

Constitution of the Managing Committee

MANAGEMENT RULES

As modified up to the 8th January, 2010
WEST BENGAL BOARD OF SECONDARY EDUCATION

*Rules for Management of Recognised Non-Government Institutions (Aided and Unaided) 1969, as per Government Notification No. 1598-Edn(S) dated 15th July, 1969, the amendments made thereto in State Government Gazette dated July 15, 1969, including dated 8th January, 1974 published in the Extraordinary Notification No. 41-Edn(S)/8B-12/72 11th January 1974, Government Notification No. 1541-Edn (S) dated December 15, 1977 and Government Notification No. 2675-Edn(S) dated December 19, 1978 and amendments made under State Government's Notification No. 855-Edn(S) dated December 23, 1980 Notification No. 640-Edn(S) dated June 24, 1981 published in the Extraordinary issue of the Calcutta Gazette dated June 26, 1981, Notification No. 114-Edn(S) dated 3rd March 1982, Notification No. 777-Edn(S) dated 9th August, 1984, Notification No. 458-Edn(S) Notification No. 900-SE(S) dated 22nd October, 1997, 2009-SE(S) dated 3rd November, 2000, 543-SE(S) dated 4th April, 2001, 811-SE(S) dated 17th June, 2002, 1233-SE(S) dated 9th September, 2002, 914-SE(S) dated 21st July, 2005, 1089-SE(S) dated 29th August, 2008 and 28-SE(S) dated 8th January, 2010.

- 1. Short Title :** These rules may be called the Management of Recognised Non-Government Institutions (Aided and Unaided) Rules, 1969.
- 2. Definitions—**In these rules unless there is anything repugnant to the context—
 - (a) "the Act" means the West Bengal Board of Secondary Education Act, 1963 (West Bengal Act, V of 1963), as amended;
 - (b) "Institution" means an institution as defined in clause (c) of Section 2 of the Act and recognized under the Act or within the meaning of the West Bengal Board of Secondary Education Act, 1950 (West Bengal Act, XXXVII of 1950);
 - (c) "Committee" means Managing Committee as defined in clause (d) of section 2 of the Act;
 - (d) The expression "Board" and "Head of Institution" shall have the same meaning as in the Act;
 - (e) "Director" means The Director of School Education, West Bengal;

Note: Authorities of some Institutions have been found to insert the word "on a temporary basis" in the letter of appointment even in the case of appointment of staff on substantive basis, perhaps, in order to keep the staff under threat of losing job, if their movements are not found satisfactory. This is in contrary to the principle of sanctioning of substantive posts for appointment.—Editor.

Following clarifications of Rule 2 (Definitions) are made in order to clear the expressions of the terms:—
(1) *Institution* means Secondary Schools (Jr. High, and integrated classes of XI & XII), State Govt. Institutions, Sponsored Institutions, Institutions managed by the Union Govt. or the P.W. Board or such other institutions under the provisions of Rule 32 of the Management Rules are excluded from the term of the Definition. *Higher Secondary Institutions (only classes XI & XII)* are recognised by the W. B. Council of H. S. Education and as such, and they do not come within the definition of the term.

(2) *Head of the Institution*: The term 'Head of the Institution' has not been quite clearly defined in the Rules. "Head of the Institution" means head of the teaching staff of the Institution by whatever name he or she may be designated. From this, it naturally follows that 'Headmaster', 'Headmistress and 'Teacher in charge may be called the Principal.

(3) The term 'Director' was formerly recognised as Director of Public Instruction and it has now been replaced by *Director of School Education* against column '(e)' under revised rules of 1981.

(4) Two Columns—(f) & (g) have been added in order to clarify (i) 'Non-Govt. Institution' & (ii) 'Sponsored Institution'.—Editor.

1. clause (e) of R.ile 2. has been substituted by: Notification No. 777-Edn(S) dated August 9, 1984.

(ee) "Executive Committee" means the Committee Constituted under clause (aa) of Section 18 of Act;

(f) "Non-Government" in relation to an Institution means an Institution which is not maintained or managed by the State Government, the Union Government or the Railway Board;

(D) "Sanctioned Post" means the post of teaching or non-teaching staff sanctioned by the Director or by an officer authorised by him in this behalf;

(g) "Sponsored Institution" means an Institution which is declared as such by the State Government by a Notification published in the Official Gazette;

Provided that an Institution shall not be declared as a sponsored institution unless it is—
(i) established by the State Government with or without aid or co-operation from others, or

(ii) taken over by the State Government with the consent of the majority of persons for the time being in charge of its management for its being maintained by the State Government in so far as its financial deficit is concerned, completely by grant-in-aid.

*3. **Committee**—Every recognised Non-Government Institution shall have a Committee to be constituted in the manner and for the purposes hereinafter appearing.

Note: Higher Secondary Classes, namely, Classes XI and XII recognised by the West Bengal Council of Higher Secondary Education shall be treated as an integral part of the Institution under one and the same Committee and shall be governed by the rules prescribed hereunder.

**4. Register of voters—

(1) A register of eligible voters for the constitution of the Committee shall be prepared by the Head of an Institution in consultation with the members of the existing Committee, if there is any, in a meeting to be convened by the Head of the Institution for the purpose, with seven clear days' notice to be served by registered post with acknowledgement due and shall, after such consultation, be revised annually. The register shall be provisionally closed on the 15th day of March every year. It shall be open to public inspection for at least one month from that date and shall be finally closed on the last day of April every year with such revision as may be made by the Head of the Institution in consultation with the members of the Committee. In case there be any dispute between the Head of the

Comment: *3. **Committee** means Managing Committee. In absence of Managing Committee Administrator and Adhoc Committee appointed by the Board may continue the function of the Managing Committee. When the life-time of the Managing Committee is over, it defuncts and any action of the defunct M.C. is bound to be invalid. The term of the Managing Committee is for three years but its term may be extended by the Board for not more than six months or one year at a time. Members of the M. C. as a body have the right to manage the affairs of the school, but not as an individual. The Managing Committee duly constituted or reconstituted under rules may start functioning, but unless and until the M. C. is approved by the Board, its status remains incomplete and it is subject to interrogation, in the eye of law.

Is Managing Committee a *Statutory Body*? The decision of the Cal. High Court are in this respect, contradictory to each other. Justice Mr. P. K. Banerjee observed that the Managing Committee of a High School is not a statutory body and as such, the Writ does not lie against the Managing Committee. Whereas Justice Mr. D. Basu of the Cal. High Court observed, "the petitioner's preferring an appeal to the Appeal Committee would not bar the jurisdiction of the court a written resolution passed by the managing Committee of the school which was the statutory authority to discharge the teacher."

**4. Who is to prepare the Register of Voters? The Head of the Institution who is the person-in-charge of the Institution shall prepare the register of eligible voters for constitution or reconstitution in consultation with the existing M. C./Adhoc Committee/Administrator. What is meant by "in consultation"? In consultation means discussion and decision in the Managing Committee level. The Head of the Institute school seek approval of the M. C. before and after preparation of the Voters' List. However, consultation before is not absolutely necessary, as because, he/she is entitled to start work under instruction of the Board. The Head of the Institution should not proceed with the election programme in absence of any valid Committee or Administrator. Alternative arrangement regarding conduct of constitution or reconstitution may be entrusted to the Asst. Headmaster/Asst. teacher with the permission of the D. I. of Schools (S. E.). But in that case, the Head of the Institution may have to face the situation under Rules 4(26).

1. Clause (ee) of Rule 2 has been added by the Notification No. 777-Edn (S) dated August 9, 1984.

2. Clause (ff) of Rule 2 has been added by the Notification No. 777-Edn(S) dated August 9, 1984.

Institution and the majority of the members of the Committee the matter shall be referred to the District Inspector/Inspectress of Schools concerned and his/her decision in the matter shall be final.

(2) In the year in which an election for the constitution or reconstitution of the Committee falls due, such register of eligible voters shall be provisionally closed, and the electoral rolls published simultaneously on the notice-board of the institution not less than one month before the date of the election. The register of eligible voters shall be finally closed not less than fifteen days before the date of the election with such revision as may be made by the Head of the Institution in consultation with the members of the Committee. In case of dispute between the Head of the Institution and the majority of the members of the Committee, the procedure laid down in sub-rule (1) shall be followed.

(2a) The programme in detail for the purpose of holding election for constitution or reconstitution of the Committee shall be prepared by the Head of the Institution and got approved by the Committee. [*****] The election programme and the provisional voters' list shall be got approved by the Committee in the meeting to be convened by the Head of the Institution for the purpose.

*(2b) In case the Head of the Institution *fails or neglects to convene the meeting for the purpose of approving the election programme in detail for holding election for reconstitution of the Committee or to conduct election as per approved election programme, the Secretary, with the approval of the Committee, shall forthwith report the matter to the District Inspector of Schools concerned. The District Inspector of Schools may, after due consideration, entrust all work pertaining to the election of the Committee, including the preparation of voters' list, duties of Scrutiny Officers, or appointment of Election Officers etc, to the Assistant Head Master/Assistant Head Mistress or if there be no Assistant Head master/Assistant Head Mistress to the seniormost approved Assistant Teacher of the Institution, and in that event, action may be taken against the Head of the Institution by the Committee in terms of Clause (vii-a) of sub-rule (9) of Rule 28 :

Provided that where the Head of the Institution fails to get the election programme and/or the voters' list approved by the Committee in time due to lack of quorum or for other reasons beyond his/her control, the election programme and the voters' list may be got approved by the District Inspector of Schools, concerned. The District Inspector of Schools, before approving the election programme, shall satisfy himself about the correct position of the case.

