



The West Bengal Primary Education Act, 1973

Act 43 of 1973

Keyword(s):

Attendance, Board, Chairman, Child, Director, District, District Inspector of Schools (Primary Education), District School Board, Guardian, Hill Areas, Primary Teachers, Linguistic Minority Community, Municipal Area, Primary Education, Primary School, Primary School Council, School Year, Teacher, Staff

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THE WEST BENGAL PRIMARY EDUCATION ACT, 1973.

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THE WEST BENGAL PRIMARY EDUCATION ACT, 1973.

AMENDED

West Ben. Act XXV of 1975.
West Ben. Act XLVII of 1980.
West Ben. Act IX of 1981.
West Ben. Act V of 1982.
West Ben. Act XV of 1983.
West Ben. Act XLVII of 1983.
West Ben. Act IV of 1984.
West Ben. Act XXVIII of 1985.
West Ben. Act I of 1986.
West Ben. Act V of 1987.
West Ben. Act XIV of 1987.
West Ben. Act XVIII of 1988.
West Ben. Act XX of 1989.
West Ben. Act VIII of 1990.
West Ben. Act IX of 1991.
West Ben. Act II of 1992.
West Ben. Act IV of 1993.
West Ben. Act XIX of 1994.
West Ben. Act IV of 1996.
West Ben. Act X of 1996.
West Ben. Act XIII of 1997.
West Ben. Act IV of 1998.
West Ben. Act VIII of 1998.
West Ben. Act X of 1999.

[20th September, 1974.]

An Act to make better provision for the development, expansion, management and control of primary education with a view to making it universal, free and compulsory.

WHEREAS it is expedient to make better provision for the development, expansion, management and control of primary education with a view to making it universal, free and compulsory:

It is hereby enacted in the Twenty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IVA of the 31st March, 1973, page 924; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of that Assembly held on the 27.4.1973, 3.5.1973, 4.5.1973 and 5.5.1973, respectively.

*(Part I.—Chapter I.—Preliminary.—Sections 1, 2.)***PART I****CHAPTER I****Preliminary**Short title,
extent and
commence-
ment.

1. (1) This Act may be called the West Bengal Primary Education Act, 1973.

(2) It extends to the whole of West Bengal.

(3) It shall come into force¹ in such areas and on such dates as the State Government may, by notification, appoint and different dates may be appointed for different areas or for different provisions of this Act.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (i) "attendance" at a school means presence for instruction at a primary school for so many days in a school year and at such time or times on each day of attendance as may be required by the prescribed educational authority;
- (ii) "Board" means the West Bengal Board of Primary Education established under this Act;
- ²(iii) "Calcutta" means Calcutta as defined in the Calcutta Municipal Corporation Act, 1980;
- (iv) "Chairman" means the Chairman of a Primary School Council;
- ³(v) "child" means a boy or girl who has completed five but not eleven years of age on the date of commencement of a school year, and includes any boy or girl who completes five years of age within ninety days from the date of commencement of a school year;
- ⁴(vi) "Director" means the Director of School Education, West Bengal;

West Ben.
Act LIX of
1980.

¹This Act came into force on 1st January, 1975 (except sections 77, 78, 89 and 105) vide notification No. 1851-Edn.(P)/1B-1/72, dated the 30th December, 1974, published in the *Calcutta Gazette, Extraordinary*, Part I, of the 30th December, 1974.

²Clause (iii) was substituted for the original clause by s. 2(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³Clause (v) was substituted for the original clause by s. 2 of the West Bengal Primary Education (Amendment) Act, 1987 (West Ben. Act XIV of 1987).

⁴Clauses (vi) and (via) were first substituted for the original clause (vi) by s. 2(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980). Thereafter, clause (vi) was re-substituted by s. 2 of the West Bengal Primary Education (Amendment) Act, 1985 (West Ben. Act XXVIII of 1985).

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(Part I.—Chapter I.—Preliminary.—Section 2.)

¹(via) "District" shall ordinarily mean a revenue District
2* * *;

(vii) "District Inspector of Schools (Primary Education)",
"District Officer for Physical Education and Youth
Welfare", "District Social Education Officer" and "District
Special Officer for Scheduled Castes and Tribes Welfare"
mean the respective officers designated as such by the
State Government;

(viii) "District School Board" means a District School Board
established under the Bengal (Rural) Primary Education
Act, 1930;

³(viiiia) "Division" means the following geographical divisions
of the State—

(a) the Presidency Division comprising of the Districts
of Howrah, ⁴[North 24-Parganas, South 24-Parganas,
Nadia and Murshidabad,

(b) the Burdwan Division comprising of the Districts of
Hooghly, Midnapore, Birbhum, Bankura, Burdwan
and Purulia,

(c) the Jalpaiguri Division comprising of the Districts of
Malda, ⁵[Uttar Dinajpur, Dakshin Dinajpur,] Cooch
Behar, Jalpaiguri and Darjeeling;

(ix) "guardian" means any person to whom the care,
⁶[nurturing] or custody of any child falls by law or by
natural right or recognised usage, or who has accepted or
assumed the care, ⁶[nurturing] or custody of any child or
to whom the care or custody of any child has been
entrusted by any lawful authority;

¹See foot-note 4 on page 710, *ante*.

²The words "and shall also mean and include part of a District declared by the State Government as an "educational District" by notification published in the *Official Gazette*" were omitted by s. 2(1) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

³Clause (viiiia) was inserted by s. 2(2) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁴The words within the square brackets were substituted for the words "24-Parganas," by s. 2(b)(i) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁵The words within the square brackets were substituted for the words "West Dinajpur," by s. 2(b)(ii), *ibid*.

⁶The word within the square brackets was substituted for the word "nurture" by s. 2(2) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

(Part I.—Chapter I.—Preliminary.—Section 2.)

- ¹(x) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;
- (xi) ²["Primary Teachers' Training Institute"] includes a Primary Teachers' Training School and a Senior Teachers' Training School for women recognised by the Director;
- (xii) "linguistic minority community" means a community whose mother tongue is any language other than Bengali;
- ³(xiii) "Municipal area" means any area—
- (a) constituted as—
- (A) a municipal area under section 6, or
- (B) a notified area under section 378, of the West Bengal Municipal Act, 1993, or
- (b) within the jurisdiction of—
- (A) the Howrah Municipal Corporation Act, 1980, or
- (B) the Calcutta Municipal Corporation Act, 1980, or
- (C) the Siliguri Municipal Corporation Act, 1990, or
- (D) the Asansol Municipal Corporation Act, 1990, or
- (E) the Chandernagore Municipal Corporation Act, 1990, or
- (F) the Durgapur Municipal Corporation Act, 1994;

West Ben. Act XXII of 1993.

West Ben. Act LVIII of 1980.

West Ben. Act LIX of 1980.

West Ben. Act XXX of 1990.

West Ben. Act XXXI of 1990.

West Ben. Act XXXII of 1990.

West Ben. Act LIII of 1994.

* * * * *

- (xiv) "notification" means a notification published in the *Official Gazette*;

¹Clause (x) was substituted for the original clause by s. 2(a) of the West Bengal Primary Education (Amendment) Act, 1988 (West Ben. Act XVIII of 1988).

²The words within the square brackets were substituted for the words "Junior Basic Training Institution" by s. 2(c) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³Clause (xiii) was substituted for the original clause by s. 2(1) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997). Prior to this substitution, the words, and figures "Howrah Municipal Corporation Act, 1980", with the marginal reference "West Ben. Act LVIII of 1980," were substituted for the words and figures "Howrah Municipal Act, 1965" with the marginal reference "West Ben. Act XVII of 1965." by s. 2(d) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁴Clause (xiv) was omitted by s. 2(3) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

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(Part I.—Chapter I.—Preliminary.—Section 2.)

- ¹(xva) “prescribed” means prescribed by rules made under this Act;
- (xvi) “President” means the President of the West Bengal Board of Primary Education;
- ²(xvii) “primary education” means such elementary education as is imparted through a primary school;
- ³(xviii) “primary school” means a school, or a department of a school, set up under this Act for imparting such primary education as the State Government may prescribe, and includes a primary school, or a junior basic school, recognised under this Act and in existence on the date of coming into force of the West Bengal Primary Education (Amendment) Act, 1996;
- ⁴(xix) “Primary School Council” means a District Primary School Council established under section 37, and includes the Siliguri Primary School Council referred to in sub-section (2A) of that section and the Calcutta Primary School Council referred to in section 38;
- (xx) “prescribed” means prescribed by rules made ⁵[or notifications or orders issued, as the case may be,] by the State Government under this Act;
- (xxi) “school year” means the year beginning with such date as the Board may, with the previous approval of the State Government, fix;

¹Clause (xva) was inserted by s. 2(1) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989).

²Clause (xvii) was first substituted by s. 2(e) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994). Thereafter, the same was re-substituted by s. 2(1) of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996), w.e.f. 1.2.1996.

³Clause (xviii) was substituted for the original clause by s. 2(2) of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996). Prior to this substitution, the words “and includes a junior basic school” were added, in the original clause, after the words “under this Act” by s. 2(1) of the West Bengal Primary Education (Amendment) Act, 1983 (West Ben. Act XLVII of 1983).

⁴Clause (xix) was substituted for the original clause by s. 2(3) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999). Prior to this substitution, the words “under this Act, and includes the Primary School Council for the sub-division of Siliguri;” were substituted for the words “under this Act;” by s. 2(b) of the West Bengal Primary Education (Amendment) Act, 1988 (West Ben. Act XVIII of 1988).

⁵The words within the square brackets were inserted by s. 2(3) of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996).

(Part II.—Chapter II.—The Board.—Section 3.)

¹(xxia) "teacher" means a person who holds a teaching post in a primary school or in a ²[Primary Teachers' Training Institute] on a regular and whole-time basis and is paid ³[wholly] from the funds under the control of the State Government in the Education Department;

* * * * *

³(xxia) 'staff' means,—

(i) in relation to the West Bengal Board of Primary Education, the employees appointed by the Board against posts sanctioned by the State Government, and

(ii) in relation to a Primary School Council, the employees appointed by the Council against posts sanctioned by the State Government.

* * * * *

* * * * *

(xxv) "year" means a year beginning on the first day of April.

PART II

CHAPTER II

The Board

Establishment and incorporation of the West Bengal Board of Primary Education.

3. (1) The State Government shall, by notification, establish, with effect from such date as may be specified in the notification, a Board to be called the West Bengal Board of Primary Education.

(2) The Board shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

¹Clause (xxia) was inserted by s. 2(2) of the West Bengal Primary Education (Amendment) Act, 1983 (West Ben. Act XLVII of 1983).

²The words within the square brackets were substituted for the words "Junior Basic Training Institution" by s. 2(cc) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³The word within the square brackets was substituted for the words "either wholly or in part" by s. 2(4) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

⁴Clause (xxii) was omitted by s. 2(4) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁵Clause (xxia) was inserted by s. 2(2) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

⁶Clause (xxiii) was omitted by s. 2(f) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁷Clause (xxiv) was omitted by s. 2(g). *ibid.*

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(Part II.—Chapter II.—The Board.—Section 4.)

4. The Board shall consist of the following members:—

Composition of the Board.

- ²(a) the President to be appointed by the State Government;
- ²(aa) the Director, *ex-officio*;
- (b) the President of the West Bengal Board of Secondary Education, *ex-officio* ³(* * *);
- (c) two teachers of ⁴[Primary Teachers' Training Institutes], of whom one shall be the head of one such ⁵[Institute,] elected in the prescribed manner by the teachers of ⁴[Primary Teachers' Training Institutes] from amongst themselves;
- (d) twelve teachers of primary schools of whom four shall be elected from each Division in the prescribed manner by the members of the Primary School Councils, who are representatives of primary school teachers in the Primary School Councils of the concerned Divisions;
- (e) two teachers of Primary Schools elected in the prescribed manner by the members of the Calcutta Primary School Council, who are representatives of Primary School teachers in the Calcutta Primary School Council;
- (f) one person elected in the prescribed manner by the Councillors of the ⁶[Calcutta Municipal Corporation] from amongst themselves;
- (g) three persons, one from each Division, elected in the prescribed manner by the ⁷[Councillors of the municipal areas] of the concerned Division from amongst themselves;

¹Section 4 was substituted for the original section by s. 3 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²Clauses (a) and (aa) were substituted for the original clause (a) by s. 3(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³The words "or his nominee" were omitted by s. 3(b), *ibid.*

⁴The words within the square brackets were substituted for the words "Junior Basic Training Institutions" by s. 3(c)(i), *ibid.*

⁵The word within the square brackets was substituted for the word "Institution," by s. 3(c)(ii), *ibid.*

⁶The words within the square brackets were substituted for the words "Calcutta Corporation" by s. 3(d), *ibid.*

⁷The words within the square brackets were substituted for the words "Commissioners of the Municipalities" by s. 3 of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

(Part II.—Chapter II.—The Board.—Section 5.)

- (h) three persons, one from each Division, elected in the prescribed manner by the members of the *Zilla Parishads*¹ [and the *Mahakuma Parishad*] of the concerned Division from amongst themselves;
- (i) six persons from amongst the members of the West Bengal Legislative Assembly elected in the prescribed manner by the members of the Assembly;
- (j) ²[seventeen persons] interested in education nominated by the State Government, of whom at least—
- (i) ³[four] shall be women;
 - (ii) one shall be a member of the Anglo-Indian Community;
 - (iii) one shall be a member of a Scheduled Caste;
 - (iv) one shall be a member of a Scheduled Tribe;
 - (v) one shall be a member of any of the linguistic minority communities in the State other than Nepali;
 - (vi) one shall be a Nepali inhabitant of the ⁴[hill areas];
 - (vii) one shall be a College or University teacher;
 - (viii) two shall be teachers of secondary schools;
 - (ix) three shall be Chairman of Primary School Councils.
- ⁵(x) two persons of whom—
- (1) one shall be from the employees of the Board within the meaning of section 17, and
 - (2) one shall be from the members of the staff (other than officers) within the meaning of section 56.

Appointment
in default of
election.

5. (1) If by such date as may be fixed by the State Government in this behalf any of the authorities fails to elect a member or members as provided in section 4, the State Government shall appoint member or members qualified for election by such authority:

¹The words within the square brackets were inserted by s. 3 of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

²The words within the square brackets were substituted for the words "thirteen persons" by s. 3(e)(i) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³The word within the square brackets was substituted for the word "two" by s. 3(e)(ii), *ibid.*

⁴The words within the square brackets were substituted for the words "hill area;" by s. 3(a) of the West Bengal Primary Education (Amendment) Act, 1988 (West Ben. Act XVIII of 1988).

⁵Sub-clause (x) was first inserted by s. 3(b), *ibid.* Thereafter, the same was substituted by s. 3(e)(iii) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

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(Part II.—Chapter II.—The Board.—Sections 6-8.)

² Provided that in the case of the State Legislative Assembly, if the said Assembly has been dissolved, the State Government shall appoint ¹[six] suitable persons to be members to hold office until the said Assembly is reconstituted and ¹[six] representatives are elected by the members thereof.

(2) A person appointed under this section shall be deemed to be a member of the Board duly elected under section 4.

6. The name of every person ²[elected, nominated or appointed] under section 4 or appointed under section 5 as a member of the Board shall be published by the State Government in the *Official Gazette* as soon as may be after the election, nomination or appointment, as the case may be.

Publication of names of members of the Board.

7. (1) Subject to the provisions of this Act, every elected, nominated or appointed member of the Board shall hold office for a term of four years from the date of the first meeting of the Board at which a quorum is present and may, on expiration of such term, be re-elected, re-nominated or re-appointed.

Term of office of members of the Board.

(2) Notwithstanding the expiration of the term of four years mentioned in sub-section (1), every elected, nominated or appointed member of the Board shall continue to hold office until the first meeting of the newly-formed Board at which a quorum is present.

8. If any member of the Board dies or resigns his office or ceases to be a member for any other reason the vacancy shall be filled up by fresh ³[election, nomination or appointment] under section 4 and the member so ⁴[elected, nominated or appointed] shall hold office for the unexpired portion of the term of the member whose place he fills:

Casual vacancies.

Provided that no election shall be held to fill a vacancy of a member occurring within six months from the date on which the term of the office of the member expires.

¹The word within the square brackets was substituted for the word "sixteen" by s. 4 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The words within the square brackets were substituted for the words "elected or nominated" by s. 4 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³The words within the square brackets were substituted for the words "election or nomination" by s. 5(a), *ibid.*

⁴The words within the square brackets were substituted for the words "elected or nominated" by s. 5(b), *ibid.*

(Part II.—Chapter II.—The Board.—Sections 9-11.)

President
[** *] of
the Board.

9. ²(1) The President shall be appointed by the State Government.

³(2) The President shall hold office for a term of four years mentioned in section 7.

(3) The President ⁴[* * *] shall receive such pay or allowances or both as may be fixed by the State Government.

(4) The President may resign his office by giving notice in writing to the State Government and when such resignation is accepted by the State Government the President shall be deemed to have vacated his office.

* * * * *

10. [Removal of the President and the Vice-President.—Omitted by s. 7 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994)].

Discharge of
President's
functions in
certain
contingen-
cies.

11. ⁶(1) If the President dies or resigns his office or ceases to hold office or is, by reason of leave, illness or other cause, temporarily unable to exercise the powers or perform the duties of his office, the Secretary to the Board shall forthwith send a report to the State Government in this behalf. And the State Government shall, on receipt of the report as aforesaid, authorise a member of the Board to exercise the powers and perform the duties of the President until a new President is appointed or the President resumes office, as the case may be.

* * * * *

(3) A President ⁸[appointed] to fill a casual vacancy shall hold office for the unexpired portion of the term of the President whose place he fills.

