

Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979

CHANDIGARH

India

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Act 18 of 1979

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Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979(Punjab Act No. 18 of 1979)[Dated 23.5.2018]Ministry of Home AffairsG.S.R. 474(E). - In exercise of the powers conferred by section 87 of the Punjab Reorganisation Act, 1966 (31 of 1966) and in suppression of the notification of the Government of India in the Ministry of Home Affairs number G. S. R. 1221, dated the 27th August, 1971, published in the Gazette of India, Part II, section 3, sub-section (i), except as respects things done or omitted to be done before such suppression, the Central Government hereby extends to the Union territory of Chandigarh, the Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979 (Punjab Act No.18 of 1979) and the Punjab Privately Managed Recognised Schools Employees (Security of Service) Amendment Act, 2013 (Punjab Act No.48 of 2013), as in force in the State of Punjab, on the date of publication of this notification, subject to the following modifications, namely:-Modifications

1. Throughout the Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979 (Punjab Act 18 of 1979) hereinafter referred to as the Act, for the words "State Government" wherever they occur, the words "the Administrator of the Union territory of Chandigarh" shall be substituted.

2. In section 1 of the said Act,-

(a)in sub-section (1), after the words "the Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979", the words "as extended to the Union territory of Chandigarh" shall be inserted;(b)In sub-section (2), for the words "State of Punjab", the words "Union Territory of Chandigarh" shall be substituted.

3. In section 2 of the said Act, in clause (b), for the words "Director of Public Instruction (Schools), Punjab" and "Director of Public Instruction (Primary Education), as the case may be," the words "Director School Education, Chandigarh Administration" shall be substituted.

4. In Section 16 of the said Act, -

(a)in sub-section (1), after the words 'The Punjab Aided School (Security of Service) Act, 1969', the words "as extended to the Union territory of Chandigarh" shall be inserted;(b)in sub-section (2), for clause (iii), the following clause shall be substituted, namely: -(iii) until the School Tribunal is constituted under this Act, the first Additional District and Sessions Judge, Chandigarh shall hear the appeals arising out of the disputes between the management and staff of recognised private schools, private colleges and private universities in the Union territory of Chandigarh in pursuance of the directions of the Hon'ble Supreme Court of India in TMA Pai Foundation and others versus State of Karnataka, 2002(8)SC(481) vide order dated 31st October, 2002 read with Chandigarh Administration, Education Department notification dated the 20th May, 2013."The Punjab Privately Managed Recognised Schools Employees (Security of Service) Amendment Act, 2013(Punjab Act No.48 of 2013)In sub-section (1) of section 1 of the Punjab Privately Managed Recognised Schools Employees (Security of Service) Amendment Act, 2013 (Punjab Act No. 48 of 2013), after the words, "the Punjab Privately Managed Recognised Schools Employees (Security of Service) Amendment Act, 2013", the words "as extended to the Union territory of Chandigarh" shall be inserted.Annexure-IThe Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979(Punjab Act No.18 of 1979)[Received the assent of the Governor of Punjab on the 12th November, 1979 and was first published for general information in the Punjab Government Gazette (Extraordinary) Legislative Supplement, dated the 16th November, 1979]An act to provide for security of service to employees of privately managed recognized schools in the State of Punjab and for matters connected therewith and incidental thereto.Be it enacted by the Legislature of the State of Punjab in the Thirtieth Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979.(2)It is extends to the whole of the State of Punjab.(3)It shall come into force on such date as the State Government may by notification appoint.

2. Definition.

- In this Act, unless the context otherwise requires, -(a)"aided post" means the post of the establishment of a privately managed recognized school against which such a school gets

grant-in-aid from the State Government;(b)"Director" means the Director of Public instruction (Schools), Punjab and Director of Public Instructions (Primary Education), as the case may be, and includes any other officer authorized by him in this behalf;(c)"employee" means any person employed on an aided post in any privately managed recognized school for hire or reward (whether the terms of employment be express or implied) and for the purposes of any proceeding under this Act in relation to any employment dispute includes the person dismissed or removed from service but does not include a part-time employee;(d)"existing school" means a privately managed recognized school which is in existence at the commencement of this Act;(e)"managing committee" means the body of the individuals who are entrusted with the management of any privately managed recognized school;(f)"prescribed" means prescribed by rules made under this Act;(g)"privately managed recognized school" means a school, which is not run by the Central Government, the State Government, a local authority or any other authority designated or sponsored by the Central Government, State Government or local authority, as the case may be, and is recognized by the State Government for imparting pre-primary, primary, middle, high and higher secondary education or training below the degree level, but does not include an institution which imparts technical education;(h)"School Tribunal" means a School Tribunal constituted under Section 8 of this Act.