(2c) In the event of cases referred to in sub-rule (2b), the Board shall have the power to appoint a *Scrutiny Officer*, and/or *Election Officer*, if necessary, to perform the work relating to the election for reconstitution of the Committee at all stages and shall give such direction, as may be necessary, for the holding of election for constitution or reconstitution of the Committee of the Secondary Schools.

(3) After the election has been completed the register shall be reopened for making fresh entries.

Comment : *In (2b) *fail or neglect*—'fail' does not imply blame and punishment thereby, whereas, 'neglect' connotes overlook, disregard or omission. The word implies his/her intentional attitude, so it is a punishable offence as per provision of clause (VIA) of sub-rule 9 of Rule 28.

Scrutiny Officer generally signifies the Head of the Institution and in case of his failure, the District Inspector of Schools (SE) may entrust the responsibility to Asst. H. M. or Asst. teacher, as the case may be.

Election Officer means a person of worth and capability to be determined by the Head of the Institution by making a panel of three persons who shall not be related to any one of the institution. The panel of election officers has to be got approved by the M.C./Ad-hoc Committee/Administrator as the case may be. The task of the election officer is to conduct the election and declare the results and submit a report to that effect. In case of absence of the election officer at the time of election, the Head of the Institution is entitled to conduct the election as a special case.

1. In sub-rule(2) of rule (4) The Word "not less than" have been substituted for the word "at least" by Notification No. 777-Edn.(S) dated 9th Aug. 1984.
2. In sub-rule (2a) of Rule 4. The Words "at least, Thirty days..... Voters' list" have been omitted by Notification No. 114-Edn.(S) dated March 3, 1982.

15. **Particulars in the register of voters**—The Register of eligible voters shall contain the names of (i) all guardians whose names are entered as such in the Admission Register ; (ii) founders of the Institution who have been recognised as such from the inspection of the Institution.

Explanation—For the purpose of this rule—

(1)* *An employee of the Institution* who is also a guardian, or founder shall be entitled to have his name registered as a guardian or as a *founder*, as the case may be, but shall not be eligible to stand for election to any of the ?Categories other than category (v) referred to in Rule 6, although he/she shall have the right to vote as a guardian or *founder*, as the case may be ;

?(2) Omitted.

Note : (a) The term "**guardian" means father or mother, or, in the absence of both by death or disappearance, one of the following relations in the order stated, namely, grandfather, grandmother, brother, sister, paternal uncle and maternal uncle. In the absence of all such relations, any other relation with whom the ward is actually residing shall be the guardian. But no one shall be the guardian if he/she is below 21 years of age and whose name does not occur in the Admission Register.

(b) The term 'founder' means a person who has been recognised as such by the First Committee of the Institution constituted according to the rules after recognition by the appropriate authority, and his/her name has occurred as founder in the voters' list for constitution and for successive reconstitution, if any, of the Committee since its inception and on the death of the founder, his/her son or other heir shall not be entitled to be treated as a founder unless his/her right to be so treated has been recognised in any registered deed executed by the founder and accepted by the First Committee as aforesaid and approved by the University of Calcutta or the West Bengal Board of Secondary Education. In case of any dispute, the matter shall be referred to "The Executive Committee whose decision thereon shall be final.

6. **Composition of the Committee of an Institution other than that sponsored by the State Government :**

The Committee shall consist of the following members :-

(i) one founder to be chosen in the manner provided in Rule 6A ;

(ii) one Life Member, if any, to be selected or nominated in the manner laid down in Rule 6A ;

?(iii) Six guardians ?of whom two shall be woman in case of a girls school in the case of institutions having classes XI and XII recognised by the West Bengal Council of Higher

Comment : *Eligible Voters*—The Register of eligible voters shall contain the names of (i) bonafide guardians entered as such, in the Admission Register, (ii) name or names of founders of the Institution accepted as such in the first meeting of the Managing Committee and recognised as such, by the Dist. Inspector of Schools (S. E). But founders have not been given right to participate in the election.

**An employee of the Institution* means a teacher or a non-teaching staff who may contest the election for his/her own category only.

***Guardians* means father or mother i.e. either father or mother and in absence of both by death or disappearance in the order stated above. Any person nominated by father or mother to act as legal guardian of any ward is not acceptable under rules. Even the husband of the married daughter cannot be accepted as Guardian on the Admission Register. A marital guardian means any person who has been treated as guardian by the Head of the Institution due to his/her ignorance or inadvertence and as such, recorded in the Admission Register in contradiction to the contents of the Note : (a) of 5(2)—Editor.

Can any person declared as 'guardian' of a ward by an affidavit in the Court be treated as a legal guardian of a student for the purpose of being enlisted as Guardians ? It is difficult to answer as some legal problems are involved. "The matter is either to be referred to the Dist. Inspector of Schools/SW. B. Board of Sec. Education or Higher Court of Law for clarification or decision."

1. Rule 5 has been substituted by Notification No. 640-Edn.(S) dated 24th June, 1981.
2. In rule 5, in item (1) of Explanation for the word "Categories under the provisions of" substitute the words "Categories other than category (v) referred to in" by notification No. 114-Edn.(S) dated 3rd March, 1982.
3. Item (2) of explanation in rule 5 has been omitted by Notification No. 777-Edn.(S) dated 9th August, 1984.
4. The words "The Executive Committees" have been substituted for the words "The Board" by Notification No. 777-Edn.(S) dated 9th August, 1984.
5. Clause (iii) of rule 6 has been substituted by Notification No. 2089-SE(S) dated 3rd November, 2000.
6. In clause (iii) of rule 6 after the words "Six Guardians" insert the words "of whom.....school" by Notification No. 543-SE(S) dt. 4.4.2001.

Secondary Education and/or X-Class High Schools and three guardians in the case of Junior High Schools, to be elected or nominated, as the case may be, in the manner laid down in sub-rule (2) of Rule 6A.

* (iv) one person interested in education (to be co-opted) in the manner laid down in clause (i) of sub-rule (3) of Rule 6A :

Provided that in the case of an institution located within the jurisdiction of a Panchayet, one person interested in education shall be the nominee of the Local Panchayet Samity. The person so nominated shall be a resident of the locality within the jurisdiction of the said Panchayet Samity;

(v) three teaching staff except the Head of an Institution and one non-teaching staff in the case of an institution with Higher Secondary Education and (or) a X-Class High School and two members from among the teaching and non-teaching staff in the case of a Junior High School, to be elected in the manner prescribed in Clause (i) of sub-rule (4) of Rule 6A;

(vi) one member of the Committee shall be nominated by the Director or by an officer authorised by him in this behalf;

(vii) Head of the Institution (*ex-officio*).

² Provided that no person shall be eligible to represent more than one category.

6A. Manner of formation of Committee—

(1) Persons whose names are entered in the register of eligible persons as *founders* shall be determined by the Director or by an officer authorised by him in this behalf.

(i) If a person has paid not less than Rs. 20,000/- or its equivalent to the Institution, he shall be a Life-member of the Committee during his life-time or shall have the right of nominating a person as a member of the Committee. But a person who has donated Rs. 10,000/- or more in cash or kind immediately preceding the date of issue of Notification No. 855-Edn.(S), dated the 23rd December, 1980, shall, however, continue as a Life-member of the Committee :

Provided that when there are more than one Life-member and the Life-member selected by rotation by the Director or by an officer authorised by him in this behalf, declines to serve on the Committee, the Director or the officer authorised by him in this

Comment : ¹ In the revised rules for the Management of Non-Govt. Institutions of 1981, the provision of a membership for a person interested in education only has been maintained. But preparation of a Voters' List of persons interested in education by the Head of the Institution is no longer necessary. At present, for the institutions under Municipal area, one person is to be co-opted by other members in a sitting for co-option and in the Panchayet area, the Panchayet Committee will nominate a person for representation as P. I. member. Under the present rules amended as such, (i) qualifications, residence etc., of a person to be co-opted and been given any consideration. The Head of the Institution has not been provided any authority to prepare a list of competent persons, from whom a suitable person may be selected for co-option. The scope under present rules has been given to majority section of the Managing Committee to pick up a man or woman of their own choice perhaps, so as to maintain their majority strength on the Managing Committee.

² Panchayet Committee cannot nominate the teacher of the same school as a P. I. member on the same Managing Committee Vide Memo No. 8783/G dt. 4.9.82 of the Secretary of the W. B. Board of Secondary Education.

³ Panchayet Committee can nominate a person who may not necessarily be a member of the Panchayet Committee. He may be an outsider, but within the jurisdiction of the Panchayet. But the nomination of a member of staff of the same school on the M. C. of the same school by the Panchayet Samity is not permissible. Vide Circular No. 8783-G dt. 4.9.82. Right to represent on the M. C. of a Panchayet Samity does not secede before their expiry of the term of the M. C. vide Circular 46-Edn.(A) dt. 24th January, 1984.

