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ENTRY LEVEL BARRIERS TO START A PRIVATE SCHOOL IN TAMIL NADU

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ENTRY LEVEL BARRIERS TO START A PRIVATE SCHOOL IN TAMIL NADU

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Upto 1813, the East India Company did not recognize the promotion of the education among the natives of India. The Governor of Madras Province, Sir Thomas Munro, was responsible to establish the Board of Public Instruction in 1826, which should be considered as the origin of the Education Department. Wood's dispatch on education in 1854 laid the foundation on which the educational system has since developed. In accordance with the recommendations of the dispatch, The Madras provincial government established a Department of Public Instruction in the state. The rules and regulations were designed to assist the indigenous institutions to improve themselves and to give some assistance. The first set of grants for aided schools was issued in 1855. By 1881, a considerable portion of indigenous institutions had become aided schools and thus they moved from the category of private to public schools.

Under the Local Boards Act 1871, Local Boards were constituted and empowered to open schools and get subsidy from the government. The Government of Madras Presidency appointed a Committee for the revision of the Standing Orders of the Education Department and the Educational Rules under the Chairmanship of Mr. D. DUNCON, Director of Public Instruction with twelve others. The Committee submitted its report on 15th October 1890. The title of the revised Standing Orders was suggested as "Tamil Nadu Educational Rules". The government approved them and they came into force in January 1892. They applied to all Departmental, Municipal and Board, colleges and schools, to all Aided Colleges and Schools and to all schools recognized by the DPI or under his authority. The Madras Elementary Education Act, 1920 enabled the local bodies to levy an educational cess on land or property tax for advancement of elementary education. In 1920 elementary education was taken from District Boards and entrusted to Taluk Boards and Municipalities and the power of according recognition to aided elementary schools was transferred from the Education Department to the District Education Councils. In 1934 the Taluk Boards were abolished and elementary schools administration was entrusted again to the District Boards. In 1939, District Education Councils were also abolished and the power to recognize elementary schools was restored once again to the Education Department.

The Tamil Nadu Educational Rules popularly called Madras Educational Rules (MER) are affected by various subsequent legislations such as Tamil Nadu Private Schools (Regulation) Act 1973, Private Schools (Regulation) Rules 1974, Tamil Nadu Compulsory Elementary Education Act 1994, and other legislations. If any matter is not covered by these Acts and Rules the provisions from the Tamil Nadu Educational Rules may be taken as guidance.

The Tamil Nadu Recognized Private school regulations Act, 1973 published in the Tamil Nadu Government gazette, dated on 24th June 1974. At that time there was no law regulating the service conditions to teaching and non-teaching staff in private schools. This compelled Tamil Nadu Government to look into the various provisions existing and it was on the basis of the proposals made by the committee appointed, Tamil Nadu Recognised Private schools (regulation) Act came into being. As the name suggests the Act tries to regulate the functioning of the private schools in Tamil Nadu. This is clear from the fact that the stated objects and reasons of the Act says;

"The bill seeks to regulate the establishment, management and control of the private schools and provides for the regulation of the conditions of service of the teachers and other persons employed in private schools"

Definitions

1. **"Competent authority"** means any authority, officer or the person authorised by the government, by notification, to perform the functions of the competent authority under this Act for such area or in relation to such class of private schools, as may be specified in the notification.
2. **"Educational agency"** in relation to –
 - a) any minority school, means any person who, or body of persons which, has established and is administering or proposes to establish and administer such a school; and
 - b) any other private school, means any person or body of persons permitted or deemed to be permitted under this Act to establish and maintain such other private school
3. **"Private school"** means a pre-primary, primary, middle, or high school imparting education whether receiving grant from the Government or not, established and administered or maintained by any person or body of persons by the Competent Authority but does not include a school established and administered by the Central or State Government or any local Authority.

Under Tamil Nadu recognised Private schools (regulation) rules, 1974 the stages of education are described as follows:

1. Pre - Primary – the pre primary school shall be classified as pre –basic nursery, Kinder garten and Montessori schools;
2. Primary – The Primary schools shall consists of standard I to V;
3. Middle schools – The middle schools shall consists of standard I to VIII or standard VI to VIII;
4. High Schools – The High Schools shall consist of Standard I to X, or VI to X or IX to X.

