



The Orissa Education Act, 1969

Act 15 of 1969

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Aided Educational Institution, Educational Institution, Existing Educational Institution, Private Educational Institution, Recognized Educational Institution

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ORISSA ACT 15 OF 1969
THE ORISSA EDUCATION ACT, 1969

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[THE ORISSA EDUCATION ACT, 1969]

[Received the assent of the Vice-President acting as President on the 28th May 1969, first published in an extraordinary issue of the Orissa Gazette dated the 21st June 1969]

AN ACT TO PROVIDE FOR THE BETTER ORGANISATION AND DEVELOPMENT OF EDUCATIONAL INSTITUTIONS IN THE STATE

BE it enacted by the Legislature of the State of Orissa in the Twentieth Year of the Republic of India, as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Orissa Education Act, 1969. Short title, extent and commencement.
 - (2) It extends to the whole of the State of Orissa.
 - (3) It shall come into force on such date as the State Government may, by notification, appoint in that behalf.
2. Nothing contained in this Act shall apply to educational institutions of their choice established and administered by minorities having the right under clause (1) of Article 30 of the Constitution. Act not to apply to certain institutions.
3. In this Act unless the context otherwise requires— Definitions.
- (a) “Advisory Council” means the State Advisory Council of Education established under section 15 ;

1. For Statement of Objects and Reasons, see *Orissa Gazette*, extraordinary, dated the 1st July 1968 (No. 722) and for Report of the Select Committee, see *ibid.* dated the 26th February 1969 (No. 550).

2. Came into force w. e. f. 15th October 1969—vide Education Department Notification No. VEMG-205/68-24757, dated the 15th October 1969, published in the *Orissa Gazette*, dated the 31st October 1969, Pt. III, p. 981. (57-73(a) Law)

(Sec. 3—contd.)

- (b) "aided educational institution" means a private educational institution which is recognised by and is receiving aid from the State Government;
- (c) "Board" means the District School Board established under section 16 ;
- [(c-1) "Director" means the Director of Public Instruction, Orissa and includes any other officer not below the rank of a Deputy Director of Public Instruction who may be authorised by the State Government, from time to time, by general or special order to perform all or any of the functions and exercise all or any of the powers of the Director under this Act and as the State Government may by notification specify in that behalf ;]
- (d) "educational agency" means any person or body of persons permitted to establish and maintain any private educational institution ;
- (e) "educational institution" means any college or School, other than an institution for technical education not under the control of the Education Department of the State Government, and includes the lands, buildings, playgrounds and hostels of the college or school and the movable properties, maps and equipments pertaining thereto ;
- (f) "existing educational institution" means any aided, recognised or Government educational institution established before the commencement of this Act and continuing as such at such commencement ;
- (g) "governing body" means any body of individuals, by whatever name designated, in which the management of a college vests ;
- (h) "managing committee" means any body of individuals, by whatever name designated, in which the management of a school vests ;
- (i) "prescribed" means prescribed by rules made under this Act ;

(Sec. 4.)

- (j) "private educational institution" means any educational institution which is not established and maintained by the Government of Orissa, the Union Government or the Government of any other State;
- (k) "recognised educational institution" means any private educational institution which is or has been recognised by the State Government ; and
- (l) "Rules" means rules made under this Act ;
- ¹ [(m) "Tribunal" means the Tribunal constituted under Section 24-A.]

CHAPTER II

ESTABLISHMENT, MANAGEMENT AND CONTROL OF EDUCATIONAL INSTITUTIONS

4. (1) The State Government may regulate the primary and other stages of education in Government and private educational institutions.

Establishment and recognition of educational institution.

(2) The State Government shall take, from time to time, such steps as they may consider necessary or expedient, for the purpose of providing facilities for general education, special education and for the training of teachers.

(3) The State Government may, for the purpose of providing such facilities—

- (a) establish and maintain educational institution ; or
- (b) permit any person or body of persons to establish and maintain aided educational institution ; or
- (c) recognise any educational institution established and maintained by any person or body of persons.

(4) All existing educational institutions shall be deemed to have been established in accordance with this Act.

(5) After the commencement of this Act, the establishment of any private educational institution shall be subject to the provisions of this Act and the Rules made thereunder and any such educational institution established otherwise than in accordance with such provisions shall not be entitled to be recognised by the State Government.

¹ Added by the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974). s. 2.

(Secs. 5—7)

(6) The recognition shall be accorded by the prescribed authority on behalf of the State Government.

Application
for recogni-
tion.

5. (1) Any person or body of persons desirous of establishing any private educational institution may, within the prescribed period and in the manner prescribed, make an application to the prescribed authority for according recognition thereto.

(2) While according recognition under subsection (1) to the establishment of a private educational institution the prescribed authority shall have regard to the following matter, namely :—

- (a) that there is adequate financial provision as may be prescribed for its continued and efficient maintenance;
- (b) that provision for suitable and adequate accommodation-staff and equipment has been made;
- (c) that the institution is proposed to be located in sanitary and healthy surroundings ; and
- (d) such other matters as may be prescribed.

(3) Any applicant aggrieved by an order of the prescribed authority refusing to accord recognition may, in such manner and within such time as may be prescribed, refer the matter to the State Government whose decision thereon shall be final.

Effect of
non-recog-
nition.

6. Notwithstanding anything to the contrary contained in any other law for the time being in force no private educational institution which has not been recognised by the State Government under this Act shall be entitled—

- (a) to be recognised by the Board of Secondary Education constituted under the Orissa Secondary Education Act, 1952, or, as the case may be, to be affiliated to any University established under any law; or
- (b) to receive any aid from the State Government.

Orissa Act
10 of 1953.

Institutions
to have
managing
committee
or governing
body.

7. (1) Every private educational institution shall have a managing committee or governing body, as the case may be, constituted in accordance with the rules made in that behalf, failing which the recognition granted to the institution may be withdrawn by the State Government.

(Secs. 8-9)

(2) A managing committee or governing body constituted after the commencement of this Act in respect of any aided educational institution shall, before it starts functioning as such, obtain the approval of the prescribed authority in the prescribed manner:

Provided that where the prescribed authority refuses to accord the approval as aforesaid he shall record the reasons for doing so and any person aggrieved by an order refusing to accord approval may, within one month from the date of the order prefer an appeal before the State Government.

(3) The managing committee or governing body shall be responsible for the proper management of the institution and shall exercise such powers and perform such functions as may be prescribed.

8. (1) Within the first week of June every year the managing committee or as the case may be, the governing body of every aided educational institution shall furnish to such officer as may be authorised by the State Government in that behalf a statement containing a list of all movable and immovable properties of the institution with such particulars as may be prescribed.

Management to send list of properties

(2) If the managing committee or governing body commits default in furnishing the statement under sub-section (1) or furnishes a statement which is false or incorrect in any material particular the State Government may withhold the grant of aid for such period not exceeding three months, as they deem fit.

(3) The Secretary of an aided educational institution shall perform such functions as may be prescribed.

9. (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no sale, mortgage, lease, pledge, charge or transfer of possession in respect of any property of an aided educational institution shall be created or made except with the previous permission in writing of such officer as may be authorised by the State Government in this behalf. The officer shall grant such permission applied for unless the grant of such permission will, in his opinion, adversely affect the working of the institution.

Restriction on alienation of property of aided institutions.

(Secs. 10—10-A)

(2) Any person aggrieved by an order of the officer refusing or granting permission under sub-section (1) may, in such manner and within such time as may be prescribed, appeal to the State Government.

(3) Any transaction made in contravention of sub-section (1) shall be null and void.

(4) If any educational agency or the managing committee or the governing body or the Secretary of an aided educational institution acts in contravention of sub-section (1) or of an order passed under sub-section (2), the State Government may withhold the grant of aid.

Conditions
of service of
the staff of
aided insti-
tutions.

