



IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Case No. LPA 241/2023 in
WP(C) 702/2023

Reserved on : 06.10.2025
Pronounced on :06.06.2026
Uploaded on : 06.06.2026
Whether the operative part or full
judgment is pronounced

1.J&K Private Schools United Front
Having its Registered Office at:
2-A Sutrashahi, Shaheed Gunj, Srinagar.
Through its Chairman:
Mr. Mushtaq Ahmad Wani @ Mushtaq Canny
S/o Late Mohammad Sadeeq Wani,
R/o 30-Abu-Bakar Lane Umerabad, HMT, Srinagar

.....Petitioner(s)/Appellant(s)

Through:- Mr. Shakeel Sarwar Wani, Advocate with
Mr. Imbisaat Liyaqat, Advocate

V/s

**1.Union Territory of J&K, through Chief Secretary to Govt.,
Civil Secretariat, Srinagar/Jammu**
**2. Principal Secretary to Govt,
Education Department, Civil Secretariat, Srinagar/Jammu.**
**3. The Jammu & Kashmir Board of School Education,
Rehari Colony, Jammu-Tawi, Jammu & Kashmir.**
Also at:
New Campus, Bemina, Srinagar, Jammu & Kashmir.
**4.Joint Secretary, Publication & Procurement,
The Jammu & Kashmir Board of School Education
Publication Division, Rehari Colony, Jammu-Tawi,
Jammu & Kashmir.**
Also at:
New Campus, Bemina, Srinagar, Jammu & Kashmir.
**5. Director School Education,
Kashmir, Srinagar.**
**6. Assistant Secretary, General KD, The J&K Board of School
Education, Srinagar, Kashmir.**
**7. Deputy Secretary, The J&K Board of School Education,
Sub-Office, Kupwara.**

.....Respondent(s)

Through: Mr. M. I. Dar, Advocate with
Ms. Sana Imam & Laila Khan, Advocates



**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

JUDGMENT

PER: SINDHU SHARMA-J

1. The instant Letters Patent Appeal is directed against the judgment and order dated 08.09.2023 passed by the learned Single Judge in WP (C) No. 702/2023, whereby the writ petition filed by the Appellant–Trust came to be dismissed.

2. The Appellant is a registered Trust in the Union Territory of Jammu and Kashmir under the name and style of “*J&K Private Schools United Front*”, claiming to work for the welfare, protection, and promotion of private educational institutions. The Appellant claims to represents the interests of approximately some of the private schools functioning across the Union Territory.

3. The Appellant is aggrieved by Notification No. F (PP-Publication) B/22 dated 26.08.2022 issued by the Jammu and Kashmir Board of School Education, whereby all private schools across the Union Territory were directed to adopt and teach only those textbooks published by the Board for Classes VI to VIII. Subsequently, another Notification dated 04.01.2023 was issued, reiterating that only textbooks published by the Board for Classes VI to VIII shall be implemented and prescribed from the ensuing academic session.



4. Thereafter, a communication dated 27.03.2023 was issued by Respondent No. 6, seeking information regarding the implementation status of the aforesaid circular issued by Respondent No. 4, and to ascertain whether any academic institutions were allegedly compelling students to purchase or use unapproved curricula or textbooks from private publishers.

5. On 28.03.2023, Respondent No. 5 issued another communication addressed to all Chief Education Officers, directing them to conduct a detailed enquiry along with the Zonal Education Officers and to submit an Action Taken Report in respect of several complaints received from parents alleging that certain private schools were compelling them to purchase books from private publishers, either in substitution of, or in addition to, the textbooks published by the Board.

6. On the same date, i.e., 28.03.2023, Respondent No. 7 issued another circular directing all private schools in District Kupwara to furnish information regarding the adoption and implementation of the Board's curriculum and textbooks for Classes VI and above for the current academic session. The said circular further mandated that no private school shall prescribe or use any unapproved curriculum or textbooks from private publishers.



7. Feeling aggrieved by the aforesaid notifications, communications, and circulars, the Appellant challenged the same in *Writ Petition (Civil) No. 702/2023* before this Court, on the ground that the same are arbitrary, illegal, and without jurisdiction. It was specifically contended that although the Board possesses the power to prescribe syllabi and textbooks, it does not have the authority to compel private schools to exclusively purchase and use textbooks published by the Board itself. It was further urged that the official who issued the impugned notifications lacked the requisite legal authority and jurisdiction to do so.

8. The said writ petition was dismissed by the learned Single Judge vide judgment and order dated *08.09.2023*. The learned Single Judge held that the board is vested with the powers to prescribe text books published by it and that all schools are required to follow the curriculum and textbooks prescribed by the Jammu and Kashmir Board of School Education, and that such requirement is supported by the statutory framework under Section 29 of the *Jammu and Kashmir School Education Act, 2002*. It was further held that notifications were validly issued by the respondents and the relevant resolution adopted by the Board's Affiliation Committee mandates compliance with such prescriptions.

