The Punjab Regulation of Fee of un-aided Educational Institutions Act, 2016

Act 47 of 2016

Keyword(s):
Affiliation, Complaint, Commercialization, Fee, Fund, Minority Institution, Unaided Educational Institution

Amendment appended: 18 of 2019
PART I

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 23rd December, 2016

No. 54-Leg./2016.-The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 22nd day of December, 2016, is hereby published for general information:-

THE PUNJAB REGULATION OF FEE OF UNAIDED EDUCATIONAL INSTITUTIONS BILL, 2016

(Punjab Act No. 47 of 2016)

AN ACT
to provide for the constitution of Regulatory Body with a view to provide a mechanism for the purpose of regulating fee of un-aided educational institutions in the State of Punjab and for the matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Punjab in the Sixty-seventh Year of the Republic of India as follows:

1. (1) This Act may be called the Punjab Regulation of fee of Un-aided Educational Institutions Act, 2016.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

2. In this Act, unless the context otherwise requires,-

(a) ‘academic year’ means a period of twelve months prescribed as such, and different academic years may be prescribed for different classes of institutions;

(b) ‘affiliation’ means inclusion of the name of an institution in the approved list of affiliated institutions with the Punjab School Education Board or any other such board or authority, approved and authorized by the Central Government for admitting it to the privileges of the said board or authority;
(c) ‘appropriate authority’ means,-
   (i) in the case of an unaided educational institution recognized or 
       to be recognized by an authority, authorized by the State 
       Government, that authority; and
   (ii) in the case of an unaided educational institution recognized or 
       to be recognized by an authority, authorized by the Central 
       Government, that authority;

(d) ‘Regulatory Body’ means the Regulatory Body, constituted under 
section 3;

(e) ‘complaint’ means an allegation made in writing to the Regulatory 
Body by a student studying in an Unaided Educational Institution or 
by his parents or guardians, as the case may be, containing a 
grievance of charging excessive fee or of doing or asking to do any 
other activity with a motive to gain financial benefit or profit by the 
Unaided Educational Institution;

(f) ‘commercialization or profiteering or profit or financial gain’ means 
an activity of charging fee by an Un-aided Educational Institution 
from any student or parents or guardians in excess of the fee, as 
fixed or increased under section 5;

(g) ‘fee’ means any amount by whatever name it may be called, which 
is charged directly or indirectly by an Unaided Educational Institution 
for admission of a student for education to any standard of course 
of Study;

(h) 'Fund' means the Unaided Educational Institution Development Fund 
constituted under section 9;

(i) ‘Government’ means the Government of the State of Punjab in the 
Department of School Education;

(j) ‘local authority’ means a Municipal Corporation, Municipal 
Committee, Notified Area Committee, Town Improvement Trust, 
Panchayat Samiti or Gram Panchayat or any other authority 
entrusted with their functions under any law for the time being in 
force;

(k) ‘minority institution’ means an educational institution established 
and administered by a minority whether based on religion or language 
having the right to do so under clause (1) of article 30 of the
Constitution of India;

(l) ‘prescribed’ means prescribed by rules made under this Act by the Government;

(m) ‘section’ means section of this Act; and

(n) ‘Unaided Educational Institution’ means an affiliated private school, established and administered by any person or body of persons, imparting education up to 10+2 level including a minority institution which does not receive any aid from the Government, but does not include,-

(i) an aided school; and

(ii) a school established and administered or maintained by the Central Government or State Government or any local authority.

3. (1) There shall be constituted a Regulatory Body to be known as the Regulatory Body for Regulating Fee of Un-aided Educational Institutions at the Divisional Level in the State of Punjab to exercise the powers conferred upon and perform the functions assigned to it under this Act.

