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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 President on the 18th October, 2013 is hereby published for general information.

ARVIND AGARWAL,
Principal Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 20 OF 2013.

(First published, after having received the assent of the President, in the "*Gujarat Government Gazette*", on the 2nd November, 2013).

AN ACT

to consolidate and amend the laws relating to Educational Tribunals so as to bring about uniformity therein and to provide for the constitution of a tribunal for the purpose of determining disputes relating to conditions of service of the members of the teaching and non-teaching staff of the educational institutions in the State and for the matters connected therewith.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Educational Institutions Services Tribunal Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions 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) "appointed day" means the date on which the remaining provisions of this Act come into force under sub-section (3) of section 1;
- (b) "college" means a college affiliated to a University;
- (c) "educational institution" means a University, College, Higher Secondary School, Secondary School and the Primary School;
- (d) "employee" means the any member of the teaching and non-teaching staff of the educational institution (whether confirmed or temporary or on probation) in service of such institution and for the purpose of any proceeding under this Act in relation to a dispute referred to in section 10, includes any such member who has been dismissed or removed or whose services are otherwise terminated;
- (e) "existing tribunal" means the tribunal established or constituted under the relevant Act;
- (f) "member" means a member of the tribunal and includes the President;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "Primary School" shall have the same meaning assigned to it in the Bombay Primary Education Act, 1947; Bom. LXI of 1947.
- (i) "relevant Act" means the Bombay Primary Education Act, 1947, the Gujarat Secondary and Higher Secondary Education Act, 1972, the Gujarat Affiliated Colleges Services Tribunal Act, 1982, the Gujarat Higher Secondary School Services Tribunal Act, 1983 or, as the case may be, the Gujarat Universities Services Tribunal Act, 1983; Bom. LXI of 1947.
Guj. 18 of 1973.
Guj. 9 of 1982.
Guj. 12 of 1983.
Guj. 1 of 1988.
- (j) "repealed law" means the Acts repealed by this Act;
- (k) "Secondary School" and "Higher Secondary School" shall have the same meaning assigned to them in the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (l) "tribunal" means the Gujarat Educational Institutions Services Tribunal established under section 3;

Bom. L of 1949.
Baroda Act No.
XVII of 1949.
Bom. XL of 1955.
Guj. 38 of 1965.
Guj. 39 of 1965.
Guj. 26 of 1978.
Guj. 22 of 1986.
Guj. 5 of 2003.

- (m) "University" means a University constituted under the Gujarat University Act, 1949, the Maharaja Sayajirao University of Baroda Act, 1949, the Sardar Patel University Act, 1955, the Veer Narmad South Gujarat University Act, 1965, the Saurashtra University Act, 1965, the Bhavnagar University Act, 1978, the Hemchandracharya North Gujarat University Act, 1986 or, as the case may be, the Krantiguru Shyamji Krishna Verma Kachchh University Act, 2003.

ESTABLISHMENT OF TRIBUNAL AND ITS JURISDICTION, POWERS AND FUNCTIONS

3. (1) There shall be established by the State Government by a notification in *Official Gazette*, the tribunal to be called the "Gujarat Educational Institutions Services Tribunal";

Constitution of
Gujarat
Educational
Institutions
Services Tribunal.

- (2) The Tribunal shall consist of the President and such number of Judicial and Administrative members as may be appointed by the State Government.

4. (1) No person shall be qualified for appointment as a,—

Appointment
and
qualifications of
member.

- (a) judicial member unless he is or has been a District Judge for at least three years;
- (b) administrative member unless he is or has been a Secretary to the Government of Gujarat for at least three years.

- (2) The Judicial member who has been so appointed shall be the President and where more than one judicial members have been appointed as members, the senior most judicial member shall be the President of the Tribunal.

5. (1) The member shall hold office for a term of five years from the date on which he enters upon his office and may be eligible for reappointment for another term of five years:

Term of office
and conditions
of service of
member of
Tribunal.

Provided that no member shall hold office as such after he has attained the age of sixty-five years.