9. Being aggrieved and dissatisfied with the aforesaid judgment and order dated *08.09.2023*, the Appellant–Trust



has preferred the present appeal, inter alia, on the grounds that the learned Single Judge has erred in law and on facts; failed to appreciate the constitutional and statutory issues involved. The respondent were neither competent nor had the jurisdiction to issue the impugned notification. It is also submitted that the power and right of the board to prescribe and publish books is not under challenge but only the power and prerogative of the books published by the board. The school, parents and students can be deprived of choice to teach and adopt best qualitative books available.

10. We have considered the rival submissions and perused the record.

11. The Jammu and Kashmir State Board of School Education Act, 1975 was enacted on to reform and re-organize school education in the State and to regulate control and develop education in the State of J&K. the board was vested with the power to reform/re-organize and reconstruct the existing system of education. The powers and functions of the Board were delineation of Section 10, which reads as under:-

“10. Powers and functions of the Board:-

Subject to the provisions of this Act and also subject to the broad educational policies and such directions and instructions as the Government may adopt and issue, from time to time, the Board shall have the following powers and functions: -

i) to prescribe the courses of instructions, prepare curricula and detailed syllabi and also prescribe text books for the Pre-primary, elementary, secondary school and Higher Secondary (School graduation) school examinations and Elementary Teachers Training Course.”



12. Section 29 of the Jammu and Kashmir School Education Act, 2002, contains the power to make rules and power to regulate the content of education in all schools affiliated with it. Section 29 reads as under:-

“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 schools;
- (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;
- (g) the manner in which accounts, registers and records shall be maintained and the auditing of the accounts of private schools;
- (h) the returns, statements and reports to be submitted by schools;
- (i) the inspection of schools;
- (j) the constitution and functioning of the Local Area Education Committees;
- (k) the standards of education and courses of study;
- l) the procedure for admission of students in schools;
- and
- (m) any other matter, which is or may be required to be prescribed under this Act.

13. Once an educational institution voluntarily seeks and obtains affiliation from the Board, it is bound by the terms and conditions of such affiliation, including compliance with the curricula, syllabi, and textbooks prescribed by the Board.

14. The contention of learned counsel for the appellant that the Board cannot compel the use of its own published textbooks overlooks the statutory scheme. The power to prescribe textbooks necessarily includes the authority to determine which books are to be used in affiliated schools.



The mere fact that the Board publishes such textbooks itself does not, by itself, render the action arbitrary or ultra vires, so long as the prescription is supported by the statute and guided by educational policy considerations.

15. The prescription of textbooks by the Board falls squarely within its statutory competence under Sections 10 and 29 of the aforesaid Acts. The power to “prescribe the course of instruction and prepare curricula and syllabi” necessarily encompasses the authority to designate the specific textbooks to be taught in affiliated schools. The issuance of the impugned notifications and circulars, therefore, cannot be said to be without jurisdiction or ultra vires.

16. It is well settled that the right to establish and administer educational institutions, and the right to carry on any occupation under Article 19(1)(g) of the Constitution, is subject to reasonable restrictions imposed by law in the interest of the general public. Regulation of education, including the prescription of curricula and textbooks, constitutes a valid and reasonable restriction aimed at maintaining academic standards and ensuring uniformity in educational content across the Union Territory.

17. In case titled ***Indian Medical Association vs. Union of India***, 2011 (7) SCC 179, the Hon’ble Supreme Court



held that the state had the power to regulate medical education and practice, and that the right to practice medicine was subject to reasonable restrictions imposed in the interest of public health and safety. In Para 109 the Hon'ble Supreme Court has observed as under:-

“109.....What the State had done was to allow private sector to function in the field of higher education, to supplement the role of the State in the field which has been recognized even in TMA Pai. The power of the State to allow such participation of the private sector could only have existed if the State had the power to devise policies based on circumstances to promote general welfare of the country, and the larger public interest.....”

18. The Hon'ble Supreme Court in ***P.A.Inamdar and Ors. vs. State of Maharashtra***, 2005(6) SCC 537, held that the right to establish and run educational institutions was an aspect of the right to practice any profession, occupation or trade and that the State could regulate such institutions in the interest of the general public.

19. Learned Single Judge in the impugned order while relying upon Section 2(I) and Section 10 of the Jammu and Kashmir Board of School Education Act, 1975 has rightly observed that the Board has the power to prescribe the courses of instructions, prepare curricula and detailed syllabi and also prescribe text books for the Pre-primary, elementary, secondary school and High Secondary (School graduation) and school examinations and Elementary Teachers Training Course. Furthermore, the learned Single



Judge has rightly observed that the relevant resolution of the Board's Affiliation Committee mandates that all affiliated schools must adhere to the textbooks and curricula approved by the Board. The Appellant has failed to establish that such a resolution or the consequent notifications suffer from lack of jurisdiction or procedural infirmity.

