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PART III—Acts of the West Bengal Legislature.

**GOVERNMENT OF WEST BENGAL**

**LAW DEPARTMENT**

**Legislative**

**NOTIFICATION**

No. 1526-L.—29th December, 2011.—The following Act of the West Bengal Legislature, having been assented to by the President of India, is hereby published for general information:—

**West Bengal Act XXXIV of 2008**

**THE WEST BENGAL ADMINISTRATIVE (ADJUDICATION OF  
SCHOOL DISPUTES) COMMISSION ACT, 2008.**

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SCHEDULE.

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**THE WEST BENGAL ADMINISTRATIVE (ADJUDICATION OF  
SCHOOL DISPUTES) COMMISSION ACT, 2008.**

[Assent of the President of India was first published in the *Kolkata Gazette*,  
*Extraordinary*, of the 29th December, 2011.]

*An Act to provide for establishment of the West Bengal Administrative (Adjudication of School Disputes) Commission for better protection of the rights of teachers and non-teaching staff of the schools in the State and for efficient disposal of the school disputes and for matters connected therewith or incidental thereto.*

WHEREAS it is expedient to provide for establishment of the West Bengal Administrative (Adjudication of School Disputes) Commission for better protection of the rights of teachers and other non-teaching staff of the schools in the State and for efficient disposal of the school disputes and for matters connected therewith or incidental thereto;

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

CHAPTER I

Preliminary

Short title and commencement.

1. (1) This Act may be called the West Bengal Administrative (Adjudication of School Disputes) Commission Act, 2008.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “Administrative Member” means a Member of the Commission appointed as such under section 5;
- (b) “Bench” means a Bench of the Commission;
- (c) “Chairperson” means the Chairperson of the Commission;
- (d) “Commission” means the West Bengal Administrative (Adjudication of School Disputes) Commission established under section 3;
- (e) “Legal Member” means a Member of the Commission appointed as such under section 5;
- (f) “Member” means a Member of the Commission and includes the Chairperson;
- (g) “notification” means a notification published in the *Official Gazette*;
- (h) “prescribed” means prescribed by rules made under this Act;
- (i) “school” means—
  - (a) a school as recognized under the State Acts but does not include a Government School;
  - (b) an unaided School.

*Explanation.*—“Government School” shall mean a school maintained and managed by the State Government or the Government of India or the Railway Board under the Ministry of Railway, Government of India;

- (j) “school authority”, in relation to a school, means the governing body, managing committee or *ad hoc* committee or any other body, by whatever name it is called, which is charged with the management of the affairs of the school, and includes the administrator of the school;

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

(Chapter II.—Establishment and Composition of Commission.—Sections 3, 4.)

- (k) “school disputes” means all disputes relating to—
- (i) determination of strength of teaching staff and of non-teaching staff,
  - (ii) inquiry or inspection,
  - (iii) funds,
  - (iv) service matters of a person in a school,
  - (v) sanction of additional post,
  - (vi) selection of site for setting up of a school,
  - (vii) any contract under which any person is appointed to any post,
  - (viii) payment of compensation to any person appointed to any post,
  - (ix) any other matter which may be prescribed,
- of a school and includes all disputes relating to setting up of a new school and upgradation of an existing school.

*Explanation.*—For the purposes of this clause, “service matter”, in relation to service of a person in a school, means any matter relating to—

- (i) recruitment,
  - (ii) appointment,
  - (iii) approval of post,
  - (iv) pay, remuneration (including allowances), pay fixation, pension and other retirement benefits,
  - (v) posting of service,
  - (vi) tenure, seniority, reversion, premature retirement and superannuation,
  - (vii) leave of any kind,
  - (viii) disciplinary matters, or
  - (ix) any other matter which may be prescribed;
- (l) “society” means a society within the meaning of the Societies Registration Act, 1860 or under any corresponding law for the time being in force in the State; 21 of 1860.
- (m) “specified” means specified by the regulations made under this Act;
- (n) “specified State Act” means a State Act specified in the Schedule;
- (o) “State Government” means the Government of West Bengal;
- (p) “Trade Union” means a Trade Union as defined in clause (h) of section 2 of the Trade Unions Act, 1926. 16 of 1926.

