

Tamil Nadu Private Colleges (Regulation) Act, 1976

19 of 1976

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Tamil Nadu Private Colleges (Regulation) Act, 1976

19 of 1976

An Act to provide for the regulation of private colleges in the State of Tamil Nadu.

In exercise of the powers conferred by section 3 of the Tamil Nadu State Legislature (Delegation of Powers) Act, 1976 (41 of 1976), the President is pleased to enact as follows :-

* Received the assent of the President on the 16th April 1976 and first published in the Tamil Nadu Government Gazette Extraordinary, dated 17th April 1976.

CHAPTER 1 PRELIMINARY

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

- (1) This Act may be called the Tamil Nadu Private Colleges (Regulation) Act, 1976.
- (2) It extends to the whole of the State of Tamil Nadu.
- (3) It applies to all private colleges.
- (4) Save as otherwise provided in section 55, the provisions of this Act shall be deemed to have come into force on the 21st day of November 1975.

2. Definitions :-

In this Act, unless the context otherwise requires, -

- (1) "academic year" means the year commencing on the first day of June ;

- (2) "college committee", in relation to a private college, means the college committee referred to in section 11;
- (3) "competent authority", in relation to any provision of this Act means-
- (i) any University,
 - (ii) authority, officer or person, empowered by the Government, by notification, to be the competent authority for the purposes of that provision and different competent authorities may be appointed for different provisions or for different areas or in relation to different classes of private colleges as may be specified in the notification ;
- (4) "educational agency", in relation to -
- (a) any minority college, means any person who, or body of persons which, has established and is administering or proposes to establish and administer such minority college ; and
 - (b) any other private college, means any person or body of persons permitted or deemed to be permitted under this Act to establish and maintain such other private college ;
- (5) "Government" means the State Government;
- (6) "grant" means any sum of money paid as aid out of State Funds to any private college;
- (7) "minority college" means a private college of its choice established and administered, or administered by any such minority whether based on religion or language as has the right to do so under clause (1) of Article 30 of the Constitution;

CHAPTER 2 ESTABLISHMENT, PERMISSION FOR ESTABLISHMENT AND MANAGEMENT OF PRIVATE COLLEGES

3. New private college to obtain permission :-

Save as otherwise expressly provided in this Act, no person shall, without the permission of the Government and except in accordance with the terms and conditions specified in such permission, establish, on or after the date of commencement of this Act, any private college :

Provided that it shall also be necessary to obtain affiliation of such college to a University.

4. Application for permission and sending of statement :-

(1) The educational agency of every private college proposed to be established on or after the date of commencement of this Act shall make an application to the Government for permission to establish

such college.

(2) Every such application shall -

(a) be in the prescribed form;

(b) be accompanied by such fee not exceeding ¹[twenty thousand rupees] as may be prescribed; and

(c) contain the following particulars, namely:-

(i) the name of the private college and the name and address of the educational agency;

(ii) the need for the private college in the locality;

(iii) the course for which such private college proposes to prepare, train or guide its students for appearing at any examination conducted by, or under the authority of a University;

(iv) the amenities available to students and teachers;

(v) the equipment, laboratory, library and other facilities for instruction;

(vi) the sources of income to ensure the financial stability of the private college;

(vii) the situation and the description of the buildings in which such private college is proposed to be established; and

(viii) such other particulars as may be prescribed.

(3) The educational agency of every private college in existence on the date of commencement of this Act, shall, within such period as may be prescribed, send to the Government a statement in the prescribed form containing -

(i) the particulars specified in clause (c) ²[excluding sub-clause (ii) thereof of sub-section (2)] ;

(ii) the names of the members of the teaching and non-teaching staff and the educational qualifications of each such member; and

(iii) the number of students and classes in the private college.

1 Substituted for the words "five hundred rupees" by the Tamil Nadu Act 16 of 1998 w.e.f. 1st November 1998.

2 Substituted by G.O. Ms. No. 1286, Edn. dated the 22nd June 1976.

5. Grant of permission :-

(1) On receipt of an application under sub-section (1) of section 4, the Government -

(a) may, after considering the particulars contained in such application, grant, or refuse to grant the permission ; and

(b) shall communicate their decision to the applicant within such period as may be prescribed :

Provided that the permission shall not be refused under this section unless the applicant has been given an opportunity of making his representations :

Provided further that in case of refusal of the permission, the applicant shall be entitled to the refund of one-half of the amount of the fee accompanying the application.

(2) The decision of the Government under clause (a) of sub-section (1) shall be final.

(3) No University shall grant affiliation to any private college unless permission has been granted by the Government under sub-section (1).

6. Permission deemed to be granted in certain cases :-

On receipt of a statement under sub-section (3) of section 4 from any private college in existence immediately before the date of commencement of this Act permission under sub-section (1) of section 5 shall be deemed to have been granted to such private college but no fee shall be payable for any such permission.

7. Approval of transfer of permission :-

(1) (a) Whenever there is any change in the constitution of the educational agency in relation to a private college, not being a minority college, that agency shall apply to the competent authority for approval of such change.

(b) Whenever the management of any private college is proposed to be transferred, the educational agency and the person to whom the management is proposed to be transferred may, before such transfer, apply jointly to the competent authority for approval of the transfer.

(c) On any transfer of the management of private college, without approval having been obtained for such transfer under clause (b), the transferee shall, if he desires to run it as such, apply to the competent authority within such period as may be prescribed for approval of the transfer.

