

Uttar Pradesh Secondary Education Services Commission And Selection Boards Act, 1982

5 of 1982

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Uttar Pradesh Secondary Education Services Commission And Selection Boards Act, 1982

5 of 1982

An

to establish Secondary Education Services Commission and Selection Boards for the selection of teachers in institutions recognised under the Intermediate Education Act, 1921.

It is hereby enacted in the Thirty-third Year of the Republic of India as follows:-

CHAPTER 1 Preliminary

1. Short title and commencement :-

(1) This Act may be called the Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982.

(2) It shall be deemed to have come into force on July 14, 1981, except section 21 which shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. Definitions :-

In this Act,-

(a) Board means the Secondary Education Selection Boards established under section 12 ;

(b) Chairman means the Chairman of the Commission, and includes any other person performing, in the absence of the Chairman, for the time being, the functions of the Chairman;

(c) Commission means the Uttar Pradesh Secondary Education Services Commission established under section 3 ;

(d) Director means the Director of Education, Uttar Pradesh and includes an Additional Director of Education, Uttar Pradesh ;

(e) Institution means an intermediate College or a Higher Secondary School or a High School recognised under the Intermediate Education Act, 1921, and includes institution maintained by a local authority but does not include an institution maintained by the State Government ;

(f) Management in relation to an institution means the committee of management or person or authority vested with the power to manage and conduct the affairs of that institution ;

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

(h) President means the President of the Board and includes any other person performing in the absence of President, for the time being, the functions of the President ;

(i) Regulation means any regulation made under section 34 ;

(j) Schedule means the Schedule to this Act ;

(k) Teacher means a person employed for imparting instruction in an institution and includes a Principal or a Headmaster.

CHAPTER 2 ESTABLISHMENT AND FUNCTIONS OF THE BOARD

3. Establishment of the Board :-

(1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be established a Board to be called the Uttar Pradesh Secondary Education Services Selection Board.

(2) The Board shall be, a body corporate. It shall exercise powers throughout Uttar Pradesh and its headquarters shall be at Allahabad.

(3) The Uttar Pradesh Secondary Education Services Commission established under section 3 of this Act as it stood immediately before the commencement of the Uttar Pradesh Secondary Education Services Commission (Amendment) Act, 1998 shall upon establishment of the Board under sub-section (1), stand dissolved, and upon such dissolution-

(a) all properties and assets of that Commission shall stand transferred to, and vest in the Board ;

(b) all debts, liabilities and obligations of that Commission whether contractual or otherwise, shall stand transferred to the Board ;

(c) the services of every whole-time employee of that Commission shall stand transferred to the Board ;

(d) any matter pending before that Commission under this Act as it stood immediately before establishment of the Board under sub-section (1) shall stand transferred to the Board.

4. Composition of the Board :-

(1) The Board shall consist of a Chairman, a Vice-Chairman and nine Members who shall be appointed by the State Government.

(2) A person shall not be qualified for appointment as Chairman, unless he,-

(a) is or has been a Vice-Chancellor of any University established by law ; or

(b) is or has been, in the opinion of the State Government an outstanding officer of the Administrative Service not below the rank of Secretary to the State Government or Director of Education, Uttar Pradesh.

(3) A person shall not be qualified for appointment as Vice-Chairman, unless he is, in the opinion of the State Government, an eminent educationist having made valuable contribution in the field of education.

(4) of the Members,-

(a) Two shall be persons, who are educationist having made significant contribution in the field of education;

(b) Two shall be persons who are or have been in the opinion of the State Government, an outstanding officer of the State Education Service not below the rank of Additional Director ;

(c) Other shall be persons who,-

(i) have worked as a Professor in any University established by law in Uttar Pradesh or as a Reader of any Degree College recognised by or affiliated to such University for a period of not less than ten years;

(ii) have worked as a Principal of any Institution recognised under the Intermediate Education Act, 1921 for a period of not less than ten years ;

(iii) are, in the opinion of the State Government, an eminent educationist having made valuable contribution in the field of education.

(5) Every appointment under this section shall take effect from the date on which it is notified by the State Government.

5. Term of office and conditions of service of Members :-

(1) Subject to the provisions of this Act, every Member shall hold office for a term of four years,

(2) No person shall be a member for more than two consecutive terms.

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

(4) The office of the members shall be whole time and terms and conditions, of their service shall be, such as the State Government may by order, direct.

(5) Notwithstanding anything contained in this section, no person shall be appointed or continue as a member if he has attained the age of sixty two years.

