

THE JAMMU AND KASHMIR PRIVATE SCHOOLS (FIXATION, DETERMINATION AND REGULATION OF FEE) RULES, 2022

[S.O. 233 of 2022, dated 10.05.2022, School Education Department]

In exercise of the powers conferred by Section 29 read with Sections 20A, 20B and 20C of the Jammu and Kashmir School Education Act, 2002, the Lieutenant Governor Union Territory of Jammu and Kashmir hereby makes the following rules namely:-

1. Short title and commencement

(1) These rules may be called the Jammu and Kashmir Private Schools (Fixation, Determination and Regulation of Fee) Rules, 2022.

(2) They shall come into force at once.

2. Definitions

In these rules, unless the context otherwise requires,-

- a. "Act" means the Jammu and Kashmir School Education Act, 2002;
- b. "Affiliating body" means the Jammu and Kashmir Board of School Education; the Central Board of School Education (CBSE) or any other Examination body which has been set up by a legislative enactment to which the said school is affiliated or any other body which the Government has permitted to conduct examination and grant certificates;
- c. "Appropriate Authority" means the Administrative Department of School Education;
- d. "Chairperson" means the Chairperson of the Committee;
- e. "Committee" means the Committee constituted under section 20A of the Act;
- f. "Fee" means any fee as has been defined under section 20(E) of the Act;
- g. "Fee Determination" is the process of class-wise fee fixation, determination and regulation by the Committee;
- h. "Government" means the Government of Union Territory of Jammu and Kashmir;

- i. "Guardian" means a person having care and custody of the child and includes a natural guardian or guardian appointed or declared by a court or a statute;
- j. "Parent" means either the natural or step or adoptive father or mother of a child;
- k. "Processing fee" means the amount as prescribed by the Committee for the purpose of processing the application for fixation, determination and regulation of fee for a private school;
- l. "Proforma" means a format for obtaining information from private schools as may be prescribed by the Committee;
- m. "Private School" means an:-
 - (a) unaided School, not receiving any kind of aid or grant to meet its expenses from Government or the local authority, which has been permitted to set up by a competent authority and recognized to impart education by the Government or any other authority as may be prescribed by the Government; and is affiliated with the affiliating body;
 - (b) aided private school which is recognized by and is, or has been receiving a grant in aid from the Government or any other local authority.
- n. "Society" means society as registered under the Societies Registration Act, 1860 or any other Act;
- o. "Sub-Committee" means Divisional or District level Committee as may be constituted under Section 20(H) of the Act;
- p. "Trust" means a trust as registered under Indian Trust Act, 1882.

3. Composition of the committee

(1) The Committee constituted under section 20A of the Act, shall consist of:-

- a. 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 of Jammu and Kashmir or above;
- b. Administrative Secretary to Government School Education Department Member-Secretary;
- c. A representative of the Jammu and Kashmir Board of School Education not below the rank of Secretary-Member;
- d. Director of School Education Kashmir/Jammu-Member by rotation as per the Headquarter of the Committee;

- e. The Chairperson may co-opt any other independent person of repute or a representative of a recognized school Association as an expert member, but the total number of members of committee shall not exceed five;
- f. If any vacancy accrues due to non-availability of a member, it will be filled by the Government;
- g. Any member who has been co-opted/nominated shall draw such remuneration and allowance such as TA/DA as is admissible to the Government Servants of the rank of Class-I Officers, under the prevalent rules;
- h. No act or proceeding of the committee shall be invalid by reason only of the existence of any vacancy in, or any defect in the Constitution of the Committee.

4. Term of office and other conditions of service of Chairperson

(1) The Chairperson shall hold office for a term of three years from the date on which he enters upon his office and in the case of a vacancy arising earlier, for any reason, such vacancy shall be filled for the remainder of the term:

Provided that he may by writing under his hand resign his office any time during the tenure of his office.

(2) The salary, allowances, perquisites, perks and other conditions of service of the Chairperson shall be the same as those of a sitting Judge of the High Court, in the case he has been a Judge of any High Court; and as those of a Financial Commissioner in case he has been a Financial Commissioner of the Union Territory of Jammu and Kashmir or above:

Provided that if the Chairperson is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of service as the Chairperson be reduced:-

- i. By the amount of that pension; and
- ii. If he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension:

Provided further that the salary, allowances and other conditions of service of the Chairperson shall not be varied to his disadvantage after his appointment.

(3) The Government may extend the term of the Chairperson for such period as may deem fit and proper.

