

# **The M.P. Ashaskiya Shikshan Sanstha (Anudan Ka Pradaya) Adhiniyam, 1978**

MADHYA PRADESH

India

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### **Act 20 of 1978**

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The M.P. Ashaskiya Shikshan Sanstha (Anudan Ka Pradaya) Adhiniyam, 1978(No. 20 of 1978)[Dated 16th June, 1978]Received the assent of the President on the 16th June, 1978; assent first published in the Madhya Pradesh Gazette (Extraordinary), dated the 1st July, 1978.An Act to make provision for regulating payment of salaries to teachers and other employees of Non-Government Schools receiving grant-in-aid from the State Government and Non-Government Educational Institutions for Higher Education receiving grants from the Madhya Pradesh Uchcha Shiksha Anudan Ayog and other matters ancillary thereto.Be it enacted by the Madhya Pradesh Legislature in the Twenty-ninth Year of the Republic of India as follows :

### **1. Short title, extent, commencement and application.**

(1)This Act may be called The Madhya Pradesh Ashaskiya Shikshan Sanstha [Anudan Ka Pradaya] [Substituted by Madhya Pradesh Act No. 26 of 2000 Section 2 (w.e.f. 18-8-2000) for 'Adhyapakon Tatha Anya Karrnachariyon Ke Vetano Ka Sandaya'.] Adhiniyam, 1978.(2)It extends to the whole of the State of Madhya Pradesh.(3)It shall come into force on such date as the State Government may, by notification, appoint.(4)Save as otherwise provided in this Act, it shall apply to all institutions failing under clause (e) of Section 2.(5)An institution to which this Act applies under sub-section (4) shall, with respect to matters provided for in this Act to be governed by the provisions of this Act notwithstanding anything to the contrary contained in any contract or document or in any other enactment for the time being in force.

### **2. Definitions.**

- In this Act, unless the context otherwise requires,(a)"Appointed date" means the date appointed by notification under sub-section (3) of Section 1;(b)"Competent Authority" means an authority

appointed by the State Government, by notification for discharging the functions of competent authority under this Act;(c)[ "Education officer" means the District Education Officer or any other officer of the State Government or any teacher serving in the institution not below the rank of Principal or Mead Master by whatever name called, appointed by the State Government as such for the purposes of this Act;] [Substituted by Madhya Pradesh Act No. 24 of 1981 (w.e.f. 20-7-81).](d)"Employee" means an employee of the institution other than a teacher [\* \* \*] [The words 'in respect of whose employment maintenance grant is paid by the State Government or the Ayog, as the case may be, to the institution and', omitted by Madhya Pradesh Act No. 26 of 2000 Section 4 (w.e.f. 18-8-2000).] shown on the pay roll of the institution against a post as being in the employment as such but does not include an employee whose appointment is disapproved under clause (c) of Section 6;(e)"Institution" means a Non-Government School or Non-Government Educational Institution for higher education for the time being receiving maintenance grant from the State Government or from the Madhya Pradesh Uchcha Shiksha Anudan Ayog, as the case may be, established, administered and managed by a society registered or deemed to be registered under the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 (No. 44 of 1973) but does not include an institution established, administered and managed by-(i)the Central Government; or(ii)the State Government; or(iii)a local authority ; or(iv)any agency managed, controlled, approved or sponsored by the Central Government or the State Government, as the State Government may, by notification, specify;(v)a non-trading corporation formed and registered under the Madhya Pradesh Non-trading Corporation Act, 1962 (No. 20 of 1962) or deemed to have been registered thereunder;(f)[ Grant means a grant given to the institution as may be fixed by the State Government from time to time;] [Substituted by Madhya Pradesh Act No. 26 of 2000, Section 4(ii) (w.e.f. 18-8-2000).](g)"Management" in relation to any institution means the governing body thereof within the meaning of the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 (No. 44 of 1973), and the expression management of the institution shall be construed accordingly;(h)"School" means Non-Government Primary, Middle or Secondary School;(i)[ "Teacher" means a teacher of an institution employed in fulfilment of the conditions of recognition/affiliation of an institution or of a new subject or a higher class or a new Section in the existing class by the Madhya Pradesh Board of Secondary Education or any University or the Ayog, as the case may be, and shown on the pay roll of the institution against a post as being in the employment as such but does not include a teacher whose appointment is disapproved under clause (c) of Section 6.] [Substituted by Madhya Pradesh Act No. 26 of 2000, Section 4(ii) (w.e.f. 18-8-2000).](j)[ "Salary" means the salary and other allowances payable to a teacher or an employee at the rate as may be notified by the institution;] [Substituted by Madhya Pradesh Act No. 26 of 2000, Section 4(ii) (w.e.f. 18-8-2000).](k)words and expressions used but not defined in this Act and defined in the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 (No. 44 of 1973), the Madhya Pradesh Ashaskiya School Viniyaman Adhiniyam, 1975 (No. 33 of 1975) or the Madhya Pradesh Uchcha Shiksha Anudan Ayog Adhiniyam, 1973 (No. 21 of 1973), as the case may be, shall, as the context requires, have the meanings assigned to them in the respective said Acts.

