

THE MADHYA PRADESH MADHYAMIK SHIKSHA ADHINIYAM,1965

CHAPTER I-PRELIMINARY

1. Short title extent and commencement.

- (1) This Act may be called the Madhya Pradesh Madhyamik Shiksha Adhiniyam, 1965
- (2) It extends to the whole of Madhya Pradesh
- (3) This section shall come into force at once and sections 2 to 32 shall come into on such as the state Government may, by notification, appoint.

2. Definitions

In this Act, unless is anything repugnant in the subject or context,-

- (a) "Board" means the Board of Secondary Education established under section 3
- (b) "Bye-law" means a bye-law made under this Act
- (c) "Chairman" means the Chairman of the Board appointed under Section 5
- (d) "Executive Committee" means the Executive Committee constituted under Section 19.
- (e) 'Other Backward Classes' means the other Backward Classes of citizens as specified by the state Government vide Notification No. F.85/XXV-4-84, dated the 26th December,1984
- (f) "Institution" means an institution imparting Secondary Education or an institution not admitted to the privileges of any University established by law and imparting training to the teachers for a certificate or a diploma course as the case may be, and includes a part of an institution.
- (g) "Local bodies" means a Municipal Corporation constituted under the Madhya Pradesh Municipal Corporation Act. 1956 (No 23 of 1956), a Municipal Council or a Nagar Panchayat constituted under the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), or a Gram Panchayat, Janpad Panchayat or Zila Panchayat, constituted under the Madhya Pradesh Panchayat Raj adhiniyam, 1993 (No. 1 of 1994) as the case may be"
- (h) "Managing Committee" means the managing committee constituted by the foundation society or the governing body, as the case may be, of a recognised institution
- (i) "Middle School Education" means such education as the state Government may, by notification, define from time to time.

- (j) "Recognised" with its grammatical variations used with reference by the Board for the purpose of admission to the privileges of the Board;
- (k) "Regulation" means a regulation made by the Board under this Act
- (l) "Secondary Education" means the education which follows immediately the stage of Middle School Education and precedes immediately the stage of education controlled by the Universities established by law in India,"
- (m) "Scheduled Caste" means a member of any caste, race or tribe or part of or group within a caste, race or tribe specified as Scheduled Caste with respect to the state of Madhya Pradesh under article 341 of the Constitution of India;
- (n) "Schedule Tribe" means a members of any tribe, tribal community or part of or group within a tribal or tribal community specified as such with respect to the state of Madhya Pradesh, under article 342 of the constitution of india.

CHAPTER II - ESTABLISHMENT OF THE BOARD OF SECONDARY EDUCATION ITS CONSTITUTION, FUNCTIONS ETC.

3. Incorporation of Board

- (1) The state Government shall, as soon as may be, by a notification, a Board of Secondary Education with effect from such date as may be specified in the notification.
- (2) The Board shall be a body corporate by the name of the Board of Secondary Education and shall have perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and subject to the provisions made under this Act to transfer any property held by it and to contract and do all other things necessary for the purposes of its constitution and may sue or be sued in its corporate name.

4. Constitution of Board.

- (1) The Board shall consist of the Chairman and the following members, namely:- Ex-officio Members
 - (a) The Commissioner, Public Interaction;
 - (b) The Director, Technical Education;
 - (c) The Director, Medical Education;
 - (d) The Commissioner, Tribal Development;

(e) An officer to be nominated by the School education Department not below the rank of Deputy Secretary;

(f) An officer of the Directorate of Public Instruction not below the rank of Joint Director to be nominated by the Commissioner, Public Instruction;

(g) Director of Sports, Department of Sports and Youth Welfare;

(h) One Registrar of University to be nominated by the Kuladhipati;

(i) One Principal of post Graduate College to be nominated by the School Education Department.

