

## **Bihar School Examination Board Act, 1952**

### **7 of 1952**

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## **Bihar School Examination Board Act, 1952**

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#### **PREAMBLE**

An Act to establish A School Examination Board in the State of Bihar.

<sup>2</sup>[Whereas it is expedient to establish a School Examination Board in the State of Bihar for holding and conducting an examination at the end of the secondary school education stage, for prescribing course of duties for such examination and generally for carrying out such other objects or duties as may be considered necessary for purpose hereinafter appearing.]

It is hereby enacted as follows :-

1. Legislative papers-For Statement of Objects and Reasons, see Bihar Gazette, Extra-ordinary, dated the 7th March, 1952, for proceedings in the Legislative Assembly, see the Bihar Legislative Assembly Debates, 1952, Vol. V, No. 7 pp. 5-7 and for proceedings in the Legislative Council, see Bihar Legislative Council Debates, 1952, Vol. V, No. 7 pp. 28-46.

2. Substituted by Bihar Act 27 of 1976.

#### **CHAPTER 1 PRELIMINARY**

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

(1) This Act may be called the Bihar School Examination Board Act, 1952.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall come into force at once.

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

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

(a) "Board" means the Bihar School Examination Board established under Section 3;

(b) "Chairman" means the Chairman of the Board;

(c) "Examination Fund" means the Bihar Examination Fund established under Section 11;

- (d) "High School" means a recognized school or department of a recognized school imparting instructions in secondary education and recognized as such, <sup>1</sup>[\*\*\*\*\*]
- (e) "prescribed" means prescribed by rules made by the State Government or by regulation made by the Board under this Act;
- (f) "regulation" means a regulation made by the Board under this Act; and
- (g) "Secretary" means the Secretary to the Board;
1. Omitted by Bihar Act 27 of 1976.

## **CHAPTER 2 THE BIHAR SCHOOL EXAMINATION BOARD**

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

- (1) There shall be established by the State Government a Board known by the name of the Bihar School Examination Board which shall be a body corporate with perpetual succession and a common seal and shall by that name sue and be sued.
- (2) The Board shall have power to acquire and hold property, both movable, and immovable, and subject to the provisions of this Act and the rules made thereunder, to transfer any property held by it and contract to do all other things necessary for the purposes of this Act.

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

- <sup>1</sup>[(1) The Board shall consist of.--
- (a) the Chairman;
- <sup>2</sup>[(b) the Director of Education (Secondary Education) Bihar Ex-Officio);]
- (c) one representative from each of the Universities in Bihar established by law, to be nominated by the State Government;
- (d) one Principal of a Training College to be nominated by the State Government.
- (2) The State Government may nominate for such period not exceeding the term specified in sub-section (4) as it may think fit, not more than two persons to be members of the Board on the ground that they, in the opinion of the State Government, possess expert knowledge of examination system.
- (3) The names of the members of the Board nominated under sub-sections (1) and (2) shall be published by the State Government in the Official Gazette.

(4) Subject to the provision of sub-section (2), the term of office of the Chairman and the members other than the nominated member shall be for a period of three years from the date of the publication of their names in the official Gazette and shall include any further period which may elapse between the expiration of the said three years and the date of the first meeting of the next succeeding Board.

3[(5) A person who holds office as Chairman shall, on the expiration of his term of office, be eligible for re-appointment to that office for further period not exceeding three years in aggregate.]

1. Substituted by Act 11 of 1960.

2. Substituted by Act 29 of 1976.

#### **4A. Appointment of the Chairman and his removal :-**

<sup>1</sup>[(1) The State Government shall appoint the Chairman who shall be a whole-time officer of the Board.

(2) The pay, allowance and other conditions of service of the Chairman shall be such as may be determined by the State Government.

(3) The State Govt. may, by the notification in the official Gazette remove the Chairman if he refuses to act or is unable to act or if he acts in a manner which State Government considers it prejudicial to the interest of the Board:

Provided that before issuing such notification, the State Govt. shall give a reasonable opportunity to the Chairman to show cause why he should not be removed.]

1. Substituted by Act 27 of 1976.

#### **4B. Vacancy in the office of the Chairman :-**

<sup>1</sup>[(1) If the Chairman is unable, by reason of his death, resignation or otherwise, to complete his full term, the Director of Education (Secondary Education), Bihar and in case he is unable for any reason to be the Chairman, any other person appointed by the State Government shall carry on the office of the Chairman for the unexpired portion of the term for which the Chairman would have continued in office.

