

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
SMC No 13/2009
(SAP School Teachers)

Before: Mr. Justice Muhammad Nawaz Abbasi, Chief Judge.
Mr. Justice Syed Jafar Shah, Judge.
Mr. Justice Muhammad Yaqoob, Judge.

Secretary Education, Government of Gilgit-Baltistan.
Director Planning, Education Department, Government of Gilgit-Baltistan.
Acting Director, National Education Foundation.

Date of Hearing 05-10-2010

JUDGMENT

Justice Muhammad Nawaz Abbasi, CJ: The notice was taken in this Suo Motu case on an application moved by teaching staff of Social Action Program (SAP) Schools, Gilgit-Baltistan and on the direction of Chief Judge, a report was called from the concerned authorities upon receipt of report, the matter was fixed before the Court and on 08-09-2009, the following order was passed: -

“Mr. Shafa Ali director Education (Planning) has filed report on behalf of Secretary Education and also has explained that the schools in question are being run with social action program by the local communities and teachers are also employed by these communities. The Government has provided endowment fund to the tune of Rs. 124 Million which is in the fixed deposit in a schedule bank and the amount of interest on this fund is paid at the rate of Rs. 1200/- per Month to each school on the basis of one school one teacher, in which pay of teacher is included. These schools were established by communities with the aid of Government under social action program, but the communities in departure to the scheme appointed more than one teacher of their choice in one school, as a result thereof, due to shortage of funds the teachers could not get their remuneration in terms of the program. The Director Education Planning states that since the schools

were being governed under an agreement between the communities and Government, therefore, without the consent of the communities it is not possible for the Education Department to take over the management of the Schools. He however states that the matter pertains to the policy decision; therefore the Secretary Education is the competent authority to apprise the Court, who will be available within next four/five days. The Director Education states that he is also not in a position to suggest that in what manner temporary relief can be given to the teachers. The learned Advocate General and Mr. Muhammad Issa Senior Advocate have suggested that in the interest of welfare of the teachers and the schools, the National Education foundation may be involved to sought out the problem with mutual effect and is co-operation of education Department. The Director National Education Foundation and Secretary Education NAS will appear on 14-09-2009 with their proposal for regularization of these Schools.”

- In pursuance of the above order the Director, Education and Planning Government of Gilgit-Baltistan and Director, National Education Foundation appeared before the Court on 14-09-2009 and explained the position. The Court proceed to pass the Order in the following manner: -

“Director Education Planning states that the salaries to the teachers Community Schools established under Social Action Program are paid after every six months and after June 2009 they have not been paid salaries rather payment will be made in December. The arrangement of payment of salaries to the teachers is not reasonable and practicable in the interest and welfare of the schools and children. The teachers should get their remuneration monthly and consequently we direct that the outstanding salaries of the teachers must be paid to them before Eid Ul Fitar. In future the salary should be paid to them on monthly basis.

Mr. Ata Ullah Beig, Director National Education Foundation an organization of Ministry of Education, Government of Pakistan has stated that the Chairman of the Foundation (Federal Minister for Education) has decided to take over the management of the schools established under Social Action Program in the Northern Area in the scheme of Basic Education Community Program of Pakistan and a directive has been issued by the competent authority for completion of process of taking over the schools. The Director states that taking over process is in progress and will be completed in consultation with the Education Department Northern Area as well as the

management of the Community Schools under Social Action Program Northern Areas with in shortest possible time

In view thereof we deem it proper to adjourn this case for a date in the second week of October 2009 for appearance of Secretary Education, Northern Areas for further proceeding with his assistance.

Director Education Planning and Director National Education Foundation Ministry of Education will submit their report regarding the progress in the matter and also appear on next date.”

- The Director, Education and Planning, Government of Gilgit-Baltistan and Director National Education Foundation as per direction of the court submitted their report on the basis of which the following Order was passed on 12-10-2009:-

“The report submitted by Director Education (Planning) Gilgit Baltistan, reveals that an arrangement for taking over the management and control of the Communities Schools by the National Education Foundation has been made by the Government and an agreement on this behalf has been signed by the Federal Minister for Education and Governor Gilgit Baltistan, wherein it is provided that the National Education Foundation has agreed to take over the management of the schools in question for the purpose of financial and logistic support including the payment of salaries to the teachers on the following rates:-

- | | |
|-------------------------|-----------------------|
| a. Matric Teacher | @ Rs 3000/- per month |
| • FA Teacher | @ Rs 4000/- per month |
| • BA and above Teachers | @ Rs 4500/- per month |

It is however requested in the report that the National Education Foundation may be directed to ensure the payment of minimum Salary of Rs 6000/- Per Month to each teacher of these schools in pursuance of the announcement made by the Prime Minister of Pakistan in his Public Speech on 29/09/2009 at Gilgit. Learned Advocate General submitted that the announcement made by the Prime Minister would automatically become part of agreement which would be deemed to have been amended accordingly for implementation and thus has requested for disposal of this petition in terms thereof.