6. Powers of the State Government to remove the Member :-

(1) The State Government may, by order, remove from office any member, if he-

(a) is adjudged an insolvent; or

(b) engages, during his term of office, in any paid employment outside the duties of his office; or

(c) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or of proved

misconduct; or

(d) incurs any disqualification under this Act or the rules made thereunder.

Explanation-Where a member becomes in any way concerned or interested in any contract or agreement made by or on behalf of any Institution or participates in any way in the profits thereof or in any benefit or emolument arising therefrom, otherwise than a member shall, for the purpose of clause (c), be deemed to be guilty of misconduct.

(2) The procedure for the investigation and proof of misconduct under this section shall be such as may be prescribed.

7. Power to associate :-

The Board may associate with itself, in such manner and for such purposes as may be determined by regulations made under section 34, any person whose assistance or advice it may desire to have in carrying out any of the provisions of this Act.

8. Staff of the Board :-

(1) The Secretary of the Board shall be appointed by the State Government on deputation for a term not exceeding five years and other conditions of his service shall be such as the State Government may, by order, determine.

(2) Subject to such directions as may be issued by the State Government in this behalf, the Board may appoint such other employees as it may think necessary for the efficient performance of its functions under this Act and on such terms and conditions of service as the Board thinks fit.

9. Powers and duties of the Board :-

The Board shall have the following powers and duties namely :-

(a) to prepare guidelines on matters relating to the method of direct recruitment of teachers;

(b) to conduct examinations, where necessary, and hold interviews and make selection, of candidates for being appointed as teachers;

(c) to select and invite experts and to appoint examiners for the purposes specified in clause (b);

(d) to make recommendations regarding the appointment of selected candidates;

(e) to advise the Management in matters relating to dismissal,

removal or reduction in rank of teachers;

(f) to obtain periodical returns or other informations from institutions regarding strength of the teaching staff and the appointment, dismissal, removal, termination or reduction in rank of teachers;

(g) To fix the emoluments and travelling and other allowances of the experts;

(h) to administer the funds placed at the disposal of the Board;

(i) to perform such other duties and exercise such other powers as may be prescribed or as may be incidental or conducive to the discharge of its functions under this Act or the rules of regulations made thereunder.

10. Procedure of selection by direct recruitment :-

(1) For the purpose of making appointment of a teacher, by direct recruitment, the management shall determine the number of vacancies existing or likely to fall vacant during the year of recruitment and in the case of a post other than the post of Head of the Institution, also the number of vacancies to be reserved for the candidates belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes of citizens in accordance with the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 and notify the vacancies to the Board in such manner and through such officer or authority as may be prescribed.

(2) The procedure of selection of candidates for direct recruitment to the post of teachers shall be such as may be prescribed :

Provided that the Board shall, with a view to inviting talented persons, give wide publicity in the State to the vacancies notified under sub-section (1).

11. Panel of candidates :-

(1) The Board shall, as soon as may be, after the vacancy is notified under sub-section (1) of section 10, hold examinations, where necessary, and interviews, of the candidates and prepare a panel of those found most suitable for appointment.

(2) The panel referred to in sub-section (1) shall be forwarded by the Board to the officer or authority referred to in sub-section (1) of section 10 in such manner as may be prescribed.

(3) After the receipt of the panel under sub-section (2), the officer or authority concerned shall in the prescribed manner intimate the

Management of the Institution the names of the selected candidates in rsspct of the vacancies aotified ander sub-section (1) of section 10.

(4) The management shall, within a period of one month from the date of receipt of such intimation, issue appointment letter to such selected candidate.

(5) Where such selected candidate fails to join the post in such Institution within the time allowed in the appointment letter or within such extended time as tee Management may allow in this behalf, or where such candidate is otherwise not available for appointment, the officer or authority concerned may, on the request of the Manage ment, intimate, in the prescribed manner, fresh name or names from the panel forwarded by the Board under sub-section (2).

CHAPTER3 Constitution and Functions of Secondary Education Selection Boards

12. Procedure of selection by promotion :-

(1) For each region, there shall be a Selection Committee, for making selection of candidates for promotion to the post of a teacher, comprising : -

(i) Regional Joint Director of Education; - Chairman

(ii) Senior most Principal of Government Inter College in the region; - member

(iii) Concerned District Inspector of School. - member/secretary

(2) The procedure of selection of candidates for promotion t© the post of a teacher shall be such as may be prescribed.

12A. Term of office and conditions of service of members. :-

(1) Subject to the provisions of this Act, every member shall hold office for a term of three years.

(2) No person shall be a member of the Board for more than two consecutive terms.

(3) A member of the Board may resign his office by writing under his hand to the State Government, but he shall continue in office until his resignation is accepted by the State Government.

