



The Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee Regulation of Admission Fixation of Non-Exploitative Fee and other Measures to Ensures Equity and Excellence) Act, 2007

Act 80 of 2007

Keyword(s):

Capitation Fees, Consortium Quota, Lapsed Seats, Management, Management Quota, Self Financing Professional College, University

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An Act to provide for prohibition of capitation fee, regulation of admission, fixation of non-exploitative fee, allotment of seats to Scheduled Castes, Scheduled Tribes and other socially and economically backward classes and other measures to ensure equity and excellence in professional education in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fifty-eighth Year of the Republic of India as follows: -

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| Short title, extent and commencement. | <p>1. (1) This Act may be called the Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence) Act, 2007.</p> <p>(2) It extends to the whole of the National Capital Territory of Delhi.</p> <p>(3) It shall come into force with immediate effect.</p> |
| Applicability. | <p>2. The provisions of this Act shall apply to -</p> <p>(a) Unaided institutions affiliated to a University imparting education in degree, diploma and certificate courses.</p> |
| Definitions. | <p>3. In this Act, unless the context otherwise requires,—</p> <p>(a) "Admission Regulatory Committee" means the committee constituted by the Government under section 4 for regulating admission in the institutions;</p> <p>(b) "aided institution" means an institution receiving recurring financial aid or grant-in-aid from any State, Union territory, Central Government or the University Grants Commission, and includes a minority institution, as may be specified by the Government;</p> |

- (c) "capitation fees" means any amount by whatever name called whether in cash or in kind paid or collected or received directly or indirectly, in addition to the fees determined under this Act;
- (d) "common entrance test" means the entrance test conducted for determination of merit of the candidates followed by centralized counselling for the purpose of merit based admission to an institution through a single window procedure by the designated agency;
- (e) "Delhi" means the National Capital Territory of Delhi;
- (f) "Delhi candidate" means a candidate who has appeared or passed the qualifying examination from a recognised school or institution situated in Delhi;
- (g) "designated agency" means an agency, designated by the Government, for conducting the common entrance test and counseling for admissions in the institutions;
- (h) "fee" means all fees including tuition fee, development fee and any other fee fixed by the Fee Regulatory Committee;
- (i) "Fee Regulatory Committee" means the committee constituted by the Government under section 6 for determining the fee for admission to an institution;
- (j) "Government" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 and designated as such under article 239 AA of the Constitution;
- (k) "Higher Education Scholarship Fund" means the fund constituted under section 15, for providing scholarship to socially and economically backward students on merit-cum-means basis;
- (l) "institution" means a college or institution, aided or unaided, affiliated to a University, imparting education in the following disciplines, namely:—

- (a) Engineering and Technology;
 - (b) Medicine, Dentistry, Pharmacy, Ayurveda, Homoeopathy, Siddha, Nursing, Para-medical and the like;
 - (c) Law and Legal Affairs;
 - (d) Management;
 - (e) Teachers Education;
 - (f) any other discipline as may be notified by the Government;
- (m) "management" means any person or body by whatever name called, managing the administration of an institution;
- (n) "management seat" means a seat to be filled up by the management of an institution, in the manner as may be prescribed;
- (o) "minority" means a minority as defined in clause (f) of section 2 of the National Commission for Minority Educational Institutions Act, 2004 (2 of 2005);
- (p) "minority institution" means an institution imparting professional education, established and administered by a minority;
- (q) "minority seats" mean seats allocated for the students belonging to the minority community, running the institution;
- (r) "non-resident Indian seat" means seat allocated for child or ward or dependant of a person of Indian origin residing outside India;
- (s) "outside Delhi candidate" means a candidate other than the Delhi candidate;
- (t) "prescribed" means prescribed by rules made under this Act;
- (u) "qualifying examination" means the examination as may be prescribed as qualifying examination for the purposes of appearing in common entrance test;
- (v) "seats" mean sanctioned intake of an institution in each course of study notified by the Government;

(w) "single window system" means the centralized system for admissions to institutions;

(x) "unaided institution" means an institution other than an aided institution;

(y) "University" means a university established under any law made by the Legislative Assembly of Delhi.

Admission
Regulatory
Committee.

