was also directed. Accordingly, the matter has been posted today.

4. When the contempt petition is taken up today, the respondent appeared along with the counsel through video conference. Learned Senior Counsel appearing for the respondent, by relying upon the communication issued by the respondent dated 13.03.2021 would submit that, by the said communication, three names have been suggested by the respondent to the petitioner to choose one among them as Sole Arbitrator as directed by this Court. Accordingly, the petitioner has chosen the second name Mr.K.Lakshmanan, Retired Chief Educational Officer as Sole Arbitrator and therefore the issue of identifying Sole Arbitrator with the consent of both sides has been fulfilled.

5. Therefore, the learned counsel for the petitioner as well as the

<https://hcservices.eco3.in/CaseDetails.aspx?CaseNo=120of2021> Senior Counsel appearing for the respondent would submit that, let the Sole



Arbitrator complete the arbitration proceedings within three months period, for which both parties would cooperate, and give his award and in this regard, the learned Senior Counsel appearing for the respondent, on instructions, would further submit that, the entire remuneration payable to the Sole Arbitrator would be borne by the respondent School. The venue of the arbitration would be fixed in any of the Schools run by the respondent Management in the same locality, so that the petitioner can easily appear before the Arbitrator.

6. I have considered the said submissions made by the learned Counsel on either side and have perused the records placed before this Court.

In view of the said compliance made by the respondent, where the Sole Arbitrator has been identified with mutual consent of both sides, this Court is inclined to close this Contempt Petition with the following order.

7. That the Sole Arbitrator identified shall commence the arbitration proceedings forthwith by issuing notice to both sides. At any rate, the arbitration proceedings shall be concluded within an outer limit of three months. The entire fee to the Sole Arbitrator shall be paid only by the respondent School. The place of arbitration shall be fixed at any of the

Schools under the management of the respondent and that shall also be fixed



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and intimated to the petitioner.

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8. With the above directions, this Contempt Petition is closed with a liberty to the petitioner to revive the same in case of any deviation in these directions by the respondent.

SD/-
ASSISTANT REGISTRAR(COMM.CASES)

kst

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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GS/15/07/2021