

CORRUPTION IN THE EDUCATION SYSTEM AND ROLE OF REGULATORY BODIES

Prof. (Dr.) Akil Saiyed*

Abstract

Higher Education is one of the fastest growing sectors in India. However, the quality of the education is getting worse. Due to the weak institutional framework and pathetic operational mechanism, the national higher education sector is vulnerable to pervasive corruption. A clean system of regulation with responsiveness, accountability and transparency is required to be developed. The present study takes an account of the existing regulatory bodies for the various branches of the higher education, evaluates their performance and proposes the rectification. There ought to be academic, financial and operational autonomy coupled with accountability to the institutes of higher educations. The paper also proposes the tool-kit for the efficacious regulating body which does not leave the space for the corruption in the establishment and maintenance of the higher education institution.

Keywords: *Higher Education, Corruption, Regulatory Body, Education System*

* Director & Dean @ Parul Institute of Law, Faculty of Law, Parul University, Vadodara; Contact: +919428540786; Email: akil.saiyed@paruluniversity.ac.in

INTRODUCTION

Education is the backbone of the economy of the country. The country which spent more on education has to spend less for its defense. Education system of the country, including KG to PG, serves as an assembly line for the production of the human capital for the nation. The prosperity of the country depends on its infrastructural facilities for the education. In India, both forms of the education, i.e. formal and informal, are been supervised and regulated by the government through various statutory bodies. Further the formal education figures from primary to post-secondary i.e. K-12 and higher education. Each of these sections of the formal education differs in their aim, methodology, product and the management. Hence, the parameters of quality, norms and standards as well as the nature of functioning of these educational institutions differ in various aspects. Though each of these sectors suffers from the evil of aberration and corruption, the present study is restricted to the issues of higher education due to the different character of regulations.

The higher education is one of the most fast growing sectors in India. Since independence, the number of higher education institutions (HEI) has been multiplied enormously. From 1951 to 2012, there has been 30 times rise in the number of universities and around 700 times growth in the number of colleges imparting the higher education in India. However, the quality of the higher education is quite deteriorating. The increase in the number i.e. quantity could not pace with the quality of the education. India has apparently failed in producing the value added and value rich human capital along-with the swift of globalization and industrialization. Being the largest populous country with the people of 18 to 25 years age, India could have produced the skilled and trained man-power not only for herself but to cater the need of global labour market. As observed by the National Knowledge Commission¹ there exist the pockets of excellence in higher education, yet the general impression about Indian higher education is one of mediocrity. In order to improve the present scenario of the higher education in India and to enhance the standard of the professional education, one need to understand the existing legal frame-work and the nature of supervision as well as the control prevailing on the institutions of the higher education. The higher education, particularly the professional education may be characterized by its complexity and plurality of the forms of organizations. The management, governance, financing and the property related aspects induce the higher education institutions run as an industry rather than serving to the society and promoting the basic research.

¹ Note on Higher Education, National Knowledge Commission, November 29, 2006

PROLOGUE OF THE STUDY

India with a federal structure, owes the education in the concurrent responsibility of both the state and the center. The school education is the prime responsibility of the state, while the higher and technical educations are under the purview of the central government. The center is liable not only for the co-ordination but also for determining the standards in higher education for a common benchmark throughout the country. To realize this obligation, the center established the University Grant Commission (UGC) in 1951, which received the statutory status in 1956 after the respective enactment through the parliament. Since then the UGC is been regarded as a custodian of the size and standard of the higher education across the country. However, the National Education Policy, 1986 and subsequent policy of 1992, added the role of various regulatory bodies in the higher education institutions. Many of these statutory body existed even prior to this transformation though were not in much interference with the powers of the UGC. Further, the most of the universities are established and supervised by the respective state governments, the regulatory bodies born out of the central parliamentary legislation embark on the powers vested with the state universities as well as the UGC. These regulatory bodies were external organization, empowered by the legislation to oversee and control the education process and its relevant output. The various regulating bodies have their different composition, structure and powers for different professional courses. The emergence, mandate and preliminary functions of some of the regulatory bodies are observed as illustrated under.

In addition to the original power of the University Grant Commission (UGC) regarding the recognition of the university and the colleges, there are several statutory bodies viz. All India Council for Technical Education (AICTE)² mandated for the planning and co-ordination of the technical education including the engineering, management, pharmacy, architect and hotel management. In addition to the approval of the technical institution, it also lay down the service conditions for the faculty and the accreditation through the National Board of Accreditation (NBA). These functions of AICTE overlap with other statutory bodies namely, Council of Architect (COA), Pharmacy Council of India (PCI), UGC as well as the state directorate of the technical education.

² Available at: <http://www.aicte.ernet.in>

In the field of medical education the prime regulator is Medical Council of India³ (MCI) with a mandate to establish the standards in the medical education and define the medical qualification for the entry into the profession in India. Moreover, there exist Central Council of Indian medicines (CCIM) for prescribing the standards of education in Indian medicine viz. Ayurveda, Unani, Siddha, etc. The prime function of the Central Council for Homeopathy (CCH) is to recognize equal qualifications in homeopathy and to maintain the register of Homeopaths. Similarly the Dental Council of India (DCI) and Indian Nursing Council (INC) are mandated for the regulating the education and profession in their respective arena.