### **3. Payment of salary within time and without unauthorised deduction.**

(1)As from the appointed date, notwithstanding any contract to the contrary, the salary of a teacher or other employee of any institution in respect of any month or part thereof, [\* \* \*] [Omitted by

Madhya Pradesh Act No. 24 of 1981 (w.e.f. 20-7-81).] shall be paid to him before the expiry of the 20th day or such earlier day of the month next following the month or part thereof as may be specified by the State Government by a general or special order :Provided that nothing in this Section shall apply to a teacher or an employee specified in clause (c) of Section 6 till an order approving the appointment is passed thereunder.(2)The salary shall be paid without deduction of any kind except those authorised by or under this Act or any other law for the time being in force.

#### **4. Power to inspect, etc.**

- The Education Officer may at any time, for the purpose of this Act, inspect or cause to be inspected any institution or call for such information, returns and records (including registers, books of account and vouchers) from its management with regard to the payment of salaries to its teachers or employees or in respect of such ancillary matters or give to its management any direction for the observance of such canons of financial propriety, as he thinks fit.

#### **5. [ Constitution of institutional fund for payment of salary of teachers etc. and amounts to be deposited therein. [Substituted by Madhya Pradesh Act No 26 of 2000, Section 5 (w.e.f. 18-8-2000).]**

(1)There shall be opened in an nationalised bank, a separate account which shall be constituted as a separate fund for the Institution (hereinafter referred to as the Institutional Fund) in accordance with the rules made in this behalf.(2)The grant as fixed by the State Government, from time to time, shall be payable to the institution as a block grant. The grant shall be given to the institution after furnishing by it the utilisation certificate of the previous grant alongwith detailed audited account and annual account statement.(3)The management shall place at the credit of the Institutional Fund by the last day of every month the total amount of fees recovered from the students of the Institution.(4)In addition to the fee deposited under sub-section (3), the management shall place to the credit of the Institutional Fund by the 10th of every month for payment of salary to teachers and employees of the institution for the preceding month such further sums as may be required to make the 1/12th of the total amount credited under sub-section (2) together with amount credited under sub-section (3) equivalent to 1/12th of the total salary payable to teachers and employees of the institution with institution's contribution to the provident fund account of those teachers and employees per annum.(5)No money credited to the Institutional Fund shall be applied for any purpose except the following, namely :-(a)payment of salaries falling due for any period after the appointed date;(b)credit of the institution's contribution, if any to the provident fund accounts of the teachers and employees.]

#### **6. Prohibition on creation of posts and appointments of staff and termination of services.**

- Notwithstanding anything contained in any law for the time being in force or any rules, regulations, bye-laws, statutes or regulations made thereunder,-(a)on and from the appointed date,-(i)no post of a teacher or other employee shall be created [\*\*\*] [The words 'except in such

scale of pay as the State Government, from time to time, determine', omitted by Madhya Pradesh Act No. 26 of 2000, Section 6 (w.e.f. 18-8-2000).] and no teacher or other employee shall be recruited without following the procedure prescribed in this behalf;(ii)the teachers or employees shall have such qualifications and experience as may be prescribed; and(iii)[no teacher or other employee shall be dismissed or removed from service or his services terminated except by an order passed after following such procedure as may be prescribed] [Substituted by M. P. Act No. 24 of 1981 (w.e.f. 20-7-81).]:Provided that a teacher or other employee may prefer an appeal against his dismissal, removal or termination from service to an appellate authority as the State Government may, by notification, specify within thirty days from the date of receipt of the order by him and such authority may after holding such enquiry as it may deem fit in the manner prescribed, may either set aside or confirm or modify the said order and pending the disposal of appeal, the appellate authority may also stay the operation of order on such grounds, as it thinks fit;(iv)no teacher or other employee shall be placed under suspension for more than ninety days without such prior approval of the competent authority:Provided that the competent authority shall give its approval only after holding such enquiry and within such time as may be prescribed;(b)the competent authority may on an application made within thirty days from the appointed date by a teacher or an employee of an institution, who has been dismissed or removed from service or whose service has been terminated by the management of an institution at any time on or after the 17th November, 1977, after giving the management of the institution and the persons affected by such dismissal, removal or termination a reasonable opportunity of being heard and after conducting such enquiry as it may deem fit, declare the dismissal, removal or termination, as the case may be, to be void and direct the management of the institution to reinstate such teacher or employee in service;(c)the competent authority shall review all the cases of appointment of teachers and other employees made during the period commencing from the 17th November, 1977 and ending on the date of commencement of this Act and, if it, after giving the management of the institution and the person concerned a reasonable opportunity of being heard, finds that the appointments were made in anticipation of this Act, it may by an order in writing for reasons to be stated therein disapprove such appointment.

