

Rajasthan Non-Government Educational Institutions Act, 1989

RAJASTHAN

India

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Act 19 of 1992

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Rajasthan Non-Government Educational Institutions Act, 1989Act No. 19 of 1992

032.

Received the assent of the President on the 4th day of June, 1992An Act to provide for better organisation and development of education in the Non-Government educational institutions in the State of Rajasthan.Be it enacted by the Rajasthan State Legislature in the Fortieth Year of the Republic of India as follows :-

Chapter I Preliminary

1. Short title, extent and commencement

. (1) This Act may be called the Rajasthan Non-Government Educational Institutions Act, 1989.(2)It extends to the whole of the State of Rajasthan.(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 and any reference to the commencement of this Act in relation to any provision thereof shall be construed as a reference to the date on which that provision comes into force.

2. Definition

. In this Act, unless the context otherwise requires, (a)"aid" means any aid granted to a recognised educational institution by the State Government;(b)"Aided institution" means a recognised

institution which is receiving aid in the form of maintenance grant from the State Government;(c)"Board" means the Board of Secondary Education, Rajasthan or the Central Board of Secondary Education, Delhi and shall include the Council for the India School Certificate Examinations;(d)"compensatory allowance" means an allowance granted to meet personal expenditure necessitated by the special circumstances in which duty is performed and shall include a travelling allowance but shall not include a sumptuary allowance nor the grant of a free passage to or from any place outside India;(e)"Competent Authority" means any officer or authority authorised by the State Government, by notification, to perform the functions of the competent authority under this Act for such area or in relation to such class of recognised Non-Government educational institutions as may be specified in the notification;(f)"Director of Education" means, (i)in relation to degree and post-graduate colleges and educational institutions of equal or higher studies other than institutions of Sanskrit and technical education, the Director of College Education, Rajasthan,(ii)in relation to the institutions of Sanskrit education, the Director of Sanskrit Education, Rajasthan,(iii)in relation to the institutions of technical education, the Director of Technical Education, Rajasthan,(iv)in relation to schools and institutions other than those referred to in sub-clauses (i), (ii) and (iii), the Director of Primary and Secondary Education, Rajasthan;Explanation The Director of Education shall include any other officer authorised by him to perform all or any of the functions of the Director of Education under this Act;(g)"District Education Officer" includes, in relation to girls' institutions, the District Education Officer (Girls) and also any other officer authorised by the State Government to perform the functions of such an officer;(h)"Educational society" or "educational agency" means any trust, person or body of persons permitted to establish or maintain a recognised non-Government educational institution;(i)"employee" includes a teacher and every other employee working in a recognised institution;(j)"existing institution" means any recognised institution established before the commencement of this Act and continuing as such at such commencement;(k)"Head of an institution" means the Principal Academic Officer, by whatever name called, of an institution;(l)"institution" includes all movable and immovable properties pertaining to an educational institution;(m)"Joint Director" or "Deputy Director" includes an officer authorised by the State Government to perform the functions of a Joint Director or Deputy Director;(n)"Maintenance grant" means such recurring grant-in-aid to an institution as the State Government may, by general or special order, direct to be treated as such grant;(o)"management" or "managing committee", in relation to any institution, means the committee of management constituted under Section 9 and includes the Secretary or any other person, by whatever name designated, vested with the authority to manage and conduct the affairs of the institution;(p)"non-Government educational institution" means any college, school, training institute or any other institution, by whatever name designated, established and run with the object of imparting education or preparing or training students for obtaining any certificate, degree, diploma or any academic distinction recognised by the State or Central Government or functioning for the educational, cultural or physical development of the people in the State and which is neither owned nor managed by the State or Central Government or by any University or local authority or other authority owned or controlled by the State or Central Government;(q)"recognised institution" means a non-Government educational institution affiliated to any University or recognised by the Board, Director of Education or any office authorised by the State Government or the Director of Education in this behalf;(r)"salary" means the aggregate of the emoluments of an employee

including dearness allowance or any other allowance or relief for the time being payable to him but does not include compensatory allowance;(s)"sanctioning authority" means an officer authorised by the State Government to sanction aid to such recognised educational institutions as the State Government may specify from time to time in accordance with the procedure to be prescribed;(t)"State Government" means the Government of the State of Rajasthan;(u)"teacher" means a Professor, Reader or Lecturer and any other person, by whatever name designated, imparting instruction or training or conducting and guiding a research or training programme in a non-Government educational institution and includes the Head of the institution; and(v)"University" means a University established by law in the State of Rajasthan.

