

PART I
HARYANA GOVERNMENT
LAW AND LEGISLATIVE DEPARTMENT

Notification

The 10th September, 2012

No. Leg. 23/2012.—The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 6th September, 2012, and is hereby published for general information:—

HARYANA ACT NO. 18 OF 2012
THE HARYANA PRIVATE TECHNICAL EDUCATIONAL
INSTITUTION (REGULATION OF ADMISSION AND FEE) ACT, 2012

AN

ACT

to provide for regulation of admission and fee for technical courses run by a private technical educational institution in the State of Haryana and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Sixty-third Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. This Act may be called the Haryana Private Technical Educational Institution (Regulation of Admission and Fee) Act, 2012. Short title.

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

- (a) “aided technical educational institution” means a private technical educational institution, other than a minority institution including a university, receiving aid or grant-in-aid or assistance in whole or in part from the State Government or the Central Government or any other local authority;
- (b) “Committee” means a State Committee, constituted by the State Government under section 3 of this Act for regulation of admission and fee in private technical educational institution;
- (c) “common entrance test” means an entrance test conducted by the State Government or any agency authorized by it, or an all India test recognized by the State Government, for admission to a technical course run by a private technical educational institution;
- (d) “Council” means a statutory body by whatever name called, constituted under an Act of the Parliament for regulating a technical course;

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- (e) "Director General" means the Director General, Technical Education, Haryana;
 - (f) "fee" means all kind of fee chargeable by a private technical educational institution from student, by whatever name called, including inter alia admission fee, tuition fee, development charges, transport charges, hostel charges, mess charges etc;
 - (g) "management category" means a category of seats comprising such seats out of sanctioned intake of students in a private technical educational institution, as may be allocated by the State Government to the management;
 - (h) "minority institution" means a private technical educational institution established and administered by a minority;
 - (i) "minority" means a community declared as such by the State Government, by notification;
 - (j) "open merit category seats" means a category of seats except the seats allotted to management category;
 - (k) "private technical educational institution" means an institution offering a technical course and run by an individual, firm, company, association of persons, body of individuals, trust, society or any other legal entity and includes a private university established and incorporated by an Act of the Legislature or deemed to be university, defined under section 3 of the University Grants Commission Act, 1956;
 - (l) "qualifying examination" means an examination, passing of which is mandatory for a student to get admission to a technical course in a private technical educational institution;
 - (m) "sanctioned intake" means and implies the total number of seats notified by the competent authority for admitting students in each technical course of study in a private technical educational institution;
 - (n) "State Board of Technical Education" means State Board of Technical Education established under section 6 of Haryana State Board of Technical Education Act, 2008 (Act No.19 of 2008);
 - (o) "State Government" means the Government of the State of Haryana in the Administrative Department of technical education;
 - (p) "technical course" means a course of study recognized and prescribed by the All-India Council for Technical Education,

Pharmacy Council of India or Council of Architecture and also includes all such other courses as the State Government or Central Government may declare by an order to be a technical course.

CHAPTER II

THE COMMITTEE

CONSTITUTION, FUNCTIONS, POWERS AND DISQUALIFICATION

3. (1) The State Government shall constitute a committee for regulating admission and fee charged for a technical course by a private technical educational institution in the State of Haryana consisting of following, namely:-

Constitution of committee.

- (i) a Chairperson, who shall be a retired Judge of Hon'ble Supreme Court / Hon'ble High Court or former Vice Chancellor of a University or has experience in public administration at senior position;
- (ii) Director General Technical Educational (ex-officio) Member Secretary;
- (iii) a Chartered Accountant of repute as member;
- (iv) a person having wide experience in the administration of Technical Education as member;
- (v) an academician not below the rank of Professor in Engineering or Management as member.

4. (1) The Chairperson and Members of the Committee shall be appointed by the State Government.

Appointment of Chairperson and Members and their terms and conditions.

(2) The Chairperson and Members except ex-officio Member shall hold office for a period of three years or till the attainment of age of seventy years whichever is earlier and, in case of any vacancy arising earlier on account of resignation or removal or attaining the age of 70 years or otherwise, the State Government may fill such vacancy for the remaining period of the term.

(3) The terms and conditions of the appointment of the Chairperson and Members other than ex-officio Member shall be such as may be prescribed.

5. The Chairperson and the member may resign from his office by giving a notice in writing under his hand addressed to the State Government.

Resignation.

6. No act or proceedings of the Committee shall be deemed to be invalid merely by reason of any vacancy in, or any defect in the constitution of the Committee.

Vacancy not to invalidate proceedings.

Disqualifications.

