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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : LEGISLATIVE BRANCH

NOTIFICATION

The 18th April 1984

No.LGL.23/84/68.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XVII OF 1984

(Received the assent of the Governor on 16th April, 1984)

THE ASSAM HIGHER SECONDARY EDUCATION ACT, 1984

An

Act

to provide for the establishment of a Council to regulate, supervise and develop Higher Secondary Education (plus two stage) in the State of Assam.

Preamble.

Whereas it is expedient to establish a Council to regulate, supervise and develop the system of Higher Secondary Education (plus two stage) in the State of Assam.

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Higher Secondary Education Act, 1984.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.
- (4) From the date on which this Act comes into force, the Gauhati University or the Dibrugarh University or any other University or any Board of Education shall cease to exercise its jurisdiction over the institutions imparting Higher Secondary Education or P.U. (Pre-University), P.D. (Pre-Degree) courses running in the Colleges under the Gauhati University and the Dibrugarh University respectively recognised by the Government of Assam :

Provided that the Gauhati University or the Dibrugarh University or the Board of Secondary Education shall continue to have the same jurisdictions as is now exercised by it over the Colleges/Higher Secondary Schools till such time as the State Government may, by notification in the Official Gazette appoint.

Admission
of Institutions
in other
States and
Administra-
tion to the
privileges
of the
Council.

2. Notwithstanding anything contained in Section 1, any Government of a State or Territory or Administration other than the Government of Assam may apply to the Council for being admitted to the privileges of the Council and the Council may subject to such conditions as it may think fit to impose, admit such State or Territory or Administration to the privileges of the Council.

Definitions.

3. In this Act, unless there is anything repugnant to the subject or context:

- (a) "Council" means the Council for Higher Secondary Education established under this Act;
- (b) "Chairman" means the Chairman of the Council.
- (c) "Controller of Examination" means the Officer conducting the Examinations of the Council.
- (d) "Education Department" means the Department of Education of the Government of Assam.
- (e) "Fund" means the Council for Higher Secondary Education Fund constituted under this Act;
- (f) "Principal" means the head of the teaching staff of a Higher Secondary School or College by whatever name he or she is designated;

- (g) "Higher Secondary School" means a School or Department of a School giving instructions in Higher Secondary Education (plus two stage) and preparing students for Higher Secondary School Leaving Certificate Examination.
- (h) "Junior College" means a College or Department of a College giving instructions in plus two stage and preparing students for Higher Secondary School Leaving Certificate Examination.
- (i) "Managing Committee" means a Managing Committee of a Higher Secondary School.
- (j) "Governing Body" means a Governing Body of a College.
- (k) "Recognised" means recognised by the Council for the purpose of admission to the privileges of the Council or prior to recognition by the Council by any University established by law in India or by any Board recognised by the State Government.
- (l) "Regulation" means a regulation made by the State Government under this Act ;
- (m) "Rule" means a rule made by the State Government under this Act ;
- (n) "Higher Secondary Education" means such education as is designed to meet the needs of the plus two stage which follows immediately the stage of Secondary Education and precedes immediately the stage of Degree or

Diploma Education controlled by the University established by law in India or by a Council constituted by Government for this purpose ;

- (o) "Secretary" means the Secretary of the Council.
- (p) "Notification" means a notification published in the Official Gazette.
- (q) "Government" means the State Government of Assam.
- (r) "State" means the State of Assam.

Establishment of the Council and its status.

4. (1) The Government shall as soon as may be after the commencement of this Act, establish by notification, a Council for regulation, supervision and development of Higher Secondary Education in accordance with the provisions of this Act.

- (2) The Council shall be a body corporate having perpetual succession and a common seal and shall have power to acquire and hold property, both movable and immovable, and to transfer any property held by it, necessary for the purposes of carrying out its duties and functions, and shall by the said name sue or be sued.

Constitution of the Council.

5. (1) The Council shall consist of the following members namely :-

- (i) a Chairman to be nominated by the Government.

Ex-Officio Members :-

- (ii) Director of Public Instructions,
Assam.-Vice Chairman.
- (iii) Director of Agriculture, Assam.
- (iv) Director of Technical Education,
Assam.
- (v) Director of Health Services, As-
sam.
- (vi) Director of Industries, Assam.
- (vii) Dean, Assam Agricultural Col-
lege, AAU, Jorhat.
- (viii) Dean, Assam Veterinary College,
AAU, Khanapara.
- (ix) Chairman, Board of Secondary
Education, Assam.

Members to be nominated by the
Government

- (x) One Inspector of Schools.
- (xi) One Principal from any Govern-
ment Higher Secondary Schools.
- (xii) One Principal from any Pro-
vincialised Higher Secondary
Schools.
- (xiii) One Principal from any Deficit
Colleges under the Dibrugarh
University.
- (xiv) One Principal from any Deficit
Colleges under the Gauhati
University.

