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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT STATE SCHOOL SERVICE COMMISSION BILL, 2013.

GUJARAT BILL NO. 23 OF 2013.

A BILL

to establish a State School Service Commission for recruitment of teachers and headmasters in the registered private Secondary and Higher Secondary Schools including Primary Schools receiving grants-in- aid from the State Government and for the matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Gujarat State School Service Commission Act, 2013.

Short title,
extent,
commencement
and application.

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

(3) It shall apply to the Government-aided private Secondary, Higher Secondary and Primary Schools.

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

Definitions.

2.

In this Act, unless the context otherwise requires, --

- (1) (a) "Board" means the Gujarat Secondary and Higher Secondary Education Board established under the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (b) "Chairman" means the Chairman of the Commission appointed under section 4;
- (c) "Commission" means the Gujarat State School Service Commission constituted under section 3;
- (d) "headmaster" means the head of the teaching staff of a school by whatever name designated;
- (e) "higher secondary education" shall have the meaning as defined by clause (hh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (f) "higher secondary school" shall have the meaning as defined by clause (hhh) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972; Guj. 18 of 1973.
- (g) "member" means a member of the Commission and includes the Chairman;
- (h) "prescribed" means prescribed by rules made under section 16;
- (i) "primary education" shall have the meaning as defined by clause (15) of section 2 of the Gujarat Primary Education Act, 1947; Bom. LXI of 1947.
- (j) "primary school" shall have the meaning as defined by clause (17) of section 2 of the Gujarat Primary Education Act, 1947; Bom. LXI of 1947.
- (k) "regulations" means the regulations of the Commission made under section 17;
- (l) "school" means a recognised Government aided-
 - (i) primary school or educational institution or part or the department of such school or institution imparting instruction in primary education, or
 - (ii) secondary school or educational institution or part or the department of such school or institution imparting instruction in secondary education, or
 - (iii) higher secondary school or educational institution (other than a college) or part or the department of such school or institution imparting instruction in higher secondary education;

Guj.18
of 1973.

- (m) "secondary education" shall have the meaning as defined by clause (u) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;
- (n) "secondary school" shall have the meaning as defined by clause (v) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972;
- (o) "Secretary" means the Secretary of the Commission;
- (p) "teacher" means an assistant teacher or any other person holding a teaching post in a school and includes the headmaster.

(2) Words and expressions used but not defined in this Act shall have the meanings respectively assigned to them under the Gujarat Primary Education Act, 1947 or the Gujarat Secondary and Higher Secondary Education Act, 1972.

3. (1) For the purpose of selection of persons to the posts of teachers and headmasters in the grant-in-aid private schools, the State Government shall, by notification in the *Official Gazette*, constitute a Commission by the name of the "Gujarat State School Service Commission" with effect from such date as it may specify in the notification.

Constitution
of Commission.

(2) (i) The Commission shall consist of three members out of whom one shall be the Chairman.

(ii) Of the three members as aforesaid, one shall be a person who, not being an educationist, occupies or has occupied, in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service, and the remaining members shall have teaching experience, either as a teacher of a University or as a principal of a college for a period of not less than ten years, or as a teacher other than principal of a college, or as a headmaster, for a period of not less than fifteen years.

4. (1) (i) The Chairman and other members shall be appointed by the State Government.

(ii) The Chairman and other members shall hold office for a term of four years:

Appointment
and terms and
conditions of
service of a
Chairman and
members.

Provided that a person who has held office of the Chairman or other member shall, on the expiration of the term of his office, be eligible for further appointment as the Chairman or the member:

Provided further that no person who has attained the age of sixty-two years shall be eligible to hold office as the Chairman or the member.

- (2) If the office of the Chairman or any other member becomes vacant by reason of resignation or otherwise or if the Chairman is, by reason of absence or for any other reason, unable to perform the duties of his office, then, until a Chairman or other member is appointed under sub-section (1) or until the Chairman or the member resumes his duties, as the case may be, the duties of the Chairman or the other member, as the case may be, shall be performed by such other member as the State Government may appoint in this behalf.
- (3) The Chairman or any other member may resign his office by writing under his hand addressed to the State Government, but he shall continue in the office until the resignation is accepted by the State Government.
- (4) (i) The Chairman shall be a whole-time salaried officer and the other members shall be honorary.
- (ii) The salary of the Chairman and the honorarium of the other members shall be such as may be determined by the State Government.
- (iii) Subject to the foregoing provisions of this sub-section, the other terms and conditions of office of the Chairman and other members shall be such as may be prescribed.

Disqualifications of member. 5. The State Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any member from his office if he –

- (i) is adjudged insolvent; or
- (ii) is of unsound mind and stands so declared by the competent court; or
- (iii) is convicted of any offence which, in the opinion of the State Government involves moral turpitude; or
- (iv) is found guilty of misconduct in discharge of his duties; or
- (v) has become physically or mentally incapable of discharging duties as a Chairman or the member.

Staff of Commission. 6. (1) The staff of the Commission shall consist of –

- (i) Secretary, who shall be appointed by the State Government, and
- (ii) such other employees as the Commission may, with the previous approval of the State Government, appoint.

(2) The salary of the Secretary and other employees of the Commission shall be such as may be determined by the State Government.

(3) The other terms and conditions of service---

- (i) of the Secretary shall be such as may be prescribed, and
- (ii) of the other employees of the Commission shall be such as may be provided for by regulations.

7. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Commission to select persons for appointment to the posts of teachers in schools.

(2) It shall be the duty of the Commission to advise the State Government on such matters as may be referred to it by the State Government.

8. (1) The procedure for selection of persons for appointment to the posts of teachers shall be such as may be prescribed. Manner and scope of selection of persons and procedure for conduct of business of Commission.

(2) The manner in which the Commission shall conduct its business shall be such as may be prescribed by regulations.

9. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, no appointment to the posts of teachers in a school shall be made by the managing committee, by whatever name called, except on the recommendation of the Commission. No appointment of teachers except on recommendation of Commission.

(2) Any appointment of a teacher made on or after the commencement of this Act in contravention of the provisions of this Act shall be invalid and shall have no effect and the teacher so appointed shall not be a teacher within the meaning of clause (p) of section 2.

10. Notwithstanding anything contained in this Act, the terms and conditions of service of teachers of a school appointed immediately before the commencement of this Act shall not be varied to the disadvantage of such teachers in so far as such terms and conditions relating to the appointment of such teachers to the posts held by them immediately before the commencement of this Act.

11. The Commission may call for any record, report or other information from any school or the Board if, in its opinion, such record, report or other information is necessary for efficient discharge of its functions, and the school or the Board, as the case may be, shall furnish such record, report or other information to the Commission. Commission to call for records, etc.

12. The Commission shall submit annually to the State Government a report as to the activities carried out by it in performance of its duties and as soon as may be after the receipt of such report, the State Government shall cause a copy thereof to be laid before the State Legislature. Report of Commission.

45 of 1860. 13. The Chairman and other members and persons appointed under this Act shall, while acting or purporting to act under this Act, or any rules or regulations made there under be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Members, etc. to be public servants.

Acts and proceedings not to be invalid by reason of vacancy. 14. No act or proceedings of the Commission shall be invalid by reason of any vacancy in the office of the Chairman or any other member of the Commission.

Act not to apply in relation to certain schools. 15. The provisions of this Act shall not apply to –

- (i) a school established and administered by a minority, whether based on religion or language, or
- (ii) a school under any trust, established and administered by a minority, whether based on religion or language, or
- (iii) a school not receiving any financial assistance from the State Government, or
- (iv) a school established, owned or controlled by the State Government or local authority.

Power to make rules. 16. (1) The State Government may, by notification in the *Official Gazette*, make rules not inconsistent with this Act, for carrying 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:–

- (i) The other terms and conditions of office of the Chairman and members under clause (iii) of sub-section (4) of section 4;
- (ii) the manner in which an inquiry is to be held for removal of the Chairman or any other member under section 5;
- (iii) the other terms and conditions of service of the Secretary under clause (i) of sub-section (3) of section 6;
- (iv) the procedure for selection of persons for appointment to the posts of teachers under sub-section (1) of section 8;
- (v) any other matters which may be, or is required to be, prescribed by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible 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.

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

Power to make regulations. 17. (1) The Commission may, with the previous approval of the State Government, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, for discharging of its functions under this Act.

