

GOVERNMENT OF KARNATAKA

NO:ED 66 VIVIDA 2003

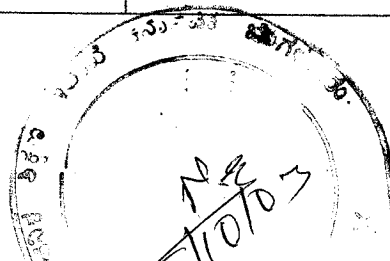
**Karnataka Government Secretariat,
M.S. Building,
Bangalore, dated: 7th October, 2003.**

NOTIFICATION

In exercise of the powers conferred by section 143 of the Karnataka Education Act, 1983 (Karnataka Act 1 of 1995) and in partial modification of Notification No. ED 89 ViViDA 98(II) dated 17-8-1998, the Government of Karnataka hereby delegates the powers exercisable by it under section 131 of the said Act, in respect of the matters specified in Column (2) of the table below to the officers specified in the corresponding entries in column (3) thereof;

TABLE

Sl.No.	Matters	Officers
(1)	(2)	(3)
1.	Any administrative or quasi judicial decision taken or order issued by any private educational institution imparting pre-university education, regarding service matters of its employees such as appointment, period of probation, pay fixation, sanction of leave and increments, suspension, promotion, seniority, transfer, pension and all other matters relating to their conditions of service.	Director of Pre-University Education, Department of Pre University Education.
2.	Any administrative or quasi judicial decision taken or order issued by any private educational institution imparting primary and secondary education regarding service matters of its employees such as appointment, period of probation, pay fixation, sanction of leave and increments, suspension, promotion, seniority, transfer, pension and all other matters relating to their conditions of service	Commissioner for Public Instruction, Department of Public Instruction.



2. All proceedings pending on the date of this notification before the State Government or any officer in respect of the matters specified above shall stand transferred to the Commissioner for Public Instruction, Department of Public Instruction, or the Director, Department of Pre-University Education, as the case may be and shall be disposed of by them as if they were instituted before them.

*By order and in the name of the
Governor of Karnataka,*

(SUNDARA RAJA GURTHA)

Under Secretary to Government,
Education Department.

TO

The Compiler, Karnataka Gazette, Bangalore, for publication in the Gazette Extraordinary and to supply 1000 copies to General-2 Section, Education Department, M.S. Buildings, Bangalore-560 001.

Copy to:

- 1) The Commissioner for Public Instruction, New Public Offices, Nrupathunga Road, Bangalore-560 001.
- 2) The Director, Directorate of Pre-University Education, Palace Road, Bangalore-560 001.
- 3) The Director (Primary Education), Department of Public Instruction, New Public Offices, Nrupathunga Road, Bangalore-560 001.
- 4) The Director (Secondary Education), Department of Public Instruction, New Public Offices, Nrupathunga Road, Bangalore-560 001.
- 5) The Director (R&T), Department of Public Instruction, 100 feet Ring Road, Banashankari IIIrd Stage, Bangalore-560 085.
- 6) All Principals of DIETS in the State.
- 7) The Director, Karnataka Secondary Education Examination Board, Malleswaram, Bangalore-560 003.
- 8) All the Joint Directors and Deputy Directors of the Department of Public Instruction.
- 9) All Block Education Officers of the Department of Public Instruction.
- 10) Chief Executive Officers of all the Zilla Panchayats in the State.
- 11) All Additional/Joint/Deputy/Under Secretaries in Education Department.
- 12) All Section Officers in Education Department./ (13) Guard File.

¹THE
KARNATAKA
EDUCATIONAL INSTITUTIONS (APPEAL, REVISION AND
REVIEW) RULES, 1998

CONTENTS

Rules	Page No.
1. Title and commencement	2
2. Definitions	2
(a) Act	2
(b) Section	2
3. Period of Appeal and Appellate Authority	2
4. Procedure in Appeals	3
5. Application for Revision under Section 131	5
6. Application for review under Section 132	5
7. The provisions of the Civil Procedure Code to be generally followed	6
8. Correction of clerical and arithmetical mistakes, etc.	6
9. Repeal and Savings	6

Whereas, the draft of the Karnataka Educational Institutions (Appeal Revision and Review) Rules, 1998 was published as required by sub-section (i) of Section 145 of the Karnataka Education Act, 1983 (Karnataka Act 1 of 1995) in Notification No. ED 65 VIVIDA 98, dated 30th April, 1999 in Part IV, Section 2-C(i) of the Karnataka Gazette, Extraordinary, dated 3rd May, 1999, inviting objections and suggestions from the persons likely to be affected thereby.

