

West Bengal Act XXVIII of 1963

THE WEST BENGAL URBAN PRIMARY EDUCATION ACT, 1963.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extra-ordinary*, of the 8th October, 1963.]

[8th October, 1963.]

An Act to provide for free and compulsory primary education in Municipalities in West Bengal.

WHEREAS it is expedient to provide for free and compulsory primary education in Municipalities in West Bengal;

It is hereby enacted in the Fourteenth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I.

Preliminary.

1. (1) This Act may be called the West Bengal Urban Primary Education Act, 1963. Short title and extent.

(2) It extends to all Municipalities in West Bengal.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(a) “to attend recognised primary school” means to be present for instruction at such school for so many and on such days in the year and at such time or times on each day as may be determined by the School Committee for such school, subject to such rules as may be made under section 16 and to the orders of the Education Department of the State Government;

(b) “child” means a boy or girl who is not less than six years and not more than eleven years of age or of other prescribed age;

(c) “Commissioners” mean the persons for the time being appointed or elected to conduct the affairs of a Municipality constituted under the Bengal Municipal Act, 1932, or the Cooch Behar Municipal Act, 1944, and include the Councillors and Aldermen of the Corporation in Chandernagore established under the Chandernagore Municipal Act, 1955;

(*Chapter II.—Free and compulsory primary education in urban areas.—Section 3.*)

- (d) "guardian" means any person on whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care or custody of any child has been entrusted by any lawful authority;
- (e) "Municipality" means any place in which the Bengal Municipal Act, 1932, or the Cooch Behar Municipal Act, 1944, is in force, and includes Chandernagore as defined in the Chandernagore Municipal Act, 1955;
- (f) "prescribed" means prescribed by rules made under section 16;
- (g) "primary education" means such elementary education as may, from time to time, be laid down by the Education Department of the State Government by notification in the *Official Gazette* for primary schools, junior basic schools or for any other type of schools for children;
- (h) "recognised primary school" means a school or a department of a school appropriated to primary education and for the time being recognised by the Education Department of the State Government for the purposes of such education;
- (i) "School Committee" means a Committee constituted under section 6.

CHAPTER II.

Free and compulsory primary education in urban areas.

Statement
to be
submitted
by
Commis-
sioners.

3. Within one year from the commencement of this Act or within such other period as may be specified by the State Government in this behalf, by notification in the *Official Gazette*, the Commissioners of every Municipality shall submit to the State Government a detailed statement, in such form as may be prescribed, containing the following particulars in respect of the Municipality, namely:—

- (a) the number of children within the Municipality;
- (b) the school accommodation and the staff of, and the attendance at, existing primary schools;
- (c) the school accommodation, staff and equipment required if suitable and adequate provision were to be made for the free and compulsory primary education of all children referred to in clause (a);

(*Chapter II.—Free and compulsory primary education in urban areas.—Section 4.*)

- (d) the manner in which and the periods within which it will be possible to provide the necessary school accommodation, staff and equipment referred to in clause (c) under the direct management and control of the Commissioners of the Municipality;
- (e) the expenditure incurred by the Commissioners of the Municipality on primary education and the expenditure to be incurred annually in order to provide such school accommodation, staff and equipment;
- (f) the receipts already available, and the income including the estimated receipts from any education cess that may be imposed under section 15, to meet such expenditure; and
- (g) the amount of grant or assistance from the Government which the Commissioners of the Municipality consider would be necessary to enable them to provide for free and compulsory primary education within the Municipality, or any part thereof.

4. (1) The State Government may, after considering the statement submitted under section 3 and the conditions, and the resources of the Commissioners, of the Municipality, and after determining the amount of financial assistance from the State Government which may be necessary in order to provide for free and compulsory primary education within the Municipality or any part thereof, direct the Commissioners of the Municipality to provide the necessary school accommodation, staff and equipment for all children likely to attend primary schools within the Municipality or any part thereof, as the case may be, and to assume direct management and control of schools established for the purpose.

Primary
education
when to
be declared
free and
compul-
sory.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, by order, direct the Commissioners of a Municipality to submit to it, within such time as may be specified in the order, a scheme prepared in such manner as may be prescribed for free and compulsory primary education within the Municipality or any part thereof for all children resident therein.

(3) The State Government, after considering the scheme referred to in sub-section (2) and after determining the financial assistance from the State Government which may be necessary to provide for free and compulsory primary education within the Municipality, may sanction such scheme with or without modification.

4 *The West Bengal Urban Primary Education Act, 1963.*

[West Ben. Act

(*Chapter II.—Free and compulsory primary education in urban areas.—Section 5.*)

(4) When a direction has been given under sub-section (1) or a scheme has been sanctioned under sub-section (3), the Commissioners of the Municipality concerned shall cause a notification to be issued declaring that primary education shall be free and compulsory for all children within the Municipality or any part thereof, as the case may be.

(5) Every notification issued under sub-section (4) shall be published in the *Official Gazette* and shall be posted up at the Municipal office and at such other places, as the Commissioners of the Municipality shall deem necessary, specifying the date on and from which primary education shall be free and compulsory within the Municipality, or any part thereof.

(6) When primary education has been declared free and compulsory in any Municipality, or any part thereof, the Commissioners of the Municipality shall—

(a) maintain such administrative machinery as may be prescribed; and

(b) spend every year for the purposes of free and compulsory primary education within such Municipality or part—

(i) the proceeds of the education cess imposed therein during that year under section 15, and also all moneys received by them during that year, including the income accruing from any fund held by them, for the said purposes; and

(ii) such amount as they spent for primary education therein during the year preceding the commencement of this Act.

Explanation.—In this clause “year” has the same meaning as in the Bengal Municipal Act, 1932.