(2) During the temporary absence of the Chairman by reason of

leave, illness or any other cause, Director of Education (Secondary Education), Bihar and in case he is unable for any reason to be the Chairman, any other person appointed by the State Government shall carry on the office of the Chairman.]

1. Inserted by Act 14 of 1963.

#### **4C. Vacancies in the Board, etc., not to invalidate acts or proceedings :-**

No act or proceeding of the Board or of any Committee of the Board shall be called in question on the ground merely of the existence of any vacancy in or defect in the constitution of the Board or Committee, as the case may be.

#### **5. Conduct of business :-**

The Board shall, by regulations, prescribe the procedure to be followed in regulating the conduct of business at meeting of the Board or Committees constituted by the Board under this Act.

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

<sup>1</sup>[(1) The Board shall be responsible for making all arrangements for the conduct of examination held under this Act, and generally for formulating ways and means for the purposes of improving the machinery for the assessment of the attainments of the students studying in High Schools:

Provided that if the State Government considers grant of autonomous status to any school conducive to enhancement of the standard of education imparted therein it may, by notification in the official Gazette, declare that school to be autonomous and may direct that such school, from such date as is specified in this behalf, conduct its final examination and be responsible for making all arrangements for the same.]

(2) In particular and without prejudice to the generality of the foregoing powers, the Board-

(a) shall, in consultation with the Committees of Courses for different subjects constituted under Section 7, prepare lists of persons suitable for appointment as paper-setters, moderators, examiners, tabulators, supervisors and invigilators for examinations shall make such appointment;

(b) shall consider, moderate, determine and publish the results of

examinations and award diplomas, certificates, prizes and scholarships in respect thereof;

(c) shall admit candidates to its examination and may disqualify any candidates for presenting themselves for such examination for any reason which the Board considers to be adequate;

(d) shall demand and receive such fees as may be prescribed in the regulations;

(e) shall fix centres for such examinations;

(f) <sup>2</sup>[ x x x ]

<sup>3</sup>[(g) shall watch standards of craft attainments in High Schools;]

(h) shall evolve improved methods of the assessment of the attainments of candidates and carry out experiments in such methods;

<sup>2</sup>[(i) shall take such disciplinary action as it thinks fit against students studying in High Schools for reasons of misconduct;]

<sup>2</sup>[(j) shall arrange regular inspection of High Schools with a view to ascertain that the prescribed academic and vocational standards are being properly maintained; and]

(k) shall conduct such other departmental examinations and perform such other duties as may be prescribed.

<sup>4</sup>[(3) Notwithstanding anything contained in sub-section (2) or any other provisions of this Act, an autonomous school:-

(a) shall prepare lists of persons suitable for appointment as paper-setters, moderators, examiners, tabulators, supervisors and invigilators for examinations and shall make appointment as such;

(b) shall admit candidates to its examination and may disqualify any candidates for presenting himself for any such examination for any reason which the autonomous school considers to be adequate;

(c) shall demand and receive such fees as may be prescribed by the regulations;

(d) shall fix centres for such examinations;

(e) shall arrange for the assessment of attainments of pupils presenting themselves for examinations, as exhibit from their day to day records in the school of which they are pupils;

(f) shall watch standards of craft and other vocational attainments in school;

(g) shall evolve improved methods of assessment of attainments of candidates and carry out experiments in such methods; and

(h) shall consider, moderate, determine and publish the results of examinations on the basis of which the Board shall award diplomas, certificate, prizes and scholarships in respect thereof.]

1. Inserted by Act 14 of 1963.
2. Omitted by Act 14 of 1963.
3. Substituted by Act 27 of 1976.
4. Inserted by Act 27 of 1976.

## **7. Committees of Courses :-**

(1) A Committee of Courses shall be constituted by the Board for each group of subject and every such committee shall consist of five members who shall be experts in each subject or group of subjects.

(2) Every committee constituted under sub-section (1) shall consist of-

- (a) one person to be nominated by the Patna University;
- (b) one person to be nominated by the University of Bihar;
- (c) two persons to be nominated by the Bihar Board of Secondary Education; and
- (d) one person to be nominated by the State Government.

