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**SCHOOL EDUCATION ACT, 2002**

**(Act No. XXI of 2002)**

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**THE JAMMU AND KASHMIR SCHOOL EDUCATION  
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**THE JAMMU AND KASHMIR SCHOOL EDUCATION  
ACT, 2002**

(Act No. XXI of 2002)

*[Received the assent of the Governor Government on 21st April, 2002 and Published in Government Gazette dated 23rd April, 2002.]*

**An Act to provide for achieving the goal of universalisation of elementary education and to provide for better organization and development of school education in the <sup>1</sup>[Union territory of Jammu and Kashmir].**

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third Year of the Republic of India as following :—

1. *Short title, extent and commencement.* —(1) This Act may be called the Jammu and Kashmir School Education Act, 2002.

(2) It shall extend to the <sup>2</sup>[whole of the Union territory of Jammu and Kashmir].

<sup>3</sup>[(3) It shall come into force on such date as the Government may, by notification in the <sup>4</sup>[Official Gazette], appoint.]

<sup>5</sup>[(4) Nothing in this Act shall affect the application of the Right of Children to Free and Compulsory Education Act, 2009.]

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “academic year” means the year beginning on such date as the Government may specify with respect to any area or school ;

(b) “aided school” means a private school which is recognized by and is or has been, receiving grant-in-aid from the Government ;

<sup>6</sup>[x x x]

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1. Substituted by S.O. 3466(E) dated 05.10.2020 for “State”.
  2. **Substituted** *ibid* for “whole of the State of Jammu and Kashmir”.
  3. Enforced vide SRO 138 dated 17-5-2004 w.e.f 17-5-2004.
  4. Substituted by S.O. 3466(E) dated 05.10.2020 for “Government Gazette”.
  5. Sub-section (4) inserted *ibid*.
  6. Clause (c) omitted *ibid*.

- (d) “child” means a boy or a girl who is in such age group not being less than 6 years and not more than 14 years at the beginning of the academic year ;
- (e) “competent authority” means any officer not below the rank of a <sup>1</sup>[Chief Education Officer] appointed by the Government for carrying out the purposes of this Act and different authorities may be appointed for different areas ;
- (f) “educational agency” means any individual, Society, Trust or body of personal registered with the Government and permitted to establish, run or maintain any private school, under this Act ;
- (g) “existing school” means any Government school or Government aided or recognized school established before the commencement of this Act and continuing as such at the time of such commencement ;
- (h) “Government” means the <sup>2</sup>[Government of the Union territory of Jammu and Kashmir] ;
- (i) “Government school” means a school run by the Education Department of the Government ;
- (j) “parent” in relation to any child includes a guardian and any other person who has actual custody of the child ;
- (k) “prescribed” means prescribed by rules made under this Act ;
- (l) “private school” means a school established, run or maintained by any educational agency and recognized by the Government ;
- (m) “recognized school” means a school recognized under this Act ;
- (n) “school” means an educational institution primarily meant for imparting education up to, and including, the higher secondary level and includes—
  - (i) such institutions as are meant for providing instructions and training for teachers ;

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1. Substituted by S.O. 3466(E) dated 05.10.2020 for “District Education Officer”.

2. Substituted *ibid* for “Government of Jammu and Kashmir”.

- (ii) lands, buildings, playgrounds, hostels and movable properties such as furniture, books, apparatus, map and equipment, owned by and used for the activities of the educational institution ;

(o) “State” means the <sup>1</sup>[Union territory of Jammu and Kashmir].

3. *Application of the Act.*— The provisions of this Act shall apply to all schools in the <sup>2</sup>[Union territory of Jammu and Kashmir].

4. *Compulsory education up to class eighth.*— The Government shall provide for free and compulsory education for children up to the level of class eighth throughout the <sup>2</sup>[Union territory of Jammu and Kashmir] within a period of ten years from the commencement of this Act and for this purpose it shall take appropriate steps to provide the necessary facilities.

5. *Establishment of schools.*— The Government may, for the purpose of providing adequate facilities for school education,—

- (a) establish and maintain schools ; and
- (b) permit any educational agency to establish and maintain private schools.

<sup>3</sup>6. Omitted.

<sup>3</sup>7. Omitted.

<sup>3</sup>8. Omitted.

<sup>3</sup>9. Omitted.

<sup>3</sup>10. Omitted.

11. *No private school to be established or run without permission.* —(1) No private school shall be established, run or maintained without permission, in writing, of the Government or the Competent authority.

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1. Substituted by S.O. 3466(E) dated 05.10.2020 for “State of Jammu and Kashmir”.

2. Substituted *ibid* for “State.”

3. Sections 6, 7, 8, 9 and 10 omitted *ibid*.

(2) The Government shall prescribe the procedure to be followed for the grant of permission to establish, run or maintain private schools.

