

The Maharashtra Educational Institutions (Management) Act, 1976

MAHARASHTRA

India

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Act 13 of 1976

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The Maharashtra Educational Institutions (Management) Act, 1976. Act No. XIII of 1976. An Act to provide for taking over management of the property of certain educational institutions for a limited period. WHEREAS both Houses of the Legislature of the State were not in session; AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to provide for taking over management of property of certain educational institutions for a limited period in the public interest; and for that purpose promulgated the Maharashtra Educational Institutions (Management) Ordinance, 1976, on the 13th day of January 1976; AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Twenty-seventh Year of the Republic of India as follows: —

1. Short title, extent and commencement.

(1) This Act may be called the Maharashtra Educational Institutions (Management) Act, 1976. (2) It extends to the whole of the State of Maharashtra. (3) It shall be deemed to have come into force on the 13th day of January 1976.

2. Definitions.

In this Act, unless the context requires otherwise, — a. “Administrator” means an Administrator or Administrators appointed under section 4; b. “appointed date” means the date on which the management of an educational institution is actually taken over by the Administrator; c. “College” means a College conducted by, or affiliated to, a University established by law in the State; d. “Committee” means an Advisory Committee appointed under section 5; e. “Director” means the Director of Education, the Director of Technical Education, or any officer authorised by the State

Government in this behalf;f. “educational institution” or “institution” means a school, a college or any institution by whatever name called the Management of which carries on (either exclusively or among other activities) the activity of imparting education therein;g. “employees” means employees of the institution the management of which is taken over under the provision of this Act;h.

“Management” in relation to an educational institution, means—(i)in the case of an institution managed by a local authority, that local authority;(ii)in the case of any other institution, the person or body of persons (by whatever name called) who are responsible for the general administration of, and financial control over, the institution, but does not include an institution managed by the State Government;i. “property of the institution” means all movable and immovable property belonging to or in the possession of an institution and all other rights and interests in or arising out of such property and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipment, utensils, cash, reserve funds, investments and bank balances;j.

“school” means a primary school, a secondary school, a higher secondary school or any part of such school, a Junior College of Education, or any other institutions which impart education or training below the degree level including institutions which impart technical, vocational and fine arts education and Ashram school (being residential school for children belonging to Scheduled Castes, Scheduled Tribes and Nomadic Tribes);Explanation. —For the purposes of this clause—(i)“primary school” means a school or part of a school in which primary education is imparted;(ii)“primary education” means education imparted in a primary school in such subjects and upto such standards as may be determined by the State Government from time to time;(iii)“secondary education” means such general, technical, vocational or special education (including any combined course thereof), which follows immediately primary education and is imparted upto such standards as may be determined by the State Government from time to time;(iv)“higher secondary school” means an institution in which higher secondary education is imparted;(v)“higher secondary education” means the general, technical, vocational or special education (including any combined course thereof), which follows immediately secondary education and precedes immediately education controlled by Universities established by law in India;(vi)“Junior College of Education” means a school imparting teacher education to person for being appointed as teachers in pre-school centres and primary schools;(vii)“taking over management of an institution” with its grammatical variations and cognate expressions means the “taking over of the management of the institution and the property of the institution used in relation to such management”.

3. Taking over management of educational institution.

(1)Whenever the Director is satisfied that the Management of any educational institution has neglected to perform any of the duties imposed on it by or under any law for the time being in force, or the memorandum of association, or any instrument (including any rules, regulations or by-laws) which regulates its administration or is being managed in a manner detrimental to public interest, and that it is expedient in the public interest, and in particular, in the interest of education imparted in such institution to take over the management of such institution in so far as its activity relates to imparting education, he may, notwithstanding anything contained in any law for the time being in force, after giving the management of such institution, a reasonable opportunity of showing cause against the proposed action, by an order take over the management of such institution in so far as its activity relates to imparting education specified in the order for a limited period not exceeding three

