

Government of Jammu and Kashmir
School Education Department; Civil Secretariat

All Dy. Commissioners

Director,
School Education
Kashmir/Jammu.

Chief Engineer,
PHE, Jammu/Kashmir

No. Edu/PS/CS/12/2011

Dated :-14- 09-2011

**Subject:- Writ Petition (Civil) No. 631 of 2004 titled
Environmental and Consumer Protection Foundation V/S
Delhi Administration and others -- implementation of
Court orders thereof.**

Ref:-

1. Supreme Court Order dated 11-01-2011 read with letter dated: 27-01-2011 and 19-2-2011 from MHRD and Mr.Sunil Fernandes, Standing Counsel.
2. Letter addressed to Director School Education, Jammu/ Kashmir dated 04-02-2011.
3. Communication dated 14-02-2011 sent to Director School Education Jammu/Kashmir.
4. Communication dated 23.03.2011 sent to Director School Education, Jammu/ Kashmir.
5. Reminder dated 06.04.2011 sent to Director School Education Jammu/Kashmir.
6. Letter of Director School Education Kashmir dated:08-4-2011.
7. Letter of Director School Education Jammu dated 20-04-2011.



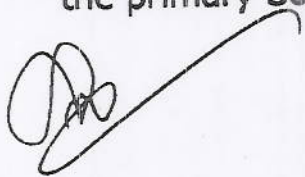
8. Minutes of the Executive Body SSA meeting held under the chairmanship of Chief Secretary on 29th April, 2011.
9. Letter of State Project Director, SSA dated 21-04-2011 and 24-04-2011.
10. Communication dated 27-05-2011 addressed to Directors of School Education Jammu/Kashmir.
11. Letter addressed to C/secretary, PHE dated 21-07-2011.
12. Letter addressed to C/secretary, PHE dated 02-09-2011 and endorsed to all.
13. Letter from PHE Department dated 8-09-2011.
14. Video Conference held on 13-09-2011 by the Chief Secretary, Commr./Secretary PHE, Commr./Secretary Education with Divisional Commissioners/D.Cs/ Chief Engineer, PHE J/K,/Director School Education J/K,/CEOs/S.Es, PHE etc.

I am writing this letter in continuation to the communications and meetings referred above to reiterate the sensitivity of the issue and to convey the instructions given by the worthy Chief Secretary in yesterday's Video Conference.

Before conveying the decision taken in Video Conference, I would like to repeat the history of the case; which follows as under:

The Environmental and Consumer Protection Foundation has filed a Writ Petition No. 631/2004 in the Hon'ble Supreme court in 2004. In the said Writ Petition the respondents were Delhi Administration and others. J&K state was not the respondent.

In January 2011, the Hon'ble Supreme court made all the States respondents and instructions were issued to all the States through their Standing counsels and States were asked to provide the information with regard to the facilities viz; Drinking water, Toilet facility, electricity etc. in the primary Schools;



These orders of the Hon'ble Supreme court were received through standing counsel of J&K State in the Hon'ble Supreme Court by the Education department in February,2011. Both the Directors were asked to furnish the information regarding status of facilities provided in the schools vide this office letter dated 04-02-2011. They were further reminded in this regard vide this office letter dated 14-02-2011, 23-03-2011 and 06-04-2011. The issue was also discussed in the monthly review meetings held at Divisional levels with Directors and CEOs.

The Director, School Education Jammu furnished the list of schools vide his letter dated 20-04-2011 and Director School Education, Kashmir furnished the list of schools vide her letter dated 08-04-2011. These lists were also sent to Chief Engineer, PHE Kashmir and Jammu.

The lists provided by both the Directors were examined but a lot of discrepancy was found. Finally it was decided to use the data available on District Information System for Education(DISE) prescribed in Centrally Sponsored Scheme, SSA. The information/data available in DISE is based on the data compiled by the CRPs/ZRPs and is fed in the website by CEOs through EMIS Coordinators. The data is updated every year and is punched and frozen in respect of each district by 30th September by concerned CEO and forwarded to the Ministry of HRD through SPD, SSA.