10. (1) The qualifications required for appointment as teachers and other members of the staff of aided educational institutions and their conditions of service relating to salary, leave, pension, provident fund, age of retirement, disciplinary action and other matters shall be as may be prescribed:

¹[Provided that the terms and conditions of service prescribed in respect of teachers and other members of the staff who, on the constitution of a common cadre, have been absorbed in such cadre, shall not in any way be less favourable than the terms and conditions which were applicable to them immediately prior to such constitution.]

(2) The State Government may constitute a Selection Board consisting of such members as may be prescribed.

(3) The Selection Board shall prepare in the prescribed manner a list of candidates for appointment as teachers in aided educational institutions and all such appointments shall be made in accordance with the rules made in that behalf from out of the candidates included in the list so prepared.

Services of
teachers of
aided insti-
tutions not
to be termi-
nated with-
out appro-
val.

²[10-A.(1) The services of a teacher of an aided educational institution shall not be terminated without obtaining the prior approval in writing of the—

(a) ³[Director], in the case of a teacher of a college; and

1. Added by the Orissa Education (Amendment) Act, 1978 (Or. Act 13 of 1978), s. 2.

2. Inserted by the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974), s. 3.

3. Substituted by the Orissa Education (second Amendment) Act, 197 (Or. Act 31 of 1978), s. 3.

(b) Circle Inspector of Schools having jurisdiction, in the case of teacher of a School.

(2) Every order passed by the Director or Circle Inspector, as the case may be, either according approval or refusing to accord approval under sub-section (1) shall be communicated to the parties concerned within three months of the reference.

(3) Any person aggrieved by an order passed under sub-section (1) may prefer an appeal to the Tribunal within one month from the date of receipt of the order.]

¹[10-B. Without prejudice to any other provision of this Act, no educational institution shall be entitled to receive any aid or grant from the State Government if its managing committee or Governing Body or Secretary acts in contravention of the provisions of sections 10-C and 10-D or of any order issued thereunder and the recognition granted to the educational institution may, on such contravention, be withdrawn by the State Government. Certain institutions not entitled to aid.

10-C. (1) The State Government may, by order, constitute a common cadre in relation to all or any class of employees of all or any category of aided educational institutions, as may be specified in the order. Constitution of common cadre and its consequences.

(2) Before constitution of a common cadre under sub-section (1), the Director in cases of Colleges, and the Inspector of Schools having jurisdiction, in cases of schools, shall furnish detailed information relating to the terms and conditions of service prescribed for such cadre to every employee belonging to that cadre with a notice requiring him to exercise his option within such period, not being less than thirty days and more than forty-five days, as may be specified therein, for absorption or otherwise in such cadre.

(3) The option shall be exercised in writing and shall be filed with the Director or the Inspector of Schools, as the case may be.

(4) Any employee who fails to exercise his option within the aforesaid period shall be deemed to have opted for being absorbed in the common cadre.

1. Inserted by the Orissa Education (Amendment) Act, 1978 (Or. Act 13 of 1978), s. 3.

(Sec. 10-C--Contd.)

(5) Where an employee of an educational institution exercises his option for not being absorbed in the common cadre, the managing committee or, as the case may be, the governing body of the institution shall terminate the services of such employee within fifteen days from the date of receipt of an intimation to that effect from the Director or, as the case may be, the Inspector of Schools; and the provisions of section 10-A shall not apply to any such termination.

(6) An employee belonging to a common cadre may be transferred from one institution to another by the prescribed authority and in the prescribed manner.

(7) Whenever an employee belonging to a common cadre is posted or transferred to an institution, the managing committee or, as the case may be, the governing body of that institution shall be bound to employ him in the service of the institution and to pay all amounts due to such employee on account of his pay, allowances and other dues from out of its fund or from the aid received, directly or otherwise, from the State Government, and he shall be deemed to be an employee of such institution for all purposes.

(8) Where the services of any person have been terminated under sub-section (5), he shall, without prejudice to his claims to any leave, provident fund, gratuity or other benefits, if any, as an employee of an aided educational institution to which he may be entitled on his retirement or termination of service had he common cadre not been constituted, be paid by the managing committee, or as the case may be, the governing body of the aided educational institution in which he last served, an amount determined in the following manner :—

1. In case of a permanent employee—	Amount to be paid
(a) where the continuous service rendered by him by the date of termination exceeds ten years.	Pay for the remaining period of service or for six months, whichever is less ;

(Sec. 10-D)

- (b) where such service does not exceed ten years. Pay for the remaining period of service or for three months, whichever is less ;

2. In the case of a temporary employee. Pay for one month.

Explanation:—For the purposes of this sub-section, "Pay" shall include dearness allowance and other *ad-hoc* additions to pay by way of interim relief that may be admissible.

(9) For the purposes of calculating gratuity, if any, payable to any permanent employee whose services have been terminated under sub-section (5), the period of qualifying service of such employee shall be increased by the period calculated on the basis provided hereunder :—

	Period to be added
(i) Where the period of actual qualifying service does not exceed five years.	One year
(ii) Where such period exceeds five years but does not exceed ten years.	Two years
(iii) Where such period exceeds ten years but does not exceed fifteen years.	Three years
(iv) Where such period exceeds fifteen years.	Four years

10-D. The State Government may, if satisfied that the expediency of the circumstances so requires, by general or special order, provide for any matter necessary, ancillary or incidental to the constitution and working of the common cadre for which this Act makes no provision or makes insufficient provision :

Government's power to issue orders during the period of transition.

Provided that no such order shall be issued after expiry of two years from the date of constitution of the said common cadre.]

(Sec. 11)

Supersession
and reconsti-
tution of
managing
committee or
governing
body.

11. (1) Without prejudice to the provisions contained in any other law for the time being in force, whenever it appears to the ¹[Director] that the managing committee or, as the case may be, the governing body of any educational institution has neglected or failed to perform any of the duties imposed by or under this Act or the rules made thereunder he may after giving the managing committee or governing body a reasonable opportunity for showing cause against the proposed action and after considering the cause if any, shown, supersede the managing committee or the governing body:

²[Provided that where the tenure of the managing committee or, as the case may be, the governing body of an aided educational institution has expired and the constitution of the succeeding managing committee or governing body has not been approved by the prescribed authority, the Director may re-constitute the Managing Committee or governing body after consultation with such persons or authorities as he may deem necessary; and the managing committee or governing body so reconstituted shall manage the institution till the date on which the constitution of the succeeding managing committee or governing body is duly approved by the prescribed authority.]

(2) Upon supersession of the managing committee or the governing body, as the case may be, the ³[Director] shall, as soon as possible thereafter, reconstitute the managing committee or governing body.

(3) The term of office of the managing committee or the governing body so reconstituted shall be three years.

(4) During the period intervening the supersession and reconstitution of the managing committee or the governing body, as the case may be, the powers and functions of the managing committee or the governing body shall be exercised by such person or persons as the ⁴[Director] may appoint in that behalf.

1. Substituted by the Orissa Education (Second Amendment) Act, 1978 (Or. Act 31 of 1978), s.4 (a) (i).

2. Added by *ibid.*, s.4 (a) (ii), with effect from the 11th November, 1974

3. Substituted by *ibid.*, s.4 (b)

4. Substituted by *ibid.*, s.4 (c)

(Secs. 12—14)

(5) The managing committee or the governing body may, if it is aggrieved by the order of suppression made under this section, prefer an appeal to the State Government within thirty days from the date of the order.

[* * * *]

²[(6) The State Government may, on application from any person aggrieved or affected or likely to be aggrieved or affected or on their own motion within ninety days from the date of any order passed under sub-section (5) review the said order if it was passed under any mistake, whether of fact or of law or ignorance of any fact or suppression of any material evidence, and may pass such order as they deem fit:

Provided that no such order shall be made under this sub-section unless notice has been given to all interested parties and they have been given a reasonable opportunity of being heard.]

12. (1) The accounts of aided educational institutions shall be maintained in the prescribed manner and shall be subject to yearly audit. Accounts and audits

Orissa Act
5 of 1948.

