

Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983

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Act 5 of 1983

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Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983(Act No. 5 of 1983)Statement of Objects and Reasons - Act No. 5 of 1983 - The undesirable practice of collecting fee at the time of admission into educational institutions in the State has been on the increase. This practice has been causing frustration among the indigent and meritorious students at the same time contributing to a steep fall in the standards of education. The existing provisions contained in the Andhara Pradesh Education Act, 1982 are found to be not adequate to control effectively this evil practice. In order to eradicate the practice of collecting capitation fee and to maintain excellence in the standards of education, the Government have decided to prohibit the collection of Capitation fee by an educational institution and to make any such collection a cognizable offence. Incidentally it has been proposed to regulate admission into educational institutions on the basis of merit. It has also been decided to regulate the fee that may be collected by the educational institutions. (Vide Bill No. 2 of 1983 published in Part IV-A, dated 14-3-1983).Act 1 of 1984 - In order to provide for admission of the students of categories other than Scheduled Castes, Scheduled Tribes and Backward Classes such as N.C.C. Sportsmen, Physically Handicapped children of the Ex-servicemen/serving armed personnel into the educational institutions and also to admit students belonging to other States on reciprocal basis in the Medical and Engineering colleges in the States and to provide for admission of students into the Regional Engineering College, Warangal to the extent of one half of the total number of seats in the first year of that college, it was decided by Government to amend Section 3 of Act 5 of 1983.State Legislature was not then in session and as it was considered necessary to give effect to the above decision immediately, the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Amendment Ordinance, 1983 was promulgated by the Governor of Andhra Pradesh on 22nd July, 1983.This bill seeks to replace the said Ordinance.Act 2 of 1984 - The Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation

Fee) Act, 1983 provides for regulation of admission into Educational Institutions and to prohibit the collection of Capitation Fee in the State of Andhra Pradesh.² The Food Craft Institute at Hyderabad is one of the four institutes established by the Government of India in the Country conducting the Diploma Course in Hotel Management and Catering Technology. All these institutes are following the same set of rules of admissions and syllabi and curriculum. The Diploma holders of Catering Technology and Hotel Management are likely to have venues of appointment all over the country. It is, therefore, considered desirable to have uniform standards and rules of admission into the Food Craft Institute, Hyderabad and other Regional and other training centres financed by the Central Government and also to exclude the said institutes from the purview of the said Act. Accordingly it has been decided to amend the said Act suitably.³ As the State Legislature was not then in session having been prorogued and as it was decided to give effect to the above decision immediately for making admissions, the Governor of Andhra Pradesh has promulgated the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Fifth Amendment Ordinance 1983 on the 24th December, 1983.⁴ This Bill seeks to replace the said Ordinance. Act 3 of 1984 - The Siddhartha Medical College, a Private Medical College, at Vijayawada is the only Medical College imparting Medical Education to Non-resident Indians and foreign students, besides Indian students by collecting donations and capitation fee from students and public and is a self-financing institution without any aid from Government. Consequent on the enactment of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, the Institution is prevented from collecting any donations or capitation fee etc. The Government are therefore faced with the choice of either taking over of the College and running the Medical College or allow the management to close down the College, in case they are not able to run the Medical College. In view of huge expenditure that would involve in taking over the said College, the Government considered it not desirable to run the said institution themselves at this huge cost, unless the College is made a self-supporting one. The Government feel that there is considerable demand for Medical Education from non-resident Indian and foreign students by paying the cost of Education. The Government have therefore decided to amend the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, suitably to enable the non-resident Indian and Foreign students to seek admission by paying the cost of their Medical Education and for this purpose to set up a Medical College in the State. As the admissions have to be taken up immediately and as the State Legislature was not then in session, and as it was considered necessary to give effect to the above decision immediately, the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Second Amendment Ordinance, 1983 was promulgated by the Governor on the 26th July, 1983. This Bill seeks to replace the said Ordinance. Act 11 of 1985 - The Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (Act No. 5 of 1983) provides for regulation of admission into Educational Institutions and prohibits the collection of Capitation Fee in the State of Andhra Pradesh. This Act was enacted to curb the undesirable practice of collecting Capitation Fee at the time of admission of students into the Educational Institutions and to avoid frustration among meritorious and indigent students and to maintain excellence in the Educational Standards. The former Government, with a view to make the Engineering Colleges self-supporting without depending on the Government for recurring and non-recurring grants and also keeping in view the need for increasing the number of seats in the Engineering Colleges so that admissions in the Engineering Colleges may be secured by as many

