

Himachal Pradesh Private Technical And Vocational Educational Institutions
(Regulation Of Admission And Fixation Of Fee) Act, 2008

(Act No. 16 Of 2008)

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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 10th September, 2008, pp. 3714-3715 and 3728.

Received the assent of the Governor on the 4th October, 2008 and was published in both Hindi and English in the Rajpatra, Himachal Pradesh, dated 7th October, 2008, pp. 4189-4213.

An Act to provide for regulation of admission and fixation of fee in Private Technical Educational Institutions and Professional Technical Educational Institutions in the State of Himachal Pradesh and for the matters connected therewith or incidental thereto.

(Regulation Of Admission And Fixation Of Fee) Act, 2008

(Act No. 16 Of 2008)

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

1. Short title, extent and commencement.

(1) This Act may be called the Himachal Pradesh Technical and Vocational Educational Institutions (Regulation of Admission and Fixation of Fee) Act , 2008.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall be deemed to have come into force on 30th of May, 2008.

2. Applicability.

This Act applies to,-

(a) The institutions deemed to be Universities, or Universities established under a State Act or constituent units thereto, other than those promoted and maintained by the Central Government; and imparting technical vocational or professional education; and

(b) The private aided or unaided technical, vocational or professional educational institutions affiliated to a University, which has been established under section 2(f) of the University Grants Commission Act,1956 (3 of 1956).

3. Definitions.

In this Act, unless the context otherwise requires,—

(a) "aided institution" means a Private Technical Institution, receiving financial aid or assistance in whole or in part from the Central or the State Government or from any Body, under the control of Central or the State Government disbursing grant-in- aid or financial assistance and shall include a minority institution;

(b) "common entrance test" means an entrance test for the purpose of admission to a technical or professional course conducted by an agency authorized by the State Government, by a notification published in the Official Gazette or, pending such notification, by the State Government;

(c) "fee" means all fee including tuition fee and development charges for various categories of admissions viz . open seats , management seats and Non-Resident Indian quota;

(d) "general category" shall mean and imply seats from out of the sanctioned intake of institution; not being seats in the management category, allocated to be filled by the State Government in the manner prescribed;

(e) "management category" shall mean and imply seats from out of the sanctioned intake allotted to the management of the institution for being filled by it in a fair and transparent manner, on the basis of the inter-se merit determined by a common entrance test;

(f) "technical or professional course" means any approved professional course in engineering, pharmacy, non- engineering or vocational courses or any other course of technical education which are recognized or approved under the respective Act governing that course;

(g) "Non-Resident Indian Student" means the wards of Indian citizens residing abroad and who have passed the qualifying examination from abroad;

(h) "notification" shall mean a notification published, under proper authority, in the Official Gazette;

(i) "Official Gazette" shall mean the Rajpatra of Himachal Pradesh;

(j) "private technical, vocational or professional educational institution" means an institution not established or promoted or run by the Central Government, the State Government or the Union Territory Administration or any agency or instrumentality of the Central or the State Government;

(k) "qualifying examination" means the minimum eligibility qualification or its equivalent prescribed by the concerned statutory authority for taking admission in first year/semester of the technical or professional course;

(l) "sanctioned intake" shall mean and imply the total number of seats sanctioned by the State Government for admitting students in each course of study in a private engineering or vocational institution;

(m) "State" means the State of Himachal Pradesh;

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

(o) "unaided institution" means a private engineering or vocational institution, not being an aided institution.

4. Regulation of admission, fixation of fee and making of reservation.

(1) The State Government shall regulate admission, fix fee and make reservation for different categories in admissions to private technical, vocational or professional institutions.

(2) The State Government shall ensure that the admission under all the categories in an institution is done in a fair and transparent manner.

(3) The State Government shall constitute a Admission and Fee Committee under the Chairmanship of Secretary (Technical Education) (hereinafter referred to as the 'Committee'), consisting of such members as may be specified by the State Government, by notification, to recommend the mode of admission, making of reservation, allocation of seats and fixation of fees etc. to the State Government.

