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THE BALOCHISTAN GAZETTE
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NO i, QUETTA SUNDAY JULY 18, 1993, .

GOVERNMENT OF. BALOCHISTAN,
LAW DEPARTMENT.

NOTIFICATION

Dated Quetta, the 8th July, 1993,

No. Legis.1-93/Law/93. The following Ordinance made by the Governor of Balochistan on the 8th July, 1993, is hereby published for general information:-

BALOCHISTAN ORDINANCE NO. 1 OF 1993,

THE BALOCHISTAN EDUCATION FOUNDATION CRDINANCE, 1993.

AN
ORDINANCE

to provide for the establishment of the Balochistan

Education Foundation.

Preamble. WHEREAS it is expedient to make provisions for the establishment of the Balochistan Education Foundation to promote and finance the development of education in the Province of Balochistan and matters ancillary, incidental and supplemental thereto;

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Short title,
extent and
commencement.

Definitions.

AND WHEREAS the Provincial Assembly is not in session and the Governor of Balochistan is satisfied that circumstances exists which render it necessary to take immediate action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of Islamic Republic of Pakistan, 1973, the Governor of Balochistan is Pleased to make and promulgate the following Ordinance:-

CHAPTER I
PRELIMINARY.

(1) This Ordinance may be called the Balochistan Education Foundation Ordinance, 1993.

(2) It extends to the whole of the Province of Balochistan.

(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the subject or context:

(a) "Agency" means any department or organization of the Provincial Government and includes a corporation or other body set up and controlled by the Government;

(b) "Board" means the Board of Directors of the Foundation constituted under sub section (1) of section 5;

(c) "Chairman" means the Chairman of the Board;

(d) "Committee" means a Committee constituted under sub section (6) of section 6;

(e) "Director" means a member of the Board of Directors of the Foundation;

(f) "Fund" means a fund constituted under sub section (1) of section 14;

(g) "Foundation" means the Balochistan Education Foundation established under sub section (1)

of section 3;

(h)"Government" means Government of Balochistan;

(i)"Grant" means a sum of non-refundable amount advanced to an educational institution or organization from the Foundation Fund;

(j)"Loan" means a refundable sum of money advanced by the Foundation to an educational institution or organization;

(k)"Land" includes buildings and benefits arising out of land and things attached to the earth or permanently attached to earth;

(1)"Managing Director" means the Managing Director of the Foundation appointed under sub section (1) of section 7;

(m)"Member" means a member of the Board;

(n)"Non-Government Organization" means an organization set up with private finance for advancement of education and is registered under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961;

(o)"Prescribed" means prescribed by the rules and regulation under this Ordinance;

(p)"Rules" means the rules framed under this Ordinance;

(q)"Regulations" means the regulations framed under this Ordinance;

CHAPTER-II

ESTABLISHMENT OF THE FOUNDATION

Establishment 3. (1) There shall be established a Foundation to

of the
Foundation,

be known as Balochistan Education Foundation for carrying out the purposes of this Ordinance.

(2) The Foundation shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both moveable and immovable, and shall by its name sue and be sued.

Management.

Constitution
of the Board.

Duties and
functions of
Chairman and
members.

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(3) The head office of the Foundation shall be at Quetta.

4. (1) The administration and the management of the Foundation and its affairs shall vest in the Board which may exercise the powers and do all acts and things which may be exercised or done by the Foundation.

(2) The affairs of the Foundation shall be conducted subject to the supervision and control of the Government.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government shall be final.

5s (1) There shall be a Board of Directors of the Foundation consisting of such number of official and non-official members, including the Chairman, as may be appointed by the Government through a gazette notification. The Board shall consist of eleven members including the Chairman.

(2) The Chairman and members other than an ex-officio member, shall unless the Government otherwise directs hold office for a period of three years but he may be re-appointed as such for another term of three years or for such shorter term as the Government may direct.

