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Arb.O.P.(Comm.Div.) No.428 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Arb.O.P.(Comm.Div.) No.428 of 2022

Prasanna Purple Mobility Solutions Pvt Limited,
having office at No.35, 1st Street,
Dhandayudhapani Nagar,
Kotturpuram, Chennai – 600 085.

... Petitioner

vs.

Velammal Vidyashram
Unit of Velammal Educational Trust,
Rep. by MVM Velmurugan,
Chief Executive Officer,
Ambattur Red Hills Road,
Surapet, Chennai – 600 066.

... Respondent

PRAYER: Arbitration Original Petition filed under Section 11(6)(a) of the Arbitration and Conciliation Act, 1996, pleased to appoint a sole arbitrator under clause 42 of Agreement for Student/Employee Transportation Services dated 01.03.2016 to adjudicate the dispute between the parties.



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For Petitioner : Mr.Subhang P.Nair
for M/s.R.Parthasarathy

For Respondent : Mr.C.Subramanian
for M/s.N.Raja Senthoo Pandian

ORDER

The petitioner seeks the constitution of an arbitral tribunal to resolve the dispute arising under the Agreement dated 01.03.2016 for the provision of transportation services. The petitioner refers to and relies upon clauses 42 and 43 of the Agreement, which are set out below:

"42.Dispute Resolution:

All questions, differences of disputes arising out of this Agreement or any matter connected thereto arising between the parties or their respective representatives, whether as to construction or otherwise, shall be referred to arbitration or a Sole Arbitrator jointly appointed by the parties. The provisions of the Arbitration & Conciliation Act, 1996 or any re-enactment or statutory modification thereof for the time being in force shall be applicable for the arbitration proceedings. The decision of the Sole Arbitrator shall be final and bindings on the parties. The vanue of arbitration shall be Chennai and the



language of arbitration shall be English. The cost of Arbitration shall be borne equally by the parties.

43. Jurisdiction:

Subject to the above clause on Arbitration, the parties hereto unconditionally and irrevocably agree to submit to the exclusive jurisdiction of the competent Courts in Chennai."

2. Upon disputes arising in relation to non-payment of amounts due and payable for the provision of the above mentioned services, the petitioner issued a notice dated 05.04.2022 under Section 21 of the Arbitration and Conciliation Act, 1996(the Arbitration Act). The said notice was served on the respondent. On account of the fact that the respondent did not cooperate in the constitution of an arbitral tribunal, the present petition was filed.

3. Learned counsel for the petitioner states that it is undisputed that the Agreement contains an arbitration clause and the parties could not constitute the arbitral tribunal by mutual consent upon issuance and receipt of the notice under Section 21 of the Arbitration Act.



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4. Learned counsel for the respondent admits that there is an arbitration clause. However, he submits that a *bona fide* effort was made by the respondent to resolve the dispute amicably upon receipt of the said notice. Subject to and without prejudice to the respondent's objections on the merits of the claim, on instructions, he submits that the respondent is agreeable to the constitution of an arbitral tribunal.

5. In the above facts and circumstances, Arb.O.P.(Comm.Div.) No.428 of 2022 is allowed by appointing Mr. Justice V.Parthiban, retired Judge of this Court, No.5069, 12th Street, Z – Block, Anna Nagar, Chennai – 600 040(Mobile No.94440 94401), as the sole arbitrator. The sole arbitrator is requested to enter upon reference and adjudicate the dispute. The fees and expenses in relation to the arbitral proceedings may be fixed by the arbitral tribunal in consultation with the parties.

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Index : Yes / No
Internet : Yes / No
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