



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष १, अंक १७(४)]

बुधवार, एप्रिल ८, २०१५/चैत्र १८, शके १९३७

[पृष्ठे १९, किंमत : रुपये २७.००

असाधारण क्रमांक ३९

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 consideration of the Maharashtra Unaided Private Professional Education Institution (Regulation of Admission and Fees) Bill, 2015 (L. A. Bill No. XXIV of 2015), introduced in the Maharashtra Legislative Assembly on the 8th April 2015, is hereby published under the authority of the Governor.

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

M. A. SAYEED,
Principal Secretary and R.L.A. to Government,
Law and Judiciary Department.

L. A. BILL No. XXIV OF 2015.

A BILL

to provide for Regulation of Admissions and Fees by Unaided Private Professional Education Institutions in the State of Maharashtra and for matters connected therewith and incidental thereto.

WHEREAS it is expedient to provide for regulation of admissions and fees by Unaided Private Professional Education Institutions in the State of Maharashtra and for matters connected therewith or incidental thereto ; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :—

CHAPTER—I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Unaided Private Professional Education Institutions (Regulation of Admissions and Fees) Act, 2015. Short title, extent and commencement.

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

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

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

(a) “Admission Regulating Authority” means the Authority constituted by the State Government under section 7 for regulating the admissions in unaided Private Professional Education Institutions and conducting CETs ;

(b) “appropriate authority” means the authorities declared by the State or Central Government which approves and regulates 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 institute.

(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 the Government and Private Professional Education Institutions ;

(f) “Director” means the Director of Higher Education or Technical Education or Director of Medical Education and Research or Director of any other Directorate or Commissioner of any Commissionerate of the State Government, entrusted with the task of Supervision of the Private Professional Education 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 Education 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) “Fee Regulating Authority” means the authority constituted under section 11 for determination and regulation of fee in unaided private professional Education Institutions ;

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

(j) “Government” means the State Government ;

(k) “lateral Entry” means admission of students in 2nd year of the course against seats which will be 20% or more of the sanctioned intake of first year of such course as per the guidelines of the appropriate authorities ;

(l) “management” means managing committee or the governing body, by whatever name called, of the Private Professional Education 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 an Private Professional Education 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 ;

43 of
1961.
42 of
1999.

(n) “Non-Resident Indian (NRI) ” means a person who is “not ordinarily resident” under sub-section (6) 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 ;

57 of
1955.

(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 ;

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

3 of
1956.

(q) “Private Professional Education 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 any such institution established, maintained or administered by the Central Government, any State Government , any local authority or institution declared to be a deemed university under section 3 of the University Grants Commission Act, 1956, unaided privately owned and managed education institute which imparts professional education other than deemed university and a university to which the provisions of the UGC (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 Admission Regulating Authority under section 7 or the Fee 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 Education Institution ; at appropriate level of entry ;

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

(x) “unaided institution” means any privately managed Professional Education Institution, which is not receiving aid or grant-in-aid from 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.

3 of
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 Education 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 Education Institution unless the student possesses such educational or equivalent qualification as may be prescribed.

(3) Unaided Private Professional Education 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 Private Professional Education Institution shall be carried out in the following manner :—

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

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

(b) Admissions to such institution shall be carried out by the competent authority through the Centralized Admission Process by conducting Common Entrance Test ;

(c) The Competent Authority shall supervise and guide the entire Centralized Admission Process of the students with a view to ensuring that the process is fair, transparent, merit-based and non-exploitative.

Invalid
admissions
made in
violation of
the provisions
of this Act.

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

Mah.
XXX of
2006.

6. (a) The allocation of seats under different categories in an unaided Private Professional Education 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.

Allocation
and
reservation of
seats.

(b) In an unaided Minority Educational Institution, the admissions shall be done 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 :

Provided that, if any seats earmarked for the minority category in an unaided minority Professional Education Institution remain to be filled in a academic year or where the student 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 of the Common Entrance Test conducted by the Government :

Provided further that, if the seats remain unfilled even thereafter, then such unfilled seats shall be filled from the student belonging to the general category on the basis of merit of the Common Entrance Test conducted by the Competent Authority of the institution :

2 of
2005. 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 three consecutive years such institution shall be liable for action under section 12C of the National Commission for Minority Educational Institutions Act, 2004.

CHAPTER III

ADMISSION REGULATING AUTHORITY AND STATE COMMON ENTRANCE TEST CELL

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

Constitution
of Admission
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 of 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 reputed educationist who has worked as Vice-Chancellor of University | : | Member |
| (c) An expert of repute from the field of Professional Education | : | Member |
| (d) Director of Medical Education | : | Member |

- (e) Director of Technical Education : Member
 (f) Director of Higher Education : Member
 (g) Commissioner of Agriculture : Member
 (h) Commissioner of State CET : Member-Secretary.

