

The Samrat Ashok Technological Institute (Degree) Vidisha (Prabandh Grahan) Adhiniyam, 1987

(M.P. Act No. 30 of 1987)

mp715

Received the assent of the President on the 22nd July, 1987; assent first published in the "Madhya Pradesh Gazette" (Extraordinary), dated the 1st August, 1987

An Act to provide for the taking over in the public interest of the management of the Samrat Ashok Technological Institute (Degree) Vidisha, run and managed by Maharaja Jiwajirao Education Society, Vidisha, for the limited period in order to secure proper management thereof with the object of generally improving the academic atmosphere and maintenance of better educational standards in the field of Engineering and for matters connected therewith or incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the Thirty-eighth Year of the Republic of India as follows :-

CHAPTER I

Preliminary

1. **Short title and commencement.** - (1) This Act may be called the Samrat Ashok Technological Institute (Degree) Vidisha (Prabandh Grahan) Adhiniyam, 1987.

(1) It shall be deemed to have come into force on 21st April, 1982.

2. **Definitions.** - In this Act, unless the context otherwise requires,-

(a) "Administrator" means the Administrator appointed under Section 5;

(b) "Appointed day" means the 21st day of April, 1982;

(c) "Institute" means the Samrat Ashok Technological Institute (Degree) Vidisha, an Engineering College run and managed by the Maharaja Jiwajirao Education Society, Vidisha;

(d) "Society" in relation to the Institute means the Maharaja Jiwajirao Education Society, Vidisha.

CHAPTER II

Taking over of the Management of the Institute

3. **Management of Institute to vest in the State Government for a limited period.** - (1) On and from the appointed day and for a period of seven years thereafter, the management of the institute shall vest in the State Government :

Provided that if the State Government is of opinion that in order to secure the proper management of the Institute it is expedient that such management should continue to vest in the Government after the expiry of such period of seven years, it may from time to time, issue directions for the continuance of such management for such period not exceeding one year at a time as it may think fit.

(2) The Institute shall be deemed to include all the assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, workshops, projects, stores, instruments, machinery, automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the Society as form part of, or are relatable to Institute and all other rights and interests arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the Society, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto :

Provided that if any building was immediately before the appointed day also used by the Society for any purpose other than the purpose of the Institute, the State Government may allow use of such building for that purpose.

4. Consequences so ensue on and from appointed day. - Notwithstanding anything contained in any other law for the time being in force or in the memorandum or the rules and regulations of the Society,-

- (a) on and from the appointed day every member of the Governing Body of the Society, by whatever name called, shall cease to exercise any powers of management in relation to Institute;
- (b) it shall not be lawful for the Society or any other person to nominate or appoint any person as Manager or Director of so much of the assets of the Society as form part of, or are relatable to Institute;
- (c) no resolution in relation to Institute passed at any meeting of the members of the Society shall be given effect to unless it is approved by the State Government;
- (d) no proceedings for the dissolution of the Society or merger of the Society with any other Society or for the appointment of a receiver in respect of any asset forming part of, or relatable to the Institute the management of which has vested in the State Government under Section 3, shall lie in any Court except with the consent of the State Government.

5. Administrator of Institute. - (1) The State Government shall, as from the appointed day, appoint a person or a body of persons as the Administrator for the purpose of taking over the management of the Institute and the Administrator shall carry on the management of the Institute in accordance with the advice of the Advisory Council.

(2) The Administrator may authorise such person as he thinks fit also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers, and subject to the general or special directions given or imposed by the Administrator, the person so authorised to exercise any power of the Administrator may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by way of authorisation.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature, in relation to any property which has vested in the State Government under Section 3, instituted or preferred by or against the Society is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the taking over of the management of Institute or of anything contained in this Act but the suit, appeal or other proceeding may be pursued, prosecuted or enforced by or against the State Government.

(4) The State Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any Court, Tribunal or other authority) to the Administrator, as to his powers and duties as the Government may deem desirable and the Administrator may apply to the State Government at any time for instructions as to the manner in which he shall conduct the management of the Institute or in relation to any matter arising in the course of such management.

(5) Subject to the other provisions of this Act and the rules made thereunder and to the control of the State Government, the Administrator shall be entitled, notwithstanding anything contained in the Madhya Pradesh Society Registrations Act, 1973 (No. 44 of 1973), or in any other law for the time being in force to exercise, in relation to the Institute, the powers of the Governing Body or Executive Committee or, as the case may be, of the Board of Trustees of the Society, including the powers to dispose of any property or assets of the Society, whether such powers are derived from that Act or from memorandum and rules and regulations of the Society or from any other source.

