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NATIONAL EDUCATION FOUNDATION ORDINANCE 2002

ORDINANCE XX OF 2002

[17 April, 2002]

1. Short title and commencement.—(1) This Ordinance may be called the National Education Foundation Ordinance, 2002.

(2) It shall come into force on such date as the Federal Government may notify in the official Gazette.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context,—

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“Authority” means the Federal Government;

“beneficiaries” means teachers, educationists and students;

“Board” means the Board of Governors established under section 7;

“Chairperson” means the Chairperson of the Board;

“Committee” means a Committee constituted under section 12;

“dependent” means the wife or wives, dependent parents, dependent sons and unmarried daughters of the teachers and, educationists and such other relatives of the teachers and educationists as may be recognized by the Board to be the beneficiaries for the purpose of this scheme;

“disadvantaged group” means the children below poverty line of children belonging to minorities or handicapped children or children living in very backward remote rural areas;

“educationist” means a person engaged in educational research, planning, management or promotion in the Federal Ministry of Education or an

organization set up or established by the Federal Government or in any organization as may be recognized by the Committee for the, purposes of this scheme, and shall include a person who has so retired;

“Federal Administered Areas” means territories of ICT; FATA, FANA, under control of Federal Government and includes A.J.K for the purposes of this Ordinance;

“Foundation” means the National Education Foundation established under section 3;

“Fund” means the fund constituted under section 10;

“Grant” means a sum of non-refundable amount advanced to an Organization from the Foundation’s Fund;

“Government” means the Federal Government of Pakistan;

(n) “Loan” means a refundable sum of money advanced by the Foundation to an organization;

(o) “Non-Governmental Organization” means an organization set up with private finance for advancement of education and is registered under the Voluntary Social Welfare Agencies Registration and Control Ordinance, 1961 (XLVI of 1961), Societies Registration Act, 1860 (XXI of 1860), the Trust Act, 1882 (II of 1882), and the Companies Ordinance, 1984 (XLVII of 1984) ;

(p) “prescribed” means prescribed by rules under this Ordinance;

(q) “regional office” means sub offices established in Federal Administered Areas; and

(r) “teacher” means a person engaged in teaching in an educational institution

established or controlled by the Federal Government Ministry of Education or any such other educational institution as may be recognized by the committee for purposes of this scheme, and shall include a person who has so retired.

3. Establishment of the Foundation.— (1) As soon as may be after the commencement of this Ordinance, the Federal Government shall, for the purpose of carrying out the objectives of this Ordinance, by notification in the official Gazette, establish a Foundation to be known as the National Education Foundation.

(2) The Foundation shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The Foundation shall be guided by following: —

(i) Vision:

(a) Providing quality enabling education through public private partnerships for disadvantaged groups.

Explanation I— “enabling” means, increasing capabilities for improving well-being and entitlements; ability to keep pace with changing times; problem solving and skills to access official procedures, institutions and potential resources; and enabling both individual and societal dimensions;

Explanation IJ—“education” means early childhood education, focus on elementary education, special needs within Education For All secondary and technical, integrated literacy programme for disadvantaged groups under EFA, Information Technology (IT) literacy,(EFA areas), welfare activities for Federal Government teachers and their families, post secondary with specific reference to teacher education [all subjects] education research, management, policy and planning.

Explanation IIJ—“disadvantaged” means population living below poverty line, girls and women in rural areas and urban slums, child labour, children in prison, minorities, nomads, slum dwellers, people in under-served areas including revering communities, children with special needs, Gender equality and not gender equity is seen as a measure of overcoming disadvantaged status for girls and women.

(ii) Mission

To become a vibrant catalyst for quality enabling education through support to private and non-governmental sectors by mobilizing sufficient resources as an effective self sustaining organization.

Explanation—"private" signifies to private sector capped at tuition fee schedules of Rs. 200 per month for elementary education, Rs. 600 per month for secondary and technical and Rs. 1500 per month for tertiary or special education or as may be notified by the Federal Government from time to time.

4. Objectives of the Foundation.—(1) The objectives of the Foundation are to promote quality and gender sensitive education in the territories of Federal administered Areas as defined in section 2(i).

