



**Government of Jammu and Kashmir**  
**School Education Department**  
Civil Secretariat, Jammu

Subject:- OWP No.1801/2016 titled J&K Private School Association and others V/S State & others and OWP No. 1837/2016 titled Rakesh Kumar & others V/S State & others.

**Government Order No: 128 - Edu of 2017**  
**Dated. 20 - 3 - 2017**

Whereas, writ petitions bearing OWP No.1801/2016 titled 'J&K Private School Association & others V/S State & others' and OWP No. 1837/2016 titled 'Rakesh Kumar & others V/S State & others' were filed before the Hon'ble High Court seeking the following reliefs:-

- I. Quashing of Government Order No. 338-Edu of 2016 dated 16.09.2016.
- II. Quashing all acts, deeds and things done pursuant thereto or in consequent thereof the Government Order No. 338-Edu of 2016 dated 16.09.2016 including all orders and notifications especially Directorate of School Education, Jammu's Order No. DSEJ/2016/45303-28 dated 26.10.2016.
- III. Commanding the respondents to allow the petitioners to conduct examinations as per the rules and norms prevalent immediately before the issuance of the Government Order No. 338-Edu of 2016 dated 16.09.2016.

Whereas, the Hon'ble High Court in OWP No. 1801/2016 on 29.12.2016 has directed as under: -

"...In the meantime, petitioners shall make a representation to the Government-respondent No.1 which shall be disposed of with appropriate decision by the next date..."

Whereas, the Hon'ble High Court in OWP No. 1837/2016 on 31.12.2016 has directed as under:-

"...In the meantime petitioner shall make a representation to the Government – respondents No. 1, which shall be disposed of with appropriate decision by the next date..."

Whereas, petitioners submitted their representations stating therein that the State Government may re-consider Government Order No. 338-Edu of 2016 dated 16.9.2016 on following grounds:-

- a. The Government Order could not have been issued by the School Education Department as the policy falls within the purview of major policy decisions and the decision was essentially required to be taken by the State Cabinet.
- b. The Department could not have issued this Government Order without recommendation of CDR wing of the J&K Board of School Education as the wing is entrusted with the responsibility to propose examination reforms.
- c. That the Department has not associated or consulted important stakeholders in formulation of this policy.
- d. That the Department has poorly framed T2 syllabus for examinations which compromises and affects the quality of the education.
- e. The Department has not taken into consideration the report of the Sub-Committee of the Central Advisory Board of Education (CABE) in the context of "No Detention Policy".
- f. That the excessive State control dents upon the minimal functional autonomy of private Schools.
- g. The students of the Private School can not appear in any examination outside their premises as this will create unnecessary pressure in their minds and hamper their performance.
- h. The State does not have resources to create an infrastructure to conduct examination of such large number of students from Government and Private Schools.

Whereas, the representations have been examined by the department; and

Whereas, various aspects of 'No Detention Policy' related to deterioration of quality, poor learning levels, holding wide scale consultations, etc have been considered in detail and indicated in the Govt. Order, which has been issued with the approval of the 'Authority Competent', and

Whereas, the issue is being considered by the Central Advisory Board of Education (CABE) for past many years and a sub-committee of CABE was specifically setup in 2012 which held detailed National level consultations and recommended the need for assessment of learning outcomes and making it consequential by linking it to promotion or otherwise to the next level beyond Grade-V. The last meeting of CABE held on 25<sup>th</sup> October, 2016 adopted resolution which, among others, included suitable amendments to the No Detention Provision of the RTE, 2009 (Central Act), leaving the decision to the States and has made recommendations to review

"No Detention" policy by introducing State wide common School Examination for Class 5<sup>th</sup> & 8<sup>th</sup>; and

Whereas, even though RTE Act, 2009 doesn't apply to the State of Jammu and Kashmir, the proceedings in CABE indicate the thinking at the National level; and

Whereas, the concerns related to infrastructure and logistics are misplaced & are more of matters of management. The Department successfully made arrangements for conduct of examinations from Class 5<sup>th</sup> to 9<sup>th</sup> in Feb-Mar, 2017 in Summer Zone of Jammu Division for 226036 students.

Now, therefore, considering the aforementioned aspects, the representations of private schools are found to be devoid any merit and hence rejected. However, to facilitate smooth transition to the exam system instituted vide Government order No. 338- Edu of 2016 dated 16.09.2016, it is further ordered that the referred Government order shall only apply prospectively.

**Sd/-**

(Shaleen Kabra)

Principal Secretary to Government  
School Education Department

No: Edu/L/J/Misc/09/2017

Dated. 20.3.2017

Copy to the:-

1. Chairman, J&K State Board of School Education, Jammu.
2. Director School Education, Kashmir/Jammu.
3. Ld Additional Advocate General J&K High Court, Jammu for information and necessary action.
4. PS to Principal Secretary, School Education Department.
5. I/C Website.
6. Government Order file (w.3.s.c)

Copy also to:-

1. Shri Kamal Gupta, President J&K Private School Association, Head Office Krishna Nagar Jammu.
2. Representatives of Private School Association through Shri Rakesh Kumar.

  
(Soheel N. Shah)

Deputy Secretary to Government