
Assam Madrassa Education (Provincialisation) Act, 1995**27 of 1995****[27 October 1995]****CONTENTS**

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Assam Madrassa Education (Provincialisation) Act, 1995**27 of 1995****[27 October 1995]**

An Act to provide for provincialisation of Madrassas in the State of Assam. Whereas it is expedient to provide for provincialisation of Madrassa Education covered by the deficit Scheme of grants-in-aid of the Government of Assam for its improvement and for better management and control of such Education in the State of Assam. It is hereby enacted in the Forty-sixth Year of the Republic of India as follows- **STATEMENT OF OBJECT AND REASON** The object of the Bill is to provincialise the services of 1418 teachers and supporting staff of different categories now employed in 74 Nos. of Senior Madrassas, Title Madrassas and Arabic Colleges imparting instructions at the Secondary level. These institutions are covered so long by the deficit system of grant in aid. Under this Bill better administration, management and control of the specified teachers and supporting staff of the recognised Senior Madrassas, Title Madrassas and Arabic Colleges are aimed at for the purpose of improving standard of education in these institutions. Accordingly, it is proposed to provide for provincialisation of 74 Senior

Madrassas, Title Madrassas and Arabic Colleges including the teachers and supporting staff numbering 1418. Provision has been kept for provincialisation of such institutions in the future as well. Hence the Bill. 1. Published in the Assam Gazette, Extraordinary No. 233, dated the 30-10-1995.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Assam Madrassa Education (Provincialisation) Act, 1995.

(2) It extends to the whole of Assam.

(3) It shall be deemed to have come into force on the fifteenth day of August, 1994.

2. Definition :-

In this Act, unless context otherwise requires-

(a) "appointed day" in relation to the provisions of Section 3 means the fifteenth day of August, 1994 and in relation to Section 7, the date from which the services of the employees of an eligible institution are provincialised under the provisions of this Act;

(b) "Arabic College" means an institution imparting Madrassa Education upto Mumtazul Muhaddisin (M.M.) Level;

(c) "deficit Madrassa" means a Madrassa receiving grants from the Government under the deficit scheme of grants-in-aid;

(d) "Deputy Director of Madrassa Education" means in relation to any Madrassa institution like Senior Madrassa, Title Madrassa and Arabic College, the Deputy Director of Madrassa Education under the Government of Assam, under whose jurisdiction the Madrassa is situated;

(e) "Employee" means a person in the teaching or non-teaching employment of a Madrassa working against a regularly sanctioned post as per standard staffing pattern and whose appointment has been approved by the Deputy Director of Madrassa Education, Assam;

(f) "existing employee" means an employee who is on the appointed day in the regular pay roll, employed against regular sanction as per standard staffing pattern and whose appointment has been approved by the Deputy Director of Madrassa Education, Assam;

(g) "Governing Body" in relation to any Title Madrassa or Arabic College means the Governing Body as constituted by the Government for the Title Madrassa or Arabic College, as the case

may be;

(h) "Government" means the Government of Assam;

(i) "Madrassa" means a Senior Madrassa or a Title Madrassa or an Arabic College;

(j) "Madrassa Authority" means the Assam State Madrassa Education Board;

(k) "Madrassa Education" means a system of education in which instruction is imparted in Arabic, Persian, Urdu, Quran, Tafsir, Hadith, Figh, Usul, Aqid, Montique, Hikmat, Islamic History along with general subjects like Mathematics, Science, Indian Language, English, Hindi, Social Studies, etc. at Secondary School level, the syllabi, curriculum and examination for which are regulated by the Assam State Madrassa Education Board upto the level of Fajil-E-Marif (F.M.) and Mumtazul Muhaddisin (M.M.);

(l) "Managing Committee" in relation to any Senior Madrassa means the Managing Committee as constituted by the Government;

(m) "Official Gazette" means the Official Gazette of the Government of Assam, namely the Assam Gazette;

(n) "Prescribed" means prescribed by rules made under this Act;

(o) "Provincialisation" means taking over the liabilities for payment of salaries including dearness allowances, medical relief and such other allowances as admissible to the Government servants of similar category and gratuity, pension, leave encashment etc. as admissible, under the existing rules, to the Government servants serving under the Government of Assam;

(p) "Senior Madrassa" means an institution imparting Madrassa Education from Pre-senior Class I to Fazil-E-Marif (F.M.) final class stage (Graduate level); and

(q) "Title Madrassa" means an institution imparting Madrassa Education at Mumtazul Muhaddisin (M.M.) level (Post Graduate level).

3. Employees To Be Government Servants :-

Subject to the provision of Article 309 of the Constitution of India, all employees of Madrassa, now covered by deficit scheme of grants-in-aid under the Government of Assam shall be deemed to have become the employees of the Government on and from the appointed day on the following terms and conditions, namely-

(a) all rules including service rules and rules of conduct and discipline, which are applicable to the Government servants of corresponding grade, similarly placed shall be applicable to

employees of the Madrassa;

(b) all employees shall be entitled to such emoluments as salary and allowance etc. as admissible to them :

Provided that no employee shall get as emoluments any amount which is less than the amount he was getting immediately before the appointed day;

(c) Services of all employees shall be encadred in appropriate cadres in accordance with the rules as may be prescribed by the Government for this purpose;

(d) The inter-se-seniority of the employees of a cadre or class shall be determined on the basis of the rule as may be prescribed by the Government.

4. Superannuation And Pension Etc :-

(1) Notwithstanding anything contained in the proceeding section, all employees other than IV employees of Madrassa, coming within the purview of this Act shall, on attaining the age of 58 years, go on superannuation, and the Grade IV employees shall go on superannuation on attaining the age of 60 years.