We are afraid, the agreement has been signed by worthy Governor Gilgit Baltistan and Federal Minister for Education, therefore the same cannot be amended/alterred by any other authority including this Court on the basis of the speech of the Prime Minister of Pakistan. However the National Education Foundation may if so desire act accordingly and make payment of salaries in terms of the announcement of Prime Minister of Pakistan. The Deputy Director National Education Foundation Gilgit (Mr. Ata Ullah Baig) who appeared in

court on the last date is directed to seek instructions in the matter in respect of payment of minimum salary of Rs. 6000/- per month to the teachers of the schools in question and appear before the Court on the next date.

Mr. Ijaz Asad Rasool Secretary Education present in Court having confirmed the above position regarding the regular adjustment of the schools and the teachers working in these schools has stated that the problem of the Community Schools has been solved on permanent basis through the agreement in question which will be implemented by the National Education Foundation in letter and spirit. The Secretary Education while appearing before the Court on the last date had informed the Court that the efforts were being made for handing over the management of all Community Schools in Gilgit Baltistan to National Education Foundation on regular basis and that he is keen for early resolving the longstanding problem in a dignified manner at the higher level. The personal interest taken and special efforts made by the Secretary Education for the betterment of the communities Schools and the service rendered in the Education field in Gilgit-Baltistan are highly appreciateable and we in recognition of his service for his encouragement recommend that worthy Governor Gilgit Baltistan may grant him special award for the valuable service rendered by him in education field as public servant in Gilgit Baltistan.”

- In view of the development, further Order was passed on 23-11-2009 for implementation of settlement as under:-

“Mr. Ataullah Baig, Director, National Education Foundation states that he has taken up the matter relating to the minimum salaries of the teaching staff not less than Rs 6000/- per month as per announcement may by the Prime Minister of Pakistan and final decision will be made by the Head office in due course of time. The Director has stated that the process of taking over the control of the Community Schools in pursuance of the agreement is struck of due to the non performance/implementation of the agreement by the Education Department.

In view thereof we direct that the Secretary Education will issue necessary instructions for implementation of the agreement in letter and spirit to avoid further delay in taking over the control of the schools by the National Education Foundation.

The matter relating to the fixation of minimum salaries of the teaching staff will also be finalized at an early date. The Secretary Education will send progress report through Director Education on the next date to be fixed in March 2010. The Director Education, National Education Foundation will remain present on the next date.”

- In continuation of the previous Order, the Court passed the orders on 22-03-2010 and 03-05-2010 as under: -

Order dated 22-03-2010

“Mr. Muhammad Aabidin, Director Planning Education Department, Government of Gilgit-Baltistan, states at the bar that a sum of Res. 131.13 million has been transferred to National Education Foundation on account of endowment fund on 26-10-2010 and concerned banks i.e. Karakorum Co-operative Bank and Soneri Bank Gilgit branch have duly been informed in this regard.

The Director National Education Foundation Atta ullah Baig and Deputy Director Mir Aman stated that the assets of SAP, Schools have not been transferred to National Education Foundation as per agreement executed between Chairman National Education Foundation and Governor Gilgit-Baltistan.

The Advocate General Gilgit-Baltistan and Director Education replied that a committee in terms of Article 11 of said agreement has already been constituted with the consent of the both departments to sort out the issue pertaining to smooth transfer of vehicles/assets whatsoever and after completion of report of the committee the same will be transferred to NEF, and the Director, NEF, when confronted admitted to have been constituted a committee under Article 11 of the agreement.

The Director and the Deputy Director NEF further stated at bar that the salaries for the month of February and March, 2010, shall be paid to the teaching staff of SAP Schools as per orders of this Court and as per terms and conditions laid down in the agreement dated 15-09-2009.

The Director NEF will submit his compliance report to the Registrar of this Court in the second week of April, 2010 regarding payment of salaries. So far as the transfer of assets is concerned both the parties are directed to speed up the matter without any further delay.

