

Assam Venture Madrassa Educational Institutions (Provincialisation of Services) Act, 2011

ASSAM

India

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Act 3 of 2012

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Assam Venture Madrassa Educational Institutions (Provincialisation of Services) Act, 2011(Assam Act No. 3 of 2012)Last Updated 13th February, 2020[21st January 2012]No. LGL. 136/2011/38. - The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.(Received the assent of the Governor on 18th January, 2012An Act to provincialise the services of the employees of the Venture Madrassa Education Institutions in the State of Assam and to restrict further establishment of such Educational Institutions in the StatePreamble. - Whereas it is expedient to provincialise the services of employees of Venture Madrassa Educational Institutions in the State of Assam and to restrict further establishment of such educational institutions in the State;It is hereby enacted in the Sixty-second Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Assam Venture Madrassa Educational Institutions (Provincialisation of Services) Act, 2011(2)It extends to the whole of Assam(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act, or for different category of Madrassa Educational Institutions.

2. Application.

- The Act shall not apply to any Madrassa Educational Institution or Arabic College, established or claiming protection under Article 30 of the Constitution of India.

3. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Deputy Director of Madrassa Education" means the Deputy Director of Madrassa Education and includes Assistant Director of Madrassa Education; (b) "Director of Madrassa Education" means Director of Madrassa Education, Assam and includes Deputy Director, Additional Director or Assistant Director of Madrassa Education, Assam; (c) "District Elementary Education Officer" means the District Elementary Education Officer of the concerned District; (d) "District Scrutiny Committee" means the District Scrutiny Committee constituted under section 11 of this Act for each District to recommend names of Venture Madrassa Educational Institutions which are considered eligible for provincialisation of the services of the employees serving therein; (e) "employee" means and includes all serving employees, both teaching and non-teaching, of Venture Madrassa Educational Institutions, who have been appointed by the Governing Body/Managing Committee of the concerned Venture madrassa Educational Institution before first day of January, 2011 and whose services are provincialised or would be considered for being provincialised under this Act; (f) "Governing Body" means the Governing Body of an Arabic College or Title Madrassa approved by the appropriate authority as notified by the State Government for carrying out the management of the College or the Title Madrassa, as the case may be; (g) "Inspector of Schools" means the Inspector of School in the concerned District and unless the context otherwise requires, it includes and Assistant Inspector of Schools of the same District; (h) "Madrassa Education" means a system of special education in which instruction is imparted in Arabic, Urdu, Persian, Quran, Tafsir, Hadith, Fiqh, Usul, Aqaid, Mantique, Hiqmat, Balagat, Islamic History along with same or all general subjects like Modern Indian Language, Science, Social Science, Computer Technical and Vocational education upto Secondary School level; the syllabi, curriculum and examination for which are regulated by the State Madrassa Education Board, Assam upto the level of Fadilul-Ma'rif (F.M) and Mumtaz-ul-Muhaddithin (M.M.); (i) "Madrassa Educational Institutions" means Venture Madrassa Educational Institutions such as Pre-Senior Madrassa, Senior Madrassa, Title Madrassa and Arabic College which have been established by the people of the locality before 1.1.2006 and which have received permission and recognition from the State Madrassa Education Board, Assam before 1.1.2006 and not provincialised under any Act enacted by the State Legislature so far; (j) "Managing Committee" means the Managing Committee approved by the appropriate authority as notified by the State Government for carrying out the management of the concerned Madrassa Educational Institutions; (k) "Provincialised Madrassa Educational Institution" or "Provincialised Arabic College" means a Venture Madrassa Educational Institution wherein the services of employees are provincialised or would be considered to be provincialised under this Act; (l) "State Government" means the State Government of Assam in the Education (Secondary) Department; (m) "State Madrassa Education Board" means the State Madrassa Education Board, Assam constituted under the provisions of the Assam Education Department Rules and Orders; (n) "Venture Arabic College" means a Venture Arabic College imparting Islamic-cum-General education upto F.M. (Fadilul-ma'rif) and upto M.M. (Mumtazul-Muhaddithin) level for Islamic education which has been established by the people of the locality prior to 1.1.2006 and which has also received permission and recognition from the State Madrassa Education Board before 1.1.2006 and not provincialised under any of the Act enacted by the State Legislature so far; (o) "Venture Pre-Senior Madrassa" means a Madrassa Educational Institution imparting Islamic-cum-General education