(d) An application under clause (a), clause (b) or clause (c) shall be in such form and contain such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the competent authority shall -

(a) if it is satisfied, after making such inquiry as it deems fit, that the educational agency will continue to maintain and manage or, as the case may be, that the transferee will maintain and manage the

private college in accordance with the provisions of this Act, and the rules made thereunder, approve the change or, as the case may be, the transfer, subject to such conditions as it may impose ; and

(b) communicate its decision to the applicant within such period as may be prescribed.

8. Minority college to be established without permission :-

Any minority, whether based on religion or language, may establish and administer any private college without permission under sub-section (1) of section 5 read with sections 3 and 4.

9. Minority college to send statement :-

(1) Every minority college in existence immediately before the date of commencement of this Act, shall send to the competent authority a statement containing the particulars specified in clause (c) (excluding sub-clause (ii) hereof) of sub-section (2) of section 4 within such period as may be prescribed.

(2) Every minority college established and administered after the date of commencement of this Act shall send to the competent authority a statement containing particulars specified in clause (c) of sub-section (2) of section 4 within such period as may be prescribed.

10. Payment of grant :-

(1) Subject to such rules as may be prescribed, the Government may pay to the private college grant at such rate and for such purposes as may be prescribed.

(2) The Government may withhold permanently or for any specified period the whole or part of any grant referred to in sub-section (1) in respect of any private college -

(i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private college, or

(ii) in respect of which the pay and allowances payable to any teacher or other person employed in such private college are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or

(iii) which contravenes or fails to comply with any such conditions

as may be prescribed.

(3) Before withholding the grant under sub-section (2), the Government shall give the educational agency an opportunity of making its representations.

10A. Recovery of excess grant :-

¹[If the competent authority is satisfied that the grant referred to in sub-section (1) of section 10 has been paid on misrepresentation or otherwise to any private college or has been utilised by the private college in contravention of the provisions of the Act or any rules made or directions or orders issued thereunder, the grant so paid or utilised shall be treated as excess grant and such excess grant shall, without prejudice to any other mode of recovery, be recovered as arrears of land revenue.]

1 Inserted by Tamil Nadu Act 16 of 1998 w.e.f. 1st November 1998.

CHAPTER 3 COLLEGE COMMITTEE AND ITS CONSTITUTION AND FUNCTION

11. Constitution of college committee :-

¹[Every private college, not being a minority college, shall have a college committee which shall include the following persons employed in the private college, namely :-

- (a) the Principal;
- (b) the senior-most Selection Grade Lecturer or Reader;
- (c) one other Selection Grade Lecturer; and
- (d) the senior-most Superintendent:

Provided that if there is no Selection Grade Lecturer in the private college, the senior-most Lecturer and one other Lecturer shall be included in the college committee :

Provided further that if the senior-most Selection Grade Lecturer or the senior-most Lecturer, as the case may be, or the senior-most Superintendent is not willing to be included in the advisory committee as a member, the next senior person in the respective category who is willing to be included as a member shall be included in the college committee:

Provided also that if there is only one post in the category of Superintendent and the person holding the post is not willing to be included in the college committee as a member, the senior-most Assistant shall be included as a member in the college committee.

1 Substituted by Tamil Nadu Act 16 of 1998 w.e.f. 1st November 1998

12. Secretary of the college committee :-

(1) Every college committee shall have a secretary who shall exercise such powers and perform such functions as may be prescribed.

(2) Every person holding office as president, secretary, manager or correspondent of a private college or exercising the powers of secretary under this Act on the date of its commencement shall be deemed to be a secretary under this Act.

13. Meetings of the college committee :-

(1) The college committee shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be prescribed:

Provided that the college committee shall meet at least once in every three months.

(2) The president of the college committee or, in his absence, any member chosen by the members present, shall preside at a meeting of the college committee.

(3) All questions at any meeting of the college committee shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the president or, in his absence the member presiding shall have and exercise a second or casting vote.

14. Functions of the college committee and responsibility of educational agency under this Act :-

(1) Subject to the provisions of this Act and the rules made thereunder, the college committee shall have the following functions, namely :-

(a) to carry on the general administration of the private college excluding the properties and funds of the private college;

(b) to appoint teachers and other persons of the private college, fix their pay and allowances and define their duties and the conditions of their service; and

(c) to take disciplinary action against teachers and other persons of

the private college.

(2) The educational agency shall be bound by anything done by the college committee in the discharge of the functions of that committee under this Act.

(3) For the purposes of this Act, any decision or action taken by the college committee in respect of any matter over which the college committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency.

CHAPTER 3A APPOINTMENT OF SPECIAL OFFICER IN CERTAIN CASES

14A. Appointment of special officer in certain cases :-

¹[(1) (a) Where the Government, on receipt of a report from the Director of Collegiate Education or otherwise, are satisfied that the management of any private college -

(i) is responsible, whether on or after the date of commencement of the Tamil Nadu Private Schools (Regulation) and Private Colleges (Regulation) Amendment Act, 1982, for the maladministration, lapses or irregularities of such private college; or

(ii) has neglected whether on or after the date of commencement of the Tamil Nadu Private Schools (Regulation) and Private Colleges (Regulation) Amendment Act, 1982 to discharge any of the duties imposed on, or to perform any of the functions entrusted to such management by or under this Act, or any rule or order made or direction issued thereunder, the Government may, after giving to such management an opportunity to make representation and for reasons to be recorded in writing, by an order, suspend the management and appoint a special officer for a period not exceeding one year or till the reconstitution of the management (in accordance with the law applicable to the reconstitution of such management), whichever is later:

Provided that in no case the maximum period of such suspension of management shall exceed two years irrespective of the reconstitution of the management in accordance with the law applicable to the reconstitution of such management:

Provided further that where, the management of any minority college is suspended, the Government shall appoint a special officer belonging to that minority which has been administering the said minority college immediately preceding such suspension.

