

EDUCATIONAL TRUST KASHMIR

Council of Patrons / Election Authority

Election 2026

Subject: Representations against some of the provisions of Additional Election Rules, 2026.

Order No. ETK/4132/2026
Dated: 13-9-2026
Decision of the Council of Patrons

Dated: 13-9-2026

Brief History

The Central Executive Council (CEC) of the Educational Trust Kashmir (ETK), headed by Mr. Mohammad Shafi Khan as its President, was constituted in the year 2022 for a term of four years in accordance with the Constitution of the Trust. The said term has now come to an end. Accordingly, the process for holding the next election of the Trust has been initiated for the constitution of a new Executive Council and to ensure a smooth, and orderly transition in the management and affairs of the Trust.

In this connection, the President of the Trust addressed a communication to the Chairman, Council of Patrons (COP), vide Letter No. ETK/15/5443 dated 13-07-2026, drawing attention to the expiry of the term of the existing Central Executive Council (CEC) and requesting that necessary steps be taken for

conducting the elections in accordance with the Constitution of the Trust and the applicable election framework.

The President further informed the COP that the CEC had recommended the incorporation of certain additional Election Rules and had reproduced, in the said communication itself, the proposed qualifications and eligibility criteria to be incorporated in the Election Rules, for consideration by the Council of Patrons.

Pursuant thereto, the matter relating to the conduct of elections, including the eligibility conditions for candidates, came up for consideration before the Council of Patrons, ETK in its meeting dated: 22-8-2026. The Council of Patrons considered the matter and started of the process of election in the Trust for the posts of: President, General Secretary and Chief Organiser.

The Patrons also considered, in detail, the recommendations of the CEC regarding the prescription of the proposed criteria and, upon due deliberation, laid down the following:

The Patrons are of the view that the Election Rules of 2018 need following modification/addition only at this stage. The Council, therefore, resolve and order accordingly:

In exercise of the powers vested in the Council of Patrons under the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018, and considering the said recommendations of the Central Executive Council, the Council of Patrons make following addition to the said Election Rules of 2018:

These Rules shall be called as **the Educational Trust Kashmir (Election to Central Executive Council) Additional Rules, 2026.**

In addition to the Rules contained in the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018, as modified by these rules, the following rules shall also be followed while conducting Election - 2026, namely:



1. A candidate willing to stand for election for any of the posts must not be an office bearer/Trustee of any other Organization/Trust;
2. A Candidate should not have any other type of affiliation with any political or social Organization at any level;
3. A person whose conduct is under Investigation/enquiry shall not be eligible to contest the election;
4. Only such life members who were enrolled as such on 31-7-2026 shall be eligible to cast their vote in the election';
5. The age of the candidate interested/desirous to contest the election shall be in between 45 to 75 years on the date when notification for the present election is issued. (copy of the school certificate/municipal certificate shall be enclosed with the Form as proof about the actual age limit.
6. An aspirant desirous of contesting the election for any of the posts shall not have been found to have indulged in any activity whatsoever prejudicial to the Constitution, rules, or interests of the Trust.

If any objection is raised by a Life Member against the candidature of any such person on the ground of his having indulged in any such activity, the Council of Patrons may hold an enquiry into the matter. The candidate concerned shall be afforded a reasonable and sufficient opportunity of being heard and of defending himself against the allegations. Upon consideration of the material and submissions placed before it, the Council of Patrons shall arrive at a just and proper conclusion regarding the truth or otherwise of the allegations.

The decision of the Council of Patrons in the matter shall be final and binding upon all concerned.

7. Final decision regarding the validity of candidature of a candidate shall vest in the Election Authority (Council of Patrons)'.

The Council also approved the Form to be submitted by a candidate for election. The Council fixed Rs. 1000/- as the cost of the Form.

The Council also resolved to constitute a Committee, to be known as the "Election Committee, 2026," for the fair, free, impartial and smooth conduct of the election.

Upon notification of the said conditions, certain objections and representations were received, particularly in relation to the

upper age criterion prescribed for eligibility to contest the election. The principal contention raised by the objectors was that, since the Constitution of the Trust does not prescribe any upper age limit for contesting elections, prescribing upper age limit of 75 years was in violation of the Constitution, without any authority and unreasonable.

The Council of Patrons (COP), being the body entrusted with the responsibility of considering such matters in the larger and institutional interest of the Trust, examined the objections very carefully. The COP considered not merely the question of age, but also the nature and responsibilities attached to the offices in question, the duration of the tenure, the previous practice followed in the Trust, and the need to maintain an appropriate balance between experience, efficiency, continuity and the effective functioning of the organisation.

It is in the above background that the objections concerning the age-eligibility clause have been considered and the present decision of the Council of Patrons is being rendered.

Representation/Memoranda/Objections

As noticed above, the Council of Patrons/Election Authority of the Educational Trust Kashmir (ETK) received a number of representations, memoranda and communications from various Life Members of the Trust, whereby objections have been raised and concerns expressed with regard to certain provisions of the Educational Trust Kashmir (Election to Central Executive Council) Additional Rules, 2026.

The said representations, memoranda and communications were received from the following Life Members:

Er. Ahmad Ali; Prof. Ali Mohammad Bhat; S. T. Alam; Syed Mahmood Rizvi; Syed Ali Wahbpora; Khaksar Nissar Ali Bhat; Ashaq Zaidi; Shafeeq Mughloo; Shuja Ahmad Hyderi; Er. Wali Mohammad Mir, Shahoo Sachan, Kulgam.

Er. Ahmad Ali sent a message on the WhatsApp no. of the Chairman, COP. He was asked to submit its print out and a formal representation but he has not so far submitted the same.

Prof. Ali Mohammad Bhat submitted his submissions on the mobile of the Chairman, COP on 1-9-2026. On 5th September, 2026 he handed over another formal signed written Representation to the Chairman which also bears the signatures of Er. Ahmad Ali, Munshi Imtiyaz, M. Afzal Bhat, Dr. Syed A. Nazim, Dr. Abid Gulzar, S. M. Rizvi.

S. T. Alam has also submitted a separate Representation dated 3-9-2026 addressed to All Concerned Authorities, Educational Trust Kashmir.

Syed Mahmood Rizvi has sent a hand written note written on a diary page. The said note was forwarded to the Chairman, COP by his brother Syed Kifayat Hussain Rizvi. Mr. Syed Mahmood Rizvi too was asked to submit a print out of his note and a formal representation but he has not submitted it till date.

Life Members Syed Ali Wahbpora; Khaksar Nissar Ali Bhat; Ashaq Zaidi; Shafeeq Mughloo; Er. Wali Mohammad have forwarded copies of a memorandum to the Chairman, COP on his WhatsApp no. but the same are not signed by them nor has its hard copy been made available.

Life Member Shuja Ahmad Hyderi has submitted a separate representation on WhatsApp to the Chairman COP.

Personal Hearing

Life Member Prof. Ali Mohammad Bhat also expressed a desire that he, along with other members who had grievances, be afforded an opportunity to meet and make their submissions before all the members of the Council of Patrons.

The Council of Patrons, with a view to ensuring that all concerned members were afforded a fair and reasonable opportunity to present their views and submissions, accordingly fixed 5th September, 2026 for such interaction. The members who desired to make submissions were accordingly informed and permitted to appear before the Council.

On the said date, the following persons appeared before the Council of Patrons and made their respective submissions:

Prof. Ali Mohammad Bhat; Syed Mahmood Rizvi; Ahmad Ali; Syed Tauqeer; Munshi Imtiyaz; Dr. Abid Gulzar; Dr. Syed Nazim Hamadani; and Mohammad Afzal.

It is also pertinent to mention that Life Member Kifayat Hussain Rizvi, vide his message dated 3rd September, 2026, addressed to the Chairman of the Council of Patrons, expressed his desire to meet the Chairman in connection with the qualifications prescribed under the aforesaid Additional Rules. He was likewise afforded an opportunity to appear and meet the Chairman on 5th September at 3.30 pm. He, however, came while the main meeting was going on. He, therefore, joined other members in making his submissions before the Council.

Of the members of the Council of Patrons, the Chairman Justice Hakim Imtiyaz Hussain, Patrons Dr. G. M. Pujoo, and Prof. Wilayat Rizvi were present at the meeting in person, while Er.

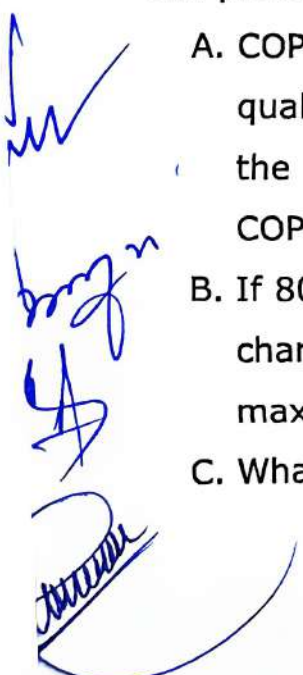
Mohammad Ashraf participated through virtual mode. Er. Javed Jafar, being out of the country, could not attend the meeting.

The Patrons have considered the representations received from the Life Members and have also afforded the members who desired a personal hearing, an opportunity to place their objections, submissions and concerns before the Council.

The issues raised have been duly considered and deliberated upon by the Council in light of the Constitution of the Trust, the applicable Election Rules and the Additional Rules, 2026.

The representations and the submissions made proceed substantially on the premise that some of the conditions in Additional Rules, 2026 are in violation of the provisions of the Constitution, are unreasonable, without logic, and intended to prevent experienced and otherwise eligible persons from contesting the election. It has also been alleged that the financial conditions have been prescribed with a view to discouraging honest and well-meaning persons from entering the electoral process.

The principal objections raised relate to:

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- A. COP do not have the power/competence to prescribe qualification/eligibility. Since there is no power given to the COP by the Constitution to prescribe any age limit, COP could not have prescribed any such condition;
 - B. If 80 years of age was fixed in 2022 Rules why it has been changed and 75 yrs of age is fixed in 2026 Rules as the maximum age limit;
 - C. What is the rationale behind fixing age limit of 75 Yrs;

D. Upper Age limit has been fixed with ulterior purpose; it is intended to exclude experienced and enthusiastic persons from contesting the election;

E. Fixing Security Deposit is unreasonable;

F. Posts in the Executive of the Trust are Honorary in nature so fixing Rs. 1000/- as cost of Form is not proper.

Upon careful consideration of the matter, the Council of Patrons finds that the objections so raised do not merit acceptance, for the reasons recorded hereunder.

1. Power/ competence of COP to prescribe qualification/eligibility

The principal contention raised in almost all the representations and oral submissions is that, since neither the Constitution nor the existing Election Rules expressly prescribe any upper age limit for a person seeking election to the office of President or any other office of the Central Executive Council, the Council of Patrons (COP) had no authority to prescribe an age limit of its own.

The objection, though apparently attractive, proceeds from an incorrect understanding of the constitutional position. It proceeds on the assumption that whatever is not expressly provided in the Constitution cannot be regulated by the authority entrusted with conducting the election. That assumption is neither correct nor justified.

