

## ORISSA ORDINANCE No. 3 OF 1989

## THE ORISSA EDUCATION (AMENDMENT) ORDINANCE, 1989

[Promulgated by the Governor of Orissa on the 14th August, 1989 published in an extraordinary issue of the *Orissa Gazette*, dated the 14th August 1989]

AN

## ORDINANCE

TO AMEND THE ORISSA EDUCATION ACT, 1969

WHEREAS the Legislature of the State Orissa is not in session;

AND WHEREAS the Governor of Orissa is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Orissa Education Act, 1969 in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Fortieth Year of the Republic of India:—

Short Title  
and  
commence-  
ment.

1. (1) This Ordinance may be called the Orissa Education (Amendment) Ordinance, 1989.

(2) It shall come into force at once.

Amendment  
of section 3.

2. In the Orissa Education Act, 1969 (hereinafter referred to as the Principal Act), for section 3, the following sections shall be substituted namely:—

Orissa Act  
15 of 1969.

“Definitions

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

(a) “Advisory Council” means the State Advisory Council of Education established under section 15;

(b) “Aided Educational Institution” means a private educational institution which is recognised by and is receiving aid from the State Government and includes an educational institution covered by the list of educational institutions eligible to receive aid as may be drawn by the State Government from time to time under the Scheme regulating Government grant-in-aid to educational institutions for payment of teachers’ salaries;

(c) “Board” means the District School Board established under section 16;

(d) “College” means an educational institution imparting instructions in higher general education leading to any degree conferred by any of the Universities established under the Orissa Universities Act, 1989;

(e) “Director” means the Director of Higher Education, Orissa, the Director of Elementary Education, Orissa, the Director of Secondary Education, Orissa or the Director of the State Council of Educational Research and Training, as the case may be, having jurisdiction as determined by the State Government from time to time over the concerned educational institutions and includes any other officer not below the rank of a Deputy Director 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 as the State Government may, by notification, specify in that behalf;

- (f) "Educational Institutions" 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 land, buildings, play grounds and hostels of the College or School, as the case may be, and the movable properties, maps and equipments pertaining thereto ;
- (g) "Existing Educational Institution" means an educational institution which has been recognised by the State Government before the commencement of the Orissa Education (Amendment) Ordinance, 1989 and is continuing as such at such commencement ;
- (h) "Governing Body" means any body of individuals, by whatever name designated, in which the management of a College vests ;
- (i) "High School" means an educational institution imparting instructions in standards or classes VIII to X leading to the High School Certificate Examination and may have the standards or classes of Middle School attached to it ;
- (j) "Higher Secondary School" means an educational institution imparting instructions in higher secondary course as defined in the Orissa Higher Secondary Act, 1982 and may have standards of classes VIII, IX and X attached ;
- (k) "Managing Committee" means any body of individuals, by whatever name designated in which the management of a school vests ;
- (l) "Middle School" means an educational institution imparting instructions in standards or classes VI and VII, and may have the standards of Primary School attached to it ;
- (m) "Prescribed" means prescribed by rules made under this Act ;
- (n) "Primary School" means an educational institution imparting elementary standard of education comprised in standards or classes I to V ;
- (o) "Private Educational Institution" means any educational institution which is not established and managed by Government of Orissa, the Union Government or the Government of any other State ;
- (p) "Recognised Educational Institution" means any private educational institution which is or has been recognised by the State Government ;
- (q) "Rules" means rules made under this Act ;
- (r) "Tribunal" means the Tribunal or a Tribunal, as the case may be, constituted under section 24-A.

Orissa Act  
19 of 1982.

Amendment  
of section 4.

3. In the Principal Act, for section 4, the following section shall be substituted, namely:—

Establishment and recognition of educational institutions.