(3) The Government may remove a member on the ground of inefficiency, unsuitability or misconduct after giving him an opportunity of being heard.

(4) The Chairman and any member may, by writing under his hand addressed to the Government, resign from his office:

Provided that his resignation shall not take effect until accepted by the Government.

6. (1) The Chairman and members' shall discharge

such duties and perform such functions, as assigned to them by or under this Ordinance.

Appointment

and functions
of the Managing
Director.

(2) Until the Board is duly constituted, the Chairman shall, subject to such directions as the Government may from time to time give, exercise the powers, discharge the duties and perform functions of the Board.

(3) No act or proceedings of the Board shall be invalid by reason only of the existence of a vacancy in, or any defect in the constitution of the Board.

(4) A simple majority of the members of the Board shall constitute the quorum of the Board.

(5) The meeting of the Board shall be held at such times and places and in such manner as the

regulations may provide:

provided that until regulations are made in this behalf the meetings of the Board shall be held as and when convened by the Chairman.

(6) The Board may constitute such financial, technical and advisory committees as may be desired necessary for carrying out the purposes of this Ordinance.

CHAPTER-II ESTABLISHMENT

(1) The Government shall appoint a whole time Managing Director of the Foundation whose

and terms conditions of service shall Managing be such as may be determined by the regulations.

(2) Subject to sub-section (4), the term of office of the Managing Director shall be three years, but the Government may extend the same for a period not exceeding one year at a time.

(3) The Managing Director shall be the Chief Executive of the Foundation; he have to serve as member of the Board also, and shall exercise effective control over, and make all decisions necessary for the smooth functioning of the day to day affairs of the Foundation, under the general supervision of the Board.

(4) The Government may remove the Managing Director on the ground of inefficiency, unsuitability or misconduct after giving him an opportunity of being heard.

Recruitment
conditions of
services of
officers etc.

Members and
officers to
be public
servant.

Indemnity.

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(5) In particular and without prejudice of the generality of the foregoing powers the Managing Director shall have the power and responsibility to:+

(a) exercise administrative control over the officers, officials of the Foundation;

(b) exercise, in respect of the Foundation such other management, administrative and financial powers as deemed appropriate by the Foundation;

(c) submit the annual budget proposals of the Foundation to the Board;

(d) maintain the accounts of the Foundation;

(e) prepare the annual report of the Foundation for the Board and the Government;

(f) exercise such powers as the Board may delegate to him; and

(g) act on behalf of the Foundation, in any emergency, subject to the obligation to report such action to the Board at its next meeting and to seek the Board's ratification of any action so taken.

8. The Foundation shall, by regulation made with the prior approval of the Government, lay down the procedure for the appointment of its officers, and officials and the terms and conditions of their services, and shall be competent to take disciplinary action against them, according to the prescribed rules.

9. The Chairman, members, officers and officials of the Foundation shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servant

within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1980).

10. No suit, prosecution or other legal proceeding shall be against the Foundation, the Board, the Chairman or any member, officer or official of the Foundation in respect of any thing done in good faith or intended to be done under this Ordinance.

Members,
officers,
officials
not
personally
liable.

Delegation of
powers to
Chairman etc.

Functions of
the
Foundation.

11. (1) The members, Directors, Adviser, officers and officials of the Foundation shall be indemnified by the Foundation against all losses and expenses sustained or incurred by him in the discharge of his duties, save such losses and expenses as are sustained and incurred as a result of his own wilful act or default.

(2) The Managing Director shall not be personally responsible for the acts of any member Director, Adviser, officer or official of the Foundation which he could not have reasonably prevented by the due exercise of his powers and functions under this Ordinance and the rules and regulations made thereunder or for any loss or expense resulting to the Foundation by reason of the insufficiency or deficiency in value of, or title to any property or security acquired or taken on behalf of the Foundation by the wrongful act of any person under a liability to the Foundation or anything done by him in good faith in execution of the duties of his office.

