

Rajasthan Schools (Regulation of Fee) Act, 2016

RAJASTHAN

India

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Act 14 of 2016

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Rajasthan Schools (Regulation of Fee) Act, 2016(Act No. 14 of 2016)Statement of Objects and Reasons. - It has been brought to the notice of the Government that the Rajasthan Schools (Regulation of Collection of Fee) Act, 2013 does not include provision of appeal against the orders of fee determination issued by the Fee Determination Committee. Further, it has also been brought to the notice of the Government that there are a large number of private schools (approximately 34,000) and a single fee determination committee cannot determine the fee of all such schools in a proper manner in time. So, the Government has decided to bring a comprehensive legislation providing for the regulation of collection of fee in schools. The Bill seeks to achieve the aforesaid objectives. Hence the Bill. [Received the assent of the Governor on the 25th day of April, 2016] An Act to provide for the regulation of collection of fee by schools in the State of Rajasthan and matters connected therewith and incidental thereto. Be it enacted by the Rajasthan State Legislature in the Sixty-seventh 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 Schools (Regulation of Fee) Act, 2016. (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.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "academic year" means any period of twelve months prescribed as such and different academic years may be prescribed for different class of schools; (b) "aided school" means a school receiving any sum of money as aid from the State

Government;(c)"Deputy Director" means the Deputy Director of Education or any equivalent officer working under the Director of Elementary Education/Director of Secondary Education, designated as such by the State Government, or Deputy Director of any other Directorate of the State Government, entrusted with the task of supervision of the schools imparting any kind of education in the State;(d)"Director" means the Director of Education or any equivalent officer designated as such by the State Government and includes the Director of Education (Elementary), Director of Education (Secondary), or Director of any other Directorate of the State Government, entrusted with the task of supervision of the schools imparting any kind of education in the State;(e)"District Education Officer" means the District Education Officer or any officer designated as such by the State Government and includes District Education Officer (Secondary) and District Education Officer (Elementary);(f)"Divisional Fee Regulatory Committee" means the Divisional Fee Regulatory Committee constituted under Section 7;(g)"elementary education" means the education from first class to eighth class;(h)"fee" means any amount, by whatever name called, collected, directly or indirectly, by a school for admission of a pupil to any Standard or course of study;(i)"Government" means the State Government of Rajasthan;(j)"Government school" means a school established, owned or maintained by the Government or a local authority;(k)"local authority" means a Municipality constituted under the Rajasthan Municipalities Act, 2009 (Act No. 18 of 2009) or a Panchayati Raj Institution constituted under the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994);(l)"management", in relation to a school, means the committee of management constituted under Section 9 of the Rajasthan Non-Government Educational Institutions Act, 1989 (Act No. 19 of 1992) and includes any person, body of persons, committee or any other governing body, by whatever name called, in whom the power to manage or administer the affairs of a school is vested;(m)"minority educational institution" means the Government approved institution established and administered by minority having right to do so under clause (1) of article 30 of the Constitution of India;(n)"Parent-Teachers Association" means the Parent-Teachers Association constituted under Section 4;(o)"prescribed" means prescribed by the rules made under this Act;(p)"private school" means a school established and administered or maintained by any person or body of persons and which is a recognized institution within the meaning of clause (q) of Section 2 of the Rajasthan Non-Government Educational Institutions Act, 1989 (Act No. 19 of 1992), but does not include -(i)an aided school; and(ii)a school established and administered or maintained by the Central Government or the State Government or any local authority;(q)"Revenue Division" means a division constituted under Section 15 of the Rajasthan Land Revenue Act, 1956 (Act No. 15 of 1956);(r)"Revision Committee" means the Revision Committee constituted under Section 10;(s)"rules" means the rules made under this Act;(t)"school" means the school imparting elementary, secondary and senior secondary education recognized by the Government and managed by any management and affiliated to any Indian or foreign course or Board, whether aided, partially aided, un-aided including the school run by the minority educational institution but does not include a school imparting religious instructions only;(u)"School Level Fee Committee" means the School Level Fee Committee constituted under clause (a) of sub-section (2) of Section 4;(v)"secondary education" means the education from ninth class to tenth class; and(w)"senior secondary education" means the education from eleventh class to twelfth class.

Chapter II

Prohibition of Collection of Excess Fee and Determination of Fee

3. Prohibition of collection of excess fee.

- No school itself or on its behalf shall collect any fee in excess of the fee fixed or approved under this Act.

