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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 936-L.—1st April, 1997.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act IV of 1997

THE WEST BENGAL SCHOOL SERVICE COMMISSION ACT, 1997.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 1st April, 1997.]

An Act to provide for the constitution of Regional School Service Commissions and a Central School Service Commission in West Bengal and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for the constitution of Regional School Service Commissions and a Central School Service Commission in West Bengal and for matters connected therewith or incidental thereto;

It is hereby enacted in the Forty-eighth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal School Service Commission Act, 1997.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

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

(a) "Board" means the West Bengal Board of Secondary Education established under the West Bengal Board of Secondary Education Act, 1963;

West Ben. Act V
of 1963.

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(Section 2.)

- (b) "Board of Madrasah" means the West Bengal Board of Madrasah Education established under the West Bengal Board of Madrasah Education Act, 1994;
- (c) "Central Commission" means the West Bengal Central School Service Commission constituted under section 3;
- (d) "Chairman" means the Chairman of the Commission;
- (e) "Commission" means the Central Commission or the Regional Commission;
- (f) "Council" means the West Bengal Council of Higher Secondary Education established under section 3 of the West Bengal Council of Higher Secondary Education Act, 1975;
- (g) "Headmaster" or "Headmistress" means the head of the teaching staff of a school, by whatever name he or she may be designated;
- (h) "Madrasah" means an educational institution imparting instruction in—
- (i) High Madrasah Education System within the meaning of sub-clause (i), or
 - (ii) Senior Madrasah Education System within the meaning of sub-clause (ii),

West Ben. Act
XXXIX of 1994.

West Ben. Act
VIII of 1975.

of clause (g) of section 2 of the West Bengal Board of Madrasah Education Act, 1994,

and includes a Junior High Madrasah.

Explanation.—"Junior High Madrasah" shall have the same meaning as in clause (e) of section 2 of the West Bengal Board of Madrasah Education Act, 1994;

- (i) "member" means a member of the Commission, and includes the Chairman;
- (j) "notification" means a notification published in the *Official Gazette*;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Regional Commission" means the West Bengal Regional School Service Commission constituted under section 3;
- (m) "regulations" means the regulations made by the Central Commission under this Act;
- (n) "school" means a recognised non-Government aided—
- (i) secondary school, or educational institution, or part or department of such school or institution, imparting instruction in a secondary education, or
 - (ii) higher secondary school, or educational institution (other than a college), or part or department of such school or institution, imparting instruction in higher secondary education, or
 - (iii) Madrasah,

and includes a sponsored school.

Explanation I.—"Recognised" with its grammatical variations, used with reference to a school, shall mean—

- (a) recognised or deemed to have been recognised under the West Bengal Board of Secondary Education Act, 1963, or
- (b) recognised under the West Bengal Council of Higher Secondary Education Act, 1975, or
- (c) recognised or deemed to have been recognised under the West Bengal Board of Madrasah Education Act, 1994.

West Ben. Act
V of 1963.

Explanation II.—"Aided" with its grammatical variations, used with reference to a school, shall mean aided by the State Government in the shape of financial assistance towards the basic pay of the teachers of that school.

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(Section 3.)

Explanation III.—"Basic pay" shall mean the monthly pay of a teacher of a school which corresponds to a stage in the time-scale of pay of the post held by the teacher in that school.

Explanation IV.—"Secondary Education" shall have the same meaning as in clause (1) of section 2 of the West Bengal Board of Secondary Education Act, 1963.

West Ben. Act
V of 1963.

Explanation V.—"Higher secondary education" shall have the same meaning as in clause (d) of section 2 of the West Bengal Council of Higher Secondary Education Act, 1975.

West Ben. Act
VIII of 1975.

Explanation VI.—"Sponsored school" shall mean a school declared as a sponsored school by the State Government by notification;

- (o) "Secretary" means the Secretary of the Commission;
- (p) "Teacher" means an Assistant Teacher or any other person, holding a teaching post of a school and recognised as such by the Board or the Council or the Board of Madrasah, as the case may be, and includes the Headmaster or the Headmistress.

Constitution of
Commission.

3. (1) The State Government shall, with effect from such date as it may, by notification, appoint, constitute—

- (a) a Central Commission by the name of the West Bengal Central School Service Commission, and
- (b) a Regional Commission by the name of the West Bengal Regional School Service Commission, in respect of each of the regions referred to in sub-section (2).

(2) For the purposes of clause (b) of sub-section (1), the territory of the State of West Bengal shall comprise four regions to be called the Eastern Region, the Southern Region, the Western Region and the Northern Region; each such region shall comprise such district or districts or part of a district as the State Government may, by notification, determine, and the territorial jurisdiction of a Regional Commission shall be construed accordingly.

Explanation I.—Calcutta as defined in clause (9) of section 2 of the Calcutta Municipal Corporation Act, 1980, shall, for the purposes of this Act, be deemed to be a district.

West Ben. Act
LIX of 1980.

Explanation II.—Part of a district shall ordinarily mean a sub-division, or two or more, but not all, sub-divisions taken together, of that district as may be specified in the notification under this sub-section:

Provided that if the area of a district, or any part of a district, other than Calcutta, overlaps any part of the area included in Calcutta, such overlapping area shall be excluded from the territorial jurisdiction of the Regional Commission in respect of such district and shall be included within the territorial jurisdiction of the Regional Commission in respect of Calcutta.

(3) The State Government may, at any time, by notification enlarge or reduce the territorial jurisdiction of a Regional Commission constituted under clause (b) of sub-section (1).

- (4) (a) The Commission shall consist of five members of whom one shall be the Chairman.
- (b) Of the five members as aforesaid, one shall be a person who, not being an educationist, occupies or has occupied, in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service, and the others shall have teaching experience, either as a Teacher of a University or as a Principal of a college for a period of not less than ten years, or as a teacher, other than Principal of a college, or as a Headmaster or Headmistress, for a period of not less than fifteen years.

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(Sections 4-8.)

Appointment and
terms and
conditions of
service of
members.

4. (1) (a) The Chairman and other members shall be appointed by the State Government.
(b) The Chairman and other members shall hold office for a term of four years:

Provided that a person who has held office as Chairman or other member shall, on the expiration of the term of his office, be eligible for further appointment as Chairman or other member:

Provided further that no person who has attained the age of sixty-two years shall be eligible to hold office as Chairman or other member.

(2) If the office of the Chairman or any other member becomes vacant by reason of resignation or otherwise or if the Chairman is, by reason of absence or for any other reason, unable to perform the duties of his office, then, until a Chairman or other member is appointed under sub-section (1) or until the Chairman resumes his duties, as the case may be, the duties of the Chairman or the other member, as the case may be, shall be performed by such other member as the State Government may appoint in this behalf.

(3) The Chairman or any other member may resign his office by writing under his hand addressed to the State Government, but he shall continue in office until his resignation is accepted by the State Government.

(4) (a) The office of the Chairman shall be whole-time; the other members shall be honorary.

(b) The salary of the Chairman and the honorarium of the other members shall be such as may be determined by the State Government.

(c) Subject to the foregoing provisions of this sub-section, the other terms and conditions of service of the Chairman and other members shall be such as may be prescribed.

Removal of
member.

5. The State Government may, after making inquiry in such manner as may be prescribed, remove the Chairman or any other member from his office on the ground of—

- (a) misconduct involving moral turpitude, or
(b) insolvency, or
(c) infirmity of body or mind.

Staff of
Commission.

6. (1) The staff of the Commission shall consist of—

- (a) a Secretary who shall be appointed by the State Government, and
(b) such other employees as the Commission may, with the previous approval of the State Government, appoint from time to time.

(2) The salary of the Secretary and of the other employees of the Commission shall be such as may be determined by the State Government.

(3) The other terms and conditions of service—

- (a) of the Secretary shall be such as may be prescribed, and
(b) of the other employees of the Commission shall be such as may be provided for by regulations.

Functions of
Regional
Commission.

7. Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Regional Commission to select persons for appointment to the posts of Teachers in schools within its territorial jurisdiction.

Manner and
scope of
selection of
persons and
procedure for
conduct of
business of
Commission.

8. (1) The manner and scope of selection of persons for appointment to the posts of Teachers shall be such as may be prescribed,

(2) The procedure for the conduct of business of the Commission shall be such as may be provided for by regulations.

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Act, 1997.*

(Sections 9-16.)

Effect of
recommendation
of Commission.

9. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, appointments to the posts of Teachers in a school shall be made by the managing committee, by whatever name called, or by the ad hoc committee, or by the administrator, if any (where there is no managing committee), of that school on the recommendation of the Regional Commission having jurisdiction.

(2) Any appointment of a Teacher made on or after the commencement of this Act in contravention of the provisions of this Act shall be invalid and shall have no effect and the Teacher so appointed shall not be a Teacher within the meaning of clause (p) of section 2.

Protection of
Teachers.

10. Notwithstanding anything contained elsewhere in this Act, the terms and conditions of service of Teachers in the employment of a school immediately before the commencement of this Act shall not be varied to the disadvantage of such Teachers in so far as such terms and conditions relate to the appointment of such Teachers to the posts held by them immediately before the commencement of this Act.

Power of
Commission
to call for
records etc.

11. The Commission may call for any record, report or other information from any school or the Board or the Council or the Board of Madrasah if, in its opinion, such record, report or other information is necessary for efficient discharge of its functions, and the school or the Board or the Council or the Board of Madrasah, as the case may be, shall furnish such record, report or other information to the Commission.

Report of
Central
Commission.

12. It shall be the duty of the Central Commission to present annually to the State Government a report as to the work done by the Central Commission and each Regional Commission and, on receipt of such report, the State Government shall cause a copy thereof to be laid before the State Legislature.

Members etc.
to be public
servants.

13. The Chairman and other members and persons appointed under this Act shall, while acting or purporting to act under this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Validation.

14. The proceedings of the Commission shall not be invalid by reason of any vacancy in the office of the Chairman or any other member.

Act not to
apply in
relation to
certain schools.

15. The provisions of this Act shall not apply to—

- (a) a school established and administered by a minority, whether based on religion or language, or
- (b) a school under any trust, established and administered by a minority, whether based on religion or language, or
- (c) a school not in receipt of any financial assistance from the State Government, or
- (d) a school in receipt of a financial assistance from the State Government towards dearness allowance only of Teachers of such school, or
- (e) a Government school.

Explanation.—“Government school” shall mean a school maintained and managed by the State Government or the Government of India or the Railway Board under the Ministry of Railway, Government of India.

Functions of
Central
Commission.

16. (1) The Central Commission shall monitor, supervise, control and co-ordinate the activities of the Regional Commission which shall be subordinate to the Central Commission.

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Act, 1997.*

(Sections 17-21.)

(2) The Central Commission may call for any record, report or other information from a Regional Commission if, in the opinion of the Central Commission, such record, report or other information is necessary for efficient discharge of its functions, and the Regional Commission shall furnish such record, report or other information to the Central Commission.

(3) It shall be the duty of the Central Commission to advise the State Government on such matters as may be referred to it by the State Government.

Power to make rules.

17. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

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

- (a) the terms and conditions of service of the Chairman and other members under clause (c) of sub-section (4) of section 4;
- (b) the manner in which an inquiry is to be made for removal of the Chairman or any other member under section 5;
- (c) the terms and conditions of service of the Secretary under clause (a) of sub-section (3) of section 6;
- (d) the manner and scope of selection of persons for appointment to the posts of Teachers under sub-section (1) of section 8;
- (e) any other matter which may be, or is required to be, prescribed.

Power to make regulations.

18. (1) The Central Commission may, with the previous approval of the State Government, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, for discharging the functions of the Commission under this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:—

- (a) the terms and conditions of service of the employees of the Commission under clause (b) of sub-section (3) of section 6;
- (b) the procedure for the conduct of business of the Commission under sub-section (2) of section 8.

Directions by State Government.

19. In the discharge of its functions the Commission shall be guided by such directions as may be given to it by the State Government from time to time in conformity with the provisions of this Act.

Dissolution of Commission.

20. (1) If the State Government is of the opinion that the Commission has failed to discharge its functions under this Act in accordance with the provisions of this Act, the State Government may, by an order published in the *Official Gazette*, and stating the reasons therefor, dissolve the Commission with effect from such date as may be specified in the order.

(2) Upon the dissolution of the Commission under sub-section (1), all the members of the Commission shall be deemed to have vacated their respective offices with effect from the date of such dissolution.

(3) The State Government may, at any time after the dissolution of the Commission under sub-section (1), reconstitute the Commission in accordance with the provisions of this Act.

Repeal.

21. The West Bengal School Service Commission Ordinance, 1995, is hereby repealed.

West Ben. Ord.
VIII of 1996.

By order of the Governor,

S. MAITRA,
*Special Officer & ex officio
Jt. Secy. to the Govt. of West Bengal.*