Chapter II

Recognition, its refusal and withdrawal

3. Recognition of institutions

. (1) Except in the case of institution affiliated to a University or recognised or to be recognised by the Board, the Competent Authority may, on a application made to it in the prescribed form and manner, recognise a non-Government educational institution on fulfilment of such terms and conditions as may be prescribed :[Provided that no institution shall be recognised unless it has been registered under the Rajasthan Societies Registration Act, 1958 (Act No. 28 of 1958) or it is being run by a public trust registered under the Rajasthan Public Trusts Act, 1959 (Act No. 42 of 1959) or by trust created in accordance with the provisions of the Indian Trusts Act, 1882 (Central Act No. 2 of 1882).] [Substituted by Rajasthan Act No. 20 of 2003.](2)Every application for recognition of an institution shall be entertained and considered by the Competent Authority and the decision thereon shall be communicated to the applicant within a period of six months from the date of the receipt of the application and, where recognition is refused, the reasons therefor shall also be communicated to the applicant within the said period.

4. Appeal against refusal of recognition

. (1) Where recognition to an institution is refused, any person aggrieved by such refusal may, within thirty days from the date of communication to him of such refusal, prefer an appeal against such refusal in the prescribed manner to such authority as may be prescribed.(2)On hearing an appeal preferred under sub-section (1), the said authority may, after giving the appellant a reasonable, opportunity of being heard, confirm, modify or reverse the order appealed against and his decision thereon shall be final.

5. Withdrawal of recognition

. Where the management of an institution obtains recognition by fraud, misrepresentation or suppression of material particulars or where, after obtaining recognition, an institution fails to comply with any of the terms and conditions prescribed under sub-section (1) of Section 3, the Competent Authority granting the recognition may, after giving such management a reasonable

opportunity of showing cause against the proposed action, withdraw the recognition.

6. Appeal against withdrawal of recognition

. (1) Where recognition to an institution is withdrawn, any person aggrieved by such withdrawal may, within thirty days from the date of communication to him of such withdrawal, prefer an appeal against such withdrawal, in the prescribed manner, to such authority as may be prescribed.(2)On hearing an appeal preferred under sub-section (1), the said authority may, after giving the appellant a reasonable opportunity of being heard, confirm, modify or reverse the order appealed against his decision thereon shall be final.

Chapter III

Aid, Accounts and Audit

7. Grant of aid to recognised institutions

. [(1) No aid shall be claimed by an institution as a matter of right and an aid granted under the provisions of this Act or the rules made thereunder may be stopped by the State Government at any time.] [Substituted by Rajasthan Act No. 8 of 2011](2)Unrecognised institution shall not be eligible to receive any aid.(3)Subject to such terms and conditions as may be prescribed, the sanctioning authority may sanction and distribute aid to recognised institutions from time to time in accordance with the procedure as may be prescribed.(4)The aid may cover such part of the expenditure of the institution as may be prescribed.(5)No amount out of aid given for salary of the employees of an institution shall be used for any other purpose.(6)The sanctioning authority may stop, reduce or suspend aid on breach of any of the terms and conditions prescribed in this behalf.(7)The amount of aid may normally be paid to the secretary of the managing committee of an institution but, in special circumstances and for reasons to be recorded in writing, such amount may be paid to any person authorised by the Director of Education or by any other officer empowered by him in this behalf.

8. Accounts and audit

. (1) Every aided institutions shall keep accounts in such manner and containing such particulars as may be prescribed.(2)The accounts of every aided institution shall be audited at the end of every academic year in the manner as may be prescribed.(3)The Secretary of the Managing Committee shall, within six months of the end of the academic year, submit to the Competent Authority the audit report.

