



The Jharkhand Education Tribunal Act, 2005

Act 6 of 2005

Keyword(s):

Administrative Member, Application, Bench, Jharkhand, Educationist
Member, Service

Amendment appended: 15 of 2018

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

अधिसूचना

13 अगस्त, 2005

संख्या-एल० जी०-9/2004-55/लेज०,—झारखंड विधान मंडल द्वारा यथा-पारित और राज्यपाल द्वारा अनुमत का निम्नांकित अंग्रेजी अनुवाद झारखण्ड राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है जिसे भारतीय संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जायेगा।

JHARKHAND EDUCATION TRIBUNALACT, 2005.

[JHARKHAND ACT, 06, 2005]

AN

ACT.

To make suitable provisions for constitution of a statutory forum, to be Known as Appellate Tribunal for looking into the grievances of teachers of aided, affiliated and Private Educational Institutions and that of the parents/guardians of the students studying therein and to comply with the order of the Hon'ble Supreme Court in the matter of T.M.A. Pai V/s Karnataka State and the ruling dated the 5th August 2003 passed by the Division Bench of the Honorable Jharkhand High Court in the matter of W.P. (P.I.L) No. 2744 of 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF JHARKHAND IN THE FIFTY SIXTH YEAR OF THE REPUBLIC OF INDIA AS FOLLOWS .---

CHAPTER-I

Preliminary

1. Short title, extent and commencement –
 - (1). This Act may be called the Jharkhand Education Tribunal Act, 2005;
 - (2). It extends to the whole of State of Jharkhand;
 - (3). The provisions of this Act, shall come into force with effect from the date fixed by the State Government, by notification.
2. Definition - In this Act, unless the context otherwise requires;
 - a. "Administrative Member" means a member of a Tribunal who is not a Educationist Member within the meaning of Section 4(i);
 - b. "Application" means an application made under section 9;
 - c. "Appointed day" in relation to a Tribunal, means the date with effect from which it is established, by notification, under section 3;

- d. "Bench" means a Bench of the Tribunal;
- e. "Jharkhand Education Tribunal" means the Tribunal established under section 3;
- f. "Chairman" means the Chairnan of the Tribunal;
- g. "Educationist Member" means a Member of the Tribunal appointed as such under this Act, who possesses any of the Qualifications specified in sub-section 4 (II) of Section 4;
- h. "Member" means a Member (Whether Educationist or Administrative) of the tribunal, and includes the Chairman;
- i. "Notification" means a notification published in the Official Gazette;
- j. "Prescribed" means prescribed by rules made under this Act;
- k. "Rules" means rules made under sections 20 and 21 of this Act;
- l. "Service" means service rendered to the educational institutions is specified in section 2 (n);

- m. "Service matter", in relation to a person, means all matter relating to the conditions of his service in connection with the affairs of the educational institution, other than Govt. institution.
- n. "Educational institution" means any educational institutions managed and administered by private management located within the State of Jharkhand.

CHAPTER-II

- 3. Establishment of Jharkhand Education Tribunal: - The State Government may by notification establish an Education Tribunal, to be known as at the Jharkhand Education Tribunal.
- 4. Composition of Tribunal and Benches Thereof:
 - 1. The Tribunal shall consist of a Chairman and two members, one of whom shall be the Administrative member and the other shall be the Educationist member.
 - 2. Notwithstanding anything contained in the foregoing provisions of the section it shall be competent for the Chairman or any other member or members authorized by the chairman in this behalf to function as a Bench consisting of a single member or two members and exercise the jurisdiction, power and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify.
 - 3. Subject to other provisions of this Act, the Tribunal shall normally have its sitting at Ranchi. But it may hold its sitting at any district headquarter of the State of Jharkhand as decided by the chairman and members.
 - 4. Qualifications for appointment of Chairman and Member :-
 - I. A person shall not be qualified for appointment as the Chairman

unless he is a retired Judge of a High Court or retired officer of Indian Administrative Service of the rank of Secretary to the State Government.

- II. A person shall not be qualified for appointment as an Educationist member unless he;
 - a) Is, or has been a Vice-Chancellor of any university; or
 - b) Is, or has been a University Professor for a period of 5 years; or
 - c) "Is, or has been a member of the State Education Service (Class-I) for period 15 years.
- III. A person shall not be qualified for appointment as an administrative member unless he has for at least two years, held the post of at least an Additional Secretary to the Government of Jharkhand or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of Jharkhand and shall have adequate administrative experience.
- IV. Subject to the provision of sub-section (4) of section 4 the Chairman and every other member of the Jharkhand Education Tribunal shall be appointed by the State Government.