On the basis of the available data in the DISE on September, 2010, , the department of School Education filed an Affidavit on 25th April, 2011 through its Standing counsel in the Hon'ble Supreme Court. The abstract of the data recorded in the Affidavit reads as under:

Total no. of Elementary Schools.	No. of schools where drinking water facility is available	No. of schools having toilet facility			No. of schools having electricity facility	No. of schools having Computer facility	Ramps for easy access	Book bank	No. of schools having playground facility	No. of schools having kitchen facility
		Boys Toilet	Common Toilet	Girls Toilet						
21695	18254	2247	6394	3537	1711	1032	2755	9906	5638	7249

The case was listed again on 29th April, 2011 and the Hon'ble Supreme Court issued the following order:-

"JAMMU AND KASHMIR:

The Commissioner/Secretary to the Government, Education Department of Jammu and Kashmir has filed an affidavit in which it is mentioned that there are 21,695 Government Schools in the State of J&K, out of them, 18264 schools have drinking water facility and provisions are being made to make available the facility in the remaining 3431 schools. Out of the 21,695 schools, 6394 schools have common toilets, 3537 schools have separate toilets for girls and 2247 schools have toilets for boys, 1711 schools have electricity facility, 4405 schools have boundary walls and 2755 schools have ramps facility for children with special needs.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today".

While as the identification of the schools lacking facilities like drinking water, toilet etc. has been made available by the School Education Department but the drinking water facilities on ground has to be provided by the department of PHE. In order to get the orders of the Supreme Court implemented, the issue was discussed in the Executive Committee of Sarva Shiksha Abhiyan meeting chaired by the Worthy Chief Secretary on 29th April 2011. In the said meeting Commr./Secretary PHE was also invited and he was represented in the meeting by his Spl. Secretary. The directions were issued by Chief Secretary to the PHE Department to work out a plan in consultation with the Education department for providing the drinking water facilities in the identified schools.

The list of all identified schools stands forwarded to the department of PHE. The department of PHE has a number of water supply schemes viz;

NRDWP, Jalmani in which provision is available for providing the drinking water facilities in the public places which includes the schools.

In response to Education Department's communication, the department of PHE has intimated on 8-9-2011 that during the current year 2011-12 provision has been earmarked for covering these schools in the relevant schemes. It has also been stated by Commissioner/Secretary PHE Department in the meeting that they have authorized their Executing Agencies for providing the drinking water facilities by debit to the aforesaid schemes.

The Education Department through its Standing Counsel had moved an application in the Supreme Court for extension of six months time on 25th July, 2011 for implementing the directions of the Hon'ble Supreme Court. However, the Hon'ble court on 09-08-2011 has not granted the extension and has passed the following directions:

"By order dated: 29th April, 2011, this Court directed that basic facility of portable drinking water be made available to all the schools. It is indeed unfortunate that the States of U.P., Bihar, Orissa and Jammu & Kashmir have yet not complied with that order in toto. There are many schools where there is no provision of drinking water.

We direct the concerned Chief Secretaries of these States to ensure that portable drinking water is made available in all the schools of their respective States on or before 15th September, 2011 and an affidavit to that effect be filed by the Chief Secretaries of the States on or before 20th September, 2011. In case, for any reason, this facility is not provided by any State, then the concerned Secretary of the State shall remain present in Court on the next date of hearing i.e. 22-9-2011.

We also direct all the other States to file affidavits before this Court within one week informing this Court that the facility of portable drinking water has been provided in all the schools in their respective States. The affidavits would be filed by the Chief Secretaries of the States themselves or by the Administrative of the Union Territories.



List this matter again on 22nd September, 2011.

In the letter dated 8.9.2011, the PHE Department has reported that although the provision has been kept in the NRDWP scheme, but it is difficult to cover all the uncovered schools on or before 15.9.2011, the cut off date fixed by the Hon'ble Supreme Court. As most of the uncovered schools fall in far flung area of Jammu, Kashmir and Ladakh regions and to provide portable drinking water is not so easy because of hilly terrain of the State which is a natural impediment for covering such schools. However it has been stated by the PHE Department that they have authorized the Chief Engineer, PHE Jammu/Kashmir and Superintendent Engineer of Leh and Kargil to explore the possibilities to ensure providing of portable drinking water to uncovered schools on priority basis within shortest period of time.

