

Himachal Pradesh Private Medical Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006

HIMACHAL PRADESH

India

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Act 16 of 2006

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Himachal Pradesh Private Medical Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006(Act No. 16 of 2006)Last Updated 14th January, 2020(Received the assent of the Governor on 27th September, 2006 and was published in Hindi and English R.H.P. Extra, dated 20-09-2006, P 4895-4910)An Act to provide for regulation of admission and fixation of fee in Private Medical Educational Institutions in the State of Himachal Pradesh and for the matters connected therewith or incidental thereto.Be it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-seventh Year of the Republic of India, as follows: -

1. Short title, extent and commencement.

(1)This Act may be called the Himachal Pradesh Private Medical Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006.(2)It extends to the whole of the State of Himachal Pradesh.(3)It shall be deemed to have come into force on 7th day of July, 2006.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Aided Institution" means a Private Medical Educational Institution, receiving financial aid or assistance in whole or in part from the Central or State Government or from any body, under the Control Central or State Government disbursing grant-in-aid or financial assistance and shall include a minority institutions;(b)"Common Entrance Test" means an entrance test, for the purpose of admission to a Medical 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;(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 as may be prescribed;(e)"management category" shall mean and imply seats in an institution; from out of the sanctioned intake, other than those filled by the authorized agency of the State Government, allocated to the management of the institution for being filled by it in accordance with the provisions of this Act;(f)"medical course" means any approved professional course in medicine, dentistry, nursing, pharmacy, para-medical or in any other system of medicine, which are recognized or approved under the respective Act governing that course;(g)"Non-Resident Indian Student" means the wards of Indian having Non-Resident India status under the law 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 Medical Educational Institution" means an institution not promoted or run by the Central Government, State Government or Union Territory Administration of any agency or instrumentality of the Central or State Government;(k)"Qualifying Examination" means the minimum eligibility qualification or its equivalent prescribed by the concerned statutory authority for taking admission in 1st year of the medical 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 Medical Educational 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 Medical Educational Institution, not being an Aided Institution.

3. Regulation of admission, fixation of fee and madding of reservation.

(1)The State Government may regulate admission, fix fee and make reservation for different categories in admissions to Private Medical Educational 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, may constitute an Admission and Fee Committee, (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 subsection (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 affiliated to the Himachal Pradesh University, has contravened any provision of this Act, it may recommend to the Himachal Pradesh University for withdrawal of recognition or affiliation of such institution.(7)The State Government, shall take appropriate action wherever deemed necessary, with regard to improvement in the system 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.[In *Maharishi Markandeshwar Medical College and Hospital v State of Himachal Pradesh*, The contention here is regarding the setting up of a private university within Himachal Pradesh and the requirements needed for it. Whether it is mandatory for all the private medical institutions set up in the State to take affiliation from the Himachal Pradesh University. The Supreme Court struck down Sections 3(6), 3(6a) and

3(6b) of the Himachal Pradesh Private Medical Educational Institutions (Regulation of Admission and Fixation of Fee) Act 2006, inserted in 2015. The court said it was irrational, unreasonable, ultra vires and unconstitutional. University would be bound and obliged to comply with even an onerous stipulation, which is unconstitutional and hit by Article 14 and 19(1)(g) of the Constitution and impinging upon its autonomy guaranteed under the 2010 Act.
(<https://indiankanoon.org/doc/148522234/>)]

4. Eligibility criteria for admission.

- The eligibility criteria for admission to a Private Medical 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 for admission to each medical course.(3)The admission shall be made on the basis of Common Entrance Test in accordance with merit in each category as per rules and by way of centralized receipt of applications, by making centralized counselling of such students in all the categories for each medical course, in a fare and transparent manner in accordance with the manner and procedure as may be determined by the State Government from time to time.

5. Allocation of seats.

(1)An Unaided Private Medical Educational Institution may reserve upto fifty percent seats to the total sanctioned intake as a management category quota of seats with statutory reservations as may be determined by the State Government.(2)In the case of admission of Non-Resident Indian students,-(a)a Private Medical Educational Institution may admit such students against such number of seats, number of seats, as may be notified by the State Government; and(b)admission shall be made against the seats, notified as management category:Provided that the total number of seats for the Non-Resident Indian Students Shall not exceed fifteen per cent of the total sanctioned intake.Provided further that in case the seats of Non-Resident Indian Students remain vacant, the same shall be filled in the following manner:-(i)First preference shall be given to those Indian students who are sponsored by Non-Resident Indians, the mode of which shall be determined by the state Government from time to time; and(ii)Second preference shall be given to those Indian students who are ready to pay fees in Indian currency equivalent to fees in US Dollars as may be fixed by the State Government from time to time.

6. Reservation of seats.

- All Private Medical Educational 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 from time to time.

7. Fixation of fee.

(1)The State Government while determining, or the Committee constituted under sub-section (3) of section 3 while recommending to the State Government, the fee to be charged by a Private Medical Educational Institution, shall consider the following factors:-(a)the location of the institution;(b)the nature of the medical courses;(c)the cost of land and building;(d)the available infrastructure and equipment;(e)the expenditure incurred or being incurred on faculty, administration and maintenance;(f)the reasonable profit, required for the growth and development of the institution; and(g)any other relevant factor, which the State Government deems just and appropriate for the determination of fee.(2)Before determining fee under sub-section (1), the State Government or the said Committee, as the case may be, shall give the concerned Private Medical 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 point in writing in respect to the fee determination.(3)Notwithstanding anything contained in sub-sections (1) and (2), the State Government may, in public interest, determine a provisional fee structure:Provided that the fee shall be fixed in accordance with the provisions of sub-section (1) and sub-section (2) within a period of ninety days from the fixation of such provisional fee.(4)Notwithstanding anything contained in sub-sections (1) and (2), the State Government shall have the power to review the fee structure fixed by any Committee, prior to the commencement of this Act.

8. Mechanism for dealing with contraventions.

(1)The State Government shall, by notification, appoint a nodal officer, not below the rank of a joint 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 for the provisions of this Act or any notification issued thereunder.(3)The State Government may cause an enquiry to be made into the allegations leveled by the complainant or on its suo-moto initiative and take the following action, 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 sixty days.(5)The nodal officer shall have the powers of a civil court to access, obtain and scrutinize the records of the Private Medical Educational Institutions as well as summoning of any person or any relevant official record, which he may deem necessary.

9. Penalties.

(1)The State Government if it is satisfied that a Private Medical Educational Institution has contravened any of the provisions of this Act or any notification issued there under, 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 may extend to fifteen times of the excess fee charged 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 any action under sub-section (1), a reasonable opportunity of being heard shall be provided to such institution by the State Government.

10. Powers of the State Government to issue directions.

- The State Government may, From time to time. Issue to the Private Medical Educational Institutions such directions, as in its opinion, are necessary or expedient for carrying out the purpose of this Act and the notifications issued thereunder, and such institutions shall comply with the directions.

11. Power 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.

12. 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.

13. Power 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.

14. Repeal of Ordinance No. 4 of 2006 and savings.

(1)The Himachal Pradesh Private Medical Educational Institutions (Regulation of Admission, Fixation of fee and Making of Reservation) Ordinance. 2006 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 provision of this Act.