

**THE ASSAM AIDED HIGHER SECONDARY,
HIGH AND MIDDLE SCHOOLS MANAGEMENT
RULES, 1976***

1. These Rules may be called the Assam Aided Higher Secondary High and Middle Schools Management Rules, 1976.
2. These rules shall come into force from such date+ as the Government by notification, appoint and publish in the official Gazette. The Managing Committee of Aided Higher Secondary, High and Middle Schools constituted or reconstituted under S. 11 of Chapter III of the Education Department Rules and Orders shall stand dissolved from the date the Assam Aided Higher Secondary, High and Middle Schools Management Rules, 1976 come into force.
3. Every Higher Secondary School, High School and Middle School shall be governed by a managing committee the constitution of which has been approved by the Inspector of School save in cases where the Director of Public Instruction allows an exception under special circumstances.
4. Save in cases where the Director of Public Instruction sanctions a Special Committee under special circumstances each managing committee shall consist of the following members, *viz.*, -

- (a) (i) President.
- (ii) One Secretary.
- (iii) Two teacher-members except in case of middle schools where the number will be one, to be elected by the teaching staff (excluding Assistant Headmaster/Vice-Principal/Headmaster/Principal) of the school from among themselves.
- (iv) Two representatives to be elected by the guardians.
- (v) One member to be elected by the donors of not less than Rs. 500 and subscribers of Rs. 25 or above annually.

* Published in the Assam Gazette, Extraordinary, dated 25th August, 1976.

+ *Vide* Notification No. ESS 149/76/2, dated 19th August, 1976 which runs as under :

“In exercise of the powers conferred under R. 2 of the Assam Aided Higher Secondary, Higher Secondary, High and Middle Schools Management Rules, 1976, the Governor of Assam is pleased to fix 1st September, 1976 as the date from which the Assam Aided Higher Secondary, High and Middle Schools Management Rules, 1976 shall come into force.”

- (vi) Three members to be nominated by the Government. In Girl's schools, one of the nominated members shall be a lady.
 - (vii) Assistant Headmaster/Vice-Principal *Ex-officio*.
- (b) The President shall be nominated by the Government.
 - (c) The Principal of the Higher Secondary Schools, the Headmaster of the High School or the Headmaster of the Middle School shall be nominated by the Government as *ex-officio* Secretary of the managing committee of the School, unless there is any specific allegation against any Principal or Headmaster of Higher Secondary Schools or High Schools or High Schools and Middle Schools.
 - (d) One of the non-official members shall be nominated as Joint Secretary. He will be allowed by the Government to function as the Secretary when the Secretary is unable to function due to illness, long leave or any limitation imposed under Cl. (c) above.
 - (e) When special circumstances so justify not more than two additional members in excess of the number prescribed in this rule may be nominated by the Government.

Note. The power of nomination under this rule is delegated to Inspector of Schools.

COMMENTS

Rule 4. This rule was substituted *vide* Notification No. ESS 140/75/161, dated the 16th May, 1978 and the original R. 4 read as follows :

“4. Save in cases where the Director of Public Instruction sanctions a Special Committee under special circumstances each Managing Committee shall consist of the following members, *viz.* -

- (a) (i) President.
- (ii) One Secretary, *Ex-officio*.
- (iii) One Teacher member to be elected by the teaching staff annually.
- (iv) Two representatives to be elected by the guardians.
- (v) One member to be nominated from the donors.
- (vi) 3 members to be nominated by the Government of whom 2 shall be

Government official and one non-official member.

- (b) The President shall be nominated by the Government.
- (c) The Principal of the Higher Secondary School, the Headmaster of the High School or the Headmaster of the Middle School shall be nominated by the Government as *ex-officio* Secretary of the managing committee of the school, unless there is any specific allegation against any Principal or Headmaster of Higher Secondary School or High School and Middle School
- (d) One of the non-official members shall be nominated as Joint Secretary. He will be allowed by the Government to function as the Secretary when the Secretary is unable to function due to illness, long leave or any limitation imposed under Cl. (c) above.

Note. The power of nomination under this rule is delegated to the Inspector of Schools.

