

THE KERALA (FREE AND COMPULSORY) EDUCATION BILL

A bill to provide free and compulsory education to children of the age group of five to fourteen years and to prevent the malpractices of receiving money by way of donations or in any other form at the time of admission of students and appointment of teachers.

Preamble.—WHEREAS Article 21 A of the Constitution of India mandates the State to provide free and compulsory education to all children of the age of five to fourteen;

AND WHEREAS Article 51A (k) of the Constitution of India has made it a fundamental duty on the parent or guardian or ward to provide opportunities for education to his child between the age of six and fourteen;

AND WHEREAS the provisions in the Kerala Education Act, 1958 (1 of 1958) for providing free and compulsory education are insufficient to meet the needs of the present scenario on education;

AND WHEREAS it is expedient to provide more effective provisions to ensure free and compulsory education to children of the age group of five and fourteen and to prevent malpractices committed at the time of admission of students and appointment of teachers.

BE it enacted in the Fifty ninth Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Kerala (Free and Compulsory Education) Act, —

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

(3) It shall come into force on such date as may, the Government by notification in the Gazette appoint.

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

(a) “Child” means a Child who attained the age of six years at the beginning of an academic year.

(b) “Government School” means School run by Government.

(c) “Aided School” means a Private School that is recognized and is receiving aid from the Government.

(d) “Recognized School” means a Private School recognized by the Government.

(e) “Free Education” means freedom for the child and his parent or guardian from liability to,—

(i) Pay any fee or charges to the School where the child or ward is studying or to an examining body or any external body providing any service through the School.

(ii) Incur expenditure for textbooks, notes books, and other study materials and for uniforms.

(iii) Incur expenditure towards bus fare, but limited to BPL families alone.

(f) “Local authority” means a Panchayat at any level constituted under Section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under Section 4 of the Kerala Municipality Act, 1994 (20 of 1994).

(g) “Free Education Fund” means the Fund constituted under Section 7.

(h) “Education Committee” means the Committee constituted under subsection (2) of Section 8.

(i) “Below Poverty Line Family” means the families so published by the Local Authority as per the provisions of the Act, —

(j) “Prescribed” means prescribed by rules.

3. *Right to Education.*— The Government shall provide free and compulsory education to all children of the age of six and fourteen years.

4. *Responsibility of the parent or guardian.*— It shall be the duty of every parent or guardian of a child to enroll his child or ward in a school and facilitate his completion of education.

5. Category of Schools.— For the purposes of this Act, schools in the State are classified as category 1, 2 and 3 as follows, namely:—

Category 1. Government School

Category 2. Aided School

Category 3. Recognised School.

6. *Responsibility of Schools to provide free and compulsory education.*— (1) In Category 1 Schools, all the expenses for free education shall be met directly by the Government.

(2) In category 2 and 3 Schools, all the expenses for free education shall be met by school management in the first instance and reimbursed by the local authority of the area where the school is situated, in such manner as may be prescribed:

Provided that the local authority may make available sufficient funds in advance to the school management to meet the expenses for providing free education to the students subject to settlement of the final accounts annually.

(3) No child shall be denied admission to any educational institution within the State for any course or class including plus 1 and plus 2 and no fee shall be levied for admission or tuition. Any violation of the provision shall be liable to fine for the first fault and if repeated for the second time the recognition of the institution shall be liable to be cancelled. The Director of Public Instruction may issue any direction to the head of any education institution under public or private management if otherwise the applicant for admission is duly qualified without reference to any communal reservation or religious consideration.

(4) Any applicant if refused admission on the ground of non-availability of seats or non-payment of admission or capitation fee or communal minority consideration may move the District having jurisdiction over the School for an order directing admission if otherwise qualified.

7. *Constitution of Free Education Fund.*—(1) Government shall constitute a fund by name “Free Education Fund” to meet the expenditure of the free education of the children.

(2) The following amount shall be credited to the Free Education Fund constituted under Sub-section (1), namely:—

(a) Grant from Government.

(b) Two per cent additional building tax collected by the local authority under Section 8 of this Act.

(c) Any donations to the fund made by any voluntary organizations, charitable societies, companies or other public sector undertakings.

(d) Donation from any individual.

(3) Government while preparing the annual demand for grants, due consideration shall be given for providing sufficient fund to the Free Education Fund.

8. *Additional Building Tax.*—(1) Local Authority shall collect two percent additional building tax from the owner whose annual building tax exceeds Five hundred rupees.

(2) The amount collected by the local authority shall be credited to the Free Education Fund.

9. *Responsibility of the Local Authority.*—(1) Subject to the responsibility of the Government; Local Authority shall be primarily responsible for the imparting of free and compulsory education to all the children within the local area.

(2) For imparting free and compulsory education, the local authority may constitute a committee by name ‘Educational Committee’ with the following members, namely:—

(a) Chairman/ President of the Local Authority.

(b) Chairman of the Finance Committee of the Local Authority.

(c) Headmaster of two Schools within the Local Authority.

(d) PTA President of two Schools in the Local Authority.

(3) One of the Commissioner / Secretary of the Local Authority shall be designated as the convener of the Committee.

(4) The Committee shall have a record of all children in its area who are in the age group of 1-14.

(5) The Committee shall ensure that every child in the age group of 6-14 years residing within its jurisdiction is enrolled in the School and is enabled to complete the education upto the 10th standard.