5. Powers and functions of the Committee

(1) The powers of the Committee shall be,-

- a. To fix, determine and regulate the fee to be charged and collected by a Private School;
- b. To hear complaints with regard to the charging and collection of fee in excess of the fee determined by it. If the Committee, after obtaining the material comes to the conclusion that the Private School has charged and collected fee in excess of the fee fixed determined and regulated by the Committee, it shall recommend to the appropriate authority for the cancellation of the recognition or registration of the Private School or for any other course of action as it deems fit in respect of the Private School. Any such recommendation made by the Committee shall be implemented by the appropriate authority within a reasonable time as per procedure laid down;
- c. Require each Private School to place before the Committee the proposed fee structure of such school with all relevant documents and books of accounts for scrutiny within such date as may be specified by the Committee;
- d. Obtain from the Private School any such information as may be required by it for the examination of the fee structure of the Institution;
- e. Verify whether the fee proposed by the Private School is justified and it does not amount to profiteering or commercial of education;
- f. Approve the fee structure or fix and determine some other fee that can be charged by the Private School;
- g. Verify whether the fee collected by the Private School affiliated to the affiliating body commensurate with the standard of education and other related facilities provided by the Private School;
- h. To recommend the appropriate authority for disaffiliation of the private school, if it comes to a conclusion that the Private School has charged and collected highly excessive fee;
- i. The Committee shall have the power to regulate its own procedure in all matters arising out of the discharge of its functions, and shall for the purpose of making any inquiry

under these rules, have all the powers of a Civil Court under the Code of Civil Procedure, 1977 while trying a suit, in general, and in particular in respect of the following matters, namely:-

- i. Summoning and enforcing the attendance of any witness and examining him on oath;
- ii. The discovery and production of any document;
- iii. The receipt of evidence on affidavits;
- iv. The issuing of any commission for the examination of a witness.
- j. The Committee shall, on fixing and determining the fee leviable by a Private School, communicate its decision to the Private School concerned;
- k. The Committee shall indicate the different heads under which the fees shall levied.

6. Fixation, Determination and Regulation of Fee

- a. The committee shall fix and determine the fee for each Private School separately as per the procedure mentioned in these rules;
- b. The fee fixed and determined by the Committee having regard to relevant factors shall be binding on the Private School;
- c. The fee fixed and determined by the Committee shall be valid for a period of three (03) years. However, in case a school seeks any modification in the fee structure fixed and determined by the Committee within the prescribed time period, it shall apply to the Committee for the same.

7. Factors for determination of fee

The Committee, shall, while determining the fee leviable by a private school, in addition to the factors specified in sub-section (1) of Section 20D of the Act, also take into account, the following factors, namely:-

- i. The location of the Private School;
- ii. The available infrastructure;
- iii. The expenditure on administration and maintenance;
- iv. The reasonable surplus required for the growth and development of the Private school;
- v. Performance of the Private School;
- vi. Grant-in-aid received by the Private School;
- vii. Availability of modern technology and appliance thereof;
- viii. Any other fact or as may be prescribed by the Committee;
- ix. The locality of the Private School, namely, Rural Area, Town Panchayat, Municipality, District Headquarters, Corporation;

- x. Strength of the students;
- xi. Classes of study;
- xii. Results of students achieved;
- xiii. Status of the Private School, as indicated below:-
 - a. Private Schools having minimum infrastructure facilities as prescribed by the Government from time to time;
 - b. Private Schools having infrastructure facilities more than that prescribed:
 - i. Private Schools having more than the minimum requirement of the lab, a greater number of library books, classroom facilities and other sanitary and drinking water facilities or any other facility;
 - ii. Private Schools having more than adequate classroom facilities, lab facilities, library area, number of books, very good sanitation facilities, highly protected drinking water facilities, and other sanitary facilities together with a high percentage of results;
 - iii. Private Schools are fully equipped with modern facilities like Air Conditioner/Centrally heating, smart classes or any other facility.

8. Submission for Fixation, determination and regulation fee

a. The Private School shall submit a proposal to the Committee on the proforma as may be prescribed by the Committee. The Proposal for fixation determination and regulation of fee for next year shall be submitted three months before the next academic year starts;

b. The Private School shall pay such amount towards the processing fee, as may be prescribed by Committee, alongwith the proposal;

c. The proposal shall contain all the requisite documents as specified in the prescribed proforma including audited accounts of last three years;

d. In case a Private School fails to submit a proposal within the prescribed time limit or submits an incomplete proposal for fixation determination and regulation of the fee:-

- i. The Committee shall recommend to the appropriate authority to bar the Private School from taking any new admission for next academic year or to impose a fine equivalent to 10 percent of the total revenue generated by the Private School/Society/Trust/Person of individual in the preceding year, as applicable;
- ii. In addition, the Committee may recommend to the appropriate authority for taking the following actions:

- (a) to take over the Management of the Private School until it submits a proposal and once the management of the Private School has been taken over, the Government shall appoint an Administrator not below the rank of Sub-Divisional Magistrate as Administrative Head of the Private School to ensure its smooth functioning at the cost of School's fund. During this period, no further developmental/procurement/construction activities shall be taken up in the Private School except activities related to education and safety of children;
- (b) the appropriate authority may withdraw permission and the recognition of the Private School as per the procedure laid down.

