



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष १, अंक ४०]

गुरुवार, जुलै १६, २०१५/आषाढ २५, शके १९३७

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असाधारण क्रमांक ७२

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Bill, 2015 (L.A. Bill No. XXXIII of 2015), introduced in the Maharashtra Legislative Assembly on the 16th July 2015, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

R. G. BHAGWAT,
Draftsman-cum-Joint Secretary to Government,
Law and Judiciary Department.

L. A. Bill No. XXXIII Of 2015.

A Bill

to provide for regulation of admissions and fees by Unaided Private Professional Educational Institutions in the State of Maharashtra and for matters connected therewith or incidental thereto.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to provide for regulation of admissions and fees by Unaided Private Professional Educational Institutions in the State of Maharashtra and for matters connected therewith or incidental thereto ; and, therefore, promulgated the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Ordinance, 2015 on the 12th May 2015 ;

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Ord. VII
of 2015.

AND WHEREAS it is expedient to replace the said Ordinance, by an Act of the State legislature, with certain minor modification; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :—

RELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall deemed to have come into force on the 12th May 2015.

Definitions.

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

(a) “Admissions Regulating Authority” means the Authority constituted under section 7 for regulating the admissions in Unaided Private Professional Educational Institutions and conducting CETs;

(b) “appropriate authority” means the authorities declared by the State or Central Government which approve and regulate the professional courses or educational disciplines;

(c) “Centralized Admission Process (CAP)” means the centralized process of admission carried out by the competent authority through single window system in a transparent manner for admitting the students for various professional courses in educational institutions ;

(d) “Common Entrance Test (CET)” means the entrance test conducted for determination of merit of the candidates by Centralized Admission Process (CAP) for the purpose of admission to professional education courses through a single window system;

(e) “Competent Authority” means the Commissioner of State CET appointed by the Government under section 10, for conducting CET through CAP for the admissions into Private Professional Educational Institutions ;

(f) “Director” means the Director of Higher Education or, of Technical Education or, of Medical Education and Research or, of any other Directorate or Commissioner of any Commissionarate of the State Government, entrusted with the task of supervision of the Private Professional Educational Institution;

(g) “Fees” means the amount fixed as fee which includes tuition fee, library fee, gymkhana fee, examination fee, development fee or amount payable for any curricular or co-curricular activities, laboratory fee, information brochure fee and any other amount collected from the students, by whatsoever name called, and accepted in whichever manner, that is made payable to a Private Professional Educational Institution, for whatever purpose, by any candidate admitted to a professional course at such institution, but excludes any charges payable towards use of any optional hostel accommodation, mess charges and Students Insurance Fees;

(h) “Fees Regulating Authority” means the authority constituted under section 11 for determination and regulation of fee in unaided institutions;

(i) “Foreign Student” means a student who is not a citizen of India;

(j) “Government” or “State Government” means the Government of Maharashtra;

(k) “lateral entry” means admission of students in second year of the course against seats as per the guidelines of the appropriate authorities;

(l) “management” means the managing committee or the governing body, by whatever name called, of the Private Professional Educational Institution to which the affairs of such Institution are entrusted and where such affairs are entrusted to any person, by whatever name or designation called, includes such person;

(m) “Minority Educational Institution” means a Private Professional Educational Institution notified as such by the State Government, established and administered for and by the persons belonging to the minority community, domiciled in the State of Maharashtra, having right to do so under clause (1) of article 30 of the Constitution of India;

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1961.

(n) “Non-Resident Indian (NRI)” means a person who is “not ordinarily resident” under sub-section (6) of section 6 of the Income Tax Act, 1961, and includes a person resident outside India under clause (w) of section 2 of the Foreign Exchange Management Act, 1999, and also includes his child or ward;

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1999.

(o) “Person of Indian Origin (PIO)” means a person who is a citizen of a country other than India but who, at any time, was a citizen of India; or in whose case either parent or any grandparent was a citizen of India by virtue of the provisions of Part II of the Constitution of India or under the Citizenship Act, 1955;

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1955.

(p) “prescribed” means prescribed by rules made under this Act;

(q) “Private Professional Educational Institution” means any college, school, institute, institution or other body, by whatever name called, conducting any professional course or courses approved or recognized by the appropriate authority and affiliated to any university, but shall not include,—

(i) any such institution established, maintained or administered by the Central Government, any State Government or any local authority;

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1956.

