



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 138 দিশপুৰ, মঙ্গলবাৰ, 11 এপ্ৰিল, 2017, 21 চ'ত, 1939 (শক)
 No. 138 Dispur, Tuesday, 11th April, 2017, 21st Chaitra, 1939 (S.E.)

GOVERNMENT OF ASSAM
 ORDERS BY THE GOVERNOR
 LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 11th April, 2017

No. LGL. 68/2017/6.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on **6th April, 2017** is hereby published for general information.

ASSAM ACT NO. XXV OF 2017

(Received the assent of the Governor on 6th April, 2017)

THE ASSAM EDUCATION (PROVINCIALISATION OF SERVICES OF TEACHERS AND RE-ORGANISATION OF EDUCATIONAL INSTITUTIONS) ACT, 2017

AN
ACT

to provincialise the services of the teachers of the Venture Educational Institutions and also to re-organise and streamline the Educational Institutions up to degree level in the State of Assam.

Preamble Whereas it is expedient to provincialise the services of the teachers of the Venture Educational Institutions and also to re-organise and streamline the Educational Institutions up to Degree Level in Assam so as to conform to the prevailing statutory norms and standards with a further objective to restrict any further growth of such Venture Educational Institutions in the State of Assam;

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

Short title, extent and commencement.

1. (1) This Act may be called The Assam Education (Provincialisation of Services of Teachers and Re-Organisation of Educational Institutions) Act, 2017.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act or for different category of educational institutions.

Definitions

2. In this Act, unless the context otherwise requires,-

(a) "Assam Higher Secondary Education Council" or "AHSEC" means the Assam Higher Secondary Education Council constituted under the provisions of the Assam Higher Secondary Education Act, 1984;

(b) "Block Elementary Education Officer" means the Block Elementary Education Officer in the concerned Block;

(c) "Board of Secondary Education, Assam" or "SEBA" means the Board of Secondary Education, Assam constituted under the provisions of the Assam Secondary Education Act, 1961;

(d) "Base School" means either an existing provincialised or a Venture Educational Institution identified for the purpose of provincialisation of services of teachers and/or tutors, as the

Assam
Act No.
XVII of
1984

Assam
Act No.
XXV of
1961

case may be, within the radius of 1 km in case of Lower Primary schools, within the radius of 3 kms in case of Upper Primary schools, within the radius of 5 kms in case of High Schools or High Madrassas and within the radius of 7 kms in case of Higher Secondary schools or Junior Colleges and which posses satisfactory norms and standards in relation to enrollment of students, adequate infrastructure and having DISE Code for the year 2009-2010 or before;

(e) "Deputy Inspector of Schools" means the Deputy Inspector of Schools in the concerned Sub-division;

(f) "Director" means the Director of Elementary Education in case of a Primary or a Upper Primary School; Director of Secondary Education in case of a High School or High Madrassa or a Higher Secondary School or a Junior College; and Director of Higher Education in case of a Degree College :

Provided that in case of amalgamated High or Higher Secondary Schools, where primary or upper primary education is also imparted, the Director would mean the concerned Director in respect of the teachers and matters concerning their service conditions and emoluments but for the purpose of administration and all other purposes the Director would mean the Director of Secondary Education;

(g) "District Elementary Education Officer" means the District Elementary Education Officer of the concerned district:

Provided that in case of newly created districts, the concerned district shall mean the erstwhile district until the District Elementary Education Officer for the newly created district is appointed.

(h) "District Scrutiny Committee" means the District Scrutiny Committee constituted under section 12 for each District to recommend names of Venture Educational Institutions along with the names of teachers and tutors whose services are considered eligible for provincialisation under this Act;

(i) "DISE Code" means District Information System for Education Code prepared by the Sarba Sikhsa Abhijan, Assam and as available in the records of the National University of Educational Planning and Administration, New Delhi;

(j) "employee" means and includes all serving teachers and tutors as the case may be, of Venture Educational Institutions who have been appointed and joined in the concerned Venture Educational Institution before the 1st day of January, 2011 and

whose services are being or would be provincialised under this Act;

(k) "Governing Body" means the Governing Body of a College or a Junior College approved by the appropriate authority as notified by the State Government, for carrying out the management of the College or the Junior College, as the case may be;

(l) "Inspector of Schools" means the Inspector of Schools in the concerned district and unless the context otherwise requires, it includes an Assistant Inspector of Schools of the same district:

Provided that in case of newly created districts, the concerned district shall mean the erstwhile district, until the Inspector of Schools of the newly created district is appointed;

(m) "Managing Committee" means the Managing Committee constituted under the provisions of the Right of Children to Free and Compulsory Education Act, 2009 or the rules made thereunder in the case of a Primary or Upper Primary School and in case of High School, High Madrassa and Higher Secondary School, the Managing Committee approved by the appropriate authority as notified by the State Government for carrying out the management of the concerned educational institution;

Central
Act No.
35 of
2009

(n) "Mixed Medium School" means a Primary School (both Upper Primary and Lower Primary) and a High School as defined in section 2(za), 2(zb) and 2(x) respectively situated in the same campus imparting education in more than one medium like Assamese, Bodo etc;

(o) "newly created district" means district created by the State Government by Notification in the Official Gazette on or after 01.01.2013;