(4) The office of the members shall be whole time and the terms and conditions of their services shall be such as the State Government may, by order, direct.

(5) Notwithstanding anything contained in this section or section

12, no person shall be appointed as a member, if he is below fifty five years of age, or be appointed or continue as member, if he has attained the age of sixty two years.

12B. Power of state Government to remove a member :-

(1) The State Government may, by order remove from office any member, if he,-

- (a) is adjudged an insolvent, or
- (b) engages, during his term of office, in any paid employment outside the duties of his office, or
- (c) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or of proved misconduct, or
- (d) incurs any disqualification under this Act or the rules made thereunder.

Explanation-Where a member becomes in any way concerned or interested in any contract or agreement made by or on behalf of any institution or participates in any way in the profits thereof or in any benefit or emolument arising therefrom, otherwise than as a member, he shall for the purpose of clause (c), be deemed to be guilty of misconduct.

(2) The procedure for the investigation and proof of misconduct under this section shall be such as may be prescribed.

12C. Power to associate :-

The Board may associate with itself, in such manner and for such purposes as may be prescribed, any person whose assistance or advice it may desire to have, in carrying out any of the provisions of this Act.

13. Staff of the Board :-

(1) For the efficient discharge of its duties and functions under this Act, even Board shall have such staff as the State Government may, from time to time, determine.

(2) The terms and conditions of service of the members of the staff appointed under sub-section (1) shall be determined by the State Government.

14. Powers duties and functions of the Boards :-

(1) Every Board shall have the power to make selection of

candidates for being appointed as teachers (other than a teacher specified in the Schedule) in an institution located within the local area over which the Board exercises jurisdiction.

(2) The Board shall also have the power to review cases of promotion of Junior Training Certificated Teachers or Basic Training Certificated Teachers to Certificate of Teaching grade, where such promotion is made on or after July 10, 1981.

(3) Without prejudice to the generality of the provisions of subsections (1) and (2), the Board shall have the power-

(a) to conduct examinations where considered necessary or to hold interview of candidates;

(b) to select and invite experts and to appoint examiners for the purposes specified in clause (a).;

(c) to fix the emoluments and travelling and other allowances of the experts and examiners;

(d) to administer the funds placed at the disposal of the Board ;

(e) to perform such other duties and exercise such other powers as may be prescribed or as may be incidental or conducive to the discharge of its functions under this Act or the rules or regulations made thereunder.

15. Procedure for selection of teachers :-

(1) For the purposes of making appointment of a teacher, the Management shall determine the number of vacancies existing or likely to fall vacant during the year of recruitment and in the case of any post, other than the post of head of Institution, also the number of vacancies to be reserved for the candidate belonging to the Scheduled Castes, Scheduled Tribes and other categories of persons in accordance with the rules or orders issued by the Government in this behalf in regard to the institution and notify the vacancies to the Board in such manner and through such officer or authority as may be prescribed.

Provided that the Board shall, with a view to inviting talented persons, give wide publicity in the State to the vacancies notified under sub-section (1).

15A. Panel of candidates selected by Board :-

(1) The Board shall, as soon as possible, after the notification of vacancies under section 15, hold interview of the candidates and prepare and forward to the officer or authority referred to in sub-section (1) of section 15 in the prescribed manner, a panel of those

found suitable for appointment.

(2) On receipt of such panel the officer or authority concerned shall, in the prescribed manner, intimate the Management of the Institution, in respect of which the vacancy was notified the name of the selected candidate.

(3) The Management shall, within a period of one month from the date of receipt of such intimation, issue appointment letter to such selected candidate.

(4) Where such selected candidate fails to join the post in such Institution within the time allowed in the appointment letter or within such extended time as the Management may allow in this behalf, or where such candidate is otherwise not available for appointment, the officer or the authority concerned may, on the request of the Management, intimate in the prescribed manner, fresh name or names from the panel forwarded by the Board under sub-section (1).

(5) The panel prepared under sub-section (1) shall remain in force for one year.

15B. Special provision for reserve quota backlog :-

Where after regularisation of appointment of teachers under section 33-B, it is found that in any Institution persons belonging to the Scheduled Castes, Scheduled Tribes and other categories referred to in sub-section (1) of section 15 are not holding such number of posts as should have been held by persons of such category according to the posts reserved for them, then notwithstanding anything to the contrary contained in any other provision of this Act appointments in such Institution in the vacancies arising after the commencement of the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992 shall be so made that the first and every alternate vacancy is filled by the person of such category until the number of post reserved for such category is filled by persons belonging to such category.