¹The words "and Vice-President" were omitted by s. 6(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²Sub-section (1) was substituted for the original sub-section by s. 6(b), *ibid.*

³Sub-section (2) was substituted for the original sub-section by s. 6(c), *ibid.*

⁴The words "and the Vice-President" were omitted by s. 6(d), *ibid.*

⁵Sub-section (5) was omitted by s. 6(e), *ibid.*

⁶Sub-section (1) was substituted for the original by s. 8(a), *ibid.*

⁷Sub-section (2) was omitted by s. 8(b), *ibid.*

⁸The word within the square brackets was substituted for the word "elected" by s. 8(c),

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(Part II.—Chapter II.—The Board.—Sections 12, 13.)

12. (1) A person shall be disqualified for being elected, nominated or appointed a member of the Board if he—

Disqualifications for membership.

- (a) has been adjudged by a competent Court to be of unsound mind;
- (b) is an undischarged insolvent;
- (c) being a discharged insolvent, has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part;
- (d) has been convicted by a Court of an offence involving moral turpitude;
- (e) directly, or indirectly by himself or his partner,—
 - (i) has or had any share or interest in any text-book approved by the Board or published by or under the authority of the Board, or
 - (ii) has any interest in any work done by order of, or in any contract entered into on behalf of the Board.

(2) If an elected, nominated or appointed member of the Board becomes, after his election, nomination or appointment, as the case may be, subject to any of the disqualifications specified in sub-section (1), his membership shall thereupon cease with effect from such date as the State Government may direct.

13. (1) A member of the Board ²[, other than the President,] may resign his office by giving notice in writing to the President and when such resignation is accepted by the Board such member shall be deemed to have vacated his seat.

Resignation and removal of ¹[members, other than the President.]

(2) The State Government may, by notification, remove any member ³[, other than the President,] if he—

- (a) refuses to act or becomes incapable of acting as a member of the Board, or
- (b) acts in a manner prejudicial to the interests of the Board, or
- (c) without obtaining the consent of the President is absent from four consecutive meetings of the Board:

Provided that before such removal the member concerned shall be given an opportunity of being heard.

¹The words within the square brackets were substituted for the word "members" by s. 4(1) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

²The words within the square brackets were inserted by s. 4(2), *ibid.*

³The words within the square brackets were inserted by s. 4(3), *ibid.*

*(Part II.—Chapter II.—The Board.—Sections 14-17.)*Meetings of
the Board.

14. (1) The Board shall meet at least three times a year.

(2) Every meeting of the Board shall be convened by the Secretary to the Board under instruction of the President:

Provided that the President shall, when required in writing by one-third of the members of the Board to convene a meeting, direct the Secretary to do so within seven days from the date of receipt of the requisition and if no meeting is convened within the said period the members aforesaid may convene a meeting after giving seven clear days notice to the President and other members of the Board.

Conduct of
meetings.

15. (1) The President or in his absence¹[* * *] one of the members of the Board elected from amongst those present shall preside at the meeting of the Board, and the President or²[* * *] such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes.

(2) Subject to the provisions of sub-section (1), the Board shall have the power to regulate the procedure for the conduct of its business.

Restriction
on voting.

16. (1) No member of the Board shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any primary school of which he is either a teacher or a member of the managing committee.

(2) The President or³[* * *] the member presiding at a meeting of the Board shall decide any question arising under sub-section (1) and his decision thereon shall be final.Secretary,
Finance
Officer and
other persons
in the service
of the Board.

17. (1) The Board shall have a Secretary who shall be appointed by the State Government.

(2) The State Government may, if it so thinks fit, appoint a Finance Officer for the Board.

(3) The Board may, subject to the prior approval of the State Government, create such posts of officers and employees as it considers necessary for carrying out the purposes of this Act:

Provided that no officer or employee shall be appointed to any post carrying a monthly salary of three hundred rupees or more without the prior approval of the State Government.

¹The words "the Vice-President shall preside at a meeting of the Board and in the absence of both the President and the Vice-President" were omitted by s. 9(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²The words "the Vice-President or" were omitted by s. 9(b), *ibid.*

³The words "the Vice-President or" were omitted by s. 10, *ibid.*

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(Part II.—Chapter II.—The Board.—Sections 18, 18A.)

(4) The terms and conditions of service and the scales of pay and allowances, if any, shall, as respect the Secretary, the Finance Officer, if any, and other officers and employees, be such as may be fixed by the State Government.

(5) The pay and allowances of the Secretary and the Finance Officer, if any, shall be paid out of the fund of the Board.

(6) Subject to the general control and supervision of the President, the Secretary shall be the principal administrative officer of the Board. He shall be entitled to attend and speak at any meeting of the Board, but shall not be entitled to vote.

(7) The Finance Officer shall perform such functions and discharge such duties as may be prescribed.

(8) Subject to prescribed conditions, the Board may award any punishment including dismissal or removal of the members of its staff other than the Secretary and the Finance Officer.

18. Such members of the Board or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Board, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Board such allowances and at such rates as may be prescribed.

Travelling allowances.

18A. (1) The State Government may, by notification, appoint an Ad hoc Committee consisting of—

Ad hoc Committee.

(a) a President, and

(b) such number of other members, not exceeding nineteen, as the State Government may think fit,

for such period, not exceeding one year at a time, as may be specified in the notification.

(2) The President of the Ad hoc Committee shall exercise all the powers, and shall perform all the functions, of the President of the Board, and the Ad hoc Committee shall exercise all the powers, and shall perform all the functions, of the Board and the Committees constituted by the Board under this Act.

¹Section 18A was first inserted by s. 3 of the West Bengal Primary Education (Amendment) Act, 1987 (West Ben. Act XIV of 1987). Then the same was substituted by s. 5 of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999). Prior to this substitution the words "not exceeding one year at a time," were substituted for the words "not exceeding one year," in previous section 18A, by s. 2 of the West Bengal Primary Education (Amendment) Act, 1991 (West Ben. Act IX of 1991).

(Part II.—Chapter III.—Powers and functions of the Board and the President.—Section 19.)

CHAPTER III

Powers and functions of the Board and the President

Powers and functions of the Board.

19. (1) Subject to any general or special orders of the State Government, the provisions of this Act and any rules made thereunder, the Board shall have generally the power to guide, supervise and control primary education, and in particular the power—

(a) to prepare and maintain a register of primary schools;

¹(b) to provide by regulations, after considering the recommendations, if any, of the Curriculum Committee, the syllabus and the courses of studies to be followed in the primary schools;

²(bb) to prepare, and to provide, books to be studied in the primary schools;

²(bbb) to provide by regulations, after considering the recommendations, if any, of the Curriculum Committee, the curriculum, the syllabus and the courses of studies to be followed in the Primary Teachers' Training Institute;

3* * * * *

(d) to institute with the approval of the State Government such examinations as it may think fit, and to make regulations on all aspects connected with such examination;

4* * * * *

(f) to exercise general supervision and control over the work of the Primary School Councils and for that purpose to issue such instructions to the Primary School Councils relating to primary education as it may think fit and to call for reports from the Primary School Councils on matters relating to primary education;

(g) to administer the West Bengal Board of Primary Education Fund;

(h) to institute and administer such provident funds as may be prescribed;

¹Clause (b) was substituted for the original clause by s. 6(1) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

²Clauses (bb) and (bbb) were inserted by s. 6(2), *ibid.*

³Clause (c) was omitted by s. 6(3), *ibid.*

⁴Clause (e) was omitted by s. 6(4), *ibid.*

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(Part II.—Chapter III.—Powers and functions of the Board and the President.—Section 19.)

- (i) to make regulations relating to the conduct, discipline and appeal in respect of the members of the staff of the Board;
- (j) to make regulations relating to the conduct and discipline in respect of teachers and non-teaching staff of primary schools under the Primary School Councils ¹[and in respect of the staff of the Primary School Councils];
- (k) to transfer any teacher or non-teaching staff from a primary school within the jurisdiction of one Primary School Council to a primary school within the jurisdiction of another Primary School Council;
- ²(kk) to transfer any officer or employee, other than the Secretary and the Finance Officer, from one Primary School Council to another Primary School Council or to the Board or from the Board to a Primary School Council;
- (l) ³[to determine] the mode of teaching and the medium of instruction to be followed in primary schools;
- (m) to make regulations for deciding any dispute relating to primary schools but not relating to teaching or non-teaching staff of such schools;
- (n) to determine, with the approval of the ⁴[State Government,] the hours of instruction and the number and duration of vacations;
- 5* * * * *
- (p) to advise the State Government on all matters relating to primary education referred to it by the State Government;
- (q) to grant financial aids to Primary School Councils for the development of primary education or for any other purpose;
- ⁶(qq) to consider and recommend the budget estimates of the Primary School Councils to the Director;
- (r) to perform such other functions and discharge such other duties as may be prescribed.

¹The words within the square brackets were inserted by s. 5(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²Clause (kk) was inserted by s. 4 of the West Bengal Primary Education (Amendment) Act, 1987 (West Ben. Act XIV of 1987).

³The words within the square brackets were substituted for the words "to make regulations determining" by s. 6(5) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

⁴The words within the square brackets were substituted for the word "Director" by s. 6(6), *ibid.*

⁵Clause (o) was omitted by s. 4 of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

⁶Clause (qq) was inserted by s. 5(2) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

(Part II.—Chapter III.—Powers and functions of the Board and the President.—Sections 20, 21.—Chapter IV.—Committees of the Board.—Section 22.)

(2) Subject to the provisions of sub-section (1), the Board shall have the power to make regulations in respect of any matter for the proper exercise of its power under this Act:

Provided that no regulation shall be valid unless it is approved by the State Government.

(3) The State Government may, in according the approval referred to in the proviso to sub-section (2), make such additions, alterations and modifications therein as it thinks fit:

Provided that before making any such additions, alterations or modifications the State Government may, if it thinks fit, give the Board an opportunity to express its views thereon within such period as may be specified by the State Government.

(4) All regulations approved by the State Government shall be published in the *Official Gazette*.

Powers and duties of the President.

20. (1) The President shall be responsible for carrying out and giving effect to the decisions of the Board and of any Committee thereof.

(2) The President may, in any emergency, exercise any of the powers of the Board, provided, however, that he shall not act contrary to any decision of the Board, and shall within one month, report to the Board the action taken by him together with reasons therefor.

(3) The President shall—

- (a) exercise general supervision and control over the Secretary, the Finance Officer, if any, and the staff appointed by the Board and post and transfer the members of the staff;
- (b) sanction all claims of travelling allowance;
- (c) take such other action not inconsistent with any decision of the Board as he considers necessary for the proper functioning of the Board under this Act.

21. [(Powers and duties of the Vice-President).—Omitted by s. 11 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994)].

CHAPTER IV

Committees of the Board

Committees.

22. Within such time as may be prescribed after the Board is established, the Board shall constitute the following Committees, namely:—

- (a) the Curriculum Committee;
- (b) the Evaluation Committee;
- (c) the Development Committee;
- (d) the Finance Committee.

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(Part II.—Chapter IV.—Committees of the Board.—
Section 23.)

23. (1) The Curriculum Committee shall consist of the following members, namely:—
- Curriculum
Committee.
- (a) the President;
 - (b) an officer not below the rank of a Deputy Director of¹[School Education,] Government of West Bengal, to be nominated by the State Government;
 - ²(c) the Director, State Council of Educational Research and Training, West Bengal;
 - (d) one of the two members of the Board referred to in ³[clause (c)] of section 4 elected in the prescribed manner by the Board;
 - (e) three teachers of primary schools elected in the prescribed manner by the Board;
 - (f) one teacher of a secondary school elected in the prescribed manner by the West Bengal Board of Secondary Education;
 - (g) two persons having special knowledge of science, art, crafts or primary education, who may or may not be members of the Board, nominated by State Government;
 - (h) ⁴[two out of six members of the Board referred to in clause (i)] of section 4 elected in the prescribed manner by the Board.
- (2) The President shall be the Chairman of the Curriculum Committee and the Secretary to the Board shall be the Secretary to the said Committee.
- (3) It shall be the duty of the Curriculum Committee to—
- (a) advise the Board about the syllabus and courses of studies to be followed ⁵[in the Primary Teachers' Training Institute and in the primary schools] as well as for examinations instituted or conducted by the Board or the Primary School Councils;
 - (b) advise the Board on any matter relating to the syllabus, courses of studies or books to be studied, as may be referred to it by the Board.

¹The words within the square brackets were substituted for the words "Public Instruction," by s. 12(a), of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²Clause (c) was substituted for the original clause by s. 12(b), *ibid.*

³The word, brackets and letter within the square brackets were substituted for the word, brackets and letter "clause (b)" by s. 6(a) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁴The words, brackets and letter within the square brackets were substituted for the words, brackets and letter "two out of sixteen members of the Board referred to in clause (g)" by s. 6(b), *ibid.*

⁵The words within the square brackets were substituted for the words "in primary schools" by s. 7 of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

(Part II.—Chapter IV.—Committees of the Board.—Section 24.)

(4) The Curriculum Committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-section (3) and it shall not be necessary for any member of such a Sub-Committee to be a member of the said Committee or the Board.

Evaluation
Committee.

24. (1) The Evaluation Committee shall consist of the following members, namely:—

- (a) the President;
- (b) an officer not below the rank of a Deputy Director of ¹[School Education,] Government of West Bengal, to be nominated by the State Government;
- ²(c) the Director, State Council of Educational Research and Training, West Bengal;
- ³* * * * *
- (e) one of the two members of the Board referred to in ⁴[clause (c)] of section 4 elected in the prescribed manner by the Board;
- ⁵* * * * *
- (g) one teacher of a High School elected in the prescribed manner by the West Bengal Board of Secondary Education;
- (h) three teachers of primary schools elected in the prescribed manner by the Board;
- (i) three persons having special knowledge in primary education or evaluation, who may or may not be members of the Board, nominated by the State Government;
- (j) ⁶[two out of six members of the Board referred to in clause (i)] of section 4 elected in the prescribed manner by the Board.

¹The words within the square brackets were substituted for the words "Public Instruction," by s. 13(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²Clause (c) was substituted for the original clause by s. 13(b), *ibid.*

³Clause (d) was omitted by s. 13(c), *ibid.*

⁴The word, brackets and letter within the square brackets were substituted for the word, brackets and letter "clause (b)" by s. 7(a) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁵Clause (f) was omitted by s. 13(d) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁶The words, brackets and letter within the square brackets were substituted for the words, brackets and letter "two out of sixteen members of the Board referred to in clause (g)" by s. 7(b) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

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(Part II.—Chapter IV.—Committees of the Board.—Section 25.)

(2) The President shall be the Chairman of the Evaluation Committee and the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Evaluation Committee—

- (a) to assess from time to time the standard of instruction in a primary school with reference to the norms and objectives set by the Board and to suggest improvement on the basis of such assessment;
- (b) to advise the Board on such other matter relating to progress, improvement and development of the academic aspect of primary education as may be assigned to it by the Board.

(4) The Evaluation Committee may appoint such Sub-Committee or Sub-Committees as it may consider necessary to advise it upon any matter referred to in sub-section (3) and not more than half of the total members of such Sub-Committee may consist of persons who are not members of the said Committee or the Board.

25. (1) The Development Committee shall consist of the following members, namely:—

Develop-
ment
Committee.

- (a) the President;
- (b) an officer of the Education Department, Government of West Bengal, nominated by the State Government;
- (c) a woman officer of the Education Department, Government of West Bengal, nominated by the State Government;
- (d) one officer of the Directorate of Health Services, Government of West Bengal, not below the rank of a Deputy Director, nominated by the Director of Health Services, Government of West Bengal;
- (e) three of the ¹[twelve members of the Board referred to in clause (d)] of section 4 elected in the prescribed manner by the Board;
- (f) the member of the Board referred to in ²[clause (f)] of section 4;
- (g) one of the ³[three members of the Board referred to in clause (g)] of section 4 elected in the prescribed manner by the Board.

¹The words, brackets and letter within the square brackets were substituted for the words, brackets and letter "eight members of the Board referred to in clause (e)" by s. 8(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The word, brackets and letter within the square brackets was substituted for the word, brackets and letter "clause (d)" by s. 8(2), *ibid.*

³The words, brackets and letter within the square brackets were substituted for the words, brackets and letter "four members of the Board referred to in clause (e)" by s. 8(3), *ibid.*

(Part II.—Chapter IV.—Committees of the Board.—Section 26.)

- (h) one of the three members of the Board referred to in '[clause (h)] of section 4 elected in the prescribed manner by the Board;
- (i) two out of the²[six members of the Board referred to in clause (i)] of section 4 elected in the prescribed manner by the Board;
- (j) two persons who may or may not be members of the Board nominated by the State Government.

(2) The President shall be the Chairman of the Development Committee and the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Development Committee to—

- (a) advise the Board in the matter of improvement and development of primary schools in all aspects, including schemes for universal, free and compulsory education, construction of building, welfare of students and teachers and other staff, good relationship between guardians, teachers and students, community participation in schools, meals supplied in schools and the health of the students in schools;
- (b) advise on any other matter assigned to it by the Board relating to progress, development and improvement of primary education excepting those allotted to the Curriculum or the Evaluation Committee.

Finance
Committee.

26. (1) The Finance Committee shall consist of the following members, namely:—

- (a) the President;
- (b) the Secretary to the Board;
- (c) two persons having knowledge in financial matters nominated by the State Government;
- (d) two members of the Board elected in the prescribed manner by the members of the Board of whom one shall be a teacher of a Primary School.

¹The word, brackets and letter within the square brackets was substituted for the word, brackets and letter "clause (f)" by s. 8(4) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The word, brackets and letter within the square brackets were substituted for the words, brackets and letter "sixteen members of the Board referred to in clause (g)" by s. 8(5), *ibid.*

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(Part II.—Chapter IV.—Committees of the Board.—Sections 27-29.)

2. (2) The President shall be the Chairman of the Finance Committee and the Finance Officer, or if there is no Finance Officer, the Secretary to the Board shall be the Secretary to the said Committee.

(3) It shall be the duty of the Finance Committee to prepare the budget of the Board, to advise the Board on all financial matters and to perform such other functions as may be prescribed.

27. (1) The Board may, with the approval of the State Government and subject to such directions as the State Government may issue in this behalf, constitute such other Committee or Committees as it may think fit and any such Committee may be composed wholly or in part of members of the Board.