upto Upper Primary level and which has been established by the people of the locality prior to 1.1.2006 and which has also received permission and recognition from the State Madrassa Education Board before 1.1.2006 and not provincialised under any of the Act enacted by the State Legislature so far;(p)"Venture Senior Madrassa" means a Venture Senior Madrassa Educational Institution imparting Islamic and General education upto F.M. (Fadilul-Ma'rif) and includes a Senior Madrassa imparting Islamic and General education upto Intermediate stage which has been established by the people of the locality prior to 1.1.2006 and which has also received permission and recognition from the State Madrassa Education Board before 1.1.2006 and not provincialised under any of the Act enacted by the State Legislature so far;(q)"Venture Title Madrassa" means a Venture Title Madrassa imparting Islamic education upto M.M. (Mumtazul-Muhaddithin) which has been established by the people of the locality prior to 1.1.2006 and which has also received permission and recognition from the State Madrassa Education Board before 1.1.2006 and not provincialised under any of the Act enacted by the State Legislature so far;(r)"F.M. (Fadilul-Ma'rif)" means a course of instruction in Islamic education in theological subjects which is equivalent to a Degree Course at graduate level and equivalent to HSLC in General Education;(s)"M.M. (Mumtazul-Muhaddithin)" means a course of instruction in Islamic education upto Post-Graduate level in theological subjects;(t)"prescribed" means prescribed by rules made under this Act.

4. Eligibility criteria for selection of Venture Madrassa Educational Institutions of services of its employees.

(1)Subject to the provisions of Article 30 of the Constitution of India, the following categories of Venture Madrassa Educational Institutions shall be eligible for being considered for provincialisation of the services of its employees:-(i)the Venture Madrassa Educational Institutions which have been established by the people of the locality and had obtained the required permission and recognition from the State Madrassa Education Board, before 1.1.2006; and(ii)it has a minimum enrolment of 20 students in the highest class i.e. class-VIII (Pre-Senior 3rd year) if it is Pre-Senior madrassa; 15 students in class XI (Intermediate class) if it is Senior Madrassa upto Intermediate Stage, and 10 students in F.M. Final year class if it is a Senior Madrassa upto F.M. stage; and a minimum enrolment of 7 students in M.M. Final year class if it is a Title Madrassa or an Arabic College, during last three sessions from the date of commencement of this Act; and(iii)in case of a Senior Madrassa (upto Intermediate stage of F.M. stage) or an Arabic College or a Title Madrassa, the concerned Madrassa Educational Institution must have a consistent good academic performance which would mean that a least 20% of the candidates appearing for the final examination must have passed in any three examinations held since 1.1.2006.(2)The concerned Madrassa Educational Institution must have required infrastructure as specified in section 10 of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006.(3)An institution, which does not have the required infrastructure specified in sub-section (2) above, may be considered as eligible for provincialisation of the services of its employees, provided such institution acquires the required infrastructure within two years from the date of commencement of this Act.(4)Subject to the provisions of the Right of Children to Free and Compulsory Education Act, 2009 in case of all Pre-Senior Madrassa Educational Institutions and in case of all other Madrassa Educational Institutions subject to the provisions of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006, a Madrassa Educational Institution which

does not fulfil the eligibility criteria as on the date of coming into force of this Act or does not acquire eligibility under sub-section (3) above within two years period as aforesaid shall not be eligible to be considered for provincialisation of the services of its employees, but may be allowed to run as a Private Institution or a Non-Government Educational Institution.(5)Save and except an institution covered under Article 30 of the Constitution of India which is already getting financial assistance or grants-in-aid, no Private or Non-Government Madrassa Educational Institution shall be entitled to get any aid or assistance from the State Government in any form with effect from the date of coming into force of this Act.

