



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

OA.No.534 of 2023
and
Arbitration Application No.367 of 2023

M/s.Nian Media Private Limited,
represented by its Authorised Signatory,
Mr.Paul Kenny M D. ... Applicant

Vs.
Rahul G ... Respondent

PRAYER: Petition filed under Order XIV, Rule 8 of the Rules read with under Section 9 (2) (a) (documents) of the Arbitration and Conciliation Act, 1996, prays to grant an order of interim injunction restraining the respondent from soliciting or inducing or encouraging the Applicant's employees from quitting the employment with the Applicants company and requesting them to join the direct competitor to the Applicant's company, pending disposal of the Arbitration.

For Applicant : M/S.Sanjay Pinto

For Respondent: Mr.Vijaya Subramaniyam



ORDER

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This application has been filed by the applicant seeking to grant an order of injunction restraining the respondent from soliciting, inducing, or encouraging the applicant's employees to quit their employment with the applicant's Company and requesting that they join the direct competitor to the applicant's Company, pending disposal of the Arbitration.

2. Heard the submissions made by both sides, learned counsel and perused the materials available on record.

3. The applicant plaintiff is operating a YouTube channel by the name 'BehindWoods, owned by Nian Media Pvt. Ltd., and he is a pioneer in digital media. The respondent was an ex-employee of the applicant's company and he was terminated from the applicant's company. After terminating, the respondent joined some other company, but continues to target the employees of the applicant's company and persuades them to switch over to some other company. Such poaching of employees is forbidden in view of the No Inter-Reference with Employment Relationships Clause agreed between the applicant's company and the respondent. The employment contract was entered into between the applicant and the respondent on June 3, 2021, and has the above-mentioned



no interference clause. The respondent, who was designated as an HR recruiter, is violating the above term and encouraged the employees of the applicant's company to leave their jobs and join the company canvassed by the applicant.

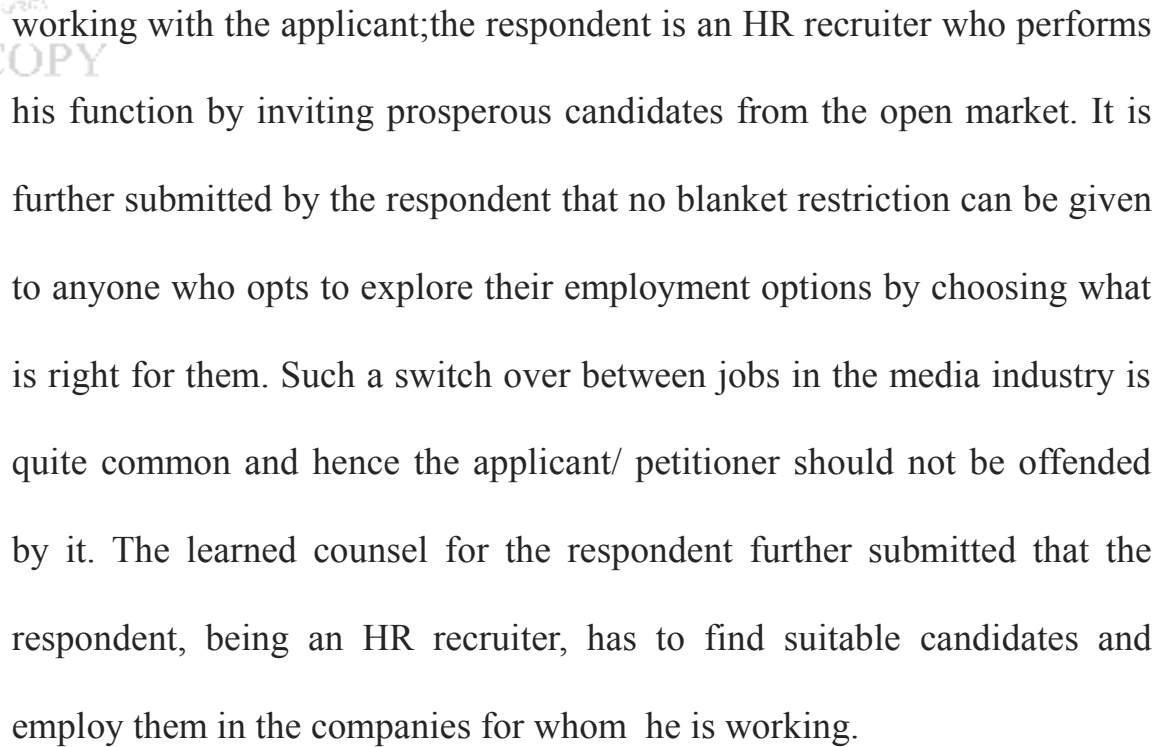
4. The attention of this court was drawn to certain WhatsApp communications sent by the respondent to the applicant's employees, in which it is seen that there are some messages inviting the applicant's company employee to switch over their employment. Hence, it is submitted that the respondent should be restrained from violating the No interference with Employment Relationships' clause by inviting or soliciting the employees of the applicant's company and the relevant clause in the agreement is worded as below:

“ No interference with Employment Relationships

As an Employee you agree that you shall not, either before or for a period of twenty four (24) months after termination of your employment with Nian Media Pvt. Ltd,

(a) Encourage, solicit, or otherwise attempt to persuade any other employees of Nian Media Pvt Ltd., to leave or suggest to join any company in similar nature of business. “

5. The learned counsel for the respondent submitted that the employment contract will bind only during the time when the respondent is



6. It is correct on the part of the respondent to state that the petitioner should not try to get a blanket order by blocking the better employment avenues open to his employees. But some of the WhatsApp messages exchanged between the respondent and the employees of the petitioner would show that even without the petitioner's employees approaching the applicant, the applicant himself had sent messages to the employees of the respondent and told them that there are opportunities and hence they can quit.

7. Even though the respondent is HR personnel and is entitled to collect the personal data of the person who is suitable for employment in



his company, that cannot be done by adopting any shortcut methods. But at the same time, if the employees of the applicant company voluntarily want to go and work with the respondent sponsored company, that cannot be prevented because such a blanket denial would affect the employment rights of the employees, who can exercise their options in accordance with their career ambitions and goals.

8. However, the respondent should be restrained from executing, soliciting, inducing, or encouraging the applicant's employees to quit their employment with the applicant's Company and requesting them to join his direct competitors in the industry. It is for employees to choose any kind of employment on their own volition. But the respondent shall not voluntarily encourage or solicit the employees of the applicant's company and persuade them to change their employment. Hence it is suggested to the parties whether such an understanding between themselves is sufficient for their purposes.

9. The learned counsels for the respondent and the applicant have accepted the justness in the above proposal. The respondent also gave an understanding that he will not voluntarily invite any of the applicant's



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jrs

employees to switch over to other companies. However, the respondent is at liberty to give any advertisement or collect data from any data bank if the same is submitted by any prosperous candidates including the employees of the petitioner with an idea to seek / change employment.

With these observations, this Original Application is disposed. Consequently, the connected Arbitration Application No.367 of 2023 is closed.

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