(6) The Administrator and the other persons authorised by him under sub-Section (2) shall receive from the funds of the Society relatable to the Institute such remuneration as the State Government may fix.

6. Advisory Council. - (1) The State Government shall constitute, by notification a Council to be called the Advisory Council.

(2) The Advisory Council may on its own motion or on a reference made to it by the State Government advise the State Government on any matter concerning the management of the Institute.

(3) In tendering any advice to the State Government, the Advisory Council shall endeavour to secure that-

- (a) standard of Engineering Education is maintained;
- (b) institute is properly managed; and
- (c) such other matters pertaining to the institute as may be prescribed.

(4) The Advisory Council, shall consist of such number of members not exceeding eleven as may be appointed by the State Government five from amongst persons, who in its opinion are connected with technical education and the rest from amongst the Executive Officers of the State.

(5) The Minister having the charge of the Department dealing with Engineering Colleges and/or Polytechnics shall be the Chairman of the Advisory Council.

(6) The term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to the members of the Advisory Council shall be such as may be prescribed.

(7) The Advisory Council shall, subject to any rules that may be made in this behalf under Section 17, have power to regulate its own procedure.

7. Delivery of possession of properties of Institute. - (1) Every person having, on the appointed day, in his possession, custody or control any property forming part of, or relating to Institute shall deliver forthwith such property to the Administrator or to any officer or other employee of the State Government as may be authorised by the State Government in this behalf.

(2) Any person who has, on the appointed day, in his possession or under his control any books, papers or other documents relating to Institute (including the minutes books containing resolutions in relation to the Institute adopted by persons in charge of the management of the Society before the appointed day), the current cheque books relating to Institute any letters, memoranda, notes and other communications between him and the Society, shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes and other communications) to the Administrator or to such person (being an officer or other employee of the State Government) as may be authorised by the State Government in this behalf.

(3) Every person in-charge of the management of Institute immediately before the appointed day shall, within ten days from that day or within such further period as the State Government may allow in this behalf, furnish to the Administrator a complete inventory of all the properties and assets (including particulars of donations received, book debts, investment, and belongings) forming part of, or relating to, Institute immediately before the appointed day and of all the liabilities and obligations of the Society in relation to Institute subsisting immediately before that day and also of all agreements entered into by the Society in relation to Institute and in force immediately before the appointed day.

8. Relinquishment of management before the specified period. - (1) If at any time it appears to the State Government that the purpose for which the management of Institute had been taken over have been fulfilled or that for any other reason it is not necessary that the management of Institute should remain vested in the State Government, it may, notwithstanding anything contained in sub-section (1) of Section 3, by order published in the Gazette, relinquish the management of the Institute with effect from such date as may be specified in the order. All liabilities of the State Government in relation to the Institute shall cease on such date.

(2) On and from the date specified in the order made under sub-section (1) the management of the property of the Society forming part of, or relating to, Institute shall vest in the Governing Body (by whatever name called) of the Society and such management shall be carried on in accordance with the provisions of the Madhya Pradesh Society Registration Adhiniyam, 1977 (No. 44 of 1973) so however that the steps, if any, in relation to the management of the property of the Society forming part of, or relating to, Institute, may be taken after issue of the order made under sub-section (1).

9. Tribunal. - (1) If any dispute or doubt arises as to whether any asset, right, lease-hold, power authority, privilege, property (whether movable or immovable) including any land, building works, workshop, project, stores, instruments, machinery, automobiles or other vehicles, cash balances, funds (including reserve funds) investments and book debts forms or form part of, or is or are relating to Institute for the purposes of Section 3, such dispute or doubt shall, at the request of the Society or the Administrator or any other person interested or at the instance of the State Government be referred to a Tribunal consisting of one member (being a person who is or has been a District Judge) to be appointed by the State Government.

(2) The Tribunal shall, for the purposes of any reference under sub-section (1), have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (No. 5 of 1908) in respect of the following matters, namely

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents producible as evidence;

(c) recording evidence on oath;

(d) requisitioning any public record from any Court or office;

(e) issuing commissions for the examination of witnesses or documents;

(f) such other matter as may be prescribed.

(3) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions (including the place or places at which it shall hold its sittings).

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated fund of the State.

10. Appeal. - Any person aggrieved by the decision of the Tribunal under Section 9 may, within thirty days from the date of such decision, prefer an appeal to the High Court ;

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period aforesaid.