⁴ Founder means person or persons recognised as such by the Education Department. Their right to vote for any category or to contest the election from Founder's category has not been admitted except selection of one... to be determined by the Director or by his agent. He is to be chosen and not elected.—Editor.

1. In Clause (iv) of rule 6. This proviso has been substituted by Notification No. 777-Edn.(S) dated 9th August, 1984.

2. In Rule 6 this proviso has been added by Notification No. 777-Edn.(S) dated 9th August, 1984.

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behalf may select any other Life-member from the panel, who is willing to serve on the Committee :

(i) a person nominated by a Life-member shall cease to be a member of the Committee on the death of the Life-member ;

(iii) Omitted.

(2) Persons whose names are entered in the register of eligible voters as guardians shall elect from among themselves to the Committee, four members in the case of Schools with Higher Secondary Classes (Classes XI and XII) recognised by the West Bengal Council of Higher Secondary Education and/or X-Class High Schools and two members in the case of Junior High Schools :

Provided that in the case of a Girls' Institution, one of the seats for guardians, where there is one or more female guardians, shall be reserved for a woman and if no female guardian is elected, the seat shall be filled up by nomination from among the female guardians included in the voters' list in the category of guardians by the District Inspector of Schools concerned.

² Provided further that the member to be nominated by the District Inspector of Schools under the first proviso shall be placed by the District Inspector of Schools concerned within thirty days from the date of election of members from different categories. The Head of the Institution shall, in case of default on the part of the District Inspector of Schools, inform the Executive Committee of the matter immediately after the expiry of the period referred to the above and, in that event the Executive Committee shall take such action in consultation with the director as it deems fit :

(3) (i) One person interested in education shall be co-opted in the meeting convened for the purpose of co-option by the elected, nominated, and *ex-officio*-members and the Life-member, if any, of the newly constituted Committee provided that the person concerned expresses his/her consent before such co-option in writing to the Head of the Institution for serving on the Committee as co-opted member. Such co-opted member shall enjoy all the rights of a duly-elected member of the Committee and shall be eligible for election as office-bearer :

Provided that in the case of an Institution situated within the jurisdiction of a Panchayet, a person interested in education shall be nominated by the Local Panchayet Samity.

³ Provided further that the member to be nominated by the Local Panchayet Samiti under the first proviso shall be placed by the Local Panchayet Samity within thirty days from the date of election of the members from different categories. The Head of the Institution shall, in case of default on the part of the Local Panchayet Samiti, inform the Executive Committee of the matter immediately after the expiry of the period referred to above and, in that event the Executive Committee shall take such action as it deems fit :

⁴ (ii) The Head of the newly recognised Institution shall prior to the election of office-bearers, convene a meeting of the elected, nominated and *ex-officio* names and the Life member, if any, of the newly constituted Committee and consider the name(s) of founder(s) of the institution as required under clause (b) of the Note below rule 5 :

Provided that in the case of an institution in an urban area, the Head of a newly recognised institution shall, prior to the date of election of office-bearers, also consider the name(s) of founder(s) of the institution and approve the same as indicated in clause (b) of Note below rule 5, at a meeting of the elected, nominated and *ex-officio* members

Comment : ¹ Founders and *life-members* if there are any, in a school, will have their right to be nominated on the Managing Committee by the Dist. Inspector of schools (S. E.) as per instruction given under Rule 6A.

1. Clause (iii) of Rule 6A has been omitted by the Notification No. 777-Edn.(S) dated 9th August, 1984.

2. This Proviso in clause (2) of Rule 6A has been added by the Notification No. 777-Edn.(S) dated 9th May, 1984.

3. This proviso has been added by Notification No. 777-Edn.(S) dated 9.8.84.

4. In clause (3) of rule 6A of sub-clause with the proviso has been added by Notification No. 777-Edn.(S) dated 9.8.84.

and Life Members, if any, convened for the purpose of co-option of a person interested in education as provided in clause (i) of sub-rule (3) of rule 6A.

(4) (i) *The members of the teaching and the non-teaching staff of an Institution shall elect jointly three members from among the non-teaching staff (except the Head of an Institution) and one member from among the teaching staff to the Committee, if it is an Institution with Higher Secondary classes (XI and XII) recognised by the West Bengal Council of Higher Secondary Education and/or a X-Class High School, and those of a Junior High School shall elect jointly two members from among the teaching and the non-teaching staff to the Committee.

Explanation :

Members of the teaching and the non-teaching staff mean whole-time members of the teaching and the non-teaching staff working against sanctioned posts or additional sanctioned post, including *probationers* who have completed at least four months' continuous service on the date of election.

(ii) Immediately after the election, the same electorate shall elect to the Finance Subcommittee one member from among the members elected to the Committee under clause (i) of sub-rule (4).

²(5) In case of any dispute the matter shall be referred to the Executive Committee whose decision in the matter shall be final.

Rule 7 Omitted.

****8. Power of Executive Committee to approve and supersede Committee, to appoint Administrator or Ad hoc Committee and to grant special constitution;**

(1) The constitution of a Committee shall be *subject to the approval* of the 'Executive Committee and the 'Executive Committee shall have the power to supersede a Committee that has, in its opinion, not been functioning properly and to appoint an Administrator or Ad hoc Committee to exercise the power and perform the functions of the Committee; Provided that before superseding a Committee under this rule the 'Executive Committees shall have due regard to the report of the Director and shall afford a reasonable opportunity to the Committee to present its case before the 'Executive Committee.

⁵(1a) The Executive Committee shall have also power to appoint an Administrator or Ad hoc Committee in respect of any institution where the term of the Committee has expired, but the Committee has not been reconstituted for any reason whatsoever.

⁶(2) An Administrator or an Ad hoc Committee, appointed under sub-rule (1) or sub-rule (1a), shall exercise the power and perform the functions of the superseded Committee or of the Committee whose term has expired, as the case may be ordinarily for one year and the Executive Committee may, by order, extend in special circumstances, the term of office of the Administrator or the Ad hoc Committee, as the case may be, by a further

Comment : * (4) (i) The Headmaster is a separate entity to represent as Head of the Institution as an ex-officio member on the M. C. But since he/she is a teacher first, he/she has the right to participate in the election dt. June 30, 1977 of the Secretary, W. B. Board of Secondary Education).

A member of the teaching and non-teaching staff who is on long leave or deputation, is eligible to cast his vote or seek election, provided his leave or deputation is approved by proper authorities (Vide letter of the Secretary W. B. Board of Secondary Education, dated 8.7.82)—Editor.

Probationer means a teacher or a non-teaching staff including the Head of the Institution, who is to undergo a probationary period for one year / two years as the case may be. 'Probationary period' means the 'trial period'. Probation does not include appointment on a temporary basis.

** After completion of formation of the Managing Committee by election of office-bearers according to procedure under 6A, the Managing Committee may immediately start functioning subject to the approval of the Board.

Subject to approval means pending approval. The Board may not grant approval to the committee, if it is found that all the procedures of constitution or reconstitution have not been followed and in that case, the Board may afford a reasonable opportunity to the Managing Committee for its defence.

1. This explanation under sub clause (i) has been substituted by Notification No. 777-Edn.(S) dt. 9.8.84.

2. Sub-rule (5) has been added by Notification No. 777-Edn.(S) dated 9.8.84.

3. The title of rule 8 has been substituted by Notification No. 777-Edn.(S) dated 9.8.84.

4. The words "Exhaustive Committee" have been substituted for the word "The Board" by Notification No. 777-Edn.(S) dated 9.8.84.

5. This sub-rule (1a) has been added by Notification No. 777-Edn.(S) dated 9.8.84.

6. This sub-rule has been substituted by Notification No. 777-Edn.(S) dated 9.8.84.

period, not exceeding six months at a time so, however, that the total period shall not exceed two years and the Administrator or the Ad hoc Committee, as the case may be, shall take steps to reconstitute the committee under these rules before the expiry of the term of office of the Administrator or the Ad hoc Committee, as the case may be.

In exceptional circumstances which are beyond the control of the Administrator or the Ad hoc Committee, the term may, on the application of the Administrator or the Ad hoc Committee, be extended by the Executive Committee for such period as the Executive Committee deems fit :

(3) Notwithstanding anything contained in these rules, the 'Executive Committee shall have the power to approve, on the application of any Institution or class of Institutions, of the *special constitution* of a Committee in favour of such Institution or class of Institutions and in approving the special constitution of a Committee, the Executive Committee shall pay due regard to the recommendations of the Director, if any. While granting special constitution in favour of an Institution or a class of Institution, the 'Executive Committee shall ensure that representation of the members of the teaching and the non-teaching staff, guardians and the member nominated by the Director or an officer authorised by him in this behalf, is made according to clause (iii), clause (v) and clause (vi) of Rule 6 :

Provided that if the 'Executive Committee is of opinion that a school enjoying special constitution has not been functioning properly, the 'Executive Committee may, after paying due regard to the recommendations of the Director, if any, amend or withdraw such special constitution of a Committee and in that event, the 'Executive Committee may, by order, appoint an Administrator or an Ad hoc Committee, as the case may be, to exercise the powers and perform the functions of the Committee for such period as may be specified in the order.

