

পঞ্জীভুক্ত নম্বৰ ক - ১২ Registered No A-12



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The Assam Gazette

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

নং 233 দিশপুৰ, সোমবাৰ, 30 অক্টোবৰ, 1995, 8 কাতি, 1917 (শক)
No. 233 Dispur, Monday, 30th October, 1995, 8th Kartika,
1917 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

**LEGISLATIVE DEPARTMENT: LEGISLATIVE
BRANCH**

NOTIFICATION

The 30th October 1995

No. LGL. 139/95/62.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXVII OF 1995

(Received the assent of the Governor on 27th October, 1995)

THE ASSAM MADRASSA EDUCATION
(PROVINCIALISATION) ACT, 1995

AN
ACT

to provide for provincialisation of Madrassas in the State of Assam.

Preamble. Whereas it is expedient to provide for provincialisation of Madrassa Education covered by the deficit scheme of grants-in-aid of the Government of Assam for its improvement and for better management and control of such Education in the State of Assam.

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows:--

Short title
extent and
commence-
ment.

1. (1) This Act may be called the Assam Madrassa Education (Provincialisation) Act, 1995.

(2) It extends to the whole of Assam.

(3) It shall be deemed to have come into force on the Fifteenth day of August, 1994.

2. In this Act, unless the context otherwise require—

Definitions.

(a) 'appointed day' in relation to the provisions of section 3 means the Fifteenth day of August, 1994 and in relation to section 7, the date from which the services of the employees of an eligible institution are provincialised under the provisions of this Act.

(b) 'Arabic college' means an institution imparting Madrassa Education upto Mumtajul Muhaddisin (M.M.) level;

(c) 'deficit Madrassa' means a Madrassa receiving grants from the Government under the deficit scheme of grants-in-aid;

(d) 'Deputy Director of Madrassa Education' means in relation to any Madrassa institution like Senior Madrassa, Title Madrassa and Arabic College, the Deputy Director of Madrassa Education under the Government of Assam, under whose jurisdiction the Madrassa is situated;

(e) 'Employee' means a person in the teaching or non-teaching employment of a Madrassa working against a regularly sanctioned post as per standard staffing pattern and whose appointment has been approved by the Deputy Director of Madrassa Education, Assam ;

(f) 'existing employee' means an employee who is on the appointed day in the regular pay roll, employed against regular sanction as per standard staffing pattern and whose appointment has been approved by the Deputy Director of Madrassa Education, Assam ;

(g) 'Governing Body' in relation to any Title Madrassa or Arabic College means the Governing Body as constituted by the Government for the Title Madrassa, or Arabic College, as the case may be ;

(h) 'Government' means the Government of Assam ;

(i) 'Madrassa' means a Senior Madrassa or a Title Madrassa or an Arabic College ;

(j) 'Madrassa Authority' means the Assam State Madrassa Education Board ;

(k) 'madrassa education' means a system of education in which instruction is imparted in Arabic, Persian, Urdu, Quran, Tafsir, Hadith, Figh, Usul, Aquid, Montique, Hikmat, Balaghat, Islamic History along with general subjects like Mathematics, Science, Indian Language, English, Hindi Social Studies etc. at Secondary School level, the syllabi, curriculum and examination for which are

regulated by the Assam State Madrassa Education Board upto the level of Fajil-E-Marif (F.M.) and Mumtazul Muhaddisin (M.M.);

(l) 'Managing Committee' in relation to any Senior Madrassa means the Managing Committee as constituted by the Government ;

(m) 'Official Gazette' means the Official Gazette of the Government of Assam, namely the Assam Gazette ;

(n) 'prescribed' means prescribed by rules made under this Act ;

(o) 'provincialisation' means taking over the liabilities for payment of salaries including dearness allowances, medical relief and such other allowances as admissible to the Government servants of similler category and gratuity, pension, leave encashment etc. as admissible, under the existing rules, to the Government servants serving under the Government of Assam;

(p) 'Senior Madrassa' means an institution imparting Madrassa Education from Pre-senior Class I to Fazil-E-Marif (F.M.) final class stage (Graduate level) ; and

(q) 'Title Madrassa' means an institution imparting Madrassa Education at Mumtazul Muhaddisin (M.M.) level (post Graduate level).

