

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

OP.No.597 of 2020

Pastor Sam Sudhakar

...Petitioner

Vs

1. Southern Asia Division (SUD) of
Seventh Day Adventists (SDA)
Represented by its President,
No.2, HCF, Jeevanjyothi Campus,
Hosur, Tamil Nadu.

2. South East India Union of
Seventh Day Adventists (SEIU),
Represented by its President,
No.197, G.S.T. Road,
Vandalur, Chennai - 600 048.

... Respondents

Prayer : Original Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996 praying to pass orders for appointment of the Arbitrators as per the signed agreement read with the Articles of Association of the respondents to resolve the dispute between the petitioner and respondents in fulfillment of all the clauses of the agreement dated 13.03.2014 and/or further or other orders.

For Petitioner : Mr. P. Pratap Singh

For Respondents : Mr. S.C. Heralal Singh for R1 and R2

ORDER

The petitioner has filed the above petition for appointment of an Arbitrator in terms of the Clauses of Agreement dated 13.03.2014.

2. It is the case of the petitioner that the petitioner who is a Member of the Seventh Day Adventists Church, Trichirappalli had some issues with some other members of the Church. The petitioner had served as an officer in the Seventh Day Adventists Church as Pastor, Department Director, Executive Secretary, etc. The petitioner had a bright chance of being appointed as Bishop of SEI Union (South East India Union of Seventh Day Adventists).

3. The petitioner as Member of the Seventh Day Adventists Church, faced problems from the President of the Southern Asia Division of Seventh

Day Adventists who was against the petitioner being promoted as Bishop of SEI Union. They had gone to the extent of not allowing the petitioner to resume office though the petitioner had invoked the arbitral procedure contemplated under the Rules. However he was not even knowing about the appointment of the Arbitrator and when he came to know such appointment, he had addressed a letter to the said Arbitrator. To his shock, the Arbitrator closed the case against him as not pressed. This prompted the petitioner to approach this Court and the Award was set aside. The respondents were directed to appoint a new Arbitrator which was also not done.

4. Meanwhile, elections were to be held and since there were several legal proceedings against the officers of the respondents and they realised that election could not be conducted without the petitioner, they had approached the petitioner with a request to settle the issues and an agreement was signed between the petitioner and respondents 1 and 2 on 13.03.2014. However, contrary to the assurances given under the agreement, the respondents did not fulfil any one of the same. On the

contrary, the elections were held defectively. All these gave rise to a dispute between the petitioner and the respondents. His request for appointing an Arbitrator, vide legal notice dated 25.09.2019 also did not evoke any response, prompting the petitioner to approach this Court.

5. On entering appearance, the respondents have filed their counter and filed a typed set of papers containing a settlement agreement and a release deed. The sum and substance of the counter is that the petitioner has suppressed the execution of the settlement agreement and release deed dated 13.03.2014 and further the OP is barred by limitation. The petitioner had not denied the execution of the agreement. They would further contend that as per the terms of the agreement, the petitioner has received all the money and it is he, who has not performed his part of the contract.

6. Heard the submissions of the counsels and perused the records.

7. The respondents have not enclosed the copy of the settlement agreement dated 13.03.2014 which was executed between the parties. This agreement was filed on the side of the petitioner and it would show under Clause XI the petitioner had been assured a gainful employment in the respondents' society. However, this has not been complied with by the respondents' and the dispute primarily resolves around this issue besides other grievances on both sides. Therefore, it is clear that a dispute has arisen between the parties and the Agreement dated 13.03.2014 also envisages the settlement of disputes through Arbitration where dispute was to be referred to the general conference who has agreed as Arbitrator. However, despite the request of the petitioner, the respondents have not come forward to appoint the Arbitrator. Therefore by not complying with the demand the respondents have abdicated their right to appoint the Arbitrator. After arguments, both counsels agreed that the matter could be referred to a sole Arbitrator and they have no objection to appoint Fr. Xavier Arulraj A, Senior Counsel as the sole Arbitrator to arbitrate the disputes between the parties.

8. Accordingly, it is ordered as follows:

(i) Fr. Xavier Arulraj. A, Senior Counsel, Legal Cell- TNBC, Pastoral Centre, 25, Rosary Church Road, Santhome, Chennai - 600 004, Phone No.24615523, Fax 2 4610302, Cell No. 9444044669, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes inter se the parties.

ii) The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. It is open to the respondent to raise all legal objections as to the validity of contract.

iii) The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses as per law.

iv) The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

10.02.2021

mrn

Index : Yes/No
Speaking order/non-speaking order

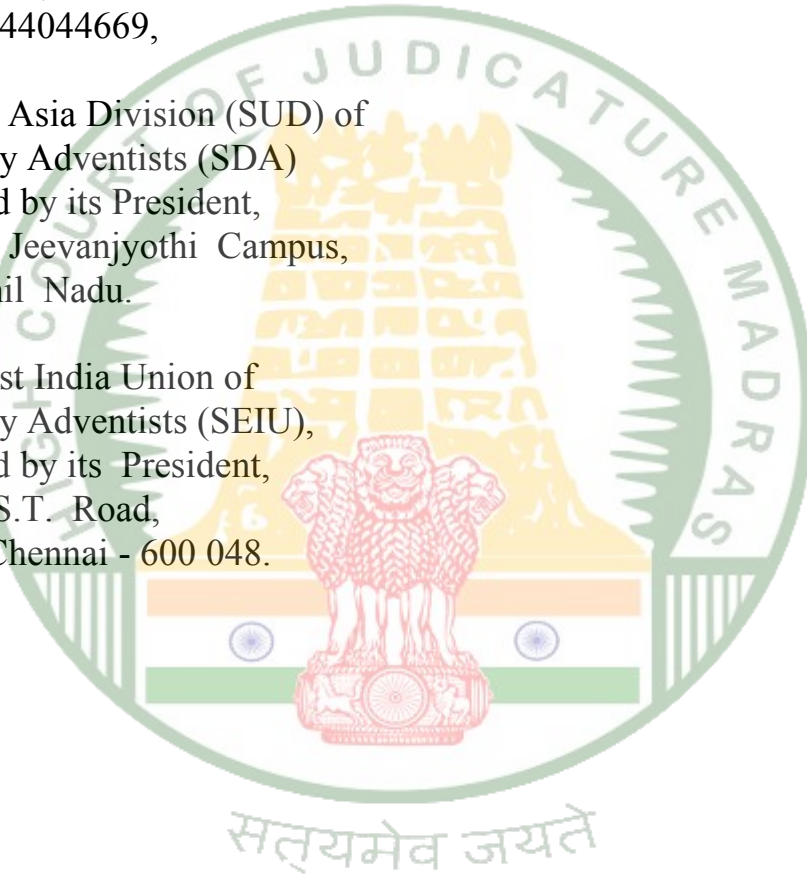


WEB COPY

To,
Fr. Xavier Arulraj. A, Senior Counsel,
Legal Cell- TNBC, Pastoral Centre,
25, Rosary Church Road,
Santhome, Chennai - 600 004,
Phone No.24615523,
Fax 24610302,
Cell No. 9444044669,

1. Southern Asia Division (SUD) of
Seventh Day Adventists (SDA)
Represented by its President,
No.2, HCF, Jeevanjyothi Campus,
Hosur, Tamil Nadu.

2. South East India Union of
Seventh Day Adventists (SEIU),
Represented by its President,
No.197, G.S.T. Road,
Vandalur, Chennai - 600 048.



WEB COPY

P.T.ASHA, J.

mrn



OP.No.597 of 2020

WEB COPY

10.02.2021