The matter was further discussed in the meeting held by the Chief Secretary on 12th September, 2011. It was observed that despite the fact that schools are identified and funds are available under different schemes, the Court directions are not getting implemented on ground. It was also observed that in the field there seems to be lack of coordination among different agencies.

In order to implement the court directions in letter and spirit and in the coordinated way, a Video Conference was held by the Chief Secretary on 13-09-2011 in which Commr./Secretary PHE, Commr./Secretary Education, Director RMSA, Director School Education Kashmir, SPD SSA and Div. Com. (J) and all the D.Cs of Jammu Division & Kashmir division, CEOs, Chief Engineer PHE J/K, S.Es of the Districts participated. After discussing all the issues threadbare following decisions were taken and instructions issued and these are also being conveyed hereby for implementation:

1. All the concerned officers will use the data of DISE, on the basis of which an Affidavit has been filed in the Hon'ble Supreme Court with reference to the facilities available or not available in the



schools under Elementary Education. The information/data is also available on the website www.schoolreportcards.in. Hardcopies will be made available by every CEO to concerned Officers in his / her respective district.

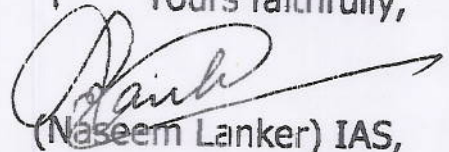
2. A special drive will be launched in all the districts for implementation of court directions for providing portable drinking water in the identified schools not having the facility at present. This drive will be coordinated and monitored by the DDCs' in their respective districts.
3. The status of the identified schools with respect to source of water available /not available/alternate arrangement if the source is not available will be prepared in respect of each school and this list will be signed by the concerned S.E and CEO of the district and countersigned by the respective D.C./D.D.C. This list will be submitted by every D.C. to the Chief Secretary within a week's time with a copy endorsed to Commr./Secretary Education, Commr./Secretary PHE and Divisional Commissioner concerned.
4. If an identified school is located in a habitation where the portable water supply line is available, the concerned S.E & CEO will initiate the action for providing a supply line of drinking water in the school immediately. In all such schools, the compliance of the court order will be accomplished by end of December, 2011. The implementation will be monitored by the concerned D.C on weekly basis and accordingly the progress report will be sent to Chief Secretary on every Monday and endorsed to Commr./Secretary PHE; Commr./Secretary Education and Divisional Commissioners.
5. Where the identified school is located in an area where the supply line of drinking water is either not available or is far away, S.E. PHE department will submit the remedial measures and the financial implication to his department under an intimation to the Education Department. Till then the PHE and Education Department will work out and provide an alternate arrangement to ensure that the children have safe drinking water during the school



hours. Their arrangement can be made by conversion of schemes in Education/PHE Department..

6. All the officers will be collectively and individually responsible for compliance of the court directions and the directions issued by the Chief Secretary in this regard. The achievement or default on this account shall form part of the performance assessment of the officer(s) at all levels during the year 2011-12.

Yours faithfully,



(Naseem Lanker) IAS,
Commr. /Secretary to Government,
School Education Department

Copy to the :

1. Chief Secretary J&K State.
2. Commr./Secretary to Govt, PHE Department for information.
3. Divisional Commissioner, Jammu/ Kashmir for information.
4. Mr. Sunil Fernandes, Standing counsel for J&K State, Supreme Court of India.
5. SPD, SSA.
6. SPD, RMSA.
7. Dy. Secretary to Govt. Education Department. He will sent the copy to all the CEOs, D.Cs, S.Es through E.mail or fax and a hard copy by post.
8. Spl. Assistant to Hon'ble Education Minister for information of HEM.
9. I/C (Nucleus Cell) Education Department. All relevant communications should be kept available on website of Education Department.