

**Assam Non-Government Educational Institutions
(Regulation And Management) Act, 2006**

4 of 2007

[19 January 2007]

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Assam Non-Government Educational Institutions (Regulation And Management) Act, 2006

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An Act to regulate the establishment and management of non-government educational institutions in the State of Assam. Whereas it is expedient to regulate the establishment and management of non-government educational institutions in the State of Assam and for matters connected therewith or incidental thereto. It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows--

STATEMENT OF OBJECTS OF REASONS The un-planned and mushroom growth of non-government educational institutions at Primary, Secondary and Higher Secondary levels in the urban and semi-urban areas of the State have necessitated to make law to regulate the establishment and management of all the non-government educational institutions ie. educational institutions established and run by individual, association of individual society or Trust at primary, Secondary & H.S. level without receiving any grants-in-aid or financial assistance from the Government. It is observed that there is an increasing trend for commercialization of education and many educational institutions have been established with the sole motive of earning profit with scant regards to the standard norms of land, building, class-rooms, furniture, library and laboratory facilities, fire safety measures, play ground etc. The teaching and non-teaching staffs are paid meager salary and their services are terminated or dismissed on false grounds without giving reasonable opportunity to defend themselves. The state government at times have to remain a silent spectator in spite of large scale resentments expressed by the public. As such, it is expedient to provide for law to regulate the establishment & management of all the non-government educational institutions functioning in the State & those to be established in future. The Bill seeks to achieve the aforesaid objects fully. Hence this bill.

1. Published in the Assam Gazette Extraordinary No. 19, dated 20th January, 2007.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Assam Non-Government Educational

Institutions (Regulation and Management) Act, 2006.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Section 2 :-

In this Act, unless the context otherwise requires,--

(a) "Director" means the Director of Secondary Education, Assam in respect of Secondary and Higher Secondary level of education and Director of Elementary Education, Assam in respect of Primary and Middle level of Education;

(b) "employee" means the teaching and non-teaching staff of non-government educational institutions;

(c) "existing non-government educational institutions" means existing non-government educational institutions which are in existence on the date of commencement of this Act;

(d) "Higher Secondary level of education" means education imparted from class XI. to XII;

(e) "Managing Committee" means committee constituted under section 12 to perform the duties and functions entrusted to it under the provisions of this Act; which term shall also include the governing bodies of the junior colleges;

(f) "Middle level of education" means education imparted from Class V to VII;

(g) "non-government educational institutions" means schools or junior colleges established and run by an individual or association of individuals or any Non-Government Organisation or society or trust, except the schools established and maintained by minorities under clause (1) of Article 30 of the Constitution of India and imparting education at Primary, Middle, Secondary and Higher Secondary Level without receiving any grants-in-aid from the State Government excluding the educational institutions run or aided by the Central Government or the State Government; The word "institution" wherever it occurs in the Act shall be construed accordingly;

(h) "permission" means accorded by the Director as required under section 4;

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

(j) "Primary level of education" means education imparted from class I to IV;

(k) "Secondary level of education" means education imparted from

class VIII to X;

(l) "State Government" means the Government of Assam.

3. Power Of The State Government To Regulate Non-Government Educational Institutions :-

(1) The State Government may regulate all the non-government educational institutions in the State of Assam in accordance with the provisions of this Act and the rules made thereunder.

(2) On and from the commencement of this Act, the establishment of non-government educational institutions or the opening of a higher class or the closing down of an existing class in any existing non-government educational institution in the State, shall be subject to the provisions of this Act and the rules made thereunder and any non-government educational institution or any higher class established or opened otherwise than in accordance with the provisions of this Act shall not be recognized under section 5 by the Director and shall be closed down under Section 24.

4. Prior Permission For Establishment Of Non-Government Educational Institutions And Registration :-

(1) Any individual, association of individuals, Non-Government Organization, society or trust intending to establish and run a non-government educational institution and on given an undertaking to fulfill the requirements as laid down under section 10, may submit an application before the Director in such form containing such particulars and information as may be prescribed, for obtaining, prior permission for establishment and running of such institution. The undertaking shall be the part and parcel of the application form and shall be prescribed.

