

# **Tamil Nadu Recognised Private Schools (Regulation) Act, 1973.**

## **(Tamil Nadu Act 29 Of 1974)**

### **Chapter I**

#### **Preliminary**

**1. (1) This Act may be called the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973.**

(2) It extends to the whole of the State of Tamil Nadu.

(3) It applies to all private schools.

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

**2. In this Act unless the context otherwise requires: -**

(1) "academic year" means the year commencing on the first day of June:

(2) "competent authority" means any authority, officer or person authorized by the Government, by notification, to perform the functions of the competent authority under this Act for such area or in relation to such class of private schools, as may be specified in the notification;

(3) "Educational agency" in relation to: -

(a) any minority school, means any person who, or body of persons which, has established and is administering or proposes to establish and administer such minority school; and

(b) any other private school, means any person or body of persons or a company or corporation owned or controlled by the central or state government permitted or deemed to be permitted under this Act to establish and maintain such other private school;

(c) Corporate Body

Any Educational Agency running, or Established and administering more than one school, which wants to be treated as "Corporate Body" shall obtain a declaration from the Director concerned which be granted only if the following conditions are fulfilled.

(1) All the schools under the Educational Agency in each Revenue District shall be treated as one unit for the purposes of seniority, promotion, transfer, etc., Where there are more than one such units, transfer from one unit to other may be made after obtaining prior approval of the Chief Educational Officers of the respective District.

(2) In the case of existing schools, the willingness of the existing teachers and other persons shall be obtained in writing and filed in the school Records.

(3) Each school, should have a school committee

(4) For the purpose of creation of Endowment each school will be treated as a unit

(5) In respect of Teachers including Heads of Institutions and other persons a common seniority list for all the members in all schools in each category shall be maintained which will be a permanent one to be up dated as and when there are additions or deletions.

(6) A declaration by the staff members shall be obtained in the form of additional item in the Agreement Form VII-A.

(7) "Government "means the State Government;

(8) "grant" means any sum of money paid as aid out of State Funds to any private School;

(9) "minority school" means a private school of its choice established and administered by any such minority whether based on religion or language as has the right to do so under clause (1) of Article 30 or Article 26 of the Constitution; and which obtained a declaration to that effect from government which will be issued only if the conditions specified in this behalf are satisfied.

(10) "private school " means a pre-primary, primary, middle or high school (or higher secondary school) or any other institution imparting education or training, established and administered or maintained by any person or body of persons, and recognized by the competent authority under this Act but does not include a school or an institution: -

**a.** Imparting technical or professional education;

**b.** Established and administered or maintained by the Central Government or the State Government or any local authority;

**c.** Maintained or approved by, or affiliated to, any University established by law; or

**d.** Giving, providing or imparting religious instruction alone, but not any other instruction;

(11) "school committee", in relation to a private school, means the school committee constituted under section 15;

(12) "secretary", in relation to a private school, means the secretary referred to in section 16;

(13) Tribunal means a Tribunal constituted under section 42 and having jurisdiction.

(14) "Director" means

(i) Director of School Education in respect of High and Higher Secondary School; including Anglo Indian Schools,

(ii) Director of Elementary Education in respect of pre-primary and Middle schools;

(iii) Director of Matriculation schools in respect of Matriculation schools;

## Chapter II

### Establishment, Permission for Establishment and Management of Private Schools

3. The Government may regulate the different stages of education and courses of instruction in private schools.
4. Save as otherwise expressly provided in this Act, no person shall, without the permission of the competent authority and except in accordance with the terms and conditions specified in such permission, establish, on or after the date of the commencement of this Act, any private school.
5. The educational agency of every private school proposed to be established on or after the date of the commencement of this Act shall make an application to the competent authority for permission to establish such school by the 30th September of the year preceding the year of opening of the school.

(2) Every such application shall:—

(a) be in the prescribed form:

(b) be accompanied by such fee as may be prescribed and

(c) contain the following particulars, namely;

(i) the name of the private school, its locality, the name and address of the educational agency;

(ii) the need for the private school in the locality;

(iii) the course for which such private school proposes to prepare, train or guide its pupils for appearing at any examination conducted, by or under the authority of the Government;

(iii-a) the extent of the playground available to pupils and the adequacy of the playground with reference to the strength of the pupils in the school

(iv) the amenities available to pupils and teachers;

(v) the equipment, laboratory, library and other facilities for instruction;

(vi) the sources of income to ensure the financial stability of the private school;

(vii) the situation and the description of the buildings in which such private school is proposed to be established; and

(viii) such other particulars as may be prescribed;

(3) (a) The Educational Agency of every private Higher Secondary School proposed to introduce new groups or change of groups or courses shall make an application to the

competent authority before the commencement of the academic year of introduction.

(b) Every such application shall

i. be in the prescribed form

ii. be accompanied by such fee as may be prescribed in the Rules.

**5-A.** (1) The educational agency of every higher secondary school which is a private school and in existence on the date of publication of the Tamil Nadu Recognised Private Schools (Regulation) Amendment Act, 1987, in the Tamil Nadu Government Gazette, shall, before the expiry of six months from that date, make an application to the competent authority for permission to continue to run such school.