The Tamil Nadu compulsory elementary education act of 1994 states;

Subject to the Provisions of this Act, elementary education shall be compulsory for every child of school age¹.

It shall be the duty of every parent or guardian of a child of school age to cause such child to attend an elementary school.

It also says,

If such child is attending any unrecognised school provided that the education imparted therein is declared to be satisfactory by the competent authority²;

¹ Session 3 (1) of TN compulsory education act , 1994.

² Session 5 of TN compulsory education act , 1994

If such a child is imparted education in such other manner as may be decided to be satisfactory by the competent authority.

Penalty under the provisions of this act says that,

Every parent or guardian of a child of school age who fails to discharge his duty under section 4 shall be punishable with fine which may extend to one hundred rupees.

Submission of Application to start a Private school

The Educational Agency (i.e. the Owner and includes any body of persons permitted or deemed to be permitted to establish schools by the Government) shall make an Application to the Competent Authority for permission to establish a private school. Such an Application shall be in a prescribed form accompanying a fee of Rs 1000 containing the particulars- the name of the private school proposed to establish, name and address of the educational agency, the 'need of the private school in the locality', the course for which the school proposes to train or guide its pupils, the extent and adequacy of the playground with respect to strength, amenities available, source of income to ensure financial stability of the private school, details of the buildings which the school is proposed to establish.

Every application to open a new school or to open higher standards or additional section in an existing school, shall be in form I in respect of Pre – Primary, Primary and Middle School, and in form IA in respect of High Schools and in form I-B for upgrading of High schools into Higher secondary school and shall be addressed to the competent authorities specified in rule 4. Such application shall be accompanied to by a copy of the constitution of the educational agency and a challan for the remittance of the fees prescribed under the sub rule (2) below. The application of the opening of a new schools or higher standards shall be in triplicate and shall reach out the proceeding the school year in which new school or higher standards are proposed to be opened and the application for opening of additional section in and exiting school shall be in triplicate and reach the competent authority before the 30th June of the School Year.

The fees to be paid in respect of every application to open a new school or to upgrade an existing school shall be as follows;

1. Pre – Primary school	Rs 25
2. Primary school	Rs.50
3. Middle school	Rs.75
4. High School	Rs.100

The fee shall be credited to Government under the Head Account "0202 -01 General-Education 202-Secondary Education – AB- other receipts (5) other receipts". No fee shall be leviable in respect of application for opening an additional section in a school.

The Competent Authority will grant permission to start the school once he is satisfied with the particulars furnished by the Applicant.

In Tamil Nadu, another system of schools called matriculation schools are also functioning. There is a separate Code of regulations for Matric schools in this regard. Matric schools are those started and recognised by Universities of Madras and Madurai in order to cater the

requirements of English medium education in the last century and subsequently recognised by the Department of School Education, Tamil Nadu. To start a new matriculation school is also identical with the procedure to start a new private school except the provision that the Matriculation school retains the power to decide on curriculum and syllabus of their own except for the last academic year so that the students can appear for public examination. They are allowed to teach the lessons in English language at any stage of education.

Recognition to a Private school

In addition to the particulars furnished to the Application the Chief Educational Officer the following matters also should take into consideration before granting permission for a new school or an addition of section to an existing school is concerned-

1. the adequacy of schools already existing in the locality;
2. the need for the private school in the locality; and whether it is accessible to all castes and communities;
3. the number of pupils studying in such school;
4. extent of playground;
5. Amenities available to pupils and teachers;
6. Equipment, laboratory, library etc;
7. Grant of permission shall be subject to the availability of funds from the Government.

On receipt of application the competent authority shall communicate to the decision to the applicant within a period of four months from the date of such a receipt. The law states that there will be a given chance to make his representation to the competent authority before the application gets rejected. The certificate of recognition of the private school shall be granted within the period of two months from the date of receipt of application.