Power to constitute other Committees.

(2) The Board may, with the approval of the State Government, delegate to any such Committee any of its powers or functions and may in like manner withdraw from it any such power or function.

28. (1) An elected, a nominated or an appointed member of any Committee who is also a member of the Board, shall continue to hold office until he ceases to be a member of the Board.

Term of office of members of the Committees.

(2) An elected, a nominated or an appointed member of any Committee who is not a member of the Board, shall hold office for such term, as may be prescribed and may on expiration of such term, be re-elected, re-nominated or re-appointed:

Provided that notwithstanding the expiration of the said term, an elected, a nominated or an appointed member of a Committee shall continue to hold office until the vacancy caused by the expiration of the said term has been filled in accordance with the provisions of this Act.

(3) The provisions of section 5 and of sections 8, 12 and 13 shall apply, *mutatis mutandis*, to members of any Committee as if reference to the Board or the President were references to such Committee or the Chairman of such Committee.

29. The State Government may, on the recommendations of the Board, if it so thinks fit, dissolve any of the Committees of the Board and may direct the Board to take steps for the reconstitution of the Committee so dissolved.

Power of the State Government to dissolve Committee.

(Part II.—Chapter V.—Finance and audit.—Section 30.)

CHAPTER V

Finance and audit

Annual
report and
budget
estimate.

30. (1) The President shall place before the annual meeting of the Board held in the year following the year in which it is established and before every annual meeting thereafter to be held in the month of August in each year a report on the working of the Board during the last preceding year, together with a budget estimate showing in such form as may be prescribed, the anticipated income and expenditure of the Board during the year immediately succeeding the one in which such annual meeting is held.

(2) The report shall be forwarded to the State Government within one month of the presentation thereof before the annual meeting of the Board together with such comments thereon as the Board may think fit to make.

(3) The budget estimate shall after confirmation by the Board be forwarded to the State Government within such time as may be prescribed.

(4) The State Government shall within two months of the receipt of the budget estimate either accord its approval to the same or return it to the Board with such comments and suggestions as it deems necessary if in its opinion such estimate—

- (a) is not reasonably accurate with reference to ascertainable facts or shows a deficit in the closing balance;
- (b) includes new items of recurring expenditure which are likely to impose upon the Board in the future financial liabilities which the Board is not likely to be able to meet from its income; or
- (c) includes provisions for expenditure which are not in accordance with the provisions of this Act.

(5) If the budget estimate is returned under sub-section (4), the Board shall consider the comments and suggestions made by the State Government and may, if it thinks fit, revise the said estimate. The Board shall then resubmit the budget estimate as so revised to the State Government, or, the Board shall, if it does not think fit to revise the estimate, resubmit it in its original form to the State Government within one month of receiving it together with its replies on the comments and suggestions made by the State Government.

(6) If the State Government does not approve of the budget estimate as revised by the Board or if the budget estimate is returned by the Board without revision, the State Government may amend the budget estimate by making—

- (a) such modifications as are in its opinion necessary to render the estimate reasonably accurate with reference to ascertainable facts or to balance the income and the expenditure;

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(Part II.—Chapter V.—Finance and audit.—Sections 31-34.)

- (b) additions, alterations or modifications in any provision relating to new expenditure of a recurring nature;
- (c) any alteration or modification in any provision for expenditure which, in its opinion, is not in accordance with the provisions of this Act;

and shall approve the budget estimate so amended and forward it to the Board.

* * * * *

31. The State Government may, after considering the budget estimates, the accounts of the Board and such other reports as it may call for, make such annual or periodical grants to it as it may think fit.

Payment to the Board by the State Government.

32. (1) The Board shall have a Fund to be called the West Bengal Board of Primary Education Fund to which shall be credited—

West Bengal Board of Primary Education Fund.

- (a) all sums which may be paid by the State Government;
- (b) all sums representing income from endowments or from property owned or managed by the Board; and
- (c) all other sums received by or on behalf of the Board from any other source whatsoever.

(2) The Fund shall vest in the Board and shall be under its control and shall be held by it in trust for the purposes of this Act.

(3) All monies payable to the credit of the Fund shall forthwith be paid into the Reserve Bank of India ²[or into the State Bank of India or any branch thereof] to the credit of the Fund, and all cheques drawn on the Fund shall be signed by the President or by such other persons as he may authorise in writing in this behalf.

(4) The Fund shall be maintained, administered and used in the manner prescribed.

33. No expenditure shall be incurred from the Fund except for the purposes of this Act, and unless such expenditure is provided for in the budget as approved under this Act or can be met by reappropriation sanctioned in the prescribed manner.

Application of the West Bengal Board of Primary Education Fund.

34. The Board shall keep an account of all its receipts and expenditure in the manner prescribed.

Accounts.

¹Sub-section (7) was omitted by s. 5 of the West Bengal Primary Education (Amendment) Act, 1987 (West Ben. Act XIV of 1987).

²The words within the square brackets were inserted by s. 14 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

(Part II.—Chapter V.—Finance and audit.—Section 35.)

Audit.

35. (1) The accounts of the Board shall be examined and audited annually in such manner as may be prescribed, by an auditor or auditors appointed by the State Government.

(2) For the purpose of examination and audit under sub-section (1) the auditor may—

- (a) require in writing the production before him of any document relating to the Board or the assets thereof which he considers to be necessary for the proper conduct of the audit:

Provided that the Board shall not be bound to submit to the auditor documents, in original, of expenditure in connection with any anti-corruption work and of expenditure for printing of question papers and certificates, but shall, if so required by the auditor, furnish extracts of such documents duly certified by the President as correct after withholding such portion of the documents as will, in the opinion of the President, tend to disclose either the identity or the sources of such expenditure;

- (b) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such documents to answer any question relating thereto; and
- (c) require any person so appearing before him to submit a statement in writing in respect of any such document.

(3) It shall be the duty of the Board and of every member thereof, and of the Secretary, the Finance Officer, if any, and the members of the staff in the service of the Board, to afford to the auditor every facility for the examination and audit of the accounts of the Board and to comply with any requisition made by the auditor under sub-section (2) and with the requirement of any rule made in this behalf.

(4) Any person who wilfully neglects or refuses to comply with a requisition made under sub-section (2) or with the requirement of any rule made in this behalf shall, on conviction, be punishable with fine which may extend to one hundred rupees.

(5) No complaint in respect of any offence punishable under sub-section (4) shall be made except with the previous sanction of the State Government.

(6) No Magistrate other than a Presidency Magistrate or a Magistrate of the first or second class shall try an offence punishable under sub-section (4).

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(Part II.—Chapter V.—Finance and audit.—Section 36.—Part III.—
Chapter VI.—The Primary School Councils.—Section 37.)

36. (1) Not more than fourteen days after completion of the audit, the auditor shall submit to the State Government a report on the accounts audited, and shall send a copy thereof to the Board which shall forward it to the State Government together with its observations thereon, within thirty days from the date of receipt of the audit report.

Audit
Report.

(2) The State Government shall take such action on the audit report as it thinks fit.

PART III

CHAPTER VI

The Primary School Councils.

37. (1) The State Government shall, by notification, establish for each district excluding ¹[the hill areas and] the areas included in Calcutta ²* * *, with effect from such dates as may be specified in the notification, a District Primary School Council bearing the name of the district ³[and, for the sub-division of Siliguri, Siliguri Primary School Council];

District
Primary
School
Councils.

⁴Provided that the State Government shall, by notification, establish for the sub-division of Siliguri (excluding such mauzas of the sub-division as are comprised in the hill areas), with effect from such date as may be specified in the notification, a Primary School Council bearing the name of the sub-division.

(2) A District Primary School Council shall consist of the following members, namely:—

- ⁵(1a) the Chairman, who shall be appointed by the State Government;
- (a) the District Inspector of Schools, in charge of primary education;
- (b) the District Special Officer, Scheduled Castes and Tribes Welfare or where no such officer is posted, the District Tribal Welfare Officer;
- (c) the District Social Education Officer;

¹The words within the square brackets were inserted by s. 4(a)(i) of the West Bengal Primary Education (Amendment) Act, 1988 (West Ben. Act XVIII of 1988).

²The words "and specified municipalities" were omitted by s. 9(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

³The words within the square brackets were inserted by s. 5(1) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

⁴Proviso was inserted by s. 4(a)(ii) of the West Bengal Primary Education (Amendment) Act, 1988 (West Ben. Act XVIII of 1988).

⁵Clause (1a) was inserted by s. 8(1)(a) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

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- (d) one member for each sub-division, elected in the prescribed manner by the members of ¹[*Panchayat Samitis* within the sub-division from amongst themselves]:

Provided that the number shall in no case be less than three;

- (e) three members, elected in the prescribed manner by the ²[(Councillors of the municipal areas) within the district from amongst themselves];

³* * * * *

- (f) three members, elected in the prescribed manner by the members of *Zilla Parishad* of the district ⁴[from amongst themselves];

- (g) one teacher of a ⁵[Primary Teachers' Training Institute] in the district, elected in the prescribed manner by the teachers of such institutions in the district;

- (h) three teachers ⁶* * *, elected in the prescribed manner by the teachers of primary schools in each sub-division from amongst themselves:

⁷Provided that the number shall in no case be less than six;

¹The words within the square brackets were substituted for the words "*Anchal Panchayats* within the sub-division" by s. 9(2)(a) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The words "municipalities within the district from amongst themselves" were first substituted for the words "non-specified municipalities within the district" by s. 9(2)(b), *ibid.* Thereafter, the words within the first brackets were substituted for the words "Commissioner of municipalities" by s. 5(2)(a) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

³Proviso was omitted by s. 8(1)(h) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

⁴The words within the square brackets were inserted by s. 9(2)(c) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁵The words within the square brackets were substituted for the words "Junior Basic Training Institution" by s. 15(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁶The words "of whom one shall be a woman" were omitted by s. 9(2)(d)(i) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁷The word "nine" was first substituted for the word "six", in the original proviso, by s. 9(2)(d)(ii) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980). Then, the word "six;" was resubstituted for the word "nine;," in the original proviso, by s. 15(b) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994). Thereafter, the proviso was omitted by s. 5(2)(aa) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997). Finally, the existing proviso was added by s. 8(1)(c) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

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- ¹(i) not exceeding fifty per cent of the members of the West Bengal Legislative Assembly, subject to a maximum of six, not being ministers, representing the constituencies comprised within the territorial jurisdiction of the district concerned, elected from amongst themselves in the manner prescribed;
- ¹(ii) one member from the staff of the Primary School Council elected in the prescribed manner by the members of the staff of the District Primary School Council from amongst themselves;
- ²(j) six persons interested in education, nominated by the State Government of whom—
- (i) one shall be a woman;
 - (ii) one shall be a member of a Scheduled Caste;
 - (iii) one shall be a member of a Scheduled Tribe;
 - (iv) one shall be a member of linguistic minority;
 - (v) one shall be a college teacher;
 - (vi) one shall be a secondary school teacher;
- ³(k) the Chairman to be appointed by the State Government.
- ⁴(2A) The Siliguri Primary School Council for the sub-division of Siliguri shall consist of the following members, namely:—
- ⁵(1a) the Chairman, who shall be appointed by the State Government;
- (a) the District Inspector of Schools in charge of primary education;
 - (b) the Special Officer, Scheduled Castes and Tribes Welfare or, where no such officer is posted, the Tribal Welfare Officer-in-charge of the matters concerning the Scheduled Castes and the Scheduled Tribes of the sub-division;
 - (c) the District Social Education Officer;
 - (d) three members elected in the prescribed manner by the members of the *Panchayat Samitis* within the sub-division from amongst themselves;

¹Clauses (j) and (ii) were first substituted for the original clause (i) by s. 9(2)(e) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980). Then, the proviso to clause (i) was omitted by s. 4(b) of the West Bengal Primary Education (Amendment) Act, 1988 (West Ben. Act XVIII of 1988). Finally, the existing clause (i) was substituted for the previous clause by s. 5(2)(h) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

²Clause (j) was substituted for the original clause by s. 9(2)(f) of the West Bengal Primary Education (Amendment) Act 1980 (West Ben. Act XLVII of 1980).

³Clause (k) was inserted by s. 15(c) of the West Bengal Primary Education (Amendment) Act 1994 (West Ben. Act XIX of 1994).

⁴Sub-section (2A) was inserted by s. 5(3) of the West Bengal Primary Education (Amendment) Act 1997 (West Ben. Act XIII of 1997).

⁵Clause (1a) was inserted by s. 8(2)(a) of the West Bengal Primary Education (Amendment) Act 1999 (West Ben. Act X of 1999).

(Part III.—Chapter VI.—The Primary School Councils.—Section 38.)

- (e) two members elected in the prescribed manner by the Councillors of the municipal areas within the sub-division from amongst themselves;
- (f) two members elected in the prescribed manner by the members of the *Mahakuma Parishad* for the sub-division from amongst themselves;
- (g) one teacher of a Primary Teachers' Training Institute in the sub-division elected in the prescribed manner by the teachers of such Institutes in the sub-division;
- (h) three teachers elected in the prescribed manner by the teachers of primary schools in the sub-division from amongst themselves;
- (i) two members of the West Bengal Legislative Assembly, not being Ministers, elected in the prescribed manner by the members of the Legislative Assembly, representing the constituencies comprised within the territorial jurisdiction of the sub-division, from amongst themselves;
- (j) one member from the staff of the Primary School Council elected in the prescribed manner by the members of the staff of the Siliguri Primary School Council from amongst themselves;
- (k) four persons interested in education nominated by the State Government, of whom—
 - (i) one shall be a woman,
 - (ii) one shall be a member of the Scheduled Caste or Scheduled Tribe,
 - (iii) one shall be a member of ¹[linguistic minority community,] and
 - (iv) one shall be a secondary school teacher.

(3) A District Primary School Council ²[or, as the case may be, Siliguri Primary School Council] shall be a body corporate with perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purpose of this Act, and shall by its corporate name sue and be sued.

38. (1) The State Government shall, by notification, establish for Calcutta, with effect from such date as may be specified in the notification, a Primary School Council to be called the Calcutta Primary School Council.

¹The words within the square brackets were substituted for the words "linguistic minority," by s. 8(2)(b) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

²The words within the square brackets were inserted by s. 5(4) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

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²(2) The Calcutta Primary School Council shall consist of the following members, namely:—

¹(1a) the Chairman, who shall be appointed by the State Government;

(a) the District Inspector of Schools (Primary Education), Calcutta;

²(aa) the District Social Education Officer, Calcutta;

²(aaa) the Deputy Director of ³[School] Education (Anglo-Indian Schools);

(b) the Chairman, Calcutta Metropolitan Development Authority or any person nominated by him;

⁴(c) six persons elected in the prescribed manner by the Councillors of ⁵[the Calcutta Municipal Corporation] from amongst themselves;

⁶(d) nine teachers elected in the prescribed manner by the teachers of primary schools in Calcutta from amongst themselves;

7* * * * *

8* * * * *

⁹(g) six members of the West Bengal Legislative Assembly, not being Ministers, elected in the prescribed manner by the members of the Legislative Assembly representing constituencies comprised within the territorial jurisdiction of the ¹⁰[Calcutta Municipal Corporation,] from amongst themselves;

¹Clause (1a) was inserted by s. 9(a) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

²Clauses (aa) and (aaa) were inserted by s. 10(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

³The word within the square brackets was substituted for the word "Secondary" by s.16(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁴Clause (c) was substituted for the original clause by s. 10(2) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁵The words within the square brackets were substituted for the words "Calcutta Corporation" by s.16(b) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁶Clause (d) was substituted for the original clause by s. 10(3) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁷Clause (e) was omitted by s. 10(4), *ibid.*

⁸Clause (f) was omitted by s. 10(5), *ibid.*

⁹Clauses (g), (gg) and (ggg) were substituted for the original clause (g) by s. 10(6) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

¹⁰The words within the square brackets were substituted for the words "Calcutta Corporation," by s.16(c) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

(Part III.—Chapter VI.—The Primary School Councils.—
Sections 39, 40.)

- ¹(gg) one teacher of a ²[Primary Teachers' Training Institute] of Calcutta elected in the prescribed manner by the teachers of the ³[Primary Teachers' Training Institutes] of Calcutta from amongst themselves;
- ¹(ggg) one member from the staff of the Primary School Council, Calcutta, elected in the prescribed manner from amongst themselves;
- (h) six persons interested in education nominated by the State Government, of whom—
- (i) one shall be a woman;
 - (ii) one shall be a member of the Anglo-Indian community;
 - (iii) ⁴[one shall be a member] of the linguistic minority communities in Calcutta;
 - ³(iv) one shall be a member of a Scheduled Caste;
 - ³(v) one shall be a secondary teacher;
 - ⁵(vi) one shall be a college teacher.

6* * * * *

(3) The Calcutta Primary School Council shall be a body corporate having perpetual succession and a common seal, shall be entitled to acquire, hold and dispose of property, to enter into contracts and to do all other things necessary for the purposes of this Act, and shall by its corporate name sue and be sued.

39. [(Municipal Primary School Council).—Omitted by s. 11 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).].

Appointment
in default of
election.

40. (1) If by such date, as may be fixed by the State Government in this behalf, any of the authorities fails to elect a member or members as provided in ⁷[section 37 or section 38], the State Government shall appoint member or members qualified for election by such authority.

(2) A person appointed under this section shall be deemed to be a member of the Primary School Council duly elected by the authority concerned.

¹See foot-note 9 on page 737, ante.

²The words within the square brackets were substituted for the words "Junior Basic Training Institute" by s. 16(d)(i) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

³The words within the square brackets were substituted for the words "Junior Basic Training Institutes" by s. 16(d)(ii), *ibid.*

⁴The words within the square brackets were substituted for the words "two shall be members" by s. 10(7)(i) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁵Sub-clauses (iv), (v) and (vi) were inserted by s. 10(7)(ii), *ibid.*

⁶Clause (i), which was inserted by s. 16(e) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994), was omitted by s. 9(b) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

⁷The words within the square brackets were substituted for the words and figures "section 37, section 38 or section 39" by s. 12 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

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Sections 41-44.)

