

## **WEST BENGAL BOARD OF MADRASAH EDUCATION ACT, 1994**

**39 of 1994**

**[ ]**

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## **WEST BENGAL BOARD OF MADRASAH EDUCATION ACT, 1994**

**39 of 1994**

**[ ]**

An Act to establish a Board of Madrasah Education in West Bengal and to provide for matters connected therewith or incidental thereto. WHEREAS it is expedient to establish a Board of Madrasah Education in West Bengal and to provide for matters connected therewith or incidental thereto It is hereby enacted as follows

### CHAPTER 1

Preliminary

### **1. Short title, extent and commencement :-**

(1) This Act may be called the West Bengal Board of Madrasah Education Act, 1994.

(2) It extends to the whole of West Bengal.

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

## **2. Definitions :-**

In this Act, unless the context otherwise requires,

(a) "Board" means the West Bengal Board of Madrasah Education established under this Act;

(b) "Head of Madrasah" means the head of the teaching staff of a Madrasah, by whatever name he or she may be designated;

(c) "High Madrasah" means a Madrasah where the High Madrasah Education System is followed;

(d) "Institution" means a Madrasah;

(e) "Junior High Madrasah" means a High Madrasah up to middle level;

(f) "Madrasah" means an educational institution imparting instruction in Madrasah Education;

(g) "Madrasah Education" means a system of education in which instruction is imparted in Arabic, Islamic history and culture, and theology, and includes

(i) High Madrasah Education System which, in addition to covering Arabic language and Islamic history and culture, imparts general education above primary education stage with a view to qualifying students for admission to a certificate, diploma or degree course instituted by a University or by a Government or by any statutory authority, and includes such other type of education as the State Government may, in consultation with the Board, specify;

(ii) Senior Madrasah Education System which imparts instruction in Arabic language and literature, Islamic theology, history, culture and jurisprudence and some general education with a view to qualifying students for a certificate, diploma or degree of the Board or a University or a Government or any other statutory authority;

(h) "Managing Committee" used in reference to an Institution means the person or the body of persons for the time being

entrusted with the management of the affairs of the Institution;

(i) "notification" means a notification published in the Official Gazette;

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

(k) "President" means the President of the Board;

(l) "Primary Education" means education imparted in a primary school as defined in any Bengal Act or West Bengal Act or education equivalent thereto;

(m) "recognised" with its grammatical variations, used with reference to a Madrasah, means recognised under this Act or by the West Bengal Madrasah Education Board constituted by the State Government before the commencement of this Act;

(n) "regulation" means a regulation made by the Board under this Act;

(o) "rule" means a rule made by the State Government under this Act;

(p) "Senior Madrasah" means a Madrasah where the Senior Madrasah Education System is followed.

## CHAPTER 2

### The Board

### **3. Establishment and incorporation of the Board :-**

(1) The State Government shall, as soon as may be after this Act comes into force, establish a Board to be called the West Bengal Board of Madrasah Education.

(2) The Board shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its name sue and be sued.

### **4. Composition of the Board :-**

The Board shall consist of the following members:

(a) the President;

(b) the President of the West Bengal Council of Higher Secondary Education, ex officio;

- (c) the President of the West Bengal Board of Secondary Education, ex officio;
- (d) the President of the West Bengal Board of Primary Education, ex officio;
- (e) the Director of School Education, Government of West Bengal, ex officio;
- (f) the Head of the Department of Arabic, Calcutta University, ex officio;
- (g) the Principal, Calcutta Madrasah, ex officio;
- (h) two heads of recognised Madrasahs one High Madrasah and one Senior Madrasah nominated by the State Government;
- (i) two Members of the West Bengal Legislative Assembly nominated by the State Government;
- (j) three persons nominated by the State Government of whom
  - (i) one shall be a wholetime member of the teaching staff of a college imparting instruction in Arabic or Persian language and affiliated to any University in West Bengal,
  - (ii) one shall be an expert in Islamic Culture and Theology, and
  - (iii) one shall be a woman interested in Madrasah Education;
- (k) ten wholetime and permanent members of the teaching staff of recognised Madrasahs five from High Madrasahs, three from Senior Madrasahs and two from Junior High Madrasahs elected in the manner prescribed;
- (l) two persons from the wholetime and permanent non teaching staff of recognised Madrasahs elected in the manner prescribed;
- (m) one person from the wholetime and permanent staff of the Board elected, in the manner prescribed.

