

Himachal Pradesh Private Educational Institutions (Regulatory Commission) Act,
2010

(Act No. 15 Of 2011)

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Passed in Hindi by the Himachal Pradesh Vidhan Sabha . For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 21st August, 2010, pp. 7866 and 3876.

Received the assent of the Governor on the 31st January, 2011 and was published

in Rajpatra, Himachal Pradesh both in Hindi and English on 7th February, 2011, p p. 8799-8811.

Amended, repealed or otherwise, affected by , -

H.P. Act No. 26 of 2012 Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh, dated 6th April, 2012, pp. 211 and 213. assented to by the Governor on the 3rd May, 2012, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 8th May, 2012, pp. 962-963.

An Act to provide for establishment of the Regulatory Commission and Regulatory mechanism in the State for the purpose of ensuring appropriate standard of admission, teaching, examination, research and protection of interest of students in the Private Educational Institutions and for matters connected therewith or incidental thereto;

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-first Year of the Republic of India as follows:-

1. Short title and application. -

(1) This Act may be called the Himachal Pradesh Private Educational Institutions (Regulatory Commission) Act, 2010.

(2) It shall apply to the Private Educational Institutions in the State of Himachal Pradesh.

2. Definitions. -

In this Act, unless the context otherwise requires, -

(a) "Commission" means the Regulatory Commission established under section 3 of this Act;

(b) "member" means a member of the Commission and includes the Chairperson;

(c) "Private Educational Institutions" means all the Private Educational Institutions in the State viz. degree colleges, professional colleges of Education, Institutes of Technical Education, Management, Law, Engineering, Medicine, Pharmacy, Paramedical Institutions and Universities, deemed Universities, Centres of Excellence or any other educational institutions of higher learning, except schools affiliated to any recognized Board of School Education;

(d) "regulations" means regulations made by the Commission under section 19 of this Act;

(e) "Regulatory body" means any State or Central Statutory Regulatory Body set up for the purpose;

(f) "student" means a person enrolled in the Private Educational Institution for pursuing a course of study for the award of a degree, diploma, certificate or other academic distinction;

(g) "University Grants Commission" means the University Grants Commission

established under the University Grants Commission Act, 1956;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "State Government" means the Government of Himachal Pradesh; and

(j) "Higher Education" means study of a curriculum or course for the pursuit of knowledge beyond 10+2 level.

3. Establishment of Commission.-

(1) The State Government may, by notification published in the Official Gazette, establish the Himachal Pradesh Private Educational Institutions Regulatory Commission for the purpose of providing a regulatory mechanism in the State and for working as an interface between the State Government and the Central Regulatory Bodies for the purpose of ensuring appropriate standards of admission, teaching, examination, research, extension programmes and protection of the interest of the students of the Private Educational Institutions.

(2) The Commission shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the said name.

(3) The headquarters of the Commission shall be at such place as may be notified by the State Government.

4. Composition of Commission.-

(1) The Commission shall consist of a Chairperson and maximum of two members from amongst persons of eminence in public life or in the field of higher education or who have remained Secretary or above to the Government of Himachal Pradesh or held equivalent post in the Government of India for a period of three years or more. Provided that the Chairperson and the members shall not be from the same field of specialization.

(2) The Chairperson and members of the Commission shall be appointed by the State Government, on the recommendations of a Search Committee, for a period of three years or until he or she attains the age of 65 years, whichever is earlier, and such Chairperson or member may be eligible for a second term subject to the upper age limit of 65 years: Provided that after the expiry of the term of office, the Chairperson or the member, as the case may be, shall be ineligible for further employment or any assignment in any of the Private Educational Institutions within Himachal Pradesh or their associate offices or companies within or outside Himachal Pradesh for a period of three years.

(3) The Search Committee shall consist of the following, namely:—

(i) Chief Secretary to the Government — Chairperson; of Himachal Pradesh

(ii) Principal Secretary (Technical Education) — Member; and to the Government of Himachal Pradesh

(iii) Principal Secretary (Higher Education) — Member- Government of Himachal Pradesh Secretary.

5. Removal of member.-

(1) No member shall be removed from office except in accordance with the provisions of this section.

(2) the State Government may, by order, remove from office any member, if he-

(a) has been adjudged an insolvent by the competent court; or

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has been guilty of proven misbehavior; or

(g) has failed to discharge his duties: Provided that no member shall be removed from his office on any ground specified in clauses (d), (e), (f) or (g) unless an enquiry has been conducted for this purpose and the member has been given an opportunity to defend himself.

6. Officers and other employees of the Commission.-

(1) There shall be a Secretary of the Commission who shall be appointed by the State Government in consultation with the Commission on such terms and conditions, as may be prescribed.

(2) The Commission may appoint such officers and employees as it considers necessary, for the efficient performance of the functions of the Commission, after approval of the State Government.

(3) The terms and conditions of service of the officers and employees of the Commission shall be such as may be prescribed.

7. Meetings.- The Commission shall meet, as often as may be necessary, at such time and place and observe such procedure, as may be prescribed by the regulations.