Case is adjourned to a date in office.”

Order dated 03-05-2010

“Mr. Ata Ullah Baig Director National Education Foundation states that foundation has fulfilled all formalities for implementation of the agreement in letter and spirit and that on transfer of assets and other liabilities, the agreement will finally be implemented. The Director stated that two separate cheques amounting to Rs. 17 lac and 49 thousand and Rs 48 thousand have been deposited in MS Karakorum Cooperative Bank and MS First Micro Finance Bank respectively for payment of the salaries to the teaching staff of different categories qualification-wise i.e. Matric, F.A. and B.A. at the rate of Rs 3,000/-, 3,500/- and 4000/- respectively. These teachers on the basis of lists supplied to the banks will be paid salaries accordingly through their bank account. He stated that the matter regarding payment of

minimum salary to the teachers at the rate of Rs. 6000/- per month in pursuance of announcement made by Prime Minister of Pakistan is under consideration with the concerned Ministry in the Federal Government and on final decision they will be paid salaries accordingly.

Director, Education (Planning) Gilgit Baltistan states that as per his instructions, the National Education Foundation has not taken any step for implementation of the agreement which is standstill and that due to the non attendance of National Education Foundation in the proposed meeting on 20th April 2010 no progress could take place. The Director Education Gilgit Baltistan states that now the meeting shall be held on a date in the first fortnight of May 2010. Mr. Ata Ullah Baig has given assurance on behalf of National Education Foundation that a responsible and senior officer will be deputed to attend the meeting on next date.

In view thereof this matter is adjourned to a date after 15th May with observation that if National Education Foundation fails to attend the meeting on next date, the foundation will be treated responsible for non implementation of the agreement.

The Director Education states that factually due to the lack of proper instruction of the head office of National Education Foundation at Islamabad the subordinate officials are helpless and the matter is being delayed. The Director General, National Education Foundation Islamabad will take necessary steps for implementation of the agreement and also ensure that National Education Foundation is properly represented in the meeting to avoid further delay. The Director General will submit compliance report through his Director on the next date.”

- Lastly, on 21-06-2010 the order was passed to the following effect: -

“Acting Director, NEF present in court states that Education Department Government of Gilgit Baltistan has taken no steps for implementation of the agreement whereas the Foundation in response to its liability has paid salaries to the Teacher at the Rate of Rs. 3000/- per month to Matriculates, Rs. 4000/- per month to Intermediate (F.A) and Rs. 4500/- per month to Graduate Teachers. She without denying the right of teachers in terms of the agreement for the payment of salary on the above rate from 1st October 2009 submitted that unless the matter is settled between the Education Department and National Education Foundation it is difficult for the National Education Foundation to take heavy financial burden.

In view thereof we direct that matter relating to the payment of salaries from October 2009 to January 2010 will be settled by the committee constituted for implementation of the agreement in consultation with the representative of the Teachers.

The Acting Director also pointed out that Education Directorate has not yet handed over the assets in terms of the agreement therefore the National

Education Foundation is facing problems in giving effect to the agreement in letter and spirit.

Learned Advocate General states that in the committee constituted for implementation of the agreement two members from Education Department i.e Director Education (Planning) and another Member was to be nominated and similarly two members from the side of National Education Foundation i.e. Managing Director National Education Foundation and Director Education NEF Gilgit Baltistan were included in the Committee but this committee has not yet been able to hold any meeting for want of nomination of the second member by the Education Department and for non availability of MD NEF in Gilgit.

This is sad that despite lapse of period more than six months even preliminary steps have not been taken for the implementation of the agreement and poor Teachers and students are suffering at the hands of the parties. The Secretary Education on priority should nominate the second member of Education Department to make the committee functional so that the committee may hold meeting in current week for the purpose of transfer of assets, the endowment fund with interest and other liabilities including the funds for the outstanding salaries of the teaching staff. The MD, NEF if is unable to attend the meeting at Gilgit City, he may coordinate with other Members for a meeting at Islamabad. The further delay on the part of any party will be treated willful negligence in implementation of the agreement which may create complication. The progress report will be submitted on 05-07-2010.

The Director Education (Planning) shall submit report on the complaint filed by one Afsar Khan wherein he stated that he has donated a piece of land to the Education Department but has not been provided employment in the School as per commitment of Department and also no compensation has been paid to him for the land.”