(b) On the making of an order under clause (a) suspending the management of a private college,-

(i) the management shall cease to discharge the duties imposed on, and to perform the functions entrusted to it; and

(ii) the special officer -

(A) shall take all such steps as may be necessary to efficiently manage and run the private college in accordance with any law applicable to the private college in so far as such law is not inconsistent with this Act; and

(B) may afford such special educational facilities as were immediately before the making of the order under clause (a), afforded at the private college.

Explanation.- In item (A) of sub-clause (ii) of clause (b), the expression "law" includes any bye-law, rule, regulation, custom, usage or instrument having the force of law.

(c) Where the Government are satisfied that the manager alone is, whether on or after the date of commencement of the Tamil Nadu Private Schools (Regulation) and Private Colleges (Regulation) Amendment Act, 1982, responsible for the lapses or irregularities of the private College, action shall be taken against him by the management as recommended by the Government.

²[(1-A) The Government may appoint an advisory committee to advise the special officer for the administration of such private college. The college committee shall consist of the following persons employed in the private college, namely:-

(a) the Principal;

(b) the senior-most Selection Grade Lecturer or Reader;

(c) one other Selection Grade Lecturer; and

(d) the senior-most Superintendent:

Provided that if there is no Selection Grade Lecturer in the private college, the senior-most Lecturer and one other Lecturer shall be included in the advisory committee :

Provided further that if the senior-most Selection Grade Lecturer or the senior-most Lecturer, as the case may be, or the senior-most Superintendent is not willing to be included in the college committee as a member, the next senior person in the respective category who is willing to be included as a member shall be included in the college committee:

Provided also that if there is only one post in the category of Superintendent and the person holding the post is not willing to be included in the college committee as a member, the senior-most Assistant shall be included as a member in the college committee.

(2) The Government may, for reasons to be recorded in writing by an order, declare a person to be unfit to be the manager of a

private college after giving to such person an opportunity of making his representation against such declaration and under intimation to the management and on such declaration the person aforesaid shall cease to be the manager of the private college and the management of such private college shall nominate another person as a manager in his place.

(3) For the removal of doubts, it is hereby declared that any wilful failure or wilful negligence on the part of a management to take action against the manager as required under clause (c) of sub-section (1) or to nominate another person as manager under sub-section (2) shall constitute an act of maladministration and action shall be taken against the management of private college under this Act accordingly.

Explanation.- For the purposes of this Chapter -

(a) "management" includes the college committee or any person, body of persons, committee or any other governing body, by whatever name called, in whom the power to manage or administer the affairs of a private college is vested :

Provided that the Board of Trustees, or governing body of Wakf Board, by whatever name called, constituted or appointed under any other law for the time being in force relating to the charitable and religious institutions and endowments and wakfs, shall be deemed to be a management for the purposes of this Chapter;

(b) "manager" means the secretary, or any person holding office as president, manager or correspondent of a private college, who is managing or administering the affairs of such private college ;

(c) "private college" includes a minority college.

(4) Sub-sections (1) and (2) shall apply to a minority college, in so far as they are not repugnant to clause (1) of Article 30 of the Constitution.

1 Chapter III-A was inserted by Tamil Nadu Act 48 of 1982.

2 Inserted by Tamil Nadu Act 16 of 1998 w.e.f. 1st November 1998.

14B. Appeal to Special Tribunal :-

(1) Any person aggrieved by an order passed by the Government under section 14-A may, within one month from the date of receipt of such order, prefer an appeal to the Special Tribunal consisting of two Judges of the High Court nominated, from time to time, by the Chief Justice in that behalf :

Provided that the Special Tribunal may, in its discretion, allow

further time not exceeding one month for the filing of such appeal.

(2) The members of the Special Tribunal shall hear the appeal on all points whether of law or of fact. Where on any such point or points the members are divided in their opinion, they shall state the point or points on which they are so divided and such point or points together with their opinion thereon shall, then, be laid before one or more Judges nominated for the purpose by the Chief Justice and such Judge or Judges shall hear the appeal in so far as it relates to such point or points, and on each such point, the decision of the majority of the Judges who have heard the appeal including those who first heard it shall be deemed to be the decision of the Special Tribunal.

(3) The Special Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when hearing an appeal.

(4) Every order made by the Special Tribunal under this Act shall be deemed to be a decree of a Civil Court and shall be executable in the same manner as a decree of such court.

(5) The decision of the Special Tribunal shall be final.

CHAPTER 4 TERMS AND CONDITIONS OF SERVICE OF TEACHERS AND OTHER PERSONS EMPLOYED IN PRIVATE COLLEGES

15. Qualifications of teachers and other persons employed in private colleges :-

¹[(1)] The University may make regulations, statutes or ordinances specifying the qualifications required for the appointment of teachers ¹[***] employed in any private college.