CHAPTER 4 Appointment of Selected-Teachers

16. Appointments to be made only on recommendations of the Commission or the Board :-

(1) Notwithstanding anything to the contrary contained in the Intermediate Education Act, 1921 or the Regulations made thereunder but subject to the provisions of sections 18 and 33-

(a) every appointment of a teacher specified in the Schedule shall, on or after July 10, 1981; be made by the management only on the recommendation of the Commission.

(b) every appointment of a teacher (other than a teacher specified in the Schedule) shall, on or after July 10, 1981, be made by the management only on the recommendation of the Board :

Provided that in respect of retrenched employees, the provisions of section 16-EE of the Intermediate Education Act, 1921, shall apply with the modification that in sub-section (2) of the aforesaid section, for the words six months the words two years shall be deemed to have been substituted.

(2) Every appointment of a teacher, in contravention of the provisions of sub-section (1), shall be void.

17. Inquiry by Director :-

(1) Where any person is entitled to be appointed as a teacher in any institution in accordance with Chapter II or Chapter III, as the case may be, but he is not so appointed by the management within the time provided modification that in sub-section (2) of the aforesaid section, for the words six a direction under sub-section (2).

(2) On receipt of an application under sub-section (1), the Director or the officer authorised by him may hold an inquiry, and if he is satisfied that the management has failed to appoint the applicant as a teacher, in contravention of the provisions of this Act, he may, by order, direct-

(a) the management to appoint the applicant as a teacher forthwith, and to pay him salary from the date specified in the order ; and

(b) the Head of the Institution concerned to take work from him as a teacher.

(3) The amount of salary, if any, due to such teacher shall, on a certificate issued by the Director or the officer authorised by him, be recoverable by the Collector ;rs arrears of land revenue from the property belonging to or vested in the society or body running the institution.

18. Ad hoc Teachers :-

(1) Where the management has notified a vacancy to the Commission in accordance with the provisions of this Act, and-

(a) the Commission has failed to recommend the name of any

suitable candidate for being appointed as a teacher specified in the Schedule within one year from the date of such notification ; or
(b) the post of such teacher has actually remained vacant for more than two months, then, the management may appoint, by direct recruitment or promotion, a teacher on purely ad hoc basis from amongst the persons possessing qualifications prescribed under the Intermediate Education Act, 1921 or the regulations made thereunder.

(2) The provisions of sub-section (1) shall also apply to the appointment of a teacher (other than a teacher specified in the Schedule) on ad hoc basis with the substitution of the expression Board for the expression "Commission".

(3) Every appointment of an ad hoc teacher under sub-section (1) or sub-section (2) shall cease to have effect from the earliest of the following dates, namely-

(a) when the candidate recommended by the Commission or the Board, as the case may be, joins the post;

(b) when the period of one month referred to in sub-section (4) of section 11 expires ;

(c) thirtieth day of June following the date of such ad hoc appointment.

19. Power to call for information etc :-

The Commission or the Board may require the management of an institution to furnish such information or return regarding the matters referred to in section 9 or section 14, as the case may be, as it thinks fit, and the management shall be bound to comply with the same.

20. Power to inspect record, register etc :-

The Secretary of the Commission or any other person authorised by the Commission or the Board shall have access to every record, register or document in possession of the Management, and he may enter at any reasonable time, any premises where he believes such record, register or document to be and may inspect and take copies of relevant records or documents.

21. Restriction on dismissal, removal or reduction in rank of teachers :-

(1) No teacher specified in the Schedule shall be dismissed or

removed from service or reduced in rank and neither his emoluments may be reduced nor he may be given notice of removal from service by the management unless prior approval of the Commission has been obtained.

(2) No teacher other than a teacher specified in the Schedule shall be dismissed or removed from service or reduced in rank and neither his emoluments may be reduced nor he may be given notice of removal from service by the management unless prior approval of the Board has been obtained.

(3) Every order of dismissal, removal or reduction in rank or removal from service or reduction in emoluments of a teacher in contravention of the provisions of sub-section (1) or sub-section (2) shall be void.

CHAPTER 4A Reserve Pool Teachers

21A. Definitions :-

In this Chapter,-

(a) Director means the Director of Education, Uttar Pradesh and includes any other officer authorised by him in this behalf:

(b) the expressions Inspector, Institution, Management and Teacher shall have the meanings respectively assigned to them in the Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) Act, 1971, provided that teacher shall not include a Principal or a Headmaster.