Constitutional validity- Minority Institutions. This rule only prescribes the constitution of the managing committee. It also permits a special committee under

special circumstances which have not been defined. In *All Saints High School v. Government of Andhra Pradesh* [AIR 1980 SC 1042] Fazal Ali, J., on an exhaustive analysis of the cases namely: AIR 1958 SC 956; AIR 1963 SC 540; AIR 1969 SC 465; AIR 1970 SC 2079; AIR 1971 SC 1737; AIR 1974 SC 1389; AIR 1975 SC 1821 and AIR 1979 SC 52, held that the right under Art. 30 (1) is in complete consonance with the secular nature of democracy and the directives of the Constitution itself, that it does not give a free licence for maladministration so as to defeat the avowed object of the Article, namely, to advance excellence and perfection in the field of education; that while the State or any other statutory authority has no right to interfere with the internal administration or management of the minority institution, the State can take regulatory measures to promote the efficiency and excellence of educational standards and issue guidelines for the purpose of ensuring the security of the services of the teachers or other employees of the institution but it cannot under the cover or garb of adopting regulatory measures tend to destroy the administrative autonomy of the institution or start interfering willy nilly with the core of the management of the institution so as to render the right of the administration of the management of the institution concerned nugatory or illusory. Such a blatant interference would be violative of Art. 30 (1) and would be wholly inapplicable to the institution concerned.

The introduction of an outside authority however high it may be either directly or indirectly or through its nominees in the governing body or the Managing Committee of the minority institution to conduct the affairs of the institution would be completely destructive of Art. 30 (1) and would reduce the management to a helpless entity having no real say in the matter and thus destroy the very personality and individuality of the institution which is fully protected by Art. 30.

As observed in *Jugalkishore Kedia v. State of Assam* [(1987) GLR 1] it can be said that though there might not their might not be any serious objection to the in introduction of high authorities or their nominees in the administration particularly that part of it which deals with the condition of service of the teachers, yet such authorities should not be thrust so as to have a controlling voice in the matter and thus over-shadow the powers of the Managing Committee. Where educational institutions have set up a particular Managing Committee in which all the powers vest, such powers should not be curbed or taken away unless the Government is satisfied that these powers are grossly abused and if allowed to continue may reduce the efficiency or the usefulness of the institution. It is, therefore, open to the Government or the University to frame Rules and Regulations governing the conditions of service and to appoint a

high authority armed with sufficient guidance to see that the said Rules are not violated and the members of the staff are not arbitrarily treated or innocently victimized. In such case the purpose should be to interfere with the internal administration or autonomy of the institution but should be merely to improve the excellence and efficiency of the education because a really good education can be received only if the temper of the teachers are so framed as to make them teach the students with devotion and dedication and put them above all controversy. While setting up such an authority care therefore must be taken to see that the said authority is not given blanket and uncanalised and arbitrary powers so as to act at their own sweet will, while ignoring the very spirit and objective of the institution. While there could be no objection in setting up a high authority to supervise the teaching staff so as to keep a strict vigilance on their work and to ensure the security of tenure of them, the authority concerned must be provided with proper guidelines under the restricted field which they have to cover. The right is subject to reasonable restrictions in the interest of efficiency of instruction, discipline, health, sanitation, morality, public order and the like. Minority institutions which receive State aid or Government grant cannot complain of conditions subject to which the aid is granted, so long as such conditions do not amount to discrimination against them on the ground of language or religion and

so long as the aid is not made to depend upon the performance or observance of conditions which amount to deprivation of the right guaranteed by Art. 30 (1). If the Rules prescribe a Managing Committee for the above purposes and it is overseen by the Governmental authority, that by itself will not be violative of Art. 30 (1). Interference with the minority administration has to be shown. Regulatory measures regarding courses of study, qualifications and appointment of teachers, the conditions of employment of teachers, the health and hygiene of the students, facilities for libraries and laboratories are for uniforming, efficiency and excellence in educational courses and do not violate any fundamental right of the minority institutions. The appointment of teachers is an important part in educational institution. The qualifications and character of the teachers are important. The right of minority institutions to administer institution implies the obligation and duty of the minority institutions to render the very best to the students. In the right of administration, checks and balances in the shape of regulatory measures are required to ensure the appointment of good teachers and their conditions of service. Regulations are, therefore, necessary to see that there are no divisive or disintegrating forces in the administration. [See also *Rev. Fr. Paul Petta v. The D.P.T., Government of Meghalaya*, (1987) 1 GLR 55. Reference may also be

made to the decision in *Sushil Kumar Sen v. The State of Assam*, 1983 (2) GLJ 353.]