number of students as possible which would increase the number of seats available for Weaker Sections also had decided, among others, to enhance the seats in the Private Engineering Colleges and to provide for 20% management quota subject to reservation for Scheduled Castes, Scheduled Tribes, and Backward Classes by amending the aforesaid Act by an Ordinance. Accordingly, the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Amendment Ordinance, 1984 (Ordinance 27 of 1984) was promulgated by the Governor on the 5th September, 1984 and the same was published in Part IV-B Extra-ordinary of the Andhra Pradesh Gazette, dated the 6th September, 1984. It enabled the management of any Private Engineering College, Polytechnic or Industrial Training Institute to admit students into such college, polytechnic or Institute to the extent of one-fifth of the total number of seats from among those whom have qualified in the Common Entrance Test or in the qualifying Examination, as the case maybe, irrespective of the ranking assigned to them in such test or examination. The Government have revised the policy of allowing the 20% management quota enabling the managements to admit students, irrespective of the ranking assigned to them in the entrance test or the qualifying examination as it has been brought to the notice of the Government that the various Private Institutions have misused their quota by collecting large sums of money from the students seeking admission. As the Policy of the Government as originally embodied in the Act is to regulate admissions into the Educational Institutions purely on the basis of merit and to prohibit the collection of capitation fee at the time of admitting the student into Educational Institutions and also to stop commercialisation of Education, the provision contained in Ordinance 27 of 1984 goes against the policy enshrined in the Act as aforesaid and the Government have, therefore, decided to repeal Ordinance 27 of 1984 with retrospective effect from the 6th September, 1984 and to annul all actions taken under the Ordinance and enjoin on the managements to refund all moneys collected from the students admitted under the management quota. As the State Legislature was not then in session having been prorogued and as it was decided to give effect to the above decision immediately for facilitating smooth admission, the Governor of Andhra Pradesh promulgated the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Second Amendment Ordinance, 1984 (Andhra Pradesh Ordinance No. 30 of 1984) on the 15th October, 1984. Act 12 of 1992 - On a review of the working of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, it is revealed while the Act has produced a desired result, it has also, at the same time, rendered many of the unaided private educational institutions financially unviable. The unaided private educational institutions have to mainly depend upon the fees collected from the students and they do not receive any aid either from the Government or from the University Grants Commission as in the case of Government and University Colleges. In these circumstances, if the unaided private educational institutions, particularly the professional colleges are denied financial aid particularly from the willing students, it is felt that their development will become extremely tardy and it will also be difficult to maintain excellence in the standards of education. It is, therefore, thought that a relaxed application of the Act to unaided private educational institutions will not only make for their efficient functioning with financial viability, but also protect standards of education. With this object in view, it has been decided that the unaided private engineering colleges, medical colleges, dental colleges and such other unaided educational institutions as may be notified by the Government should be allowed to fill fifty percent of the total number of seats with students who have passed the entrance test or the qualifying examination, as the case may be, but without regard to the ranking

