

No. 218/XXXVI(3)/2018/30(1)/2018

Dated Dehradun, May 02, 2018NOTIFICATIONMiscellaneous

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of '**The Uttarakhand Unaided Private Professional Education Institutions (Regulation Of Admission and Fixation of Fee) (Amendment) Act, 2018**' (Adhiniyam Sankhya: 26 of 2018).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 27 April, 2018.

**THE UTTARAKHAND UNAIDED PRIVATE PROFESSIONAL EDUCATION INSTITUTION
(REGULATION OF ADMISSION AND FIXATION OF FEE) (AMENDMENT) ACT, 2018**

(Uttarakhand Act No. 26 of 2018)

An

Act

further to amend the Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006

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

- | | |
|-------------------------------------|--|
| Short title and commencement | 1. (1) This Act may be called the Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) (Amendment) Act, 2018. |
| | (2) It shall come into force at once. |
| Definition | 2. "Principal Act" mean the the Uttarakhand Unaided Private Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006 |
| Amendment of Section 3 | 3. Section 3 of the principal Act -

(i) in Clause (a), (e), (k), (l), (r) and (t) shall be substituted as follows, namely :- |

(a) "Admission and Fee Regulatory Committee" means the committee constituted by the State Government under section 4 for regulating the admissions, and determination and regulation of fee of private institutions excluding minority institutions.

(e) It is hereby Repealed.

(k) "Government seats" means such seats of private institutions as notified by the State Government;

Provided that such seats shall not exceed 50% of total seats in the course.

(l) "Management" means any person or body by whatever name called, managing or controlling the private institutions.

(m) "Minority" means community notified under clause (f) of section 2 of National Commission for Minority Educational Institutions Act 2004 (Act No 2 year 2005).

(ii) A new clause (mm) after clause (m) shall be inserted as follows namely-

(mm) "Minority Institution" means any institution established and managed by any minority person after obtaining no objection under subsection 4 of section 10 of the National Commission for Minority Educational Institutions Act 2004 (Act No 2 year 2005) or any institution declared by authority established by State Government or National Commission for Minority Education Institution for this purpose.

(iii) Clause (p), (r) and (t) shall be substituted as follows, namely :-

(p) "Private Institutions" means Unaided private professional higher educational institutions on which this Act applies.

(r) It is Hereby Repealed.

(t) "Reserved Seats" means the seats notified by the State Government as reserved in private institutions for Scheduled Castes, Scheduled Tribes and Other Backward Classes.

(iv) New clauses (z) (za) (zb) after clause (y) shall be inserted as follows, namely-

(z) "Authority" means The Appellate Authority constituted by the State Government under section 12 of the Act.

(za) "Scheduled Caste" means any caste specified as Scheduled Caste with respect to the State of Uttarakhand under Article 341 of the Constitution.

(zb) "Scheduled Tribe" means any tribe specified as scheduled tribe with respect to the State of Uttarakhand under Article 342 of the Constitution.

Amendment of
Section 4

4.

Sub section (2),(4),(5),(7),(8),(10),(11),(12), (13)(a) (14),(15) of section 4 of Principle Act shall be substituted as follows, namely :-

- (2) The committee shall come into force from the date of its notification and the term of office of the nominated members shall be 03 years from the date of nomination or until they attain 65 years of age, whichever is earlier;

Provided that the term of office of the Chairman of the The Admission and Fee Regulatory Committee shall be for a period of three years or until the attainment of age of 68 years whichever is earlier and in case of any vacancy arising earlier in the

Committee, for any reasons, the State Government shall fill such vacancy, not later three months from the date of occurrence vacancy, for the remainder of the term..

- (4) No person, who is associated with any private institution in any manner, shall be eligible for being as Chairman or a member of the Admission and Fee Regulatory Committee.

- (5) (i) The Chairman or a Member may, by writing under his hand addressed to the State Government, resign from the office of the Chairman or a Member, as the case may be, at any time.