41. The name of every member ¹[elected, nominated or appointed under section 37 or section 38] ^{2*} * * * or appointed under section 40 as a member of a Primary School Council shall be published by the State Government in the *Official Gazette* as soon as may be after his election, nomination or appointment, as the case may be.

Publication in the *Official Gazette*.

42. (1) Subject to the provisions of this Act, every elected, nominated or appointed member of a Primary School Council shall hold office for a term of four years from the date of the first meeting of the Primary School Council at which a quorum is present and may on expiration of such term be re-elected, re-nominated or re-appointed.

Term of office of members.

(2) Notwithstanding the expiration of the term of four years mentioned in sub-section (1), every elected, nominated or appointed member of a Primary School Council shall continue to hold office until the first meeting of the newly-formed Primary School Council at which a quorum is present.

43. If any member of a Primary School Council dies or resigns his office or ceases to be a member for any other reason the vacancy shall be filled up by fresh ³[election, nomination or appointment] under ⁴[section 37 or section 38], as the case may be, and the member so ⁵[elected, nominated or appointed] shall hold office for the unexpired portion of the term of the member whose place he fills:

Casual vacancies.

Provided that no election shall be held to fill a vacancy of a member occurring within four months from the date on which the term of the office of the member expires.

44. * * * * *

Chairman
of a Primary
School
Council.

¹The words within the square brackets were substituted for the words and figures "elected or nominated under section 37, section 38" by s. 17 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²The words and figures "or section 39" were omitted by s. 13 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

³The words within the square brackets were substituted for the words "election or nomination" by s.18(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁴The words and figures within the square brackets were substituted for the words and figures "section 37, section 38 or section 39" by s. 14 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁵The words within the square brackets were substituted for the words "elected or nominated" by s.18(b) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁶The words "and Vice-Chairman" were omitted by s.19(a), *ibid*.

⁷Sub-section (1) was omitted by s.10 of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999). Prior to this omission the words "and a Vice-Chairman" were omitted by s. 19(b) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

(Part III.—Chapter VI.—The Primary School Councils.—
Sections 45-48.)

¹(2) The Chairman shall hold office for a term of four years mentioned in section 42.

(3) The Chairman ²* * * shall receive such pay or allowances or both as may be fixed by the State Government.

(4) The Chairman may resign his office by giving notice in writing to the ³[State Government] and when such resignation is accepted by the ³[State Government] the Chairman shall be deemed to have vacated his office.

* * * * *

45. [(Removal of the Chairman and the Vice-Chairman).—Omitted by s. 20 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX 1994).].

Discharge of
Chairman's
functions in
certain
contingen-
cies.

46. ³(1) If the Chairman dies or resigns his office or ceases to hold office or is, by reason of leave, illness or other cause, temporarily unable to exercise the powers or perform the duties of his office, the Secretary to the Primary School Council shall forthwith send a report to the State Government in this behalf. And the State Government shall, on receipt of the report as aforesaid, authorise a member of the Primary School Council to exercise the powers and perform the duties of the Chairman until a new Chairman is appointed for the Chairman resumes office, as the case may be.

* * * * *

(3) A Chairman ²[appointed] to fill a casual vacancy shall hold office for the unexpired portion of the term of the Chairman whose place he fills.

Disqualifica-
tions for
membership.

47. The provisions of section 12 shall *mutatis mutandis* apply in the case of a member of a Primary School Council.

Resignation
of members.

48. A member of a Primary School Council may resign his seat by giving notice in writing to the Chairman and when such resignation is accepted by the Chairman such member shall be deemed to have vacated his seat.

¹Sub-section (2) was substituted for the original by s. 19(c) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²The words "and the Vice-Chairman" were omitted by s. 19(d), *ibid.*

³The words within the square brackets were substituted for the words "Primary School Council" by s. 19(e), *ibid.*

⁴Sub-section (5) was omitted by s. 19(f), *ibid.*

⁵Sub-section (1) was substituted for the original by s. 21(a), *ibid.*

⁶Sub-section (2) was omitted by s. 21(b), *ibid.*

⁷The word within the square brackets was substituted for the word "elected" by s. 21(c), *ibid.*

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(Part III.—Chapter VI.—The Primary School Councils.—
Sections 49-52.)

49. (1) Every Primary School Council shall meet at least three times a year. Meetings of the Primary School Council.

(2) Every meeting of the Primary School Council shall be convened by the Secretary to the Primary School Council under instructions of the Chairman:

Provided that the Chairman shall, when required in writing by one-third of the members of the Primary School Council to convene a meeting, direct the Secretary to do so within seven days from the receipt of the requisition and if no meeting is convened within the said period the members aforesaid may convene a meeting after giving seven clear days' notice to the Chairman and other members of the Primary School Council.

50. (1) The Chairman or in his absence ¹* * * one of the members of the Primary School Council elected from amongst those present shall preside at the meeting of the Primary School Council, and the Chairman or ²* * * such member shall be entitled to vote on any matter and shall have a second or casting vote in every case of equality of votes. Conduct of meetings.

(2) Subject to the provisions of sub-section (1), the Primary School Council shall have the power to regulate the procedure for the conduct of its business.

51. (1) No member of a Primary School Council shall vote on any matter in which he has any personal or pecuniary interest or if it relates to any primary school of which he is either a teacher or a member of the managing committee. Restriction on voting.

(2) The Chairman or ³* * * the member presiding at a meeting of a Primary School Council shall decide any question arising under sub-section (1) and his decision thereon shall be final.

52. The State Government may, by notification, ⁴[remove a member] of a Primary School Council, if he— Removal.

(a) refuses to act or becomes incapable of acting ⁵[as a member] of the Primary School Council; or

¹The words "the Vice-Chairman shall preside at a meeting of the Primary School Council and in the absence of both the Chairman and the Vice-Chairman" were omitted by s. 22(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²The words "the Vice-Chairman or" were omitted by s. 22(b), *ibid.*

³The words "the Vice-Chairman or" were omitted by s. 23, *ibid.*

⁴The words within the square brackets were substituted for the words "remove the Chairman or a member" by s. 11(a) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999). Prior to this substitution the word "Vice-Chairman" was omitted by s. 24(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

⁵The words within the square brackets were substituted for the words "as Chairman or member" by s. 11(b) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999). Prior to this substitution the word "Vice-Chairman" was omitted by s. 24(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

(Part III.—Chapter VI.—The Primary School Councils.—
Sections 53-55.)

- (b) acts in a manner prejudicial to the interest of the Primary School Council; or
- (c) without obtaining the consent of the Primary School Council is absent from six consecutive meetings of the Primary School Council:

Provided that before such removal ¹[, the member] concerned shall be given an opportunity of being heard.

Duties of the
Chairman.

53. (1) The Chairman shall be responsible for carrying out and giving effect to the decisions of the Primary School Council and of any Committee thereof.

(2) The Chairman may, in any emergency, discharge any of the duties of the Primary School Council, provided, however, that he shall not act contrary to any decision of the Primary School Council, and shall within one month report to the Primary School Council the action taken by him together with reasons therefor.

(3) The Chairman shall—

- (a) exercise general supervision and control over the Secretary, the Finance Officer and the staff appointed by the Primary School Council and post and transfer the members of the staff;
- (b) sanction all claims of travelling allowances;
- (c) take such other action not inconsistent with any decision of the Primary School Council as he considers necessary for the proper functioning of the Primary School Council under the Act.

54. [(Duties of the Vice-Chairman.)—Omitted by s. 25 of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX 1994).]

Secretary
and Finance
Officer of
Primary
School
Council.

55. (1) Every Primary School Council shall have a Secretary and a Finance Officer.

(2) The Secretary shall be appointed by the State Government and the terms and conditions of service of the Secretary and his pay and allowances shall be such as the State Government may determine.

(3) Subject to the general control and supervision of the Chairman, the Secretary shall be the principal administrative officer of the Primary School Council.

¹The words within the square brackets were substituted for the words "the Chairman or the member" by s. 11(c) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999). Prior to this substitution the words "the Vice-Chairman" were omitted by s. 24(b) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

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Sections 56, 56A.)

(4) The State Government shall appoint a person ¹[possessing such
² qualifications as may be prescribed] as the Finance Officer upon such
terms and conditions and on such pay and allowances as the State
Government may determine.

(5) The Finance Officer shall be in charge of the matters relating to
finance and accounts of the Primary School Council and shall perform
such functions as may be prescribed.

(6) The pay and allowances of the Secretary and the Finance Officer
shall be paid out of the fund of the Primary School Council.

(7) The Secretary and the Finance Officer shall be entitled to attend
and speak at any meeting of the Primary School Council but shall not be
entitled to vote.

56. (1) Subject to the prescribed conditions and with prior approval
of the State Government, a Primary School Council may appoint such
officers and other staff as may be considered necessary for carrying out
the duties under the Act.

Other staff
of the
Primary
School
Council.

(2) The scale of pay and allowances in respect of such officers and
other staff and other terms and conditions of their appointment shall
be such as may be determined by the State Government from time to
time.

(3) Subject to the prescribed conditions, a Primary School Council
may award any punishment including dismissal or removal on the
members of its staff other than the Secretary and the Finance Officer.

* * * * *

³56A. Subject to the prescribed conditions, a Primary School Council
may award any punishment, including the punishment of dismissal or
removal from service, on a teacher, or a member of the non-teaching
staff, if any, of a primary school under the control of that Primary School
Council:

Award of
punishment.

Provided that no punishment, other than censure, shall be awarded
except on the recommendation of the Discipline Committee.

¹The words within the square brackets were substituted for the words "who is in the
service of the State Government" by s. 2 of the West Bengal Primary Education (Amendment)
Act, 1975 (West Ben. Act XXV of 1975).

²The proviso to sub-section (3) was omitted by s. 12 of the West Bengal Primary
Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

³Section 56A was inserted by s. 13 of the West Bengal Primary Education (Amendment)
Act, 1999 (West Ben. Act X of 1999).

(Part III.—Chapter VI.—The Primary School Councils.—
Sections 57-60.)

Travelling
allowance.

57. Such members of the Primary School Council or of any Committee thereof as are not in the service of the State Government shall, in respect of expenses incurred by them in attending meetings of the Primary School Council, or of any such Committee, or in exercising any powers or performing any duties conferred or imposed upon them by or under this Act, be paid by the Primary School Council such allowances and at such rates as may be prescribed.

Control by
Board.

58. If at any time, it appears to the Board that a Primary School Council has made default in discharging any duty imposed upon it by or under this Act, the Board may after giving the Primary School Council an opportunity of being heard, fix, by an order in writing, a period within which such duty is to be discharged.

Supersession
of Primary
School
Council and
appoint-
ment of an
Adminis-
trator.

59. (1) If at any time, on receipt of a report from the Board or otherwise, it appears to the State Government that a Primary School Council is not competent to perform, or persistently makes default in the performance of, the duties imposed upon it by or under this or any other Act, or exceeds or abuses its powers, the State Government may, after giving the Primary School Council an opportunity of being heard, by an order in writing specifying the reasons for so doing, remove all members of such Primary School Council and direct that the vacancies shall thereupon be filled by election, nomination or appointment, as the case may be, in respect of elected, nominated or appointed members:

Provided that when the State Government proposes to make an order under this sub-section otherwise than on a report from the Board the State Government shall ask the Board to give its opinion in the matter within a date to be fixed by the State Government and an order under this sub-section shall be made after considering the opinion of the Board, if any, received within the date so fixed.

(2) From the date of an order under sub-section (1) and until the vacancies are filled—

- (a) all powers and duties of the Primary School Council shall be exercised and performed by, and
- (b) all property vested in the Primary School Council shall vest in,

such person and in such manner, as the State Government may direct.

Duties of the
Primary
School
Council.

60. (1) It shall be the duty of every Primary School Council—
- (a) to prepare and maintain in such manner and containing such particulars as may be prescribed, a register showing all primary schools within its jurisdiction, together with the teachers thereof and the accommodation available therein;

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*(Part III.—Chapter VI.—The Primary School Councils.—
Section 60.)*

- (b) to maintain in such manner and containing such particulars as may be prescribed a register of teaching and non-teaching staff of all primary schools under its management;
- (c) to maintain in such manner and containing such particulars as may be prescribed a service record of teaching and non-teaching staff of all primary schools under its management;
- (d) to tabulate such further information and to prepare such plans or maps as may be necessary to enable the Primary School Council to frame an estimate of the existing provisions for primary education and of the further provisions necessary to place primary education within the reach of all children;
- (e) to prepare in the prescribed manner schemes for the extension of primary education and to make adequate provisions for facilities for the free primary education of all children to whom such schemes apply;
- (f) to arrange, in the prescribed manner and with the prior approval of the Board, for the opening of additional primary schools and expansion of existing primary schools with a view to giving effect as funds permit to such schemes;
- (g) to provide for the welfare of the children attending primary schools;
- (h) to maintain an adequate number of primary schools within its jurisdiction;
- (i) to carry on propaganda for expansion of primary education;
- (j) to construct, repair and manage, either directly or through any local authority, all primary schools under public management;
- (k) subject to the prescribed conditions, to appoint teachers and other staff in primary schools, to transfer any such teacher or other staff from one primary school to another primary school within the jurisdiction of the same Primary School Council and to pay to teachers and other staff salaries and allowances, if any, at such rates as may be fixed by the State Government;
- ¹(kk) to set up new primary schools subject to fulfilment of terms and conditions and observance of the guidelines laid down in this behalf by the State Government from time to time;

¹Clause (kk) was inserted by s. 15(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

*(Part III.—Chapter VI.—The Primary School Councils.—
Section 60.)*

- ¹(l) (i) to withdraw recognition of any primary school on such ground, and following such procedure, as the State Government may prescribe, and
- (ii) to grant financial aid to a recognised primary school, or to withdraw financial aid to a recognised primary school on such ground, and in such manner, as the State Government may prescribe;
- ²(ll) to amalgamate two or more primary schools into one primary school, to split a primary school into two or more primary schools, and to shift primary school from one site to another;
- (m) to make grants in the prescribed manner for scholarships and stipends;
- (n) to prepare and transmit to the Director proposals for increasing the supply of trained and certified teachers;
- (o) to comply with such instructions as may be issued by the Board under clause (f) of sub-section (l) of section 19;
- (p) to advise upon and to supply all information with respect to matters relating to primary education referred to the Primary School Council by the Director or the Board;
- (q) subject to the prescribed conditions—
- (i) to grant pensions and gratuities to,
- (ii) to form and manage a provident or an annuity fund for,
- (iii) to compel contributions to such fund from, and
- (iv) to supplement the contributions to such fund of,
- the establishment of the Primary School Council and teachers in primary schools;
- ³(qq) to constitute, if the State Government so directs, a Vidyalaya Unnayan Committee for each primary school;
- (r) to exercise supervision and control over the primary schools and the work of the Welfare Committees; and
- (s) to perform such other duties as may be prescribed.

¹Clause (l) was substituted for the original by s. 3(1) of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996).

²Clause (ll) was first inserted by s. 15(2) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980). Thereafter, the same was substituted by s. 3(2) of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996), w.e.f. 1.2.1996.

³Clause (qq) was inserted by s. 14(a) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

XLIII of 1973.]

(Part III.—Chapter VI.—The Primary School Councils.—
Sections 61-63.)

1(1A) A Vidyalaya Unnayan Committee shall consist of—

- (a) a Chairman, and
- (b) such number of other members, not exceeding fourteen, as the State Government may determine,

to be nominated by the Primary School Council within whose jurisdiction the Vidyalaya Unnayan Committee is constituted, and shall perform such functions as the State Government may by notification specify in this behalf.

(2) The register referred to in clause (a) of sub-section (1) shall be maintained and the information referred to in clause (d) thereof shall be tabulated separately for each prescribed area.

61. (1) Every Primary School Council shall in each financial year—

- (a) frame and transmit to the Director, by such date and in such form as he may direct, a statement showing for the area within its jurisdiction—
 - (i) the names of primary schools for which grants have been sanctioned for that year; and
 - (ii) the amount of the grant which has been sanctioned for each such school;
- (b) furnish a report to the Director, by such date and in such form as he may direct, exhibiting the grants which it has distributed to schools within its jurisdiction.

Reports to be made by the Primary School Council.

(2) A copy of such statement and of such report shall be sent to the Board.

62. Every Primary School Council shall prepare and transmit to the Director and the Board such further reports and statements as the State Government may from time to time determine.

Primary School Council to furnish other prescribed reports.

63. The State Government may, at the request of the Chairman of a Primary School Council, acquire, under the provisions of any law for acquisition of land for the time being in force, any land required for the purpose of this Act.

Compulsory acquisition of land for the purposes of the Act.

Explanation.—“Land” in this section has the same meaning as in clause (b1) of section 2 of the West Bengal Land (Requisition and Acquisition) Act, 1948.

West Ben.
Act II of
1948.

¹Sub-section (1A) was inserted by s. 14(b) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

(Part III.—Chapter VI.—The Primary School Councils.—
Sections 64, 65.)

Transfer of
primary
schools
under the
control of
the
[Calcutta
Municipal
Corpora-
tion.]

64. With effect from such date as may be fixed by the State Government by notification,—

- (a) such primary schools in Calcutta as may be mentioned in the notification in consultation with the ³[Calcutta Municipal Corporation], together with their lands, buildings, and other properties, movable or immovable, vested in or under the control of the ²[Calcutta Municipal Corporation] immediately before such date, shall stand transferred to the Calcutta Primary School Council;
- (b) the primary schools referred to in clause (a) shall be under the control and management of the Calcutta Primary School Council;
- (c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Calcutta Primary School Council and the terms and conditions of their service shall be such as may be determined by the State Government.

Transfer of
primary
schools
under the
control of a
municipality.

