

## **Bihar Non-Government Elementary Schools (Taking Over Of Control) Act, 1976**

**30 of 1976**

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## **Bihar Non-Government Elementary Schools (Taking Over Of Control) Act, 1976**

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An Act to provide for the taking over of non-Government Elementary Schools under the State control for better Organisation and Development of Elementary Educational in the State of Bihar. Be it enacted by the Legislature of the State of Bihar in the twenty seventh year of the Republic of the India as follows. 1. Published in the Bihar Gazette dated 26th February, 1977.

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

- (1) This Act may be called the Bihar Non-Government Elementary Schools (Taking over of Control) Act, 1976.
- (2) It extends to the whole of the State of Bihar.
- (3) It shall be deemed to have come into force with effect from the first day January, 1971.

### **2. Definitions :-**

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

- (a) "Elementary School" means a school of different grades up to class VII and includes-
- (i) a school established and administered by the District Board and Zila Parishad under the provisions of the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act 2 of 1885).
  - (ii) a school established and administered by the Municipal Board under the provisions of Bihar and Orissa Municipal Act, 1922 (B. & O. Act VII of 1922).
  - (iii) a school established and administered by the Patna Municipal Corporation under the provisions of the Patna Municipal Corporation Act, 1951 (Bihar Act XII of 1952).
- (b) "Minority Elementary School" means a school administered by a linguistic or religious minority as envisaged in clause (i) of Article 31 of the Constitution and which has been in receipt of Government grant prior to its being taken by the State Government;
- (c) "Aided Elementary School" means a private school which has been in receipt of Government grant prior to its being taken over by the State Government and which is administered by a Managing Committee;
- (d) "Unaided Elementary School" means a private school recognised by the Government and which is not in receipt of any Government grant.

### **3. Taking Over Of Non-Government Elementary Schools By State Government :-**

- (1) Elementary Schools managed by the District Board, Zila Parishad, the Municipal Board, and the Patna Municipal Corporation, and those opened under the Expansion and Improvement Scheme shall be deemed to have been taken over by the State Government with effect from the 1st day of January, 1971.
- (2) Aided Elementary School, the Managing Committees of which have handed over voluntarily the control of the school to the Government, shall be taken over by the State Government with effect from the date which shall be determined by the District Committee referred to in sub-section (4) for this purpose.
- (3) Elementary Schools administered by any public or private undertakings shall be taken over by the State Government by publication of a notification in the official gazette with effect from the date to be specified therein.
- (4) (a) With regard to the taking over of Elementary Schools other than those mentioned in sub-sections (1) and (3) there shall be a

District Committee in each district which shall examine the feasibility of taking over of such schools by the State Government and which shall consist of the following members:-

- (i) Deputy Development Commissioner/Administrator, District Board-Chairman,
  - (ii) District Superintendent of Education-Secretary. Members
  - (iii) District Education Officer,
  - (iv) District Inspector of Schools,
  - (v) Sub-divisional Education Officer of the concerned Sub-division, and
  - (vi) Deputy Inspector of Schools concerned,
- (b) The State Government may from time to time make changes in the personnel of the District Committees so constituted.

#### **4. Consequences Of Taking Over :-**

(1) All the assets and properties whether movable or immovable owned or possessed by the schools taken over by the State Government under Section 3 including lands, buildings, documents, books and registers relating to the schools shall stand transferred to and be deemed to have come into the possession and ownership of the State Government.

(2) Every officer, teacher or other employee holding any office or post in the school taken over by the State Government shall be deemed to have been transferred to and become an officer, teacher or employee of the State Government with such designation as the State Government may determine and shall hold office by the same tenure, at the same remuneration and on the terms and conditions of service as he would have held before the taking over of the said school and shall continue to do so unless and until such tenure, remuneration, terms and conditions of service are duly altered by the State Government.

(3) The service of employees of local bodies working on deputation in the office of the District Superintendent of Education, Sub-divisional Education Officer-cum-Municipal Education Officer and those working in the education section of Patna Municipal Corporation shall be deemed to have been transferred to and taken over by the Government and such employees shall in case of their opting to Government service, be deemed to have become Governments servants with effect from the date of enforcement of this Act.