(2) Every such application shall be in the prescribed form;

(a) be accompanied by such fee, as may be prescribed; and

(b) contain the following particulars, namely:—

(i) the name of the higher secondary school, and the name and address of the educational agency;

(ii) the need for the continuance of such higher Secondary school in the locality;

(iii) the course for which such higher secondary school prepares, trains or guides its pupils for appearing at any examination conducted by or under the authority of the Government;

(iv) the extent of the playground available to pupils and the adequacy of the playground with reference to the strength of the pupils in the school;

(v) the amenities available to pupils and teachers;

(vi) the equipment, Laboratory, library and other facilities for instruction;

(vii) the situation and the description of the buildings in which such higher secondary school is being run; and

(viii) such other particulars as may be prescribed.

**6.** On receipt of an application under sub section (1) of section 5 or sub-section (1) of section 5-a, as the case may be, the competent authority;

(a) may, after considering the particulars contained in such application, grant or refuse to grant the permission; and

(b) shall communicate its decision giving reasons therefor to the applicant within a period of four months from the date of such receipt in complete shape by the competent authority;

provided that the permission shall not be refused under the section unless the applicant has been given an opportunity of making the representations;

**7. Deleted**

**8. (1) (a)** whenever there is any change in the constitution of the educational agency that agency shall apply to the competent authority for approval of such change.

b. Whenever the management of any private school is proposed to be transferred, the educational agency and the person representing it, to whom the management is proposed to be transferred may, before such transfer, apply jointly to the competent authority for approval of the transfer;

c. On any transfer of the management of private school without approval having been obtained for such transfer under clause(b), the transferee shall, if he desires to run it as such, without altering its status and adversely affecting the service conditions of the staff employed in it, apply to the competent authority within three months of the date of the transfer, for approval of the transfer.

d. An application under clause (a), clause (b), or clause (c) shall be in such form and contain such particulars as may be prescribed.

(2) On receipt of an application under subsection

(1), the competent authority shall--;

(a) if it is satisfied after making such inquiry as it deems fit, that the educational agency will continue to maintain and manage or, as the case may be, that the transferee will maintain and manage, the private school in accordance with the provisions of this Act and the rules made there under, approve the change or, as the case may be the transfer, subject to such conditions as it may impose; and

(b) Communicate its decision to the applicant within a period of three months from the date of such receipt.

**9.** Any minority whether based on religion or language may establish and administer any private school without permission under section 4.

**10.** Every minority school established and administered after the date of the commencement of this Act shall send to the competent authority a statement containing the particulars specified in clause sub section (2) of section 5 within such time as may be prescribed.

**10-A.** The educational agency of every higher secondary school which is a minority school in existence immediately before the date of publication of the Tamil Nadu Recognised Private Schools (Regulation) Amendment Act, 1987, in the Tamil Nadu Government Gazette shall send to the competent authority a statement containing the particulars specified in the clause (c) of sub-section (2) of section 5 within such period as may be prescribed.

## Chapter III

### Recognition of Private School

**11.** (1) on receipt of an application by:—

(a) any private school in respect of which permission has been granted under section 6 or

(b) any minority school; which should reach the competent authority in a complete shape before the 31st December of the year in which the school was established, the competent authority may, after satisfying itself, that proper arrangements have been made for the maintenance of academic standard in the school, that the provisions of this Act are complied with and that the prescribed conditions have been satisfied grant a certificate, recognizing the private school for the purposes of this Act.

(2) The Certificate under sub-section (1) shall be granted within such period as may be prescribed.

**11-A.** The competent authority shall, before passing orders on an application for recognition under section 11, also take into consideration:—

(a) The adequacy of schools already existing in the locality;

(b) the need for the private school in the locality;

(c) the number of pupils studying in such school;

(d) the extent of the playground available to pupils and the adequacy of the playground with reference to the strength of the pupils in the school;

(e) the amenities available to pupils and teachers;

(f) the equipment, laboratory, library and other facilities for instruction and training and

(g) such other factors as may be prescribed.

**12.** (1) The competent authority may withdraw permanently or for any specified period the recognition of any private school:—

(i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private school., or

(ii) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or

(iii) which contravenes or fails to comply with any such conditions as may be prescribed.

(2) Before withdrawing the recognition under sub-section (1), the competent authority shall give the educational agency an opportunity of making its representation.

**13.** Any private school, the recognition of which has been withdrawn shall not be entitled to:—

- (i) receive any grant or other financial assistance from the Government; or
- (ii) prepare, train or guide pupils for appearing at any examination conducted by, or under the authority of the Government.

**14.** (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, or in any decree, order or direction of any court or other authority,--

(i) no private school shall, only on the ground of having been granted recognition under this Act, be entitled to any grant or other financial assistance from the Government;

(ii) The Government may, subject to:--

(a) the availability of funds;

(b) the norms and conditions specified in the Grant-in-aid Code of Tamil Nadu Education Department;

(c) the condition that every private school receiving any grant or financial assistance from the Government levies and collects from the pupils only such fee, charge or other payment as may be specified by the competent authority, which shall not be in excess of the fee, charge or other payment, levied and collected from the pupils studying in the schools or institutions established and administered or maintained by the State Government, or any local authority in the locality;

(d) the rules, orders and notifications issued by the Government from time to time; and

(e) such other conditions as may be prescribed.

Pay to the private school grant or other financial assistance at such rate and for such purposes as may be prescribed)

(2) The Government or the competent authority may withhold permanently or for any specified period the whole or part of any grant referred to in sub-section (1) in respect of any private school;--

(i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder in so far as such provisions, rules or directions are applicable to such private school or

a. in regard of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder; or

b. which contravenes or fails to comply with any such condition as may be prescribed.

