

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973

(Tamil Nadu Act 29 of 1974)

Received the assent of the President on the 20th June 1974, published in the Tamil Nadu Government Gazette Extraordinary, dated the 24th June 1974.

An Act to provide for the regulation of recognised private schools in the State of Tamil Nadu.

Be it enacted by the Legislature of the State of Tamil Nadu in the Twenty-fourth Year of the Republic of India as follows: -

CHAPTER I

Preliminary

1. Short title, extent, application and commencement. - (1) This Act may be called the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973.

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

(3) It applies to all private schools.

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

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

(1) "*academic year*" means the year commencing on the First day of January or June;

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

(3) "*educational agency*" in relation to –

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

(b) any other private school, means any person or body of persons permitted or deemed to be permitted under this Act to establish and maintain such other private school;

- (4) "*Government*" means the State Government;
- (5) "*grant*" means any sum of money paid as aid out of State Funds to any private school;
- (6) "*minority school*" means a private school or its choice established and administered, [xxx] by any such minority whether based on religion or language as has the right to do so under clause (1) of Article 30 of the Constitution;
- [(7) "*private school*" means a pre-primary, primary, middle or high school or higher secondary school or teacher training institution imparting education or training, whether receiving grant from the Government or not; established and administered or maintained by any person or body of persons, and recognised by the competent authority under this Act but does not include a school or an institution –
- (a) imparting technical or professional education;
 - (b) established and administered or maintained by the Central Government or the State Government or any local authority;
 - (c) maintained or approved by, or affiliated to, any University established by law; or
 - (d) giving, providing or imparting religious instruction alone, but not any other instruction.]
- (8) "*school committee*", in relation to a private school, means' the school committee constituted under section 15;
- (9) "*secretary*", in relation to a private school, means the secretary referred to in section 16;
- (10) "*Tribunal*" means a Tribunal constituted under section 42 and having jurisdiction.

CHAPTER II

Establishment, Permission for Establishment and Management of Private Schools

3. Power of Government to regulate school education. - The Government may regulate the different stages of education and courses of instruction in private schools.

4. New private school to obtain permission. - Save as otherwise expressly provided in this Act, no person shall, without the permission of the competent authority and except in accordance with the terms and conditions specified in such permission, establish on or after the date of the commencement of this Act, any private school.

5. Application for permission and sending of statement. - (1) The educational agency of every private school proposed to be established on or after the date of the commencement of this Act shall make an application to the competent authority for permission to establish such school.

(2) Every such application shall –

(a) be in the prescribed form;

(b) be accompanied by such fee not exceeding [one thousand rupees] as may be prescribed; and

(c) contain the following particulars, namely: -

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

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

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

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

(iv) the amenities available to pupils and teachers;

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

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

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

(viii) such other particulars as may be prescribed.

(3) [Omitted by Tamil Nadu Recognised Private Schools (Regulation) Amendment Act, 1987 (Tamil Nadu Act 39 of 1987).]

permission followed with recognition and without permission, no school can be established. If schools are allowed to be established without any permission and recognition, the object of regulating the establishment, management and control of private schools will be defeated.

[5A. Application for permission in respect of existing higher secondary schools. –

(1) The educational agency of every higher secondary school which is a private school and in existence on the date of publication of the Tamil Nadu Recognised Private Schools (Regulation) Amendment Act, 1987 (Tamil Nadu Act 39 of 1987), in the *Tamil Nadu Government Gazette*, shall, before the expiry of six months from that date, make an application to the competent authority for permission to continue to run such school.

(2) Every such application shall –

(a) be in the prescribed form;

(b) be accompanied by such fee not exceeding one hundred rupees as may be prescribed; and

(c) contain the following particulars, namely: -

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

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

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

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

(v) the amenities available to pupils and teachers;

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

(vii) the sources of income to ensure the financial stability of the higher secondary school;

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

(ix) such other particulars as may be prescribed.]

6. Grant of permission. - On receipt of an application under sub-section (1) of section 5, [or sub-section (1) of section 5-A, as the case maybe,] the competent authority –

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

(b) shall communicate its decision to the applicant within a period of four months from the date of such receipt:

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

Provided further that in case of refusal of the permission the applicant shall be entitled to refund of one-half of the amount or the fee accompanying the application.