(ii) institution declared to be a deemed university under section 3 of the University Grants Commission Act, 1956 ; or

(iii) a university to which the provisions of the University Grants Commission (Establishment and Maintenance of Private Universities) Regulations, 2003 are applicable;

(r) “Professional Education” means any educational course of study declared and notified as such, from time to time by the Government which includes a course leading to the award of an Under Graduate or Post-Graduate degree, diploma, by whatever name called and recognized by the appropriate authority;

(s) “profiteering” means any amount accepted in cash or kind, directly or indirectly which is in excess of the fee approved as per the provisions of this Act;

(t) “regulations” means the regulations framed by the Regulating Authorities;

(u) “Regulating Authority” means the Admissions Regulating Authority under section 7 or the Fees Regulating Authority under section 11, as the case may be ;

(v) “sanctioned intake” means the total number of seats sanctioned or approved by the appropriate authority for admitting candidates in a single academic year in each professional course of study or discipline in a Private Professional Educational Institution at the appropriate level of entry;

(w) “Stake-holders” means the management, the students studying in the respective institution and their parents;

(x) “unaided institution” means Private Professional Educational Institution, which is not receiving aid or grant-in-aid from the Central Government, the State Government or the local authority;

(y) “University” shall have the same meaning as assigned to it in clause (f) of section 2 of the University Grants Commission Act, 1956.

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1956.

CHAPTER II

REGULATION OF ADMISSIONS

Eligibility for
admission.

3. (1) The eligibility conditions and requirements for admission to a professional course at any Private Professional Educational Institution shall be such as may be notified by the Government from time to time, but shall not be less than, those stipulated by the appropriate authority.

(2) No student shall be admitted to a Private Professional Educational Institution unless the student possesses such educational or equivalent qualification as may be notified.

(3) Unaided institution shall admit students through a process as may be prescribed.

Manner of
admission.

4. The admissions to seats for professional course in every unaided institution shall be carried out in the following manner :—

(a) admission to seats in a Private Professional Educational Institution excluding institutional quota declared by Government from time to time, shall be made on the basis of merit by following the procedure of Common Entrance Test (CET) conducted in the manner, as may be prescribed by rules:

Provided that, the admission to institutional quota shall be on the basis of merit and after following the procedure specified by the appropriate authority :

Provided further that, the State Government may by order issued from time to time exempt any professional courses, from requirement of the Common Entrance Test (CET) thereto.

(b) admissions to such institution shall be carried out by the competent authority through the Centralized Admission Process on the basis of Common Entrance Test (CET) and Centralized Admission Process (CAP);

(c) the Competent Authority shall supervise and guide the entire Centralized Admission Process in such manner as it may specify with a view to ensuring that the process is fair, transparent, merit-based and non-exploitative.

Irregular
admissions
Void.

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

Allocation and
reservation of
seats.

6. (1) The allocation of seats under different categories in an unaided institution, not being a Minority Educational Institution, shall be in accordance with the Maharashtra Private Professional Educational Institutions (Reservation of seats for admission for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes and Other Backward Classes) Act, 2006 and as per the Government policy declared from time to time, including the NRI quota.

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2006.

(2) In an unaided Minority Educational Institution, the admissions shall be made as per the policy of the State Government and not less than fifty-one per cent. of the sanctioned intake shall be filled by minority students from within the State, belonging to the minority community to which the institution belongs on the basis of inter-se merit of the Common Entrance Test (CET) and Centralized Admission Process (CAP) :

Provided that, if any seats earmarked for the minority category in an unaided Minority Educational Institution remain to be filled in a academic year or where the students leave the institution after selection, the unfilled vacant seats shall be surrendered to the Competent Authority of the State Government for being filled up from the minority to which the minority institution belongs, on the basis of *inter-se* merit list prepared on the basis of the Common Entrance Test (CET) conducted in accordance with the provisions of sub-section (4) of section 10 and Centralized Admission Process (CAP):

Provided further that, if any seats remain unfilled even thereafter, such unfilled seats shall be filled from the student belonging to the general category on the basis of merit of the Common Entrance Test (CET) conducted by the Competent Authority and Centralized Admission Process (CAP):

Provided also that, if such institution fails to admit minimum fifty-one per cent. of its sanctioned intake from the persons belonging to the concerned minority, for period of three consecutive years the Competent Authority shall inform the State Government to refer such institution for taking action under section 12C of the National Commission for Minority Educational Institutions Act, 2004.