(3) Before withholding the grant under sub-section (2), the Government or the competent authority shall give the educational agency an opportunity of making its representation.

#### **Chapter IV**

#### **School Committee and Its Constitution And Functions**

**15.** (1) every private school shall have a duly constituted school committee which shall include the headmaster of the private school and the senior most teachers employed in the private school provided in sub-section(2). Provided that where an educational agency is a company or corporation owned or controlled by the central or state government and such educational agency has established and administering or maintaining more than one private school, such private schools may with the prior permission of the Director concerned have a common school committee consisting of all heads of such private schools and such number of senior most teachers employed in such private schools as provided in sub section (2).

(2) The number of representatives of the teachers on such constituted school committee shall be such as may be prescribed in the Rules issued under this Act and different number of representatives may be prescribed for different classes of private schools.

**16.** (1) Every school committee shall have a secretary who shall exercise such powers and perform such functions as may be prescribed.

(2) Every person holding office as president, secretary, manager or correspondent of private school or exercising the powers of secretary under this Act on the date of the commencement of this Act shall be deemed to be a secretary under this Act.

**17.** (1) The school committee shall meet at such time and places and shall subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meeting (including the quorum at meetings) as may be prescribed.

Provided that the school committee shall meet atleast once in every three months.

(2) The president of the school committee or, in his absence, any member chosen by the members present, shall preside at a meeting of the school committee.

(3) All questions at any meeting of the school committee shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the president or, in his absence, the member presiding, shall have and exercise a second or casting vote.

**18.** Functions of the school committee and responsibility of educational agency under the



Act: - (1) Subject to the provisions of this act and the rules made thereunder the school committee shall have the following functions, namely: -

(a) to carry on the general administration of the private school excluding the properties and funds of the private school.

(b) To appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their service; which shall not contravene any of the provisions made in the Rules or directions issued under this Act, and

(c) to take disciplinary action against teachers and other employees of the private school following the prescribed procedure.

(2) The educational agency shall be bound by anything done by the school committee in the discharge of the functions of that committee under this Act.

(3) For the purposes of this Act, any decision or action taken by the school committee in respect of any matter over which the school committee has jurisdiction shall be deemed to be the decision or action taken by the educational agency.

(4) The Secretary of the school committee shall send a quarterly Return showing the decisions taken at the meetings of the school committee held during the Quarter under report and enclose it to that monthly staff grant Statement ending with that quarter.

## **Chapter IV-A**

### **Appointment of Special Officer In Certain Cases**

**18- A.** (1) (A) where the Government, on receipt of a report from the Director or otherwise, are satisfied that the management of any private school: -

(i) is responsible, whether on or after the date of commencement of the Tamil Nadu Recognised Private School (Regulation) and Private Colleges (Regulation) Amendment Act, 1982, for the mal administration, lapses or irregularities of such private school; or

(ii) has neglected whether on or after the date of commencement of the Tamil Nadu Recognised Private Schools (Regulation) and Private Colleges (Regulation) amendment Act, 1982 to discharge any of the duties imposed or to perform any of the functions entrusted to such management by or under this Act, or any rule or order made or direction issued thereunder, the Government may, after giving to such management an opportunity to make representation and for reasons to be recorded in writing, by an order suspend the management and appoint a special officer for a period not exceeding one year or till the reconstitution of the management( in accordance with the law applicable to the reconstitution of such management), whichever is later:

Provided that in no case the maximum period of such suspension of management shall exceed two years irrespective of the reconstitution of the management in accordance with the law applicable to the reconstitution of such management:

Provided further that where, the management of any minority school is suspended,

the Government shall appoint a special officer belonging to that minority which has been administering the said minority school immediately proceeding such suspension.

(iii) The special officer to be appointed under sub section (ii) shall be a District Educational officer in respect of High and Higher Secondary Schools. The authority competent to accord approval wherever necessary as contemplated in these rules on matters arising from the orders of the Special Officer shall be the Chief Educational Officer in whose jurisdiction such school lies (ii) shall be the District Elementary Educational Officer of the District in the case of primary and middle schools. The authority competent to accord approval wherever necessary as contemplated in these rules, shall be a Deputy Director of Elementary Education nominated by the Director of Elementary Education for the purpose.

(iv) (b) On the making of an order under clause (a), suspending the management of a private school: -

(i) the management shall cease to discharge the duties imposed on, and to perform the functions entrusted to it; and

(ii) the special officer-

(A) shall take all such steps as may be necessary to efficiently manage and run the private school in accordance with any law applicable to the private school in so far as such law is not inconsistent with this Act; and

(B) may afford such special educational facilities as were immediately before the making of the order under clause (a), afforded at the private school.

**Explanation:-** In item (A) of sub-clause (ii) of clause (b), the expression "law" includes any byelaw, rules, regulation, custom, usage or instrument having the force of law.

(C) where the Government are satisfied that the manager alone, is whether on or after the date of commencement of the Tamil Nadu Recognised Private Schools (regulation) and Private Colleges (Regulation) Amendment Act, 1982, responsible for the lapses or irregularities of the private school, action shall be taken against him by the management, as recommended by the Government.