7. Permission deemed to be granted in certain cases. - *[Omitted by Tamil Nadu Recognised Private Schools (Regulation) Amendment Act, 1987 (Tamil Nadu Act 39 of 1987).]*

8. Approval of transfer of permission. - (1) (a) Whenever there is any change in the constitution of the educational agency that agency shall apply to the competent authority for approval of such change.

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

(c) On any transfer of the management of private school, without approval having been obtained for such transfer under clause (b), the transferee shall, if he desires to run it as such, apply to the competent authority within three months of the date of the transfer, for approval of the transfer.

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

(2) On receipt of an application under sub-section (1), the competent authority shall –

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

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

9. Minority school to be established without permission. - Any minority whether based on religion or language may establish and administer any private school without permission under section 6.

10. Minority school to send statement. - (1) [*Omitted by Tamil Nadu Recognised Private Schools (Regulation) Amendment Act, 1987 (Tamil Nadu Act 39 of 1987).*]

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

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

CHAPTER III

Recognition of Private School

11. Recognition of private school. - (1) On receipt of an application by –

(a) any private school in respect of which permission has been or is deemed to have been granted under section 6; or

(b) any minority school; the competent authority may, after satisfying itself, that proper arrangements have been made for the maintenance of academic standard in the school, that the provisions of this Act are complied with and that the prescribed conditions have been satisfied grant a certificate, recognising the private school for the purposes of this Act.

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

[11A. Additional factors to be taken into account for recognition of private schools. –

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

- (a) the adequacy of schools already existing in the locality;
- (b) the need for the private school in the locality;
- (c) the number of pupils studying in such school;
- (d) the extent of the playground available to pupils and the adequacy of the playground with reference to the strength of the pupils in the school;
- (e) the amenities available to pupils and teachers;
- (f) the equipment, laboratory, library and other facilities for instruction; and
- (g) such other factors as may be prescribed.]

12. Withdrawal of recognition by competent authority. - (1) The competent authority may withdraw permanently or for any specified period the recognition of any private school –

- (i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder insofar as such provisions, rules or directions are applicable to such private school, or
- (ii) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder; or
- (iii) which contravenes or fails to comply with any such conditions as may be prescribed.

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

[(3) The competent authority, on withdrawal of the recognition of a private school under sub-section (1), shall make necessary arrangements for the continuance of the instruction of the pupils of the said private school in other recognised private schools.]

13. Effect of withdrawal of recognition. - Any private school, the recognition of which has been withdrawn shall not be entitled to –

- (i) receive any grant or other financial assistance from the Government; or

- (ii) prepare, train or guide pupils for appearing at any examination conducted by, or under the authority of the Government.

14. Payment of grant. - [(1) Subject to such rules as may be prescribed, the Government may continue to pay grant to the private school receiving grant from the Government, before the date of commencement of the academic year 1991-1992 at such rate and for such purposes as may be prescribed.

Explanation. - For the purposes of this sub-section, private school receiving grant from the Government shall also include a private school receiving grant from the Government only in respect of any class or course of instruction.]

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

- (i) which does not comply with any of the provisions of this Act or any rules made or directions issued thereunder insofar as such provisions, rules or directions are applicable to such private school, or
- (ii) in respect of which the pay and allowances payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of this Act or the rules made thereunder, or

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

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

[14A. Grant not payable to new private schools and new class and course of

instruction. - Notwithstanding anything contained in this Act or in any other law for the time being in force or in any judgment, decree or order of any court or other authority, no grant shall be paid to, -

- (a) any private school established and any class or course of instruction opened in such private school, on or after the date of commencement of the academic year 1991-1992;
- (b) any private school in existence on the date of commencement of the academic year 1991-1992 to which no grant has been paid by the Government immediately before the date of such commencement;

- (c) any class or course of instruction in a private school in existence on the date of commencement of the academic year 1991-1992 to which no grant has been paid by the Government immediately before the date of such commencement; and
- (d) any class or course of instruction opened on or after the date of commencement of the academic year 1991-1992 in a private school in existence on the date of such commencement.