(2) The three major categories of objectives are:

(i) Promotion of Education

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to promote public private partnerships in attaining basic education for all through multiple delivery systems (up to elementary and including early childhood and literacy for empowerment) with special focus on disadvantaged communities and girls by direct support to private and NGOs schools in the form of grants and loans. Support through loans and grants may be used for establishment of facilities, teacher training, training in general, teacher support, curriculum support and resource centers;

to support initiatives in secondary education especially the technical stream including Information Technology (IT) literacy managed by NGOs and private sector on no profit basis ;

to interface and facilitate private initiatives with public ones _ for promotion of elementary, technical, and IT programs;

to extend assistance to existing special needs initiatives within existing mainstream programs to address needs of children;

to promote welfare activities for the teachers and educationists of the Federal Government Institutions including provide scholarships and assistance to students and teachers in general and to students and families of teachers in

Federal Government institutions in particular. This activity shall be carried out of the return on the endowment fund of Federal Teacher Foundation transferred on its merger with National Education Fund ;

to facilitate and undertake innovative programs between public and private sectors or otherwise and their replication;

to mobilize and manage resources and to act as a conduit for promotion of education through multiple sources;

to assist and facilitate formulating national educational policies for the private sector; and

to develop and implement gender sensitivity and aware raising programs among teachers, students and other members of the academic community.

(ii) Capacity Building:

- (a) Provide support to organizations engaged in education development and capacity building in areas of training, maintaining standards, curriculum management, assessment and evaluation;
- (b) to strengthen institutional capacity of partner organizations Community Board Organisations and private sector organizations to become self-reliant in terms of quality, resource generation and management and effective community participation for good governance in education;
- (c) to strengthen institutional capacity of the Foundation to manage and achieve its objectives, mission and Vision;
- (d) to support programs for Teacher Education (general and subject specific) education management and planning ;
- (e) to set up cell for private sector resource mobilization from local as well as expatriate Pakistanis for education initiatives through public private partnership; and
- (f) to prepare and develop gender sensitive curriculum and materials that will promote equality, peace, human rights and development for all.

(iii) Research and development:

- (a) to provide support to organizations engaged in education development, research, assessment and evaluation;
- (b) to share best practices and foster exchange of resources for optimum education development including collaboration with all Education Foundations, NGOs, national, regional and international agencies and other stakeholders ;
- (c) to create a database on private educational institutions and related NGOs in the country;
- (d) to compile and synthesize sex disaggregated data and information available for policy makers, research institutions, and donor agencies ;
- (e) to influence education policy through documented research and practice; and
- (f) to assist in the maintaining of standards of education according to agreed norms in the privately managed schools.

5. Functions of the Foundation.—(1) Establishing partnership and collaboration with agencies and organizations pursuing the common goal of educational development particularly promoting public-private partnership; mobilizing resources for _ basic/elementary, technical/vocational education.

(2) Initiating and maintaining contact and collaborating with other organizations, institutions, NGOs, bodies and societies in Pakistan and abroad including relevant international

agencies, constituents of UN system interested in similar objectives and to cooperate with such institutions, bodies and organizations for furthering the objectives of the Foundation.

(3) Coordinating and networking with other Foundations and stakeholders, initiating, organizing and facilitating projects and programs on resource sharing basis.

(4) Providing support in providing and organizing in-service training for;

(a) teachers of the pilot project and innovative program;

(b) Private school teachers; and

(c) NGO communities, representatives and members of educational committees

and other bodies developed for such purpose from time to time.

(5) Providing and administering direct financial assistance to private school operators and institutions related to educational development.

(6) Providing consultancy services for education development and related activities as and when required by national, international and other organizations.

(7) Ensuring sustainability of educational development under public private partnership through innovative mechanisms such as providing endowment and matching grants etc.

(8) Ensuring that equal opportunities for education are provided to boys and girls of whatever social, class, colour, race or creed to promote equality, development, human rights and peace for all.

(9) Fund raising from public, private, support organization donors, international agencies and other sources including income from Foundation's projects.

(10) Welfare program for dependents of educationists and teachers including scholarships for students, financial support to widows and other related projects.

(11) Developing databases, conducting research and preparing periodical reports on educational development particularly in private and NGO sector.

(12) Providing assistance through newsletters, rendering advice, developing training packages, providing a forum for exchange of ideas and sharing experiences among various stakeholders promoting educational development in particular.

(13) Providing support and assistance for the efforts in educational development with focus on new technologies including IT etc.

(14) Establishing in any place in the Federal Administered Areas such regional offices, branches and local units as may be necessary for managing any of the affairs of the Foundation.

(15) Investing and dealing with all money of the Foundation not immediately required in such securities, shares, debentures and in such manner as shall from time to time be determined for the benefit of the Foundation as may be permissible under the law and to create reserve fund, insurance fund and depreciation fund thereto.