CHAPTER III

ADMISSIONS REGULATING AUTHORITY AND STATE COMMON ENTRANCE TEST CELL

7. (1) There shall be an Authority to be known as “the Admissions Regulating Authority” to exercise the powers conferred on, and discharge the functions assigned to it, under this Act.

Constitution of Admissions Regulating Authority and its functions.

(2) The State Government may, by notification in the *Official Gazette*, constitute the Authority under sub-section (1). The said Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal and shall have power to acquire, hold, and dispose off property both movable and immovable, and to do all things necessary for the purpose of this Act, and may sue or be sued by its name.

(3) The authority shall consist of,—

| | | |
|-----------------------------------------------------------------------------|----|-------------------|
| (a) a retired Judge of High Court | .. | Chairperson |
| (b) an eminent educationist who has worked as Vice-Chancellor of University | .. | Member |
| (c) an expert of repute from the field of Professional Education | .. | Member |
| (d) the Registrar, Maharashtra University of Health Sciences, Nashik | .. | Member |
| (e) the Director of Technical Education | .. | Member |
| (f) the Director of Higher Education | .. | Member |
| (g) the Commissioner of Agriculture | .. | Member |
| (h) the Commissioner of State CET | .. | Member-Secretary. |

(4) The appointment of Chairperson and of members under clauses (a), (b) and (c) of sub-section (3) shall be made by the State Government.

(5) No person who is associated with any private aided or unaided Professional Educational Institution shall be eligible for being a member of Admissions Regulating Authority.

(6) A member of the Admissions Regulating Authority shall cease to be so, if he does any act which in the opinion of the State Government is unbecoming of a member of the Authority.

(7) The Chairperson shall preside over the meetings of the Admissions Regulating Authority and the authority may adopt its own procedure by regulations, as it deem fit.

(8) No act or proceeding of the Admissions Regulating Authority shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution thereof.

Term of Office
and Conditions
of Service of
Chairperson
and members
of Admissions
Regulating
Authority.

8. (1) The term of Office of the Chairperson and members of the Admissions Regulating Authority, shall be of five years from the date of their nomination and in the case of any vacancy arising earlier for any reason, such vacancy shall be filled for the remainder period of the term.

(2) The Chairperson and members of the Admissions Regulating Authority shall not be eligible for re-appointment.

(3) The Chairperson or a Member may resign from the office in writing addressed to the Government and on such resignation being accepted, his office shall become vacant and the vacancy may be filled in within a period of three months from the date of occurrence of the vacancy.

(4) The Chairperson or a Member of the Admissions Regulating Authority may be removed, if he does any act which, in the opinion of the Government, is unbecoming of the Chairperson or a Member of such Authority. The Chairperson or a Member so removed shall not be eligible for re-appointment on such Authority:

Provided that, no Chairperson or Member may be removed from the Admissions Regulating Authority without giving him a reasonable opportunity of being heard.

(5) The salaries and allowances to be paid to the Chairperson and members of the Admissions Regulating Authority shall be such as may be notified, either prospectively or retrospectively, by the Government, from time to time.

(6) A person shall be disqualified for appointment as the Chairperson or Member of the Admissions Regulating Authority, if such person,—

(i) is holding any office, post or is in any way directly or indirectly connected or associated with any unaided institution;

(ii) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude;

(iii) is an undischarged insolvent;

(iv) is of unsound mind and stands so declared by a Competent Court;

(v) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government;

(vi) has, in the opinion of the Government such financial or other interest as is likely to affect prejudicially the performance of the functions and the discharge of his duties as such Chairperson or a Member; or

(vii) has such other disqualifications as may be prescribed.

(7) The other terms and conditions of service of the Chairperson and the members shall be such as may be prescribed.

9. (1) The functions of the Admissions Regulating Authority shall be, —

- (i) conducting and monitoring CET through CET Cell established under this Act;
- (ii) verification of admission proposals and final approval thereof;
- (iii) cancellation of admission if found contrary to the provisions of this Act;
- (iv) redressal of grievances from the Stake-holders.

Functions, powers and procedure of Admissions Regulating Authority.