(4) The constitution of a Committee shall be forwarded to the 'Executive Committee through the Director whose observation thereon shall be considered by the 'Executive Committee before the 'Executive Committee approves of the Committee.

9. Procedure for election :

(1) The procedure of the election under Rules 6 and 6A shall be laid down by the Board.

(2) The date of election of Committee for the purpose of its reconstitution shall be fixed at least 60 (sixty) days before the expiry of the term of the *existing Committee*. *

(3) The member referred to in clause (vi) of Rule 6 shall ordinarily be placed by the Director or by an officer authorised by him in this behalf within thirty days of the date of election of members from different categories. The Head of the Institution shall, in case of default on the part of the Director or an officer authorised by him, inform the 'Executive Committee of the matter immediately after the expiry of the period referred to above and, in that event, the 'Executive Committee shall take such action in consultation with the Director as it deems fit.

Comment : *Special Constitution* means some special provisions regarding representation on the Managing Committee. It is found that old institutions had accepted membership of Donors, Life members and Founders etc. on different terms and as such, their right to representation was admitted by the Calcutta University Board of Secondary Education and even by the High Court. Naturally, this comes within the provision of Fundamental right. In the amendment of Management Rules of 1969, and subsequently in 1981 this fundamental right has been admitted and as such, the Head of the Institution will be required to approach the Board for necessary permission at least six months ahead of reconstitution (vide circular No. S/M.C.—386/81 dt. 7th July, 1981 of the Board of Secondary Education).

* If reconstitution is not completed by election of office-bearers within 60 days before the expiry of the existing term, the Head of the institutions should write to the Board through the Dist. Inspector of Schools for his immediate intervention so as to end the administration's deadlock.

The work of reconstitution should begin sufficiently ahead of the expiry of the term of the existing Committee/Administrator or Ad hoc Committee. It may be noted that any portion of work done or taken up in absence of any valid Committee or Administrator becomes invalid in the eye of law. (Vide Circular No. 5/934 dt. 26.10.1981)—Editor.

1. The words "Executive Committee" have been substituted for the "The Board" by Notification No. 777-Edn.(S) dated 9.8.84.

10. Office-bearers of Committee and quorum :

(1) The Committee shall ordinarily consist of not more than thirteen members as specified in Rule 6 including the President, the Vice-President and the Secretary who shall be elected by the members of the Committee from among themselves :

Provided that no member of the Committee shall be eligible for election to the office of the President or the Vice-President of the Committee; Provided further that only the Head of the Institution from among the teaching and the non-teaching staff shall be eligible for election to the office of the Secretary of the Committee :

Provided also that if the Head of the Institution is not elected as Secretary of the Committee, he shall be Joint Secretary of the Committee.

(2) Any elected office-bearer may be removed from office where such removal is in the interest of the Institution by majority votes :

(3) Fifty per cent of the total number of members of the Committee shall form a quorum for a meeting of the Committee, fraction, if any, being computed as one :

(4) If any category of members of the Committee remains unrepresented, there shall be no bar to the constitution or the reconstitution of the Committee provided the Executive Committee accords necessary permission :

***11. Casual vacancy—**

(1) If any member of the Committee ceases at any time to fulfil the qualification in respect of which he was elected, nominated or co-opted he shall cease to be member and the vacancy so caused shall, subject to sub-rule (2), be filled by election, co-option or nomination, as the case may be.

(2) Any casual vacancy in the office of a teacher or a non-teaching employee shall be filled up by election in the manner laid down in rule 6A.

(3) Casual vacancies other than the vacancy in the office of a teacher or a non-teaching employee shall be filled up by co-option from the original list of voters on the basis of which the Committee was constituted or reconstituted, but the member so co-opted shall represent the interest in respect of which the vacancy occurs.

(4) Any member elected, nominated or co-opted to fill a casual vacancy shall hold office for the unexpired portion of the term of office of the representative whose place he fills.

***12. Term of Committee—**Subject to the approval of the Committee by the Executive Committee, the term of the Committee shall be three years from the date on which its constitution or reconstitution is completed by the election of the office-bearers and nomination by the Director or from the date of expiry of the term of the office-bearers Committee whichever is later :

Provided that such term may be extended by the Executive Committee for sufficient reasons, by a period not exceeding one year. In exceptional circumstances, where, in the opinion of the Executive Committee, the Committee cannot be constituted or reconstituted

Comment : Is a teacher or a non-teaching staff eligible for election to the office of the Secretary of the Managing Committee? Ans. : No. Only the Headmaster/Headmistress or teacher-in-charge is eligible for election as Secretary.

†Where there are two headmasters/headmistresses, the senior one will represent on the Committee vide No. 2482/G

Comment : *Term of the Committee: The term of the Committee is for three years with effect from the date of election of office bearers. Make over the charge of the office' is not a bar to functioning of the reconstituted Committee.

Term of the Committee may be extended by the Board for a period not exceeding one year in special circumstances.—Editor.

1. Sub-rule (3) of Rule 10 has been substituted by Notification No. 777-Edn.(S) dated 9.8.84.

2. Sub-rule (4) has been added by Notification No. 777-Edn.(S) dated 9.8.84.

3. Rule 11 have been substituted by Notification No. 777-Edn.(S) dated 9.8.84.

4. The words "Executive Committee" have been substituted for the word "The Board" by Notification No. 777-Edn.(S) dated 9.8.84.

within the period of such extension, the Executive Committee may, [1*] extend such period further so, however, that the total period shall not exceed two years :

Provided further that if the Committee is not constituted or reconstituted within the extended term of the Committee, the Executive Committee shall take such action as it deems fit.

13. Vacancy caused by absence—*

Any member of the Committee other than the Life Member as defined in Rule 6A³ and the member as defined in clause (iv) of rule 6 absenting himself from four consecutive meetings shall automatically cease to be such member unless the Committee otherwise directs. The vacancy shall be filled up as provided in Rule 11.

14. Audit—The Director shall annually appoint, from the panel maintained by him, an Auditor who shall examine the accounts of the Institution and submit his report to the Committee on or before 31st of December of the year following the financial year in respect of which accounts have been examined and two copies of such report shall be forwarded to the Director who shall send one copy to the Executive Committee. The Director may call for explanation of the Committee on the irregularities pointed out in the audit report and Committee shall submit to the Director within six weeks of the receipt of the Communication its explanation indicating the action taken or proposed to be taken on the irregularities. If the explanation is not considered satisfactory, the Director may move

***15. Finance Sub-Committee—**

(1) There shall be in each Institution a Finance Sub-Committee of the Committee and the Finance Sub-Committee shall consist of—(i) Secretary of the Committee, or where the Head of the Institution is the Secretary, the President of the Committee—Chairman ; (ii) Head of the Institution—Secretary; (iii) A member of the teaching and the non-teaching staff elected under rule 6A—Member.

(2) Subject to the general supervision of the Committee it shall be the duty of the Finance Sub-Committee to (i) prepare budget estimate of the Institution, (ii) consider audit report and auditor's annual report, (iii) check bills, (iv) invite tenders, (v) place work-orders, (vi) scrutinise vouchers and (vii) transport any other business that may be assigned to it by the Committee. All payment exceeding Rs. 100/- shall require prior approval of the Finance Sub-Committee except salary of the staff and approved recurring expenditure of the Institution.

16. (1) Meeting of the Committee—**A meeting of the Committee shall be called by the Secretary at least once in every two months except during the vacation, and not less than seven days' notice**** of such meeting shall ordinarily be given.

Comment : **Vacancy caused by absence for four consecutive meetings : Except Life member all other members are liable to lose their membership in case of their default. But the Committee may decide otherwise i.e., write to the member/membership should be decided on the strength of the subsequent circular of the Board.

2935/G

vide memo No. General file dt. 3.4.82.

******The term of the Finance Sub-Committee is for three years. After election of office-bearers, the Secretary of the Managing Committee shall write to the Headmaster to seek recognition of the Finance Committee constituted beforehand or the Head of the Institution shall write to the Secy./Committee for recognition. The term of the Sub-Committee ends necessarily with the term of the Committee/Ad hoc Committee or Administrator.

*******Vacation : Vacation means (i) Summer Vacation, (ii) Puga Vacation, X'mas Holidays will not be treated as vacation.

********Seven days' notice : Seven days' notice means written notice to members which has to be sent at least 8 days beforehand under certificate of posting. Postal Stamp should indicate that the notice was served at least 7 days before. Intimation may be served by Peon Book also, but the notice has to be served at least 7 days before the date of the meeting of the Managing Committee.

1. The words "Executive Committee" have been substituted for the word "The Board" by Notification No. 777-Edn.(S) dated 9.8.84.

2. In first proviso of rule 12 of the words "with the prior approval of the state government" have been omitted by Notification No. 777-Edn.(S) dated 9.8.84.