(4) The State Government, shall oversee the working of Admission and Fee Committee.

(5) The terms and conditions of the Committee constituted under sub- section (3) and its members shall be specified, by the State Government, by notification, from time to time.

(6) If the State Government is satisfied that the institution has contravened any of

the provisions of this Act, it may recommend to the Himachal Pradesh University or All India Council for Technical Education or National Council for Vocational Training or State Council for Vocational Training, as the case may be, for withdrawal of recognition or affiliation of such institution.

(7) The State Government shall take appropriate action whenever deemed necessary, with regard to improvement in the system of making admissions in the institutions, charging of fee by the institutions and on any other matter which may be necessary to facilitate smooth running of the system and to remove grievances.

(8) No act or proceedings of the Committee shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Committee.

(9) No person who is associated with a private aided or unaided institution shall be eligible for being a member of the Admission and Fee Committee.

(10) A member of the Admission and Fee Committee shall cease to be so, if he performs any act which in the opinion of the State Government is unbecoming of a member of the Committee:

Provided that no such member shall be removed from the Committee, without giving him an opportunity of being heard.

(11) The Admission and Fee Committee may frame its own procedure in accordance with the Regulations notified by the State Government in this regard.

(12) The Admission and Fee Committee may require a private aided or unaided professional educational institution or, a deemed to be University to furnish, by a prescribed date, information as may be necessary for enabling the Committee to determine the fee that may be fixed by the institution in respect of each professional course, and the fee so determined shall be valid for such period as may be notified by the State Government.

5. Eligibility criteria for admission.

(1) The eligibility criteria for admission to a private technical, vocational or professional educational institution shall be such, as may be determined and notified by the State Government from time to time.

(2) The State Government may get a common entrance test conducted or adopt merit of any other all India level competitive examination for admission to each such educational course. However, in case of Industrial Training Institute or Industrial Training Centre and Vocational Training Centre, the State Government may go by merit obtained in the qualifying examination.

(3) The admission shall be made on the basis of common entrance test or any other all India level examination in accordance with merit in each category as per rules and by way of centralized receipt of applications, and by making centralized counseling of such students in all the categories for each technical course, in a fair and transparent manner in accordance with the manner and procedure as may be determined by the State Government from time to time.

6. Allocation of seats.

(1) A private technical, vocational or professional educational institution shall reserve not less than sixty percent seats of the total sanctioned intake as open seats which shall be filled in accordance with the provisions of sub-section (3) of section 5, with statutory reservations as may be determined by the State Government.

(2) In a private technical vocational or professional educational institution not more than fifteen percent seats of total sanctioned intake shall be filled up from amongst children or wards of Non-Resident Indians in order of merit as per provisions of sub-section (3) of section 5:

Provided that such seats shall be utilized bonafide by the Non- Resident Indians only.

(3) The State Government may, by notification, fix the percentage of management seats in private technical vocational or professional educational institutions. The management seats shall be filled in the order of merit as per provision of sub-section (3) of section 5.

7. Reservation of seats.

All private technical educational and professional institutions shall reserve seats for admission in general category and management category, for advancement of socially and educationally backward classes and for the Scheduled Castes and Scheduled Tribes to such extent, as may be notified by the State Government in the Official Gazette, from time to time in conformity with prevailing law in this regard.

8. Fixation of fee.

(1) The Committee appointed by the State Government shall determine fee, to be charged by a private technical , vocational or professional educational institution, located in the State, having regard to the following factors, for all categories of admissions as a whole, namely:-

(a) the location of the institution;

(b) the nature of the technical, vocational or professional courses;

(c) the cost of land and building;

(d) the available infrastructure and equipments;

(e) the expenditure incurred or being incurred on the faculty, administration and maintenance;

(f) the reasonable profit, required for the growth and development of the institution (not being more than 10% to 12% of the basic fee determined as above); and

(g) any other relevant factor, which the State Government deem just and appropriate for the determination of fee.