4. (1) For the purpose of conducting a common entrance test by the association of the institutions, (hereinafter referred to as "the Admission Committee"), the Government shall, by notification in the official Gazette, constitute an Admission Regulatory Committee to regulate the procedure of admission to institutions. The Admission Committee shall consist of the following members, namely: —

(a) A person retired from a post not less than the Secretary of the Government- Chairperson;

(b) A doctor or an engineer of eminence – Member;

(c) A person prominent in the field of education -Member;

(d) One of the Vice Chancellors of a University or his representative – Member;

(e) Secretary, Department of Technical Education-Member;

(f) Secretary, Department of Health- Member;

(g) Secretary, Department of Higher Education – Member-Secretary (*ex-officio*);

(h) Any other person as may be notified by the Government:

(2) The term of office of the Chairperson and the members of the Admission Committee (other than the *ex officio* members and members filling casual vacancies) shall be three years, commencing on the day following the publication of the list of members under sub-section (1):

Provided that the term of the members of the Admission Committee may be extended by the Government by notification in the official Gazette for a

period not exceeding six months at a time but, in any case, not exceeding beyond a total period of one year.

(3) The term of office of the Chairperson shall be co-terminus with the term of the Committee and no person shall hold office of the Chairperson for more than two consecutive terms.

(4) Any casual vacancy in the office of the Chairperson or a member shall be filled for the remainder of the term in accordance with sub-section (1) or sub-section (2), as the case may be.

(5) The Admission Regulatory Committee may adopt its own procedure for the conduct of its business.

(6) The number of members required to make a uorum at any meeting of the Admission Regulatory Committee shall be one-third of its members.

(7) No act or proceedings of the Admission Regulatory Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

(8) All matters shall be decided by a majority of votes of the members present and, in the event of an equality of votes, the Chairperson or other person presiding shall have a casting vote.

(9) The allowances payable to and the other terms and conditions of service of the Chairperson and the members of the Admission Regulatory Committee shall be as may be prescribed.

(10) No person, associated with any institution, shall be eligible for being appointed as a Chairperson or member of the Admission Regulatory Committee.

(11) The Chairperson or a member of the Admission Regulatory Committee shall be removed if he does any act, which in the opinion of the Government, is unbecoming of a member of such Committee. The Chairperson or a member so removed shall not be eligible for appointment to the Admission Regulatory Committee:

Provided that no such Chairperson or member shall be removed from such Committee without providing an

opportunity of being heard.

(12) The Admission Regulatory Committee shall regulate the procedure of admission in institutions and suggest the guidelines to the Government, to ensure a fair, transparent, merit-based and non-exploitative procedure to be adopted by the Government under the provisions of this Act.

(13) The Admission Regulatory Committee may hear complaints against the institutions, with regard to contravention of guidelines suggested by the said Committee and adopted by the Government, during the admission.

(14) The Admission Regulatory Committee, after conducting reasonable inquiry, if in its opinion, the admission has been made in violation of any provision of this Act or the guidelines suggested by it and adopted by the Government, it may recommend cancellation of such admission to the concerned University.

(15) On the receipt of recommendation under subsection (14), the University shall cancel the admission of such candidates from appearing for any further examination and withhold the result of examination already appeared for by such candidate.

(16) The Admission Regulatory Committee may, after providing an opportunity of being heard, if it has reasons to believe that any institution has violated any of the provisions of this Act, rules or guidelines suggested by it and adopted by the Government, recommend to the University for withdrawal of the affiliation and the statutory body for withdrawal of recognition of such institution or any other course of action as it may deem appropriate.

(17) The Admission Regulatory Committee shall have the power to regulate its own procedure in all matters arising out of and/or incidental to the discharge of its functions, and shall, for the purpose of making any enquiry under this Act, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any witness and examining him on oath;
- (b) requiring the discovery and production of

any document;

- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examinations of witnesses and for local inspections and any proceeding before such committee shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860 (45 of 1860).

(18) The Admission Regulatory Committee may perform any other work related to admissions as assigned to it by the Government.

Collection of capitation fee prohibited.