5. Employees to be Government Servant.

(1)The Services of the employees of all eligible Venture Madrassa Educational Institutions under section 4 who have already completed ten years of services in such Madrassa Educational Institution without any break from the date of permission and recognition of such Madrassa Educational Institute, as on the date of coming into force of this Act, shall be deemed to have been provincialised and they shall become employees of State Government with effect from that date.(2)The services of all the teaching and non-teaching employees, who have not yet completed ten years of continuous services without break in that Venture Madrassa Educational Institutions on the date of coming into force of this Act, shall be provincialised with effect from the date on which they complete the required ten years of service:Provided that the numbers of employees in both teaching and non-teaching cadre in each of the institution, services of whom are provincialised or to be provincialised under this Act, shall not exceed as specified in the Schedule appended to this Act:Provided further that where the number of such employees serving in such Venture Madrassa Educational Institutions exceeds the numbers as specified in the Schedule, the provincialisation of the services of the employees shall be on the basis of seniority in the respective category in the concerned Madrassed Educational Institution. The State Government shall have on liability whatsoever in regard to such employees.(3)The services of a teaching or non-teaching employee in a Venture Madrassa Educational Institution shall be considered for provincialisation, only if they have the requisite academic and professional qualification prescribed by the State Madrassa Education Board at the time of their initial appointment;Provided that if an employee is required to acquire any prescribed academic or professional qualifications, services of such employee may be considered for provincialisation if otherwise eligible, but in such case the provincialisation would be subject to acquisition of such prescribed qualifications within a period of five years from the date of coming into force of this Act, and during this intervening period, the State Government shall have no liability in respect of his pay and allowances and he may continue to work under the existing terms and conditions under which he was working, until his services are provincialised. In case of his failure to acquire the require academic or professional qualification within the stipulated period, his services shall stand terminated with effect from the date of expiry of stipulated period of five years.

6. Terms and conditions of Services.

(1)Subject to the provisions of this Act and the rules made thereunder, all rules including service rules and rules of conduct and discipline which are applicable to the State Government servants of

corresponding ranks, shall be applicable to all employees of Madrasa Educational Institutions whose services have been or would be provincialised under the provisions of this Act.(2)All such employees shall get such emoluments as salary and allowances as may be prescribed with effect from the date of provincialisation of their services and the past services rendered by them shall not be counted for any purpose whatsoever, and all such employees shall get the same pay and allowances as if they are fresh appointees and in respect of pension, they shall be governed by the New Pension Scheme applicable to the State Government employees of the corresponding rank.(3)The employees, who have completed sixty years of age as so the date of coming into force of this Act. shall be deemed to have retired with effect from that date and they shall have no claim whatsoever from the State Government as regards their pay, allowances and retirement benefits for services already rendered by them in such Madrasa Educational Institutions.(4)Services of all employees shall be encadred in appropriate cadres in accordance with the rules as may be prescribed by the State Government for this purpose.

7. Management of the Madrasa Educational Institution where services of employees are provincialised Pre-Senior Madrasa Educational Institutions.

- With effect from the date of publication of the notification under sub-section (4) of section 11, the administration, management and control of all provincialised Madrasa Educational Institutions coming within the purview of this Act shall vest in the State Government.

8. Managing Committee in respect of provincialised Pre-Senior Madrasa.

- The constitution, composition, powers, functions and duties of the Managing Committee in respect of Pre-Senior Madrasa shall be governed by the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and the rules framed thereunder.

9. Managing Committee/Governing Body in respect of other Madrasa Educational Institution.

(1)The State Government or an officer authorized by the State Government, by an order, constitute a Managing Committee in respect of Senior Madrasa and a Governing Body in respect of a Title Madrasa or an Arabic College, for managing the affairs of such Madrasa Educational Institutions.(2)The Governing Body and the Managing Committee, as the case may be, of such institutions shall exercise such powers and shall perform such functions as may be specified by the State Government under the rules made under this Act.(3)The State Government or the Officer so authorized by the State Government may, at any time, reconstitute the Managing Committee or the Governing Body, as the case may be, whenever it is considered necessary.(4)The composition of the Managing Committee or the Governing Body shall be such as may be prescribed by the State Government.(5)Subject to overall control and supervision of the Director, Madrasa Education all teaching and non-teaching employees whose services are or would be provincialised, shall be accountable and remain subject to the control of the Managing Committee or the Governing Body, as the case may be.(6)All teachers, whose services have been provincialised shall render their

services under the control and supervision of the Head of the Institution and if so required their services may be utilized in the lower classes.