(2) On receipt of the application, the Director, after consideration the particulars and information contained in the application under sub-section(1) and after making such enquiry as he may deem necessary, may, either grant or refuse to grant prior permission to the applicant for opening a non-government educational institution :

Provided that the Director may refuse to grant permission if he is of the opinion that the particulars and information furnished in the application do not fulfill the requirement as laid down in the Act and rules made thereunder for reasons to be recorded in writing.

(3) On refusal to grant permission under sub-section (2), the Director shall communicate the same to the applicant stating the

reason therefor.

(4) In the event of refusal to grant permission under sub-section (2), the aggrieved individual, association of individuals, Non-Government Organization, society or trust, may prefer an appeal before the State Government whose decision thereon shall be final.

(5) The permission granted under sub-section (2) shall remain valid for a period of two years within which the applicant shall establish the institution and register the same before the Director.

(6) If for any reasons which the Director considers to be genuine after an application being made in this behalf by the applicant who has failed to establish the institution within the stipulated period of two years, the Director may grant extension of the time for a further period which shall not exceed one year in all, within which the applicant shall establish and register the institution.

5. Administrative Recognition :-

(1) After establishment and registration of the non-government educational institution under sub-section (5) of section (5) of section 4, the Authority shall make an application on payment of such fee and in the form and manner as may be prescribed before the Director for obtaining administrative recognition in respect of the institution.

(2) On receipt of the application for administrative recognition, the Director shall make or cause to be made such enquiry as may be considered necessary to ascertain as to whether the requirements as laid down under the Act and the rules made thereunder have been fulfilled or not and whether the School Authority has acted in accordance with the stipulations made in the undertaking referred to in section 4 or not and submit a report to the Administrative Recognition Committee constituted under section 7.

(3) The Administrative Recognition Committee, after considering the report and after examining such other information as may be considered necessary, may make recommendation in respect of the non-government educational institution for its administrative recognition by the Director.

(4) If the Administrative Recognition Committee is of the view that the School Authority of an institution has failed to fulfil the requirements as laid down in the Act or the rules framed thereunder or any stipulations in the undertaking as referred to in Section 4, no recognition shall be made to the institution for reasons to be recorded in writing.

(5) The Director shall issue order granting administrative recognition or refusing to grant such recognition to an applicant in accordance with the recommendation of the Administrative Recognition Committee.

(6) Any applicant, to whom the administrative recognition is refused may prefer an appeal before the State Government whose decision thereon shall be final.

(7) Any Transfer Certificates issued by the institutions which have not received administrative recognition under this section shall not be countersigned by the concerned authority of the Education Department of the State Government.

6. Registration And Administrative Recognition Of Existing Non-Government Education :-

(1) The existing non-government educational institutions shall submit application for registration of their institutions before the Director furnishing the full particulars and information and on payment of such fees as may be prescribed relating to the institution sought to be registered and shall also furnish the copies of Government permission or recognition, if any, previously obtained before academic recognition from the respective Board or Council as the case may be, within six months from the date of commencement of this Act.

(2) On examination and consideration of the application and the information furnished by the existing institutions under sub section (1), the Director shall provisionally register the existing institution pending such enquiry or inspection as may be prescribed, for final registration of the institution.

(3) Immediately after provisional registration of an existing institution, the Director shall make or cause to be made an enquiry or inspection of the respective institution and the existing institutions which have been found established and run with the permission or recognition from the State Government or Director possessing the requirements as laid down under section 10 and the rules made thereunder, shall be granted final registration.

(4) The existing institutions which have been established and run with or without the permission or recognition of the State Government or Director without having the minimum requirements as laid down under Section 10 or the rules made thereunder, shall have to fulfil the requirements within a period of two years from the date of commencement of this Act after which those institution

shall be finally registered.