Power to grant permission

The competent authorities to grant permission to open a private School or to upgrade an existing school or to open higher standards or additional sections in an existing school shall be the following namely:-

Schools	Power to grant permission to open a new school or to upgrade an existing school	Power to grant permission to open a higher standard or additional section in an existing school
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Pre primary, Primary and Middle schools	Chief Educational Officer	District Educational Officer.
High schools	Joint Director of School education (secondary Education)	Chief Educational Officer

Certificates Needed

1. Structural Stability Certificates from PWD/Chartered Engineers in accordance with the Tamil Nadu Public Buildings (Licensing) Act, 1965.
2. License permitting the use of the school building under the Tamil Nadu Public Buildings (Licensing) Act, 1965.
3. Certificate from Health Department for Adequate sanitary facilities to Teachers and pupils.
4. No Objection Certificate from the Station Officer, Fire and Rescue Services Department.

It states that the site, dimensional sketch and accommodation of the buildings should be approved by the Director before the recognition of a school. Building schemes which does not exceed Rs.5, 000, approval should be obtained from the District Educational Officer or the Inspectress of Girls Schools before the work is commenced. For the construction of thatched sheds approval should be obtained only from the DEO or the Inspectress of Girls Schools. The sketch of the school building and of any additions shall give full information regarding the superficial and cubic space of the building.

Endowment

The educational agency of a private school including a minority school shall create an endowment as follows, namely:-

Pre – primary school.	Rs.10,000
Existing Pre-primary School to be upgraded as Primary school	Rs 15, 000
Primary school.	Rs 25, 000
Existing Primary school to be upgraded as Middle school	Rs 25, 000

Middle school	Rs 50,000
Existing Middle school to be upgraded as High School	Rs. 50, 000
High schools	Rs 1,00, 000

The endowment shall be created in the name of the school in the shape of Government securities like National Defence certificates or National Plan certificates or in fixed deposits for a period not less than seven years with Tamil Nadu Industrial Investment Corporation Limited, Chennai or the Tamil Nadu state Co-operative Bank, Chennai or in any corresponding new Bank as defined in the Banking Companies. Fifty percent of such endowment amount shall be created before the school is opened. The remaining amount shall be created in two equal annual instalments in the case of Pre – primary and Primary schools and in five equal instalments in the case of middle and high schools. There are various provisions for instalments in the case of upgrading the existing schools.

In addition to the endowments referred to above, the educational agency shall deposit (in any of the banking system as mentioned in the endowments) an amount equivalent to a minimum of one month's salary of the staff employed in such a school, which may be drawn for the disbursement of the salary to the staff, on the due date in the event of any delay in the sanction of grant by the Education Department.

The educational agency shall not collect fees or donations compulsorily other than those permitted by the competent authority under the rule from pupils or parents or any other persons for any purpose whatsoever.

Withdrawal of the recognition

The competent authority may withdraw permanently or for any specified period the recognition of any private school –

1. Which does not comply with any of the provisions of the Act or any rules made or directions issued there under in so far as such provisions, rules and directions are applicable to such private school, or
2. In respect of which the pay and the allowance payable to any teacher or other person employed in such private school are not paid to such teacher or other person in accordance with the provisions of the Act or the rules made there under, or
3. Which contra verses or fails to comply with any such conditions as may be prescribed.

It says that before withdrawing the recognition under such section, the competent authority shall give the educational agency an opportunity of making its representation. On withdrawal of the recognition, the competent authority shall make necessary arrangements for the continuance of the instruction of the pupils of the said private school in other private schools

The competent authorities for withdrawing the recognition shall be the following namely:-

Schools	Competent authority
Pre-primary, Primary and Middle schools	Chief Educational Officer
High Schools	Joint Director of school Education.