²[(2) The Government may make rules specifying the qualifications required for appointment to any post, other than teachers, in any private college].

1 Section 15 was re-numbered as sub-section (1) of that section and the words "and other persons" in that sub-section were omitted by the Tamil Nadu Act 16 of 1998 w.e.f. 1st November 1998.

2 Sub-section (2) was added by Tamil Nadu Act 16 of 1998 w.e.f. 1st November 1998.

16. Appointment of teachers and other persons in private colleges :-

(1) No person who does not possess the qualifications specified

under section 15 shall, on or after the date of commencement of this Act, be appointed as teacher or other employee in any private college.

(2) Nothing contained in this section or any regulation, statute or ordinance made under section 15 shall apply to any person who, on or before the date of commencement of this Act, is employed as teacher or other employee in any private college.

17. Conditions of service, etc. of teachers and other persons employed in private colleges :-

The Government may make rules in consultation with the University regulating the number and conditions of service (including promotion, pay, allowances, leave, pension, provident fund, insurance and age of retirement and rights as respects disciplinary matters but excluding qualifications) of the teachers and other persons employed in any private college.

18. Teachers and other persons employed in private colleges to be governed by Code of Conduct :-

(1) Every teacher and every other person employed in any private college shall be governed by such Code of Conduct as may be prescribed and if any teacher or other person so employed violates any provision of such Code of Conduct, he shall be liable to such disciplinary action as may be prescribed.

(2) The college committee may define the standards of conduct to be observed by teachers and other persons employed in the private college, such standards not being inconsistent with the provisions of this Act and the rules made thereunder.

19. Dismissal, removal or reduction in rank or suspension of teachers or other persons employed in private colleges :-

(1) Subject to any rule that may be made in this behalf, no teacher or other person employed in any private college shall be dismissed, removed or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority.

(2) Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private college is communicated to the competent authority, that authority shall, if it is satisfied that there

are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment.

(3) (a) No teacher or other person employed in any private college shall be placed under suspension, except when an inquiry into the gross misconduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of section 18, of such teacher or other person is contemplated.

(b) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee:

Provided that the competent authority may, for reasons to be recorded in writing, extend the said period of two months, for a further period not exceeding two months, if, in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other persons.

20. Appeal against orders of punishment imposed on teachers and other persons employed in private colleges :-

Any teacher or other person employed in any private college -

(a) who is dismissed, removed or reduced in rank or whose appointment is otherwise terminated; or

(b) whose pay or allowances or any of whose conditions of service are altered or interpreted to his disadvantage, by any order, may prefer an appeal against such order to such authority or officer as may be prescribed, and different authorities or officers may be prescribed for different classes of private colleges.

Explanation .- In this section the expression "order" includes any order made on or after the date of commencement of this Act in any disciplinary proceeding which was pending on that date.

21. Second appeal in case of dismissal, removal or reduction in rank or termination of appointment of teachers or other persons employed in private colleges :-

If the appeal under section 20 was against the dismissal, removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any private college, such teacher or other person or the educational

agency aggrieved by any order made in any such appeal, may prefer an appeal against the appellate order to the Tribunal.

22. Special provision regarding appeal in certain past disciplinary cases :-

(1) If, before the date of commencement of this Act any teacher or other person employed in any private college has been dismissed or removed or reduced in rank or his appointment has been otherwise terminated and any appeal preferred before that date-

(a) by him against such dismissal or removal or reduction in rank or termination; or

(b) by him or the educational agency against any order made before that date in the appeal referred to in clause (a) is pending on that date, such appeal shall,-

(i) in a case falling under clause (a), stand transferred to the appellate authority prescribed under section 20; or

(ii) in a case falling clause (b), stand transferred to the Tribunal.

(2) If any such appeal as is referred to in sub-section (1) has been disposed of before the date of commencement of this Act, the order made in any such appeal shall be deemed to be an order made under this Act and shall have effect accordingly.

23. Pay and allowances of teachers and other persons employed in private college to be paid in the prescribed manner :-

The pay and allowances of any teacher or other person employed in any private college shall be paid on or before such day of every month, at such rate and in such manner and by or through such authority, officer or person, as may be prescribed.

24. Chapter to have overriding effect and certain provisions thereof not to apply to minority colleges :-

(1) This Chapter or any rule providing for all or any of the matters specified in this Chapter or any order made in relation to any such matter shall have effect notwithstanding anything contained in any-

(i) other law for the time being in force, or

(ii) award, agreement or contract of service, whether such award, agreement or contract of service was made before or after the date of commencement of this Act, or

(iii) judgment, decree or order of Court, Tribunal or other authority:

Provided that where, under any such award, agreement, contract of service or otherwise, any teacher or other person employed in any private college is entitled to benefits in respect of any matter which are more favourable to him than those to which he will be entitled under this Chapter, such teacher or other person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Chapter.

(2) Nothing contained in this Chapter shall be construed as precluding any such teacher or other person from entering into an agreement for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Chapter.

(3) The provisions of sub-section (2) of section 18 and of sections 19 to 22 (both inclusive) of this Chapter or any rule providing for all or any of the matters specified therein or any order made in relation to any such matter shall not apply to a minority college.