## **5. Appointment in default of election :-**

- (1) If by such date as may be prescribed, any of the authorities, other than the State Government, fails to elect or nominate a member or members as provided in section 4, the State Government shall appoint member or members qualified for election or nomination by such authority:

Provided that in the case of the State Legislative Assembly, if the said Assembly has been dissolved, the State Government shall appoint a suitable person to be a member to hold office until the said Assembly is reconstituted and a member is duly nominated.

(2) A person appointed under this section shall be deemed to be a member duly elected or nominated under section 4.

**6. Publication of the names of elected, nominated or appointed members of the Board :-**

The name of every person elected or nominated under section 4 or appointed under section 5 as a member of the Board shall be published in the Official Gazette as soon as may be after the election, nomination or appointment, as the case may be.

**7. Term of office of members of the Board :-**

(1) Subject to the provisions of this Act, every elected, nominated or appointed member of the Board shall hold office for a term of four years from the date of publication of his or her name under section 6 and may, on expiration of such term, be re-elected, re-nominated or re-appointed.

(2) Notwithstanding the expiration of the term of four years specified in sub-section (1), an elected, nominated or appointed member of the Board shall continue to hold office until the vacancy caused by the expiration of the said term has been filled in accordance with the provisions of this Act.

**8. Casual vacancies :-**

If any member dies or resigns his office or ceases to be a member for any other reason, the vacancy shall be filled up by a fresh nomination or election under section 4, and the member so elected or nominated shall hold office for the unexpired portion of the term of the member whose place he fills.

**9. Appointment, term of office, salary and allowances of the President :-**

(1) The President shall be appointed by the State Government.

(2) The term of office of the President shall be for five years.

(3) The President shall cease to hold office if, at any time, he becomes subject to any of the disqualifications referred to in sub-section (1) of section 11.

(4) The President may resign his office by giving notice in writing to the State Government and, on acceptance of such resignation by the State Government, the President shall be deemed to have vacated his office.

(5) The President shall receive such salary and allowances, if any, from the West Bengal Board of Madrasah Education Fund as the State Government may determine.

**10. Temporary and acting arrangement for the office of the President :-**

If the President dies or resigns his office or ceases to hold office or is temporarily absent, the State Government shall authorise a member of the board to exercise the powers and perform the duties of the office of the President until the President resumes office or a new President is appointed, as the case may be.

**11. Disqualifications for membership :-**

(1) A person shall be disqualified for being elected, nominated or appointed a member of the Board if he

(a) has been adjudged by a competent court to be of unsound mind;

(b) is an undischarged insolvent;

(c) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part;

(d) has been convicted by a court of an offence which is declared by the State Government to be an offence involving moral turpitude, unless

(i) such disqualification is condoned by the State Government, or

(ii) the term of his sentence of imprisonment or a period of five years from the date of his conviction, whichever is longer, has expired;

(e) directly or indirectly, by himself or his partner,

(i) has or had any share or interest in any text-book approved by the Board or published by or under the authority of the Board, or

(ii) has any interests in any work done by order of, or in any contract entered into on behalf of, the Board:

Provided that a person who had any share or interests in any text-book referred to in sub-clause (i) shall not be deemed to have incurred the disqualification under the said sub-clause if five years have elapsed from the date of the publication or republication of such text-book.