Effect of withdrawal of the recognition

On withdrawal of the recognition, any private school shall not be entitled to

1. Receive any grant or other financial assistance from the Government; or
2. Prepare, train or guide pupils for appearing at any examination conducted by, or under the authority of the Government

³Section 14-A of the Act says that, no grant shall be paid to –

- a) any private school established and any class or course of instruction opened in such private school, on or after the date of commencement of the academic year 1991-1992;
- b) any private school in existence on the date of the commencement of the academic year 1991 – 1992 to which no grant has been paid by the government immediately before the date of such a commencement.;
- c) any class or course of instruction in a private school in existence on the date of commencement of the academic year 1991- 1992 to which no grant has been paid by the Government immediately before the date of such commencement; and
- d) any class or course of instruction opened or after the date of commencement of the academic year 1991 – 1992 in a private school in existence on the date of such commencement

Management

The Management includes the School Committee or any person or body of persons in whom the power to manage or administer the affairs of a private school is vested. The School Committee consist of a Headmaster and the Senior most teachers of the school whose duty is to carry on the general administration of the school excluding the properties and funds of the private school, appointment of teachers and the disciplinary actions against teachers. The Educational Agency shall nominate one of the members of the school Committee as the Secretary of the Committee.

“Whenever there is a change in the management of school, the educational agency and the person to whom the management is proposed to be transferred shall communicate to the competent authority for approval of the transfer”

³ Section 14 – A was inserted by Tamil Nadu Act 11 of 1999, with effect from 1991 – 92 academic year.

⁴A special officer can be appointed in the case of a minority school or can suspend the school committee for a maximum of two years by the Government in case of any due negligence or in compliance with the Act enacted by the State from time to time towards the administration of the private schools in the State.

Interestingly, the Government can ask the management to take action against the manager for the lapses or irregularities in the private school. This provision gives ample opportunities for the Government to intervene in the functioning of the school where as in the neighbouring state Kerala, the action against the manager is not deemed fit as the day to day functioning of the school is entrusted with the Head master of the school. More focus is given to the administration than to the efficiency and quality of the education system. ⁵Any grievances under this provision; penal action against manager recommended by the Government, would be heard by a Special Tribunal consisting of two Judges of the High Court nominated from time to time by the Chief Justice in that behalf. This leads to the cumbersome legal procedure which would definitely delay the decision making process which is very essential component of the competent in the era of education.

Property of the school

The statement containing the list of immovable properties shall be forwarded to the District Educational Officer on or before first January every year. A certificate from an officer of the Revenue Department not lower in rank than that of a Tahisildar shall be obtained in respect of Market Value and Annual Income derived from the property at the time of first submission. The immovable property list includes;

1. name of the property;
2. Description, address and location;
3. Area/extent together with the survey number;
4. in the case of cultivable land, its classifications and the crop grown;
5. market value;
6. Annual income derived from the property;
7. remarks, if any.

The transfer of property of private schools done only with the satisfaction of competent authorities, convincing them that the transfer is made in furtherance of the purpose of the private school for or similar purpose.

Payment of grant

Recognised private schools may be paid grants from the funds directly or through Panchayat Unions such payment of grants shall be subject to Government orders and instructions issued from time to time. The authority competent to sanction grant shall be the District Educational Officer. The Joint Director of school education in respect of Pre-primary, primary and Middle schools and the Joint Director of school education in respect of High Schools shall withhold, permanently or for any other specified period, the payment of grant, if any of the conditions specified by the Government are not met with.

⁴ Section 18 – A of Chapter IV-A.

⁵ Section 18-B

The grant to private schools is subject to the Government funds and the norms and conditions specified in Grant-in-Aid code of Tamil Nadu Education Department.

1. Staff grant – The educational agency may be paid full grant to cover the entire approved expenditure on pay and other allowances of the teaching and non teaching staff including other servants paid from contingencies.

The secretary of the school shall submit a monthly statement containing the details of the teachers and other persons, their pay and allowances etc. for the month to the Deputy Inspector of school. The deputy inspector of schools, after the scrutiny of the statement shall submit the same to the District Educational officer concerned with his recommendations. The District Educational officer will release the Teaching grant bills to the Secretary of the school marking a copy of his sanction orders to the Treasury and who shall disburse the pay and allowances to the teachers and other persons employed in a private school on the 1st of every month or any date authorised by the Director of school education.