- (xv) One Principal from any Government Colleges.
- (xvi) One representative of each of the Universities of the State on the recommendations of respective Vice-Chancellors.
- (xvii) One Principal from any Teachers' Training Colleges.
- (xviii) One Principal from any Engineering Colleges.
- (xix) Two Principals from Junior Colleges-One from each University.
- (xx) Two representatives from recognised Higher Secondary School/Junior College Teachers' Association.

Co-opted Members :

- (xxi) The Council shall have power to co-opt not more than three members from amongst the distinguished educationists of the State.
 - (xxii) The Government shall appoint an officer of the Government as Ex-Officio Secretary of the Council who shall also be an Ex-Officio member of the Council. The emoluments of the Ex-Officio Secretary shall be determined by the Government and shall be paid from the Council's fund.
- (2) The Chairman shall be nominated by the Government for a term of three years and shall be eligible for re-nomination for a second term only.

- (3) The Government may remove the Chairman before the expiry of his term of appointment by giving one month's notice thereto, in writing, if the Government considers his continuance as Chairman, for good and sufficient grounds, to be detrimental to the interest of the Council.
- (4) The emoluments of the Chairman and other terms and conditions of his service shall be determined by the Government and such emoluments shall be paid from the Council's fund.
- (5) The Chairman shall preside over all the meetings of the Council and of the different committees constituted by it. In the absence of the Chairman, the Vice-Chairman shall preside over the meetings of the Council or of any committee.

Publication of names of the members of the Council.

6. The names of persons nominated or co-opted as members of the Council, shall be published by notification in the Official Gazette by the Government.

Term of Office of members.

7. Term of Office of members -

- (i) Nominated members shall hold office for a term of three years from the date of the notification published under Section 6 and the term of office of co-opted members shall terminate on the same date as that of the nominated members:

Provided that the Government may, by notification, in the Official Gazette, extend the term not exceeding one year.

- (ii) Notwithstanding the expiry of the term of three years specified in clause (i)

the term of office of the outgoing members shall be deemed to extend to the date on which the names of the newly nominated members are published under Section 6.

Disqualifi-
cations for
membership

8. (1) A person shall not be eligible for nomination or co-option as a member of the Council or of the Committees formed by it, if he -

(a) has been adjudged by a court of law to be of unsound mind ;

(b) is an undischarged insolvent ;

(c) has been convicted by a court of law for an offence involving moral turpitude.

(2) If a nominated or co-opted member of the Council or any Committee formed by it, becomes, subject to any of the disqualifications specified in sub-section (1), his membership shall cease.

(3) All disputes relating to the eligibility of any person for nomination/co-option, shall be referred to the Government whose decision on such matters shall be final.

Resignation
of member
and casual
vacancy etc.

9. (1) The Chairman may resign his seat by giving notice thereto in writing to the Government and he shall be deemed to have vacated his seat from the date of acceptance of his resignation by the Government.

(2) A member of the Council, other than an Ex-Officio member may resign his seat by giving notice thereof in writing to the Chairman, and such

member shall be deemed to have vacated his seat from the date of acceptance of his resignation by the Chairman.

(3) The Government may, by notification, remove any nominated or co-opted member who remains absent from three consecutive meetings of the Council without the leave of the Council.

(4) In the event of a casual vacancy occurred by resignation, removal, death or disqualification of a member, such vacancy shall be filled by nomination or co-option, as the case may be in the manner provided in Section 5.

(5) Any person nominated or co-opted to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the member in whose place he is nominated or co-opted.

Meeting of
the Council.

10. (i) Ordinary Meetings—The Council shall meet not less than thrice a year, but four months shall not intervene between two successive meetings.

(ii) Special Meetings—The Chairman, may, at any time, and shall upon requisition made by not less than one-third of the members of the Council other than the ex-officio members and on a date not more than twenty-one days of the receipt of such requisition, call a special meeting of the Council.

(a) Twenty-one days' notice shall be given for ordinary meetings and ten days' notice for special meetings of the Council.

Quorum :
Proceedings
not invali-
dated by
reason of
vacancies.

11. (i) Nine members of the Council shall form a quorum for a meeting of the Council.

(ii) Subject to the provisions contained in sub-clause (i) no act or proceedings of the Council shall be invalid merely by reason of the existence of any vacancy among the members of the Council.

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Officers of
the
Council.

12. (1) The following shall be the officers of the Council :

- (i) The Chairman,
- (ii) The Secretary,
- (iii) The Controller of Examination,
- (iv) The Deputy Secretary (Academic),
- (v) The Deputy Secretary (Administration).

