

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

Subject: Charging and collecting of money beyond the prescribed fee in breach of Hon'ble Court Orders, Statutes and FFRC orders by private schools in the Union Territory of Jammu & Kashmir.

Order No. 11 FFRC of 2022
Dated: 13 /10/2022

In the times of unequal bargaining position, few school managements are taking undue advantage of their higher bargaining position by allegedly asking the students for payment of huge amounts in the name of security deposit, refundable fund and in some cases as admission fee as well.

The most of the parents who constitute a voice-less class in the hope of securing admission in few big schools, cave-in to the illegal, unethical and immoral demands of these few school managements. Adopting this most unfair practice has the potential of causing immense damage to social fabric. On the one hand, the children of lesser mortals lose opportunity to compete in an otherwise harsh world, and on the other hand, some persons, amongst those, who pay huge amounts at the time of admission of their wards in these few schools, must be arranging such money through illegal means.

Education from times immemorial has been used as medium to develop and inculcate moral values in the people. However, unfortunately few persons suffering from incurable disease of insatiable greed are destroying the moral values of the society. Illegal money is generated and

pumped into market which has the potential of adversely affecting the economic health of the state.

The state has legislated the laws to ensure that there is no Commercialization of Education and this noble cause is safeguarded from all kinds of negative onslaughts.

This issue was considered by FFRC in one individual school in which the legal position has been detailed out. Relevant paragraphs of the show-cause notice issued to that particular school on 10.10.2022 are taken note of:

“M J John’s “Life on Melt Down” makes an in-depth analysis of genetical degradation, moral degeneration and commercialization of some persons. “Life on Melt Down” is a reflection of present day society. It underscores the complete take-over of majority of people by most abominable element of greed. Insatiable human greed has played havoc with body politic and such people have caused immense damage to social fabric as they ride rough shod on the rights of lesser mortals.

The legal position obtaining in the matter is summarized as under:

Section – 20 A, Section – 20 C, Section – 20 E (1), Section – 20 J and Section – 27 (2) of the Jammu and Kashmir School Education Act’ 2002 (amended) are taken note of:

Section – 20 A:

(1) The Government shall constitute a Committee to be known as the “Committee for Fixation and Regulation of Fee of Private Schools” for the purposes of regulating and determining the fee in private schools in the Union territory.

(2) The Committee shall be headed by a Chairperson who has been a Judge of a High Court or a Government Officer who has been a Financial Commissioner of the Union territory or above.

(3) The members of the Committee shall be such as may be prescribed by the Government.

(4) The Chairperson may co-opt any other independent person of repute or a representative of a recognised School Association as an expert member, but the total number of members of the Committee shall not exceed five.

Section - 20 C:

(1) Subject to the provisions of this Act or any other law for the time being in force, the Committee for Fixation and Regulation of Fee of Private Schools shall exercise such powers and perform such functions as may be prescribed by the Government to ensure that the private schools are not indulging in commercialisation of education and undue profiteering.

(2) The Government may by notification, delegate any of the powers vested in the Committee for Fixation and Regulation of Fee of Private Schools to the Chairperson of the said Committee, to the extent as may be prescribed.

(3) Orders passed by the Committee for Fixation and Regulation of Fee of Private Schools shall be deemed to have been duly passed by a public servant and its violation or non-compliance shall amount to disobedience under the provisions of section 188 of Indian Penal Code (45 of 1860).

Section – 20 E (1):

The private schools shall not charge any fee from the students or guardians, except tuition fee, annual fee, transport fee and voluntary special purpose fee such as the picnic, tour and excursions, etc. Completely voluntary in nature or any other fee as may be approved by the Committee for Fixation and Regulation of Fee of Private Schools after following the procedure prescribed:

Provided that private schools shall not charge in any manner, any other fee including admission fee or any amount, by whatever name called than the fee mentioned above.

Section – 20 J:

The Committee for Fixation and Regulation of Fee of Private Schools shall for the purposes of making any inquiry or initiating any proceedings under this Act, have the same powers as are vested in a Civil Court, under the Code of Civil Procedure, 1908 (5 of 1908).

Section – 27 (2):

Any person or private school which contravenes the directions of the Committee for Fixation and Regulation of Fee of Private Schools shall be liable to a fine of not less than fifty thousand rupees for first offence and one lakh rupees for every subsequent offence including recommendation for disaffiliation of such private school by the said Committee.