(2) The Government may, for reasons to be recorded in writing, by an order declare a person to be unfit to be the manager of private school after giving to such person an opportunity of making his representation against such declaration and under intimation to the management and on such declaration, the person aforesaid shall cease to be the manager of the private school, shall nominate another person as a manager in his place.

(3) For the removal of doubts it is hereby declared that any willful failure or willful negligence on the part of a management to take action against the manager as required under clause (c) of subsection (1) or to nominate another person as manager under subsection (2) shall constitute an act of maladministration and action shall be taken against the management of private school under this Act accordingly.

**Explanation:-** For the purpose of this Chapter-

2. "management" includes the school committee or any person, body of persons, committee or any other governing body, by whatever name called, in whom the power to manage or administer the affairs of a private school is vested:

Provided that the Board of Trustees, or the governing body of Wakf Board, by whatever name called, constituted or appointed under any other law for the time being in force relating to the charitable and religious institutions and endowments and wakfs, shall be deemed to be a management for the purposes of this Chapter;

(3) "manager" means the secretary, or any person holding office as president, manager or correspondent of a private school, who is managing or administering the affairs of such private school;

(4) "private school" includes minority school.

(5) Sub-sections (1) and (2) shall apply to a minority school, in so far as they are not repugnant to clause (1) of Article 30 of the Constitution.

**18-B.** Appeal to Special Tribunal,-(1) Any person aggrieved by an order passed by the Government under section 18-A, may within one month from the date of receipt of such order, prefer an appeal to the Special Tribunal consisting of two judges of the High Court nominated from time to time by the Chief Justice in that behalf:

Provided that the Special Tribunal may in its discretion allow further time not exceeding one month for the filing of such appeal.

(2)The members of the Special Tribunal shall hear the appeal on all points whether of law or of fact, where on any such point or points, the members are divided in their opinion they shall state the point or points together with their opinion thereon shall then be laid before one or more judges nominated for the purpose by the Chief Justice and such Judge or Judges shall hear the appeal in so far as it relates to such point or points and on each such point, the decision of the majority of the Judges who have heard the appeal including those who first heard it shall be deemed to be the decision of the Special Tribunal.

(3) The Special Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when hearing an appeal.

(4) Every order made by the Special Tribunal under this Act shall be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

(5)The decision of the Special Tribunal shall be final.

## Chapter V

### Terms and Conditions of Service of Teachers And Other Persons Employed In Private Schools.

**19.** The Government may make rules regulating the number, qualifications and conditions of service (including promotion, pay, allowances, leave, pension, provident fund, insurance and age of retirement and rights as respect to disciplinary matters) of the teachers and other persons employed in any private school. The fundamental Rules, The Tamil Nadu leave Rules, The Tamilnadu Pension code, and the Govt. orders issued from time to time regulating various allowances unless otherwise specifically ordered shall mutates mutandis apply to the teachers and other persons employed in the posts approved by the department and admitted to aid.

**20.** (1) No person who does not possess the qualifications prescribed under section 19 shall on or after the date of the commencement of this Act, be appointed as teacher or other employee in any private school.

(2) Nothing contained in this section or any rule made thereunder shall apply to any person who, on or before the date of the commencement of this Act is employed as teacher or other employee in any private school.

**21.** Every teacher and every other person employed in any private school shall be governed by such code of conduct as may be prescribed and if any teacher or other person so employed violates any provision of such code of conduct, he shall be liable to such disciplinary action as may be prescribed.

**22.** (1) Subject to any rule that may be made in this behalf, no teacher or other person employed in any private school shall be dismissed, removed or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority.

(2) Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall, if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment and communicate its decision within 2 months, after getting all the relevant materials for taking a decision.

(3) (a) No teacher or other person employed in any private school shall be placed under suspension, except when an inquiry into the gross misconduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of section 21, of such teacher or other person is contemplated.

(b) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall, without prejudice to the inquiry, be deemed to have been restored as teacher or other employee:

Provided that the competent authority may, for reasons to be recorded in writing,

extend the said period of two months, for a further period not exceeding two months, if in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other person

**23.** Any teacher or other person employed in any private school: - (a) who is dismissed, removed or reduced in rank or whose appointment is otherwise terminated; or

(b) whose pay or allowances or any of whose conditions of service are altered or interpreted to his disadvantage by any order may prefer an appeal against such order to such authority or officer as may be prescribed and different such authorities or officers may be prescribed for different classes of private schools.

**Explanation:—** In this section, the expression 'order' includes any order made on or before the date of the commencement of this Act in any disciplinary proceedings which was pending on that date.

**24.** If the appeal under section 23 was against the dismissal, removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any private school, such teacher or other person or the educational agency aggrieved by any order made in any such appeal, may prefer an appeal against the appellate order to the Tribunal.

**25.** (1) if, before the date of the commencement of this Act, any teacher or other person employed in any private school has been dismissed or removed or reduced in rank or his appointment has been otherwise terminated and any appeal preferred before that date: -

(a) by him against such dismissal or removal or reduction in rank or termination; or

(b) by him or the educational agency against any order made before that date in the appeal referred to in clause (a) is pending on that date, such appeal shall:—

(i) in a case falling under clause (a) stand transferred to the appellate authority prescribed under section 23; or

(ii) in a case falling under clause (b), stand transferred to the Tribunal.

