

**Assam Secondary Education (Provincialisation) Act, 1977****19 of 1977****[10 December 1977]**

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**Assam Secondary Education (Provincialisation) Act, 1977****19 of 1977****[10 December 1977]**

STATEMENT OF OBJECTS AND REASONS<sup>2</sup> The object of the Bill is to provincialise the services of employees of different categories now employed in various Secondary Schools in Assam covered by the deficit scheme. Under this Act, the administration, management and control of all employees of all Secondary Schools coming within the purview of this Act shall vest in the State Government. (ASSAM ACT NO. II OF 1997)<sup>3</sup> It is proposed to replace the Ordinance with a Bill, namely, the Assam Secondary Education (Provincialisation) (Amendment) Bill, 1996, in the public interest to safeguard the interest of the employees in provincialisation Secondary Schools. Hence the Bill. AMENDMENT ACT (Assam Act No. II of 1997) Rules framed under the Act No. XIX of 1977. Assam Secondary Education (Middle English Schools and High Schools (Provincialisation) Rules, 1979. An Act to provide for the provincialisation of Secondary Education covered by the Deficit Scheme of the Government of

Assam. Whereas it is expedient to provincialise Secondary Education covered by the deficit Scheme of the Government of Assam for its improvement and for better control and management of such education in the State of Assam. It is hereby enacted in the Twenty-eighth year of the Republic of India as follows:- 1. Published in the Assam Gazette, Extraordinary No. 164, dated 12.12.1977. 2. Published in the Assam Gazette, Extraordinary No. 134, dated the 8th November, 1977. 3. Published in the Assam Gazette, Extraordinary No. 268, dated 18-12-1996.

## **1. Short Title, Extent And Commencement :-**

(1) This Act may be called the Assam Secondary Education (Provincialisation) Act, 1977.

(2) It shall extend to the whole of the State of Assam except the autonomous districts :

Provided that the State Government may in consultation with the District Council of any Autonomous District extend this Act to that autonomous district by a notification published in the Assam Gazette<sup>1</sup>.

(3) It shall come into force on the first day of October, 1977.

1. The Act was extended to the Autonomous Districts of Karbi Anglong and North Cachar Hills with effect from 1st October, 1977 vide Notification No. ESS, 144/77/Pt. III/3, and ESS. 144/77/Pt. III/4, dated the 30th September, 1977, respectively and published in the Assam Gazette, Extraordinary No. 124, dated the 30th September, 1977.

## **2. Definitions :-**

In this Act unless there is anything repugnant in the subject or context-

(i) "appointed day" in relation to any area means the day on which this Act comes into force in that area;

(ii) "date of appointment" means, in relation to any employee, the date on which he joined the service of a school imparting Secondary Education on and from the date of its coming under adhoc system of grants in aid :

[Provided that for the purpose of pay and allowances as Government servant the date of appointment means the date of issue of the Notification provincialising the services of the employees of the respective school.]<sup>1</sup>

(iii) "deficit school" means a school receiving grants from the State

Government under the deficit Scheme of Grants-in-aid;

(iv) "Director" means the Director of Public instruction, Assam, or when specifically appointed by the State Government, the Additional Director of Public Instruction, Assam;

(v) "employee" means a person in the employment of a school working against a regularly sanctioned post and whose appointment has been approved by the School authority wherever such approval was necessary;

(vi) "existing employee" means an employee who is on the appointed day, in the regular pay roll, employee against regular sanction and whose appointment has been approved by the school authority.

(vii) "Inspector" means in relation to any Secondary School, the Inspector of Schools under whose jurisdiction the school is situated;

(viii) "Managing Committee" in relation to any school means the Managing Committee approved by the State Government and function on the appointed day;

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

(x) "Secondary education" means education imparted upto Class XII in different types of schools including Middle English Schools, Middle Madrassa, High Schools; High Madrassa and Higher Secondary Schools

[(xi) "Secondary School" means a School where Secondary education is imparted and is covered by deficit or ad-hoc system of grants-in-aid]2.

(xii) "School authority" means the "Director" or "Inspector" whose approval is necessary for the appointment or regularisation of the appointment of an employee of a Secondary School.

1. Inserted the proviso after clause (ii) of Section 2, vide Assam Act No. II of 1977. With effect from the 12th day of December, 1977, published in the assam Gazette Extraordinary No. 46, dated 27-2.-97.

2. Substituted clause (xi) of Section 2 vide Assam Act No. II of 1997, published in the Assam Gazette Extraordinary No. 46, dated 27.2.1997. With effect from 12-12-1977. Before substitution clause (xi) read as follows-

(xi) "Secondary School" means a deficit School where the Secondary education is imparted."

