

Education Act, 1983

Chapter 11 - Prohibition of Transfer of Properties by Aided Educational Institutions

In this Chapter,-

- (a) "Governing Council" means the owner, trustee or other person who has power to transfer any land or building belonging to an educational institution and includes a local authority;
 - (b) "transfer" includes sale, exchange, mortgage, charge, lease or gift.
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Section 60 - Prohibition of transfer of lands and buildings by educational institutions without the permission from Government in certain cases

(1) Where before or after the commencement of this Act,-

- (a) any land or building has been acquired, constructed, improved or altered for the purposes of any educational institution with the aid of any grant made from the State funds;
- (b) any land or building has been transferred by the Government for use for the purposes of any educational institution,

then notwithstanding anything to the contrary in any other law for the time being in force or in any deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the State Government under sub-section (2) nor shall the land or building be used for any purpose other than the purposes of the educational institution or purposes ancillary thereto without the permission of the State Government.

(2) The State Government may, by order in writing permit the transfer of any such land or building, subject to such conditions as it may impose, if,-

- (a) the transfer is made in furtherance of the purposes of the educational institutions or of ancillary purposes approved by the State Government and the proceeds of such transfer are to be wholly utilised in furtherance of the said purposes;
- (b) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the State Government of such portion as the State government may direct in the circumstances of the case, of the grant referred to in clause (a) of sub-section (1) or of the current market value of the land or building referred to in clause (b) of sub-section (1) or of both, as the case may be;
- (c) the transfer is made for any other valid reason provided repayment is made to the State Government in full of the grant referred to in clause (a) of sub-section (1) or of the current market value of the land or building referred to in clause (b) of sub-section (1) or of both, as the case may be.

(3) Any transfer of land or building made without obtaining the permission of the Government under sub-section (2), shall be null and void.

Section 61 - Consequence of breach of provisions of section 60

Where, in any case, the State Government, after giving the Governing Council of the educational institution concerned an opportunity to make its representation in regard to the matter, is satisfied that

the provisions of sub-section (1) of section 60 have been contravened in respect of any land or building it may, by order,-

(a) if the land or the land together with the building standing thereon belonged to the State Government and was transferred by it for the purposes of the educational institution, direct the Deputy Commissioner to take possession of the land or land together with the building standing thereon as the case may be, or at their option, direct the Governing Council to pay to it in full, the current market value of the land or of the land together with that of the building where it was also transferred by it and also the amount of the grant, if any, made by the State Government for improving the land or altering or constructing the building; and

(b) if the land or the building, if any, standing thereon does not belong to the State Government, direct the Governing Council to repay in full the grant made by the State Government with interest from the date of the contravention, at such rate as may be notified by the State Government.

Section 62 - Effect of Orders under sub-section (2) of section 60 and 61

(1) Every order passed by the State Government under sub-section (2) of section 60 or section 61 shall, subject to the provisions of sub-sections (2) and (3), be final.

(2) The Governing Council of the institution not being a local authority, in respect of which such an order is passed, may on the ground that the amount repayable or payable by or to it has been wrongly fixed in the order, apply within sixty days from the date on which the order is received by it to the District Judge having jurisdiction over the area in which the property in question is situated for fixing such amount correctly in accordance with the provision of sub-section (2) of section 60 or section 61, as the case may be.

(3) The District Judge shall determine the amount which is properly repayable or payable by or to the Governing Council in accordance with the provisions of sub-section (2) of section 60 or section 61, as the case may be and such determination shall be final.

Section 63 - Land or building to vest in Government absolutely on possession being taken

(1) When, in pursuance of an order under section 61, the Deputy Commissioner takes possession of any land or building by himself or through another, it shall vest absolutely in the State Government free from all encumbrances.

(2) If the Deputy Commissioner or any person authorised by him in this behalf is opposed or impeded in taking possession of any land or building under this Chapter he shall, if he is a Magistrate, enforce the surrender of such land or building to himself and if he is not a Magistrate, he shall apply to a Magistrate and such Magistrate shall enforce the surrender of the land or building to the Deputy Commissioner.

(3) Whoever opposes or impedes the Deputy Commissioner or any person authorised by him in taking possession of any land or building under this chapter shall be punished with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

Section 64 - Recovery of sums due under this chapter

Any sum required to be repaid or paid to the State Government in pursuance of section 60 or section 61 or section 62 may, without prejudice to any modes of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the Governing Council thereof as if it were an arrear of land revenue due from such educational institution or Governing Council.

Section 65 - Court not to attach, sell etc., in the absence of permission of the State Government

(1) No land or building referred to in sub-section (1) of section 60 shall be liable to be attached, sold or made subject to a charge by any court whether in execution of a decree or order or otherwise, unless the person seeking such relief from the court has obtained the permission of the State Government to do so and files such permission in the court.

(2) When granting such permission, the State Government may impose such conditions as it deems fit.

(3) If any such land or building is attached or sold, or a charge is created thereon by any court without obtaining and filing the permission of the State Government as aforesaid or if any condition imposed by it when granting such permission is contravened, then the attachment, sale or charge, as the case may be, shall be null and void.