

ORISSA ACT 13 OF 1994

THE ORISSA EDUCATION (AMENDMENT) ACT, 1994

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***THE ORISSA EDUCATION (AMENDMENT) ACT, 1994**

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AN ACT FURTHER TO AMEND THE ORISSA EDUCATION ACT, 1969.

BE it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows:—

- Short title 1. This Act may be called the Orissa Education (Amendment) Act, 1994.
- Amendment of Section 3. in section 3,— 2. In the Orissa Education Act, 1969 (hereinafter referred to as the principal Act) Orissa Act 15 of 1969. ■
- (i) for clause (b), the following clause shall be substituted, namely:—
- “(b) “Aided educational institution” means private educational institution which is eligible to, and is receiving grant-in-aid from the State Government, and includes an educational institution which has been notified by the State Government to receive grant-in-aid;”
- (ii) for clause (f), the following clause shall be substituted, namely:—
- “(f) “Educational Institution” means any College or a Junior College or a Higher Secondary School or any other School defined in this Act or any institution imparting technical and professional education, special education and includes all movable and immovable properties of such School or College, as the case may be;”
- (iii) in clause (h), after the word “College”, the words and letter “or a Junior College or a Higher Secondary School, as the case may be,” shall be inserted;
- (iv) after clause (j), the following clause shall be inserted, namely:—
- “(j-l) “Junior College” means an educational institution imparting instructions in Higher Secondary courses as defined in the Orissa Higher Secondary Act, 1982;”
- (v) in clause (p), for the words “by the State Government”, the words “under this Act” shall be substituted; and
- (vi) after clause (r), the following new clause and Explanation shall be added, namely:—
- “(s) “Technical and professional education” means any courses of study in engineering, technology, architecture, mining, fine arts, law, management, library science, or any other subject which may be notified by the State Government in this behalf;
- Explanation:—*An Educational institution imparting Shastri, up-Shastri, Madhyama and Prathama courses of Shri Jagannath Sanskrit University shall be deemed to be a College, a Higher Secondary School/Junior College, a High School and an Upper Primary School respectively for the purposes of this Act.”.
- Amendment of section 4 3. In the principal Act, in Section 4,—
- (i) in sub-section (2), after the words “special education,” and before the words “and for training of teachers” the comma and words, “technical and professional education” shall be inserted;

*For the Bill see *Orissa Gazette*, Extraordinary, dated the 4th April 1994 (No. 392)

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The prescribed authority shall communicate the orders granting permission and recognition to the concerned person or body of persons.”.

Substitution
of section 5.

4. In the principal Act, for Section 5 including the marginal heading, the following shall be substituted, namely:—

“Permission
for establish-
ment of
educational
institution.

5. (1) No private educational institution which requires recognition, shall be established except in accordance with the provisions of this Act or the rules made thereunder.

(2) Any person or body of persons intending to,—

(a) establish a private educational institution; or

(b) open higher classes, new streams, new optional subjects, additional sections or increase the number of students to be admitted or introduce Honours Courses in new subjects in a recognised private educational institution; or

(c) upgrade any such institution,

may make an application to the prescribed authority within such period and in such manner as may be prescribed for grant of permission therefore:

Provided that in respect of applications which were pending on the date of commencement of the Orissa Education (Amendment) Act, 1994, the applicants shall be allowed a period of thirty days to submit revised applications in accordance with the provisions of this Act.

(3) The applicant along with the application for permission, shall furnish an undertaking that in the event of permission being granted,—

(i) adequate financial provision shall be made for continued and efficient maintenance of the institution;

(ii) the institution shall be located on the lands specified in the application and that such lands are located in sanitary and healthy surroundings;

(iii) the building, playground, furnitures, fixtures and other facilities shall be provided in accordance with the provisions of this Act and rules prescribed therefor; and

(iv) all the requirements laid down by the Act, the rules and orders, if any, issued thereunder shall be complied.

(4) Every such application shall be supported by an affidavit attesting the fact that all information furnished therein are true and correct to the best of knowledge of the applicant.