### **3. Employees To Be Government Servants :-**

Subject to the provision of Article 30 of the Constitution of India,

on and from the appointed day all employees of all secondary schools in the State of Assam shall be deemed to have become employees of the State Government of Assam with effect from the date of appointment on the following terms and conditions-

(1) All rules including service rules and rules of conducts and discipline which are applicable to Government servant of corresponding ranks shall be applicable to all employees;

(2) All employees shall get such emoluments as salary and allowances as may be prescribed :

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

(3) Services of all the employees shall be encadred in appropriate cadres in accordance with the rules framed by the State Government for this purpose.

(4) The inter-se-seniority of the employees of a cadre or class shall be determined on the basis of principles laid down in the rules framed under this Act.

### **3A. Provision In Respect Of Secondary School Receiving Adhoc Grant-In-Aid :-**

1 In respect of the Secondary School which have not come through the State of deficit schools the employees of the Secondary Schools receiving ad-hoc grant-in-aid shall be deemed to have become the employees of the State Government of Assam with effect from the date of Notification issued by the Government provincialising the services of the employees of the said schools on the same terms and conditions as provided in Section 3.

1. Inserted Section 3A, after Section 3, vide Assam Act No. II of 1997. With effect from the. 12-12-1977. published Assam Gazette Extraordinary No. 46, dated. 27.12.1997.

### **4. Superannuation And Pension Etc :-**

(1) Notwithstanding anything in the preceding Section all employees other than Grade -IV employees of a Secondary School coming within the purview of this Act shall, on attaining the age of 58 years, go on superannuation. Grade-IV employees shall go on superannuation on attaining the age of 60 years.

(2) All employees going on superannuation under the preceding sub-section shall be eligible to pension or gratuity or both in accordance with the Pension rules applicable to the Government servants of equivalent rank. In such a case the employers contribution alongwith accumulated interest therein made towards the Provident Fund of the existing employees concerned before

such superannuation shall be paid back to and recovered by the State Government of Assam.

(3) Any existing employee, other than the Grade-IV employees, 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 before the appointed day in which case he shall not be entitled to any pension or gratuity.

(4) Any existing employee, other than Grade IV employees, who does not intend to go on superannuation on attaining the age of 58 years but wants to continue till the completion of 60 years shall give a option in writing to that effect in the manner prescribed within a period of three months from the appointed day. Any existing employee who does not give such option in writing within the date specified above shall be deemed to have opted for going on superannuation on attaining the age of 58 years.

#### **5. Function Of Managing Committee :-**

(1) The administration, management and control of all employees of all Secondary Schools coming within the purview of this Act shall vest in the State Government from the appointed day.

(2) The Managing Committees of such Secondary Schools shall exercise such function as may be specified by the State Government under the rules made under this Act until such Committees are either reconstituted or replaced under the rules prescribed.

#### **6. Suit And Proceedings :-**

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

#### **7. Rules Necessary For Provincialisation Of Services Of Employees Of Other Schools Not Felling Within The Purview Of This Act :-**

The State Government may, by notification published in the Official Gazette make such rules as may be necessary for provincialisation for service of employees of other schools not falling within the purview of this Act.

#### **8. Power To Make Rules :-**

(1) The State Government may, by notification published in the Official Gazette, make rule for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provision, the State Government may make rules to provide for all or any of the following matters, namely-

(i) fixation of the powers, duties and responsibilities of all employees of the Secondary Schools;

(ii) the manner in which option shall be exercised under the provisions of Section 4;

(iii) the manner in which the contribution made towards the Provident Fund of an employee shall be paid back to and recovered by the State Government;

(iv) Preparation and maintenance of service records of employees;

(v) for the management of the Secondary Schools.

(3) Every rule made under this Section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two 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 in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule 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 dispute arises about the interpretation of any provision of this Act the interpretation of the State Government shall be final.

(2) If any difficulty arises in giving effect to the provisions of this Act, the Government 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 that difficult.

(3) Every order made under the preceding sub-section shall be laid before the Assam Legislative Assembly in the manner laid down in sub-section (3) of Section 8 above.

## **10. Repeal And Savings :-**

(1) The Assam Secondary Education (Provincialisation) Ordinance, 1977 (Assam Ordinance No. V of 1977), is hereby repealed.

(2) Notwithstanding such repeal, any order passed, any notification issued, any thing done or any action taken under the Ordinance so repealed, shall be deemed to have been passed, issued, done or taken under the corresponding provisions of this Act.