(2) If any such appeal as is referred to in sub-section(1) has been disposed of before the date of the commencement of this Act the order made in any such appeal shall be deemed to be an order this Act and shall have effect accordingly.

**26.** Where any retrenchment of any teacher or other person employed in any private school is rendered necessary consequent on any order of the Government relating to education or course of instruction or to any other matter (or consequent on the reduction in strength of the pupils studying in any such private School) it shall be competent for the Government or the school committee of any private school to appoint such teacher or other person in any school or institution maintained by the government or in such private school, as the case may be.

**(Explanation:—** For the purpose of this section, the strength of the pupils shall be

determined in accordance with the norms fixed in the Grant-in-Aid code of the Tamil Nadu Education Department or under any rule, regulation or order as may be made or issued by the Government or the Director of School Education, from time to time, for appointment of teachers or others in any private school )

**27.** The pay and allowances of any teacher or other person employed in any private school shall be paid on or before such day of every month, in such manner and by or through such authority, officer or person, as may be prescribed.

**28.** (1) This Chapter or any rule providing for all or any of the matters specified in this Chapter or any order made in relation to any such matter shall have effect notwithstanding: -

(a) anything contained in any :-

(i) other law for the time being in force, or

(ii) award, agreement or contract of service, whether such award, agreement or contract of service was made before or after the date of the commencement of this Act, or

(iii) judgement, decree or order of court, Tribunal or authority, or

(b) that the rules relating to recognition of or payment of grant, to private schools, had or have no statutory force:

Provided that where, under any such award, agreement, contract of service or otherwise, any teacher or other person employed in any private school is entitled to benefits in respect of any matter which are more favourable to him than those to which he will be entitled under this chapter, such teacher or other person shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this chapter.

(2) Nothing contained in this chapter shall be construed as precluding any such teacher or other person from entering into an agreement for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this chapter.

(3) When a school under non-minority educational agency is transferred to the management belonging to a minority along with the teachers and other persons appointed against posts approved by the department and admitted to aid, such teachers and other persons will continue to be governed by the Rules applicable to non minority schools, and their service rights in that school will be protected. When a school under minority or non-minority Educational agency is transferred to the management belonging to another non-minority Educational agency which has already established or maintaining one or more schools, it will continue to be a separate single unit with protection of service rights in that school, unless the educational agency has obtained from Government a declaration that it is a corporate body which will be issued only if the conditions specified in this behalf are satisfied.

## Chapter VI

### Control of Private School

29. (1) No Private school and no class and no course of instruction therein in a private school shall be closed without obtaining the prior approval arrangements as may be prescribed or the continuance of the instructions of the pupils of private school or the class or the course of instructions, as the case may be, for the period of study for which the pupils have been admitted.

(2) No prior approval under sub-section (1) shall be given unless a notice in writing is given to the competent authority. The period of notice shall be such as may be prescribed and different periods of notice may be prescribed for different classes of private schools. The notice shall be in such form, contain such particulars and given in such manner as may be prescribed.

(3) The competent authority shall dispose of the notice given under sub-section (2) as expeditiously as possible, and in any case, within six months from the date of receipt of the notice.

(4) On receipt of the notice under sub-section (2) and after considering the same: -

(a) the competent authority may give the prior approval for closure of the Private School, class or course of instruction, as the case may be, and while giving the said prior approval it may impose such conditions as it deems fit; or

(b) if the competent authority is satisfied that –

(i) the notice given under sub-section (2) is defective;

(ii) no arrangements have been made as required under sub-section (1), for the continuance of the instruction of the pupils of private school or the Class or the course of instruction as the case may be, for the period of study for which the pupils have been admitted; or

(iii) the reasons given for closure of the private school class or course of instruction as the case may be, are directly attributable to the mismanagement or maladministration on the part of the management or

(iv) the financial position of the management is sound, in cases where the lack of finance has been adduced as a ground for closure of the private school, class or course of instruction, as the case may be; or

(v) the reason given for closure of the private schools, classes or course of instruction as the case may be, are not bonafide, in

(vi) the closure of the private school, class or course of instruction, as the case may be shall adversely affect the educational opportunity available to the pupils of the local area in which such private school is situated.

It may refuse to give the prior approval for closure of the private school, class or course of instruction as the case may be after recording in writing the reasons for such

refusal;

Provided that the competent authority shall not refuse to give the prior approval unless the applicant has been given an opportunity of making his representations.

(5) Where the competent authority refuses to give the prior approval for closure of the private school, class or course of instruction, as the case may be, the management shall continue to run the private school, class or course of instruction as the case may be.

(6) Where the competent authority gives approval for closure of the private school, class or course of instruction, as the case may be, during the course of an academic year, such closure shall take effect from the expiry of the said academic year.

**Explanation:—** For the purpose of this section, the expressions of “management” and “private school ” shall have the same meaning as in the Explanation to sub-section (3) of section 18-A

**30.** The educational agency shall on or before the prescribed date in each year, furnish to the competent authority a statement (with such particulars as may be prescribed) of every: -

- a. movable property of not less than such value as may be prescribed; and
- b. movable property of the private school.
- c.

**31. (1)** Notwithstanding anything contained in any other law for the time being in force in any deed, document or instrument having effect by virtue of such other law: -

(a) no property of a private school shall except with the previous permission in writing of the competent authority, be transferred by way of sale, exchange, mortgage, charge, pledge, lease, gift or any other manner whatsoever; and

(b) if any such property is transferred without such permission, the transfer shall be null and void.