21B. Absorption of reserve pool teachers :-

(1) The Inspector shall maintain in the prescribed manner, a register of reserve pool teachers consisting of subject-wise lists of persons who were appointed as teachers in any institution situated in the district, either by the Management or by the Inspector under sub-section (4) of section 4 of the Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) Act, 1971, while the Uttar Pradesh High Schools and Intermediate Colleges (Payment of Salaries of Teachers and other Employees) (Amendment) Ordinance, 1977, was in force, and who had actually joined their duties in pursuance of the said provision between January 9, 1978 and January 19, 1978 (both days inclusive).

(2) Every reserve pool teacher, who having been appointed to the post of a teacher in any institution in accordance with the

provisions of the Uttar Pradesh High School and Intermediate Colleges (Reserve Pool Teachers) Ordinance, 1978 or the Uttar Pradesh High School and Intermediate Colleges (Reserve Pool Teachers) (Second) Ordinance, 1978, continues to be in service by reason of any order of any Court or by any other reason, shall be deemed to have been regularly appointed to such post and shall be entitled to be confirmed in such post with effect from the date on which he would have been confirmed in the normal course.

(3) Where any substantive vacancy in the post of a teacher in an institution is to be filled by direct recruitment, such post shall, at the instance of the Inspector, be offered by the Management to a teacher other than a teacher referred to in sub-section (2), whose name is entered in the register referred to in sub-section (1).

(4) If any teacher is offered appointment in accordance with the provisions of sub-section (3) and he fails to join the post within the time allowed therefor, which shall not be less than seven days, his name shall be removed from the register, referred to in sub-section (1), and the appointment shall be offered to the next reserve pool teacher of the same district in the subject.

(5) If such other teacher to whom offer of appointment is made also fails to join, then the same process shall be repeated until the list of reserve pool teachers of that district in the subject is exhausted.

(6) No appointment of any teacher to an institution shall be made under section 16 until the list of reserve pool teachers of that district in the subject concerned is exhausted in accordance with sub-section (5).

Explanation -For the removal of doubts, it is hereby declared that no teacher shall, by virtue of the provisions of this section, be entitled to claim appointment to any particular post which he had joined in the manner referred to in sub-section (1), or to any other post carrying the same or a higher grade.

21C. Power of Director regarding transfer :-

(1) Where the vacancies available for teaching in any subject are less than the number of reserve pool teachers available for appointment in any district, or where it is otherwise necessary or expedient so to do, the Director may, notwithstanding anything contained in section 21-B, direct that the name of any such teacher be excluded from the register maintained in one district and be included in the register maintained in another district.

(2) Where the name of a reserve pool teacher is included in the register of another district in accordance with the provisions of sub-section (1), the provision of section 21-B shall mutatis mutandis apply to such a teacher, except that the requirement of service as a teacher in such district shall not be necessary.

21D. Appointment of teachers on default by management :-

(1) Where the Management fails to offer any post to a teacher in accordance with the provisions of sub-section (3) of section 21-B within the time specified by the Inspector, the Inspector, may himself issue the letter of appointment to such teacher and the teacher concerned shall be entitled to get his salary from the date he joins the post in pursuance of such letter of appointment.

(2) Where the teacher to whom the letter of appointment is issued under sub-section (1), is unable to join the post due to any act or omission on the part of the Management, such teacher may submit his joining report to the Inspector, and, shall thereupon be entitled to get his salary from the date he submits the said report.

21E. Absorbition of subject experts :-

(1) There shall be a list of subject experts working in private aided secondary schools possessing prescribed educational and training qualification including the subject experts who have received honorarium and worked for a minimum period of two academic sessions and were working on September 30, 2006. The list shall be maintained by the Director in such manner as may be prescribed.

(2) Where any substantive vacancy in the post of a teacher in an institution is to be filled by direct recruitment, such post shall, at the instance of the Inspector, be offered by the management to a subject expert whose name is included in the list referred to in sub-section (1).

(3) Where any subject expert who is offered an appointment in accordance with the provision of sub-section (2) fails to join the post within the time allowed, which shall not be less than seven days, his name shall be removed from the list referred to in sub-section (1).

(4) No appointment of any teacher to an institution shall be made under section 16 unless the list referred to in sub-section (1) is exhausted.

(5) The subject experts included in the list referred to in sub-

section (1) shall be absorbed in those institution where any substantive vacancy is to be filled by direct recruitment. No subject expert shall have claim for appointment to any particular post.

Explanation For the purposes of this section , -

(a) "Director" means the Director of Secondary Education, Uttar Pradesh and includes any other officer authorised by him in this behalf;

(b) the words "Inspector" , "Institution", "Management" and teacher shall have the meaning respectively assigned to them in the Uttar Pradesh High School and Intermediate College (Payment of Salaries of Teachers and other Employees) Act, 1971, provided that "teacher" shall not include a Principal or a Headmaster.