## CHAPTER II

### Establishment and Composition of Commission

Establishment of  
Commission.

**3.** The State Government shall, by notification, establish, from such date as may be appointed in such notification, a Commission called the West Bengal Administrative (Adjudication of School Disputes) Commission.

Members of  
Commission.

**4.** (1) The Commission shall consist of the Chairperson and not less than one Legal Member and one Administrative Member:

Provided that the number of Administrative Members shall not, at any time, be more than the number of Legal Members.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

*(Chapter II.—Establishment and Composition of Commission.—Section 5.)*

(2) The principal seat of the Commission shall be at Kolkata.

(3) The Chairperson shall be the Chief Executive of the Commission and ordinarily sit at the principal seat of the Commission.

(4) Subject to provisions of this Act,—

(a) the jurisdiction and power of the Commission in the matter of adjudication of a school dispute may be exercised by a Bench;

(b) a Bench may be constituted by the Chairperson with two or more Members of the Commission as the Chairperson may deem fit:

Provided that the number of Administrative Members in a Bench shall not, at any time, be more than the number of Legal Members in the Bench;

(c) the Benches shall sit at the principal seat of the Commission or at such other places as the State Government may, in consultation with the Chairperson, notify;

(d) the State Government shall notify the areas in relation to which a Bench may exercise jurisdiction.

(5) Notwithstanding anything contained in sub-section (4), the Chairperson may transfer a Member from one Bench to another Bench.

Qualifications for  
appointment of  
Chairperson and  
other Members.

5. (1) A person shall not be qualified for appointment as the Chairperson unless he is qualified to be, or is, or has been, a Judge of a High Court.

(2) A person shall not be qualified for appointment as a Legal Member unless he—

(a) has completed the age of forty years;

(b) possess a degree in law from a university established by, or recognised under, law;

(c) is, or has been, holding a post, requiring special knowledge of law, under the Government of West Bengal for at least ten years and is of a rank not below than that of a Special Secretary to the Government of West Bengal;

(d) is a person against whom no disciplinary proceeding is pending.

(3) A person shall not be qualified for appointment as an Administrative Member unless he—

(a) has completed the age of forty years;

(b) possess a degree from a university established by, or recognised under, law;

(c) has been associated with addressing/administering matters relating to the social sector particularly Education and is of a rank not below than that of a Special Secretary to the Government of West Bengal;

(d) is a person against whom no disciplinary proceeding is pending.

(4) The Chairperson shall be appointed by the Governor in consultation with the Chief Justice of the High Court.

(5) A Member other than the Chairperson shall be appointed by the Governor on the recommendation of the Selection Committee consisting of—

(a) the Chairperson;

(b) the Secretary, Law Department, Government of West Bengal;

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School Disputes) Commission Act, 2008.*

(Chapter II.—Establishment and Composition of Commission.—Sections 6-9.)

- (c) the Secretary, School Education Department, Government of West Bengal.

*Explanation.*—For the purposes of this sub-section, “Secretary” includes the officer who may, for the time being in force, be discharging the functions of the Secretary.

Term of office of  
Members.

6. (1) Subject to the provisions of section 8,—

- (a) the Chairperson shall hold office for a term of five years or until he attains the age of sixty-five years, whichever is earlier;
- (b) a Member other than the Chairperson shall hold office for a term of five years or until he attains the age of sixty-two years, whichever is earlier.

(2) (a) The Chairperson shall be eligible for re-appointment for another term of five years or until he attains the age of sixty-five years, whichever is earlier, and such re-appointment shall be made in the same manner as provided in sub-section (4) of section 5.

