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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 12th April, 2017 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 20 OF 2017.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette", on the 12th April, 2017).

AN ACT

to make special provisions for fixation of fees for the self financed schools in the State and the matters connected therewith and incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Self financed Schools (Regulation of Fees) Act, 2017. Short title, extent and commencement.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

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

- (a) "academic year" means the year specified by the Government or, as the case may be, by any Board or Council to which respective school is affiliated;
- (b) "an aided school" means any pre-primary school, primary school, upper primary school, secondary school, or higher secondary school, established and administered or maintained by any person or body of persons and recognized or approved by the competent authority under any law for the time being in force, which receives any financial grant or assistance from the Central Government or the State Government or any local authority;
- (c) "educational district" means an educational district, as may be specified by the State Government in the *Official Gazette*;
- (d) "elementary education" means the education from First Class to Eighth Class;
- (e) "employee" means a teacher and includes every other employee working in a recognized school;
- (f) "existing school" means a recognized self financed school which is in existence at the commencement of this Act;
- (g) "Fee or Fee Structure" means any amount, by whatever name called, collected, directly or indirectly, by a school for admission of a student to any Standard or course of study and includes,-
 - (i) Tuition fee;
 - (ii) Term fee, which shall not exceed one month tuition fee per term;
 - (iii) Library fee and deposit;
 - (iv) Laboratory fee and deposit;
 - (v) Gymkhana fee;
 - (vi) Caution money;
 - (vii) Examination fee;
 - (viii) Admission fee, which shall not exceed one month tuition fee;
 - (ix) Yoga and Physical Education fee;

(x) any other fee as determined by the Fee Regulatory Committee;

(h) "Fee Regulatory Committee" means a committee constituted under section 3;

(i) "Fee Revision Committee" means a committee constituted under section 12;

(j) "Government" means the State Government;

(k) "Government school" means a school established, owned or maintained by the Government or a local authority;

Guj. 18 of 1973. (l) "Higher Secondary Education" shall have the same meaning as defined in clause (hh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;

(m) "local authority" means,-

Bom. LIX of 1949. (i) a Municipal Corporation constituted under the Gujarat Provincial Municipal Corporations Act, 1949;

Guj. 34 of 1964. (ii) a Municipality constituted under the Gujarat Municipalities Act, 1963;

Guj. 18 of 1993. (iii) a Panchayat constituted under the Gujarat Panchayats Act, 1993;

(n) "Management" means;-

(i) in the case of a school managed by the Government, the Government;

(ii) in the case of school managed by any local authority, the respective local authority;

(iii) in any other case, managing committee or the governing body by whatever name called, of school to which the affairs of the school are entrusted and, a person, by whatever name or designation called, where such affairs are entrusted to such person and shall also include trust or company associated with the school in any manner whatsoever;

(o) "minority educational institution" means the Government approved institution established and administered by minority having right to do so under clause (1) of article 30 of the Constitution of India;

- (p) “prescribed” means prescribed by rules made under this Act;
- (q) “pre-primary school” means a Nursery, Junior Kindergarten, Senior Kindergarten level or any school imparting education up to pre-primary school level for children having age of 3 to 6 years, by whatever name called and of any medium attached in the prescribed manner to the school,
- (r) “profiteering” means any amount accepted in cash or kind, directly or indirectly which is in excess of the fee fixed or approved as per the provisions of this Act and shall include profit earned from school by trust or company associated with the school in any manner whatsoever;
- (s) “public examination” means an examination conducted by the Gujarat Secondary and Higher Secondary Education Board or Central Board of Secondary Education or Council of Indian School Certificate Examinations or any other Board recognized by the Government;
- (t) “recognized school” means a school recognized by the competent Educational Authority of the State or the Central Government;
- (u) “self financed school” means any pre-primary school, primary school, upper primary school, secondary school or higher secondary school, established and administered or maintained by any person or body of persons including trusts and companies and recognized or approved by the competent authority under any law for the time being in force holding affiliation of International or Central or State Boards operating in the State of Gujarat, which are not receiving any financial grants or assistance from the Central Government or the State Government or any local authority, but does not include a school giving, providing or imparting religious instruction alone;
- (v) “school” includes a pre-primary, primary, upper primary, secondary and higher secondary school and also includes any other institution which imparts education or training below the degree level, but does not include an institution which exclusively imparts technical education;
- (w) “school property” means all movable and immovable property belonging to, or in the possession of, the school and all other rights and interests in, or arising out of, such property, and includes land, building and its appurtenances, playgrounds, hostels, furniture, books, apparatus, maps, equipments, utensils, cash, reserve funds, investments and bank balances;

- 18 of 1973. (x) "secondary education" shall have meaning as defined by clause (u) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972.