(p) "provincialisation" means taking over the liabilities for payment of salaries including dearness allowance, medical allowances and such other allowances to the teachers and/or tutors, as admissible to the Government servant of similar category and gratuity, pension, leave encashment etc. as admissible, under the existing rules to the Government servants serving under the Government of Assam;

(q) "Provincialised School" or 'Provincialised College" means an existing provincialised school or college or a Venture Educational Institution wherein the services of teachers and tutors are provincialised under this Act;

(12)

(r) "State Government" means the State Government of Assam in the concerned Education Department i.e. Elementary Education Department in case of Primary and Upper-Primary Schools; Secondary Education Department in case of Secondary, Higher Secondary Schools and Junior Colleges; Higher Education Department in case of Degree Colleges;

(s) "State Level Scrutiny Committee" means the State Level Scrutiny Committee constituted under section 12 (10) to cause physical verification of the institutions as recommended by the District Scrutiny Committee for final recommendation in the matter of provincialisation;

(t) "teacher" means Teachers, Assistant Teachers, Classical Teachers and also includes Lecturers, Assistant Professors, Associate Professors, Professors, Principal, Vice-Principal, Demonstrator, Headmaster, Assistant Headmaster, Superintendent, Assistant Superintendent and any person of the teaching faculty working in the Venture Educational Institution having required educational and professional qualification as per norms and standards fixed by the Right of Children to Free and Compulsory Education Act, 2009, National Council for Teachers Education Act, 1993, University Grants Commission Act, 1956 and the relevant rules and regulations framed thereunder and any other Act as the case may be, as applicable on the day of provincialisation and whose services are provincialised under this Act in the post of teacher or in any other post in the teaching faculty but, not as tutor under this Act;

Central
Act No.
35 of
2009;
Central
Act No.
73 of
1993;
Central
Act No.3
of 1956

(u) "tutor" means and includes Teachers, Assistant Teachers, Classical Teachers and also includes Lecturers, Assistant Professors, Associate Professors, Professors, Principal, Vice-Principal, Demonstrator, Headmaster, Assistant Headmaster, Superintendent, Assistant Superintendent in a provincialised educational institution under this Act who are not eligible for provincialisation of their services and whose services cannot be provincialised in the post of Teacher under this Act due to lack of his/her educational and professional qualifications required as per the Right of Children to Free and Compulsory Education Act, 2009, National Council for Teachers Education Act, 1993, University Grants Commission Act, 1956 and the relevant rules and regulations framed thereunder and any other Act, as the case may be, as applicable on the date of provincialisation,

Central
Act No.
35 of
2009;
Central
Act No.
73 of
1993,
Central
Act No.3
of 1956

however, his/her service is provincialised as tutor with separate terms and conditions of service, to be notified by the competent Administrative Department:

Provided that a tutor shall not be eligible to hold the post of Professors, Principal, Vice-Principal, Headmaster, Assistant Headmaster, Superintendent, Assistant Superintendent, as the case may be, in an educational institution provincialised under this Act;

(v) "University" means the Universities which have got the status of an affiliating University under the relevant Acts constituting such Universities;

(w) "Venture Degree College" means a Degree College imparting education beyond Higher Secondary stage established by the people of the locality prior to 1.1.2006 and which has also received affiliation up to the highest class from the concerned University and concurrence from the State Government on or before 1.1.2006 and whereof the services of teachers have not been provincialised under any Act enacted by the State legislature so far;

(x) "Venture High School" means High School imparting education up to class X and established by the people of the locality prior to 1.1.2006 which has received permission from the State Government and recognition from the Board of Secondary Education, Assam on or before 1.1.2006 and whereof the services of the teachers have not been provincialised under any Act enacted by the State legislature so far;

(y) "Venture Higher Secondary School" means a Higher Secondary School imparting education up to Class XII and established by the people of the locality prior to 1.1.2006 which has received permission from the State Government on or before 01.01.2006 and whereof the services of teachers have not been provincialised under any Act earlier enacted by the State legislature so far;

(z) "Venture Junior College" means a Venture Junior College established by the people of the locality prior to 1.1.2006 which has received concurrence from the Government and permission from the Assam Higher Secondary Education Council on or before 01.01.06 and whereof the services of teachers have not been provincialised under any Act earlier enacted by the State legislature so far;

(za) "Venture ME School" including "Venture ME Madrassa" means an Upper-Primary School imparting education from class VI up to class VIII and established by the people of the locality prior to 1.1.2006 which has received recognition from the competent authority on or before 01.01.2006 and captured in the DISE Code up to 2009-10 and whereof the services of the teachers have not been provincialised under any Act enacted by the State legislature so far:

Provided that the DISE Code shall have to be issued on or before 2009-10 and DISE Code issued thereafter shall not be considered for the purpose of provincialisation of services of any employee of the institution;

(zb) "Venture Lower Primary School" or "Venture LP School" means a School imparting education up to Class V and established by the people of the locality prior to 1.1.2006 whose name figure in the DISE Code up to 2009-10 and prior to that and whereof the services of the teachers have not been provincialised under any Act enacted by the State legislature so far:

Provided that the DISE Code shall have to be issued on or before 2009-10 and DISE Code issued thereafter shall not be considered for the purpose of provincialisation of services of any employee of the institution;