65. ³* * * * *

(2) With effect from such date as may be fixed by the State Government by notification,—

- (a) such primary schools in a ⁴* * * ⁵[municipal area] in a district as may be mentioned in the notification in consultation with the Commissioners of such ⁵[municipal area], together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the Commissioners of such ⁵[municipal area] immediately before such date, shall stand transferred to the Primary School Council established for the district;
- (b) the primary schools referred to in clause (a) shall be under the control and management of the Primary School Council established for such district;

¹The words within the square brackets were substituted for the words "Corporation of Calcutta" by s. 26(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²The words within the square brackets were substituted for the words "Corporation of Calcutta." by s. 26(b). *ibid.*

³Sub-section (1) was omitted for the original sub-section by s. 16(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁴The word "non-specified" was omitted by s.16(2). *ibid.*

⁵The words within the square brackets were substituted for the word "municipality" by s. 6 of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

XLIII of 1973.]

(Part III.—Chapter VI.—The Primary School Councils.—
Section 66.—Chapter VII.—Committees of the Primary
School Council.—Section 67.)

- (c) teachers of such primary schools who are employed against permanent vacancies and are in continuous service for at least one year immediately before such date shall be deemed to be employees of the Primary School Council established for the district and the terms and conditions of their service shall be such as may be determined by the State Government.

66. (1) Notwithstanding anything contained in section 65, all primary schools in ¹[a municipal area] under a scheme sanctioned under the West Bengal Urban Primary Education Act, 1963 shall, with effect from such date as may be fixed by the State Government by notification, together with their lands, buildings and other properties, movable or immovable, vested in or under the control of the ²[Councillors of such municipal area] immediately before such date, shall stand transferred to, and all teachers and other staff employed in such primary schools and continuing in office immediately before such date shall be deemed to be employed by,—

Transfer of primary schools under scheme sanctioned under West Bengal Act XXVIII of 1963.

3* * * * *

- (b) the Primary School Council established for the district

** * *

(2) The terms and conditions of service of such teachers and other staff shall be such as may be determined by the State Government.

CHAPTER VII

Committees of the Primary School Council

67. (1) As soon as may be after a Primary School Council is established it shall constitute the following Committees, namely:—

⁴[Other Committees.]

6* * * * *

- (b) the Staff Selection Committee;
- (c) the Finance Committee;
- (d) the Discipline Committee;
- ⁷(e) the Academic Committee;
- (f) the Development Committee.

¹The words within the square brackets were substituted for the words "a municipality" by s. 7(1) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

²The words within the square brackets were substituted for the words "Commissioners of such municipality" by s. 7(2), *ibid*.

³Clause (a) was omitted by s. 17(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

⁴The words " , if such schools are within the jurisdiction of a non-specified municipality within the district" were omitted by s. 17(2), *ibid*.

⁵The words within the square brackets were substituted for the words "Committees," by s. 15(a) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

⁶Clause (a) was omitted by s. 8 of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

⁷Clause (e) was substituted for the original clause by s. 15(b) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

(Part III.—Chapter VII.—Committees of the Primary School Council.—Section 68.—Chapter VIII.—Finance and audit.—Section 69.)

(2) The constitution, powers and functions of a Committee shall be such as may be prescribed.

Power to constitute Committees.

68. (1) A Primary School Council may, with the approval of the State Government and subject to such directions as the State Government may issue in this behalf, constitute such other Committee or Committees as it may think fit and any such Committee may be composed wholly or in part of members of the Primary School Council.

(2) A Primary School Council may, with the approval of the State Government, delegate to any such Committee any of its powers and functions and may in like manner withdraw from it any such power or function.

(3) A Primary School Council may, with the approval of the State Government, dissolve any of the Committees referred to in sub-section (1) of section 67 or constituted under sub-section (1) of this section.

CHAPTER VIII

Finance and audit

Budget.

69. (1) Every Primary School Council shall in each year prepare in the prescribed form a budget estimate of income and expenditure of the Primary School Council for the ensuing financial year, and shall submit the budget estimate ¹[to the Director through the Board] on or before the thirtieth day of November.

(2) The ²[Director] may either approve of the budget estimate as it stands, or approve of it after making such alterations, if any, as it may think fit or may cause it to be returned to the Primary School Council for such modifications as the ³[Director] may think necessary, and when such modifications have been made, the budget estimate shall be re-submitted for approval to the ²[Director].

3* * * * *

¹The words within the square brackets were substituted for the words "to the State Government through the Director" by s. 18(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The word within the square brackets was substituted for the words "State Government" by s. 18(2), *ibid.*

³Sub-section (3) was omitted by s. 6 of the West Bengal Primary Education (Amendment) Act, 1987 (West Ben. Act XIV of 1987). Prior to this omission, the word "Director" was substituted for the words "State Government" by s. 18(3) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

XLIII of 1973.]

(Part III.—Chapter VIII.—Finance and audit.—
Sections 70-72.)

70. (1) Every Primary School Council shall have a fund to be called the Primary School Council Fund to which shall be credited—
- (a) all sums granted by the State Government or the Board for the payment of grants for primary education;
 - (b) all sums granted by the State Government or the Board for the maintenance of primary schools and for payment to the teachers and other staff in primary schools;
 - (c) all sums granted by the State Government or the Board for scholarships for children in primary schools;
 - (d) the proceeds of the education cess levied under this Act within its areas;
 - (e) all sums representing income from endowments or from property owned or managed by the Primary School Council;
 - (f) the amount of all fines and penalties imposed under this Act other than fines and penalties levied by Magistrates;
 - (g) all school fees and fines, if any, collected in primary schools maintained by the Primary School Council; and
 - (h) all other sums received by the Primary School Council from any other sources whatsoever.

Primary School Council Fund.

(2) The fund shall vest in the Primary School Council, shall be under its control and shall be held by it in trust for the purposes of this Act.

71. No expenditure shall be incurred from the Primary School Council Fund unless such expenditure is provided for in the budget as approved under this Act or by reappropriation sanctioned in the prescribed manner.

Application of the Primary School Council Fund.

72. Except as otherwise provided in this Act, the Primary School Council Fund shall be applied in connection with the following objects and in the following order, namely:—

Expenditure from Primary School Council Fund.

first, payment of interest upon any loan obtained by the Primary School Council for any of the purposes connected with this Act and for the formation of a sinking fund when required;

secondly, payment of the prescribed percentage of the cost of the establishment maintained by the Collector under section 91 of the Cess Act, 1880;

thirdly, payment of the cost of audit;

fourthly, payment of the salaries, allowances and all other expenses in connection with the establishment of the Primary School Council and all teachers in primary schools and, subject to the prescribed conditions, of pensions, family pensions, gratuities and grants made for submitting contribution to the provident fund in connection with the establishment of the Primary School Council and of teachers in primary schools;

(Part III.—Chapter VIII.—Finance and audit.—Sections 73, 74.—
Part IV.—Chapter IX.—Contributions.—Sections 75, 76.)

fifthly, payment of travelling allowance to members of the Primary School Council;

sixthly, payment of expenses incurred by the Primary School Council in connection with the construction and maintenance of houses for primary schools and providing equipments to such schools;

seventhly, carrying out any other purposes under this Act.

Accounts. 73. Every Primary School Council shall keep an account of all its receipts and expenditure in the manner prescribed.

Audit. 74. (1) The accounts of every Primary School Council shall be examined and audited annually in such manner as may be prescribed by an auditor or auditors appointed by the State Government.

(2) The provisions of section 35 and section 36 shall apply *mutatis mutandis* in respect to the audit of the accounts of every Primary School Council.

(3) The State Government may by an order appoint an officer to examine the accounts of a Primary School Council for any period and the Primary School Council and its members and officers and other staff shall afford to the officer every facility for the examination of the accounts as may be required by him in terms of the order of the State Government.

PART IV

CHAPTER IX

Contributions

Contribution from State Revenues. 75. The State Government shall every year provide such sum from the State revenue as it may think fit for expenditure on primary education.

Contributions from [Calcutta Municipal Corporation] and municipalities. 76. Notwithstanding anything contained in any law for the time being in force, the ²[Calcutta Municipal Corporation] shall pay to the Primary School Council established for Calcutta and the municipal authority of ³[a municipal area] shall pay to the Primary School Council established for the ⁴[municipal area,] in each year in the prescribed manner an amount equal to the amount spent by them on primary education during the year immediately preceding the year in which this Act comes into force in Calcutta or in such municipality, as the case may be.

¹The words within the square brackets were substituted for the words "Calcutta Corporation" by s. 27(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994).

²The words within the square brackets were substituted for the words "Corporation of Calcutta" by s. 27(b), *ibid.*

³The words within the square brackets were substituted for the words "a municipality" by s. 9(1) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

⁴The words within the square brackets were substituted for the words "area comprising the municipality," by s. 9(2), *ibid.*

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 77.)

¹*Explanation.*—In this section "municipal authority" shall mean—

- (i) the Municipality referred to in clause (a) of section 12, or the Notified Area Authority referred to in section 379, of the West Bengal Municipal Act, 1993, or
- (ii) the Corporation referred to in—
 - (a) clause (a) of section 3 of the Howrah Municipal Corporation Act, 1980, or
 - (b) clause (a) of section 3 of the Calcutta Municipal Corporation Act, 1980, or
 - (c) clause (a) of section 3 of the Siliguri Municipal Corporation Act, 1990, or
 - (d) clause (a) of section 3 of the Asansol Municipal Corporation Act, 1990, or
 - (e) clause (a) of section 3 of the Chandernagore Municipal Corporation Act, 1990, or
 - (f) clause (1) of section 2, read with section 4, of the Durgapur Municipal Corporation Act, 1994.

West Ben. Act XXII of 1993.

West Ben. Act LVIII of 1980.

West Ben. Act LIX of 1980.

West Ben. Act XXX of 1990.

West Ben. Act XXXI of 1990.

West Ben. Act XXXII of 1990.

West Ben. Act LIII of 1994.

CHAPTER X

Taxes and cesses

77. (1) For the purpose of providing resources for promoting primary education the State Government may impose a tax on property within Calcutta ²[and other municipal areas.]

Tax on property.

(2) The tax referred to in sub-section (1) shall be imposed—

- (a) in Calcutta, on lands and buildings at a rate not exceeding three *per cent.* of the annual value of the lands and buildings determined under ³[the Calcutta Municipal Corporation Act, 1980,] for the purpose of assessment of the consolidated rates; and
- (b) ⁴[in any other municipal area,] on the holding at a rate not exceeding three *per cent.* of the annual value of the holdings or lands and buildings determined under the law applicable ⁵[to the municipal area] for the purposes of assessment of rates.

²[West Ben. Act LIX of 1980.]

¹The *Explanation* was substituted for the original *Explanation* by s. 9(3) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

²The words within the square brackets were substituted for the words "and the municipalities." by s. 10(1) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

³The words and figures within the square brackets with the marginal reference were substituted for the words and figures "the Calcutta Municipal Act, 1951" with the marginal reference "West Ben. Act XXXIII of 1951" by s. 10(2)(a), *ibid.*

⁴The words within the square brackets were substituted for the words "in a municipality." by s. 10(2)(b)(i), *ibid.*

⁵The words within the square brackets were substituted for the words "to the municipality" by s. 10(2)(b)(ii), *ibid.*

(Part IV.—Chapter X.—Taxes and cesses.—Section 78.)

(3) The tax referred to in sub-section (1) shall be levied and collected in such manner as may be prescribed.

Education
cess.

78. (1) All immovable properties on which road and public works cesses are assessed ¹[, or all such properties which are liable to such assessment,] according to the provisions of the Cess Act, 1880, shall be liable to the payment of education cess.

Ben. Act IX
of 1880.

²(2) The education cess shall be levied annually—

- (a) in respect of land, except when a cess is leviable and payable under clause (b) or clause (c) or sub-section (2A), at the rate of ten paise on each rupee of annual value thereof as assessed under the Cess Act, 1880;
- (b) in respect of a coal-bearing land, at the rate of ³[five per centum] of the annual value of the coal-bearing land as defined in clause (1) of section 2 of the West Bengal Rural Employment and Production Act, 1976;

West Ben.
Act XIV of
1976.

¹The words within the square brackets were inserted by s. 5(1)(a) of the West Bengal Taxation Laws (Second Amendment) Act, 1984 (West Ben. Act IV of 1984).

²Sub-section (2) was first substituted for the previous sub-section by s. 2(1) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992). Prior to this substitution, the original sub-section (2) faced following changes, namely:—

- (i) in clause (a), the words "in respect of lands, other than a tea estate," were substituted for the words "in respect of lands," by s. 5(1)(b)(i) of the West Bengal Taxation Laws (Second Amendment) Act, 1984 (West Ben. Act IV of 1984);
- (ii) clause (aa) was first inserted by s. 5(1)(b)(ii), *ibid* and, thereafter, the same was omitted by s. 2(2)(a) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989), w.e.f. 14.4.1984;
- (iii) in clause (b),—
 - (a) the words "rupee one" were first substituted for the words "fifty paise" by s. 6 of the West Bengal Taxation Laws (Amendment) Act, 1981 (West Ben. Act IX of 1981). Then, the words "rupees two" were substituted for the words "rupee one" by s. 5(1)(a) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).
 - (b) the words "two per centum of the value of coal" were substituted for the words "rupees two on each tonne of coal" by s. 6(j) of the West Bengal Taxation Laws (Second Amendment) Act, 1983 (West Ben. Act XV of 1983). Thereafter, the words "three per centum" were substituted for the words "two per centum" by s. 5(1)(b)(iii) of the West Bengal Taxation Laws (Second Amendment) Act, 1984 (West Ben. Act IV of 1984). Then, the words "five per centum" were substituted for the words "three per centum" by s. 6(1)(a) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986), and
 - (c) the word "annual" was omitted by s. 5(1)(b) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982);
- (iv) in clause (c),—
 - (a) the words "one rupee on each tonne of materials or minerals other than coal on the annual despatches therefrom," were substituted for the words "twelve paise on each rupee of the annual net profit thereof," by s. 5 of the West Bengal Taxation Laws (Amendment) Act, 1987 (West Ben. Act V of 1987), and
 - (b) an *Explanation* was inserted by s. 6(ii) of the West Bengal Taxation Laws (Second Amendment) Act, 1983 (West Ben. Act XV of 1983).

³The words "seven per centum" was first substituted for the words "five per centum" by s. 5 of the West Bengal Finance Act, 1996 (West Ben. Act X of 1996). Thereafter, the words within the square brackets were substituted for the words "seven per centum" by s. 2 of the West Bengal Taxation Laws (Second Amendment) Act, 1998 (West Ben. Act VIII of 1998), w.e.f. 1.12.1998.

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78.)

- (c) in respect of a mineral-bearing land (other than coal-bearing land) or quarry, at the rate of one rupee on each tonne of minerals (other than coal) or materials despatched within the meaning of clause (1b) of section 2 of the West Bengal Rural Employment and Production Act, 1976, from such mineral-bearing land or quarry:

Provided that when in the coal-bearing land referred to in clause (b), there is no production of coal for more than two consecutive years, such land shall be liable for levy of cess in respect of any year immediately succeeding the said two consecutive years in accordance with clause (a):

Provided further that where no despatch of minerals or materials is made during a period of more than two consecutive years from the mineral-bearing land or quarry as referred to in clause (c), such land or quarry shall be liable for levy of cess in respect of any year immediately succeeding the said two consecutive years in accordance with clause (a).

Explanation.—For the purposes of this chapter, “coal-bearing land” shall have the same meaning as in clause (1a) of section 2 of the West Bengal Rural Employment and Production Act, 1976.

West Ben.
Act XIV of
1976.

¹(2A) The education cess shall be levied annually on a tea estate at the rate of four paise for each kilogram of green tea leaves produced in such tea estate.

Explanation.—For the purposes of this sub-section, section 78B and section 78C,—

- (i) “green tea leaves” shall mean the plucked and unprocessed green leaves of the plant *Camelia Sinensis (L) O. Kuntze*;
- (ii) “tea estate” shall mean any land used or intended to be used for growing plant *Camelia Sinensis (L) O. Kuntze* and producing green tea leaves from such plant, and shall include land comprised in a factory or workshop for producing any variety of the product known commercially as “tea” made from the leaves of such plant and for housing the persons employed in the tea estate and other lands for purposes ancillary to the growing of such plant and producing green tea leaves from such plant.

(3) The proceeds of the education cess in each district shall be paid by the Collector into the Primary School Council Fund established for the district.

(4) The provisions of the Cess Act, 1880 shall apply as far as possible to the assessment, levy and recovery of the education cess.

¹Sub-section (2A) was inserted by s. 2(2)(b) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989), w.e.f. 14.4.1984.

(Part IV.—Chapter X.—Taxes and cesses.—Section 78A.)

Levy,
recovery,
etc., of cess
in respect of
coal mines.

¹78A. Notwithstanding anything contained in sub-section (4) of section 78 or in the Cess Act, 1880,—

Ben. Act IX
of 1880.

- ²(a) the education cess payable for a year under sub-section (1) of section 78 in respect of coal-bearing land referred to in clause (b) of sub-section (2) of that section shall be paid by the owner of such coal-bearing land in such manner, at such intervals and by such dates as may be prescribed;
- ³(b) every owner of a coal-bearing land shall furnish a declaration relating to a year showing the amount of education cess payable by him under clause (a) in such form and by such date as may be prescribed and to such authority as may be notified by the State Government in this behalf in the *Official Gazette* (hereinafter referred to as the notified authority);
- (c) every owner of a ⁴[coal-bearing land] shall be liable to pay, by way of penalty in default of payment of the education cess payable by him, under clause (a) or filing without any reasonable cause the ⁵[declaration] under clause (b) for any ⁶[year] by the prescribed date, an amount, not exceeding the amount of such cess payable for such ⁶[year] as may be levied by the notified authority at the time of assessment of such cess under clause (d), in such manner as may be prescribed:

Provided that the notified authority shall give the owner of a ⁴[coal-bearing land] an opportunity of being heard before imposition of such penalty:

⁷Provided further that if interest is payable by the owner of a ⁴[coal-bearing land] under clause (ga) or clause (gb) for failure to make full payment of education cess in respect of any ⁶[year].—

¹Section 78A was added by s. 5(2) of the West Bengal Taxation Laws (Amendment) Act, 1982 (West Ben. Act V of 1982).