(2) The competent authority may –

(a) grant the permission under clause (a) or sub-section (1) if the transfer is made in furtherance of the purposes of the private school or of similar purpose approved by the competent authority and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purpose; and

(b) when granting such permission, impose such conditions as it deems fit to ensure that such assets are wholly utilized in furtherance of such purposes; but a contravention of any such condition shall not invalidate the transfers.

Provided that the permission shall not be refused under this section unless the applicant has been given an opportunity of making his representations.

For the purpose of this section, ‘property’ means any:–



- (a) movable property of not less than such value as may be prescribed; and
- (b) such immovable property as may be specified in the rules made in this behalf.

**32.** (1) Subject to the provisions of sub-section (2) no private school shall levy any fee or collect any other charge or receive any other payment except a fee, charge or payment specified by the competent authority.

(2) Every private school in existence on the date of the commencement of this Act and levying different rates of fees or other charges or receiving any other amount on such date, shall obtain the prior approval of the competent authority before continuing to levy such fees or charges or receive such payment.

**33.** (1) All the money collected, grants received and other property held by or on behalf of a private school shall be utilized for the purposes for which they are intended and shall be accounted for by the educational agency in such manner as may be prescribed.

(2) A private school may invest or deposit its funds –

(a) in the State Bank of India constituted under the State Bank of India, Act, 1955 (Central Act 23 of 1955); or

(b) in a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959); or

(c) in any corresponding new bank as defined in the Banking companies (Acquisition and transfer of Undertaking) Act, 1970 (Central Act 5 of 1970) or Post Office Savings Banks; or

(d) in any of the securities specified in section 20 of the India Trust Act, 1982 (Central Act 11 of 1982) or

(e) in such mode as may be prescribed

**34.** (1) If on receipt of a report from the competent authority or otherwise the Government are satisfied that the Educational agency of any private School has neglected to discharge any of the duties imposed on or, to perform any of the functions entrusted to that agency by or under this Act or any rule or order made or direction issued, thereunder and that it is expedient in the interests of School education to take over the management of such private School, the Government may by order, in writing, take over the management of such private School.

(Provided that the Government shall not initiate any proceeding under this section to take over the management of any private School unless they are satisfied that suspension of the management under section 18-A will not be sufficient)

(2) Before making an order under sub-section (1) the Government shall give the Educational agency an opportunity of making its representation.

(3) Any order made under sub-section (1), shall have effect unless it is cancelled for such period as may be specified in the order;

Provided that the period so specified shall not, in the first instance exceed two years but may, by a like order, be extended from time to time, by any period not exceeding one year at any one time if it appears to the Government that the interest of school Education requires such extension; so, however, that no such order as so extended shall in any case remain in force for more than five years in the aggregate.

(4) On the making of an order under sub-section (1) taking over the management of a private School;

(a) the Educational agency and the school Committee shall cease to discharge the duties imposed on and to perform the functions entrusted to that agency and that Committee and

(b) the Government

(i) shall take all such steps as may be necessary to efficiently manage and run the private School in accordance with any law applicable to the private School in so far as such law is not inconsistent with this Act and the rules made thereunder and to take into the custody or control of the Government all the property, effects and actionable claims to which the private School is or appears to be entitled and all the property and effects of the private School shall be deemed to be in the custody of the Government as on and from the date of the order; and

(ii) may afford such special Educational facilities as were immediately before the making of the order under sub-section (1) afforded at the private School.

**Explanation:—** In sub-clause (i) of clause (b) the expression "Law" includes any by-law, rule, regulation custom or usage.

(5) If at any time it appears to the Government that the purpose of the order made under subsection (1) has been fulfilled or that for any other reason, the order should be cancelled, the Government may, by order in writing, cancel the order made under sub-section (1) and on such cancellation, the maintenance and management of the private School shall stand restored to the Educational agency.

(6) Any person aggrieved by any order of the Government under this section may prefer any appeal against such order to the Tribunal.

(7) This section or any order made thereunder shall have effect notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law.

(8) An Educational agency which ceases to exist and where there is no legal claim for more than 3 years, Government shall take over the management of the school as a permanent measure.

**35.** (1) Where the control of any property taken over under section 34 is to be relinquished, the Government may, after making such inquiry, if any, as they consider, necessary by order in writing specify the person to whom possession of the property shall be delivered.

(2) The delivery of possession of any such property to the person specified in the order made under sub-section (1) shall be a full discharge of the Government or the competent on any other authority or officer or servant of the Government from all liability in respect of such property, but shall not prejudice any rights in respect of such property which any other person may be entitled by due process of law, to enforce against the person to whom possession of the property is so delivered.

(3) Where the person to whom possession of any property referred to in sub-section (1) is to be delivered cannot be found or has no legal agent or other person empowered to accept delivery on his behalf the Government shall cause to be published in the Tamil Nadu Government Gazette a notice declaring that the control of such property is relinquished; and in the case of any building or land, shall cause a copy thereof to be affixed on some conspicuous part of such building or land.

(4) When the notice referred to in sub-section (3) is published in the Tamil Nadu Government Gazette; -

(a) The property specified in such notice shall cease, on and from the date of such publication, to be subject to the control of the Government or the competent or any other authority or officer or servant of the Government;

(b) Possession of such property shall be deemed to have been delivered on that date to the person entitled to possession thereof; and

(c) The Government or the competent or any other authority or officer or servant of the Government shall not be liable for any rent, compensation or other claim in respect of such property for any period after the said date.