The issue, therefore, needs to be examined carefully and without any preconceived notion. The question is not merely whether the Constitution mentions an age bar. It does not. The real question is: what is the legal consequence of the

Constitution being silent on the subject, and what are the powers and the scope of the authority entrusted with conducting the election?

The first and most important point is that silence of the Constitution is not the same thing as prohibition by the Constitution.

There is a fundamental difference between the Constitution expressly prohibiting an age restriction and the Constitution simply not dealing with the question of age. In the former case, the authority conducting the election cannot act contrary to the constitutional provision. In the latter case, the matter remains open for regulation in accordance with the powers and responsibilities conferred by the constitutional scheme.

The objectors are undoubtedly correct in saying that the Constitution does not prescribe any upper age limit. But that fact, by itself, does not answer the question raised by them. Had the Constitution provided, for example, that every person above a particular age was entitled to contest the election, or that there could be no upper age restriction, the position would have been entirely different. In such a situation, the COP could not, through the Rules, introduce a condition inconsistent with the express constitutional provision. Any such Rule would necessarily have to yield to the Constitution and could be challenged as being *ultra vires* the Constitution.

That, however, is not the position in the present case.

The Constitution is completely silent regarding an age limit. It neither prescribes a particular age nor declares that a person of any age, irrespective of his capacity to discharge the

responsibilities of the office, shall be eligible to contest the election. There is, therefore, no express constitutional provision with which the prescribed age limit can be said to conflict.

This distinction goes to the very root of the objection.

The objectors appear to treat the absence of an age bar as if the Constitution had positively guaranteed an unrestricted right to contest the election irrespective of age. No such provision has been pointed out. A right cannot be created by reading into the Constitution something which the Constitution itself does not say. Likewise, a prohibition cannot be inferred merely from the fact that the Constitution is silent.

Under the Constitution of the Trust, the elections to the posts of President, General Secretary and Chief Organiser are to be conducted by the Council of Patrons. The responsibility entrusted to the COP is, therefore, not merely ceremonial. It is the authority vested with ensuring that the electoral process is conducted properly, fairly, efficiently and in accordance with the Constitution and the Rules.

The objection, therefore, cannot succeed merely by saying that "there is no age bar in the Constitution." That proposition is accepted. But the conclusion sought to be drawn from it—that the COP is consequently prohibited from prescribing any reasonable age-related eligibility condition—is not established and cannot be accepted.

Thus, the proper legal approach is not to ask only: "Where does the Constitution prescribe an age bar?" Such was the question asked by the objectors during their submissions. The correct questions are:

Does the Constitution itself prohibit the prescription of an age limit?

(According to COP answer is no.)

Does the Constitution expressly guarantee an unrestricted right to contest irrespective of age?

(According to COP answer is no.)

Has the COP been entrusted with the responsibility of conducting the election?

(According to COP answer is yes.)

Does the constitutional scheme permit the authority conducting the election to regulate matters which have not been specifically dealt with by the Constitution?

(According to COP answer is yes.)

Has the age condition been prescribed through an additional Rule?

(According to COP answer is yes.)

If the answer to the first two questions is in the negative, and the answer to the remaining questions is in the affirmative, the mere silence of the Constitution regarding age cannot be treated as a legal bar against prescribing an age-related eligibility condition.

We may put it in simple manner, the main questions raised is:

'Where does the Constitution give powers to the COP to fix age bar' and 'how they have fixed it'?

In answer to the first question, a corresponding and equally pertinent question may be posed:

'Where does the Constitution prohibit the COP from prescribing an age limit'?

The mere fact that the Constitution does not expressly prescribe an upper age limit, by itself, does not necessarily mean that such a condition cannot be prescribed by the authority competent to regulate the electoral process.

To find the answer to the second question, it is necessary to examine the relevant provisions of the Constitution and, in particular, the Rules governing the electoral process and the powers and functions assigned to the COP.

Article 15 of the Constitution

Article 15 expressly provides that such elections shall be conducted in accordance with the Rules and Regulations as laid down and appended to the Constitution as Schedule I. It provides as under:

' To conduct elections of the Central Executive Council of the Trust in accordance with the Rules & Regulations as laid down and appended to this Constitution as Schedule I.'

(The Constitution thus contemplates that the manner in which elections are to be conducted shall be regulated by the election rules framed for that purpose, which are contained in Schedule I of the Constitution.

2018 Rules

Pursuant to the provisions of the Constitution of the Trust (Art. 15), the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018 have been framed simultaneously with, and as part of the Constitution in the year

2018. Significantly, the 2018 Rules themselves expressly provide as under:

"These rules can be subject to modification/ alteration/ addition/deletion by the Council of Patrons on the recommendation of CEC if need arises."

This provision is the real source of authority. The words "modification / alteration / addition / deletion" are very wide. They expressly contemplate that the existing Election Rules are not exhaustive. The Council of Patrons has been given authority to add a new rule when the need arises, on the recommendation of the Central Executive Committee of the Trust.

Thus, if the existing rules are silent regarding the maximum age of a candidate, the Council can, under these provisions, add a provision prescribing such an age limit, provided that the CEC makes a recommendation for such addition or amendment. Recommendation of the CEC appears to be a mandatory procedural requirement because the power is exercisable "on the recommendation of CEC." only.

So the argument against the age limit that since the Constitution does not prescribe an age bar, the Council cannot introduce one through the Rules, fails because the Rules themselves expressly vest the power of "addition" and "modification" in the COP.

If the power were limited merely to regulating the conduct of elections, the matter would be debatable. But here, the rule-making provision expressly permits the Council to add to the Election Rules. So the only interpretation, according to the COP would be:

'Silence of the Constitution on age does not amount to a prohibition against prescribing an age criterion where the Constitution contemplates elections being governed by Rules, and those Rules expressly authorize the Council of Patrons, on the recommendation of the CEC, to modify, alter, add to or delete the Rules whenever the need arises'.

Interpretation Clause

In this behalf it is pertinent to refer to the General clause contained in the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018, which is as under:

'In case of doubt that may arise in the application of these rules, the interpretation given by the Council of Patrons shall be binding'.

This provision assumes considerable significance in determining the scope of the powers vested in the Council of Patrons. It expressly confers upon the Council of Patrons the authority to interpret the Rules whenever any doubt arises in their application, and declares such interpretation to be binding.

The power of interpretation necessarily carries with it the authority to resolve such uncertainties in a manner consistent with the Constitution, the object and purpose of the Trust, and the overall scheme of the Rules.

It may be reiterated that in the present case, neither the Constitution nor the Rules prescribe any age limit for a candidate seeking election. This silence, by itself, does not amount to a prohibition against prescribing an age-related eligibility condition. Rather, it gives rise to the very question which the Rules entrust to the Council of Patrons for determination: how is the election process to be regulated in

respect of a matter which is not expressly dealt with in the existing Rules?

The provision quoted above is therefore relevant because it demonstrates that the Rules were not intended to operate in a manner that would leave every unforeseen or unregulated situation incapable of resolution. The Council of Patrons has been constituted as the final authority for resolving doubts arising in the application of the Rules, and its interpretation is expressly declared to be binding.

It is important, however, to draw a clear and fundamental distinction between an act which is contrary to the Constitution and an act which merely supplements, regulates or gives effect to a matter on which the Constitution is silent.

The real question, therefore, is not whether the Constitution contains an express clause authorising the COP to prescribe an age limit, but whether, within the overall scheme of the Constitution and the Rules, the competent authority has been entrusted with powers sufficiently broad to regulate matters necessary for the orderly, effective and purposeful conduct of the election and administration of the Trust. In such a situation, a regulatory provision which fills a procedural or administrative gap cannot be characterised as an alteration of the Constitution merely because the particular requirement is not expressly spelt out in its text. What is prohibited is an act which is inconsistent with, or seeks to defeat, the constitutional scheme—not a reasonable regulation which operates within that scheme and seeks to give practical effect to it.

It is precisely at this point that the interpretation placed by the Council of Patrons assumes significance. Where the governing framework entrusts the COP with the authority to interpret the Constitution and Rules, and expressly makes such interpretation binding in cases of doubt, its interpretation is not to be brushed aside merely because the Constitution does not contain an express provision on the particular issue. The relevant inquiry is whether the interpretation and consequent regulation are consistent with the Constitution, germane to the object and administration of the Trust, and within the powers entrusted to the COP. If these requirements are satisfied, the exercise cannot be condemned as ultra vires merely on the ground that the Constitution is silent on the subject.

The age limitation, therefore, cannot be examined in isolation from the aforesaid enabling provision. This constitutes the interpretation placed by the Council of Patrons (COP) upon the relevant provisions of the Constitution and the Rules. In terms of the provision of the Rules referred to hereinabove, such interpretation is final and binding.

During the course of the submissions, Mr. Ali Muhammad Bhat while forcefully advancing the contention that the Council of Patrons could not prescribe a maximum age limit of 75 years because neither the Constitution nor the Rules prescribed any age bar, the Chairman put a pertinent question to him which was as under:

if his contention was that, in the absence of an expressly prescribed age limit, the Council of Patrons had no authority to prescribe any age restriction whatsoever, why was his objection

confined only to the maximum age limit? Why he was not contending that Council of Patrons could not prescribe even a minimum age?

No satisfactory answer to this question was given. Rather it was suggested by him and other participants that for minimum age limit COP may fix a criteria.

The significance of the question lies in the consequence that necessarily follows from Prof. Bhat's own proposition. If the mere absence of an express age qualification in the Constitution and the Rules is to be treated as an absolute prohibition against the Council of Patrons prescribing any age-related eligibility condition, then the logical consequence would be that neither a minimum nor a maximum age could be prescribed. In that event, even a person who has not attained the age of majority, and is a minor, could theoretically seek to apply and contest the election, unless some other provision independently excluded such a person. (Prof. Abid Gulzar referred to 10 years life membership as prescribed for the post of President)

Such an interpretation would lead to an obvious and wholly unintended anomaly. It would render the electoral framework incapable of addressing even the most basic question of eligibility arising from age and would produce a result that could hardly have been contemplated by the framers of the Constitution or the Rules.

The issue, therefore, cannot be examined merely from the standpoint of the maximum age of 75 years. The principle urged by the objectors, if accepted in its absolute form, must necessarily apply with equal force to both ends of the age

spectrum. One cannot logically contend that the Council of Patrons is powerless to prescribe a maximum age while simultaneously accepting that it may prescribe, or that there should necessarily be, a minimum age.

The two propositions must stand or fall on the same principle.

The Chief Patron's question thus brought into focus the inherent weakness in the objection. The challenge appears to be directed selectively against the maximum age limit rather than against the underlying authority to regulate age eligibility as such. If the real contention is that the Council of Patrons possesses no power whatsoever to regulate age because the Constitution and Rules are silent on the subject, then the objection must necessarily extend to both minimum and maximum age limits.

The Council of Patrons is not seeking to create an anomaly; rather, it is seeking to prevent one. The purpose of prescribing an age-related eligibility condition is to ensure that the electoral process remains governed by rational, workable and institutionally appropriate standards and does not become subject to consequences which are plainly inconsistent with the nature and functioning of the Trust.