3. In rule 13 the words "and the member" rule 6" have been added by Notification No. 777-Edn.(S) dated 9.8.84.

4. Rule 16 has been substituted by Notification No. 1089-SE(S) dated 29.8.2008.

- (2) The Committee shall inter alia review the teaching, learning issues and academic performance of each class in the meeting.
- (3) Minutes of the meeting shall be carefully documented and retained by the Head of the Institution being the Secretary or the Joint Secretary of the Committee.
- (4) Inspectors of schools, while visiting the schools, shall inspect the minutes of the meeting, and if he observes therein any deficiencies with respect to teaching, learning issues and academic performance in the school, he shall take appropriate action to ensure the remedial measures necessary for removing such deficiencies.
- +17. Special Meeting**—A special meeting shall be convened by the Secretary within a fortnight when a requisition for such a meeting is made by not less than four members of the Committee. Not less than seven days' notice of such meeting shall be given.
- 18. Special meeting convened by requisition**—If the Secretary fails to convene a special meeting, the requisitionists shall refer the matter to the President who shall convene a special meeting. In the event of the President failing to convene the meeting within ten days after reference to him, the requisitionists, not being less than half of the total number of the members, shall have power to convene the meeting after giving seven days' notice.
- +19. Emergency meeting**—Emergency meetings may be convened by the President, if necessary, with not less than twenty-four hours' notice to be considered by the President, if be subject to confirmation or revision at the next ordinary meeting.
- 20. Place of meeting**—All meetings shall be held in the premises of the Institution, unless the members of the Committee decide unanimously to the contrary.
- 21. *Agenda**—The notice of each meeting shall set forth the business to be transacted with the Head of the Institution and the President of the Committee in consultation or removal of a teacher or other employee shall be taken up unless the matter has been placed on the agenda of the meeting issued with the notice, and evidence of service of such notice is maintained and preserved for inspection by any member of the Committee or any person authorised by the Board or the Director or the State Education Department.
- 22. **President to preside**—The President shall preside at a meeting of the Committee. In the absence of the President, the Vice-President, if there is any, shall preside and in the less than four members. Agenda for the meeting are to be suggested by the requisitionists. Single agenda is preferable.
- +Special Meeting** : The meeting convened by the Secretary for special purpose i.e. on requisition by not less than four members. Agenda for the meeting are to be suggested by the requisitionists. Single agenda is preferable.
- +Agenda for the Emergency Meeting** should be of urgent and emergent nature. More than one item for discussion and consideration is not desirable, but no bar. However, a notice to consider a matter of emergent nature requiring immediate attention is to be emphasised. A decision arrived at the emergency meeting does not reach the finality until it is confirmed or revised in the next general meeting. However, till such confirmation, the decision remains in force.
- The meeting notice (ordinary meeting) has to be signed by the Secretary. But the agenda for the meeting shall have to be decided by the Secretary in consultation with the President and the Head of the Institution. Head of the Institution or the President of the Committee may record a note of dissent/objection against any item of discussion of the agenda either before the meeting or during the meeting. If the note of dissent/objection is flawed, the matter may be brought to the notice of the Board and the D. I. of Schools (S. E.).
- The sources of power of the Secretary and the Joint-Secretary are the Managing Committee itself. The Secretary cannot take any vital step or initiative in any affair unless he is authorised by the Managing Committee in its meeting. There is no provision for ratification of action of the Secretary or the Joint Secretary in the School Code and as such, the action of Secretary or Joint Secretary ratified later on may be ultra vires in the court of law. Sense of competition for power between the Secretary and the Joint Secretary is injurious to the interest of the institution. No clear-cut demarcation is given between the powers and functions of Secretary and Joint Secretary.
- **21. Agenda** : Can there be an item of discussion in the Managing Committee for suspension of any staff from services against Misc. agenda ?
- Ans. :** Since the matter 'involving dismissal or removal' is indicated, so it should not be placed on the Misc. agenda, since the motive of the authority is implicit here. —Editor.
- Comment : **President to preside** : Can the President give any 'ruling' on any issue of decision in the Managing Committee level? No such power is given to the President. The power of giving a ruling by the Speaker in the Assembly or Parliament is a constitutional right. The term 'President' does not also signify any such right.

Constitution of the Managing Committee

- absence of the President and the Vice-President, the members shall elect one from amongst themselves who shall preside.
- 23. +Casting Vote**—The President of the meeting shall have a casting vote in addition to his ordinary vote when votes of the members present are equally divided.
- 24. Auditor's report**—The auditor's report on the accounts of the institution shall be taken into consideration at the first ordinary meeting after the report has been received and considered by the Finance Sub-Committee. A copy of the report, along with the observations of the Committee, shall thereafter, be sent to the Executive Committee, and the Director who may call for additional information or explanation in the manner as laid down in Rule 14.
- 25. **Duties of the Secretary and Joint Secretary**—
- (1) Under the direction of the Committee the Secretary shall carry on correspondence with the proper authorities on behalf of the Committee. He shall also keep a record of the proceedings of the meetings of the Committee in a book maintained for the purpose. The record of each meeting shall be confirmed at the subsequent meeting.
- (2) The Joint Secretary shall perform such duties as may be assigned to him by the Committee and shall perform the duties of the Secretary in the case of continued absence of the Secretary and during casual vacancy caused by death, resignation or removal of the Secretary.
- 26. President to convene Meeting**—In the temporary absence of the Secretary and the Joint Secretary, the President may convene a meeting.
- 27. ***Documents**—
- (1) The Secretary shall be in charge of the invested funds, title-deeds and other legal documents belonging to the Institution. All papers relating to the Institution shall be made available at any time for inspection after due notice by the members of the Committee, or any person authorised by the Board or the Committee or by the Director, Auditor or an officer authorised by the Education Department of the State Government. In all Institutions with pucca buildings, all papers, documents and accounts shall be kept in the premises of the Institution.
- (2) The accounts of the Institution shall be operated jointly by the Secretary and the Joint Secretary. All bank transactions should be over the joint signatures of both the Secretary and the Joint-Secretary. In the event of a vacancy in either office, the President of the Committee
- +Casting Vote** implies that the President of the meeting may cast another vote of his own as President besides his personal vote as a member in order to come to any decision, whenever it is found that the number of votes is equally divided.
- Comment : **Duties of the Secretary and the Joint Secretary** : The Secretary and the Joint Secretary are virtually the spokesmen and executive persons of the Managing Committee. All executive functions are carried out by the Secretary prepared by the Head of the Institution. So adjustment and the mutual understanding between the two persons are absolutely necessary, failing which, crisis will develop. The advantage of the Secretary is majority support of the Committee in his favour. Whereas the Head of the Institution is to depend on the legal stand for an ultimate decision.—Editor
- ***Who is the Care-taker of the School properties including school documents? Is he the Secretary or the Head of the Institution?**
- Ans. :** No such clear-cut reply may be given since the matter involves powers and position of the Secretary and the Headmaster. However, law is strongly a common sense and reason. So, it may be clarified in the light of common sense.
- Managing Committee** is given the managerial right to management of school affairs, but no proprietary right. The Secretary of the School is to manage the affairs of the Institution under direction of the Managing Committee. He is not supposed to look over any school property unless he is otherwise directed by the Managing Committee. Whereas, the Headmaster who is also the Joint Secretary, is a whole time salaried personnel of the School. The Secretary of the school can evade his responsibility in looking after the properties and day to day affairs of the School, whereas, the Headmaster cannot. He is to explain any gain or loss of school property.
- The School documents including all school records belonging to the Institution should be kept in the School almirah under the care and protection of the Head of the Institution. The Head of the Institution is required to take over the charge of the School and properties including documents from his predecessor and also to make over the charge before leaving the Institution. So in the light of the explanation given above, the Head of the Institution seems to be the competent authority to act as Care-taker.
1. In rule 24 The words "Executive Committee" have been substituted by the words "The Board" by Notification No. 777-Edu.(S) dated 9.8.84.

and in the absence of the President any other member of the Committee, authorised by the Committee by a resolution, shall operate the bank account on behalf of the incumbent absent :
 (a) authorise any other person or persons to operate in writing,
 or to carry out bank transactions ; or
 (b) authorize the Director to appoint an officer under him to operate the institution and/or to carry out such transactions.

(3) If the District Inspector of Schools (Secondary Education) is satisfied that circumstances exist in which payment of grant-in-aid through the fund of the institution is not expedient, the District Inspector of Schools (Secondary Education) may authorise an officer under him to draw and disburse the grant-in-aid in such manner as the District Inspector of Schools (Secondary Education) may think fit.

28. Powers of Committee—¹(1) In an aided institution the Committee shall, subject to the provisions of any Grant-in-aid Scheme or Pay Revision Scheme or any order or direction or guide-lines issued by the State Government or the Director in connection therewith and in force for the time being, have the power—

(i) to appoint, subject to the provisions sub-rule (1a), teacher on the recommendation of the West Bengal Regional School Service Commission within the local limit of the jurisdiction within which it shall exercise its functions under the West Bengal School Service Commission Act, 1997 ;

Provided that where the Committee is not in operation or existence, and where no Administrator has been appointed, for the reasons of pendency of any legal proceedings, the Head of the Institution shall, with the prior approval of the concerned District Inspector, Administrator, as the case may be, and the Committee or the Administrator shall, whenever starts functioning, by an order, ratify such appointment.