(2) The Regulatory Body shall consist of the following, namely:-

(a) Divisional Commissioner of the concerned division; Chair-person

(b) Circle Education Officer of the concerned division; Member-Secretary

(c) District Education Officer (Secondary Education) posted at the concerned Headquarter of the division; Member

(d) District Education Officer (Elementary Education) posted at the concerned Headquarter of the division; Member

(e) Two members, to be nominated by the Government from amongst the eminent educationists of the concerned division; Nominated members

(f) One member, to be nominated by the Divisional Commissioner from amongst the Deputy Controllers (Finance and
Accounts) or Assistant Controllers (Finance and Accounts) working in the concerned division.

(3) The nominated members referred to in sub-section (2), shall be paid such remuneration and travelling allowance for attending the meeting of the Regulatory Body, as may be prescribed.

4. The office of the Regulatory Body shall be located at the Headquarter of the concerned Division.

5. An Unaided Educational Institution shall be competent to fix its fee and it may also increase the same after taking into account the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students:

Provided that while fixing or increasing fee, the factors mentioned in sub-section (1) of section 6, shall be kept in view by the Unaided Educational Institution:

Provided further that increase in fee shall not exceed eight per cent of the fee of the previous year, charged by the Unaided Educational Institution.

Provided further that while fixing or increasing fee, an Unaided Educational Institution cannot indulge in profiteering and it cannot charge capitation fee.

6. (1) For fixing or increasing fee structure by an unaided educational institution, the following factors shall be kept in view, namely:-

(a) the infrastructure and facilities available or to be made available in the Unaided Educational Institution;

(b) the investment made and salaries paid to the teachers and staff; and

(c) future plans for expansion and betterment of institution, subject however, to the restrictions of non-profiteering and non-charging of capitation fee.

(2) The fee fixed under sub-section (1), shall be displayed by every Unaided Educational Institution at the conspicuous place in the School premises.

(3) The Unaided Educational Institution shall also ensure that the fee or funds charged by it from the parents or guardians, are not diverted from such institution to the society or the trust, as the case may be, which runs such institution or to any other institution, except as permissible under sub-section (4) of section 10.
7. Subject to the provisions of this Act, the Regulatory Body shall exercise
the powers and discharge the functions as mentioned below:-

(a) to hear complaints from the students or their parents or guardians
with regard to the charging of excessive fee or for doing or asking
to do any other activity with a motive to gain financial benefit or
profit in contravention of the provisions of this Act by any Unaided
Educational Institution;

(b) to ensure that the Unaided Educational Institutions are not indulging
in commercialization of education;

(c) to check that the fee structure is being kept within the limits as
provided under this Act so as to avoid profiteering;

(d) to strike a balance between autonomy of an Unaided Educational
Institution, and measures to be taken in avoiding commercialization
of education;

(e) to check excessive hike in fee by an Unaided Educational Institution
with the motive to earn profit;

(f) to ensure that increase in the fee undertaken by an Un-aided
Educational Institution is justified and necessitated by the
circumstances like increase in expenditure or because of needed
developmental activities, and does not result into profiteering; and

(g) to check that funds charged from the students are not diverted to
any other purpose, except as permissible under sub-section (4) of
section 10.

8. Notwithstanding anything contained in this Act, the Regulatory Body may,
if on information is satisfied that an Un-aided Educational Institution has
contravened or is contravening any of the provisions of this Act, it may call for
the relevant record of such Unaided Educational Institution in order to verify
the information.

9. (1) Every Unaided Educational Institution shall constitute a Fund, to be
called the Unaided Educational Institution Development Fund.

(2) The following shall be credited to the Fund, namely:-

(a) fee;

(b) charge;

(c) funds;
10. (1) The Fund shall be utilized for the betterment and development of the concerned Unaided Educational Institution.

(2) The Fund or any profit accrued therefrom shall not be used for any personal gains or business or enterprise by the Un-aided Educational Institution.

(3) The Fund can be used by the Un-aided Educational Institution for the activities, which are beneficial to the students.

