

**Shri. K. B. Parab,**

**V/s.**

**Karachi Maharashtra S.P.M. and others.**

**Order below Exh. 21**  
**(Date - 12.02.2025)**

Present application is preferred by the appellant for continuation of ad-interim relief granted as per Exh.10.

2. According to the appellant, the appellant is the senior most and eligible candidate for the post of Assistant head master, despite that, the respondent management by order dated 01.06.2023 promoted respondent no. 4 as Assistant head master and later on as Head master. Respondent no. 4 is retired on 31.01.2025, prior to the appellant had obtained ad-interim relief of injunction to restrain the respondent management from promoting any employee on post of Head master and Assistant head master permanently till the decision of the appeal. Accordingly, ad interim relief passed in favour of appellant till appearance of respondents. However, the respondents on their first appearance has informed about promotion of Mr. Varade as Head master is passed prior to passing order of ad-interim relief. The appellant had applied for continuation of ad-interim relief, however, this Tribunal has rejected the application for want of compliance of Order 39 Rule 3 of Code of Civil Procedure. The appellant had duly complied with the Order 39 Rule 3 of Code of Civil Procedure, however, inadvertently, the appellant had not

filed original notice and postal receipts on record. As there is duly compliance on the part of appellant, therefore, the appellant would deserves to get the relief of continuation of ad-interim injunction order passed below Exh. 10.

3. Respondent no. 1 to 4 appeared in the matter and filed their say below Exh. 28. It is submitted by the respondents that, on 18.01.2025 the management had passed resolution as regard to promotion of Mr. Varade as Head master and Mr. Pavin Bhogate as Assistant Head master. Accordingly, the order of promotion was issued on 20.01.2025, thereafter, the appellant had applied for taken on board on 23.01.2025 and obtained order on Exh. 10. This Tribunal had directed to the appellant to comply with Order 39 Rule 3 of Code of Civil Procedure, despite, no compliance was made till 04.02.2025. Though the appellant has filed an affidavit of compliance on 05.02.2025, but, no documentary evidence filed in support. Hence, application filed below Exh. 14 for continuation of ad-interim injunction order was rejected. The order passed below Exh. 10 is no more in existence, therefore, no question would arise to continue the relief. Furthermore, order is infructuous as respondent management have already passed necessary order, prior to the order of this Tribunal.

4. Heard both Ld. Counsel at sufficient length. They have reproduced their arguments as per their written pleadings.

5. As per the say of respondent management, they have already passed necessary order, prior to the order of this Tribunal and one Mr. Varade is promoted as Head master. Therefore, the ad-interim injunction order was not extended. Furthermore, the relief of ad-interim injunction was granted in favour of the appellant subject to compliance of Order 39 Rule 3 of Code of Civil Procedure. But, unfortunately there is no compliance on record on last day of hearing. Though, the appellant has filed the postal receipt on record on today itself cannot create any right make him entitled to continuation of ad-interim relief which is already discontinued or vacated.

6. As mentioned above, the ad-interim order passed below Exh. 10 is vacated as infructuous. Thus, it cannot be continued. Hence, application is rejected.

Date :- 12.02.2025  
Place:- Kolhapur.

(V.N.Dhavle)  
Presiding Officer,  
School Tribunal, Kolhapur.