10. Amalgamation Shifting or expansion of Madrassa Educational Institution.

(1) In appropriate cases, if there is already an existing Madrassa Educational Institution nearby, and the enrolment of the students does not justify more than one institution in the same locality, or there are other sufficient reasons so to do, the State Government, in the public interest and for reasons to be recorded may, order transfer or shifting of the institution from one place to another, or may order amalgamation of two or more existing institutions. (2) In appropriate cases, if the State Government is of the view that an existing Madrassa Educational Institution need be expanded so as to have more classes, the State Government may order expansion of an existing institution from Senior (Intermediate Stage) to Senior (F.M) Stage, or from Senior (F.M.) Stage to Arabic College or Title Madrassa. (3) All employees teaching and non-teaching whose services have been provincialised under the provisions of this Act and who are working in one of the Madrassa Educational Institution in respect of which an order under sub-sections (1) and (2) above has been passed, shall be, liable to be transferred and posted in any such provincialised Madrassa Educational Institution in the same rank and grade. (4) All teachers working on a higher grade in an institution in respect of which an order under sub-section (2) had been passed may be required to teach in the lower classes also.

11. Committee.

- (sic) each District for Pre-Senior Madrassa, Senior Madrassa and for Title Madrassa or Arabic College to scrutinize service records and other related issues of the serving teachers and staff of Venture Madrassa Educational Institutions pertaining to provincialisation of their services. (2) The Deputy Commissioner of the District, by an order, shall constitute the District Scrutiny Committee for the respective District under preceding sub-section. (3) The District Scrutiny Committee shall first scrutinize and prepare a list of all Venture Madrassa Educational Institutions within the District, which are eligible in terms of the provisions of this Act and shall thereafter proceed to scrutinize and verify the service records of all the serving employees, who are eligible or would become eligible for being considered for provincialisation of their services. (4) The District Scrutiny Committee shall forward the verified list of eligible teachers Madrassa-wise in accordance with the number of posts specified in the Schedule appended to this Act, to the Director of Madrassa Education who shall, after making such further scrutiny as may be required, forward the same to the State Government for consideration and for issuing Notification in respect of the eligible Madrassa Educational Institution and employees eligible for getting their services provincialised. (5) The District Scrutiny Committee shall have the powers to inspect all document and records produced before it and call for such further records and documents as may be required for the purpose of causing verification and scrutiny and examine witnesses for the purpose, if considered necessary and while doing so it shall have the powers of a Civil Court for the purpose of compelling attendance of persons and production of documents. (6) The District Scrutiny Committee for all categories of the Venture Madrassa Educational Institutions shall be constituted with the following members namely:-(i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner Chairman; (ii) The inspector of Schools (Member-Secretary in case of Senior Madrassa/Title

Madrassa of Arabic College, otherwise member)- Member;(iii)The District Elementary Education Officer (Member-Secretary in case of Pre-Senior Madrassa, otherwise member)- Member;(iv)Superintendent of a Provincialised Senior Madrassa (either serving or retired) to be nominated by the Inspector of Schools, - Member;(v)One eminent person in the field of Madrassa Education - to be nominated by the Deputy Commissioner - Member.(7)The State Government may, by an order reconstitute the District Scrutiny Committee or may change its composition, if the circumstances so warrant.

12. Madrassa Educational Institutions not provincilased function as Private/Non-Government Institution.

(1)The service of employees of the Venture Madrassa Educational Institutions which have been established on or after 1.1.2006 shall not be provincilased and no such educational institution shall be allowed to remain functional unless it has obtained:-(i)permission under provisions of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006;(ii)recognition from the authority under the provisions of section 18 of the Right of Children to Free and Compulsory Education Act, 2009 except in case of a Title Madrassa.(2)All such Venture Madrassa Educational Institutions, which have obtained the required permission and recognition as the case may be, shall be allowed to function as purely Private or Non-Government education Institution.