12. The Foundation or the Board may by general or special Order, delegate to the Chairman or a member or any officer, official of the Foundation, any of its powers, duties, or functions under this Ordinance, subject to such conditions or limitations as may be specified in the Order.

CHAPTER-IV POWERS AND DUTIES OF THE FOUNDATION.

13. (1) Subject to the other provisions of this Ordinance, the Foundation may take such measures and exercise such powers as may be necessary for the promotion, development and financing of Education and for carrying out the purposes of this Ordinance.

(2) Without prejudice to the generality of the function mentioned in sub-section (1) the Foundation shall:- :

(a) assist the private sector to establish educational institutions;

(b) give grants preferably to non-profit making private educational institutions for purchase

(c)

(d)

(e)

(f)

of land, construction of building, purchase of

furniture, equipment and educational material including books, stationery and other such material.

give loans to the private sector institutions/ organizations from the Foundation fund or assist in getting loans from scheduled Banks for the purposes mentioned in (2) (b);

sell or lease plots or assist the private sector in getting plots and land from Government, Development Authorities and Housing Agencies controlled by the Government for the establishment of educational institutions;

perform such functions as:-

(i) preparing and submitting schemes to the Government for the Development of educational programmes and projects including schemes for research and

modernization of education;

(ii) giving effect to approved schemes mentioned in (e) (i) above;

(iii) improving teacher training and other institutions;

(iv) encouraging the formation of voluntary associations in furtherance of the purposes of this Ordinance; and

(v) taking appropriate measures for integration and consolidation of privately managed institutions and projects, regulation of fees in the privately managed institutions particularly those receiving assistance from the Government.

perform such other functions as may be assigned to it by the Government.

Balochistan
Education
Foundation
Fund.

Budget.

Audit and
Accounts.

CHAPTER-V FINANCE

14. (1) There shall be formed a fund to be known as the Foundation Fund, which shall vest in the Foundation and shall be utilized by the Foundation to meet the charges in connection with its functions under this Ordinance.

(2) To the credit of the Balochistan Education Foundation Fund, shall be placed:-

(a) grants made by Government and the Federal Government;

(b) income from investments made by the Foundation;

(c) donations and endowments;

(d) revolving funds placed by the Government at the disposal of the Foundation;

(e) grants made by the Local Bodies; and

(f) all other sums received by the Foundation and incomes from other sources.

15. In the month of November each year, the Foundation shall submit to the Government for approval a statement of the estimated receipt and expenditure in rupees in respect of the next financial year.

In the manner prescribed by the Government, the Foundation shall also submit to the Government for approval a statement of the estimated receipts and expenditure in foreign exchange in respect of the next financial year.

(3) The Foundation shall obtain specific sanction of the Government in respect of each individual scheme costing more than ten lacs rupees to be financed by the Foundation.

16. (1) The Foundation shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including balance sheet in accordance with such general directions as may be issued, and in such form as may be specified, by Government.

Q) The accounts of the Foundation shall be audited by two auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Foundation with the approval of Government, on such

'remuneration, to: be paid by the Foundation as the

Government may fix;

(3) Notwithstanding the provision of sub section (2) the Accountant General Balochistan, may, either of his on motion of upon request received in this behalf from the Government undertake such audit of the accounts books and connected documents at such place. or places as the Accountant General Balochistan may fix, and furnish such explanations and information as the Comptroller Balochistan or an officer authorized by him in this behalf may ask for:

(4) Every auditor appointed under sub section (2). shall be given a copy of the annual balance sheet

"of the Foundation and shall examine it together with

the accounts and vouchers relating thereto and shall have a list delivered to him of all books kept by the Foundation; and shall at all reasonable times

have access to the books of accounts and other

documents of the Foundation and may in relation to

such accounts examine any officer of the Foundation.

(5) The auditors shall report to the Government upon the annual balance sheet and accounts and in their report state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Foundation's affairs and, in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(6) The Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the

Foundation for the protection of the interests of the Government and of the creditors of the Foundation or upon the sufficiency of their procedure in auditing the accounts of the Foundation and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditors if in its opinion the public interest so requires.

