

The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ORISSA ACT 015 OF 1969

ORISSA EDUCATION ACT, 1969.

An Act to Provide for the Better Organization and Development of Educational Institutions in the State.

Be it enacted by the Legislature of the State of Orissa in the Twentieth Year of the Republic of India, as follows:-

1. For Statement of Objects and Reasons, see Orissa Gazette, extraordinary, dated the 1st July, 1968 (No. 722) and for Report of the Select Committee, see ibid dated the 26th February, 1969 (No. 550).

* [Received the assent of the Vice-President acting as President on the 28th May, 1969, first published in an extraordinary issue of the Orissa Gazette dated the 21st June, 1969]

Chapter-I - Preliminary

CHAPTER I

Preliminary

1. Short title, extent and commencement.- (1) This Act may be called the Orissa Education Act, 1969.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may, by Notification, appoint in that behalf.

2. Came into force w.e.f. 15th October, 1969-vide Education Department Notification No. VEMG-205/68-24757, dated the 15th October, 1969, published in the Orissa Gazette, dated the 31st October, 1969, Pt. III, p. 981. (57-73(a) Law).

2. Act not to apply to certain institutions.- Nothing contained in this Act shall apply to educational institutions of their choice established and administered by minorities having the right under clause (1) of Article 30 of the Constitution.

3. Definitions.- In this Act unless the context otherwise requires-

- (a) "Advisory Council" means the State Advisory Council of Education established under section 15;
- (b) "aided educational institution" means a private educational institution which is recognised by and is receiving and from the State Government;
- (c) "Board" means the District School Board established under section 16;
- ¹(c-1) "Director" means the Director of Public Instruction, Orissa and includes any other officer not below the rank of a Deputy Director of Public Instruction who may be authorised by the State Government, from time to time, by general or special order to perform all or any of the functions and exercise all or any of the powers of the Director under this Act and as the State Government may by notification specify in that behalf;]
- (d) "educational agency" means any person or body of persons permitted to establish and maintain any private educational institution;
- (e) "educational institution" means any college or School, other than an institution for technical education not under the control of the Education Department of the State Government, and includes the lands, buildings, playgrounds and hostels of the college or school and the movable properties, maps and equipments pertaining thereto;
- (f) "existing educational institution" means any aided, recognised or Government educational institution established before the commencement of this Act and continuing as such at such commencement;
- (g) "governing body" means any body of individuals, by whatever name designated, in which the management of a college vests;
- (h) "managing committee" means any body of individuals, by whatever name designated, in which the management of a school vests;
- (i) "prescribed" means prescribed to rules made under this Act;
- (j) "private educational institution" means any educational institution which is not established and maintained by the Government of Orissa, the Union Government or the Government of any other State;
- (k) "recognised educational institution" means any private educational institution which is or has been recognised by the State Government; and
- (l) "Rules" means rules made under this Act;
- 1[(m) "Tribunal" means the Tribunal constituted under Section 24-A.]

1. Inserted by the Orissa Education (Second Amendment) Act, 1978 (Or, Act 31 of 1978), s. 2.

1. Added by the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974), s. 2.

Chapter-II - Establishment, management and control of educational institutions

CHAPTER II

Establishment, management and control of educational institutions

4. Establishment and recognition of educational institution.- (1) The State Government may regulate the primary and other stages of education in Government and private educational institutions.

(2) The State Government shall take, from time to time, such steps as they may consider necessary or expedient, for the purpose of providing facilities for general education, special education and for the training of teachers.

(3) The State Government may, for the purpose of providing such facilities-

- (a) establish and maintain educational institution; or
- (b) permit any person or body of persons to establish and maintain aided educational institution; or;
- (c) recognise any educational institution established and maintained by any person or body of persons.

(4) All existing educational institutions shall be deemed to have been established in accordance with this Act.

(5) After the commencement of this Act, the establishment of any private educational institution shall be subject to the provisions of this Act and the Rules made thereunder and any such educational institution established otherwise than in accordance with such provisions shall not be entitled to be recognised by the State Government.

(6) The recognition shall be accorded by the prescribed authority on behalf of the State Government.

5. Application for recognition.- (1) Any person or body of persons desirous of establishing any private educational institution may, within the prescribed period and in the manner prescribed, make an application to the prescribed authority for according recognition thereto.

(2) While according recognition under sub-section (1) to the establishment of a private educational institution the prescribed authority shall have regard to the following matter, namely:-

- (a) that there is adequate financial provision as may be prescribed for its continued and efficient maintenance;
- (b) that provision for suitable and adequate accommodation-staff and equipment has been made;

- (c) that the institution is proposed to be located in sanitary and healthy surroundings; and
- (d) such other matters as may be prescribed.