(2) Before determining fee under sub-section (1) , the said Committee shall give the concerned technical, vocational or professional educational institutions and the

representatives of the students already studying in such institutions and the representatives of the students, who intend to seek admission in those institutions, a reasonable opportunity to express their view points in writing with regard to the fee determination.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the State Government may, in the public interest, determine a provisional fee:

Provided that the fee shall be fixed in accordance with the provisions of sub-section (1) and sub-section (2) within a period of sixty days from the date of fixation of such provisional fee.

(4) No institution shall charge fee from any student for a period of more than one academic year in any circumstances. However, in order to safeguard interest of the institution, it may require submission of bond or Bank Guarantee from the student for the balance fee.

9. Mechanism for dealing with contraventions.

(1) The State Government shall, by notification in the Official Gazette, appoint a Nodal Officer not below the rank of a Additional Secretary to the State Government for entertaining complaints with regard to the contravention of the provisions of this Act or any notification issued thereunder.

(2) The State Government may also take a suo-moto notice of the contravention of the provisions of this Act or any notification issued thereunder.

(3) The State Government may cause an enquiry to be made into the allegations levelled by the complainant or on its suo-moto initiative and take the following actions, namely:—

(a) file the complaint, if in its opinion, it is a vexatious, anonymous or pseudonymous complaint; or

(b) direct the complainant to furnish additional information or an affidavit in support of his allegations; or

(c) take such action, as it may deem appropriate, keeping in view the facts and circumstances of the case.

(4) For conducting an enquiry under sub-section (3), a summary procedure shall be followed and the enquiry shall be completed within a period of forty five days.

(5) The Nodal Officer shall have the powers of a civil court to access, obtain and scrutinize the records of the private technical, vocational or professional educational institutions as well as summoning of any person or any relevant official record, which he may deem necessary.

10. Penalties.

(1) The State Government may, if it is satisfied that a private educational institution has contravened any of the provisions of this Act or any notification issued thereunder, take any or all of the following actions, namely:—

(a) cause the withdrawal of affiliation or recognition of such institution from the

university or any other authority or body to which such institution is affiliated;

(b) impose a fine on such institution which shall not be less than fifteen times of the amount of excess fee charges from the students subject to a minimum of rupees five lacs and in the event of non-deposit of fine, it shall be recoverable as arrear of land revenue;

(c) direct such institution to cancel the admission or registration of a student, who has been admitted to such institution in contravention of the provisions of this Act or the notification issued thereunder; and

(d) direct such institution to admit a student to whom admission has been wrongly denied.

(2) Before taking any action under sub-section(1), a reasonable opportunity of being heard shall be provided to such institution by the State Government.

11. Powers of the State Government to issue directions.

The State Government may, from time to time, issue to the technical educational and professional institutions such directions as in its opinion are necessary or expedient for carrying out the purposes of this Act and the notifications issued thereunder and such institutions shall comply with the directions so issued.

12. Powers to remove difficulties.

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

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the legislature of the State.

13. Protection of action taken in good faith.

No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or employee of the State Government or any other person or authority, authorized by the State Government for anything, which is done or intended to be done in good faith under this Act or the notification issued thereunder.

14. Powers to make rules.

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

(2) Rules made under sub-section (1) shall be subject to the condition of previous publication in the Official Gazette.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of

ten days which may be comprised in one session or in two or more successive sessions, and if, before expiry of the session in which it is so laid or the successive sessions aforesaid, the Legislative Assembly agrees in making any modification in the rule or agrees that the rules 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 of anything previously done under that rule.

15. Repeal of Ordinance No. 1 of 2008 and saving.

(1) The Himachal Pradesh Private Technical and Vocational Educational Institutions (Regulation of Admission and Fixation of Fee) Ordinance, 2008 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Act.