(5) The existing institutions which have been established or run without the permission or recognition of the State Government or Director and fulfilling the requirements as laid down under Section 10 and the rules made thereunder shall apply for obtaining administrative recognition from the Director within a period of six months from the date of commencement of this Act. After giving administrative recognition those institutions shall be finally registered by the Director.

(6) The provisional registration and recognition etc. of the institutions which have failed to fulfil the requirements as laid down in the Act and the rules within the time frame stipulated in this Section, shall be liable to be cancelled and the institutions shall be liable to be closed down under the provisions of this Act.

7. Constitution Of The Administrative Recognition Committee :-

(1) In respect of recognition of institutions imparting Secondary and Higher Secondary level of education:

(a) Director, Secondary Education, Assam : Chairman

(b) Joint Director, Secondary Education, Assam. : Member-Secretary.

(c) One State Government representative, not below the rank of Deputy Secretary, Secondary Education Department. : Member

(d) One representative each from the Board of Secondary Education, Assam (SEBA) and Assam HigherSecondary Education Council (AHSEC) : Member

(2) In respect of recognition of institutions imparting Primary and Middle level of education.

(a) Director, Elementary Education, Assam : Chairman

(b) Joint Director Elementary Education, Assam. : Member-Secretary

(e) One State Government representative not below the rank of Deputy Secretary, Elementary Education Department. : Member

(d) One representative from the Board of Secondary Education, Assam (SEBA) : Member

(e) One representative from the State Council of Educational Research and Training (SCERT), not below the rank of Joint Director : Member

8. Procedure For Opening Of Higher Classes :-

If any nongovernment educational institution to which permission and administrative recognition has been granted to establish or run the institution to a certain level of class or education, intends to open new classes of higher level of education, shall do so by following the same procedure as are required for permission and administrative recognition under Sections 4 and 5, subject however to the fulfilment of the requirements under Section 10.

9. Academic Permission And Recognition By The Board And The Council To Be Governed By Their Own Regulations :-

Grant of prior permission and administrative recognition to establish and run an institution under Sections 4 and 5 respectively, shall not cast any obligation on the State Government or the Director as the case may be, in respect of granting academic permission and recognition by the Board of Secondary Education, Assam (SEBA) or the Assam Higher Secondary Education Council (AHSEC) or any other Board, Council or Body under the State or Central Government or under any statute, which shall be governed by the respective rules and regulations of the concerned Board, Council, Body, as the case may be.

10. Requirements For Establishment And Administrative Recognition Of Non-Government Educational Institutions :-

No non-government educational institution shall be established or run and no prior permission or administrative recognition to such institutions shall be granted unless the institution fulfils the following requirements, namely--

(i) The institution shall possess--

(a) not less than two bighas of land in one plot in case of rural areas, one bigha of land in one plot in case of urban areas, 2.5 katha of land in one plot in case of Hill urban areas and one bigha in one plot in case of Hill rural areas, in respect of establishment and running of Primary or Middle level institutions;

(b) not less than 2 bighas of land for single-storey building in urban areas, not less than 1 bigha in one plot for multi-storeyed building in urban areas, not less than 4 bighas in one plot in rural areas, in respect of establishment and running the High School, Higher Secondary school and junior college;

Explanation : For the purpose of clause--

(i) the land includes a lease hold land for a period of twenty years or more.