assigned to them. Act 8 of 2009 - The proviso to sub-section (1) of Section 3 of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 (Act No. 5 of 1983) provides that admission into Medical and Engineering Colleges shall be made only on the basis of the ranking assigned in the common entrance test conducted. Now, it has been decided to introduce 25% of weightage of Intermediate Marks for admission into Agriculture, Dental, Engineering, Medical, Pharmacy and Veterinary Colleges alongwith the weightage of 75% to EAMCET entrance examination from the academic year, 2009-10 onwards to take proper steps to strengthen the Intermediate Education. Accordingly, the Government have issued orders in GO.Ms. No. 165, Higher Education (EC.2) Department, dated 6-9-2007 by giving 25% weightage to the marks secured in the relevant group subjects i.e., Mathematics, Physics, Chemistry or Biology, Physics, Chemistry in the Intermediate Public Examination and 75% weightage to the marks secured in EAMCET/EAMCETAC for determining the overall ranking for the purpose of admissions into Agriculture, Engineering, Dental, Medical, Pharmacy and Veterinary courses from the year, 2009-10 onwards, and accordingly, the Andhra Pradesh Common Entrance Test for entry into Engineering, Pharmacy, Agriculture, Medical and Dental courses Rules, 2004 were amended suitably by issuing GO.Ms. No. 8, Higher Education (EC.2) Department, dated 27-1-2009. However, the orders issued in GO.Ms. No. 165, Higher Education (EC-2) Department, dated 6-9-2007 were challenged before the Hon'ble High Court of Andhra Pradesh in W.P. No. 13241 of 2009 on the ground the provision of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 (Act No. 5 of 1983) provides for conducting Common Entrance Test only for admission into Engineering and Medical courses shall be made only on the basis of ranking assigned in the common entrance test. It is therefore, necessary to amend the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 (Act No. 5 of 1983) suitably. As the Legislature of the State was not then in Session having been prorogued and as it has been decided to give effect to the above decision immediately, the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) (Amendment) Ordinance, 2009 (AP Ordinance No. 3 of 2009) has been promulgated by the Governor on the 16th July, 2009. This Bill seeks to replace the said Ordinance. Appended to LA Bill No. 8 of 2009, Published in Gazette Part IVA Extraordinary No. 8, dated 13-8-2009. Published in Andhra Pradesh Gazette, Part IV-13, (Extraordinary), dated 7-4-1983. An Act to provide for regulation of admissions into Educational Institutions and to Prohibit the Collection of Capitation Fee in the State of Andhra Pradesh. Whereas the undesirable practice of collecting capitation fee at the time of admitting students into educational institutions is on the increase in the State; And whereas, the said practice has been contributing to large scale commercialisation of education ; And whereas, it is considered necessary to effectively curb this evil practice in order to avoid frustration among the meritorious and indigent students and to maintain excellence in the standards of education : Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirty-fourth of the Republic of India as follows -

1. Short title, commencement and application.

(1) This Act may be called the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983. (2) It shall be deemed to have come into force on 30th October, 1983. (3) It shall apply to all educational institutions.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)'Backward Classes' means any socially and educationally Backward Classes of citizens recognised by the Government for purposes of Clause (4) of Article 15 of the Constitution of India ;(b)'Capitation fee' means any amount collected in excess of the fee prescribed under Section 7 ;(c)'Educational institution' means a college, a school imparting education up to and inclusive of tenth class or other institution by whatever name called, whether managed by Government, private body, local authority or University and carrying on the activity of imparting education therein, whether technical or otherwise, and includes a Polytechnic, Industrial Training Institute and a Teachers' Training Institute, but does not include a tutorial institution.(d)'Government' means the State Government of Andhra Pradesh;(e)'management' means the managing committee or the governing body by whatever name called of an educational institution to which the affairs of the said institution are entrusted and where such affairs are entrusted to any other name, include also such person ;(f)'notification' means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly ;(g)'Prescribed' means prescribed by rules made by the Government under this Act ;(h)'Scheduled Castes' and 'Scheduled Tribes' shall have the meanings respectively assigned to them in Clause (24) and Clause (25) of Article 366 of the Constitution of India ;(i)All words and expressions used but not defined in this Act shall have the meanings assigned to them in the Andhra Pradesh Education Act, 1982.