(2) The Admissions Regulating Authority, for the purpose of exercise of its functions under this Act, shall have the following powers, namely: —

- (i) to adjudicate the dispute amongst the Stake-holders regarding admission of the students in the unaided institutions;
- (ii) to prescribe its own procedure regarding scrutiny of admission proposals and grievance redressal mechanism as it deem fit;
- (iii) to declare that the admission process of the unaided institution that is unfair, non-transparent and exploitative and therefore invalid, after giving a reasonable opportunity of being heard to those who are likely to be adversely affected by the decision of the Authority;
- (iv) to recommend to the concerned affiliating University, Board or such other authority for withdrawal of affiliation or recognition of the Institution for admissions those are made in contravention of this Act.

(3) Notwithstanding anything contained in sub-sections (1) and (2) the *Pravesh Niyanttran Samiti* existing on to the date of commencement of this Act shall continue to exercise the powers of the Admissions Regulating Authority till such Authority is duly constituted under this Act.

(4) In the discharge of its functions, and, for the purpose of making any inquiry under this Act, the Admissions Regulating Authority shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely: —

- (i) the summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) the discovery and production of any document;
- (iii) the reception of evidence on affidavits;
- (iv) the issue of commission for the examination of the witness.

(5) In carrying out its functions under this Act, the Authority and every unaided Institution shall follow the following procedure, namely: —

- (i) every unaided institution shall submit the ' admission-approval proposals ' to the concerned Directorate within fifteen days from the cut-off date of admission;
- (ii) every institution shall submit such proposal certified by the concerned Directorate to the Admissions Regulating Authority within two months from the date of such certification;
- (iii) every such proposal received from the Institution by Admissions Regulating Authority shall be scrutinized and approved before the 31st January of every year;
- (iv) any grievance regarding admission may be admitted before the Authority and shall be decided within a fortnight and before the cut-off date for admission;
- (v) the Admissions Regulating Authority shall have power to review its own order after recording the reasons therefor;
- (vi) no act or proceeding of the Admissions Regulating Authority shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution thereof;
- (vii) the Admissions Regulating Authority shall by regulations, prescribe its procedure regarding scrutiny of admission proposals and grievance redressal mechanism as it deem fit.

State Common
Entrance Test
Cell and its
functions.

10. (1) There shall be a State Common Entrance Test Cell.

(2) The State Common Entrance Test Cell shall be headed by an officer working under the control of the Admissions Regulating Authority, not below the rank of the Joint Secretary, nominated as the Commissioner of State CET.

(3) The Commissioner shall be assisted by officers of the rank of Joint Director of the State Government, in the fields of the Medical, Technical, Agriculture, Higher Education, etc.

(4) The Common Entrance Test for admissions to Unaided Institution shall be conducted by the Competent Authority:

Provided that, the State Government may allow such admissions through CET conducted by the authorities of the Central Government.

(5) The Cell shall have such powers and shall discharge such functions and conduct the examination in such manner as may be prescribed.

(6) The Cell shall take all decisions in respect of conduct of the Common Entrance Test in a fair manner maintaining the required confidentiality. It shall appoint examiners, evaluators, moderators and persons for assignment of software development required for the conduct of examination, evaluation and result processing, and also appoint persons as service providers required for the conduct of the online or off-line examination and shall undertake printing of various documents, etc. It shall exercise financial powers for execution of all activities related to conduct of CETs.

(7) Admission to every seat excluding institutional quota shall be made on the basis of merit secured at the Common Entrance Test (CET) followed by Centralized Admission Process of the State, subject to the reservation policy of the State :

Provided that, nothing in this sub-section shall apply to the Centralized Admission Process, being conducted for the academic year 2015-2016.

CHAPTER IV

REGULATION OF FEES

Fees
Regulating
Authority.

11. (1) There shall be an Authority to be known as “the Fees Regulating Authority” to exercise the powers conferred on, and discharge the functions assigned to it, under this Act.

(2) The State Government may, by notification in the *Official Gazette*, constitute the Authority under sub-section (1). The said Authority shall be a body corporate having perpetual succession and common seal and shall have power to acquire, hold, and dispose off property both movable and immovable, and to do all things necessary for the purpose of this Act, and may sue or be sued by its name.

