

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

WRIT PETITION NO.1380 OF 2017

Vidyavardhini Shikshan Prasarak Mandal

& Anr.

.. Petitioners

Vs.

Latika Rajaram Mane & Ors.

.. Respondents

Mr. N. V. Bandiwadekar a/w Sagar A. Mane for the petitioner.

Mr. Sunil Dighe for respondent no.1.

Mrs. Vaishali Nimbalkar, AGP, for respondent no.3.

CORAM : A.K. MENON, J.

DATED : 27TH MARCH, 2018.

P.C. :

1. By this petition, the petitioner challenges the order passed by the School Tribunal dated 23rd November, 2016 by which the Presiding Officer, School Tribunal, Kolhapur, directed that the hearing of the Appeal no.30 of 2005 would proceed despite objections on behalf of respondents that the relevant rules provided for service conditions of primary teachers had not been framed by the State Government. This petition is therefore, filed on the basis that by order dated 22nd April, 2013 passed in Writ Petition no.4673 of 2012, the Division Bench of this Court had observed that during the course of the hearing in that matter, the learned Advocate General of the State had submitted to the

Court that the State Government is in the process of preparing rules under the Right to Education Act regarding the conditions of service of primary teachers. It was therefore decided that the School Tribunal would defer the hearing of the appeal for three months in view of the intending formulation of the Rules.

2. Mr. Bandiwadekar, the learned counsel for the petitioner states that the Rules are yet to be framed and therefore, the order impugned in this petition could not have been passed. This is contested by Mr. Dighe who is appearing for respondent no.1 and states that the rules have been in fact framed. The learned AGP has no instructions.
3. In my view, it is not necessary for this petition to be kept pending in view of the fact that if rules are framed, it will be open for the respondent to satisfy the School Tribunal that the rules contemplated in the order of the Division Bench dated 22nd April, 2013 have since been framed and if the Tribunal is so satisfied, the appeal can proceed. Ordered accordingly.
4. In the circumstances, the petition is disposed of with the above directions.

(A.K. MENON,J.)