5. Appointment of Government Officers to managing committees of aided schools will be *ex-officio* so far as practicable. For such appointments prior approval of the authority under whose administrative control the officer concerned works is to be obtained. One appointment of a certain Government officer as a member of a particular managing committee is approved under this rule, this approval will be presumed to apply to all his successors in that office unless the authority according the approval desires otherwise.

6. The Inspector of Schools may dissolve and reconstitute a managing committee at any time, if circumstances so demand subject to the approval of the Director save in cases where such approval may be presumed to have been obtained under any general or special orders of the Director.

COMMENTS

Scope and ambit. [See decision in *Sushil Kumar Sen v. State of Assam*, 1983 (2) GLJ 353].

7. Subject to R. 6 above the term of a managing committee will ordinarily expire after a period of 3 years from the date of the first sitting of that Committee with the required quorum or on its being re-constituted, but the members will be eligible

for re-appointment or re-election as the case may be. Not later than 3 months before the expiry of the term, the Secretary of the Committee shall intimate to the Inspector of Schools, the actual date on which the term of the existing Committee expires and shall be held well ahead of time. If the names of the elected members are not received in time, the managing committee shall be re-constituted by the Inspector of Schools with the nominated members and the Principal/Head Master without any reference from or to the school's authority. The quorum for such a Committee shall be mentioned in order of re-constitution. The names of the elected members may be subsequently included in the reconstitution when received.

- 8.** Subject to Rr. 6 and 7 above an *ex-officio* member of managing committee shall automatically cease to be a member as soon as he vacates the particular office during the tenure of and by virtue of which he was appointed as such, and his successor will be deemed to be appointed as *ex-officio* member of that managing committee in the capacity of his predecessor. Such changes should be reported immediately by the Secretary of the Committee.
- 9.** An *ex-officio* member shall not resign his membership of a managing committee. He may, however, be relieved of his office in the exigencies of public service by the President of the Committee when the District or the Sub-divisional Officer is the President and in other cases by the Inspector of Schools in consultation with the authority with whose prior

approval he was appointed to the Committee under R. 5 of this Part.

- 10.** No member of a managing committee being an employee of the institution shall attend any meeting at which any matter relating to his pay, promotion or conduct is under discussion. But it will be open to the President to call him for making any statement or representation on the subject but he shall leave the meeting immediately after doing so.
- 11.** No member of a managing committee who is not a member of the staff, shall apply for appointment under the managing committee without first resigning his membership.
- 12.** No member of managing committee shall enter into any contract for work, or supply of materials or for any sale or purchase with the managing committee except with the previous permission of the President of the Committee where he is the District or Sub-divisional Officer. If the President be not a District or Sub-divisional Officer the previous permission of the Inspector of Schools shall have to be obtained.
- 13.** Any member who absents himself from three consecutive meetings of a managing committee without the consent of the Committee shall cease *ipso facto* to be member of that Committee and the Secretary shall report this fact immediately to the Inspector of Schools for confirmation. Further, the office of a member of a managing committee

other than an *ex-officio* member shall be vacated subject to the confirmation by the Inspector of Schools -

- (i) if he becomes insolvent;
- (ii) if by reason of his physical or mental disability he becomes incapable of acting as such;
- (iii) on death or on resignation;
- (ii) on his being convicted of a criminal offence which in the opinion of the Inspector of Schools is of a serious nature.

14. Occurrence of any vacancy in a managing committee shall be reported forthwith by the Secretary of the Committee to the Inspector of Schools who shall take steps to fill up the vacancy in the manner in which it was originally filled up. The proceedings of a managing committee during the continuance of such vacancy or vacancies shall not be void provided there is a required quorum.

15. Five members shall form a quorum except in case of Committee with less than eight members where four shall form a quorum.

16. A meeting of the Committee will be called by the Secretary at least once a quarter. Not less than seven days' notice should be given of the meeting and no business other than that so

stated will be transacted except with the consent of three-fourths of the members present. When any business of which notice has not been given is considered at a meeting, the decision recorded on resolution adopted in regard to such business at the meeting will be communicated forthwith to all the members and action on it will be held in suspense pending re-consideration at a subsequent meeting which may be convened on a requisition made by not less than three members of the Committee within seven days of the communication of the original resolution. Failing such a requisition the resolution or decision will be validated.

- 17.** In the absence of the President one of the members other than members of the teaching staff present will be elected to preside.
- 18.** The President of the meeting will have a casting vote in addition to his ordinary vote when the votes of the members present are equally divided.
- 19.** Under the direction of the Committee the Secretary will carry on correspondence with the proper authority on behalf of the Committee; provided that no correspondence shall be made direct to the Board of Secondary Education, Assam or the Government who can be addressed only through the Inspector of Schools and the Director.