(3) The Authority shall consist of, —

- | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-------------|
| (a) a retired Judge of High Court | .. | Chairperson |
| (b) an eminent educationist who has worked as Vice-Chancellor of University | .. | Member |
| (c) a Chartered Accountant of repute who is a Member of the Institute of Chartered Accountants of India, for a period of not less than ten years | .. | Member |
| (d) a Cost Accountant of repute who is a Member of the Institute of Cost and Works Accountants of India for a period of not less than ten years, or a financial expert of repute | .. | Member |

- (e) an expert of repute from the field of Professional Education .. Member
- (f) the Registrar, Maharashtra University of Health Sciences, Nashik .. Member
- (g) the Director of Technical Education .. Member
- (h) the Director of Higher Education .. Member
- (i) the Commissioner of Agriculture .. Member
- (j) an Officer of the State Government not below the rank of Joint Secretary. .. Member-Secretary.

(4) The Chairperson and of members under clauses (a), (b), (c), (d) and (e) of sub-section (3) shall be appointed by the Government.

(5) No person who is associated with any private aided or unaided Professional Educational Institution shall be eligible for being a member of the Fees Regulating Authority.

(6) A Member of the Fees Regulating Authority shall cease to be so, if he does any act which in the opinion of the State Government is unbecoming of a member of the Authority.

(7) The Chairperson shall preside over the meeting of the Fees Regulating Authority and the Authority may adopt its own procedure, by regulations as it may deem fit.

(8) No act or proceeding of the Fees Regulating Authority shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution thereof.

12. The provisions of section 8 shall *mutatis mutandis* apply in respect of the term of Office and Conditions of Service of Chairperson and members of the Fees Regulating Authority.

Term of Office and Conditions of Services of Chairperson and members of Fees Regulating Authority.

13. (1) The Fees Regulating Authority shall perform the following functions, namely :—

Functions, powers and procedure of Fees Regulating Authority.

(i) to determine the reasonableness of fees levied by unaided institutions on the basis of the factors specified in section 15; and to verify whether the fees so levied does not amount to profiteering or charging of capitation fees within the meaning of clause (a) of section 2 of the Maharashtra Educational Institutions (Prohibition of Capitation Fees) Act, 1987 ;

(ii) scrutiny and verification of fee proposals of the unaided institutions and final approval thereof ;

(iii) to evolve the mechanism for verification of infrastructure facilities and amenities and to undertake the verification of such facilities and amenities ;

(iv) to undertake research studies, at such intervals as the Fees Regulating Authority may deem fit, for determining the professional coursewise expenses required to be made per student, for the unaided

institutions in accordance with the mandatory guidelines of the appropriate authority concerned; and

(v) to undertake measures for the redressal of grievances of the Stake-holders.

(2) In the discharge of its functions under sub-section (1), the Fees Regulating Authority shall have the following powers, namely:—

(i) scrutiny and verification of 'fee proposals' and final approval thereof;

(ii) to evolve mechanism for verification of infrastructure facilities, amenities and verification thereof in unaided institutions;

(iii) redressal of grievances of the Stake-holders.

(3) Notwithstanding anything contained in sub-section (1) and (2) the *Shulka Niyanttran Samiti* existing on to the date of commencement of this Act shall continue to exercise the powers of the Fees Regulating Authority till such Authority is duly constituted under this Act.

(4) In the discharge of its functions, and, for the purpose of making any inquiry under this Act, the Fees Regulating Authority shall have all powers of a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely : —

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(i) the summoning and enforcing the attendance of any witness and examining him on oath;

(ii) the discovery and production of any document;

(iii) the reception of evidence on affidavits;

(iv) the issue of commission for the examination of the witness.

(5) The Fees Regulating Authority may constitute a flying squad of officers for surprise visits to unaided institutions to verify the infrastructure facilities and amenities provided by the institutions as against the fee recovered from the students.

Procedure to
be adopted by
Fees
Regulating
Authority.

14. (1) In determining the reasonableness of fee structure, the following provisions shall apply:—

(a) the Management of the Unaided Institution shall submit the details of the proposed fee alongwith the audited accounts of the preceding financial year, the proposed budget in respect of the current financial year and the relevant record and evidence to the Fees Regulating Authority for its approval not later than 31st October of previous academic year;

(b) in the event of non-submission of proposal for upward revision of fees to the Fees Regulating Authority within the time-limit specified by the Authority, the fees structure as approved by the Authority and applicable during the previous academic year shall continue to apply;

(c) the Fees Regulating Authority shall establish a separate scrutiny cell for the scrutiny of proposals submitted;

(d) after considering all the relevant factors, the Fees Regulating Authority shall approve the fees within a period of one hundred and twenty days from the date of receipt of the details of the proposed fee and communicate the details of the fee so approved;

(e) if the fee approved by the Fees Regulating Authority is not acceptable to the unaided institution, it may file review application with detail reasoning before the Fees Regulating Authority for reviewing its decision, within fifteen days from the date of communication. It shall be mandatory for the Fees Regulating Authority to decide such review

application before the 31st March of every year and shall communicate its decision to the concerned institution accordingly;

(f) the Fees Regulating Authority may prescribe its procedure regarding scrutiny of fee proposals and grievance redressal mechanism as it deem fit.