4. (1) The State Government may regulate the primary and other stages of education in Government and private educational institutions.
- (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 training of teachers.
- (3) The State Government may, for the purposes of providing such facilities:—
- (a) establish and maintain educational institutions ;
- (b) permit any person or body of persons, with or without conditions, to establish and maintain educational institutions and recognise such institutions when so established in accordance with the provisions of this Act.
- (4) The permission and recognition under sub-section (3) shall be accorded by such authority on behalf of the State Government as may be prescribed.

(5) After the commencement of this Act, the establishment and recognition of any private educational institution shall be subject to the provisions of this Act and the rules made thereunder.

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

Omission of section 4-A.

4. In the principal Act, section 4-A shall be omitted.

Amendment of Section 5.

5. In the principal Act, for section 5, the following section shall be substituted, namely :—

"Application for permission and approval.

5. (1) Any person or body of persons (hereinafter referred to as Agency) desirous of establishing any private educational institution may make an application to the prescribed authority for permission to do so.

(2) In the case of a private educational institution which has been established and for the recognition of which the application, received on or before the 15th day of January, 1989 in the manner and by the authority provided in the rules then in force, is pending for consideration on the date of commencement of the Orissa Education (Amendment) Ordinance, 1989, such institution may make an application to the prescribed authority for approval within sixty days from the date of promulgation of this Ordinance.

(3) The application referred to in sub-sections (1) and (2) shall, among other things, specify the place of location of the Institution and shall specify the local area which it is likely to serve.

(4) If the prescribed authority is satisfied that permission or, as the case may be, approval may be granted to any such agency, or as the case may be, institution, he shall make an order to that effect specifying—

(a) the agency or institution, as the case may be, in whose favour the permission or approval is granted;

(b) the category of educational institution permitted to be established or approved;

(c) the location of the institution ;

(d) the date from which the institution, not being one already established, is to start functioning; and

(e) the conditions to be fulfilled by the Agency or, as the case may be, the institution, in respect of site, land, building, staff and other matters, if any.

(5) Notwithstanding anything contained in sub-section (4), no order granting permission or approval as the case may be, shall be made in relation to—

(i) a High School in any area under a Gram Panchayat within which there is already a recognised High School or in an urban area where there are already as many recognised High Schools as would be required at the rate of one High School for a population of ten thousand ;

(ii) a Higher Secondary School in a Block in which there are already two recognised Higher Secondary Schools or in an urban area where there are as many Higher Secondary Schools as would be required at the rate of one Higher Secondary School for a population of fifty thousand ;

(iii) a College in a Block where there is already one recognised College or in an urban area where there is already one recognised College for every one lakh population.

(6) Where the prescribed authority refuses to accord permission in respect of any application he shall communicate the fact of such refusal to the applicant by an order issued to that effect.

(7) Any applicant aggrieved by an order of the prescribed authority refusing to accord 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.

(8) 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.

(9) In case any new private educational institution in relation to which permission has been accorded under this section fails to start functioning by the stipulated date, the permission so accorded shall cease to operate on the expiry of the said date :

Provided that the prescribed authority may extend the stipulated date from time to time not exceeding thirty days in the aggregate on application made to such authority by the Agency if such authority is satisfied about the reason indicated in the application.

Amendment  
of section 6. namely :—

6. In the Principal Act, for section 6, the following section shall be substituted,

"Recogni-  
tion of  
educational  
institution.

6. (1) An application for recognition of a private educational institution, which has been permitted to be established or approved, as the case may be, under section 5, shall be made to the prescribed authority within three months from the date on which—

(i) the educational institution permitted under section 5 is to start functioning; or

(ii) the approval is accorded under section 5, as the case may be :

Provided that the delay in making such application may, for sufficient reasons, be condoned by the prescribed authority.

(2) Every application for recognition shall be accompanied by a statement showing how far the conditions stipulated in the order granting permission under section 5 have been fulfilled and such other information as may be prescribed.

(3) The application for recognition shall be made in the prescribed form indicating the particulars of the Managing Committee or, as the case may be, the governing body, constituted for management of the institution in accordance with the provisions of this Act and the rules.