4. Parent-Teachers Association.

(1)(a)Every private school shall constitute the Parent-Teachers Association.(b)The Parent-Teachers Association shall be formed by the head of the school within thirty days from the beginning of each academic year. Every teacher of the school and parent of every student in the school shall be a member of the Parent-Teachers Association and an annual amount of rupees fifty, in case of urban area and rupees twenty, in case of rural area, shall be collected from each member of such association.(c)On formation of the Parent-Teachers Association, a lottery shall be conducted by drawing a lot of the willing parents to constitute the School Level Fee Committee and a notice of one week before such lottery shall be given to the member of the Parent-Teachers Association.(2)(a)The School Level Fee Committee shall consist of, -

- (i) Chairperson - representative of management of the private school nominated by such management;
- (ii) Secretary - Principal of the private school;
- (iii) Member - three teachers nominated by the management of private school;
- (iv) Member - five parents from Parent-Teachers Association.

(b)The list of members of the School Level Fee Committee shall be displayed on the notice board within a period of fifteen days from formation of the School Level Fee Committee and copy thereof shall forthwith be forwarded to the District Education Officer concerned.(c)The term of the School Level Fee Committee shall be for one academic year and no parent member shall be eligible for drawing a lot by lottery within the period of next three years since the expiry of his/her last term as the member of the School Level Fee Committee.(d)The School Level Fee Committee shall meet at least once in three months. The procedure to be followed for conducting the meeting of the School Level Fee Committee shall be such as may be prescribed.(e)The Parent-Teachers Association shall have a general meeting at least once before the 15th August of every year. The procedure to be followed for conducting the meeting of the Parent-Teachers Association shall be such as may be prescribed. The Parent-Teachers Association shall discharge such duties and perform such functions as may be assigned to it under this Act and as may be prescribed.

5. Fixation of Fee in Government schools and aided schools.

- The Government shall fix the fee in Government schools and aided schools in the manner as may be determined by the Government.

6. Regulation of fees in private schools.

(1)The management of the private schools shall be competent to propose the fee in such schools.(2)On the formation of the School Level Fee Committee, the management shall submit the details of the proposed fee along with the relevant record to the School Level Fee Committee for its approval at least six months before the commencement of the next academic year. While giving the approval, the School Level Fee Committee shall have the authority to decide the amount of fee afresh.(3)After considering all the relevant factors laid down under Section 8, the School Level Fee Committee shall approve the fee within a period of thirty days from the date of receipt of the details of the proposed fee and the record under sub-section (2) and communicate the details of the fee so approved in writing to the management forthwith. The details of the fee so approved by the School Level Fee committee shall be displayed on the notice board in Hindi, English and in the respective medium of school, and if such school has its own website it shall be displayed on the same and it shall be binding for three academic years.(4)The School Level Fee Committee shall indicate the different heads under which the fee shall be levied.(5)If the School Level Fee Committee fails to decide the fee within the period specified in sub-section (3), the management shall immediately refer the matter to the Divisional Fee Regulatory Committee for its decision under intimation to the School Level Fee Committee in such manner as may be prescribed. During the pendency of the reference, the management shall be at liberty to collect the fee of the previous academic year plus ten percent increase in such fee till the final decision of the Divisional Fee Regulatory Committee.(6)The Divisional Fee Regulatory Committee shall decide the appeal or reference as far as possible within the period of sixty days from the date of its filing after giving the opposite party an opportunity of being heard.(7)The management or the School Level Fee Committee aggrieved by the decision of the Divisional Fee Regulatory Committee in appeal or reference may, within thirty days from the date of such decision, prefer an appeal before the Revision Committee in such manner as may be prescribed.

7. Constitution of Divisional Fee Regulatory Committee.

(1)The Government shall, by notification in the Official Gazette, constitute a Divisional Fee Regulatory Committee for each Revenue Division, which shall consist of the following members, namely: -

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| (a) Divisional Commissioner, | - Chairperson; |
| (b) Deputy Director, Secondary Education | - Member; |
| (c) Nominee of Director Sanskrit Education | - Member; |
| (d) Treasury Officer of District Treasury situated at Revenue Division Headquarter | - Member; |

- (e) Deputy Director, Elementary Education - Ex-officio Member-Secretary;
- (f) two representatives of private schools nominated by Divisional Commissioner - Member;
- (g) two representatives of parents nominated by Divisional Commissioner - Member;

(2)(a) The term of office of the representatives of private schools and parents shall be for a period of two years from the date of their nomination and in case of vacancy arising earlier, for any reason, such vacancy shall be filled for the remainder period of the term. (b) The representatives of private schools and parents shall not be eligible for reappointment. (c) The representatives of private schools and parents may resign from the office in writing addressed to the Divisional Commissioner and on such resignation being accepted, his office shall become vacant and may be filled in within a period of three month from the date of occurrence of vacancy. (d) A representative of private schools and parents may be removed, if he does any act which, in the opinion of the Divisional Commissioner, is unbecoming of a member of Divisional Fee Regulatory Committee: Provided that no representative of private schools or parents shall be removed from the Divisional Fee Regulation Committee without giving him an opportunity of being heard. (e) The other terms and conditions for the service of the representatives of private schools and parents shall be such as may be prescribed.

