



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

(Legal Section)

Subject:- OWP No. 598/1989 titled Falah-e-Aam Trust through its Chairman Sh. Gh. Mohammad Bhat and others Vs State of J&K and others. OWP No. 303/20210 titled Falah-e-Aam Trust Vs State of J&K and others.

Government Order No. **1580** – Edu of 2022

Dated **13** - 06 - 2022

Whereas, the Falah-e-Aam Trust through its Chairman Sh. Gh. Mohammad Bhat and others filed a OWP No. 598/1989 before the Hon"ble High Court and have sought the following relief :-

- a. A writ of mandamus directing the respondents to permit the students studying in the petitioners schools as per list enclosed to appear in the examination conducted by any one of the respondents herein and to declare results of such students.
- b. A writ of mandamus restraining the respondents from interfering, in any manner, with functioning of the schools listed in Annexure including imparting education to the students studying therein and employment of the teachers and other employees for that purpose.
- c. Writ of declaration declaring that the provisions of the Jammu and Kashmir Private Educational Institutions Grant-in-Aid Rule 1975 and in particular Rule 5 thereof do not apply to the schools run by the petitioners.
- d. Writ of declaration declaring that section 11 and 12 of the Jammu and Kashmir School Education Act, 1984 do not apply to the schools run by the petitioners.
- e. Writ of mandamus, to the respondents herein to grant all facilities, permissions, recognition, affiliations which may be required under law for the purpose of enabling the petitioners to continue to establish, run or administer the schools under the petitioner trust.
- f. Writ of mandamus restraining the respondents from taking over the schools sponsored by the Trust.

Whereas, in the meantime the Government of Jammu and Kashmir, in view of powers conferred by sub section (1) of the section-3 of the J&K Criminal Law Amendment Act, 1983, declares/banned the Falah-I-Aam Trust Association/Organization (in short FAT) to be an unlawful Association vide SRO No.11.51, notified on 11 May 1990;

Contd.....2

Whereas, approximately 11000 students were reportedly study in these schools/institutions run by the FAT, consequent to the ban, the students were allowed to take admission in nearby Government schools;

Whereas, in-spite of ban on Falah-I-Aam Trust Association/Organization, the said Association/Organization are running these institutions illegally in the pretext of order of the Hon'ble High Court;

Whereas, the above said writ petition OWP No. 598/1989 was disposed of by the Hon'ble High Court on 16.04.2005 with the following order:-

"...After arguing for a while, Mr. Qureshi, learned counsel for the petitioner, submitted that in view of the subsequent development traceable to the amendment of the status regulating the functions of the schools besides policies and guidelines circulated by the Government from time to time the petitioners would like to approach the competent authority for redressal of their grievances provided liberty is granted to them to approach the court afresh in view of the stance aforementioned, writ petition is disposed of with liberty to the petitioners to approach the authorities concerned should the decision of the Government violate any of their rights, they shall be free to invoked appropriate remedy.

There is an interim direction requiring the authorities concerned to allow the students to appear in the examination. The direction shall remain in force till decision is taken by the Government. However, it shall be obligatory upon the petitioners to represent to the Government in writing within three months failing which, writ petition shall be deemed to have been dismissed and interim direction vacated".

Whereas, the petitioners again filed OWP No. 303/2010 titled Falah-e-Aam Trust and others Vs State of J&K and others along with CMP No. 519/2010 claiming therein that pursuant to judgment rendered in OWP No. 598/89 dated 16.04.2005, the petitioner had filed the requisite representation, as a result thereof the Government had to take a decision vis-à-vis recognition of schools run by Falah-e- Aam Trust but till date no such decision has been taken. Interim direction requiring the authorities concerned to allow the students of such institution to appear in the examination is in operation;

Whereas, the case was listed before the Hon'ble High Court on 03.07.2019 and the Hon'ble High Court in CM No. 3977/2019 in OWP No. 303/2010 was pleased to pass the following order:-

"In the meantime, subject to objections from other side and till next date before the Bench, respondent No. 2 is directed to issue Registration Return Forms to the students of the Schools, run and affiliated to the petitioner-Trust and to take all necessary steps to enable the candidates of class 5th to 10th to take their examination".



