

Bihar Private Educational Institution (Taking Over) Act, 1987

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Rule

BIHAR-PRIVATE-EDUCATIONAL-INSTITUTION-TAKING-OVER-ACT-1987 of 1987

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Bihar Private Educational Institution (Taking Over) Act, 1987[Bihar Act 11, 1987]Last Updated 1st February, 2020[Dated 14.04.1987]An Act to provide for taking over by the State Government of Private Educational Institutions of the State of Bihar.Whereas, the State of Bihar has right prospects of rapid growth of Industrial and Economic Development, the relevancy and importance of specialised knowledge of Business Management has assumed great importance;And whereas, for that purpose it is necessary to ensure a high level educational and training facilities and the co-ordination of the training with important industrial and business units;And, whereas, it has been resolved to nationalise this branch of education in phases.Be it therefore enacted by the Legislature of State of Bihar in the thirty-eight year of the Republic of India as follows: -

Chapter I

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Private Educational Institution (Taking Over) Act, 1987.(2)It extends to the whole of the State of Bihar.(3)It shall come into force at once.

2. Definition.

- In this Act unless the context otherwise requires -(a)"Private Educational Institution" means a Private Educational College, Institute or School, affiliated to any University of the State of Bihar or recognised by the State Government and imparting education, and/or training in Business Management or Business Administration or matter connected with Economic and Social

Development and/or conducting degree or diploma course in one or the other branch of education mentioned above;(b)"Commissioner" means the Commissioner of a Division;(c)"Director" means a person appointed as such by the State Government to perform the function of a Director under this Act;(d)"Governing Body" means any Association or Managing Committee registered under the Societies Registration Act, 1860 (Act XXI of 1860) or otherwise in which the management and/or ownership of the schedule institution has been vested immediately before coming into force of this Act;(e)"Notified Order" means an order notified in the Official Gazette;(f)"Prescribed" means prescribed by the Rules made under this Act.

Chapter II

Taking over of Private College/Institute

3.

(1)With effect from the date of this Act, the Institution as specified in the Schedule of this Act shall stand transferred to and shall vest absolutely in the State Government free from all encumbrances.(2)The State Government may from time to time by a notified order amend the Schedule by the inclusion of any Institution and the same shall stand vested and transferred to in the State Government with effect from the date mentioned in the notification.(3)All the assets and properties of the Institution, Governing Body/Managing Committee/ Association, whether movable or immovable including lands, buildings, workshop stores, instruments, machinery, vehicles, cash balance, reserve fund, investment, furniture and others shall on the date of taking over, stand transferred to and vested in the State Government free from all encumbrances.

4.

(1)The Commissioner 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 Commissioner shall by notice in writing require any person, in possession of any properties vested under the provisions of this Act of 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 Commissioner may enter upon and take possession of the same and for that purpose may use or cause to be used such force as may be necessary.(3)On the request of the Commissioner, the District Magistrate shall render such assistance as may be necessary for enforcing compliance with the order of the Commissioner under sub-section (2).(4)The Commissioner shall perform the function and duties of Governing Body/Managing Committee under direction and control of the State Government until such time as alternative arrangement is made by the State Government.

5. Contract in bad faith may be cancelled or varied.

- 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 issue of the notified order under sub-section (1) of Section 3 between the Governing Body and any other person or between the Bard

of Control and any other person if the State Government is satisfied that such contract or agreement were malafide and entered into in bad faith and was detrimental to the interest of the institution.

6. Determination of terms of services of the teaching staff and other employees of the Institution.

(1)As from the date of the notified order, all the staff employed in the Institution shall cease to be the employee of the institution:Provided that they shall continue to serve the institution on an ad hoc basis till a decision under sub-sections (3) and (4) is taken by the State Government.(2)The State Government will set up one or more Committees of experts and knowledgeable persons which will examine the bio-data of each member of the teaching staff and ascertain whether appointment, promotion or confirmation was made in accordance with the University Regulation or Government direction/circular and take into consideration all other relevant materials, such as qualification, experience, research degree, etc., and submit its report to the State Government.(3)The State Government on receipt of the report of the Committee or Committees, as the case may be, will decide in respect of each member of teaching staff on the merits 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.(4)The State Government shall similarly determine the term of appointment and other conditions of service of other categories of staff of the Institution on the basis of facts to be ascertained either by a Committee or by an officer entrusted with the task and the provisions of sub-sections (2) and (3) shall apply mutatis mutandis to such case.

Chapter III

Miscellaneous

7. Penalty for false statements.

(1)If any person-(a)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(b)makes any statement, which is false or which he does not believe to be true, in any book, account, return or other document, which he is required by any order made under the Act to submit,he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand and five hundred rupees or with both.(2)Any person who -(a)having in his possession, custody or control any property forming part of the assets of the Institution, Governing Body or of the Board of Control, wrongfully withholds such property from the State Government, or(b)wrongfully obtain possession of any property forming part of the assets of the Institution, Governing Body or Board of Control, or(c)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(d)fails without any reasonable cause, to submit any accounts, books or other documents, when required to do so,shall be punishable with imprisonment for a

term, which may extend to two years or with fine which may extend to one thousand five hundred rupees or with both.

8. 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.

9. Protection of action taken under this Act.

- No suit, prosecution or other legal proceedings shall lie 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.

10. 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.

11.

(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 15 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 to anything previously done thereunder.[3 laLFkku dk nSufUnu dk;Z lapkyu 'kkLh fudk;@izca/k lfefr ds fu;a=.k esa gksxk tks le; le; ij jkT; ljdkj }kjk izo`Rr fd;s x;s fu;eksa ds vuqlkj xfBr dh tk;sxh vkSj 'kkLh fudk;@izca/k lfefr jkT; ljdkj ds fu;a=.k] i;Zos{k.k vkSj v/kh{k.k esa dk;Z djsxhA [Inserted by Act 5 of 1991.]

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12. Repeal and Savings.

(1)The Bihar Private Educational Institutions (Taking Over) Second Ordinance, 1986 (Bihar Ordinance No. 30 of 1986) is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to

have been done or taken in the exercise of powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or take.

Schedule

(See Section 3) The L.N. Mishra Institute of Economic Development and Social Change, Patna. Notifications la 0@15@03&072@92 ek& 304 fnuakd 15 twu] 1992 fcgkj xtV vlk/kkj.k fnuakd 19-6-1992 esa izdkf'kr & fcgkj izkbosV f'k{kk laLFkk vf/kxzg.k vf/kfu;e] 1987 fcgkj vf/kfu;e] 11@1987 dh /kkjk 3 dh mi/kkj 2 ds vUrxZr jkT; ljdkj dks iznRr 'kfDr;ksa dk iz;ksx djrs gq, mDr vuqlwph esa la'kks/ku dj vkns'k fuxZZr djus dh frfFk ds vuqlwph ds dzekad 2 esa ^yfy ukjk;.k feJ O;kikfd izca/ku egkfo|ky; dk uke 'kkfey fd;k tkrk

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