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

- (i) the other terms and conditions of service of the employees of the Commission under clause (ii) of sub-section (3) of section 6;
- (ii) the manner for the conduct of business of the Commission under sub-section (2) of section 8;
- (iii) any other matter which may be, or is required to be, prescribed by regulations.

18. In the performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time in conformity with the provisions of this Act.

Power of State Government to give directions.

19. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the 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.

20. (1) If the State Government is of the opinion that the Commission has failed to discharge its functions in accordance with the provisions of this Act, the State Government may, by an order published in the *Official Gazette*, and stating the reasons therefore, dissolve the Commission with effect from such date as may be specified in the order.

Dissolution of Commission.

(2) Upon the dissolution of the Commission under sub-section (1), all the members of the Commission shall be deemed to have vacated their offices with effect from the date of such dissolution.

(3) The State Government may, at any time after the dissolution of the Commission under sub-section (1), reconstitute the Commission in accordance with the provisions of this Act..

21. Each of the Acts specified in the second column of the Schedule shall be amended in the manner and to the extent specified against it in the third column thereof.

Amendment of Bom. LXI of 1974 and Guj. 18 of 1973.

SCHEDULE

Sr. No.	Short title.	Extent of Amendment.	
1	2	3	
1.	The Gujarat Primary Education Act, 1947 (Bom. LXI of 1947).	Insertion of new section 23B in Bom. LXI of 1947. Selection of teachers and headmasters in Government aided private primary schools.	<p>After section 23A, the following section shall be inserted, namely:-</p> <p>“23B. Notwithstanding anything contained in this Act, the selection of teachers and headmasters of registered Government aided private primary schools shall be made by the Gujarat State School Service Commission constituted under section 3 of the Gujarat State School Service Commission Act, of 2013.”.</p>
2.	<p>The Gujarat Secondary and Higher Secondary Education Act, 1972 (Guj. 18 of 1973).</p> <p>Amendment of section 17 of Guj. 18 of 1973.</p> <p>Amendment of section 34 of Guj. 18 of 1973.</p> <p>Substitution of section 35 of Guj. 18 of 1973.</p> <p>Selection of teachers and headmasters.</p>		<p>1. In section 17, in clause (26), after the words “method of selection”, the bracket and words “(except for headmasters and teachers of registered Government aided private secondary and higher secondary schools)” shall be inserted.</p> <p>2. In section 34, in sub-section (2), after the word “recruitment”, the bracket and words “(except for headmasters and teachers of registered Government aided private secondary and higher secondary schools)” shall be inserted.</p> <p>3. For section 35, the following section shall be substituted, namely:-</p> <p>“35. The selection of teachers and headmasters of registered Government aided private secondary and higher secondary schools shall be made by the Gujarat State School Service Commission constituted under section 3 of the Gujarat State School Service Commission Act, of 2013.”.</p>

Guj of 2013.

Guj of 2013.

STATEMENT OF OBJECTS AND REASONS

Majority of secondary and higher secondary schools in the State of Gujarat are Government-aided schools. Same is the case with the primary schools. With a view to improving the quality of teachers recruited in the grant-in-aid schools, a centralised arrangement in the form of an independent Commission is felt necessary. Also with a view to helping the aspiring candidates to get teacher's job by applying at a single point, centralized mechanism for continuous recruitment of teachers against the vacancies in grant-in-aid schools is necessary. In order to provide for such mechanism, it is proposed to set up a Commission by name the "Gujarat State School Service Commission" for teachers' recruitment under this Bill.

The following notes on clauses explain the important provisions of the Bill:

Clause 1.- This clause provides for short title, extent, commencement and application of the Act.

Clause 2.- This clause defines certain terms used in the Bill.

Clause 3.- This clause provides for constitution of the Gujarat State School Service Commission.

Clauses 4 and 5.-These clauses provide for appointment, salary and allowances of Chairman, honorarium of members, terms and conditions of service and disqualifications of members of the Commission.

Clause 6.- This clause provides for appointment, terms and conditions of service and salary and allowances of Secretary and other employees of the Commission.

Clauses 7 and 8.- These clauses provide for functions of the Commission of selection of teachers for private Government aided schools, to advise the State Government. on the matters referred to it by the State Government.