(b) A Member other than the Chairperson shall be eligible for re-appointment for another term of five years or until he attains the age of sixty-two years, whichever is earlier, and such re-appointment shall be made in the same manner as provided in sub-section (5) of section 5.

Salaries and  
allowances and  
other terms and  
conditions of  
service of  
Chairperson and  
other Members.

7. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and other Members shall be such as may be prescribed:

Provided that the salary or any allowance payable to, or any other term or condition of service of, any Member shall not be less than that payable to, or of, a Special Secretary to the Government of West Bengal:

Provided further that the salary or any allowance payable to, or any other term or condition of service of, any Member shall not, after his appointment as such, be varied to his disadvantage.

Disqualifications.

8. A person shall be disqualified for being appointed as, or holding the office of, a Member, if he—

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;
- (b) is an undischarged insolvent;
- (c) is of unsound mind and stands so declared by a competent court;
- (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government;
- (e) is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State; or
- (f) has any other disqualification as may, in consultation with the Chairperson, be prescribed.

Resignation, etc.  
of Members.

9. (1) The Member may, by giving in writing a notice of not less than three months under his hand addressed to the Governor, resign his office, and, on such resignation being accepted, his office shall become vacant and may be filled up by a fresh appointment.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

(Chapter II.—Establishment and Composition of Commission.—Sections 10, 11.—  
Chapter III.—Jurisdiction and Powers of Commission.—Section 12.)

(2) A Member who has become disqualified to hold his office on any of the grounds mentioned in clauses (a) to (f) of section 8 shall, by writing under his hand addressed to the Governor, inform the fact and on the fact being so informed, his office shall stand vacant and may be filled up by a fresh appointment; and where the Member fails so to inform the fact, he may, after an inquiry made by a Judge of the High Court in which the Member has been informed of the ground and given a reasonable opportunity of being heard in respect of the ground, be declared to have become disqualified and, on the declaration being so made, his office shall stand vacant and may be filled up by a fresh appointment.

(3) No Member shall be removed from his office except on the ground of proved misbehaviour or incapacity after an enquiry made by a Judge of the High Court in which the Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(4) No removal referred to in sub-section (3) shall be made except by an order in writing made by the Governor.

(5) The State Government may, in consultation with the Chairperson, prescribe the procedure for inquiry into the disqualification of a Member to hold his office or the misbehaviour or incapacity of a Member.

Staff of  
Commission.

**10.** (1) (a) The Commission may appoint on transfer on deputation a Registrar from amongst the members of the West Bengal Legal Service who have put in at least eight years' continuous service in the cadre of West Bengal Legal Service.

(b) The Registrar shall have overall control over the secretarial jobs of the adjudicative functions of the Commission and shall perform such other functions as may be specified.

(c) The salaries and other allowances payable to, and the other terms and conditions of service of, the Registrar of the Commission shall be such as may, with the approval of the State Government, be specified.

(2) (a) The Commission may, with the approval of the State Government, determine the numbers and categories of officers and other employees of the Commission.

(b) The recruitment of, salaries and other allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Commission shall be regulated in such manner as the Commission may, with the approval of the State Government, specify.

Administrative  
superintendence  
over Benches.

**11.** The Chairperson shall have administrative superintendence over all the Benches.

### CHAPTER III

#### Jurisdiction and Powers of Commission

The State Acts to  
which this Act  
shall apply.

**12.** (1) This Act shall apply to every specified State Act with effect from such date as the State Government may, by notification, appoint, and the Commission, save as otherwise expressly provided under such specified State Act and subject to other provisions of this Act, shall exercise jurisdiction, powers and authority in relation to all matters of adjudication or trial of any school disputes and the matters connected therewith or incidental thereto; and no civil court shall, with effect from such date, exercise any jurisdiction, powers or authority in the matter of adjudication or trial of any school disputes.