9. Maintenance of Accounts

(1) Every private school shall keep separate accounts for different kinds of transactions, namely fees collected, grants received, financial assistance received, payments of salary to staff, purchase of machinery and equipment, laboratory articles, library books, stationery and other expenditure incurred;

(2) Every private school shall keep the registers, accounts, and records within the premises of the Private School. They shall be made available at all reasonable times for inspection by an officer(s) as may be nominated by the Chairperson;

(3) Accounts maintained by Private School together with all vouchers relating to various items or receipts and expenditure shall be preserved by that Private School until the audit of accounts is over and objection, if any, raised is settled;

(4) An officer, authorized by the Committee of the Committee shall, at all reasonable times, have free access to the books, registers, accounts, records, documents, securities, cash and other property belonging to or in the custody of every Private School and may summon any person in whose possession they are, to produce the same;

(5) An officer who has made inspection of any Private School under sub-rule (4) above shall send a report with relevant records to the Chairperson of the Committee within one week thereafter.

10. Submission of Returns

(1) Every Private School shall submit to the Committee an annual financial statement audited and certified by a Chartered Accountant duly attested by the Principal/Chairman of the School for the period ending with 31st of March of every year, not later than the 1st day of

July of every year or within such further time as may be permitted by the Chairperson;

(2) In addition to the returns referred to in sub-rule (1) above, every private school shall within such time, or within such extended time, as may be fixed by the Chairperson furnish such returns, statistics or other information that may be required, from time to time by him.

11. Sub-Committees

(1) There shall be a District Committee in every district, which shall consist of the Chief Education Officer of the district as Chairperson and such other members as may be appointed by the School Education Department;

(2) The District Committee shall exercise such powers and functions as may be prescribed by the Government.

12. Powers to be exercised by the Chairperson

a. The parents may submit a written complaint to the chairperson for non-compliance of order of the Committee;

b. The Chairperson may take Suo-motu cognizance to examine the compliance of the orders of the Committee;

c. After receiving the complaint under sub-rule (a), the Chairperson shall examine the complaint and the compliance of the order of the Committee as a whole, within a period of fifteen days, after affording a reasonable opportunity to the parties concerned;

d. If found guilty, the Chairperson shall issue directions to the Private School Management to implement the fee-determination orders of the Committee:

Provided that the Chairperson may issue a single direction for one or more complaints received against a single Private School within a stipulated time of 15 days;

e. In case if a Private School is found charging excess money against the fee-determination order, the Chairperson shall order the Private School to refund the excess amount of fee charged from to the Student/Parent within 30 days;

f. On non-compliance of the order of the Committee/Chairperson, the Chairperson shall impose a fine on Private School equivalent to 1% of the total revenue generated in the preceding year for the first time of non-compliance; 3% for the second time of non-compliance; 5% for the third time of non-compliance;

g. If the Private School continues to violate the order consecutively three times, the Private School shall be put under the non-admission category;

h. If the Private School fails to comply with the orders of the Committee, he shall recommend the appropriate authority to take over the Management of the School, however it shall be ratified by the Committee in its next meeting within 15 days;

i. If the Private School fails to refund the amount as ordered by the Committee/Chairperson or fails to pay fine as imposed, the Committee/Chairperson shall order to recover the amount as an arrear of land revenue by Tehsildar concerned (Revenue Officer) and the amount so recovered shall be paid to such persons as mentioned in the order and the amount of the penalty to be deposited in the Government treasury in such manner as may be ordered by the Chairperson.

13. Financial powers

The Committee shall have,-

- i. A separate Major Account Head and same shall be operated and maintained by Director School Education Kashmir and Jammu within their respective provinces as an interim arrangement till the Drawing and disbursing powers are granted to the Committee.
- ii. The Establishment and other expenses of the Committee shall be borne by Director School Education Kashmir/Jammu out of the Account Head of the Committee.
- iii. The Committee shall submit a projected budget proposal to the Government for budget allocation.

14. Headquarter

The office of the Committee shall be located at Jammu/Srinagar and it shall work at place notified by the Government annually.

15. Staff

The Staff of the Committee shall consist of such Officers and Employees either by deputation or transfer or creation, as may be required on the basis of the organisational pattern of the Committee to be notified in regulations in consultation with the appropriate Authority.

16. Redressal of grievance

(1) Any Parent, Guardian, or any other aggrieved person may file a complaint to the Chairperson about charging of excessive and exorbitant fee by a Private School.

(2) The complaint so filed after receipt shall be diarized and dealt with in accordance with the Act and these rules.

(3) The complaint shall be disposed of as early as possible preferably within a period of 45 days.

17. Repeal and Savings

(1) With the enforcement of these rules, any rule or order which is inconsistent to the Act or these rules shall be deemed to have been repealed and superseded;

(2) Any order issue by the Government with regard to the Committee or order passed by the Committee or Chairperson pursuant to the draft rules shall be deemed to have been passed under the provisions of these rules.

[No. Edu-LGL0Jmu(Misc)/8/2022-01, dated 10.05.2022]