(16) Purchasing, taking on lease or on allotment or hire or otherwise acquire, erect or adapt movable or immovable properties for the time being and to sell, let out or hire all or any portion of the same as considered necessary for attaining the objects of the Foundation.

(17) Entering into any arrangement with any government authority (Federal, Provincial, municipal, local or otherwise), or any corporation, company or persons that may be conducive to the Foundation's objectives and to obtain from any such government, authority, corporation, company or person any charters, contracts, decrees, rights, privileges and concessions which the Foundation may think desirable, and to carry out, exercise and comply with any such charters, contracts, decrees, rights, privileges and concessions.

(18) Opening accounts with bank or banks or approved financial institutions and to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, cheques, bills of lading, warrants, debentures, and other negotiable or transferable instruments, concerning the business of the Foundation.

6. Cardinal Principles. The cardinal principles governing the whole operation of the Foundation" shall be that Board shall—

(1) Ensure that the resources of the Foundation shall not be used for political patronage or for any other political purposes ;

(2) Treat the income and monies of the "Foundation", all of which shall be considered public assets, as a sacred trust and it shall be their prime responsibility to administer and manage Foundation with due diligence and transparent fiduciary responsibility and for the purposes for which the Foundation has been established;

(3) Ensure that as far as possible the Foundation's operations are decentralized, subject to sound financial and operational management principles, to facilitate access to the Foundation's services by partner organizations in all the Federal Administered Areas ;

(4) Ensure that the resources of the Foundation are only provided to well functioning, professionally managed institution with transparent governance and financial management systems ;

(5) Ensure that financial assistance to partner organizations and beneficiaries is based on sound principles of cost sharing and sustainability, and financial viability where applicable.

7. Authorities of the Foundation.

I. Board of Governors:

(1) The Board shall consist of thirteen members, including Chairperson, as under :—

(i) Four from civil society ie., NGO's Philanthropists, technocrats and academicians from private sector,

(ii) Joint Educational Adviser (concerned), Ministry of Education,

(iii) Financial Adviser (Education), Ministry of Finance,

(iv) | Vice-Chancellor Allama Iqbal Open University,

(v) "Eminent educationists from ICT, FATA, FANA and AJK." and

(vi) | Managing Director of the Foundation who shall be Member/Secretary;

(2) The Chairperson of the Board shall be selected by the Search Committee to be constituted by the Ministry of Education comprising members from the Ministry of Education, Ministry

of Finance and Planning and a renowned N.G.O. involved in educational development which is not associated with the Foundation in running any of its programmes.

(3) There shall be Vice Chairman of the Board who shall be selected by the Members from amongst themselves.

(4) In order to ensure gender balance the Board may be composed of on equal number of men and women.

(5) The Members of the Board other than ex-officio members shall hold office for a period of three years following the date from which they were appointed as members and shall be eligible for re-appointment on such terms and conditions as may be prescribed under the rules. The Retiring members of the Board shall continue to perform their functions until their successors are appointed. For the initial selection of the members other than ex-officio members, Ministry of Education shall constitute a special committee comprising of government and non-government representatives for the selection.

(6) The Board shall meet at least twice a year. The Chairperson or the Vice- Chairperson or any three Members of the Board may at any time summon a meeting of the Board. Not less than seven days notice shall be given to the members of any such meeting and the agenda and the working papers for the meeting shall be circulated to the members with the notice of such meetings.

(7) The Board shall be responsible for management and administration of the affairs of the Foundation at policy level. The Board may from time to time delegate any of its powers to a committee or committees consisting of three or more members as it deems appropriate. Any committee so formed shall conform to any regulations that may be made by the Board and shall be governed in the exercise of the powers so delegated by the provisions contained for regulating meeting and proceedings.

(8) The Chairperson of the Board in consultation with members may invite advisers and experts by special invitation to the meeting of the Board.

(9) The Managing Director shall be the Chief Executive of the Foundation. The Managing Director shall be a full time salary paid employee of the Foundation.

(10) The Board shall generally pursue vision and mission of the Foundation for providing enabling education through public private partnerships for disadvantaged groups and carry out the objectives of the Foundation which includes promotion of education, capacity building and Research and Development.

(11) The Board shall have the responsibility to determine direction and scope of the activities of the Foundation. It shall also have the responsibility to review, approve work plan, projects, approving grants, donations, loans, contributions, technical assistance to partner organizations, NGOs and others school operators and Community Board Organisations.

(12) The Board shall review, revise and approve the annual and supplementary budgets.

