

Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992

TAMILNADU

India

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Act 57 of 1992

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Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992(Tamil Nadu Act 57 of 1992)Statement of Objects and Reasons. - The practice of collecting capitation fee for admitting students into educational institutions is widespread in the State. This undesirable practice, besides contributing to large scale commercialisation of education, is not conducive to the maintenance of educational standards. It was, therefore, considered necessary to effectively curb this undesirable practice, in the public interest, by prohibiting the collection of capitation fee. To achieve the above object, the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Ordinance, 1992 (Tamil Nadu Ordinance 10 of 1992) was promulgated by the Governor on the 20th August 1992 and the same was published in the Tamil Nadu Government Gazette Extraordinary, dated the 20th August 1992.2. The Bill seeks to replace the said Ordinance.Received the Assent of the President on the 27th October 1992 and published in Part IV-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 28th October 1992.An Act to prohibit the collection of capitation fee for admission to educational institutions in the State of Tamil Nadu and to provide for matters relating thereto.Whereas the practice of collecting capitation fee for admitting students into educational institutions is widespread in the State;And Whereas this undesirable practice, besides contributing to large scale commercialisation of education^ has not been conducive to the maintenance of educational standards;And Whereas it is considered necessary to effectively curb this undesirable practice, in public interest, by prohibiting the collection of capitation fee and to provide for matters relating thereto;Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-third Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Act, 1992. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall be deemed to have come into force on the 20th day of August 1992.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "capitation fee" means any amount, by whatever name called, paid or collected directly or indirectly in excess of the fee prescribed under section 4; (b) "educational institution", means any institution, by whatever name called, whether managed by any person, private body, local authority, trust or University, carrying on the activity of imparting education leading to a degree or diploma (including a degree or diploma in law, medicine or engineering) conferred by any University established under any law made by the Legislature of the State of Tamil Nadu and any other educational institution or class or classes of educational institutions (other than any educational institution established by the Central Government or under any law made by Parliament) as the Government may, by notification, specify; (c) "Government" means the State Government; (d) "management" includes the managing committee or any person, body of persons, committee or any other governing body by whatever name called in whom the power to manage or administers the affairs of an educational institution is vested: Provided that the Board of Trustees or governing body of Wakf Board, by whatever name called, constituted or appointed by any law for the time being in force relating to the charitable and religious institutions and endowments and Wakfs shall be deemed to be a management for the purposes of this Act; (e) "minority educational institution" means an educational institution of its choice established and administered by any minority whether based on religion or languages as has the right to do so under clause (1) of Article 30 of the Constitution.

3. Prohibition of collection of capitation fee.

- Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any Court or other authority, no capitation fee shall be collected, - (a) by any person who is in charge of, or is responsible for, the management of any educational institution; or (b) by any other person either for himself or on behalf of any such educational institution or on behalf of any such management of any educational institution.

4. Regulation of fee, etc.

(1) Notwithstanding anything contained in any other law for the time being in force, the Government may, by notification, regulate the tuition fee or any other fee or deposit that may be received or collected by any educational institution or class or classes of such educational institutions in respect of any or all class or classes of students: Provided that before issuing a notification under this sub-section, the draft of which shall be published in the Tamil Nadu Government Gazette stating that any objection or suggestion which may be received by the Government, within such period as

may be specified therein, shall be considered by them.(2)No educational institution shall receive or collect any fee or accept deposit in excess of the amount notified under sub-section (1).(3)Every educational institution shall issue an official receipt for the fee or deposit received or collected by it.

5. Regulation of accounts.

- The Government may regulate the maintenance of accounts by the educational institutions in such manner as may be prescribed.

6. Submission of returns.

- The Government may require the educational institutions to submit such returns or statements in such form and in such manner as may be prescribed for carrying out the purposes of this Act.

7. Penalties.

(1)Whoever contravenes the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to five thousand rupees:Provided that the court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence or imprisonment for a term of less than three years.(2)Where the conviction is for an offence under section 3 or under section 4, the educational institution or the person convicted thereunder shall refund to the person from whom,-(a)the capitation fee was collected in contravention of section 3, such capitation-fee;(b)the fee or deposit was received or collected in excess, of the amount payable under section 4, such excess amount.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 has exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where any such offence 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 anybody corporate and includes a trust, a firm, a society or other association of individuals, and(b)"director" in relation to-(i)a firm, means a partner in the firm;(ii)a society, a trust or other association of individuals, means the person who is entrusted under the rules of the society, trust or other association with the management of the affairs of the society, trust or other association, as the case may be.

9. Power to enter and inspect.

(1)Any officer authorised by the Government in this behalf may, at any time, during the normal working hours of any educational institution, enter such educational institution or any premises thereof or any premises belonging to the management of such educational institution if he has

reason to believe that there is or has been any contravention of the provisions of this Act or the rules made there under and search and inspect any record, accounts, register or other document belonging to such educational institution or of the management, in so far as any such record, accounts, register or other document relates to such educational institution and seize any such record, accounts, register or other document for the purpose of ascertaining whether there is or has been any such contravention.(2)In order to secure proper and effective utilisation of the finances or resources or other assets of any educational institution in existence on the date of the commencement of this Act, it shall be competent for the Government to invoke the provisions of sub-section (1) and ascertain such finances, resources and assets of such educational institution and after such ascertainment to give such directions to the management as they deem fit.(3)The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to search and seizure shall apply, so far as may be, to search and seizure under sub-section (1).

10. Application of this Act to minority educational institutions.

- Nothing contained in this Act or the rules made thereunder shall apply to any minority educational institution to the extent to which they are inconsistent with the rights guaranteed under Article 30 of the Constitution.

11. Cognizance of offences.

- No Court shall take cognizance of any offence under this Act except with the sanction of the Government or such officer as the Government may authorise in this behalf.

12. Act to override other laws.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

13. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall be instituted against the Government or any officer, authority or person empowered to exercise the powers or perform the functions by or under this Act for anything which is in good faith done or intended to be done under this Act under the rules made thereunder.

14. Power to make rules.

(1)The Government may make rules for carrying out all or any of the purposes of this Act.(2)Every rule made under this Act shall, as soon as possible after it is made, be placed on the Table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule, or the Assembly decides 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 previously done under that rule.

15. Repeal and saving.

(1)The Tamil Nadu Educational Institutions (Prohibition of Collection of Capitation Fee) Ordinance, 1992 (Tamil Nadu Ordinance 10 of 1992), is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.