5. (1) No capitation fee other than the fee, shall be collected or received by or on behalf of an institution or by any person who is in charge of or is responsible for the management of such institution from or in relation to any candidate, in consideration of his admission to or continuance in or his promotion to any course of study, in such institution.

(2) Where the Admission Regulatory Committee, on receipt of any complaint or otherwise, is satisfied that the management of an institution or any person in charge of it or is responsible for the management of such institution, has violated the provisions of sub-section (1), it may, after conducting an enquiry, recommend to the Government for taking penal action against the institution or the management.

Fee Regulatory Committee.

6. (1) The Government, by notification in the official Gazette, shall constitute a Fee Regulatory Committee, for determination of the fee for pursuing course in an institution, consisting of the following members, namely:—

- (i) A person retired from a post not less than the Secretary of the Government-Chairperson ;
- (ii) a Chartered Accountant of repute (to be nominated by the Chairperson)-Member;
- (iii) a representative of Medical Council of India or All India Council of Technical Education, depending on institution, as the case may be -Member;
- (iv) One of the Vice Chancellors of a University or his representative-

Member;

- (v) Secretary, Department of Technical Education- Member;
- (vi) Secretary, Department of Health- Member;
- (vii) Secretary, Department of Higher Education- Member Secretary (*ex-officio*);
- (viii) Any other person as may be notified by the Government;

(2) The Fee Regulatory Committee shall adopt its own procedure for the conduct of its business:

Provided that the Fee Regulatory Committee shall give a reasonable opportunity of being heard to an institution before determining the fee to be fixed for a course of study of such institution and recommending the fee for such institution in each course of study, to the Government.

(3) The Government, after receipt of the recommendations under sub-section (2) and subject to its satisfaction, shall notify the fee determined by the Fee Regulatory Committee:

Provided that the Government may refer back the matter to the Fee Regulatory Committee along with its observations for re-consideration and during the intervening period, the institution shall charge the fee as determined by the Fee Regulatory Committee.

(4) The term of office of the Chairman and the members of the Committee (other than the *ex officio* members and members filling casual vacancies) shall be three years, commencing on the day following the publication of the list of members under sub-section (1):

Provided that the term of the members of the Fee Regulatory Committee may be extended by the Government by notification in the official Gazette for a period not exceeding six months at a time but, in any case, not exceeding beyond a total period of one year.

(5) The term of office of the Chairperson shall be co-terminus with the term of the Committee and no person shall hold office of the Chairperson for more than two consecutive terms.

(6) Any casual vacancy in the office of the Chairperson or a member shall be filled for the remainder of the term in accordance with sub-section (1) or sub-section (2), as the case may be.

(7) The Fee Regulatory Committee may adopt its own procedure for the conduct of its business.

(8) The number of members required to make a quorum at any meeting of the Fee Regulatory Committee shall be one-third of its members.

(9) All matters shall be decided by a majority of votes of the members present and, in the event of an equality of votes, the Chairperson or other person presiding shall have a casting vote.

(10) No act or proceedings of the Fee Regulatory Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

(11) The allowances payable to and the other terms and conditions of service of the Chairperson and the members of the Fee Regulatory Committee shall be as may be prescribed..

(12) The Fee Regulatory Committee shall have power to -

(a) require each institution, to place before it, the proposed fee structure of such institution with all relevant documents and books of accounts for scrutiny well in advance of the commencement of the academic year, that is to say, not later than 31st December of the previous academic year;

(b) verify the fee proposed by such institution, whether it is justified and it does not amount to profiteering or

charging of capitation fee;

- (c) approve the fee structure or determine some other fee which can be charged by the institution.

(13) The fee notified by the Government shall be valid for three years:

Provided that the Government may extend the validity of such fee for a further period as may be notified.

(14) No person, associated with any institution, shall be eligible for being appointed as a Chairperson or member of the Fee Regulatory Committee.

(15) The Chairperson or a member of the Fee Regulatory Committee shall be removed if he does any act which, in the opinion of the Government, is unbecoming of a member of such Committee. The Chairperson or a member so removed shall not be eligible for appointment to the Fee Regulatory Committee:

Provided that no such Chairperson or member shall be removed from such Committee without providing an opportunity of being heard.