(j) An officer to be nominated by the Finance Department not below the rank of Deputy Secretary; Members nominated by the State Government:

(k) Twenty members to be nominated by the State Government who shall include

- (1) Three Principal/ Head Masters of Institutions recognised by the Board of whom one shall be a woman;
 - (2) One Principal of Teachers Training Institutions or Training Colleges;
 - (3) Six Teachers of Institutions recognised by the Board of whom at least one shall be a woman;
 - (4) Three persons representing management including local bodies which run institution, recognised by the Board;
 - (5) Five members of the Madhya Pradesh Legislative Assembly;
 - (6) Two persons representing interest not represented otherwise: Provided that out of twenty members nominated under clause
 - (a) at least two members each shall be from scheduled Castes, scheduled Tribes and Others Backward Classes.
 - (b) The name of every members shall be notified in the Madhya Pradesh Gazette. Appointment of Chairman and term of office and conditions of his service.
- (1) The Chairman shall be such person as may be appointed by the State Government, by notification, in this behalf.
 - (2) The term of office and other Conditions of Service of the Chairman shall be such as may be prescribed by rules.

6.Term of office and filling of casual vacancy etc.

(1) [omitted]

(2) [omitted]

(3) [omitted]

(4) The term of office of the nominated members shall be three years from the date of the notification regarding nomination under sub-section (2) of Section 4 : Provided that the term of members nominated under sub-clause (v) of clause (k) shall be coterminous with the Legislative Assembly;

(5) [omitted]

(6) If the State Government Considers that the continuance in office of any nominated member is not in the public interest, the State Government may make an order terminating his termination and thereupon he shall cease to be a member of the Board not with standing that the term for which he was nominated has not expired.

(7) Any nominated member of the Board may resign his office by a letter addressed to the state Government and the same shall be notified in the official Gazette.

(8) In the event of a casual vacancy occurring by reason of death, resignation or termination of nomination of member or for any other reason, such vacancy shall be filled by nomination, and any person nominated to fill such vacancy shall hold office for the term for which it was tenable by the person in whose place he has been so nominated.

(9) An out going member shall, if otherwise qualified, be eligible for re-election or re-nomination.

(10) Where any nominated member absents himself, without prior permission of the Chairman from three consecutive meetings of the Board, he shall be deemed to have resigned from his office.

7. Quorum

The quorum for a meeting of the Board shall be one-third of the total number of members.

8. Powers of Board.

The Board shall have the following powers, namely :-

(a) To prescribe courses of instruction in such branches of Secondary Education as it may think fit;

(aa) to make regulations for imposing penalties on Candidates using unfair means in the examinations conducted by the Board;

- (b) To conduct examinations based on such courses and take all steps ancillary thereto;
- (c) To admit to its examinations, on conditions that may be prescribed, candidates who have pursued the prescribed courses of instruction-
 - (i) in institutions recognised by the Board; or
 - (ii) privately;
- (d) To publish the results of its examinations;
- (e) To grant diplomas or certificates to persons who have passed the examinations of the Board;
- (f.) To recognize institutions situated in Madhya Pradesh for the purposes of admitting them to the privileges of the Board.
- (ff.) To prescribe condition for recognition of schools or institutions including conditions of service of teachers, their qualifications, equipments, their qualifications, equipment, building and other educational facilities;
- (fff) To withdraw recognition from the institution, where the Board is satisfied after enquiry that its privileges are abused by it or that the conditions imposed by the Board for the recognition of such institution are not complied with: Provided that de-recognition shall not ordinarily be made effective in the midst of an academic session: Provided further that if any de-recognition is made effective in the midst of an academic session, the students of the school so de-recognised who would have been admitted in the Board's Examinations shall be allowed to appear privately.
- (g.)To call for reports from the Commissioner of public Instruction on the condition of recognised institution applying for recognition or to direct inspection of such institutions;
- (h.)To adopt measures to promote physical, moral and social welfare of students in recognised institutions and to prescribe conditions of their residence and discipline;
- (i) To organize and provide lectures, demonstrations educational exhibitions and to take such other measures as are necessary to promote the standard of secondary education;
- (j) To institute and award scholarships, medals and prizes under conditions that may be prescribed;
- (k) To demand and receive such fees as may be prescribed including fees for registration of teachers and Managing Committees applying for registration as such;
- (l) To admit to its examination candidates who have pursued correspondence course conducted by the Board.

(m.) To advise the state Government as to the courses of instruction and syllabi of middle school education with a view to secure coordination between middle school and secondary education (mm)

(i) To organize conference, seminars symposiums to promote the standard of secondary education;

(ii) To organize workshops and training programmes for paper setters;

(iii) To take necessary steps with regard to modernizing of school curriculum, strengthening of science and mathematics education, work experience and vocationalisation by making investigation and researches into the latest evaluation processes or other experiments;

(iv) To take all necessary steps to make examinations more valid, reliable, comprehensive and elaborate;

(v) To arrange for comprehensive evaluation of students through cumulative records and internal assessment records.