- In consequence to the previous orders and proceedings the Secretary Education and Acting Director NEF have made a joint statement before the Court on 05.10.2010 as under: -

“The agreement between Education Department of Government of Gilgit-Baltistan and National Education Foundation in respect of taking over the control of sap schools by National Education Foundation has been implemented in letter and spirit. The Endowment Fund has been transferred to the National Education

Foundation and the terms and conditions of teaching staff of SAP Schools also have been settled”.

- The Security education and Acting Director NEF having placed on record the implementation report with minutes of last meeting of Implementing Committee, stated that teachers of SAP Schools have been divided in three categories. The Matriculate Teachers will be paid salary at the rate of Rs. 3000/- per month whereas Intermediate and Graduate Teachers will be paid Rs. 4000/- and 4500/- salary per month respectively.
- The Director National Education Foundation at this stage pointed out that the computers, vehicles, motorbikes etc belonging to SAP Schools are also required to be handed over to the National Education Foundation under the agreement and a direction may be given for delivery of the same to National Education Foundation. The Secretary Education stated that these minor matters will be settled by the Implementation Committee in due course of time and in case of any problem the National Education Foundation may bring the matter to his notice for decision.
- The Secretary Education, Government of Gilgit-Baltistan and the Director, National Education Foundation stated that

Implementation Committee would continue to discharge its functions in the interest of schools.

- The Government of Gilgit-Baltistan (Education Department) under Social Action Program, has provided endowment fund to the local communities to tune of Rs. 124 Million in the form of fixed deposit in a schedule Bank in the education field. The amount of interest was to be spent on communities schools established under Social Action Program with aid of Government on the basis of one School one teacher with allocation of Rs. 1200/- per month to each school for salary of the Teacher and other expenditure. The Local communities in departure to the scheme appointed more than one teacher of their choice in one school and consequently, the teachers could not get their monthly remuneration due to the shortage of funds.
- The schools were being run by the local Communities with help of Education Department Government of Gilgit-Baltistan and in view of the proposal for handing over the management of Schools to the NEF of the Federal Government with the consent of communities, the Secretary Education Government of Gilgit-Baltistan was called to explain the matter.
- The Secretary giving detail of scheme stated that due to the financial constraint of Government of Gilgit-Baltistan, the Chairman of the National Education Foundation (Federal Minister for Education) decided to take over the management of SAP Schools and consequently, an

agreement was signed between Federal Minister for Education and Governor Gilgit-Baltistan for taking over the management of Schools by National Education Foundation for Financial and logistic support including the expenditure on the payment of salaries of the teachers at the rate of Rs. 3000/- per month to Matriculate teachers, Rs. 4000/- per month to FA teachers and Rs. 5000/- to the Teachers with qualification of BA and above. The Secretary Education has informed the court that all Community Schools in the Gilgit-Baltistan will be under the direct control of National Education Foundation and Education Department of Government of Gilgit-Baltistan will voluntarily provide the required facilities to these schools for the welfare of the schools within the available source. The Secretary Education Government of Gilgit-Baltistan having taken personal interest has made special efforts for the betterment of Community Schools and we fully appreciate his contribution and valuable service rendered by him in the Education filed in Gilgit-Baltistan. This court vide order dated 12-10-2009 in recognition of his service also recommended to the Governor Gilgit-Baltistan for special award to him for public service in the field of Education in Gilgit-Baltistan.

- The Secretary Education department Government of Gilgit-Baltistan with coordination of Director NEF has constituted an Implementation Committee to give effect to the agreement referred above and except minor matters, the agreement has been implemented in letter and spirit

and in the light of the report and joint statement made by the Secretary Education and Acting Director, National Education Foundation, this matter requiring no further adjudication has been disposed of vide order dated 05-10-2010 reproduced hereunder which may be treated as part of this judgment: -

“Secretary Education Gilgit-Baltistan and Acting Director NEF have jointly stated that agreement has been implemented in letter and spirit. The Endowment fund has been transferred and the terms and conditions of the teaching staff of SAP Schools have also been settled. Director NEF states that computer, vehicles, motor bikes etc. belonging to SAP School, have not been yet handed over to NEF in terms of the agreement. Secretary Education stated that these are petty matters which shall be settled in due course of time by the implementation committee which shall continue its function. They have placed on record the implementation report with minutes of meeting of implementation Committee. The agreement has been given effect and implemented except the minor matters which shall be settled by the Implementation Committee. Therefore, this Suo Motu Case for the detail reasons to be recorded separately, stands disposed of.”

- The Suo Motu Case No. 13/2010 stands disposed of.

Chief Judge

Judge

Judge