Explanation. - For the purpose of this section, private school includes a minority school.]

CHAPTER IV

School Committee and its Constitution and Functions

15. Constitution of school committee. - (1) Every private school shall have a duly constituted school committee which shall include the headmaster of the private school and the senior-most teachers employed in the private school as provided in sub-section (2):

[Provided that where an educational agency is a company or corporation owned or controlled by the Central or State Government and such educational agency has established and administering or maintaining more than one private school, such private schools may, with the prior permission of the competent authority, have a common school committee consisting of all headmasters of such private schools and such number of senior-most teachers employed in such private schools as provided in sub-section (2).]

(2) The number of representative of the teachers on such constituted school committee shall be such as may be prescribed and different number of representatives may be prescribed for different classes of private schools

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

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

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

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

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

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

18. Functions of the school committee and responsibility of educational agency under the Act. - (1) Subject to the provisions of this Act and the rules made thereunder, the school committee shall have the following functions, namely: -

- (a) to carry on the general administration of the private school excluding the properties and funds of the private school;
- (b) to appoint teachers and other employees of the private school, fix their pay and allowances and define their duties and the conditions of their service; and
- (c) to take disciplinary action against teachers and other employees of the private school.

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

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

[CHAPTER IV-A]

Appointment of Special Officer in Certain Cases

18A. Appointment of Special Officer in certain cases. - (1) (a) Where the Government, on receipt of a report from the Director of School Education or otherwise, are satisfied that the management of any private school –

- (i) is responsible, whether on or after the date of commencement of the Tamil Nadu Recognised Private Schools (Regulation) and Private Colleges (Regulation) Amendment Act, 1982 (Tamil Nadu Act 48 of 1982), for the maladministration, lapses or irregularities of such private school; or
- (ii) has neglected whether on or after the date of commencement of the Tamil Nadu Recognised Private Schools (Regulation) and Private Colleges (Regulation) Amendment Act, 1982 (Tamil Nadu Act 48 of 1982) to discharge any of the duties imposed on, or to perform any of the functions, entrusted to such management by or under this Act, or any rule or order made or direction issued thereunder, the Government may, after giving to such, management an opportunity to make representation and for reasons to be recorded in writing, by an order, suspend the management and appoint a special officer for a period

not exceeding one year or till the reconstitution of the management (in accordance with the law applicable to the reconstitution of such management) whichever is later:

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

Provided further that where the management of any minority school is suspended, the Government shall appoint a special officer belonging to that minority which has been administering the said minority school immediately preceding such suspension.

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

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

(ii) the special officer –

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

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

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

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

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

(3) For the removal of doubts it is hereby declared that any wilful failure or wilful negligence on the part of a management to take action against the manager as required under clause

(c) of sub-section (1) or to nominate another person as manager under sub-section (2) shall constitute an act of mal-administration and action shall be taken against the management of private school under this Act accordingly.

Explanation. - For the purpose of this Chapter –

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

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

- (b) "manager" means the secretary, or, any person holding office as president, manager or correspondent of a private school, who is managing or administering the affairs of such private school;
- (c) "private school" includes a minority school.

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

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

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

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

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

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

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

CHAPTER V

Terms and Conditions of Service of Teachers and Other Persons Employed in Private Schools

19. Qualifications, conditions of service, etc., of teachers and other persons

employed in private schools. - The Government may make rules regulating the number, qualifications and conditions of service (including promotion, pay, allowance, leave, pension, provident fund, insurance and age of retirement and rights as respect disciplinary matters) of the teachers and other persons employed in any private school.

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

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

[(3) Notwithstanding anything contained in sub-section (1), the Government may by general or special order, whether prospectively or retrospectively, exempt any person or class of persons from possessing the qualifications prescribed under was section 19 relating to age and experience for appointment as teacher or other employee in any private school, subject to such conditions, if any, as may be specified in such order.]

21. Teachers and other persons employed in private schools to be governed by Code of Conduct. - (1) Every teacher and every other person employed in any private school shall be governed by such Code of Conduct as may be prescribed and if any teacher or other person so employed violates any provision of such Code of Conduct, he shall be liable to such disciplinary action as may be prescribed.

(2) The school committee, may define the standards of conduct to be observed by teachers and other persons employed in the private school, such standards not being inconsistent with the provisions of this Act and the rules made thereunder.

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

(2) Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall, if it is satisfied that there are

adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment.

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

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

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

23. Appeal against orders of punishment imposed on teachers and other persons employed in private schools. - Any teacher or other person employed in any private school –

(a) who is dismissed, removed or reduced in rank or whose appointment is otherwise terminated; or

(b) whose pay or allowances or any of whose conditions of service are altered or interpreted to his disadvantage,

by any order, may prefer an appeal against such order to such authority or officer as may be prescribed; and different such authorities or officer as may be prescribed for different classes of private schools.

Explanation. - In this section, the expression "order" includes any order made on or after the date of the commencement of this Act in any disciplinary proceeding which was pending on that date.

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

25. Special provision regarding appeal in certain past disciplinary cases. - (1) If, before the date of the commencement of this Act, any teacher or other person employed in any private school has been dismissed or removed or reduced in rank or his appointment has been otherwise terminated and any appeal preferred before that date –

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

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

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

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

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

26. Absorption of teachers or other persons on retrenchment. - Where any retrenchment of any teacher or other person employed in any private school is rendered necessary consequent on any order of the Government relating to education or course of instruction or to any other matter, [or consequent on the reduction in strength of the pupil's studying in any such private school] it shall be competent for the Government or the school committee of any private school to appoint such teacher or other person in any school or institution maintained by the Government or in such private school, as the case may be.

[*Explanation.* - For the purpose of this section, the strength of the pupil's shall be determined in accordance with the norms fixed in the Grant-in-Aid Code of the Tamil Nadu Education Department or under any rule, regulation or order as may be made or issued by the Government or the Director of School Education, from time to time, for appointment of teachers or others in any private school.]

27. Pay and allowances of teachers and other persons employed in private schools to be paid in the prescribed manner. - Pay and allowances of any teachers or other person employed in any private school shall be paid in or before such day of every month, in such manner and by or through such authority, officer or person, as may be prescribed.

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

(a) anything contained in any -

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

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

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

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

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

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

CHAPTER VI

Control of Private School

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

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

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

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

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

(b) if the competent authority is satisfied that -

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

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

- (iii) the reasons given for closure of the private school, class or course of instruction, as the case may be, are directly attributable to the mismanagement or mal-administration on the part of the management; or
- (iv) the financial position of the management is sound, in cases where the lack of finance has been adduced as a ground for closure of the private school, class or course of instruction, as the case may be; or
- (v) the reasons given for closure of the private school, class or course of instruction, as the case may be, are not bona fide; or
- (vi) the closure of the private school, class or course of instruction, as the case may be, shall adversely affect the educational opportunity available to the pupils of the local area in which such private school is situated, it may refuse to give the prior approval for closure of the private school, class or course of instruction, as the case may be, after recording in writing the reasons for such refusal:

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

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

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

Explanation. - For the purposes of this section, the expressions "management" and "private school" shall have the same meaning as in the Explanation to sub-section (3) of section 18-A.]

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

(a) movable property of not less than such value as may be prescribed; and

(b) immovable property of the private school.

31. Restriction on alienation of property of private school. - (1) Notwithstanding anything contained in any other law for the time being in force or in any deed, document or instrument having effect by virtue of such other law –

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

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

(2) The competent authority may –

- (a) grant the permission under clause (a) of sub-section (1) if the transfer is made in furtherance of the purposes of the private school or of similar purposes approved by the competent authority, and the assets resulting from the transfer are to be wholly utilised in furtherance of the said purposes; and
- (b) when granting such permission, impose such conditions as it deems fit to ensure that such assets are wholly utilised in furtherance of such purposes; but a contravention of any such condition shall not invalidate the transfer:

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

Explanation. - For the purposes of this section, "property" means any –

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

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

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

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

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

- (a) in the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955); or
- (b) in a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959); or
- (c) in any corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) or Post Office Savings Bank; or

- (d) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 (Central Act II of 1882); or
- (e) in such mode as may be prescribed.]