(3) It shall be the duty of the Committee-

1[(a) to recommend to the State Government through the Board and the Bihar Board of Secondary Education the courses of study taught at the secondary stage in High Schools in their respective subjects;]

(b) to give such instructions as may be prescribed to the Bihar Text Book Committee for the preparation of text books in accordance with the approved courses of study;

<sup>1</sup>[(c) to recommend to the Director of Education (Secondary Education) Bihar text books for high schools classes at the secondary stage and higher secondary classes at the higher secondary stage, other than those published by the Bihar Text Book Committee;]

<sup>2</sup>[(d) to suggest improvements in the courses of study and method of teaching classes at the secondary stage in High School and

<sup>3</sup>[(e) to perform such other functions consistent with the purposes of this Act as may from time to time be entrusted to it by the Director of Education (Secondary Education), Bihar.]

1. Substituted by Act 27 of 1976 and again Substituted by Act 29 of 1976.

2. Substituted by Act 27 of 1976.

3. Substituted by Act 29 of 1976.

**7A. Appointment of Committee to inquire into working of the Board :-**

<sup>1</sup>[(1) The State Government may, at any time, appoint a Committee consisting of a Chairman and such other members as it may think fit, to enquire and report on any of the following matters :-

- (i) the working of the Board;
- (ii) the financial position of the Board;
- (iii) whether any change should be made in the provisions of the Act;
- (iv) such other matter as may be referred to it by the State Government.

(2) The State Government may, after considering the report and recommendation, if any, of the Committee, issue such directions of the Board as it may think fit, and the Board shall comply with the directions.]

<sup>2</sup>[(3) Notwithstanding anything contained in sub-sections (1) and (2), the State Government may, from time to time, issue such general or special directions to the Board as it may think fit. The Board shall comply with the directions in performance of its functions.]

1. Inserted by Act 11 of 1960.

2. Substituted by Act 27 of 1976.

**8. Officers of Board :-**

The following shall be the officers of the Board namely:-

- (1) the Chairman,
- (2) the Secretary, and
- (3) such other officers as may be prescribed by rules made under this Act to be officers of the Board.

**9. Powers and duties of Chairman :-**

(1) It shall be the duty of the Chairman to see that this Act and the rules and regulations made thereunder are faithfully observed and he shall have all powers necessary for this purpose.



(2) The Chairman shall have power to convene meetings of the Board.

(3) In any emergency arising out of the administrative business of the Board, which, in the opinion of the Chairman, requires that immediate action should be taken, the Chairman shall take such action as he deems necessary, and shall thereafter report the action by him to the Board at its next meeting.

(4) The Chairman shall exercise such other powers as may be prescribed by the rules.

#### **9A. Appointment of Secretary and his removal :-**

<sup>1</sup>[(1) The State Government shall appoint one of its officers, possessing such qualifications and on such terms and conditions and for such period as may be prescribed, to be the whole time Secretary of the Board.

(2) The State Government may remove the Secretary, at any time if he refuses to act or is unable to act or acts in a manner which the State Government considers prejudicial to the interest of the Board :

Provided that before passing such orders of removal the State Government shall give a reasonable opportunity to the Secretary to show cause why he should not be removed.]

1. Substituted by Act 27 of 1976.

#### **10. Powers and Duties of Secretary :-**

(1) The Secretary shall, subject to the control of the Board, be the administrative officer of the Board. He shall be responsible for the presentation of the annual estimates and statement of accounts.

(2) He shall be responsible for seeing that all moneys are expended on the purpose for which they are granted or allotted.

(3) He shall be responsible for keeping the minutes of the Board.

(4) He shall exercise such other powers as may be prescribed by the regulations.

(5) He shall be entitled to be present and to speak at any meeting of the Board, but shall not be entitled to vote thereat.

#### **10A. Power to supersede the Board :-**

<sup>1</sup>[(1) If in the opinion of the State Government the Board is unable to perform the duties imposed upon it by or under the Act or has

repeatedly failed in its performance or has not complied with the directions issued under sub-section (3) of Section 7A by the State Government or has acted beyond its power or has abused its powers, the State Government may by notification in the official gazette supersede the Board for such period which may be specified in the notification:

Provided that before issuing notification under this sub-section, the State Government shall give reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections if any, of the Board.

(2) Upon the publication of the notification under sub-section (1) for the supersession of the Board :-

(a) All the members of the Board shall vacate their posts as such with effect from the date of supersession;

(b) All the powers and duties to be exercised or performed by or on behalf of the Board by or under the provisions of the Act during the period of supersession shall be exercised or performed by such persons as the State Government directs; and

(c) All the properties vested in the Board, during the period of supersession, shall vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), of the State Government-

(a) may extend the period of supersession for such further time as it may consider necessary, or

(b) may reconstitute the Board as provided in Section 4 and Section 4A.]