(2) If an elected, nominated or appointed member of the Board becomes, after his election, nomination or appointment, as the case may be, subject to any of the disqualifications specified in sub-section (1), his membership shall thereupon cease with effect from such date as the State Government may direct.

## **12. Disputes relating to the eligibility or manner of election of members :-**

(1) If any question arises relating to

(i) the eligibility of any person for election as a member of the Board, or of any Committee under this Act, or

(ii) the manner in which any such election has been held, or

(iii) the disqualification of any member of the Board, or of any Committee, continuing as such member, such question shall be referred for decision to a Tribunal consisting of a Judicial Officer, not below the rank of a District Judge or an Additional District Judge, appointed by the State Government.

(2) The Procedure to be followed by the Tribunal shall be such as may be prescribed.

(3) The decision of the Tribunal under sub-section (1) shall be final and no suit or proceeding shall lie in any Civil or Criminal Court in respect of any matter which has been or may be referred to, or has been decided by, the Tribunal under that sub-section.

## **13. Resignation and removal of members :-**

(1) An elected, nominated or appointed member of the Board may resign his seat by giving notice at least for one month in writing to the President, and when such resignation is accepted by the Board, such member shall be deemed to have vacated his seat.

(2) The State Government may, by notification, and after giving the member concerned an opportunity of being heard, remove any elected, nominated or appointed member of the Board if, without obtaining the consent of the President, he is absent from three



consecutive meetings of the Board.

**14. Conduct of meetings :-**

The President or, in his absence, one of the members of the Board elected from amongst those present shall preside at the meetings of the Board, and the President or such member shall be entitled to vote on any matter and shall have a second or casting vote in every case or equality of votes.

**15. Restriction on voting :-**

(1) No member of the Board shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any Institution of which he is either a teacher or a member of the Managing Committee.

(2) The President or the member presiding at a meeting of the Board shall decide any question arising under sub-section (1), and his decision thereon shall be final.

**16. Persons in the service of the Board :-**

(1) The Board shall have a Secretary who shall be appointed by the State Government.

(2) The Board may appoint such other officers and employees as it considers necessary for carrying out the purposes of this Act.

(3) The method of recruitment and the conditions of service (including the scales of pay and allowances, if any) shall,

(a) as respects the Secretary, be such as may be prescribed, and

(b) as respects the other officers and employees, be such as may, subject to the approval of the State Government, be determined by regulations published in the Official Gazette.

(4) Subject to the general control and supervision of the President, Secretary shall be the principal administrative officer of the Board. He shall be entitled to attend and speak at any meetings of the Board, but shall not be entitled to vote.

**17. Travelling allowance :-**

Such members of the Board or of any Committee constituted under this Act as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Board or of any such Committee or in exercising any powers or

performing any duties conferred or imposed upon them by or under this Act, be paid by the Board such allowances and at such rates as may be prescribed.

### CHAPTER 3

#### Committees of the Board

### **18. Constitution of Committees :-**

(1) As soon as the Board is established, the Board may, with the approval of the State Government, constitute any or more of the following Committees, namely:

- (a) the Recognition Committee;
- (b) the Syllabus Committee;
- (c) the Examinations Committee;
- (d) the Finance Committee;
- (e) the Appeal Committee; and
- (f) such other Committee or Committees as it may think necessary.

(2) Each of the Committees referred to in clauses (a) to (d) and (f) of sub-section (1) shall be composed of the President as its Chairman and wholly, or partly, of members of the Board, and the total number of members of such Committee including the President shall not exceed nine.

(3) The Appeal Committee shall be composed of not more than seven members of whom one shall be a person who holds or has held the office of a Judge, not below the rank of an Additional District Judge to be nominated by the State Government as the Chairman, and such number of other members as the Board thinks fit shall be the members of the Board.

(4) The Secretary to the Board shall act as the Secretary to each such Committee.

### **19. Functions of Committee :-**

(1) It shall be the duty of the Recognition Committee to advise the Board on all matters concerning recognition of Institutions.