CHAPTER II

CONSTITUTION OF COMMITTEE, DETERMINATION OF FEE AND PROHIBITION OF COLLECTION OF EXCESS FEE

3. (1) The Government shall constitute a Fee Regulatory Committee for the purpose of determination of the fee for any standard or course of study in self financed schools; **Constitution of Fee Regulatory Committee.**
- (2) The age of the Chairperson and the members shall not be more than 65 years at the time of appointment. The term of the Chairperson and other nominated members shall be three years.
- (3) The honorarium and allowances payable to and other terms and conditions of service of member shall be such as may be prescribed.
- (4) The Committee shall consist of the following members, namely:-
- (a) retired District and Sessions Judge or a person who had been a member of All India Service, having retired from a post not below the rank of Principal Secretary to Government or a person who had been a member of Indian Police Service, having retired from a post not below the rank of Additional Director General of Police, to be nominated by the Government, who shall be the Chairperson of the Committee;
 - (b) the Chartered Accountant, to be nominated by the Government;
 - (c) one Civil Engineer / Government approved valuer, to be nominated by the Government;
 - (d) one representative from the self financed school management of the respective zone, to be nominated by the Government;
 - (e) one Academician of repute, to be nominated by the Government.
- (5) The District Education Officer or, as the case may be, the District Primary Education Officer shall act as a co-ordinator to the Committee to provide administrative support.
4. (1) The jurisdiction of each Fee Regulatory Committee shall be the zone comprising of such districts as the State Government may, by notification in the *Official Gazette*, specify. **Jurisdiction and headquarters of Committee.**

(2) The headquarters of the Fee Regulatory Committee shall be at such place specified by the Government by notification in the *Official Gazette*.

Vacancies, etc.
not to invalidate
proceedings of
the committee.

5. (1) If any vacancy occurs by reason of death, resignation, expiry of term of office or termination of appointment of the member or for any other cause whatsoever, such vacancy shall be filled in by the State Government as soon as possible within a period of six months from the date of occurrence of the vacancy.

(2) No act or proceeding of the Committee shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the Constitution of the Committee.

Procedure to be
regulated by the
Fee Regulatory
Committee.

6. (1) The Fee Regulatory Committee shall meet as and when necessary but at least once in a quarter at such time and place as the Chairperson may think fit.

(2) The Committee shall regulate its own procedure for the conduct of its business.

(3) All orders and decisions of the Committee shall be authenticated by the Chairperson of the Committee or the person duly authorized by the Chairperson in this behalf.

Disqualifications
of members of
Fee Regulatory
Committee.

7. The Government may terminate the appointment of the Chairperson or any member of the Fee Regulatory Committee before the expiry of the term of his office, if he-

(i) has been adjudged an insolvent;

(ii) has, in the opinion of the State Government, become physically or mentally incapable of acting as a member;

(iii) has been convicted of an offence involving moral turpitude, or

(iv) has been guilty of proven misbehavior:

Provided that no member shall be removed from his office on the above grounds, unless he has been given a reasonable opportunity of being heard.

Powers and
Functions of the
Fee Regulatory
Committee.

8. (1) Subject to the provisions of section 9, the Fee Regulatory Committee shall determine the fee payable by students in the self financed schools.

(2) The Committee shall have power to,-

- (a) require each self financed school to place before the Committee, the proposed fee structure of such school alongwith all relevant documents and books of accounts for scrutiny before such date as may be specified by the Committee;
- (b) verify whether the fee proposed by the self financed school is justified and whether it amounts to profiteering or charging of exorbitant fee;
- (c) approve the existing fee structure or determine the fee which can be charged by the self financed school;
- (d) verify whether the fee collected by the self financed school, operating within the territory of the State of Gujarat, is recognized by the competent State Educational Authority or affiliated to the Gujarat Secondary and Higher Secondary Education Board / Central Board of Secondary Education/Council for Indian School Certificate Examinations / IB board or any other board, as the case may be and the school imparts instruction prescribed by the Gujarat Secondary and Higher Secondary Education Board or any other Board, as referred to above;
- (e) hear complaints or initiate *suo moto* hearing with regard to collection of excess fee by a self financed school, as referred to above in Clause (d);
- (f) regulate the fees charged by the school and penal action as per the provisions of this Act;
- (g) report the matter to the respective competent Educational Authority that the school has collected excess fee and it has not complied with the provisions of the respective applicable Acts and rules made thereunder of the concerned Board for appropriate action.