Chapter IV

Managing Committee

9. Constitution of managing committee.

(1) There shall be constituted a managing committee for every recognised institution. (2) The managing committee of every recognised institution shall elect a Secretary from amongst its members. An employee of the institution shall neither be the Secretary nor the treasurer. (3) The Secretary will perform such functions and exercise such right as may be prescribed.

10. Powers of the State Government to take over management.

(1) Notwithstanding anything contained in any law for the time being in force, whenever it appears to the State Government that the managing committee of any recognised institution has neglected to perform any of the duties assigned to it by or under this Act or the rules made thereunder or has failed to manage the institution properly and that it has failed to manage the institution properly and that it has become necessary in the public interest to take over the management of such institution, it may, after giving to such managing committee a reasonable opportunity of showing cause against the proposed action, take over such management and appoint an administrator to exercise control over the assets of the institution and to run the institution for such period as the State Government may from time to time fix. (2) Where, before the expiry of the period fixed under sub-section (1), the State Government is of opinion that it is not necessary to continue the management of the institution by an administrator, such management shall be restored to the managing committee.

Chapter V

Properties, Transfer and Closure

11. Administration and management of properties of institutions

. The Secretary of the managing committee or any person, duly authorised by the managing committee in this behalf by a resolution shall, on behalf of the managing committee, manage and administer the properties and of a recognised institution.

12. Annual statement of properties

. On or before the 1st day of May each year, the secretary of the Managing Committee of an aided institution shall furnish to such officer, as may be authorised by the Director of Education in this behalf, a statement containing a list of all immovable properties belonging to or possessed by such institution or in which it has any other interest, with such particulars as may be prescribed.

13. Prior approval for transfer of management

. (1) Whenever the management of any recognised institution is proposed to be transferred, the secretary and the person to whom the management is proposed to be transferred shall, before such

transfer, apply jointly to the Competent Authority for prior approval of the transfer.(2)An application under sub-section (1) shall be made in such form and shall contain such particulars as may be prescribed.(3)The Competent Authority may, on receipt of the application under sub-section (1) and after making such enquiry as it thinks fit, approve the proposed transfer subject to such conditions as it may impose or may refuse to approve such transfer :Provided that approval shall not be refused unless the applicants have been given an opportunity of being heard and the reasons for such refusal are recorded :Provided further that where the application is not disposed off within six months from the date of its making, such approval shall be deemed to have been granted.

14. Closure of recognised institutions

. (1) No recognised institution or its class or the teaching of any subject therein shall be closed without a notice in writing to the Competent Authority. It shall have to be shown that adequate arrangements have been made for the continuance of teaching of the students for the entire remaining period of study for which the students had been admitted or for the refund of the remaining fees, if any, paid by the students.(2)The period of notice under sub-section (1) shall be such as may be prescribed and different periods of notice may be prescribed for different classes of institutions having regard to the period of each course of study.

15. Prior approval for transfer

. (1) Notwithstanding anything contained in any law for the time being in force, no transfer by way of sale, mortgage, charge or otherwise of any right or interest in or possession of any immovable property of an aided institution shall be made except after making an application in the prescribed manner to the Director of Education or an officer authorised by him in this behalf and obtaining prior approval in writing :Provided that where the application is not disposed off within six months from the date of its making, such approval shall be deemed to have been granted.(2)Any transfer made in contravention of sub-section (1) shall be void.(3)If the Secretary of the Managing Committee of an aided institution commits default in furnishing the statement under Section 12 or furnishes a statement which is false or incorrect in any material particular or acts in contravention of sub-section (1), the sanctioning authority may, after giving an opportunity of showing cause, withhold, stop or suspend aid to such institution.(4)In the event of an aided institution being closed or discontinued or its recognition being withdrawn, the Secretary of its managing committee shall handover to the officer authorised by the Director of Education in this behalf all the record, accounts and the management and possession of properties of the institution.