20. The impugned notifications and circulars cannot, therefore, be termed as arbitrary or violative of Article 14 of the Constitution. They are general directions issued to all affiliated institutions, uniformly applicable across the Union Territory, and are clearly intended to maintain educational uniformity. Courts have repeatedly observed that matters of educational policy lie primarily within the domain of the expert and regulatory bodies, and judicial interference is warranted only where the policy is manifestly arbitrary, unreasonable, or contrary to statute.

21. In ***Union of India vs. International Trading Co. Union of India*** (2003) 5 SCC 437, the Hon'ble Supreme Court in para 16 held as under:-

"16. While the discretion to change the policy in exercise of the executive power, when not trammelled by any statute or rule is wide enough, what is imperative and implicit in terms of article 14 is that a change in policy must be made fairly and should not give the impression that it was so done arbitrarily or by any ulterior criteria. The wide sweep of article 14 and the requirement of every state action qualifying for its validity on this touch stone irrespective of the field of activity of the state is an accepted tenet. The basic requirement of article 14 is fairness in action by the state, and non-arbitrariness in essence and substance is the



heartbeat of fair play. Actions are amenable, in the panorama of judicial review only to the extent that the state must act validly for a discernible reason, not whimsically for any ulterior purpose. The meaning and true import and concept of arbitrariness is more easily visualized than precisely defined. A question whether the impugned action is arbitrary or not is to be ultimately answered on the facts and circumstances of a given case. A basic and obvious test to apply in such cases is to see whether there is any discernible principle emerging from the impugned action and if so, does it really satisfy the test of reasonableness.”

22. The action of the respondents in prescribing text books to the exclusion of other text books infringes any right of the appellants. The respondents have acted in exercise of the powers under the J&K Board of School Education Act. The Board has the power to prescribe course and prescribe text books. The prescription of the text books by the respondents does not infringe upon any rights of the appellant. The only objective is gone --- higher degree of merit and objection from the academic point of view.

23. In ***State of Bombay Vs. Bombay Education Society*** reported as AIR 1954 SC 561, the Hon’ble Apex Court has observed that undoubtedly the powers of the State to make reasonable regulations for all schools cannot be legally questioned insofar as their exercise is not inconsistent with or contrary to fundamental rights guaranteed to the citizen. In Para 21 the Hon’ble Supreme Court has observed as under:-



“21.Re. 2:-Coming to the second question as to whether the impugned order infringes any constitutional right of Barnes High School, the learned AttorneyGeneral contends that although any section of the citizens having distinct language, script or culture of its own,has under article 29(1) the right to conserve the same and although all minorities, whether based on religion or language, have, under article 30(1), the right to establish and administer educational institutions of their choice, nevertheless such sections. or minorities cannot question the power of the State to make reasonable regulations for all Schools including a requirement that they should give instruction in a particular language which is regarded as the national language or to prescribe a curriculum for institutions which it supports.

Undoubtedly the powers of the State in this behalf cannot be lightly questioned and certainly not in so far as their exercise is not inconsistent with or contrary to the fundamental rights guaranteed to the citizens. Indeed in the cases of Robert T. Meyer v. State of Nebraska (1) and August Bartels V. State of Iowa (2) the Supreme Court of the United States definitely held that the State's police power in regard to education could not be permitted to override the liberty protected by the 14th amendment to the Federal Constitution. That is how those cases have been understood by writers on American Constitutional Law. [See Cooley's Constitutional Limitations, Volume 11, page 1345, and Willis, page 64.] The statutes impugned in these cases provided:

(1)That no person -should teach any subject to any person in any language other than the English language, and

(2)That languages other than English may be taught only after the pupil had passed the 8th grade.”

24. This court has clearly laid down that the State can carve down the syllabus and also prescribe the text books. The action is being social justice and quality education.

25. For the foregoing reasons, and upon a comprehensive consideration of the statutory framework, the scheme of the Jammu and Kashmir Board of School Education Act, 1975, read with the Jammu and Kashmir School Education Act, 2002, and the resolutions adopted by the Board's Affiliation



Committee, we find no infirmity in the view taken by the learned Single Judge. Once an institution voluntarily seeks affiliation with the Board, it is bound by the terms and conditions governing such affiliation, including adherence to the curriculum, syllabus, and textbooks prescribed by the Board.

26. Accordingly, the Letters Patent Appeal stands **dismissed**, and the judgment and order dated 08.09.2023 passed by the learned Single Judge in WP (C) No. 702/2023 is hereby affirmed.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

JAMMU
06.06.2026
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Whether the judgment is reportable: **Yes**