(3) (a) For the purposes of this Act, the Fee Regulatory Committee while holding inquiry shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:-

V of 1908.

- (i) summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavit; and

(iv) issuing commission for examination of witnesses for local inspection.

(b) All inquiries and revisions under this Act shall be deemed to be the judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Exemption
from
appearance
before
Committee.

9. (1) The Fee Regulatory Committee may exempt such self financed schools that charge amount of fee lower than the fee prescribed by the Government by notification in the *Official Gazette*, from the determination of fee. Such self financed school shall file an affidavit to that effect:

Provided that if any such school desires to revise the fee, it shall follow the procedure as laid down in section 8.

Provided further that exclusive pre-primary classes/play groups / crèches / not attached to any school shall be exempted from the application of the provisions of this Act.

(2) The Fee Regulatory Committee may determine fee for all self financed schools except the self financed school as referred to in sub-section (1), imparting pre-primary, primary, upper primary, secondary, and higher secondary education.

(3) The exemption shall remain operative till the prescribed fee is revised by the Government.

(4) The Fee Regulatory Committee may withdraw the exemption, after providing reasonable opportunity of hearing to the erring school, if it has reason to believe that the school has charged fee in excess of the fee, prescribed under sub-section (1) or has furnished false or misleading or incomplete information to the committee.

(5) The information regarding erring schools, including details of their management shall be published through an advertisement in the leading daily newspapers, in the best interest of students, parents, and society at large.

Factors for
determination
of fee.

10. (1) The Fee Regulatory Committee shall determine the fee leviable by a self financed school taking into account the following factors, namely:-

(i) location of the self financed school i.e. village, town, or city in which the school is situated;

- (ii) investment incurred to setup the school;
- (iii) infrastructure made available to the students for the qualitative education, facilities provided as mentioned in the prospectus or website of the school;
- (iv) expenditure on administration, maintenance of services and utilities of the school;
- (v) excess fund generated from Non-Resident Indians, as a part of charity by the management and contribution by the Government for providing free-ship in fee or for other items under various Government schemes given to the school for the students.
- (vi) students strength in the self financed school;
- (vii) classes of study and courses of study offered by the school;
- (viii) qualification of teaching, and non-teaching staff (as per the relevant norms) their salary components, and reasonable amount for yearly salary increments;
- (ix) expenditure incurred on the students against total income of the school which shall include profit earned from school by the trust or company associated with such school;
- (x) reasonable revenue surplus for the purpose of development, education and expansion of the school;
- (xi) any other factors which may be prescribed by the Government from time to time.

(2) The Fee Regulatory Committee shall, after determining the fee leviable by a self financed school, communicate its decision to the school concerned.

(3) The Fee Regulatory Committee shall determine the total fees which shall be levied by considering all different fees charged by the school.

(4) The fee structure so determined by the Fee Regulatory Committee shall be binding on the self financed schools for a period of three years.

(5) The Fee Revision Committee may recommend to the Government for the upper fee limit to be kept for the schools of the State. The Government may consider such recommendation appropriately.

**Prohibition of
collection of
excess fee.**

11. (1) No self financed school shall collect any fee in excess of the fee fixed by the Fee Regulatory Committee for admission of students to any standard or course of study in that school.

(2) No excess fee shall be collected by any person either for himself or on behalf of such self financed school or on behalf of the management of such self financed school.

(3) No school itself or on its behalf shall collect any donation or capitation fee under any name whatsoever, or receive any deposit under any head to the school management, school trust, company, or any trustee or member of the school. If any parents or guardian of a student has paid voluntarily any above referred amount, he shall inform the concerned Fee Regulatory Committee, the details of such payment on affidavit. Such non-disclosure shall amount to abetment of the profiteering committed by the school management.

(4) The School shall open and operate separate and only one Bank account for individual registered school. The parents shall make payments of prescribed fees directly into the concerned school bank account. The acknowledgement of receipt of the total collected fee from the parents shall be given in the form of counter-foil from bank and concerned school, as the case may be.

**Fee Revision
Committee.**

12. (1) The Government shall constitute a committee for the purpose of revision against the order passed by the Fee Regulatory Committee. The headquarters of the Fee Revision Committee shall be at Gandhinagar or at such other place, as may be decided by the Chairperson of the Committee.

(2) The Committee shall consist of the following members, namely:-

- (i) retired Judge of the High Court, to be nominated by the Government shall be the Chairperson of the Committee;
- (ii) the Secretary to the Government of Gujarat, Education Department (Primary and Secondary);
- (iii) the Secretary to the Government of Gujarat, Finance Department, or his nominee not below the rank of the Deputy Secretary;
- (iv) the Secretary, Gujarat Secondary and Higher Secondary Education Board or, as the case may be, the Director, Primary Education, *ex-officio*, who shall be the Member-Secretary;
- (v) one representative from the self financed school management to be nominated by the Government;
- (vi) the Chartered Accountant, to be nominated by the Government.