**36.** Notwithstanding anything contained in this chapter, the Government shall not take over the management of any minority School under section 34.

## **Chapter VII**

### **Accounts, Audit, Inspection and Returns**

**37.** Every private School shall maintain accounts in such manner and containing such particulars as may be prescribed.

**38.** (1) The account of every private School receiving grant shall be audited at the end of every academic year by such authority, officer or person as may be prescribed and different authorities, officers or persons may be prescribed for different classes of private Schools.

(2) (a) The authority, officer or person, prescribed under sub-section (1) shall send a copy of the report on the audit of the accounts under that sub-section to the competent authority which shall forward the report to the Educational agency.

(c) The Educational agency shall, within such time as may be prescribed, submit that report together with the comments of that agency to the competent authority.

**39.** (1) The competent authority shall have the right to cause an inspection of, or, inquiry in

respect of private School, its buildings, laboratories, libraries, workshops and equipment and also of the examinations, teaching and other work conducted or done by the private School, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter, connected with the private School and the Educational agency shall be entitled to be represented there at.

(2) The competent authority shall communicate to the Educational agency the views of the authority with reference to the results of such inspection or inquiry and may, after ascertaining the opinion of the educational agency thereon, advise that agency upon the action to be taken.

(3) The educational agency shall report to the competent authority the action, if any, which is proposed to be taken or has been taken upon the results of such inspection or inquiry. Such report shall be furnished within such time as the competent authority may direct.

(4) Where the educational agency does not, within a reasonable time, take action to the satisfaction of the competent authority that authority may, after considering any explanation furnished or representation made by the educational agency, issue such directions as that authority deems fit and the educational agency shall comply with such directions.

**40.** Every educational agency shall, within such time or within such extended time as may be fixed by the competent authority in this behalf furnish to the competent authority such returns, statistics and other information as the competent authority may, from time to time, require.

## **Chapter VIII**

### **General Provisions Regarding Appeal and Revision**

**41.** (1) Any person aggrieved by any order, decision or direction of the authority under (Section 29 or under any other provision) (other competent than section 34) of this Act may prefer an appeal against such order, decision or direction, to such authority or officer as may be prescribed and different such authorities or officers may be prescribed for different classes of private schools.

(2) If the competent authority omits to communicate its decision to any applicant within the period specified in clause (b) of section 6 or in clause (b) of sub-section (2) of section 8, (or in sub-section (3) of section 29) such applicant may perform an appeal against such omission to the appellate authority prescribed under this section.

**42.** (1) The Government may constitute as many Tribunals as may be necessary for the purposes of this Act.

(2) Each Tribunal shall consist of one person only who shall be a judicial officer not below the rank of a subordinate judge.

(3) Each Tribunal shall have such jurisdiction and over such areas or in relation to such class of private schools, as the Government may, by notification, from time to time, determine.

(4) Every Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908) while hearing an appeal.

**43.** (1) No appeal under any provision of this Act shall be preferred after expiry of one month from the date on which the order, decision or direction appealed against, was received by the appellant:

Provided that the appellate authority may, in the discretion, allow further time not exceeding one month for preferring any such appeal if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(2) On receipt of any such appeal, the appellate authority shall, after-

(i) giving the parties an opportunity of making their representations;

(ii) making, if necessary, such inquiry as it deems fit; and

(iii) considering all the circumstances of the case, make such order as it deems just and equitable.

(3) The appellate authority may, pending the exercise of its power, pass such interlocutory orders as it deems fit.

(4) Every appeal under this Act shall be disposed of as expeditiously as possible.

**44.** (1) If the appellate authority referred to in section 23 has in any appeal under that section against the dismissal or removal or reduction in rank or the termination otherwise of the appointment of any teacher or other person employed in any private school, made an order restoring such teacher or other employee as such, no appeal against the order of such restoration shall be preferred to the Tribunal and no appeal (against the order of such restoration) which, under section 25, stands transferred to the Tribunal shall be proceeded with by the Tribunal, unless the educational agency deposits with the Tribunal all arrears of pay and allowances due to such teacher or other person from the date of his dismissal or removal or reduction in rank or termination otherwise of his appointment up to the date of deposit, and continues to deposit the pay and allowances due to such teacher or other person until the termination of the proceedings before the Tribunal.

(2) The deposit under sub-section (1) shall be made within such time and in such manner as may be prescribed.

(3) Where there is any dispute as to the amount to be deposited under sub-section (1) the Tribunal shall, on application made to it either by the educational agency or by such teacher or other person, and after making such inquiry as it deems fit, determine summarily the amount to be so deposited.

(4) If the educational agency, fails to deposit the amount as aforesaid, the Tribunal shall, unless the educational agency shows sufficient cause to the contrary, stop all further proceedings and make an order directing the educational agency to restore such teacher or other employee as such.

(5) (a) Where, as a result of any final order made by the Tribunal at the conclusion of

the proceedings before it, such amount of pay and allowances as becomes due to such teacher or other person, shall be paid to him out of the amount deposited under subsection (1).

(b) If there is any balance left of the amount deposited under sub-section (1) after payment under clause (a) of the pay and allowances referred to in that clause, such balance, or, where no amount becomes due as aforesaid to such teacher or other person, the whole of the amount deposited under sub-section (1), shall be returned to the educational agency.