(2) It shall be the duty of the Syllabus Committee to advise the Board on all matters relating to the syllabus, courses of studies to be followed and the books to be studied in recognised Institutions

and for examinations instituted by the Board.

(3) It shall be the duty of the Examinations Committee to advise the Board on

(a) matters relating to selection of paper setters, moderators, tabulators, examiners, invigilators, supervisors and others to be employed in connection with examinations instituted by the Board and the rates of remuneration to be paid to them;

(b) the fees to be paid by candidates for such examinations; and

(c) any other matter relating to such examinations which may be referred to it by the Board for advice.

(4) It shall be the duty of the Finance Committee to prepare the budget of the Board and to advise the Board on such matters relating to finance as may be referred to it by the Board for advice.

(5)

(a) All appeals by the members of the teaching and non-teaching staff against the decisions of the Managing Committees of the recognised Institutions shall be heard and decided by the Appeal Committee.

(b) The decisions of the Appeal Committee under clause (a) shall be final and no suit or proceeding shall lie in any Civil or Criminal Court in respect of any matter which has been or may be referred to, or has been decided by, the Appeal Committee.

(6) Any other Committee or Committees that may be constituted under clause (f) of sub-section (1) of section 18 shall have such powers or functions as the Board may confer or impose on such Committee or Committees.

#### CHAPTER 4

Powers and Functions of the Board and the President

### **20. Functions of the Board :-**

(1) It shall be the duty of the Board to advise the State Government on all matters relating to Madrasah Education referred to it by the State Government.

(2) Subject to any general or special orders of the State Government, the provisions of this Act and any rules made thereunder, the Board shall have generally the power to direct,

supervise and control Madrasah Education, and, in particular, the power

(a) to grant or refuse recognition to Madrasah and to withdraw such recognition if it thinks fit and necessary, after considering the recommendations of the Recognition Committee in accordance with such regulations as may be made in this behalf;

(b) to maintain a register of recognised Madrasahs;

(c) to provide by regulations, after considering the recommendations of the Syllabus Committee, if any, the curriculum, syllabus, courses or studies to be followed and books to be studied in recognised Madrasahs for examinations instituted by the Board;

(d) to undertake, if necessary, with the approval of the State Government, the preparation, publication or sale of text-books and other books for use in recognised Madrasahs;

(e) to maintain and publish, from time to time, list of books approved for use in recognised Madrasahs and for examinations instituted by the Board and to remove the name of any such book from any such list;

(f) to institute various Madrasah Examinations and such other similar examinations as it may think fit and to make regulations in this behalf;

(g) to make regulations regarding the conditions to be fulfilled by the candidates presenting themselves for examinations instituted by the Board;

(h) to provide by regulations after considering the recommendations of the Examinations Committee, if any, the rates of remuneration to be paid to the paper-setters, moderators, tabulators, examiners, invigilators, supervisors and others employed in connection with the examinations instituted by the Board, and the fees to be paid by candidates for such examinations with the approval of the State Government;

(i) to grant or refuse permission to candidates to appear at examinations instituted by the Board and to withdraw such permission if it thinks fit in accordance with such regulations as may be made in this behalf;

(j) to provide by regulations the procedure for filling and disposal of appeals by the members of the teaching and non-teaching staff against the decisions of the Managing Committees of recognised Madrasahs;

(k) to administer the West Bengal Madrasah Education Board Fund;

(l) to institute and administer such Provident Funds as may be prescribed;

(m) to make regulations relating to the conduct, discipline and appeal in respect of the members of the staff;

(n) to perform such other functions as may be assigned to it by the State Government.

(3) Subject to the provisions of sub-section (2), the Board shall have the power to make regulations in respect of any matter for the proper exercise of its powers under this Act.