- 20.** Subject to the rules in this regard the managing committee may frame further rules of business that may be necessary under intimation to the Inspector of Schools.
- 21.** An annual report of school will be prepared by the Secretary which shall be submitted to the Inspector of Schools, as the case may be, in case of Higher Secondary or High Schools and to the Deputy Inspector of Schools in case of Middle Schools for boys and to the Assistant Inspectress of Schools in case of Middle Schools for Girls, after being approved by the managing committee.
- 22.** The managing committee will have the general direction and control of the current business of the school which will be conducted by the Principal/Headmaster in accordance with the rules and orders prescribed by Government.
- 23.** The following particular duties are assigned to the managing committee:

 - (1) To see that the property of the schools does not suffer from preventable causes.
 - (2) To undertake the financial management of the schools to collect authorised subscription to see that the fees are realised and that exemption from payment of fees are not granted except in accordance with the rules in force.

- (3) To arrange for the maintenance of the schools house, furniture and equipments in proper repair and in sufficiency for the enrolment and where their resources are inadequate, to take such steps as are necessary to supplement them by obtaining contribution in money, labour or kind and by applying for grant-in-aid.
- (4) To grant leave to the teachers subject to the prescribed rules. The grant of leave other than casual leave and the arrangement made to fill the vacancy being reported to the Inspector of Schools in the case of Higher Secondary and High Schools and the Deputy Inspector of Schools, in the case of Middle Schools.
- (5) To appoint persons in connection with the affairs of the schools, all such appointments being, however, made withy the prior approval of the Inspector of Schools and subject to the rules in force.

No such approval is necessary in case of appointment of persons in the menial staff.

- (6) To arrange for half-yearly internal audit of all school funds and verification of stock and furniture. These duties should ordinarily be entrusted to one or two members of the managing committee other than the office bearers and teacher-members. If there is no such member in the Committee competent to take up

these duties, the Committee may employ an outsider for the purpose on reasonable payment if funds permit.

24. The following are the duties and functions of the Secretary of the managing committee:

- (i) He is to receive and draw all grants sanctioned by the Inspector of Schools or the Director.
- (ii) To utilise the grants for the purpose for which it is sanctioned and submission of utilisation certificate to the authority sanctioning such grants in time.
- (iii) To disburse the deficit grant sanctioned for payment towards salary of the teaching and other non-teaching sanctioned staff of the school within a week from the date of receipt of such grant with intimation to the Inspector of Schools concerned.
- (iv) To assist the auditors while auditing the school fund.
- (iv) To place the audit report together with replies to audit objections with necessary explanation before the managing committee within 7 days from the date of receipt of such audit report and to submit the same to the authority concerned and the Inspector of Schools.

- 25.** If it is found that the Principal of a Higher Secondary or a Headmaster of a High or Middle School who is the *ex-officio* Secretary of the as Secretary of the managing committee will jeopardise the very purpose of nominating him as Secretary of the School Managing Committee, the Inspector of Schools may replace him as per rules and allow the Joint Secretary to function as Secretary till such time as the charges on which he is replaced is finalised and he is acquitted of all charges honourably. The Secretary will be subject to disciplinary action against him under relevant provisions of the Assam Services (Discipline and Appeal) Rules, 1964 and any other rules framed from time to time in this behalf.
- 26.** Except where it is ordered otherwise by general or special orders, the managing committee will leave to the Principal/Headmaster all routine questions in connection with arrangement of classes, admission and transfer of pupils, settlement of the class routine, periodical examination, awarding of class promotion and all matters of routine relating to instruction will be open to the managing committee, however, to depute one or more of their members to make enquiry into any of these matters and to report thereon to the department.

Except as provided under these rules all matters relating to disbursement of money on account of scholarships/stipends to students, the Principal or Headmaster of the school concerned shall be held directly responsible to the Government for any omission/commission

in this regard and the Government shall have the power of appointing authority for placing them under suspension and of the disciplinary authority for taking disciplinary action against them under relevant provisions of Assam Service (Discipline and Appeal) Rules, 1964 and any other rules framed by the Government from time to time in this behalf.

- 27.** The managing committee will further perform the duties assigned to them by any special or general orders which have been issued and may hereafter be issued under the sanction of the Government or the Director.

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