²Clause (a) was substituted for the original clause by s. 2(2)(a) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

³Clause (b) was substituted for the original clause by s. 2(2)(b), *ibid.* Prior to this substitution a proviso was added to clause (b) by s. 6(1)(b)(i) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

⁴The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(c)(i) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

⁵The word within the square brackets was substituted for the word "return" by s. 2(2)(c)(ii), *ibid.*

⁶The word within the square brackets was substituted for the word "period" by s. 2(2)(c)(iii), *ibid.*

⁷The proviso was added by s. 6(1)(b)(ii) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78A.)

- 2.
- (i) no penalty under this clause for default of payment of the education cess under clause (a) shall be imposed upon him, and
 - (ii) the penalty under this clause for default in filing without reasonable cause the ¹[declaration] under clause (b) for such ²[year] by the prescribed date shall not exceed one lakh rupees for each of such ¹[declaration] or ten *per centum* of the amount of education cess assessed (not excluding any amount paid) under clause (d) by the notified authority for such ²[year], whichever is less;
- ³(d) the education cess under clause (b) of sub-section (2) of section 78 shall be assessed by the notified authority in the manner prescribed, and if the declaration under clause (b) is not accepted, the owner of the coal-bearing land shall be given a reasonable opportunity of being heard before making such assessment;
- (e) an appeal, revision or review, as the case may be, from an order of assessment or any other order passed under this section shall lie to such authority, on such conditions and in such manner as may be prescribed;
 - (f) recovery of the education cess assessed under clause (d) or refund of any amount of such cess found to have been paid in excess after assessment shall be made in the manner prescribed;

⁴Provided that the notified authority may proceed to recover any unpaid amount of education cess assessed as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

- (g) every owner of a ⁵[coal-bearing land] shall be liable to pay, by way of penalty in default, without reasonable cause, of payment of the education cess assessed under clause (d) by the date specified in the notice of demand issued in this behalf, an amount not exceeding the amount of such cess so remaining unpaid, and such penalty may be imposed by the notified authority in the manner prescribed:

Provided that the notified authority shall give the owner of the ³[coal-bearing land] an opportunity of being heard before imposition of such penalty;

¹See foot-note 4 on page 756, *ante*.

²See foot-note 5 on page 756, *ante*.

³Clause (d) was substituted for the original clause by s. 2(2)(d) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

⁴The proviso was added by s. 6(1)(b)(iii) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

⁵The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(e) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992).

(Part IV.—Chapter X.—Taxes and cesses.—Section 78A.)

¹Provided further that no penalty under this clause shall be imposed in respect of an assessment of education cess for which interest is payable under clause (gc) and clause (gf);

²(ga) where an owner of a coal-bearing land furnishes a declaration referred to in clause (b) in respect of any year by the prescribed date or thereafter, but fails to make full payment of education cess payable in respect of such period by such date, as may be prescribed under clause (a), he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default in payment under clause (a) from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such cess or up to the month prior to the month of assessment under clause (d) in respect of such period, whichever is earlier, upon so much of the amount of education cess payable by him according to clause (a) as remains unpaid at the end of each such month of default;

²(gb) where an owner of a coal-bearing land fails to furnish a declaration referred to in clause (b) in respect of any year by the prescribed date or thereafter before the assessment under clause (d) in respect of such year and, on such assessment, full amount of education cess payable for such year is found not to have been paid in the manner and by the date prescribed under clause (a), he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default in payment under clause (a) from the first day of the month next following the prescribed date for such payment up to the month preceding the month of full payment of education cess under clause (a) or up to the month prior to the month of such assessment under clause (d), whichever is earlier, upon so much of the amount of education cess payable by him according to clause (a) as remains unpaid at the end of each such month of default;

Provided that where the education cess payable under clause (a) is not paid in the manner prescribed under that clause by the owner of a coal-bearing land, the notified authority shall, while making the assessment under clause (d) in respect of a year, apportion on the basis of such assessment the education cess payable in accordance with clause (a);

¹The proviso was added by s. 6(1)(b)(iv) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986).

²Clauses (ga) to (gl) were inserted by s. 6(1)(b)(v), *ibid.* Thereafter clauses (ga) and (gb) were substituted for the previous clauses by s. 2(2)(f) & s. 2(2)(g) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78A.)

- ¹(gc) where an owner of a ²[coal-bearing land] fails to make payment of any education cess payable after assessment under clause (d) by the date specified in the notice of demand issued in this behalf, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of the month next following the last date for payment specified in such notice up to the month preceding the month of full payment of such cess or of forwarding of the certificate to the prescribed authority for recovery of the education cess under the proviso to clause (f), whichever is earlier, upon so much of the amount of education cess payable by him according to such notice as remains unpaid at the commencement of each such month;
- ¹(gd) where as a result of an order passed on an appeal, revision or review under clause (e), the amount of education cess payable is reduced, the interest payable under clause (gc) shall be determined or redetermined on the basis of such reduced amount and the excess interest paid, if any, shall be refunded;
- ¹(ge) the notified authority shall, in the prescribed manner, pay a simple interest at the rate of two *per centum* for each English calendar month of delay in making refund to an owner of a ³[coal-bearing land] the amount of education cess paid in excess which arises out of an order passed, on an appeal, revision or review under clause (e), after the date of coming into force of section 6 of the West Bengal Taxation Laws (Amendment) Act, 1986, from the first day of the month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made under clause (f), upon the amount of education cess refundable to him according to such order;
- ⁴(gf) interest under clause (ga) or clause (gb) shall be payable in respect of payment of education cess which falls due on any day after the 30th day of April, 1992, and interest under clause (gc) shall be payable in respect of assessment for which notices of demand of education cess under clause (d) are issued on or after the date of commencement of the West Bengal Taxation Laws (Amendment) Act, 1992:

West Ben.
Act I of
1986.

¹See foot-note 2 on page 758, *ante*.

²The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(h) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

³The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(i), *ibid*.

⁴See foot-note 2 on page 758, *ante*. Thereafter clause (gf) was substituted by s. 2(2)(j) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

(Part IV.—Chapter X.—Taxes and cesses.—Section 78A.)

Provided that interest under clause (ga) or clause (gb) in respect of any period ended on or before the 31st day of March, 1992, or interest under clause (gc) in respect of assessment, for which notices of demand of education cess under clause (d) are issued before the date of commencement of the West Bengal Taxation Laws (Amendment) Act, 1992, shall continue to be payable in accordance with the provisions of this Act as they stood immediately before the coming into force of the aforesaid Act as if the aforesaid Act had not come into force;

West Ben.
Act II of
1992.

- ¹(gg) in calculating the interest payable under clause (ga), clause (gb) or clause (gc), the amount of education cess in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, where such amount contains a part of one hundred rupees, then, if such part is fifty rupees or more, it shall be increased to one hundred rupees, and if such part is less than fifty rupees, it shall be ignored;
- ¹(gh) where an owner of a ²[coal-bearing land] is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall pay such interest in such manner and by such date or dates as may be prescribed;
- ¹(gi) where the notified authority is satisfied that an owner of a ³[coal-bearing land] is liable to pay interest under clause (ga), clause (gb) or clause (gc), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the notified authority shall issue a notice, in the prescribed manner, to such owner directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be;
- ¹(gj) where there is an apparent mistake in the determination of interest under clause (gi), the notified authority may, on his own motion within four years, or upon application made by an owner of a ⁴[coal-bearing land] within six months, from the date of such determination, rectify the amount of interest payable by such owner and issue a fresh notice in the prescribed manner;

¹See foot-note 2 on page 758, *ante*.

²The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(k) of the West Bengal Taxation Laws (Amendment) Act, 1992 (West Ben. Act II of 1992), w.e.f. 1.4.1992.

³The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(l), *ibid*.

⁴The words within the square brackets were substituted for the words "coal mine" by s. 2(2)(m), *ibid*.

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78B.)

¹(gk) recovery of any amount of interest determined or redetermined under clause (gd), clause (gi) or clause (gj) or refund of any amount of interest found to have been paid in excess under any such clause shall be made in the manner prescribed:

Provided that the notified authority may proceed to recover any unpaid amount of interest determined or redetermined as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

¹(gl) the State Government may by rules prescribe that no interest shall be payable, or interest shall be payable at such rate, lower than that specified under clause (ga), clause (gb) or clause (gc), in respect of such period or in such cases or under such circumstances and subject to such conditions, if any, as may be provided therein;

(h) the State Government or the notified authority may appoint persons to assist the notified authority;

(i) any powers, duties or functions of the notified authority may be delegated to any person appointed under clause (h) in such manner as may be prescribed.

²78B. ³[Notwithstanding anything] contained in sub-section (4) of section 78 or in the Cess Act, 1880,—

⁴(a) on and from the 14th day of April, 1984, the education cess payable under sub-section (2A) of section 78 shall be paid by the owner of a tea estate in such manner, for such period and by such date as may be prescribed;

⁵(b) every owner of a tea estate shall get himself registered with such authority as the State Government may by notification appoint (hereinafter referred to as the prescribed authority) in the manner prescribed;

Levy,
recovery,
etc., of cess
in respect of
tea estate.

Ben. Act IX
of 1880.

¹See foot-note 2 on page 758, *ante*.

²Section 78B was added by s. 5(2) of the West Bengal Taxation Laws (Second Amendment) Act, 1984 (West Ben. Act IV of 1984).

³The words within the square brackets were substituted for the words, brackets and figure "(1) Notwithstanding anything" by s. 2(3)(a) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989), w.e.f. 14.4.1984.

⁴Clause (a) was substituted for the original clause by s. 2(3)(b), *ibid*.

⁵Clause (b) was substituted for the original clause by s. 2(3)(c), *ibid*.

(Part IV.—Chapter X.—Taxes and cesses.—Section 78B.)

- (c) every owner of a tea estate shall file a return showing the amount of education cess payable by him under clause (a) in such form, for such period and by such date as may be prescribed;
- (d) every owner of a tea estate shall be liable to pay, by way of penalty in default of payment of the education cess payable by him under clause (a) or filing without any reasonable cause the return under clause (c) for any period by the prescribed date, an amount, not exceeding the amount of such cess payable for such period as may be levied by the prescribed authority at the time of assessment of such cess under clause (e), in such manner as may be prescribed;

Provided that the prescribed authority shall give the owner of the tea estate an opportunity of being heard before imposition of such penalty:

¹Provided further that if interest is payable by the owner of a tea estate under clause (ha) or clause (hb) for failure to make full payment of education cess in respect of any period,—

- (i) no penalty under this clause for default of payment of the education cess under clause (a) shall be imposed upon him, and
- (ii) the penalty under this clause for default in filing without reasonable cause the return under clause (c) for such period by the prescribed date shall not exceed one lakh rupees for each of such return or ten *per centum* of the amount of education cess assessed (not excluding any amount paid) under clause (e) by the prescribed authority for such period, whichever is less;
- (e) the education cess² [payable under sub-section (2A) of section 78] on and from the 14th day of April, 1984 shall be assessed by the prescribed authority in the manner prescribed, and if the return under clause (c) is not accepted, the owner of the tea estate shall be given a reasonable opportunity of being heard before making such assessment;
- (f) any appeal, revision or review, as the case may be, from an order of assessment or any other order passed under this section shall lie to such authority, on such conditions and in such manner as may be prescribed;

¹The proviso added by s. 8(1)(i) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).

²The words, figures, letter and brackets within the square brackets were substituted for the words, letters, figures and brackets "under clause (aa) of sub-section (2) of section 78 on despatches of tea" by s. 2(3)(d) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989) w.e.f. 14.4.1984.

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78B.)

- (g) recovery of the education cess assessed under clause (e) or refund of any amount of such cess found to have been paid in excess after assessment shall be made in the manner prescribed:

¹Provided that the prescribed authority may proceed to recover any unpaid amount of education cess assessed as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

- (h) every owner of a tea estate shall be liable to pay by way of penalty an amount, not exceeding the amount of cess assessed under clause (e) and remaining unpaid, for default in payment of such cess without reasonable cause. The penalty shall be imposed by the prescribed authority in the manner prescribed:

²Provided further that no penalty under this clause shall be imposed in respect of an assessment of education cess for which interest is payable under clause (hc) and clause (hf):

- ³(ha) where an owner of a tea estate files a return referred to in clause (c) in respect of any period by the prescribed date or thereafter, but fails to make full payment of education cess payable in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the prescribed date upto the month preceding the month of full payment of such cess or up to the month prior to the month of assessment under clause (e) in respect of such period, whichever is earlier, upon so much of the amount of education cess payable by him according to such return as remains unpaid at the end of each such month of default:

Provided that where after an assessment is made under clause (e) in respect of any period, it is found that the amount of education cess assessed (not excluding any amount paid) for such period exceeds the amount paid by such owner under clause (a) for such period by more than ten *per centum* of such amount of education cess paid, the owner of the tea estate shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the date prescribed for filing of the return for such period up to the month prior to the month of such assessment, upon the amount of education cess assessed as due;

¹The proviso added by s. 8(1)(ii) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).

²The proviso added by s. 8(1)(iii), *ibid.*

³Clauses (ha) to (hl) were inserted by s. 8(1)(iv), *ibid.*

(Part IV.—Chapter X.—Taxes and cesses.—Section 78B.)

- ¹(hb) where an owner of a tea-estate fails to furnish a return referred to in clause (c) in respect of any period by the prescribed date or thereafter before the assessment under clause (e) in respect of such period, and on such assessment full amount of education cess payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of education cess for such period or up to the month prior to the month of assessment under clause (e) in respect of such period whichever is earlier, upon so much of the education cess payable by him according to such assessment as remains unpaid at the end of each such month of default;
- ¹(hc) where an owner of a tea estate fails to make payment of any education cess payable after assessment under clause (e) by the date specified in the notice of demand issued in this behalf, he shall pay a simple interest at the rate of two *per centum* for each English calendar month of default from the first day of such month next following the last date for payment specified in such notice up to the month preceding the month of full payment of such cess or of forwarding of the certificate to the prescribed authority for recovery of the education cess under the proviso to clause (g), whichever is earlier, upon so much of the amount of education cess payable by him according to such notice as remains unpaid at the end of each such month of default;
- ¹(hd) where as a result of an order passed on an appeal, revision or review under clause (f), the amount of education cess payable is modified, the interest payable under clause (hc) shall be determined or redetermined on the basis of such modified amount and the excess interest paid, if any, shall be refunded;
- ¹(he) the prescribed authority shall, in the prescribed manner, pay a simple interest at the rate of two *per centum* for each English calendar month of delay in making refund to an owner of a tea estate the amount of education cess paid in excess which arises out of an order passed on an appeal, revision or review under clause (f) after the date of coming into force of section 8 of the West Bengal Taxation Laws (Second Amendment)

¹See foot-note 3 on page 763, *ante*.

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(Part IV.—Chapter X.—Taxes and cesses.—Section 78B.)

Act, 1990, from the first day of such month next following the expiry of three months from the date of such order up to the month preceding the month in which the refund is made under clause (g), upon the amount of education cess refundable to him according to such order;

- ¹(hf) interest under clause (ha) or clause (hb) shall be payable in respect of returns, the prescribed dates for furnishing of which under clause (c) are the dates subsequent to, and interest under clause (hc) shall be payable in respect of assessments for which the notices of demand of education cess assessed under clause (e) are issued after, the date of coming into force of section 8 of the West Bengal Taxation Laws (Second Amendment) Act, 1990;
- ¹(hg) in calculating the interest payable under clause (ha), clause (hb), clause (hc) or clause (he), the amount of education cess in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and, if such part is less than fifty rupees, it shall be ignored;
- ¹(hh) where an owner of a tea estate is liable to pay interest under clause (ha), clause (hb) or clause (hc), he shall pay such interest in such manner and by such date or dates as may be prescribed;
- ¹(hi) where the prescribed authority is satisfied that an owner of a tea estate is liable to pay interest under clause (ha), clause (hb) or clause (hc), he shall, in such manner as may be prescribed, determine the amount of interest payable by such owner; and if, on such determination, any amount or additional amount becomes payable by such owner or any excess amount becomes refundable to such owner, the prescribed authority, shall issue a notice, in the prescribed manner, to such owner directing him to pay such amount or additional amount or informing him of the amount of excess payment, as the case may be;
- ¹(hj) where there is an apparent mistake in the determination of interest under clause (hi), the prescribed authority may, on his own motion within four years, or upon application made by an owner of a tea estate within six months, from the date of such determination, rectify the amount of interest payable by such owner and issue a fresh notice in the prescribed manner;

¹See foot-note 3 on page 763, ante.

(Part IV.—Chapter X.—Taxes and cesses.—Section 78B.)

¹(hk) recovery of any amount of interest determined or redetermined under clause (hd), clause (hi) or clause (hj) or refund of any amount or interest found to have been paid in excess under any such clause shall be made in the manner prescribed:

Provided that the prescribed authority may proceed to recover any unpaid amount of interest determined or redetermined as if it were an arrear of land revenue and may, for that purpose, forward a certificate to such authority and in such manner as may be prescribed;

¹(hl) the State Government may by rules prescribe that no interest shall be payable, or interest shall be payable at such rate, lower than that specified under clause (ha), clause (hb) or clause (hc), in respect of such period or in such cases or under such circumstances and subject to such conditions, if any, as may be provided therein;

²(hm) where an owner of a tea estate, who is liable to pay interest under clause (hc), makes—

- (i) full payment of cess assessed under clause (e) in respect of the years commencing on the fourteenth day of April, 1984 and ending on the thirty-first day of March, 1995 or part thereof, as the case may be, and
- (ii) full payment of interest payable in accordance with the direction of the Supreme Court of India contained in its judgement delivered on the twenty-fifth day of November, 1994 in the case of Goodricke Group Limited and Others *versus* State of West Bengal and Others and also in the matter of similar other cases, within the 31st day of March, 1999, the interest payable under clause (hc) for the period as aforesaid by such owner, accrued up to the thirty-first day of March, 1999 or the date of actual payment of such dues, whichever is earlier, shall, notwithstanding anything to the contrary contained in this section or elsewhere in this Act, be waived to the extent of fifty *per centum* of the total amount of such interest payable by such owner for such period:

Provided that there shall be no waiver of such interest payable for such period under clause (hc), if such owner of a tea estate fails to make payment of any part of cess referred to in sub-clause (i), and any part of interest referred to in sub-clause (ii), within the date so specified;

¹See foot-note 3 on page 763, *ante*.

