

The Bihar Non-Government Educational Institution (Taking Over) Act, 1988

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Act 4 of 1988

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The Bihar Non-Government Educational Institution (Taking Over) Act, 1988 Bihar Act 4 of 1988 Published in the Bihar Gazette, Extraordinary, dated February 15, 1988. An Act to provide for taking over by the State Government of Non-Government educational institutions of the State of Bihar conducting Researches in Political Science and studies in Parliamentary, Legislative and Allied Disciplines. Whereas in the State of Bihar the institution called Jagjiwan Ram Institute of Parliamentary Studies and Political Research established by the Society called Jagjiwan Ram Institute of Parliamentary Studies and Political Research Society is an institution conducting research and studies in Parliamentary and Legislative affairs; And Whereas, in Parliamentary democracy this institution has gained relevance in promoting political studies and in providing orientation courses for legislature enable them to discharge their duties and responsibility effectively. And, Whereas, this subject has assumed great importance for public life of the nation; And, Whereas, it is necessary to ensure high level of research and training facility and to maintain and sustain the growth of this Institution; And, Whereas, the Government is giving grants to this institution but it could not grow and serve the public purpose effectively; And, Whereas, it has been resolved to take over the management and control of this institution for its effective functioning, development and administration; Be it enacted by the Legislature of the State of Bihar in the thirty-eighth year of Republic of India as follows:-

Chapter I

1. Short title and commencement.

(1) This Act may be called the Bihar Non-Government Educational Institution (Taking-over) Act, 1988. (2) It shall come into force at once.

2. Definitions.

- In this Act unless the context otherwise requires,-(i)"Institution" means Jagjiwan Ram Institute of Parliamentary Studies and Political Research, 10 Mangles Road, Patna-800001;(ii)"Education Secretary" means Secretary to the Government of Bihar in the Education Department;(iii)"Governing Body" means association or managing committee of Jagjiwan Ram Institute of Parliamentary Studies and Political Research.

Chapter II

3. Taking over the Institute.

(1)With effect from the date of enforcement of this Act the institution called Jagjiwan Ram Institute of Parliamentary Studies and Political Research, 10, Mangles Road, Patna-800001 shall stand transferred to and shall vest absolutely in the State Government free from all encumbrances and the management and control thereof shall thereupon be exercised by the State Government.(2)All assets and properties of the institution, Governing Body/Managing Committee/Association, whether movable or immovable including lands, buildings, laboratories, workshops, stores, libraries, instruments, machinery, vehicles, cash, balance, reserve fund, investment, furniture and fixtures and others shall on the date of taking over stand transferred to and vested in the State Government free from all encumbrances.

4. Powers and functions of the Education Secretary.

(1)The Education Secretary shall be deemed to have taken charge of the institution which stands vested in the State Government under the provisions of this Act.(2)The Education Secretary shall, by notice, in writing require any person in possession of any property vested under the provision of this Act in the State Government to surrender or deliver possession of the same immediately and if a person refuses or fails to comply with any such notice, the Education Secretary may enter upon and take possession of the same and for that purpose he may use or cause to be used such force as may be necessary.(3)On the request of the Education Secretary, the District Magistrate concerned shall render such assistance as may be necessary for enforcing compliance with the order of the Education Secretary under sub-section (2).(4)The Education Secretary or a person nominated by him in this behalf, with the approval of the State Government, shall perform the functions and duties of the Governing Body/Managing Committee under the direction and control of State Government until an alternative arrangement is made by the State Government.

5. Cancellation and variation of contract made in bad faith.

- Without prejudice to the provisions contained in Section 4, the State Government may cancel or vary any contract or agreement entered into any time before the vesting of the institution in the State Government under sub-section (1) of Section 3 between Governing Body and any other person or between the Board of Control and any other person, if the State Government is satisfied that such

contract or agreement was mala fide and entered into the bad faith and was detrimental to the interest of the institution.

6. Determination of the strength and terms and conditions of services of the teaching/research and other categories of staff of the institution.

(1) All the staff employed in the Institution shall cease to be the employees of the institution from the date of vesting of the institution in the State Government under Section 3: Provided that they shall continue to serve the institution on an ad-hoc basis till a decision under sub-section (3) is taken by the State Government. (2) The State Government shall set up one or more committees of experts and knowledgeable persons which shall examine the strength of staff and the staffing pattern and shall further examine the bio-data of each member of the teaching/ research and other categories of staff of the institution and shall ascertain whether strength, staffing pattern, appointment, promotion or confirmation sanctioned and made by the Managing Committee of the institution are proper and tenable and submit its report to the State Government after taking into consideration the requirements of the institution and other relevant matters including qualification, experience, research, degree, etc. (3) The State Government on receipt of the report of the Committee or Committees, as the case may be, shall determine the strength of the teaching/ research and other categories of staff and the staffing pattern and shall decide in respect of each member of the teaching/research and other categories of staff on the merit of each case, whether to absorb him in Government service or whether to terminate his service or to allow him to continue on an ad hoc basis for a fixed term or on contract and shall where necessary redetermine the rank, pay, allowance and other conditions of service.

7. Audits of Accounts.

- The State Government shall have right to get the financial position of the Institution audited in a proper manner and realise from the Secretary, any officer or employee of the institution who may be found to have misappropriated, any sum as revealed by such audit.

Chapter III

8. Offences and Penalty.

(1) If any person-(i) when required by this Act or any order made thereunder to make any statement or furnish any information refuses to make such statement or furnish the required information or makes statement or furnishes information which is false in any material particulars or which he knows or believes to be false or does not believe the same to be true; or (ii) makes any statement which is false or which he does not believe to be true in any book account, return or other document which is required by any order made under this Act to submit: he shall be deemed to have committed an offence and he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to rupees one thousand and five hundred or with both. (2) Any person-(i) having in his possession, custody or control any property forming part of the assets of the

Institution Governing Body of Board of Control, wrongfully withholds such property from the State Government, or(ii)wrongfully obtains possession of any property forming part of the assets of the Institution/Governing Body of Board of Control, or(iii)wilfully withholds or fails to produce or hand over to any person authorised by the State Government any register record or other document which may be in his possession, custody or control, or(iv)fails without any reasonable cause to submit any accounts, books, or other documents when required to do so;he shall be deemed to have committed an offence and he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to rupees one thousand and five hundred or with both.

9. Cognizance of offence.

- No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the State Government or of an officer authorised by the State Government in this behalf.

10. Protection of action taken under this Act.

- No suit prosecution or other legal proceeding shall be against the State Government or any officer or employee of the State Government for anything which is in good faith, done or intended to be done under this Act.

11. Overriding effect of the Act.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having the effect of law.

12. Power to make Rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)All rules made under this section shall be laid for not less than fifteen days before each house of the State Legislature as soon as may be, after they are made and shall be subject to such modification as the two houses of the State Legislature may make during the session in which they are so laid or the session immediately following. Any such modification shall be without prejudice to the validity of anything previously done thereunder.

13. Repeal and Saving.

(1)The Bihar Non-Government Educational Institution (Taking-over) Second Ordinance 1987 (Bihar Ordinance No.26, 1987) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said under Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act were in force on the date on which such thing or action was done or taken.