

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL REVISION APPLICATION NO.336 OF 2025
WITH
INTERIM APPLICATION NO.9458 OF 2025
IN
CIVIL REVISION APPLICATION NO.336 OF 2025**

Abeda Mushtaq Kotkunde,
Age 45 Years, Occ. - Service,
Residing at :- Opp. Hajrat Mohobbat,
Suleman Urdu High School,
Dnyaneshwar Apartment,
Islampur, Taluka – Walwa,
District – Sangli.

..Applicant
(Original Defendant No.1.)

Versus

1. Islampur Education Society,
Through its Secretary,
Mazid Faiyyaj Ibushe,
Age 38 years, Occ. - Secretary,
Residing at – Momon Mohalla,
Islampur, Taluka – Walwa,
District – Sangli.
2. Shri. Rajasaheb Londhe,
District Education Officer,
Sangli Secondary Department,
Age 45 years, Occ. - Service,
Residing at :- Zillha Parishad, Sangli,
Taluka – Chandgad, h,
Taluka Miraj, District Sangli.
3. Hon'ble District Collector, Sangli,
Vijaynagar, Sangli,
Taluka Miraj, District Sangli.
4. Chief Executive Officer,
Zilla Parishad, Sangli,
Taluka Miraj, District Sangli.

..Respondents

(Respondent No.1-Original
Application No.1.
Respondent Nos.2 to 4-
Orig. Defendant Nos.2 to 4.)

...

Mr. V. A. Shastry, Advocate for Applicant.

Mr. Umesh Pawar a/w Mr. Kanjade a/w Mr. Yashwant Patil, Advocate
for Respondent No.1.

...

CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 19th SEPTEMBER, 2025.

PRONOUNCED ON : 14th OCTOBER, 2025.

FINAL ORDER:-

1. The present Civil Revision Application takes exception to order dated 20.06.2025 passed by Civil Judge Senior Division, Islampur, Sangli below Exhibit-36 in Regular Civil Suit No.298/2025, thereby declining to entertain application of applicant/original defendant no.1 seeking rejection of plaint under Order VII Rule11(d) of Code of Civil Procedure.

2. The respondent no.1 herein is Public Trust and runs school. It filed Regular Civil Suit No.298/2025 against applicant seeking decree of declaration and perpetual injunction, in particular declaration that applicant has no right in school run by respondent no.1 since date of her termination and that order dated 08.04.2025 passed by respondent no.2-Education Officer is not binding upon plaintiff-Trust.

3. It is contention of plaintiff-Trust that defendant no.1 was employed in their school namely Hajrat Mohobbat Suleman Urdu High

School. Her services have been terminated. She has already filed proceeding under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short 'MEPS Act') assailing termination. After termination of services, defendant no.1 approached defendant no.2-Education Officer and raised dispute as to her termination. Eventually, on 08.04.2025, defendant no.2-Education Officer issued communication that termination is illegal and she shall be permitted to attend school and acting as Headmistress. In this background, respondent no.1 instituted Regular Civil Suit No.298/2025 seeking declaration that defendant no.1 is unconcerned with school from date of her termination and she shall be restrained from entering into school premises by decree of perpetual injunction. Similarly, to hold and declare that communication dated 08.04.2025 issued by defendant no.2-Education Officer is not binding on plaintiff.

4. The applicant/defendant no.1 appeared in suit and filed application under Order VII Rule 11(d) of Code of Civil Procedure seeking rejection of plaint. However, Trial Court rejected said application vide order dated 20.6.2025. Hence, this Writ Petition.

5. Mr. Shastry, learned Advocate appearing for applicant submits that Government Circular dated 27.03.2024 has created Grievance Redressal Committee in exercise of powers under MEPS Act to deal with grievances between Management, employees and education authorities, which are beyond purview of jurisdiction of School

Tribunal. Once such authority is created, Civil Court cannot have jurisdiction to entertain any grievance of Management, particularly as regards to order passed by Education Officer. According to him, jurisdiction of Civil Court is impliedly barred to entertain prayer incorporated in plaint.

6. Per contra Mr. Umesh Pawar, learned Advocate appearing for respondent vehemently opposes application and supports impugned order. He would submit that applicant has already challenged order of termination issued by respondent-Management by filing Appeal under Section 9 of MEPS Act before Tribunal. However, on the basis of communication issued by defendant no.2-Education Officer, applicant is disturbing smooth functioning of school. In that view of matter, respondent no.1-Management has rightly invoked jurisdiction of Civil Court seeking relief of declaration against illegal communication dated 08.04.2025 issued by defendant no.2-Education Officer and declaration that applicant has no right to enter into school or interfere in management of school.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that application filed by applicant under Order VII Rule 11(d) of Code of Civil Procedure has been rejected by Trial Court holding that jurisdiction of School Tribunal under Section 9 of MEPS Act is limited to deal with issue as to dismissal, removal, termination otherwise, reduction in rank

and supersession of employee. In that view of matter, prayer in suit seeking declaration and injunction cannot be treated to be barred by any law or jurisdiction of Civil Court cannot be impliedly barred in view of Sections 9 or 4(A) of MEPS Act.

8. There cannot be two opinions that jurisdiction of Civil Court has to be assumed, unless it has been expressly or impliedly barred under any special statute. The application tendered by applicant under Order VII Rule 11(d) of Code of Civil Procedure stipulates that in view of provision contend under MEPS Act jurisdiction of Civil Court is barred. As rightly observed by Trial Court, jurisdiction of School Tribunal is limited to deal with issue as to dismissal, removal, termination otherwise, reduction in rank and supersession of employee. In present case, applicant has already filed Appeal before School Tribunal assailing her termination. The pleading and prayer in suit would show that declaration is sought that applicant is unconcerned with school owing to her termination. The second prayer is seeking declaration against communication issued by Education Officer, whereby he issued direction to respondent no.1-Management to permit applicant to hold post of Headmistress and participate in business of school. Both aforesaid prayers are beyond purview of jurisdiction of School Tribunal under Section 9 of MEPS Act. Therefore, jurisdiction of Civil Court cannot be said to be expressly or impliedly barred.

9. Second contention raised on behalf of applicant that in view of Government Circular dated 27.03.2024 Forum is created for adjudication or redressal of grievance by or against Management, employees or Education Officer. Apparently, Forum is created in pursuance to judgment of Division Bench of this Court in case of *Nitin Bhika Tadge and Anr. Vs. The State of Maharashtra and Anr.* (Writ Petition No.204/2019 alongwith companion matters decided on 16.04.2024) and such Forum cannot be considered as Forum created under law or legislation to attract Order VII Rule 11(d) of Code of Civil Procedure. Pertinently, aforesaid point is first time raised before this Court and no foundation was laid down in this regard in application filed below Exhibit-36 seeking rejection of plaint.

10. In view of aforesaid observations, no fault can be found in impugned order. In result, Civil Revision Application stands rejected.

11. In view of rejection of Application, pending Interim Application stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE