

## **Bihar Intermediate Education Council Act, 1992**

**26 of 1992**

**[09 September 1992]**

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## **Bihar Intermediate Education Council Act, 1992**

**26 of 1992**

**[09 September 1992]**

### **PREAMBLE**

An Act to establish Intermediate Education Council for the Purpose of Bringing Uniformity in Intermediate Education in The State of Bihar for Establishing Co ordination between different Institutions Managing the Intermediate Education, separating Intermediate Education from The Universities and for proper conduct, Management and Control of Educational Institutions of This Standard.

1. Assented to by the Governor on 9.9.1992.

### **CHAPTER 1 Chapter 1**

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

(1) This Act may be called the Bihar Intermediate Education Council Act, 1992.

(2) This will extend to the whole of the State of Bihar,

(3) It shall be deemed to have come into force at once.

#### **2. Definition :-**

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

(a) "Council" means the Bihar Intermediate Education Council established under Section 3,

(b) "Fund" means Bihar Intermediate Education Fund mentioned in Section 27,

(c) "Rules" means Rules framed under this Act,

(d) "Regulation" means Regulation framed under this Act,

( e ) "Chairman" means the Chairman of Bihar Intermediate Education Council,

- (f) "Vice-Chairman" means the Vice-Chairman of Bihar Intermediate Education Council,
- (g) "Secretary" means the Secretary of Bihar Intermediate Education Council,
- (h) "Head of the Institution" means Head of the Institution imparting Intermediate Education, irrespective of the designation,
- (i) "Intermediate Education" means the education of (+2) standard imparted according to the Intermediate syllabus in the subjects and up to the standard prescribed by the State Government from time to time, and it includes (+2) or the post 10th standard and the pre-degree (three years) standard education of two years duration imparted in secondary schools,
- (j) "Institution" means educational institution recognised by the Intermediate Education Council under this Act or the Institutions imparting Intermediate (+2) standard Education admitted to the privilege of maintained and controlled by the Universities in Bihar before promulgation of this Act,
- (k) "Governing body of any Institution" means such a group of person whom at any particular period the work of management of the Institution has been entrusted,
- (l) "Member" means Member of the Council,
- (m) "Notification" means notification published in the Official Gazette,
- (n) "Prescribed" means prescribed under this Act or Rules framed thereunder,
- (o) "Centrally-managed School" means schools imparting Secondary education established or managed by the Government of India or by any authority recognised or controlled by the Government of India, and
- (p) "Intermediate College" means institution imparting general education of Intermediate (+2) standard recognised by the Council.

## **CHAPTER 2 COUNCIL**

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

(1) For the purpose of this Act, there shall be established a Council in the prescribed manner by the State Government by notification to be published by the State Government in the Official Gazette which shall be called "Bihar Intermediate Education Council" (hereinafter called as Council).

(2) The Board shall be a corporate body called "Bihar Intermediate Education Council" and shall have perpetual succession and a

common seal and shall sue and be sued by the said name and shall have power to acquire and possess both movable and immovable property and take final decision in respect thereof, and to enter into contract and for these purposes to do all other necessary acts. The headquarters of the Council shall be at Patna.

#### **4. Constitution of the Council :-**

The following shall be the members of the Council:-

Chairman

(1) Chairman, Bihar Intermediate Education Council.

Ex-Officio Members

(2) Vice-Chairman, Bihar Intermediate Education Council.

(3) Education Secretary.

(4) Director (Higher Education).

(5) Director, Intermediate Education (Vocational Education).

(6) Director, Secondary Education.

(7) Director, Science and Technology.

(8) Chairman, Bihar School Examination Board.

Members

(9) Two Vice-Chancellors of the Universities of Bihar.

(10) Two Principals and one teacher of Intermediate Colleges to be nominated by the State Government.

(11) One person taking interest in education each from among the Scheduled Caste, the Scheduled Tribe, women and the Minority Community to be nominated by the State Government.

(12) Nine Members of the Bihar Legislative Assembly and three Members of the Bihar Legislative Council to be nominated by the Speaker and Chairman of the Bihar Legislative Assembly and Bihar Legislative Council respectively.

(13) Two distinguished and experienced educationists to be nominated by the State Government.

Notes.-Under sub-clause (10) above two Vice-Chancellors will be nominated by rotation in the following order:-

(a) Patna University and Rajendra Agriculture University.

(b) Bihar University and Birsa Agriculture University.

(c) Ranchi University and Nalanda Open University.

(d) Bhagalpur University and L. N. Mithila University.

(e) Magadh University and K.S. D.Sanskrit University.

(f) Jai Prakash University and Vir Kuer Singh University.

(g) Bhupendra Narain Mandal University, Madhepura and Sidhu Kanhu University, Dumka.

## **5. Appointment, term and service conditions of the Chairman :-**

(1) No person shall be deemed to be qualified to hold the post of Chairman unless such person is reputed for his scholarship, academic interest and administrative capability.

(2) The Chairman shall be appointed by the State Government.

(3) The Chairman shall be a whole-time officer and shall hold office at the pleasure of the State Government for a term not exceeding three years from the date on which he first assumes charge of the office. On the expiration of the first term he may be appointed at the pleasure of the State Government for a term not exceeding three years.

(4) (i) The salary and other service conditions of the Chairman will be equivalent to that of the Vice-Chancellor of the State University.

(ii) Where the person appointed as Chairman is in receipt of a pension from Central or State Government, the amount of pension payable to him shall be treated as part of the salary specified in clause (i).

## **6. Appointment, term and service conditions of Vice-Chairman :-**

( 1 ) (i) The Vice-Chairman will be appointed by the State Government.

(ii) The Vice-Chairman will be a whole-time officer and shall hold office at the pleasure of the State Government for a term not exceeding three years from the date on which he first assumes charge of the office on the expiration of the first term he may be appointed at the pleasure of the State Government for a term not exceeding three years.

(2) The State Government will appoint such person as Vice-Chairman who has sufficient experience of education administration.

(3) The salary and other service conditions of the Vice-Chairman shall be equivalent to that of the pro-Vice-Chancellor of the University of Bihar.

(4) Other conditions of service shall be determined by the State Government.

## **7. Temporary arrangement of work during the absence of the Chairman or vacancy of the post of Chairman :-**

During the absence of the Chairman by reason of leave, illness or

any other cause or in the event of any temporary vacancy, the Vice-Chairman shall act as the Chairman of the Council.

**8. Term of office of the nominated members of the Council :-**

The term of office of the nominated members of the Council shall be three years from the date of notification in the Official Gazette at the pleasure of the State Government provided that-

(a) the term of membership of the nominated members under clauses (9) and (10) of Section 4, shall be one year:

Provided that, any nominated member shall be deemed to vacate office with effect from the date on which he ceases to be a member of the category from which he was nominated.

(b) The term of office of nominated members under clause (13) of Section 4 shall be till their membership in the legislature or till three years whichever is earlier.

**9. Casual vacancies in the membership of the Council :-**

Any casual vacancy in the membership of the Council by reason of death, resignation or otherwise shall be filled by the member of the same category or Body due to whose death, resignation or otherwise the vacancy has occurred and the person so nominated shall be a member for the unexpired portion of the term:

Provided that the Council shall be deemed to be constituted even with the existence of a vacancy or vacancies among its members for any reason.

**10. Disqualification of Chairman, Vice-Chairman and members of the Council :-**

No person shall be deemed to be qualified for appointment or to continue as Chairman, Vice-Chairman or for nomination or to continue as member-

(a) if he, directly or indirectly, himself or through his partner, has-

(i) share or interest in any book published or recommended by or on behalf of the Council, or

(ii) share or interest in any work to be done or contract to be given by the order of or on behalf of the Council;

(b) if he is a person against whom order has been passed for his removal from the post under sub-section (1) of Section 13:

Provided that the person against whom order has been passed for

removal from the post shall not be deemed to be disqualified under this clause if a period of five years has lapsed from the date on which he was removed from the post.

(c) if he-

(i) has been declared insane by a judgment of Court of Law;

(ii) is insolvent;

(iii) has been convicted by a Court of Law for the offence of moral turpitude.

Explanation.-For the purpose of sub-clause (i) of clause (a)-

(i) publication of the course book includes its re-publication and re print,

(ii) any person holding interest or share in the publication or business of such course book shall be deemed to be disqualified, and

(iii) course book includes reference books;

(d) if any dispute arises in the matter of disqualification the decision of the State Government shall be final.

### **11. Vacancy to the post of Chairman, Vice-Chairman or member due to disqualification :-**

If any Chairman, Vice-Chairman or any member of the Council is disqualified under Section 10 his post shall be deemed to have fallen vacant with effect from the date of disqualification. The vacancy caused on account of disqualification shall be published in the Official Gazette by the State Government.

### **12. Resignation of members :-**

(1) The Vice-Chairman or any Member of the Council other than ex-officio Member may submit his resignation in writing to the Chairman of the Council.

(2) The State Government shall, having accepted the resignation of the Vice-Chairman or member shall notify it and the post of the member concerned shall fallen vacant from the date of the notification.

### **13. Removal of member :-**

(1) The State Government may, on the recommendation of the Council or suo motu remove any member from his post if such a member has been found guilty of such conduct as would, in the opinion of the State Government disqualify him to continue as



member.

(2) The name of the member removed under sub-section (1) shall be published in the Official Gazette by the State Government and the post of the member removed shall fall vacant with effect from the date of Gazette Notification.

#### **14. Constitution of Committee to enquire into the working of the Council :-**

(1) The State Government shall be competent to appoint a Committee of one or more members as it may consider necessary, to enquire into and to report on the following matters:-

- (i) Working of the Council;
- (ii) Financial position of the Council;
- (iii) Allegations against the Chairman, Vice-Chairman, members or officers of the Council;
- (iv) Necessity of changes in the provisions of the Ordinance, Rules or Regulations; and
- (v) Any other matter as the State Government may think proper.

(2) On the basis of the report received under aforesaid sub-section (1), the State Government may issue such direction as it may consider necessary and the Council shall comply therewith within the specified period.

#### **15. Purposes and powers of the Council :-**

The Council shall have general powers of direction, supervision and control of Intermediate (+2) Education and the following particular purposes and powers:-

- (1) (a) To advise the State Government on all such matters concerning Intermediate (+2) Education as may be referred to it for advice by the State Government;
- (b) To grant on previous approval of the State Government or refuse recognition to the Institution of Intermediate (+2) standard and if satisfied to withdraw the recognition of recognised Institutions.
- (2) To inspect recognised Institutions.
- (3) To prescribe syllabus, courses of study and curricular by Regulation for Intermediate (+2) standard and to prescribe the course books.
- (4) To prepare course books and reference books and to arrange for their publication and sales.
- (5) To prepare approved list of books from time to time to get

them published and to remove any book from such list for the Institutions recognised and examinations conducted by the Board.

(6) For the purpose of this Act to arrange for the conduct of examinations of Intermediate (+2) standard and to make Regulations thereof; or

(7) To make Regulations for prescribing conditions to be fulfilled by the students for appearing at the examinations prescribed by the Council.

(8) To publish results of examinations prescribed by the Council and on the basis of such results, award diploma, certificates, prizes and scholarships.

(9) To prescribe by Regulation examination fees and rates of remuneration for examiners, invigilators, tabulators, observers and setters for the examinations prescribed by the Council.

(10) To grant or refuse permission to candidates, or if considered proper, to withdraw the permission already given for appearing at the examinations conducted by the Council under the Regulations made in this behalf.

(11) With the prior approval of the State Government to lay down qualifications for teachers of Intermediate (+2) classes of recognised Institutions.

(12) To give approval for the creation of posts, and to the appointments made in the manner prescribed, and to make Rules regarding other service conditions subject to the provisions of this Act and the Rules made thereunder, in respect of teachers and non-teaching staff of recognised Institutions of Intermediate (+2) standard other than the Institutions of Intermediate (+2) standard run by the Centre or managed or controlled by the State Government or the Secondary Education Board, minoritys or autonomous institutions or of Intermediate classes of affiliated degree colleges.

(13) To promote physical, moral and social welfare of students of Institutions, to create sense of discipline amongst them and to determine the standard of living conditions in hostels.

(14) To withhold, reduce or stop maintenance grant or any other grant, if any recognised Institution of Intermediate (+2) standard has failed to implement any of the conditions of recognition, or the Institution is being run in such a way as may be pre-judicial to the interest of education or fails to comply with any order issued by the Council for maintainance of the prescribed teaching standard.

(15) To determine the requirements and standard in connection with buildings, laboratory, library, apparatus, furniture, writing

materials and other articles.

(16) To lay down conditions of admission of students in the Institutions.

(17) To prescribe the number for admission of students in any class of any Institution.

(18) To lay down conditions for removal of students from the Institutions.

(19) To prescribe academic session and holidays for the Institutions with the approval of the State Government.

(20) To regulate the system of preparation and maintenance of Registers and other statements concerning teaching subjects by the Institution.

(21) To call for any report or information from any Institution.

(22) To manage its funds.

(23) To seek transfer of interest of rights, in respect of any gift, grant, bequest, donation, endowment trust or property, hold property, interest, or rights and to demand and realise prescribed fees, royalty and charge.

(24) To consider Annual Reports and Annual Accounts and to approve them and to prepare and forward financial estimate of the same to the State Government for approval.

(25) To make Rules and Regulations for the purpose of implementing the provisions of this Act.

(26) To create, with the prior approval of the State Government, posts of officers and employees of the Council.

(27) To make Rules for the service conditions of officers and other employees of the Council other than Chairman and the Secretary.

(28) To make appointments to the sanctioned posts of officers of the Council other than Chairman and the Secretary, in the manner prescribed and to take disciplinary action against them.

(29) To make bye-laws in connection with the procedure to be followed by the Council and other matters exclusively connected with the Council and which are not provided for in this Act and Rules and Registrations made thereunder.

(30) To do such other acts as may be necessary in order to implement the purposes of this Act.

## **16. Delegation of powers and duties :-**

The Council shall be competent to formulate policy for the execution of its powers and duties in proper and feasible manner and the said policy shall be executed by the Chairman or an Officer

duly authorised by him.

### **17. Meetings of the Council :-**

(1) Meetings of the Council shall be held on such dates as may be fixed by the Chairman.

(2) The Annual meeting of the Council shall be held each year generally in the month of November.

(3) Other meetings of the Council shall be held as many times as may be required for the working but the intervening period between any two consecutive meeting shall not exceed three months.

(4) One-third of the members present shall constitute the quorum at any meeting of the Council.

(5) The Council shall lay down the Rules of procedure to be followed in its meeting.

### **18. Powers to invite experts and officers in the meetings :-**

The Council or its Committee may invite such person to attend its meeting who in its opinion is an expert in any field of education:

Provided that the subject with which the expert is concerned is likely to be discussed or is discussed in that meeting. Such invited person may participate in the deliberations of the Council or its Committee but he shall have no right to vote.

### **19. Restriction of voting :-**

No member of the Council shall vote on any such subject in which his personal interest is involved or the subject is connected with such Institutions of which he is a teacher or a member of the Governing Body.

### **20. Prescribing Rules of procedure and meetings of Committees :-**

The Council shall frame Regulations for the meetings of the Board of Studies or other Committee constituted by it and shall prescribe Rules of procedure to be followed in such meetings.

## **CHAPTER 3 OFFICERS OF THE COUNCIL**

### **21. Officers of the Council :-**

The following shall be the officers of the Council:-

- (1) The Chairman,
- (2) The Vice-Chairman
- (3) The Secretary,
- (4) The Joint Secretary,
- (5) The Finance Officer, and
- (6) Such other persons who may on the recommendation of the Council or otherwise be declared by the State Government by notification published in the Official Gazette, to be officers of the Council.

## **22. Powers of the Chairman :-**

- (1) The Chairman shall be the Chief Executive Officer of the Council. It shall be the duty of the Chairman to see that the provisions of this Act and the Rules and Regulations made thereunder are duly followed and for this purpose he shall have all the necessary powers.
- (2) The Chairman shall be responsible for getting the decision of the Council, Board of studies or Committees constituted under this Act, complied with and executed.
- (3) The Chairman shall, subject to the provisions of this Act by the Rules and Regulations made thereunder have power to make appointments to the post within the sanctioned grades and scales of pay and within the sanctioned strength of the ministerial employees and other servants of the Council (not being teachers and officers of the Council) and have control and full disciplinary powers over such staff and servants.
- (4) The Chairman shall exercise such other powers and perform such other duties as prescribed or imposed on him under the Rules.
- (5) If at any time except when the Council is in session and it becomes absolutely necessary to take decision on any matter, the Chairman may exercise any powers vested in the Council, which is not contrary to the decisions of the Council, and shall obtain the approval of the Council giving reasons for the acts, done at its next meeting.
- (6) The Chairman may, for proper performance of the duties of the Board send direction to Inspectress of Schools, Bihar, Regional Directors of Education, District Education officers who shall comply with such direction.
- (7) The Chairman shall have-
  - (a) powers for the general supervision and control over the Secretary and other officers and employees of the Council.

- (b) powers to entrust such work as he deems fit to the members of the Board of Studies and Committees, and
- (c) powers to sanction T.A. at the rates approved by the State Government to the Secretary and members of the Council

### **23. Powers and functions of the Vice-Chairman :-**

The Vice-Chairman under the general supervision of the Chairman shall perform functions related to syllabus and grant of recognition. In addition, he shall exercise such power and perform such duties which shall be assigned to him by the Chairman.

### **24. Secretary :-**

- (1) The Secretary shall be a whole-time officer of the Council. His appointment shall be made by the State Government. His service conditions shall be such as may be determined by the State Government.
- (2) Subject to the control of the Chairman, the Secretary shall be the Chief Executive Officer of the Council. He shall be of the rank of Joint Director from Education Service or of the rank of Registrar of University. His other conditions of service shall be determined by the State Government.
- (3) He shall exercise such powers as may be prescribed or imposed on him by the Chairman or the Council.
- (4) He shall be entitled to participated in the deliberations of the meeting of the Council but shall have no right to vote.
- (5) The Secretary shall be responsible to record the proceedings of the meetings of the Council.
- (6) He shall be the custodian of all the movable and immovable properties of the Council.
- (7) It shall be the responsibility of the Secretary to preare annual estimate and annual accounts.
- (8) It shall be the responsibility of the Secretary to have proper control over all types of expenditure of the Council.

### **25. Joint Secretary :-**

- (1) The Joint Secretary shall be a whole-time officer. He shall be of the rank of Bihar Education Services Class I or Deputy Registrar of the University. He shall be appointed or deputed by the State Government. Joint Secretary shall work under the control of

Secretary.

(2) There shall be two posts of the Joint Secretary in the Council. One Joint Secretary shall be in charge of the work relating to establishment and other of the Administrative work and examination work.

## **26. Finance Officer :-**

The Finance Officer shall be a whole-time officer appointed by the Council on the recommendation of the Bihar Public Service Commission and he shall act as Secretary of the Finance Committee and shall exercise such powers and perform such duties as may be prescribed or delegated or imposed on him by the Council, Chairman or Secretary from time to time.

## **27. Service conditions of the officers and staff :-**

Save as otherwise provided in this Act, service conditions of the officers and staff of the Council shall be the same as that of the officers and staff of the University, as prescribed by the State Government.

## **CHAPTER 4 COMMITTEES OF THE COUNCIL**

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

(1) The Council shall constitute one or more of the following Committees from amongst its members:-

- (a) Recognition Committee;
- (b) Courses Committee;
- (c) Examination Committee;
- (d) Finance Committee; and
- (e) Other Committee which the Council considers necessary.

(2) The Chairman of each Committee shall either be the-Chairman or Vice-Chairman of the Council or any member-nominated by the Chairman. Besides the Chairman, the members of the Committee shall not be more than six.

(3) Save as otherwise provided in this Act there shall be a Secretary of each Committee who shall be nominated by the Chairman from amongst officers of the Council.

### **29. Functions of the Committees :-**

(1) The duty of the Recognition Committee shall be to advise the

Council on matters of granting recognition to Institutions.

(2) The duties of the Courses Committee shall be to advise the Council on matters relating to preparation of courses of study and curricula and preparation and selection of books for teaching in recognised Institutions and for the examinations conducted by the Council.

(3) The following shall be the function of the Examination Committee:-

(a) To advise the Chairman in the selection of examiners, paper setters, moderators, tabulators, invigilators, observers and other officers connected with the examination for examinations conducted by the Council, and

(b) To advise the Chairman on all other matters connected with the examination.

(4) The following shall be the functions of the Finance Committee:-

(a) Preparation of annual estimates of the Council;

(b) Scrutiny of the Budget of the Institution in the prescribed manner;

(c) Work relating to maintenance of Budget of Council and different Institutions;

(d) Discharge of such other functions of financial form as may be entrusted from time to time by the Council; and

(e) To advise the Council on problems affecting the Finance of the Council.

## **CHAPTER 5 FINANCE, ACCOUNTS AND AUDIT**

### **30. Funds of the Council :-**

(1) The Council shall have its own funds to be called as Bihar Intermediate Council Fund in which the following amount shall be credited:-

(a) All amounts received from the State Government under Section 30;

(b) All loans taken by the Board under Section 31;

(c) All kind of fees and other receipts received under the provisions of this Act.

(d) Income to the Council from bequest, gift endowment, trust and other kinds of property; and

(e) All amounts received by or on behalf of the Council.

(2) The funds shall be kept in any Scheduled Bank within the meaning of the Reserve Bank of India Act, 1934 Postal Savings Account or invested in public Securities authorised by the Indian



Trusts Act, 1882 at the discretion of the Council.

### **31. Grants to the Council :-**

The State Government may give from time to time such grants to the Council as it may consider necessary for the maintenance of the functions of the Council under this Act.

### **32. Powers of the Council to take loan :-**

(1) With the prior approval of the State Government the Council, with a view to provide sufficient means, may take loan from open market or otherwise under conditions prescribed in this behalf.

(2) It necessary, the refund of the Principal amount and interest at the rates and conditions prescribed by the State Government at the time of taking loan of all the amounts taken as loan under sub-section (1) shall be guaranteed by the State Government.

(3) The Council may for the purpose of providing sufficient means accept deposits from Institutions and general public.

### **33. Use of Councils Fund :-**

The funds of the Council set up under this Act shall be used on relevant heads and expenditure relating to subjects defined under this Act and other purposes for which powers have been vested or duties imposed on the Council by or under this Act.

### **34. Manner of drawing money from the Councils Fund :-**

The Council shall withdraw any money from bank through cheque credit letter jointly signed by the Secretary of the Council and any other officer authorised by the Council.

### **35. Annual Budget Estimates :-**

The Finance Committee shall prepare Annual Budget estimates of income and expenditure of the Council and Institutions under the Council for the next financial year and shall forward the same with notes and explanations by the prescribed date for consideration to the Annual meeting of the Council and the Council shall approve the estimates without or with such modification as it may consider proper and the estimates so approved shall be presented to the State Government by the 30th November. The State Government shall pass such orders in respect of the Budget estimates as it may

consider proper and shall communicate the same to the Council by the 31st March. The Council shall comply with such orders.

**36. Annual Report :-**

(1) The Chairman shall present Report each year regarding the activities during the previous financial year at the Annual meeting of the Council.

(2) The Council shall forward the above report to the State Government with its comments within one month of its presentation before the Council.

**37. Accounts of the Council :-**

The council shall keep accounts of all income and expenditure in the manner prescribed.

**38. Audit of the funds of the Council :-**

(1) The Auditor of Accounts appointed by the Accountant-General, Bihar shall audit the Annual accounts of the Council and Institutions under the provisions of this Act and the Rules made thereunder.

(2) After examining the accounts of the Council, the Auditor shall, as soon as possible, send the audit report to the State Government and a copy of it to the Council. The Council shall send it to the State Government with its comments with in three month of the receipt of the report.

(3) The State Government shall take such action on the audit report as it may consider proper.

(4) It shall be lawful for the State Government on the basis of the audit report, require any authority of the Council, officer or servant or any other person who is found to have spent or authorised the expenditure of any amount in excess of the amounts provided for in the budget without prior approval of the State Government or in violation of the provision of the Act, Rules or Regulation or is found to have failed to account for any amount, reimbursement of the amount:

Provided that no order for reimbursement shall be made until the authority, officer or servant or the person concerned has been given reasonable opportunity of making the representation, and if a representation filed within the prescribed time-limit it has not been considered by the State Government.

(5) If the State Government is satisfied that any particular amount

has been paid irregularly and if its reimbursement is not made within the specified period the said amount shall be deemed to be a public demand and shall be recovered under Bihar and Orissa Public Demands Recovery Act, 1914.

## **CHAPTER 6** INSTITUTION, IMPARTING EDUCATION OF INTERMEDIATE (+2) STANDARD, THEIR ESTABLISHMENT, RECOGNITION AND MANAGEMENT

### **39. Institutions imparting education of intermediate (+2) standard :-**

(1) Notwithstanding anything contained in Patna University Act, 1976 (Bihar Act 24 of 1976) and Bihar State Universities Act, 1976 (Bihar Act 23 of 1976) for the purpose of this Act, the following Institutions shall be deemed to be Institutions imparting education of Intermediate (+2) standard:-

(a) Constituent College of any University of the State of Bihar or College maintained by the State Government in which there is arrangement for Intermediate (+2) teaching;

(b) Degree College admitted to the privilege by any University of the State of Bihar before promulgation of this Act in which there is arrangement for teaching of Intermediate (+2) standard;

(c) College admitted to the privilege by any University of the State of Bihar affiliated up to the Intermediate (+2) standard before promulgation of this Act;

(d) Institutions imparting education up to Intermediate (+2) standard recognised by the Council under this Act.

(2) Institutions imparting education of Intermediate (+2) standard of the Category of clauses (a), (b) and (c) of sub-section (1) the Intermediate (+2) part of such Institutions shall with the promulgation of this Act be deemed to be duly recognised by the Council.

### **40. Arrangement of teaching of Intermediate standard by the colleges affiliated to University :-**

(1) Notwithstanding anything contained in this Act till separate arrangement is made for the classes of Intermediate (+2) standard of Degree Colleges under the Council, the arrangement shall be as follows:-

(a) Principals of Degree Colleges shall be responsible for the arrangement of Intermediate (+2) classes.

(b) Principals of Colleges shall be responsible to the Council for proper teaching arrangement management, discipline, accounts etc. of Intermediate (+2) classes.

(c) The University, Authorities in cases of Constituent Colleges and the Government Body concerned in respect of affiliated College shall get the directions and rules of the Council complied with.

(2) The Council may mark Rules for arrangements of proper teaching, examinations etc. of Intermediate (+2) class attached to Degree Colleges.

#### **41. Establishment and recognition of Institutions of Intermediate (+2) Education :-**

(1) No Institution imparting Intermediate (+2) Education shall not be established or run unless prior approval of the Council has been obtained for the purpose.

(2) The Council shall maintain a register of Institution in arranging Intermediate (+2) Education in accordance with the provisions of this Act. The Register shall contain such entries as may be prescribed by the Council.

(3) Every recognised Institution imparting Intermediate (+2) Education shall be given a certificate of registration in the form prescribed by the Council.

(4) Institutions other than recognised Institutions imparting Intermediate (+2) Education shall not send up students in the Examinations conducted by the Bihar Intermediate Education Council.

(5) The Council may give approval for the establishment of Institution imparting Intermediate (+2) Education under conditions prescribed by the Council in this behalf.

(6) Any Institution imparting Intermediate (+2) Education desiring to impart education of Intermediate (+2) standard may apply for recognition on the form and on payment of the fee, prescribed by the Council.

(7) (a) The Council may grant recognition to any Institution under prescribed conditions in respect of the following:-

(1) Building, Land, Playground, furniture and other facilities.

(2) Number of teachers and their qualifications.

(3) Amount to be deposited in general and reserve funds.

(4) Number of students.

(5) Library and Laboratories.

(6) Other conditions as may be prescribed by the State

Government. (b) If the Council refuses to grant recognition to any Institution imparting education of Intermediate (+2) standard any person or Institution dissatisfied with the decision may appeal to the State Government within 30 days and the decision of the State Government shall be final.

#### **42. Review of the recognition of recognised institutions :-**

(1) With a view to ascertain whether or not the College is fulfilling the prescribed conditions and maintaining the proper standard of techning and discipline, the Council shall review the cases of recognised Intermediate (+2) Colleges at every three years or before that at such intervals as it may consider necessary.

(2) If, as a result of the review mentioned in sub-section (1) or for other proper and sufficient reasons, the Council considers it necessary then it shall be competent to withdraw under Section 38 and 40 the permission given to any Intermediate (+2) College/Institution and to remove its name from the Register of recognised Intermediate (+2) Colleges.

(3) Any person dissatisfied with the decision of the Council under sub-section (2) may within 30 days of the communication of such decision prefer appeal to the State Government and the decision of the State Government on such matter shall be final.

(4) Where the recognition of any Intermediate (+2) College is withdrawn and its name is removed from the register of the Council, the certificate of registration given to the authority in-charge of the management shall be deemed to be cancelled The Council shall notify the cancellation of recognition certificate in Official Gazette and according to necessity, in the newspaper.

#### **43. Relation of recognised institution with the Council :-**

The relation of recognised Institutions with the Council shall be in accordance with the Rules made in this behalf which shall specially provide for the following powers to be exercised by the Council:-

(1) To prescribe minimum qualifications and pay-scales for different categories of teachers and non-teaching staff in such Institutions;

(2) to approve appointments, dismissal, removal and termination of service of teachers and non-teaching staff done by the Governing Bodies of such Institutions;

(3) to regularise the facilities to be given by such Institutions in respect of Libraries, laboratories and other teaching appliances;

(4) to make rules of service conditions of teachers of such

Institutions and to provide thereunder grant of leave with or without allowance, and to establish Pension, Insurance, Provident Fund for teachers and to expect satisfactory arrangement for training and other work of this type and to inspect such arrangements from time to time.

## **CHAPTER 7 GOVERNING BODY OF RECOGNIZED INSTITUTION**

### **44. The Governing Body of recognized institution :-**

(1) There shall be a Governing Body for the management and administration of each affiliated Intermediate (+2) Institution other than a College managed and maintained by State Government or a College established and administered by minority community on the basis of religion and language. It shall consist of following members:-

(i) Head of the Institution-Ex-officio Member.

(ii) A representative of the Council to be nominated by the Council.

(iii) A member of the Parliament or the State Legislature, who mainly resides in that area of the district to be nominated by the Council:

Provided that preference shall be given to the local member of the legislative assembly.

(iv) A government officer posted in the District who shall be either a Subdivisional Magistrate or an Officer of the rank of Sub-Judge nominated by the Council.

(v) One member elected by and from amongst teachers of the Institution.

(vi) Three members to be elected by and from such donors as have donated at least Rupees twenty five Thousand to the Institution.

(vii) One member to be co-opted by the Governing Body from amongst such educationists or persons reputed for having academic interest who resides in the district, where the Institution is established.

(2) The term of office of the members of the Governing Body, their powers and functions shall be such as may be prescribed by the Rules.

(3) No act or proceedings of the Governing Body of the recognised Institutions shall be invalid merely by existence of a vacancy or vacancies amongst its members.

(4) The Council shall constitute an ad hoc Committee for the management of the Institution till the Governing Body is constituted under the provision of sub-section (1).

#### **45. Procedure for the constitution of the Governing Body :-**

- (1) The Governing Body shall be constituted in accordance with the provisions prescribed in the Rules.
- (2) The proceedings regarding the constitution of the Governing Body and other proceedings of the Governing Body will be sent to the Council in due course.

#### **46. Powers and functions of the Governing Body :-**

- (1) Subject to the provision of the Rules made under this Act and directive issued by the State Government or the Council from time to time, the Governing Body shall have all such power and perform all such functions as may be necessary for proper management and administration of the Institution.
- (2) Notwithstanding anything contrary to the generality of the foregoing powers, the following shall be the powers and duties of the Governing Body:-
  - (a) To acquire by donation, purchase, deed or otherwise such movable or immovable property as may be necessary for the purpose of the Institution and to construct any building or to make any alteration in it or to maintain it for the purposes of the Institution, and
  - ( b ) to receive grants, subscriptions and donations for the institution.
- (3) To maintain a fund in which the following amounts shall be deposited:-
  - (a) All amounts received from the Government of India, the State Government or the Council and from any other Body or authority.
  - (b) All such amounts as are received from grants, subscriptions, donations, endowments, Will or transfer;
  - (c) All such amounts as are received from fees of the Institution or students fund or any amount received from any other course or manner.
- (4) To get the amount of the said fund duly approved and appropriate and deposited in the prescribed manner, which shall include Payment of salaries of teachers and non-teaching College.
- (5) To control expenditure within the available funds.
- (6) To prepare an estimate of budget for each year.
- (7) To maintain proper accounts and other allied records; to prepare annual statement of accounts and to get accounts of the Institution audited.

- (8) To create and to grant stipends, rewards and medals.
- (9) To establish, maintain and manage hostels and to give possible facilities to the students for residence, to supervise the residence of the students of the Institution and to keep control over them, to determine their discipline and to arrange generally for the welfare and development of their cultural and community life.
- (10) To arrange for the teaching in different subjects in accordance with the syllabus approved by the Council, to send proposals for creation of teaching, administrative, secretariat and others posts for the Council and to make appointment against created and sanctioned posts of teaching and non-teaching staff in the prescribed manner.
- (11) To keep control over the academic curriculum of the Institution.
- (12) To constitute such sub-committees as are deemed necessary.
- (13) To delegate its power to any member or sub-committee constituted by it.
- (14) To make agreement for the institution and on its behalf.
- (15) To take all legal steps on behalf of the institution.
- (16) To do all such other works which are essential in the interest of the institution and for which it may be authorised by the Council.

## **CHAPTER 8** PROVISIONS FOR CREATION OF POSTS, APPOINTMENT AND TERMINATION OF SERVICES OF TEACHING AND NON-TEACHING STAFF OF THE INSTITUTION.

### **47. No post shall be created without the approval of the State Government :-**

- (1) Notwithstanding anything contained in this the Council or any other affiliated Institution shall not, without the previous approval of the State Government, create any teaching or non-teaching post involving financial liability nor shall increase the pay or allowances or sanction any other allowances attached to any post and shall not sanction any special pay or allowance or any other remuneration including compassionate payment or any other benefit having financial implication.
- (2) Notwithstanding anything contained in the non recognised Institution shall, after the commencement of this Act. appoint any person temporarily to any post without the prior approval of the Council:  
Provided that no sanction of the Council shall be necessary for filling up any sanctioned post of a teacher by a candidate who



possesses the prescribed qualification for a period not exceeding six months after which his service shall stand terminated automatically.

**48. Recommendation of the State Public Service Commission, College Service Commission in the appointment of officers of the Council and teachers of recognised Institution :-**

(1) Subject to provisions in the Act and Rules and Regulation framed there under the Public Service Commission/College Service Commission shall perform the same function as are entrusted to it under Article 320 of the Constitution of India in relation to the services of the State.

(2) The Bihar Public Service Commission shall abide by the conditions laid down in Section 48 of this Act in recommending appointment to every post of officer of the Council.

(3) Appointment of such teachers for whom no separate provisions have been made in this Act, shall be made on the recommendation of College Service Commission.

**49. Term of appointment :-**

(1) The Council shall dispose of matters relating to appointment, dismissal, termination of service or reduction in rank of officers of the Council, mentioned in sub-Section (4) (5) and (6) of Section 20 after obtaining the advice of the State Public Service Commission in the manner prescribed under the Rules.

(2) In respect of the Institutions recognised by the Council, not maintained by the State Government, the Governing Body shall dispose of all matter relating to the appointment, dismissal, termination of service or reduction in rank of teachers in the manner prescribed under the Rules, after obtaining the advice of the College Service Commission:

Provided that Governing Body of any recognised Institution, based on religion and language and established by any minority community shall send the necessary records to the College Service Commission and shall with their approval appoint, dismiss or reduce the rank of teachers, and shall take up disciplinary action against them:

Provided further that in case consultation with the Commission shall not be necessary of any teacher where the order involves only censure, stoppage of increment, restriction in crossing the Efficiency Bar or of suspension till the investigation of allegations.

(3) In case of appointment to the posts of teachers in Institutions teaching up to Intermediate(+2) standard and for Officers of the council the College Service Commission/State Service Commission shall recommend subject to the following provisions:-

(a) Members named in column (2) of Table appended hereto shall assist the Commission in recommending appointment to posts concerned.

(b) The duty of the experts shall be mainly to give a advice but they will not have the power to vote.

(c) At least one of the members name in column (2) of the Table shall be present in the meeting of the Commission.

Table.

	<b>Post to which appointment is to be made.</b>	<b>Specialists who shall be nominated.</b>
	<b>1</b>	<b>2</b>
(1)	Principal of the Institution	(1) A Principal of a Degree College to be nominated by the Council. (2) A University teacher not below the rank of Reader to be nominated by the State Government.
(2)	Subject Teacher	(1) A teacher of the subject concerned not below the rank of Reader to be nominated by the Council. (2) A teacher of the subject concerned not below the rank of a Reader to be nominated by the state Government.
(3)	Officers of the Council mentioned in items (4), (5) and (6) of Section 20	A person not being in service of the Council, reputed for his special knowledge and aptitude, to be nominated by the State Government.

(4) The recommendations of the Commission shall be valid for a period of one year from the date of recommendation.

(5) (a) The Council or the Governing Body of the Institutions, shall, appoint persons in order of merit, from the merit list within a period of three months from the date of receipt of the recommendations under sub-section (4):

Provided that if the Council/Governing body is unable to accept the merit list recommended by the Commission it shall record the reasons thereof and forward the matter to the State Government for final decision.

(b) It shall be the duty of the State Public Service Commission in respect of recommendations made for appointment in the Council and the College Service Commission in respect of recommendation made for appointment of teachers in recognised institutions, to submit an annual report of the functions discharged, to the State Government and the Council and the Council shall forward it to the State Government with its comments and the State Government shall place it before the State Legislature.

(c) Notwithstanding anything contained in the preceding sub-Section, it shall not be necessary for the Council or the Governing Body to consult the Commission, if the post of a teacher to which appointment is being made is not likely to continue for a

period exceeding six months and any delay in appointment is likely to affect adversely the Council or the Institution:

Provided that if the person appointed aforesaid is to continue on the post for a period beyond six months, or is to be appointed to any other post, the concurrence of the Commission will be necessary and in the event of failure to do so the appointment shall be deemed to have been terminated on the expiry of the period of six months:

Provided further, that on the basis of concurrence obtained under clause (c) of sub-section (5) from the Commission any person can be retained on the post for another period not exceeding six months on the expiry of which his services will stand automatically terminated.

## **CHAPTER 9 MISCELLANEOUS**

### **50. Casual vacancies :-**

All Casual vacancies of members in the Council or any other body shall be filled up as soon as may be by election or nomination or appointment or co-option, as the case may be, and the person so elected, nominated, appointed or co-opted shall be a member of such body for such period as the person elected, nominated or co-opted would have continued, had the vacancy not occurred.

### **51. Act or Proceeding not invalidated by vacancies or defect in the constitution subject to the provisions of the Act :-**

No act or proceeding of any committee of the Board or the body shall be invalid just because of a vacancy amongst its members.

### **52. Submission of informations statements etc :-**

The Council shall send all required reports, statements and information to the State Government and shall further give such information related to its works, as may be required by the Government.

### **53. Powers of the State Government for issuing directions :-**

(1) The State Government may issue such directive as deemed necessary under the provisions of this Act for achieving the objects of this Act.

(2) The State Government shall have powers to address the Council or express its views or issue directive with respect to any act done, being done or proposed to be done or got done by the Council.

(3) On receipt of such communication the Council will report to the State Government about the action it has taken or proposes to take

and in case it fails to take necessary action the Council shall explain the position to the State Government.

(4) After consideration of the explanation tendered by the Council or in case of failure of submission of the explanation within a reasonable period, the State Government may issue such direction as deemed fit and the Council shall comply with such direction.

(5) If such circumstances exist, under which in the opinion of the State Government immediate action is necessary, the State Government without the prior consultation with the Council, may take such action as it deems fit and in conformity with the provision of this Act and shall communicate the action taken immediately to the Council.

(6) The State Government may annul any resolution or order assigning reasons there to if in their opinion such order or resolution is beyond the powers bestowed on the Council by this Act or provisions thereunder. In such circumstances status quo before the resolution was passed or orders made will be maintained.

### **53A. Power of State Government to supersede the Council**

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<sup>1</sup>[(1) If in the opinion of the State Government the Council is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under this Act or has failed to carry out the directions issued by the State Government under Section 53 of the Act, or has exceeded or misused its powers or is acting contrary to its jurisdiction, the State Government may, by Notification published in the Official Gazette, supersede the Council for the period of one year:

Provided that before issuing a notification under this sub section, the State Government shall by notice provide an opportunity to the Council to show cause within such period as may be specified in the notice why it should not be superseded and shall consider the explanations and objections, if any, of the Council.

(2) All the powers and functions and all properties of the Council superseded under sub-section (1) shall vest in the State Government. The State Government may, if it thinks necessary extend the supersession of the Council for a further period or periods not exceeding one year.

(3) Upon the publication of the Notification under sub-section (1) of the Section for supersession of the Council.

(a) All members of the Council shall vacate their posts with effect from the date of the supersession of the council.

(b) All powers and duties to be exercised and performed by or on behalf of the Council under the provisions of the Act shall be exercised and performed by such persons, during the period of supersession of the Council, as the State Government may direct.

(4) On expiration of the period of one year specified in the Notification issued under sub-section (1) of this Section or prior to the said period, the state Government may reconstitute the Council. After that all powers and functions and all properties vested in the State Government under sub-section (2) of this Section shall vest in the Council again.]

1. Inserted vide Section 2 of Amdt. Act 15 of 2004.

#### **54. Power of the Council to make Rules :-**

(1) The Council may make Rules for executing these provision of the Act pertaining to which the State Government is not vested with powers to make Rules.

(2) Rules framed under sub-section (1) will not come into effect until they are approved by the State Government:

Provided that immediately after the enforcement of the Act the first Rule may be made by the State Government.

#### **55. Powers of the Council to make Regulations :-**

The Council may make relevant Regulations consistent with Rules framed under the provisions of this Act to provide for the following:-

(a) Procedure to be followed in holding of the meeting of the Council;

(b) Traveling allowances and daily allowances to be paid to members of the Council and

(c) For any other matter purely related to the Council.

#### **56. Bar of jurisdiction :-**

No suit shall lie in any Civil Court with respect to implementation of this Act or Statutes and Regulations made under this Act.

#### **57. Repeal and savings :-**

(1) The Bihar Intermediate Education Council Ordinance, 1991

(Bihar Ordinance no. 3 of 1992) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by under this Act as if this Act was in force on the day on which such thing was done or action taken.