#### **5. District Education Fund And Municipal Education Fund :-**

- (1) There shall be created a District Education Fund and a Municipal Education Fund for the rural and urban areas of the district respectively wherein all Government grants and allotments for elementary education shall be credited and necessary expenditure shall be incurred out of the said Funds.
- (2) For the Patna Municipal Corporation areas, there shall be a separate Fund, called the Patna Municipal Corporation Education Fund.
- (3) The State Government may if it thinks fit by publication of a notification to that effect in the Official Gazette area only one Fund for the district, after nullifying the District Education Fund, the Municipal Education Fund and Patna Municipal Corporation Education Fund.
- (4) The State Government may by a notification published in the Official Gazette abolish or supersede the District Education Fund, the Municipal Education Fund of the Patna Municipal Corporation Education Fund and may by some other procedure for incurring expenditure under different heads of Elementary Education.
- (5) Till some other alternative arrangements are made the payment of salaries, allowances and other remuneration to teachers and expenditure on other items of Elementary Education shall continue to be made as before from the District Education Fund, the Municipal Education Fund or the Patna Municipal Corporation Education Fund, as the case may be,
- (6) All amounts payable to the local bodies on account of salaries and allowances to the teachers of schools amounts of deposits in their provident fund and all other amounts relating to elementary schools and credited to or deposited in the District Education Fund, the Municipal Education Fund or Patna Municipal Corporation Education Fund together with the balance amount available in these funds shall be deemed to have been transferred to the fund concerned.
- (7) The District Superintendent of Education, the Sub-divisional Education Officer-cum-Municipal Education Officer and Sub-divisional Education Officer, Patna Sadar shall respectively operate the District Education Fund, the Municipal Education and the Patna Municipal Corporation Education Fund according to the order or Rules of the State Government.

## **6. Elementary Education Committee :-**

Opening of schools, their improvement, upgradation and other proposals relating to the expansion of Elementary Education shall be considered by a Committee consisting of the following:-

- (i) District Officer concerned or the Deputy Development Commissioner,
- (ii) District Education Officer of the District concerned,
- (iii) District Superintendent of Education of the District concerned,
- (iv) District Inspectress of Schools of the District concerned,
- (v) Sub-divisional education Officer of the concerned Sub-division,
- (vi) Four legislators or members of the Parliament to be nominated by the Government and three other members interested in education belonging to the district. The District Officer or the Deputy Development Commissioner shall be the Chairman and the District Superintendent of Education shall be the Secretary of the Committee and the Committee shall transact its business in accordance with the rules prescribed by the State Government and orders issued by it from time to time. The proposals duly recommended by the Committee shall be sent to the Regional Deputy Director of Education for his approval.

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

- (i) The State Government may make rules not inconsistent with this Act for carrying out the purposes of this Act.
- (ii) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteens days which may be comprised in one session or in two successive sessions, and if, before expiry of the session immediately following both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulments shall be without prejudice to the validity of anything previously done under that Rule.

#### **8. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such action or pass such order as appears to it necessary for removing the difficulty.

#### **9. Repeal And Saving :-**

(1) All provisions relating to non-Government elementary schools under the Bihar and Orissa Local Self-Government Act of 1885 (Ben. Act III of 1885), the Bihar and Orissa Municipal Act, 1922 (Bihar and Orissa Act VH of 1922), the Patna Municipal Corporation Act, 1951 (Bihar Act XIII of 1952) and the Bihar Panchayat Samities and Zila Parishads Act, 1961 (Bihar Act VI of 1962) and any other enactment in force, at the time of enforcement of this Act shall stand repealed:

Provided that nothing in this repeal shall affect or be deemed to affect-

(i) any right, title, obligation or liability already acquired, accrued or incurred for anything done or suffered, in respect of the period immediately preceding this repeal;

(ii) any legal proceeding or remedy whether initiated or availed of before or after this repeal, in respect of any such right, title, obligation or liability. Under the provisions of such enactments and all proceeding under them in respect of all matters aforesaid shall be initiated and disposed of or continued and disposed of as the case may be, as if Act had not been enacted.

(2) (i) The Bihar Non-Government Elementary Schools (Taking over of Control). Third Ordinance, 1976 (Bihar Ordinance No.167 of 1976) is hereby repealed:

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