(zc) "Venture Upper Primary School" means a School imparting education from class VI up to class VIII and established by the people of the locality prior to 1.1.2006 which has received recognition from the competent authority on or before 01.01.2006 and captured in the DISE Code up to 2009-10 and whereof the services of the teachers have not been provincialised under any Act enacted by the State legislature so far;

(zd) "Venture Educational Institutions" means and includes Venture Degree College, Venture Higher Secondary School, Venture Junior College, Venture High School, Venture High Madrassa, Venture ME School, Venture ME Madrassa, Venture Upper Primary School and Venture Lower Primary School situated within the State of Assam excluding the areas covered under the Sixth Schedule of the Constitution of India unless a separate Notification for inclusion of the Venture Educational Institution in such areas is issued and published by the Government in the Official Gazette :

Provided that the educational institutions which are running professional courses and private institutions run with the fees received from the students shall not come within the purview of the definition of Venture Educational Institution under this clause.

Eligibility
criteria for
selection of
educational
institution for
provincialisation
of services of
teachers/ tutors.

3. (1) Subject to the provisions of Article 30 of the Constitution of India, the following categories of Venture Educational Institutions shall be eligible for being considered for provincialisation of the services of their teachers and tutors:-

(i) The Venture Educational Institutions which have been established and had obtained the required permission, recognition, affiliation, concurrence, as the case may be, up to the last and highest class required for the concerned institution from the respective competent Authority or Authorities on or before 1.1.2006:

Provided that the order for such permission, recognition, affiliation, concurrence etc. shall have to be issued on or before 01.01.2006 and any order issued thereafter with any retrospective effect, shall not be considered for the purpose of provincialisation of services of any teacher and tutor, as the case may be, of the institution;

(ii) The land, building and other infrastructure of such Venture Educational Institutions in case of Venture Primary and Upper Primary Schools shall be as far as practicable at par with the provisions under the Right of Children to Free and Compulsory Education Act, 2009 and Rules framed there under; Venture Educational Institutions in the case of Venture Secondary and Higher Secondary Schools and Junior Colleges shall be as far as practicable at par with the provisions under Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 and Rules framed thereunder, and in case of Degree Colleges, same shall be as per norms set by University Grants Commission.

(iii) The concerned Venture Educational Institution must have land in the name of the Institution with clear and exclusive title and possession over the land before 01.01.2006 and no lease or rent or donor agreement executed at any point of time, shall not be considered in any manner for this purpose:

Central
Act No.
35 of
2009;

Assam
Act No.
IV of
2007

Provided that in case of institutions situated in Forest area, Forest Possession Certificate from the competent Forest Authority certifying that the institution has been in possession of Forest Land prior to 01.01.2006 and in case of institutions situated in Tea Gardens, certificate from Tea Garden Authority certifying that the institution has been in possession of Tea Garden Land prior to 01.01.2006, shall have to be produced by the concerned educational institution before the District Scrutiny Committee constituted under section 13.

- (iv) Venture Educational Institutions has a minimum total enrolment of 30 students if it is a Venture Primary or Upper Primary School as on the date of coming into force of this Act;
- (v) The Venture Educational Institutions has a minimum total enrolment of 25 students in class-X, if it is a Venture High School; 25 students in Class-XII if it is a Venture Higher Secondary School or a Venture Junior College; 30 students in the Final year of Three Year Degree Course, if it is a Venture Degree College, as on the date of coming into force of this Act;
- (vi) In case of a Venture High School or a Venture Higher Secondary School or a Venture Junior College or a Venture Degree College, the concerned Venture Educational Institution must have a consistent good academic performance which would mean that at least 30% of the candidates appearing for the final examination as a whole must have passed in the last three consecutive examinations held during previous three consecutive years prior to the date of coming into force of this Act.
- (vii) In addition to the provision under clause (v) above, at least 10 students must have appeared in the last final examination in any subject in case of Venture High School, Venture High Madrassa, or Venture Higher Secondary School or Venture Junior College. At least 15 students in any subject must have appeared in case of Venture Degree College in the last final examination.
- (viii) In case of Venture ME School, there must be one Science teacher or tutor to teach Science and Mathematics subject. In case of Venture High School, there must be one

teacher or tutor to each core subject i.e. Mathematics, Science, English, MIL and Social Studies;

(ix) There shall be additional post in the same subject in Venture Higher School, High Madrassa, Venture Higher Secondary School, Venture Junior College and Venture Degree College, if the minimum students appearing in the last final examination of the highest class for that subject exceeds eighty in each class for the second post and exceeds 150 in each class for the third post;

(x) Two numbers of teachers and /or tutors of the Venture LP School shall be provincialised under this Act and their services shall be merged with the Base School identified in respect of the area wherein the said venture school was situated. After so merger in the Base School, the minimum number of teacher as specified in the schedule of the Right of Children to Free and Compulsory Education Act, 2009 shall be followed. The deficit in number of post of teacher in the Base School shall be filled up in accordance with the norms and standards of the said Act and following the provision of relevant Act and Rules in force for filling up of vacant post.

Central
Act No.
35 of
2009

✓ (xi) In case of Venture Upper Primary School there shall be minimum three teachers or tutors at least one teacher each for (a) Science and Mathematics (b) Social Studies and (c) Languages:

Provided that for additional posts it shall be considered in accordance with the norms and standard stipulated in the Schedule under sections 19 and 25 of the Right of Children to Free and Compulsory Education Act, 2009.