(2) The provisions contained in the Orissa Local Fund Audit Act, 1948 shall, *mutatis mutandis*, apply for the purposes of audit of the accounts of aided educational institutions.

(3) For the purposes of the said Act, the State Government may appoint any officer to be the Examiner of Local Accounts.

13. No educational agency or managing committee or, as the case may be, governing body of any recognised educational institution shall close down the institution at any time within an academic session and without giving notice in writing of its intention so to do to the State Government at least twelve months before the date, with effect from which the institution is proposed to be closed down. Management not to discontinue institution.

14. (1) The State Government may authorise any officer or officers to inspect educational institutions in the State. Inspection of institutions.

(2) The officer authorised under sub-section (1) shall exercise general powers of inspection and supervision over the working of the institution and

1. Deleted by the Orissa Education (Second Amendment) Act, 1978 (Or. Act 31 of 1978), s. 4 (d).

7. Added by *ibid.*, s.4 (e).

(Sec. 15)

the discharge of duties and performance of functions by the managing committee or, as the case may be, the governing body of the institution.

(3) The managing committee or, as the case may be, the governing body and the employees of a recognised educational institution shall, at all reasonable times, be bound to afford to the aforesaid officer all assistance and facilities as may be necessary and reasonably required for the purposes of such inspection and supervision.

(4) The managing committee or, as the case may be, the governing body of a recognised educational institution shall make every effort for the improvement or removal of deficiencies in the management of the institution in accordance with the directions or suggestions given by the said officer.

CHAPTER III

ADVISORY COUNCIL AND DISTRICT SCHOOL BOARD

State
Advisory
Council of
Education.

15. (1) The State Government may, by notification, establish a State Advisory Council of Education to advise the State Government on matters pertaining to educational policy and administration.

(2) The Advisory Council shall consist of the following members, namely :—

(a) the Chairman to be nominated by the State Government;

(b) the Vice-Chancellors *Ex officio* Member of all the Universities established under any law in the State;

¹[(bb) the Secretary to *Ex officio* Member the Government in the Education Department;

(c) The ²[Director] *Ex officio* Member

(d) the Vice-President *Ex officio* Member of the Board of Secondary Education;

1. Inserted by the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974), s.4.

2. Substituted by the Orissa Education (Second Amendment) Act, 1978 (Or. Act 31 of 1978), s. 5(a).

(Sec. 16)

- (e) six non-official Members members to be nominated by the State Government from among persons who are distinguished educationists or who have experience in the administration of education ;
- (f) one non-official Member member to be nominated from among Sanskrit scholars ;
- (g) two representatives Members each of the Primary School Teachers' Association, Secondary School Teachers' Association and the College Teachers' Association to be elected in the prescribed manner ;

(3) The term of office of the members specified in clauses (a), (e), (f) and (g) of sub-section (2) shall be three years.

(4) The business of the Advisory Council shall be conducted in such manner as may be prescribed.

(5) The [Director] shall be the Secretary to the Advisory Council.

16. (1) For every district there shall be a District School Board established by the State Government which shall consist of the following members namely:—

District
School
Board.

- (a) The Chairman to be nominated by the State Government;
- (b) Inspector or Inspectors of Member Schools having jurisdiction over the district;
- (c) District Inspectors of Schools Members having jurisdiction in the district;
- (d) two representatives of the Members Primary School Teachers' Association elected in the prescribed manner;

1. Substituted by the Orissa Education (Second Amendment) Act, 1978 (Or. Act 31 of 1978), s. 5(b).

(Secs. 17—20)

- (e) five non-official members to be Members nominated by the State Government from among persons who are distinguished educationists.

(2) The Secretary to the Board shall be nominated by the State Government.

(3) The term of office of the members specified in clauses (a), (d) and (e) of sub-section (1) shall be three years.

(4) No person shall be eligible for nomination as a non-official member of the Board, if he has directly or indirectly by himself or by his partner any share or interest in—

- (a) any book intended to be prescribed or recommended as a text-book for the primary school course;
- (b) the business of the publisher of any such book ; or
- (c) any work done by order of the Board or in any contract entered into on behalf of the Board.

(5) The business of the Board shall be conducted in such manner as may be prescribed.

Incorporation.

17. The Board shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Act and the Rules made thereunder, to acquire, hold and dispose of property and to contract and do all other things necessary for the purposes of this Act and may by its corporate name sue and be sued.

Resignation of Membership.

18. Any non-official member of the Advisory Council or of the Board may resign his office as such member by writing under his hand addressed to the Chairman.

Filling up casual vacancy.

19. In the case of a casual vacancy in the office of any non-official member of the advisory Council or of the Board occurring otherwise than by efflux of time the vacancy shall be filled up by nomination and the person so nominated shall hold office for the residue of the term of office of the member in whose place he is nominated.

Executive Officer of the Board.

20. The Secretary of the Board shall be its Executive Officer and shall give effect to the decisions of the Board.

(Secs. 21—23)

21. Subject to the provisions of this act and the Rules made thereunder, the Board shall have the following powers and functions in respect of primary schools within the district, namely:—

Functions of
the Board.

- (a) administration, control and management of all primary schools transferred to it for the said purposes by the State Government or by any local authority and of the schools established by it;
- (b) preparation of plans for the development of education in primary schools;
- (c) implementation of such of the aforesaid plans as are approved by the State Government;
- (d) allocation of Government grant-in-aid among the primary schools; and
- (e) such other functions as may be prescribed.

22. (1) The Board shall have a fund called the District School Board Fund to which shall be credited—

Boards fund

- (a) all contributions received by the Board from the State Government and donations and grants received from other sources; and
- (b) all sums received by the Board on any other account whatsoever.

(2) The fund shall be expended for the purposes of carrying on the functions of the Board in accordance with the rules made in that behalf.

CHAPTER IV

MISCELLANEOUS

23. (1) There shall be established a Fund called the "Orissa Education Development Fund" which shall vest in and shall be administered by a Committee to be constituted by the State Government in the prescribed manner.

Orissa
Education
Development
Fund.

(2) All sums received by the Committee as contributions from the State Government or as donations from other sources shall be credited to the Fund.

(Secs. 24—24-A)

(3) Subject to the rules made in that behalf, the Fund shall be utilised for the following purposes, namely:—

- (a) grants in favour of educational institutions for implementation of improvement schemes;
- (b) grant of interest free loans to educational institutions; and
- (c) such other purposes as may be prescribed.

Formation of
Co-ordina-
tion
Committee.

24. (1) The State Government may constitute a Co-ordination Committee consisting of the following members, namely:—

- (a) the Chairman to be nominated by the State Government;
- (b) the Vice-Chancellors of all the Members Universities established under any law in the State;
- (c) four non-official members nominated by the State Government from among persons who are distinguished educationists; Members
- ¹[(d) the Secretary to Government in Member the Education Department;
- ²[(e) the Director Member]

(2) It shall be the duty of the Co-ordination Committee to recommend methods for maintaining a uniform standard of instruction given and examinations held by the different Universities established under law in the State and also in regard to matters of common interest to such Universities and send its recommendations to the Universities concerned.

(3) The procedure for the conduct of business of the Co-ordination Committee and the term of office of the members specified in clauses (a) and (c) shall be such as may be prescribed.

Constitution
of Tribunal.

³[24-A. (1) The State Government may, by notification, constitute one or more Tribunals having such local jurisdiction as may be specified in the notification.

1. Inserted by the Orissa Education (Amendment) Act, 1974 (O Act 17 of 1974), s. 5.

2. Substituted by the Orissa Education (Second Amendment) Act, 1978 (Or. Act 31 of 1978), s. 6.

3. Inserted by the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974), s. 6.

(2) The Tribunal shall consist of one person only to be appointed by the State Government from among the officers of the Orissa Superior Judicial Service (Senior Branch).

(3) The Tribunal shall have the power to call for the records of all proceedings relating to the dispute and shall, after giving the parties concerned a reasonable opportunity of being heard, dispose of the appeals preferred to it.