(2) Pending the decision of the Fees Regulating Authority, the management shall be at liberty to collect the interim or *ad hoc* fee as the case may be, till the final determination for the particular academic year.

(3) The Fees Regulating Authority shall indicate the different heads under which the fees may be levied.

(4) Every unaided institution shall display on its notice board, the course-wise fees as approved by the Fees Regulating Authority and on its website in Marathi and English, provided that, in case of linguistic minority institutions, the display shall also be in the language of the minority to which such, institution belongs and shall be binding on the students and the institution.

(5) No institution shall collect fee amounting to more than one year fee from a candidate in an academic year and collection of fees for more than one year in an academic year shall be construed as collection of capitation fee and such institution shall be liable to be proceeded against.

(6) The fees approved and communicated by the Fees Regulating Authority shall be applicable in respect of the candidate who is admitted to the unaided institution in that academic year and shall not be revised till the completion of the course of such student in the concerned institution:

Provided that, an unaided institution may, with the prior approval of the Fees Regulating Authority, revise the fees in respect of the second or subsequent years, on the grounds such as revision in taxes, sudden revision in regular expenditure, etc.

15. The Fees Regulating Authority shall determine the reasonableness of the fee structure proposed by every unaided institution, in respect of each professional course or group of courses, considering following factors :—

Factors for determination of fee structure.

(i) the location (Urban or Rural) of the institution;

(ii) the cost of land and building ;

(iii) minimum mandatorily required infrastructure or facilities, as specified by the appropriate authority ;

(iv) the expenditure proposed or incurred on the facilities and amenities that are not mandatory as per the guidelines of the appropriate authority ;

(v) available number of qualified regularly appointed teaching and non-teaching staff as per the prescribed norms of the appropriate authority ;

(vi) expenses on the prescribed salaries of the teaching and non-teaching staff ;

(vii) the expenditure on administration and the maintenance;

(viii) the reasonable revenue surplus required for growth and development of the institution with particular reference to the professional course conducted by it, which shall not be more than fifteen

per cent. of educational revenue in the respective professional course or group of courses;

(ix) facilities provided by the Government, such as lease of land at concessional rates and use of its infrastructure, for the conduct of the professional courses;

(x) depreciation or contribution for asset replacement fund;

(xi) rent of building or usage charges;

(xii) incentives for quality enhancement, such as—

(a) faculty strength with Ph. D. qualifications and Research publications in International Journals and Patent filed by the institution;

(b) faculty training and placement of students;

(c) accreditation of eligible programmes or the Institute such as NBA, NABET, NAAC, etc.;

(xiii) rate of inflation;

(xiv) any other relevant factor, as may be determined by the Fees Regulating Authority.

Funds of
Regulating
Authorities.

16. (1) There shall be a separate fund of each of the Regulating Authority.

(2) The funds of the said authorities shall consist of,—

(i) process fees payable by a Private Professional Educational Institution;

(ii) interest on deposits;

(iii) grants from the State Government, Central Government and the University Grants Commission and other Institutions (if any).

(3) The Regulating Authorities may charge process fee for conduct of CET and charges for fixation of fees, etc., as may be decided from time to time by the said authorities. The process fee for each year may be decided by the concerned authorities considering their day to day expenditure including salaries, allowances, administrative expenses, honorarium, infrastructural needs and any other activity in pursuance of its function, etc.

(4) The concerned authorities shall open separate bank account in nationalized bank and meet their expenses from the receipts.

CHAPTER V

ACCOUNTS AND MAINTENANCE OF RECORDS OF AUTHORITIES

Maintenance
of Accounts.

17. The Regulating Authorities shall maintain their respective accounts in such form as may be prescribed.

Audit.

18. The Accounts of the Regulating Authorities shall be audited every year by the Comptroller and Auditor General of India and the report thereof shall be placed before both Houses of the State Legislature in the session immediately held thereafter.

