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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR

LAW DEPARTMENT

NOTIFICATION
THE 12TH DECEMBER 1977

No.LGL.124/77/65- The following Act of the Assam Legislative Assembly received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXX OF 1977
(Received the assent of the Governor on 10th December, 1977)

THE ASSAM SECONDARY EDUCATION
(PROVINCIALISATION) ACT 1977.

Act

to provide for the provincialisation of Secondary Education covered by Deficit Scheme of the Governor of Assam.

DREANBLE Whereas it is expedient to provincialise secondary Education covered by the Deficit Scheme of the Government of Assam for its improvement and for better control and management of such education in the State of Assam.

It is hereby enacted in the Twenty eight year of the Republic of India as follow :-

SHORT TITLE,

EXTENT AND COMMENCEMENT – 1. (1) This Act may be called the Assam Secondary Education (Provincialisation) Act, 1977.

(2) It shall extend to the whole of the State Assam except the autonomous districts.

Provided that the State Government may in consultation with the District Council of any autonomous district extend this Act to that autonomous district by a notification published in the Assam Gazette.

(3) It shall come in to force on the first day of October, 1977.

DEFINITIONS – 2. In this Act unless there is anything repugnant in the Subject or context :

(i) “appointed day” in relation to any area means the day on which this Act comes into force in that area :

(ii) "Date of appointment" means, in relation to any employee, date on which he joined the service of a school imparting Secondary Education on and from the date of its coming adhoc system of grants in:

(iii) "Deficit school" means a school receiving grants from the State Government under the Deficit Scheme of grants-in-aid:

(iv) "Director" means the Director of Public Instruction, Assam, when specifically appointed by the State Government, the Additional Director of Public Instruction, Assam:

(v) "employee" means a person in the employment of school were against a regularly sanctioned post and whose appointment has been approached by the school authority wherever such approval was necessary :

(vi) "existing employees" means an employee who is, on the appointed day, in the regular pay roll, employee against regular sanction and whose appointment has been approved by the school authority :

(vii) "Inspector" means, in relation to any secondary school, the Inspector schools under whose jurisdiction the school is situated :

(viii) "Managing Committee" in relation to any school means the Managing committee approved by the State Government and functioning on the appoint day:

(ix) "Prescribed " means prescribed by rules made under this Act :

(x) " Secondary education " means education imparted upto class XII in different types of schools including Middle English Schools, Middle Madrassas, High schools, High Madrassas and Higher Secondary schools :

(xi) "Secondary School" means a deficit school where the secondary education is imparted :

(xii) "School authority" means the "Director" or "Inspector" whose approach is necessary for the appointment or regularization of the appointment of employee of a secondary school:

EMPLOYEE TO BE GOVERNMENT SERVANTS : 3. Subject to the provision of Article 30 of the constitution of India, on and from appointed day all employee of all secondary schools on the State of Assam shall be deemed to have become employee of the State Government of Assam with effect from the date of appointment the following terms and conditions :

(1) All rules including service rules and rules of conduct and discipline which are applicable to Government servants of corresponding ranks shall be applicable to all employees.

(2) All employees shall get such emoluments as salary and allowance may be prescribed :

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

(3) Services of all the employees shall be encadred in appropriate cadres in accordance with the rules formed by the State Government for the purpose.

(4) The interse seniority of the employees of cadre of class shall be determined on the basis of principals laid down in the rules formed Act :

SUPERANUATION AND PENSION,ETC – 4 (1) Notwithstanding anything in the preceding Section all employees other than Grade IV employees of Secondary School coming within purview of this Act shall, on attaining the age of 58 years, go on superannuation. Grade IV employees shall go on superannuation on attaining the age of 60 years.

(2) All employees going on superannuation under the preceding sub-section shall be eligible to pension or gratuity or both in accordance with the pension Rule applicable to the Government Servants of equivalent rank. In such a case the employees contribution along with accumulated interest therein made towards the Provident Fund of the existing employees concerned before such superannuation shall be paid back to and recovered from the State Government of Assam.

(3) Any existing employee other than the Grade IV employees, 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 before appointed day in which case shall not be entitled to any person of gratuity.

(4) Any existing employee other than Grade IV employees who do not intend to go on superannuation on attaining the age of 58 years but to continue till the completion of 60 years shall give an option in writing to that effect in the manner prescribed within period of three months from the appointed day. Any existing employee who do not give such option in writing within the date specified above shall be deemed to have opted for going on superannuation on attaining the age of 58 years.

SECTION OF MANAGING COMMITTEE : 5. (1) The Administration, management and control of employees of all secondary schools coming within the purview of this Act shall invest in the State Government from the appointed day.

(2) The Managing Committee of such secondary schools shall exert such functions as may be specified by the State Government or under the rules made under this act until such Committees are either reconstituted or replaced under the rules prescribed.

SUITS AND PROCEEDINGS : 6. No suit, prosecution or other legal proceeding shall lie against anything done in good faith under this Act except with the previous sanction of the State Government.

7. The State Government may by notification published in the Official Gazette may such rules as may be necessary for provincialisation of employees of other Schools not falling within the purview of this Act.

POWER TO MAKE RULES : 8 (1) The State Government may by notification published in the Official Gazette may make rules for giving effect to the provision of this Act.

(2) Without prejudice to the generality of the foregoing provision State Government may make rules to provide for all or any of the following matters namely :-

(i) fixation of the powers, duties and responsibilities of all employees of the secondary schools :

(ii) the manner in which option shall be exercised under the provision of Section :

(iii) The manner in which the contribution made towards the provident fund of an employee shall be paid back to and recovered by the State Government :

(iv) Preparation and maintenance of service records of employees :

(v) for the management of the secondary schools.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the Assam Legislative Assembly while it is session for a total period of fourteen days which may be comprised in one session or in two successive session and if , before the expiry of the session which it is so laid or the session immediately following the Assam Legislative Assembly agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of effect as the case may be , so however, that any such modification 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 dispute arises about the interpretation of any provision of this act the interpretation of the State Government shall be final.

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

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

REPEAL AND SACKINGS : 10 (1) The Assam Secondary Education (provincialisation) Ordinance 1977, Assam ordinance No.V of 1977, is hereby repealed.

(2) Notwithstanding such repeal, any order passed, any notification issued, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been passed, issued done or taken under the corresponding provisions of this Act.

Sd/- U. TAHBILDER,
SECRETARY TO THE GOVT. OF ASSAM
LAW DEPARTMENT