The mere silence of the Constitution and the Rules on age cannot, therefore, be converted into a positive prohibition against the Council of Patrons regulating the matter. Silence is not, by itself, a command that no age-related eligibility criterion can ever be prescribed. It is advisable to have a pragmatic approach and read the Constitution and the Rules not in a way these create an anomaly but in the manner these resolve such anomalies.

80 Yrs of 2022 Additional Rules & 75 Yrs of 2026 Additional Rules - Justification

The contention that why the age limit of **80 years**, which was considered and accepted by the earlier Council of Patrons in connection with the 2022 election, has been changed to **75 years** for the present election is wholly misconceived.

It is important to appreciate that the decision taken in 2022 was a decision of the then Council of Patrons, constituted and functioning at that point of time and in the circumstances prevailing then. The composition of the Council of Patrons has since undergone a complete change, except for the Chief Patron. The members who constituted the Council of Patrons in 2022, namely Mr. Tanveer us Sadiqueen, Prof. Muhammad Afzal Mir, Mr. Hakim Ghulam Mustafa and Mr. Wali Waheed are no longer members of the present Council. The Council of Patrons at present comprises Er. Mohammad Ashraf, Dr. G. M. Pujoo and Prof. Syed Wilayat Rizvi, besides the Chief Patron.

The present Council of Patrons is, therefore, a differently constituted competent body, entrusted with the responsibility of regulating and supervising the affairs of the Trust in accordance with the Constitution and the Rules. It is fully entitled to examine an issue afresh when it arises in a subsequent election and to take a decision which, in its considered opinion, is appropriate, reasonable and conducive to the effective administration of the Trust.

Even if the composition of the body had remained the same—which, in any event, is not the position in the present matter—the same body would not be precluded from reconsidering its

earlier view, departing from it, and adopting a different view, there being no legal bar against such reconsideration, particularly where the matter is being considered afresh on the basis of the relevant constitutional and statutory provisions and there is a new resolution of the CEC.

The decision of the earlier Council fixing or accepting 80 years as the maximum age cannot be treated as creating a permanent, vested or indefeasible right in favour of any individual or class of persons. No candidate acquires a vested right to have the same eligibility conditions perpetually retained merely because a particular condition was applicable in an earlier election. Eligibility conditions for an election are referable to the election in question and may legitimately be reconsidered or modified by the subsequent Council.

It is equally significant that the earlier decision of 2022 represented the considered view of the Council of Patrons at that particular point of time and in relation to the circumstances then obtaining. There is, therefore, no legal basis for the proposition that because the earlier Council of Patrons had considered 80 years to be an appropriate maximum age, the present Council is bound to retain the same age. Such an interpretation would effectively amount to saying that every decision of a previous Council of Patrons becomes binding upon all succeeding Councils irrespective of changes in circumstances, composition, institutional requirements or the considered judgment of the competent authority. Such a proposition cannot be accepted.

The fact that the Chief Patron remains the same does not alter the legal position. The decision-making authority is the Council of Patrons comprising all the members as constituted from time to time, and not the individual members who happened to constitute it on an earlier occasion. The continuity of one office-bearer cannot convert a decision of a previous composition of the Council into a perpetual rule binding upon its subsequently constituted members.

In the present case, the Council of Patrons (COP) duly considered the issue of the upper age limit for holding the office in question. In doing so, it also took note of the fact that, in the last election, the maximum age was fixed at 80 years. Upon a careful consideration of the nature and responsibilities attached to the offices, the COP was of the considered view that an age limit of 80 years was not proper, is on higher side and required reconsideration in the larger interest of the institution.

The office of the President and other executive functionaries carries with it substantial and continuing responsibilities requiring active participation, regular availability, physical presence, administrative engagement, decision-making and the ability to devote considerable time and energy to the affairs of the institution.

If the age of eligibility is fixed at 80 years, a person elected at that age may, under the existing arrangement, continue in office until the age of 84 years. The COP considered it neither prudent nor desirable to prescribe an eligibility clause which could result in an incumbent continuing in such an important Executive Office well into an advanced age when the physical

availability, stamina and sustained engagement required for the discharge of its functions may reasonably become more difficult. The revised age limit is founded upon a legitimate institutional objective: to maintain an appropriate balance between experience, continuity and wisdom on the one hand, and active participation, physical availability, administrative engagement and sustained capacity to discharge executive responsibilities on the other.

The age criterion has to be viewed from the perspective of the entire tenure of office, and not merely the physical capacity of a person on the date of his election. If a person is elected at an advanced age, the relevant consideration is whether he can reasonably be expected to discharge the responsibilities of the office effectively for the whole period for which he is elected.

For example, if maximum age is extended upto 80 years and a person enters office at the age of 80 years for a tenure extending up to four years, he would be required to continue performing the same responsibilities until he reaches approximately 84 years of age. The demands of the office, however, do not become less during the tenure. At present Trust is running 19 schools situated at various places. Some of the schools are at far off places like Mir Behri, Dab, Khanda, Ichagam, NoorKhah, DaniSydain, SofiPora Phalgam, WahabPora, Watergam, Iskanderpora, Labertal, Gamdoo, Zalpora, Choolan, Parisabad, Gangoo, Yakmanpora, Mati Pora and Chak Bagh. The Office bearers particularly the President may be required to travel from one school to another, keep a control on constructional works, attend issues relating to such

works, attend meetings and Institutional programmes, inspect schools, interact with staff and stakeholders, supervise ongoing activities and remain physically available whenever the affairs of the Trust require his presence. These responsibilities require sustained mobility, stamina and active engagement, rather than merely be a titular head of the Trust.

The Executive Committee is the body which is directly involved in the day-to-day affairs of the Trust. Its office-bearers are required to manage the schools, supervise functioning, attend to administrative and financial matters, and deal with the practical difficulties that arise in the course of running the schools under the Trust. By reason of this direct involvement, the Executive Committee is in a better position to understand the actual requirements of the Trust and the difficulties faced by its office-bearers in discharging their responsibilities.

It is, therefore, reasonable that the Constitution should require the Executive Committee to make recommendations regarding conditions or criteria having a bearing upon the effective discharge of the responsibilities attached to the offices of the Trust. The Executive Committee, from its practical experience, is better placed to assess what qualities, qualifications, age considerations, experience or other conditions may be relevant to the proper functioning of the organisation. Such recommendations are not expected to be based upon individual preference but upon the requirements of the office and the institutional interests of the Trust.

At the same time, the Constitution has not made the Executive Committee the sole or final authority in this matter. Its role is

recommendatory. The recommendation is required to be placed before and considered by the Council of Patrons. This ensures that there is an important institutional check upon the exercise of the power. The Executive Committee may bring its practical experience and knowledge of the functioning of the Trust to the consideration of the matter, while the Council of Patrons is required to apply its own independent judgment before accepting, modifying or otherwise dealing with the recommendation.

This division of responsibility is both logical and safeguards against arbitrary decision-making. The Executive Committee contributes its first-hand knowledge of the practical working of the Trust, while the Council of Patrons provides an independent and broader institutional perspective. The final decision is thus not the result of the opinion of one body alone, but emerges through a process in which the recommendation of the Executive Committee is subjected to consideration by the Council of Patrons.

The fact that the Executive Committee has been given the power to recommend does not mean that every recommendation made by it must necessarily be accepted. Nor does the fact that a particular condition is not expressly stated in the Constitution mean that no such condition can ever be considered. What is important is whether the condition has a rational and reasonable connection with the responsibilities of the office and the proper administration and functioning of the Trust.

Thus, where a condition is recommended on the basis of the practical requirements of the office, and the same is thereafter considered and adopted by the Council of Patrons in exercise of its constitutional authority, such a condition cannot be viewed merely as an individual preference or an arbitrary restriction. It represents an institutional decision intended to promote the effective, responsible and efficient functioning of the Trust.

Coming to the present situation we find the purpose of prescribing an upper age limit is, therefore, to ensure that the person elected is reasonably capable of completing the full tenure while actively discharging the functions attached to the office. It would defeat the institutional purpose of the age restriction if eligibility were determined solely by asking whether an individual appears fit on the date of election, without considering the likelihood of his being able to sustain the demands of the office for the remaining years of the term.

✓ The Trust cannot reasonably be expected to elect a person on the assumption that he may initially be able to perform the duties but may subsequently become unable, by reason of advancing age, to undertake the same level of travel, supervision and physical engagement. The rule is intended to provide continuity and certainty in administration and to minimise the possibility of the office becoming functionally inactive.

✍ Accordingly, the relevant question is not simply, "Can a person aged 80 perform these duties today?" but rather, "Can the institution reasonably expect a person entering office at that age to discharge the physical and administrative responsibilities of

the office continuously and effectively until the expiry of the full term?"

The age limit is intended to address precisely this concern.

Thus the present Council has independently considered the matter in the context of the 2026 election and, after applying its collective judgment, has determined that 75 years should constitute the maximum permissible age for contesting the office of President.

The present decision must, therefore, be examined on its own merits. The relevant question is not whether the earlier Council of Patrons had adopted 80 years in 2022, but whether the present Council of Patrons was competent to prescribe 75 years as the maximum age for the 2026 election and whether that decision has been taken bona fide, uniformly and in accordance with the governing framework of the Trust. If those requirements are satisfied, the mere existence of a different decision in 2022 does not invalidate the present decision.

Objection regarding the upper age limit of 75 years

Another objection raised in the representations concerns the Rule which provides that a person who wishes to contest the election to the specified offices of the Central Executive Council must be between 45 and 75 years of age on the date of issuance of the Election Notification.

The Council has carefully considered this objection. It has also considered the argument that the Constitution does not itself prescribe any upper age limit for a candidate. After examining the Constitution, the Rules and the purpose for which the

Election Rules have been framed, the Council finds no sufficient reason to interfere with the age limit so prescribed.

The first question is whether prescribing an age limit for contesting an election is, by itself, unreasonable or arbitrary. The Council is of the view that it is not.

The fact that a person becomes more experienced with advancing age is undoubtedly important. The Council fully recognises the value of the experience and guidance of its senior members. But experience alone cannot be the only consideration in deciding who should be eligible to contest for an executive office. The Trust is also required to consider the need for active participation, regular involvement in its affairs and the availability of persons to discharge the responsibilities attached to executive office.

The age limit of 45 to 75 years has to be viewed in this context. The lower age of 45 years ensures that a candidate has attained a reasonable level of maturity and experience. The upper age of 75 years seeks to ensure that persons elected to the Central Executive Council are from an age group which the Trust considers suitable for undertaking active executive responsibilities.

The Council considers this to be a reasonable balance between experience and the need to bring forward persons from a younger generation. The purpose is not to disregard the experience of senior members. Rather, it is to ensure that while the experience of senior members remains available to the Trust, opportunities are also created for relatively younger members to take responsibility for its executive affairs.

It is important to make another distinction. The Rule does not prevent a person above 75 years of age from remaining a member of the Trust or from contributing to its affairs. Such a person may continue to participate in the activities of the Trust, give advice, offer guidance and share his experience. The Rule only places a restriction on contesting the election to the specified executive offices.

Therefore, there is a clear difference between being eligible to contest an election and being eligible to participate in or contribute to the affairs of the Trust. A person may be highly respected and may continue to make valuable contributions to the Trust without necessarily being eligible to contest every election to an executive office.