(3) Any applicant aggrieved by an order of the prescribed authority refusing to accord recognition may, in such manner and within such time as may be prescribed, refer the matter to the State Government whose decision thereon shall be final.

6. Effect of non-recognition.- Notwithstanding anything to the contrary contained in any other law for the time being in force no private educational institution which has not been recognised by the State Government under this Act shall be entitled-

- (a) to be recognised by the Board of Secondary Education constituted under the Orissa Secondary Education Act, 1952, (Orissa Act 10 of 1953) or, as the case may be, to be affiliated to any University established under any law; or
- (b) to receive any aid from the State Government.

7. Institutions to have managing committee or governing body.-

(1) Every private educational institution shall have a managing committee or governing body, as the case may be, constituted in accordance with the rules made in that behalf, failing which the recognition granted to the institution may be withdrawn by the State Government.

(2) A managing committee or governing body constituted after the commencement of this Act in respect of any aided educational institution shall before it starts functioning cases such, obtain the approval of the prescribed authority in the prescribed manner:

Provided that where the prescribed authority refuses to accord the approval as aforesaid he shall record the reason for doing so and any person aggrieved by an order refusing to record approval may, within one month from the date of the order prefer an appeal before the State Government.

(3) The managing committee or governing body shall be responsible for the proper management of the institution and shall exercise such powers and perform such functions as may be prescribed.

8. Management to send list of properties.- (1) Within the first week of June every year the managing committee or as the case may be, the governing body of every aided educational institution shall furnish to such officer as may be authorised by the State Government in that behalf a statement containing a list of all movable and immovable properties of the institution with such particulars as may be prescribed.

(2) If the managing committee or governing body commits default in furnishing the statement under sub-section (1) or furnishes a statement which

is false or incorrect in any material particular the State Government may withhold the grant of and for such period not exceeding three months, as they deem fit.

(3) The Secretary of an aided educational institution shall perform such functions as may be prescribed.

9. Restriction on alienation of property of aided institutions.- (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no sale, mortgage, lease, pledge, charge or transfer of possession in respect of any property of an aided educational institution shall be created or made except with the previous permission in writing of such officer as may be authorised by the State Government in this behalf. The officer shall grant such permission applied for unless the grant of such permission will, in his opinion, adversely affect the working of the institution.

(2) Any person aggrieved by an order of the officer refusing or granting permission under sub-section (1) may, in such manner and within such time as may be prescribed, appeal to the State Government.

(3) Any transaction made in contravention of sub-section (1) shall be null and void.

(4) If any educational agency or the managing committee or the governing body or the Secretary of an aided educational institution acts in contravention of sub-section (1) or of an order passed under sub-section (2), the State Government may withhold the grant of aid.

10. Conditions of service of the staff of aided institutions.- (1) The qualifications required for appointment as teachers and other members of the staff of aided educational institutions and their conditions of service relating to salary, leave, pension, provident fund, age of retirement, disciplinary action and other matters shall be as may be prescribed:

1[Provided that the terms and conditions of service prescribed in respect of teachers and other members of the staff who, on the constitution of a common cadre, have been, absorbed in such cadre, shall not in any way be less favorable than the terms and conditions which were applicable to them immediately prior to such constitution.]

(2) The State Government may constitute a Selection Board consisting of such members as may be prescribed.

(3) The Selection Board shall prepare in the prescribed manner a list of candidates for appointment as teachers in aided educational institutions and all such appointments shall be made in accordance with the rules made in that behalf from out of the candidates included in the list so prepared.

1. Added by the Orissa Education (Amendment) Act, 1978 (Or. Act 13 of 1978), s. 2.

²[10-A. Services of teachers of aided institutions not to be terminated without approval.- (1) The services of a teacher of an aided educational institution shall not be terminated without obtaining the prior approval in writing of the-

(a) ³[Director], in the case of a teacher of a college; and

(b) Circle Inspector of Schools having jurisdiction, in the case of teacher of a School.

(2) Every order passed by the Director or Circle Inspector, as the case may be, either according approval or refusing to accord approval under sub-section (1) shall be communicated to the parties concerned within three months of the reference.

(3) Any person aggrieved by an order passed under sub-section (1) may prefer an appeal to the Tribunal within one month from the date of receipt of the order.]

⁴[10-B. Certain institutions not entitled to aid.- Without prejudice to any other provision of this Act, no educational institution shall be entitled to receive any aid or grant from the State Government if its managing committee or Governing Body or Secretary acts in contravention of the provisions of sections 10-C and 10-D or of any order issued thereunder and the recognition granted to the educational institution may, on such contravention, be withdrawn by the State Government.

10-C. Constitution of common cadre and its consequences.- (1) The State Government may, by order, constitute a common cadre in relation to all or any class of employees of all or any category of aided educational institutions, as may be specified in the order.