Whereas the said Gazette was made available to the public on 3rd May, 1999.

And whereas, no objections and suggestions have been received in this regard by the Government.

1. Published in the Karnataka Gazette, Extraordinary, dated 17-7-1999, vide Notification No. ED 65 VIVIDA 98, dated 7-1999

Now, therefore, in exercise of the powers conferred by Section 130 read with Section 145 of the Karnataka Education Act, 1983 (Karnataka Act 1 of 1995), the Government of Karnataka hereby makes the following rules, namely:—

1. Title and commencement.—(1) These rules may be called the Karnataka Educational Institutions (Appeal, Revision and Review) Rules, 1998.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires.—

(a) "Act" means, the Karnataka Education Act, 1983 (Karnataka Act 1 of 1995);

(b) "Section" means a section of the Act.

3. Period of Appeal and Appellate Authority.—(1) Every appeal preferred under Section 130 shall be filed within a period of thirty days from the date of the order appealed against.

(2) For the purpose of Section 130, authorities specified in column (3) of the Table below shall be the Appellate Authorities in respect of the category of Educational Institutions specified in the corresponding entries in column (2) thereof.

TABLE

Sl. No.	Category of Educational Institutions	Appellate Authority	Authority to which the authorities specified in column (3) are subordinate
(1)	(2)	(3)	(4)
1.	Pre-primary and Primary	Director of Primary Education	Commissioner for Public Instruction
2.	Secondary/High Schools	Director of Secondary Education	Commissioner for Public Instruction
3.	Pre-University College/Junior Colleges	Director of Pre-University Education	Government
4.	Colleges under the control of Department of Collegiate Education	Director of Collegiate Education	Government

Sl. No.	Category of Educational Institutions	Appellate Authority	Authority to which the authorities specified in column (3) are subordinate
(1)	(2)	(3)	(4)
5.	Engineering Colleges, Polytechnics and fine Arts Colleges	Director of Technical Education	Government
6.	Institutions Running Vocational Courses	Director of Vocational Education	Commissioner for Public Instruction
7.	Teachers Training Institutions (TCH Institutions) CPED Institution Colleges of Education Colleges of Physical Education	Director of State Educational Research and Training	Commissioner for Public Instruction
8.	Arabic Colleges and Sanskrit Colleges	Commissioner for Public Instruction	Government
9.	Hindi Vidhyalayas, Arabic Madararas and Sanskrit Pathashalas	Director, Urdu and Other Minority Language Schools	Commissioner for Public Instruction

Provided that where the order appealable under Section 130 is of the Appellate Authority specified in column (3) of the Table, an appeal against such order shall lie, within thirty days from the date of the order, to the authority immediately superior to it:

Provided further that where the order appealable under Section 130 is of the authority specified in column (4) of the Table other than the State Government, an appeal against such order shall lie, within thirty days from the date of the order, to the Government.

4. Procedure in Appeals.—(1) As appeal shall be submitted in duplicate in the form of a memorandum setting forth concisely the grounds of appeal.

(2) Every appeal shall be accompanied by.—

- (i) the copy served on the party by the authority or certified copy, of the order appealed against;
- (ii) Application, if any, for stay of operation of the impugned order accompanied by an affidavit; and

(iii) as many copies of the memorandum of appeal and enclosures if any, as the number of respondents and one extra copy;

(iv) a fee of one hundred rupees.

(3) Every appeal shall be presented to the person authorised by the Appellate Authority to receive the same. Such person, on presentation of appeal shall endorse on it the date of its receipt. He shall examine it to see if it is filed within the time prescribed under the rules and otherwise conforms to the provisions of Act and Rules.

(4) If the appeal is made after the expiry of the period of limitation, the authorised person shall place it before the Appellate Authority. If the Appellate Authority is satisfied that the applicant was prevented by sufficient cause from presenting the same within the said period he may admit the appeal. If the authorised person finds that proper fee payable has not been paid or that the paper presented to it are not in conformity with the provisions of the Act or the rules, he shall by notice require the appellant to rectify the defects within a period to be specified in such notice. If the defects are not rectified within the time allowed, the authorised person shall place the appeal before the Appellate Authority on the date fixed by the Government, for which a notice is issued to the party, shall hear the appellant, if present and pass orders directing the appeal to be registered or rejected. Where the appeal is rejected, it shall record the reasons for doing so.