The Council has also considered the argument that persons above 75 years may have greater experience and may therefore be capable of serving the Trust effectively. There is no dispute about the value of such experience. However, the issue before the Council is not whether senior members are capable of contributing to the Trust. The issue is whether the Trust can prescribe an upper age limit for contesting an election. The Council finds nothing in the Constitution or Rules which prevents it from prescribing such a condition, provided the condition is reasonable and is applied equally.

It is also important to note that the fact that some other age limit could have been prescribed does not make the age limit actually prescribed unreasonable. The Council had to make a choice while framing the election conditions. The choice of 75 years cannot be questioned merely because some members

may have preferred 80 years, 70 years or no upper age limit at all. What has to be seen is whether the age limit of 75 years is, in itself, unreasonable or discriminatory. The Council finds no material before it to reach such a conclusion.

The Council has further found no material to show that the age limit was introduced to exclude any particular person or group. No specific person has been identified whose candidature has been prevented by the rule. The allegation that the age limit is intended to "block the entry of experienced and enthusiastic personalities" is therefore not supported by any specific material placed before the Council.

The Council is conscious that the Trust benefits from the wisdom and experience of its senior members. At the same time, it is equally important that younger members are given an opportunity to assume responsibility and develop leadership. A proper balance between the two is in the long-term interest of the Trust. The present Rule is intended to achieve that balance.

The Council therefore finds that the age limit of 45 to 75 years is a reasonable condition for contesting the election to the specified offices of the Central Executive Council. It does not take away the membership, dignity, experience or right of participation of any senior member. It only regulates eligibility to contest a particular election for specified executive offices.

For the reasons stated above, the Council finds no arbitrariness, discrimination or unreasonableness in prescribing the age limit of 45 to 75 years and, accordingly, finds no ground to withdraw, modify or set aside the said provision.

Allegation that the age restriction is intended to exclude experienced persons

Prof. Ali Mohammad Bhat, in his representation addressed to the Chairman, Council of Patrons (COP), has alleged that the "new rule has absolutely no logic" and that it is "obvious that it has been devised to block the entry of experienced and enthusiastic personalities."

Significantly, however, he has neither identified nor named any such "experienced" or "enthusiastic" personality whose entry into the electoral fray has allegedly been blocked by the impugned rule. The allegation, therefore, remains wholly general, vague and unsupported by any specific instance or factual basis.

During the course of his submissions, the Chairman, COP, specifically asked Prof. Bhat whether his contention was merely academic in nature or whether he could identify any particular person whose candidature had allegedly been affected or whose entry into the electoral fray had been blocked by the impugned rule. He was unable to identify any such person.

It is pertinent to observe that, if any experienced or enthusiastic personality genuinely desired to contest the election but was allegedly prevented from doing so by the impugned rule, such person could reasonably have come forward and placed his grievance before the COP. The absence of any such specific instance or representation further demonstrates that the allegation is merely conjectural and unsupported by any concrete factual basis.

A condition or an eligibility clause cannot be objected to merely because a particular class of persons may consider the prescribed eligibility criterion inconvenient or restrictive. What is relevant is whether the criterion has a rational connection with the object sought to be achieved.

In the present case, the Trust is required to be administered by a Central Executive Council consisting of persons capable of active participation in its affairs and discharge of organisational responsibilities. The prescription of an age bracket, coupled with the requirement of a minimum age of 45 years and maximum age of 75 years, reflects an attempt to maintain an appropriate balance between maturity and active organisational participation.

There is thus a discernible and legitimate rationale behind the provision. The objection that the rule has been framed for the purpose of excluding any person or class of persons is therefore, without any merit.

There is no material placed before the Council to demonstrate that the age limit of 75 years was prescribed with the intention of excluding any particular individual or class of persons from the electoral process. Significantly, no such person has come forward to assert that he has been rendered ineligible to contest the election by reason of the said age restriction. In his WhatsApp message addressed to the Chairman, Prof. Ali Mohammad Bhat has stated that neither he nor Er. Syed Mahmood Rizvi is a candidate for the present election. At the same time, however, neither of them has identified any particular person or persons who have been excluded from the

electoral process on account of the prescribed age limit. The allegation that the provision has been devised to "block the entry of experienced and enthusiastic personalities" is, therefore, not supported by any specific instance or other material placed before the Council.

Precedents

While examining the issue of fixing of age limit, the Patrons have also examined the Trust Record to find out as what has remained practice in the past in this regard.

An examination of the record shows that till date all the Presidents of the Trust were below the age of 63 except in the case of Syed Mahmood Rizvi who was of 70 years of age when he was made President on Adhoc basis in August 2008. An age chart of all the Presidents of ETK is as under:

Name	Period	Age at the time of election as President
Prof Syed Sarwar Hussain	1968-1969	35 Yrs.
Prof. G. M. Mir	1969-1973	45 Yrs.
Er. Mir Ghulam Rasool	1974-1984	46 Yrs.
Munshi Ghulam Hassan	1986-1987	59 Yrs.
Prof. G. M. Mir	1987-1995	63 Yrs.
Hakim Imtiyaz Hussain	1995-1999	46 Yrs.
Prof. Ali Mohammad Bhat	1999-2002	60 Yrs
Mohammad Shafi Khan	2002-2008	48 Yrs.
Syed Mahmood Rizvi	2008-2009	70 Yrs.

Munshi Muzaffar Hussain	2009-2018	53 Yrs.
Mohammad Shafi Khan	2018-	64 Yrs.

2018 Elections

Another significant precedent which has come to the notice of the Council of Patrons relates to the elections of the Trust held in 2018, when Mr. Munshi Muzaffar Hussain was the President. On that occasion also, an express age limit was prescribed for persons seeking to contest the election. The relevant portion of the Notification issued vide No. ETK/15/3098 dated 20-05-2018 reads as under:

"The age of the life member interested to contest election shall not exceed 70 years on 01-06-2018 (Date of Birth certificate is to be enclosed with the nomination form)."

(Notification enclosed as Annexure - A)

Significantly, the very same Notification did not stop at prescribing an age limit. In addition to the age bar, it prescribed specific eligibility qualifications for the posts of President, General Secretary and Chief Organiser. The relevant condition provided:

"...the candidate must have remained as life member of the Trust at least for 15 years and must have held any position in the CEC at least for two terms for the post of President and one term for the position of General Secretary and Chief Organizer."

Thus, in 2018, the Trust itself had consciously adopted both an upper age limit and additional eligibility qualifications for contesting particular offices. These were incorporated in the

election notification and were applied as conditions governing eligibility to contest.

Most importantly, no challenge appears to have been raised at the relevant time to the competence of the authority to prescribe such conditions. The elections proceeded on the basis of those qualifications and the age restriction.

The Council of Patrons finds it difficult to reconcile the present objections with this established precedent. Those who now contend that prescribing an age limit or additional qualifications for contesting the election is contrary to the Constitution did not raise any such objection when an age limit of 70 years and substantial experience-based qualifications were prescribed in 2018. Nor was it then contended that the Executive or the election authority lacked competence to regulate eligibility in this manner.

Indeed, if the argument now advanced is that the Constitution leaves no room whatsoever for prescribing an upper age limit or additional qualifications for particular offices, the obvious question arises: on what constitutional basis were an age limit of 70 years and substantial tenure and experience requirements prescribed and implemented in 2018?

If those conditions were considered permissible then, it is difficult to understand why the very principle should suddenly become unconstitutional in 2026.

The conduct of those who are now assailing the age bar assumes considerable significance when examined against the background of the 2018 elections. The Trust, under the then prevailing constitutional framework, had expressly prescribed an

upper age limit of 70 years, besides imposing substantial experience and tenure requirements for the principal executive offices. Yet, those who now seek to portray the prescription of an age bar as an unprecedented, unconstitutional or impermissible innovation remained conspicuously silent when an identical principle was applied in 2018.

A person who genuinely believes that the Constitution confers an unrestricted right upon every life member to contest an election, irrespective of age or prescribed qualifications, would ordinarily be expected to raise that objection when precisely the same restriction was imposed. The fact that no such objection was raised then, and that the election was allowed to proceed on that basis, makes the present *volte-face* particularly difficult to accept at face value.

The present objectors cannot reasonably approbate the institutional practice when it operated in an earlier election and reprobate the same principle when it operates in the present election.

If their contention is that an age bar is inherently contrary to the Constitution, the obvious question is why that very constitutional objection was not raised when the age of 70 years was prescribed in 2018.

If, on the other hand, they accepted the validity of such regulation in 2018, they must explain what intervening constitutional change has occurred which has suddenly rendered the same category of regulation impermissible in 2026.

The silence of the objectors in 2018 can therefore be considered as relevant conduct bearing upon the credibility and bona fides

of the present challenge. It raises a valid question: whether the present objection is founded upon a genuinely held constitutional principle or has been prompted by the fact that the present age restriction affects the eligibility of a particular person.

This distinction is important. A constitutional principle cannot be invoked as a weapon of convenience—accepted when it operates favourably and attacked when it operates otherwise. The credibility of an objection necessarily becomes relevant where the objector's present position is materially inconsistent with their conduct in an earlier election.

The Council is therefore entitled to ask the objectors to explain their conspicuous silence in 2018. Their failure to do so materially weakens the assertion that the present Rules represent some novel departure from the constitutional scheme. The present challenge, coming after such prolonged silence, consequently appears less like a principled challenge to the constitutional competence of the Trust and more like a selective challenge to a condition which has become inconvenient to particular prospective candidates.

It may be observed here that in the year 2018 the Executive had no power to make addition to the Rules but now after 2018 Constitution a specific rule is there which empowers the COP to make addition to the rules on the recommendation of the CEC.

While the Council does not rest its decision solely on this consideration, it is certainly entitled to take the conduct of the objectors into account while assessing the weight and bona fides of their representations.

The 2018 precedent thus does double duty. It constitutes, on the one hand, affirmative evidence of an established institutional practice of prescribing age bar and regulating ability, and, on the other, it exposes the inconsistency between the position adopted by the present objectors and their silence when the same principle was previously applied.

The present Additional Election Rules, 2026, must also be examined in the context of the constitutional scheme of the Trust as it presently stands. The Constitution does not contemplate an uncontrolled or mechanical process whereby every life member, irrespective of age, experience, administrative involvement or suitability, acquires an indefeasible right to contest every office.

On the contrary, the constitutional scheme itself envisages a role for the Central Executive Council in making recommendations and for the Council of Patrons in examining those recommendations and prescribing such conditions as may be considered necessary and appropriate.

The power to regulate eligibility is also necessarily incidental to the power and responsibility to conduct a meaningful election.

An election is not rendered unconstitutional merely because reasonable qualifications are prescribed for an office. On the contrary, where an office carries substantial responsibilities, prescribing rational and objective eligibility conditions may be necessary to protect the institution and ensure that the person elected is capable of discharging those responsibilities effectively.

