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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8302 OF 2019

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The Poona Club Ltd.

... Petitioner

V/s.

Pune District Security
Guard Board, Pune

... Respondent

Mr. Dormaan J. Dalal for the petitioner.

Mrs. Lata Desai, Senior Advocate with Ms. Aishwarya
Deshmukh and Ms. Pratiksha Mane i/by Divekar & Co.
for the respondent.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 23, 2023

PC.:

- 1.** The challenge in this writ petition is to the orders passed by the Courts below in a suit filed by the plaintiff which is a body registered under the provisions of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 (hereafter “said Act” for short).
- 2.** The plaintiff filed a civil suit seeking a declaration that the termination letter dated 16 December 2017 addressed by the defendant to the plaintiff is void and further injunction restraining defendant from removing services of guards allotted by the plaintiff at the establishment of the defendant.
- 3.** The Trial Court on an application for temporary injunction

restrained the petitioner from terminating services of 22 security guards allotted by the plaintiff at its establishment till the final decision in the suit.

4. The defendant challenged the order before the District Court in Miscellaneous Civil Appeal No.99 of 2018. The District Court by order dated 12 July 2019 modified the order of the Trial court restraining petitioner from engaging or employing security guards from any other agency, corporation or organization except plaintiff Board till final decision in the suit.

5. On perusal of the impugned orders, it appears that the plaintiff's rights are created under the provisions of the said Act. Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002 (hereafter "said Scheme" for short) is brought in force in exercise of powers conferred under Section 4(1) of the said Act. Regulation 38 of the said Scheme reads thus:

"38. Settlement of disputes.-- Whenever Board desires that any dispute raised by the registered principal employer or employer agency or the Board or the registered Security Guards shall be heard by a panel of officers under the chairmanship of Security to the Government of Maharashtra."

6. Moreover, Section 5 of the said Act provides for a forum to resolve the disputes, which reads thus:

"5. Disputes regarding application of Scheme.-- If any question arises whether any Scheme applies to any class of Security Guards or principal employers, the matter shall be referred to the State Government, and the decision of the State Government on the question, which shall be taken after

consulting the Advisory Committee constituted under Section 15, shall be final.”

7. On perusal of the pleadings of the parties, it appears that there is a dispute amongst parties which is covered by Regulation 38 of the said Scheme. It is well settled that if a right is created under a statute which also provides for a remedy, the civil Court’s jurisdiction is barred. (see **Shiv Kumar Chadha v. Municipal Corporation of Delhi** reported in (1993) 3 SCC 161.)

8. Therefore, remedy of the plaintiff is to raise the dispute under Section 5 of the said Act. In that view of the matter, the plaintiff has failed to make out a prima facie case as regards maintainability of the suit. The impugned orders, therefore, cannot be sustained. Hence, following order:

9. The impugned order dated 24 January 2018 passed by the 5th Joint Civil Judge Junior Division below Exhibit 5 in Regular Civil Suit No.2070 of 2017 and order dated 12 July 2019 passed by the District Judge-8, Pune in Miscellaneous Civil Appeal No.99 of 2018 are quashed and set aside.

10. It is made clear that this Court has not adjudicated rights of the plaintiff on merits and it shall be open for the plaintiff to agitate its rights before the forum created under Section 5 of the said Act.

11. With this clarification, the writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)