(1a) to appoint, in accordance with the directions given by the Director or in his behalf, teachers and other employees against the leave/leave-deputation vacancies, if available, within the sanctioned strength ;

(1b) to appoint, in accordance with the direction given by the Director or any officer authorised by him in his behalf, the Assistant Headmaster or the Assistant Headmistress against the vacancy within the sanctioned strength from amongst the approved teachers authorised by him in his behalf, part time teachers on such terms and conditions as may be specified by the Government from time to time for a period of one year with a provision of renewal with a break, against the posts of part time teachers created for the Higher Secondary Section of Higher Secondary Schools ;

(1c) to engage, out of Sarba Siksha Abhiyan Fund, para-teachers for a specified period and limited classes on contract basis against temporary vacancies, which shall be approved by the Central Government under Sarba Siksha Abhiyan Scheme on the basis of recommendation of the Sarba Siksha Abhiyan Committee ; —

Provided that engagement of such para-teachers against temporary vacancies shall not affect the normal strength of teachers in a school.

Explanation.—For the avoidance of any doubt it is hereby declared that a para-teacher shall not, for any purpose, be a teacher within the meaning of "teacher" under the Bengal Board of Secondary Education Act, 1963, as amended from time to time and the Bengal Act 4 of 1997) and the rules framed thereunder.

(ii) to appoint, subject to the provisions of sub-rule (1a), non-teaching staff (including librarian) on the recommendation of the West Bengal Regional School Service Commission

1. Sub-rule(3) of Rule 27 has been substituted by Notification No. 717-SE(Secy.) dated 27.9.94

2. Sub-rule(1) of Rule 28 has been substituted by Notification No. 458-Edu.(S) dated 27.4.92.

3. In sub-rule (1) of Rule 28 the clauses (i) have been substituted by Notification No. 28-SE(S) dated 8.01.2010.

4. Clause(i) of sub-rule(1) of rule 28 has been added by Notification No. 543-SE(S) dt. 4.4.2001.

5. Clause(ii) of sub-rule(1) of rule 28 has been added by Notification No. 811-SE(S) dt. 17.6.2002.

6. Clause(iii) of sub-rule(1) of rule 28 has been added by Notification No. 1253-SE(S) dt. 9.9.2002.

7. Clause(i) of sub-rule(1) of rule 28 has been added by Notification No. 914-SE(S) dt. 21.7.2005.

8. In Sub-rule(1) of Rule 28 the clause (ii) have been substitute by Notification No. 28-SE(S) dated 8.1.2010.

within the local limit of its jurisdiction within which it shall exercise its function under the West Bengal School Service Commission Act, 1997 :

Provided that where the Committee is not in operation or existence, and where no Administrator has been appointed, for the reasons of pendency of any legal proceedings, the Head of the Institution shall, with the prior approval of the concerned District Inspectors of Schools (Secondary Education), appoint such non-teaching staff may be, and the Committee or the Administrator shall, whenever starts functioning, by an order, ratify such appointment. (iii) to extend, if it thinks fit, the service of any teacher or other employee, who was in service on the 31st December, 1985, but did not opt for the revised scales of pay introduced with effect from the 1st January, 1986, or having opted for such revised scales of pay, subsequently withdraws such option in terms of any order of the State Government in this behalf, beyond the age of 60 years, being the age of superannuation, on a year to year basis, but not beyond the age of 65 years ;

Provided that the teacher or the employee concerned is physically fit and mentally alert and that the approval for such extension shall be sought for from the Director or any other officer authorised by him, within a period of 15 days from the date of decision of the Committee ;

Provided further that the teacher or other employee, who withdraws his option for the revised scales of pay introduced with effect from the 1st January, 1986, in terms of any order of the State Government in this behalf, shall be deemed to have not opted for the said revised scales of pay ;

Provided also that notwithstanding anything contained in this clause, such teacher or employee may opt for any revised scale of pay under any subsequent Pay Revision Scheme, if he agrees to retire in accordance with the terms of such scheme or at the age of superannuation for the time being in force, where there is no such term.

(1a) Save as otherwise provided in the proviso to clauses (i) and (ii) of sub-rule (1), after appointment of the teacher or non-teaching staff (including librarian) is made under sub-rule (1) —

(a) the Committee shall ratify such appointment in its next meeting, and shall forward, within fifteen days from the date of such ratification, all the documents relating to such appointment to the Director or any officer authorized by him for ratification as well as for granting *post facto* approval of the said appointment from the date of joining ; and

(b) the Director or any officer authorized by him may, after verifying the documents, issue the *post facto* approval thereof.

(2) If the officer *authorised by the Director** under sub-rule (1) does not approve of the appointment or extension of service in any case coming under clause (i) or clause (ii) of clause (iii) of sub-rule (1), as the case may be, he shall refer the case to the Director and in the case of disapproval of any appointment or extension of service, the Director or the officer authorized by him shall communicate to the Committee the reasons therefor.

(3) Where the Committee does not recommend *extension of the service* of a teacher or an employee under clause (iii) of sub-rule (1), it shall record specific reasons therefore and the person concerned may make his representation to the Director through the District Inspector/Inspeetress of schools concerned and so far as the Committee is concerned, the decision of the Director shall be final.

(4) In an unaided Institution the Committee shall, subject to the approval of the Board, have the power—

(i) to appoint in accordance with the directions given by the Director or in his behalf, teachers and other employees on permanent or temporary basis, approval of such appointment being thereafter sought for from the Board through the Director ordinarily within a fortnight from the date of decision of the Committee ;

(ii) to extend as per conditions laid down by the Director the services of teachers and other employees beyond the date of superannuation, approval for such extension being thereafter sought for from the Board ordinarily within a week from the date of decision of the Committee.

(5) If in any case coming under clause (i) or clause (ii) of sub-rule (4) the Board does

Comment : * authorised by the Director' implies the Dist. Inspector of Schools (S. E.).

1. Sub-rule(1a) has been added by r.f.bh.

not approve of the appointment or extension of service, as the case may be, it shall communicate to the Committee the reasons for disapproval.

(6) Where the Committee does not recommend extension of service of a teacher under clause (f) of sub-rule (4) it shall record specific reasons therefor and the person concerned may make his representation to the Board and the decision of the Board in the matter shall be final so far as the Committee is concerned.

(7) In all cases of appointment, both permanent and temporary, the Committee shall issue *letters of appointment*, * specifying the terms and conditions of such appointment. The case of a permanent appointment, a teacher or an employee appointed on probation shall be confirmed on the expiry of the period of probation unless an order to the contrary is issued at least six weeks before the date on which confirmation normally falls due. In the case of an appointment on temporary basis against a permanent post the contrary satisfactory service in the institution. :
Provided that no appointment shall be made in a vacancy if it is not against a sanctioned post, permanent or temporary.

(8) Both in aided and un-aided Institutions the Committee shall have the power, subject to the prior approval of the Board, to remove or dismiss permanent or temporary teachers and other employees. For this purpose the Committee shall first draw up formal proceedings and issue charge-sheet to the teacher or the employee concerned, and offer him reasonable facilities for defending himself. The teacher or the employee proposed to be proceeded against shall submit his explanation, ordinarily, within a fortnight of the receipt of the charge-sheet, the grounds for taking disciplinary action. If the Board considers that there are sufficient grounds for taking disciplinary action the Committee shall issue formal notice calling upon the teacher or the employee concerned to show-cause, ordinarily within a fortnight, why he should not be dismissed or removed from service. The Committee shall, then, send again to the Board all relevant papers including the explanation submitted by the teacher or the employee concerned and the recommendations of the Committee for the action proposed to be taken. So far as the Committee is concerned, the decision of the Board shall be final. :
Provided that the Board may delegate to any Committee constituted under section 24 of the Act the powers and functions conferred on the Board by this sub-rule. :
(8a) In case of lapses on the part of permanent or temporary teachers and other employees of an institution, which do not warrant removal or dismissal of the persons concerned, the Committee may impose minor penalties, like stoppage of one to three increments in pay, reduction of pay in the time scale and censure, with the prior approval of the Board. In all such cases, the Committee shall observe the procedure laid down in sub-rule (8). :
(8b) In the case of teaching and non-teaching staff of an institution detained in custody for a period exceeding 48 hours under any law providing for preventive detention or as a result of a proceeding for preventive, detention or as a result of a proceeding either on a

Comment : *Letter of appointment : The Secretary of the Managing Committee/Administrator to issue a letter of appointment to the selected person from the approved panel. :
Secondary School Managing Committee/Administrator is required to issue a letter of appointment to the selected person from the approved panel. A specimen copy of letter against confirmation on documentary basis as per rules. :
Confirmation : **Confirmation of Service : Should a teacher or a non-teaching staff appointed in a non-teaching staff appointed in the Provident Fund of the School be allowed the right and scope of participating in the Provident Fund of the School before confirmation of service? Ans. A teacher or a non-teaching staff appointed in a permanent/substantive post is required to undergo probationary period of two years or one year, as the case may be. But where is the bar in allowing an incumbent to contribute to Provident Fund? A teacher or a non-teaching staff coming from an aided/unaided school may also be allowed to contribute to P.F. regularly in view of continuity of service. However, a decision of the Managing Committee will be required when it is accepted/admitted by the competent authority. To acquire this right, the incumbent is to undergo a probationary period which his competency is watched.