As observed above, the office of President of the Trust is not a merely ceremonial or honorific position. The President is entrusted with substantial responsibilities concerning the administration, supervision, management, functioning and advancement of the affairs and institutions of the Trust. The suitability of a candidate for such an office can legitimately be assessed not merely by reference to membership status but also by reference to relevant considerations such as experience, active participation, administrative engagement, continuity and the practical ability to discharge the responsibilities attached to the office.

It is equally important to distinguish between regulation of eligibility and denial of the right to participate in the affairs of the Trust. Prescribing reasonable qualifications for a particular office does not deprive a life member of his membership rights. Nor does it prevent him from participating in the affairs of the Trust in other permissible capacities.

 The Constitution itself recognises different institutional roles, including the role of Patrons, and the Trust can legitimately draw upon the experience and wisdom of senior members without necessarily making every such member eligible for every executive office. In a functioning institution, experience and continuity have value, but so do active participation, physical availability, administrative engagement and the capacity to carry forward the institution's programmes and responsibilities.

 The object of the Additional Election Rules, 2026, is therefore not to exclude any class of members arbitrarily, but to ensure

that persons seeking particular executive offices satisfy conditions reasonably connected with the responsibilities of those offices.

Viewed in this constitutional and Institutional context, the 2018 elections provide a compelling precedent. They demonstrate that age restrictions and experience-based qualifications have historically been regarded within the Trust as legitimate instruments for regulating eligibility for its executive offices. The present Rules merely continue that institutional approach within the framework of the Constitution as it presently operates.

The Council of Patrons accordingly finds no merit in the contention that the very prescription of an age limit or additional qualifications is, *per se*, unconstitutional. The real question is whether the conditions prescribed in 2026 are reasonable, objective, relevant to the office concerned, and within the authority conferred by the Constitution. Once those requirements are satisfied, the mere fact that a particular member may be rendered ineligible cannot convert a valid regulatory measure into a constitutional violation.

The 2018 precedent, read together with the present constitutional scheme, therefore substantially reinforces the validity of the approach adopted in the Additional Election Rules, 2026.

2022 Elections

A perusal of the record shows that, when the election process was initiated in the ETK in the year 2022, the Council of Patrons had also prescribed an age criterion as one of the conditions of

eligibility for contesting the election. Under the Educational Trust Kashmir (Election to Central Executive Council) Additional Rules, 2022, the minimum and maximum age limits for a candidate seeking election to the office of President were prescribed as follows:

‘The age of a candidate desirous to contest the election of ETK for the post of President shall be between 45 years and 80 years on the day notification for the Election is issued ‘

The record further shows that Er. Syed Mahmood Rizvi, who has raised the issue before the Patrons in the present election as well, had challenged the prescribed age criterion during the 2022 election process and had sought relaxation of the age limit in his favour.

His representation was duly considered by the Council of Patrons at that time and was disposed of by a detailed order dated 30-08-2022. The relevant portion of the said order is reproduced below:

‘The Patrons have given thoughtful consideration to the submissions made by Mr. Rizvi in the present representation. The Patrons find that it is neither proper nor possible to relax the rule regarding the age bar in favour of Mr. Rizvi in such a way to enable him to contest the election. The Patrons also want to place it on record for the information of Mr. Rizvi and for all those who are under the impression that the said condition is in contravention/contradiction to the provisions of the Constitution of the Trust or amounts to an amendment to the constitution made by the Patrons, that the condition regarding the age bar is very much valid being in accordance with the Election Rules made by the Council of Patrons in exercise of the powers vested in them.

(Reference in this regard may be made to Art. 15 of the Constitution of the Trust read with the last clause in the Election Rules 2018 relating to the powers of the Council of Patrons *vis a vis* making any modifications/ additions *etc* in the said Rules. It is also made clear that the decision of providing age bar has been taken after due consideration and deliberations. It was only after a detailed discussion that the decision was taken on rationale, just and proper grounds. This bar has been prescribed not with a view to sideline 'Veteran' members of the Trust as alleged by Mr. Rizvi but keeping in view the best interests of the Trust. The Patrons are of the considered view that relaxing the bar in order to give benefit to any person to make him eligible, who is otherwise ineligible to participate in the election process would be a great disservice to the Trust'.

The record would, therefore, show that question whether the Council of Patrons could prescribe an age criterion for candidates seeking election to the Executive had already arisen during the 2022 election. It is not a new issue. Er. Syed Mahmood Rizvi himself had then challenged the age criterion and had sought relaxation of the prescribed age limit in his favour. The matter was considered by the Council of Patrons and was decided by a detailed order dated 30-08-2022.

The earlier Council, therefore, had already examined the very question which is now sought to be raised again—namely, the authority of the Council of Patrons to prescribe an age criterion for eligibility to contest the election.

In these circumstances, Er. Syed Mahmood Rizvi, having himself raised the issue in 2022 and having obtained a decision from the Council thereon, could not reasonably be expected to reopen the same issue in the present election.

The principle involved is simple. An institution cannot be required to examine the same question again and again at every election merely because a member is dissatisfied with the decision already taken. Once a competent body has considered and decided an issue, that decision must ordinarily be respected and given due weight in subsequent proceedings, particularly when the same person who had raised the issue earlier seeks to raise substantially the same objection again.

The present objection, therefore, cannot be treated as an entirely new question requiring the Council to start the examination afresh. The earlier decision of 30-08-2022 is directly relevant because it demonstrates that the power of the Council to prescribe an age criterion had already been considered when the election was held in 2022. The fact that the age limit prescribed in 2022 was 45 to 80 years, whereas the present rule prescribes 45 to 75 years, does not alter the position. The change in the upper age limit is a matter of the present Council's policy and does not revive the earlier question of whether the Council has the power to prescribe an age criterion at all.

The Council is, therefore, of the considered view that the same issue, having already been raised by Er. Syed Mahmood Rizvi in 2022 and decided by the Council of Patrons by a reasoned order dated 30-08-2022, ought not to have been reopened in the present proceedings in the absence of any new or compelling ground.

The present Council has nevertheless examined the objection afresh, so that there may be no doubt that the issue has

received full and fair consideration. Having done so, and for the reasons recorded in this order, the Council finds no basis to depart from the earlier view that the Council of Patrons has the authority to prescribe reasonable eligibility conditions, including an age criterion, for candidates seeking election to the specified offices of the Central Executive Council.

The President of the Trust has numerous duties to perform. The effective discharge of such responsibilities may require:

regular attendance at meetings and institutional engagements;

inspection and supervision of educational and other Trust institutions;

monitoring of developmental and construction works;

interaction with administrators, teachers, employees, students and other stakeholders;

travelling and undertaking field visits whenever required;

prompt attention to administrative and organisational matters;

participation in meetings and decision-making processes; and

sustained physical and mental engagement with the multifarious activities of the Trust.

The age criterion, has a direct nexus with the duties and functions of the President and of other posts. Thus the criteria fixed by the COP, is consequently not founded upon any presumption that every person above a particular age is incapable of performing such duties. It is a general institutional standard, adopted prospectively for the purpose of ensuring that

the elected body has the requisite capacity, energy, availability and continuity to discharge its responsibilities effectively.

The prescription of 75 years as the upper age limit must be viewed in the context of the nature of the office and not as a judgment upon the competence, wisdom or personal worth of any individual.

Experience and wisdom are undoubtedly valuable attributes in any organisation and deserve due recognition. At the same time, an institution is equally entitled to ensure an appropriate balance between experience, on the one hand, and active participation, physical availability, administrative engagement, energy and continuity, on the other. The effective functioning of an organisation requires not merely experience and wisdom but also the capacity and willingness to remain actively involved in its day-to-day affairs and to discharge the responsibilities attached to the office.

A rule of general application cannot be condemned merely because there may be exceptional individuals who remain exceptionally active at an advanced age. Election rules necessarily prescribe objective standards rather than assess the individual physical capacity of every candidate.

The lower age limit of 45 years also has a rational basis. The prescription of 45 years as the minimum age is equally founded upon the nature of the office.

The post of President requires persons possessing a reasonable degree of maturity, experience, organisational understanding and knowledge of the functioning and objectives of the Trust. The Council of Patrons was therefore entitled to conclude that

persons aspiring to occupy senior most position in the Central Executive Council should ordinarily have acquired sufficient experience and maturity to discharge such responsibilities.

The range of 45 to 75 years accordingly seeks to maintain an appropriate balance between maturity and experience on the one hand and active service and continuity on the other.

The age condition is not directed against any particular individual. It is a general, objective and uniformly applicable eligibility criterion.

Further, the relevant age is to be determined with reference to the date of issuance of the election notification, thereby providing a definite and ascertainable date for determining eligibility. The requirement that the candidate furnish documentary proof of age further ensures transparency and prevents disputes concerning eligibility.

An alternative approach of permitting persons of every age to contest and thereafter attempting to determine the physical or functional capacity of individual candidates would introduce considerable subjectivity and uncertainty into the electoral process.

It is an universally accepted rule that right to contest an election is necessarily subject to the qualifications and disqualifications lawfully prescribed by the competent authority. Once the 2018 Rules expressly authorise the Council of Patrons to make additions and modifications where the need arises, a candidate must satisfy the rules in force for the election in question.

The distinction between the right to remain associated with the Trust and eligibility to contest a particular election is therefore important. The present rule regulates only the latter.

The age restriction should not be understood as an attempt to narrow democratic participation arbitrarily. Its object is to ensure that those elected to the Central Executive Council are capable of undertaking the active executive, supervisory and organisational responsibilities attached to the office.

From this discussion the Patrons find that in view of Article 15 of the Constitution, read with the express power conferred upon the Council of Patrons under the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018 to make modification, alteration, addition or deletion in the election rules whenever the need arises, the Council of Patrons is competent to prescribe additional eligibility conditions for Election-2026.

The age requirement of 45 to 75 years is a reasonable and objectively ascertainable eligibility criterion having a direct nexus with the nature, responsibilities and demands of the offices in the Central Executive Council. It is intended to secure an appropriate balance between experience and maturity, on the one hand, and energy, availability, active participation and continuity, on the other.

The prescription is general, prospective, uniformly applicable and capable of objective verification. It is neither directed against any individual nor intended to diminish the dignity or contribution of senior members of the Trust. It represents an institutional policy decision taken in the legitimate interest of the Trust to ensure that its Central Executive Council is

constituted by persons who can effectively discharge the active responsibilities entrusted to them.

The Council of Patrons, therefore, considers the prescription of the age limit of 45 to 75 years to be a lawful, rational and necessary regulatory measure falling within the express rule-making power conferred by the Constitution and the 2018 Election Rules, and considers the same necessary for the proper, efficient and effective conduct of Election-2026 and the subsequent functioning of the Central Executive Council.

Comparison between the office of President , ETK & Rehbar

The Council has also considered an argument advanced by some of the persons making the representations whereby the age criterion prescribed for the office of President of the Trust has been compared with the age of persons holding high religious and political offices. In particular, Mr. Ahmad Ali has referred to the office held by Hazrat Ayatollah Imam Khamenei (R), while he has also drawn a comparison with the political office held by Dr. Farooq Abdullah.

Er. Syed Mahmood Rizvi is also stated to have made a similar submission during a telephonic conversation with one of the Patrons.