(5) The prescribed authority shall scrutinise each application, consider the applications which are found complete in all respect and have been made in conformity with the Act and rule made thereunder and thereafter may make such inquiry as he may deem necessary. He shall make a report in respect of each application with his recommendation which shall be placed before the committee constituted in this behalf by the State Government.

(6) If the Committee is satisfied that the educational needs of the local area justify the establishment of an educational institution that the place where the educational institution is proposed to be established is likely to best serve the educational needs of that area, that the location of the educational institution is not otherwise objectionable and that permission may be granted to any person or body of persons, the Committee shall make an order to that effect specifying the conditions to be fulfilled by such agency.

(7) The order made by the Committee shall be communicated to the applicant by the prescribed authority in such manner as may be prescribed.

(8) Any applicant aggrieved by an order refusing to grant 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 and binding:

Provided that provisions of sub-sections (3), (4), (5), (6), (7) and (8) shall *mutatis mutandis*, apply to applications for purposes specified in clauses (b) and (c) of sub-section 2.

(9) 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.

(10) Where a new private educational institution in relation to which permission has been accorded under this Section fails to start functioning within 45 days from the date of commencement of the academic year following the date on communication of the order of permission, the permission so accorded, shall lapse:

Provided that the prescribed authority may, for good and sufficient reasons extend, on application, the date from which the educational institution shall start functioning for such period not exceeding beyond the first day of the following academic year.

Substitution
of section 6
and inser-
tions of sec-
tion 6-A and
6-B.

5. In the principal Act, for Sections 6, the following Sections shall be substituted, namely:—

“6. (1) An application for recognition of a private educational institution shall be made to the prescribed authority on or before the 30th November of the academic year in which the institution starts functioning:

Provided that no application for recognition filed before commencement of the Orissa Education (Amendment) Act, 1994 shall be rejected only on the ground that it has not been filed within the date specified in the sub-section.

*Explanation;—*Academic year means a period of twelve months beginning with the 1st day of June and ending with the 31st day of May of the next calendar year.

(2) No private educational institution shall be eligible for recognition unless it has been established with prior permission under this Act.

(3) Every application for recognition shall be made in the prescribed form accompanied by such documents and information as may be prescribed. The applicant shall furnish a statement indicating the extent to which conditions specified in the order granting permission and conditions for recognition as specified under section 6-A have been fulfilled. Every such application shall be supported by an affidavit attesting the fact that all information furnished therewith are true and correct to the best of the knowledge of the deponent.

(4) The prescribed authority shall scrutinise the applications. Such of the applications as are found to be complete in all respects and have been submitted in conformity with the provisions of the Act and the Rules framed thereunder shall be considered and thereafter the prescribed authority shall inspect or cause to be inspected the educational institution in respect of which recognition has been applied for, and shall make a report with his recommendations which shall be placed before a committee constituted by the State Government in this behalf.

(5) The State Government may constitute one or more committees for consideration of applications for recognition and such Committee may be constituted for the whole State or for any part thereof or for different categories of private educational institution and may make regulations for conduct of business such committees.

(6) The Committee shall consider the application for recognition together with the report and the recommendation of the prescribed authority and may call for such additional information or may direct such further inspection as it deems necessary. The Committee having considered all aspect shall make an order either granting recognition, or temporary recognition with or without conditions, or rejecting the application for reasons to be recorded. The prescribed authority shall communicated the order made by the Committee in such manner and with such particularls, if any, as may be prescribed.

(7) 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 Committee constituted under sub-section (4) may refuse to recognise such institution.

(8) The Committee may refuse to recognise a private educational institution which has been permitted to be established if 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 State Government or the Director.

(9) Where a private educational institution has not fulfilled the conditions for recognition in regard to land, building and furniture but the committee is satisfied that has made reasonably adequate provisions for accommodation and imparting education, it may decide to grant temporary recognition for a period not exceeding one year at a time and not exceeding five years in aggregate. The application for extension of temporary recognition shall be made and considered in the same manner as an application for recognition and no extension of temporary recognition shall be granted unless the committee is satisfied that applicant has taken reasonable measures to fulfil the conditions for recognition and that there has been no deterioration in the standard of facilities during the year for which temporary recognition was granted:

Provided that in computing the total period for which a private educational institution may be eligible for grant of temporary recognition, the number of years for which temporary recognition has been granted prior to the commencement of the Orissa Education (Amendment) Act, 1994 shall be taken into account.