## **7. Protection of act in good faith.**

- No suit, prosecution or other legal proceeding shall lie against the State Government, the Education Officer, the competent authority or any other person duly authorised by it in respect of anything, which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made or given thereunder.

## **8. Power to exempt any institution from provisions of the Act.**

- Notwithstanding anything contained in the Act, the State Government may, by general or a special order and subject to such conditions, if any, as it may deem fit to impose, exempt any institution or class of institutions from all or any of the provisions of this Act.

## **9. Recovery of certain sum as arrear of land revenue.**

- Any sum which is required to be credited by the management of any institution to the institutional fund under [sub-section (3)] [Substituted by M. P. Act No. 24 of 1981 (w.e.f. 20-7-81).] of Section 5 may, if not credited to the said fund, within the period specified therein be recovered from the management of such institution in the same manner as an arrear of land revenue.

## **10. Power to make rules.**

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-(a)the constitution of institutional fund under sub-section (1) of Section 5;(b)[\*\*\*] [Omitted by M. P. Act No. 24 of 1981 (w.e.f. 20-7-81).](c)the procedure to be followed in recruitment of teachers or other employees under sub-clause (i) of clause (a) of Section 6;(d)the qualifications and experience which teachers and employees shall have under sub-clause (ii) of clause (a) of Section 6;(e)[ (i) the procedure to be followed for passing an order under sub-clause (iii) of clause (a) of Section 6; [Substituted by M. P. Act No. 24 of 1981 (w.e.f. 20-7-81).](ii)the manner of holding of an enquiry under the proviso to sub-clause (iii) of clause (a) of Section 6;(iii)the person by whom and the manner in which institutional fund shall be operated under sub-section (7) of Section 6.](f)the manner of holding enquiry and the time within which such enquiry shall be held under proviso to sub-clause (iv) of clause (a) of Section 6.(3)All rules made under this Section shall be laid on the table of the Legislative Assembly.

## **11. Power to remove difficulty.**

- 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.

## **12. Modifications in Madhya Pradesh Society Registrikaran Adhiniyam, 1973 (No. 44 of 1973).**

- In its application to the institutions to which this Act applies, the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 (No. 44 of 1973), shall be subject to the modifications specified in the Schedule hereto annexed.The Schedule[See Section 12]Modifications in The Madhya Pradesh Society Registrikaran Adhiniyam, 1973

**1. Insertion of new Section 31-A. - In "Chapter VII-Inquiry and supersession", before Section 32, the following Section shall be deemed to be inserted, namely :-**

"31-A. In this Chapter "Registrar" shall mean Education Officer within the meaning of clause (c) of Section 2 of the Madhya Pradesh Ashaskiya Shikshan Sanstha [Anudan Ka Pradaya] [Substituted by M. P. Act No. 26 of 2000, Section 7, (w.e.f. 18-8-2000).] Adhiniyam, 1978".

**2. Amendment of Section 33. - For clause (a) of sub-section (1) of Section 33, the following clause shall be deemed to be substituted, namely:-**

(a)Persistently makes default or is negligent in the performance of the duties imposed on it by or under this Act, regulations or byelaws of the society or by or under any other enactment for the time being in force or by any lawful order passed by the State Government or Registrar, or is unwilling to perform such duties; or".

**3. Amendment of Section 37. - To sub-section (2) of Section 37, following proviso shall be deemed to be added, namely :-**

"Provided that no Court shall take cognizance of an offence punishable under sub-section (1) of Section 38, as substituted by Section 12 of the Madhya Pradesh Ashaskiya Shikshan Sanstha [Anudan Ka Pradaya] [Substituted by Madhya Pradesh Act No. 26 of 2000, Section 7, (w.e.f. 18-8-2000).] Adhiniyam, 1978 except upon a complaint made by such officer as the State Government may, by notification, specify in this behalf."

**4. Amendment of Section 38. - For sub-section (1) of Section 38, the following Section shall be deemed to be substituted, namely:-**

"(1) If the President, Secretary or any other person authorised in this behalf by a resolution of the governing body of the society.(a)fails to comply with the provisions of Section 27; or(b)fails to comply with any direction given under Section 4 or with the provisions of Section 3 or Section 5 or Section 6 of the Madhya Pradesh Ashaskiya Shikshan Sanstha [Anudan Ka Pradaya] [Substituted by Madhya Pradesh Act No. 26 of 2000, Section 7, (w.e.f. 18-8-2000).] Adhiniyam, 1978 he shall, on conviction be punishable-(i)[\* \* \*] [Omitted by Madhya Pradesh Act No. 24 of 1981 (w.e.f. 20-7-81).] with the fine which may extend to five hundred rupees and in the case of a continuing breach with a further fine which may extend to fifty rupees for every day after the first, during which the breach continues;(ii)[\* \* \*] [Omitted by Madhya Pradesh Act No. 24 of 1981 (w.e.f. 20-7-81).]