(4) No amount whatsoever shall be diverted from the Fund by the Unaided Educational Institution to the Society or the Trust or any other institution, except under the management of the same Society or Trust.

11. (1) Any student studying in an Unaided Educational Institution or his parents or guardians, as the case may be, may make complaint to the Regulatory Body with regard to any excessive fee or charge being charged or for doing or asking to do any other activities with a motive to gain financial benefit or profit by the said institution.

(2) The complaint referred to in sub-section (1), shall be accompanied by a self attested affidavit disclosing particulars of the concerned Un-aided Educational Institution along with the name and address of the complainant.

(3) Any complaint received under this Act, shall be scrutinized by the Regulatory Body within a period of fifteen days from the date of its receipt in accordance with the prescribed procedure, and it shall be finally decided within sixty days.

(4) If after scrutinizing a complaint under sub-section (3), the Regulatory Body finds any substance in it, the Regulatory Body shall give an opportunity of being heard to the concerned Un-aided Educational Institution before taking any final decision on such complaint.

12. The Regulatory Body shall, for the purpose of any enquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;
(c) receiving evidence on oath by way of affidavits; and
(d) issuing commission for the examination of witnesses.

13. (1) The Regulatory Body shall meet at such time and place as the
Chairperson may decide.

(2) The Regulatory Body shall follow such procedure of working, as
may be prescribed

(3) All orders and decisions of the Regulatory Body shall be
authenticated by the Member- Secretary or any other officer, authorized by
him.

14. (1) If any Un-aided Educational Institution contravenes the provisions
of this Act or the rules made thereunder, it shall be punishable with fine, which
may extend to thirty thousand rupees in the case of an Un-aided Educational
Institution of Primary Level, rupees fifty thousand in the case of an Un-aided
Educational Institution of Middle Level, and rupees one lac in the case of an
Un-aided Educational Institution of Secondary and Senior Secondary Level
for each contravention.

(2) If an Un-aided Educational Institution contravenes the provisions
of this Act or the rules made thereunder for the second time, it shall be punishable
with fine, which shall be sixty thousand rupees in the case of an Un-aided
Educational Institution of Primary Level, rupees one lac in the case of an Un-
aided Educational Institution of Middle level, and rupees two lac in the case of
an Un-aided Educational Institution of Secondary and Senior Secondary Level
for each contravention.

(3) If an Un-aided Educational Institution contravenes the provisions
of this Act or the rules made thereunder for the third time, then besides imposing
penalty as mentioned in sub-section (2), the Regulatory Body shall direct the
concerned authority to withdraw recognition or affiliation of such Un-aided
Educational Institution.

(4) The Regulatory Body may direct the Un-Aided Educational
Institution to refund the fee in excess of the fee as displayed by such institution.

15. Any person or Un-aided Educational Institution aggrieved by any direction
or order passed under this Act, may file an appeal to the Government within a
period of forty five days from the date of passing of such order or direction.

16. No civil court shall have jurisdiction to settle, decide or deal with any
question or to determine any matter, which is by or under this Act is required to
be settled, decided or determined by the Regulatory Body.
17. No suit, prosecution or other legal proceedings shall lie against the Chairperson or any member of the Regulatory Body or any officer or other employee or any person acting under the direction either of the Government or of the Regulatory Body, in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules or orders made thereunder.

18. (1) Every Unaided Educational Institution shall maintain proper accounts of fee and charges, and also maintain other relevant record and prepare annual statement of accounts in such form, as may be prescribed.

(2) The accounts maintained under sub-section (1), shall be audited by a qualified Charted Accountant.

19. Every Unaided Educational Institution shall prepare, in such form and at such time for each academic year, as may be prescribed, its annual report by a qualified Charted Accountant giving full account of its fees, received during the previous academic year, and forward a copy thereof to the Regulatory Body.

20. The Government in consultation with the Chairperson shall provide such officers and employees, as may be decided by it to discharge the functions of the Regulatory Body under this Act.

21. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order in writing, make such provision including any adaptation or modification of any provision of this Act, as appears to it, to be necessary or expedient for the purpose of removing the difficulty.

22. The Government may, from time to time, issue such directions to the Regulatory Body, as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of the Regulatory Body to comply with such directions.

23. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be
made, the rule shall thereafter, have effect only in such modified from 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
or omitted to be done under that rule.

VIVEK PURI,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

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PART I
GOVERNMENT OF PUNJAB
DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB
NOTIFICATION
The 20th December, 2019

No.22-Leg./2019.- The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 4th day of December, 2019, is hereby published for general information:-

THE PUNJAB REGULATION OF FEE OF UNAIDED EDUCATIONAL INSTITUTIONS (AMENDMENT) ACT, 2019
(Punjab Act No. 18 of 2019)

AN

ACT

further to amend the Punjab Regulation of Fee of Unaided Educational Institutions Act, 2016.

BE it enacted by the Legislature of the State of Punjab in the Seventieth Year of the Republic of India as follows:-

1. (1) This Act may be called the Punjab Regulation of Fee of Unaided Educational Institutions (Amendment) Act, 2019.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

2. In the Punjab Regulation of Fee of Unaided Educational Institutions Act, 2016 (hereinafter referred to as principal Act), in section 2, after clause (f), the following clause shall be inserted, namely:--

(ff) “conspicuous place” means and includes Notice Board and website of the Unaided Educational Institutions and website of the Department of School Education;”

3. In the principal Act, for section 3, the following section shall be substituted, namely:--

There shall be constituted a regulatory body to be known as the Regulatory Body for regulating fee of Unaided Educational Institutions at the District level in the State of Punjab to exercise the powers conferred upon and perform the functions assigned to it under this Act.

(2) The Regulatory Body shall consist of the following, namely:

(a) Deputy Commissioner of the district concerned or an officer not below the rank of Additional Deputy Commissioner;

(b) District Education Officer (Secondary Education); Member-

(c) District Education Officer (Elementary Education); Secretary

(d) two members, to be nominated by the Government from amongst the eminent educationists of the district concerned; and Member-

(e) the Chairperson of the Regulatory Body may associate any other officer of the Government, if so required.

(3) The nominated members referred to in sub-section (2), shall be paid such remuneration and travelling allowance for attending the meeting of the Regulatory Body, as may be prescribed.”

4. In the principal Act, in section 4, for the words “the concerned Division”, the words “the concerned District” shall be substituted.

Amendment in section 4 of Punjab Act 47 of 2016.

5. In the principal Act, in section 5, for the second proviso, the following provisos shall be substituted, namely:

"Provided further that increase in fee shall not exceed eight percent of the fee of the previous year charged by the Unaided Educational Institution. In case an Unaided Educational Institution intends to increase the fee beyond eight percent of the previous year, the said institution shall notify and display at a conspicuous place the proposed annual fees and the funds to be charged by them one month before the start of admissions to the next academic session:

Provided further that a complaint in respect of such fee or funds, as defined in clauses (g) and (h) of section 2 read with section 9, to be
charged by such institutions along with any proposed increase in fee and/or funds, may be made before the Regulatory Body and said Body shall dispose of such complaint in accordance with the provisions of this Act:

Provided further that the students, whose father or earning member dies during their study in an Unaided Educational Institution, shall not be compelled to leave the institution on account of non-payment of fee or funds and such students shall not be charged any fee till the completion of their studies in that institution:

Provided further that in case the Unaided Educational Institutions specify for purchasing of specific uniforms or books, they shall have to notify and display the specifications of such uniforms and books at conspicuous place and the parents shall be at liberty to purchase such uniforms or books from any place of their choice. However, the colour and design and any other specification of the uniforms so notified, shall not be changed at least for next two years.”

S.K. AGGARWAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

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