(4) Whenever the prescribed authority is satisfied that an institution has fulfilled all the conditions required for recognition of such institution, he shall make an order recognising the institution.

(5) While according recognition under sub-section (4) to a private educational institution the prescribed authority shall have regard to the following matters, namely:—

(a) that provision for suitable and adequate accommodation has been made;

(b) that the institution is located in sanitary and healthy surroundings;

(c) that qualified teachers as per the norms prescribed by the appropriate authority have been appointed and necessary equipments and teaching materials have been provided;

(d) that there is adequate financial support for its continued and efficient maintenance.

(6) In case a private educational institution has not been able to fulfil all the conditions but the prescribed authority is satisfied that it has made reasonably adequate provision for imparting education he may grant temporary recognition to it for a period not exceeding one year at a time and direct it to remove the deficiencies during that period. Such temporary recognition may be restricted to any one standard or class of the institution or may extend to the whole institution.

(7) Save as provided in sub-section (8), on and from the date of commencement of the Orissa Education (Amendment) Ordinance, 1989, no private educational institution shall be eligible for recognition, unless it has been established with the prior permission of the prescribed authority.

A private educational institution of the category referred to in sub-section (2) of section 5, whether it has obtained the approval or not under sub-section (4) of the said section, 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 the aided educational institutions, unless it has received the approval as provided in sub-section (4) of section 5.

- (9) 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 prescribed authority may refuse to recognise such institution.
- (10) The prescribed authority may refuse to recognise a private educational institution which has been permitted to be established if at any time prior to the grant of recognition 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 Government or the Director.

Amendment  
of section 7.

7. In the Principal Act, for section 7, the following sections shall be substituted, namely :—

Managing  
Committee  
or  
Governing  
Body of the  
educational  
institution.

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.
- (2) The Managing Committee or the Governing Body, as the case may be, constituted for any private educational institution, shall obtain the approval of its constitution by the prescribed authority in the prescribed manner failing which the institution shall not be eligible for recognition.
- (3) The Managing Committee or the Governing Body, as the case may be shall be responsible for the proper management of the institution and shall exercise such powers and perform such functions as may be prescribed.
- (4) A Managing Committee of the Governing Body, as the case may be, shall continue in Office for a term of five years from the date of its approval by the prescribed authority under sub-section (2).

Supersession  
and recon-  
stitution of  
Managing  
Committee  
or  
Governing  
Body.

- 7-A (1) Whenever the prescribed authority is satisfied that the Managing Committee, or as the case may be, the Governing Body of any private educational institution has neglected or failed to perform any of the duties imposed by or under this Act or the rules or to give effect to the order or direction issued by the Tribunal under section 24-A or has acted in excess of the authority vested in it or in any manner which is prejudicial to the interest of the educational institution, he may, after giving the Managing Committee or the Governing Body, as the case may be, a reasonable opportunity of showing cause, supersede the Managing Committee or the Governing Body, as the case may be.
- (2) As soon as possible, after supersession of Managing Committee or Governing Body, as the case may be, the prescribed authority shall reconstitute the Managing Committee or the Governing Body, as the case may be, and the Managing Committee or the Governing Body, so reconstituted shall, subject to the provision in sub-section (1), continue for a term of five years from the date of such reconstitution.
- (3) During the period intervening the supersession or expiry of the term of a Managing Committee or Governing Body, as the case may be, and its reconstitution, the powers and functions of the Managing Committee or the Governing Body, as the case may be, shall be exercised by such person or persons as the prescribed authority may appoint.
- (4) Any Managing Committee or Governing Body, if aggrieved by the order of supersession made under sub-section (1) may prefer an appeal before the State Government within thirty days from the date of the order and the decision of the State Government taken in the appeal shall be final.

Appointment  
of qualified  
teachers.

7-B. (1) The State Government or any officer or authority authorised by it may prescribe the qualifications to be possessed by persons for appointment as teachers including the norms relating to the requirement of such teachers in different categories of private educational institutions.