Chapter VI

Conditions of Service and Tribunal

16. Power of the State Government to regulate the terms and conditions of employment

. (1) The State Government may regulate the recruitment and conditions of service, including condition relating to qualifications, pay, gratuity, insurance, age of retirement, entitlement of leave, conduct and discipline, of persons appointed as employees of aided institutions in the State :Provided that the rights and benefits accruing to an employee of an existing institution under the grant-in-aid rules in force at the commencement of this Act shall not be varied to the disadvantage of such employee :Provided further that every such employee shall be entitled to opt for such terms and conditions of service as were applicable to him immediately before the commencement of this Act :Provided also that, irrespective of the age of retirement prescribed, action may be taken for compulsory retirement of such an employee after completion of 25 years of service or on attainment of the age of 50 years whichever is earlier, in accordance with the procedure as may be prescribed.(2)Every recognised institution shall constitute a provident fund for the benefit of its employees in such manner and subject to such conditions as may be prescribed and contribute to such fund and pay interest on the deposited amount at such rate as may be prescribed from time to time.

17. Recruitment of employees.

- Recruitment of employees in a recognised institution shall be made either after open advertisement in a local daily newspaper or from amongst the candidates sponsored by the employment exchange in the manner as may be prescribed.

18. Removal, dismissal or reduction in rank of employees.

- Subject to any rules that may be made in this behalf, no employee of a recognised institution shall removed, dismissed or reduced in rank unless he has been given by the management a reasonable opportunity of being heard against the action proposed to be taken :Provided that no final order in this regard shall be passed unless prior approval of the Director of Education or an officer authorised by him in this behalf has been obtained :Provided further that this section shall not apply -(i)to a person who is dismissed or removed on the ground of conduct which led to his conviction on a criminal charge; or(ii)where it is not practicable or expedient to give that employee an opportunity of showing cause, the consent of Director of Education has been obtained in writing before the action is taken; or(iii)where the managing committee is of unanimous opinion that the services of an employee can not be continued services of such employee are terminated after giving him six months notice or salary in lieu thereof and the consent of the Director of Education is obtained in writing.

19. Appeal of the Tribunal.

(1)If a managing committee is aggrieved from the order of refusal made by the Director of Education under Section 18, it may prefer an appeal to the Tribunal constituted under Section 22 within ninety days of the date of receipt of such order.(2)An employee aggrieved from an order of the managing committee made under Section 18 may prefer an appeal to the said Tribunal within ninety days of the date of receipt of such order.

20. Contracts by employees

. A contract between a recognised institution and an employee, whether made before or after the commencement of this Act, shall, to the extent that it takes away any right conferred on such person by or under this Act, be null and void.

21. Application to the Tribunal

. (1) Where there is any dispute between the management of a recognised institution and any of its employee with respect to the conditions of service, the management or the employee may make an application in the prescribed manner to the Tribunal and the decision of the Tribunal thereon shall be final.(2)Any dispute of the nature referred to in sub-section (1) and any appeal of the nature referred to in Section 19, pending before the State Government or any officer of the State Government immediately before the commencement of this Act, shall, as soon as may be after such commencement, be transferred to the Tribunal for its decision.

22. Constitution of the Tribunal

. (1) There shall be constituted by the State Government by notification, one or more Tribunals for the purposes of this Act.(2)The Tribunal shall have jurisdiction over the whole of the State or such area as may be specified in the notification.(3)The State Government shall appoint a Judicial Officer of the rank of a District Judge to constitute the Tribunal.

23. Functions of the Tribunal.

- The Tribunal shall entertain, hear and decide appeals preferred under Section 19 and the disputes referred to in Section 21.

24. Procedure in the Tribunal

. The Tribunal shall follow such procedures as the State Government may prescribe.

25. Powers of the Tribunal

. (1) The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 while trying a civil suit with respect to the following matters, namely :(a)enforcing the attendance of any person and examining him on oath;(b)compelling the production of documents and material objects;(c)issuing commission f ..he examination of witnesses; and(d)such other matters as may be prescribed.(2)Every proceeding before the Tribunal shall be deemed to be a judicial proceeding with the meaning of Sections 193 and 228 of the Indian Penal Code, 1860.

26. Decision of the Tribunal to be final.

- The decision of the Tribunal shall be final and no suit or other proceeding shall lie in any Civil Court with respect to matters decided by it.

