

**Office of the Chairperson
Committee for Fixation and Regulation of Fee of Private
Schools J&K (FFRC).**

Subject: Legal position in respect of charging of fee by private schools.

Order No. 07 FFRC of 2022
Dated: 09 /09/2022

The Committee for Fixation and Regulation of Fee of Private Schools (FFRC) constituted in terms of mandate contained in Section – 20 A of the Jammu and Kashmir School Education Act' 2002 (Act of 2002), is saddled with onerous duty to determine, fix and regulate the fee structure of the private schools, set-up and functioning in the Union Territory of Jammu and Kashmir.

To carry forward the mandate, contained in Hon'ble the Supreme Court judgements, more particularly (2003) 6 SCC 697, Act of 2002, Draft Rules and now the Jammu and Kashmir Private Schools (Fixation, Determination and Regulation of Fee) Rules, 2022, notified vide SO No. 233 dated 10th of May' 2022 (Rules of 2022), the FFRC issued notification(s) asking school managements to submit their record in accordance with the proforma notified for the purpose, to enable FFRC to regulate the fee structure of private schools.

Those private schools who responded to the said notification, their records were considered by FFRC and fee structure was regulated, except of those where the school record was deficient, and who stand notified for making good those deficiencies.

A few schools being not satisfied with the orders of the FFRC about the regulation of their fee structure, challenged such orders before Hon'ble the High Court of Jammu and Kashmir & Ladakh. In some cases, the Hon'ble Court has been pleased to keep in abeyance the FFRC orders regulating the fee structure of the schools.



Few schools from amongst the above class of schools, as per complaints received in FFRC office, have fixed highly unreasonable and unjust fee structure which is bound to result in Commercialization of Education.

In view of the complaints received, and the issue being of considerable legal and public importance do call for its resolution.

Before dealing with the issue and culling out a legal and just solution, it is deemed appropriate to take note of certain Paras of order No.74 – FFRC of 2021 dated 29.12.2021, passed by the Chairperson, FFRC:

“The constitutional and other courts created by and constituted under law act as sentinels of the inherent, constitutional and other rights created by the constitution and other laws. The constitution recognizes and guarantees rights of the people/citizens, as also, imposes certain duties which are to be performed by them.

Every person/citizen can pursue any permissible avocation, business and occupation. No person/citizen has absolute freedom to lead life in the manner he wishes. To maintain discipline and sanctity in the society, the conduct of the human beings is being regulated by divine scriptures, as also, man-made laws. The distinction between virtues and vices is the main theme of all these laws. These laws regulate the human freedom with avowed purpose of having a society based on principles of truth, fairness and justice.

It is said that no freedom is absolute. The freedom to set-up an educational institution, as such, is not and cannot be absolute. The person(s) who set-up an educational institution, infact, undertakes an onerous duty of chiselling not only the future of a child but of a nation. This fundamental purpose of setting-up an educational institution is to build a human resource for overall betterment of the society. The very purpose of setting-up an educational institution thus distinguishes it from any other avocation. In this settled position, an educational institution cannot be established for undertaking commercial activity, as the child is not a commodity, but a superior creation of the Creator.

From times immemorial, education has never been commerce, whereas, commerce needs education. Hon'ble the Supreme Court, in case titled T.M.A Pai