12. *Recognition of private schools.* —(1) Only such private schools as are recognized shall be permitted to function.

(2) Notwithstanding anything contained in the Jammu and Kashmir Board of School Education Act, 1975, the Government shall, by notification, in the <sup>1</sup>[Official Gazette], appoint the ‘competent authorities’ for carrying out the purposes of this Act.

(3) The Government shall prescribe the procedure to be followed for the grant of such recognition.

(4) The Government shall prescribe norms and conditions for the functioning of recognized schools.

(5) The Government shall, on or before the first day of May every year, by notification in the <sup>1</sup>[Official Gazette], publish a list of such private schools as are recognized under this Act together with such particulars, if any, as it may consider necessary.

13. *Management of private schools.* —(1) No private school shall be managed and run by any person other than an educational agency. The Government shall prescribe the procedure for registration of educational agencies.

(2) Every educational agency shall appoint a Manager to look after the day-to-day running and administration of the school managed and run by such educational agency.

14. *Duties of Manager.*— The duties of Manager shall include the following :—

- (i) he shall be responsible for the administration of the school in accordance with the provisions of this Act ;
- (ii) all the property, both movable and immovable shall be in the possession of the Manager who shall be responsible for maintaining them in proper condition ;

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1. Substituted for “Government Gazette” by S.O. 3466(E) dated 05.10.2020.



- (iii) he shall maintain the records and the accounts of the school in such manner as may be prescribed ; and
- (iv) he shall be bound to render assistance and facilities as are necessary for proper management of the school.

15. *Permission for starting new classes and their recognition.*— Every private school shall have to seek the prior permission of the competent authority before adding any higher classes. Any higher classes so added in a school shall require recognition by the Government. The Government shall, by notification in the <sup>1</sup>[Official Gazette], prescribe the procedure for the grant of such permission and recognition.

16. *De-recognition of schools.* —(1) The Government may derecognize any private school, if in its opinion, the functioning of such a school is not in accordance with the provisions of this Act and the rules made thereunder :

Provided that no such order of de-recognition shall be passed by the Government unless reasonable opportunity is provided to the educational agency in this regard. The orders passed by the Government shall be final and binding.

17. *Restrictions on alienation of property of aided schools.* —(1) Notwithstanding anything contained in any law for the time being in force, no sale, mortgage, pledge or transfer of possession in respect of any property of an aided school shall be made or created except with the prior permission of such authority as may be authorised by the Government in this behalf. No such permission shall be granted, if in the opinion of such authority, such permission will adversely affect the working of the school.

(2) Any transaction made in contravention of sub-section (1) shall be null and void.

18. *Property to be in the name of the Educational Agency.*— Any property or assets owned, held or acquired by any person for or on behalf of any private school, shall, for the purposes of this Act, be deemed to be the property of the educational agency notwithstanding that such property stands in the name of any individual.

19. *Teaching and non-teaching staff in private schools.*— The academic and other qualifications of the teaching and non-teaching staff in the private

1. Substituted for “Government Gazette” by S.O. 3466(E) dated 05.10.2020.

schools shall not be lower than those prescribed for corresponding posts in Government.

20. *Conditions of service of staff in private schools.*— All the private schools shall frame and notify their own terms and conditions of service of teaching and non-teaching staff including conditions relating to pay, gratuity, provident fund and age of retirement.

<sup>1</sup>[20A. *Constitution of Fee Fixation and Regulation Committee of private schools.* —(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.

20B. *Term of office and other conditions of service of Chairperson.*— The term of office and other conditions of service of the Chairperson of the Committee for Fixation and Regulation of Fee of Private Schools shall be such as may be prescribed by the Government.

20C. *Powers and functions of committee.* —(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.

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1. Sections 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20I and 20J inserted by S.O. 3466(E) dated 05.10.2020.

(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).

20D. *Determination of fee.* —(1) The Committee for Fixation and Regulation of Fee of Private Schools shall while determining the fee to be charged by the private schools established after August, 2014 take into account inter alia the location, available infrastructure, expenditure on administration, aid, assistance and support in any form received by the private school from the Government or any other person or agency or any other factors as may be prescribed.

(2) The Committee for Fixation and Regulation of Fee of Private Schools may from time to time issue notification for fixing maximum ceiling of the fee to be charged under various categories.

20E. *Fee to be charged by private schools.* —(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.

20F. *Power to call for records.*— The Committee for Fixation and Regulation of Fee of Private Schools may at any stage call the record of any school for scrutiny if it comes to the conclusion that the private school has violated or is not adhering to its directions.

20G. *Staff of Committee.* —(1) The Committee for Fixation and Regulation of Fee of Private Schools shall, for the purpose of assisting it in the discharge of its functions, be provided by the Government, such officers and employees as may be determined from time to time by the Government, in consultation with the Chairperson of the Committee.