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Whereas, the School Education Department vide communication dated 23.10.2019 conveyed the Chairman, Board of School Education, Srinagar as under:-

"Commissioner/Secretary to Government School Education Department may kindly recall the decision taken in a meeting held few days back regarding filing up of Examination/RR forms of students of the schools run by "Falah-Aam Trust" through nearby Government Schools for further submission to the J&K Board of School Education for appearing in the forthcoming matriculation examination as regular student".

Whereas, the case was again listed before the Hon'ble High Court on 29.07.2020 and the Hon'ble High Court in CM No. 2579/2020 in OWP No. 303/2010 CM Nos 2580/2020, 2002/2019 [1/2019] & 3977/2019, IA Nos 1/2017, 6/2013 [785/2013], 5/2013 [1009/2013], 4/2010 [5/19/2010] 3/2011 [598/2011] 2/2015 [01/2015] & 1/2016 [01/2016] has passed the following order:-

"Meanwhile, subject to objections from other side and till next date before the Bench, respondent No. 2 is directed to issue Registration Return Forms to the students of the Schools, run and affiliated to the petitioner-Trust and to take all necessary steps to enable the candidates of class 5th to 10th to take their examination at their own risk and responsibility. However, their result shall not be declared by this Court".

Whereas, the case was again listed on 15.12.2021 and the Hon'ble High Court in CM No. 7939/2021 in OWP No. 303/2010 has passed the following order:-

"Without commenting upon the merits of the case and having regard to the fact that similar directions, as are sought in the present application, have been passed by this Court from time to time, it is directed that the respondents shall allow the students enrolled in the institution run by the petitioner-trust to sit in the examination and to issue RR forms and complete all formalities that may be required for conduct of examination, declaration of the result of the students and authentication of certificates. This order shall, however, be subject to final outcome of the writ petition.

Application stands disposed of".

Whereas, the case has been examined in the Department and found that the Government of Jammu and Kashmir has already declares/banned the Falah-I-Aam Trust Association/Organization (in short FAT) to be an unlawful Association vide SRO No.11.51, notified on 11 May 1990 and also vide communication dated 23.10.2019, the Chairman, J&K Board of School Education was informed regarding filing up of Examination/RR forms of students of the schools run by "Falah-E-Aam Trust" through nearby Government Schools for further submission to the J&K Board of School Education for appearing in the forthcoming matriculation examination as regular student.



Now, therefore, in pursuant to the directions passed by the Hon'ble High Court on 16.04.2005 in OWP No. 598/1989 followed by order dated 15.12.2021 passed in CM No. 7939/2021 in OWP No. 303/2010, it is hereby ordered that:-

- (i) All the students presently studying in these banned institutions shall admit themselves to nearby Government schools for current academic session i.e. 2021-22. All CEOs/Principals/ZEOs shall facilitate the admission of these students.
- (ii) No new admission shall be taken in these banned FAT institutions. No further registration of these institutions shall be done.
- (iii) The Chief Education Officer/Zonal Education Officer concerned shall make wide publicity in all dailies/newspapers that these institutions are not recognized.
- (iv) The Chief Education Officer's in consultation with District Administration shall take necessary action to seal all these banned institutions within 15 days.

By Order of the Government of Jammu and Kashmir.

Sd/-
(B.K. Singh)
Principal Secretary to Government
School Education Department

Dated 13-06-2022

No.Edu-LGL0Kmr/3/2021-01

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India.
2. Divisional Commissioner, Jammu/Kashmir for information.
3. Inspector General of Police, Jammu/Srinagar for information and necessary action.
4. Deputy Commissioner, (All) for information and necessary action
5. Director School Education, Kashmir/Jammu for information and necessary action.
6. Chairman, J&K Board of School Education, Jammu/Srinagar for inf; and n/a.
7. OSD to Advisor (B) to the Hon'ble Lt. Governor for information.
8. Chief Education Officer, (All) for information and necessary action.
9. Pvt. Secretary to Principal Secretary to Government, School Education Deptt.
10. I/C Website.
11. Govt. Order file (w.3.s.c).


(Javid Ahmed)
Additional Secretary to Government
School Education Department