

The Bihar Private Medical (Indian System of Medicine) College (Taking Over) Act, 1985

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Act 10 of 1985

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The Bihar Private Medical (Indian System of Medicine) College (Taking Over) Act, 1985 Bihar Act No. 10 of 1985 Received assent on 7.8.1985 and published in Bihar Gazette, Extraordinary No. 687, dated 4.12.1985. An Act to provide for the taking over of the Private Medical (Indian System of Medicine) Colleges of the State of Bihar by the Government of Bihar. Be it enacted by the Legislature of the State of Bihar in Thirty-Sixth Year of the Republic of India as follows:-

Chapter I

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Bihar Private Medical (Indian System of Medicine) College (Taking over) Act, 1985; (2) It extends to the whole of the State of Bihar; (3) It shall come into force at once.

2. Definitions.

- In this Act unless the context otherwise, requires- (a) "College" means a Private Medical College of Indian System of medicines which has been permitted to function under the Bihar (I.S.M.) Educational Institutions (Regulation and Control) Act, 1981 (Bihar Act No. 20 of 1982). (b) "College body" means any Association or Managing Committee or any institution registered under the Societies Registration Act, 1860 (Act XXI of 1860), vested therein the management and/or ownership of any Private Medical College. (c) "Notified Order" means an order notified in the Official Gazette, and (d) "Prescribed" means prescribed by this Act or by the Rules made under this Act.

Chapter II

Taking over of Private Medical (Indian System of Medicine) Colleges

3. Taking over of Private Medical (Indian System of Medicine) Colleges.

(1)The State Government may, by a notified order and from the date mentioned therein, take over a College and the management and control thereof shall thereupon be exercised by the State Government in such manner as specified in the said order.(2)All the assets and properties of the college and the college body whether movable or immovable including land, building, library, laboratory and dispensary workshop, store, instruments, machinery, vehicles, cash balance, reserve fund, investments, taxes, furniture and others shall, on the date of take over stand transferred to and vested in, and be deemed to have come into possession of the State Government.(3)All the liabilities and obligations of the College under any agreement or contract entered into bona fide before the date of taking over shall devolve and shall be deemed to have devolved on the State Government.

4. Effect of notified order issued under Section 3.

- On the issue of a notified order under Section 3-(a)Any Association or Managing Committee registered under the Societies Registration Act, 1860 (Act XXI of 1860) or otherwise in which the management and/or ownership of a college had been vested immediately before coming into force of this Act shall cease to have any control, right, authority, title or interest in any manner whatsoever over the college.(b)From the date of the notified order or as soon as may be after such date, the State Government shall take such steps, as may be necessary, to take into its control and possession all such movable or immovable properties, assets and effects mentioned in sub-section (2) of Section 3 and all actionable claims relating to the College to which anybody who may be or appear to be entitled.

5. Cancellation on variation of contract made in bad faith.

- Without prejudice to the provisions contained in Section 4, State Government may cancel or vary, any contract or agreement entered into at any time before the issue of the notified order under sub-section (1) of Section 3 between the College body and any other person if the State Government is satisfied that such contract or agreement was mala fide and entered into in bad faith and/or was detrimental to the interest of the College.

6. Determination of terms of the teaching staff and other employees of the College.

(1)From the date of the notified order, all the staff employed in the College shall cease to be the employees of the College body :Provided that they shall continue to serve the College on ad hoc basis

till a decision under sub-sections (3) and (4) of this Section is taken by the State Government.(2)The State Government will set up one or more committees of experts and knowledgeable persons which will examine the bio-data of each member of the teaching staff and ascertain whether appointment, promotion or confirmation was made in accordance with the Act, Statute or Regulations of the University concerned and in keeping with the guidelines laid down by the Indian Medical Council of India and take into consideration all other relevant materials including length of his service in the College; and submit its report to the State Government.(3)The State Government on receipt of the report of the Committee or committees, as the case may be, will decide in respect of each member of teaching staff on the merits of each case whether to absorb him in government service or to terminate his service or to allow him to continue on an ad-hoc basis for a fixed term on contract and shall, where necessary, redetermine the rank, pay allowances and other conditions of service.(4)The State Government shall similarly determine the terms of appointment and other conditions of service of other categories of staff of the college on the basis of facts ascertained either by a committee or by an officer entrusted with the task and the provisions of sub-sections (2) and (3) of this Section shall apply mutatis mutandis to such cases.

7. Compensation.

- If any question of payment of compensation arises consequent upon the taking over of the College by the State Government, then a sum not exceeding rupee one shall be payable after it is scrutinised and determined.

Chapter III

Miscellaneous

8. Duty to deliver possession of property and documents.

(1)Where notified order has been made under sub-section (1) of Section 3 in relation to any College, every person having possession, custody or control of any property of the College shall deliver the property to the State Government or to any person authorised by the State Government in this behalf.(2)Any person who on the date of the notified order, has in his possession or under his control any book, document or other papers relating to the College, including any letter, memoranda, notes or other papers notwithstanding anything contained in any law for the time being in force, will be liable to account for the said book, document and the aforesaid other papers, to the State Government or to any such person as may be authorised by the State Government in this behalf.(3)The State Government may take all necessary steps for securing possession of all properties of the College and College Body and for reasons to be recorded take or cause to be taken such steps or use or cause to be used such force as may be necessary for securing possession or preventing breach of peace.

9. Offences.

(1) If any person-(a) when required by this Act or by any order made under this Act to make any statement or furnish any information refuses to make such statement or furnishes such information which is false in any material particular or which he knows or believes to be false or does not believe the same to be true; or (b) makes any statement which is false or which he does not believe to be true in any book, account, return or other document which he is required by any order made under the Act to submit; he will be deemed to have committed an offence and shall be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand and five hundred rupees or with both. (2) Any person who-(a) having in his possession, custody or control any property forming part of the assets of the College or College Body wrongfully withholds such property from the State Government, or (b) wrongfully obtains possession of any property forming part of the assets of the College or College Body, or (c) wilfully withholds or fails to produce or handover to any person authorised by the State Government any register, record or other documents which may be in his possession, custody or control, or (d) fails without any reasonable cause, to submit any accounts book, or other document, when required to do so, he will be deemed to have committed an offence and shall be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand and five hundred rupees or with both.

10. Cognizance of offence.

- No court shall take cognizance of any offence under this Act except with the previous sanction of the State Government or of an officer authorised by the State Government in this behalf.

11. Protection of action taken under this Act.

- No suit, prosecution or other legal proceedings shall lie against the State Government or its any officer or employee for action done or intended to be done under this Act.

12. Overriding effect of the Act.

- 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 the effect of law.

13. Power to make Rules.

(1) The State Government may by a notification published in the Official Gazette make Rules to carry out the purposes of this Act. (2) Every Rule made by the State Government under this Act shall be laid, as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses

agree that the Rule 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 done or any action taken previously under that Rule.

14. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act the State Government may within two years from the commencement of this Act by order published in the Official Gazette as occasion may require, take any action not inconsistent with the provisions of this Act which may appear to be necessary, for the purpose of removing the difficulty.

15. Repeal and savings.

(1)The Bihar Private Medical (Indian System of Medicine) College (Taking over) Third Ordinance, 1985 (Bihar Ordinance No. 19, 1985) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.