- (ii) Adequate number of class rooms, toilets and other facilities like library premises, reading room, laboratories etc. as may be prescribed, shall be provided by the institution on the land possessed by it under clause (i) above;
- (iii) institution shall follow approved courses and curriculum as provided in this Act;
- (iv) The institution shall not run for profit to any individual, association of individuals, Non-Government Organisation, societies and trusts;
- (v) Admission to the institution shall be open to all without any discriminations based on religion, caste, creed, race, or any of them;
- (vi) The Managing Committee shall observe the provisions of the Act and the rules made thereunder;
- (vii) The building or other structure in which the institution is carried on, its surroundings, furniture and equipment shall be adequate and suitable for an educational institution and, where there is any business premises in any part of the building in which such institution is run, the portion in which the institution is run adequately separated from such business premises;
- (viii) The arrangements in the building or other structure and in the furnishings thereof shall meet adequately the requirements of health and hygiene;
- (ix) The institution buildings or other structures or the grounds shall not be used during the day or night for commercial or residential purposes (except for the purpose of residence of any employee or students of the institution) or for communal, political or non-educational activity of any kind whatsoever;
- (x) The accommodation shall be sufficient for the classes conducted in the institution;
- (xi) There shall not be thoroughfare or public passage through any part of the institution premises;
- (xii) Sanitary arrangements at institution shall be adequate and are kept in good order and a certificate from the Health Officer of the local authority having jurisdiction over the area in which the institution is located as to the health and sanitary conditions of the institution and its surroundings has been furnished, and will also be furnished as and when required by the Director,
- (xiii) Arrangements shall be made for the supply of good drinking water to the students and suitable facilities shall be provided to enable them to take refreshments, lunch or the like;
- (xiv) The institutions shall be so conducted as to promote discipline

and orderly behaviour and to maintain a high moral tone and ensure sufficient enrolment and maintain student teacher ratio as may be prescribed;

(xv) No teacher or student of the institution shall be compelled to attend a class in which religious instruction is given or take part in any religious activity. No teacher or student absenting himself from religious instruction or religious activity shall be made to suffer any disability on that account and no student shall be refused admission to the institution because of claiming exemption from attendance at religious exercise or religious instruction by him or his parent or guardian;

(xvi) The institution shall be open to inspection by any of the following officers, namely--

(a) any officer authorised by the Director;

(b) Director of Medical Services or Health Officer of the local authority concerned;

(c) The Medical and Health Officer authorised by the appropriate authority or the Director to examine the health of students or the sanitary conditions of the institution and surroundings;

(xvii) The institution shall furnish such reports and information as may be required by the Director from time to time and comply with such instructions of the Director as may be issued to secure the continued fulfilment of the condition of recognition or the removal of deficiencies in the working of the institution;

(xviii) All records of the institution shall be open to inspection by any officer authorised by the State Government or the Director, as the case may be, at any time and the institution shall furnish such information as may be necessary to enable the State Government or the Director, as the case may be, to discharge their duties and functions in accordance with the provisions of this Act and the rules made thereunder or any other law for the time being in force;

(xix) Every non-government educational institution shall make all endeavour to promote regional languages and cultural heritage of the State;

(xx) The institution shall provide adequate fire safety measures in the institution premises as may be required and as instructed by the concerning authority from time to time; and

(xxi) Such other requirements as may be prescribed not inconsistent with the provisions of this Act.

11. Facilities To Be Provided By The Non-Government Educational Institution :-

The non-government educational institutions shall provide such facilities for sports and physical education, library service, and other co-curricular activities, laboratory works, workshop practice etc. as may be prescribed.

12. Constitution Of Managing Committee :-

(1) Every nongovernment educational institution shall constitute a Managing Committee consisting of the following, namely:-

(a) The Chairman or the President or the Principal managing agent of the society or trust or the association of individuals or the person or individual establishing the non-government educational institution, shall be the Chairman of the Management Committee. : Chairman

(b) Head Master, the Principal of the institution as the case may be : Member.

(c) two representatives to be elected or selected by the Guardians from amongst themselves in a meeting to be convened by the School Authority in this behalf. : Members.

(d) Two Teachers/ Lecturers of the institution elected or selected from amongst themselves : Members

(e) Any person who shall be educationist of the locality. : Members

(f) Two members to be nominated or elected by the society or trust or association of individuals society or trust or association of individuals or the individual establishing and running the institution out of which one shall be chosen as the Member Secretary. : Member/ Member-Secretary

(2) The term of the Managing Committee shall be for a period of two years.

(3) If, for any reasons whatsoever, any vacancy of members occur during the term of the existing Managing Committee, it shall be filled up in the like manner as is applicable at the time of constitution of the Managing Committee.

