THE UTTAR PRADESH JUNIOR HIGH SCHOOLS (PAYMENT OF SALARIES OF TEACHERS AND OTHER EMPLOYEES) ACT, 1978[1]

[U. P. ACT NO. 6 of 1979]

Amended by

U. P. Act No. 34 of 2000

U. P. Act No. 03 of 2018

[Passed in Hindi by the Uttar Pradesh Legislative Assembly on August 30, 1978 and by the Uttar Pradesh Legislative Council on November 8, 1978.

Received the assent of the President on January 12, 1979 under Article 201 of the Constitution of India and was published in the *Uttar Pradesh Gazette Extraordinary*, dated January 22, 1979.]

AN

ACT

to regulate the payment of salaries to teachers and other employees of Junior High Schools receiving aid out of the State funds and to provide for matters connected therewith.

It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows :—

Short title, extend and commencement

1.(1) This Act may be called the Uttar Pradesh Junior High Schools (Payment of Salaries of Teachers and other Employees) Act, 1978.

(2) It extends to the whole of the Uttar Pradesh.

(3) It shall come into force on such date as the State Government may by notification[2] appoint in this behalf.

Definitions

2.In this Act, —

(a) "appointed day" means the date notified under sub-section (3) of section 1 ;

(b) "Education Officer" means the District Basic Education Officer appointed under the Uttar Pradesh Basic Education Act, 1972 and in relation to a girls' institution, the District Basic Education Officer (Women), and in each case includes any other officer authorized by the State Government to perform all or any of the functions of the Education Officer under this Act ;

(c) "employee of an institution" means a non-teaching employee in respect of whose employment maintenance grant is paid by the State Government to the institution ;

1.For Statement of Objects and Reasons see *Uttar Pradesh Gazette Extraordinary*, dated 16 May, 1978. 2.The Act has been enforced w.e.f. May 1, 1979 *Vide* notification No. 1645/XV-6-79-28 (107)-77, dated May 1, 1979.
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(d) "Inspector" means the District Inspector of Schools and in relation to a girls' institution the District Inspectress of Girls' Schools, and in each case includes any other officer authorized by the State Government to perform all or any of the functions of the Inspector under this Act ;

(e) "institution" means a recognized Junior High School for the time being receiving maintenance grant from the State Government ;

[1][(ee) "Junior High School" means an institution which is different from High School or Intermediate College in which education is imparted to boys or girls or to both from class sixth to class eight.]

(f) "maintenance grant" means such grant-in-aid of an institution as the State Government, by general or special order in that behalf, directs to be treated as maintenance grant appropriate to the level of the institution ;

(g) "management in relation to any institution", means the Managing Committee or other body charged with managing the affairs of that institution and includes the Manager or other person vested with the authority to manage and conduct the affairs of the institution;

(h) "teacher of an institution" means a headmaster or other teacher in respect of whose employment maintenance grant is paid by the State Government to the institution ;

(i) "salary of a teacher or employee" means the aggregate of the emoluments, including dearness or any other allowance, for the time being payable to him at the rate approved for the purpose of payment of maintenance grant ;

(j) other words and expressions defined in the Uttar Pradesh Basic Education Act, 1972 and not herein defined shall have the meaning assigned to them in that Act.

Payment of salary within time and without un-authorized deductions

3.(1) Notwithstanding any contract to the contrary, the salary of a teacher or other employee of an institution in respect of any period after the appointed day, shall be paid to him before the expiry of the twentieth day, or such earlier day as the State Government may, by general or special order in that behalf appoint, of the month next following the month in respect of which or any part of which, it is payable.

(2) The salary shall, subject to the provisions of sub-section (3), be paid without deductions of any kind except those authorized by the rules made under this Act or by any other law for the time being in force.

(3) Where the salary of a teacher or other employee of an institution is not paid in accordance with sub-section (1) due to any default on the part of the management, the Inspector may, without

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1.*Ins.* by *sec*. 2 of U. P. Act 3 of 2018.

prejudice to any other provisions of this Act, pay or cause to be paid within ten days from the date mentioned in that sub-section such salary from the moneys credited to the account mentioned in sub-section (1) of section 5 at the rate of salary last drawn by such teacher or employee, as the case may be, and in case of fresh appointment at the rate of minimum of the pay scale in which he has been appointed, and any adjustment in respect of such payment shall, thereafter, be made as soon as possible.

Power to inspect

4.(1) The Education Officer, may, at any time, for the purpose of this Act, inspect or cause to be inspected any institution or call for such information and records including registers, books of accounts and vouchers) from its management with regard to the payment of salaries to its teachers or employees or give its management any direction for the observance of such canons of financial propriety (including any direction for retrenchment of any teacher or employee for prohibition of any wasteful expenditure) as he thinks fit.

(2) Where a direction under sub-section (1), is given for retrenchment of any teacher or employee, it shall be complied with, as far as possible in accordance with the provisions of the Uttar Pradesh Basic Education Act, 1972 and the rules made thereunder, or as the case may be, the conditions of service of such teacher or employee.

Procedure for payment of salary in the case of certain Institution

5.(1) The Management of every institution shall for the purposes of disbursement of salaries to its teachers and employees open in a Scheduled Bank or a Co-operative Bank a separate account to be operated jointly by a representative of the management and by the Education Officer or such other officer as may be authorized by the Education Officer in that behalf :

Provided that after the account is opened, the Education Officer may, if he is, subject to any rule made under this Act, satisfied that it is expedient in public interest so to do, instruct the Bank that the account shall be operated by the representative of the management alone, and may at any time revoke such instruction :

Provided further that in the case referred to in the proviso to sub-section (2), or where a difficulty arises in the disbursement of salaries due to any default of the management, the Education Officer may instruct the Bank that the account shall be operated only by himself or by such other officer as may be authorized by him in that behalf and may at any time revoke such instruction.

(2) The management shall deposit in the said account by such date as may be specified by general or special orders by the Education Officer, eighty-five per cent, or where the State Government or an officer authorized by the State Government having regard to the money required to be disbursed, directs a higher percentage, then such higher percentage as it or he may direct, of the amount received from the students as fees which in accordance with the general or special orders of the State Government in that behalf and for so long as such orders

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are not made in accordance with the directions of the Inspector, form part of the maintenance fund :

Provided that where the said percentage of fees is not deposited as aforesaid, the Education Officer may, by order, prohibit the management from making any realization of fees from the students and thereupon, the Education Officer may recover the fees (either through the teachers of the institution or in such other manner as he thinks fit), directly from the students and shall deposit the fees so recovered in the said account.

(3) The entire amount of the maintenance grant and the amount of eighty-five per cent, or such higher percentage, as the State Government or an officer authorized by the State Government may, by general or special order in that behalf determine the grants for reimbursement of free ship and other similar concessions shall also be paid by the State Government into the said account.

(4) No moneys credited to the said account shall be applied to any purpose except the following, namely —

(a) payment of the salaries falling due for any period after the appointed day ;

(b) credit of institutions' contribution, if any, to the provident fund accounts of the teachers and employees, and such portion of the balance in the account at the end of the month of July each year as exceeds the aggregate of one month's salary of the teachers and employees of the institution after meeting the liability for payment of their salaries for the period for which fees have been realized from the students shall be made over to the management for expenditure on the institution ;

(c) such other expenditure for the purposes of the institution as may be directed by the State Government or by an officer authorized by the State Government in that behalf.

(5) The salary of a teacher or employee shall be paid by transfer of the amount from the said account to his account, if any, in the same Bank or if he has no account in that Bank then by cheques.

(6) In respect of a place where there is no Scheduled Bank or a Co-operative bank, the provision of this section shall apply with such modification as the State Government may by notification specify and the references in this section to Bank shall in that case be construed as references to a Post Office Savings Bank.

(7) The management shall submit to the Director a return in respect of each financial year by the 30th June next following in the proforma as may be specified by general or special order by the Director.

Enforcement of provisions and directions

6.(1) Where on the basis of an inspection of an institution or its records or otherwise, the Education Officer is satisfied that the management has committed default in complying with any direction

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given under section 4 or with the provisions of section 2 or section 5, he may through the Inspector, recommend to the Regional Deputy Director, Education, that action be taken against the institution under sub-section (2).

(2) On receipt of a recommendation under sub-section (1), the Regional Deputy Director, Education, may call upon the management to comply with the said direction or provision or to show cause within a week why the management should not be superseded.

(3) Where the management fails to comply as aforesaid or to show cause, or the Regional Deputy Director, Education, considers the cause shown to be insufficient he may by order supersede the management, for such period not exceeding one year as may be specified

in the order, and authorize any person (hereinafter referred to as the Authorized Controller), to take over the management of the institution for the said period :

Provided that the Regional Deputy Director, Education, may where he considers it necessary or expedient so to do —

(i) extend the said period from time to time, so however, that the period so extended does not exceed five years in the aggregate ; or

(ii) revoke the order at any time :

Provided further that nothing in clause (ii) of the preceding proviso shall bar the passing of a fresh order under this section.

(4) On an order being made under sub-section (3), the Authorized Controller shall, to the exclusion of the management and subject only to the directions, if any, of the Regional Deputy Director, Education, the Director or the State Government, exercise all the powers and perform all the functions of the management, including management of the property belonging to or vested in the institution and in particular operate singly the Bank account referred to in section 5 :

Provided that nothing in this section shall be considered to confer on the Authorized Controller the power to transfer any such property (except by way of letting from month to month in the ordinary course of management) or to create any charge thereon (except as a condition of receipt of any grant in aid of the institution from the State Government).