(5) The operation of an order appealed against shall not be stayed by reason only of an appeal having been preferred against that order but, where an application has been made, the Appellate Authority may, for sufficient cause, order the stay of proceedings or operating of the impugned order.

(6) An emergent order of stay may be made by the Appellate Authority and in every such case notice shall be issued to the opposite party to show cause why the order shall not be made absolute. The opposite party may file objections if any, on or before the date of hearing of the matter. Appellate Authority shall after giving an opportunity to both the parties of being heard, decide the matter.

(7) The notices issued to parties under these rules shall be served by personal delivery of a copy of the notice to the addressee or his agent after taking his signature on the original by way of acknowledgement, or by registered post acknowledgement due. An acknowledgement containing the signature of the addressee or his agent or any endorsement by the postal authorities to the effect that the notice was refused by the addressee shall, unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served.

(8) Where the Appellate Authority is satisfied that the addressee is evading service or that it is not practicable to serve the notice shall be affixed on its Notice Board and another copy on the outer door or some other conspicuous part of the addressee's present or last known residence or place of business and at a conspicuous place in the village or town which he last resided or carried on business.

(9) Where the Appellate Authority directs service of notice otherwise than by post, it may be sent for service to the subordinate authority within whose jurisdiction the party resides. Such authority shall cause the notice to be served on the party and return the same to the Appellate Authority with an endorsement stating the time and the manner in which the notice was served and the name and address of the person, if any, identifying the person served and witnessing the delivery or tender of the notice.

(10) After the case has been heard, the Appellate Authority shall pass order as it deems fit.

(11) A copy of the final order shall be sent to the appellant within thirty days from the date of order.

5. Application for Revision under Section 131.—(1) Every application presented to the State Government under Section 131 shall be made within sixty days from the date on which the decision or order to which the application relates:

Provided that the State Government may, for good and sufficient reason to be recorded in writing condone the delay and admit the revision.

(2) Every such application shall be in writing and shall be accompanied by a fee of one hundred rupees. It shall set forth concisely the ground for revision and shall be accompanied by an authentic copy of the order or proceedings in respect of which the application is made. The application may be presented either in person or by an authorised agent or sent by registered post.

(3) The procedural prescribed for appeal under Rule 4 generally shall apply to revision application also.

(4) After perusal of the records the Government may take up the case in revision and issue notice to all the parties concerned who are likely to be affected, to appear before it, for showing cause why the order should not be varied or reversed on the appearance of such parties and other giving reasonable opportunity of representing their case the Government may proceed to pass such order as it deems fit.

6. Application for review under Section 132.—(1) Every application under Section 132 shall be in writing and shall be accompanied by a

fee of one hundred rupees. It shall set forth concisely the ground for revision and shall be accompanied by an authenticate copy of the order or proceedings in respect of which the application is made. The application may be presented either in person or by an authorised agent or sent by registered post.

(2) The Government shall not admit the application unless it is *prima facie* satisfied that there are grounds for review when the review petition is admitted, it shall be decided after affording an opportunity to the parties to be heard.

7. The provisions of the Civil Procedure Code to be generally followed.—In deciding any question relating to procedure not specifically provided for by these rules, the Appellate Authority, Revision Authority and the Review Authority shall as far as possible be guided by the provisions contained in the Code of Civil Procedure, 1908.

8. Correction of clerical and arithmetical mistakes, etc.—Clerical or Arithmetical mistakes in any order or errors arising therein on account of any accidental slip or omission, may, at any time, be corrected by the authority passing the order on its own motion or on the application of any party:

Provided that no such correction shall be made without hearing the parties likely to be affected by such correction.

9. Repeal and Savings.—(1) The Karnataka Educational Institutions (Appellate Authority) Rules, 1998 is hereby repealed.

(2) Notwithstanding such repeal.—

- (a) Every order made, notification issued or anything done under the repealed rules before the date of commencement of these rules shall be deemed to have been validly done, issued or made under these rules;
 - (b) All proceedings pending before the Appellate Authority or other authority in revision or review shall be continued and disposed of by the said authority in accordance with the provision of this Act.
-