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

CIVIL WRIT PETITION NO. 337 OF 2011

Smt. Asha Shankar Bhavsar.

... Petitioner.

V/s.

Raghuveer Bal Vidya Prasarak Mandal & Anr. ... Respondents.

Mr. Himanshu Kode i/b. S.A. Sawant for the Petitioner.

Mr. A.R. Metkari, AGP for Respondents 5 & 6.

CORAM : N.M. JAMDAR, J.

DATE : 16 OCTOBER, 2015.

P.C. :-

The Petitioner challenges the order passed by the School Tribunal dated 14 October 2009, dismissing the Appeal filed by the Petitioner on the ground of lack of jurisdiction. The School Tribunal has held that it does not have jurisdiction in view of the fact that the Respondent – Institution is not recognized by a Competent Authority within the meaning of Section 2(21) of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

2 The learned Counsel for the Petitioner relied upon the decision of the Division Bench of this Court in the case of **Latika**

Rajaram Mane v/s. State of Maharashtra & Ors. (Writ Petition No. 4673/2012 dated 22 April 2013). He submitted that in view of this decision, the School Tribunal will have jurisdiction and therefore, the order is erroneous.

3. The impugned decision of the School Tribunal was rendered on 14 October 2009. At that time the law led down by the Full Bench of this Court in **Komal Rugwanis v/s. State of Maharashtra [2011(4) Bom.C.R. 459(FB)]** was holding the field. The Full Bench had held that the School Tribunal constituted under Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, had no jurisdiction to entertain an Appeal filed by a primary teacher in a primary school, which is not recognized by the Authorities. The Division Bench in **Latika's** case (Supra) took note of the Rules framed by the State of Maharashtra titled “the Maharashtra Right of Children to Free and Compulsory Education Rules, 2011” framed under “Right of Children to Free and Compulsory Education Act, 2009”. The Division Bench held that in view of these Rules, the law led down by the Full Bench had undergone a change and the School Tribunal will now have power to decide the Appeals such as the one filed by the Petitioner.

4. However, the Division Bench granted relief to the Petitioner therein as the Appeal filed by the Petitioner therein was pending before the School Tribunal on the date the Rules framed under the Right to Education Act came into force and the Appeal

was decided after the Rules had come into force on 21 January 2012. In the present case, as stated earlier, the Appeal was dismissed on 14 October 2009 much before the law had undergone a change in the year 2011. In the circumstances, no fault can be found with the order passed by the School Tribunal.

3. The learned Counsel for the Petitioner submitted that there are various other observations on merits which will come in the way of the Petitioner. However, since the Appeal is dismissed for want of jurisdiction, the School Tribunal could not have gone into the merits of the matter. The learned Counsel submitted that now only the question of retiral dues remain. If it is open to the Petitioner to file an Appeal in view of the subsequent change in law, the Petitioner can always point out the circumstances in which the delay had occurred.

4. In view of this position, the Writ Petition cannot be entertained and is rejected.

(N.M. JAMDAR, J.)