(16) The Fee Regulatory Committee shall have the power to regulate its own procedure in all matters arising out of and/or incidental to the discharge of its functions, and shall, for the purpose of making any enquiry under this Act, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any witness and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavit; and
- (d) issuing commissions for the examination of witnesses and for local inspections and any proceeding before such Committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code,

1860 (45 of 1860).

Factors for determination of fee. 7. The Fee Regulatory Committee shall determine and fix the fee or fees to be charged by an institution, on considering the following factors, namely: -

- (a) the nature of the professional course;
- (b) the available infrastructure including allotment cost of land and opportunity cost of land if the land is owned by the institution at the time of its establishment;
- (c) the expenditure on administration and maintenance;
- (d) a reasonable surplus required for the growth and development of the college;
- (e) revenue to the institution from various sources associated with the education of students;
- (f) the excess funds generated from non-resident Indians, charity on the part of managements and contribution by the Government for providing freeship for Scheduled Castes or Scheduled Tribes students;
- (g) a reasonable surplus required for meeting any unforeseen contingencies that the institution may face and for the growth and development of the college;
- (h) any other factor as the Fee Regulatory Committee may deem fit or such other factors as may be prescribed.

Maintenance of Accounts and Records. 8. The institution shall maintain its books of accounts and records for the purposes of fixation of student fees, in such manner, as may be required by the Fee Regulatory Committee

Determining factors for according recognition and conferring status as un-aided minority institution. 9. The minority institution established and maintained by any linguistic or religious minority shall be accorded recognition and conferred status of a minority institution if it satisfies the following conditions of demographic equivalence between the minority community to which the college belongs and the non-minority community of Delhi, taken as a single unit, namely: —

- (a) the population of the linguistic or religious minority community which runs the institution shall be lesser than fifty per cent of the total population of Delhi;
- (b) the number of institutions run by such linguistic or religious minority community in Delhi shall be

proportionately lesser than the number of institutions run by the non-minority community;

- (c) the number of students belonging to such linguistic or religious minority community undergoing professional education in all professional colleges or institutions in Delhi shall be proportionately lesser than the number of students belonging to the non-minority community undergoing professional education in all professional colleges or institutions.

Fees not to be collected excessively. 10. (1) No institution shall collect any fee, by whatever name called from the candidate, for admission, over and above the fee determined by the Fee Regulatory Committee and notified by the Government.

(2) An institution shall not collect fee of more than one year's, in advance, from a candidate in an academic year.

Qualifying examination. 11. The Government shall notify the qualifying examination for admission to an institution.

Allocation and reservation of seats. 12. (1) In every institution, except the minority institution

- (a) subject to the provisions of this Act, ten percent. of the total seats in an unaided institution shall be allocated as management seats;
- (b) eighty five percent of the total seats, except the management seats, shall be allocated for Delhi students and the remaining fifteen percent seats for the outside Delhi students or such other allocation as the Government may by notification in the official Gazette, direct;
- (c) supernumerary seats for non-resident Indians and any other category shall be as may be prescribed.

(2) In the seats mentioned in sub-section (1), an institution shall reserve -

- (a) seventeen percent seats for the candidates belonging to the Scheduled Castes category, one percent seats for the candidates belonging to the Scheduled Tribes category and such percentage of seats, for any other category including Other Backward Classes as may be prescribed;

(b) for seats not mentioned as allocated for Delhi students in sub section(1), fifteen percent seats for candidates belonging to the Scheduled Castes category , seven and a half percent seats for the candidates belonging to the Scheduled Tribes category and such percentage of seats , for any other category as may be prescribed.

(c) subject to clause (a) and clause (b) above, three percent seats for persons with disabilities as provided in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and, such percentage of seats for the wards of defence personnel and any other category, as may be prescribed.

Manner of admission. of 13. An institution shall, subject to the provisions of this Act, make admission through a common entrance test to be conducted by the designated agency, in such manner, as may be prescribed:

Provided that the management seats may be advertised and filled up, from the candidates who have qualified the common entrance test, by the institution in a transparent manner based on the merit at the qualifying examination.

Admission made in contravention of this Act. 14. Any admission made in contravention of the provisions of this Act or the rules made thereunder, shall be void.