27. Bar of Civil Courts.

- No Civil Courts shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Tribunal.

27A. [Execution of orders of Tribunal.- The orders of the Tribunal deciding appeals preferred under Sec. 19 and disputes referred to in Section 21 shall be deemed to be the decree of the lowest civil court having territorial jurisdiction over the local area in which the respondents against whom the order has been made, ordinarily resides or carries on business or personally works for gain and shall be executed as such by such civil court.] [Inserted by Rajasthan Act No. 10 of 2003.]

28. Code of conduct for employees

. Every employee of a recognised institution shall be governed by the code of conduct as may be prescribed and on the violation by him of any provision of such code of conduct, the employee shall be liable to a disciplinary action.

29. Pay and allowances of employees

. (1) The scales of pay and allowances except compensatory allowances with respect to all the employees of an aided institution shall not be less than those prescribed for the staff belonging to similar categories in Government institutions.(2)Notwithstanding any contract to the contrary, the salary of an employee of a recognised institution, for any period after commencement of this Act, shall be paid to him by the management before the expiry of the fifteenth day or such earlier day, as the State Government may, by general or special order appoint, of the month next following the month in respect of which or part of which it is payable :Provided that if at any time the State Government deems it fit, it may prescribe a different procedure for payment or salary and allowances.(3)The salary shall be paid without deductions of any kind except those authorised by the rules made under this Act or by any other law for time being in force.

30. Inspection for payment of salaries

. The District Education Officer or any other officer of the Education Department not below the rank of the said officer may, at any time, for the purposes of this Act, inspect or cause to be inspected any recognised institution or call for such information or records (including registers,

books of accounts, vouchers, etc.) from its management with regard to the payment of salaries to employees or give to such management any direction for proper management of financial matters (including prohibition of any wasteful expenditure), as he thinks fit, so as to enable the management to pay salaries to the employees regularly and the management shall comply with such directions.

31. Payment of salaries

. (1) The management of an aided institution shall disburse the salaries of its employees by account payee cheques :Provided that the Director of Education may, in special circumstances, direct, by general or special order, to disburse the salaries of employees in any there manner as he thinks fit.(2)In case the management of an aided institution fails to pay the salary of its employees as referred to in sub-section (1) or in Section 29, the Director of Education or any officer authorised by him may deduct such salary from the amount payable as the next grant-in-aid, or if necessary, from the amount of any subsequent grant-in-aid and pay to the staff such salary on behalf of the management. Such payment shall be deemed to be a payment of money to the management of the institution itself.

32. Recoveries of amounts due from aided institution

. (1) Where, at the commencement of this Act or thereafter, pursuant to any agreement, scheme or other arrangement, any salary or other dues are payable by the management of an aided institution to its employee according to the scale fixed by such agreement, scheme or arrangement, the District Education Officer or the Competent Authority may, by order in writing, direct the secretary of the Managing Committee to deposit with him the amount so payable.(2)Before making an order under sub-section (1), the District Education Officer shall conduct an enquiry as to the amount payable to the employee in such manner as may be prescribed.(3)An appeal may be preferred against the order made under subsection (1) to such officer as may be empowered by the Director of Education on this behalf within such time and in such manner as may be prescribed.(4)Any money due from the management under the orders of the District Education Officer or where an appeal was preferred, under the orders of the officer making an order in appeal shall be recoverable as an arrear of land revenue under the provision of the Rajasthan Land Revenue Act, 1956. Such money may also be recovered by setting it off against any sum due to the management from the State Government. Any amount deposited or recovered under this sub-section shall be paid to the employee concerned.(5)Any amount due at the commencement of this Act or thereafter, to the State Government pertaining to any aid given or grant paid by the State Government may be recovered from the management as an arrear of land revenue under the provisions of the Rajasthan Land Revenue Act, 1956.

Chapter VII

Offence and Penalties

33. Penalty for transfer or closure of a recognised institution without notice and without satisfying the competent Authority

. Any person who contravenes the provisions of Section 13 or Section 14 or where any such contravention is committed by an association, every member of the managing committee of such association shall, on conviction, be punished with fine which may extend to one thousand rupees :Provided that such member of the managing committee, who has not participated in it or who has agreed upon such decision, shall not be liable to any penalty under this Section.

