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**Bihar Private Medical Colleges (Taking Over) Act, 1978****5 of 1978****[24 April 1978]****CONTENTS**

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**Bihar Private Medical Colleges (Taking Over) Act, 1978****5 of 1978****[24 April 1978]**

An Act to provide for the taking over by the State Government of all Private Medical Colleges of the State of Bihar Be it enacted by the Legislature of the State of Bihar in the Twenty-Ninth Year of the Republic of India as follows:- 1. Received assent on 24.4.1978 and Published in the Bihar Gazette (Ex. ord.) dated 19.9.1978.

**1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Bihar Private Medical Colleges (Taking Over) Act, 1978.
- (2) It extends to the whole of the State of Bihar.
- (3) It shall come into force at once.

## **2. Definitions :-**

In this Act unless the context otherwise requires :-

- (a) "College" means a Private Medical College which has been permitted to function under the Bihar Medical Educational Institutions (Regulation and Control) Ordinance, 1978 (Bihar Ordinance No. 40 of 1978);
- (b) "College body" means any Association or Managing Committee registered under the Societies Registration Act, 1860 (Act XXI of 1860) or otherwise in which the management and/or ownership of Private Medical College has been vested immediately before coming into force of the Bihar Private Medical Colleges (Taking Over of Management) Ordinance, 1978 (Bihar Ordinance No. 31 of 1978);
- (c) "Board of Control" in relation to a College, means a Board of Control appointed for the College under sub-section (1) of Section 3 of the Bihar Private Medical Colleges (Taking Over of Management) Ordinance, 1978 (Bihar Ordinance No. 31 of 1978);
- (d) "Notified order" means an order notified in the Official Gazette; and
- (e) "Prescribed" means prescribed by rules made under this Act.

## **3. Section 3 :-**

- (1) The State Government may, by a notified order and from the date mentioned therein take over a College and the management and control thereof shall thereupon be exercised by the State Government in such manner as may be laid down in the said order.
- (2) All the assets and properties of the College and the College body whether movable or immovable including lands, buildings, workshops, stores, instruments, machinery, vehicles, cash balance, reserve fund, investments, taxes, furniture and others shall, on the date of take over, stand transferred to and vested in, and be deemed to have come into the possession of the State Government.
- (3) All the liabilities and obligations of the College under any agreement or contract entered into bona fide before the date of taking over shall devolve and shall be deemed to have devolved on the State Government.

## **4. Effect Of Notified Order Issued Under Section 3 :-**

On the issue of a notified order under Section 3-

- (a) The Board of Control constituted under the Bihar Private

Medical Colleges (Taking Over of Management) Ordinance, 1978 (Bihar Ordinance No. 31 of 1978) shall be deemed to have been dissolved :

Provided that the State Government may appoint any person to perform the functions and duties of the Board of Control under the direction and control of the State Government until such time as alternative arrangement be made by the State Government.

(b) Any Association or Managing Committee registered under the Societies Registration Act, 1860 (Act XXI of 1860) or otherwise in which the management and/ or ownership of a College had been vested immediately before coming into force of this Act shall cease to have any control, right, authority, title or interest in any manner whatsoever over the College.

(c) As from the date of the notified order or as soon as may be after such date, the State Government shall take all such steps as may be necessary to take into its control and possession, all such properties, assets and effects mentioned in sub section (2) of Section 3 and all actionable claims relating to the College to which, anybody who may be or appear to be entitled.

#### **5. Contracts In Bad Faith May Be Cancelled Or Varied :-**

Without prejudice to the provisions contained in Section 4, the State Government may cancel or vary any contract or agreement entered in to at any time before the issue of the notified order under sub-section (1) of Section 3 between the College body and any other person or between the Board of Control and any other person, if the State Government is satisfied that such contract or agreement were malafide and entered into in bad faith and was detrimental to the interest of the College.

#### **6. Determination Of Terms Of The Teaching Staff And Other Employees Of The College :-**

(1) As from the date of the notified order, all the State employees in the College shall cease to be the employees of the College body: Provided that they shall continue to serve the College on an ad hoc basis till a decision under sub-sections (3) and (4) is taken by the State Government.