(13) The Board may exercise the powers of the Foundation to acquire, borrow or to mortgage property or any part thereof or to issue debentures or other securities.

(14) The Board may from time to time and at any time appoint any company, organisation, NGO or person to be the attorney or attorneys of the Foundation for such purposes

including audit of the Foundation and with such powers, authorities and discretions for such period and subject to such conditions as the Board may deem appropriate.

(15) The Board shall record minutes to be kept in bound volume provided for the purpose: (a) of names of the persons present in each meeting of the Board and any committee of the Board; (b) of all resolutions and proceedings at all meetings of Board and committees of the Board. Every member present at any meeting of Board shall be provided minutes for obtaining their consent.”

(16) Minutes of the Board’s meeting shall be open for inspection by any member during office hours. Minutes of the Executive Committee of all the meetings shall be presented in the next meeting of the Board.

(17) The Board may meet on a tentative agenda to be confirmed at the meeting, adjourn, or otherwise regulate its meetings as it deems fit.

(18) The quorum necessary for the transaction of the business of the Board shall be observed as simple majority.

(19) All questions arising at a meeting of the Board shall be decided by simple majority of votes to be given by a show of hands but the Chairperson may order, if so requested by any member, that voting on any specific question shall be by secret ballot. In the event of an equality of votes howsoever given the Chairperson shall have a second or casting vote.

(20) The Chairperson of Board shall preside at every Board’s meeting. If at any meeting he is not present, the Vice-Chairperson of the Board shall preside over the meeting and, failing him, the members present may choose one of their member to be the Chairperson of the meeting.

(21) A member of the board shall be paid travelling, boarding, lodging and other expenses incurred by them in the performance of their duties or business if any of them has to come to attend the Board or general meeting of the Foundation from outstation.

(22) The Board may create, abolish or suspend Foundation’s posts as deemed necessary:

Provided that initially the required posts shall be created or abolished in consultation with the Finance Division.

(23) The Board may, from time to time delegate to the Chairperson such of its powers as it may consider necessary; provided that Chairperson in any emergency, which in his or her opinion requires immediate action, may take such action, but the action taken shall be reported to the Board in the next meeting.

(24) The Board may delegate any of its powers to the Managing Director to enable him to carry out his functions.

(25) The Board may determine, revise personal requirements, rules and salary structure of the Foundation employees according to prevailing market and can also offer incentives to attract competent professionals.

(26) The Board may approve, modify or amend rules and regulations of the Foundation framed or recommended by Executive Committee or Committee constituted for this purpose.

II. Executive Committee

(1) There shall be an Executive Committee consisting of the following:—

- (i) Managing Director-Chairperson.
- (ii) Joint Educational Advisor (concerned) Ministry of Education or his nominee.
- (iii) | Financial Advisor (Education) or his nominee.
- (iv) Twomembers to be nominated by BOG from NGO or vicil society.

(2) Subject to the provisions of this Ordinance and the Rules and Regulations made there under and the general or special directions of the Board, the Executive Committee shall be the principal administrative body of the Foundation responsible for executing all policies and discharging all functions of the Foundation.

(3) The Executive Committee shall perform the following functions:—

(i) Develop criteria for financing enabling quality education programs in the country.

(ii) Review and scrutinize proposals received from Private and Non-Governmental Organizations, based on the eligibility criteria for financing the proposal.

(iii) Review and approve various programs of the Foundation.

(iv) Scrutiny of the budget and examining of audit, and accounts reports.

(v) Recommend creation of posts or otherwise change in positions to the Board.

(vi) _ Any other matter assigned to it by the Board.

(4) The Executive Committee shall meet at least once in three months and or as and when required.

III. Managing Director:

(1) As an administrative head of the Foundation, a Managing Director shall be appointed by Federal Government on recommendation of the Board.

(2) The appointment of Managing Director may be terminated by the Federal Government on advice of the Board in accordance with the prescribed procedure.

(3) The Managing Director shall hold office, and exercise such powers duties, obligations and privileges as the Board may confer upon him from time to time and shall accordingly in exercise of such powers delegated to him conform to any limits and restrictions which may be imposed by the Board from time to time in this respect. The Managing Director may exercise all such powers and do all acts and things on behalf of the Foundation as he may be authorized to do by the Board.

(4) In case the post of the Managing Director is vacant, an officer appointed by the

Chairperson, shall act on his behalf and exercise powers as delegated to him by the Chairperson from time to time.