²Clause (hm) was inserted by s. 5 of the West Bengal Taxation Laws (Amendment) Act, 1998 (West Ben. Act IV of 1998).

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78BB.)

- (i) if the owner of a tea estate fails without reasonable cause to get himself registered under clause (b), he shall be punishable with simple imprisonment for a term which may extend to one year or with fine of one thousand rupees, or with both, and in the case of a continuing offence, with a further fine which may extend to one hundred rupees for every day during which such offence continues after first conviction:
- Provided that no Court shall take cognizance of any offence punishable under this clause except with the previous sanction of the prescribed authority, and no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence;
- (j) the State Government or the prescribed authority may appoint persons to assist the prescribed authority;
- (k) any powers, duties or functions of the prescribed authority may be delegated to any person appointed under clause (j) in such manner as may be prescribed;
- ¹(kk) every owner of a tea estate shall keep a true and up to date accounts of green tea leaves produced in a tea estate and maintain such other documents, records or registers as may be prescribed;
- ²(l) the State Government may, if it considers necessary so to do, by notification exempt from payment of the education cess such categories of tea estates producing green tea leaves not exceeding 250000 kilograms and located in such area as may be specified in such notification.

Explanation.—For the purposes of this section and section 78C, “owner” shall, with reference to a tea estate, the possession of which has been transferred by lease, mortgage or otherwise, mean the transferee so long as his right to possession subsists.

³78BB. (1) Notwithstanding the issue of a requisition under the proviso to clause (f) of section 78A or under the proviso to clause (g) of section 78B for realisation of cess, penalty or interest as arrears of land revenue, the notified authority or the prescribed authority, as the case may be, may, at any time or from time to time by notice in the prescribed form, require any person from whom money is due or may become due to the

Special mode of recovery.

¹Clause (kk) was inserted by s. 2(3)(e) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989), w.e.f. 8.8.1989.

²Clause (l) was substituted for the original clause by s. 2(3)(f). *ibid.*

³Section 78BB was inserted by s. 6(1) of the West Bengal Taxation Laws (Amendment) Act, 1993 (West Ben. Act IV of 1993) w.e.f. 1.7.1993.

(Part IV.—Chapter X.—Taxes and cesses.—Section 78BB.)

owner referred to in section 78A or section 78B, as the case may be, or any person who holds or may subsequently hold money for or on account of such owner, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by such owner in respect of the arrears or the whole of the money when it is equal to or less than the amount due.

(2) A notice under this section may be issued to any person who holds or may subsequently hold any money for or on account of the owner jointly with any other person and, for the purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the owner at his last address known to the notified authority or the prescribed authority, as the case may be, and, in the case of a joint account, to all the joint-holders at their last addresses known to the said authority.

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim with respect to any property in relation to which a notice under this section has been issued, arising after the date of the notice, shall be void as against any demand contained in the notice.

(6) Where a person to whom a notice under this section is sent proves to the satisfaction of the notified authority or the prescribed authority, as the case may be, that the sum demanded or part thereof is not due to the owner or that he does not hold any money for or on account of the owner or that the money demanded or any part thereof is not likely to be due to the owner or be held for or on account of the owner, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The notified authority or the prescribed authority, as the case may be, may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

XLIII of 1973.]

(Part IV.—Chapter X.—Taxes and cesses.—Section 78C.)

(8) The Treasury or the Bank shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying shall be fully discharged from his liability to the owner to the extent of the amount so paid.

(9) Any person discharging any liability to the owner after receipt of a notice under this section shall be personally liable to the notified authority or the prescribed authority, as the case may be, to the extent of his own liability to the owner so discharged or to the extent of the owner's liability for any sum due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be an owner in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him and the notice shall have the same effect as attachment of a debt.

(11) The notified authority or the prescribed authority, as the case may be, may apply to the Court in whose custody there is money belonging to the owner for payment to him of the entire amount of such money or, if it is more than the tax due, an amount sufficient to discharge the tax:

5 of 1908. Provided that any dues or property exempt from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition made under this section.

'78C. (1) Where any sum has been paid by, or collected from, any owner of a tea estate during the period commencing on the 14th day of April, 1984 and ending on the day immediately preceding the date of coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989 as education cess in respect of any period prior to the coming into force of the said Act, such portion of the said sum as may become payable in accordance with the provisions of this Act after the coming into force of the said Act shall be deemed to have been validly levied, paid or collected under this Act, and where after assessment any portion of such sum is found to have been levied, paid or collected in excess of the amount payable as education cess for the said period shall be refunded to such owner in accordance with the provisions of this Act and the rules made thereunder.

Validation
and
exemption.

(2) Where any assessment is purported to have been made, or any order is purported to have been passed on appeal, revision or review, by

¹Section 78C was inserted by s. 2(4) of the West Bengal Taxation Laws (Second Amendment) Act, 1989 (West Ben. Act XX of 1989), w.e.f. 8.8.1989.

(Part IV.—Chapter X.—Taxes and cesses.—Section 78C.)

any authority, or any appeal or application for revision or review has been made before such authority under this Act, or any order has been passed by a court, or where any sum has been paid or collected as education cess, before the coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989, in respect of any period prior to the coming into force of the said Act, assessment or fresh assessment shall, notwithstanding such order on appeal, revision or review or the pendency of such appeal or application for revision or review or any order passed by any court, be made in accordance with the provisions of this Act within four years from the date of coming into force of the said Act.

West Ben.
Act XX of
1989.

(3) Notwithstanding anything contained in this Act, any default by an owner of a tea estate to make payment of the education cess or to apply for registration or to file return in accordance with the provisions of this Act after the coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989 in respect of any period prior to the coming into force of the said Act shall not be deemed to be a contravention of such provisions if such owner makes payment of such education cess within three months or applies for registration within one month or files return within six months, as the case may be, from the date of coming into force of the said Act.

(4) The amount of the education cess payable by any owner of a tea estate under sub-section (2A) of section 78 of this Act in respect of any period prior to the coming into force of the West Bengal Taxation Laws (Second Amendment) Act, 1989, shall, notwithstanding anything contained in this Act, be reduced by such amount of education cess payable in respect of such tea estate on such quantity of green tea leaves produced therein during the said period as may be equivalent to the quantity of any tea despatched for which such owner has purported to have enjoyed or would have enjoyed exemption from payment of the education cess during such period, and it is hereby declared that for determining the amount of the education cess to be reduced, each kilogram of tea despatched during such period shall be equivalent to four and a half kilograms of green tea leaves produced in such tea estate.

(5) The provisions of this section shall have effect, notwithstanding any judgement, decree or order of any court, tribunal or other authority to the contrary.

XLIII of 1973.]

(Part IV.—Chapter XA.—Offences and Prosecutions.—Section 78D.)

CHAPTER XA

Offences and Prosecutions

78D. (1) Whoever—

Offences and
Prosecutions.

- (a) fails to pay the full amount of education cess payable under sub-section (1) of section 78 in respect of a coal bearing land referred to in clause (b) of sub-section (2) of that section for any period in accordance with clause (a) of section 78A, or
- (b) submits a false declaration, or fails without reasonable cause to furnish a declaration, under clause (b) of section 78A, or
- (c) fails to make payment of interest payable under clause (ga), clause (gb) or clause (gc) of section 78A, or
- (d) fails to pay the full amount of education cess payable under sub-section (1) of section 78 in respect of a tea estate referred to in sub-section (2A) of that section for any period in accordance with clause (a) of section 78B, or
- (e) submits a false return, or fails without reasonable cause to furnish a return, under clause (c) of section 78B, or
- (f) fails to make payment of interest payable under clause (ha), clause (hb) or clause (hc) of section 78B,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both and, when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of continuance of the offence:

Provided that no prosecution for an offence enumerated in this sub-section shall be instituted in respect of the same facts in respect of which a penalty has been imposed under clause (c) of section 78A or under clause (d) of section 78B, as the case may be.

(2) No Court shall take cognizance of any offence—

- (a) under clause (a), clause (b) or clause (c) of sub-section (1), except with the previous sanction of the notified authority referred to in clause (b) of section 78A, or
- (b) under clause (d), clause (e) or clause (f) of sub-section (1), except with the previous sanction of the prescribed authority referred to in clause (b) of section 78B,

and no Court inferior to the Court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

(3) The offences punishable under sub-section (1) shall be cognizable and bailable.

¹Chapter XA containing sections 78D and 78E was inserted by s. 6(2) of the West Bengal Taxation Laws (Amendment) Act, 1993 (West Ben. Act IV of 1993), w.e.f. 1.2.1993.

*(Part IV.—Chapter XA.—Offences and Prosecutions.—Section 78E.—
Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Section 79.)*

Liability to
prosecution.

78E. (1) Where an offence under clause (a), clause (b) or clause (c) of sub-section (1) of section 78D has been committed by an owner of a coal-bearing land or an offence under clause (d), clause (e) or clause (f) of sub-section (1) of that section has been committed by an owner of a tea estate, as the case may be, every person who, at the time the offence was committed, was in-charge of such coal-bearing land or tea estate, as the case may be, and was responsible to such owner, for the conduct of the business of such coal-bearing land or tea estate, as the case may be, as well as the owner, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 78D, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 78D has been committed by an owner of a coal-bearing land or tea estate, as the case may be, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the coal-bearing land or tea estate, as the case may be, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

PART V

CHAPTER XI

Free and Compulsory Primary Education

Preparation
of scheme.

79. Every Primary School Council shall prepare, in accordance with such directions as may be given by the Director in this behalf, a scheme for the entire area within the jurisdiction of the Primary School Council or any part thereof to provide compulsory primary education for children ordinarily resident within such area and shall submit the scheme to the Board which shall send it with its observations to the Director within such time as may be specified by him.

¹See foot-note 1 on page 771, *ante*.

XLIII of 1973.]

(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 80-82.)

80. The scheme referred to in section 79 shall be in such form as may be prescribed and shall contain the following particulars, namely:—

Particulars of scheme.

- (a) the area in which primary education shall be compulsory with population ascertained at the last preceding census;
- (b) the approximate number of children in such area classified according to age, sex and mother tongue;
- (c) a list showing therein the number of existing primary schools classified according to the language in which instruction is given in such schools, the location of such schools, the number of teachers and students in each such school and the accommodation available for enrolment therein;
- (d) a list showing therein the number of new primary schools proposed to be opened classified according to the language in which instruction is proposed to be given in such schools, the location of the proposed schools, the number of teachers and other staff that would be required and the accommodation that would be available in such schools;
- (e) the recurring and non-recurring expenditure of the scheme;
- (f) a sketch map of the area to be covered by the scheme indicating therein the area of each thana or ward, location of existing primary schools and of the proposed new primary schools;
- (g) such other particulars as may be prescribed.

81. (1) The State Government may, after such enquiry as it may consider necessary, sanction with or without modification the scheme submitted under section 79 and the scheme so sanctioned shall be published by notification and shall come into force from such date as may be specified by the State Government in the notification.

Sanction of State Government to the scheme.

(2) Every scheme of free and compulsory education sanctioned under the West Bengal Urban Primary Education Act, 1963, and in force in any area immediately before the coming into force of this Act in such area shall, unless otherwise directed by the State Government, be deemed to be a scheme sanctioned under this Act.

West Ben.
Act XXVIII
of 1963.

82. (1) A scheme sanctioned under section 81 may, from time to time, be modified by the State Government or, with the approval of the State Government, by the Primary School Council having jurisdiction over the area covered by the scheme and when a scheme is so modified, the modified scheme with reasons for making the modification shall be published by notification.

Modification, etc., of sanctioned scheme.

(2) The State Government may by order in writing stating the reasons for so doing temporarily suspend a sanctioned scheme.

(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 83-85.)

2. (3) When a sanctioned scheme is temporarily suspended by an order under sub-section (2), the State Government shall give the Primary School Council concerned an opportunity of stating its views on the order and after considering the views of the Primary School Council the State Government may revoke the order temporarily suspending the scheme, or withdraw the scheme and direct the Primary School Council to prepare a fresh scheme.

Primary education to be free.

83. (1) When a scheme sanctioned by the State Government comes into force in any area no fee shall be charged in respect of any child attending a primary school in such area managed or aided by the Primary School Council.

(2) Primary education shall continue to be compulsory and no fee shall be charged by any primary school under public management in the area in which primary education was declared compulsory under the Bengal (Rural) Primary Education Act, 1930.

Ben. Act VII of 1930.

List of children.

84. (1) It shall be the duty of a Primary School Council to cause to be prepared, within a period of three months from the date of coming into force of a scheme and in such manner as may be prescribed, a list of children in the area covered by the scheme and the Primary School Council shall cause the list to be revised at such interval as may be prescribed.

(2) The State Government may, by order, extend the period for the preparation of the list referred to in sub-section (1).

(3) It shall be the duty of the teachers and other staff of all primary schools managed or aided by the Primary School Council to assist in the preparation or revision of the list referred to in sub-section (1) in the manner indicated by the Primary School Council. The Primary School Council may, with the approval of the State Government, also appoint other persons including Inspecting Officers and other employees of the State Government including teachers for the preparation or revision of such list.

Welfare Committee.

85. (1) There shall be a Welfare Committee ¹[for each primary school in an area in respect of which a scheme, referred to in section 79, has been prepared, and such scheme has been sanctioned by the State Government under sub-section (1) of section 81.] The Welfare Committee shall be constituted by the Primary School Council and shall consist of the following members, namely:—

- (a) the head teacher of the primary school;
- (b) one assistant teacher of the primary school elected by the teachers other than the head teacher thereof from amongst themselves;

¹The words, figures and brackets within the square brackets were substituted for the words "for each primary school." by s. 16 of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

XLIII of 1973.]

(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Section 85.)

- (c) four guardians elected in the prescribed manner by guardians of the students reading in the primary school from amongst themselves;
- (d) one person interested in education nominated by the Primary School Council concerned; and
- (e) where the primary school is situated within the jurisdiction of—
 - (i) a *Gram Panchayat*, one person elected in the prescribed manner by the members of such *Gram Panchayat* from amongst themselves,
 - ¹(ii) a municipal authority, one person elected in the prescribed manner by the municipal authority from amongst the persons residing within a distance of sixteen hundred metres from the premises of the school.

²*Explanation.*—In this clause, the expression “municipal authority” shall have the same meaning as in section 76.

(2) There shall be a Chairman and a Secretary of the Welfare Committee elected from amongst the members referred to in clauses (c), (d) and (e) of sub-section (1).

(3) The head teacher of the school concerned shall be the Assistant Secretary of the Welfare Committee.

(4) If a Welfare Committee is not formed within six months from the date on which the Act comes into force in any area in which the primary school is situated, the Primary School Council shall appoint an ad hoc Welfare Committee with four nominated guardians and the head teacher as members. Such ad hoc Committee shall function until a Welfare Committee is formed in the manner laid down in sub-section (1).

(5) The Welfare Committee shall hold office for a term of four years.

(6) It shall be the duty of the Welfare Committee to advise on matters relating to the administration, development and improvement of the school, promotion of cordial relationship among guardians, teachers and students, the health of the students, books and the meals, if any, to be supplied in such school.

(7) The Welfare Committee shall perform such other functions and discharge such other duties as are mentioned in this Act or as may be prescribed.

(8) The Welfare Committee shall perform its functions and discharge its duties under the supervision and control of the Primary School Council.

¹Sub-clause (ii) was substituted for the original sub-clause by s. 11(1) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

²*Explanation* was substituted for the original sub-clause by s. 11(2), *ibid.*

(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 86, 87.)

(9) The Primary School Council shall have the power to dissolve any Welfare Committee if it so thinks fit and appoint an ad hoc Welfare Committee in its place in the same manner as laid down in sub-section (4) which shall function until a new Committee is constituted under sub-section (1).

Guardians to
furnish
information.

86. Any person engaged in the preparation or revision of the list referred to in section 84 or any member of the Welfare Committee may put such question to any guardian or require any guardian to furnish such information about his child as such person or such member may consider necessary and such guardian shall be bound to answer such question or to furnish such information, as the case may be, to the best of his knowledge and belief.

Duty of
guardian to
send his child
to a primary
school.

87. (1) In any area where a scheme sanctioned by the State Government comes into force it shall be the duty of the guardian of every child residing within such area to cause the child to attend a primary school, unless, in the opinion of the Welfare Committee, there is a reasonable excuse for non-attendance of the child.

(2) Any of the following circumstances shall be deemed to be a reasonable excuse within the meaning of this section, namely:—

- (a) that there is no primary school within a distance of sixteen hundred metres from the residence of the child measured by the shortest route, which the child can attend;
- (b) that the child is prevented from attending the school by reason of sickness or infirmity or mental defect;
- (c) that the child is receiving education in some other manner declared to be satisfactory by the State Government or by an officer authorised by it in this behalf;
- (d) that the child has already completed primary education up to the class or standard available in any primary school situated within a distance of sixteen hundred metres from his residence;
- (dd) that the child belonging to a minority community, whether based on religion or language, is receiving education in an educational institution established and administered by the minority community and the standard of education in the educational institution is considered to be satisfactory by the State Government;

¹Clause (dd) was inserted by s. 3 of the West Bengal Primary Education (Amendment) Act, 1975 (West Ben. Act XXV of 1975).

XLIII of 1973.]

(Part V.—Chapter XI.—Free and Compulsory Primary Education.—
Sections 88-90.—Part VI.—Chapter XII.—Appeal Committee.—
Section 91.)

88. (1) Whenever the Welfare Committee has reason to believe that the guardian of a child has failed to cause the child to attend a primary school without any reasonable excuse within the meaning of sub-section (2) of section 87, it shall, after causing such enquiry as it considers necessary, make an order directing the guardian to cause such child to attend a primary school on and from the date specified in the order.