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

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

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

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

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

(4) On the making of an order under sub-section (1) for taking over the management of private school, -

(a) The educational agency and the school committee shall cease to discharge the duties imposed on, and to perform the functions entrusted to that agency and that committee; and

(b) the Government -

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

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

Explanation. - In sub-clause (i) of clause (b), the expression "law" includes any bye-law, rule, regulation, custom or usage.

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

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

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

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

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

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

- (a) the property specified in such notice shall cease, on and from the date of such publication, to be subject to the control of the Government or the competent authority or any other authority or officer or servant of the Government;
- (b) possession of such property shall be deemed to have been delivered on that date to the person entitled to possession thereof; and
- (c) the Government or the competent authority or any other authority or officer or servant of the Government shall not be liable for any rent, compensation or other claim in respect of such property for any period after the said date.

36. Minority school not to be taken over. - Notwithstanding anything contained in this Chapter, the Government shall not take over the management of any minority school under section 34.

CHAPTER VII

Accounts, Audit, Inspection and Returns

37. Accounts. - Every private school shall maintain accounts in such manner and containing such particulars as may be prescribed.

38. Annual audit of accounts. - (1) The accounts of every private school receiving grant shall be audited at the end of every academic year by such authority, officer or person as may be prescribed and different authorities, officers or persons may be prescribed for different classes of private schools.

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

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

39. Inspection or inquiry. - (1) The competent authority shall have the right to cause an inspection of, or inquiry in respect of, any private school, its buildings, laboratories, libraries, workshops and equipment, and also of the examinations, teaching and other work conducted or done by the private school, to be made by such person or persons as it may direct and to cause an inquiry to be made in respect of any other matter connected with the private school and the educational agency shall be entitled to be represented thereat.

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

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

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

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

CHAPTER VIII

General Provisions Regarding Appeal and Revision

41. Appeal against orders of competent authority. - (1) Any person aggrieved by any order, decision or direction of the competent authority under¹ [section 29 or under any other provision] (other than section 34) of this Act may prefer an appeal against such order, decision or direction, to such authority or officer as may be prescribed; and different such authorities or officers may be prescribed for different classes of private schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) (a) Where, as a result of any final order made by the Tribunal at the conclusion of the proceedings before it, such amount of pay and allowances as becomes due to such teacher or other person, shall be paid to him out of the amount deposited under sub-section (1).

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

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

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

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

CHAPTER IX

Penalties and Procedure

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

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

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

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

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

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purpose of this section, -

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

(b) "director" in relation to -

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

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

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

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

CHAPTER X

Miscellaneous

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

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

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

52. Competent authority, etc., to be public servant. - Every authority and every officer duly authorised to discharge any duty imposed on it or him by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

53. Civil Court not to decide questions under this Act. - No Civil Court shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by any authority or officer mentioned in this Act.

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

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

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

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

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

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

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

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

56. Power to make rules. - (1) The Government may make rules to carry out the purposes of this Act.

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

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the form of applications and the statements under this Act and the particulars which such application and statement shall contain;
- (c) the establishment and maintenance of private schools;
- (d) the giving of grants to private schools;
- (e) the grant of permission under section 6;

- (f) the admission of pupils in private schools including special provision for the advancement of socially and educationally Backward Classes of citizens and the Scheduled Castes and the Scheduled Tribes.

Explanation. - In this clause, "Scheduled Castes" and "Scheduled Tribes" shall have the same meaning as in the Constitution;

- (g) the manner in which accounts, registers and records shall be maintained in private schools, and the authority responsible for such maintenance;
- (h) the submission of returns, statements, reports and accounts by educational agencies of private schools;
- (i) the standards of education and teaching and courses of instruction in private schools;
- (j) the purposes of the private school for which the premises of the private school may be used and the conditions subject to which such premises may be used for any other purpose;
- (k) the regulation of the use in private schools of text books, maps, plans, instruments and other laboratory and sports equipment;
- (l) the conditions subject to which donations or contributions from the public may be accepted for the purposes of private schools and the naming of private schools;
- (m) the procedure and the disposal of the business of the Tribunal.

57. Publication of rules, commencement of rules and notifications and placing them on the table of the Legislature. –

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

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

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