(4) If any member expressly desires in writing not to continue as a member in the Managing Committee or abstains himself in three consecutive meetings of the Managing Committee, such member ceases to be a member of the Managing Committee from the date of receipt of the communication by the School Authority or such abstention, as the case may be.

(5) The members shall be entitled to such TA. and DA for attending meetings of the Managing Committee from the School Authority as

may be prescribed.

13. Powers And Functions Of The Managing Committee :-

(1) The Managing Committee shall have control over the appointment of the employees, disciplinary action against the employees and overall administrative control of the affairs of the institution.

(2) The Managing Committee shall not conduct the affairs of the institution in such a way which may adversely affect the interest of the institution.

14. Scheme Of Management :-

(1) The Managing Committee shall frame a Scheme of Management for the institution containing the salary structures and other conditions of service of the employees and the fee structures in all levels of education amongst other things, as may be prescribed and which shall not be inconsistent with the provisions of this Act and the rules made thereunder and shall submit the same to the Director for consideration, acceptance and record.

(2) No levy of any kind of fee shall be made or imposed by the institution in excess of the fees as fixed in the Scheme of Management, except with the prior approval of the Director.

(3) The Director may approve or disapprove the proposed increase in fee if he is of the opinion that such an increase is necessary due to increase in the facilities provided in the institution and may disapprove, for reasons to be recorded in writing.

(4) The Scheme of Management shall provide educational qualification for the teaching staff of the institutions which shall conform to the qualifications as fixed in respect of the Government or provincialised Primary, Middle, Secondary or Higher Secondary level of education, as the case may be.

(5) In no case, the Managing Committee or School Authority or any person involved in the management of the institution shall violate the provisions of the Scheme of Management.

15. Appointment And Disciplinary Matters :-

(1) The School authority shall issue appointment letter in the event of any appointment made to any person in regard to its affairs and such appointment letter shall clearly state the terms of appointment, salary and any other conditions of service in respect

of such appointment as per Scheme of Management of the institution.

(2) No employee of a non-government educational institution shall be dismissed, removed or reduced in rank or terminated without giving him a reasonable opportunity of being heard and without the matter being referred to the Managing Committee for its consideration and approval;

Provided that the School Authority may suspend an employee with immediate effect without the prior approval of the Managing Committee, if it is satisfied that such immediate suspension is necessary by reasons of his gross misconduct under the Code of Conduct framed under Section 16.

(3) The procedure to be followed in disciplinary matters shall be such as may be prescribed.

16. Code Of Conduct For The Employee :-

Every employee of the non-government educational institution shall be governed by such Code of Conducts as may be prescribed, and on violation of any provision of such Code of Conduct the employee shall be liable to such disciplinary action as may be prescribed.

17. Curriculum And Syllabus :-

The course of study, curriculum, text book, syllabus etc. for the non-government educational institutions shall be such as may be specified or recommended by the affiliating or recognising authority, Board, Council, as the case may be, under the respective State or Central Government.

18. Admission And Fees :-

(1) A child, who has not attained the age of 5 years, shall not be admitted to class I, or an equivalent class or any class higher than class I.

(2) A student seeking admission in non-government educational institution in any class higher than class I shall have to submit original Transfer Certificate from the recognised school where the student studied last to the head of the non-government educational institution where admission is sought.

(3) Admission of students in non-government educational institution shall be made without any distinction of religion, race, caste, creed or any of them.

(4) Every recognised non-government educational institution shall reserve 5% seats for admission of meritorious pupils hailing from poor families as recommended by Director in this behalf. Such pupils shall be selected as per norms to be prescribed.

(5) The students admitted against the reserved quota as provided in sub-section (4) shall pay such fees as may be fixed by the Director in consultation with the concerned School Authority on receipt of an application from the pupil in this behalf.

19. Prohibition Of Compulsory Donations :-

No non-government educational institution shall levy or collect any donation compulsorily from any student or his/her parents/guardians:

Provided that the Managing Committee, with prior intimation to the Director, may invite voluntary contributions from the parents or guardians for the construction of any building for the School or extension of buildings or hostels or any other facilities to be provided to the students.