5. **Term of Office** - The Chairman or other Member shall hold office as such for a term of three years from the date he join the office provided that no Chairman or other Member shall hold office as such after he has attained, the age of sixty five years.
6. **Salaries, allowances and other terms and conditions of service of Chairman, and other Members-** The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of; the Chairman and other Member shall be such as may be prescribed by the State Government Provided that neither the salary and allowances nor other terms and conditions of service of the Chairman or other Member shall be varied to his disadvantage after his appointment.
7. **Staff of the Tribunal-**
 - 1) The State Government shall determine the nature and categories of the officers and other employees, required to Assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it thinks fit. These posts will be filled up either on deputation or contract basis.
 - 2) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Chairman.
 - 3) The salaries, allowances and conditions of service of the officers and other employees of a tribunal shall be such as may be specified by rules made by the State government.

Jurisdiction, Power and authority of Tribunal

8. Jurisdiction, power and authority of the Jharkhand Education

Tribunal:- Save as otherwise expressly provided in this Act, the Jharkhand Education Tribunal shall exercise on and from the appointed day, all the jurisdiction, power and authority exercisable immediately before that day by all courts (Except the Jharkhand High Court and Supreme Court of India) regarding:

- a. Matters concerning recruitment to any post in connection with the affairs of the educational institution;
- b. All matters concerning the service conditions of employees of the educational institutions;
- c. Grievances of the employees against the management of the educational institutions;
- d. Grievances of the guardians and parents of students against the management of the educational institutions regarding teaching standards, fee structure infrastructural facilities development works and allied matters related thereto;
- e. Such matters relating to educational institutions as may be referred to the tribunal by the State Government by notification from time to time;

9. **Application to Tribunal –**

10.

1. Subject to other provisions of this Act, a person aggrieved by an order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievances.

Explanation - For the purposes of this sub-section "Order" means an order made:-

- a. By the Management of an aided, affiliated and private educational institution;
 - b. By an officer, committee or other body or agency of such educational institution referred to in clause (A).
2. Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee, if any, in respect of the filing of such an application and by such other fees for the service or execution of processes as may be prescribed by the State Government;
 3. On receipt of an application under sub-section (1) the Tribunal shall, if satisfied that the application is fit for adjudication or trial by it, admit such an application. Where the Tribunal is not satisfied, it may summarily reject the application after recording its reasons.
 4. Where an application has been admitted by the Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject matter of

such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.

11. **Limitation: -**

1. A Tribunal shall not admit an application, unless
 - a. the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date of the establishment of this Tribunal; and
 - b. no proceeding for the redressal of such grievance had commenced before the said date before any High Court
2. Besides cases admissible for adjudication under sub-section (1), an application may be admitted within a period of six months from the date of the issue of the order by an educational institution. This limitation may be condoned by the Tribunal if it is satisfied that there exists sufficient cause for not making the application within such period.

12. **Procedure and powers of Tribunal -**

1. The Tribunal shall not be bound by the procedure laid down in the code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the State Government. The Tribunal shall have power to regulate its own procedure including the fixing of places and time of its inquiry and whether to sit in public or in private.
2. The Tribunal shall decide every application made to it as expeditiously as possible. Ordinarily every application shall be decided after a perusal of relevant documents and written representations and hearing such oral arguments as may be advanced. After hearing the parties, the Tribunal shall adjudicate the dispute and pass such order direction as thought fit and proper.
3. The Tribunal shall have; for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely-
 - a. Summoning and enforcing the attendance of any person and examining him on oath;
 - b. Requiring the production of documents;
 - c. Receiving evidence on affidavits;
 - d. Subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872(1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
 - e. Issuing commissions for the examination of witnesses or, documents;
 - f. Reviewing its decisions;
 - g. Dismissing a representation for default or deciding it ex-parte;
 - h. Setting aside any order of dismissal or other punishments

passed by an educational institution.

- i. Any other matter, which may be referred by the State Government.