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

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

(6) A member of the Admission Regulating Authority shall cease to be so, if 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 Admission Regulating Authority and the authority may adopt its own procedure by regulations, as it deem fit.

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 the Admission Regulating Authority, shall be five years from the date of their nomination and in the case of vacancy arising earlier for any reason, such vacancy shall be filled for the reminder period of the term.

(2) The Chairperson and members of the Admission 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 Admission 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 Admission Regulation Authority without giving him an opportunity of being heard.

(5) The salaries and allowances to be paid to the Chairperson and Members of the Admission 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 Admission Regulation Committee, if such person,—

(i) is holding any office, post or is in any way directly or indirectly connected or associated with any unaided Private Professional Education 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 discharge by him of his functions as a member ; or
- (vii) has such other disqualifications as may be prescribed.

(6) 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 Admission Regulatory Authority shall be,—
- (a) conducting and monitoring CET through CET Cell established under this Act ;
 - (b) verification of admission proposals and final approval thereof ;
 - (c) cancellation of admission if found contrary to the provision of this Act ;
 - (d) redressal of grievances from the Stake holders.

Functions, powers and procedure of Admission Regulating Authority.

(2) The Admission 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 Private Professional Education Institutes ;
- (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 Private Professional Education Institution that are unfair, non-transparent and exploitative and therefore invalid, after giving an opportunity of being heard to those who are likely to be adversely affected by its decision ;
- (iv) to recommend to the concerned affiliated University or Board for withdrawal of affiliation or recognition of the institution for admissions those are made in contravention of the Act.

(3) In the discharge of its functions, and, for the purpose of making any inquiry under this Act, the Admission 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 :—

- (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.

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

- (i) Every unaided Private Professional Education Institution shall submit the admission approval proposals to the concerned Directorate within 15 days from the cutoff date of admission.

(ii) Every institution shall submit such proposal certified by the concerned Directorate to the Admission Regulating Authority within time span of two months.

(iii) Every such proposal received from the institutions by Admission Regulating Authority shall be scrutinized and approved before the 31st January of every year.

(iv) Any grievances regarding admission shall be admitted before the authority and shall be decided within a fortnight and before the cutoff date.

(v) The Admission Regulating Authority shall have power to review its own order with reasons in detail.

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

(vii) The Admission 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 and working under control of the Admission Regulating Authority, of the rank of 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 Cell shall conduct a Common Entrance Test for admission of students to unaided Private Professional Education Institutions within the State of Maharashtra.

(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 the decisions in respect of conduct of the Common Entrance Test in a fair manner maintaining the required confidentiality. It shall appoint examiners, evaluators, moderators, assignment of software development required for the conduct of examination, evaluation and result processing, appointment of the service providers required for the conduct of the online or offline examination, 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 in the Common Entrance Test conducted by the State Common Entrance Test Cell followed by Centralized Admission Process of the State subject to the reservation policy of the State.

CHAPTER IV

REGULATION OF FEES

Fee
Regulatory
Authority.

11. (1) There shall be an Authority to be known as “the Fee 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 Authority established under this Act by the name aforesaid having perpetual succession and common seal and shall have power to acquire, hold, and dispose of 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,—

- (i) a retired Judge of High Court : Chairperson
- (ii) an eminent educationist who has worked as Vice-Chancellor of University : Member
- (iii) a Chartered Accountant of a repute who is a member of the Institute of Chartered Accountants of India, for a period of not less than ten years : Member
- (iv) a Cost Accountant of repute who is a member of the Institute of Cost and Works Account of India for a period of not less than ten years or a financial expert of repute : Member
- (v) An expert of repute from the field of Professional Education : Member
- (vi) Director of Medical Education : Member
- (vii) Director of Technical Education : Member
- (viii) Director of Higher Education : Member
- (ix) Commissioner of Agriculture : Member
- (x) One officer not below the rank of Joint Secretary : Member-Secretary.

(4) The members under clauses (i), (ii), (iii), (iv) and (v) of sub-section (3) shall be appointed by the Government.

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

(6) A member of the Fee Regulating Authority shall cease to be so, if 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 Fee Regulating Authority and the authority may adopt its own procedure, by regulations as it may deem fit.

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

(9) The Fee Regulating Authority shall by regulations, prescribe its procedure regarding scrutiny of admission proposals and grievance redressal mechanism as it deem fit.