20. Inspection Or Supervision :-

The Director or any officer authorised in this behalf, may,-

(a) enter at any time, with or without notice, any place or building or premises which he/she has reasons to believe, is being used as a non-government educational institution;

(b) make such examination of place, building or premises or inspect any place, building or premises, equipment, articles or documents including financial transactions and seize any of such equipment articles, documents deemed necessary for the purpose of examination/ investigation or collection of evidence and retain them as long as necessary;

(c) after making the inspection, the Director or his authorized officer carrying out the inspection shall furnish a copy of the inspection report to the Manager on Managing Committee of the non-government educational institution to act upon the report and for compliance thereof.

21. Utilization Of Fund :-

(1) Money received of held by or on behalf of concerned non-government educational institution shall be utilized for the purposes for which they are intended and shall be accounted for by

the School Authority in such manner as may be prescribed.

(2) The surplus fund of every such institution shall be invested in such manner as may be prescribed and shall be utilized towards educational development only.

22. Audit And Accounts :-

(1) The accounts of the nongovernment educational institutions shall be maintained and the audit shall be done in such manner as may be prescribed.

(2) The institution shall furnish to the Director an audited statement of accounts at the closing of every financial year mentioned clearly the total receipts and expenditure during the last financial year.

23. List Of Properties :-

Every non-government educational institution shall maintain a list of the properties both movable and immovable owned or possessed by it and furnish the same to the Director at such time or in such manner as may be prescribed.

24. Withdrawal Of Recognition, Order For Closure :-

(1) Where any non-government educational institution fails to fulfil or comply with the provisions of the Act or violates any of the provisions of this Act or the rules made thereunder or any order passed by the State Government by the State Government or the Director under the provisions of this Act, the State Government may, at any time after giving a reasonable opportunity of being heard, order for withdrawal of administrative recognition and closing down of the non-government educational institutions. In the event of such closure the individual, association of individuals, NonGovernment Organisation, society or trust establishing and running the institution shall be solely responsible to the teaching and non-teaching staff, students, guardians and parents and other concerned persons or bodies etc.

(2) The non-government educational institution established and functioning in the State without being registered under section 4, shall be liable to be closed down and in the event of such closure the individual, association or individuals, Non-Governmental Organisation, society or trust establishing and running the institution shall be solely responsible to the teaching and non-

teaching staff, students, guardians and parents and other concerned persons and bodies etc.

25. Liability Of The Chairman Etc. To Punishment :-

Any nongovernment educational institution or School Authority thereof failing to comply with any direction issued to it by State Government or the Director in discharge of their duties under this Act, the Chairman, or President or the society or trust or the individual, association of individuals or any other person responsible for overall management of the institution or the owner thereof shall be held responsible and be liable to be punished with a fine which may extend to Rupees ten thousand for the first offence and in the event of commission of every subsequent offence the fine may extend to Rupees fifty thousand.

26. Assistance Of Police And Civil Administration :-

Director may, as and when situation so demands, take the assistance of such police force or assistance from the Civil administration as may be necessary in discharge of his duties under this Act.

27. Jurisdiction Of Civil Court Barred :-

Except as expressly provided in this Act, no decision or order made in exercise of any power conferred by or under the provisions of this Act shall be questioned in any Civil Court.

28. Delegation Of Powers Of The Director :-

The State Government may, by order, delegate any of the powers of the Director under this Act to such other officer as it may deem necessary.

29. Protection Of Action Taken In Good Faith :-

No suit or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or any order made thereunder.

30. Removal Of Difficulty :-

If any difficulty arises in giving effect to any of the provisions of

this Act, the matter shall be referred to the Act, the matter shall be referred to the State Government whose decision thereon shall be final.

31. Power To Make Rules :-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) All rules made by the State Government under this Act 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 in two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Assam Legislative Assembly may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.