(2) Before constitution of a common cadre under sub-section (1), the Director in cases of Colleges, and the Inspector of Schools having jurisdiction, in cases of schools, shall furnish detailed information relating to the terms and conditions of service prescribed for such cadre to every employee belonging to that cadre with a notice requiring him to exercise his option within such period, not being less than thirty days and more than forty-five days, as may be specified therein, for absorption or otherwise in such cadre.

(3) The option shall be exercised in writing and shall be filed with the Director or the Inspector of Schools, as the case may be.

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1. Inserted by the Orissa Education (Amendment) Act, 1978 (Or. Act 13 of 1978), s. 3.
 2. Inserted by the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974), s. 3.
 3. Substituted by the Orissa Education (second Amendment) Act, 197 (Or. Act 31 of 1978), s. 3.

(4) Any employee who fails to exercise his option within the aforesaid period shall be deemed to have opted for being absorbed in the common cadre.

(5) Where an employee of an educational institution exercises his option for not being absorbed in the common cadre, the managing committee or, as the case may be, the governing body of the institution shall terminate the services of such employee within Felten days from the date of receipt of an intimation to that effect from the Director or, as the case may be, the Inspector of Schools; and the provisions of section 10-A shall not apply to any such termination.

(6) An employee belonging to a common cadre may be transferred from one institution to another by the prescribed authority and in the prescribed manner.

(7) Whenever an employee belonging to a common cadre is posted or transferred to an institution, the managing committee or, as the case may be, the governing body of that institution shall be bound to employ him in the service of the institution and to pay all amounts due to such employee on account of his pay, allowances and other dues from out of its fund or from the aid received, directly or otherwise, from the State Government, and he shall be deemed to be an employee of such institution for all purposes.

(8) Where the services of any person have been terminated under sub-section (5), he shall, without prejudice to his claims to any leave, provident fund, gratuity or other benefits, if any, as an employee of an aided educational institution to which he may be entitled on his retirement or termination of service had he common cadre not been constituted, be paid by the managing committee, or as the case may be, the governing body of the aided educational institution in which he last served, an amount determined in the following manner:-

1. In case of a permanent employee- Amount to be paid

(a) where the continuous service rendered by him by the date of termination exceeds ten years. Pay for the remaining period of service or for six months, whichever is less;

(b) Where such service does not exceed ten years. Pay for the remaining period of service or for three months, whichever is less;

2. In the case of a temporary employee. Pay for one month.

Explanation:- For the purposes of this sub-section, "Pay" shall include dearness allowance and other ad-hoc additions to pay by way of interim relief that may be admissible.

(9) For the purposes of calculating gratuity, if any, payable to any permanent employee whose services have been terminated under sub-section (5), the period of qualifying service of such employee shall be increased by the period

calculated on the basis provided hereunder:-

Period to be added

- (i) Where the period of actual qualifying service does not exceed five years. One year
- (ii) Where such period exceeds five years but does not exceed ten years. Two years
- (iii) Where such period exceeds ten years but does not exceed fifteen years. Three years
- (iv) Where such period exceeds fifteen years. Four years.

10-D. Government's power to issue orders during the period of transition.- The State Government may, if satisfied that the expediency of the circumstances so requires, by general or special order, provide for any matter necessary, ancillary or incidental to the constitution and working of the common cadre for which this Act makes no provision or makes insufficient provision:

Provided that no such order shall be issued after expiry of two years from the date of constitution of the said common cadre.]

11. Supersession and reconstitution of managing committee or governing body.- (1) without prejudice to the provisions contained in any other law for the time being in force, whenever it appears to the [1Director] that the managing committee or, as the case may be, the governing body of any educational institution has neglected or failed to perform any of the duties imposed by or under this Act or the rules made thereunder he may after giving the managing committee or governing body a reasonable opportunity for showing cause against the proposed action and after considering the cause if any shown, supersede the managing committee or the governing body:

2[Provided that where the tenure of the managing committee or, as the case may be, the governing body of an aided educational institution has expired and the constitution of the succeeding managing committee or governing body has not been approved by the prescribed authority, the Director may re-constitute the Managing Committee or governing body after consultation with such persons or authorities as he may deem necessary; and the managing committee or governing body so reconstituted shall manage the institution till the date on which the constitution of the succeeding managing committee or governing body is duly approved by the prescribed authority.]

(2) Upon supersession of the managing committee or the governing body, as the case may be, the 3[Director] shall, as soon as possible thereafter, recon-

1. Substituted by the Orissa Education (Second Amendment) Act, 1978 (Or. Act 31 of 1978), s. (a)(i).
2. Added by *ibid.*, s. 4(a)(ii), with effect from the 11th November, 1974.
3. Substituted by *ibid.* s. 4(c).