1. Inserted by *ibid*.

### **CHAPTER 3 THE BIHAR SCHOOL EXAMINATION FUND**

#### **11. Examination Fund :-**

(1) There shall be established for the Board a fund to be called the Bihar School Examination Fund which shall be vested in the Board for the purposes of this Act subject to the provision therein contained.

(2) There shall be placed to the credit of the Examination Fund:-

(a) all sums allotted to the Board from the Consolidate Fund of the State of Bihar by the State Government and all sums borrowed by the Board for the purposes of carrying out the provisions of this Act and the rules and regulations made thereunder;

(b) all money received by or on behalf of the Board including all

fees payable and levied under any provisions of this Act and the rules and the regulations made thereunder; and

(c) all other sums received by the Board, not included in the preceding clauses.

(3) Unless the State Government otherwise directs all sums received on account of the Examination Fund shall be paid into a Government treasury, or into any bank used as a Government treasury, and shall be credited to an account to be called account of the Bihar School Examination Board.

## **12. Application of Examination Fund :-**

The Examination Fund shall be applicable to the following objects:-

(a) to the repayment of debts incurred by the Board for the purpose of this Act and the rules and regulations made thereunder;

(b) to the payment of the salaries and allowances of the officers and servants of the Board;

(c) to the payment of the travelling and other allowances of the members of the Board and the Committees of Courses;

(d) to the payment of the expenses incurred in conducting the examinations and performing the functions entrusted to the Board under this Act and the rules and regulations made thereunder;

(e) to the payment of the costs of the Examination Fund;

<sup>1</sup>[(f) to the payment of grants to the Bihar Board of Secondary Education for distribution among high schools as subsidies with a view to enable such schools to introduce revised courses of studies and to make other improvements;]

(g) to the payment of grants to the Patna University, the University of Bihar or to any other University which may hereafter be established by law in Bihar for financing such development schemes in the University education in this State as may from time to time be approved by the State Government;

(h) to the expenses of any suit or proceedings to which the Board is a party; and

(i) to the payment of any other expense, not specified in any of the preceding clauses, declared by the Board, with the previous approval of the State Government, to be the expenses for the purposes of the Board:

<sup>2</sup>[Provided that the grant of any sum for application to the objects specified in clauses (f) and (g) shall be subject to the approval of an allotment committee to be established, by notification in this behalf by the State Government, consisting of the Accountant-

General, Bihar as the ex-officio President and the Director of Education (Secondary Education), Bihar, one person to be nominated by each of the Universities in the State and one person to be nominated by the Board as members of the Committee:]

Provided further that no recommendations of the allotment committee approving the grant of any sum for application to the objects specified in clauses (f) and (g) shall be carried into effect unless and until the said recommendation has been approved by the State Government either with or without any modifications.

1. Substituted by Act 27 of 1976.

2. Substituted by Act 29 of 1976.

### **13. Audit of accounts of the Board :-**

The accounts of the Board be subject to audit under the Bihar and Orissa Local Audit Act, 1925 (B. & O. Act II of 1925), and for the purposes of the said Act, the Board shall be deemed to be a local authority whose accounts have been declared by the State Government to be subject to audit under Section 3 of the said Act and the Examination Fund shall be deemed to be a local fund.

## **CHAPTER 4 THE SECONDARY SCHOOL EXAMINATION**

### **14. Secondary School Examination :-**

<sup>1</sup>[<sup>1</sup>The Board shall conduct an examination to be called the Secondary School Examination at which may be allowed to appear all such candidates as shall have completed the prescribed course of studies taught at the secondary stage in High Schools and notwithstanding anything contained in any law, a student who has passed the said examination shall be eligible for enrolment as a student of Patna University or University of the Bihar or any other University incorporated by any law for the time being in force subject to the fulfillment of such conditions as may be prescribed by the Statutes, Ordinances and Regulations made by the Universities concerned under the law of their incorporation :]

Provided that the Secondary School Examination to be held during the year 1952 shall be conducted by the Board in accordance with such arrangements and under such procedure as may have been approved by the Patna University established under the Patna University Act, 1917 (XVI of 1917), and that the expenditure to be

incurred by the Board in conducting the said examination shall be met out of the proceeds of the fees collected by the said Patna University from the candidates making applications for permission to appear at the Matriculation Examination which was to have been conducted by the said University during year 1952, notwithstanding anything to the contrary contained in the Patna University Act, 1951 (Bihar Act XXV of 1951), or the University of Bihar Act, 1951 (Bihar Act XXVII of 1951):