In the case of Panchayat Union schools, the Panchayat Union commissioner shall issue cheques during the last week of the month to the Secretary for the month amount recommended by the Deputy Inspector of schools. Such cheques shall be encashed, only on the 1st of the next month and pay and allowances of teachers and other persons shall be disbursed in the same day.

In the case of High schools, the secretary of High school shall submit every month to the District educational officer an application for monthly staff grant in the form. It shall be accompanied by a detailed statement of the staff employed from the first to last day of the month. The statement shall be signed by both the Headmaster and secretary of the school. The statement shall reach the office District Educational Officer before 22nd of every month. Based on this statement the District Educational Officer shall sanction staff grant in the specified bill form, before the 25th of the month and secretary encashes the bill on the 1st of the succeeding month.

2. Maintenance grant to schools – the educational agency may be paid up to 6% of the assessed teaching grant as maintenance grant for the calendar year. For High schools, the educational agency may be paid maintenance grant equal to the approved expenditure for the preceding financial year on rents, taxes, ordinary repairs, upkeep, contingencies and other miscellaneous items after deducting the educational agency's contribution determined by Government from time to time.

In the case of matriculation schools, they continue enjoying the financial autonomy. They ensure that the fees they are levying are reasonable and are commensurate with the expenditure involved and amenities provided. After the financial year is over, the accounts are to be audited by a Chartered Accountant and a certificate signed by the auditor to the effect that the accounts have been audited should be sent to the Inspector within a month after the completion of the audit⁶.

Closure of private schools

No educational agency shall close a private school or a class or a course of instruction therein without giving a notice in writing to the competent authority who had given the permission to open the school, the class or the course of instruction in the form instructed,

⁶ Chapter V, Code of regulations for matric schools Tamil nadu

for a closure of the class or the course of instruction in such school, and without obtaining orders permitting such closure from the competent authority. This notice shall be given to the competent authority before the first September of the year preceding the year in which the closure is proposed to be given effect to. Such closure shall take effect from the date of expiry of the academic year, as specified by the competent authority permitted the closure. Alternate arrangements to the pupils are a must pre requisite for the closure.

ANNEXURE 1

Application for opening of a Pre – Primary/Primary/Middle School

Form 1

1. a) Name of the centre (in block letters) where the Pre-Primary, Primary/Middle School is proposed to be opened.
b) Name of the School
2. Revenue district, Taluk and Post office
3. a) Details of the educational agency which proposes to open the school
b) Is the educational agency a registered body? If so, the details should be furnished
4. Standards proposed to be opened
5. Whether the centre where the proposed school is to be opened lies in –
 - a) Taluk Headquarters Town (or)
 - b) Municipality/ Township (or)
 - c) Panchayat Union area (or)
 - d) Rural area not coming under any of the categories.
6. a) Population of the centre any of the above categories. From where pupils might seek admission into the school (men and women should be furnished separately)
b) Number of school age children in the centre

	Boys	Girls	Total
--	------	-------	-------

- | | | | |
|---|--|--|--|
| 1) 2 ½ - 6 age group | | | |
| 2) 6- 11 age group | | | |
| 3) 11- 14 age group | | | |
| c) Number already brought under instruction in the existing schools | | | |
| d) Number yet to be brought under instruction | | | |
7. a) Name of other Pre-primary/Primary/Middle schools in the locality
b) Distance of such schools from the proposed school.
c) Particulars of strength, attendance (roll and attendance) of such schools (standard wise particulars should be furnished)
 8. Name of the schools that are likely to feed the proposed school together with their distance from the proposed school. (The standard wise particulars regarding strength, etc., to be furnished)
 9. Whether there is any natural barrier between the existing schools and the proposed school, if so, the same may be explained in full detail. A rough sketch plan should be enclosed
 10. Whether the application was made for the permission in previous years. If so, the reference number and date and the nature of orders passed by the competent authority should be furnished.
 11. Whether the proposal is for the conversion of a pre primary school into primary school or a primary school into a middle school or for opening a new school
 12. What is the accommodation proposed to be provided for the proposed school?
 - a) Is the building ready for the occupation?
 - b) a rough sketch showing the accommodation proposed for class room, etc; duly marked should be attached
 - c) Whether the building is a pucca thatched or a tiled one
 - d) Whether it is owned or rented or rented free
 - e) Extent of area available for each standard