Chapter-II Terms and Conditions of Service of Employees

3. Terms and conditions of service of employees.

- The minimum qualifications for recruitment and the conditions of service of the employees shall be such as may be prescribed: Provided that neither the salary nor the rights in respect of leave of absence, age of retirement and pension of an employee of an existing school shall be varied to the disadvantage of such employee: Provided further that every such employee shall be entitled to opt for the terms and conditions of service as were applicable to him immediately before the commencement of this Act.

4. Dismissal, removal etc. of employees.

(1) Subject to any rule that may be made in this behalf, no employee shall be dismissed, removed or reduced either in rank or within a time scale nor shall his services be otherwise terminated except with the prior approval of the Director. (2) Any employee who is dismissed, removed or reduced either in rank or within a time scale under sub-section (1) may, within three months from the date of communication to him of the order of such dismissal, removal or reduction, appeal against such order to the School Tribunal. (3) The managing committee aggrieved with the order of the Director may also appeal to the School Tribunal within a period of three months from the date of communication of the order.

5. Suspension of employees.

- No employee shall be kept under suspension for a period exceeding six months without the prior approval of the Director.

6. Employees to be governed by a Code of conduct.

- Every employee shall be governed by such Code of Conduct as may be prescribed and on the violation of any provision of such Code of Conduct the employee shall be liable to such disciplinary action as may be prescribed.

7. Salaries of employees.

- Notwithstanding anything contained in section 3, the scale of pay and dearness allowance of the employees shall not be less than those of the employees of the State Government holding corresponding posts in the schools run by the State Government: Provided that where the scales of pay and dearness allowance of the employees are less than those of the employees of the State Government holding corresponding posts in the schools run by the State Government, the Director shall direct the concerned managing committee to bring the same at par with those of such employees of the State Government.

8. School Tribunal.

(1) The State Government may, by notification, constitute one or more School Tribunals for the purposes of this Act for such area as may be specified in such notification. (2) A School Tribunal shall consist of one person only to be appointed by the State Government. (3) A person shall not be qualified for appointment as a Presiding Officer of a School Tribunal unless: (a) he is, or has been a Judge of the High Court; (b) he is, or has been a District Judge or an Additional District Judge. (4) The terms and conditions of service of the Presiding Officer of the School Tribunal shall be such as may be prescribed. (5) If any vacancy, other than a temporary absence, occurs in the office of the Presiding Officer of a School Tribunal, the State Government shall appoint another person in accordance with the provisions of this section, to fill the vacancy and the proceedings may be continued before the School Tribunal from the stage at which the vacancy is filled. (6) The State Government shall make available to the School Tribunal such staff as may be necessary in the discharge of its functions under the Act. (7) All expenses incurred in connection with the School Tribunal shall be borne by the State Government. (8) The School Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it shall hold its sittings. (9) The School Tribunal shall for the purposes of disposal of an appeal preferred under this Act have the same powers as are vested in a court of appeal by the Code of Civil Procedure, 1908, and shall also have the power to stay the operation of any order appealed against on such terms as it may think fit. (10) The order of the School Tribunal made in any appeal preferred under Section 4 shall be final.

Chapter III

Miscellaneous Provisions

9. Jurisdiction of Civil Courts barred.

- No civil court shall have jurisdiction in respect of any matter in relation to which the State Government or the Director is empowered by or under this Act to exercise any power, and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

10. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or the Director for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

11. Non-compliance with order or direction.

- Without prejudice to any other action, that may be taken under any other provision of this Act, the failure to carry out any orders of the School Tribunal or of any direction of the Director under this Act, the State Government may take such action as it may think fit including stoppage of the grant-in-aid.