(n.) To do all other things ancillary to any of the purposes specified above or for the purpose of carrying into effect the provisions of this Act. 8-A. A person shall be disqualified for being nominated or for continuing as a member if he, directly, by himself or by his partner:-

(a) Has any share or interest in any publication prescribed as a text book of study for use in any institution imparting secondary education, or

(b) Has any share or interest in any work done for or on behalf of the Board. Explanation- For the purpose of this section, the publication of a text book shall include its republication.

9.(1) The State Government shall have the right to address the Board with reference to anything conducted or done by the Board and to communicate to the Board its views on any matters with which the Board is concerned.

(2) The Board shall report to the State Government such action, if any, as it proposes to take or has taken upon the communication, and shall furnish an explanation if it fails to take action

(3). If the Board does not within a reasonable time take action to the satisfaction of the State Government, the State Government may, after considering any explanation furnished or representation made by the board, issue such directions consistent with this Act as it may think fit, and the Board as the case may be, shall comply with such directions.

(4) When any emergency in the opinion of the State Government requires that immediate action should be taken, the State Government may exercise such of the powers of the Board under this Act, as it deems necessary without previous consultation with the Board and shall forthwith inform the Board of the action taken.

(5) The State Government may, by order in writing specifying the reasons thereof, suspend the execution of any resolution or order of the Board and prohibit the doing act to be or purporting to be ordered to be done by the Board if the State Government is of the opinion that such resolution, order or act is in excess of the powers conferred by or under this Act upon the Board.

10. Constitution of Board Fund

A Board Fund shall be formed for the Board, and all sums received by or on behalf of the Board under this Act or otherwise shall be placed to the credit thereof.

11. Custody and Investment of Board Fund.

All moneys at the credit of the Board Funds shall be kept in the Government treasury or at any Bank as the Board may with the approval of the Government determine : Provided that nothing in this section shall be deemed to preclude the Board from investing such moneys as are not required for immediate expenditure in any of the Government securities.

12. Application of Board Fund

Subject to the provisions of this Act, the Board Fund shall be applicable only to the payment of the charges and expenses incidental to the several matters specified in this Act and to any other purpose for which by or under this Act powers are conferred or duties imposed upon the Board.

13. Budget.

(1) The Board shall prepare in such manner as may be prescribed by regulations the budget for the ensuing financial year and forward it to the State Government for its sanction not later than the thirty-first day of January preceding such financial year. The State Government may pass such orders with reference thereof as it thinks fit and shall communicate the same to the Board by the 31st day of March preceding such financial year and the Board shall give effect to such orders. Provided that if no sanction is communicated to the Board by the 31st day of March referred to above, the budget shall be deemed to have been sanctioned by the State Government without any modification.

(2) The Board may, if it considers it necessary so to do, prepare a supplementary budget during any financial year for such year and submit it to the State Government for its sanction not later than the thirty first day of October in the said financial year. The State Government may pass such orders with reference thereof as it thinks fit and shall communicate the same to the Board by the 30th day of November of the said financial year. Provided that if no sanction is communicated to the Board by the 30th November, the supplementary budget shall be deemed to have been sanctioned by the State Government without any modification.

14. Audit of accounts of Board.

The accounts of the Board shall be audited annually by such agency as may be specified by the State Government and a copy of the audited accounts and balance sheet shall be submitted by the Board to the State Government by such date each year as the State Government may, by rules, specify.

15. Powers and duties of Chairman.

(1) It shall be the duty of the Chairman to see that this Act and the regulations are faithfully observed and he shall all powers necessary for this purpose.

(2) The Chairman may, whenever he thinks fit, call a meeting after giving a notice of not less than twenty clear days and shall be bound to do so, within fourteen days of the receipt of a written requisition signed by not less than fifteen members of the Board and stating therein the business to be brought before the meeting.

(3) In any emergency, arising out of the business of the Board which in the opinion of the Chairman requires that immediate action should be taken the Chairman shall take such action as he deems necessary, and shall thereafter report his action to the board at its next meeting.