Provided further that any private educational institution which has received temporary recognition for a period of 4 years or more prior to the date of commencement of the Orissa Education (Amendment) Act, 1994 but has not been recognised may be granted temporary recognition for a period not excuding one year at a time and two years in the aggregate after commencement of the Orissa Education (Amendment) Act, 1994 so as to enable such institution to fulfil all conditions for recognition.

(10) Any applicant aggrieved by an order refusing to accord recognition, may within one month from the date of communication of such order file a review petition before the committee constituted under sub-section (4). The committee after calling for such information and causing such further inquiry as may be necessary and after giving an opportunity of being heard to the petitioner shall take decision and dispose of the petition.

(11) Grant of recognition may be restricted to any standard or class or any stream or subjects or may extend to the whole institution. The procedure laid down for grant of recognition shall *mutatis mutandis* apply to applications for recognition in respect of increase in seats, opening of new faculties or courses starting new subjects or opening of additional sections.

(12) No educational institution shall be eligible for affiliation or recognition by the Board of Secondary Education constituted under the Orissa Secondary Education Act, 1952 or the Council of Higher Secondary Education constituted under the Orissa Council of Higher Secondary Education Act, 1982 or any of the Universities established under the Orissa Universities Act, 1989 unless it has received recognition under this Act and continues to be so recognised. When the recognition granted to any private educational institution is withdrawn or suspended, the recognition or affiliation granted by the Board of Secondary Education, Council of Higher Secondary Education or any one of the Universities as the case may be, shall be deemed to have been withdrawn or suspended :

Provided that any educational institution which has received temporary recognition for a year under the Act shall only be eligible for temporary affiliation or recognition, as the case may be, for that year.

(13) No recognition shall be accorded to an educational institution imparting technical and professional education which does not fulfil the conditions specified in any other law for the time being in force as are applicable to such institutions.

Condition or recognition. 6-A-(1) No educational institution shall be eligible for recognition under section 6 unless fulfils the following conditions, namely:—

- (a) such extent of land as may be prescribed has been provided for the educational institution under a valid title and the institution is under lawful and valid possession of that land;
- (b) the institution has been provided with a fire-proof building of its own with adequate ventilation and lighting consisting of such accommodation as may be prescribed for class rooms, laboratories, libraries, office accommodation, staff and students common room and toilets for men and women;
- (c) adequate land is available and has earmarked for playground and sufficient facilities have been provided for physical education, games and sports;
- (d) land has been provided for cycle stands for High Schools, Higher Secondary Schools, Junior Colleges and Colleges, as the case may be;
- (e) adequate provision have been made for supply of clean drinking water and sanitation;
- (f) the land and the buildings of the educational institution are located in sanitary and healthy surroundings with suitable access from public roads;
- (g) qualified teachers and non-teaching employees selected in accordance with the prescribed procedure as per the prescribed yardstick have been appointed;
- (h) laboratory or laboratories where necessary have been provided together with required consumables;
- (i) such equipments and teaching aids as are required have been provided;
- (j) required furniture including Blackboards have been provided;
- (k) the educational institution has been provided with library with such number of books and in such subjects as may be directed from time to time; and
- (l) the educational institution has adequate financial resources for its continuance and efficient management.

(2) Every application for recognition shall be accompanied by an undertaking that the institution has adequate financial resources to meet the salary and other costs of the educational institution and that it shall not claim grant-in-aid from the State Government.

(3) The State Government may by order, relax any one or more of the conditions of recognition specified under sub-section (1) relating to land, building and furniture in respect of educational institution situated in an educationally backward district:

Provided that no relaxation shall be made which would adversely affect the academic standards or quality of education.

Explanation—The expression “educationally backward district” shall for the purposes of this sub-section mean a district in which the percentage of literacy is less than fifty per cent of the total population of the district as per the latest census.