Relevant part of Para – 213 of the judgement titled Islamic Academy of Education and Vs. State of Karnataka and others reported as (2003) 6 SCC 697, is taken note of:

“each educational institute must place before the Committee, well in advance of the academic year, its proposed fee structure. Along with the proposed fee structure all relevant documents and books of accounts must also

*be produced before the Committee for their scrutiny. The Committee shall then decide whether the fee proposed by that institute are justified and are not profiteering or charging capitation fee. The Committee will be at liberty to approve the fee structure or to propose some other fee which can be charged by the institute. The fee fixed by the Committee shall be binding for a period of three years, at the end of which period the institute would be at liberty to apply for revision. **Once the fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees. If any other amount is charged, under any other head or guise e.g, donations the same would amount to charging of capitation fee. The government/appropriate authorities should consider framing appropriate regulations, if not already framed. Hereunder if it is found that an institution is charging capitation fees or profiteering that institution can be appropriately penalized and also face the prospect of losing its recognition/affiliation.***

(emphasis supplied)

Section – 20 C (1) provides that FFRC shall exercise such powers and perform such functions as been prescribed by the Government to ensure that private schools are not indulging in Commercialization of Education and undue profiteering. The penal provision prescribes imposition of penalty for violating the orders of FFRC.

Section – 20 E (1) provides that private schools shall not charge any fee from the students or guardians, except tuition fee, annual fee, transport fee and voluntary special purpose fee such as the picnic, tour and excursions etc. Completely voluntary in nature or any other fee as may be approved by the FFRC after following the procedure prescribed.

It is also provided by Section – 20 E (1) that private schools shall not charge in any manner, any other fee including admission fee or any amount, by whatever name called than the fee mentioned above.

Hon'ble the Supreme Court in the above referred judgement has ruled that once fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees. It is also provided by the said judgement that if any other amount is charged, under any other head or guise e.g, donations the same would amount to charging of capitation fee.

Draft Rules, which were almost similar to "The Jammu and Kashmir Private Schools (Fixation, Determination and Regulation of Fee) Rules, 2022" notified vide S.O. 233 dated 10.05.2022 (for short Rules of 2022), prescribed the procedure and norms to be followed and actions to be taken in regulating and determining the fee structure of the private schools. The Rules of 2022 have provided complete mechanism to effectuate the purpose and intendment underlying the Jammu and Kashmir School Education Act' 2002 (for short Act of 2002) and to ensure that Education remains charity as has been repeatedly stated by Hon'ble the Supreme Court and does not become the commercial activity.

Complaints have been pouring-in, in FFRC about charging of huge amounts by some big private schools in the name of security deposits, refundable fee etc.

The FFRC is informed that some other big schools are allegedly charging and collecting huge amounts in cash from the parents at the time of giving admission to their wards in their schools.

Section - 20 E (1) has specifically delineated the fee which the school managements can charge and collect from the students. The security deposits, refundable amounts are greek to Section - 20 E (1). The schools which are allegedly charging and collecting huge amounts from the parents/students at the time of their admission in the schools beyond the statutorily prescribed fee and the fee regulated by

FFRC, are not only violating the laws of the land but are also committing wilful and deliberate contempt of the orders of Hon'ble the Supreme Court."

In view of the legal position, the schools more particularly those few big schools who are demanding money from the parents beyond the fee as is delineated by Section - 20 E (1) of the Jammu and Kashmir School Education Act' 2002 (amended), are restrained and prohibited from charging and collecting fee beyond the fee prescribed by Section - 20 E (1), more particularly are restrained and prohibited from charging and collecting money from the parents/students in the name of security deposits, refundable fee or money by whatever name called. The schools who have charged and collected money beyond the prescribed fee are directed to forthwith return such money to the parents/students.

The parents who in the circumstances were compelled to pay the money beyond the prescribed fee are at liberty to inform FFRC by giving details about the payments made so that the action is initiated and punishments given to erring school managements in accordance with law, and it is ensured that money so charged and collected is returned to parents.

Sd/-
Justice Muzaffar Hussain Attar
(Former Judge)
Chairperson
Committee for Fixation & Regulation
of Fee of Private Schools J&K (FFRC)

No.FFRC/Sgr-2022/ **3620**
Copy to the:-

Dated: **13.10.2022**

1. Director School Education Jammu/Kashmir for information;
2. Secretary J&K Board of School Education (Member FFRC) for information;
3. Private Secretary to Principal Secretary to Government School Education Department (Member Secretary, FFRC) for information of the Principal Secretary;
4. P. A. to Chairperson, FFRC for information of the Hon'ble Chairperson, FFRC;
5. President, Private Schools' Association J&K;
6. President, J&K Private Schools' Association, Jammu;
7. Chairperson, Parents' Association of Privately Administered Schools (PAPAS);
8. I/C Website for uploading the same on official website;
9. Office file.

ICO, FFRC (J&K)
Committee for Fixation & Regulation
of Fee of Private Schools J&K (FFRC)

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13/10/2022