8. Factors for determination of fee.

- The following factors shall be considered while deciding the fee leviable by a school, namely:
 -(a) the location of the school; (b) the infrastructure made available to the students for the qualitative education, the facilities provided and as mentioned in the prospectus or web-site of the school; (c) the education standard of the school as the State Government may prescribe; (d) the expenditure on administration and maintenance; (e) the excess fund generated from non-resident Indians, as a part of charity by the management and contribution by the Government for providing free-ship in fee or for other items under various Government schemes given to the school for the Scheduled Castes, the Scheduled Tribes, Other Backward Class and Special Backward Class students; (f) qualified teaching and non-teaching staff as per the norms and their salary components; (g) reasonable amount for yearly salary increments; (h) expenditure incurred on the students over total income of the school; (i) reasonable revenue surplus for the purpose of development of education and expansion of the school; and (j) any other factor as may be prescribed.

9. Powers and functions of Divisional Fee Regulatory Committee.

(1) The powers and functions of the Divisional Fee Regulatory Committee shall be to adjudicate the dispute between the management and the Parent-Teachers Association regarding fee to be charged by the school management from the students. (2) The Divisional Fee Regulatory Committee may authorize any officer not below the rank of the Head Master of Secondary School to enter any private school or any premises belonging to the management of such school, if the Divisional Fee Regulatory Committee finds so necessary, and search, inspect and seize any records, accounts, registers or other documents belonging to such school or the management in so far as such records,

accounts, registers or other documents are necessary and relevant to decide the issues before the said Committee. The provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) relating to searches and seizures shall apply, so far as may be, to searches and seizures under this section.(3)The Divisional Fee Regulatory Committee shall regulate its own procedure, for the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all powers of a civil court under the Code of Civil Procedure, 1908 (Central Act No. 5 of 1908) while trying a suit, in respect of the following matters, namely ; -(i)the summoning and enforcing the attendance of any witness and examining him on oath;(ii)the discovery and production of any document;(iii)the reception of evidence on affidavits;(iv)the issue of commission for the examination of the witness;(4)No order shall be passed by the Divisional Fee Regulatory Committee in the absence of the Chairperson. The order of the Divisional Fee Regulatory Committee shall be binding on the parties to the proceedings before it for two academic years. It shall not be called in question in any civil court except by way of an appeal before the Revision Committee constituted under this Act.(5)At the time of resolving the dispute, the Divisional Fee Regulatory Committee shall not grant any interim stay to the fee determined by the management. On decision in appeal or reference, the Divisional Fee Regulatory Committee may pass appropriate orders for refund of the excess fee to the student concerned. In case the management fails to refund the excess fee to such student, the Divisional Fee Regulatory Committee shall proceed to recover such excess fee from the management as an arrear of land revenue and pay the same to such student.(6)The Divisional Fee Regulatory Committee shall, on determining the fee leviable by a private school, communicates its decision to the parties concerned.(7)Every private school preferring an appeal before the Divisional Fee Regulatory Committee shall place the copy of decision in appeal on its notice board, and if such school has web-site, on its web-site ;(8)The Divisional Fee Regulatory Committee shall indicate the different heads under which the fee shall be levied.(9)The orders passed by the Divisional Fee Regulatory Committee shall be binding on the private school for three academic years. At the end of the said period, the private school shall be at liberty to propose changes in its fee structure by following the procedure as laid down under this Act.

10. Constitution of Revision Committee.

(1)The State Government shall by notification in the Official Gazette, constitute a Revision Committee in the State, which shall consist of the following members, namely: -

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| (a) Secretary incharge of the Department ofElementary Education | - Chairperson; |
| (b) Secretary incharge of the Department ofSecondary Education or his nominee | - Member; |
| (c) Commissioner/Director of Secondary EducationDepartment, Rajasthan | - Member; |
| (d) Commissioner/Director of ElementaryEducation Department, Rajasthan | - Member; |
| (e) Commissioner/Director of Sanskrit Education,Rajasthan | - Member; |
| (f) two representatives of private schoolsnominated by the State Government | - Member; |

- (g) two representatives of parents nominated by the State Government - Member;
- (h) Accounts Officer of the Education Department - Member;
- (i) Senior Deputy Secretary, Education (Group 5) Department - Ex-officio Member-Secretary.

