

Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Act, 1995

ANDHRA PRADESH

India

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Act 11 of 1995

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Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Act, 1995 Act No. 11 of 1995 Statement of Objects and Reason - The Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Ordinance, 1994 (Andhra Pradesh Ordinance No. 7 of 1994) was promulgated by the Governor on the 27th June, 1994, empowering the Government to fix the quantum of maintenance grant to the private educational institutions in the State, retrospectively for each year commencing from the 1st April, 1978 in public interest. The Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Bill, 1994 (L.A. Bill No. 17 of 1994) was introduced in the Legislative Assembly on the 14th July, 1994 to replace the aforesaid Ordinance, and the same could not be passed by the Legislative Assembly for want of time. Under Article 213(2) (a) of the Constitution of India the aforesaid Ordinance promulgated by the Governor on 27-6-1994, would have ceased to operate on the expiration of six weeks from the reassembly of the Legislative Assembly of the State, i.e., on 21st August, 1994 thereby creating a legal vacuum. As the Legislative Assembly of the State was not then in session having been prorogued and in order to avoid the aforesaid legal vacuum, it has been decided to promulgate another Ordinance on the lines of L.A. Bill No. 17/ 1994. Accordingly the Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Second Ordinance, 1994 was promulgated by the Governor on the 17th August, 1994. This Bill seeks to replace the said Ordinance. Received the assent of the Governor on the 10-2-1995 and Published in the Andhra Pradesh Gazette, Part IV-B (Extraordinary), dated 13th February, 1995. An Act to regulate the Fixation and Payment of Maintenance Grant to Private Educational Institutions in the State of Andhra Pradesh and matters connected therewith or incidental thereto. Whereas the grant-in-aid Code which is a non-statutory set of rules governs the payment of grant-in-aid to the private educational institutions; And whereas, under Rule 27A (ii) thereof, there is ; a provision for payment of maintenance grant equal to ten per cent of the teaching grant payable to private educational institutions ; And whereas, the payment of maintenance grant as a percentage of the teaching grant results in an unintended hike in the maintenance grant as and

when the scales of pay of teachers are revised thus requiring the concerned authorities to pass suitable orders with regard to payment of maintenance grant as and when the scales of pay of teachers are revised; And whereas, accordingly the District Educational Officer, Krishna, in Circular Rc. No. B1/90, dated the 24th October, 1990 among other things ordered for the payment of maintenance grant according to 1978 pay scales of the teachers ; And whereas, the General Secretary, Krishna District Aided and Unaided Schools Managers, Correspondents Association and others have challenged the said Circular in the High Court of Andhra Pradesh in W.P. No. 1159 of 1991 ; And whereas, the High Court of Andhra Pradesh in their judgment, dated the 7th March, 1991 in W.P. No. 1159 of 1991 directed to release the maintenance grant at six per centum on the basic pay of the teachers that is being drawn from year to year ; And whereas, Writ Appeal No. 963 of 1991 filed by the Government against the said judgment has been dismissed by the High Court on the 4-2-1993 ; And whereas, the High Court of Andhra Pradesh in its order dated the 9th April, 1993 in W.P. No. 14493 of 1992 directed the Government to release the maintenance grant to the petitioners therein at six percentum as ordered in W.P. No. 1159 of 1991 ; And whereas, it is evident from Sections 45 and 46 of the Andhra Pradesh Education Act, 1982 (Act 1 of 1982) that the private educational institutions cannot claim grant-in-aid as a matter of right ; And whereas, the Government will have to incur a huge expenditure of more than 78.25 crores of rupees if maintenance grant is to be paid at six per centum of the basic pay of the teachers that is being drawn from year to year, thus seriously hampering the developmental activities of the State; And whereas, on a review of the whole issue it is considered necessary to empower the Government to fix the quantum of maintenance grant retrospectively for each year commencing from the 1st April, 1978 in public interest; And whereas, the Bill to regulate the fixation and payment of maintenance grant to private educational institutions in the State of Andhra Pradesh and matters connected therewith or incidental thereto has been introduced in the Legislative Assembly of the State, has not been passed by the Legislative Assembly ; Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-sixth Year of the Republic of India, as follows: -

1. Short title, application and commencement

(1) This Act may be called the Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Act, 1995. (2) It shall apply to all private educational institutions in the State. (3) It shall be deemed to have come into force with effect on and from the 1st April, 1978.

2. Definitions

- The words and expressions used in this Act shall have the meaning respectively assigned to them in the Andhra Pradesh Education Act, 1982. (Act 1 of 1982).

3. Powers to fix quantum of Maintenance Grant

(1) Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority or the Grants-in-aid Code or any rules or instructions issued by the Government from time to time, it shall be competent for the Government to specify by order such percentage of the teaching grant as maintenance grant payable to private educational institutions receiving

grant-in-aid from the Government for each [xxx] [The expression 'for each financial year commencing from the 1-4-1978' omitted by Act No. 34 of 2007 w.r.e.f 19-9-2007.]. [Provided that no arrear claim for Maintenance Grant shall be allowed beyond a period of three years from the date on which it has become due and all such arrear claims shall lapse.] [Added by Ibid](2)Where any maintenance grant in excess of the amount payable in accordance with the orders issued by the Government under sub- section (1) has been paid to any private educational institution, the excess amount so paid shall be adjusted in future grants payable to the concerned educational institution in such manner as may be determined, by order, issued by the Government in this behalf.

4. Validation:

- Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority, no private educational institution receiving aid from the Government shall be entitled to claim or receive any amount in excess of the amount fixed by the Government under sub-section (1) of Section 3 towards the maintenance grant and accordingly, -(a)no suit or other proceeding shall be instituted, maintained or continued in any Court against the Government or any person or authority whatsoever for the payment of maintenance grant otherwise than in accordance with Section 3 ; and(b)no Court shall enforce any judgment, decree or order directing the payment of any maintenance grant except to the extent provided by the Act.

5. Repeal of Ordinance 11 of 1994

- The Andhra Pradesh Private Educational Institutions Maintenance Grant (Regulation) Second Ordinance, 1994 is hereby repealed.