(4) The Chairman shall exercise such other powers as may be vested in him by regulations.

(5) may delegate such powers and entrust such duties as are conferred or imposed on him by or under this Act to the Secretary by an order in writing specifying the powers delegated

16. Appointment, powers and duties of Vice-Chairman.

(1) The State Government may in consultation with the Chairman appoint any person to be a Vice-Chairman of the Board.

(2) the term of the office and other conditions of service of the Vice-Chairman shall be such as may be prescribed by rules.

(3) the Vice-Chairman shall assist the Chairman in all matters administrative or academic and shall exercise such powers and perform such conditions of the Chairman as may be delegated or entrusted to him by the Chairman.

17. Officers and servants of Board.

(1) There shall be a Secretary and such number of Deputy Secretaries to the Board as the State Government may consider necessary.

(2) Appointment of the Secretary and the Deputy Secretaries shall rest with the State Government.

(3) The Board may, subject to the provisions of sub-section (5), appoint such officers including Assistant Secretaries and servants as it considers necessary for the efficient performance of its functions

(4) The qualifications, the conditions of appointment and service and the scales of pay of officers and servants of the Board shall-

(a) As respects the Secretary, and the deputy Secretaries be such as may be specified by rules made by the State Government; and

(b) As respects Assistant Secretaries, other officers and servants as may be determined by regulations made this Act;

(5) The Board shall not create a post save with the prior approval of the State Government.

18. Powers and duties of Secretary

(1) The Secretary shall be the principal administrative officer and shall, subject to the control of the Chairman, perform such duties as may be assigned to him by the Board.

(2) The Secretary shall be responsible for seeing that all moneys are expended on the purposes for which they are granted or allotted.

(3) The Secretary shall be responsible for keeping the minutes of the Board.

(4) The Secretary shall be entitled to be present and to speak at any meeting of the Board and the Executive Committee but shall not be entitled to vote thereat.

(5) The Secretary shall exercise such other powers as may be laid down in regulation. Executive Committee.

19. (1) There shall be constituted an Executive Committee consisting of the members of the Board as follows:-

(a) The Chairman;

(b) The Commissioner, Public Instruction;

(c) The Commissioner, Tribal Development;

(d) Member representing the Finance Department;

(e) Member representing School Education Department.

(f) Five members to be nominated by the Board from amongst the members nominated under sub clauses (i) to (vi) of clause (k) of sub-section (1) of section 4 whom two shall be from amongst members nominated under clause

(v).(2) The Chairman and Secretary of the Board shall act as Chairman and Secretary of the Executive Committee,

(3) The Executive Committee shall meet at least once in three months:

(4) Five members shall form the quorum for the meeting of the executive Committee.

(5) Subject to the general control, direction and superintendence of the Board, the Executive Committee shall be competent to deal with any matter within the competence of the Board.

CHAPTER III

Termination of appointment of examiners, etc., for any remunerative work of the Board. 23-A

(1) If at any time it appears to the Board that the person appointed for appointed of any remunerative work of the Board , has been guilty of any misconduct or negligence which renders the appointment for a particular work inexpedient the For any Board may make an order terminating his appointment and directing that such person shall not be eligible for appointment for the particular work at any time or for any specific period . Before making such order ,the Board shall observe such procedure as may be prescribed.

(2) The name of the person against whom an order has been made under sub-section(1) shall not be included in the panels of names of such period as may be specified in such order.

CHAPTER IV-MISCELLANEOUS

Constitution of Committees etc.

24. The Board may from amongst its members and officers and other persons constitute such committees as may be prescribed by Regulation, to aid and advise the Board and the Executive Committee in discharge of their functions and in particular may constitute the following committees:-

(1) Curriculum Committee;

(2) Committees of Courses;

(3) Examination Committee;

(4) Finance Committee;

(5) Recognition Committee,

(2) Every such committee shall consist of such members of the Board and of such other persons as may be prescribed by the regulations.

(3)[omitted]

(4) Members of such Committees shall hold office during such time as the Board which appointed them specifies from time to time. Provided that if the term of the Board appointing such Committees expires before the term so specified the Committees shall hold office till new Committees are appointed by the successor Board.

(5) [omitted]

Exercise of powers delegated by Board to Committees, etc.