8. Fund.-

The Commission shall establish a fund to which shall be credited-

(a) by the Private Educational Institutions such percentage of total fees every year as may be assessed by the Commission from time to time but not exceeding one per cent of the total fees;

(b) loan from the State Government which will be repayable within three years;

(c) any other grants received from any other source; and

(d) all sums received by way of penalties.

9. Powers and functions of the Commission.-

(1) It shall be the duty of the Commission to ensure that standards of admission, teaching, examination, research, extension programme, qualified teachers and infrastructure, are being maintained by the Private Educational Institutions in accordance with the guidelines issued by the Regulatory Bodies of the Central Government or the State Government or by the Central Government or the State Government from time to time. In case of failure of the Educational Institution to meet the standards laid down, the Commission shall have the power to penalize the Educational Institutions under section 11 of the Act and in case of successive failure of an institution to meet the standards, the Commission may recommend to the State Government/ Regulatory Body for the winding up of the institution.

(2) The Commission shall ensure that the admissions in the Private Educational Institutions are based on merit achieved in National Common Entrance Test or the State Common Entrance Test or any other test as notified by the State Government and where there is no National level Common Entrance Test, or State level Common Entrance Test or any other test, the merit shall be determined strictly on the basis of the marks obtained in the qualifying examination.

(3) The Commission shall develop an appropriate mechanism for receipt and redressal of grievances of students and parents, and direct the private institution to set-up a proper Grievances Redressal mechanism for redressal of complaints reported to the Commission. Such complaints shall be redressed within the time fixed by the Commission with details of the steps taken by the institution to redress such complaint.

(4) The Commission may conduct inspections of Private Educational Institutions as and when required and may form expert committees, for inspections of Private Educational Institutions.

(5) The Commission shall have the power to monitor and regulate fees in Private Educational Institutions.

10. Procedure and powers of the Commission.-

(1) The Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(5 of 1908) in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders; and

(g) any other matter which may be prescribed.

(2) The Commission shall have the power to pass such interim order in any proceeding, hearing or matter as the Commission may consider appropriate.

(3) The Commission may authorize any person, as it deems fit, to represent the interest of the students and parents in the proceedings before it.

(4) All disputes under this Act shall be decided summarily in accordance with the provisions of Order XXXVII of the Code of Civil Procedure, 1908 (5 of 1908).

11. Penalties.-

(1) The Commission may, for the contravention of any of the provision of this Act or the rules or regulations made thereunder, or directions issued by the Commission, impose penalty, in such manner, as may be prescribed, but not exceeding one crore rupees: Provided that the maximum penalty for a second or subsequent contravention shall be five crore rupees : Provided further that no penalty shall be imposed unless the institution concerned is given an opportunity of being heard.

(2) The penalty imposed under sub-section

(1) shall be recoverable from the endowment fund or any other fund or as arrear of land revenue from the Educational Institution concerned.

12. Accounts and audit of the Commission.-

(1) The Commission shall maintain its accounts in such form and in such manner, as may be prescribed.

(2) The accounts of the Commission shall be audited annually by the Comptroller and Auditor General of India and the Commission shall send a copy of the audit report to the State Government.

13. Annual report.-

(1) The Commission shall, as soon as may be, after the end of each financial year, prepare and submit to the State Government, before such date and in such form, as may be prescribed, a report giving an account of its activities during the previous year and the State Government shall cause every such report to be laid before the Legislative Assembly, as soon as may be, after its receipt.

(2) The Commission shall send a copy of the audited annual accounts of the Commission to the State Government every year, and the State Government shall cause such accounts to be laid before the Legislative Assembly.

14. Indemnity.-

No suit, prosecution or other legal proceedings shall lie against Chairperson, any member, officer or employee of the Commission in respect of anything which is, in good faith, done or intended to be done in pursuance of this Act or the rules made thereunder.

15. Members and employees to be public servants.-

The members and other employees of the Commission shall be deemed to be

public servants within the meaning of section 21 (45 of 1860) of the Indian Penal Code.

16. Power to issue directions.-

The State Government may issue such directions to the Commission as in its opinion, are necessary or expedient for carrying out the purposes of this Act and the Commission shall give effect to all such directions.

17. Act to have overriding effect.-

The provisions of this Act or rule or order made thereunder, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

18. Power to make rules.-

(1) The State Government may, by notification publish in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) the terms and conditions of service of the Chairperson, the members and the Secretary of the Commission;

(b) mode of authentication of the orders and decisions of the Commission and instruments issued by it;

(c) the form and manner in which the accounts shall be maintained by the Commission under section 12;

(d) the minimum and maximum limit of the penalty under section 11 and the manner in which such penalty is to be imposed; and

(e) such other matters as may be required for proper functioning of the Commission.

19. Power to make regulations.-

The Commission may The sign and words “, with the prior approval of the State Government,” omitted vide H.P. Act No. 26 of 2012. [xxxxxxx] make regulations to carry out the provisions of this Act.

20. Rules and regulations to be laid in the Legislative Assembly.-

Every rule and regulation made under sections 18 and 19 of this Act shall respectively be laid, as soon as may be, after these are made, before the Legislative Assembly.

21. Power to remove difficulties.-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary for

the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of two years from the commencement of this Act.