13. **Right of applicant to take assistance of legal practitioner:** - A person making an application to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

14. **Conditions for the making of interim order:** - Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (Whether by way of injunction or stay or any other manner) shall be made on or in any proceedings relating to, any application unless-

- a. A copy of such application and that of all documents in support of the plea for the such interim order is furnished to the party against whom such application is made or proposed to be made; and
- b. Opportunity is given to such a party to be heard in the matter;

Provided that a Tribunal may dispense with the requirements of Clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied for reasons to be recorded in writing that it is necessary to do so for preventing any loss being caused to the applicant which cannot be averted otherwise.

15. **Decision to be by majority-** If the member of a Bench differ in opinion on a point, the point shall be decided according to the opinion of the majority. The chairman of the Tribunal will take steps to ascertain the majority view in such cases by a suitable constitution of the Bench.

16. **APPEAL** - Appeal against the order/directions/Judgments passed by Tribunal will lie before the Jharkhand High Court.

17. **Proceeding before a Tribunal to be judicial proceedings** - All proceeding before a Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian penal code (15 of 1860).

18. **Member and staff of Tribunal to be public servants:** - The Chairman, Members, officers and employees provided under Section 7 to a Tribunal shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

19. **Protection of action taken in good faith:** - No suit, prosecution or legal proceedings shall lie against the Chairman and members of the Education Tribunal, or any other person authorized by such Chairman and Members for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made there-under.

20. **Act to have overriding effect:** - The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force or an instrument having effect by virtue of any law other than this Act.

21. **Power of the State Government to make rule:** - The State

Government may, by notification, make rules to provide for all or any of the following matters, namely:

- a. The financial and administrative power, which the Chairman of a Tribunal may-exercise;
 - b. The salaries, allowances and conditions of service of the officers, and other employees of a tribunal under sub-section (3) of Section 7; and
 - c. Any other matter relating to the implementation of the provisions of this Act.
22. **Power to make rule retrospectively:** - The State Government shall make rules retrospectively but the State shall not make such any rules prior to the date of the effect of this Act.
23. **Execution of Orders/Judgments:** -
- a) The tribunal shall, be deemed to be a court within the meaning of the Contempt of Court Act, 1971.
 - b) Have all the powers under Civil Procedure Code for executing any of its orders / directions and judgments.
24. **Laying of rules:** - Every rule made under this Act by the State Government shall be laid, as soon as possible before the state legislature.

झारखंड राज्यपाल के आदेश से,
राम बिलाष गुप्ता,
सरकार के सचिव-सह-विधि परामर्शी।

विधि (विधान) विभाग

अधिसूचना

26 अक्टूबर, 2018

संख्या-एल०जी०-28/2017-161/लेज० झारखंड विधान मंडल द्वारा यथा पारित और राज्यपाल द्वारा दिनांक-15/10/2018 को अनुमत झारखण्ड शिक्षा न्यायाधिकरण (संशोधन) अधिनियम, 2017 का निम्नांकित अंग्रेजी अनुवाद झारखंड राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है जिसे भारतीय संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जाएगा।

JHARKHAND EDUCATION TRIBUNAL (AMENDMENT) ACT, 2017

(Jharkhand Act, 15, 2018)

An Act to amend the Jharkhand Education Tribunal Act, 2005

(Jharkhand Act, 06 of 2005)

Preamble:-

Whereas, Jharkhand Education Tribunal Act, 2005 (Jharkhand Act, 06 of 2005) was enacted to make suitable provisions for constitution of a statutory Tribunal, to be known as Appellate Tribunal for looking into the grievances of teachers of aided, affiliated and private Educational Institutions and that of the parents/guardians of the students studying therein and to comply with the order of the Hon'ble Supreme Court in the matter of TMA Pai vs Karnataka State and the ruling dated the 5th August, 2003 passed by the Division Bench of the Honorable Jharkhand High Court in the matter of WP(PIL) No. -2744 of 2003 and WP(PIL) No.-2537 of 2002.

Now it has been proposed to be add to new preamble in Jharkhand Education Tribunal Act, 2005 (Jharkhand Act, 06 of 2005).

And, whereas after the enactment of the Jharkhand Education Tribunal Act, 2005 during the course of execution of functions and responsibilities assigned to the Tribunal, it is felt that there is no mechanism stipulated for fixing the prescribed school fee for the private schools, which are not aided by the State Government or which are under the control of the local authorities or the Central Government or the State Government. The Honorable Jharkhand High Court in the matter of WP(PIL) No. 3271 of 2013 noticing the way in which private schools are collecting excess fee, had constituted the committee to examine and make recommendations for regulating charging/collection of fee under various heads by the private schools and advised the Government of Jharkhand to ensure that a proper legislation for regulating charging of fee by the private schools comes in place.