- (2) A member may, by notice in writing under his hand address to the State Government, resign his office and such resignation shall take effect from the date it is accepted by the State Government.

- (3) The salaries and allowances payable to, and other terms and conditions of service of member shall be such as may be prescribed.

6. (1) If any vacancy occurs by reason of the death, resignation, expiry of term of appointment or termination of appointment of the member or for any

Filling up of
vacancies.

other cause whatsoever, such vacancy shall be filled in by the State Government as soon as practicable, by appointment of duly qualified person.

(2) If any member becomes by reason of illness or other infirmity, temporarily incapable for performing the duties of his office, the State Government may appoint some other duly qualified person to discharge his duties for any period not exceeding six months at a time.

Power of State Government to terminate appointment of member.

7. The State Government may terminate the appointment of any member before the expiry of the term of his office, if he-

- (i) has been adjudged an insolvent,
- (ii) engages during his term of office in any paid employment outside the duties of his office,
- (iii) has in the opinion of the State Government, become physically or mentally incapable of acting as a member,
- (iv) has been convicted of an offence involving moral turpitude, or
- (v) has been guilty of proved misbehaviour:

Provided that no member shall be removed from his office on the ground of proved misbehaviour unless he has been given a reasonable opportunity of being heard in respect of such charge.

Headquarters of Tribunal.

8. The headquarters of the tribunal shall be at such place as the State Government may, by order published in the *Official Gazette*, determine.

Jurisdiction of Tribunal.

9. The tribunal shall have the jurisdiction to entertain and decide an appeal preferred under section 11, an application made under section 12 and the cases transferred to it under section 23.

Practice and procedure of Tribunal.

10. (1) All the questions which come before the bench of the tribunal shall be decided by the majority and if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred to the President for hearing on such points by one or more of the other members of the tribunal and such point or points shall be decided according to the majority of the members of the tribunal who have heard the case including those who first heard it.

(2) The powers of the tribunal shall be exercised by the benches constituted by the President of the tribunal and every bench of the tribunal shall consist of two members out of which one shall be a judicial member referred to in clause (a) of sub-section (1) of section 4.

(3) The tribunal may, with the previous sanction of the State Government make regulations consistent with the provisions of this Act and rules made thereunder for regulating its procedure (including the place of its sittings, the formation of its benches and the award of cost) for the purpose of effective discharge of its functions and disposal of its business:

Provided that until such regulations are made under this sub-section, the tribunal may adopt the regulations made by any of the existing tribunal functioning prior to commencement of this Act.

11. (1) An employee aggrieved by an original order or appellate order or decision of the educational institution which is connected with the conditions of service of such employee or, as the case may be, the educational institution, may, within a period of sixty days from the date of such order or decision, appeal to the tribunal. **Appeal.**

(2) Notwithstanding anything contained in sub-section (1), the tribunal may entertain an appeal made to it after the expiry of the period of ninety days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.

12. (1) If at any stage in any proceeding before the tribunal, it appears to the tribunal that the proceedings raise a question, as to the interpretation of a law, which is of such a nature and of such public importance that it is expedient to issue notice to the State Government, the tribunal shall issue notice to the State Government and the Government may, if it thinks fit, appear and the tribunal shall then hear the State Government before deciding the question. **State Government to be heard in certain cases.**

(2) If it appears to the State Government that in its opinion the interpretation of a provision of law in any proceeding before the tribunal is of such a nature and of such public importance that it is expedient that the State Government be heard before decision of the question, it may apply to the tribunal in such proceedings to be heard, and the tribunal shall not decide the question without hearing the State Government.

13. The tribunal may of its own motion or on the application made by the employee or the educational institution aggrieved by any decision or order of the tribunal within sixty days from the date of communication of such decision or order, review such decision or order on any of the following grounds, namely :- **Review.**

- (a) that some new or important matter or evidence which could not be discovered earlier after the exercise of due diligence and which was likely to materially affect the decision or order of the tribunal, was discovered after such decision or order; or
- (b) that there was some mistake of facts or error apparent on the face of the record; or
- (c) that the decision or order required to be reviewed for any other sufficient reason:

Provided that the tribunal shall not allow any review petition and set-aside its previous order or decision without hearing the parties affected:

Provided further that no such review shall be made after the expiry of a period of two years from the date of decision or order concerned.