The Council of Patrons considers it necessary to observe that the office of the Supreme Leader of the Islamic Republic of Iran is a highly exalted and spiritual institution, which, occupies a position of highest and profound religious significance. The nature, status, functions and spiritual dimensions of that office

are, therefore, altogether different and cannot reasonably be compared with the office of the President or any other office within the Educational Trust Kashmir.

The Council is, therefore, surprised that Mr. Ahmad Ali has sought to draw such a comparison in support of his representation. Any analogy between them is consequently misplaced and wholly irrelevant to the question under consideration.

The Council would respectfully advise that, while advancing an argument on a matter of this nature, due regard ought to be had to the character, status and context of the institutions being compared. A comparison which overlooks these fundamental distinctions cannot provide a sound or rational basis for challenging the age criterion prescribed for an office within the Trust.

The Council is constrained to observe that such comparisons are wholly misplaced and have no real bearing on the issue under consideration.

The persons making these comparisons are expected to appreciate that the office of President of a voluntary educational organisation cannot reasonably be compared with a religious, constitutional or political office merely because the persons holding those offices may be of an advanced age. The nature of the office, the duties attached to it, the manner in which the office is held, the institutional structure and the practical responsibilities involved are entirely different.

The question before the Council is not whether a person above 75 years of age can hold an important office or perform

important public, religious or political functions. Clearly, many persons of advanced age are capable of doing so. The question before the Council is much narrower and more specific: whether the Educational Trust can reasonably prescribe 75 years as the upper age limit for a person seeking election to the office of its President and other specified executive offices.

The examples cited in the representations do not provide an answer to this question. The fact that a particular religious or political leader continues to hold an office at an advanced age does not establish that every other institution must adopt the same standard. Each institution has its own Constitution, Rules, objects, responsibilities and method of functioning. The eligibility conditions for one office cannot be treated as the standard for an entirely different office in an entirely different institution.

The comparison is also inappropriate because it shifts the discussion away from the nature and requirements of the office in the Trust. The Trust is required to frame rules according to its own needs and the responsibilities which its elected office bearers are expected to discharge. It is not required to examine the age or continued capacity of individual leaders holding other offices before deciding what age criterion is appropriate for its own executive body. Nor can the Trust be expected to frame its rules by taking individual personalities as examples.

Rules are made for institutions, not for particular persons. The age criterion must therefore be examined as a general condition applicable equally to every candidate and not by reference to the age of persons holding some other office.

The Council also finds it necessary to point out that such comparisons can be misleading. A person may be fully capable of performing the functions of one particular office at an advanced age, while the demands of another office may be different. Capacity depends not only upon age but also upon the nature of the duties, the amount of time required, the extent of active involvement and the manner in which the institution functions. These matters cannot be decided by simply pointing to the age of a few eminent persons.

Allegation of ulterior purpose

The representation contains an allegation that the age bar rule has absolutely no logic and is devised to block entry of experienced and enthusiastic personalities.

The allegation is wholly misconceived and unsupported by any material.

The allegation is not merely unsubstantiated; it proceeds upon an erroneous understanding of the very purpose for which eligibility conditions are prescribed. A rule cannot be characterised as irrational merely because its operation may render certain individuals ineligible. The proper test is whether the criterion adopted has a rational and reasonable nexus with the nature of the office and the functions required to be discharged by its incumbent. Judged on that touchstone, the rule is manifestly defensible.

The office to which the rule relates is not a purely honorary or ceremonial position. It carries substantial organisational and administrative responsibilities and requires regular supervision,

inspections, coordination, travel, participation in meetings, monitoring of institutional activities and timely decision-making. The effective discharge of such responsibilities necessarily requires sustained physical capacity, energy, mobility and availability in addition to experience and intellectual maturity. It is, therefore, neither irrational nor unreasonable for the rule-making authority to take these considerations into account while prescribing eligibility.

The representation appears to proceed on the assumption that experience, however valuable, must necessarily prevail over every other consideration. Such an assumption cannot be accepted. Experience is undoubtedly an asset, but it cannot, by itself, create a vested or indefeasible right to contest for or continue in a particular office. The legitimate requirements of the institution, the nature of the duties attached to the office and the need for effective and efficient functioning are equally, if not more, relevant considerations.

It is equally untenable to attribute a mala fide motive to the rule merely because some experienced persons may fall outside its ambit. A general rule does not become discriminatory merely because it has consequences for particular individuals. Unless it is demonstrated by cogent material that the rule was framed for the purpose of targeting a particular person, such an allegation remains a mere assertion and cannot furnish a basis for invalidating or disregarding an otherwise rational institutional requirement.

Indeed, the contention that the rule is intended to "block entry" of experienced and enthusiastic persons is internally

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The office to which the rule relates is not a purely honorary or ceremonial position. It carries substantial organisational and administrative responsibilities and requires regular supervision,

inconsistent. The rule does not prohibit any person from contributing his experience, knowledge or services to the Trust. It merely regulates eligibility for a particular office in accordance with an objective criterion. There is a fundamental distinction between depriving a person of participation in the affairs of an institution and prescribing reasonable qualifications for occupying a particular office. The present rule falls squarely within the latter category.

The suggestion that the rule has "no logic" is, therefore, without substance. On the contrary, the rule reflects a considered institutional policy founded upon valid objectives—effective discharge of onerous responsibilities, functional capacity, continuity with renewal, orderly succession, wider participation and prevention of concentration of leadership in the same hands indefinitely.

Even at present, voices are being raised by several Life Members questioning why it is predominantly elderly persons who come forward to seek entry into the Executive of the Trust. A section of the Life Members has expressed concern that the Trust, like some other organisations, is gradually becoming a kind of "old-age asylum" for retired government employees who, after retirement, seek continued engagement by occupying positions in its Executive. Whether or not such a perception is entirely justified, it is a sentiment which cannot simply be brushed aside. It would have been idle situation if the Executive of the Trust would have been managed by younger people. Similarly young people should come forward to manage other organizations in the community. People who enjoy the

Government jobs should avoid trusting their entry in such welfare organizations for remaining engaged after retirement but we find such a situation may not be possible as young people may not find much time for such works at the same time experienced people may be required so balance should be there... elaborate it write it correctly and in a systematic manner giving emphasis on it

There is also a growing feeling among members of the younger generation that they are not being given adequate opportunity to come forward and participate in the management of the Trust. They believe that the affairs of the Trust should progressively be entrusted to a younger generation possessing energy, new ideas, contemporary knowledge and an understanding of the challenges confronting society today. At the same time, the Council is conscious that complete reliance upon younger and relatively inexperienced persons may not, by itself, be in the larger interest of the institution. The experience, wisdom and institutional knowledge of senior members have their own importance and cannot be disregarded. What is therefore required is not a choice between the young and the old, but a healthy and purposeful balance between experience and youthful energy.

The objective should be to encourage capable younger persons to come forward while, at the same time, ensuring that elderly members who possess the requisite energy, physical capacity, commitment and ability to discharge the demanding responsibilities of Executive office are not excluded merely on account of age. The emphasis, therefore, ought to be on the

ability to perform the duties of the office effectively and throughout the tenure, rather than on age as an isolated consideration.

It is in this context that the submissions of Mr. Bhat deserve particular consideration. Mr. Bhat is one of the founders of the Trust, and he began his submissions by narrating the circumstances in which he became associated with the Trust during the early days of its formation. His long association with the institution and his contribution to its development are undoubtedly matters of respect.

However, precisely because of his foundational association with the Trust and his concern for its welfare, the Council finds it somewhat difficult to appreciate why his submissions should principally seek to facilitate the continued entry of older persons into the Executive, rather than encouraging and facilitating the younger generation to assume greater responsibility for the future management of the institution.

The Trust is a living institution, and no institution can remain healthy if its leadership is permanently confined to one generation. Senior members can continue to make an invaluable contribution as mentors, advisers and guides without necessarily occupying executive positions.

The issue, therefore, should be of ensuring that the Executive consists of persons who, are physically and mentally capable, energetic, available and genuinely able to devote the time and effort required for the discharge of their responsibilities. At the same time, the doors of leadership must remain sufficiently

open to the younger generation so that the Trust does not suffer from stagnation or a lack of succession.

The Council is of the considered view that the welfare and long-term sustainability of the Trust require precisely such an approach: respect for experience, encouragement of youth, and selection for executive office on the basis of capacity, energy, commitment and ability to perform.

Objection to the Election Rules under the Constitution

During the course of hearing of the representations, Prof. Ali Mohammad Bhat contended that the Election Rules (*i.e* Schedule I) had never been formally framed and approved and, therefore, the reliance being placed upon such Rules was wholly unwarranted. He, therefore, questioned the legal validity of Schedule I and submitted that the same could not be treated as having any binding or legal force.

On the other hand, Mr. Kifayat Hussain Rizvi submitted during the meeting that the Constitution of the Trust had been framed in the year 2018 and duly published. He pointed out that, notwithstanding such publication, no objection questioning the Election Rules or Schedule I had been raised by any Life Member till date. At the same time, however, he suggested that the Chairman may verify the relevant records and ascertain the factual position.

Thereafter, Mr. Rizvi sent a WhatsApp message to the Chairman, specifically enquiring whether the relevant record had been examined and the factual position verified in this regard.

In view of the issue thus raised, and considering that the objection went to the very foundation and validity of the

electoral framework, the Council of Patrons considered it appropriate not to proceed merely on the basis of assertions made during the hearing. The Chairman accordingly perused the relevant records and examined the matter in the light of the circumstances attending the framing, adoption and subsequent implementation of the Constitution, the Election Rules and Schedule I.

Upon perusal and verification of the relevant record, it appears that Schedule I forms an integral part of the Constitution of the Educational Trust Kashmir. The record establishes that the Constitution, along with Schedule I, was duly framed and approved in the year 2018 and has remained in force and operation ever since. Significantly, Election of the Trust held in 2022, including the election to the office of General Secretary, was conducted under the same constitutional framework and under Schedule I. No objection challenging their existence, validity or applicability appears to have been raised by any Life Member during this entire period. (Report enclosed as Annexure – B)

The record further establishes that the Constitution, along with Schedule I, was approved by the General Council in its meeting held on 7th October 2018 and was thereafter adopted by the Central Executive Committee in its meeting held on 9 October 2018. The Constitution was subsequently printed and circulated in booklet form in the year 2018, and copies thereof have remained available in the Trust Office since then.

More importantly, the subsequent functioning and administration of the Educational Trust Kashmir demonstrate

that the said Constitution has consistently been treated as the governing constitutional instrument of the Trust. Appointments, nominations, constitution of committees and other acts and affairs of the Trust have, since its adoption, been undertaken in accordance with its provisions.

Likewise, the affairs of the Imamia Public Schools, the constitution of local committees of the Schools, and the appointment of office-bearers to such committees have been undertaken under the authority and framework of this Constitution. Further, when the question of fresh registration of the Trust arose in 2019, the process was undertaken with reference to the same Constitution, and a copy thereof was furnished to the Government for the purposes of registration.

The consistent conduct of the Trust, the approval and adoption of the Constitution by the General Council & CEC, its publication and circulation, its continuous application in the affairs of the Trust, and reliance upon it in the subsequent election and other institutional matters leave little room for doubt that the Constitution, including Schedule I, has been validly adopted and has remained operative since 2018.