12. Penalty.

- Any person who entrusted with the management of the affairs of a privately managed recognized school omits or fails, without any reasonable excuse to carry out any orders made by the School Tribunal shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

13. Offence by companies.

(1)Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributed to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section-(a)"company" means anybody corporate and includes a firm or other association of individuals ; and (b)"director" in relation to a firm, means a partner in the firm.

14. Removal of difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order not inconsistent with the provisions of this Act, remove the difficulty :Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

15. Power to make rules.

(1)The State Government may, by notification and subject to the conditions of previous publication make rules, for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :(a)the minimum qualifications for, and method of recruitment, and terms and conditions of service of employees ;(b)the Code of Conduct for the employees and the disciplinary action to be taken for the violation thereof;(c)the terms and conditions of service of Presiding Officer of the school Tribunal ;(d)any other matter which is to be, or may be, prescribed under this Act.(3)Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the sessions aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the 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 under that rule.

16. Repeal and saving.

(1)The Punjab Aided School (Security of Service) Act, 1969, is hereby repealed.(2)Notwithstanding such repeal-(i)anything done or any action taken under the Act so, repealed shall be deemed to have been done or taken under the corresponding provisions of this Act;(ii)any case pending before the Deputy Commissioner under sub-section (2) or sub-section (4) of section 3 of the Act so repealed shall stand transferred to and be dealt with by the Director in accordance with the provisions of the Act so repealed and the rules made there under as if he were the Deputy Commissioner;(iii)until the School Tribunal is constituted under this Act, the Commissioner of a Division shall be deemed to be a School Tribunal constituted under this Act, and any appeal pending before him under sub-section (5) of section 3 of the Act so repealed or any appeal preferred under sub-section (2) or sub-section (3) of section 4 of this Act shall be dealt with by him under the provisions of this Act;(iv)on the constitution of the School Tribunal under this Act, all appeals which could not be decided under sub-clause (iii) shall stand transferred to the said Tribunal and be decided by it under the provision of this Act and rules made thereunder. Annexure-I Punjab Government Gazette (Extra), December, 11, 2013 (AGHN 20, 1935 Saka) Department of Legal and Legislative Affairs, Punjab No.59-Leg./2013. - The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 4th Day of December, 2013, is hereby published for general information: -The Punjab Privately Managed Recognised Schools Employees (Security of Service) Amendment Act, 2013 (Punjab Act No. 48 of 2013) [Dated 11.12.2013] An Act further to amend the Punjab Privately Managed Recognised Schools Employees (Security of Service) Act, 1979. Be it enacted by the

Legislature of the State of Punjab in the Sixty-fourth Year of the Republic of India as follows: -

1. Short title and commencement. - (1) This Act may be called the Punjab Privately Managed Recognized Schools Employees (Security of Service) Amendment Act, 2013.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

2. Amendment in section 2 of Punjab Act 18 of 1979. - In the Punjab Privately Managed Recognized Schools Employees (Security of Service) Act, 1979 (hereinafter referred to as the principal Act), in section 2, after clause (c), the following clause shall be inserted, namely: -

"(cc) "educational institution" shall have the same meaning as assigned to it in clause (f) of section 2 of the Punjab Affiliated Colleges (Security of Service) Act, 1974;"

3. Insertion of new section 8 of Punjab Act 18 of 1979. - In the principal Act, after section 7, the following section shall be inserted, namely:

"8. Jurisdiction of Educational Tribunal. - Notwithstanding anything contained in this Act, and in sub-section (12) of section 7-A of the Punjab Affiliated Colleges (Security of Service) Act, 1974, the Educational Tribunal shall also have jurisdiction to hear cases of disputes between the Management Committees of all educational institutions and their employees."

4. Repeal and Saving. - (1) The Punjab Privately Managed Recognized Schools Employees (Security of Service) Amendment Ordinance, 2013 (Punjab Ordinance No.4 of 2013), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the principal Act, as amended by this Act.