(2) The State Government will set up one or more Committee of experts and knowledgeable persons which will examine the biodata of each member of the teaching staff and ascertain whether appointment, promotion or confirmation was made in accordance

with the University Regulations and in keeping with the guidelines laid down by the Medical Council of India and take into consideration all other relevant materials including length of service in the College, and submit its report to the State Government.

(3) The State Government on receipt of the report of the Committee or Committees, as the case may be, will decide in respect of each member of teaching staff on the merits of each case, whether to absorb him in Government service or whether to terminate his service or to allow him to continue on an ad hoc basis for a fixed or on contract and shall, where necessary redetermine the rank, pay, allowances and other conditions of service.

(4) The State Government shall similarly determine the term of appointment and other conditions of service of other categories of staff of the College on the basis of facts to be ascertained either by a Committee or by an officer entrusted with the task and the provisions of sub-sections (2) and (3) shall apply mutatis mutandis to such cases.

## **7. Compensation :-**

If any question of payment of compensation arises consequent upon the taking over of the College by the State Government, then a sum not exceeding rupee one shall be payable after it is scrutinised and determined.

## **8. Duty To Deliver Possession Of Property And Documents :-**

(1) Where notified order has been made under sub-section (1) of Section 3 in relation to any College, every person having possession, custody or control of any property of the College shall deliver the property to the State Government or to any person as may be authorised by the State Government in this behalf.

(2) Any person who, on the date of the notified order, has in his possession or under his control any books, documents or other papers relating to the college, including any letter, memoranda, notes or other papers notwithstanding anything contained in any law for the time being in force, be liable to account for the said books, documents and the aforesaid other papers to the State Government or to any such person as may be authorised by the State Government in this behalf.

(3) The State Government may take all necessary steps for securing possession of all properties of the College and College Body and for reasons to be recorded take or cause to be taken such

steps or use or cause to be used such force as may be necessary for securing possession or preventing a breach of the peace.

## **9. Penalty For False Statements :-**

(1) If any person-

(a) when required by this Act or any order made under this Act to make any statement or furnish any information refuses to make such statement or furnish the required information, or makes statement or furnishes information which is false in any material particular or which he knows or believes to be false or does not believe the same to be true, or

(b) makes any statement which is false or which he does not believe to be true in any book, account, return or other document which he is required by any order made under the Act to submit; he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand and five hundred rupees or with both.

(2) Any person who-

(a) having in his possession, custody or control any property forming part of the assets of the College, College Body or of the Board of Control, wrongfully withholds such property from the State Government, or

(b) wrongfully obtains possession of any property forming part of the assets of the College, College Body or Board of Control, or

(c) wilfully withholds or fails to produce or hand over to any person authorised by the State Government any register, record or other document which may be in his possession, custody or control, or

(d) fails without any reasonable cause, or submit any accounts, book, or other documents, when required to do so, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one thousand and five hundred rupees or with both.

## **10. Cognizance Of Offence :-**

No court shall take cognizance of an offence punishable under this Act except with the previous sanction of the State Government or an officer authorised by the State Government in this behalf.

## **11. Protection Of Action Taken Under This Act :-**

No suit, prosecution or other legal proceedings shall lie against the

State Government or any officer or employee of the State Government for anything which is, in good faith done or intended to be done under this Act.

## **12. Overriding Effect Of The Act :-**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having the effect of law.

## **13. Power To Make Rules :-**

(1) The State Government may, by notification in Official Gazette, make rules to carry out the purposes of this Act and such rules may provide that they shall take effect retrospectively.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

## **14. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act the State Government within two years from the commencement of this Act, by order, as occasion may require do anything not inconsistent with the provisions of this Act, which may appear to it to be necessary for the purpose of removing the difficulty.

## **15. Repeal And Savings :-**

(1) The Bihar Private Medical College (Taking Over) Ordinance, 1978 (Bihar Ordinance No. 62 of 1978), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the said Ordinance, if such thing or action is not inconsistent with the provisions of this Act 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 that day on which such thing or action was done or taken.