(c) "subject experts" mean, persons working in aided Secondary Schools on a fixed honorarium appointed in the prescribed manner on a contractual basis.

21F. Appointment of teachers on default by management :-

(1) Where the management fails to offer any post to a subject expert in accordance with the provisions of sub-section (3) of section 21-E within the time specified by the Inspector, the inspector, may himself issue the letter of appointment to such subject expert and the subject expert concerned shall be entitled to get his salary as teacher from the date he joins the post in pursuance of such letter of appointment,

(2) Where the subject expert to whom the letter of appointment is issued under sub-section (1), is unable to join the post due to any act or omission on the part of the Management such subject expert may submit his joining report to the Inspector, and shall thereupon be entitled to get his salary from the date he submits the said report.

CHAPTER 5 Penalties

22. Punishment for appointment of teachers in contravention of the provisions of the Act :-

Any person who fails to comply with the recommendations of the Commission or the Board, as the case may be, or fails to comply with the order or direction of the Director under section 17, or appoints a teacher in contravention of the provisions of this Act shall, on conviction, be punished with imprisonment for a term which may extend to three years or with fine which may extend to

five thousand rupees or with both.

23. Punishment for failure to furnish information or wilful obstruction :-

If any person-

(a) wilfully withholds or fails to furnish any return or information lawfully required by the Commission or the Board within the time allowed therefor; or

(b) wilfully obstructs any person from duly carrying out all or any of the provisions of this Act.

he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or both.

24. Offences by societies :-

(1) If the person committing the offence under section 22 or section 23 is a society registered under the Societies Registration Act, 1860, the society as well as every person in charge of and responsible to the society for the conduct of its business at the time of the offence 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 section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by registered society and it is proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any neglect on the part of any member of the society, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

25. Bar against prosecution :-

No prosecution for an offence under this Act shall be instituted except with the previous sanction of the Director or such officer or authority as the State Government may, by general or special orders, specify in this behalf.

CHAPTER 6 Miscellaneous

26. Certain proceeding not to be invalidated :-

No act or proceeding of the Commission or the Board shall be deemed to be invalid merely on the ground of-

- (a) any vacancy or defect in the constitution of the Commission or the Board; or
- (b) any defect or irregularity in the appointment of a person acting as a member thereof ;
- (c) any defect or irregularity in such act or proceeding not affecting the substance.

27. Authentication of the orders :-

(1) All orders and decisions of the Commission shall be authenticated by the signature of the Secretary appointed under section 8 or any other officer authorised by the Commission.

(2) All orders and decisions of the Board shall be authenticated by the signature of the President or any other officer authorised by the Board.

28. Provisions of Chapter IV of U. P. Act 16 of 1980 to apply :-

The provisions of Chapter IV of the Uttar Pradesh Higher Education Services Commission Act, 1980, shall mutatis mutandis apply to the Commission or Board established under this Act as they apply, to the Commission established under that Act.

29. Delegation :-

The Commission may, by regulation made under section 34, delegate to its Chairman or any of its members or officers, its power of general superintendence and direction over the business transacted by, or in the Commission including the powers with regard to the expenditure incurred in connection with the maintenance of the office and internal administration of the Commission.

30. Exemption to minority Institutions :-

Nothing in this Act shall apply to an institution established and administered by a minority referred to in clause (1) of Article 30 of the Constitution of India.

31. Protection of action taken in good faith :-

No suit, prosecution or other proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

32. Applicability of U. P. Act 11 of 1921 :-

The provisions of the Intermediate Education Act, 1921 and the Regulations made thereunder in so far as they are not inconsistent with the provisions of this Act or the rules or regulations made hereunder shall continue to be in force for the purposes of selection, appointment, promotion, dismissal, removal, termination or reduction in rank of a teacher.

33. Power to remove difficulties :-

(1) The State Government may, for the purposes of removing any difficulty, by a notified order, direct that the provisions of this Act shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission, as it may deem to be necessary or expedient : Provided that no such order shall be made after two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before both the Houses of State Legislature.

(3) No order under sub-section (1) shall be called in question in any court on the ground that no difficulty as is referred to in sub-section (1) existed or required to be removed.

33A. Regularisation of certain appointments :-

(1) Every teacher directly appointed, before the commencement of the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Ordinance, 1985, on ad hoc basis against a substantive vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) Order, 1981, as amended from time to time, who possesses the qualifications prescribed under, or is exempted from such qualifications in accordance with, the provisions of the Intermediate Education Act, 1921, shall, with effect from the date of such commencement, be deemed to have been appointed in a substantive capacity provided such teacher has

been continuously serving the institution from the date of such appointment up to the date of such commencement.

