

# **The U.P. Homoeopathic Medical Colleges (Acquisition and Miscellaneous Provisions) Act, 1981**

UTTAR PRADESH

India

## **The U.P. Homoeopathic Medical Colleges (Acquisition and Miscellaneous Provisions) Act, 1981**

### **Act 21 of 1981**

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The U.P. Homoeopathic Medical Colleges (Acquisition and Miscellaneous Provisions) Act, 1981(U.P. Act No 21 of 1981)[Dated 23rd October, 1981]Received the assent of the President on October 23, 1981, published in U. P. Gazette (Extraordinary), dated 24th October, 1981.(As passed by the Uttar Pradesh Legislature)An Act, to provide for acquisition and management of certain non-government homoeopathic medical colleges and to provincialise the education in medical science of homoeopathy and for matters connected therewith or incidental thereto.Whereas, the students of non-government homoeopathic medical colleges in the State have been agitating for the provincialisation of such colleges for a long time;And, whereas, the standard of education, equipment and facility for studies obtaining in these Colleges are not up to the mark;And, whereas, a large number of colleges than necessary are operating in the State with mercenary motives, and with a view to provincialise and properly organise the medical education in homoeopathic science and to improve the standard of education and treatment in such science and to prevent recurrence of such evils, it is necessary to acquire those colleges which are more useful and to close down the rest;Now, therefore, it is hereby enacted in Thirty-second 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 Homoeopathic Medical Colleges (Acquisition and Miscellaneous Provisions) Act, 1981.(2)It shall come into force on such [date] [The Act came into force on 11-12-1981 vide Notification No. 7867-Section 9/V-81-1019- 80, dated 11-12-1981.] as the State Government may, by notification, appoint in this behalf.

## **2. Definitions.**

- In this Act-(a)"appointed day" means the date notified under subsection (2) of Section 1;(b)"Homoeopathy" shall have the meaning assigned to it in the Uttar Pradesh Homoeopathic Medicine Act, 1951;(bb)[ "national Homoeopathic Medical College" means the National Homoeopathic Medical College, Lucknow together with the hospital and dispensary 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 college;] [Inserted by U. P. Act No. 7 of 2001, Section 2, (w.e.f. 15-2-2001).](c)"Scheduled College" means a homoeopathic medical college 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 college;(d)"Society" in relation to a Scheduled College means the society, trustee or other person or body in which the ownership, management and control of the affairs of such colleges are vested.

## **Chapter II**

### **Aquisition of Scheduled Colleges**

#### **3. Vesting of Scheduled Colleges in the State Government.**

(1)On and from the appointed day, every Scheduled College, together with-(a)all lands on which such college 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 assest of such college;(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 the Administrator or any other person, society or body in charge of the management of the affairs of such college;shall stand transferred to and vest absolutely in the State Government and shall be applied for the purpose of such college.(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 asset 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 continued or enforced by or against such society if this Act had not come into force.

#### **4. Administration of Scheduled Colleges.**

(1) On and from the appointed day, every Scheduled College shall be administered 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 subsection (1) the State Government may direct that—(a) one or more of the Scheduled Colleges shall be closed down; (b) two or more of such colleges shall be combined or amalgamated; (bb) [any of the Scheduled Colleges and the national Homoeopathic Medical College shall be combined or amalgamated] [Inserted by U. P. Act No. 7 of 2001, Section 3 (a), (w.e.f. 15-2-2001).]; (c) [students of one or more Scheduled Colleges or national Homoeopathic Medical College shall be transferred from one college to another or absorbed in any other such college; [Substituted by U. P. Act No. 7 of 2001, Section 3 (b), (w.e.f. 15-2-2001).]] (d) teachers or other employees, of any Scheduled College or national Homoeopathic Medical College shall be transferred from one college to another; (e) any post of teachers or other employees of any Scheduled College or national Homoeopathic College shall be transferred from one college to another; (3) [The inter se seniority of each category of employees other than teachers of the colleges combined or amalgamated under clause (b) or clause (bb) of sub-section (2) shall be determined from the date of their substantive appointment in their respective cadre. If the date of substantive appointment of two or more such employees is the same, the employees senior in age shall be senior.] (4) It shall be lawful for the State Government to abolish, leave unfilled, or hold in abeyance, any vacant post of teachers or other employees of any Scheduled College or national Homoeopathic Medical College or colleges combined or amalgamated under clause (b) or clause (bb) of sub-section (2) and no person shall be entitled to claim any appointment in such post.] [Inserted by U. P. Act No. 7 of 2001, Section 3 (c), (w.e.f. 15-2-2001).]