(6) The Committee shall prepare an estimate for free education of all the children in its area in September for the next academic year.

(7) The estimate prepared by the Committee shall be sent to Government before 30th November.

10. Admission of students below poverty line.— (1) Every category of schools shall admit in all classes twenty five percent of its total strength, students belonging to families Below Poverty Line.

(2) In the academic year after the commencement of this Act, twenty five percent of the admission to the lowest classes in a school shall be from the families Below Poverty Line. This shall be extended to the higher classes in the subsequent years.

(3) If sufficient number of student are not available from the Below Poverty Line families, those seats may be filled up by other students.

11. Payment of due salary and prohibition of donation. — (1) No manager or other authority in management of any school whether aided or unaided shall receive or cause to be received any amount from any student at the time of admission or at any time either as donation or in any other manner.

(2) No manager or any other authority in management of any school whether aided or unaided shall receive or cause to be received any amount from any teachers and other staff appointed in the school at the time of appointment or at any time while in service either as donation or in any other manner.

(3) Manager or any other authority in management of the school aided or unaided shall pay monthly salary to the teachers and other staff appointed in the school in accordance with the scale of pay fixed by the Government for such teachers and staff working in Government school without making any deduction or diminution on any account whatsoever. A mere consent of the teacher or other staff for deduction of amounts from the salary may not be a legal justification for

paying any lesser amount as salary if a dispute arises as to whether full salary as prescribed by the Government was paid to the teacher or not.

(4) Violation of any of the provisions in sub-sections 1 to 3 above shall be an offence punishable, with imprisonment for a term of 6 months and a fine of fifty thousand rupees or with both.

12. Constitution of Tribunal.—(1) Government shall constitute a Tribunal in every district for deciding complaints against school authorities under the provision of this Act.

(2) The Tribunal shall have power to take suo moto action against the management of a School apart from hearing and disposing of cases initiated on the basis of complaints filed before it.

(3) A retired District Judge or Sub Judge who is ready and willing to accept the post receiving only a reasonable honorarium be selected and appointed by the Government as the Tribunal.

(4) The Tribunal shall have all the powers of a First Class Judicial Magistrate.

(5) The terms and conditions of the Tribunal shall be as prescribed by the Government.

(6) A retired Police Officer not below the rank of a Circle Inspector shall be appointed by the Government as the Chief Executive Officer of the Tribunal.

(7) The Government shall provide in consultation with the Tribunal such officials and staffs as may be necessary for carrying on its functions effectively.

(8) The terms and conditions of the officers and staff of the Tribunal shall be as prescribed by the Government.

13. Responsibility for administration and Accounts of the Tribunal.— (1) The Chief Executive Officer shall be responsible for the general administration of the office of the Tribunal and to maintain proper accounts.

(2) The Chief Executive Officer may submit before the Government an estimate of the total funds required for meeting the expenses of the Tribunal annually sufficiently early, so that the Government may scrutinize the same and make allotment in the budget each year.

(3) The Government may prescribe the manner in which the accounts are to be maintained and audited.

(4) The Tribunal shall submit annual report to the Government detailing the actions taken by the Tribunal under the provisions of the Act.

14. Punishment.— If any management of a School refuses to give admission to a student or collect fees or any other amount from the parent/guardian or children for the education, the manager or person responsible for management of the School shall be liable for imprisonment for a period of 6 months and payment of a fine of ten thousand rupees.

15. Effect of the provision in the Act on other laws on the subject.—On and after the commencement of this Act, the provisions in this Act shall be given effect to in addition to the provisions in the Kerala Education Act and the Rules and wherever there occurs any inconsistency between the provision of this Act and the provisions of the Kerala Education Act and the Rules; the provisions in this Act shall prevail over all other laws.

16. Power to make rules.—(1) Government may make rules either prospectively or retrospectively to carry out the provisions 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) The manner of payment of advance and the final settlement of accounts in the matter of free education of students by the management of category 2 and 3 schools.

(b) Procedure of meeting of the Education Committee, manner of preparing the record of children and preparations of estimate for free education.

(c) The terms and conditions of service of the Tribunal including the monthly honorarium payable to the Chairman.

(d) The terms and conditions of the service of the executive officer, other officers and staff of the Tribunal.

(e) The manner in which the accounts of the Tribunal are to be maintained and audited.

(f) Any other matter which may be prescribed.

(3) Every rule under this Act shall be laid as soon as may be after it is made or issued before the Legislative Assembly for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session to which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decided that the rule should not be made or issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

Statement of Objects and Reasons

Providing free education to all children of the age of five to fourteen is a constitutional mandate contained in Article 21 A. Similarly it is a constitutionally mandated duty of every parent or guardian to provide opportunities for education to his children between the age of six and fourteen under Article 51 A (K) of the constitution. Though under the provisions of the Kerala Education Act free education is stated to be given to all students upto the 10th standard. The commission is of the view that the provisions in the Education Act are insufficient in very many

respects and there is a need to have a new enactment dealing with the subject having more effective provisions. This is the main reason why the commission is recommending the Bill for adoption as an enactment in due course. Various provisions have been included in the Bill to avoid malpractices now rampant in the education field like receiving donation for admission of children in schools and for appointment of teachers.
