

# **Bihar State Madarsa Education Board Act, 1981**

**(Bihar Act No. 32, 1982)\***

*An Act to provide for the constitution of an autonomous Board for development and better supervision of Madarsa Education in the State of Bihar.*

Be it enacted by the Legislature of the State of Bihar in the Thirty second year of the Republic of India as follows:

**1. Short title, extent and commencement.**-(1) This Act may be called that Bihar State Madarsa Education Board Act, 1981.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall be deemed to have come into force with effect from 17th January

**2. Definition.**--In this Act, unless there is anything repugnant in the subject on context. -

a) 'Board' means, the Bihar State Madarsa Education Board established under Section 3 of this Act.

b) 'Chairman' means the Chairman of the Board.

c) 'Madarsa' means an educational institution providing Instruction in Arabic, Persian and Islamic studies and recognised as such by the Board.

d) "Managing Committee" means a committee constituted under the provisions of this Act for the management of Madarsa.

e) 'Prescribed' means prescribed under the Act or the Rules and Regulations made thereunder

f) 'Regulation' means regulation made by the Board under this Act.

g) 'Rule' means Rule made by the State Government under this Act

h) 'Secretary' means the Secretary of the Board.

i) 'Teacher' means a member of teaching staff of a recognised Madarsa and shall include the Head of Madarsa.

**3. Establishment of Bihar State Madarsa Education Board.**--With effect from a date which the State Government may by notification published in the official Gazette appoint, there shall be established a Board to be known as the Bihar State Madarsa Education Board (hereinafter called Board) with headquarters at Patna and jurisdiction over the whole of the State of Bihar.

**4. Incorporation of the Board.** -The Board shall be a body corporate with perpetual succession and a common seal and shall be entitled to acquire, hold and dispose of property, to enter into contracts, and to do all other things necessary for the purpose of this Act and shall sue and be sued by the said name.

**5. Composition of the Board.** --The Board shall consist of the following members:

1) Chairman to be appointed by the State Government under section 10

of the Act.

- 2) Director of Education incharge Oriental Education-Ex-officio.
- 3) Director-Institute of Post Graduate Studies and Research in Arabic and Persian, Patna-Ex-officio
- 4) The Principal, Madarsa Islamia Shamsul Hoda, Patna-Ex-officio.
- 5) Chairman, Bihar Sunni Wakf Board, Patna-Ex-officio
- 6) Chairman, Bihar State Shia Board, Patna-Ex-officio
- 7) Three members of Legislature, two from Legislative Assembly and one from Legislative Council nominated by State Government.
- 8) Two senior teachers of Madarsa nominated by the State Government.
- 9) Three other members nominated by State Government who have interest in Madarsa Education on Islamic Studies.

**6. Term of office of the nominated members.**-(1) The term of office of the nominated members of the Board shall be for a period of three years with effect from the date of their nomination and shall include any period that may elapse between the date of expiry of the term and the date of nomination to fill the vacancy caused by the expiry for the said term.

(2) A member of the Board may, on expiry of his term of the office under sub-section (1) be re-nominated for another term not exceeding three years, but shall not be eligible for nomination of more than two terms.

**7. Powers and functions of the Board.**-(1) It shall be duty of the Board to provide for instruction and research in Arabic, Persian and Islamic Studies and such other branches of knowledge including vocational courses and training which the Board thinks fit and to advise the State Government on all other matters relating to Madarsa Education.

(2) Subject to the provisions of this Act and the Rules and Regulations made thereunder, this Board shall have the powers to direct, supervise and control Madarsa Education and in particular have the powers-

- a) to grant recognition to Madarsa in accordance with such regulations as may be made by the Board in this behalf;
- b) to withdraw recognition of a recognised Madarsa in accordance with such regulations as may be made by the Board in this behalf and not to give grant to such Madarsa from the Madarsa Education Fund;
- c) to maintain a register of Madarsas;
- d) to prescribe by regulation the syllabi, the courses of studies to be followed and the books to be studied in Madarsa and for examination conducted by the Board;
- e) to undertake the preparation, publication or sale of text books and other reference books for use in Madarsa within the resources available for the purpose;
- f) to maintain and publish from time to time lists of books approved for use in Madarsa and for examinations conducted by the Board and to remove such books from any such lists:

- g) to conduct different Madarsa examinations and such other examinations for Madarsa as it may think fit and make regulations in this behalf;
- h) to publish the results of any examinations conducted by the Board and to award Diplomas, Certificates, prizes and scholarships in respect thereof;
- i) to provide by regulations the rates of remunerations to be paid to paper setters, moderators, tabulators, examiners, invigilators, Centre Superintendents, Supervisors and other persons employed in connection with the examination conducted by the Board and fees to be paid by examinees for such examinations;
- j) to grant permission to examinees to appear at an examination conducted by the Board and to refuse or withdraw such permission if it thinks fit in accordance with such regulations as may be made in this behalf.
- k) to administer the Madarse Education fund
- l) to institute and administer such provident funds as may be prescribed by rules;
- m) to make regulations regarding service conditions of the employees of the Board:
- n) to get the Managing Committee of Madarsa constituted in a manner so as to include the Head moulvi, two donor representatives, one teacher representative, two guardians representatives, and one member nominated by the Board and two other persons interested in Madarsa Education or islamic studies co-opted by the above seven members. The power to dissolve the Managing Committee shall vest in the Board;
- o) to constitute Academic Committee, Recognition Committee, Examination Committee and Finance Committee in the manner prescribed by rules and such other committees or sub-committees as the Board may consider necessary for the proper and efficient functioning of the Board:
- p) to prepare the annual budget estimates of income and expenditure of the Board for approval of the State Government;
- q) to provide for training programmes and refresher course for Madarsa teachers in collaboration with other educational and training institutions:
- r) to make regulations for the purpose of implementing the provisions of this Act;
- s) to create posts of officers and staff of the Board as may be prescribed by the rules;
- t) to perform such other functions as may be entrusted to it by the State Government

**8. Officers of the Board.** The following shall be officers of the Board

- 1) Chairman
- 2) Secretary
- 3) Finance Officer
- 4) Controller of Examination, and

5) Such other person or persons as may be declared by the State Government to be the officers of the Board.

**9. Removal of nominated members.**-(1) The State Government may, on recommendation of the Board or suo moto remove any nominated member from his post if such a member has been found guilty of such conduct as would, in the opinion of the State Government disqualify him to continue as a member.

(2) No order under sub-section (1) shall be passed unless a notice stating the specific grounds on which such action is proposed has been served and a reasonable opportunity to show-cause against the proposed order has been given to the said member.

**10. Chairman.**-(1) Subject to the provision of this Act the Chairman shall be appointed by the State Government for a term not exceeding three years from the date he assumes office and on the expiry of the said term he shall be eligible to be re-appointed for a period not exceeding three years, but shall not be eligible for appointment for more than two terms.

(2) No person shall be eligible for appointment as Chairman unless he holds adequate experience under the Central or State Government or unless he has teaching or research experience for not less than ten years in any educational institution imparting education upto Post-Graduate standard, or is reputed scholar in Arabic, Persian or Islamic Studies and is interested in Madarsa Education.

**11. Removal of the Chairman.**-(1) If at any time, and after such enquiry as may be considered necessary, it appears to the State Government that the Chairman:-

- a) has failed to discharge his duties under this Act, or
- b) has acted in a manner prejudicial to the interest of the Board, or
- c) is guilty of misdemeanour,

The State Government may, notwithstanding the fact that the term of office of the Chairman has not expired, remove the Chairman from his post by giving notice of one month or pay in lieu thereof from the date specified in the notification.

(2) On and from the date specified in the order passed under the provisions of sub-section (1) it shall be deemed that the Chairman has resigned his post and the office of the Chairman shall be deemed vacant.

**12. Arrangement of work during absence of the Chairman.**-During the temporary absence of the Chairman by reason of leave, illness or any other cause,

it shall be lawful for the Director of Education (Incharge of Oriental Education) to exercise the powers and perform the duties of Chairman.

**13. Powers and functions of the Chairman.**---(1) The Chairman shall be the principal executive and academic officer of the Board and shall preside at meetings of the Board:

Provided that the Chairman shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) The Chairman shall, subject to the provisions of this Act and the Rules and Regulations made thereunder, have powers to make appointment to posts within the sanctioned grades and scales of pay and within the sanctioned strength of the ministerial staff and other employees other than teachers and officers of the Board and have control and full disciplinary powers over such employees.

(3) The Chairman shall have the right to visit and inspect the Madarsa and other institutions affiliated with the Board or cause such inspections to be made by such persons as may be authorized by him.