(2) The Council may appoint such other officers and employees as it may considers necessary for the efficient discharge of its functions under this Act on such terms and conditions as may be determined by regulations made by the Council subject to the approval of the Government.

Powers and
duties of the
Council.

13. (1) Subject to the provisions of this Act the powers and duties of the Council shall be as follows, namely :-

(i) to prescribe curriculum, syllabus, and courses of instructions for Higher Secondary Stage which may be imparted in a College or Higher Secondary School ;

(ii) to conduct examinations based on such courses ;

- (iii) to admit to its examinations, on conditions that may be prescribed by regulations, candidates who have pursued the prescribed courses of instruction and also to take such disciplinary action against candidates as may be prescribed by regulation;
- (iv) to demand and receive such fees as may be prescribed by regulations;
- (v) to publish the results of its examination;
- (vi) to grant certificates to students passing the examinations;
- (vii) to institute and award scholarships, prizes etc.
- (viii) to prescribe and select text books and supplementary books;
- (ix) to lay down conditions of recognition of Higher Secondary Schools, and junior Colleges;
- (x) to recognise Higher Secondary Schools and to withdraw such recognition;
- (xi) to take such disciplinary action as it thinks fit against institutions as prescribed by regulations;
- (xii) to adopt measures for study and examination of problems in the field of Higher Secondary Education;
- (xiii) to advise the Government on physical, moral and social welfare of students in recognised institutions, and to prescribe conditions of their residence and discipline;

- (xiv) to prescribe necessary qualifications of teachers in recognised Higher Secondary Schools ;
- (xv) to receive grants from the Government and donations from private and individuals or associations for specific or general purposes ;
- (xvi) to call for reports from the Director of Public Instructions regarding the conditions of recognised institutions or of institutions applying for recognition ;
- (xvii) to advise the Government on re-organisation and development of Higher Secondary Education ;
- (xviii) to advise the Government relating to any matter within the provisions of this Act on which the Government may consult the Council ;
- (xix) to appoint officers and other employees of the Council, and to prescribe by regulations the terms and conditions of their services ;
- (xx) to institute by regulations for the benefit of its officers and other employees such pension, gratuity and provident fund as it may deem fit in such manner, and subject to such conditions as may be prescribed by regulations.
- (xxi) to delegate any of its powers to any Committee constituted under this Act ;
- (xxii) to administer the Higher Secondary Education Council Fund ;

(xxiii) to receive, purchase and hold any property, movable or immovable, which may become vested in it, and to dispose of all or any of the property, movable or immovable belonging to it, and also to do all other acts incidental or appertaining thereto ;

(xxiv) to do all such acts and things as may be necessary to carry out the purposes of this Act.

(2) It shall be the endeavour of the Council to prepare and publish text books and Supplementary books through the Assam State Text Book Production and Publication Corporation Ltd., a Government undertaking.

If, however, the Assam State Text Book Production and Publication Corporation Ltd., fails to prepare and publish text books and supplementary books within a reasonable period, the Council will have freedom to prepare and publish them through any other agencies or under its own control giving proper notice to the Assam State Text Book Production and Publication Corporation Ltd.

Powers of
the Govern-
ment.

14. Notwithstanding anything contained in this Act -

(1) The Government shall have the right to address the Council with reference to anything conducted or done by the Council and to communicate its views on any matter with which the Council is concerned.

(2) The Council shall report to the Government such action, if any, as it proposes to take or has taken, on the communication of the Government.

(3) The Government may after consultation with the Council issue such directions consistent with the provisions of this Act, as it may think fit, and the Council shall comply with such directions.

(4) The Government may, by order in writing specifying the reasons thereof, suspend the execution of any resolution or order of the Council and prohibit the doing of an act ordered to be done by Council, if the Government is of the opinion that such resolution, order or act is in excess of the powers conferred upon the Council by or under this Act.

(5) The Government may, after consultation with the Council, suspend or remove a member whose continuance as a member of the Council is considered to be detrimental to the interest of the Council.

Constitution
of Higher
Secondary
Education
Council
Fund.

15. A fund to be called Higher Secondary Education Council Fund shall be constituted and all sums received by or on behalf of the Council under this Act shall be placed to the credit thereof.

Custody and
investment
of the High-
er Secondary
Education
Council
Fund.

16. All moneys at the credit of the Fund shall be kept in the State Bank of India or the Assam Co-operative Apex Bank Ltd. or in any nationalised Bank, as the Council may determine.

Application
of the Fund.

17: Subject to the provisions of this Act, the Fund shall be applicable only to the payment of the charges and expenses incidental to matters specified in this Act.