Other professional council includes Bar Council of India (BCI) which lay down the standards of the professional conduct of the lawyers and standards of legal education in India.

Further, the National Council for Teacher Education⁴ (NCTE) enjoys the power to recognize the institutes imparting the teacher education. The Rehabilitation Council of India (RCI) is been mandated for the standardization of the training of personnel as well as the professional in the field of rehabilitation and special education. Interestingly the Indian Council for Agriculture Research (ICAR)⁵, though not a statutory body possess the power of accreditation the agriculture university and the co-ordination of agriculture education and research.

Over and above these statutory councils monitoring the professional education in the relevant branch, there exist DEC i.e. Distance Education Council⁶, which is authorized for the promotion, co-ordination and determination of the standard of the open universities as well as the courses offered under the Distance Learning Mode.

In addition to these councils there are some institutions namely, Chartered Accountants of India (ICAI), Institutes of Company Secretary of India (ICSI), Institute of Costs and Works Accounts of India (ICWAI) under the Ministry of the Corporate Affairs to regulate and develop their respective profession in India.

The detail study of all these bodies reveals that they all have their own rules and regulations. However, the policy regarding the promotion and recognition of education institution is not properly defined. There persist ambiguities regarding the jurisdiction of the council in various aspects of imparting education. Multiplicity of the regulating authorities leads to inconsistency

³ Available at: <http://www.mciindia.org>

⁴ Available at: <http://www.ncte-in.org>

⁵ Available at: <http://www.icar.org.in>

⁶ Available at: <http://www.ignou.ac.in/dec/>

and vagueness in the administration of such institutes of higher education which further prop up the corruption in the education sector.

HYPOTHESIS

Existing regulatory system and legal framework are not adequate to curb the corruption in the higher education sector in India.

APPROACH OF THE STUDY

The credibility of all these regulating bodies is a critical issue. Because of the complexity and dysfunctional nature of these regulating bodies the assessment of the performance and integrity is quite cumbersome. There are number of incidence alarming the seriousness of the situation. Few of them have been reported here as a case study of corruption prevailing in the regulatory system. The case study method is followed to judge the hypothesis. The parameters governing the regulatory mechanism are identified and hence the significance of regulatory body in curbing the corruption in higher education is rationalized.

OBSERVATIONS FROM THE STUDY

All India council for technical Education (AICTE) as stated in above para is responsible body for the recognition and approval of the higher technical institution including engineering college. It has its own rules and regulations regarding the approval procedure and the standard norms and criteria for the approval of the establishment of the technical institution. The Central Bureau of Investigation (CBI) received around 200 complaints regarding the corrupt practices of the officials of the AICTE during the approval process of new engineering colleges. The CBI prima facie found the substance in the said complaints and filed cases against 42 engineering colleges, which have obtained the permission through the unfair means without having requisite infrastructure and satisfying the conditions laid by the AICTE for the establishment of new college. Of course it was not possible without the support of officials of AICTE. During the investigation CBI revealed the racket of conspiracy and arrested the top brass of AICTE including the Chairman, Member Secretary, Regional Officer, Deputy Director, Advisor, former Regional Director, etc. These officers were charged for the bribery, receiving illegal gratification and other corrupt practices. It was also discovered that many of these officers had tainted history and were not having clean record even before their appointment in AICTE. The most embarrassing fact regarding the whole scandal was it includes many of the professors from IITs,

NITs and universities, who as a member of an expert-committee played dubious role and cooperated in such an immoral and unethical act.

The similar kind of incidence is been recorded with Medical Council of India (MCI), which is an apex body granting the permission and recognition to the medical college in the country. The President of the MCI was caught red-handed receiving the bribe of rupees two Crores for granting the permission to the medical college. This person happen to be the president of All India Medical Association, and-hence representing India at the World Medical Association, ex-officio. Being the President of the medical profession, he used to preach the fellow doctors about the importance of ethics in medical field. The sum of bribery paid by the institution is than recovered from the students, faculty, patients and other stakeholders of the hospital or the college. The unfair practices followed by such medical institution include capitation fee, ghost faculty, fake patients, etc. resulting into further escalation of the corruption.

Other throbbing incidence is regarding the allegations made by the Secretary of the University Grant Commission UGC against the than Chairman for the corruption in a plan to monitor disbursal of funds to institutions through e-governance⁷. Regarding the status of the deemed university awarding the degree, the Tandon Committee has found out of 130 such deemed universities, 44 deemed university required to be derecognized. The committee found these institution with abysmal academic and physical infrastructure, which are ex-facie examples of the corruption during the grant of the deemed status to such institutions.

