

The Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002

JAMMU & KASHMIR

India

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Act 22 of 2002

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The Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002(Act No. 22 of 2002)[23rd April, 2002]The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 21st April, 2002 and is hereby published for general information :-An Act to provide for the regulation and control of Private Colleges in the State.Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third Year of the Republic of India as follows

1. Short title, extent and commencement.

(1)This Act may be called the Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002.(2)It shall be extend to the whole of the State of Jammu and Kashmir.(3)It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)"Act" means the Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002;(b)"Aided College" means a private college which is recognized by and is or has been receiving grant-in-aid from the Government;(c)"College" means an educational institution meant for imparting education above Higher Secondary (10+2 level) and up to Bachelor's/Master's degree affiliated to the University of Kashmir or the University of Jammu and includes;(i)BA., B.Sc., B.Com., B.B.A., B.C.A., B Ed., L.L.B. and B.P. Ed. Courses, and any other courses for which affiliation can be granted to the University of Kashmir or University of Jammu; and(ii)the land, buildings, playgrounds, hostel and movable properties such as furniture, books, apparatus, map and equipment, owned by and used for the activities of the educational institution.(d)"competent authority" means any officer not below the rank of a Principal of a

Government Degree College appointed by the Government for carrying out the purposes of this Act and different authorities may be appointed for different areas;(e)"educational agency" means any person or body of persons, a society or a Trust duly registered to establish, run or maintain any private college under this Act;(f)"Government" means the Government of Jammu and Kashmir;(g)"prescribed" means prescribed by the rules made under this Act;(h)"private colleges" means a college (aided or unaided) established, run or maintained by any educational agency;(i)"State" means the State of Jammu and Kashmir;(j)"University" means the University of Kashmir or the University of Jammu as established under the Kashmir and Jammu University Act, 1969.

3. No private college to be established or run without prior permission.

(1)No private college shall be established or run without the prior permission, in writing, of the Government or the competent authority.(2)Notwithstanding anything contained in the Kashmir and Jammu University Act, 1969, the Government may, by notification in the Government Gazette, appoint the competent authority for the accord of permission for the purposes of this Act.(3)Any person or education agency aggrieved of any order of the competent authority may, within thirty days from the date of order, prefer an appeal to the Government.(4)The Government, may, after affording reasonable opportunity to such person or agency and the competent authority pass such orders as it may deem fit.(5)The Government shall prescribe the procedure to be followed for the grant of permission to establish and run a private college.(6)Existing private colleges shall be deemed to have been set up with the permission of the Government under this Act from the date of its commencement.

4. Publication of list of colleges.

- The Government shall on or before the first day of May each year, publish in the Government Gazette and in two local dailies a list containing the names of aided and unaided colleges which have been set up under this Act together with such particulars of such colleges as it may consider necessary.

5. Grant-in-aid.

- The Government may, give grant-in-aid to the recognized private colleges. The quantum of such grant-in aid and the conditions to be fulfilled by such private colleges for the receipt of such grant-in-aid shall be prescribed.

6. Management of private colleges.

- All private colleges recognized under this Act shall be maintained and run by the educational agencies in the prescribed manner.

7. Restriction on alienation of property of aided colleges.

(1) Notwithstanding anything contained in any law for the time being in force, no sale, mortgages, pledge or transfer of possession in respect of any immovable property of an aided college shall be made or created except with the prior permission of the competent authority. No such permission shall be granted, if, in the opinion of the competent authority, such permission can adversely affect the working of the college. (2) Any transaction made in contravention of sub-section (1) shall be null and void.

8. Property to be in the name of educational agency.

- Any property or assets owned, held or acquired by any person for or on behalf of any private college, shall for the purposes of this Act, be deemed to be the property of the educational agency notwithstanding that such property stands in the name of any individual.

9. Selection and appointment of teaching and non-teaching staff in private colleges.

(1) All selections and appointments of teaching staff in private colleges shall be made by Selection /Appointment Committee which shall be constituted by the educational agency in the prescribed manner. (2) The academic and other qualifications required for teaching and non-teaching posts shall not be lower than those prescribed for corresponding posts in Government service.

10. Conditions of service of staff in private colleges.

- The general conditions of service of teaching and non-teaching staff in private colleges including conditions relating to minimum eligibility, pay, gratuity, provident fund and age of retirement shall be such as may be determined by the concerned educational agency in the prescribed manner.