7. No person shall be eligible for appointment or continue as a Chairperson or member, if he,-

- (i) has been associated with a private technical educational institution; or
- (ii) has been declared by the competent court to be of unsound mind; or
- (iii) is an undischarged insolvent; or
- (iv) has been convicted by any court for an offence involving moral turpitude.

Removal of
Chairperson
and members.

8. The Chairperson or any member of the Committee may be removed by the State Government before the expiry of his term, if he performs any act, which, in the opinion of the Government is unbecoming of the Chairperson or a member of the Committee:

Provided that the Chairperson or a member shall not be removed by the State Government, without giving an opportunity of being heard.

Members of
Committee,
officers and
employees to be
public servants.

9. The Chairperson, members, officers and employees of the Committee while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

Functions.

10. Notwithstanding anything contained in any other State law for the time being in force, the Committee shall regulate the admission process and the fee structure for a technical course in a private technical educational institution in the State of Haryana and the matters connected therewith and incidental thereto.

Powers.

11. (1) The Committee shall have powers to,-

- (i) require any private technical educational institution to place before it, the proposed fee structure for such institution along with all the relevant documents and the books of accounts;
- (ii) verify whether the fee structure proposed by such institution is justified;
- (iii) approve the fee structure for such institution or determine a different fee which shall be charged by such institution for different courses run by it :

Provided that the Committee shall also approve the fee structure for technical courses run by the aided technical educational institution in case the said institution is not receiving any aid for the said course.

(2) The Committee may frame its own procedure for the conduct of its proceedings.

(3) The fee structure so determined by the Committee shall be binding on the private technical educational institution for a period of three years and the same fee shall continue further if the private technical educational institution does not approach the Committee for revision.

(4) The fee determined by the Committee shall be applicable to a student who is admitted in a technical course in an academic year and shall not be revised for him till the completion of his course in that private technical educational institution.

(5) A private technical educational institution shall not be allowed to charge or collect any fee other than the fee determined by the Committee under sub-section (1) and shall not be allowed to collect the fee at a time, more than the fee of one term from a student in an academic year.

12. (1) The Committee, for the purpose of making inquiry under this Act, shall have same powers as a Civil Court under the Code of Civil Procedure, 1908 (Act No. 5 of 1908) while trying a suit, in respect of the following matters, namely:-

Power of making inquiry.

- (i) summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) requiring the discovery and production of any document(s);
- (iii) receiving evidence on affidavit; and
- (iv) appointing Commission for examination of witness or for local inspection;

(2) Any proceeding before such Committee shall be deemed to be judicial proceeding for the purpose of section 196 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

CHAPTER III

ADMISSIONS

13. (1) The Committee shall regulate the admissions in a technical course run by a private technical educational institution, made on the basis of the merit secured by the student in the Common Entrance Test or by any other method prescribed by the Government.

Admission, eligibility, allocation of seats, manner of admission, minimum qualifying standard for admission.

(2) The eligibility for admission to a technical course in a private technical educational institution shall be such as may be decided by the State Government.

(3) The State Government may, by order, allocate seats for management category out of sanctioned intake, in private technical educational institution, other than minority institution.

(4) A private technical educational institution-

(i) shall make admission to a technical course under the open merit category, on the basis of the Common Entrance Test or the procedure as may be prescribed by the State Government; and

(ii) may make admission to a seat under the management category, by directly receiving applications from persons who have passed qualifying examination and after following a transparent process of determining inter-se merit or any other method, as may be prescribed by the State Government for a private technical educational institution or category of technical courses or category of such institutions.

(5) No student shall be admitted in a technical course unless he fulfills the eligibility criteria including the minimum qualifying marks as prescribed by the State Government.

Void admission.

14. Every admission to a technical course in a private technical educational institution shall be made in accordance with the provisions of this Act or the rules made thereunder and every admission made in contravention thereof, shall be void.

Reservation of seats.

15. The State Government may, direct a private technical educational institution to make reservation of seats in admission to various technical courses in the manner, as may be prescribed from time to time.

CHAPTER IV

FIXATION OF FEE

Fee.

16. (1) Every private technical educational institution shall propose its fee structure for each course separately on the basis of the guidelines issued by the Committee and the proposed fee structure shall be examined, approved and regulated by the Committee and the same shall be binding on such institution.

(2) Different fee structure may be determined for different courses and for different institutions.

(3) In case a private technical educational institution does not propose its fee structure, the provisional fee structure as decided by the Committee shall be applicable to such institution.

17. (1) The fee shall be so fixed as to recover the actual cost of imparting education on recurring basis. While assessing the fee, inter-alia, the following expenses are to be taken into account, namely:-

Factors for determination of fee.