(2) Every private educational institution shall, in order to be recognised by the State Government, appoint the required number of qualified teachers as provided in sub-section (1) from out of the list of candidates selected for this purpose by the Selection Board constituted under sub-section (2) of section 10 in the prescribed manner.

Withdrawal  
of  
recognition.

7-C. (1) The prescribed authority may withdraw the recognition granted to a private educational institution—

- (i) if it does not continue to conform to the conditions of recognition;
- (ii) if it contravenes any of the provisions of this Act or the rules or any directions of the Government or of the Director issued in consistence with the provisions of this Act and rules ;
- (iii) if it fails to maintain the proper standard of instructions and discipline ;
- (iv) if it is found collecting capitation fees in any form ;
- (v) if it fails to maintain the required minimum roll strength of students :

Provided that before withdrawal of the recognition order of an institution, the Managing Committee or the Governing Body, as the case may be, shall be given a notice of the proposed action to show cause as to why such action shall not be taken.

*Explanation*—The expression "capitation fee" used in clause (iv) of this sub-section shall mean a tuition fee disproportionate to the normal tuition fee charged by similar Government institutions, development fee, donation or any other fee, by whatever name called, charged from a student or his guardian or from any other person at the time of admission or at any other time for the purpose of securing admission to a College, Higher Secondary School or High School, as the case may be.

(2) Any institution or Agency, aggrieved by an order of the prescribed authority under sub-section (1) may, in such manner and within such time not later than sixty days from the date of the order as may be prescribed, prefer an appeal before the State Government, whose decision thereon shall be final.

Effect of non  
recognition.

7-D. Notwithstanding anything to the contrary contained in any other provisions of this Act, no private educational institution which has not been recognised by the State Government under this Act and continues to be so, shall be entitled—

- (i) to be recognised by the Board of Secondary Education or the Council of Higher Secondary Education or any of the Universities established under the Orissa Universities Act, 1989, or
- (ii) to receive any aid from the State Government.

Orissa Act 5  
of 1989.

Prohibition  
of establish-  
ment and  
recognition  
of certain  
institutions.

7-E. Notwithstanding anything to the contrary contained in this Act, on and after the commencement of the Orissa Education (Amendment) Ordinance, 1989, the State Government shall not accord permission for establishment of any Private Secondary Training School or Private Training College or recognise any such School or College established, if any, prior to the said date.

Amendment of section 11. 8. In the Principal Act, for section 11, the following section shall be substituted, namely :—

Pupils strength.

11. (1) The private educational institutions shall have the minimum roll strength of pupils for each standard or class as hereinafter provided.

(2) In the case of Colleges and Higher Secondary Schools the minimum roll strength of pupils in each standard or class, or a section thereof, shall be—

(i) sixty-four in relation to the Faculty of Arts ;

(ii) Forty-eight in relation to the Faculty of Commerce ;

(iii) Thirty-two in relation to the Faculty of Science ;

Provided that in the case of Colleges and Higher Secondary Schools located in Scheduled Areas, such minimum roll strength shall be half the respective minimum roll strength as specified in this sub-section.

(3) In the case of High Schools, the minimum roll strength of pupils for each standard or class shall be forty which shall be twenty-five if such Schools are located in Scheduled Areas.

*Explanation*—The expression “Scheduled Areas” shall have the same meaning as assigned to it in Part C of the Fifth Schedule to the Constitution of India.

Amendment of section 27.

9. In the Principal Act, in section 27, for sub-section (2), the following sub-section shall be substituted, namely :—

(2) in particular and without prejudice to the generality of the foregoing powers, the State Government may make rules—

(a) to regulate the establishment, recognition and management of private educational institutions being Colleges, Higher Secondary Schools, High Schools and Middle Schools ;

(b) in respect of all matters expressly required or allowed by this Act to be prescribed”.

Dated, the 14th August 1989

SAIYID NURUL HASAN

GOVERNOR OF ORISSA

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