Central
Act No.
35 of
2009

(xii) The enrolment shall be verified with the data as per DISE Code 2009-10 or before as available in the records of the National University of Educational Planning and Administration, New Delhi. There shall be physical verification of students and checking of records of attendance of students of last three years.

(xiii) In case of mixed medium school for provincialisation of teacher and /or tutor each medium of instruction of such school shall be treated as a separate school except for the post of Head of the institution who shall be the Head of the Institution in respect of both the schools.

- (2) In case of a Venture Degree College and a Venture Higher Secondary School or a Venture Junior College the eligibility criteria specified in sub-section (1) above regarding date of recognition, affiliation or concurrence, minimum enrolment and performance would mean in respect of each of the subjects with or without 'Major' as the case may be, and the services of the teachers appointed or engaged in connection with such subject or subjects shall be considered for provincialisation under the provisions of this Act, only if the specified eligibility criteria as per University Grants Commission Act, 1956, National Council for Teachers Education Act, 1993 and relevant rules and regulations framed thereunder, as the case may be, as applicable on the date of provincialisation, are satisfied and having sufficient enrolment in the concerned School or Colleges including in the concerned subject. Central Act No.3 of 1956; Central Act No. 73 of 1993,
- (3) The concerned Venture Educational Institution must have the required infrastructure as specified by the concerned University to which the College is affiliated in case of Venture Degree Colleges; and as specified in the Schedule of the Right of Children to Free and Compulsory Education Act, 2009 as far as practicable and having DISE Code for the year 2009-2010 or prior to that in case of Venture Primary or Upper Primary School and in case of all other Educational Institutions, the concerned institution must have the required infrastructure as specified in section 10 of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006 as far as practicable. Central Act No. 35 of 2009 Assam Act No. IV of 2007
- (4) Subject to the provisions of the Statutes, Ordinances and Regulations made by the concerned affiliating University, in case of a Venture Degree College ; subject to the provisions of the Right of Children to Free and Compulsory Education Act, 2009, in case of a Venture Primary or Venture Upper Primary School ; and, in case of all other institutions, subject to the provisions of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006, if an educational institution which does not fulfill the eligibility criteria as stated herein above on the date of coming into force of this Act, such institution, shall not be eligible to be Central Act No. 35 of 2009 Assam Act No. IV of 2007

considered for provincialisation of the services of its teachers, but, may be allowed to run as a Private Institution or a Non-Government Educational Institution as before subject to fulfillment of other statutory norms in force.

- (5) If any Venture Educational Institution established and administered under Article 30 of the Constitution of India prefers to come under the ambit of this Act and if the services of teachers of such institutions are provincialised under this Act, such institutions shall not remain under the ambit of the provisions of Article 30 of the Constitution of India with effect from the date of such provincialisation.
- (6) (a) The Government of Assam shall identify Base School for the purpose of provincialisation of services of teachers of the Venture Educational Institutions so as to fulfill the norms and standards required for providing educational institutions within a specified area as follows:-
- (i) at least one Lower Primary School within a radius of 1 Km;
 - (ii) at least one Upper Primary School within a radius of 3 Kms;
 - (iii) at least one High School or High Madrassa within a radius of 5 Kms; and
 - (iv) at least one Higher Secondary School or Junior College within a radius of 7 Kms.
- (b) If any Provincialised School already exists within the aforesaid radius, the existing Provincialised School shall be identified as the Base School at the exclusion of a Venture Educational Institution within the said radius:
- Provided that in case of two or more existing provincialised Educational Institutions within the radius of the area as specified in clause (a), the District Scrutiny Committee shall identify only one of such educational institutions as the Base School, considering the existing infrastructure and other amenities and facilities available in such educational institution.
- (7) All the Teachers including Tutors and the students of an Educational Institution provincialised under this Act shall be merged with the Base School, to fulfill and maintain norms and standard of Educational Institution including Pupil Teacher

Ratio (PTR) and all other Statutory requirements for the purpose to re-organise in education sector in all levels. The Base School can be an existing provincialised School or it may be a Venture Educational Institution eligible for provincialisation under this Act having adequate infrastructure:

Provided that the existing provincialised School shall be preferred over a Venture Educational Institution for identification as a Base School.

- (8) Educational institution which are running professional courses and private institution run with the fees realised from the students shall not be considered for provincialisation of services of the teachers under this Act.
- (9) Save and except an institution covered under Article 30 of the Constitution of India which is already getting financial assistance or grants-in-aid from the Government, no other Private or Non-Government educational institution shall be entitled to get any aid or assistance from the State Government in any form with effect from the date of coming into force of this Act.
- (10) If any eligible Venture Educational Institution intends to remain outside the purview of provincialisation of services of their teachers and/ or tutors under this Act, such institution shall give their option in writing expressing their intention to remain outside the purview of this Act, before the District Scrutiny Committee within one year from the date of coming in to force of this Act.

Teachers and/ or
tutors to be
government
servants.