(2) All establishment charges of the Committee for Fixation and Regulation of Fee of Private Schools shall be borne by the Government.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) shall be such as may be determined by the Government, from time to time.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) shall be subject to the exclusive administrative control and direction of the Committee.

20H. *Sub-committees.*— The Government may constitute such other sub-committees at Divisional or Districts level with such powers and functions as it may deem fit to effectively regulate the fee in private schools.

20-I. *Power to make regulations.*— The Committee for Fixation and Regulation of Fee of Private Schools may, by notification, make such regulations as it may deem necessary for carrying out the purpose of the said Committee.

20J. *Power of Civil court.*— 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).]

<sup>1</sup>21. Omitted.

<sup>2</sup>22. Omitted.

23. *Alteration in the designation of a Government Officer.*— Where any provision of this Act or the rules made thereunder refers to any officer of the Government by designation, then, if that designation is altered or the office held by such officer ceases to exist, the reference to that designation or office shall be construed as reference to the altered designation or, as the case may be, to such corresponding office as the Government may direct.

24. *Indemnity.*— No suit, prosecution or other legal proceeding shall lie against the Government or any authority or officer in respect of anything which is in good faith done or intended to be done under any provision of this Act or the rules framed thereunder.

<sup>3</sup>[25. *Bar of jurisdiction.* —(1) Notwithstanding anything to the contrary contained in the Code of Civil Procedure, 1908(5 of 1908) or any other law

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1. Section 21 deleted by Act VIII of 2005, s. 3.

2. Section 22 omitted by S.O. 3466(E) dated 05.10.2020.

3. Section 25 substituted *ibid.*

for the time being in force, no court shall grant any injunction or make any interim order restraining any proceedings which is being or is about to be taken under this Act.

(2) No suit, prosecution or other legal proceedings shall lie against the Chairperson or any member of the Committee for Fixation and Regulation of Fee of Private Schools or any officer or other employee or any person acting under the direction either of the Government or of the said Committee in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules or regulation or orders made thereunder.]

26. *Delegation of powers.*— The Government may, by notification in the <sup>1</sup>[Official Gazette], and subject to such conditions as it may specify, authorize any officer or authority subordinate to it to exercise any of the powers, except the power to make rules, exercisable by the Government under this Act.

<sup>2</sup>[27. *Penalties.* —(1) Whoever contravenes any of the provisions of this Act or rules made thereunder except the violation of directions issued by the Committee for Fixation and Regulation of Fee of Private Schools shall be liable to a fine of not less than fifteen thousand rupees for first offence and fifty thousand rupees for every subsequent offence by the Director School Education concerned.

(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.]

28. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Government may by order, do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall be framed after the expiry of two years from the commencement of this Act.

<sup>3</sup>[28 A. *Revision and appeal.* —(1) Any person aggrieved of any order passed by the authority under sub-section (1) of section 27 may file a revision

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1. Substituted for “Government Gazette” by S.O. 3466(E) dated 05.10.2020.

2. Section 27 substituted *ibid.*

3. Section 28A inserted *ibid.*

petition before the Administrative Secretary, School Education concerned within a period of thirty days from the date of the order in such form and manner as may be prescribed.

(2) Any person or private school aggrieved by any order made by the Committee for Fixation and Regulation of Fee of Private Schools in exercise of its powers conferred under sub-section (2) of section 27 may prefer an appeal against such order to the common High Court of Jammu and Kashmir within a period of thirty days from the date of the order.]

29. *Power to make rules.* —(1) The Government may make rules for the purpose of carrying into effect the provisions of the Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely :—

- (a) the provision of compulsory education ;
- (b) the establishment and maintenance of schools ;
- (c) the grant of permission to set up private school ;
- (d) the recognition of private schools ;
- (e) the giving of grant-in-aid to schools ;
- (f) the levy and collection of fees in private schools ;
- <sup>1</sup>[x x x]
- (h) the returns, statements and reports to be submitted by schools ;
- (i) the inspection of schools ;
- (j) the constitution and functioning of the Local Education Committees ;
- (k) the standards of education and courses of study ;
- (l) the procedure for admission of students in schools ; and

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1. Clause (g) omitted by S.O. 3466(E) dated 05.10.2020.

- (m) any other matter, which is or may be required to be prescribed under this Act.

30. *Repeal and saving.*—(1) The Primary Education Act, Samvat 1986, the Jammu and Kashmir Private Educational Institutions (Regulation and Control) Act, 1967 and the Jammu and Kashmir Education Act, 1984 are repealed.

(2) Subject to the provisions of sub-section (5) of section 12, the aforesaid repeal shall not affect the previous operation of the Acts so repealed.

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