Term of office and conditions of service of Chairperson and Members of Fee Regulating Authority.

12. The provisions of section 8 shall *mutatis mutandis* apply in respect of the Chairperson and Members of the Fee Regulating Authority.

Functions, powers and procedure of Fee Regulating Authority.

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

(i) to determine the reasonableness of fees levied by unaided Private Professional Education 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 ;

Mah. VI of 1988.

(ii) scrutiny and verification of fee proposals of the unaided Private Professional Education 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 Fee Regulating Authority may deem fit, for determining the professional course-wise expenses required to be made per student, for the unaided Private Professional Education Institutions in accordance with the mandatory guidelines of the appropriate authority concerned ; and

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

(2) In the discharge of its functions under sub-section (1), the Fee 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 Private Professional Education Institutions ;

(iii) redressal of grievances of the Stake holders.

(3) In the discharge of its functions, and, for the purpose of making any inquiry under this Act, the Fee 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 :—

5 of 1908.

(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.

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

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

Procedure to be adopted by Fee Regulating Authority.

(a) the Management of the unaided Private Professional Education Institution shall submit the details of the proposed fee along with 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 Fee 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 Fee Regulating Authority with the time-limit specified by the Authority, the fee structure as approved by the Authority and applicable during the previous academic year shall continue to apply ;

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

(d) after considering all the relevant factors, the Fee Regulating Authority shall approve the fees within a period 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 Fee Regulating Authority is not acceptable to the Institution, then within fifteen days from the date of communication it may file review application with detail reasoning before the Fee Regulating Authority for reviewing its decision. It shall be mandatory for the Fee Regulating Authority to decide such review application before 31st March of every year and shall communicate its decision to the concerned institution accordingly ;

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

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

(3) The Fee Regulating Authority shall indicate the different heads under which the fee shall be levied.

(4) Every Private Professional Education Institution shall display on its notice board, the course-wise fees as approved by the Fee Regulating Authority and on its website in Marathi and English, provided that, in case of linguistic minority institutions, 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 a fee amounting to more the one year fee from a candidate in an academic year and collection of more than one year

fee in an academic year shall be construed as collection of capitation fee and such institutions shall be liable to be proceeded against.

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

Factors for
determinat-
ion of fee
structure.

15. The Fee Regulating Authority shall determine the reasonableness of the fee structure proposed by every unaided Private Professional Education Institution, in respect of each professional course or group of courses, considering following factors,—

(i) the location (Urban/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 ;

(xi) 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 ;

(xii) depreciation or contribution for asset replacement fund ;

(xiii) rent of building or usage charges ;

(xiv) 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 programs or the Institute such as NBA, NABET, NAAC, etc. ;

(xv) rate of inflation ;

(xvi) any other relevant factor, as may be determined by the Fee 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 Education Institution ;
 - (ii) interest on deposits ;
 - (iii) grants from the State Government, Central Government and the University Grants Commission (if any) and other institutions.

(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 to 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

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

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 the both Houses of the State Legislature in the session immediately held thereafter. Audit.

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 and such be placed before each House of the State Legislature in the session held immediately thereafter. Report of activities of Regulating Authorities.

CHAPTER V

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, any wrongful activity 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 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 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 institute 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 of the Private Professional Education Institution, 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 concerned shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER VI

MISCELLANEOUS

Protection of
action taken
in good faith.

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.

Power of
State
Government
to issue
directions.

22. The State Government may issue such general or special directions to the authorities, consistent with the provisions of this Act and the rules made there under, 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.

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 make regulations.

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: Power to remove difficulty.

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.

(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.

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. 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. State of Maharashtra and Others (Civil Appeal No. 5041 of 2005, decided on 12th August 2005), it is necessary to regulate the admission process and charging of fees by the unaided Private Professional Education Institutions. Accordingly, the State Government has, 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 these authorities it is considered expedient to make a law in this behalf.

2. The Bill accordingly proposes to establish two Authorities for regulating the admissions and fees in unaided Private Professional Education Institution and conduct of Common Entrance Test through Centralized Admission Process.

3. Hence this Bill.

Mumbai,

Dated the 7th April 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 1 (3).—Under this clause, power is taken to the State Government, to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force

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

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

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

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

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

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 Admission Regulating Authority and Fee Regulating Authority. It would be necessary to provide for the salaries and allowances of the Chairpersons and Members of the said Authorities. However, at present it is not possible to ascertain the exact amount of the expenditure likely to be incurred in this behalf. However, the certain recurring and 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 Educational Institutions (Regulation of Admissions and Fees) Bill, 2015.