Employees
to be Go-
vernment
servant.

3. Subject to the provisions of Article 309 of the Constitution of India, all employees of Madrassa, now covered by deficit scheme of grants-in-aid under the Government of Assam shall be deemed to have become the employees of the Government on and from the appointed day on the following terms and conditions, namely :—

(a) all rules including service rules and rules of conduct and dicipline, which are applicable

to the Government servants of corresponding grade, similarly placed shall be applicable to all employees of the Madrassa ;

- (b) all employees shall be entitled to such emoluments as salary and allowances etc. as admissible to them :

Provided that no employee shall get as emoluments any amount which is less than the amount he was getting immediately before the appointed day,

- (c) Services of all employees shall be encadred in appropriate cadres in accordance with the rules as may be prescribed by the Government for this purpose ;

- (d) the inter-se-seniority of the employees of a cadre or class shall be determined on the basis of the rules as may be prescribed by the Government.

Superannuation and pension etc.

4. (1) Notwithstanding anything contained in the preceding section, all employees other than Grade IV employees of a Madrassa, coming within the purview of this Act shall, on attaining the age of 58 years, go on superannuation, and the Grade IV employees shall go on superannuation on attaining the age of 60 years.

(2) All employees going on superannuation under sub-section (1) shall be eligible to pension or gratuity or both in accordance with the pension rules, applicable to the Government servants of equivalent rank subject, however, to the condition that for the pensionary benefits of the employees whose services are provincialised under the provisions of this Act, the services of any such employees shall be counted.

- (a) in case such employee has joined the Madrassa subsequent to the date of this Madrassa receiving the grant under ad-hoc system of grants-in-aid, from the

date of his joining the service on regular appointment in the Madrassa receiving grant under ad-hoc system of grant-in-aid; or

(b) in case such employee had joined the Madrassa on regular appointment prior to the Madrassa receiving grant under the ad-hoc system of grants-in-aid, from the date of this Madrassa receiving grant under ad-hoc system of grants-in-aid.

(3) Any existing employee other than the Grade IV employee, who does not intend to go on superannuation on attaining the age of 58 years shall have the option to continue upto the completion of the age of 60 years under the same terms and conditions, which were applicable to him immediately before the date of provincialisation, in which case he shall not be entitled to any pension or gratuity or leave encashment.

Such existing employee other than a Grade IV employee, who does not intend to go on superannuation on attaining the age of 58 years but wants to continue till the completion of 60 years shall intimate the same in writing to the Deputy Director of Madrassa Education, Assam within a period—

(a) which shall be 3 months from the date of publication of this Act in the Official Gazette in case of any institution whose employee's services are provincialised with effect from the Fifteenth day of August, 1994 as per the provision of Section 3 ;

(b) which shall be 3 months from the date of provincialisation in case of any institution, whose employee's services are provincialised under the provision of Section 7 :

Provided that in the absence of any such intimation in writing, every existing employee, other than

the Grade IV employee shall be deemed to have opted for going on superannuation on attaining the age of 58 years.

Government
to take over
Madrassa
and employ-
ees thereof.

5. (1) With effect from the appointed day the administration, management and control of all employees of all Madrassa the services of whose employees are provincialised under the provisions of Section 3 or Section 7, as the case may be, shall vest in the Government and the Managing Committee or the Governing Body, as the case may be, of such Madrassa shall exercise such functions as may be specified by the Government or under the rules made under this Act, until such Managing Committee or the Governing Body, as the case may be, is either reconstituted or replaced under the rules prescribed.