Ben Act
XV of
1932.

Administrative Officer.

5. (1) The State Government may appoint a person who is in the service of the State Government as Administrative Officer for the implementation of the provisions of this Act in a Municipality or any part thereof, where primary education has been declared free and compulsory.

(2) The Administrative Officer shall exercise such powers, perform such functions and discharge such duties as may be prescribed.

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(*Chapter II.—Free and compulsory primary education in urban areas.—Sections 6—8.*)

6. When a notification has been issued in any Municipality under sub-section (4) of section 4, the Commissioners of the Municipality concerned shall appoint a School Committee, to be constituted in such manner as may be prescribed, for the control and management of primary schools within the Municipality and thereupon any Education Committee constituted under the Bengal Municipal Act, 1932, or the Chandernagore Municipal Act, 1955, as the case may be, shall cease to have any jurisdiction whatsoever in respect of primary schools within such Municipality.

Constitution of
School
Committee.

Ben. Act
XV of
1932.
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Act XVIII
of 1955.

7. (1) In the area referred to in the notification issued under sub-section (4) of section 4, it shall be the duty of the guardian of every child, residing within that area, to cause such child to attend a recognised primary school unless, in the opinion of the School Committee, there is a reasonable excuse for the non-attendance of the child.

Duty of
guardian
to send
child to
school.

(2) Any of the following circumstances shall be deemed to be a reasonable excuse within the meaning of this section, namely:—

- (a) that there is no recognised primary school within a distance of one mile from the residence of the child, measured by the shortest route, which the child can attend;
- (b) that the child is prevented from attending the school by reason of sickness or infirmity;
- (c) that the child is receiving education in some other satisfactory manner;
- (d) that the child has already completed primary education as defined in clause (g) of section 2;
- (e) such other circumstances as may be prescribed.

8. (1) If the School Committee is satisfied that a guardian, who is required under section 7 to cause a child to attend a recognised primary school, has failed to do so, it shall, after giving a warning in writing to such guardian, apply to a Magistrate having jurisdiction for an order to compel the guardian to cause the attendance of such child, and the Magistrate shall fix a day for the hearing of the application and cause notice thereof to be given to such guardian.

Order of
Magistrate
to compel
attendance.

(2) On the day fixed for the hearing of the application or on any subsequent day to which it may be adjourned, and after hearing the guardian or his authorised agent, if present, the Magistrate, if satisfied that the facts alleged in the application are true, may pass an order directing the guardian to cause such child to attend a recognised primary school from a date to be specified in such order.

(*Chapter II.—Free and compulsory primary education in urban areas.—Sections 9—14.*)

Penalty
for
failure to
obey
order.

9. (1) Any guardian who fails to comply with an order passed under section 8 shall, on conviction before a Magistrate, be liable to a fine not exceeding five rupees, and, if so ordered, also to a recurring fine not exceeding one rupee for each day after the first during which he continues so to offend.

(2) No Magistrate shall take cognizance of an offence under this section except on the complaint of the School Committee.

Prohibi-
tion of
employ-
ment of
children.

10. No person shall, without the permission of the School Committee, employ any child who is required to attend a recognised primary school under this Chapter:

Provided that such permission shall not be necessary if employment does not interfere with the attendance of the child at such school.

Employ-
er's
liability.

11. (1) The School Committee may prosecute any person who, after due warning, contravenes the provisions of section 10.

(2) Unless such person satisfies the Magistrate that there is a reasonable excuse, within the meaning of sub-section (2) of section 7, for the non-attendance of the child, or that the time and nature of employment of the child are such that the child is not prevented from attending a recognised primary school, or that the child was taken into employment under false representations as to age, residence and other conditions, such person shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees.

Delega-
tion
of some
of the
functions
of School
Committee.

12. An application to a Magistrate under section 8 or a complaint to a Magistrate under section 9 or section 11, may be made on behalf of the School Committee by such person as may be authorised by the School Committee by general or special order in this behalf.

Power of
Commis-
sioners
to make
rules.

13. The Commissioners at a meeting may, with the previous sanction of the State Government, make rules specifying the steps which the School Committee may take to secure the attendance of child at school.

Exemption
from
compulsory
education.

14. The State Government may, by notification in the *Official Gazette*, exempt any class of persons or any community, in any area to which this Act extends, from the operation of this Chapter.

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(*Chapter III.—Education cess.—Section 15—Chapter IV.—Supplemental.—Sections 16—19.*)

CHAPTER III.

Education cess.

15. (1) If the existing resources of the Commissioners of any Municipality are not sufficient to cover the cost of free and compulsory primary education within the Municipality, the Commissioners of the Municipality shall, with the previous sanction of the State Government, impose an education cess, in such manner as may be prescribed, and all amounts derived therefrom shall be devoted solely to the purposes of free and compulsory primary education within the Municipality.

(2) The education cess shall be levied at such rate, not exceeding two *per cent.* of the annual value of holdings within the Municipality, as may be prescribed and different rates may be prescribed for different Municipalities.

CHAPTER IV.

Supplemental.

16. (1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government may make rules prescribing the manner in which—

(a) schemes under sub-section (2) of section 4 shall be prepared;

(b) the education cess shall be levied.

(3) All rules made under this section shall be published in the *Official Gazette.*

17. All primary schools maintained by the Commissioners within a Municipality, or any part thereof, under the provisions of this Act shall be open to inspection by the inspecting officers of the Education Department of the State Government and such other persons as the State Government may appoint in this behalf.

18. Every person authorised by the School Committee under section 12 and every officer and servant of the School Committee, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

19. The Bengal Primary Education Act, 1919, is hereby repealed.