*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

*(Chapter III.—Jurisdiction and Powers of Commission.—Sections 13-15.)*

(2) Notwithstanding anything contained elsewhere in this Act, all proceedings triable by any court or courts in accordance with the provisions of the Code of Criminal Procedure, 1973, shall continue to be tried by such court, and the Commission shall have no jurisdiction to try such proceedings. 2 of 1974.

Jurisdiction of  
Commission.

**13.** (1) Save as otherwise expressly provided in this Act, the Commission shall have jurisdiction to adjudicate a school dispute and make order to a person directing redressal of the school dispute.

(2) In particular and without prejudice to the generality of the provision of sub-section (1), the Commission shall, in adjudicating the school dispute, have jurisdiction to declare that—

- (i) a law or an instrument, statutory or otherwise, or an act has or shall have such effect or no such effect,
- (ii) a party has or shall have such right or duty or no such right or duty, and
- (iii) an act has or shall have such effect or no such effect,

subject to such conditions and restrictions, if any, as may be mentioned in the judgment:

Provided that where the matter relates to disposal of question of constitutional validity of any provision of any specified State Act, the matter shall be decided by a Bench constituted of at least three Members of which the Chairman shall be one.

(3) The Commission shall, in making order for redressal of the school dispute, have jurisdiction to make order to the person directing him to pay such cost, compensation and interest, if any, as may be mentioned in the order.

Powers of  
Commission.

**14.** (1) The Commission shall, while adjudicating a dispute, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in the following matters:— 5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining the person on oath;
- (b) discovery and production of any document or material producible as evidence;
- (c) receiving evidence on affidavit;
- (d) issuing commission for examination of any person;
- (e) requisitioning any public record;
- (f) reviewing any decision or order;
- (g) any other matter which may be prescribed.

(2) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 172 to 188, 193 to 196, 199, 200, 205, 211, 228, 463, 471, 475 and 476 of the Indian Penal Code, 1860, and the Commission shall be deemed to be a civil court for the purpose of sections 195, 345 and 346 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860.

Power to visit and  
inspect schools.

**15.** (1) The Commission may, at any stage of any proceeding, visit and inspect, or appoint any person to visit and inspect, after due notice to the parties, any school or other place which it is, in opinion of the Commission, necessary to visit and inspect to adjudicate a school dispute, who shall thereupon, after due notice to the parties, visit and inspect the school or other place, as the case may be.

(2) The person referred to in sub-section (1) shall, consequent upon the visit and inspection, draw a report and submit the same to the Commission in such manner as may be specified.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

(Chapter III.—Jurisdiction and Powers of Commission.—Sections 16, 17.—  
Chapter IV.—Proceedings of Commission.—Sections 18-20.)

Court of record.

**16.** (1) The Commission shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.

(2) The powers referred to in sub-section (1) shall be exercised in such manner as may be specified.

Every person and civil authority to abide by judgment and order.

**17.** Subject to the provisions of this Act, every person and civil authority shall abide by a judgment pronounced, and an order made, by the Commission.

#### CHAPTER IV

#### Proceedings of Commission

Persons who may make petitions and present cases.

**18.** (1) A person may make a petition to the Commission either in person or through his Advocate and may present the case before the Commission either in person or through his Advocate.

(2) The State Government or any other authority may make a petition to the Commission either through any of its officers authorised to act as its presenting officer in that behalf or its Advocate and may present the case before the Commission either through the presenting officer or Advocate.

Societies and Trade Unions to make petitions.

**19.** (1) Notwithstanding anything contained in section 18,—

- (a) a society or Trade Union may, on behalf of its member, make the petition referred to in section 18;
- (b) a society or Trade Union may, on behalf of an individual, make the petition referred to in section 18, if the individual consents to the same;
- (c) a society or Trade Union may be added by the Commission, on its own motion or a petition in that behalf being presented to the Commission by the society or Trade Union, as a party to a petition referred to in section 18.