(5) Any order made or direction given under this section shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument relating to the management and control of the institution or relating to the property belonging to or vested in the institution.

Appeal

7.An appeal against the order of the Regional Deputy Director, Education, superseding the management under sub-section (3) of section 6 may be preferred to the Director within one month from the

date on which the order is communicated to the management, and the Director, either himself or any other officer appointed by him by general or special order, in that behalf, may after such further inquiry, if any, as he considers necessary, either set aside or confirm or modify it, and pending the disposal of appeal, may stay the operation of the order on such terms, if any, as he thinks fit.

Power of the State Government to call for records

8.The State Government may call for and examine the record of any appeal decided by the Director under section 7 for the purpose of satisfying itself as to the correctness or propriety of any order passed by him, and it may pass such order thereon as it thinks fit :

Provided that no order superseding the management of the institution or extending the period of supersession thereof shall be passed under this section unless an opportunity has been given to the management to show cause against the proposed order.

Approval of posts

9.(1) No institution shall create a new post of teacher or other employee, except with the previous approval of the Director or such other officer, as may be empowered by a general or special order in that behalf by the Director.

(2) If any new post is created with the previous approval referred to in sub-section (1), and no appointment is made to such post, within three months, the approval shall be deemed to have been withdrawn.

Liability in respect of salary

10.(1) The State Government shall be liable for payment of salaries of teachers and employees of every institution due in respect of any period after the appointed day.

(2) The State Government may recover any amount in respect of which any liability is incurred by it under sub-section (1) by attachment of the income from the property belonging to or vested in the institution as if that amount were an arrear of land revenue due from the institution.

(3) Nothing in this section shall be deemed to derogate from the liability of the institution for any such dues to the teacher or employee.

Punishment, procedure

11.(1) If any default is committed in complying with any direction under section 4 or with the provisions of section 3 or section 5, every person who at the time the default was committed was manager or any other person vested with the authority to manage and conduct the affairs of the institution shall, unless he proves that the default was committed without his knowledge or that he exercised all due diligence to prevent the commission of the default, be punishable, in the case of a default in complying with the provisions of section 3 with fine which may extend to one thousand rupees and in the case of any other default, with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both. **penalties and**

(2) No court shall take cognizance of any offence punishable

under this section except with the previous sanction of the Regional Deputy Director, Education.

(3) Every offence under this section shall be cognizable but no police officer below the rank of a Deputy Superintendent shall investigate any such offence without the order of Magistrate of the First Class or make arrest therefor without a warrant.

(4) No court below the rank of a Magistrate of the First Class shall take cognizance of an offence under this section.

Bar or jurisdiction of court.

12. No order made or direction given by the State Government, the Director, the Regional Deputy Director or the Education Officer or other officer in exercise of any power conferred by or under this Act shall be called in question in any court.

Exemption in relation to certain institutions

13. Nothing in this Act shall apply to institutions maintained by the Uttar Pradesh Board of Basic Education, Railway Administration, Cantonment Board or any other industrial undertaking owned or controlled by the Central Government or the State Government.

1[Transitory provisions in respect of certain upgraded institutions]

1**[13-A.** (1) Notwithstanding anything contained in this Act, the provisions of this Act shall, mutatis-mutandis, apply, to an institution which is upgraded to High School or Intermediate standard and, to such teachers and other employees thereof in respect of whose employees thereof in respect of whose employment maintenance grant is paid by the State Government to such institution.

(2) For the purposes of this section the reference to the students wherever they occur in section 5, shall be construed as reference to the students of classes up to junior high school level only.]

Protection of acts done in good faith

14. No suit, prosecution or other legal proceedings shall lie against the State Government, the Director, the Regional Deputy Director, Education, the Education Officer, the Authorized Controller or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made or given thereunder.

Power to remove difficulties

15.(1) If any difficulty arises in giving effect to the provisions of this Act or by reason of anything contained in this Act, the State Government may as occasion requires, by notification, make such incidental or consequential provisions including provision for adopting or modifying any provision of this Act or of the Uttar Pradesh Basic Education Act, 1972, or the rules made thereunder, but not affecting the substance, as it may think necessary or expedient for the purposes of this Act.

(2) No order under sub-section (1) shall be made after the expiration of a period of the three years from the appointed day.

1.*Ins.* by *sec*. 2 of U. P. Act 34 of 2000.

(3) Every order made under sub-section (1) shall be laid, as soon as may be, before both the Houses of the State Legislature.

Delegation

16. The State Government may, by notification, delegate all or any of its powers under this Act to the Director.

Power to make rules

17. The State Government may by notification make rules for carrying out the purposes of this Act.