(4) If at any time, except when the Board is in session, the Chairman is satisfied that an emergency has arisen requiring him to take immediate action involving the exercise of any powers vested in the Board by or under this Act, the Chairman shall take such action as he deems fit and shall report the action taken by him to the Board in the next meeting.

(5) Subject to the provisions of this Act, it shall be duty of the Chairman to see that the proceedings of the Board are carried on in accordance with the provisions of this Act and the rules and regulations made there under and the Chairman shall report to the Board for reconsideration of every such proceeding which is not in conformity with such provision. If the Chairman sees thereafter that the reconsideration of the Board on such proceedings is still not in conformity with the provisions of this Act, he shall report the matter to the State Government and till such time as the orders of the State Government are not received on the report of the Chairman, the Chairman shall have the powers to stay the proceedings reported against.

(6) The Chairman shall exercise such other powers and perform such other duties as are conferred or vested in him by this Act and the Rules and Regulations made there under.

**14. The Secretary.**-(1) Subject to the provisions of this Act and the rules and regulations made there under the Secretary of the Board shall be appointed by the State Government in consultation with the Chairman on such terms and conditions as may be specified by the State Government.

(2) Subject to the general control and supervision of the Chairman, the Secretary shall be the principal administrative officer of the Board and shall be

entitled to participate in the meetings of the Board but shall not be entitled to vote. He shall be responsible to record the proceedings of the meetings of the Board.

**15. Finance Officer.**-The Finance Officer shall be a whole time officer appointed by the State Government in consultation with the Chairman and shall act as Secretary of the Finance Committee and shall exercise such powers and perform such duties as may be prescribed or delegated or assigned to him by the Board or the Chairman from time to time.

**16. Controller of Examination.** The Controller of Examination shall be a whole-time officer appointed by the State Government in consultation with the Chairman and shall exercise such powers and perform such duties as may be prescribed or delegated or assigned to him by the Board or Chairman from time to time.

**17. Creation of Bihar State Madarsa Education Fund.**--The Board shall have a fund to be called Bihar State Madarsa Education Fund to which shall be credited:

- a) all such sums which may be paid to the Board by the State Government for the purposes of this Act;
- b) all fees realized under any of the provisions of this Act;
- c) all sums representing income from properties owned or managed by the Board, and
- d) all other sums, endowments and sureties received by or on behalf of the Board from any other sources

**18. Application of the Bihar State Madarsa Education Fund.**-(1) The Bihar State Madarsa Education Fund shall, subject to such rules as may be made by the State Government be applicable to the following objects.-

- a) Payment of salaries and allowances to approved teachers and non-teaching staff of recognised Madarsas in the State.
- b) Payment of salaries and allowances of officers and employees of the Board and other costs of establishment of the Board.
- c) Cost of such items of the establishment of the recognised Madarsa as may be approved by the State Government or the Bihar State Madarsa Education Board
- d) Construction, maintenance and repairs of any works connected with recognised Madarsa which has been sanctioned by the State Government or Board.
- e) Acquisition of land for any recognised Madarsa for which sanction has been duly accorded by the State Government or by the Board.
- f) Payment of contribution towards provident fund of the teachers and other employees of recognised Madarsa as also of officers and employees of the Board.

g) Payment of any other expenses in connection with Madarsa Educations as may be determined by the State Government or by the Board from time to time.

(2) No expenditure shall be incurred from the fund except for the purpose of this Act and unless such expenditure has been provided for in the budget as approved under this Act, or can be met by re-appropriation sanctioned in the prescribed manner.

**19. Account.**-The Board shall keep an account of all its receipts and expenditure in the manner prescribed.

**20. Audit** -The accounts of the Board shall be examined and audited in such manner as may be prescribed by the State Government.

**21. Audit report.**-(1) After completion of the audit the auditor shall submit to the State Government a report on the accounts audited, and shall send a copy thereof to the Board which shall forward it to the State Government together with its observations thereon.

(2) The State Government shall issue such direction to the Board on the audit report as it thinks fit and it shall be the duty of the Board to comply with such direction within the time limit specified in the order.

**22. Board to furnish information.** The Board shall furnish to the State Government such other reports, returns and statements as may be prescribed and such further information on any matter relating to the Board as the State Government may require.