(2) In case a society or Trade Union makes the petition referred to in section 18, the provisions of section 18 shall apply *mutatis mutandis* to the society or Trade Union.

(3) Nothing in this section shall authorise any society or Trade Union to prosecute or defend any petition where prosecution or defence of the petition is foreign to the objects of the society or Trade Union.

Petitions to Commission.

**20.** (1) The Commission, on a petition being presented to it, may decide the admissibility of the petition and, by order in writing, allow the petition to be proceeded with or reject the petition:

Provided that the petition shall not be rejected under this sub-section unless an opportunity of being heard has been given to the petitioner:

Provided further that the admissibility of the petition shall ordinarily be decided within a period of fifteen days from the date on which the petition has been presented to the Commission.

(2) Where the petition has been allowed to be proceeded with under sub-section (1), the Commission shall proceed with the petition in such manner as may be specified.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

*(Chapter IV.—Proceedings of Commission.—Sections 21, 22.)*

(3) Where a petition referred to in sub-section (1) is found or, at any stage of any proceeding, found to—

- (a) be frivolous or vexatious, or
- (b) be made to delay the adjudication of any school dispute or other proceeding or to otherwise abuse any process of the Commission,

it shall, for reasons to be recorded in writing, reject or dismiss, as the case may be, the petition and may make an order that the petitioner shall pay to the opposite party such costs as may be mentioned in the order.

Service of notices,  
etc.

**21.** (1) A notice required by or under this Act to be served to a petitioner, an opposite party or any other person may be served on the petitioner, opposite party or other person, as the case may be, by sending the same at the address of the petitioner, opposite party or other person, as the case may be, by registered post, acknowledgement due.

(2) When an acknowledgement purporting to be signed by the addressee or his agent is received by the Commission or an article containing the notice is received back by the Commission with an endorsement purporting to have been made by a postal employee to the effect that the addressee or his agent had refused to take delivery of the article or had avoided by any means to take delivery of the article, the Commission shall declare that the notice had been duly served on the addressee:

Provided that where the notice was properly addressed and duly pre-paid and sent by registered post, acknowledgement due, a declaration referred to in this sub-section shall be made notwithstanding the fact that the acknowledgement has not, for being lost or mislaid or any other reason, been received by the Commission within thirty days from the date the notice was so sent.

(3) The notice referred to in sub-section (1) may alternatively or additionally be sent through such courier company or by such other means, and, in that case, the declaration referred to in sub-section (2) shall be subject to such conditions, as the Chairperson may specify.

*Explanation.*—For the purposes of this sub-section, “courier company” means—

- (a) a concern,
- (b) a firm or any other association or body of individuals, or
- (c) a body corporate or authority,

rendering the service of a courier.

(4) A notice required by or under this Act to be served to a petitioner, an opposite party or any other person shall be addressed to the place where the petitioner, opposite party or other person, as the case may be, actually and voluntarily resides, or personally works for gain, or carries on business.

*Explanation.*—For the purposes of this sub-section, an association or a body of individuals, a body corporate or an authority shall be deemed to carry on business at its sole or principal office.

Procedure.

**22.** (1) The Commission shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the basic principles of natural justice and, subject to the other provisions of this Act, the Commission shall have power to regulate its own procedure.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

*(Chapter IV.—Proceedings of Commission.—Sections 23-26.)*

(2) The Commission shall decide every petition made to it as expeditiously as possible and shall make endeavour to decide the petition within a period of three months from the date of admission of the petition:

Provided that if the Commission disposes of the petition after the period referred to in this sub-section, the Commission shall at the time of disposing of the petition, record in writing the reasons for disposing of the petition after such period.

(3) During any proceeding before the Commission, it may pass such interim or interlocutory order as it may consider just and proper in the facts and circumstances of the case.

