

U.P. Indian Medical Institutions (Acquisition and Miscellaneous Provisions) Act, 1982

UTTAR PRADESH

India

U.P. Indian Medical Institutions (Acquisition and Miscellaneous Provisions) Act, 1982

Act 18 of 1982

- Published on 7 April 1982
- Commenced on 7 April 1982
- [This is the version of this document from 7 April 1982.]
- [Note: The original publication document is not available and this content could not be verified.]

U.P. Indian Medical Institutions (Acquisition and Miscellaneous Provisions) Act, 1982U.P. Act No. 18 of 1982Statement of Objects and Reasons. - The standard of instructions imparted in the institutions specified in the Schedule and imparting instruction in Indian systems of Medicine is not up to the mark. The financial condition of these institutions is also far from satisfactory. With a view to ensuring facilities for better education and treatment in such system of medicine, it was considered necessary to provincialise the aforesaid institutions. During the past few years a number of other private institutions imparting instructions in Indian Systems of Medicine have been established. These institutions are greatly deficient in respect of teaching facilities and equipments. Such substandard institutions are neither affiliated to any University nor are recognised by the State Government. Not infrequently, complaints are made requesting the State Government for intervening in the affairs of such sub-standard institutions. The unauthorised institutions actually run on commercial lines rather than imparting medical education and, thus, spoil the career of young students by misguiding them. It is, therefore, considered necessary for improving the standard of education in Indian Systems of Medicine to impose a ban on mushroom growth of such unauthorised sub-standard institutions it is also considered necessary to regulate the establishment, maintenance and management of every institution imparting instruction in Naturopathy and Yoga Therapy. The Uttar Pradesh Indian Medical Institutions (Acquisition and Miscellaneous Provisions) Bill, 1982, is introduced accordingly. [7th April, 1982] Received the assent of the President on 17th April, 1982 and published in U.P. Gazette, (Extraordinary), dated 17th March, 1982. (As passed by the Uttar Pradesh Legislature) An Act to provide for the acquisition and management of certain non-government institutions imparting instruction in Ayurvedic and Unani-Tibbi Systems of medicine, to provincialize education in such systems of medicine, to regulate the imparting of instruction in naturopathy and Yoga Therapy and for matters connected therewith or incidental thereto. Whereas, a large number of medical institutions imparting instruction in the Ayurvedic and Unani-Tibbi Systems of Medicine are operating in the State with mercenary motives; And, whereas,

the standard of education, equipment and facility for studies obtaining in these institutions are not up to the mark;And, whereas, most of these institutions are not affiliated to any University in the State and the fate of students obtaining instructions in these institutions remains uncertain;And, whereas, with a view to provincializing education in such systems of medicine and improving standard of education and treatment therein, it is necessary to acquire certain existing institutions and to close down the rest;And, whereas, it is expedient to regulate the imparting of instruction in naturopathy and Yoga Therapy;Now, therefore, it is hereby enacted in the Thirty-third Year of the Republic of India as follows :

Chapter I

Preliminary

1. Short title and commencement.

(1)This Act may be called the Uttar Pradesh Indian Medical Institutions (Acquisition and Miscellaneous Provisions) Act, 1982.(2)It shall come into force on such [date] [Enforced on 2-7-1982.] as the State Government may, by notification, appoint in this behalf.

2. Definitions.

- In this Act-(a)'Appointed day' means the date notified under sub-section (2) of Section 1;(b)'Ayurvedic and Unani-Tibbi Systems of medicine' shall have the meaning assigned to it in U.P. Indian Medicine Act, 1939;(c)'Schedule institution' means a medical institution imparting instruction in Ayurvedic and Unani-Tibbi Systems of Medicine specified in the Schedule together with the hospitals and dispensaries attached thereto or used in connection therewith and includes all lecture rooms, laboratories, libraries, hostels and boarding houses used in connection with or as accessories to, or adjuncts of such institution;(d)'Society' in relation to a Scheduled institution means the society, trustee or other person or body in which or unto whom the ownership, management and control of the affairs of such institution are vested.

Chapter II

Acquisition of Scheduled Institutions

3. Vesting of Scheduled Institutions in the State Government.

(1)On and from the appointed day, every scheduled institution together with-(a)all lands on which such institution stands and all other land appurtenant thereto, and all buildings, erections and fixtures on such lands;(b)all furnitures, equipments, stores, apparatuses, instruments, appliances, drugs, medicines, works, workshops, projects, automobiles, books, moneys and other assets of such institution;(c)all other properties, movable and immovable, including farms, leases and all rights, powers, authorities, privileges, reserve funds, investments, book-debts and all other rights and interests in or in relation to or arising out of such property as were, immediately before the

