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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 7th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 2 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 7th March, 2008).

AN ACT

to make special provision for regulation of admission in the professional technical educational colleges or institutions in the State and fixation of fees in such colleges or institutions and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007.

Short title
and
commence-
ment.

(2) 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 Committee" means the Admission Committee constituted in accordance with the provisions of section 4;
- (b) "aided college or institution" means a professional educational college or institution, including the University, run or managed by the trust, society or association of persons or organization, receiving financial aid or grant-in-aid from the State Government or the Central Government;
- (c) "Common Entrance Test" means the entrance test conducted for determination of merits of the candidates for the purpose of admission in the different professional courses;
- (d) "Fee Regulatory Committee" means the Fee Regulatory Committee constituted under section 9;
- (e) "Government college or institution" means a professional educational college or institution run and managed by the State Government;
- (f) "Government" means the Government of Gujarat;
- (g) "Government seats" means, -
 - (i) all the seats of the professional courses in the Government colleges or institutions and in the aided colleges or institutions; and
 - (ii) seventy-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions;
- (h) "Management seats" means twenty-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions including fifteen per cent. Non-Resident Indian seats;
- (i) "Non-Resident Indian seats" means fifteen per cent. seats reserved for children or wards or the dependents for the education purpose, of the Non-Resident Indian, to whom admission is to be given in the professional educational colleges or institutions;
- (j) "prescribed" means prescribed by the rules made under this Act;
- (k) "Professional courses" means, -
 - (i) Bachelor of Engineering and Technology and the Diploma in Engineering;
 - (ii) Bachelor of Pharmacy and the Diploma in Pharmacy;
 - (iii) Bachelor of Architecture and the Diploma in Architecture;

- (iv) Bachelor of Hotel and Tourism Management and the Diploma in Hotel and Tourism Management;
- (v) Master of Business Administration;
- (vi) Master of Computer Application; and
- (vii) such other courses as the State Government may, by notification in the *Official Gazette*, declare;

- (l) "Professional Educational College or Institution" means a college or an institution including the University imparting professional courses by whatever name called, leading to the award of a degree or diploma approved or recognised by the competent statutory authority;
- (m) "Unaided college or institution" means a professional educational college or institution including the University not receiving the financial aid or grant-in-aid from the State Government or the Central Government;
- (n) "University" means a University established under a law made by the Legislature of the State.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or any authority or in any agreement, all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of this Act. Admission in professional educational colleges or institutions.

(2) Any admission made in contravention of the provisions of this Act shall be invalid.

4. (1) The State Government shall, for the purpose of admission of students to the professional educational colleges and institutions, constitute one or more Admission Committees consisting of such number of members as may be prescribed. Different Committees may be constituted for the different professional courses. Constitution of Admission Committee.

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Admission Committee shall guide, supervise and control the entire process of admission of students to the professional educational colleges or institutions.

5. (1) For the purpose of admission in the professional courses, each Admission Committee shall prepare the merit list of students based on such criteria and in such ratio as may be prescribed. Preparation of merit list for admission.

(2) For the purpose of preparing the list of students for admission under sub-section (1), the authority or the body authorised by the State Government in this behalf, shall conduct the common entrance test in the manner as may be prescribed.

Provided that it shall not be necessary to conduct common entrance test for preparing merit list for the admission to such professional courses as may be prescribed.

Admission to Government seats and management seats.

6. The admission of students in the professional educational colleges or institutions shall be given in the following manner, namely, :-

- (i) all the Government seats shall be filled on the basis of merit list prepared by the Admission Committee; and
- (ii) the management seats to be filled by the management of the respective professional educational college or institution shall be on the basis of *inter-se* merit list of the students to be admitted against the management seats :

Provided that no student shall be admitted against the management seat unless his name appears in the merit list prepared by the Admission Committee :

Provided further that where any Non-Resident Indian seat remains vacant, such seat shall be filled in from the management seats:

Provided also that where any management seat remain vacant, such seat shall be filled in from the Government seats.

Minimum qualifying standard for admission.

7. No student shall be admitted in the professional course unless he fulfills the eligibility criteria including the minimum qualifying marks, as may be prescribed.

Reservation in admission.

8. The admission against the Government seats in each course in each professional educational college or institution shall be made in accordance with the reservation policy of the State Government.

Constitution of Fee Regulatory Committee.