(4) Every judgment pronounced or order made by the Commission shall be signed by the Members who have conducted the proceeding:

Provided that where the Members in a Bench differ on any point or points, the opinion of the majority of the Members shall be the judgment or order of the Commission:

Provided further if such Members are equally divided, the point or points on which they differ shall be referred to the Chairperson who shall either hear the parties on, and decide, such point or points by himself or refer such point or points to other Member or Members for hearing the parties on, deciding, such point or points by such Member or Members and, thereupon, the opinion of the majority of all such Members shall be the judgment or order of the Commission:

Provided also that nothing in the preceding provisos shall be deemed to prevent any such Member who does not concur to the opinion of the majority of such Members or all such Members from delivering a dissenting opinion or judgment on the point or points.

No adjournment.

**23.** The Commission shall not ordinarily grant adjournment to any proceeding before it:

Provided that it may, for sufficient reasons, after recording the reasons, grant adjournment to the proceeding for a period ordinarily not exceeding fifteen days at a time.

Judgments or orders not to be reserved for more than one month.

**24.** Notwithstanding anything contained in this Act or any rule or regulation made thereunder, the Commission shall not reserve its judgment or order in relation to a school dispute for more than one month:

Provided that if the Commission pronounces the judgment or makes the order after the period referred to in this section, the Commission shall record its reasons for the delay.

Correction of judgments and orders.

**25.** Any mistake of clerical or arithmetical nature, or any error arising from any accidental slip or omission, in any judgment pronounced or order made by the Commission may, at any time, be corrected by the Commission either of its own motion or on a petition being made to it by any of the parties to the judgment or order.

Clarification of judgments and orders.

**26.** Where any judgment pronounced or order made by the Commission is found to be ambiguous, vague or inconsistent or otherwise unclear, the Commission may, at any time, either of its own motion or on a petition being made to it by any of the parties to the judgment or order, clarify the judgment or order.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

*(Chapter IV.—Proceedings of Commission.—Sections 27-32.—  
Chapter V.—Finance and Audit.—Section 33.)*

Rooms or places  
of proceedings to  
be open courts.

**27.** The room or place in which any proceeding of the Commission is conducted shall be deemed to be an open court, to which the public generally shall have access:

Provided that the presiding officer of the Bench may, for reasons to be recorded in writing, order, at any stage of the proceedings, that the public generally, or any particular person, shall not have access to, or be or remain in, such room or place.

Manner of  
adjudicating  
schools disputes.

**28.** Notwithstanding anything contained in this Act or any rule or regulation made thereunder, the Commission shall adjudicate a school dispute and conduct a proceeding relating thereto in a manner that the process of adjudication is not unnecessarily lengthened and that the substantial justice is administered to the parties thereto in a reasonable time.

Bar to jurisdiction  
of civil courts.

**29.** No suit or other proceeding in respect of a school dispute shall lie to a civil court.

No suit, appeal or  
other proceeding  
to stand, or be,  
transferred to  
Commission.

**30.** Notwithstanding anything contained in this Act, no suit, appeal or any other proceeding relating to a school dispute pending, on the date of commencement of this Act, before any court shall stand, or be transferred to the Commission and every such suit, appeal or other proceeding shall continue to proceed before the court as if this Act had not been enacted.

Appeals.

**31.** Notwithstanding anything in the Code of Civil Procedure, 1908, or any other law for the time being in force,—

- (a) no appeal shall lie against an interim or interlocutory order made by the Commission;
- (b) an appeal against a judgment pronounced or an order made by the Commission shall lie to a Division Bench of the High Court.

Validation.

**32.** Notwithstanding anything contained in this Act or any rule or regulation made thereunder,—

- (a) no act or proceeding of the Commission shall be invalid by reason only of the existence of any vacancy amongst the Members or any defect in the establishment of the Commission;
- (b) no proceeding of the Commission shall be invalid if the proceeding has been conducted in accordance with the basic principles of natural justice and no substantial injustice has thereby resulted to any party to the proceeding.

## CHAPTER V

### Finance and Audit

Accounts and  
audit.