Comment : *Letter of appointment : The Secretary of the Managing Committee/Administrator is required to issue a letter of appointment to the selected person from the approved panel. A specimen copy of letter against confirmation on documentary basis as per rules. :
Confirmation : **Confirmation of Service : Should a teacher or a non-teaching staff appointed in a non-teaching staff appointed in the Provident Fund of the School be allowed the right and scope of participating in the Provident Fund of the School before confirmation of service? Ans. A teacher or a non-teaching staff appointed in a permanent/substantive post is required to undergo probationary period of two years or one year, as the case may be. But where is the bar in allowing an incumbent to contribute to Provident Fund? A teacher or a non-teaching staff coming from an aided/unaided school may also be allowed to contribute to P.F. regularly in view of continuity of service. However, a decision of the Managing Committee will be required when it is accepted/admitted by the competent authority. To acquire this right, the incumbent is to undergo a probationary period which his competency is watched.

1. In sub-rule (8) of Rule 28th words "stoppage...in pay" have been substituted by the words "stoppage of one to three increments in pay" by Notification No. 2009-SE(S) dt. 3.11.2000. :
2. Sub-rule 8(b) has been added by idbi.

Constitution of the Managing Committee

criminal charge or otherwise, such staff shall be deemed to have been suspended by an order of the appointing authority, with effect from the date of detention and shall remain under suspension until further orders.

A teaching or non-teaching staff who is undergoing a sentence of imprisonment shall also be dealt with in the same manner, pending a decision on the disciplinary action to be taken against him.

(9) In aided and unaided Institutions the Committee shall have the power—

(i) to grant leave other than casual leave which shall be granted by the Head of the Institution and by the Secretary of the Committee in the case of the Head of the Institution ; to grant increments in pay to teachers and other employees in accordance with the procedure laid down from time to time or where in aided schools that grant of increments is regulated by grant-in-aid rules; in accordance with such rules ;

(ii) to grant free or half-free studentship to students in accordance with the procedure laid down from time to time, but ordinarily with the consent of the Head of the Institution ;

(iii) *To manage funds of the Institutions as per direction given by the Director from time to time ;

(iv) to frame annual report ;

(v) to deal with all schemes of development of the Institution and such other matters ;

(vi) to allocate the total period of holidays in a year, but special holiday for a day or a portion thereof on account of death of any prominent person or for any special occasion concerning the Institution may be granted by the Secretary or the Head of the Institution at his discretion ;

(vii) to grant deputation of teachers, where such deputation is in the interest of the Institution provided that a teacher affected by the decision of the Committee may make his representation to the Director ;

** (viii) to suspend a teacher or an employee where such suspension is in the interest of the Institution, pending drawal of proceedings against the person concerned within ninety days from the date of suspension and during the period of suspension, the person concerned shall be paid pay and allowances equal to fifty per cent of the pay and allowances drawn by him immediately before such suspension. Such steps shall be referred to the Board within seven days of such action for approval. The person affected by the decision of the Committee may, however, make his/her representation to the Board. The order of suspension shall automatically stand withdrawn in case proceedings are not drawn within a period of ninety days, provided that in exceptional circumstances this time-limit may be waived by the Board after due consideration of the facts of the case, but under no circumstances the time-limit shall be waived beyond the limit of one year ;

Provided that where the period of suspension exceeds 90 days, the amount of subsistence allowance shall be increased after the expiry of ninety days to seventy-five per cent of the pay and allowances drawn immediately before such suspension ;

Provided further that the person concerned shall not be entitled to any subsistence allowance if he/she accepts employment during the period of suspension elsewhere. :
(viii) to deal with other matters that are brought to the Committee in the interest of the Institution.

Comment : *Manage funds : Who are to manage school funds ? Ans : The Secy, the H. M. and the President are given right to handle school funds. The Secy and the H. M. will ordinarily handle school fund, but in absence of the Secretary, the President will act as one of the operators.

As regards Govt. grant-in-aid, any two of the three. (i) Secy/Adms. (ii) H. M. (iii) Teachers' representative. :
T. R. of course shall be one of them.

Comment : ** In the Management Rules 28(9) (viii), the Managing Committee is given the power to suspend a teacher or an employee pending drawal of proceedings against the person within 90 days from the date of suspension. The Head of the Institution is also a teacher. So suspension is also applicable against him and other teacher-members too. The Head of the Institution is an ex-officio member of the M. C. as well as the Joint Secretary, if not elected Secretary of the Committee. So how can the members of the Committee can take action against its member where there is no such Statutory provision? :
In Rule 28(8) the Managing Committee is given power to remove or dismiss permanent or temporary staff (Teacher and non-teaching staff) with prior approval of the Board.

Suspension of any staff being a primary step of the Committee towards removal or dismissal, prior approval of the Board is absolutely necessary before placing the staff under suspension, because the sudden action is liable to make an irreparable loss to an incumbent, such as (i) loss of prestige (ii) immediate loss in income by 50% of the pay and allowances. The state of suspension may be dragged up to one year.—Editor

Note : After Clause (i) of Sub-rule (9) of Rule 28, add the following Note :—“The Committee shall grant leave according to rules shown in the appendix.”

Note : An Institution receiving recurring financial assistance in any shape or form from the State Government either for maintenance or for payment of salary and/or allowances of teachers and/or other employees thereof shall be treated as an aided Institution for the purposes of these rules.

28A. Power of the State Government to take action against a member of the Committee—Notwithstanding anything contained elsewhere in these rules, the State Government shall have the right to proceed against any member of the Committee, who, in the opinion of the State Government, commits financial irregularity or acts against the interest of the Institution.

29. Staff Council—The Committee of each institution shall constitute a Staff Council composed of all whole-time teaching and non-teaching staff, permanent and temporary, working against sanctioned posts or sanctioned additional posts for not less than two years, with the Head of the Institution as its President. The Secretary of the Council shall be elected from amongst its members. The Council may discuss all matters of academic interest and other problems relating to the development of the institution and may recommend to the Committee, measures for improvement of the institution and may shall record the action taken on the recommendation, indicating reasons in the case of non-implementation. The Head of the Institution shall convene the meeting of the Staff Council once in every three months in an academic year.

30. Academic Council—(1) The Committee of each Institution shall constitute an Academic Council composed of the Head of the Institution, the Assistant Headmaster or Assistant Headmistress, if there be any, as the case may be, and not more than 3 members elected from amongst the members of the teaching staff including the Librarian and the Assistant Librarian where there is one, working against sanctioned posts or sanctioned additional posts for not less than two years.

The Head of the institution and the Assistant Headmaster or the Assistant Headmistress, Where there is no Assistant Headmaster or Assistant Headmistress, the elected members shall be elected Secretary of the Academic Council. In case of any casual vacancy, it shall be filled by election at a meeting convened for the purpose. The Head of the institution shall preside over the meeting.

In case of an Institution with Higher Secondary Classes (Classes XI and XII) recognised by the West Bengal Council of Higher Secondary Education, the total number of members of the Academic Council including the President and the Secretary shall, in no case, exceed 5.

(2) The Head of the Institution shall convene a meeting within one month from the first meeting of the newly constituted or reconstituted Managing Committee and the teacher-members including Librarian, Assistant Librarian, if any, of the Academic Council shall be elected in that meeting. Where there is an Ad hoc Committee or an Administrator, the Academic Council shall be constituted as per provisions of this rule as and when directed by the Executive Committee and shall continue to function for the period determined by the Executive Committee from time to time. The Head of the Institution shall convene the meeting of the Academic Council once in every month in an academic year.

(3) The Council may, in such meeting, discuss all or any of the matters connected with the following :—

(a) admission,

(b) promotion,

1. Rule 29 has been substituted by Notification No. 777-Edn.(S) dated 9.8.84.
2. In Rule 29 after the word “non-implementation” added the words “The Head of...in an academic year”.
3. Rule 30 has been substituted by Notification No. 777-Edn.(S), dt. 9.8.84.
4. In sub-rule (2) of Rule 30 after the word “time” added the words “The Head of the Institution...academic month” by Notification No. 2009-SE(S) dt. 3.11.2000.
5. In sub-rule (2) of Rule 30 for the words “Once in every two months” substitutes the words “once in every month” by Notification no. 1089-SE (S) dated 29.8.2008.
6. Sub-rule (3) of Rule 30 has been substituted by idli.

(c) selection of books,

(d) time table of school hours,

(e) measures relating to the improvement of teaching activities,

(f) measures relating to the improvement of co-curricular activities,

(g) review of teaching-learning issues and academic performance of each class.

(4) The Head of the Institution shall, ordinarily, be guided by the advice of the Council in the matters specified above, but the Head of the Institution may for reasons to be recorded in writing over-rule the advice of the Council, in which case any member of the Council who may be in disagreement with the decision taken by the Head of Institution may refer the matter to the Committee whose decision thereon shall be final.