(4) No regulation shall be valid unless it is approved by the State Government and the State Government may, in according such approval, make such additions, alterations or modifications therein as it thinks fit:

Provided that before making any such addition, alteration or modification, the State Government shall give the Board an opportunity to express its views thereon within such period, not exceeding one month, as may be specified by the State Government.

(5) All regulations approved by the State Government shall be published in the Official Gazette.

## **21. Powers and duties of the President :-**

(1) The President shall be responsible for carrying out, and giving effect to, the decisions of the Board and of any Committee constituted under this Act.

(2) The President may, in any emergency, exercise any other powers of the Board, provided, however, that he shall not act contrary to any decision of the Board and shall, as soon thereafter as may be, report to the Board the action taken by him together with the reasons therefor.

(3) The President shall

- (a) exercise general supervision over the Secretary, the other officers and employees appointed by the Board, and post and transfer the members of the staff;
- (b) sanction all claims of travelling allowances; and
- (c) take such other action not inconsistent with any decisions of the Board as he considers necessary for the proper functioning of the Board under this Act.

## CHAPTER 5

### Meetings

#### **22. Meetings of the Board :-**

- (1) The annual meeting of the Board shall be held in the month of July each year.
- (2) The Board shall meet at such other times, not less than four times a year, as may be appointed by the President.
- (3) The President shall, except in the case of an emergency meeting referred to in sub-section (6), give to each member not less than seven days' notice of each meeting including the annual or a special meeting:

Provided that the President shall, on receipt of a requisition signed by not less than ten members of the Board, call a meeting within fifteen days from the date of receipt of such requisition, and no business, other than that on account of which the requisition has been received, shall be transacted at such a meeting.

- (4) On receipt of a requisition signed by not less than six members of the Board, the President shall place before a meeting of the Board for discussion any decision of any Committee constituted under this Act to which such requisition relates, and the Board may revise any such decision if not less than two-thirds of the total number of members of the Board are in favour of such revision.
- (5) No matter which has been decided by the Board shall, within the period of six months from the date of such decision, be reconsidered except at a special meeting of the board convened for the purpose upon the requisition of ten members and unless not less than two-thirds of the total number of members of the Board vote in favour of such reconsideration.
- (6) In case of an emergency, the President may call a meeting,

after giving not less than clear two days' notice thereof.

(7) No business shall be transacted at any meetings of the Board unless a quorum of ten members is present.

### **23. Meetings of Committee :-**

The Board shall make regulations relating to meetings of any Committee constituted under this Act and the procedure to be followed at such meetings.

## **CHAPTER 6**

### **Finance and Audit**

### **24. Annual report and budget estimate :-**

(1) The President shall place before the annual meeting of the Board held in the year following the year in which it is constituted and before every annual meeting thereafter a report on the working of the Board during the last preceding financial year.

(2) The report shall be forwarded to the State Government within one month of the presentation thereof before the annual meeting of the Board together with such comments thereon as the Board may think fit to make.

(3)

(a) The Board shall hold a special meeting by the 31st October of every financial year and the President shall place before the said meeting a budget estimate showing, in such form as may be prescribed, the anticipated income and expenditure of the Board for the next financial year.

(b) The budget estimate as aforesaid shall, after confirmation by the Board, be forwarded to the State Government by the 30th November of the financial year in which the special meeting referred to in clause (a) is held.

(4)

(a) The State Government shall, within two months of the receipt of the budget estimate, either accord its approval to the same or return it to the Board with such comments and suggestions as it deems necessary if, in its opinion, such estimate

(i) is not reasonably accurate with reference to ascertainable facts or shows a deficit in the closing balance;

(ii) includes new items or recurring expenditure which are likely to impose upon the Board in the future financial liabilities which the Board is not likely to be able to meet from its income; or

(iii) includes provisions for expenditure which are not in accordance with the provisions of this Act.

(b) If the budget estimate is returned under clause (a), the Board shall consider the comments and suggestions made by the State Government and may, if it thinks fit, revise said estimate. The Board shall, then, resubmit the budget estimate as so revised to the State Government, or the Board shall, if it does not think fit to revise the estimate, resubmit it in its original form to the State Government within one month of receiving it together with its replies on the comments and suggestions made by the State Government.

(c) If the State Government does not approve of the budget estimate as revised by the Board or if the budget estimate is returned by the Board without revision, the State Government may amend the budget estimate by making

(i) such modifications as are, in its opinion, necessary to render the estimate reasonably accurate with reference to ascertainable facts or to balance the income and expenditure,

(ii) additions, alterations or modifications in any provision relating to new expenditure of a recurring nature,

(iii) any alteration or modification in any provision for expenditure which, in its opinion, is not in accordance with the provisions of this Act, and shall forward the budget estimate as so amended to the Board.

(5) If the State Government does not accord its approval to the budget estimate under clause (b) of sub-section (3) within two months of the receipt thereof, or if the State Government does not communicate its approval of the budget estimate to the Board under clause (c) of sub-section (4) within the 31st March of the financial year immediately preceding the financial year to which the budget estimate relates, the budget estimate as forwarded to the State Government by the Board under clause (b) of sub-section (3) or as resubmitted to the State Government by the Board under clause (b) of sub-section (4), as the case may be, shall be deemed to have been approved by the State Government and shall be the



budget estimate of the Board for the financial year to which it relates.

**25. Payment to the Board by the State Government :-**

The State Government may, after considering the budget estimates, the accounts of the Board and such other reports as it may call for, make such annual or periodical grants to the Board as it may think fit:

Provided that on the establishment of the Board and before the first budget estimate is forwarded to the State Government, it may, after considering such report as it may call for from the Board, make such initial grant to the Board as may, be considered necessary.

**26. West Bengal Madrasah Education Board Fund :-**

(1) The Board shall have a Fund to be called the West Bengal Board of Madrasah Education Fund to which shall be credited

(a) all sums which may be paid by the State Government under section 25;

(b) all fees realised under any of the provisions of this Act;

(c) all sums representing income from endowments or from property owned or managed by the Board; and

(d) all other sums received by or on behalf of the Board from any other source whatsoever.

(2) The Fund shall vest in the Board and shall be under its control and shall be held by it in trust for the purposes of this Act.

(3) All monies payable to the credit of the Fund shall forthwith be paid into the Reserve Bank of India or into the State Bank of India or any branch thereof or into the United Bank of India or any branch thereof to the credit of the Fund, and all cheques drawn on the Fund shall be signed by the President or by such other person as he may authorise in writing in this behalf.

**27. Application of the West Bengal Board of Madrasah Education Fund :-**

No expenditure shall be incurred from the Fund except for the purposes of this Act and unless such expenditure is provided for in the budget as approved under this Act or can be met by reappropriation sanctioned in the prescribed manner.

**28. Accounts :-**

The Board shall keep an account of all its receipts and expenditure in the manner prescribed.

**29. Audit :-**

(1) The accounts of the Board shall be examined and audited annually in such manner as may be prescribed by an auditor or auditors appointed by the State Government.

(2) For the purpose of examination and audit under sub-section (1), an auditor appointed under that sub-section may

(a) require in writing the production before him of any document relating to the Board or the assets thereof which he considers to be necessary for the proper conduct of the audit;

(b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document to answer any question relating thereto; and

(c) require any person so appearing before him to submit a statement in writing in respect of any such document.

(3) It shall be the duty of the Board and of every member thereof, and of the Secretary and the members of the staff in the service of the Board to afford to the auditor every facility for the examination and audit of the accounts of the Board and to comply with any requisition made by the auditor under sub-section (2) and with the requirement of any rule made in this behalf.

(4) Any person who wilfully neglects or refuses to comply with a requisition made under sub-section (2) or with the requirement of any rule made in this behalf shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(5) No complaint in respect of any officer punishable under sub-section (4) shall be made except with the previous sanction of the State Government.

(6) No Magistrate other than a Judicial Magistrate of the First class shall try an offence punishable under sub-section (4).

**30. Audit Report :-**

(1) Not more than fourteen days after completion of the audit the auditor shall submit to the State Government a report on the

accounts audited, and shall send a copy thereof to the Board which shall forward it to the State Government together with its observations thereon.

(2) The State Government shall take such action on the audit report as it thinks fit.

#### CHAPTER 7

#### Supplemental Provisions

#### **31. Board to furnish information :-**

The Board shall furnish to the State Government such reports, returns and statements as may be prescribed, and such further information on any matter relating to the Board as the State Government may require.

#### **32. Power of State Government to suspend proceedings :-**

The State Government may, by order in writing specifying the reasons thereof, suspend the execution of any resolution or order of the Board or any Committee constituted under this Act and prohibit the doing of any act which purports to be done or intended to be done under this Act, if the State Government is of opinion that such resolution, order or act is in excess of the powers conferred by or under this Act upon the Board or the Committee, as the case may be.

#### **33. Certain persons to be deemed to be public servants :-**

The members of the Board and of every Committee constituted under this Act, persons in the service of the Board and any person appointed under this Act to audit the accounts of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

#### **34. Indemnity :-**

No suit, prosecution or other legal proceeding whatever shall lie against any person for anything in good faith done or intended to be done under this Act.

#### **35. Power of Tribunals :-**

A Tribunal appointed under this Act shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, and enforcing the attendance of witnesses and compelling the discovery and production of documents and shall be deemed to be a Civil Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

### **36. Savings :-**

No act or proceeding taken under this Act shall be invalid on the ground merely of

(a) the existence of any vacancy in, or defects in the initial or subsequent constitution of, the Board or any Committee constituted under this Act,

(b) any member of the Board having voted on any matter in contravention of the provisions of section 15, or

(c) any defect or irregularity not affecting the merits of the case.

### **37. Transitory provisions :-**

(1) The President shall make the first regulations for the purposes of this Act.

(2) The first regulations shall remain in force for a period of one year or until regulations are made by the Board under the provisions of this Act, whichever is earlier.

### **38. Power to make rules :-**

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

(a) the acquisition, possession and disposal of property by the Board, the conditions of such acquisition, possession and disposal, and performance by the Board of any function referred to in subsection (2) of section 3;

(b) the manner of election of the members of the Board specified in clauses (k), (l) and (m) of section 4;

(c) the composition, powers and functions of the Managing Committees of Institutions;

(d) the procedure to be followed by a Tribunal in deciding on questions referred to in sub-section (1) of section 12;

(e) the method of recruitment, the terms and conditions of service including the scales of pay and the rules of discipline relating to the Secretary of the Board;

- (f) the rates at which the Board shall pay travelling allowance to the persons referred to in section 17;
- (g) the Provident Fund referred to in clause (/) of sub-section (2) of section 20 as may be instituted and administered by the Board;
- (h) the form in which the budget estimate of the Board, as referred to in clause (a) of sub-section (3) of section 24, shall be prepared;
- (i) the manner in which all payments to and from the West Bengal Board of Madrasah Education Fund shall be made;
- (j') the manner of reappropriation under section 27;
- (k) the manner and form in which accounts of receipts and expenditure shall be kept under section 28;
- (l) the manner in which examination and audit of the accounts of the Board shall be made;
- (m) the reports, returns and statements to be furnished by the Board under section 31 and the forms of such reports, returns and statements;
- (n) any other matter required to be prescribed or provided or made by rules.

### **39. Repeal, saving and validation :-**

(1) The resolution made under notification No. 211 Education, dated the 2nd February, 1973, by the State Government constituting the West Bengal Madrasah Education Board (hereinafter referred to as the former Board) is hereby repealed.

(2) Upon such repeal,

(a) all property and assets under the control of the former Board and all rights, liabilities and obligations acquired or incurred by the former Board before the commencement of this Act shall vest in the Board in accordance with such order as the State Government may make in this behalf;

(b) all legal proceedings or remedies instituted or enforceable by or against the former Board before the commencement of this Act may be continued or enforced, as the case may be, by or against the Board as established under this Act or, until the Board is so established, by or against such officer or authority as the State Government may by order specify;

(c) all officers and other persons in the employ of the former Board immediately before the commencement of this Act shall, until other provision is made, continue in the service of the Board;

(d) all recognised Madrasahs shall be deemed to have been recognised under this Act until the expiration of the period of recognition, subject, however, to the power of the Board, to withdraw recognition in accordance to the provisions of this Act; and

(e) all syllabuses, courses of studies and text-books in force shall, until other provision is made under this Act, continue to be followed.

**40. Board to be guided by directions of the State Government :-**

The Board shall, in exercising its powers and performing its duties under this Act, be guided by such directions as the State Government may, by notification, give from time to time regarding the scope and content of Madrasah Education.

**41. Supersession of the Board :-**

(1) If in the opinion of the State Government, the Board

(a) has persistently made default in the performance of duties imposed on it, or

(b) has exceeded or abused its powers, the State Government may, by an order published in the Official Gazette and stating the reasons therefor, supersede the Board for such period, not exceeding two years, as may be specified in the order, and take such steps as may be necessary to re-establish the Board immediately on the expiry of the period of supersession.

(2) The State Government may, if it considers necessary so to do, by order extend or modify from time to time the period of supersession which shall in no case in aggregate exceed three years.

**42. Consequences of supersession :-**

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, with effect from the date of an order of supersession made under section 41,

(a) all the members of the Board and the Committees constituted

under this Act and the President shall vacate their offices,

(b) all the powers, duties and functions which, under the provisions of this Act or any rule or regulation made thereunder or of any other law for the time being in force, may be exercised or performed by the Board or any of the Committees or the President, shall be exercised or performed by an Administrator to be appointed by the State Government in this behalf

Provided that an Administrator appointed under this clause may delegate any of his powers, duties or functions to such person as he may think fit or to such body as may be constituted by him;

(c) the representatives of the Board on every body, statutory or otherwise, shall vacate their respective offices as such representatives, and the Administrator may nominate such person or persons to represent the Board or that body as he may think fit.

(2) The State Government may, by an order published in the Official Gazette, cancel an order made under section 41 and re-establish the Board.

(3) On the re-establishment of the Board under sub-section (3), the Administrator shall cease to exercise his powers and perform his duties.

(4) The terms and conditions of service of the Administrator shall be such as may be fixed by the State Government by order made in this behalf.

#### **43. Board to continue as a body corporate :-**

For removal of doubts, it is hereby declared that an order of supersession made under section 41 shall not effect or imply in any way the dissolution of the Board as a body corporate.

#### **44. Re-establishment of the Board :-**

(1) The State Government shall, by an order published in the Official Gazette, specify the date on which the Board is re-established in accordance with the provisions of section 4.

(2) The State Government shall, by an order published in the Official Gazette, specify the dates by which the authorities (other than the State Government) shall elect or nominate members referred to in section 4. If such member or members are not elected or nominated, as the case may be, by the specified dates,

the State Government shall appoint such member or members from amongst the persons qualified for such election or nomination, as the case may be.

(3) Until election of members referred to in section 4 is held, the State Government shall appoint such member or members from amongst the persons qualified for election under clauses (k), (l) and (m) of section 4.

(4)

(a) The members appointed under sub-section (2) shall hold office until nomination of members under section 4 is made.

(b) The members appointed under sub-section (3) shall hold office until election of members referred to in section 4 is held and the result of such election is published in the Official Gazette in this behalf.

**45. Power to remove difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may make such order or do such thing, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty.