



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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NOTIFICATION

The 16th May, 2018

No. LGL. 9/2018/6.— The following Act of the Assam Legislative Assembly which received the assent of the **Governor on 9th May, 2018** is hereby published for general information.

ASSAM ACT NO. XV OF 2018
(Received the assent of the Governor on 9th May, 2018)

**THE ASSAM NON-GOVERNMENT EDUCATIONAL INSTITUTIONS
(REGULATION OF FEES) ACT, 2018.**

**AN
ACT**

to make provision for fixation of fees for the non-government educational institutions in the State of Assam.

Preamble

Whereas it is expedient to make provision for fixation of fees for the Non-Government Educational Institutions in the State of Assam and the matters connected therewith and incidental thereto.

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows:

**CHAPTER I
PRELIMINARY**

**Short title,
extent and
commencement.**

1. (1) This Act may be called the Assam Non-Government Educational Institutions (Regulation of Fees) Act, 2018.
- (2) It extends to the whole of the State of Assam.
- (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires,-
 - (a) "academic year" means the year specified by the Government or, as the case may be, by any Board or Council to which respective institution is affiliated;
 - (b) "educational district" means an educational district, as may be specified by the Government in the Official Gazette;
 - (c) "elementary education" means the education from Class I to Class VIII;
 - (d) "employee" means a teacher and includes every other employee working in a non-government educational institution;
 - (e) "existing school" means a recognized non-Government educational institution which is in existence at the commencement of this Act;
 - (f) "Fee or Fee Structure" means any amount, by whatever name called, collected, directly or indirectly, by a school for admission of a student to any Standard or course of study and includes,-
 - (i) Tuition fee;
 - (ii) Term fee, which shall not exceed one month tuition fee per term;
 - (iii) Library fee and deposit;

- (iii) Library fee and deposit;
- (iv) Laboratory fee and deposit ;
- (v) Gymkhana fee where such facilities are available;
- (vi) Caution money;
- (vii) Examination fee;
- (viii) Admission fee, which shall not exceed one month tuition fee;
- (ix) Yoga and Physical Education fee where yoga and physical education are imparted ;
- (x) any other fee as determined by the Fee Regulatory Committee;
- (g) "Fee Regulatory Committee" means a committee constituted under section 3;
- (h) "Fee Revision Committee" means a committee constituted under section 13;
- (i) "Government" means the State Government;
- (j) "Government school" means a school established, owned or maintained by the Government;
- (k) "institution" means and includes the non-Government educational institution as defined under clause (p) of this Act;
- (l) "local authority" means,-
- (i) a Gauhati Municipal Corporation constituted under the Gauhati Municipal Corporation Act, 1971;
- (ii) All other Municipal Boards or Municipal Town Committees of the State constituted under the Assam Municipal Act, 1956 and Village Councils in case of Autonomous Council areas;
- (iii) a Panchayat constituted under the Assam Panchayat Act, 1994;
- (m) "Lower Primary School" or "LP School" means a school imparting education upto class V;
- (n) "management" means,-
- (i) in the case of a school managed by the Government, the Government;
- (ii) in the case of school managed by any local authority, the respective local authority;
- (iii) in any other case, maintaining committee or the governing body

Assam
Act No. I
of 1973

Assam
Act No.
XV of
1957
Assam
Act No.
XVIII of
1994

by whatever name called, of school to which the affairs of the school are entrusted and, a person, by whatever name or designation called, where such affairs are entrusted to such person and shall also include trust or company associated with the school in any manner whatsoever;

(o)“minority educational institution” means the Government approved institution established and administered by minority having right to do so under clause (1) of Article 30 of the Constitution of India;

(p)“ non-government educational institutions” means schools established and run by an individual or association of individuals or any Non-Government Organization or Society or Trust, except the schools established and maintained by minorities under clause (1) of Article 30 of the Constitution of India and imparting education at Primary, Middle, Secondary and Higher Secondary Level without receiving any grants-in-aid from the State Government which have been registered under sub-section (1) of section 6 of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 excluding the educational institutions run or aided by the Central Government or the State Government. The word “institution” wherever it occurs in the Act shall be construed accordingly.

Assam
Act No.
IV of
2007

Provided that the institution established by any person or body of persons including trusts and received permission/recognition/ affiliation/ concurrence as the case may be, from the competent authority after 01.01.2006 shall be treated as non-government educational institution provided they are registered under sub-section (1) of section 6 of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 ;

Assam
Act No.
IV of
2007

(q) “prescribed” means prescribed by rules made under this Act;

(r) “pre-primary school” means a Nursery, Junior Kindergarten, Senior Kindergarten level or any school imparting education up to pre-primary school level for children having age of 3 to 6 years, by whatever name called and of any medium attached in the prescribed manner to the school;

(s) “profiteering” means any amount accepted in cash or kind, directly or indirectly which is in excess of the fee fixed or approved as per the

provisions of this Act and shall include profit earned from school by trust or company associated with the school in any manner whatsoever;

(t) "public examination" means an examination conducted by the Board of Secondary Education, Assam, constituted under the Assam Secondary Education Act, 1961 and Assam Higher Secondary Education Council constituted under the Assam Higher Secondary Education Act 1984 or Central Board of Secondary Education or Council of Indian School Certificate Examinations or any other Board recognized by the Government;

Assam Act No. XXV of 1961
Assam Act No. XVII of 1984

(u) "recognized school" means a school recognized by the competent Educational Authority of the State or the Central Government;

(v) "school" includes a Lower Primary School, Upper Primary School, High School/High Madrassa, Higher Secondary School, Senior Secondary School and also includes any other institution which imparts education or training below the degree level, but does not include an institution which exclusively imparts technical education;

(w) "school property" means all movable and immovable property belonging to, or in the possession of, the school and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipments, utensils, cash, reserve fund, investments and bank balances;

(x) "secondary education" shall have same meaning as defined under clause (n) of section 2 of the Assam Secondary Education Act, 1961;

Assam Act No. XXV of 1961

(y) "Upper Primary School" or "UP School" including ME Madrassa means a school imparting education upto class VIII.

CHAPTER II

CONSTITUTION OF COMMITTEE. DETERMINATION OF FEE AND PROHIBITION OF COLLECTION OF EXCESS FEE

- Constitution of Fee Regulatory Committee.
3. (1) The Government shall constitute a Fee Regulatory Committee for the purpose of determination of the fee for any standard or course of study in non-government educational institutions.

- (2) The age of the Chairperson and the members shall not be more than 65 years at the time of appointment. The term of the Chairperson and other nominated members shall be three years.
- (3) The honorarium and allowances payable to and other terms and conditions of service of member shall be such as may be prescribed by the Government.
- (4) The Committee shall consist of the following members, namely:-
- (a) retired District and Session Judge or a person who had been a member of All India Service, having retired from a post not below the rank of Commissioner and Secretary to Government or a person who had been a member of Indian Police Service, having retired from a post not below the rank of Additional Director General of Police, to be nominated by the Government, who shall be the Chairperson of the Committee;
- (b) one Chartered Accountant, to be nominated by the Government;
- (c) one Civil Engineer / Government approved valuer, to be nominated by the Government;
- (d) the Secretary, Assam Higher Secondary Education Council and Board of Secondary Education;
- (e) one representative from the non-government educational institution management to be nominated by the Government;
- (f) one Academician of repute, to be nominated by the Government;
- (5) The Director shall act as a co-ordinator to the Committee to provide administrative support.
- Jurisdiction and headquarters of Committee. 4. (1) The jurisdiction of the Fee Regulatory Committee shall comprise of such districts or zones as the State Government by notification in the Official Gazette specify. There may be one or more such Committee as per need. These Committees have to be constituted as per section 3 of the Act.
- (2) The Headquarter of the Fee Regulatory Committee shall be at such place specified by the State Government by notification in the Official Gazette.
- Vacancies, etc. not to invalidate proceedings of the committee. 5. (1) If any vacancy occurs by reason of death, resignation, expiry of term of office or termination of appointment of the member or for any other cause whatsoever, such vacancy shall be filled in by the State Government as soon as possible within a period of six months from the date of occurrence of the vacancy.

- (2) No act or proceeding of the Committee shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the Constitution of the Committee.
- Procedure to be regulated by the Fee Regulatory Committee. 6. (1) The Fee Regulatory Committee shall meet as and when necessary but at least once in a quarter at such time and place as the Chairperson may think fit.
- (2) The Committee shall regulate its own procedure for the conduct of its business.
- (3) All orders and decisions of the Committee shall be authenticated by the Chairperson of the Committee or the person duly authorized by the Chairperson on his/her behalf.
- Disqualification of members of Fee Regulatory Committee. 7. The Government may terminate the appointment of the Chairperson or any member of the Fee Regulatory Committee before the expiry of the term of his office, if he-
- (i) has been adjudged an insolvent;
- (ii) has, in the opinion of the State Government, become physically or mentally incapable of acting as a member;
- (iii) has been convicted of an offence involving moral turpitude, or
- (iv) has been guilty of proven misbehavior :
- Provided that no member shall be removed from his office on the above grounds, unless he has been given a reasonable opportunity of being heard.
- Powers and Functions of the Fee Regulatory Committee. 8. (1) Subject to the provisions of section 10, the Fee Regulatory Committee shall determine the fee payable by students in the non-government educational institution.
- (2) The Committee shall have power to,-
- (a) require each non-government educational institution to place before the Committee, the proposed fee structure of such school along with all relevant documents and books of accounts for, scrutiny before such date as may be specified by the Committee;
- (b) verify whether the fee proposed by the non-government educational institution justified and whether it amounts to profiteering or charging of exorbitant fee;
- (c) approve the existing fee structure or determine the fee which can be

charged by the non-government educational institution;

(d) verify whether the non-government educational institution operating within the territory of the State of Assam is recognized by the competent Authority of the State Government or affiliated to the Assam Higher Secondary Education Council or Board of Secondary Education, Assam or the Central Board of Secondary Education or the Council for Indian School Certificate Examinations or any other Board constituted by the State or the Central Government, as the case may be, and the institution imparts instruction prescribed by the Assam Higher Secondary Education Council or Board of Secondary Education, Assam or any other Board, as referred to above as the case may be;

(e) hear complaints or initiate *suo moto* hearing with regard to collection of excess fee by a non-government educational institution, as referred to above in Clause (d);

(f) regulate the fees charged by the school and penal action as per the provisions of this Act;

(g) report the matter to the State Government that the institution has collected excess fee and it has not complied with the provisions of the respective applicable Acts and rules made thereunder of the concerned Board for appropriate action.

(3) (a) For the purposes of this Act, the Fee Regulatory Committee while holding inquiry shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:-

(i) summoning and enforcing the attendance of any witness and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavit; and

(iv) issuing commission for examination of witnesses for local inspection.

(b) All inquiries and revisions under this Act shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860.

Power of State Government to notify maximum limits of fees.

9. The Fee Regulatory Committee shall recommend maximum limits of fees to be charged by different categories of non-government educational institutions every year before starting of the academic session taking into

Act V of 1908

Act No. 45 of 1860

account the factors as mentioned under section 10 and the State Government shall notify the same in the Official Gazette, from time to time.

Exemption from appearance before Committee.

10. (1) The Fee Regulatory Committee may exempt such non-government educational institutions that charge amount of fee lower than the fee as notified by the Government under section 9 from the determination of fee. Such non-government educational institutions shall file an affidavit to that effect:

Provided that if any such institution desires to revise the fee, it shall follow the procedure as laid down in section 8 :

Provided further that exclusive pre-primary classes, play groups and crèches not attached to any school shall be exempted from the application of the provisions of this Act.

(2) The Fee Regulatory Committee shall determine fee for all institution except the institution as referred to in sub-section (1), imparting pre-primary, primary, upper primary, secondary, and higher secondary education.

(3) The exemption shall remain operative till the prescribed fee is revised by the Government.

(4) The Fee Regulatory Committee may withdraw the exemption, after providing reasonable opportunity of hearing to the erring school, if it has reason to believe that the school has charged fee in excess of the fee, prescribed under sub-section (1) or has furnished false or misleading or incomplete information to the committee.

(5) The information regarding erring schools including details of their management shall be published by the Fee Regulatory Committee through an advertisement in the leading daily newspapers, in the best interest of students, parents, and society at large.

Factors for determination of fee.

11. (1) The Fee Regulatory Committee shall determine the fee leviable by different categories of non-government educational institutions categorized by the Committee after taking into account the following factors, namely :-
- (i) location of the non-government educational institution where the school is situated;