Tribunal to have powers of Court.

14. For the purpose of exercising its jurisdiction under this Act, the tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:- V of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) issuing commissions for the examination of witnesses;
- (d) any other matter which may be prescribed.

Proceedings before Tribunal to be judicial proceedings.

15. All proceedings before the tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860.

Members of Tribunal to be public servants.

16. All members of the tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Decision of Tribunal final.

17. Every decision of the tribunal passed under this Act shall be final and conclusive and shall not be called in question before any Civil Court.

Payment of court fees.

18. Notwithstanding anything contained in the Gujarat Court-fees Act, 2004, every appeal or application made to the tribunal shall be accompanied by such fees as may be prescribed. Guj. 4 of 2004.

Records to be open to inspection and extracts and copies to be given.

19. Subject to such rules and the payment of such fees as the State Government may from time to time prescribe in this behalf, the records of the tribunal shall be open to the inspection of the public at reasonable hours, and certified extracts from the same or the certified copies thereof shall be given to any person applying for the same.

Protection of action taken in good faith.

20. No suit, prosecution or other legal proceeding shall lie against the State Government, President, members or staff of the tribunal or any other person, for anything which is in good faith done or intended to be done in pursuance of this Act or rules, regulations or orders made thereunder.

Power to make rules.

21. (1) The State Government may, subject to the condition of previous publication, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that the circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(2) All rules made under this section shall be laid, for not less than thirty days, before the State Legislature as soon as may be after they are made and shall be subject to 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.

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

22. (1) On the appointed day, all the existing tribunals established or constituted under the relevant Act shall stand abolished.

Abolition of
existing
Tribunals.

(2) All the persons appointed as a tribunal under the relevant Act shall cease to hold office as such on the appointed day and shall be deemed to have vacated their office.

23. All the applications, appeals and other proceedings pending before the existing tribunals immediately before the appointed day shall stand transferred to the tribunal on the appointed day and all such applications, appeals and proceedings shall be continued and disposed of by the tribunal as if they were filed before it under this Act.

Transfer of
pending
cases.

24. The Acts specified in column (1) of the Schedule are hereby amended in the manner and to the extent specified against it in column (2) thereof with effect on and from the date on which the tribunal is constituted under section 3.

Amendment
of certain
Acts.

25. (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 Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty:

Power to
remove
difficulties.

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

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State legislature.

- Repeal and savings.
26.

(1)

On the appointed day, the Gujarat Affiliated Colleges Services Tribunal Act, 1982, the Gujarat Higher Secondary Schools Services Tribunal Act, 1983 and the Gujarat Universities Services Tribunal Act, 1983 shall stand repealed.

Guj. 9 of 1982.
Guj. 12 of 1983.
Guj. 1 of 1988.
- (2)

Notwithstanding such repeal, the provisions of section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal law as if it had been an enactment within the meaning of the said section 7.

Bom. I of 1904.

SCHEDULE

(See section 24)

Title of the Act		Extent and manner of amendment	
(1)		(2)	
1.	The Bombay Primary Education Act, 1947 (Bom. LXI of 1947).	Clause (c) of the Explanation to section 40B, sub-section (5) of section 40B and sections 40F and 40G shall be deleted.	
2.	The Gujarat Secondary and Higher Secondary Education Act, 1972 (Guj. 18 of 1973).	(1) In section 2, clause (y) shall be deleted; (2) in section 36, after the words "Private Secondary School" wherever they occur, the words "or registered Private Higher Secondary School" shall be inserted; (3) sections 38, 39 and 40 shall be deleted.	
3.	The Krantiguru Shyamji Krishna Verma Kachchh University Act, 2003 (Guj. 5 of 2003).	Section 69 shall be deleted.	