MAJOR FINDINGS OF THE STUDY

The above study signifies that the corruption is omnipresent and comprehensive phenomenon contained in almost all the regulatory mechanism. Since, there is no proper machinery to identify the suitable officer to be deputed in such regulatory bodies, these officers i.e. bureaucrats are been handpicked by the ministers on their own choice. This leads to the nexus between bureaucracy, politics and criminals. Many of the institutes are established with the commercial point of view. Corrupt people are making safe investment of their black money into education institutions in collaboration with their political god-fathers. Since, they neither have a sacred intention of serving the society by imparting the education; they do not hesitate in appropriation of unfair means for the establishment as well as running of such educational institutions. Due to lack of philanthropic element such management of the colleges allures the

⁷ Available at: http://www.telegraphindia.com/1090823/jsp/nation/story_11397826.jsp

officers inducing them into unethical and immoral practices. Further, many of such officers are deputed on the verge of their retirement, hence, they are not been held guilty for the infringement of their service rule.

Moreover, the strict and stringent parameters and criteria for the approval of such institutes of higher education make the recognition process quite troublesome for the college managers. Certain dimensions of class-room, fixed numbers of books in library, some number of computer sets, etc. create the dodge for the inspecting authorities to pressurize the management of the college for the compliance. There are rigid norms and stern definition for the qualifications of the faculty leaving the actual competency of a teacher on the stake. Hence, either the skeleton teachers possessing the requisite qualifications are hired or a roll is maintained with the ghost teachers.

The most agonizing fact about the corruption in the higher education sector is that, the stakeholders of the system desire to take an advantage of the malevolence situation. Many of the students and parents, who were supposed to resist the malpractice, instead of combating against the corrupt practice, stoop down to any level just for their own selfish motives.

SUGGESTIONS AND RECOMMENDATIONS

The evil of corruption can well be proscribed with the efficacious regulatory mechanism under strong legal framework. There has to be the rule of law i.e. control and sanction in the field of higher education. The criteria granting the approval must be more explicit, quantifiable, transparent and measureable. The public administration system needs to be developed with the information transparency in the process of recognition, funding and disbursement of the grant. The approval should pass through the social audit before the final accent. There could be independent external monitors be identified for auditing and scrutiny of the regulatory system. Separate code of conduct for the all stakeholders of the system should be devised. There ought to be academic, financial and operational autonomy coupled with accountability to the institutes of higher educations.

The regulatory system requires cohesive theoretical framework, synthesis and careful thought out for the policy implications. The institutional mechanism regarding the appointment of the officers in the regulatory body should be free from the political interference. The only person, with high integrity and the impeccable reputation should be delegated the responsibility of the regulator and inspectors. On the other hand any act of immorality and corruption in the

education sector should be made a non-bailable offence and should be tried expeditiously with an exemplary punishment to the offenders. A clean system of regulation with responsiveness, accountability and transparency ought to be developed. The tool-kit for the efficacious regulating body is proposed herewith.

The model regulatory body may possess the following characteristics.

- a) The regulatory body should operate through the Education Management Information System (EMIS) to bring the transparency in its functioning.
- b) The regulatory body should play the role of facilitator instead of the regulator.
- c) A consistent policy must be devised for the growth of the different types of institutions.
- d) The process of recognition and approval should be harmonized with the other regulatory body, if any.
- e) The regulatory body should put equal emphasis on the design of curricula and the examination system. i.e. should focus on the quality of the product of the institution.
- f) The regulatory body should have vigilance cell incorporated within it. The scope of such vigilance cell should not be limited to those institutions which are under the supervision, rather extend to its own members also.
- g) The regulatory body should stress more on the governance of the higher education institution rather than the regulation on the entry level.
- h) The policy should be framed to promote the growth of the competition amongst the institution to enhance their quality.
- i) The regulatory body should educate the management regarding the criteria and formulate the norms, procedure and practice to encourage the management for venturing the establishment of the institute of higher education.
- j) Regulatory body should strive for the improvement of the higher education so as to create groundwork for social and economic progress of the nation.
- k) Regulatory body must accentuate the value education to fight against the corruption. The main stakeholders of the system, i.e. students could be well informed about the probable malpractices and prepare them to raise their voice against any of such incidence.

EPILOGUE

The national higher education sector is vulnerable to pervasive corruption. The foremost mutilation of the corruption is the entire generation of the youth mis-conceives the belief that

personal success does not come through merit and hard-work but could be won through favoritism, bribery and fraud. Since, the corruption is the symptom of an operational flaw and structural weakness; it could be curbed through the strong foundation of the mechanism and transparent operation. It could be reduced by scraping the obsolete laws and rationalizing the regulatory mechanism. However, the government alone cannot eradicate the corruption in the system rather the citizens and civil society can do much better in curbing the corruption from the system.

There is much hope from few of the legislations in pipeline, i.e. The National Commission for Higher Education and Research (NCHER) Bill, 2010; The Educational Tribunal Bill, 2010; The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and University Bill, 2010; The Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010; The National Accreditation Regulatory Authority for Higher Educational Institutions Bill, 2010. Setting up of the single regulating authority as suggested by the National Knowledge Commission and the Yashpal Committee would certainly refine the regulatory mechanism. With the realization of the legislative effort, the higher education in India shall definitely be revitalized to cater the need at the domestic as well as the international market.