(2) The selection for recruitment to any post, teaching or non-teaching, in a Madrassa except the post of Superintendent of a Senior Madrassa and Principal of a Title Madrassa or an Arabic College shall be made by a Selection Board, which shall be constituted by the President of the Managing Committee or the Governing Body, as the case may be, of the Madrassa for each such Madrassa, as stated below :—

(i) President of the Managing Committee of Chair-
the Senior Madrassa or the President of the man,
Governing Body of the Title Madrassa or
the Arabic College, as the case may
be—

(ii) Superintendent of the Senior Madrassa Member-
or the Principal of the Title Madrassa or Secre-
the Arabic College, as the case may be— tary,

(iii) Two academicians to be selected by the Member.
Managing Committee of the Senior
Madrassa from outside the Managing
Committee or Governing Body of the
Title Madrassa or the Arabic College
from outside the Governing Body, as the
case may be—

(iv) Two members selected by the Managing Committee of the Senior Madrassa from the Managing Committee or selected by the Governing Body, of the Title Members. Madrassas the Arabic College from the Governing Body, as the case may be—

(v) One representative to be nominated by the Deputy Director of Madrassa Member. Education, Assam —

(3) The selection for appointment to the post of Superintendent of a Senior Madrassa or Principal of a Title Madrassa or Principal of an Arabic College shall be made by a State Selection Board which shall be constituted by the Government as stated below :—

(i) Chairman, State Madrassa Education Chairman. Board, Assam,—

(ii) Deputy Director of Madrassa Member-I Education, Assam,— Secretary.

(iii) One expert from the theological subject, to be nominated by the Member. Deputy Director of Madrassa Education, Assam,—

(iv) One expert from secular subject, to be nominated by the Deputy Member. Director of Madrassa Education, Assam,—

(v) Senior-most Superintendent amongst the Superintendents of Senior Madrassas in the State/Senior-most Principal amongst the Principals of Title Madrassas in the State

Senior most Principal amongst the Principals of Arabic Colleges in the State, as the case may be, to be Member. nominated by the Deputy Director of Madrassa Education, Assam,—

(vi) Two Members from the State Madrassa Education Board, Assam Members. to be selected by it.

Suit and Proceedings.

6. No suit, prosecution or other legal proceeding shall lie for anything done in good faith under this Act, except with the previous sanction of the Government.

Provincialisation of new Madrassa.

7. The Government may, by notification published in the Official Gazette, provincialise on the same terms and conditions as provided in clauses (a) to (d) of sub-section (1) of section 3 and section 4, the services of the employees of the Madrassa institutions which may be recognised after this Act, has come in to force.

Power to make rules.

8.(1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this section shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly, while it is session, for a total period of not less than fourteen days which may be comprised in one session or two or more 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 rules 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 under that rule.

Power of interpretation and removal of difficulties. 9. (1) If any difficulty arises in interpretation of any provisions of this Act the interpretation of the Government shall be final.

(2) If any difficulty arises in giving effect to the provisions of this Act, the Governor may, by order do anything not inconsistent with the provisions of this Act, which appear to him to be necessary or expedient for the purpose of removing the difficulty.

(3) Every order made under sub-section (2) shall be laid before the Assam Legislative Assembly in the manner laid down in sub-section (2) of section-8.

Vesting of land, buildings other properties. (10) The land, buildings or any other property owned by any Senior Madrassa, Title Madrassa or Arabic College, whose employees' Services are provincialised as per the provisions of this Act shall continue to be owned by the respective senior Madrassa, Title Madrassa or Arabic College after such provincialisation.

M. K. DEKA,
Joint Secy. and i/c Secy. to the Govt. of Assam,
Legislative Department.

Guwahati:—Printed and published by the Dy. Director (P.&S.), Directorate of Ptg. and Sty., Assam, Guwahati-21 (Ex. Gazette) No. 465—740—600—30-10-1995.