Audit of the
Account of
the Council

18. The accounts of the Council shall be audited only by such agency as may be specified by the Government and a copy of the audited accounts shall be submitted by the Council to the Government by such date each year as the Government may specify.

Powers and
duties of the
Chairman.

19. (1) It shall be the duty of the Chairman to see that the provisions of this Act and the regulation, made under it are faithfully observed, and the decisions of the Council are duly implemented and he shall have all the powers necessary for this purpose.

(2) The Chairman shall have power to convene meetings of the Council.

(3) When any emergency arising out of administrative business of the Council requires, in the opinion of the Chairman, that immediate action should be taken, the Chairman shall take such action as he deems necessary and report his action to the Council at its next meeting.

(4) The Chairman shall exercise such other powers as may be prescribed by the regulations.

Powers and
duties of
Secretary.

20. The Secretary of the Council shall be the Principal Administrative Officer, and shall subject to the control of the Chairman, perform such duties as may be prescribed by regulation.

Powers and
duties of
other
Officers.

21. Other Officers will have such powers and duties as may be prescribed by regulations.

Committees
of Council.

22. (1) The Council shall, for the purpose of carrying out its duties and functions

imposed under this Act, appoint the following committees namely :—

- (i) Curriculum and syllabus Committee.
- (ii) Examination Committee.
- (iii) Recognition Committee.
- (iv) Finance Committee.
- (v) Administration Committee and
- (vi) Such other Committees as may be found necessary.

(2) Every such committee shall consist of such members of the Council and of such other persons as the Council may appoint.

(3) Every such Committee except the Administration Committee and the Examination Committee, may co-opt persons to be members to the extent of one third of the members appointed to it.

(4) Members of such Committee shall hold office for such time as the Council may determine.

(5) Subject to the provisions of this Act and the rules made thereunder the duties and functions of the Committees shall be determined by regulations.

Exercise of powers delegated by the Council to Committees.

23. All matters relating to exercise of powers conferred upon the Council by this Act which are by regulations delegated to any committee appointed under section 22 shall stand referred to that Committee, and the Council before exercising such powers shall receive and consider the report or recommendation of the Committee with respect to the matter in question.

Power of
Council to
make r gula-
tions.

24. (1) The Council may subject to the approval of the Government make regulations for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, the Council may make regulations providing for all or any of the following matters namely:-

(a) the constitution, powers and duties of Committee appointed under Section 22 ;

(b) courses of study to be laid down for different examinations ;

(c) marks required for passing in any subject and the examination as a whole, and for credit and distinction in any subject ;

(d) qualifications, appointment and remuneration of examiners, paper-setters and others ;

(e) conducting examinations and publishing the results ;

(f) conditions of recognition of Higher Secondary Schools and Junior Colleges ;

(g) conditions under which candidates shall be admitted to the examinations of the Council ;

(h) disciplinary measures for malpractices in examinations ;

(i) fixing of fees and charges in respect of examinations ;

- (j) provident fund, etc. for the benefit of the employees of the Council ;
- (k) rate of travelling and daily allowances to the non-official members of the Council or Committees ;
- (l) delegation of powers or assignment of functions to Committees formed under this Act ;
- (m) all matters which, by this Act are to be or may be provided for by regulations :

Provided that all regulations, alterations and revocation thereof shall be subject to approval by the Government and published in the Official Gazette.

Council to
furnish report,
returns
etc. to the
Government.

25. The Council shall furnish to the Government such reports, returns and statements and such other information relating to any matter under the control of the Council as the Government may require.

Powers of
the Government
to constitute
the Council.

26. If in the opinion of the Government, the Council has shown its incompetence to perform or persistently made default in the performance of the duties imposed, or exceeded or abused the powers conferred upon it by or under this Act, the Government shall formulate in writing specific charges against the Council in respect of those matters and shall forward a copy of such charges to the Council with direction to submit any comments or explanations in respect thereof to the Government within such period as may be specified in this behalf. After the consideration of the comments or explanations submitted by the Council, the Government may, if it thinks fit, by notification supersede the Council and

thereafter reconstitute the Council in accordance with the provision of Section 5 and in every such case, the Government shall, as soon as may be, lay before the State Legislature a copy of the said notification together with the statement of the reasons which led to such reconstitution.

Vesting of powers till reconstitution of the Council.

27. Until the Council is reconstituted after supersession under Section 26, the duties and powers of the Council shall be performed and exercised by, and the property of the Council shall vest in, such person or authority as the Government may specify by notification.

Power of Government to make rules.

28. (1) The Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree 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 or omitted to be done under that rule.

MD. SAADULLAH,
Secretary to the Govt. of Assam,
Legislative Department.