**33.** (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed.

(2) The annual accounts of the Authority shall be audited by the Accountant-General, West Bengal.

(3) The Accountant-General, West Bengal, shall have the same rights, privileges and authority in connection with such audit as the Accountant-General, West Bengal, generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Commission.

*The West Bengal Administrative (Adjudication of  
School Disputes) Commission Act, 2008.*

(Chapter V.—Finance and Audit.—Section 34.—Chapter VI.—  
Miscellaneous.—Sections 35-39.)

Financial powers  
of Chairperson.

**34.** Subject to the provision of this Act, the Chairperson shall exercise such financial powers as may be prescribed.

## CHAPTER VI

### Miscellaneous

Members, officers  
and employees of  
Commission to be  
public servant.

**35.** All Members, officers, employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any provision of the Act, or any rule or regulation made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

Protection of  
actions taken in  
good faith.

**36.** No suit, prosecution or legal proceeding shall lie against the Commission or any Member or any officer or employee of the Commission for anything, or any injury or damage caused or likely to be caused by anything, which is in good faith done or intended to be done under any provision of this Act or any rule or regulation made thereunder.

Act to have  
overriding effect.

**37.** The provisions of this Act or any rules or regulation made thereunder shall have effect notwithstanding anything contained in any law for the time being in force or in any instrument having effect by virtue of any law.

Power to make  
rules.

**38.** (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for any matter which may be, or is required to be, prescribed.

(3) Every rule made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

Power to make  
regulations.

**39.** (1) The Commission may, with prior approval of the State Government, by notification, make regulations consistent with this Act for proper exercise of its power under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:—

- (a) the form and contents of a petition to be made to the Commission and the documents to be annexed thereto;
- (b) the fees to be paid, and the manner of making payment thereof, for making a petition to the Commission;
- (c) the manner of making a petition to the Commission;
- (d) the regulation of the proceedings of the Commission, including those relating to review of a judgment pronounced or an order made by the Commission;
- (e) the regulation of the sittings, including the days and hours of the sittings, of the Commission;
- (f) the decorum to be maintained during conduct of the proceedings of the Commission;

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*(Chapter VI.—Miscellaneous.—Section 40.—Schedule.)*

- (g) the manner of keeping records of the proceedings of the Commission and the preservation and destruction thereof;
- (h) the period of limitation in the matter of making a petition to the Commission;
- (i) the dress of the Members while sitting at the Bench;
- (j) the person, and dress of such person, by whom a petitioner may be represented to the Commission;
- (k) any other matter which may be, or is required to be, provided for.

Power to remove difficulties.

**40.** (1) If any difficulty arises in giving effect to any provision of this Act, the Governor may, for the purpose of removing such difficulty, direct, by order published in the *Official Gazette*, that this Act shall, during such period as may be specified in the order, have effect subject to such modifications, including additions and omissions, as he may deem to be necessary or expedient:

Provided that no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before the State Legislature.

SCHEDULE

[See section 2(n).]

Sl. No.	Short title of the specified State Act	Act No. and year
1.	The West Bengal Board of Secondary Education Act, 1963.	West Ben. Act V of 1963.
2.	The West Bengal Primary Education Act, 1973.	West Ben. Act XLIII of 1973.
3.	The West Bengal Council of Higher Secondary Education, 1975.	West Ben. Act VIII of 1975.
4.	The West Bengal Board of Madrasah Education Act, 1994.	West Ben. Act XXXIX of 1994.
5.	The West Bengal School Service Commission Act, 1997.	West Ben. Act IV of 1997.
6.	The West Bengal Council of Rabindra Open Schooling Act, 2001.	West Ben. Act XI of 2001.
7.	The West Bengal Schools (Control of Expenditure) Act, 2005.	West Ben. Act XIV of 2005.

By order of the Governor,

B. K. SRIVASTAVA,  
Secy.-in-charge to the Govt. of West Bengal,  
Law Department.