4. (1) Subject to fulfillment of all other provisions of this Act, the services of the teachers and/or tutors of all Venture Educational Institutions eligible under section 3 shall be deemed to have been provincialised on the date of publication of the provincialisation order by Notification in the Official Gazette and they shall become employees of the State Government with effect from such date.
- (2) The teachers and/or tutors to be provincialised under this Act,-
 - (i) must have been working as a teacher in the concerned Venture Educational Institution that have been fully recognized up to the last and highest class required for such Institution by the competent authority on or before 01.01.2006;

- (ii) must have minimum educational and professional qualifications as laid down under different Acts, Rules and Regulations as mentioned under section 6 or any other relevant statutory provisions, as the case may be;
- (iii) must have rendered at least six years continuous service as on 1.1.2017 from the date of joining in the concerned Venture Educational Institution which must be on 31.12.2010 or prior to that date.
- (iv) in case of teachers and/or tutors of the Schools for special subject like Sanskrit, Arabic, Hindi, Craft Teacher, Music Teacher and other Classical Teachers, the number of students appeared in the concerned final examination like HSLC and HS (10 + 2) conducted by the SEBA or the ASHEC, as the case may be, shall not be less than 10 students in each class per year during last three years.

Land, building etc to vest with the Government.

5. (1) With effect from the date of provincialisation of the services of the teachers and/or tutors of the Venture Educational Institutions under this Act, the land, building and other assets of the concerned educational institution shall vest with the Government.

(2) In case of merger/or amalgamation of one educational institution with other educational institution, the land, building and other assets vacated by any such merged educational institution shall be used by the Government for other suitable purpose whatsoever.

Educational and Professional qualification of teachers.

6. (1) The services of teachers in a Venture Educational Institution from the Primary level up to the Degree Level, shall be considered for provincialisation in the post of teachers or relevant teaching faculty in appropriate nomenclature, as the case may be, subject to fulfillment of the eligibility criteria relating to educational and professional qualifications as laid down under the following Acts, Rules and Regulations :-

- (a) The Right of Children to Free and Compulsory Education Act, 2009 and its Rules;
- (b) The National Council for Teachers Education Act, 1993 and its Regulations in force at the time of provincialisation of services.
- (c) The Assam Secondary Education (Provincialised) Service Rules, 2003, as amended in 2012;

Central
Act No.
35 of
2009;

Central
Act No.
73 of
1993;

(d) The University Grants Commission Act, 1956 and University Grants Commission Regulations on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010, framed thereunder, as the case may be. Central Act No. 3 of 1956

- (2) The services of a teaching employee in a Venture Educational Institution shall be considered for provincialisation as teacher only if they have the requisite academic and professional qualifications prescribed under the relevant Acts, Rules or Regulations as mentioned in sub-section (1) of this section which are applicable for the time being in force, otherwise their services shall be provincialized as tutor.
- (3) In case of teachers for special subjects like Sanskrit, Arabic, Hindi, Craft Teacher, Music Teacher, and any other Classical Teachers, the qualification should be as per the qualification prescribed by the relevant statutory Rules of the State Government in force.

Educational and Professional qualification of tutor.

7. (1) The tutor must acquire the prescribed educational and professional qualifications within a period of five years from the date of publication of the order of provincialisation of services of the teachers and or tutors of the concerned Venture Educational Institutions in the Official Gazette and after acquirement of required qualification, they shall be upgraded to the post of teacher in appropriate cadre.
- (2) If such tutor fail to acquire such prescribed qualifications within a period of five years from the date of publication of the order of provincialisation in the Official Gazette, their cases shall not be considered for up-gradation to the post of teacher after the lapse of a period of five years from the date of publication of provincialisation order in the Official Gazette and they shall continue to function as tutor as per same terms and conditions which were applicable to them before provincialisation of the concerned Venture Educational Institution.

Terms and conditions of service.

8. (1) Subject to the provisions of this Act and the Rules made hereunder all rules including service rules and rules of conduct and discipline which are applicable to State Government

servant of corresponding ranks, shall be applicable to all teachers of educational institution whose services have been or to be provincialised under the provisions of this Act.

- (2) The teachers whose services have been provincialised under this Act shall get full scale of pay and such emoluments as salary and allowances as per norms of the State Government applicable to the employees of the corresponding rank with effect from the date of provincialisation of their services, as if they are fresh appointees and they cannot claim any benefit whatsoever in respect of past services rendered by them before provincialisation and in respect of pension, they shall be governed by the New Pension Scheme applicable to the State Government teachers of the corresponding rank.
- (3) For the tutors whose services are provincialised as tutors under this Act, their scope of work and other condition of service shall be notified by the concerned administrative department separately. The emoluments for tutor shall be paid at the rate as specified in the Schedule appended to this Act subject to the condition that the enhanced emoluments after 2(two) years as per schedule shall be admissible in respect of a tutor on submission of a satisfactory performance report by the head of the concerned educational institution to the Drawing and Disbursing Officer after completion of 2(two) years service from the date of provincialisation. In the event of subsequent acquirement of educational and professional qualification by such tutors within 5 years from the date of provincialisation of the services of teachers in the concerned Venture Educational Institution, they shall be eligible for upgrading their posts as teachers. In the event of failure in acquiring required qualification within five years from the date of provincialisation of the Venture Educational Institutions, he shall continue as a tutor only under the terms and conditions of service including their salary and allowances as may be notified by the Government under sub-section(4) of this section.
- (4) The scope of work and other terms and conditions of service of the tutors shall be notified by the respective administrative departments separately.
- (5) The teachers, who have completed sixty years of age as on the date of coming into force of this Act, shall be deemed to have retired with effect from that date and they shall have no claim whatsoever from the State Government as regards their pay,

6

allowances and retirement benefits for services already rendered by them in such educational institutions before the date of provincialisation.

