

Gujarat State School Service Commission Act, 2013

5 OF 2014

[07 June 2014]

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Gujarat State School Service Commission Act, 2013

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AN ACT

to establish a State School Service Commission for recruitment of teachers and headmasters in the registered private Secondary and Higher Secondary Schools including Primary Schools receiving grants-in- aid from the State Government and for the matters connected therewith or incidental thereto.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. Short title, extent, commencement and application. :-

(1) This Act may be called the Gujarat State School Service Commission Act, 2013.

(2) It extends to the whole of the State of Gujarat.

(3) It shall apply to the Government-aided private Secondary, Higher Secondary and Primary Schools.

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

2. Definitions. :-

In this Act, unless the context other wise requires, -

(1) (a) "Board" means the Gujarat Secondary and Higher Secondary Education Board established under the Gujarat Secondary and Higher Secondary Education Act, 1972;

(b) "Chairman" means the Chairman of the Commission appointed under section 4;

(c) "Commission" means the Gujarat State School Service Commission constituted under section 3;

(d) "headmaster" means the head of the teaching staff of a school by whatever name designated;

(e) "higher secondary education" shall have the meaning as defined by clause (hh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

(f) "higher secondary school" shall have the meaning as defined by clause (hhh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

(g) "member" means a member of the Commission and includes the Chairman;

(h) "prescribed" means prescribed by rules made under section 16;

(i) "primary education" shall have the meaning as defined by clause (15) of section 2 of the Gujarat Primary Education Act, 1947;

(j) "primary school" shall have the meaning as defined by clause (17) of section 2 of the Gujarat Primary Education Act, 1947;

(k) "regulations" means the regulations of the Commission made under section 17;

(l) "school" means a recognised Government aided-

(i) primary school or educational institution or part or the department of such school or institution imparting instruction in

primary education, or

(ii) secondary school or educational institution or part or the department of such school or institution imparting instruction in secondary education, or

(iii) higher secondary school or educational institution (other than a college) or part or the department of such school or institution imparting instruction in higher secondary education;

(m) "secondary education" shall have the meaning as defined by clause (u) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

(n) "secondary school" shall have the meaning as defined by clause (v) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

(o) "Secretary" means the Secretary of the Commission;

(p) "teacher" means an assistant teacher or any other person holding a teaching post in a school and includes the headmaster.

(2) Words and expressions used but not defined in this Act shall have the meanings respectively assigned to them under the Gujarat Primary Education Act, 1947 or the Gujarat Secondary and Higher Secondary Education Act, 1972.

3. Constitution of Commission. :-

(1) For the purpose of selection of persons to the posts of teachers and headmasters in the grant-in-aid private schools, the State Government shall, by notification in the Official Gazette, constitute a Commission by the name of the "Gujarat State School Service Commission" with effect from such date as it may specify in the notification.

(2) (i) The Commission shall consist of three members out of whom one shall be the Chairman.

(ii) Of the three members as aforesaid, one shall be a person who, not being an educationist, occupies or has occupied, in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service, and the remaining members shall have teaching experience, either as a teacher of a University or as a principal of a college for a period of not less than ten years, or as a teacher other than principal of a college, or as a headmaster, for a period of not less than fifteen years.

4. Appointment and terms and conditions of service of a Chairman and members. :-

(1) (i) The Chairman and other members shall be appointed by the State Government.

(ii) The Chairman and other members shall hold office for a term of four years:

Provided that a person who has held office of the Chairman or other member shall, on the expiration of the term of his office, be eligible for further appointment as the Chairman or the member:

Provided further that no person who has attained the age of sixty-two years shall be eligible to hold office as the Chairman or the member.

(2) If the office of the Chairman or any other member becomes vacant by reason of resignation or otherwise or if the Chairman is, by reason of absence or for any other reason, unable to perform the duties of his office, then, until a Chairman or other member is appointed under subsection (1) or until the Chairman or the member resumes his duties, as the case may be, the duties of the Chairman or the other member, as the case may be, shall be performed by such other member as the State Government may appoint in this behalf.

(3) The Chairman or any other member may resign his office by writing under his hand addressed to the State Government, but he shall continue in the office until the resignation is accepted by the State Government.

(4) (i) The Chairman shall be a whole-time salaried officer and the other members shall be honorary.

(ii) The salary of the Chairman and the honorarium of the other members shall be such as may be determined by the State Government.

(iii) Subject to the foregoing provisions of this sub-section, the other terms and conditions of office of the Chairman and other members shall be such as may be prescribed.

5. Disqualifications of member. :-

The State Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any member from his office if he -

(i) is adjudged insolvent; or

(ii) is of unsound mind and stands so declared by the competent court; or

(iii) is convicted of any offence which, in the opinion of the State

Government involves moral turpitude; or
(iv) is found guilty of misconduct in discharge of his duties; or
(v) has become physically or mentally incapable of discharging duties as a Chairman or the member.