**45.** (1) The Government may call for and examine the record of any authority or officer prescribed, for the purpose of section 41 in respect of any proceedings to satisfy themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any order made, decision taken or direction issued therein; and if, in any case, it appears to the Government that any such order, decision or direction should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representations.

(3) The Government may, pending the exercise of their power under sub-section (1), pass such interlocutory orders as they deem fit.

**46.** If any person, when required, by or under this Act or any rule made under this Act, to furnish any information, omits to furnish such information or furnished any information, which he knows, or has reasonable cause to believe, to be false, or not true, in any material particular, he shall be punishable, with fine which may extend to one hundred rupees.

**47.** (1) If any person willfully contravenes, or attempts to contravene, or knowingly abets the contravention of, any of the provisions of this Act or any rule made thereunder, he shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues for conviction for the first such contravention.

(2) If any person willfully obstructs any authority, officer or person, from entering any private school in the exercise of any power conferred on it or him by or under this Act, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

**48.** (1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company as well as the company, shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Not with standing anything contained in subsection (1), where any such offence

has been committed by a company and it is proved that the offence has been committed with the consent or convenience of, or is attributable to any neglect on the part of, any director, manager, secretary or other secretary, or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation:-** For the purpose of this section,-

(a) "company" means any body corporate and includes a firm, society or other association of individuals and

(b) "director" in relation to—

(i) A firm, means a partner in the firm.

(ii) A society or other association of individuals, means the person who is entrusted under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

**49.** No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence made by an authority or officer authorized by the Government in this behalf.

**50.** No Court inferior to that of a presidency magistrate or a magistrate of the first-class shall try any offence punishable under this Act.

## **Chapter X**

### **Miscellaneous**

**51.** (1) The Government may, by notification, authorize any authority or officer to exercise any of the powers vested in them by this Act except the power to make rules and may, in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification and also to control and revision by the Government or by such authority or officers as may be empowered by them in this behalf. The Government shall also have the power to control and revise the acts or proceedings of any authority or officers so empowered.

**51-A.** The Government may, by notification, direct that any function of the competent authority under this Act or the rules made thereunder, shall in relation to such matters and subject to such conditions, as may be specified in such notification, be performed also by such officer or authority subordinate to the Government, as may be specified in the notification)

**52.** Every authority and every officer duly authorized to discharge any duty imposed on it or

him under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code ( Central ACT XLV OF 1860)

**53.** No civil court shall have jurisdiction to decide or deal with any question which is by or under this act required to be decided or dealt with by any authority or officer mentioned in this Act.

**53-A.** (1) Notwithstanding anything contained in section 53, whenever any dispute as to the constitution of any educational agency, or as to whether any person or body of persons, is an educational agency, or as to whether agency, in relation to any private school, or as the appointment of secretary of the school committee, arises such dispute may be referred by the persons interested or by the competent authority to the civil court having jurisdiction, for its decision.

(2) Pending the decision of the civil court on a dispute referred to it under sub-section (1), or the making of an interim arrangement by the civil court for the running of the private school, the Government may nominate an officer to discharge the functions of the educational agency, the school committee or the secretary, as the case may be, in relation to the private school concerned.

**54.** (1) Any order made, decision taken or direction issued by any authority or officer in respect of matters to be determined for the purpose of this Act, shall subject only to appeal or revision, if, any, provided under this Act, be final.

(2) No such order, decision or direction shall be liable to be questioned, in any Court of law.

**55.** (1) No suit or other proceeding shall lie against the Government for any act done or purporting to be done under this Act or any-rule made thereunder.

(2) (a) No suit, prosecution or other proceeding shall lie against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(b) No authority or officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of the duties or the discharge of the functions imposed by or under this Act.

(3) No suit, prosecution or other proceeding shall be instituted against any authority or officer or servant of the Government for any act done or purporting to be done under this Act or any Rule made thereunder after the date of the expiry of six months from the date of the act complained of.

**56.** (1) The Government may make rules to carry out the purpose 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, namely: -



- (a) all matters expressly required or allowed by this Act to be prescribed.
- (b) the form of applications and the statements under this Act and the particulars which such application and statement shall contain.
- (c) the establishment and maintenance of private schools.
- (d) The giving of grants to private schools.
- (e) The grant of permission under section 6.
- (f) the admission of pupils in private schools including special provision for the advancement of socially and educationally Backward Classes of citizens and the Scheduled Castes and the Scheduled Tribes.
- (g) the manner in which accounts, registers and records shall be maintained in private schools and the authority responsible for such maintenance.
- (h) The submission of returns, statements, reports and accounts by educational agencies of private schools.
- (i) The standards of education and teaching and courses of instruction in private schools.
- (j) The purposes of the private school for which the premises of the private school may be used and the conditions subject to which such premises may be used for any other purpose.
- (k) The regulation of the use in private schools of textbooks, maps, plans, instruments and other laboratory and sports equipment.
- (l) The conditions subject to which donations or contributions from the public may be accepted for the purpose of private schools and the naming of private schools.
- (m) The procedure and the disposal of the business of the Tribunal.

**57.** (1) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(2) Every rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of both of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, (the Legislative Assembly agrees) in making any modification in any rule notification or (Legislative Assembly) agrees) that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.