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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 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT EDUCATIONAL INSTITUTIONS SERVICES TRIBUNAL (AMENDMENT AND VALIDATION) BILL, 2014.

GUJARAT BILL NO. 25 OF 2014.

A BILL

further to amend the Gujarat Educational Institutions

Services Tribunal Act, 2006.

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

1. (1) This Act may be called the Gujarat Educational Institutions Services Tribunal (Amendment and Validation) Act, 2014.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 25th September, 2014.

Amendment of
section 2 of Guj.
20 of 2013.

2. In the Gujarat Educational Institutions Services Tribunal Act, 2006 (hereinafter referred to as "the principal Act"), in section 2,-

Guj. 20 of 2013.

(i) after clause (j), the following clause shall be inserted, namely:-

"(jj) "Schedule" means Schedule appended to this Act;"

(ii) for clause (m), the following clause shall be substituted, namely:-

"(m) "University" means the University established by an Act of the State Legislature as specified in Schedule I and such other Universities as may be included in the said Schedule by the notification published in the *Official Gazette*, by the State Government."

Amendment of
section 4 of Guj.
20 of 2013.

3. In the principal Act, in section 4, in sub-section (1), to clause (a), the following proviso shall be inserted, namely:-

"Provided that no appointment of a judicial member shall be made except with the concurrence of the Chief Justice of the High Court of Gujarat;"

Amendment of
section 6 of Guj.
20 of 2013.

4. In the principal Act, in section 6, to sub-section (2), the following proviso shall be added, namely:-

"Provided that in case of a judicial member, no other duly qualified person shall be appointed except with the concurrence of the Chief Justice of the High Court of Gujarat."

Amendment of
section 7 of Guj.
20 of 2013.

5. In the principal Act, in section 7, -

(i) in clause (v), in the proviso, for the words "no member", the words "no administrative member" shall be substituted;

(ii) after the existing proviso, the following provisos shall be inserted, namely:-

"Provided further that the State Government shall not terminate the appointment of any judicial member except with the concurrence of the Chief Justice of the High Court of Gujarat for any of the reasons provided in clauses (i) to (iv) :

Provided also that no judicial member shall be removed from his office on the ground of proved misbehavior except after an inquiry made by the Judge of the High Court of Gujarat, to be nominated by the Chief Justice in which such member had been informed of the charge against him and given reasonable opportunity of being heard in respect of such charge."

6. In the principal Act, for section 9, the following section shall be substituted, namely: -

Substitution of section 9 of Guj. 20 of 2013.

Jurisdiction of Tribunal.

"9. The Tribunal shall have jurisdiction to entertain and decide application made under section 11 and section 12 and the cases transferred to it under section 23."

7. In the principal Act, for section 11, the following section shall be substituted, namely: -

Substitution of section 11 of Guj. 20 of 2013.

Application.

"11. (1) An employee aggrieved by the 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, make an application to the Tribunal for the redressal of the grievance.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may entertain an application made to it after the expiry of the period of sixty days, if it is satisfied that the applicant has sufficient cause for not making the application within the said period."

8. In the principal Act, after section 11, the following section shall be inserted, namely: -

Insertion of new section 11A in Guj. 20 of 2013.

Application not to be entertained unless other remedies exhausted.

"11A. (1) The Tribunal shall not entertain an application referred to in section 11 unless it is satisfied that the applicant had availed of all the remedies available to him under any law or under the relevant service rules as to the redressal of grievances.

(2) For the purposes of sub-section (1), the applicant shall be deemed to have availed of all the remedies available to him-

(a) if a final order has been made by the authority competent to pass such order rejecting any representation made or appeal preferred by such applicant in connection with the grievance; or

(b) where no final order has been made by the authority competent to pass such order with regard to the representation made or appeal preferred by such applicant, if a period of six months from the date on which such representation was made or appeal was preferred has expired:

Guj. of 2014.

Provided that such period of six months, in case of appeal or representation which is pending before the concerned authority for decision on the date of commencement of the Gujarat Educational Institutions Services Tribunal (Amendment and Validation) Act,

2014, shall commence from the date of coming into operation of the said Act.”.

Amendment of
section 24 of Guj.
20 of 2013.

9. In the principal Act, in section 24, for the word “Schedule”, the word and figures “Schedule II” shall be substituted.

Insertion of new
Schedule in Guj.
20 of 2013.