6. Staff of Commission. :-

- (1) The staff of the Commission shall consist of-
 - (i) Secretary, who shall be appointed by the State Government, and
 - (ii) such other employees as the Commission may, with the previous approval of the State Government, appoint.
- (2) The salary of the Secretary and other employees of the Commission shall be such as may be determined by the State Government.
- (3) The other terms and conditions of service-
 - (i) of the Secretary shall be such as may be prescribed, and
 - (ii) of the other employees of the Commission shall be such as may be provided for by regulations.

7. Functions of Commission. :-

- (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Commission to select persons for appointment to the posts of teachers in schools.
- (2) It shall be the duty of the Commission to advise the State Government on such matters as may be referred to it by the State Government.

8. Manner and scope of selection of persons and procedure for conduct of business of Commission. :-

- (1) The procedure for selection of persons for appointment to the posts of teachers shall be such as may be prescribed.
- (2) The manner in which the Commission shall conduct its business shall be such as may be prescribed by regulations.

9. No appointment of teachers except on recommendation of Commission. :-

- (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, no appointment to the posts of teachers in a school shall

be made by the managing committee, by whatever name called, except on the recommendation of the Commission.

(2) Any appointment of a teacher made on or after the commencement of this Act in contravention of the provisions of this Act shall be invalid and shall have no effect and the teacher so appointed shall not be a teacher within the meaning of clause (p) of section 2.

10. Protection of Teachers. :-

Notwithstanding anything contained in this Act, the terms and conditions of service of teachers of a school appointed immediately before the commencement of this Act shall not be varied to the disadvantage of such teachers in so far as such terms and conditions relating to the appointment of such teachers to the posts held by them immediately before the commencement of this Act.

11. Commission to call for records, etc. :-

The Commission may call for any record, report or other information from any school or the Board if, in its opinion, such record, report or other information is necessary for efficient discharge of its functions, and the school or the Board, as the case may be, shall furnish such record, report or other information to the Commission.

12. Report of Commission. :-

The Commission shall submit annually to the State Government a report as to the activities carried out by it in performance of its duties and as soon as may be after the receipt of such report, the State Government shall cause a copy thereof to be laid before the State Legislature

13. Members, etc. to be public servants. :-

The Chairman and other members and persons appointed under this Act shall, while acting or purporting to act under this Act, or any rules or regulations made there under be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

14. XXX XXX XXX :-

XXX XXX XXX

15. XXX XXX XXX :-

XXX XXX XXX

16. XXX XXX XXX :-

XXX XXX XXX

17. XXX XXX XXX :-

XXX XXX XXX

18. Power of State Government to give directions. :-

In the performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time in conformity with the provisions of this Act.

19. Power to remove difficulties. :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: -

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be after it is made before the State Legislature.

20. Dissolution of Commission. :-

(1) If the State Government is of the opinion that the Commission has failed to discharge its functions in accordance with the provisions of this Act, the State Government may, by an order published in the Official Gazette, and stating the reasons therefore, dissolve the Commission with effect from such date as may be specified in the order.

(2) Upon the dissolution of the Commission under sub-section (1), all the members of the Commission shall be deemed to have vacated their offices with effect from the date of such dissolution.

(3) The State Government may, at any time after the dissolution of the Commission under sub-section (1), reconstitute the Commission in accordance with the provisions of this Act.

21. Amendment of Bom. LXI of 1974 and Guj. 18 of 1973. :-

Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

SCHEDULE

Sr. No.	Short title.	Extent of Amendment.	
1	2	3	
1.	The Gujarat Primary Education Act, 1947(Bom. LXI of 1947).	Insertion of new section 23B in Bom. LXI of 1947.	After section 23 A, the following section shall be inserted, namely:- "23B. Selection of teachers and headmasters in government aided private primary schools. Notwithstanding anything contained in this Act, the selection of teachers and headmasters of registered Government aided private primary schools shall be made by the Gujarat State School Service Commission constituted under section 3 of the Gujarat State School Service Commission Act, of 2013"
2.	The Gujarat Secondary and Higher Secondary Education Act, 1972 (Guj. 18 of 1973).	Amendment of section 17 of Guj. 18 of 1973.	1. In section 17, in clause (26), after the words "method of selection", the bracket and words "(except for headmasters and teachers of registered Government aided private secondary and higher secondary schools)" shall be inserted.
		Amendment of section 34 of Guj. 18 of 1973.	2. In section 34, in sub-section (2), after the word "recruitment", the bracket and words "(except for headmasters and teachers of registered Government aided private secondary and higher secondary schools)" shall be inserted.
		Substitution of section 35 of Guj. 18 of 1973.	3. For section 35, the following section shall be substituted, namely:- "35. Selection of teachers and headmasters. The selection of teachers and headmasters of registered Government aided private secondary and higher secondary schools shall be made by the Gujarat State School Service Commission constituted under section 3 of the Gujarat State School Service Commission Act, of 2013."