In these circumstances, the objection now raised questioning the existence or validity of Schedule I is not supported by the record or by the subsequent conduct and practice of the Trust. The objection, therefore, cannot be accepted and is accordingly rejected.

Before concluding the Council of Patrons also considers it necessary to make a general observation regarding the representations submitted by some senior Life Members,

including Prof. Ali Mohammad Bhat and Syed Mahmood Rizvi. Both are senior members of the Trust and have, at different points of time, held positions of responsibility. Prof. Ali Mohammad Bhat, in particular, had served as President of the Trust also. The Council has due regard for their experience, seniority and past association with the Trust, and therefore attaches appropriate importance to the views expressed by them.

At the same time, the Council feels that seniority and past association with the Trust carry with them not merely a right to question only the electoral process but also an opportunity, and indeed a moral responsibility, to contribute to the affairs and development of the Trust on a continuing basis.

The Trust has been engaged in a large number of activities concerning education, administration of schools, construction and development projects, teacher training, educational technology, financial and administrative management, welfare activities and several other matters requiring the guidance and participation of experienced Life Members. The affairs of such an institution cannot, and should not, become a matter of concern only at the time of elections.

It is, therefore, pertinent to ask why persons possessing considerable experience and having a long association with the Trust have not, during the intervening years, come forward with the same degree of concern to participate in its affairs, offer suggestions, point out shortcomings, assist in resolving difficulties, or guide the Executive Committee and the Council of Patrons in matters concerning the development and functioning

of the Trust. If there were genuine concerns regarding the manner in which the Trust was being administered, its educational institutions were being run, its resources were being utilised, or its future direction was being determined, such concerns could have been brought to the notice of the competent bodies at any appropriate time.

The Council considers it relevant, while assessing the present representations, to distinguish between a sustained concern for the welfare and functioning of the Trust and a concern that becomes active principally when an election is started.

The Trust is much larger than any particular election. Elections are only one part of its institutional life. The real measure of commitment to the Trust lies in contributing to its educational mission, strengthening its institutions, guiding its younger members, suggesting improvements, assisting in resolving its problems and remaining available whenever the Trust requires the experience and wisdom of its senior Life Members.

The Council, therefore, considers that the present occasion should not be viewed merely as a contest concerning the eligibility of candidates or the interpretation of an election rule.

It should also be regarded as an opportunity for all senior and experienced Life Members to renew their active association with the Trust and to contribute constructively to its future.

The Council respectfully hopes that those who have acquired experience and knowledge through their long association with the Trust will continue to make that experience available for the larger benefit of the Institution. The Trust needs their guidance

not only when elections are held, but throughout its continuing journey.

Additional Election Rules, 2026

Upon receipt of the communication referred to above from the President, ETK (letter No. ETK/15/5443 dated 13-7-2026), the Council of Patrons (COP) did not accept the recommendations mechanically or as a matter of course. Rather, the recommendations were subjected to careful and objective consideration. The COP examined each recommendation separately and in detail, keeping in view not only its immediate implications but also its long-term consequences for the Trust. Each recommendation was considered on its own merits. Its rationale, practical implications, advantages and possible disadvantages were discussed at length. The deliberations were therefore not confined merely to the question of whether a particular recommendation appeared desirable on the face of it; the COP also examined the possible consequences of its acceptance or rejection.

In particular, the recommendations concerning activities prejudicial to or inconsistent with the interests and objectives of the Trust, as well as the proposed restrictions relating to the affiliation or association of a candidate with other organisations, were considered with due care. The COP were of the view that persons holding key positions in the ETK must be able to discharge their responsibilities without conflicts of interest or commitments that may adversely affect the functioning or reputation of the Trust. At the same time, the COP considered

the need to ensure that such restrictions were reasonable, relevant and connected with the actual responsibilities of the office. Likewise, the recommendation relating to age restriction was not accepted without deliberation. The COP discussed the matter threadbare, taking into account the nature of the office, the responsibilities attached to it, the physical and administrative demands involved, the duration of the tenure and the desirability of ensuring that a person elected to the office remains reasonably capable of effectively discharging the duties throughout the entire term. The question was therefore examined not from the standpoint of any particular individual, but from the perspective of the continuing institutional needs of the Trust. The COP was conscious that eligibility conditions for elective office must have a rational and legitimate institutional basis. It accordingly considered whether the proposed age restriction had a reasonable nexus with the nature of the office and whether it was necessary to secure effective administration. The occlusions were not the product of haste or personal preference. The COP considered all the aspects of the matter carefully before arriving at its conclusions.

It is also significant that the recommendations concerned matters of institutional governance rather than the conferment of any personal benefit upon any individual. The COP was therefore required to approach them from the standpoint of the future functioning of the Trust. Questions relating to eligibility, conduct, affiliation, conflicts of interest and age cannot appropriately be viewed solely through the prism of the immediate election. They are matters which directly affect the

quality of leadership, institutional discipline, independence of office-holders and the effective discharge of constitutional responsibilities.

The COP, accordingly, was satisfied that the recommendations, after such detailed consideration, provided a reasonable and balanced framework for the forthcoming electoral process. Their acceptance represented the considered institutional judgment of the COP, reached after weighing their advantages and disadvantages and after examining their legal, practical and administrative implications.

The recommendations, once so considered and accepted, became part of the regulatory framework governing the election and cannot subsequently be questioned merely on the ground that some members may have preferred a different policy or may disagree with the wisdom of the decision.

Sensing that the contention that the Patrons had no power to impose age bar conditions was not workable, Mr. Kifayat Hussain Rizvi stated that even if conditions have been prescribed the course adopted was not proper, the conditions should have been properly framed and notified.

The objection proceeds on the premise that the condition prescribing the age limit was merely a stipulation and could not acquire legal efficacy unless promulgated properly. This contention, however, overlooks the actual course adopted in the present case and is, therefore, without merit.

The record demonstrates that a conscious and deliberate exercise was undertaken to frame the applicable rules for the 2026 elections. The matter was first of all considered by the

Central Executive Council of the Trust. It was resolved to make a recommendation to the COP. Accordingly the recommendation was sent by the President, ET to the Chairman, COP vide his Letter No. ETK/15/5443 dated 13-07-2026. This letter was examined by the Chairman and all its aspects were considered. Accordingly he convened a meeting of the Patrons to discuss the issue. A meeting of the Patrons was, in this behalf, held by the Patrons on 22-8-2026. The issue was thoroughly discussed by the Patrons in the said meeting and it was resolved to frame Additional Election Rules. Accordingly the rules were duly formulated and given a distinct legal identity under the title as:

'The Educational Trust Kashmir (Election to Central Executive Council) Additional Rules, 2026'.

Thus, the requirement in question forms part of a properly structured set of election rules and is not an isolated or casually introduced condition.

The objection that the rules were not properly notified is equally unsustainable. After being duly framed, these Additional Election Rules were brought to the notice of the life members through appropriate and reasonably effective modes of publication.

There is, therefore, no question of the rules having been kept secret or withheld from the members. The fact that various objections have been received against the Rule itself shows that that there is due publication of these conditions.

It is important to distinguish between the source and the mode of exercise of the rule-making power on the one hand and the form in which the rules are communicated on the other. What is

material in the present case is that the CEC duly made a recommendation, COP consciously exercised its power, framed additional election rules, assigned them a specific title and legal character, and thereafter duly disseminated them through various modes. The mere fact that the rules were not published in some particular form suggested by Mr. Rizvi does not, by itself, render them non-existent or legally ineffective, particularly when no prejudice arising from want of notice has been demonstrated.

Indeed, the objection appears to confuse "framing of a rule" with "mere prescription of a condition." The present case falls squarely in the former category. The age criterion was incorporated into a formally framed set of Additional Election Rules, 2026, and the conditions contained in the Rules were thereafter made known to the life members.

The contention, therefore, rests upon an incorrect factual premise as well as an erroneous understanding of the process actually followed. The record does not disclose an arbitrary, unilateral or informal imposition of an age condition; rather, it discloses a deliberate rule-making exercise followed by due and adequate notice. Once the Rules were duly framed and brought to the notice of the concerned persons, the requirement of fair and effective notice stood substantially and meaningfully satisfied.

Security deposit of Rs. 5,000/-

The representation next challenges the requirement of payment of Rs. 5,000/- as security deposit by a candidate.

This objection is equally without merit.

The requirement of a security deposit is expressly prescribed under the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018. These Rules derive their authority from Article 15 of the Constitution of the Trust, which specifically provides for the conduct of elections to the Central Executive Council in accordance with the Rules and Regulations framed for that purpose.

(Relevant portion of the Rules enclosed as Annexure – C)

Once the Rules prescribe the requirement of a security deposit as part of the election process, the same constitutes a binding condition of eligibility/participation and cannot be brushed aside merely because a particular candidate or aspirant finds the requirement inconvenient or objects to its operation.

It is also important to emphasise that the requirement is not being imposed selectively upon any particular candidate. It is a general rule applicable uniformly to all persons similarly situated. Its application, therefore, cannot legitimately be characterised as arbitrary, discriminatory or directed against any individual.

The mere fact that a person may disagree with the wisdom of prescribing a security deposit does not furnish a ground for refusing to comply with a validly framed electoral rule. A distinction must necessarily be drawn between challenging the validity of a rule in an appropriate manner and simply declining to comply with a rule because one does not agree with it. Until the rule is lawfully altered, rescinded or otherwise held inapplicable, it remains operative and binding.

It follows that the objection to the security deposit is devoid of merit and cannot be accepted. The requirement flows directly from the Election Rules framed under the authority of Article 15 of the Constitution of the Trust and must, therefore, be complied with by every candidate to whom the Rules apply.

Objection regarding cost of nomination form

The representation also challenges prescribing Rs 1,000/- as the cost of the nomination form on the ground that the office is honorary and the amount would discourage honest and well-meaning persons.

The Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018 expressly provide that a candidate desirous of contesting an election to any of the posts is required to fill up the prescribed form, and further stipulate that:

"The cost of the form may be such as may be fixed by the Patrons."

The language of the Rule is clear and admits of no ambiguity. The Rule expressly vests the Council of Patrons with the authority to determine the cost of the prescribed election form. The power exercised by the Patrons in fixing such cost is, therefore, not an extra-constitutional or independently assumed power; it flows directly from the Election Rules themselves.

Once the Rules have specifically authorised the Patrons to fix the cost of the form, the mere fact that a particular amount has subsequently been fixed cannot, by itself, furnish a ground for questioning its legality or applicability. The relevant consideration is whether the amount has been fixed pursuant to

the authority conferred by the Rule and is applicable uniformly to all candidates similarly situated.

It is significant that the Rule does not impose any fixed ceiling upon the amount which may be charged. On the contrary, it consciously leaves the determination of the cost to the Patrons. This necessarily implies that the authority competent to administer the election process may, from time to time, determine an appropriate cost having regard to the requirements and circumstances of the election.

The requirement is also general and non-discriminatory in its operation. Every candidate desirous of contesting the election is required to obtain and submit the prescribed form in accordance with the Rules. There is, therefore, no basis for suggesting that the requirement has been introduced to favour or exclude any particular candidate.