(5) Selection of books shall be made in consultation with the subject teachers of the Institution : Provided that, in selecting books, schools shall exercise the greatest care and a book, once prescribed, shall be allowed to continue at least for three years unless there are compelling reasons for a change.

(6) The minutes of such meeting shall be carefully documented and retained by the Head of the Institution.

(7) Inspectors of schools, while visiting the schools, shall inspect the minutes of the meeting, and if he observed any deficiencies therein with respect to the matter referred to in sub-rule (3), he shall take appropriate action to ensure the remedial measures necessary for removing such deficiencies.”

31. Committee to be constituted within six months—The Committee of an Institution shall be constituted in accordance with the provisions of these rules, as amended, within a period of six months from the date of publication of these amendments in the *Calcutta Gazette*, except in the cases of Institutions where Committees were constituted in conformity with the rules as they stood before the publication of the present Notification, in which cases the Committee shall continue to function till the expiry of the period as provided in Rule 12, unless superseded earlier :

Provided that the extension of time may, for good and sufficient reasons, be granted by the Board, and if an Institution fails or neglects to constitute its Committee within the period specified or within the period extended by the Board, then the Board, shall have the power to supersede the Committee of the Institution concerned.

32. Rules not to apply to certain Institutions—Nothing in these rules shall apply to—

(a) the Institutions maintained and managed by the State Government, the Central Government or the Railway Board ; or

(b) the Institutions managed under the provisions of the St. Thomas' School Act, 1923, (Bengal Act XII of 1923) ; or

(c) the non-Government aided Educational Institution established and administered by a Minority referred to in clause (c) of section 2 of the West Bengal Minorities' Commission Act, 1996 (West Bengal Act XVI of 1996) ; or

(d) such other Institution as the State Government may, by order specify.

Explanation : For removal of any doubt, it is hereby declared that the State Government may, for the purpose of ensuring quality education, access and equity, on an application made by any non-Government aided Educational Institution referred to in clause (c), make rules under the provisions of the said Act for the composition, powers, functions etc of the Committee of such Institution .”

33. Omitted

34. Meeting with guardians—The Head of the Institution shall convene meeting with guardians twice in an academic year. The Head of the Institution shall convene meeting classwise with subject-teachers and guardians twice in an academic year without hampering the studies of the pupils. In every Institution ‘Guardians’ Week’ shall be observed once in a year.

35. Number of days for instructional work—

(1) The total number of days including Saturdays which will be half-holidays available for instructional work of an educational institution shall not fall below 200 days in an academic

1. Sub-rule (4) to (7) of Rule 30 has been added by Notification No. 1089-SE(S) dt. 29.8.2008
2. Rule 32 has been substituted by idli.
3. Rule 33 has been omitted by Notification No. 1089-SE(S) dt. 29.8.2008
4. Rule 34 and 35 has been added by Notification. No. 2009-SE(S) dt. 3.11.2000.

year. The days on which class-examinations and other school activities are held shall not be included within the period of 200 days earmarked for instructional work of the institution.

(2) Classes will not be kept suspended in the school on account of holding examination, and the West Bengal Council of Higher Secondary Education.

(3) No classes shall be kept suspended in the school for giving free time to the student to prepare for their annual examination or for any other school activities.

36. Holding of classes on regular basis etc.—All teachers shall regularly take classes allotted to them in the time-table and complete the prescribed syllabus within the stipulated period of the academic year. To monitor and maintain the prescribed rate of progress of the students in their course of studies, teachers should go by the announced programme of periodical examinations of the school, set up question papers, perform invigilation duty in writing of progress reports, publication of results thereof in time and submission of marks, for their knowledge, signature and comments in any. Schools shall also so arrange that the students can take home the examined answer scripts for the same to the guardians save and except annual examinations for perusal of their guardians for their knowledge in respect of attainments of their wards on condition that they must return the scripts with the scripts from the school.

37. Invigilation duties etc. to be performed by teachers.—Invigilation duties and evaluation of answer scripts in examinations conducted by the West Bengal Board of Secondary Education and the West Bengal Council of Higher Secondary Education shall fall within the bounden duties and functions of a teacher serving in a Secondary School/Higher Secondary School and the non-teaching staff shall perform other duties as may be allotted to them.

GOVERNMENT OF WEST BENGAL Education Department, Secondary Branch

Notification
Dated, Calcutta, the 3rd March, 1982

In exercise of the power conferred by sub-section (1) and in particular by clause (d) sub-section (2) of section 45 of the West Bengal Board of Secondary Education Act, 1963 (West Bengal Act, V of 1963), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the following amendments in the Management of Recognised Non-Government Institutions (Aided and unaided) Rules, 1969, as subsequently amended (hereinafter referred to as the said rules) :—

In the said rules :—

(1) in sub-rule (2a) of rule 4, after the words "and got approved by the Committee" omit the words "at least thirty days prior to the date of publication of the provisional Voters list."

(2) in rule 5, in item (1) of the Explanation, for the words "categories under the provisions of" substitute the words "categories other than category (v) referred to in".

Sd/- B. N. Chatterjee, Spl. Secy. to the

Govt. of West Bengal.
AMENDMENT OF MANAGEMENT RULES
Government of West Bengal
Education Department, Secondary Branch

No. 777-Edn.(S)

8B-3/83

Dated Calcutta, the 9th August, 1984.

In exercise of the power conferred by Sub-Section (1), and in particular, by clause (d) of sub-section (2) of section 45 of the West Bengal Board of Secondary Education Act, 1963 (West Bengal Act, V of 1963), the Governor is pleased hereby to make, after previous publication as required by sub-section (1) of the said section, the following

1. Rule 36 and 37 has been added by Notification, No. 2009-SE(S) dt. 3.11.2000.
Comment : This amendment is also applicable in the case of old institutions.—Editor

amendments in the Management of Recognised Non-Government Institutions (Aided and Unaided) Rules, 1969, published with this department notification No. 1598-Edn.(S), dated the 15th July, 1969, at pages 2223-2230 of Part I of the "Calcutta Gazette, Extraordinary", dated the 15th July, 1969, as subsequently amended (hereinafter referred to as the said rules) :—

1. In the said rules—

(1) in rule 2—

(i) for clause (e), substitute the following clause :—“(e) ‘‘Director’’ means the Director of School Education, West Bengal;”

(ii) after clause (e) insert the following clause :—“(ee) ‘‘Executive Committee means the Committee constituted under clause (aa) of section 18 of Act;”

(iii) after clause (f), insert the following clause—“(ff) ‘‘Sanctioned post’’ means the post of teaching or non-teaching staff sanctioned by the Director or by an officer authorised by him in this behalf;”

2. in sub-rule (2) of rule 4, for the words “at least” in the two places where they occur, substitute the words “not less than”;

3. in rule 5—

(a) omit clause (2) of the Explanation;

(b) in clause (b) of the Note, for the words “the Board” substitute the word “the Executive Committee”;

4. in rule 6—

(a) for the proviso to clause (iv), substitute the following proviso :

“Provided that in the case of an institution located within the jurisdiction of a *Panchayat* one person interested in education shall not be nominee of the local *Panchayat Samiti*. The person so nominated shall be a resident of the locality within the jurisdiction of the said ‘*Panchayat Samiti*’.”

(b) add the following proviso at the end—

“Provided that no person shall be eligible to represent more than one category”;

5. In rule 6A—

(a) in sub-rule (1), omit clause (iii)

(b) to sub-rule (2), after the first proviso, add the following further proviso :

“Provided further that the member to be nominated by the District Inspector of Schools under the first proviso shall be placed by the District Inspector of Schools concerned within thirty days from the date of election of members from different categories. The Head of the Institution shall, in case of default on the part of the District Inspector of Schools, inform the Executive Committee of the matter immediately after the expiry of the period referred to above and, in that event the Executive Committee of the matter immediately after the take such action in consultation with the director as it deems fit”;

(c) in sub-rule (3)—

(i) to clause (ii), after the first proviso, add the following further proviso :

“Provided further that the member to be nominated by the Local *Panchayat Samiti* under the first proviso shall be placed by the Local *Panchayat Samiti* within thirty days from the date of election of the members from different categories. The Head of the Institution shall, in case of default on the part of the Local *Panchayat Samiti*, inform the Executive Committee of the matter immediately after the expiry of the period referred to above and, in that event the Executive Committee shall take such action as it deems fit”;

(ii) after clause (i) as so amended, insert the following clause :—

(iii) the Head of a newly recognised institution shall, prior to the election of office-bearers, convene a meeting of the elected, nominated and *ex-officio* members and the Life member, if any, of the newly constituted Committee and consider the name(s) of founder(s) of the institution required under clause (b) of the Note below rule 5 :

Provided that in the case of an institution in an urban area, the Head of a newly recognised institution shall, prior to the date of election of office-bearers, also consider the name(s) of founder(s) of the institution and approve the same as indicated in clause (b) of Note below rule 5, at a meeting of the elected, nominated and *ex-officio* members and Life member, if any, convened for the purpose of co-option of a person interested in education as provided in clause (i) of sub-rule (3) of rule 6A”;

Comment : *Formerly, the term of extension of the Committee or Administrator was limited to six months to one year. But in the amended rules, the limitation has been removed.