Withdrawal of recognition. 6-B. (1) Recognition accorded under the Act may be withdrawn on one or more of the following grounds, namely:—

- (a) the educational institution no longer fulfils the conditions for recognition;
- (b) the educational institution, its Managing Committee or the Governing Body, as the case may be, contravenes any of the provisions of the Act or the rules or directions of the State Government or of the prescribed authority;
- (c) the educational institution fails to maintain proper standard of education and discipline;
- (d) the educational institution fails to maintain required students strength as provided under section 11;
- (e) the educational institution or its Managing Committee or the Governing Body, as the case may be, misutilises the funds of the institution or utilises it for any purpose other than for management of the educational institution;
- (f) the percentage of students passing the annual and supplementary examinations conducted by the Board of Secondary Education or the Council of Higher Secondary Education or the concerned University, as the case may be, falls short of half of the percentage of students passing such examinations for the entire Board, Council or University as the case may be, for three consecutive years;
- (g) the educational institution fails to conduct examinations held by the Board, Council or the University or any other examining body of the State fairly and properly or the management or any of its employee assists or abets in malpractice in such examination or fails to prevent malpractices;
- (h) the educational institution is found to have admitted students, in excess of the recognised or affiliated strength or, in classes, courses or stream or subjects in regard to which no permission has been received;
- (i) except as otherwise permitted the educational institution admits students on criteria other than merit, which in the context of reserved seats shall mean *inter se* merit within the reserved category;
- (j) the educational institution does not admit fresh students for two consecutive years or shifts to another locality or to different premises without prior permission; and
- (k) the educational institution has obtained recognition by fraud or misrepresentation of facts or through a false declaration.

(2) Where the prescribed authority is satisfied on own information or otherwise that circumstances exist for taking action for withdrawal of recognition of any educational institution, he shall make an inquiry or cause an inquiry to be made into the grounds on which recognition is proposed to be withdrawn and give an opportunity to the management to make representation within a period of thirty days against the proposed action. The prescribed authority shall furnish his report and recommendation to the Committee constituted under sub-section (4) of section 6.

(3) The Committee after considering the records, report and recommendation of the prescribed authority and after affording an opportunity to the management of being heard pass an order either withdrawing or suspending the recognition granted to the said institution.

(4) Notwithstanding the withdrawal or suspension of recognition under sub-section (3), the students admitted to that educational institution till the date of such withdrawal or suspension shall be allowed to continue as if the said educational institution continues to be recognised till that batch of students appear in the examination conducted by the Board, the Council or the University, as the case may be. The educational institution shall not admit fresh students during the period of suspension or after withdrawal of recognition.

(5) Any educational institution aggrieved by an order of the Committee with drawing or suspending the recognition of any educational institution may prefer an appeal within a period of thirty days of the receipt of the order before the State Government whose decision thereon shall be final".

Amendment
of section 7.

6. In the principal Act, in section 7,—

(i) in sub-section (4), the words "and shall be reconstituted in accordance with the rules" shall be inserted at the end;

(ii) after sub-section (5), the following sub-section shall be added, namely:—

"(6) The prescribed authority may allow the Governing Body or the Managing Committee, as the case may be, whose term has expired under sub-section (4) or sub-section (2) of section 7-A to continue in office till the Governing Body or the Managing Committee is reconstituted, or appoint any person or persons to exercise the powers and discharge the functions of the Governing Body or the Managing Committee during the intervening period:

Provided that the State Government may reconstitute the Governing Body or the Managing Committee as the case may be notwithstanding that the term of such Governing Body or Managing Committee has not expired and on such reconstitution, the existing Managing Committee or Governing Body, as the case may be, shall stand dissolved."

Amendment
of
section 7-B.

7. In section 7-B of the principal Act, for sub-section (2) the following shall be substituted, namely:—

"(2) Every private Educational Institution shall appoint qualified teachers and non-teaching staff by making selection in accordance with the procedure and criteria prescribed by the State Government".

Substitution
of
sections 7-C
and 7-D.