years : Provided that, where the management of an institution has been taken over for a period of three years, the Director may, if he is of opinion that in order to secure proper management of the institution, it is expedient that such management should continue to be in force after the expiry of the said limited period, he may from time to time, by an order issue directions for the continuance of such management for such period not exceeding one year at a time as he may think fit, so however, that the total period for which such management is taken over shall not, in any case, exceed five years : Provided further that, no such show cause notice shall be necessary where the Director is satisfied that the Management or a majority of persons in control thereof are members of an organisation which is or whose members or persons in control thereof are or have been indulging in activities which are prejudicial to the internal security, the public safety and the maintenance of public order in the State and such activities are reflected in the course of management and administration of the institution.(2)Whenever the management of any institution is taken over under sub-section (1), every person in-charge of the management of such institution immediately before the appointed date shall deliver possession of the property of the institution to the Director or any officer authorised by him in this behalf (being property which in the opinion of the Director is essential or necessary for the management of the institution).(3)After taking over the management of any institution under this section, the Director may, with a view to maintaining continuity of education imparted in such institution, and in the interests of the students attending it, arrange to manage the institution through one or more Administrators appointed under section 4.(4)Any Management, which is aggrieved by the order of a Director under subsection (1), may make an appeal to the State Government within a period of 15 days from the date of receipt of the order of the Director. The State Government may, after considering the representation made by the Management and the order of the Director pass such orders, including an order for the restoration of the Management or for the reduction of the period during which the management of such institution shall remain vested in the-Administrator as it may deem fit.(5)The decision of the Director, subject to the decision of the State Government in the appeal, and the decision of the State Government in the appeal, shall be final and shall not be called in question in any court.(6)Where the management of an institution has been taken over under this section, the Administrator shall pay such rent as may be payable for the building of the institution to the person entitled to receive it as was being paid by the Management immediately before the appointed date. If the rent is payable to the Management, then such rent shall not be paid to the Management, but it shall remain at the disposal of the Administrator for the management, maintenance and administration of the institution.(7)During such period as any institution remains under the management of an Administrator, — a. the service conditions, as approved by the Director, of the employees shall not be varied to their disadvantage;b. such educational facilities as may be approved by the Director and which the institution had been affording immediately before the appointed date shall continue to be afforded;c. all fees, all grants and all other receipts of the institution (being fees, grants or receipts as relate to its activity of imparting education therein) shall continue to be available to the Administrator for being spent for the purposes of the institution;d. no resolution passed at any meeting of the Management of such institution shall be given effect to unless approved by the Director; ande. it shall be lawful for the Administrator to terminate the services of any employee who in his opinion is acting in any manner detrimental to the interest of the institution or education imparted therein after giving the employee a reasonable opportunity of showing cause against the proposed action;f. the employee who is aggrieved by any order of the Administrator may, within 21

days of receipt of the order terminating his services, appeal to the Director whose decision in the matter shall be final and conclusive and shall not be called in question in any court.

4. Administrators.

(1)The Director shall, with the approval of the State Government, appoint one or more Administrators, to manage the educational institution, taken over under section 3. Where more than one Administrator are appointed, the State Government may, by order in writing assign sphere of his duties to be performed by each Administrator, subject to such directions as the Director may from time to time think fit to give in this behalf.(2)The Administrator shall be a person who has experience of managing an educational institution or, who possesses such other qualifications as the State Government may by order specify.(3)The terms and conditions of service of an Administrator appointed under this section shall be such as the State Government may by order in writing determine and different terms and conditions may be determined for different Administrators depending on the nature of duties which may be assigned to him.(4)The Administrator shall as far as practicable consult the Committee in respect of the affairs of the administration or management of the institution, and be guided in all such matters by its advice, unless for reasons to be recorded in writing he disagrees with the advice of the Committee. If he disagrees, then he may disregard the advice of the Committee, but he shall inform the Director of the disagreement and the action taken by him. If the Director does not approve the action taken by the Administrator, the Director shall issue such directions as he thinks fit, and the Administrator shall comply with such directions.

5. Advisory Committee.

(1)For the purpose of advising the Administrator generally in the matter of administration and management of an educational institution taken over under section 3, the State Government shall appoint an Advisory Committee.(2)The Advisory Committee shall consist of not more than three persons who are conversant with, or have experience of, the management of educational institutions. One of the members shall be appointed to be the Chairman for the purpose of conducting the meetings of the Committee.(3)The members of the Committee shall hold office for a period of three years. The State Government may remove any member without assigning any reason. A person shall be eligible for reappointment.(4)The members of the Committee shall be eligible for such allowances for attending the meetings of the Committee as the State Government may by order determine. A member of the State Legislature while holding the office of a member of the Committee shall not be entitled to receive any allowances other than travelling allowance, daily allowance or such other allowance which is paid to the holder of such office for the purpose of meeting the personal expenditure incurred in attending the meeting of the Committee or on performing any other functions as the holder of such office.(5)It shall be the duty of the Committee to advise the Administrator on such matters as the Administrator, the Director or the State Government may refer to it for advice or guidance. It shall also be lawful to the Committee to tender such advice to the Administrator in the matter of administration or management of the institution as the Committee may think fit.(6)The Committee shall, in conducting its business, determine such procedure as it deems fit, subject to such directions or instructions as the Director or the State Government may think fit to give.