(3) A person aggrieved by the order of the Fee Regulatory Committee made under section 10 may file revision application before the Fee Revision Committee within a period of twenty-one days from the date of receipt of such order:

Provided that if the Fee Revision Committee is satisfied that such school was prevented for filing a revision application within prescribed time-limit for sufficient cause, it may condone the delay and shall allow the revision application but not later than three months.

(4) The orders passed by the Fee Revision Committee shall be final and binding on the self financed school.

CHAPTER III

REGULATION OF ACCOUNTS AND MAINTENANCE OF RECORDS

13. (1) The Government shall regulate the maintenance of accounts by the self financed schools in such manner as may be prescribed.

Regulation of
accounts and
maintenance of
records.

(2) The self financed schools shall maintain such records in such manner as may be prescribed.

(3) Every self financed school shall maintain accounts for different kinds of transactions like the fees collected, the grants received, financial assistance received including funds from NRIs, payments of salary of staff, purchase of machinery and equipments, furniture, laboratory articles, sports equipments, library books, stationary and other expenditure incurred towards payments to the agencies, companies hired or engaged by the school for different kind of services and these accounts shall be audited by the Chartered Accountant.

(4) Every self financed school shall keep the accounts and the records within the premises of the educational institution and shall make them available at all reasonable times for inspection by the Fee Regulatory Committee or its authorized officer;

(5) The accounts maintained by the self financed school together with all vouchers relating to various items of receipts and expenditures shall be preserved by the schools for a period of seven years.

CHAPTER IV

CONTRAVENTIONS AND PENALTIES

Contraventions
and penalties.

14. (1) For contravention of any of the provisions of this Act or the rules made thereunder, the school management shall, in addition to refund of twice the amount of fee to the parents or guardians or to the person who has made the payment, be liable -

- (a) to pay fine which shall be upto five lakh rupees to the Fee Regulatory Committee, for the first contravention;
- (b) to pay fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees to the Fee Regulatory Committee for the second contravention; and
- (c) for cancellation or withdrawal of registration / affiliation / No Objection Certificate of the school, on third and subsequent contravention by the concerned authority on the recommendation of the Fee Regulatory Committee.

(2) The amount of fine and the amount of refund shall be paid within fifteen days from the receipt of the order, failing which fine of one per cent of the total payable amount shall be levied each day till the refund of the total amount and fine is paid. However, if the school management fails to make the payment of fine and refund within three months, than the entire unpaid amount shall be recovered as an arrear of land revenue.

Bar of
jurisdiction of
civil court

15. No Civil Court shall have the jurisdiction to deal with or decide any question which the Fee Regulatory Committee or, as the case may be, the Fee Revision Committee is empowered to deal with or decide with by or under this Act and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any of the provisions of this Act.

CHAPTER V

MISCELLANEOUS

Powers of State
Government to
give directions.

16. The State Government may, from time to time, issue general or special directions consistent with the provisions of this Act and the rules made thereunder, as in its opinion are necessary or expedient for carrying out the purposes of this Act or for giving effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the self financed school shall be bound by such directions.

Operation of
other laws.

17. Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Protection of
action taken in
good faith.

18. No suit, prosecution or other legal proceeding shall be instituted against the Committee or its members, Government or any officer, authority or person

empowered to exercise the powers or perform the functions by or under this Act for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

XLV of
1860.

19. All the members of the Committee and the officers and employees while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members of
Committee,
officers and
employees to be
public servant.

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

Power to make
rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the honorarium and allowances payable to and other terms and conditions of service of members of the Fee Regulatory Committee under sub-section (3) of section 3;
- (b) the fee to be levied by the self financed schools under sub-section (1) of section 9;
- (c) the other factors under which the Fee Regulatory Committee shall determine the fees leviable by the self financed school under clause (xi) of sub-section (1) of section 10;
- (d) to regulate the maintenance of accounts by the self financed schools under sub-section (1) of section 13;
- (e) for maintenance of records of accounts of the Fee Regulatory Committee under sub-section (2) of section 13.

(3) All the rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as after they are made shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official*

Power to remove
difficulty.

Gazette, make such provisions not inconsistent with the provisions of this Act, as it appears to it to be necessary or expedient for the purposes of removing the difficulty:

Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

Government Central Press, Gandhinagar