13. Offences and penalties.

(1)Whoever provides misleading, incorrect or false information to and suppresses material information from or abets the providing or suppression of such information to the District Scrutiny Committee or to any other authority under this Act shall commit an offence under this Act which shall be punishable with imprisonment for a term which may extend to three years.(2)Offences committed under this Act shall be cognizable offences under the provisions or the Code of Criminal Procedure, 1973.

14. Suit and proceeding.

- No suit, prosecution or other legal proceeding shall lie for anything in good faith done under this Act, except with previous sanction of the State Government.

15. Power of interpretation and removal of difficulties.

(1)If any difficulty arises in interpretation of any provisions of this Act, interpretation of the State Government shall be final.(2)If any difficulty arises in giving effect to provisions of this Act, the State Government may, by order do anything not inconsistent with the provisions of this Act which appear to be necessary or expedient for the purpose of removing the difficulty.

16. Delegation of power.

(1)The State Government may delegate all its powers, except the powers conferred under sections 15 and 17 of the Act to the Director/Deputy Director of Madrassa Education.(2)The Officer or Authority to whom the powers are delegated under sub-section (1) shall exercise the same subject to overall supervision and control of the State Government and subject to such limitations as may be specified by the State Government.

17. Power to make rules.

(1)The State Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Act.(2)Without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-(i)prescribing service conditions and specifying the duties and responsibilities of all employees whose services have been provincialised under this Act;(ii)preparation and maintenance of service records of the employees whose services have been provincialised;(iii)for constitution and composition of the Governing Body or the Managing Committee, as the case may be, of the provincialised Madrassa Educational Institutions;(iv)specifying the powers, functions, duties and responsibility of the Managing Committee or the Governing Body of the Madrassa Educational Institutions, as the case may be.(3)Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two or more successive session and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agrees in making any modification in the rule or the Assam Legislative Assembly agrees that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Schedule

[See Sections 5(2) and 11(4)]Maximum number of employees for Madrassa Educational Institutions for Provincialisation of their services.

Category of Institution	Category of Staff	Existing
1	2	3
Pre-Senior Madrassa (Upper Primary Section): (3classes)	Head Mudarris	1
F.M. (Assistant Teacher)	2	
Higher Secondary (Assistant Teacher)	2	
Graduate/Intermediate Teacher (Science & Mathematics)	1	
Hindi teacher (Junior Grade)	1	
Assamese Language Teacher (Jr. Grade) (only for Bank Valley)	1	

Intermediate and Hafiz (Assistant Teacher)	1	
Grade - IV	1	
Total	9/10	
Senior Madrassa: (From Pre-Senior Section to F.M. level containing 3+3+3=9 classes)	Superintendent	
	1	
M.M. (Post Graduate Assistant Teacher)	4	
F.M. (Graduate Assistant Teacher)	4	
Arts Graduate (Assistant Teacher)	3	
Science Graduate (Assistant Teacher)	2	
Hindi Language Teacher (Graduate Assistant Teacher)	1	
Assamese Language teacher (Senior Grade) (Only for Barak Valley)	1	
Intermediate Assistant Teacher (General)	1	
Intermediate & Hafiz (Assistant Teacher)	1	
Librarian (F.M.)	1	
Junior Assistant	1	
Grade - IV	1	
Total	20/21	
Arabic College: (From Pre-Senior Section to M.M. Level containing 3+3+3+2=11 classes)	Principal	1
Lecturer	5	
M.M. (Post Graduate Assistant Teacher)	4	
F.M. (Graduate Assistant Teacher)	4	
Arts (Graduate Assistant Teacher)	3	
Science Graduate (Assistant Teacher)	2	
Hindi Language Teacher (Graduate Assistant Teacher)	1	
Intermediate Assistant Teacher (General)	1	
Intermediate and Hafiz (Assistant Teacher)	1	
Librarian (F.M.)	1	
Junior Assistant	1	
Grade - IV	2	
Total	26	
Title Madrassa: Post Graduate Level (M.M.) of 2 classes containing different Departments of Theological subjects and others.	Principal	1
Lecturer	5	
Librarian (F.M.)	1	
Junior Assistant	1	
Grade - IV	1	
Total	09	