13. Whether the educational agency is prepared to create
 - a) Endowment as required in rule 9(2) c(i)
 - b) Cash reserve as required in rule 9 (2) (c) (ii)
14. A rough sketch of the place where the schools proposed to be opened, specifying the following particulars should be submitted.
 - a) The locality where the school is proposed to be opened?
 - b) Pre – primary/primary/middle schools in the area which distance duly marked
15. Number of pupils expected to join in each of the standards of the proposed school.

Place:
Date:

*Signature if the person duly authorised
by the educational agency*

ANNEXURE 2

Application for recognition of schools

Form VI

1. Name of the school with full address
2. Date of the opening of the school. (reference number and date of orders of the competent authority permitting the opening of the school be furnished). In case of the minority schools and other schools existing on the date of commencement of the Act, the reference number and the date of submission of the statement should be indicated.
3. Name of the educational agency managing the school.
4. Name of the secretary
5. Standards for which the recognition is sought for
6.
 - a) Standard wise strength and attendance
 - b) Whether all the standards are having economic strength.
 - c) List of teaching and non teaching staff employed in the school with details of qualifications, designations etc. to be furnished
 - d) Whether the teaching and non teaching staffs are qualified?
7.
 - a) Details of accommodation and sanitation available should be enclosed.
 - b) Whether owned or rented or rent free
 - c) Whether adequate and suitable.
8.
 - a) Details of furniture, appliances and apparatus.
 - b) Whether adequate and suitable
9.
 - a) Whether a library is provided
 - b) Whether it is adequate
10. Whether registers are maintained in the prescribed forms
11. Whether arrangements have been made for the compulsory medical inspection of the pupils
12. Playground
 - a) Area available (in acres)
 - b) Owned or leased
 - c) Whether adequate and fit for use
13.
 - i) Whether the school has created;
 - a) Endowment as required in rule 9 (2) (c) (i)
 - b) Cash reserve as required in rule 9 (2) (c) (ii)
 - (ii) Property, full details of regarding extent of the property, value of the property, etc. should be furnished
 - (iii) If the endowment is in the shape of cash, full details of the amount and mode of investment should be furnished
 - (iv) Whether the endowment is unencumbered and whether it stands absolutely in the name of the school without any reservation rights
 - (v) Net annual income derived from the endowment
 - (vi) Whether the original deed of property has been verified by the Government Pleader and certified that the deed conveys absolute rights to the school without any reversionary right to the donor and that it is unencumbered.
 - (vii) Whether the original cash investment certificates have been verified by the District Educational officer.

- (viii) Whether the attested copy of the Government Pleader opinion, income certificate, encumbrance certificate in respect of the property endowed to the school are enclosed.
- (ix) Details of balance endowment to be created, if any.
14. Whether the educational agency is agreeable to abide by the conditions for recognition in rule 9 and the provisions of the Tamil nadu recognised Private Schools (regulation) Act 1973 (Tamil Nadu Act 29 of 1974) and the rules made therein under.

DECLARATION

On behalf of the educational agency of the school, I hereby declare that all the conditions specified in the rules and the departmental orders have been fulfilled. I also declare that shall abide by the conditions fro recognition in rule 9 and the provisions of the Tamil Nadu Recognised Private schools (regulation) Act, 1973 (Tamil Nadu Act 29 of 1974) and the rules made there under

Place:

Date:

*Signature of the person duly authorised
by the educational agency*

REFERENCE:

1. Selvam Arun M., *The Tamil Nadu Educational Code*, Malathi Publications, Chennai (fifth revised edition), 2006.
2. [www.http://tn.gov.in/schooleducation](http://tn.gov.in/schooleducation) accessed on May 30, 2007.

* This paper is a contribution of works by Ann Thania Alex, Anu Betzy, Karthika Kaimal and Madhu S