

ASSAM ACT VI OF 1975

[Received the assent of the Governor on the 9th June, 1975]

THE ASSAM ELEMENTARY EDUCATION (PROVINCIALISATION) ACT, 1974

An

Act

to provide for provincialisation of the Elementary Education in the State of Assam.

Preamble.

Whereas it is expedient to provincialise the services of the teachers of Elementary Schools including Pre-primary Schools and the employees of the respective Boards;

And whereas it is expedient that the management and control of Elementary Education hitherto vested in the authorities under the provisions of the Assam Elementary Education Act, 1968, be taken over by the State Government ;

It is hereby enacted in the Twenty-Fifth year of the Republic of India as follows: -

CHAPTER I

Short title, extent and commencement.

1. (1) This Act may be called the Assam Elementary Education (Provincialisation) Act 1974.
- (2) It extends to the whole of Assam except the autonomous districts:

Provided that the Governor may, with the consent of the District Council concerned, extend all or any of the provisions of this Act to all or any of the autonomous districts on such date or dates as may be notified in this behalf.

- (3) It shall come into force on such date as the State Government may, by notification in the official gazette, appoint.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,-
 - (a) "area of compulsion" means an area specified for the purpose of making Elementary Education compulsory under section 14;

- (b) "Autonomous district" means the district under the Sixth Schedule to the Constitution of India ;
- (c) "Child" means a person of either sex who has completed five years of age and has not exceeded fourteen years or of such age as the State Government, may from time to time, prescribed ;
- (d) "District Council" means a District Council constituted under subparagraph (1) of paragraph 2 of the Sixth Schedule to the Constitution of India ;
- (e) "Elementary Education" means education of such class or standard, as may be prescribed ;
- (f) "Elementary School" means a School where elementary education is imparted ;
- (g) "Guardian" means the person to whom the duty of taking care of ,bringing up or the custody of the child has been entrusted by law or custom or by any lawful authority or who has in fact accepted or assumed such duty or has actual custody of such child or where such guardian cannot be readily ascertained or such person as the local authority shall decide;
- (h) "Local Authority" means the Gauhati Municipal Corporation, a Municipal Board as defined in the Assam Municipal Act, 1956, a Town Committee established under the said Act and a Mahkuma Parishad and a Gaon Panchayat established under the Assam Panchayati Raj Act, 1972;
- (i) "Management" means and includes such powers and functions in respect of the local authorities and of "District Councils" as have been laid down in this Act;
- (j) "Notification" means a notification published in the official gazette;
- (k) "Prescribed" means prescribed by rules made under this Act;
- (l) "State Government" means the Government of Assam;
- (m) "Recognised School" means a School recognised or deemed to be recognised under this Act;
- (n) "State Board" for Elementary Education and "Regional Board" for Elementary Education mean the boards constituted under the Assam Elementary Education Act, 1968;
- (o) "existing teachers" means the teachers appointed or deemed to have been appointed by the Government and by the State Board for Elementary Education under the Assam Elementary Education Act, 1968

- (p) "attendance authority" means any person appointed to be an attendance authority under section 20.

CHAPTER-II

Immediately as this Act comes into force.

3. (1) All sums of money that may be in the Elementary Education Fund, created and maintained under section 20 of the Assam Elementary Education Act, 1968, shall vest in the State Government.
- (2) All sums of money that may be in a Regional Board Fund, created and maintained under section 31 of the Assam Elementary Education Act, 1968, shall vest in the State Government.
- (3) All teachers of Elementary Schools and Pre-primary Schools, maintained by the Regional Boards of Elementary Education, constituted under section 18 of the Assam Elementary Education Act, 1968, shall be deemed to be the employees of the State Government.
- (4) All employees of the State Board of Elementary Education, constituted under section 4 of the Assam Elementary Education Act, 1968, shall be deemed to be the employees of the State Government; and shall be entitled to such emoluments as were admissible to them before the date of commencement of this Act till such time as their emoluments are prescribed by rules under this Act.
- ¹[(4A) Services of all teachers and employees who rendered services under the following repealed Acts and whose services are taken over by the Government on provincialisation on 5th September, 1975 under the principal Act shall be deemed to be services under the Government and shall qualify and count for pension and other retirement benefits.
- (1) The Assam Basic Education Act, 1954 (Act XXVI of 1954).
- (2) The Assam Elementary Education Act, 1962 (Act XXX of 1962).
- (3) The Assam Elementary Education Act, 1968 (Act XVII of 1969).
- (4B) For the purpose of sub-section (4A) above, services of such teachers and employees taken over on 5th September, 1975 shall be deemed to be substantive and permanent under the Government and paid for by the Government for the purpose of pension”.]
- (5) (i) All teachers appointed by the Regional Boards of Elementary Education taken over by the Government under sub section (3) shall be entitled to such scales of pay and allowances as admissible to teachers of corresponding rank in a Government institutions.

(ii) All ministerial and Grade IV staff appointed by the State Board of Elementary Education for Regional Boards offices shall be entitled to such scales of pay and allowances as admissible to employees of corresponding rank in a District office under the State Government.

(iii) All ministerial staff appointed by the State Board of Elementary Education for the office of the Secretary, State Board, taken over by the Government under sub- section (4) shall be entitled to such scales of pay and allowances as admissible to staff of corresponding rank in the offices of the Head of Departments under the State Government:

Provided that the teachers and the staff so taken over shall be governed by the same set of Service Rules and Rules of Conduct and Discipline as are applicable to Government employees of the corresponding ranks.

(6) All properties of the State Board and the Regional Boards including the properties held by the various authorities constituted under the provisions of the Assam Elementary Education Act 1968, shall vest in the State Government.

(7) Notwithstanding anything contained in this Act the responsibility of proper administration, and supervision of elementary education and of arrangements of inspection and of proper training of teachers shall lie with the State Government. The State Government shall also determine the curriculum and duration, standard and syllabus of the course of instruction to be imparted in an elementary school.

4. The Director of Public Instruction, shall be the Administrative Officer on elementary education and shall exercise such powers and perform such duties as may be required for carrying out the purposes of this Act. He shall also perform other duties and exercise such other powers as may be prescribed by the Government.

CHAPTER III

Local authorities' power of management of Elementary Schools

5. As soon as this Act comes into force, Government may, if and when necessary, vest the management of elementary school/schools, subject to such conditions as may be prescribed, in the local authorities of the area concerned:

Provided that nothing in this section shall preclude the right of minorities whether based on religion or language or any private body from managing their own schools.

6. In the areas where the Assam Panchayati Raj Act, 1972 is in operation the Block Development Officer or, where there is no Block Development Officer, such other officer as may be specified by State Government in this behalf, with the help of such officers of Education Department, as may be attached to him, shall act as a co-ordinating agency, It shall be the duty of the co-ordinating agency to see that the provisions of this Act are observed in the schools.
7. The State Government may on the advice of the Director of Public Instruction or otherwise rescind in part or in whole any resolution, order or decision of a local authority and may also prohibit the doing of any act in pursuance of such resolution, order or decision whenever in the opinion of the State government, such resolution, order, decision or act is in excess or abuse of the powers, conferred upon the local authority by this Act, or by any rules framed thereunder.

CHAPTER IV

Fund for District Councils

8. (1) The State Government shall prescribe by rules the principles for assisting the District Council in the management and maintenance of Elementary Schools and place amounts at the disposal of the District Council in accordance with those rules from time to time.

(2) In autonomous districts the amount so received shall be deposited in the Fund of the District Council under a separate head 'Elementary Education' and the amount so received shall be applied for the purposes enumerated in section 9.
9. Subject to other provisions of this Act, the District Council fund shall also be applied for the following purposes, namely:-
 - (i) payment of any stipend or scholarship to students in accordance with Rules and Orders of the Education Department;
 - (ii) payment of such sums of money as may be found necessary for construction, extension, improvement and maintenance of school buildings and for provision of mid-day meal, play ground, furniture and equipment;
 - (iii) payment of legal expenses and other expenses which may be found necessary.

CHAPTER V

Powers of the State Government to settle disputes

10. Any dispute arising out in respect of transfer and ownership of any property or any matter pertaining to any provision shall be referred to by the aggrieved party to the State Government whose decision in this behalf shall be final and binding on all concerned.

CHAPTER VI

Recognition of Elementary Schools and their affairs

11. Subject to Section 12, all Elementary Schools recognised under Section 37 of the Assam Elementary Education Act, 1968 shall be deemed to be recognised Elementary Schools by the State Government.
12. The terms and conditions of recognition and of grant-in-aid to new Elementary Schools shall be as laid down by the State Government from time to time:

Provided that on the recommendation of the Deputy Inspector of Schools concerned, the State Government may accord necessary recognition to such Elementary Schools as may fulfil the required conditions.

All existing teachers and other employees of the Schools or those to be appointed in any Elementary schools recognised under this Act, except in the case of the autonomous districts, shall be deemed to have been appointed by the State Government in their corresponding ranks.