9. (1) The State Government shall, for the purpose of determining the fees for admission of students in the professional educational colleges or institutions, constitute a Fee Regulatory Committee consisting of the following members, namely :-

- (i) a retired judge of the High Court nominated by the State Government, who shall be the Chairperson;
- (ii) ex-Vice-Chancellor, to be nominated by the State Government;
- (iii) the Commissioner or the Director, Technical Education, Gujarat State, or an officer of Education Department holding equivalent post, to be nominated by the State Government *ex-officio*, who shall be the Member-Secretary of the committee;

(iv) one member representing unaided professional educational colleges or institutions, to be nominated by the State Government; and

(v) a Chartered Accountant, to be nominated by the State Government;

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

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

10. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, the Fee Regulatory Committee shall determine the fee structure for admission of students in the professional courses. Different fee structure may be determined for admission of students in different professional courses and for different professional educational colleges or institutions.

Powers of
Fee
Regulatory
Committee.

(2) The Fee Regulatory Committee shall have power to, -

(a) require any unaided professional educational college or institution to place before it the proposed fee structure for such college or institution alongwith all the relevant documents and the books of accounts;

(b) verify whether the fee structure proposed by such college or institution is justified;

(c) approve the fee structure for such college or institution or determine other fee structure which shall be charged by such college or institution for admission of students in the professional courses.

(3) The fee structure so determined by the Fee Regulatory Committee shall be binding to the unaided professional educational colleges or institutions for a period of three years. The fee so determined shall be applicable to a student who is admitted to a professional educational college or institution in that academic year and shall not be revised till the completion of his professional course in that college or institution.

(4) The unaided professional educational college or institution shall not be allowed to charge or collect any fee other than the fees determined by the Committee under sub-section (1) and shall not be allowed to collect the fee at a time amounting to more than one term fee from a student in an academic year;

(5) (a) The Fee Regulatory Committee shall have powers for the purpose of making inquiry under this Act, of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely :-

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

(b) any proceeding before such committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

Factors for
determination
of fee.

11. (1) The Fee Regulatory Committee shall determine and fix the fee or fees to be charged by an unaided professional educational college or institution taking into consideration the following factors, namely :-

- (a) the location of the technical professional educational institution;
- (b) the nature of professional course;
- (c) the available infrastructure;
- (d) the expenditure on administration and maintenance;
- (e) the reasonable surplus required for the growth and development of the institution; and
- (f) such other factors, as the Committee may decide or as directed by the State Government.

(2) The fees to be determined by the Committee shall includes, -

- (i) the tuition fees;
- (ii) library fees;
- (iii) laboratory fees;
- (iv) computer fees;
- (v) caution money; and
- (vi) such other fees, as the Committee may decide or as directed by the State Government.

Prohibition of
capitation fee.

12. No capitation fee shall be charged or collected by or on behalf of an unaided professional educational colleges or institution or by any person who is in charge of or is responsible for the management of such college or institution from or in relation to any student in consideration of his admission to or continuance in, any professional course of study in such college or institution.

Other course of
action for
contravention of
provisions of Act.

13. (1) Where the Admission Committee, on receipt of any complaint or otherwise satisfied after due inquiry, that the unaided professional educational college or institution has given admission to a student in contravention of the provisions of this Act or has violated any of the provisions of this Act, it may, -

- (i) direct the concerned college or institution to admit the student as per the merit list in place of the student who has been admitted in contravention of the provisions of this Act;

- (ii) direct the concerned college or institution to refund the fee to the student so admitted in contravention of the provisions of this Act;
- (iii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

(2) Where the Fee Regulatory Committee, on receipt of any complaint or otherwise satisfied after due inquiry, that the unaided professional educational college or institution has collected the capitation fee or the fees in excess of the fee determined by the Fee Regulatory Committee under sub-section (1) of section 10, it may, -

- (i) direct the concerned college or institution to refund the fee so collected in excess of the fee determined by the Committee or the refund of capitation fee so collected;
- (ii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

14. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to rupees twenty lakhs. Penalties.

15. No court shall take cognizance of any offence punishable under this Act except on a complaint made by an officer authorized in this behalf by the State Government, by notification in the *Official Gazette*. Cognizance of offence.

16. All the members of the Committee and the officers and employees while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Members of Committee, officers and employees to be public servant.

XLV of 1860.

17. No suit, prosecution or other legal proceeding shall lie against any member of the Committee, officer or employee for anything which is in good faith done or purported to be done in pursuance of the provisions of this Act or any rules made there under. Protection of action taken in good faith.

18. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act, to any professional educational college or institution or to the Committee or the officer, as it may think fit in this regard, for the purpose of carrying out the provisions of this Act, rules or orders made thereunder and the professional educational colleges or institutions or the Committee or the officers shall be bound by such direction. Power of State Government to give directions.

Act to override other State laws. 19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.

Power of State Government to make rules. 20. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature, or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to remove difficulties. 21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order under sub-section (1) shall be made after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.