(2) Every teacher deemed to have been appointed in a substantive capacity under sub-section (1), shall be deemed to be on probation from the date of such commencement.

(3) Nothing in this section shall be construed to entitle any teacher to substantive appointment-

(a) if on the date of such commencement, such post had already been filled or selection for such post had already been made in accordance with this Act, or

(b) if such teacher was related to any member of the Committee of management or the Principal, or Head Master of the institution concerned.

Explanation-For the purposes of this sub-section a person shall be deemed to be related to another if -

(i) they are members of a Hindu undivided family; or

(ii) they are husband and wife; or

(iii) the one is related to the other in the manner indicated in the Second Schedule to the Intermediate Education Act, 1921.

33B. Regularisation of certain other appointments :-

(1) Any teacher, other than the Principal or Headmaster, who-

(a) (i) was appointed by promotion or by direct recruitment in the lecturer grade or Trained Graduate grade on or before May 14, 1991 or in the Certificate of Teaching grade on or before May 13, 1989 against a short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Second) Order, 1981 and such vacancy was subsequently converted into a substantive vacancy, or (ii) was appointed by direct recruitment on or after July 14, 1981 but not later than June 12, 1985 on ad hoc basis against a substantive vacancy in the Certificate of Teaching grade through advertisement and such appointment was approved by the Inspector, or

(iii) was appointed by promotion or by direct recruitment on or after July 31, 1988 but not later than May 14, 1991 on ad hoc basis against a substantive vacancy in accordance with section 18, as it stood before its omission by the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992;

(b) possesses the qualifications prescribed under, or is exempted from such qualifications in accordance with, the provisions of the

Intermediate Education Act, 1921 ;

(c) has been continuously serving the Institution from the date of such appointment up to the date of the commencement of the Act referred to in sub-clause (iii) of clause (a) ;

(d) is not related to any member of the Management or the Principal or Head Master of the Institution concerned in the manner specified in the explanation to sub-section (3) of section 33-A ;

(e) has been found suitable for appointment in a substantive capacity by a Selection Committee constituted under sub-section (2), shall be given substantive appointment by the Management.

(2) (a) For each region, there shall be a Selection Committee comprising-

(i) Regional Deputy Director of Education of that region, who shall be the Chairman,

(ii) One officer holding a Group A post (specified as such by the State Government from time to time) in any department other than Education Department, to be nominated by the State Government,

(iii) Regional Inspectress of Girls School of that region : Provided that the Inspector of the district shall be co-opted as a member while considering the cases for regularisation of that district.

(b) The Selection Committee constituted under clause (a) shall consider the case of every such teacher and on being satisfied about his eligibility and suitability in view of the provisions of sub-section (1) shall, subject to the provisions of sub-section (3) recommend his name to the Management for appointment under sub-section (1) in a substantive vacancy.

(3) (a) The names of the teachers shall be recommended for substantive appointment in order of seniority as determined from the date of their appointment.

(b) If two or more such teachers are appointed on the same date, the teacher who is elder in age shall be recommended first.

(4) Every teacher appointed in a substantive capacity under subsection (1) shall be deemed to be on probation from the date of such substantive appointment.

(5) A teacher who is not found suitable under sub-section (1) and a teacher who is not eligible to get a substantive appointment under that sub-section shall cease to hold the appointment on such date as the State Government may by order specify, referred to in sub-clause (iii) of clause (a) of sub-section (1), such vacancy had already been filled or selection for such vacancy has already been made in accordance with this Act."

33C. Regularisation of certain more appointments :-

(1) Any teacher who,-

(a) (i) was appointed by promotion or by direct recruitment on or after May 14 1991 but not later than August 6, 1993 on ad hoc basis against substantive vacancy in accordance with section 18, in the Lecturer grade or Trained Graduate grade;

(ii) was appointed by promotion on or after July 31, 1988 but not later than August 6, 1993 on ad hoc basis against a substantive vacancy in the post of a Principal or Headmaster in accordance with section 18;

(b) possesses the qualifications prescribed under, or is exempted from such qualifications in accordance with, the provisions of the intermediate Education Act, 1921;

(c) has been continuously serving the Institution from the date of such appointment up to the date of the commencement of the Uttar Pradesh Secondary Education Services Commission (Amendment) Act, 1998;

(d) has been found suitable for appointment in a substantive capacity by a Selection Committee constituted under subsection (2);

shall be given substantive appointment by the Management.