CHAPTER 5 CONTROL OF PRIVATE COLLEGES

25. Closure of private college :-

¹[(1) No private college and no class and no course of instruction therein in a private college shall be closed without obtaining the prior approval of the competent authority and without making such arrangements as may be prescribed for the continuance of the instruction of the students of the private college or the class or the course of instruction, as the case may be, for the period of study for which the students have been admitted.

(2) No prior approval under sub-section (1) shall be given unless a notice in writing is given to the competent authority. The period of notice shall be such as may be prescribed and different periods of notice may be prescribed for different classes of private colleges. The notice shall be in such form, contain such particulars and given in such manner as may be prescribed.

(3) The competent authority shall dispose of the notice given under sub-section (2) as expeditiously as possible, and in any case, within six months from the date of receipt of the notice.

(4) On receipt of the notice under sub-section (2) and after considering the same,-

(a) the competent authority may give the prior approval for closure of the private college, class or course of instruction, as the case may be, and while giving the said prior approval it may impose

such conditions as it deems fit; or

(b) if the competent authority is satisfied that, -

(i) the notice given under sub-section (2) is defective; or

(ii) no arrangements have been made as required under sub-section (1) for the continuance of the instruction of the students of the private college or the class or the course of instruction, as the case may be, for the period of study for which the students have been admitted; or

(iii) the reason given for closure of the private college, class or course of instruction, as the case may be, are directly attributable to the mismanagement or maladministration on the part of the mismanagement; or

(iv) the financial position of the management is sound, in cases where the lack of finance has been adduced as a ground for closure of the private college, class or course of instruction, as the case may be; or

(v) the reasons given for closure of the private college, class or course of instruction, as the case may be, are not bona fide; or

(vi) the closure of the private college, class or course of instruction, as the case may be, shall adversely affect the educational opportunity available to the students of the local area in which such private college is situated, it may refuse to give the prior approval for closure of the private college, class or course of instruction, as the case may be, after recording in writing the reasons for such refusal;

Provided that the competent authority shall not refuse to give the prior approval unless the applicant has been given an opportunity of making his representations.

(5) Where the competent authority refuses to give the prior approval for closure of the private college, class or course of instruction, as the case may be, the management shall continue to run the private college, class or course of instruction, as the case may be.

(6) Where the competent authority gives approval for closure of the private college, class or course of instruction, as the case may be, during the course of an academic year, such closure shall take effect from the expiry of the said academic year.

Explanation.- For the purposes of this section, the expressions "management" and "private college" shall have the same meaning as in the Explanation to sub-section (3) of section 14-A.]

1 Substituted by Tamil Nadu Act 1 of 1987 w.e.f. 13th February 1987.

26. Educational agency to send list of properties :-

The educational agency shall, on or before the prescribed date in each year, furnish to the competent authority a statement (with such particulars as may be prescribed) of every-

- (a) movable property of not less than such value as may be prescribed; and
- (b) immovable property of the private college.

27. Restriction on alienation of property of the private college :-

(1) Notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law-

- (a) no property of a private college shall, except with the previous permission in writing of the competent authority, be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or in any other manner whatsoever; and
- (b) if any such property is transferred without such permission, the transfer shall be null and void.

(2) The competent authority may -

- (a) grant the permission under clause (a) of sub-section (1) if the transfer is made in furtherance of the purposes of the private college or of similar purposes approved by the competent authority ; and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes; and
- (b) when granting such permission, impose such conditions as it deems fit to ensure that such assets are wholly utilised in furtherance of such purposes; but a contravention of any such condition shall not invalidate the transfer:

Provided that the permission shall not be refused under this section unless the applicant has been given an opportunity of making his representations.

Explanation I.- For the purposes of this section, "property" means any-

- (a) movable property of not less than such value as may be prescribed; and
- (b) such immovable property as may be specified in the rules made in this behalf.

Explanation II.- In this section and sections 28 and 29, "private college" does not include a minority college.

28. Fees and other charges :-

(1) Subject to the provisions of sub-section (2), no private college shall levy any fee or collect any other charge or receive any other payment except a fee, charge or payment specified by the competent authority:

Provided that the examination fees that are being prescribed by the University shall continue to be prescribed by such University.

(2) Every private college in existence on the date of commencement of this Act and levying different rates of fees or other charges or receiving any other amount on such date, shall obtain the prior approval of the competent authority before continuing to levy such fees or charges or receive such payment.

29. Utilisation of funds and property of private college :-

(1) All the moneys collected, grants received and other property held by or on behalf of a private college shall be utilised for the purposes for which they are intended and shall be accounted for by the educational agency in such manner as may be prescribed.

(2) A private college may invest or deposit the funds-

(a) in the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955); or

(b) in a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959); or

(c) in any corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or Post Office Savings Bank; or

(d) in any of the securities specified in Section 20 of the Indian Trusts Act, 1882 (2 of 1882); or

(e) in such other mode as may be prescribed.

30. Taking over management of private college :-

(1) If, on receipt of a report from the competent authority or otherwise, the Government are satisfied that the educational agency of any private college has neglected to discharge any of the duties imposed on, or to perform any of the functions entrusted to, that agency by or under this Act or any rule or order made or direction issued thereunder and that it is expedient in the interests of collegiate education to take over the management of such private college, the Government may, by order in writing, take over the management of such private college :

¹[Provided that the Government shall not initiate any proceeding under this section to take over the management of any private college unless they are satisfied that the suspension of the management under section 14-A will not be sufficient.]

