

CIVIL REVISION APPLICATION NO.259/2002

Smt. Nanda N. Haldankar, major  
age, Assistant Teacher, N & N  
English High School,  
Comba, Margao, Goa.

... Applicant.

V/s.

1. Smt. Nalini K. Kulkarni, wife  
of Krishnaji Kulkarni, major,  
Teacher, resident of Housing  
Board Colony,  
Vidyanagar, Margao, Goa.

2. Government of Goa, through  
its Chief Secretary, having  
Office at Secretariat, Panaji.

3. The Director of Education,  
Government of Goa, having  
Office at Panaji, Goa.

4. The Samaj Seva Sangh,  
a Society, registered under the  
Societies Registration Act and  
having its office at Margao and  
represented through its President  
Shri Bhagvant Krishna Naik,

5. The Secretary, Samaj Seva  
Sangh, Margao, Goa.

6. The Head Master, N & N  
English High School, Comba,  
Margao, Goa.

.... Repondent.

Mr. M.S. Sonak, Advocate for the petitioner.

Mr. Sudesh M.S. Usgaonkar, Advocate for respondent No.1

Mr. N.K. Sawaikar, Addl. Govt. Advocate for respondents  
No.2 and 3.

Mr. M. Bandodkar, Advocate for respondents 4, 5 and 6.

CORAM : P.V. HARDAS, J.

DATE : APRIL 24, 2003.

ORAL ORDER :

This Civil Revision Application impugns an order dated 12.9.2002, passed by the Civil Judge, Sr. Division, Margao, in Regular Civil Suit No.200/1988/A, whereby the learned trial Court declined the request of the present applicant to try an issue regarding jurisdiction, before trying other issues.

2. On the basis of the pleadings of the parties, the learned Judge had framed an issue "Whether, the Defendant Nos.3 to 5 prove that this Court has no jurisdiction to try and entertain the subject matter of the suit, because the order of the Director of Education, Government of Goa can be challenged only before the Administrative Tribunal and/or High Court ?".

3. The learned trial Court, by the order impugned in the present civil revision application, declined the request of the present applicant to try the aforesaid issue as a preliminary issue and directed that this can be considered along with other issues which have been framed in the suit.

4. I have heard Mr. M.S. Sonak, learned Counsel appearing on behalf of the applicant, Mr. Sudesh M.S. Usgaonkar, learned Counsel on behalf of respondent No.1, Mr. N.K. Sawaikar, learned Addl.

Govt. Advocate on behalf of respondents No.2 and 3 and Mr. M. Bandodkar, learned Counsel on behalf of respondents No.4, 5 and 6.

5. As per Order 14, Rule 2 of the Code of Civil Procedure, a discretion is vested with the trial Court to try first any issue relating either to the jurisdiction of the Court or a bar to the suit created by any law for the time being in force. Learned trial Court, while declining the request of the present applicant has, in its discretion, come to a conclusion that the issue relating to jurisdiction needs to be tried along with other issues arising in the suit. From the perusal of the order of the learned trial Court, there does not appear to be any material irregularity in exercise of the jurisdiction, nor can it be said that the trial Court has exercised the discretion with any degree of arbitrariness or irregularity. I am therefore not inclined to interfere with the order passed by the learned trial Court. Civil Revision Application, therefore, is devoid of any merit and deserves to be dismissed. It is, however, made clear that the learned trial Court, while deciding the issues arising in the suit, shall decide the said issues uninfluenced by any observations made either by this Court or by the learned trial Court in the order which is impugned in this revision.

In the result, therefore, the Civil Rev.  
Application No.259/2002 is dismissed with no order as to  
costs.

P.V. HARDAS, J.

SSM.