Attendance order.

(2) A guardian aggrieved by an order under sub-section (1) may, within thirty days from the date of the order, appeal in the prescribed manner to the District Inspector of Schools¹ [(Primary Education)] who may confirm or rescind the order.

89. Any guardian who fails to comply with an order passed under sub-section (1) of section 88, unless such order is rescinded in an appeal made under sub-section (2) of that section, shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees, and if so ordered also a recurring fine not exceeding one rupee for each day after the first during which he continues so to offend.

Penalty for failure to obey order for causing attendance of a child in a primary school.

90. No Magistrate shall take cognisance of any offence under this Chapter except on the complaint of an officer of the State Government not below the rank of an Assistant Inspector of Schools authorised by the State Government in this behalf.

Cognisance of offence.

PART VI

CHAPTER XII

²[Appeal Committee]

³91. (1) The Board shall constitute an Appeal Committee.

Appeal Committee.

- (2) The Appeal Committee shall consist of the following members:—
- (a) one person who is or has been a member of the West Bengal Higher Judicial Service, to be nominated by the State Government;
 - (b) two teachers to be nominated by the Board from amongst the teachers elected to the Board under clause (d) of section 4;

¹The words and brackets within the square brackets were inserted by s. 19 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The heading within the square brackets was substituted for the heading "Tribunal" by s. 17(a) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

³Section 91 was substituted for the original section by s. 17(b), *ibid.* Prior to this substitution, the words "or an employee of a Primary School Council" were inserted, in clause (i) of sub-section (2) of original section 91, by s. 4 of the West Bengal Primary Education (Amendment) Act, 1975 (West Ben. Act XXV of 1975)

(Part VI.—Chapter XII.—Appeal Committee.—Section 92.)

- (c) the Director of School Education, Government of West Bengal; and
 - (d) a member of a Primary School Council, who is also an employee of that Primary School Council, to be nominated by the Board.
- (3) The person nominated under clause (a) of sub-section (2) shall be the Chairman of the Appeal Committee.
- (4) The Secretary of the Board referred to in sub-section (1) of section 17 shall be the Secretary of the Appeal Committee.
- (5) It shall be the duty of the Appeal Committee to hear and decide every appeal by—
- (a) a teacher, or a member of the non-teaching staff, of a primary school under the control of a Primary School Council, or a member of the staff, other than the Secretary and the Finance Officer, of a Primary School Council, against any decision of such Primary School Council adversely affecting such teacher or member of the non-teaching staff of such primary school or such member of the staff of such Primary School Council, and
 - (b) a member of the staff, other than the Secretary and the Finance Officer, of the Board, against any decision of the Board adversely affecting such member of the staff of the Board,

in accordance with such regulations as may be made by the Board in this behalf.

(6) The decision of the Appeal Committee under sub-section (5) shall be final and no suit or proceeding shall lie in any court in respect of any matter which has been, or may be, referred to, or has been decided by, the Appeal Committee.

(7) The honorarium or remuneration, if any, of the Chairman of the Appeal Committee shall be such as may be determined by the State Government.

92. [(*Procedure to be followed by a Tribunal.*)—Omitted by s. 18 of the *West Bengal Primary Education (Amendment) Act, 1999* (West Ben. Act X of 1999).]

XLIII of 1973.]

(Part VI.—Chapter XIII.—Transitional provisions.—Sections 93-96.)

CHAPTER XIII

Transitional provisions

93. (1) Upon the repeal of the enactments referred to in sub-section (1) of section 105 and until a Primary School Council is established for any area, the State Government shall, by notification, appoint, for such period not exceeding one year ²[at a time as may be specified in notification, an ad-hoc committee consisting of such number of members as the State Government may think fit to appoint which] shall exercise, perform and discharge in relation to such area, all the powers, functions and duties of a Primary School Council under this Act:

¹[Ad-hoc committee] to discharge the functions of Primary School Council until it is established.

Provided that the ³[ad-hoc committee], appointed in relation to any area shall vacate his office on the establishment of the Primary School Council for such area.

(2) All things done and all actions taken by the ⁴[ad-hoc committee], under sub-section (1) shall be deemed to have been done or taken by the Primary School Council as if the Primary School Council were established.

94. Every matter or thing required to be provided by ⁵[rules and] regulations under this Act may, until such ⁵[rules and] regulations are made, be provided by orders made by the State Government in this behalf.

Matter to be provided by regulation may be provided by orders of State Government.

95. If any difficulty arises in giving effect to the provisions of this Act, the State Government may take such steps or issue such orders, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the purpose of removing such difficulty.

Provisions for removing difficulty.

96. If any member of the Board, any Primary School Council or any Committee constituted under this Act, elected, nominated or appointed thereto from a particular category ceases to be a member of such category, he shall, with effect from the date he ceases to be a member of such category, automatically cease to be a member of the Board, such Primary School Council or such Committee, as the case may be.

Filling of vacancy when a member ceases to be a member of the category electing him.

¹The words within the square brackets were substituted for the words "Administrator" by s. 20(1) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

²The words within the square brackets were substituted for the words "as may be specified in the notification, one of its officers to be called the Administrator who" by s. 20(2), *ibid.*

³The words within the square brackets were substituted for the word "Administrator" by s. 20(3), *ibid.*

⁴The words within the square brackets were substituted for the word "Administrator" by s. 20(4), *ibid.*

⁵The words within the square brackets were inserted by s. 21, *ibid.*

(Part VI.—Chapter XIII.—Transitional provisions.—Sections 97, 98.—
Chapter XIV.—Miscellaneous.—Sections 99, 100.)

Appoint-
ment when
electing
body is
superseded.

97. If any elected body from which a member is to be elected, appointed or nominated to the Board, any Primary School Council or any Committee constituted under this Act, stands superseded and it is not possible to elect, nominate or appoint the member from such elected body, the Administrator or the executive officer of such elected body shall be the *ex officio* member of the Board, Primary School Council or the Committee, as the case may be. He shall cease to be such member as soon as the elected body is reconstituted and the election is held or the appointment or nomination, as the case may be, is made.

98. [(Power to take over management of and accept properties of primary school and to bring it under the management of Primary School Council.)—Omitted by s. 12 of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).]

CHAPTER XIV

Miscellaneous

Power of
State
Government
to suspend
proceedings.

99. (1) The State Government may, by an order in writing specifying the reasons therefor, temporarily suspend the execution of any resolution or order of the Board or a Primary School Council or of any Committee of the Board or the Primary School Council or temporarily prohibit the doing of any act by it which is purported or intended to be done under this Act, if the State Government is of opinion that such resolution, order or act is in excess of the powers conferred by or under this Act upon the Board, the Primary School Council or the Committee, as the case may be.

(2) When any order is made under sub-section (1), the State Government shall give the Board, the Primary School Council or the Committee of the Board or the Primary School Council an opportunity to express its views on such order and after considering the views of the Board, the Primary School Council or the Committee, as the case may be, revoke or confirm such order.

Enquiry into
the affairs of
the Board
and the
Primary
School
Council.

100. (1) The State Government may, from time to time, cause enquiry to be made by any person in regard to the Board or a Primary School Council on matters connected with primary education or any matter with respect to which the sanction, approval, consent or order of the State Government is required by or under this Act.

5 of 1908.

(2) The person holding such enquiry shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purpose of enquiry.

XLIII of 1973.]

(Part VI.—Chapter XIV.—Miscellaneous.—Sections 100A-100C.)

(3) The State Government may make orders as to the cost of enquiry made under sub-section (1) and as to the party by whom and the funds out of which such costs shall be paid and such orders may on the application of the State Government or the person named therein be executed as if it were a decree of a Civil Court.

¹100A. (1) Notwithstanding anything contained in section 4, or sub-section (2), or sub-section (2A), of section 37, or sub-section (2) of section 38, where a person is elected as a member of the Board or a Primary School Council, as the case may be, from more than one constituency, he shall retain his membership from one constituency and shall, within thirty days from the date of publication of his name in the *Official Gazette* under section 6 or section 41, as the case may be, resign his membership from the other constituency or constituencies, as the case may be.

Bar to simultaneous membership.

(2) If the person referred to in sub-section (1) does not resign his membership from the other constituency or constituencies, as the case may be, his membership from all the constituencies shall stand cancelled on the expiry of thirty days from the date of publication of his name in the *Official Gazette* under section 6 or section 41, as the case may be.

(3) The vacancy or vacancies caused under sub-section (2) shall be deemed to be casual vacancy or casual vacancies, as the case may be, and shall be filled up in accordance with the provisions of section 8 or section 43, as the case may be.

¹100B. Any dispute relating to—

- (a) the eligibility of any person for election as a member of the Board or a Primary School Council, or any Committee thereof, or
- (b) the manner in which an election of any person as a member of the Board or a Primary School Council, or any Committee thereof, was held, or
- (c) the qualification of any person for continuing as a member of the Board or a Primary School Council, or any Committee thereof,

Certain disputes to be decided by the Director.

shall be decided by the Director.

¹100C. The quorum necessary for transaction of business at a meeting of the Board or a Primary School Council, or any Committee thereof, shall be one-fifth of the total number of members of the Board or the Primary School Council, or the Committee thereof, as the case may be.

Quorum for transaction of business.

¹Sections 100A to 100C were inserted by s. 19 of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

(Part VI.—Chapter XIV.—Miscellaneous.—Sections 101-105.)

Certain persons to be deemed to be public servants.

101. The members of the Board, the Primary School Councils, or the Committees of the Board or the Primary School Councils, persons in the service of the Board, the Primary School Councils or such Committees and any person appointed under this Act to audit the accounts of the Board or of a Primary School Council or to perform any other duties under this Act or the rules and regulations made thereunder shall be deemed, when acting or purporting to act in the discharge of their duties or the exercise of their powers under this Act or under the rules and regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1360.

Indemnity.

102. No suit, prosecution or other legal proceeding whatsoever shall lie against any person for anything in good faith done or intended to be done under this Act.

Savings.

103. No act or proceeding taken under this Act by the Board or a Primary School Council or a Committee of the Board or the Primary School Council shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

Delegation.

104. (1) The State Government may by notification delegate, subject to such conditions as it may specify, all or any of its powers under this Act to any officer or authority subordinate to it.

(2) Nothing in sub-section (1) shall derogate from the right of the State Government to exercise any of the powers delegated by it under that sub-section.

Repeal and continuance.

105. (1) The Bengal (Rural) Primary Education Act, 1930, the West Bengal Urban Primary Education Act, 1963, and the West Bengal (Rural) Primary Education (Temporary Provisions) Act, 1969, are hereby repealed.

Ben. Act VII of 1930.
West Ben. Act XXVIII of 1963.
West Ben. Act XII of 1969.

(2) Upon such repeal,—

- (a) all properties and assets vested in the District School Board established for a district shall vest in, and all rights, liabilities and obligations acquired or incurred by such District School Board before such repeal shall stand transferred to, the Primary School Council established for the district:

Provided that until such Primary School Council is established such properties and assets shall be deemed to be vested in, and such rights, liabilities and obligations shall be deemed to be transferred to, the ¹[ad-hoc committee] appointed under section 93 in relation to the district,

¹The words within the square brackets were substituted for the word "Administrator" by s. 23 of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980).

XLIII of 1973.]

(Part VI.—Chapter XIV.—Miscellaneous.—Section 105.)

- (b) all legal proceedings instituted or remedies enforceable by or against the District School Board established for a district before such repeal may be continued or enforced, as the case may be, by or against the Primary School Council established for the district and until such Primary School Council is established, by or against the ¹[ad-hoc committee] appointed under section 93 in relation to the district,
- (c) ²[all officers, teachers and other staff of primary schools] employed by the District School Board established for a district and continuing in office ³[or primary schools] immediately before such repeal shall be deemed to be employed by the Primary School Council established for the district on such terms and conditions as may be determined by the State Government:

Provided that until such Primary School Council is established such officers and other persons shall be deemed to be employed by the ¹[ad-hoc committee] appointed under section 93 in relation to the district.

Ben. Act VII
of 1930.
West Ben.
Act XXVIII
of 1963.

(3) All primary schools recognised under the Bengal (Rural) Primary Education Act, 1930, or the West Bengal Urban Primary Education Act, 1963 ⁴[and all primary schools under private ownership which receive salary for the approved teachers from the State fund and which were recognised by the competent authorities in terms of the orders issued by the Education Department or the Director of Public Instruction from time to time otherwise than the provisions of the said repealed Acts], ⁵[shall continue to be recognised] under this Act until the expiration of the period of recognition subject, however, to the power of the Primary School Council having jurisdiction to withdraw recognition in accordance with the provisions of this Act.

(4) Notwithstanding the repeal of the Bengal (Rural) Primary Education Act, 1930, all rules, orders and notifications made or issued from time to time under the said Act, applicable to a District School Board and

¹See foot note 1 on page 782, *ante*.

²The words within the square brackets were substituted for the words "all officers and other persons" by s. 13(a)(i) of the West Bengal Primary Education (Amendment) Act, 1997 (West Ben. Act XIII of 1997).

³The words within the square brackets were added by s. 13(a)(ii), *ibid*.

⁴The words within the square brackets were inserted by s. 13(b), *ibid*.

⁵The words within the square brackets were substituted for the words "shall be deemed to have been recognised" by s. 4 of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996), w.e.f. 1.2.1996.

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continuing in force immediately before such repeal shall continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended.

Power of State Government to make rules.

106. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

¹(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:—

- (a) the manner of election of the members of the Board referred to in clauses (c), (d), (e), (f), (g), (h) and (i) of section 4;
- ²(aa) the conditions subject to which punishment may be awarded—
 - (i) by the Board on the members of its staff, other than the Secretary and the Finance Officer, under sub-section (8) of section 17,
 - (ii) by a Primary School Council on the members of its staff, other than the Secretary and the Finance Officer, under sub-section (3) of section 56,
 - (iii) by a Primary School Council on a teacher, or a member of the non-teaching staff, of a primary school under the control of that Primary School Council;
- (b) the allowances, and the rates of allowances, referred to in section 18;
- ³(bb) the manner of election of the members of the Curriculum Committee referred to in clauses (d), (e), (f) and (h) of sub-section (1) of section 23;

¹Sub-section (2) was substituted for the original section by s. 5 of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996), w.e.f. 1.2.1996. Prior to this substitution, there occurred following changes, namely:—

- (i) in clause (a), the words, brackets and letters "clauses (c), (d), (e), (f), (g), (h) and (i) were substituted for the words, brackets and letters "clauses (b), (c), (d), (e), (f) and (g) by s. 24(a) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980),
- (ii) clause (b) was omitted by s. 28(a) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994),
- (iii) in clause (i), the words, brackets, letters and figures "clauses (c), (d), (g), (gg) and (ggg) of sub-section (2) of section 38" were substituted for the words, brackets, letters and figures "clauses (c), (d), (e) and (f) of sub-section (2) of section 39" by s. 24(b) of the West Bengal Primary Education (Amendment) Act, 1980 (West Ben. Act XLVII of 1980),
- (iv) clause (i) was omitted by s. 28(b) of the West Bengal Primary Education (Amendment) Act, 1994 (West Ben. Act XIX of 1994),
- (v) clause (9a) was inserted by s. 6(2) of the West Bengal Taxation Laws (Amendment) Act, 1986 (West Ben. Act I of 1986), and
- (vi) clause (9b) was inserted by s. 8(2) of the West Bengal Taxation Laws (Second Amendment) Act, 1990 (West Ben. Act VIII of 1990).

²Clause (aa) was inserted by s. 20(1) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

³Clauses (bb), (bbb) and (bbbb) were inserted by s. 20(2). *ibid.*

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- ¹(bbb) the manner of election of the members of the Evaluation Committee referred to in clauses (e), (g), (h) and (j) of sub-section (1) of section 24;
- ¹(bbbb) the manner of election of the members of the Development Committee referred to in clauses (e), (g) and (h) of sub-section (1) of section 25;
- (c) the form of the budget estimate of the Board referred to in sub-section (1) of section 30;
- (d) the manner of keeping an account of the Board referred to in section 34, and the manner of examination and audit of accounts of the Board referred to in sub-section (1) of section 35;
- ²(e) the manner of election of the members of—
- (i) a District Primary School Council referred to in clauses (d), (e), (f), (g), (h), (i) and (ii) of sub-section (2) of section 37,
- (ii) the Siliguri Primary School referred to in clauses (d), (e), (f), (g), (h), (i) and (j) of sub-section (2A) of section 37, and
- (iii) the Calcutta Primary School Council referred to in clauses (c), (d), (g), (gg) and (ggg) of sub-section (2) of section 38;
- (f) the form of the budget estimate of the Primary School Council referred to in sub-section (1) of section 69;
- (g) the manner of reappropriation to be sanctioned under section 71, the manner of keeping an account of a Primary School Council referred to in section 73 and the manner of examination and audit of accounts of a Primary School Council referred to in section 74;
- (h) the manner in which the tax referred to in section 77 shall be levied and collected;
- (i) the form of the scheme referred to in, and the particulars referred to in clause (g) of section 80;
- * * * * *
- (k) any other matter which may be, or is required to be, prescribed.

(3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the *Official Gazette*, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

¹See foot-note 3 on page 784, *ante*.

²Clause (e) was substituted for the original clause by s. 20(3) of the West Bengal Primary Education (Amendment) Act, 1999 (West Ben. Act X of 1999).

³Clause (j) was omitted by s. 20(4), *ibid*.

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Power of
State
Government
to issue
notification
or order in
place of
making rules.

¹107. Notwithstanding anything contained in section 106 or elsewhere in this Act, the State Government may—

- (a) issue any notification or order for carrying out any of the purposes of this Act for which that Government does not consider it necessary to make rules, or
- (b) issue any notification or order, not inconsistent with the provisions of this Act, in place of making rules under this Act if that Government considers it necessary so to do.

¹Section 107 was inserted by s. 6 of the West Bengal Primary Education (Amendment) Act, 1996 (West Ben. Act IV of 1996).