(2) Before making an order under sub-section (1), the Government shall give the educational agency an opportunity of making its representations.

(3) Any order made under sub-section (1), shall have effect unless it is cancelled earlier for such period as may be specified in the order :

Provided that the period so specified shall not, in the first instance, exceed two years but may, by a like order, be extended, from time to time, by any period not exceeding one year at any one time, if it appears to the Government that the interests of collegiate education require such extension, so, however, that no such order as so extended shall, in any case, remain in force for more than ²[ten years] in the aggregate.

(4) On the making of an order under sub-section (1) taking over the management of a private college-

(a) the educational agency and the college committee shall cease to discharge the duties imposed on, and to perform the functions entrusted to, that agency and that committee; and

(b) the Government-

(i) shall take all such steps as may be necessary to efficiently manage and run the private college in accordance with any law applicable to the private college in so far as such law is not inconsistent with this Act and the rules made thereunder and to take into the custody or control of the Government all the property, effects and actionable claims to which the private college is or appears to be entitled, and all the property and effects of the private college shall be deemed to be in the custody of the Government as on and from the date of the order; ³[***]

⁴[(i-A) shall not be bound by any liability incurred by the educational agency of a private college prior to the taking over of the management of the private college (including any borrowing from any person, or payment to the teachers and other persons employed in the private college or to any other person) and no claim in respect of such liability shall be enforced by any Court whether in execution of a decree or otherwise against the Government:

Provided that in computing the period of limitation for a suit, or any

application for the execution of a decree, the time during which such proceeding, attachment, injunction, order or claim the enforcement of which is barred under this sub-section shall be excluded.

(i-B) may realize income from endowments and other receipts due to the private college; and]

(ii) may afford such special educational facilities as were, immediately before the making of the order under sub-section (1) afforded at the private college.

Explanation.- In sub-clause (i) of clause (b), the expression "law" includes any bye law, rule, regulation, custom or usage.

(5) If at any time it appears to the Government that the purpose of the order made under sub-section (1) has been fulfilled or that for any other reason, the order shall be cancelled, the Government may, by order in writing, cancel the order made under sub-section (1) and on such cancellation, the maintenance and management of the private college shall stand restored to the educational agency.

(6) Any person aggrieved by any order of the Government under this section may prefer an appeal against such order to the Tribunal.

(7) This section or any order made thereunder shall have effect notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law.

1 Inserted by Tamil Nadu Act 48 of 1998 w.e.f. 1st June 1981.

2 Substituted by Tamil Nadu Act 30 of 1987.

3 The word "and" was omitted by Tamil Nadu Act 2 of 1981.

4 Inserted by Tamil Nadu Act 2 of 1981.

30A. Continuance of taking over of management in certain cases :-

¹[(1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, or in any decree or order of any Court, Tribunal or other authority, if any private college, the management of which was taken over by the Government under section 30, could not be restored to the educational agency of such private college after the expiry of the period specified in the order made under sub-section (1) of the said section 3 -

(i) for the reason that a dispute as to the constitution of the

educational agency or as to whether any person or body of persons is an educational agency in relation to the private college is pending in any Civil Court having jurisdiction ; or

(ii) for the reason that the person to whom possession of the property of such private college is to be delivered cannot be found or has no legal agent or other person empowered to accept delivery on his behalf; or

(iii) for such other reasons, as may be prescribed, the Government may, in the public interest and in the interest of the collegiate education, by order in writing, continue the taking over of the management of such private college from the date of such expiry, for such further period as may be specified in the order :

Provided that the period so specified shall not, in the first instance, exceed one year but may be extended, from time to time, by any period not exceeding one year at any one time so, however, that no such order as so extended shall, in any case, remain in force for more than five years in the aggregate.

(2) Save as otherwise provided in this section, the provisions of section 30 [except sub-sections (1) and (2)] and other provisions of this Act shall, as far as may be, apply to an order made under sub-section (1) as they apply to an order made under sub-section (1) of section 30.]

1 Inserted by Tamil Nadu Act 2 of 1992 w.e.f. 16th July 1991

31. Relinquishment of control of property :-

(1) Where the control of any property taken over under section 30 is to be relinquished, the Government may after making such inquiry, if any, as they consider necessary, by order in writing, specify the person to whom possession of the property shall be delivered.

(2) The delivery of possession of any such property to the person specified in the order made under sub-section (1) shall be a full discharge of the Government or the competent authority or any other authority or officer or servant of the Government from all liability in respect of such property, but shall not prejudice any right in respect of such property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any property referred

to in sub-section (1) is to be delivered cannot be found or has no legal agent or other person empowered to accept delivery on his behalf, the Government; shall cause to be published in the Tamil Nadu Government Gazette, a notice declaring that the control of such property is relinquished and in the case of any building or land, shall cause a copy thereof to be affixed on some conspicuous part of such building or land.

(4) When the notice referred to in sub-section (3) is published in the Tamil Nadu Government Gazette,-

(a) the property specified in such notice shall cease, on and from the date of such publication, to be subject to the control of the Government or the competent authority or any other authority or officer or servant of the Government;

(b) possession of such property shall be deemed to have been delivered on that date to the person entitled to possession thereof ; and

(c) the Government or the competent authority or any other authority or officer or servant of the Government shall not be liable for any rent, compensation or other claim in respect of such property for any period after the said date.