#### **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 asset to the Collector or to such other officer 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 book, 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 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 necessary steps 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 College 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 intimate 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 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 which could have accrued to him because of his past services in such college, had his employment 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 College at any time after the commencement of this Act, and a teacher or other employee serving in any Homoeopathic Medical College (other than a Scheduled College) on the date immediately preceding the date of such commencement applies for appointment to any such post carrying the same rank or grade, then such teacher or employee shall be entitled to a preference over other applicants provided he fulfils the minimum qualifications prescribed therefor.

## **Chapter III**

### **Appointments**

#### **7. Review of certain appointments, etc.**

(1)Notwithstanding anything contained in this Act, the State Government may nominate any 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 a Scheduled College within the period of two years immediately preceding the appointed day, and if after considering the report of such officer or committee and representation that may be received in that behalf from the teachers or other employees affected, an 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 asset 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 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 interest 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 IV**

### **Prohibition of Opening of New Colleges**

#### **8. New homoeopathic colleges not to be established.**

- Subject to the provisions of Article 30 of the Constitution 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 or manage or cause to be opened, organised, maintained or managed any college professing to undertake, conduct, provide or offer any instruction in homoeopathy;(b)admit or offer admission on payment of fee or without such payment, to any course of instruction in homoeopathy;(c)receive any donation, subscription or fee (by whatever name called) in respect of any institution imparting instructions in homoeopathy;(d)make any arrangement or hold out that arrangements have been made for lecture, coaching or tuition or for experiments in, any laboratory with a view to imparting instructions in homoeopathy.

#### **9. Penalty for contravention of Section 8.**

- Every person who contravenes the provisions of Section 8 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 V**

### **Miscellaneous**

#### **10. 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 any order of any court, tribunal or authority.

#### **11. Other penalties.**

- Every person who-(a)having in his possession, custody or control any property or asset held for the purposes of a Scheduled College wrongfully withholds such property or asset 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 College; 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 College in contravention of subsection (2) of Section 5; or(d)wrongfully uses, removes or destroys any property held for the purposes of a Scheduled College;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.

## **12. Offences by companies.**

(1)Where any offence under this Act is committed by a company, every person who, at the time the offence was committed, was incharge 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 anybody 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.

## **13. 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.

## **14. 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.

## **15. Savings in respect of minority institutions.**

- Nothing in this Act shall affect the right of any minority, referred to in Article 30 of the Constitution to establish and administer educational institutions of their choice for imparting instructions in homoeopathy subject to any law for the time being in force.

## **16. Power to make rules.**

- The State Government may, by notification, make rules for carrying out the purposes of this Act.

## **17. Repeal and savings.**

(1)The Uttar Pradesh Homoeopathic Medical College, (Taking over of Management) Act, 1979 is hereby repealed.(2)Notwithstanding such repeal if anything done or an action taken under the enactment repealed by sub-section (1), shall continue to be valid as if this Act has not come into force.The Schedule[See Section 2 (c)]Serial No: Name of the Colleges

**1. Ghazipur Homoeopathic Medical College, Ghazipur.**

**2. Kanpur Homoeopathic Medical College, Kanpur.**

**3. Mohan Homoeopathic Medical College, Lucknow.**

**4. Sri Durgaji Homoeopathic Medical College, Chandesar, Azamgarh.**

**5. Sri Brij Kishore Homoeopathic Medical College, Faizabad.**

**6. K.G.K. Homoeopathic Medical College, Moradabad.**

**7. T. D. Homoeopathic Medical College, Jaunpur.**

**8. Lal Bahadur Shastri Homoeopathic Medical College, Allahabad.**

**9. Homoeopathic Medical College, Tigri Mankawala, Nagina, Bijnor.**