10. In the principal Act, the existing Schedule shall be renumbered as Schedule II and before Schedule II, as so renumbered, the following Schedule shall be inserted, namely:-

“SCHEDULE I
(See section 2 (m))

Sr. No.	Act of State Legislature	No. and Year of Act
(1)	(2)	(3)
1.	The Gujarat University Act, 1949.	Bom. L of 1949.
2.	The Maharaja Sayajirao University of Baroda Act, 1949.	Baroda Act No. XVII of 1949.
3.	The Sardar Patel University Act, 1955.	Bom. XL of 1955.
4.	The Veer Narmad South Gujarat University Act, 1965.	Guj. 38 of 1965.
5.	The Saurashtra University Act, 1965.	Guj. 39 of 1965.
6.	The Maharaja Krishnakumarsinhji Bhavnagar University Act, 1978.	Guj. 26 of 1978.
7.	The Hemchandracharya North Gujarat University Act, 1986.	Guj. 22 of 1986.
8.	The Dr. Babasaheb Ambedkar Open University Act, 1994.	Guj. 14 of 1994.
9.	The Krantiguru Shyamji Krishna Verma Kachchh University Act, 2003.	Guj. 5 of 2003.
10.	The Shree Somnath Sanskrit University Act, 2005.	Guj. 25 of 2005.
11.	The Gujarat Technological University Act, 2007.	Guj. 20 of 2007.
12.	The Children’s University Act, 2009	Guj. 15 of 2009.
13.	The Indian Institute of Teacher Education, Gujarat Act, 2010.	Guj. 8 of 2010.
14.	The Institute of Infrastructure, Technology, Research And Management Act, 2012.	Guj. 5 of 2013.”.

11. (1) Notwithstanding any judgment, decree or order of any court, no appointment of any person as a judicial member of the Tribunal made before the commencement of this Act without the concurrence of the Chief Justice of the High Court of Gujarat, shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment was not made in accordance with the provisions of the principal Act as amended by this Act.

Validation of appointment of, and judgments or orders delivered by the judicial member. Repeal and savings.

(2) No jurisdiction exercised, no judgment or order passed or made, and no other act or proceeding done or taken, before the commencement of this Act by, or before, any person appointed, posted, as a Judicial Member of the Tribunal otherwise than in accordance with the provisions of this Act, shall be deemed to be illegal or invalid or ever to have become illegal or invalid by reason only of the fact that such appointment or posting, was not made in accordance with the provisions of the principal Act as amended by this Act.

12. (1) The Gujarat Educational Institutions Services Tribunal (Amendment and Validation) Ordinance, 2014 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The State Government has enacted the Gujarat Educational Institutions Services Tribunal Act, 2006. Sub-section (2) of section 3 provides for the appointment of such number of judicial as well as administrative members as may be appointed by the State Government in the Gujarat Educational Institutions Services Tribunal. Section 4 of the said Act *inter alia* provides for the appointment of a judicial officer who is or has been a District Judge for atleast three years. Section 6 provides for temporary appointment of the judicial as well as the administrative member of the Tribunal. Section 7 provides for the termination of the appointment of the judicial as well as the administrative member of the Tribunal. The provisions of the said Act do not at present provide for either appointment or removal of a judicial member with the concurrence of the Chief Justice of the High Court of Gujarat. It is considered necessary that appointment or removal of a judicial member should take place in concurrence of the Chief Justice of the High Court of Gujarat. Therefore, the provisions of sections 4, 6 and 7 are suitably amended.

It is also considered necessary that the provisions of section 11 should be more specific and unambiguous and therefore the provisions of section 11 are suitably amended and a new section 11A is also inserted.

Since the existing provisions of the said Act do not provide for the concurrence of the Chief Justice of the High Court of Gujarat for appointment of a judicial member, a provision in clause 11 of this Bill is made so as to validate the appointment of a judicial member already made prior to coming into force of this Act. A provision is also made to validate the judgments or the orders passed by the judicial member in any proceedings who has been appointed otherwise than in accordance with the provisions of the principal Act as amended by this Act.

An opportunity has also been taken to make certain consequential amendments in the said Act.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Educational Institutions Services Tribunal (Amendment and Validation) Ordinance, 2014 was promulgated on the 25th September, 2014 to amend the said Act to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

BHUPENDRASINH CHUDASAMA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative power in the following respect:-

Clause 2.- Clause (m) of section 2 of the Act proposed to be substituted by sub-clause (ii) of this clause empowers the State Government to include by notification in the *Official Gazette*, the other Universities in the Scheduled I of the Act.

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

Dated the 21st October, 2014.

BHUPENDRASINH CHUDASAMA.

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

Gandhinagar,
Dated the 21st October, 2014.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.