3. Regulation of admission into educational institutions.

(1)Subject to such rules as may be made in this behalf, admission into educational institutions shall be made either on the basis of the marks obtained in the qualifying examination or on the basis of the ranking assigned in the entrance test conducted by such authority and in such manner as may be prescribed:[Provided that admission into Agriculture, Dental, Engineering, Medical, Pharmacy and Veterinary Colleges shall be made on the basis of the ranking assigned by giving weightage to the marks secured in the relevant group subjects namely, Biology, Physics, Chemistry or Mathematics, Physics, Chemistry, as the case may be, in the Intermediate Public Examination or equivalent Examination and weightage to the marks secured in the common entrance test as may be prescribed.] [Substituted by Andhara Pradesh Act 17 of 2009 w.e.f. 27-1-2009.](2)The admission into educational institutions under sub-section (1) shall be subject to such rules as may be made by the Government in regard to reservation of seats to the members belonging to Scheduled Castes, Scheduled Tribes and Backward Classes and other categories of students as may be notified by the Government in this behalf and the Andhra Pradesh Educational Institutions (Regulation of Admission) Order, 1974.(3)[Notwithstanding anything in sub-sections (1) and (2) it shall be lawful for the Government, to admit students belonging to other States on reciprocal basis and the nominees of the Government of India, into Medical and Engineering Colleges in accordance with such rules as may be prescribed:Provided that admission of students into the Regional Engineering College, Warangal to the extent of one-half of the total number of seats shall be in accordance with the guidelines issued by the Government of India, from time to time.] [Inserted by Andhara Pradesh Act 1 of 1984, w.e.f. 23-7-1983.]

3A. [Special provision in respect of unaided private educational institutions. [Inserted by Andhara Pradesh Act 12 of 1992, w.e.f. 15-4-1992.]

- Notwithstanding anything contained in Section 3 but subject to such rules as may be made in this behalf and the Andhra Pradesh Educational Institutions (Regulation of Admission) Order, 1974, it shall be law-fill for the management of any unaided private engineering college, medical college, dental college and such other class of unaided educational institutions as may be notified by the Government in this behalf to admit students into such colleges or educational institutions, to the extent of one-half of the total number of seats from among those who have qualified in the common entrance test or in the qualifying examination, as the case may be, referred to in sub-section (1) of Section 3 irrespective of the ranking assigned to them in such test or examination and nothing contained in Section 5 shall apply to such admissions.]

4. Special provision in respect of minority educational institutions.

(1)Notwithstanding anything in Section 3, it shall he lawful for any minority educational institution to admit students belonging to the concerned minority whether based on religion or language, on the basis of the marks obtained by them in the qualifying examination or as the case may be, on the basis of the ranking assigned to them in the entrance test conducted in the prescribed manner.(2)Where any Minority educational institution intends to admit students not belonging to the concerned minority, such admission shall be only on the basis of the marks obtained in the qualifying examination or as the case may be, on the basis of the ranking assigned in the entrance test conducted in the prescribed manner.

4A. [Special provision in respect of Non-Resident Indian Students. [Inserted by Andhara Pradesh Act 3 of 1984, w.e.f. 27-7-1983.]

(1)Notwithstanding anything in this Act, it shall be lawful for the Government to admit students belonging to foreign countries and non-resident Indian students into a Medical College established for the purpose in accordance with such rules as may be prescribed on payment of such sum as may be notified by the Government in this behalf.(2)There shall be constituted a fund called "Medical Education Fund" into which shall be credited the sums received under sub-section (1). The said fund shall be operated by a Committee consisting of such number of persons and in such manner as may be prescribed.(3)All moneys belonging to the said fund shall be deposited in such bank or treasury or be invested in such securities in accordance with such guidelines as may be issued by the Government in this behalf and shall be applied and expended for the improvement of the said college and the development of the Medical Educational facilities and such other related purposes as may be prescribed.Explanation: - For the purposes of this section, "Non-resident Indian student" means a student of Indian origin residing in any Country outside India.]

5. Collection of capitation fee prohibited.

- The collection of any capitation fee by any educational institution or by any person who is in-charge of or is responsible for the management of the institution is hereby prohibited.

6. Manner of giving donations.

(1) Any donation of money to any educational institution, shall be made only in such manner as may be prescribed and not otherwise. (2) All moneys received by any educational institution by way of voluntary donations shall be deposited in the account of the institution, in any Scheduled Bank and shall be applied and expended for the improvement of the institution and the development of the educational facilities and for such other related purposes as may be prescribed.