Report of
activities of
Regulating
Authorities.

19. The Regulating Authorities shall, in such form and within such time as may be prescribed, submit its report annually in respect of its activities in the previous financial year to the State Government. The State Government shall cause such report to be placed before each House of the State Legislature in the session held immediately thereafter.

CHAPTER VI

PENALTIES

20. (1) The Regulating Authority if, of the opinion that any person has contravened any of the provisions of this Act or the rules made thereunder, may direct such person to pay a penalty—

Penalties.

(a) for the first contravention, which shall not be less than one lakh rupees but which may extend to five lakh rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher;

(b) for the second or subsequent contravention, which shall not be less than two lakh rupees but which may extend to ten lakh rupees or twice the amount taken in excess of the fee as determined under this Act, whichever is higher.

(2) Whoever, provides incorrect information, fabricated and fake books of accounts, fraudulent documents, and such other evidence etc., to the authorities, whether or not the act is done for profit or gain, is said to have committed an offence and shall, on conviction be punished with imprisonment for a term which may extend to six months.

(3) The offence under sub-section (2) shall be cognizable.

(4) If during the course of enquiry under this section, it is found that the unaided institution has charged the fees in excess of those approved by the Authority; such fees shall be returned to the concerned student.

(5) On repetition of contravention or irregularity, the name of the institution shall be recommended for the withdrawal of affiliation or approval from concerned authority.

(6) Where the offence or irregularity under this Act or rules made thereunder is committed by a Management, every person who, at the time when the offence or irregularity was committed, was in charge of, and responsible to, the management for the conduct of the business of the management, as well as the management, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any person liable to punishment, if he proves that the offence was committed without his knowledge or that he has taken due diligence to prevent the commission of such offence.

(7) Notwithstanding anything contained in sub-section (6), where any offence under this Act or the rules made thereunder has been committed by a management 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 office bearer, officer or servant, such office bearer, officer or servant concerned shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER VII

MISCELLANEOUS

21. No suit, prosecution or other legal proceedings shall lie against any authority or employees working in the office of authorities for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or rules and regulations made thereunder.

Protection of action taken in good faith.

Power of State Government to issue directions.

22. The State Government may issue such general or special directions to the Regulating Authorities, consistent with the provisions of this Act and the rules made thereunder, as in its opinion are necessary or expedient for carrying out the purposes of this Act or for giving effect to any of the provisions contained therein or in any rules or orders made thereunder.

Power to make rules.

23. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall from the date of publication of such decision in the *Official Gazette*, 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 or omitted to be done under that rule.

Power to make regulations.

24. The Regulating Authorities may, for performing their functions under this Act, make regulations consistent with the provisions of this Act and the Rules made thereunder.

Power to remove difficulty.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty:

Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal of Mah. Ord. VII of 2015 and saving.

26. (1) The Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Ordinance, 2015, is hereby repealed.

Mah. Ord. VII of 2015.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The issue of regulation of admission and fees in relation to various professional educational courses is an important one. In view of the decisions of the Supreme Court in T. M. A. Pai Foundation and others V/s. State of Karnataka (Writ Petition (Civil) No. 317 of 1993, decided on 31st October 2002), Islamic Academy of Education and Another v. State of Karnataka and Others (Writ Petition (Civil) No. 350 of 1993, decided on 14th August 1993) and P. A. Inamdar and Others V/s. State of Maharashtra and Others (Civil Appeal No. 5041 of 2005, decided on 12th August 2005), it was necessary to regulate the admission process and charging of fees by the unaided Private Professional Educational Institutions. Accordingly, the State Government had, constituted two separate committees under the Chairmanship of the retired Judges of the High Court, for regulating the admission process in unaided professional educational courses under the control of Higher and Technical Education Department and Medical Education and Drugs Department. However, to give statutory framework to those authorities it was considered expedient to make a law in this behalf.

2. It was accordingly proposed to establish two Authorities for regulating the admissions and fees in unaided Private Professional Educational Institution and conduct of Common Entrance Test through Centralised Admission Process. Having regard to the academic year 2015-16, it was proposed to give such statutory framework immediately.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to provide for regulation of admissions and fees by unaided Private Professional Educational Institutions in the State of Maharashtra and for matters connected therewith or incidental thereto, the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Ordinance, 2015 (Mah. Ord. VII of 2015), was promulgated by the Governor of Maharashtra on the 12th May 2015.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature with certain minor modifications.