Clause 9.- This clause prohibits for appointment of teachers by a managing committee of a private Government aided schools except on the recommendation of Commission; and also provides that any appointment made in contravention of the provisions of this Act shall be invalid and shall have no effect.

Clause 10.- This clause provides that the terms and conditions of the services of the existing teachers of private Government aided schools shall not be varied to the disadvantage to the service conditions prescribed under this Act.

Clause 11.- This clause provides for the power of Commission to call for records, report or other information necessary for discharging its function, from the schools and the Board.

Clause 12.-This clause provides that the Commission shall submit its annual report as to the activities carried out by it in performance of its duty and the laying it before State Legislature.

Clause 13.-This clause provides that the Chairman and other members and persons appointed under this Act shall be the public servants.

Clause 14.-This clause provides that no act or proceeding of the Commission shall be invalid by reason of any vacancy in the office of the chairman or any other member of the Commission.

Clause 15.-This clause provides for non-application of the provisions of this Act to schools established and administered by minority based on religion or language, or a trust established and administered by minority based on religion or language, or a school not receiving financial assistance from the State Government, or schools established, owned or controlled by the State Government or local authority.

Clause 16.- This clause provides that the State Government shall make rules for carrying out the purposes of this Act.

Clause 17.- This clause provides that the Commission shall make regulations with the previous approval of the State Government.

Clause 18.-This clause provides that the State Government shall have power to give directions to the Commission on questions of policy in conformity with the provisions of this Act.

Clause 19.- This clause provides for the power of the State Government to remove the difficulties not inconsistent with the provisions of this Act arising within three years from the commencement of this Act.

Clause 20.- This clause provides for power of the State Government to dissolve the Commission if in the opinion of the State Government, the Commission has failed to discharge its functions.

Clause 21.- This clause provides for certain amendments in the Gujarat Primary Education Act, 1947 and the Gujarat Secondary and Higher Secondary Education Act, 1972.

BHUPENDRASINH CHUDASAMA,

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of the Gujarat State School Service Commission.

Clause 4 of the Bill provides for the appointment and terms and conditions of the service of the Chairman and members of the Commission.

Clause 6 of the Bill provides for the appointment of the Secretary and other employees of the Commission.

The Bill, if enacted and brought into operation, the expenditure involved would be worked out separately and provision for the expenditure will be made thereafter.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1. - Sub-clause (4) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 3. - This clause empowers the State Government to constitute, by notification in the *Official Gazette*, a Commission by the name of the 'Gujarat State School Service Commission' with effect from the date as it may specify in the notification.

Clause 4. - Para (iii) of sub-clause (4) of this clause empowers the State Government to prescribe by rules, the other terms and conditions of the office of the Chairman and other members.

Clause 5. - This clause empowers the State Government to prescribe by rules, the manner in which an inquiry shall be made against the Chairman and the members of Commission.

Clause 6. - (i) Para (i) of sub-clause (3) of this clause empowers the State Government to prescribe by rules, the other terms and conditions of service of Secretary;

(ii) para (ii) of sub-clause (3) of this clause empowers the Commission to prescribe by regulations, the other terms and conditions of service of the other employees of the Commission.

Clause 8. - (i) Sub-clause (1) of this clause empowers the State Government to prescribe by rules, the procedure for selection of persons for appointment to the post of teachers;

(ii) sub-clause (2) of this clause empowers the Commission to prescribe by regulations, the manner in which the business of the Commission shall be conducted.

Clause 16. - This clause empowers the State Government to make rules, by notification in the *Official Gazette*, generally for carrying out the purposes of the Act.

Clause 17. - This clause empowers the Commission, with the previous approval of the State Government, to make regulations, not inconsistent with the provisions of the Act or the rules made thereunder for discharging the functions of the Commission.

Clause 19. - This clause empowers the State Government, by order published in the *Official Gazette*, for removing difficulties arises in giving effect to the provisions of this Act arising within three years from the commencement of this Act.

Clause 20. - This clause empowers the State Government to dissolve the Commission, by an order published in the *Official Gazette*, stating the reasons therefore.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,

Date the 20th March, 2013.

BHUPENDRASINH CHUDASAMA.

By order and in the name of the Governor of Gujarat,

Gandhinagar,

Dated the 21st March, 2013.

C. J. GOTHI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary

Affairs Department.