- (6) The teachers and tutors provincialised under this Act shall hold personal posts to be created for provincialisation of their services. These posts shall be outside the cadre which shall stand abolished on cessation of services by the concerned teacher or tutor, as the case may be, due to retirement, death, resignation or any other reason whatsoever.

Management of
the educational
institution where
services of
teachers are
provincialised.

9. With effect from the date of publication of the notification under sub-section (1) of section 4, the administration, management and control of all provincialised educational institutions coming within the purview of this Act shall vest in the State Government.

Managing
committee in
respect of
primary/ upper
primary schools.

10. The constitution, composition, powers, functions and duties of the Managing Committee in respect of the Primary and Upper Primary Schools shall be governed by the provisions of the Right of Children to Free and Compulsory Education Act, 2009 and the rules made thereunder.

Central
Act No.
35 of
2009

Managing
committee
/governing body
in respect of
other
educational
institutions.

11. (1) The State Government or an officer authorized by the State Government not below the rank of a District Elementary Education Officer in case of Elementary Schools or the Inspector of schools of the District in case of High School, High Madrassa, Higher Secondary School by order passed in that behalf shall constitute a Managing Committee in respect of High School, High Madrassa or Higher Secondary School and a Governing Body in respect of a Junior College.
- (2) The State Government or an Officer authorized by the State Government not below the rank of the Director of Higher Education, in case of Degree College, shall constitute a Governing Body in respect of a Degree College.
- (3) The Governing Body and the Managing Committee, as the case may be, of such institutions shall exercise such powers and shall perform such functions as specified in the relevant Acts and rules prescribed thereunder.
- (4) The State Government or the officer so authorized by the State Government may, re-constitute the Managing Committee or the Governing Body, as the case may be, as may be required under the relevant statutory provision.

- (5) The composition of the Managing Committee or Governing Body, as the case may be, shall be such as provided in the relevant Act, rules or orders etc. in respect of the concerned Educational Institution.
- (6) Subject to overall control and supervision of the Director, all teachers and/tutors whose services are or would be provincialised under this Act, shall be accountable and remain subject to the control of the Managing Committee or the Governing Body, as the case may be.
- (7) All teachers, whose services have been provincialised under this Act, shall render their services under the control and supervision of the Head of the Institution and if so required their services may be utilized in the lower classes also, for smooth running of the concerned Educational Institution.

Amalgamation/
merger and
shifting or
expansion of
educational
institution.

12. (1) In appropriate cases, if there is already an existing educational institution nearby, and the enrolment of the students do not justify for more than one institution in the same locality, or there are other sufficient reasons so to do, the State Government, in the public interest and for reasons to be recorded in writing may, order for transfer or shifting of the institution and the incumbents of the institution from one place to another, or may order amalgamation or merger of two or more existing institutions as per Siksha Khetra Scheme.
- (2) In appropriate cases, if the State Government is of the view that an existing educational institution needs be expanded so as to have more classes, the State Government may, by order, make expansion of an existing educational institution from Primary to Upper-Primary and from Upper-Primary to Secondary and Secondary to Higher Secondary or reverse the said educational institutions to a lower level in the case of lose or absence of such necessity of more classes in any such Educational Institution.
- (3) All incumbents whose services have been provincialised under the provisions of this Act and who are working in one of the schools in respect of which an order under sub-sections (1) and (2) above has been passed, shall be liable to be transferred and posted in any other provincialised institution in the same rank and grade.
- (4) All teachers working in a higher grade in an institution in respect of which an order under sub-section (2) has been passed may be required to teach in the lower classes also.

District Scrutiny Committee and State Level Scrutiny Committee.

13. (1) There shall be District Scrutiny Committees in each district separately for Elementary, Secondary and for Higher Education to scrutinize service records and other related issues of the serving teachers of Venture Educational Institutions pertaining to provincialisation of their services.

(2) The Deputy Commissioner of the District, by an order, shall constitute the District Scrutiny Committee for the respective district under preceding sub-section:

Provided that in case of newly created districts, the Deputy Commissioner of the erstwhile district with the help of Deputy commissioner of the newly created district shall scrutinize all cases of entire erstwhile district.

(3) The District Scrutiny Committee for Higher Education shall be constituted with the following members, namely:-

(i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;

(ii) The Inspector of Schools of the concerned district-----
Member-Secretary;

(iii) One nominee of the Deputy Commissioner of newly created district if the institution falls within the jurisdiction of the newly created district;
Member;

(iv) One Principal of College situated within the district to be nominated by the Inspector of Schools----Member;

(v) One retired Principal of College of the concerned district to be nominated by the Inspector of Schools ---Member;

(vi) One eminent person in the field of education who is an ordinary resident of the concerned district to be nominated by the Deputy Commissioner—Member.