In place of statutory forum it may be read statutory Tribunal in Jharkhand Education Tribunal Act, 2005 (Jharkhand Act, 06 of 2005).

Now, THEREFORE BE it enacted by the Legislative Assembly of the State of Jharkhand in the Sixty Eighth Year of the Republic of India as follows:—

CHAPTER-I

Preliminary

1. Short title, extent and commencement-

- (1) This Act may be called the Jharkhand Education Tribunal (Amendment) Act, 2017 .
- (2) It extends to the whole of the State of Jharkhand.
- (3) It shall come into force on the date of notification in the official Gazette.

2. Definition- In section 2 of chapter (1) the following shall be inserted after 'n'-

- o. “**Academic Year**” means the year commencing on the first day of April to the last day of March;
- p. “**Aided School**” means a school receiving any sum of money as aid out of the State funds;
- q. “**Committee**” means the fee committee constituted at the school level under this Act;
- r. “**District Committee**” means the committee constituted under this Act to regulate fee at the District Level under section 7(2)(ii);
- s. “**Fee**” means any amount, by whatever name called including bus charges, collected directly or indirectly by a school for admission of a pupil to any standard or course of study;
- t. “**Government School**” means a school run by the Government or any local authority;
- u. “**Management**” includes the managing 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 school is vested:
- v. “**Private School**” means any pre-primary school, primary school, middle school, high school or higher secondary school, established and administered or maintained by any person or body of persons and recognized or approved by

the competent authority under any law or code of regulation for the time being in force, but does not include,—

- i. an aided school;
 - ii. a school established and administered or maintained by the Central Government or the State Government or any local authority;
 - iii. a school giving, providing or imparting religious instruction alone but not any other instructions;
- w. **"Parent Teacher Association"** means the body of parents and teachers constituted by the school.

CHAPTER-II

Establishment of fee regulation committee (School and District level)

3. In CHAPTER (II) the following new Sections shall be inserted after Section 7 of the Act.-

7A(1) Regulation of Collection of Fee - The Government shall regulate the fee to be levied by the private schools. The fee shall be regulated in the manner as below-

- (a) Each school shall have a Fee Committee consisting of the members described below:-
- (i) Representative of management of the private school -- Chairperson
nominated by such management
 - (ii) Principal of the private school -- Secretary
 - (iii) Three teachers nominated by the management of -- Member
private school
 - (iv) Four parents nominated by Parents Teachers -- Member
Association.

An agenda and information about the scheduled meeting will be made available to the chairman and members of school level fee committee by school management.

- (b) The term of the Committee shall be for three academic years and no parent member shall be eligible for re-nomination after the expiry of his/her term as the member of the Committee.
- (c) The management of the private schools shall be competent to propose the fees in such schools to the school level Committee keeping in consideration the provisions of the Act

- (d) Factors for determination of fee- The following factors shall be considered while deciding the fee leviable by a school namely-
- (i) The location of school.
 - (ii) The infrastructure made available to the students for the qualitative education.
 - (iii) The expenditure on administration and maintenance.
 - (iv) Qualified teaching and non-teaching staff as per the norms and their salary components.
 - (v) Reasonable amount for yearly salary increments,
 - (vi) Expenditure incurred on the students over total income of the school,
 - (vii) Reasonable revenue surplus for the purpose of development of education and expansions of the school and
 - (viii) Any other factors as may be notified.
- (e) After considering all the relevant factors laid down under the Act., the fee Committee shall approve the fees within a period of thirty days from the date of receipt of the proposed fee structure and communicate the details of the fee so approved in writing to the Principal. Fee shall be effective for two years determined by Fee Committee.
- (f) The Committee shall indicate the different heads under which the fee shall be levied.
- (g) If the increase in fee decided by the committee is more than 10% over the fee of the previous year, then the matter shall be referred to the District Committee for its approval.
- (h) If the fee Committee fails to decide the fee within the period specified the management shall immediately refer the matter to the District Committee for its decision under intimation to the fee Committee. During the pendency of the reference, the management of the school shall be at liberty to collect the fee of the previous academic year.