8. In the principal Act, for sections 7-C and 7-D including the marginal headings, the following sections shall be substituted, namely:—

Grant-in-aid

7-C. (1) The State Government shall within the limits of its economic capacity, set apart a sum of money annually for being given as grant-in-aid to private Educational Institution in the State.

(2) No order according permission or approval or recognition under this Act, whether prior to or after the commencement of the Orissa Education (Amendment) Act, 1994, shall entitle any private educational institution to receive grant-in-aid.

(3) Save as otherwise provided, no private Educational Institution which has not been recognised by the State Government under this Act, shall be entitled to receive any aid from the State Government.

(4) Notwithstanding anything contained in any law, rule, executive order or any judgement, decree or order of any Court, no grant-in-aid shall be paid and no payment towards salary costs or any other expense shall be made to any private educational institution or for any post or to any person employed in any such institution after the commencement of the Orissa Education (Amendment) Act, 1994, except in accordance with an order or rule made under this Act. Grant-in-aid where admissible under the said rule or order as the case may be, shall be, payable from such date as may be specified in that rule or order or from such date as may be determined by the State Government :

Provided that pending framing of such rule or issue of order, the State Government may, without prejudice to such rule or order, direct that private educational institutions which were receiving grant-in-aid and the posts in such educational institutions in respect of which grant-in-aid was being released shall continue to be paid such amount as grant-in-aid as was being paid to them immediately prior to commencement of the Orissa Education (Amendment) Act, 1994.

(5) Notwithstanding anything contained in any law, rule, executive order or any judgement, decree or order of any Court the following categories of private educational institutions shall only be eligible for consideration for payment of grant-in-aid:—

(a) Upper Primary Schools imparting instructions or course prescribed by the State Government in standards or classes VI and VII or Sanskrit Tols and Madrasas imparting equivalent courses.

(b) High Schools imparting instructions or course for High School Certificate Examination conducted by the Board of Secondary Education, Orissa or institutions imparting Madhyama Course of Sri Jagannath Sanskrit University and Madrasas imparting equivalent course.

(c) Higher Secondary Schools or Junior Colleges imparting instructions or course for Higher Secondary Examination conducted by the Council of Higher Secondary Education, Orissa or institutions imparting Upasastri course of Sri Jagannath Sanskrit University and Madrasas imparting equivalent course.

(d) Colleges imparting courses for B. A., B. Sc. or B. Com. degrees of the Utkal, Berhampur and Sambalpur Universities and Shastri courses of Sri Jagannath Sanskrit University.

(6) No educational institution imparting any other courses of studies except those provided in sub-section (5) shall be eligible for grant-in-aid from Government. Educational Institutions established and/or managed by Urban Local Bodies, Zilla Parishads, Panchayat Samitis and Grama Panchayats, Public Sector Undertakings or Companies or Statutory bodies shall not be eligible for grant-in-aid under this Act.

(7) A Governing Body or Managing Committee desirous of availing the facility of grant-in-aid shall make an application for the purpose within such period and shall furnish such information and documents including audited statement of accounts of the institution as may be prescribed. It shall furnish with the application an undertaking to the effect that grant-in-aid sanctioned for the purpose or meeting part or whole of the salary costs shall be disbursed directly to employees concerned and to refund any excess or inadmissible payment that may have been made.

7-D. (1) The prescribed authority may withdraw the grant-in-aid of a private educational institution, if—

(v) the recognition of the institution has been suspended or withdrawn;