(2) (a) For each region, there shall be a Selection Committee comprising,-

(i) Regional Joint Director of Education of that region, who shall be the Chairman;

(ii) Regional Deputy Director of Education (Secondary) who shall be member;

(iii) Regional Assistant Director of Education (Basic) who shall be member;

In addition to above members the District Inspector of Schools of the concerned district shall be Co-opted as member while considering the cases for regularisation of that district.

(b) The procedure of selection for substantive appointment under sub-section (1) shall be such as may be prescribed.

(3) (a) The names of the teachers shall be recommended for substantive appointment in order of seniority as determined from the date of their appointment,

(b) If two or more such teachers are appointed on the same date, the teacher who is elder in age shall be recommended first.

(4) Every teacher appointed in a substantive capacity under subsection (1) shall be deemed to be on probation from the date of

such substantive appointment.

(5) A teacher who is not found suitable under sub-section (i) and a teacher who is not eligible to get a substantive appointment under that sub-section shall cease to hold the appointment on such date as the State Government may by order specify.

(6) Nothing in this section shall be construed to entitle any teacher to substantive appointment, if on the date of commencement of the Ordinance referred to in clause (c) of sub-section (1) such vacancy had already been filled or selection for such vacancy has already been made in accordance with this Act.

33D. Special provision for Certificate of Teaching grade teachers :-

Every teacher in the Certificate of Teaching grade, who is a trained graduate and,-

(a) has completed ten years continuous satisfactory service in the said grade on or before January 1, 1986 shall, with effect from January 1, 1986; or

(b) completes the said service of ten years after January 1, 1986 shall, with effect from the date of completion of the said service of ten years ;

be deemed to have been appointed in the Trained Graduate Grade.

33E. Rescission of orders :-

The Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) Order, 1981, the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Second) Order, 1981, the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Third) Order, 1982 and the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties) (Fourth) Order, 1982 are hereby rescinded.

33F. Regularisation of appointments against short term vacancies :-

(1) Any teacher who,-

(a) was appointed by promotion or by direct recruitment in the lecturers grade or trained graduates grade on or after May 14, 1991 but not later than August 6, 1993 against a short term vacancy in accordance with paragraph 2 of the Uttar Pradesh Secondary Education Services Commission (Removal of Difficulties)

(Second) Order, 1981, as amended from time to time, and such vacancy was subsequently converted into a substantive vacancy.

(b) possesses the qualification prescribed under, or is exempted from such qualifications in accordance with, the provisions of the Intermediate Education Act, 1921.

(c) has been continuously serving the institution from the date of such appointment up to the date of the commencement of the Uttar Pradesh Secondary Education Services Selection Board (Amendment) Act, 2001.

(d) has been found suitable for appointment in a substantive capacity by the Selection Committee referred to in clause (a) of sub-section (2) of section 33-C in accordance with the procedure prescribed under clause (b) of the said sub-section;

Shall be given substantive appointment by the Management.

(2) (a) The names of the teachers shall be recommended for substantive appointment in order of seniority as determined from the date of their appointment.

(b) If two or more such teachers are appointed on the same date the teacher who is elder in age shall be recommended first.

(3) Every teacher appointed in a substantive capacity under sub-section (1) shall be deemed to be on probation from the date of such substantive appointment.

(4) A teacher who is not found suitable under sub-section (t) and a teacher who is not eligible to get a substantive appointment under that sub-section shall cease to hold the appointment on such date as the State Government may by order specify.

(5) Nothing in this section shall be construed to entitle any teacher to substantive appointment, if on the date of the commencement of the ordinance referred to in clause (c) of sub-section (1) such vacancy had already been filled or selection for such vacancy has already been made in accordance with this Act.

34. Power to make regulations :-

(1) The Commission may, with the previous approval of the State Government, make or amend regulations prescribing fees for holding selections, for conducting examinations where necessary, or for holding interviews and laying down the procedure to be followed by the Commission for discharging its duties and performing its functions under this Act:

Provided that the first regulation under this sub-section shall be made by the State Government by notification in the official

Gazette.

(2) The regulations made under sub-section (1) shall-

(a) not be inconsistent with the provisions of this Act or the rules made under section 55 ; and

(b) as far as possible, be followed by the Board for discharging its duties and performing its functions under this Act.

35. Power to make rules :-

The State Government may, by notification, make rules for carrying out the purposes of this Act.

36. Repeal and savings :-

(1) The Uttar Pradesh Secondary Education Services Commission and Selection Boards (Second) Ordinance, 1981 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1) or the Uttar Pradesh Secondary Education Services Commission and Selection Boards Ordinance, 1981, shall be deemed to have been done or taken under this Act, as if this Act were in force at all material times.