34. Penalty for not discharging the duties of secretary

. A person who contravenes the provisions of sub-section (3) of Section 9 or Section 12 or where any such contravention is committed by an association, every member of managing committee shall, on conviction, be punished with fine which may extend to one thousand rupees :Provided that such member of the managing committee, who has not participated in it or who not agreed upon such decision, shall not be liable to any penalty under this Section.

35. Cognizance on complaint

. No court shall take cognizance of an offence specified in this Chapter except on the written complaint of the Director of Education or an Officer authorised by him in this behalf.

36. Government's power of review

. Notwithstanding any thing Contained in this Act, the State Government may, on its own motion or otherwise, after calling for the records of the case, review the order made by an authority under Section 6 or under sub-section (6) of Section 7; and(a)confirm, modify or set aside the order;(b)remit the case to the authority which has made the order directing such further action as it considers proper; or(c)pass such orders as it deems fit :Provided that no final order under this section shall be made unless the aggrieved party is given a reasonable opportunity of showing cause.

Chapter VIII

Miscellaneous

37. Removal of difficulties

. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Official Gazette, give such directions as are not inconsistent with the provisions of this Act and as may appear to be necessary or expedient for the purpose of removing such difficulty :Provided that the powers conferred under this Section shall not be exercised after a lapse of three years from the date of enforcement of this Act.

38. Officers to be public Servants

. Every officer and authority duly authorised by the State Government or perform any function or discharge any duty imposed on him or it under this Act or the rules or order made thereunder, shall be deemed to be a public Servant within the meaning of Section 21 of the Indian Penal Code, 1860.

39. Protection for acts done under the Act

. No suit prosecution or other legal proceeding shall lie against the State Government or any authority or officer or servant of the State Government for any act done or purporting to be done or for any damage caused by any action taken in carrying out the provisions of this Act or the rules made thereunder.

40. Overriding effect of the Act

. The provisions of this Act shall have effect notwithstanding anything inconsistent contained in any instrument having effect by virtue of any law.

41. Courts not to grant injunction

. Notwithstanding anything contained in the Code of Civil Procedure, 1908 or in any other law for the time being in force, no court shall grant any temporary injunction or make any interim order restraining any proceedings which are being or about to be taken under this Act.

42. Delegation of powers

. It shall be lawful for the State Government, by notification in the Official Gazette, to delegate to any authority or officer of the Education Department all or any of the powers vested in it by this Act and to withdraw any power so delegated.

43. Power to make rules

. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generality of the forgoing powers, such rules may provide for (a)the terms and conditions for the grant of recognition to non-Government educational institutions;(b)the maintenance of recognised institutions;(c)the giving of grants-in-aid to recognised institutions;(d)the levy, regulation and collection of fees in recognised institutions;(e)regulating rates of fees in recognised institutions;(f)regulating admissions to recognised institutions which are receiving aid out of State funds by making special provision for the advancement of socially and educationally backward classes of citizens and the Scheduled Castes and Scheduled Tribes;(g)the manner in which accounts, registers or records shall be maintained in aided institutions and the authority responsible for such maintenance;(h)the submission of returns, statements, reports and accounts by Secretaries of the managing committees of recognised

institutions;(i)the inspection of recognised institutions and the officer by whom inspection shall be done;(j)the mode of keeping and auditing of accounts of recognised institutions;(k)the standards of education and courses of study; and(l)all matters expressly required or allowed by this Act to prescribed.(3)All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprises in one session or in two successive session and if before the expiry of the session which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter 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 thereunder.NotificationsNotification No. F. 7(73) Edu./Gr. 6/74, dated 15.10.1992 In exercise of the powers conferred by sub-section (3) of Section 1 of the Rajasthan Non-Government Educational Institutions Act, 1989 (Act No. 19 of 1992), the State Government hereby appoints 1st January, 1993 as the appointed date for the commencement of the said Act.[Published in Rajasthan Gazette Part-I(B), dated 15.10.1992]