- (ii) the percentage of students passing the Annual and Supplementary examinations conducted by the Board of Secondary Education or the Council of Higher Secondary Education or the concerned University, as the case may be, falls short of half of the percentage of students passing such examination for the entire Board or the Council or the University, as the case may be, for three consecutive years;
 - (iii) the Governing Body or the Managing Committee, as the case may be defaults in furnishing the statement under sub-section (1) of section 8 or furnishes statement which is false or incorrect.
 - (iv) the Managing Committee or the Governing Body, as the case may be, or the Secretary of an aided educational institution acts in contravention of the provisions of sub-section (1) of section 9, or of any order passed under sub-section (2) of section 9;
 - (v) the Governing Body or the Managing Committee, as the case may be, or the Secretary is found to be misutilising the funds of the educational institution concerned including grant-in-aid received, if any, or utilising it for any purpose other than meeting the legitimate cost of running the educational institution, development of the educational institution, or welfare of the students or employees of that institution;
 - (vi) there has been persistent default in maintaining correct accounts of the receipts and expenditure of the educational institution or there has been persistent default in submitting audited statement of its accounts within the specified period;
 - (vii) the educational institution fails to conduct the examinations of the Board, the Council, or any of the Universities or any other examining bodies of the State fairly and properly or if the Governing Body or the Managing Committee, as the case may be, or any of its employees assists or abets in adoption of malpractices in such examinations or fails to prevent adoption of malpractices;
 - (viii) unless otherwise permitted, the educational institution is found to be admitting students on any criteria other than merit;
- Explanation*—In the context of merit of students belonging to reserved categories it shall mean *inter se* merit within the respective category;
- (ix) the private educational institution utilises the grant-in-aid for any purpose other than the purpose for which such grant-in-aid was paid specifically or fails to render satisfactory and timely account of its proper utilisation;
 - (x) the private educational institution has secured grant-in-aid by fraud or by misrepresentation of facts or by submission of incorrect facts through false declaration or by concealing any relevant information;
 - (xi) the aided educational institution refuses to accept a teacher posted on transfer or continues to retain the services of a teacher who has been transferred by the competent authority; and
 - (xii) the aided educational institution makes appointment in a manner not consistent with the Act and the Rules;

Provided that where the prescribed authority is satisfied that *prima facie* circumstances exist for action under this sub-section, he may make an order suspending payment of grant-in-aid for such period not exceeding three months as he may deem fit.

(2) Before withdrawing the grant-in-aid, the Managing Committee or the Governing Body, as the case may be, shall be given a notice of the action proposed to be taken and required to show cause within a period of thirty days from the date of receipt of the notice as to why such action shall not be taken.

(3) The Managing Committee or the Governing Body, as the case may be, aggrieved by an order of the prescribed authority withdrawing grant-in-aid, may, in such manner and within such period not exceeding sixty days, as may be, prescribed, prefer an appeal before the State Government, whose decision thereon shall be final."

Amendment
of section 8.

9. In section 8 of the principal Act, sub-section (2) shall be deleted.

Amendment
of section 9.

10. In section 9 of the principal Act, sub-section (4) shall be deleted.

Amendment
of section 10.

11. In section 10 of the principal Act, in sub-section (2), for the word "recognised" wherever it occurs, the word "aided" shall be substituted.

Deletion of
section 11-A

12. Section 11-A of the principal Act shall be deleted.

Amendment
of section 15.

13. In section 15 of the principal Act, in sub-section (2), for clause (bb), the following clauses shall be inserted, namely :—

"(b-1) the Secretary to Government, Higher Education Department. *Ex officio* Member.

(b-2) the Secretary to Government, School & Mass Education Department. *Ex officio* Member.

(b-3) the Chairman of Council of Higher Secondary Education. *Ex officio* Member.

(b-4) a representative of the Harijan Welfare Department .. Member

(b-5) a representative of the Tribal Welfare Department .. Member

(b-6) Director, Mass Education .. Member."

Amendment
of section 21.

14. In section 21 of the principal Act, clause (d) shall be deleted.

Amendment
of section 23.

15. In section 23 of the principal Act, for sub-section (1) the following shall be substituted, namely :—

"(1) The State Government may establish a fund called the 'Orissa Education Development Fund' which shall vest in and be administered by a Committee to be constituted in the prescribed manner."

Amendment
of section 24.

16. In section 24 of the principal Act, in sub-section (1), for clause (d) the following shall be substituted, namely :—

"(d) the Secretary to Government, Higher Education Department. .. Member."

Amendment
of section 27.

17. In section 27 of the principal Act, in sub-section (2), in clause (a), the words and commas "being Colleges, Higher Secondary Schools, High Schools and Upper Primary Schools" shall be deleted.