25. All matters relating to the exercise by the Board of Powers conferred upon it by this Act which have, by regulations been delegated by the Board to any Committee constituted under section 24 shall stand referred to that committee and the board before exercising any such powers shall receive and consider the report of the committee with respect to the matter in question: Provided that where in the opinion of the Board immediate action is necessary with respect to any matter, it may proceed to deal with it without the report of the Committee in respect there of and such orders thereon as it considers necessary. Proceedings not invalidate by reason of vacancies.

26. Subject to the provision of this Act or any rules, regulations or bylaws made there under, no act or proceeding of the Board , the Executive Committee or of a Committee constituted under section 24 shall be invalid merely by reason of the existence of a vacancy amongst the members of the Board or such Committee.

27. Power to make rules.

(1) The State Government may ,make rules for carrying out all or any of the purposes of this Act .

(2) All rules made under sub-section (1) shall be laid on the table of the Legislative Assembly .

28. Power of Board to make regulations.

(1) The Board may make regulation not inconsistent with the Provisions of this Act or the rules made thereunder for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Board

may make regulations providing for all or any of the following matters , namely –

(a) [omitted]

(b) the constitution, powers and duties of committees constituted under section 24 ;

(bb) the imposition of penalty on candidates using unfair means or interfering the examination conducted by the Board;

(c) The award of diplomas or certificates;

(d) the conditions of recognition of institutions for purposes of admission to the privileges of the Board, the qualification and of service of teachers and framing of a school code to ensure a minimum standard of efficient and framing of a School Code to ensure a minimum standard of efficient and uniform management of such institutions;

(e) the courses of study to be laid down for all diplomas of certificates;

(f) the conditions under which candidates shall be admitted to the examinations of the Board and shall be eligible for diplomas or certificates,;

(g) the fees for admission to the examination of the Board ;

(h) the conduct of examinations;

(i) the appointment of examiners and their duties and powers in relation to the Board's Examinations;

(j) the admission of institutions to the privileges of recognition and the withdrawal of recognition;

(k) the appointment of officers, clerks and others servants of the Board and the conditions of their service;

(l) the constitution of Provident Fund for the benefit of the officers ,clerks and other servants employed by the Board.

(m) the control, administration, safe custody and management in all respects of the finances of the Board; and

(n) all matters which by this Act are to be or may be provided for by regulations.

(3) The regulations made under this section shall be subject to the condition of previous publication in the manner set forth in section 24 of the Madhya Pradesh General Clauses Act,1957 (3 of 1958), and shall not take effect until they have been sanctioned by the State Government and published in the Gazette.

(4) When the final draft of the regulations is submitted by the Board to the State Government

for sanction under sub-section (3), the State Government shall within a period of three months from the date of submission of such draft communicate to the Board either its sanction or refusal to the draft or may suggest such modifications therein as may be deemed necessary in the draft. If the State Government fails to take any action, the final draft as submitted by Board shall be deemed to have been sanctioned by the State Government and shall be published in the Gazette accordingly .

(29) [omitted]

CHAPTER V- REPEAL,ETC.

Repeal and Saving

30. (1) As from the date specified for the establishment of the Board under sub-section (1) of Section 3, the following consequences shall ensure, namely :-

(a) the Madhya Pradesh Secondary Education Act, 1959 (10 of 1959), shall stand repealed;

(b) the Board of Secondary Education existing immediately before the date aforesaid shall cease to exist;

(c) all assets and liabilities of the Board referred to in clause (b) shall vest in the Board established under Section 3;

(d) all employees belonging to or under the control of the Board referred to in clause (b) immediately the employees of the Board established under Section 3; Provided that the terms and conditions of service of such employees shall not, until altered by a competent authority, be less favorable than those admissible to them while in service of the Board established under Section 3.

(e) all records and papers belonging to the Board referred to in clause (b) shall vest in and be transferred to the Board established under Section 3.

(2) Notwithstanding the repeal of the Madhya Pradesh Secondary Education Act, 1959 (10 of 1959), things done or omitted to be done and action taken by any authority by or under the provision of the said Act shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act.

31. Transitory Provisions

Notwithstanding anything contained in this Act, the Executive Committee constituted under Act repealed under Section 30 shall continue to function till such time as the Executive Committee is constituted in accordance with the provisions of Section-19.

32. Power to remove difficulty.

If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the doubt or difficulty.