(4) In disposing of an appeal the Tribunal may make such consequential orders and issue such directions as it may deem necessary for giving effect to its decision.

(5) The decisions of the Tribunal shall be final and binding on all parties and shall not be called in question in any Court of Law.]

25. No act or proceedings of the Board shall be deemed to be invalid by reason merely of the existence of any vacancy in or defect in the constitution of the Board. Vacancy not to invalidate proceedings of the Board.

26. No suit, prosecution or other legal proceedings shall lie against the State Government or any authority or Officer for anything done under this Act in good faith or for any damage caused by any action taken in good faith in carrying out the provisions of this Act or the Rules made thereunder. Indemnity

27. (1) The State Government may, after previous publication, make rules for carrying out all or any of the purposes of this Act. Power to make rules

(2) In particular and without prejudice to the generality of the foregoing powers they may make rules in respect of all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under this section shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one session or in two or more successive sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form ; so however that such modifications shall be without prejudice to the validity of anything previously done under the rules.

(Sec. 28)

(4) Until rules are made under this section, the rules contained in the Orissa Education Code which were in force immediately prior to the coming into force of this Act shall, in so far as they are not inconsistent with the provisions of this Act or of the Constitution, be deemed to be rules made under this Act.

Savings

28. The provisions contained in this Act shall be in addition to and not in derogation of the provisions contained in the Orissa Secondary Education Act, 1952 or in any law regarding University education for the time being in force and in the case of any inconsistency or repugnancy the provisions of this Act shall prevail.

Orissa Act
10 of 1953.

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101
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ANNEXURE I

[Provisions of the Orissa Education (Amendment) Act, 1974 (Or. Act 17 of 1974), not incorporated in the Original Act.]

* * *

7. (1) Notwithstanding anything in any judgment, decree or order of any Court, but subject to the provisions hereinafter contained, the termination of the services of any teacher of an aided educational institution as defined in the principal Act, made after the 3rd May, 1972 and before the date of commencement of this Act shall, if made without the approval of the Director of Public Instruction (Higher Education) in the case of a college teacher and of the Director of Public Instruction (Schools) in the case of a school teacher, be inoperative. Savings in respect of part cases.

(2) The managing committee of the governing body of the concerned institution shall refer the case of the said teacher to the Director of Public Instruction (Higher Education) or the Director of Public Instruction (Schools), as the case may be, within one month from the date of commencement of this Act for obtaining his approval and thereupon the provisions of section 10-A of the principal Act as amended by this Act shall, *mutatis mutandis* apply:

Provided that where the managing committee or the governing body, as the case may be, fails to make a reference in accordance with this sub-section, the order of termination of the services of the teacher shall become void and the teacher shall be deemed to have been re-instated in service with effect from the day following the date of expiry of the aforesaid period of one month.

(3) Where any such termination as is referred to in sub-section (1) was made with the approval of the Director of Public Instruction (Higher Education) or the Director of Public Instruction (Schools), as the case may be, the concerned teacher may prefer an appeal to the Tribunal constituted under the principal Act as amended by this Act within one month from the date of constitution of the Tribunal.

(4) Where, on a reference made under sub-section (2) the Director refuses to accord approval and no appeal is preferred to the Tribunal against the

order of refusal, the concerned teacher shall be re-instated with effect from the date of such order.

(5) For removal of doubt it is hereby declared that on re-instatement, a teacher shall not be entitled to any emoluments for the period intervening between the date of termination of his service and the date on which he is re-instated but the said period shall be counted towards service.

ANNEXURE II

[Provisions of the Orissa Education (Amendment) Act, 1975 (Or. Act 53 of 1975), not incorporated in the Original Act.]

* * *

3. Notwithstanding anything contained in the principal Act or in any judgement, decree or order of any Court, no notice for showing cause issued under section 11 of the principal Act prior to the commencement of this Act by the Joint Director of Public Instruction (Schools) exercising or purporting to exercise the powers of the Director of Public Instruction (Schools) shall be questioned in any Court of law or shall otherwise be open to challenge merely on the ground that the Joint Director was not authorised to exercise the said powers and all such notices and actions, if any, taken in pursuance thereof shall be deemed to have been validly issued or taken under the principal Act.

* * *

ORISSA ACT 5 OF 1992

THE ORISSA EDUCATION (SECOND AMENDMENT) ACT, 1991

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FREEMBLE

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1. Short title
2. Amendment of section 5
3. Amendment of section 6

ORISSA ACT 5 OF 1992

***THE ORISSA EDUCATION (SECOND AMENDMENT) ACT, 1991**

[Received the assent of the Governor on the 21st January 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 27th January 1992]

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE it enacted by the Legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Orissa Education (Second Amendment) Act, 1991.

Amendment of section 5.

2. In the Orissa Education Act, 1969 (hereinafter referred to as the principal Act), in section 5,—

Orissa Act 15 of 1969.

(a) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2-a) A private educational institution, which is a High School, a Higher Secondary School or a College established prior to the commencement of the Orissa Education (Amendment) Act, 1989 but not recognised in view of the limitations provided in sub-sections (2) and (5), may make an application to the prescribed authority, for approval, within sixty days from the date of commencement of the Orissa Education (Second Amendment) Act, 1991.”;

Orissa Act 15 of 1989.

(b) in sub-section (3), for the word, brackets and figure “and (2)”, the comma, brackets, figures, word and letter, “(2) and (2-a)” shall be substituted; and

(c) after sub-section (5), the following sub-section shall be inserted, namely :—

“(5-a) Nothing contained in sub-section (5) shall debar the prescribed authority to make an order granting permission for, or approval, to the establishment of—

(i) a second High School in any area under a Grama Panchayat within which there is already a recognised High School ; or

(ii) a Third Higher Secondary School or a Second College in a Block in which there are already two recognised Higher Secondary Schools, or, as the case may be, there is already one recognised College;

where the Agency or the institution, as the case may be, undertakes, by recording in writing in the application made under sub-section (1) or, as the case may be, sub-section (2-a) that the institution desired to be established or already established, as the case may be, shall be managed and maintained solely at the cost to be met out of its own resources without any claim for grant-in-aid from the State Government :

Provided that no such undertaking shall be necessary for establishment of any High School in an educationally backward district.

Explanation—The expression "educationally backward district" shall, for the purposes of this sub-section, mean a district in which the percentage of literacy is less than forty percent of the total population of the district as per the latest census".

Amendment
of Section 6.

3. In the principal Act, in section 6, after sub-section (8), the following sub-section shall be inserted, namely:—

"(8-a) A private educational institution, the establishment of which has been permitted or approved by virtue of the provisions contained in sub-section (5-a) of section 5, shall be eligible for recognition if it fulfils the requirements provided by or under this Act but shall not be eligible for grant-in-aid from the State Government as admissible to aided educational institutions where such permission or approval, as the case may be, has been granted subject to the undertaking referred to in the said sub-section".

THE ORISSA EDUCATION (AMENDMENT) ACT, 1992

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1. Short title and Commencement
2. Amendment of section 7
3. Repeal and savings

ORISSA ACT 14 OF 1992

*THE ORISSA EDUCATION (AMENDMENT) ACT, 1992

[Received the assent of the Governor on the 21st March, 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 23rd March 1992]

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969

BE it enacted by the Legislature of the State of Orissa in the Forty-third Year of the Republic of India as follows :—

Short title
and commence-
ment.

1. (1) This Act may be called the Orissa Education (Amendment) Act, 1992

(2) It shall be deemed to have come into force on the 16th day of January, 1992

Amendment
of
section 7.

2. In the Orissa Education Act, 1969 (hereinafter referred to as the principal Act), in sub-section (5) of section 7, for the words "thirty days", the words "one year" shall be substituted.

Repeal and
savings.