32. Minority college not to be taken over :-

Notwithstanding anything contained in this Chapter, the Government shall not take over the management of any minority college under section 30.

CHAPTER 6 ACCOUNTS, AUDIT, INSPECTION AND RETURNS

33. Accounts :-

Every private college shall maintain accounts in such manner and containing such particulars as may be prescribed.

34. Annual audit of accounts :-

(1) The accounts of every private college receiving grant shall be audited at the end of every academic year by such authority, officer or person as may be prescribed and different authorities, officer or persons as may be prescribed for different classes of private colleges.

(2) (a) The authority, officer or person, prescribed under sub-section (1), shall send a copy of the report on the audit of the accounts under that sub-section to the competent authority which

shall forward the report to the educational agency.

(b) The educational agency shall, within such period as may be prescribed, submit that report together with the comments of that agency to the competent authority.

35. Inspection or inquiry :-

(1) The competent authority shall have the right to cause an inspection of, or inquiry in respect of, any private college, its buildings, laboratories, libraries, workshops and equipment, and also of the examinations, teaching and other work conducted or done by the private college, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected with the private college and in respect of the discharge of any other function under this Act and the educational agency shall be entitled to be represented thereat.

(2) The competent authority shall communicate to the educational agency the views of that authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the educational agency thereon, advise that agency upon the action to be taken.

(3) The educational agency shall report to the competent authority the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry and such report shall be furnished within such period as the competent authority may direct.

(4) Where the educational agency does not, within a reasonable time, take action to the satisfaction of the competent authority, that authority may, after considering any explanation furnished or representation made by the educational agency, issue such directions as that authority deems fit and the educational agency shall comply with such directions.

CHAPTER 7 GENERAL PROVISIONS REGARDING APPEAL AND REVISION

36. Furnishing of returns, etc :-

Every educational agency shall, within such time or within such extended time as may be fixed by the competent authority in this behalf, furnish to the competent authority such returns, statistics and other information as the competent authority may, from time to time, require.

37. Appeal against orders of competent authority :-

(1) Any person aggrieved by any order, decision or direction of the competent authority under any provision ¹[including section 25] of this Act may prefer an appeal against such order, decision or direction, to such authority or officer as may be prescribed and different authorities or officers may be prescribed for different classes of private colleges.

(2) If the competent authority omits to communicate its decision to any applicant within the period prescribed under clause (b) of sub-section (2) of section 71 ¹[or under sub-section (3) of section 25] such applicant may prefer an appeal against such omission to the appellate authority prescribed under this section.

¹ Inserted by Tamil Nadu Act 1 of 1987 with effect from 13th February 1987.

38. Tribunal :-

(1) The Government may, by notification, constitute as many Tribunals as may be necessary for the purposes of this Act.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer not below the rank of a District Judge.

(3) Each Tribunal shall have such jurisdiction and over such area or in relation, to such class of private colleges, as the Government may, by notification, from time to time, determine.

(4) Every Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), while hearing an appeal.

39. Time for appeal and powers of appellate authority :-

(1) No appeal under any provision of this Act shall be preferred after the expiry of one month from the date on which the order, decision or direction appealed against was received by the appellant :

Provided that the appellate authority may, in its discretion, allow further time not exceeding one month for preferring any such appeal, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(2) On receipt of any such appeal, the appellate authority shall, after -

(i) giving the parties an opportunity of making their representations

;

(ii) making, if necessary, such inquiry as it deems fit; and
(iii) considering all the circumstances of the case, make such order as it deems just and equitable.

(3) The appellate authority may, pending the exercise of its power, pass such interlocutory orders as it deems fit.

(4) Every appeal under this Act shall be disposed of as expeditiously as possible.

40. Deposit with the Tribunal of pay and allowances of teachers and other persons employed in private colleges in certain cases :-

(1) If the appellate authority referred to in section 20 has, in any appeal under that section against the dismissal or removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any private college, made an order restoring such teacher or other person as such, no appeal against the order of such restoration shall be preferred to the Tribunal, and no appeal against the order of such restoration which, under section 22 stands transferred to the Tribunal, shall be proceeded with by the Tribunal, unless the educational agency deposits with the Tribunal all arrears of pay and allowances due to such teacher or other person from the date of his dismissal or removal or reduction in rank or termination otherwise of his appointment up to the date of deposit, and continues to deposit the pay and allowances due to such teacher or other person until the termination of the proceedings before the Tribunal.

(2) The deposit under sub-section (1) shall be made within such time and in such manner as may be prescribed.

(3) Where there is any dispute as to the amount to be deposited under sub-section (1), the Tribunal shall, on application made to it either by the educational agency or by such teacher or other person and after making such inquiry as it deems fit, determine summarily the amount to be so deposited.

(4) If the educational agency fails to deposit the amount as aforesaid, the Tribunal shall, unless the educational agency shows sufficient cause to the contrary, stop all further proceedings and make an order directing the educational agency to restore such teacher or other person as such.

(5) (a) Where, as a result of any final order made by the Tribunal at the conclusion of the proceedings before it, such amount of pay

and allowances as become due to such teacher or other person, shall be paid to him out of the amount deposited under sub-section (1).