Mumbai,

Dated the 15th July 2015.

VINOD TAWDE,

Minister for Higher and
Technical Education.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 3(1).— Under this clause, power is taken to the State Government, to notify the eligibility conditions and requirements for admissions to the professional courses at any Private Professional Educational Institutions.

Clause 3(2).— Under this clause, power is taken to the State Government, to notify the educational or equivalent qualification for the students for admission to a Private Professional Educational Institutions.

Clause 3(3).— Under this clause, power is taken to the State Government, to prescribe the process of admission of students.

Clause 4(a).—

(i) Under this clause, power is taken to the State Government, to prescribe by rules the manner of admission to seats in a Private Professional Educational Institutions, the eligibility conditions and requirements for admissions to the professional courses at any Private Professional Educational Institutions,

(ii) Under the first proviso, power is taken to the appropriate authority, to specify the procedure for the admissions to the institutional quota,

(iii) Under second proviso, power is taken to the State Government, to exempt by order such professional courses from the requirement of Common Entrance Test.

Clause 7(2).— Under this clause, power is taken to the State Government, to constitute the Admissions Regulatory Authority, by notification in the *Official Gazette*.

Clause 7(7).— Under this clause the power is taken to the Admissions Regulating Authority, to adopt its own procedure for conduct of the Authority.

Clause 8(5).— Under this clause, power is taken to the State Government, to notify the salaries and allowances to be paid to the Chairperson and members of the Admissions Regulating Authority, either prospectively or retrospectively.

Clause 8(6)(vii).— Under this clause, power is taken to the State Government, to prescribe such other disqualifications for appointment as the Chairperson of Admissions Regulatory Authority.

Clause 8(7).— Under this clause, power is taken to the State Government, to prescribe the terms and conditions of services of the Chairperson and members of Admissions Regulatory Authority.

Clause 9(2)(ii).— Under this clause, power is taken to the Admissions Regulating Authority to prescribe its own procedure regarding scrutiny of admission proposals and grievance redressal mechanism.

Clause 9(4)(vii).— Under this clause the power is taken to the Admissions Regulating Authority, to prescribe its procedure regarding the scrutiny of admission proposals and grievance redressal mechanism.

Clause 10(5).— Under this clause the power is taken to the State Common Entrance Test Cell, to prescribe its powers and functions and conduct of examinations.

Clause 11(2).— Under this clause, power is taken to the State Government, to constitute the Fees Regulatory Authority, by notification in the *Official Gazette*.

Clause 11 (7).— Under this clause the power is taken to the Fees Regulating Authority, to adopt its own procedure for conduct of the Authority.

Clause 14(1) (f).— Under this clause the power is taken to the Fees Regulating Authority, to prescribe its procedure regarding the scrutiny of proposal and grievance redressal mechanism.

Clause 17.— Under this clause the power is taken to the Regulating Authorities, to prescribe their form for maintenance of their accounts.

Clause 19.— Under this clause the power is taken to the Regulating Authorities, to prescribe their form and such time for submitting their annual reports of their activities in the previous financial year to the State Government.

Clause 23(1).— Under this clause the power is taken to the State Government, to make the rules to carry out the purpose of this Act, by notification in the *Official Gazette*.

Clause 24.— Under this clause the power is taken to the Regulating Authorities, to make the regulations.

Clause 25(1).— Under this clause the power is taken to the State Government, to remove, by order published in the *Official Gazette* the difficulties arising in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative powers are of normal character.

FINANCIAL MEMORANDUM.

Clauses 7 and 11 provides for the establishment of Admissions Regulating Authority and Fees Regulating Authority. It would be necessary to provide for the salaries and allowances of the Chairpersons and Members of the said Authorities. The recurring expenditure likely to be incurred on this count is Rs. 3.15 crores approximately. A certain non-recurring expenditure would also be necessary to be incurred on this count. However certain non-recurring expenditure would be required to be met of the Consolidated Fund of the State on this count, on the enactment of the Bill as an Act of the State Legislature.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF THE
CONSTITUTION OF INDIA

(Copy Of Government of Maharashtra Order, Law and
Judiciary Department)

In exercise of the power conferred upon him by clause (3) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the consideration of the Maharashtra Unaided Private Professional Education Institutions (Regulation of Admissions and Fees) Bill, 2015.