(5) The Managing Director shall be responsible for the day to day management of the Foundation particularly for:

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- (ix)

ensuring that the Foundation's Vision, Mission, Objectives and Cardinal Principles are adhered to;

proper administration of the affairs, funds and resources of the Foundation;

making to draw, endorse, sign, accept, negotiate and give all cheques, bills of lading, drafts, orders, bills of exchange, promissory notes, and other negotiable instruments as may be required by and be in the interest of the Foundation.

securing the fulfillment of any contract, agreements, or engagements entered into by the Foundation by mortgage or charge of all or any of the properties of the Foundation from time to time or in such manner as he may think fit in the interest of the Foundation.

appointing at his discretion through delegated powers by the Board, removing or suspending officers and staff including secretaries, clerks and other employees, either permanent or temporary, as he may, deem fit and to determine their assignments and duties and fix their salaries or emoluments and he may constitute committees for this purpose;

instituting, conducting, defending or abandon any legal proceedings by or against the Foundation or its officers or otherwise concerning the affairs of the Foundation and also to compound and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the Foundation and for the purpose to appoint advocate (s);

referring any claims or demands by or against the Foundation to arbitration and observe and perform the awards;

exercising supervision and disciplinary control over the work and conduct of all employees of the Foundation; and

any other tasks as may be delegated by the Board.

(6) The Managing Director—

(a)

(b)

may in writing delegate his powers, as he may consider necessary to any officer of the Foundation;

exercise in respect of the Foundation such administrative and financial powers including powers of delegation as may be delegated to him by the Board or the Chairperson;

submit the annual work plan and budget of the Foundation to the Executive Committee and the Board;

operate the accounts of the Foundation;

prepare the annual report of the Foundation for the Board.

(f) have powers to incur miscellaneous, contingent expenditure within the budgetary provision;

(g) exercise powers of a controlling officer in respect of his own and _ the traveling allowance bills of the employees of the Foundation; and

(h) interacting with international agencies and donors, preparing and submitting projects negotiating and executing partnership programs and projects with partner organization.

8. Filling in casual vacancy. Any casual vacancy caused due to the permanent absence of amember, other than ex-officio members, shall be filled by a person nominated by the Federal Government and the person so nominate shall hold office for the un-expired period of the term of his predecessor.

9. Resignation by a member of the Board of Governors. A member of the Board of Governors, other than an ex-officio member, may, at any time, resign his office by letter addressed to the Chairperson provided that no resignation shall take effect until it has been accepted by the Federal Government.

10. Foundation's Fund.—(1) There shall be Foundation's Fund to be known as the "Fund", and the following shall be the sources of the Fund, namely—

(a) grants made by the Federal Government;

(b) income from investments made by the Foundation;

(c) donations and endowments from national and international, organizations; and

(d) revolving funds placed by the Federal Government and incomes from other sources.

(2) The Fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed.

(3) The accounts of the Foundation shall be maintained in such form and manner as may be prescribed and shall be audited by an auditor to be appointed by the Federal Government being a person who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961).

(4) The Foundation shall, after the end of every financial year, submit to the Board the audited annual statement of accounts of the Foundation, together with the report of the auditor.

(5) The Foundation shall also submit to the Board after the end of every year a report of its activities during that year.

11. Appointment of officers, employees etc. For the efficient" performance of its functions, the Foundation may appoint its employees, with the prior approval of the Board on such terms and conditions as may be prescribed.

12. Committees.— (1) The Board may constitute such financial, technical, advisory and other committees which may be deemed necessary for carrying out the purposes of this Ordinance.

(2) The composition and functions of a committee shall be such as the Board may determine.

13. Authentication of decisions etc. All decisions of the Board shall be authenticated by the signature of the Chairperson or of any other member authorized by the Board in this behalf and all other orders or instruments issued or executed by or on behalf of the Board shall be authenticated by the signature of an officer of the Board authorized by it in this behalf.

14. Rules. The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

15. Regulations. Subject to this Ordinance and the rules made thereunder, the Board may, with the previous approval of the Federal Government, make regulations for all matters not provided for in the rules for which provision is necessary for carrying out the purposes of this Ordinance and the rules.

16. Winding Up. The Foundation shall be wound up voluntarily whenever a special resolution is passed by the Board and is so consented by the Authority.

17. Indemnity. No suit, prosecution or other proceedings shall lie against any officer or employee of the Foundation or any other person exercising any power or performing any function under this Ordinance or the rules or regulations made thereunder for anything which is done in good faith.

18. Repeal. The National Education Foundation established under Notification S.R.O. No. 487(D/97, dated 26-06-1997, shall stand repealed.