11. Withdrawal of permission.

- The competent authority may in public interest withdraw permission to run a private college if in its opinion the educational agency is not running the college in accordance with the provisions of this Act or the rules made thereunder: Provided that no such order of withdrawal of permission shall be passed by the competent authority without affording to the educational agency a reasonable opportunity of being heard : Provided further that an educational agency aggrieved by the decision of the competent authority under this section may prefer an appeal to the Government against such decision within a period of thirty days from the date such decision is conveyed to it and the Government, after affording a reasonable opportunity of being heard to such educational agency and the competent authority, may pass such orders as it may deem fit. Such an order shall be final and binding on all parties.

12. Private colleges to furnish returns etc.

- Every private college shall within such time as may be fixed by the competent authority furnish such returns, statistics and any other information as the competent authority may from time to time require.

13. Maintenance of accounts in aided colleges.

(1)The Government shall prescribe the manner in which the accounts of aided colleges shall be maintained.(2)Violation of sub-section (1) by an aided college shall render it liable to suspension of grant-in-aid facility.

14. Audit.

(1)The accounts of aided colleges shall be audited annually by an agency to be appointed by the competent authority.(2)The accounts of the aided colleges shall be audited in such manner as may be prescribed.(3)The agency so appointed shall prepare report of the accounts and submit the same to the competent authority.

15. Fees.

- The Government shall from time to time prescribed norms and procedures to fix the rate of fee to be charged from the students in private colleges.

16. Admission.

- Admissions in all private colleges shall be made in prescribed manner.

17. Unauthorized colleges.

(1)A private college or a private institution imparting education in academic or technical fields beyond 10+2 standard which has been established without permission of the Government as laid down in "The Jammu and Kashmir Private Education Institution (Regulation and Control) Act, 1967 and affiliated to a University with its seat outside the State in contravention of Kashmir and Jammu University Act, 1969, shall for the purposes of this Act, be treated as unauthorized.(2)Franchise institutions sponsored by or affiliated with any non-Government organizations based within or outside the State shall also be treated as unauthorized institutions for the purposes of this Act.(3)Unauthorized institutions shall be liable to closure with effect from the date of commencement of this Act:Provided that an institution running courses after due affiliation with or accreditation from Shri Mata Vaishno Devi University, Indira Gandhi National Open University (IGNOU), Department of Electronics Accreditation of Computer Courses Society (DOEACC Society) and other such autonomous organizations shall not be liable to closure if it seeks permission on the commencement of this Act, from the Government to run the recognized courses.

18. Indemnity.

- No. suit, prosecution or other legal proceeding shall lie against the Government or any authority or any officer in respect of anything which is in good faith done or intended to be done under any provision of this Act or the rules framed thereunder.

19. Courts not to grant injunction.

- Notwithstanding anything contained in the Code of Civil Procedure, Samvat 1977 or in any other law for the time being in force, no court shall grant any injunction or make any interim order restraining any proceeding which is being or about to be taken under this Act.

20. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may by order do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purposes of removing the difficulties :Provided that no such order shall be passed after the expiry of two years from the commencement of this Act.

21. Delegation of powers.

- The Government may, by notification in the Government Gazette and subject to such conditions, if any, as may be specified, authorise any officer or authority subordinate to it to exercise any or all of the powers except the power to make rules, exercisable by it under this Act.

22. Penalty.

(1)Whoever contravenes any of the provisions of this Act or rules framed thereunder shall, on conviction before the First Class Judicial Magistrate, be liable to a fine which shall not be less than fifty thousand rupees and may extend up to two lakh rupees.(2)In case of an educational agency consisting of a group of persons, all members of such agency shall liable to fine under sub-section (1) individually.

23. Power to make rules.

(1)The Government may make rules for the purposes of carrying into effect the provisions of the Act.(2)In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following, namely:-(a)the procedure for obtaining the permission of the competent authority for the establishment of a private college;(b)the giving of grant-in-aid by the Government;(c)the conditions of service of staff in private colleges;(d)the selection of staff in private colleges;(e)the manner in which accounts shall be maintained in aided colleges;(f)inspection; and(g)any other matter which is or may be prescribed under this Act.

24. Repeal.

- The Jammu and Kashmir Private Educational Institutions (Regulation and Control) Act, 1967 and the Jammu and Kashmir Private Colleges (Regulation and Control) Act, 1984 are hereby repealed.