(4) The District Scrutiny Committee for Secondary Education shall be constituted with the following members, namely:-

(i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;

(ii) The Inspector of Schools of the concerned district-----
Member-Secretary;

(iii) One nominee of the Deputy Commissioner of newly created district if the institution falls within the

- jurisdiction of newly created district; Member;
- (iv) One Principal of Junior College situated within the district to be nominated by the Inspector of Schools---- Member;
 - (v) One Principal of Provincialised Higher Secondary School situated in the district to be nominated by the Inspector of Schools ---Member;
 - (vi) One Headmaster of Provincialised High School/High Madrassa situated within the district to be nominated by the Inspector of Schools – Member;
 - (vii) One eminent person in the field of education who is an ordinary resident of the District to be nominated by the Deputy Commissioner—Member;
 - (viii) One retired Principal/Headmaster of an Educational Institution situated within the district to be nominated by the Inspector of Schools---Member.
- (5) The District Scrutiny Committee for Elementary Education shall be constituted with the following members, namely:-
- (i) The Deputy Commissioner or his nominee not below the rank of Additional Deputy Commissioner of the concerned district ---Chairman;
 - (ii) The District Elementary Education Officer of the concerned district---Member-Secretary;
 - (iii) One representative of the Deputy Commissioner of the newly created district if the institution falls within the jurisdiction of newly created district-----Member;
 - (iv) The Deputy Inspectors of Schools of all Sub-divisions within the concerned district----Members;
 - (v) The Block Elementary Education Officer of all Blocks within the concerned district-- ---Members;
 - (vi) One eminent person in the field of education who is an ordinary resident within the district to be nominated by the Deputy Commissioner-----Member.
- (6) The District Scrutiny Committee shall first scrutinize and prepare a list of all Venture Educational Institutions within the district, which are eligible in terms of the provisions of this Act and shall thereafter proceed to scrutinize and verify the service records of all the serving teachers, who are eligible or would become eligible for being considered for provincialisation of

their services. The District Committee shall identify a Base School for each category of school and recommend the name of teacher/ tutor to be associated against each Base School.

- (7) The District Scrutiny Committee shall forward the verified list of eligible teachers Base school-wise in accordance with this Act, to the concerned Director who shall place the matter before the State Level Scrutiny Committee to be constituted under sub-section (10) of this section and after making such further scrutiny as may be required, shall forward the same to the concerned Department of the State Government for consideration and for issuing Notification in respect of the eligible institutions and teachers eligible for getting their services provincialised.
- (8) The District Scrutiny Committee shall have the powers to inspect physical existence of school and to inspect all documents and records produced before it and call for such further records and documents as may be required for the purpose of causing verification and scrutiny and examine witnesses for the purpose, if considered necessary and while doing so it shall have the powers of a Civil Court for the purpose of compelling attendance of persons and production of documents.
- (9) The State Government may, for reasons to be recorded in writing, by an order re-constitute the District Scrutiny Committee or may change in its composition, if the circumstances so warrant, from time to time.
- (10) There shall be one State Level Scrutiny Committee at State level for verification of recommendation received from the District Scrutiny Committees with the following member, namely :-
- (i) Director of the concerned Department of Education-
..... Chairman.
 - (ii) Joint Director/Deputy Director of the concerned Directorate-Member Secretary.
 - (iii) One representative nominated by the concerned Administrative Department-.....Member.
- (11) The State Level Scrutiny Committee shall have to cause physical verification of all institution and will also inspect all documents and records produced before it and call for such other records and documents as may be required for the purpose of causing verification.

- (12) When there arises difference in between the recommendation of the District Scrutiny Committee and the Physical verification report caused by the State Level Scrutiny Committee, the matter shall be placed before the State Level Scrutiny Committee and the decision of the State Level Scrutiny Committee shall be final.

Explanation:- for the purposes of this section the Deputy Commissioner in relation to Districts included in the areas covered under the Sixth Schedule of the Constitution of India shall mean the Principal Secretary of the respective council.

Appellate
authority.

14. The State Level Scrutiny Committee shall be the appellate authority against any recommendation of the District Scrutiny Committee and the State Government in the concerned administrative department shall be the Appellate Authority against any recommendation of the State Level Scrutiny Committee.

Educational
institution not
provincialised to
function as
private / non-
government
institutions.

15. (1) The services of teachers of the Venture Educational Institutions which have been established on or after 1-1-2006, shall not be provincialised and no such educational institution shall be allowed to remain functional unless it has obtained,-

(i) affiliation from the affiliating University, if it is a Degree College;

(ii) permission under the provisions of the Assam Non-Government Educational Institutions (Regulation and Management) Act, 2006, in case of all other educational institutions; and

(iii) certificate of recognition from the authority notified under the provisions of section 18 of the Right of Children to Free and Compulsory Education Act, 2009.

Assam
Act No.
IV of
2007

Central
Act No.
35 of
2009

- (2) All such Venture Educational Institutions which have obtained the required affiliation, permission or recognition, as the case may be, shall be allowed to function as purely Private or Non-Government Educational Institution.

Offences and
Penalties.

16. (1) Whoever provides misleading, incorrect or false information to and suppresses material information from or abets the providing or suppression of such information to the District Scrutiny Committee or to any other authority under this Act shall commit an offence under this Act which shall be punishable with imprisonment for a term which may extend to two years.