Accounts.

' Penalty.

Cognizance
of offence,

Submission of
yearly report
and returns,

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(7) The Foundation shall comply with every direction issued by the Government for . the rectification of matters objected to in audit.

17. The Foundation shall, with the prior approval of the Government, open an account in any scheduled Bank of Pakistan. .

CHAPTER-VI PENALTY AND PROCEDURE

18; Whoever contravenes any provision of this Ordinance or any rule or regulation made or scheme sanctioned there-under shall, if no other penalty is provided for such contravention, be punishable with imprisonment for a term which may extend to six months or with fine, or with both.

19. No court other than a Court of Magistrate in that class shall take cognizance of any offence punishable under this Ordinance, on a complaint in writing made by the Foundation or an officer/official authorized for the purpose by the Foundation.

CHAPTER-VII MISCELLANEOUS

20. (1) The Foundation shall submit to the Government; as soon as possible after the end of every financial Year but before the last day of December next, following a report on the conduct of its affairs for that year.

(2) The Government may, after giving sufficient notice to the Foundation, require it to furnish the Government with:-

(i) any return, statement, estimates statistics, or other information regarding any matter under the control of the Foundation; or ~

(ii) a report on any subject with which the Foundation is concerned; or

{iii) a copy of any document in the charge of Foundation; and the Foundation shall comply with such requisition.

Board not responsible for certain acts of its officers and officials.

Power to dispose of land.

Power of Foundation to make rules and regulations.

Control of

Government

over acts and Proceedings of the Board,

Dissolution of Foundation and

transfer of

its assets and

liabilities.

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21. The Board shall not be responsible for any disfeasance malfeasance and non-feasance of any officer or official appointed under this Ordinance or of any person acting under the authority or direction of or in subordination to any such officer or official.

22. The Foundation may retain, or may leave, sell, exchange rent or otherwise dispose of any land vested in it.

23. The Foundation may with the prior sanction of the Government, make rules and regulations for carrying out the purposes of this Ordinance.

24. All acts and proceedings of the Board shall be subject to the control of the Government and the Government may suspend or modify any such act or

proceedings. .

25 (1) The Government may, by notification in the official Gazette, declare that the Foundation shall be dissolved on such date as may be specified in such notification, and the Foundation shall stand dissolved accordingly. :

(2) On and from the said date.

(a) (i) all properties, funds and dues placed at

the disposal of the Foundation by Government; and '

(ii) all properties, funds and dues exchanged derived from, or otherwise attributable to the properties, funds and dues referred to in sub-clause (i), which immediately before the said date were held by or were realisable by the Foundation, shall vest in, and be realisable by the Government.

(b) All properties, funds, and dues, other than those

referred to in clause (a), which immediately before the said date, the Foundation shall vest in and be realisable by the Government may determine, and its decision thereon shall be final; :

Removal of
difficulties.

Dated Quetta,

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(c) all liabilities which immediately before the said date, were enforceable against the Foundation shall be assumed by and be enforceable against the Government or such agency as the Government determines under clause (b), as the case may be;

(d) for the purpose of completing the execution of any scheme which has not been fully executed by the Foundation and of realising properties, funds and dues referred to in clauses (a) and (b) as the case may be;

(e) the agency referred to in clauses (b), (c) and (d) shall keep such accounts of all moneys, respectively received and expended by it under this Ordinance as the Government may prescribe.

26. If any difficulty arises in giving effect to any of the provisions of this Ordinance especially in respect of the adjustment of the powers, functions and jurisdiction of the Foundation under' this Ordinance, the Government may make such order as may appear to it to be necessary or Expedient for the purpose of removing the difficulty.

the 8th July, 1993.

SARDAR GUL MOHAMMAD KHAN JOGEZAI,
GOVERNOR BALOCHISTAN.