**23. Proceedings of the Board not to be invalidated.**-No act or proceedings under this Act shall be invalid merely on the ground of existence of any vacancy in the membership of the Board.

**24. Services of teachers and non-teaching staff.** The services of the approved teachers and non-teaching staff of a recognised Madarsa shall be under the supervision of the Board. Subject to the regulations prescribed under this Act their services shall be controlled by the Board or Madarsa. No teacher of the Madarsa shall be discharged or dismissed from service without the prior approval of the Board.

**25. Procedure for appointment and promotion of teachers.**-The State Government shall by a notification in the official gazette determine in consultation with the Board the rules and procedures of appointment and promotion of teachers in a recognised Madarsa on the basis of their qualifications and seniority.

**26. Power of State Government to make rules.**-(1) The State Government may by notification in the official gazette make rules for carrying out purposes of

this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions of this Act such rules may provide for all or any of the following matters, namely:

- a) The acquisition, possession and disposal of property by the Board, the condition of such acquisition, possession and disposals;
- b) The manner of nomination of the members of the Board specified in Section 5;
- c) The composition, powers and functions of managing committee of Madarsa;
- d) The terms and conditions of appointments, the scale of pay and the rules of discipline and other conditions of service relating to the officers and employees of the Board;
- e) The form in which the budget estimates of the Board shall be prepared;
- f) The manner in which all payments to and withdrawal from the Bihar State Madarsa Education Fund shall be made;
- g) The manner of reappropriation under Section 18(2);
- h) The manner and forms in which accounts of receipts and expenditures shall be kept;
- i) The manner in which examination and audit of the accounts of the Board shall be made;
- j) The reports, returns and statements to be furnished by the Board and the form of such reports and returns and statements;
- k) Appointment and other service conditions of teachers and non-teaching staff of recognised Madarsa,
- l) Conditions and procedures for recognition of Madarsa;
- m) Any other matter required to be made, prescribed or provided by rules.

(3) All rules made under this section shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall

be subject to such modifications as the State Legislature may make during the session in which they are so laid.

**27. Powers of the State Government for issuing directions.**-(1) The State Government may issue such directives to the Board as deem necessary for the fulfillment of the purposes of this Act.

(2) The State Government shall have powers to address the Board or express its views with respect to any act done, being done or proposed to be done or get done by the Board.

(3) On receipt of such directive or communication the Board will report to the

State Government about the action it has taken or proposes to take and in case it fails to take necessary action the Board shall explain the position to the State

Govomment.

(4) After consideration of the explanation tendered by the Board or in case of failure of submission of the explanation within a reasonable period, the State Government may issue such direction as it deems fit and the Board shall comply with such direction

**28. Appeal against the orders of the Board.** --Any person or managing committee aggrieved with the decision of the Board or Chairman may file an appeal for final hearing within 60 days of the passing of the orders, to the State Government.

**29. Dissolution of the Bihar State Madarsa Examination Board.**-(1) With effect from the date, the Board is established under section 3, the Bihar Madarsa Examination Board shall be dissolved and all the powers exercised and duties performed by the said Board shall be exercised and performed by the Board established under this Act.

(2) All legal proceedings or remedies instituted or ontorceable by or against the Bihar Madarsa Examination Board before the commencement of this Act, may be continued or enforced, as the case may be, by or against the Board established under this Act or other employees of the Board.

(3) All officers employed in the Bihar State Madarsa Examination Board including office of the Assistant Director of Education (Islamic) immediately before the commencement of this Act shall until other provision is made be deemed to be in the service of the Board established under this Act.

(4) All recognised Madarsas shall be deemed to have been recognised under this Act until expiry of the period of recognition subject, however, to the power of the Board to withdraw recognition in accordance with the provisions of this Act.

(5) All syllabuses, courses of studies and text-books in force shall, until other provision is made under this Act continue to be followed.

**30. Temporary and Transitory Provision.**--Until such time as the Board is fully constituted in accordance with the provisions of this Act, the Chairman and ex-officio members, shall constitute the Board.

**31. Power of State Government to remove difficulties.**--If any difficulty arises in giving effect to the provisions of this Act the State Government may make such order or do such thing not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

**32. Repeal and Saving.**(1) The Bihar State Madarsa Education Board Ordinance 1981 (Bihar Ordinance no. 172 of 1981) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action take in exercise

of any power conferred by or under the said Ordinance, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or such action was taken.