7. Regulation of fees.

(1) It shall be competent for the Government by notification, to regulate the tuition fee or any other fee that may be levied and collected by any educational institution in respect of each class of students. (2) No educational institution shall collect any fees in excess of the fee notified under sub-section (1). (3) Every educational institution shall issue an official receipt for the fee collected by it.

8. Application of Chapter XI of Act of 1982.

- Where the Government are of opinion that the management of an educational institution has contravened the provisions of this Act, it shall be competent for them to take over the management of such institution for a period not exceeding five years applying in so far as may be, the provisions of Chapter XI of the Andhra Pradesh Education Act, 1982. [8A. Exemption. - Nothing in this Act shall apply to the following educational institutions : (a) Food Craft Institution, Hyderabad. (b) Regional and other training centres financed by the Government of India.]

9. Penalties.

- 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 shall not exceed seven years and with fine which may extend to five thousand rupees. Where the conviction is for an offence under Section 5 or Section 6, the institution shall refund the money so collected to the party from whom it was collected.

10. Offences by companies.

(1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person, who at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of 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 had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything 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 purpose of this section, -(a)'company' means any body corporate and includes 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 or other association of individuals' means the person who is entrusted, under the rules of the society or other association, with management of the affairs of the society or other association, as the case may be.

11. Power to enter and inspect.

(1)Any officer not below the rank of a Gazetted Officer authorised by the Government in this behalf may enter at any time during the normal working hours of an educational institution or any premises of such institution and to search and inspect any record, register or other document relating to such institution and to seize any such record, register or other document for the purpose of ascertaining whether there is or has been any contravention of the provisions of this Act.(2)In order to secure proper and effective utilisation of the finances or resources or other assets of any educational institution at 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 an institution and after such ascertainment to give such directions to the management as they deem fit.

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 acts done 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 or under the rules or orders made thereunder.

14. Amendment to the Act 1 of 1982.

- In the Andhra Pradesh Education Act, 1982 :(i)Section 44 shall be omitted ;(ii)In Section 99, in sub-section (1) in Clause (a) the words "and after previous publication", shall be omitted.

15. Power to make rules.

(1)The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.(2)Every rule made under this section shall immediately after it is made be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session, or in two successive sessions and if before the expiration 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 in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

16. Repeal of Ordinance 3 of 1983.

- The Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Ordinance, 1983 is hereby repealed.Tuition fee to be levied and collected under the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983[G.O. Ms. No. 26, Labour, Employment, Training and Factories (Emp.), dated 21.07.2000] [Published in Andhra Pradesh Gazette, Part I (Extraordinary) No. 320, dated 27.07.2000.]In exercise of the powers conferred by sub-section (1) of Section 7 of the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (Act No. 5 of 1983) and in supersession of the Orders issued in G.O.Ms.No. 27, Labour, Employment, Training and Factories (Emp. A2) Department, dated 17th July, 1995, the Governor of Andhra Pradesh hereby regulates that the tuition fee that may be levied and collected from any student that shall be admitted from the Academic Year 2000-2001 onwards in any Private Industrial Training Centre in the State shall not exceed Rs. 3,500/- (Rupees three thousand five hundred only) per annum, per student, as mentioned below: -One Year Course :The tuition fee shall be collected at the rate of Rs. 1,100/- (Rupees one thousand one hundred only) at the time of admission from the students admitted in the Private Industrial Training Centres and Rs. 200/- (Rupees two hundred only) per month for 12 months.Two Years Course :

1. First Year: - The tuition fee shall be collected at the rate of Rs. 1,100 (Rupees one thousand one hundred only) at the time of admission from the students admitted in Private Industrial Training Centres and Rs. 200/- (Rupees two hundred only) per month for 12 months.

2. Second Year: - The tuition fee shall be collected at the rate of Rs. 1,100/- (Rupees one thousand one hundred only) at the time of commencement of second year training and at Rs. 200/- (Rupees two hundred only) per month for 12 months.

[Inserted by Andhara Pradesh Act 2 of 1984, w.e.f. 24-12-1983.]