7A(2) District Committee -

1. (I) The District committee shall be constituted to take decision in case of referred by the management or against the fee approved by the school level fee committee.
- (II) The committee shall consist of the following members, namely:—
 - (a) Deputy Commissioner - Chairperson;
 - (b) District Education Officer. - *Ex-officio* Member; -Member Secretary (For Secondary and Higher Secondary)
 - (c) District Superintendant of Education . - *Ex-officio* Member; -Member Secretary (For Primary and Middle Schools)
 - (d) District Transport Officer - *Ex-officio* Member;

- (e) Chartered Accountant (nominated by committee). - Member;
- (f) Two Principals of Private Schools (nominated by committee) - Members
- (g) Two Parents (nominated by committee) - Members
- (h) Member of Parliament and Member of Legislative Assembly of respective area - Member

An agenda and information about the scheduled meeting of District Level Committee will be made available to the concerned chairman and members before 15 days of the scheduled date.

(III) The District Committee shall decide the appeal or reference as far as possible within the period of sixty days from the date of its filing after giving the opposite party an opportunity of being heard.

(IV) The District Committee shall examine the fee leviable by a private school as per factors mentioned in section 7A(i)(d).

(v) The decision of the District Committee in appeal or reference shall be displayed on the notice board of the concerned school, and if such school has its own website, it shall be displayed on the same as well by the management.

(vi) The District Committee shall have the power to regulate its own procedure in all matters arising out of the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all the powers of a civil court under the Code of Civil Procedure, 1908 (Central Act no. 5 of 1908) while trying a suit, in respect of the following matters, namely:—

- (a) Summoning and enforcing the attendance of any witness and examining him on oath;
- (b) The discovery and production of any document;
- (c) The receipt of evidence on affidavits;
- (d) The issuing of any commission for the examination of witness.
- (e) The management or the Fee Committee aggrieved by the decision of the District Committee in appeal or reference may, within ninety days from the date of such decision, prefer an appeal before the Jharkhand Education Tribunal.

2. The order of the District Committee shall be binding on the parties to the proceedings before it for two academic years. It shall not be called in the question in any Civil Court except by the way of any appeal before the Jharkhand Education Tribunal under this Act.

7A(3) Use of Building and Premises- The School building or structures or premises shall be used for the purpose of education only and Parents/Students shall not be compelled/persuaded to purchase books or other materials like Uniform and Shoes etc. from the KIOSK situated in school premises.

7A(4) Offences and Penalties- Whoever the management or the private school contravenes any of the provisions of sub sections 7A(1)(2) &(3) of this Act. or the rules made there under shall be liable -

- (i) for the first offence, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to two lakh fifty thousand rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher,
- (ii) for the second or subsequent offences, be punishable with the fine which shall not be less than one lakh rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher.

- (iii) In addition to above penalties suitable action for de-recognition of the defaulting school shall be taken up and it shall be mandatory on the part of the concerned affiliating body to de-recognize such schools.

7A(5) Imposition Execution of Penalties- (i) The Divisional Commissioner of the concern division will be authorised to be competent authority for Imposition and Execution of penalties as described in section-7A(4).

Fine/penalties so collected will be deposited under revenue head of School Education and Literacy Department, Govt. of Jharkhand.

- (ii) In case of violation of decision of District Committee, any nominated member of District Committee will inform to the concern Divisional Commissioner within stipulated period of 90 days of decision of District Committee.

- (iii) As far as possible the Divisional Commissioner shall disposed the complaint within a period of 60 days after giving an opportunity to the hearing of members of District Committee.

4. Shall be inserted in sec. 11(f) of the Act after reviewing its decisions following shall be inserted:-

" On an application filed within a period of 30 (thirty) days of the judgments or orders."

5. In sec. 15 of the Act after "Appeal against judgments/orders passed by the Tribunal will lie before the Jharkhand High Court" following shall be inserted:-

"within a period of ninety (90) days of the judgments or orders".

6. After sec. 22 (b) a new sub section (c) shall be inserted as follows:-

"the application for execution of judgments or orders of the Tribunal shall be filed by the applicant within a period of 90 (ninety) days of the judgments or orders to be executed."

झारखंड राज्यपाल के आदेश से,

संजय प्रसाद,

प्रधान सचिव-सह-विधि परामर्शी

विधि विभाग, झारखंड, राँची।