(2) All employees going on superannuation under sub-section (1) shall be eligible to pension or gratuity or both in accordance with the pension rules, applicable to the Government servants of equivalent rank subject, however, to the condition that for the pensionary benefits of the employees whose service are provincialised under the provisions of this Act, the services of any such employees shall be counted-

(a) in case such employee has joined the Madrassa subsequent to the date of this Madrassa receiving the grant under ad-hoc system of grants-in-aid, from the date of his joining the service on regular appointment in the Madrassa receiving grant under ad-hoc system of grant-in-aid; or

(b) in case such employee had joined the Madrassa on regular appointment prior to the Madrassa receiving grant under the ad-hoc system grants-in-aid, from the date of this Madrassa receiving grant under ad-hoc system of grants-in-aid.

(3) Any existing employee other than the Grade IV employee, who does not intend to go on superannuation on attaining the age of 58 years shall have the option to continue upto the completion of the age of 60 years under the same terms and conditions, which were applicable to him immediately before the date of provincialisation, in which case he shall not be entitled to any pension or gratuity or

leave encashment.

Such existing employee other than a grade IV employee, who does not intend to go on superannuation on attaining the age of 58 year but wants to continue till the completion of 60 years shall intimate the same in writing to the Deputy Director of Madrassa Education, Assam within a period-

(a) which shall be three month from the date of publication of this Act in the Official Gazette in case of any institution whose employees services are provincialised with effect from the fifteenth day of August, 1994 as per the provision of Section 3;

(b) which shall be 3 months from the date of provincialisation in case of any institution, whose employees services are provincialised under the provision of Section 7 :

Provided that in the absence of any such intimation in writing, every existing employee, other than the Grade IV employee shall be deemed to have opted for going on superannuation on attaining the age of 58 years.

5. Government To Take Over Madrassa And Employees Thereof :-

(1) With effect from the appointed day the administration, management and control of all employees of all Madrassa the services of whose employees are provincialised under the provisions of Section 3 or Section 7, as the case may be, shall vest in the Government and the Managing Committee or Governing Body, as the case may be, of such Madrassa shall exercise such functions as may be specified by the Government or under the rules made under this Act, until such Managing Committee or the Governing Body, as the case may be, is either reconstituted or replaced under the rules prescribed.

(2) The selection for recruitment to any post teaching or non-teaching, in a Madrassa except the post of Superintendent of a Senior Madrassa and Principal of a Title Madrassa or an Arabic College shall be made by a Selection Board, which shall be constituted by the President of the Managing Committee of the Governing Body, as the case may be, of the Madrassa for each such Madrassa stated below-

(i) President of the Managing Committee of the Senior Madrassa or the President of the Governing Body of the Title Madrassa or the Arabic College, as the case may be- Chairman

(ii) Superintendent of the Senior Madrassa or the Principal of the

Title Madrassa or the Arabic College, as the case may be- Member Secretary

(iii) Two academicians to be selected by the Managing Committee of the Senior Madrassa from outside the Managing Committee or Governing Body of the Title Madrassa or the Arabic College from outside the Governing Body as the case may be- Member

(iv) Two members selected by the Managing Committee of the Senior Madrassa from the Managing Committee or selected by the Governing Body of the Title Madrassa or the Arabic College from the Governing Body, as the case may be- Members

(v) One representative to be nominated by the Deputy Director of Madrassa Education, Assam- Member.

(3) The selection for appointment to the post of Superintendent of the Senior Madrassa or Principal of a Title Madrassa or Principal of an Arabic College shall be made by a State Selection Board which shall be constituted by the Government as stated below-

(i) Chairman, State Madrassa Education Board, Assam- Chairman

(ii) Deputy Director of Madrassa Education, Assam- Member-Secretary

(iii) One expert from the theological subject, to be nominated by the Deputy Director of Madrassa Education, Assam- Member

(iv) One expert from the secular subject, to be nominated by the Deputy Director of Madrassa Education, Assam- Member

(v) Senior-most Superintendent amongst the Superintendents of Senior Madrassas in the State/Senior-most Principal amongst the Principals of Title Madrassas in the State.

Senior most Principal amongst the Principals of Arabic College in the State, as the case may be, to be nominated by the Deputy Director of Madrassa Education, Assam- Member

(vi) Two members from the State Madrassa Education Board, Assam to be selected by it. Member

6. Salt And Proceeding :-

No suit, prosecution or other legal proceeding shall lie for anything done in good faith under this Act, except with the previous sanction of the Government.

7. Provincialisation Of New Madrassa :-

The Government may, by notification published in the Official Gazette, provincialise on the same terms and conditions as provided in clauses (a) to (d) of sub-section (1) of Section 3 and

Section 4, the services of the employees of the Madrassa institutions which may be recognised after this Act, has come into force.

8. Power To Make Rules :-

- (i) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act;
- (ii) Every rule made under this Section shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Assam Legislative Assembly agree that the rule should not be made the rules shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. Power Of Interpretation And Removal Of Difficulties :-

- (1) If any difficulty arises in interpretation of any provisions of this Act, the interpretation of the Government shall be final.
- (2) If any difficulty arises in giving effect to the provisions of this Act, the Governor may, by order do anything not inconsistent with the provisions of this Act, which appear to him to be necessary or expedient for the purpose of removing the difficulty.
- (3) Every order made under sub-section (2) shall be laid before the Assam Legislative Assembly in manner laid down in sub-section (2) of Section 8.

10. Vesting Of Land, Building And Other Properties :-

The land, buildings or any other property owned by any Senior Madrassa, Title Madrassa or Arabic College, whose employees services are provincialised as per the provisions of this Act shall continue to be owned by the respective Senior Madrassa, Title Madrassa or Arabic College after such provincialisation.