- (a) establishment cost of faculty and supporting staff;
- (b) operation and maintenance charges;
- (c) fee charged by Council, affiliating university and Haryana State Board of Technical Education;
- (d) development fee to serve the following purposes, namely:-
 - (i) laying and up-gradation of infrastructure;
 - (ii) betterment and growth of the institution; and
 - (iii) special amenities to the students;
- (e) other miscellaneous charges, such as hostel fee, mess charges and transport charges, etc.:

Provided that services and facilities such as hostel, mess and transport shall be provided on no profit no loss basis.

(2) Before determining fee, the private technical educational institution, parents or guardians and representatives of students already studying therein shall be given a reasonable opportunity to express their view point in writing with respect to the determination of fee.

18. No private technical educational institution shall charge or collect or cause to be charged or collect capitation fee on its behalf from any student or his relative in consideration of his admission to or continuance in any technical course of study in such institution.

Prohibition of capitation fee.

CHAPTER V

MAINTENANCE OF ACCOUNTS BY INSTITUTION

19. (1) Every private technical educational institution shall maintain accounts on the basis of accounting principles applicable to non-business organization, not for profit organization that is it shall keep the accounts on "Fund Based Accounting", under accrual basis of accounting.

Maintenance of accounts.

(2) A private technical educational institution may charge development fee not exceeding fifteen percent of the total amount of tuition fee.

The development fee shall be treated as capital receipt and shall be collected only if the institution maintains the "Depreciation Reserve Fund" equivalent to the depreciation charges in the revenue accounts.

(3) The society, trust, organization, association of persons, company, firm or any legal entity owning the private technical educational institution shall be required to maintain separate accounts for the society, trust, organization, association of persons, firm and the institution, as the case may be. If the society, trust, organization, association of persons, company, firm or any legal entity owning the private technical educational institution, is running more than one institution, then separate accounts shall be maintained for each institution.

CHAPTER VI

MISCELLANEOUS

Act to have
overriding effect.

20. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.

Action for
contravention of
provisions of
Act.

21. (1) Where the Director General, on receipt of any complaint or otherwise, is satisfied after due inquiry, that a private technical educational institution has charged capitation fee or fee in excess of the fee determined by the Committee, it may-

- (i) direct the concerned institution to refund the capitation fee or the fee charged in excess of the fee determined by the Committee, as the case may be;
- (ii) direct the concerned institution to refund the fee in case where the student withdraws from the course as per norms of Council /State Government;
- (iii) recommend to the State Government, university concerned or Council or the statutory authority for taking appropriate action against such institution.

(2) Before taking any action or passing an order, the Director General shall provide a reasonable opportunity of being heard to the private technical educational institution.

Imposition of
fine.

22. (1) Where the Director General, on receipt of any complaint or suo-motu, is satisfied after due inquiry, that a private technical educational institution has contravened or violated any of the provisions of this Act or the rules made thereunder, then a fine of rupees five lakh shall be imposed on such institution and for every subsequent violation of this Act a fine of rupees ten lakh shall be imposed which if not paid, shall be recoverable as arrears of land revenue.

(2) Before taking any action or passing an order under sub-section (1) above, the Director General shall provide a reasonable opportunity of being heard to such institution.

23. Any person or private technical educational institution aggrieved by any direction or order passed under sections 21 or 22 of this Act, may file an appeal to the State Government within a period of thirty days from such order or direction.

Appeal.

24. No civil court shall have jurisdiction to entertain and try any suit or proceedings in respect of anything done, action taken or order or direction issued by the State Government, Committee, Director General, or its officers in pursuance of powers conferred by or in relation to any of the functions under this Act.

Bar of
Jurisdiction.

25. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act or the rules made thereunder, to any Institution or the Committee or the officer or official connected with the affairs of the Committee, as it may deem fit, for the purpose of carrying out the provisions of this Act, rules or orders made thereunder and the Institution or the Committee or the officer or official shall be bound by such direction.

Power to give
directions.

26. The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

27. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order to be published in the Official Gazette, make such provision or give such directions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

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

28. No suit, prosecution or other legal proceedings shall lie against the State of Haryana or any officer of the State Government or the Committee, for anything which is done in good faith or intended to be done under this Act.

Protection of
action taken in
good faith.

29. From the date of the commencement of this Act, all executive instructions issued by the State Government in respect of admissions and fee regulation in all private technical educational institutions except minority institutions of the State of Haryana shall stand superseded:

Supersession
and savings.

Provided that notwithstanding such supersession anything done or action taken under the instructions shall be deemed to have been done or taken under the provisions of this Act and shall remain in force till the Committee constituted under this Act modifies the same.

MANJIT SINGH,

Secretary to Government, Haryana,
Law and Legislative Department.