✓ It must further be appreciated that the Rules governing an election constitute the framework within which the electoral process is required to be conducted. A person who seeks to participate in that process cannot selectively accept those provisions which are favourable to him while questioning or disregarding those which impose corresponding obligations. The right to contest, where otherwise available under the Rules, carries with it the obligation to comply with the conditions prescribed by the same Rules.

7/ If the objector's grievance is directed against the quantum of the amount fixed by the Patrons, such grievance must necessarily be examined on the touchstone of the authority conferred by the Rule and the circumstances in which that

power has been exercised. A mere assertion that the amount is excessive, inconvenient or undesirable, without demonstrating that it is contrary to the Rules or that the power has been exercised arbitrarily, selectively or for an improper purpose, cannot invalidate the requirement.

The provision quoted above, therefore, furnishes a complete answer to the objection. The authority of the Patrons to prescribe the cost of the election form is expressly traceable to the Election Rules of 2018. Consequently, so long as the prescribed cost is fixed in exercise of that authority and is uniformly applicable, the objection to the very existence of such a charge is clearly unsustainable.

The plea is accordingly rejected as being contrary to the express language and scheme of the Election Rules.

It may be observed here that the right to contest an organisational election is necessarily subject to the Constitution and Rules governing that election. Once eligibility conditions are lawfully prescribed, every intending candidate has to satisfy those conditions.

The fact that a person may have been eligible under the rules applicable to an earlier election does not confer a vested right to insist that the same eligibility criteria must continue indefinitely.

Larger institutional interest

The Council of Patrons is entrusted with the responsibility of ensuring that the affairs of the Educational Trust Kashmir are conducted in accordance with its Constitution and the Rules.

The power to frame Election Rules cannot be exercised merely by reference to the convenience or preference of individual aspirants. The paramount consideration has to be the fair, orderly, transparent and effective functioning of the Trust and its Central Executive Council.

The Additional Rules, when considered as a whole, seek to ensure that persons occupying positions in the Central Executive Council have the requisite maturity, independence, commitment and eligibility and that the electoral process is not exposed to frivolous or unsuitable candidatures.

On an overall consideration of the matter, the Council finds that the objections raised in the representation are essentially based upon disagreement with the policy choices reflected in the Additional Rules rather than upon any demonstrated illegality, arbitrariness, discrimination or procedural impropriety.

It is well settled as a matter of principle that an authority competent to frame rules is entitled to determine appropriate eligibility criteria and procedural requirements in furtherance of the objects of the institution. Unless such provisions are shown to be manifestly arbitrary, discriminatory, impossible of compliance, contrary to the Constitution of the Trust, or otherwise legally impermissible, mere disagreement with the wisdom of the rule cannot constitute a ground for its withdrawal.

No such case has been made out in the present representations/objections.

Conclusion

For the reasons recorded above, the Council of Patrons/Election Authority is of the considered opinion that:

Prescribing the age limit of 45 to 75 years for the candidates in Election – 2026 is a legitimate and objectively ascertainable eligibility criterion and does not amount to an arbitrary exclusion of experienced persons;

the fact that the upper age limit in the previous election was 80 years does not confer any vested right to continuation of that limit;

the security deposit of Rs. 5,000/- is a regulatory requirement intended, *inter alia*, to ensure seriousness of candidature and is neither shown nor established to be excessive or prohibitive;

the nomination form cost of Rs. 1,000/- is a reasonable administrative/procedural charge and has no connection with the honorary character of the office;

the allegation that the impugned provisions were framed with an intention to exclude particular persons or discourage honest candidates is unsupported by any material;

the Additional Election Rules, 2026 are general in their application, prospective in operation and uniformly applicable to all prospective candidates; and

no sufficient ground has been demonstrated for holding the provisions regarding age to be arbitrary, unreasonable, discriminatory or otherwise contrary to the Constitution or Rules of the Trust.

Accordingly, the representation submitted by Dr. Ali Mohammad Bhat & others and the objections contained therein are hereby considered and rejected.

The Educational Trust Kashmir (Election to Central Executive Council) Additional Rules, 2026 shall remain operative in their present form and the forthcoming election shall be conducted strictly in accordance therewith and in accordance with the Educational Trust Kashmir (Election to Central Executive Council) Rules, 2018, to the extent applicable.

It is, however, clarified that nothing contained in this order shall prevent the Council of Patrons from considering any specific grievance of a candidate relating to the implementation or application of the Additional Rules in accordance with the prescribed election procedure.

Mr. Syed Mahmood Rizvi has concluded his note with a verse as under:

صادق ہوں اپنے قول کا غالب خدا گواہ

کہتا ہوں سچ کہ جھوٹ کی عادت نہیں مجھے

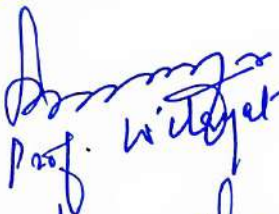
Muneer Niyazi's couplet can be cited in reply to the objections which is as under:

کسی کو اپنے عمل کا حساب کیا دے

سوال سارے غلط تھے جواب کیا دے

Given today on 13 of September, 2026 at ETK Head Office, Alamgiri Bazar, Zadibal, Srinagar.


Justice Anil Kumar
Chairman


Prof. Wajid Hussain Rizvi


Dr. Gh. Moud. Patra


Dr. Gh. Moud. Patra
CEO

No. ETK/15/5478
Dated:- 13/09/2026

**Council of Patrons
Educational Trust Kashmir /
Election Authority**

7. **MANNER OF ELECTION:-**

Annexure - A

Election for the posts referred to in Rule 6 shall be through secret ballot.

8. **QUALIFICATIONS:-**

- i)
 - a. Only a life member of the Trust can contest election for any of the aforementioned posts.
 - b. Only such persons shall be eligible to contest the election who do not hold any post in any Political / Religious / Social Organization at Block / Tehsil / District / State level nor should be member of any Political Organization as on 30-04-2018. This will be applicable for all other members constituting the CEC.
 - c. The age of the life member interested to contest election shall not exceed 70 years as on 01-06-2018 (Date of Birth certificate is to be enclosed with the nomination form .)
 - d. Minimum education qualification for the life member interested to contest election should be Graduate however this condition shall not be applicable nominated members for the CEC .
 - ii) For the post of President ,General Secretary and Chief Organizer in addition to the above qualification the candidate must have remained as life member of the Trust at least for 15 years and must have held any position in the CEC at least for two terms for the post of President and one term for the position of General Secretary and Chief Organizer.
9. A person whose membership has been cancelled or suspended cannot contest election for any of the Posts.
 10. A person can contest election for one post only and security deposit shall be Rs. 1000.00
 11. Security deposit may be returned to the candidate after the Election but such deposit of a candidate who secures less than 10% of votes casted shall be forfeited.
 12. A candidate desirous of contesting election for any of the post shall have to fill up a form as prescribed by the Council of Patrons which shall be available from the Head Office of the Trust . The cost of the forms shall be Rs. 500/-
 13. A person who intends to contest election for any of the posts shall be proposed at least by 5 life members and seconded by at least 10 life members . All such members shall affix their signature on the form (proposer should propose one person only for one particular post) .
 14. On the completion of the term Central Executive Council through President of the Trust shall make a formal request to the Council of Patrons to conduct the elections for Constituting new Central Executive Council.
 15. On the receipt of such request the Council of Patrons shall start the process of election and complete the same within a period of 45 days .

Educational Trust, Kashmir

Committee for making suggestions regarding amendments in the Constitution of the Trust

Subject: Amendments/changes in the Constitution

Annexure - B.

Report

Dated: 29-9-2018

This Committee has been constituted under Art. 20 of the Trust vide Order No: ETK/148/2018 dated 5-7-2018 to 'thoroughly examine the constitution of the Trust as it stands today and to file their comprehensive recommendatory opinion/advice for addendums/amendments/changes as are required in the constitution of the ETK'.

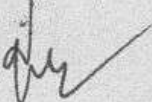
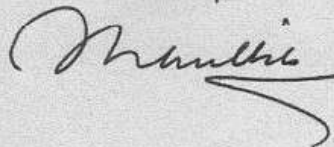
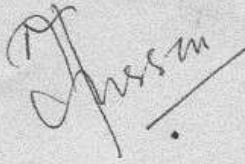
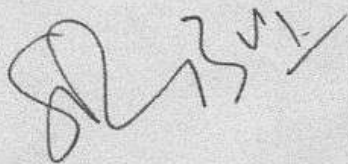
In this behalf the Committee met several times to examine the issue. The Committee considered the provisions of the present Constitution made in the year 2011 and examined it in light of the provisions contained in the previous Constitutions of the Trust made in the year 1995 and 2006.

The members unanimously resolved that instead of making changes in various provisions of the present Constitution, the whole Constitution needs a redrafting to meet the aspirations of the learned members of the Trust.

Accordingly an extensive exercise was made to go through the provisions of the Constitution and to make certain important changes in the same where ever required.

While redrafting the Constitution the Committee has made the present Constitution of the Trust made in the Year 2011 as the basis for the same. Almost all the important provisions have been retained and changes have been made only where it were found necessary.

Major changes have been made in the Aims & Objectives clause. Since the present Aims & Objectives were incorporated in the Constitution about 50 years back, the committee felt it proper to revise these and add to it some more important objectives in order to make this clause more comprehensive. This became one of the main reasons to redraft the Constitution instead of making additions to the present Constitution. In order to achieve the new objectives incorporated in the draft Constitutions, other provisions required necessary and resultant changes to make these more effective.

- A candidate must not be an Office Bearer of any other Organization;
- A candidate must not be a paid employee of the Trust. However an employee of the Trust may validly contest the election if he resigns from his post before filling up the form and such resignation is duly accepted;
- For the post of President, in addition to the above qualifications the candidate must have remained, as life member of the Trust for more than Ten(10) years and must have held at least one post in the Central Executive Council or any Committee or Convener of any Imamia Public School for a period not less than two years.
- Besides other qualifications a candidate for the post of President and General Secretary shall be well educated and experienced persons .
- A person whose membership has been cancelled or suspended cannot contest election for any of the posts.
- A person can contest election for only one post.
- Election deposits for the various posts shall be as under:-
 President : Rs. 5000/-
 Other Posts : Rs. 3000/- → Annexure - C
- Election deposits may be returned to the candidate after the elections but such deposits of a candidate who secures less than 10% of votes shall be forfeited.
- a. A candidate desirous of contesting an election of the posts shall have to fill up a form as prescribed by the Council of Patrons which shall be available from the office of the Trust.
- The cost of the form may be such as may be fixed by the Patrons.
- A person who intends to contest election for any of the posts shall be proposed by at least one life member and may be seconded by at least one life member. All such members shall affix their signature on the form.
- Three months before the completion of the term of a Central Executive Council, the President of the Trust shall make a formal request to the Chairman of the Council of the Patrons intimating him the date on which the term of the Council expires and request him to conduct the elections for the Council.
- On receipt of such request the Patrons shall start the process of election and complete the same on or before the completion of the term of the Central Executive Council.