



**GOVERNMENT OF JAMMU AND KASHMIR
SCHOOL EDUCATION DEPARTMENT,
CIVIL SECRETARIAT JAMMU/KASHMIR**

(Legal Section)

Subject: - SWP No. 2397/2015, CMP No. 01/2015 titled Farooq Ahmad Dar V/s State and others.

Government Order No: 314- Edu of 2016

Dated: 29 - 08 - 2016

Whereas, the petitioner working as Junior Assistant, Higher Secondary school Awantipora reportedly involved in FIR No. 48/99 on the charges of drawal of salary in favour of a fake appointee- Gh. Mohi-ud- din Sofi from 04/97 to 04/98; and

Whereas, the petitioner was placed under suspension vide Order No. 2906-DSEK of 2001 dated 31.10.2001 and was attached to the office of Director School Education, Kashmir; and

Whereas, the Department reviewed the suspension of the petitioner along with the other officials and the review committee ordered the re-instatement of the petitioner vide order No. 5158-DSEK of 2004 dated 05.11.2004 with the stipulation that intervening period shall be decided letter on; and

Whereas, the grievance of the petitioner is that similarly situated officials have been given benefit of treating suspension period on duty without prejudice to the outcome of legal proceedings; and

Whereas, the petitioner filed a writ petition bearing SWP No. 2397/2015 before the Hon'ble High Court and the said petition came to be disposed of on 04th November, 2015 with the following orders:-

"...this writ petition along with connected MPs is disposed of and respondents are directed to consider claim of the petitioner for giving treatments of suspension in the same manner which has been given to other similarly circumstanced person in accordance with rules."

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Whereas, the matter came to be examined in the department in view of these directions of the Hon'ble High Court and it was found that the criminal proceedings against the petitioner are still pending before the trial court and the trial court has framed charges against the petitioner in the said case;

Whereas, it is apparent that Hon'ble trial court has found, prima facie sufficient material against the petitioner to proceed with the trial and, as such, intervening period can't be decided at this stage as it would imply exoneration of the petitioner; and

Whereas, the petitioner has argued for treatment as in case of similarly situated persons but is it noted that the concept of equity doesn't apply in perpetuating a wrong; and

Now, therefore, in view of the above position, the intervening period of suspension shall be reviewed only after final outcome of the criminal proceedings pending before the trial court against the petitioner.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra)

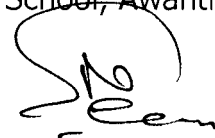
Commissioner/Secretary to Government
School Education Department

Dated: 27-08-2016

No: Edu/Legal/K/179/2015

Copy to the:-

- 1 Director School Education, Kashmir for information and necessary action.
- 2 Chief Education Officer, Pulwama for information and necessary action.
- 3 Pvt. Secretary to Commissioner/Secretary to Government, School Education Department.
- 4 I/C Website
- 5 Sh. Farooq Ahmad Dar Junior Assistant Govt. High School, Awantipora.
- 6 Govt. Order file (w.3.s.c)
- 7 Stock file



(Naseema Nazir)

Under Secretary to Government
School Education Department