CHAPTER III

Miscellaneous

11. Act to have overriding effect. - The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any Court.

12. Contracts etc., cease to have effect unless ratified by the State Government. - (1) Every contract or agreement (including any contract of employment or other arrangement) entered into at any time by the Society in relation to institute the management of which has vested in the State Government under Section 3, and in force immediately before the appointed day, shall on and from the date of expiry of ninety days from the appointed day, cease to have effect unless such contract or agreement or other arrangement has been, before the expiry of that period, ratified, in writing by the State Government, and in ratifying such contract or agreements or other arrangement, the State Government may make such alterations or modifications therein as it may think fit.

Provided that the State Government shall not omit any condition of, or ratify any contract or agreement or other arrangement and shall not make any alteration or modification therein,-

- (a) unless it is satisfied that such contract or agreement or other arrangement is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Institute; and
- (b) except after giving the parties to the contract or agreement or other arrangement a reasonable opportunity of being heard and except after recording in writing, its reasons for refusal to ratify the contract or agreement or other arrangement or for making any alteration or modification therein.

(2) Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract or agreement or other arrangement is terminated altered or modified under sub-section (1), or who ceases to exercise any powers or hold any office by reason of any provision contained in sub-section (1) of Section 4, shall be entitled to claim any compensation for the premature termination of the contract or agreement or other arrangement or for any alteration or modification therein or for the loss of his powers or office.

13. Exclusion of period of operation of Act. - In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by the Society in respect of any matter arising out of any transaction relating to institute, the time during which this Act is in force shall be excluded.

14. Protection of action taken in good faith. - (1) No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or other employee of the Government or the Administrator or any person authorised under sub-section (2) of Section 5 by the Administrator for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the State Government or any officer or other employee of that Government or the Administrator or any person authorised under sub-section (2) of Section 5 by the Administrator for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

15. Penalties. - Any person who,-

- (a) having in his possession or custody or control any asset or property forming part of or relating to Institute wrongfully withholds such property from the Administrator or any person authorised under this Act, or
- (b) wrongfully obtains possession of any such asset or property forming part of, or relating to Institute, or
- (c) wilfully retains any asset or property forming part of, or relating to Institute or removes or destroys it, or
- (d) wilfully withholds or fails to deliver any books, papers or other documents relating to Institute which may be in his possession or custody or under his control to the Administrator or any person authorised under this Act, or fails to account therefor, or
- (e) fails, without any reasonable cause, to furnish any information or particulars or to furnish any inventory of properties and assets as provided in sub-section (3) of Section 7,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

16. Offence by companies. - (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, 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 such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purposes of this Section,-

(a) "*company*" means any body corporate and includes a firm or other association of individuals; and

(b) "*director*" in relation to a firm, means a partner in the firm.

17. Power to make rules. - The State Government may, by notification make rules to carry out the provisions 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 additional matters which the Advisory Council shall secure under clause (c) of sub-section (3) of Section 6;

(b) the term of office of, the method of filling casual vacancies among and the allowances and other remuneration, if any, payable to the members of the Advisory Council under sub-section (6) of Section 6;

(c) the additional matters in respect of which the Tribunal shall have the powers of a Civil Court under clause (f) of sub-section (2) of Section 9; and

(d) any other matter which is required to be, or may be, prescribed or in respect of which rules may be made, under this Act.

(3) Every rule made under this Act shall be laid on the table of the Legislative Assembly.

18. Repeal. - Samrat Ashok Technological Institute (Degree) Vidisha (Prabandh Grahan) Adhiniyam, 1981 (No. 11 of 1982) is hereby repealed.

19. Validation. - The continuance of vesting of the management of the Institute in the State Government under the Act repealed by this Act after the expiry of the period of 3 years from the appointed day shall be and shall always be deemed to have remained validly effective and operative after the expiry of the said period as if the provisions of sub-section (1) of Section 3 were in force at all material time and accordingly all things done, proceedings and actions taken or order passed or purported to have been done or taken or passed during the intervening period by the Administrator after the expiry of said period, since the same was not extended under the proviso to sub-section (1) of Section 3 of the repealed Act, shall be and shall always be deemed for all purposes to have been validly done, taken, made or passed or started in accordance with the provisions of this Act and the validity of such things done, proceedings or actions taken or orders passed shall not be called in question in any Court of law or before any authority what so ever merely on the ground that the things done, actions or decisions taken or purported to be done or taken or any orders passed were without the authority of law.