Provided further that all such candidates may be granted permission to appear at the School Examination to be held by the Board during the year 1952 and the 1953 as would have been eligible for permission to appear at the Matriculation Examination, had the Patna University established under the Patna University Act, 1917 (XVI of 1917), conducted such examination during the year, 1952 and 1953 respectively:

Provided also that the courses of studies shall be in such groups and in accordance with such instructions as many, from time to time, be laid down by the State Government.

1. Substituted by Act 27 of 1976.

### **15. Aims and objects of Secondary School Examination to be held in 1954 and onwards :-**

<sup>1</sup>[The Secondary School Examination to be conducted by the Board during the year 1954 and thereafter shall aim at testing the training of the candidates as useful citizens of the Indian Union. Their qualifications and preparedness for absorption in different vocations of services and their suitability for receiving University education.]

1. Substituted by Act 27 of 1976.

## **CHAPTER 5 MISCELLANEOUS**

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

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

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules :-

(a) prescribing the qualifications of the Secretary to the Board and

terms and conditions on which he may be appointed;

(b) prescribing the academic and vocational standards for examinations;

(c) prescribing the instructions to be given to the Bihar Text-Book Committee for the preparation of text books;

(d) prescribing the departmental examinations to be conducted by Board and the duties to be performed by it, other than the duties specified in Section 6;

(e) declaring officers to be officers of the Board under clause (.3) of Section 8;

(f) prescribing the powers to be exercised by the Chairman under sub-section (4) of Section 9; and

(g) for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the purposes of this Act.

### **17. Power of Board to make regulations :-**

The Board may, after previous publication and subject to confirmation by the State Government, make regulations consistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely :-

(a) the procedure to be followed in regulating the conduct of business at meeting of the Board and Committees constituted by it under the Act;

(b) the conditions under which students shall be admitted to the examination of the Board;

(c) the fees to be charged for admission to the examination of the Board;

(d) the condition and mode of appointment and duties of examiners and the conduct of examinations;

(e) the powers to be exercised by the Secretary under sub-section (4) of Section 10; and

(f) all other matters which by this Act or the rules made thereunder are to be or may be provided by regulations.

### **18. Savings :-**

Until such time as the Board makes regulations under the appropriate provisions of this Act, any regulations made under the Patna University Act, 1917 (XVI of 1917),appertaining to the conduct of the Matriculation Examination which were in force

immediately before the said Act ceased to be in force, shall continue to be in force so far as they are not inconsistent with the provisions of this Act, subject to such modifications and adaptations, if any, as may be made therein by the Board and approved by the State Government and shall be deemed to be the regulations made under the corresponding provisions of this Act.

**19. Repeal and saving :-**

(1) The Bihar School Examination Board Ordinance, 1952 (Bihar Ordinance 1 of 1952), is hereby repealed.

(2) 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 powers conferred by or under this Act, as if this Act were in force on the day on which such thing or action was done or taken.

**20. Board to take over assets and liabilities of the Bihar Intermediate Education Council :-**

<sup>1</sup>[Board shall take over all the assets and properties of Bihar Intermediate Education Council, whether movable or immovable including lands, building, stores, vehicles, cash balance, reserve fund, investments, furniture and others, and all liabilities shall stand transferred to and vested on, and be deemed to have come in the possession of the Board. All the liabilities and obligations of the council under any agreement or contract entered into bona fide before the commencement of this Act, shall devolve and shall be deemed to have been devolved on the Board.

1. Substituted by Notification No. 1/B 9-16/76 E-89, dated 5.5.1976.

**21. Board to cancel or vary contract entered into in bad faith :-**

Board may cancel or vary any contract or agreement entered into any time before the commencement of this Act between the Bihar Intermediate Education Council and any person if it is satisfied that such contract or agreement were mala fide, and had been entered into in bad faith and was detrimental to the interest of the Council.

**22. Power of State Government to remove difficulties :-**

T h e Government shall have the authority to issue such orders/directions which is deemed expedient, with a view to carry out objectives of the Act and in case any difficulty arises State Government may issue orders/directions for removal thereof which shall be binding on the Board.]