Higher Education Scholarship - Fund. 15. The Government may by notification in the official Gazette, constitute a Fund to be called 'the Higher Education Scholarship Fund', for providing scholarship to the socially and economically backward students admitted in the institution, on merit cum means basis.

Protection of action taken in good faith. of 16. No suit, prosecution or other legal proceedings shall lie against any member of the Admission Regulatory Committee or Fee Regulatory Committee or any other officer of the Government or University for anything which is done in good faith or intended to be done in good faith under this Act.

Power of the Government to issue directions.

17. The Government or any other officer specially empowered in this behalf by the Government may, from time to time, by order, issue such directions, consistent with the provisions of this Act and the rules made thereunder, to any institution, as in its opinion are necessary or expedient for carrying out the purposes of this Act or give effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the institution shall comply with every such direction.

Offences and penalties.

18. Without prejudice to the penalty specified in any other law for the time being in force, whoever contravenes the provisions of this Act or the rules made thereunder shall, on conviction be punishable with imprisonment for a term which may extend to three years, or, with fine which may extend to one crore rupees, or with both.

Compounding of offences.

19. (1) Any offence punishable under section 18 may be compounded by such officer or body as may be specially authorised by the Government in this behalf, either before or after the institution of the prosecution, on payment for credit to the Government of such sum as such officer or body may impose:

Provided that such sum shall not, in any case, be less than five lakh rupees and, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded:

Provided further that in the event of charging of excessive fee by the institution than the notified fee, the amount of compounding fee shall not be less than double the amount of fee excessively charged or five lakh rupees, whichever is higher.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence committed by him was compounded. Explanation.-For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in

respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

Cognizance of offence. 20. No court shall take cognizance of any offence punishable under this Act, except upon a complaint in writing made by an officer specially authorized by the Government in this behalf by a notification, for the purpose.

Power to remove difficulties. 21. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion requires, but not later than two years from the date of commencement of this Act, do anything not inconsistent with the provisions of this Act, which appears to it necessary for removing the difficulty.

(2) Every order issued under sub-section (1) shall be laid, as soon as may be after it is issued, before the Legislative Assembly of Delhi.

Saving existing Admission Committee and Fee Regulatory Committee for determination of fee for the academic year 2007-08. of 22. Notwithstanding anything contained in sub-section (12) of section 6, -

(a) the existing Admission Committee and State Fee Regulatory Committee, constituted by the Government shall have the power to extend the date of submission of documents and books of accounts for scrutiny for the determination and fixation of fee for the year 2007-08 in such a way as to facilitate admissions in accordance with the provisions of this Act during the academic year 2007-08. The Fee Regulatory Committee shall be competent to fix the fee provisionally for the academic year 2007-08 subject to final adjustments later.

(b) the fixation and levy of fees at the rates fixed by the Committee constituted before the date of coming into force of this Act shall be deemed to be validly fixed.

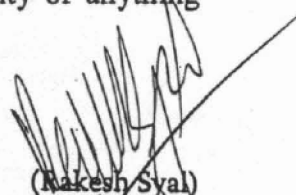
Power to make rules. 23. (1) The Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) qualifying examination for the purposes of

- appearing in common entrance test under clause (u) of section 3;
- (b) allowances payable and terms and conditions of service of the Chairperson and the members of the Admission Regulatory Committee under sub-section (9) of section 4;
 - (c) allowances payable and terms and conditions of service of the Chairperson and the members of the Fee Regulatory Committee under sub-section (11) of section 6;
 - (d) other factors of determination of fee under clause (h) of section 7;
 - (e) supernumerary seats for non-resident Indians or other categories under clause (c) of sub-section (1) of section 12;
 - (f) Percentage of seats for any other category including other backward classes under clause (a) of subsection (2) of section 12.
 - (g) Percentage of seats to be reserved for the ward of defence personnel under clause (c) of sub-section (2) of section 12
 - (h) manner of admission in institutions under section 13;
manner of filling the management seats by the management of an institution under section 13;
 - i) Any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the Assembly agrees in making any modification in the rule or the Assembly agrees 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. "



(Rakesh Syal)

Joint Secretary (Law, Justice & L.A.)