6. Powers of Administrator.

The Administrator shall manage the affairs of the institution which has been taken over under section 3 in accordance with the rules, regulations or by-laws or any other instrument which regulates the management of such institution. The Administrator may, notwithstanding anything contained in such rules, regulations, or by-laws or such instrument administer the affairs of the institution as he may, subject to the approval of the Director, having regard to the exigencies of the situation, think fit.

6A. Obligation of Management to pay to Government expenditure on remuneration of Administrator and allowances of Advisory Committee and share of other expenditure of the institution.

(1) Where the management of any institution is taken over under section 3, —(a) the expenditure on the remuneration of the Administrator and on the allowances to the members of the Advisory Committee shall be paid monthly by the Management from the funds of the institution, (b) the proportionate share of the expenditure of the institution, which the Management would have had to meet in any year, if the management of the institution had not been taken over, shall initially be borne and paid to the Administrator by the State Government, but the Management shall, on demand made by the Administrator, pay from the funds of the institution annually to the State Government the share of the expenditure so borne and paid by the State Government : Provided that, the management shall not be liable to bear inadmissible expenditure incurred by the Administrator, if any. (2) If any default is made by the Management in making any such payment in time, the amount due may be recovered by the State Government from the Management as an arrear of land revenue. (3) If there is any doubt or dispute regarding the liability of the Management to pay any amount under this section, the question shall be referred for the decision of the State Government and the decision of the State Government thereon shall be final and conclusive : Provided that, the management shall be given reasonable opportunity of being heard before taking such a decision.

7. Provisions in case of refusal to hand over management to Administrator.

(1) On the appointment of an Administrator, the Management of the institution, the management of which has been taken over under section 3, shall forthwith hand over the management of the institution to the Administrator and all papers and property of the institution in its possession or under its control (being papers and property which in the opinion of the Director is essential or necessary for the management of the institution). (2) If the Management refuses to hand over the management of the institution as required by sub-section (1), the Director or any officer duly empowered by him in this behalf may, by an order in writing, direct the Management to forthwith hand over the management of the institution together with the papers and property of institution in its possession or under its control referred to in sub-section (1) to the Administrator. (3) If the Management to whom a direction has been issued under sub-section (2) does not comply with the direction, the Director may take steps to recover all papers and property of the institution in its

possession or under its control so far it is necessary for its management and for that purpose the Director may authorise any officer to issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973. The papers and property so recovered shall be handed over to the Administrator.

8. Handing over of institution back to Management.

(1)After the expiry of the period for which the management of any institution has been taken over, the Administrator shall, subject to the provisions of subsection (2), hand over the institution together with the property of the institution to the Management concerned.(2)Before handing over the institution to the Management, the Administrator may make an application to the Charity Commissioner to settle a scheme of management in the interest of the proper administration of the institution; and thereupon, the provisions of section 50-A of the Bombay Public Trusts Act, 1950, shall apply, as they apply in relation to scheme settled by the Charity Commissioner under that section.(3)If the Management fails to administer the institution according to the scheme of management settled by the Charity Commissioner, the institution shall be liable to be taken over under this Act: Provided that, no institution shall be taken over for management again, unless the Management has been given a reasonable opportunity of being heard.

9. Power to give directions.

Notwithstanding anything contained in this Act, the State Government shall have power to give to an Administrator all such directions as it may consider necessary in regard to any matter connected with the administration or management of the institution, and the Administrator shall comply with such directions.

10. Indemnity.

No suit or prosecution shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

11. Rules.

(1)The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. Such rules may provide for levying fees for any of the purposes of this Act; and for refund of such fees.(2)Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be ; so,

however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

12. Saving.

The provisions of this Act shall not apply to any educational institutions established or to be established and administered or to be administered by any minority, whether based on religion or language.

13. Repeal of Maharashtra Order I of 1976 and savings

(1)The Maharashtra Educational Institutions (Management) Ordinance, 1976, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any appointment made or any order issued) under the Ordinance so repealed, shall, be deemed to have been done, made or issued, as the case may be, under the corresponding provisions of this Act.