Explanation. - For the purpose of this sub-section, "Secretary incharge" means the Secretary incharge of the Department and includes an Additional Chief Secretary or Principal Secretary when he is incharge of the department.(2)(a)The term of office of the representative of private schools and parents shall be for a period of two years from the date of their nomination and in case of vacancy arising earlier, for any reason, such vacancy shall be filled for the remainder period of the term.(b)The representatives of private schools and parents shall not be eligible for reappointment.(c)The representatives of private schools and parents may resign from the office in writing addressed to the Government and on such resignation being accepted, his office shall become vacant and may be filled in within a period of three month from the date of occurrence of vacancy.(d)A representative of private schools or parents may be removed, if he does any act which, in the opinion of the Government, is unbecoming of a member of Revision Committee:Provided that no representative of private schools or parents shall be removed from the Revision Committee without giving him an opportunity of being heard.(e)The other terms and conditions of the service of the representatives of private schools and parents shall be such as may be prescribed.

11. Application of certain provisions of Divisional Fee Regulatory Committee to the Revision Committee.

(1)The provisions of sub-section (6) of Section 6 and sub-sections (2) to (8) of Section 9 shall mutatis mutandis apply to the Revision Committee.(2)The decision of the Revision Committee shall be final and conclusive and shall be binding on the parties for three academic years. At the end of the said period the private school may be at liberty to propose changes in its fee structure by following the procedure as laid down in Section 6.

12. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Chairperson or member of the Division Fee Regulatory Committee or the Revision Committee or any officer of it, for executing any order made by it or in respect of anything which is in good faith done or intended to be done under any rule or order made thereunder.

Chapter III

Regulation of Accounts and Maintenance of Records

13. Regulation of accounts.

- The Government shall regulate the maintenance of accounts by the private schools in such manner as may be prescribed.

14. Maintenance of records.

- The private schools shall maintain the records in such manner as may be prescribed.

Chapter IV

Offences and Penalties

15. Offences and penalties.

(1)Whoever contravenes any of the provisions of this Act or the rules made thereunder shall on conviction, -(a)for the first offence, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to two lakh fifty thousand rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher;(b)for the second or subsequent offences, be punishable with the fine which shall not be less than one lakh rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher.(2)The person convicted under this section shall refund the excess fee to the student from whom it was collected in contravention of this Act.(3)The person who repeatedly contravenes the provision of this Act. or the rules made thereunder shall be ineligible for holding official post in any management or school, as the case may be.

16. Offences by management.

(1)Where an offence under this Act or rules made thereunder is committed by a management, every person, who, at the time when the offence was committed, was in charge of, and was responsible to, the management for the conduct of the business of the management, as well as the management, 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 person liable to any punishment, if he proves that the offence was committed without his knowledge or that he has taken due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1) where any offence under this Act or rules made thereunder has been committed by a management 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 office bearer, officer or servant of the management, such office bearer, officer or servant concerned shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

17. Cognizance of offences.

- No Court shall take cognizance of any offence punishable under this Act except on a complaint filed by such officer, not below the rank of Deputy Director of Education, as the Government may authorize in this behalf.

Chapter V

Miscellaneous

18. Power to issue directions.

- The State Government may issue to any school such general or special directions consistent with the provision of this Act and the rules made thereunder as in its opinion are necessary or expedient for carrying out the purposes of this Act or for giving effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the school shall comply with every such direction.

19. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out all or any of the purposes of this Act.(2)Every rule made under this section shall be laid, as soon as may be after they are 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 comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which they are so laid or the session immediately following, the House of the State Legislature makes any modification in any such rule or resolves, that any such 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, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

20. Act in addition to and not in derogation of any other Act.

- The provision of this Act shall be in addition to and not in derogation of the provisions of any other Act for the time being in force.

21. Power to remove difficulties.

(1)If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may as occasion arises, by an order published in the Official Gazette do anything not inconsistent with the provisions of this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.(2)Every order made under sub-section (1) shall be laid as soon as may be after it is made, before the House of the State Legislature.

22. Repeal and saving.

- The Rajasthan Schools (Regulation of Collection of Fee) Act, 2013 (Act No. 14 of 2013) is hereby repealed.