CHAPTER VII

COMPULSORY EDUCATION

13. No fee shall be levied in respect of any child for attending a recognised Elementary School.
14. The State Government may, by notification, declare that elementary education shall be compulsory upto certain age to be prescribed in any area or areas of the State as specified in the notification.
15. In an area of compulsion the guardian of every child, resident in such area, shall subject to the provisions of Section 16 be bound to cause the child to attend a recognised Elementary School in such area.
16. A guardian may be exempted from causing a child to attend a recognised

Elementary School if,-

- (i) the child is receiving education otherwise than in a recognised Elementary School to the satisfaction of the attendance authority;
 - (ii) the child has already completed the standard of elementary education prescribed;
 - (iii) there is no recognised Elementary School within the distance of one mile from the residence of the child or even if there is one when it is not reasonably or conveniently accessible from such residence ;
 - (iv) the child is prevented from attending school by sickness, infirmity or any other mental or physical defect accepted as sufficient ground by the attendance authority ; or
 - (v) there is any other compelling circumstance which, in the opinion of the attendance authority prevents the child from attending a recognized Elementary School.
- 17.** (1) If the attendance authority is satisfied that a child due to economic or other circumstances connected with the family to which the child belongs, is unable to attend an approved school in the manner required by or under this Act, it may permit the child to attend any institution imparting part-time elementary education.
- (2) A child receiving education under sub-section (1) shall be deemed to have fulfilled the requirements of section 16 of this Act.
- 18.** The manner in which a list of children in an area of compulsion shall be caused to be prepared, the manner of notifying the guardians, the period and duration of compulsory attendance of children in schools; shall be as prescribed.
- 19.** In an area of compulsion, it shall be the duty of every local authority to enlist the co-operation of the guardians in ensuring the attendance of children in schools.
- 20.** (1) The State Government may appoint the attendance authorities for the purpose of enforcing attendance in schools.
- (2) The attendance authorities shall have such powers, functions and duties as may be prescribed.
- (3) An attendance order on the guardian of a child shall be passed at such time and in such manner as may be prescribed.
- 21.** No guardian or person shall utilise the time or the services of a child in connection with employment of such a child, whether on remuneration or otherwise, in such a manner or at such time of the day as to interfere with regular attendance of the child in a school as required under this Act.

22. Any guardian who contravenes the provision of Section 15 or any guardian or person who contravenes the provision of Section 21 shall be punishable with fine not exceeding two rupees and in case of a continued contravention with an additional fine not exceeding fifty paise for every day during which such contravention continues.

23. The Courts competent to try offences under this Act shall be the following:-

(a) in areas where the Panchayati Adalat, has been established under Section 83 of the Assam Panchayati Raj Act, 1972 such Adalat within whose jurisdiction the offence is committed ;

(b) in other areas the Court of a Magistrate having jurisdiction.

CHAPTER VIII

Miscellaneous

24. No Court shall take cognizance of an offence under this Act except on a complaint of an attendance authority.

25. The attendance authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

26. No suit, prosecution or other legal proceedings for anything done in good faith under this Act shall lie without the previous sanction of the State Government in this behalf.

27. (1) The State Government may, after previous publication in the official Gazette, make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for all or any of the following matters, namely:-

(i) terms and conditions of services of teachers of elementary schools including conduct and discipline of teachers ;

(ii) manner of making payment of scholarships ;

(iii) conditions under which management of elementary school shall vest in the local authority;

(iv) form of register of children to be maintained by a local authority;

- (v) conditions under which administration of elementary education has to be carried out in the autonomous districts ;
 - (vi) conditions for placing of funds with different authorities constituted under this Act ;
 - (vii) manner of disbursing funds by a local authority or by any other authority constituted under this Act;
 - (viii) terms and conditions of services of the employees under the State Board and the Regional Boards ;
 - (ix) conditions of taking over of elementary schools managed by the State Board for Elementary Education by the Government ;
 - (x) conditions of payment of other liabilities of a Regional Board or the State Board ;
 - (xi) manner of keeping accounts by a District Council or local authority;
 - (xii) conditions of taking over of assets of the State Board or a Regional Board.
 - (xiii) manner, procedure and authorities for taking disciplinary action;
 - (xiv) fixing the limit of the age of a child;
 - (xv) manner of preparation of details as required under section 18;
 - (xvi) fixation of powers, duties and responsibilities of the various offices including attendance authorities;
 - (xvii) fixation of time and manner of serving attendance order on guardians.
- (3) Every rule made under this section 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 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.

28. (1) The Assam Elementary Education Act, 1968 is hereby repealed.

- (2) Any of the provisions of the Gauhati Municipal Corporation Act, 1969 the Assam Municipal Act, 1956 and the Assam Panchayati Raj Act, 1972 which are repugnant to any of the provisions of this Act shall stand repealed.