appointed day, in the ownership, possession, power or control of any person, trustee, society or other body in charge of the management of the affairs of such institution ;shall stand transferred to, and vest in absolutely the State Government and shall be applied and used for the purposes of such institution.(2)Every deed of gift, endowment, bequest, trust or other document in relation to all or any of the properties and assets referred to in sub-section (1) shall, as from the appointed day, be construed as if it were made or executed in favour of the State Government.(3)Subject to the provisions of this Act, every property and assets referred to in this section, which by virtue of sub-section (1) has vested in the State Government shall, by force of such vesting, be freed and discharged from any debt, obligation, mortgage, charge or lien and other encumbrances affecting it, and every attachment, injunction, decree or order of any court or tribunal restricting the use of such property in any manner shall be deemed to have been withdrawn.(4)Subject to the provisions of this Act, any proceeding or cause of action pending or existing immediately before the appointed day, by or against the society may, as from the appointed day, be continued and enforced by or against the State Government as it might have been enforced by or against such society, if this Act had not come into force.

4. Administration of Scheduled institutions.

(1)On and from the appointed day, every scheduled institution shall be administrated by the State Government in such manner as the State Government may, from time to time direct.(2)Without prejudice to the generality of the provisions of sub-section (1), the State Government may direct that-(a)one or more of the scheduled institutions shall be closed down;(b)two or more of such institutions shall be combined or amalgamated;(c)students of one or more of such institutions shall be transferred to or absorbed in any other among such institutions;(d)teachers and other employees of such institution shall be transferred from one institution to another.

5. Duty to deliver possession.

(1)Every person having possession, custody or control of any property or assets referred to in Section 3 on the appointed day shall deliver forthwith such property or assets to the Collector or to such other officer of the State Government as may be authorised by the State Government in this behalf, and the Collector or such other officer as aforesaid may use such force as may be necessary for obtaining such delivery.(2)Any person who, on the appointed day, has in his possession, custody or control any books, papers or other documents relating to any property referred to in Section 3 shall be liable to account for the same to the Collector or to such other officer or employee of the State Government as may be authorised by the State Government in this behalf.(3)Without prejudice to the other provisions contained in this Act, it shall be lawful for the State Government to take all such steps as are necessary and lawful for taking possession of all properties and assets which have been transferred to and vested in it under this Act.

6. Teachers, and other employees to become employees of State Government.

(1) Subject to the provisions of Section 7, every teacher or other employee who, immediately before the appointed day is employed in, or in connection with the affairs of any scheduled institution shall become, as from the appointed day, a teacher, or other employee, as the case may be, of the State Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters, as he would have held, if this Act had not come into force and shall continue to do so, unless and until his employment is duly terminated or until his remuneration, terms and conditions are duly altered by the State Government : Provided that if such transfer is not acceptable to any such teacher or other employee, he may give intimation to the State Government to that effect within one month from the appointed day and thereupon, his employment shall stand terminated with effect from the appointed day : Provided further that if the employment of a teacher or other employee is terminated in accordance with the preceding proviso, such teacher or employee shall, subject to the provisions of sub-section (2), be entitled-(a) to an amount equivalent to three months' salary in the case of permanent employee, and one month's salary in the case of any other employee; and (b) to other benefits, if any which would have accrued to him because of his past services in such institution, if his employment had not been so terminated. (2) The transfer or termination of the services of any teacher or other employee under sub-section (1) shall not entitle him to any compensation under the U.P. Industrial Disputes Act, 1947 or any other law for the time being in force, and no such claim shall be entertained by any court, tribunal or other authority. (3) If any vacancy occurs in the post of a teacher or other employee in any scheduled institution at any time after the commencement of this Act, and a teacher or other employee serving in any medical institution imparting instructions in Ayurvedic and Unani-Tibbi Systems of Medicine (other than a scheduled institution) on the date immediately preceding the date of such commencement applies for appointment to any post carrying the same rank or grade, then such teacher or employees shall be entitled to preference over other applicants, provided he fulfils the minimum qualifications prescribed for such post.

7. Review of certain appointments etc.

(1) Notwithstanding any thing contained in this Act, the State Government may nominate an officer or appoint a committee to review the genuineness of all appointments made or increments of salary given to the teachers or other employees of scheduled institution within the period of two years immediately preceding the appointed day, and if after considering the report of such officer or committee and representations that may be received in that behalf from the teachers or other employees affected, and appointment made or increment given, does not appear to the State Government to be genuine, it may terminate the services of such teacher or employee or cancel the increment, as the case may be, and the provisions of sub-section (2) of Section 6 shall apply to every such termination. (2) Every contract entered into by a society in relation to any property or assets owned by it, which is vested in the State Government under Section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from, the expiry of a period of one hundred and eighty days from the appointed day cease to have effect, unless such contract is, before, the expiry of that period, ratified in writing by the State Government and in ratifying such contract, the State Government may make such alteration or modification therein as it may think fit : Provided that the State Government shall not omit to ratify a contract and shall not make any alteration or

modification therein-(a)unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of, the State Government; and(b)except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Chapter III