Offences to be cognizable and non-bailable.	17.	Offences committed under this Act shall be cognizable and non-bailable under the provisions of the Code of Criminal Procedure, 1973.	Central Act No. 2 of 1974
Trial of cases	18.	<p>(1) Offences under section 17 shall be triable by a Judicial Magistrate of the competent jurisdiction under the Code of Criminal Procedure, 1973.</p> <p>(2) Cases under this section shall be tried summarily under the Code of Criminal Procedure, 1973.</p>	Central Act No. 2 of 1974
Suit and proceedings.	19.	<p>(1) No suit, prosecution or other legal proceeding shall lie for anything in good faith done under this Act, except with the previous sanction of the State Government.</p> <p>(2) To adjudicate disputes for redressal of grievances relating to the teaching staff of the Non-Government Educational Institution as well as disputes concerning disciplinary action, genuineness of establishment of school and claim for provincialisation in respect of teaching staff of Venture Educational Institution, there shall be an Educational Tribunal for each district within their respective Territorial Jurisdiction. The District and Sessions Judges and the Additional District and Sessions Judges of each District are designated as Educational Tribunal.</p>	
Power of interpretation and removal of difficulties.	20.	<p>(1) If any difficulty arises in interpretation of any provisions of this Act, the interpretation of the State Government shall be final.</p> <p>(2) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order do anything not inconsistent with the provisions of this Act and the rules framed thereunder, which appear to be necessary or expedient for the purpose of removing the difficulty.</p>	
Creation of personal post and maintenance of reservation policy.	21.	(1) For the purpose of provincialisation of services of the teachers and tutors under this Act, the Government shall create and sanction such number of ex-cadre posts which shall be personal to the incumbents. These personal posts shall stand abolished on cessation of the services of the teachers for any reason whatsoever including retirement, resignation, death etc. Since these are personal as well as ex-cadre posts, the present cadre strength of the concerned service shall not be impacted in any way due to creation of these posts.	

- (2) The Administrative Department may retain the posts of any Educational Institution provincialised under this Act, after cessation of the services of the teachers which may be deemed to be necessary to run the institution.
- (3) The posts so retained as per sub-section (2), shall be en-cadred in appropriate cadre and shall continue as permanent posts.
- (4) While making retention of posts under sub-section (2) and in creating additional posts as may be required under this Act, the prescribed percentage of reservation for Scheduled Castes and Scheduled Tribes and other reserved categories, as applicable under the relevant Acts and rules, shall be maintained.

Creation of fund 22.

The State Government shall create a special pool of fund to facilitate implementation of the provisions of this Act in consultation with the Finance Department of the Government of Assam in due course of time.

Power to make rules. 23.

(1) The State Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-

- (i) prescribing service conditions and specifying the duties and responsibilities of all teachers whose services have been provincialised under this Act;
- (ii) preparation and maintenance of service records of the teachers whose services have been provincialised;
- (iii) for management of the educational institutions;
- (iv) specifying the powers, duties and responsibilities of the Managing Committee or Governing Body of the educational institutions;
- (v) prescribing the scope of work, emoluments and remuneration, and other terms and condition of service of tutors provincialised under this Act.

(3) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one

session or two or more successive sessions and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislative Assembly may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

Repeal and savings.

24.

The Assam Venture Educational Institutions (Provincialisation of Services) Act, 2011 as amended vide the Assam Venture Educational Institutions (Provincialisation of Services) (Amendment) Act, 2012 and the Assam Venture Educational Institutions (Provincialisation of Services) (Amendment) Act, 2013, which have been struck down by the Hon'ble Gauhati High Court vide order dated 23.09.2016 in WP(C) No. 3190/2012, and all rules, orders, notifications issued thereunder, shall stand repealed, however, all the teachers whose services were provincialised prior to 23.9.2016, shall continue and their cases shall be reviewed as per the eligibility norms set forth for provincialisation under this Act.

Assam Act No. XVII of 2011; Assam Act No. XXI of 2012; Assam Act No. XX of 2013

Schedule

[See section 8(3)]

Fixed salary admissible to a Tutor

Category of Institution	Category of post held by the employee in the institution prior to provincialisation	Fixed salary for 1 st to 2 nd year. (in Rs)	Fixed salary for 3 rd to 5 th year. (in Rs)
Degree College	Principal	36000	40000
	Assistant Professor	27000	30000
Junior College	Principal	20700	23000
	Lecturer	16200	18000
	Demonstrator	14400	16000
Higher Secondary School	Subject Teacher	16200	18000
	Demonstrator	14400	16000

High School/ High Madrassa	Headmaster/Superintendent	16200	18000
	Asstt. Headmaster/ Asstt. Superintendent	14400	16000
	Graduate Teacher (BA/B.Com/B.Sc)	12600	14000
	Sr. Hindi Teacher	12600	14000
	Music Teacher/ Classical Teacher	12600	14000
	Craft Teacher	9900	11000
Upper Primary School (ME School/ME Madrassa)	Headmaster	12150	13500
	Assistant Teacher	10800	12000
	Graduate (Science & Mathematics) Teacher	11700	13000
	Hindi Teacher /Arabic Teacher /Language Teacher	10800	12000
Primary School (L.P School)	Assistant Teacher	10800	12000

S. M. BUZAR BARUAH,
Commissioner & Secretary to the Govt. of Assam,
Legislative Department, Dispur, Guwahati-6.