3. (1) The Orissa Education (Amendment) Ordinance, 1992 is hereby repealed

Orissa Ordinance No. 1
of 1992.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

*For the Bill, see *Orissa Gazette*, Extraordinary, dated the 13th February 1992 (No. 147)

ORISSA ACT 14 OF 1993

THE ORISSA EDUCATION (AMENDMENT) ACT, 1993

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SECTIONS

1. Short title
2. Amendment of section 7
3. Amendment of section 7-A

ORISSA ACT 14 OF 1993

***THE ORISSA EDUCATION (AMENDMENT) ACT, 1993**

Received the assent of the Governor on the 7th August 1993, first Published in an extraordinary issue of the Orissa Gazette, dated the 16th August 1993.

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows:—

Short title,

1. This Act may be called the Orissa Education (Amendment) Act, 1993.

Amendment
of section 7.

2. In section 7 of the Orissa Education Act, 1969 (hereinafter referred to as Orissa Act the principal Act), in sub-section (5), for the words "one year", the words "two years" 15 of 1969. shall be substituted.

Amendment
of section
7-A.

3. In section 7-A of the principal Act, in sub-section (2), for the words "five years", the words "three years" shall be substituted.

*For the Bill see *Orissa Gazette*, Extraordinary, dated the 15th July 1993 (No. 934)

ORISSA ACT 2 OF 1994.

THE ORISSA EDUCATION (SECOND AMENDMENT) ACT, 1993

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2. Amendment of section 3.
3. Amendment of section 10.
4. Amendment of section 10-C.

ORISSA ACT 2 OF 1994

***THE ORISSA EDUCATION (SECOND AMENDMENT) ACT, 1993**

[Received the assent of the Governor on the 25th January 1994, first published in an extraordinary issue of the *Orissa Gazette*, dated the 27th January 1994]

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows:—

- Short title. 1. This Act may be called the Orissa Education (Second Amendment) Act, 1993.
- Amendment of section 3. 2. In the Orissa Education Act, 1969 (hereinafter referred to as the principal Orissa Act 1969), after clause (e) of section 3, the following clause shall be inserted, of 1969, namely:—
 '(e-1) "education circle" means an area as the State Government may, by notification, declare as such for the purposes of this Act'.
- Amendment of section 10. 3. In the principal Act, in sub-section (2) of section 10, for the word "district", the words "education circle" shall be substituted.
- Amendment of section 10-C. 4. In the principal Act, to sub-section (1) of section 10-C, the following proviso shall be added, namely:—
 "Provided that the State Government may constitute a common cadre in relation to all or any class of employees of all or any category of aided High Schools or Upper Primary Schools for the whole State or for any education circle as may be specified in the order."

*For the Bill see *Orissa Gazette* Extraordinary dated the 22nd December 1993 (No. 1659).

ORISSA ACT 13 OF 1994

THE ORISSA EDUCATION (AMENDMENT) ACT, 1994

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PREAMBLE

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1. Short title
2. Amendment of section 3
3. Amendment of section 4
4. Substitution of section 5
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6. Amendment of section 7
7. Amendment of section 7-B
8. Substitution of section 7-C and 7-D
9. Amendment of section 8
10. Amendment of section 9
11. Amendment of section 10
12. Deletion of section 11-A
13. Amendment of section 15
14. Amendment of section 21
15. Amendment of section 23
16. Amendment of section 24
17. Amendment of section 27

ORISSA ACT 13 OF 1994

*THE ORISSA EDUCATION (AMENDMENT) ACT, 1994

[Received the assent of the Governor on the 2nd July 1994, first published in an extraordinary issue of the *Orissa Gazette*, dated the 4th July 1994]

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows:—

Short title

1. This Act may be called the Orissa Education (Amendment) Act, 1994.

Amendment
of Section 3. in

2. In the Orissa Education Act, 1969 (hereinafter referred to as the principal Act) section 3,—

Orissa Act
15 of 1969.

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) “Aided educational institution” means private educational institution which is eligible to, and is receiving grant-in-aid from the State Government, and includes an educational institution which has been notified by the State Government to receive grant-in-aid;”

(ii) for clause (f), the following clause shall be substituted, namely:—

“(f) “Educational Institution” means any College or a Junior College or a Higher Secondary School or any other School defined in this Act or any institution imparting technical and professional education, special education and includes all movable and immovable properties of such School or College, as the case may be;”

(iii) in clause (h), after the word “College”, the words and letter “or a Junior College or a Higher Secondary School, as the case may be,” shall be inserted;

(iv) after clause (j), the following clause shall be inserted, namely:—

“(j-l) “Junior College” means an educational institution imparting instructions in Higher Secondary courses as defined in the Orissa Higher Secondary Act, 1982;”

(v) in clause (p), for the words “by the State Government”, the words “under this Act” shall be substituted; and

(vi) after clause (r), the following new clause and Explanation shall be added, namely:—

“(s) “Technical and professional education” means any courses of study in engineering, technology, architecture, mining, fine arts, law, management, library science, or any other subject which may be notified by the State Government in this behalf;

*Explanation:—*An Educational institution imparting Shastri, up-Shastri, Madhyama and Prathama courses of Shri Jagannath Sanskrit University shall be deemed to be a College, a Higher Secondary School/Junior College, a High School and an Upper Primary School respectively for the purposes of this Act.”

Amendment
of section 4

3. In the principal Act, in Section 4,—

(i) in sub-section (2), after the words “special education,” and before the words “and for training of teachers” the comma and words, “technical and professional education” shall be inserted;

*For the Bill see *Orissa Gazette*, Extraordinary, dated the 4th April 1994 (No. 392)

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The prescribed authority shall communicate the orders granting permission and recognition to the concerned person or body of persons.”.

Substitution of section 5. 4. In the principal Act, for Section 5 including the marginal heading, the following shall be substituted, namely:—

“Permission for establishment of educational institution. 5. (1) No private educational institution which requires recognition, shall be established except in accordance with the provisions of this Act or the rules made thereunder.

(2) Any person or body of persons intending to,—

- (a) establish a private educational institution; or
- (b) open higher classes, new streams, new optional subjects, additional sections or increase the number of students to be admitted or introduce Honours Courses in new subjects in a recognised private educational institution; or
- (c) upgrade any such institution,

may make an application to the prescribed authority within such period and in such manner as may be prescribed for grant of permission therefore:

Provided that in respect of applications which were pending on the date of commencement of the Orissa Education (Amendment) Act, 1994, the applicants shall be allowed a period of thirty days to submit revised applications in accordance with the provisions of this Act.

(3) The applicant along with the application for permission, shall furnish an undertaking that in the event of permission being granted,—

- (i) adequate financial provision shall be made for continued and efficient maintenance of the institution ;
- (ii) the institution shall be located on the lands specified in the application and that such lands are located in sanitary and healthy surroundings ;
- (iii) the building, playground, furnitures, fixtures and other facilities shall be provided in accordance with the provisions of this Act and rules prescribed therefor ; and
- (iv) all the requirements laid down by the Act, the rules and orders, if any, issued thereunder shall be complied.

(4) Every such application shall be supported by an affidavit attesting the fact that all information furnished therein are true and correct to the best of knowledge of the applicant.

(5) The prescribed authority shall scrutinise each application, consider the applications which are found complete in all respect and have been made in conformity with the Act and rule made thereunder and thereafter may make such inquiry as he may deem necessary. He shall make a report in respect of each application with his recommendation which shall be placed before the committee constituted in this behalf by the State Government.

(6) If the Committee is satisfied that the educational needs of the local area justify the establishment of an educational institution that the place where the educational institution is proposed to be established is likely to best serve the educational needs of that areas, that the location of the educational institution is not otherwise objectionable and that permission may be granted to any person or body of persons, the Committee shall make an order to that effect specifying the conditions to be fulfilled by such agency.

(7) The order made by the Committee shall be communicated to the applicant by the prescribed authority in such manner as may be prescribed.

(8) Any applicant aggrieved by an order refusing to grant permission may within one month from the date of receipt of such order, prefer an appeal before the State Government whose decision thereon shall be final and binding:

Provided that provisions of sub-sections (3), (4), (5), (6), (7) and (8) shall *mutatis mutandis*, apply to applications for purposes specified in clauses (b) and (c) of sub-section 2.

(9) When a new private educational institution is established in accordance with the permission granted under this Section the fact of such establishment shall be reported by the Agency to the prescribed authority forthwith and in any case not later than forty-five days from the date on which the institution starts functioning.

(10) Where a new private educational institution in relation to which permission has been accorded under this Section fails to start functioning within 45 days from the date of commencement of the academic year following the date on communication of the order of permission, the permission so accorded, shall lapse:

Provided that the prescribed authority may, for good and sufficient reasons extend, on application, the date from which the educational institution shall start functioning for such period not exceeding beyond the first day of the following academic year.

Substitution
of section 6
and inser-
tions of sec-
tion 6-A and
6-B.

5. In the principal Act, for Section 6, the following Sections shall be substituted, namely:—

"6. (1) An application for recognition of a private educational institution shall be made to the prescribed authority on or before the 30th November of the academic year in which the institution starts functioning:

Provided that no application for recognition filed before commencement of the Orissa Education (Amendment) Act, 1994 shall be rejected only on the ground that it has not been filed within the date specified in the sub-section.

*Explanation;—*Academic year means a period of twelve months beginning with the 1st day of June and ending with the 31st day of May of the next calendar year.

(2) No private educational institution shall be eligible for recognition unless it has been established with prior permission under this Act.

(3) Every application for recognition shall be made in the prescribed form accompanied by such documents and information as may be prescribed. The applicant shall furnish a statement indicating the extent to which conditions specified in the order granting permission and conditions for recognition as specified under section 6-A have been fulfilled. Every such application shall be supported by an affidavit attesting the fact that all information furnished therewith are true and correct to the best of the knowledge of the deponent.

(4) The prescribed authority shall scrutinise the applications. Such of the applications as are found to be complete in all respects and have been submitted in conformity with the provisions of the Act and the Rules framed thereunder shall be considered and thereafter the prescribed authority shall inspect or cause to be inspected the educational institution in respect of which recognition has been applied for, and shall make a report with his recommendations which shall be placed before a committee constituted by the State Government in this behalf.

(5) The State Government may constitute one or more committees for consideration of applications for recognition and such Committee may be constituted for the whole State or for any part thereof or for different categories of private educational institution and may make regulations for conduct of business such committees.

(6) The Committee shall consider the application for recognition together with the report and the recommendation of the prescribed authority and may call for such additional information or may direct such further inspection as it deems necessary. The Committee having considered all aspect shall make an order either granting recognition, or temporary recognition with or without conditions, or rejecting the application for reasons to be recorded. The prescribed authority shall communicated the order made by the Committee in such manner and with such particulars, if any, as may be prescribed.

(7) If the permission to establish a private educational institution is found to have been obtained by fraud or by misrepresentation of facts or through false declaration, the Committee constituted under sub-section (4) may refuse to recognise such institution.

(8) The Committee may refuse to recognise a private educational institution which has been permitted to be established if it is found guilty of improper competition with other educational institutions or of deliberate violation of any provision of this Act, the rules or any direction duly issued by the State Government or the Director.

(9) Where a private educational institution has not fulfilled the conditions for recognition in regard to land, building and furniture but the committee is satisfied that has made reasonably adequate provisions for accommodation and imparting education, it may decide to grant temporary recognition for a period not exceeding one year at a time and not exceeding five years in aggregate. The application for extension of temporary recognition shall be made and considered in the same manner as an application for recognition and no extension of temporary recognition shall be granted unless the committee is satisfied that applicant has taken reasonable measures to fulfil the conditions for recognition and that there has been no deterioration in the standard of facilities during the year for which temporary recognition was granted:

Provided that in computing the total period for which a private educational institution may be eligible for grant of temporary recognition, the number of years for which temporary recognition has been granted prior to the commencement of the Orissa Education (Amendment) Act, 1994 shall be taken into account:

Provided further that any private educational institution which has received temporary recognition for a period of 4 years or more prior to the date of commencement of the Orissa Education (Amendment) Act, 1994 but has not been recognised may be granted temporary recognition for a period not exceeding one year at a time and two years in the aggregate after commencement of the Orissa Education (Amendment) Act, 1994 so as to enable such institution to fulfil all conditions for recognition.

(10) Any applicant aggrieved by an order refusing to accord recognition, may within one month from the date of communication of such order file a review petition before the committee constituted under sub-section (4). The committee after calling for such information and causing such further inquiry as may be necessary and after giving an opportunity of being heard to the petitioner shall take decision and dispose of the petition.

(11) Grant of recognition may be restricted to any standard or class or any stream or subjects or may extend to the whole institution. The procedure laid down for grant of recognition shall *mutatis mutandis* apply to applications for recognition in respect of increase in seats, opening of new faculties or courses starting new subjects or opening of additional sections.

(12) No educational institution shall be eligible for affiliation or recognition by the Board of Secondary Education constituted under the Orissa Secondary Education Act, 1952 or the Council of Higher Secondary Education constituted under the Orissa Council of Higher Secondary Education Act, 1982 or any of the Universities established under the Orissa Universities Act, 1989 unless it has received recognition under this Act and continues to be so recognised. When the recognition granted to any private educational institution is withdrawn or suspended, the recognition or affiliation granted by the Board of Secondary Education, Council of Higher Secondary Education or any one of the Universities as the case may be, shall be deemed to have been withdrawn or suspended :

Provided that any educational institution which has received temporary recognition for a year under the Act shall only be eligible for temporary affiliation or recognition, as the case may be, for that year.

(13) No recognition shall be accorded to an educational institution imparting technical and professional education which does not fulfil the conditions specified in any other law for the time being in force as are applicable to such institutions.

Condition or recognition. 6-A-(1) No educational institution shall be eligible for recognition under section 6 unless it fulfils the following conditions, namely:—

- (a) such extent of land as may be prescribed has been provided for the educational institution under a valid title and the institution is under lawful and valid possession of that land;
- (b) the institution has been provided with a fire-proof building of its own with adequate ventilation and lighting consisting of such accommodation as may be prescribed for class rooms, laboratories, libraries, office accommodation, staff and students common room and toilets for men and women;
- (c) adequate land is available and has earmarked for playground and sufficient facilities have been provided for physical education, games and sports;
- (d) land has been provided for cycle stands for High Schools, Higher Secondary Schools, Junior Colleges and Colleges, as the case may be;
- (e) adequate provision have been made for supply of clean drinking water and sanitation;
- (f) the land and the buildings of the educational institution are located in sanitary and healthy surroundings with suitable access from public roads;
- (g) qualified teachers and non-teaching employees selected in accordance with the prescribed procedure as per the prescribed yardstick have been appointed;
- (h) laboratory or laboratories where necessary have been provided together with required consumables;
- (i) such equipments and teaching aids as are required have been provided;
- (j) required furniture including Blackboards have been provided;
- (k) the educational institution has been provided with library with such number of books and in such subjects as may be directed from time to time; and
- (l) the educational institution has adequate financial resources for its continuance and efficient management.

(2) Every application for recognition shall be accompanied by an undertaking that the institution has adequate financial resources to meet the salary and other costs of the educational institution and that it shall not claim grant-in-aid from the State Government.

(3) The State Government may by order, relax any one or more of the conditions of recognition specified under sub-section (1) relating to land, building and furniture in respect of educational institution situated in an educationally backward district:

Provided that no relaxation shall be made which would adversely affect the academic standards or quality of education.

Explanation—The expression “educationally backward district” shall for the purposes of this sub-section mean a district in which the percentage of literacy is less than fifty per cent of the total population of the district as per the latest census.

Withdrawal
of recogni-
tion.

6-B. (1) Recognition accorded under the Act may be withdrawn on one or more of the following grounds, namely:—

- (a) the educational institution no longer fulfils the conditions for recognition;
- (b) the educational institution, its Managing Committee or the Governing Body, as the case may be, contravenes any of the provisions of the Act or the rules or directions of the State Government or of the prescribed authority;
- (c) the educational institution fails to maintain proper standard of education and discipline;
- (d) the educational institution fails to maintain required students strength as provided under section 11;
- (e) the educational institution or its Managing Committee or the Governing Body, as the case may be, misutilises the funds of the institution or utilises it for any purpose other than for management of the educational institution;
- (f) the percentage of students passing the annual and supplementary examinations conducted by the Board of Secondary Education or the Council of Higher Secondary Education or the concerned University, as the case may be, falls short of half of the percentage of students passing such examinations for the entire Board, Council or University as the case may be, for three consecutive years;
- (g) the educational institution fails to conduct examinations held by the Board, Council or the University or any other examining body of the State fairly and properly or the management or any of its employee assists or abets in malpractice in such examination or fails to prevent malpractices;
- (h) the educational institution is found to have admitted students, in excess of the recognised or affiliated strength or, in classes, courses or streams or subjects in regard to which no permission has been received;
- (i) except as otherwise permitted the educational institution admits students on criteria other than merit, which in the context of reserved seats shall mean *inter se* merit within the reserved category;
- (j) the educational institution does not admit fresh students for two consecutive years or shifts to another locality or to different premises without prior permission; and
- (k) the educational institution has obtained recognition by fraud or misrepresentation of facts or through a false declaration.

(2) Where the prescribed authority is satisfied on own information or otherwise that circumstances exist for taking action for withdrawal of recognition of any educational institution, he shall make an inquiry or cause an inquiry to be made into the grounds on which recognition is proposed to be withdrawn and give an opportunity to the management to make representation within a period of thirty days against the proposed action. The prescribed authority shall furnish his report and recommendation to the Committee constituted under sub-section (4) of section 6.

(3) The Committee after considering the records, report and recommendation of the prescribed authority and after affording an opportunity to the management of being heard pass an order either withdrawing or suspending the recognition granted to the said institution.

(4) Notwithstanding the withdrawal or suspension of recognition under sub-section (3), the students admitted to that educational institution till the date of such withdrawal or suspension shall be allowed to continue as if the said educational institution continues to be recognised till that batch of students appear in the examination conducted by the Board, the Council or the University, as the case may be. The educational institution shall not admit fresh students during the period of suspension or after withdrawal of recognition.

(5) Any educational institution aggrieved by an order of the Committee with drawing or suspending the recognition of any educational institution may prefer an appeal within a period of thirty days of the receipt of the order before the State Government whose decision thereon shall be final".

Amendment
of section 7.

6. In the principal Act, in section 7,—

(i) in sub-section (4), the words "and shall be reconstituted in accordance with the rules" shall be inserted at the end;

(ii) after sub-section (5), the following sub-section shall be added, namely:—

"(6) The prescribed authority may allow the Governing Body or the Managing Committee, as the case may be, whose term has expired under sub-section (4) or sub-section (2) of section 7-A to continue in office till the Governing Body or the Managing Committee is reconstituted, or appoint any person or persons to exercise the powers and discharge the functions of the Governing Body or the Managing Committee during the intervening period:

Provided that the State Government may reconstitute the Governing Body or the Managing Committee as the case may be notwithstanding that the term of such Governing Body or Managing Committee has not expired and on such reconstitution, the existing Managing Committee or Governing Body, as the case may be, shall stand dissolved."

Amendment
of
section 7-B.

7. In section 7-B of the principal Act, for sub-section (2) the following shall be substituted, namely:—

"(2) Every private Educational Institution shall appoint qualified teachers and non-teaching staff by making selection in accordance with the procedure and criteria prescribed by the State Government".

Substitution
of
sections 7-C
and 7-D.

8. In the principal Act, for sections 7-C and 7-D including the marginal headings, the following sections shall be substituted, namely:—

Grant-in-aid

7-C. (1) The State Government shall within the limits of its economic capacity set apart a sum of money annually for being given as grant-in-aid to private Educational Institution in the State.

(2) No order according permission or approval or recognition under this Act, whether prior to or after the commencement of the Orissa Education (Amendment) Act, 1994, shall entitle any private educational institution to receive grant-in-aid.

(3) Save as otherwise provided, no private Educational Institution which has not been recognised by the State Government under this Act, shall be entitled to receive any aid from the State Government.

(4) Notwithstanding anything contained in any law, rule, executive order or any judgement, decree or order of any Court, no grant-in-aid shall be paid and no payment towards salary costs or any other expense shall be made to any private educational institution or for any post or to any person employed in any such institution after the commencement of the Orissa Education (Amendment) Act, 1994, except in accordance with an order or rule made under this Act. Grant-in-aid where admissible under the said rule or order as the case may be, shall be, payable from such date as may be specified in that rule or order or from such date as may be determined by the State Government :

Provided that pending framing of such rule or issue of order, the State Government may, without prejudice to such rule or order, direct that private educational institutions which were receiving grant-in-aid and the posts in such educational institutions in respect of which grant-in-aid was being released shall continue to be paid such amount as grant-in-aid as was being paid to them immediately prior to commencement of the Orissa Education (Amendment) Act, 1994.

(5) Notwithstanding anything contained in any law, rule, executive order or any judgement, decree or order of any Court the following categories of private educational institutions shall only be eligible for consideration for payment of grant-in-aid:—

(a) Upper Primary Schools imparting instructions or course prescribed by the State Government in standards or classes VI and VII or Sanskrit Tols and Madrasas imparting equivalent courses.

(b) High Schools imparting instructions or course for High School Certificate Examination conducted by the Board of Secondary Education, Orissa or institutions imparting Madhyama Course of Sri Jagannath Sanskrit University and Madrasas imparting equivalent course.

(c) Higher Secondary Schools or Junior Colleges imparting instructions or course for Higher Secondary Examination conducted by the Council of Higher Secondary Education, Orissa or institutions imparting Upasastri course of Sri Jagannath Sanskrit University and Madrasas imparting equivalent course.

(d) Colleges imparting courses for B. A., B. Sc. or B. Com. degrees of the Utkal, Berhampur and Sambalpur Universities and Shastri courses of Sri Jagannath Sanskrit University.

(6) No educational institution imparting any other courses of studies except those provided in sub-section (5) shall be eligible for grant-in-aid from Government. Educational institutions established and/or managed by Urban Local Bodies, Zilla Parishads, Panchayat Samitis and Grama Panchayats, Public Sector Undertakings or Companies or Statutory bodies shall not be eligible for grant-in-aid under this Act.

(7) A Governing Body or Managing Committee desirous of availing the facility of grant-in-aid shall make an application for the purpose within such period and shall furnish such information and documents including audited statement of accounts of the institution as may be prescribed. It shall furnish with the application an undertaking to the effect that grant-in-aid sanctioned for the purpose or meeting part or whole of the salary costs shall be disbursed directly to employees concerned and to refund any excess or inadmissible payment that may have been made.

7-D. (i) The prescribed authority may withdraw the grant-in-aid of a private educational institution, if—

(v) the recognition of the institution has been suspended or withdrawn;

- (ii) the percentage of students passing the Annual and Supplementary examinations conducted by the Board of Secondary Education or the Council of Higher Secondary Education or the concerned University, as the case may be, falls short of half of the percentage of students passing such examination for the entire Board or the Council or the University, as the case may be, for three consecutive years;
- (iii) the Governing Body or the Managing Committee, as the case may be defaults in furnishing the statement under sub-section (1) of section 8 or furnishes statement which is false or incorrect,
- (iv) the Managing Committee or the Governing Body, as the case may be, or the Secretary of an aided educational institution acts in contravention of the provisions of sub-section (1) of section 9, or of any order passed under sub-section (2) of section 9;
- (v) the Governing Body or the Managing Committee, as the case may be, or the Secretary is found to be misutilising the funds of the educational institution concerned including grant-in-aid received, if any, or utilising it for any purpose other than meeting the legitimate cost of running the educational institution, development of the educational institution, or welfare of the students or employees of that institution;
- (vi) there has been persistent default in maintaining correct accounts of the receipts and expenditure of the educational institution or there has been persistent default in submitting audited statement of its accounts within the specified period;
- (vii) the educational institution fails to conduct the examinations of the Board, the Council, or any of the Universities or any other examining bodies of the State fairly and properly or if the Governing Body or the Managing Committee, as the case may be, or any of its employees assists or abets in adoption of malpractices in such examinations or fails to prevent adoption of malpractices;
- (viii) unless otherwise permitted, the educational institution is found to be admitting students on any criteria other than merit;

Explanation—In the context of merit of students belonging to reserved categories it shall mean *inter se* merit within the respective category;

- (ix) the private educational institution utilises the grant-in-aid for any purpose other than the purpose for which such grant-in-aid was paid specifically or fails to render satisfactory and timely account of its proper utilisation;
- (x) the private educational institution has secured grant-in-aid by fraud or by misrepresentation of facts or by submission of incorrect facts through false declaration or by concealing any relevant information;
- (xi) the aided educational institution refuses to accept a teacher posted on transfer or continues to retain the services of a teacher who has been transferred by the competent authority; and
- (xii) the aided educational institution makes appointment in a manner not consistent with the Act and the Rules;

Provided that where the prescribed authority is satisfied that *prima facie* circumstances exist for action under this sub-section, he may make an order suspending payment of grant-in-aid for such period not exceeding three months as he may deem fit.

(2) Before withdrawing the grant-in-aid, the Managing Committee or the Governing Body, as the case may be, shall be given a notice of the action proposed to be taken and required to show cause within a period of thirty days from the date of receipt of the notice as to why such action shall not be taken.

(3) The Managing Committee or the Governing Body, as the case may be, aggrieved by an order of the prescribed authority withdrawing grant-in-aid, may, in such manner and within such period not exceeding sixty days, as may be prescribed, prefer an appeal before the State Government, whose decision thereon shall be final."

- Amendment of section 8. 9. In section 8 of the principal Act, sub-section (2) shall be deleted.
- Amendment of section 9. 10. In section 9 of the principal Act, sub-section (4) shall be deleted.
- Amendment of section 10. 11. In section 10 of the principal Act, in sub-section (2), for the word "recognised" wherever it occurs, the word "aided" shall be substituted.
- Deletion of section 11-A. 12. Section 11-A of the principal Act shall be deleted.
- Amendment of section 15. 13. In section 15 of the principal Act, in sub-section (2), for clause (bb), the following clauses shall be inserted, namely:—
- “(b-1) the Secretary to Government, Higher Education Department. *Ex officio* Member.
- (b-2) the Secretary to Government, School & Mass Education Department. *Ex officio* Member.
- (b-3) the Chairman of Council of Higher Secondary Education. *Ex officio* Member.
- (b-4) a representative of the Harijan Welfare Department .. Member
- (b-5) a representative of the Tribal Welfare Department .. Member
- (b-6) Director, Mass Education .. Member.”.
- Amendment of section 21. 14. In section 21 of the principal Act, clause (d) shall be deleted.
- Amendment of section 23. 15. In section 23 of the principal Act, for sub-section (1) the following shall be substituted, namely:—
- “(1) The State Government may establish a fund called the 'Orissa Education Development Fund' which shall vest in and be administered by a Committee to be constituted in the prescribed manner.”.
- Amendment of section 24. 16. In section 24 of the principal Act, in sub-section (1), for clause (d) the following shall be substituted, namely:—
- “(d) the Secretary to Government, Higher Education Department. .. Member.”.
- Amendment of section 27. 17. In section 27 of the principal Act, in sub-section (2), in clause (a), the words and commas "being Colleges, Higher Secondary Schools, High Schools and Upper Primary Schools" shall be deleted.

ORISSA ACT 5 OF 1998

THE ORISSA EDUCATION (AMENDMENT) ACT, 1998

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ORISSA ACT 5 OF 1998

*THE ORISSA EDUCATION (AMENDMENT) ACT, 1998

[Received the assent of the Governor on the 2nd April 1998, first published in an extraordinary issue of the Orissa Gazette, dated the 7th April 1998]

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE it enacted by the Legislature of the State of Orissa in the Forty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Orissa Education (Amendment) Act, 1998.

(2) Section 2 shall be deemed to have come into force on the 1st day of January, 1986, and the other provisions of this Act shall come into force at once.

Amendment of Section 7-C.

2. In section 7-C of the Orissa Education Act, 1969 (hereinafter referred to as the principal Act), after sub-section (4), the following sub-sections shall be inserted, Orissa Act 15 of 1969 namely—

“(4-a) The grant-in-aid to be borne by the State Government on account of placement of a teacher in an aided educational institution receiving University Grants Commission scales of pay under the Career Advancement Scheme, shall be limited to the extent as may be admissible by computing the period of service rendered by him against an approved post with effect from the date of completion of five years of service against such approved post;

Provided that nothing in this sub-section shall be construed as to effect the seniority or any other conditions of service of such a teacher.

(4-b) Notwithstanding anything contained in any judgment, decree or order of any Court to the contrary, any instructions issued, actions taken or things done on or after the 1st day of January, 1986 in regard to matters provided in sub-section (4-a) shall be deemed to have been validly issued, taken or done as if the said sub-section were in force at all material points of time.”

Insertion of sections 24-B and 24-C.

3. In the Principal Act, after section 24-A the following new sections including the marginal headings shall be inserted, namely:—

“Adjudication by Tribunal.

24-B (1) The Tribunal shall have jurisdiction, power and authority to adjudicate all disputes and differences between the Managing Committee or, as the case may be, the Governing Body of any private educational institution and any teacher or employee of such institution or the State Government or any officer or authority of the said Government, relating to or connected with the eligibility, entitlement, payment or non-payment of grant-in-aid.

(2) Any person aggrieved by an order pertaining to any matter within the jurisdiction of the Tribunal, may make an application to the Tribunal for the redressal of his grievance.

(3) On receipt of an application under sub-section (2), the Tribunal shall if so satisfied after such inquiry as it may deem necessary that the application is a fit case for adjudication by it, admit such application, but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons :

Provided that no application before the Tribunal seeking a claim of grant-in-aid against the State Government or any officer or authority of the said Government shall be admitted, unless the applicant has served a notice on the State Government or concerned officer or authority furnishing the details of the claim and a period of two months has expired from the date of receipt of the said notice by the State Government or, as the case may be, the concerned officer or authority.

(4) The Tribunal shall not admit an application under sub-section (2), unless it is made within one year from the date of expiry of the period of two months referred to in sub-section (3).

(5) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to any rules made by the Government, shall have power to regulate its own procedure.

(6) All the proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860.

Appeal to High Court. 24-C. Any person aggrieved by an order or decision or judgement of the Tribunal may prefer an appeal before the High Court within a period of sixty days from the date of such order or decision or judgement."

ORISSA ACT 1 OF 2001

*** THE ORISSA EDUCATION (AMENDMENT) ACT, 2000**

[Received the assent of the Governor on the 9th February 2001, first Published in an extra-ordinary issue of the Orissa Gazette, dated the 29th March, 2001 (No. 511)]

AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE It enacted by the Legislature of the State of Orissa in the Fifty-first Year of the Republic of India as follows:—

Short title,

1. This Act may be called the Orissa Education (Amendment) Act, 2000

Amendment
of section 6.

2. In section⁷ 6 of the Orissa Education Act, 1969, in sub-section (9),—

Orissa Act 15
of 1969.

(a) for the word "five years", the words "seven years" shall be substituted; and

(b) for the provisos, the following proviso shall be substituted, namely:—

"Provided that any private educational institution which has received temporary recognition for a period of five years or more prior to the commencement of the Orissa Education (Amendment) Act, 2000, but has not been recognised, may be granted temporary recognition for a period not exceeding one year at a time and two years in the aggregate after such commencement so as to enable the institution to fulfil all the conditions for recognition."

*For the Bill, see *Orissa Gazette*, Extraordinary, dated the 15th December, 2000 (No. 1765)