Prohibition Against Opening New Institutions and Admitting New Students

8. Restriction on opening of new institutions.

- Subject to the provisions of Section 9, no person other than a person authorised by the Central Government or the State Government shall, on or after the appointed day-(a)open, organise, maintain, manage or cause to be opened, organised, maintained or managed any institution professing to undertake, conduct, provide or offer any instruction in Ayurvedic and Unani-Tibbi Systems of medicine;(b)admit or offer admission on payment of fee or without such payment to any course of instruction in such system of medicine;(c)receive any donation, subscription or fee (by whatever name called) in respect of any institution imparting instruction in such system of medicine;(d)make any arrangement or hold out that arrangements have been made for lecture, coaching or tuition or experiments in any laboratory with a view to imparting instruction in such system of medicine.

9. Restriction on admission of student.

- A medical institution imparting instruction in Ayurvedic or Unani-Tibbi System of medicine established before the appointed day may admit students enrolled in such institution on the appointed day from a lower class to higher class by way of promotion during a period of five years from the appointed day, and after the said period of five years, the provisions of Section 8 shall mutatis mutandis apply to every such institution.

10. Savings in respect of minority institutions.

- Nothing in Section 8 or Section 9 shall affect the right of any minority referred to in Article 30 of the Constitution to establish and administer any educational institutions of their choice "for imparting instruction in Ayurvedic or Unani-Tibbi Systems of Medicine or Naturopathy or Yoga Therapy".

11. Penalty for contravention of Sections 8 and 9.

- Every person who contravenes the provisions of Sections 8 and 9, shall be punishable with imprisonment for a period which may extend to three years or with fine which may extend to two

thousand rupees or with both.

Chapter IV

Institutions Imparting Instruction in Naturopathy and Yoga Therapy

12. Regulation of institutions relating to Naturopathy and Yoga Therapy.

(1)It shall be lawful for the State Government to regulate, by rules, the establishment, maintenance, management and functioning of every institution imparting instruction in Naturopathy or Yoga Therapy.(2)Without prejudice to the generality of the provisions of sub-section (1), the rules referred to in that sub-section may provide for all or any of the following matters, namely-(a)registration of institutions imparting instruction in Naturopathy or Yoga Therapy on the date of commencement of such rules;(b)provision for obtaining prior permission for opening or establishing new institutions in which instruction in Naturopathy or Yoga Therapy is to be imparted;(c)imposition of terms and conditions on which the institutions re-referred to in clauses (a) and (b) shall be allowed to continue;(d)provision for periodical inspection of the institutions referred to in clauses (a) and (b) by officers authorised under the rules;(e)empowering the State Government or the officers authorised by it to call for such information, statement or returns from the management of institutions referred to in clauses (a) and (b), and on such intervals as may be prescribed;(f)provision for imposition of penalty on persons who contravene the provisions of such rules or who fail to comply with any lawful directions issued thereunder.

Chapter V

Miscellaneous

13. Provisions of the Act to have overriding effect.

- The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any instrument having effect by virtue of any law other than this Act or any decree or order of any court, tribunal or authority.

14. Penalties.

- Every person who-(a)having in his possession, custody or control, any property or asset held for the purposes of a scheduled institution wrongfully withholds such property or asset from the State Government in contravention of sub-section (1) of Section 5; or(b)wrongfully obtains possession of or retains any property or asset held for the purposes of any scheduled institution; or(c)wilfully withholds or fails to account for any book, paper or other document in his possession, custody or control relating to a scheduled institution in contravention of sub-section (2) of Section 5; or(d)wrongfully uses, removes or destroys any property held for the purposes of a scheduled

institution; shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to three thousand rupees or with both.

15. Offences by Companies.

(1) Where any offence under this Act is committed by a company, every person who, at time the offence was committed was in charge, of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly : Explanation. - For the purposes of this section : (a) "Company" means any body corporate and includes a firm, society or other association of individuals; and (b) "Director" in relation to a firm means a partner in the firm.

16. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

17. Cognizance of offences.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court shall take cognizance of any offence under this Act except on a complaint in writing made by the State Government or any officer authorised in this behalf, by that Government.

18. Power to make rules.

- The State Government may, by notification, make rules for carrying out the purposes of this Act. The Schedule [See Section 2 (c)]

Serial No. Name of Institutions

1. Ayurved Mahavidyalaya, Varanasi,
2. Lal Bahadur Shastri Smarak Ayurvedic College, Handia (Allahabad).
3. Takmil-ut-Tib College, Lucknow.
4. Unani Medical College, Allahabad.