(b) If there is any balance left of the amount deposited under sub-section (1) after payment under clause (a) of the pay and allowances referred to in that clause, such balance or, when no amount becomes due as aforesaid to such teacher or other person, the whole of the amount deposited under sub-section (1) shall be returned to the educational agency.

41. Revision :-

(1) The Government may call for and examine the record of any authority or officer prescribed for the purpose of section 37 in respect of any proceedings to satisfy themselves as to the regularity of such proceeding, or the correctness, legality or propriety of any order made, decision taken or direction issued therein ; and, if, in any case, it appears to the Government that any such order, decision or direction should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representations.

(3) The Government may, pending the exercise of their power under sub-section (1), pass such interlocutory orders as they deem fit.

CHAPTER 8 PENALTIES AND PROCEDURE

42. Penalty for not giving information or giving false information :-

If any person, when required, by or under this Act, to furnish any information, omits to furnish such information or furnishes any information which he knows, or has reasonable cause to believe, to be false, or not true in any material particular, he shall be punishable with fine which may extend to one hundred rupees.

43. Other penalties :-

(1) If any person wilfully contravenes, or attempts to contravene, or knowingly abets the contravention of, any of the provisions of this Act or any rule made thereunder, he shall be punishable with

fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) If any person wilfully obstructs any authority, officer or person, from entering any private college in the exercise of any power conferred on it or him by or under this Act, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

44. Offences by companies :-

(1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation .- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm, society or other association of individuals ; and

(b) "director" in relation to -

(i) a firm, means a partner in the firm ;

(ii) a society or other association of individuals means the person who is entrusted under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

45. Cognizance of offences :-

No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by an authority or officer authorised by the Government in this behalf.

46. Jurisdiction of Criminal Court :-

No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First-class shall try any offence punishable under this Act.

CHAPTER 9 MISCELLANEOUS

47. Delegation of powers of Government :-

(1) The Government may, by notification, authorise any authority or officer to exercise any of the powers vested in them by or under this Act except the power to make rules and may, in like manner, withdraw such authority.

(2) (a) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such authority or officer as may be empowered by them in this behalf.

(b) The Government shall also have the power to control and revise the acts or proceedings of any authority or officer so empowered.

48. Competent authority, etc., to be public servant :-

Every authority and every officer, duly authorised to discharge any duty imposed on it or him by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

49. Civil Court not to decide question under this Act :-

No Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by any authority or officer empowered under this Act.

50. Finality of orders, etc., passed under this Act :-

(1) Any order made, decision taken or direction issued by any authority or officer, in respect of matters to be determined for the

purposes of this Act shall, subject only to appeal or revision, if any, provided under this Act, be final.

(2) No such order, decision or direction shall be liable to be questioned in any Court of law.

51. Indemnity :-

(1) No suit or other proceedings shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) (a) No suit, prosecution or other proceeding shall lie against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(b) No authority or officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

(3) No suit, prosecution or other proceeding shall be instituted against any authority or officer or a servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the date of the expiry of six months from the date of the act complained of.

52. Overriding effect of this Act :-

The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force including any regulation or statute of any University.

53. Power to make rules :-

(1) The Government may make rules to carry out the purposes of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form of applications and the statements under this Act and the particulars which such application and statement shall contain;

(c) the establishment and maintenance of private colleges ;

- (d) the giving of grants to private colleges ;
- (e) the grant of permission under sub-section (1) of section 5;
- (f) the admission of students in private colleges including special provision for the advancement of socially and educationally Backward Classes of citizens and the Scheduled Castes and the Scheduled Tribes.

Explanation .- In this clause, "Scheduled Castes" and "Scheduled Tribes" shall have the same meaning as in the Constitution;

- (g) the manner in which accounts, registers and records shall be maintained in private colleges and the authority responsible for such maintenance ;
- (h) the submission of returns, statements, reports, and accounts by educational agencies of private colleges ;
- (i) the purposes of the private college for which the premises of the private college may be used and the conditions subject to which such premises may be used for any other purpose ;
- (j) the conditions subject to which donations or contributions from the public may be accepted for the purposes of private colleges and the naming of private colleges ;
- (k) the procedure and the disposal of the business of the Tribunal.

54. Publication of rules, commencement of rules and notifications and placing them on the table of the Legislature :-

(1) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published.

(2) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of ¹[the Legislative Assembly] and if, before the expiry of the session in which it is so placed or the next session, ²[the Legislative Assembly agrees] in making any modification in any such rule or notification or ²[the Legislative Assembly agrees] that the rule or notification should not be made or issued, the rule or notification 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 amendment shall be without prejudice to the validity of anything

previously done under that rule or notification.

1 Substituted for the words "both Houses of the Legislature" by the Tamil Nadu Adaptation of Law and Order, 1987.

2 Substituted for the words "both Houses agree" by *ibid*.

55. Act to be prospective in its application to certain persons :-

The provisions of this Act shall apply to persons other than teachers employed in private colleges as from the date of publication of this Act in the Tamil Nadu Government Gazette.

56. Repeal and saving :-

(1) The Tamil Nadu Private colleges (Regulation) Ordinance, 1976 (Tamil Nadu Ordinance 11 of 1976) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance including any orders passed, notification issued, rules, regulations and appointments made shall, in so far as they are not inconsistent with this Act be deemed to have been done or taken under this Act and shall continue in force accordingly, unless and until superseded by anything done or any action taken under this Act.