(ii) The State Government shall remove a person from the office of the Chairman or a Member referred to in sub-section(i) if the person :-

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;
- (c) refuses to act or becomes incapable of acting;
- (d) has, in the opinion of the State Government, so abused the position of the Chairman or any Member as to render that person's Continuance in office detrimental to the public interest or the Chairman or any Member of the Committee shall be removed, if he performs any act, which in the opinion of State Government is unbecoming of Chairman or member of the Committee;

Provided that, no such Chairman or any member shall be removed by the State Government without giving him an opportunity of being heard;

- (7) Hereby Repealed.

- (8) The Committee shall also hear complaints with regard to admission in contravention of the procedure laid down by the Committee. The Committee, after obtaining the evidence and explanation from the management concerned may take decision that the private institution has violated the procedure prescribed for admission or not. The committee may impose penalties.

(10) The committee or any officer authorized by it shall have power to inspect at any stage of the process of admission. If the committee arrives at the opinion that the admission process conducted by the private institution contravenes the specified procedure, the committee, after giving an opportunity of being heard may, penalize the institution.

(11) It is Hereby Repealed.

(12) The Committee shall determine the fees for admission to professional courses of private institutions.

(13)(a) Before the commencement of the academic year, it shall be compulsory for every private institution to place before the committee the proposed fee structure of professional courses with all relevant documents and books of accounts for determination of fees.

The committee after considering all the documents placed before it, shall determine the fee within one month maximum.

In case the proposal for fixation of fee for professional courses is not placed before the committee, the private institution shall not run the course. Therefore the private institution shall not give admission in such course.

(14) The fee determined by the committee shall be applicable on the private institution for a period of three years. After the expiry of the period of three years, the institution would be at liberty to apply for revision. The fee so determined shall be applicable to a candidate who is admitted to an institution in that academic year and that fees shall not be revised till the completion of his/her course in the said private institution.

(15) The committee may enquire the following matters with regard to private institutions :-

- (a) Complaints with regard to collection of capitation fee.
- (b) Fee charged in excess of the fee determined.
- (c) Profiteering.
- (d) Violation of any of the provisions of this Act.

In all such cases, the committee, after obtaining evidence and the explanations from the management concerned may issue directions or forward appropriate recommendations including withdrawal of affiliation to concerned university or imposition of penalty by the State Government after necessary action.

**Amendment of
Section 5**

5.

Sub section (1) and (3) of section 5 of the Principle Act shall be substituted as follows, namely :-

(1) Having regard to the following :-

- (a) The location of the private institute;
- (b) The nature and requirements of the professional courses;
- (c) The cost of land and building;
- (d) The available infrastructure;
- (e) The expenditure on administration and maintenance;

- (f) A reasonable surplus required for growth and development of the professional institution;
- (g) Any other relevant factor;
- The Admission and Fee Regulatory Committee shall determine, in the manner prescribed the fee or fees to be charged by the private institutions.
- (3) The Committee may determine different fees in respect of different courses of professional education being offered at different institutions depending upon the factors as mentioned above and it may place similarity placed institutions in broad groups;
- Provided that the committee may fix higher fee to be collected by the private institutions from the non-resident Indian students for admission.

Amendment of Section 6 6. Section 6 of Principle Act shall be substituted as follows, namely :-

"No candidate shall be admitted to a private institution unless the candidate possesses such educational or equivalent qualification as may be prescribed;

Provided that the candidates who are not permanent residents of the State of Uttarakhand shall be eligible for admission only to fifty percent seats out of the total sanctioned intake in Private Institution."

Amendment of section 7 7. Section 7 of the Principle Act shall be substituted as follows, namely:-

"All Government seats shall be filled through a common entrance test and common counseling."

Amendment of section 8 8. Sub-section (1) and (3) of the section (8) of the Principle Act shall be substituted as follow, namely :-

(1) In an private institution, all seats other than the Government seats shall be filled through a Common Entrance Test and other common counseling.

(3) It is hereby Repealed.

Amendment of section 9 9. Section 9 of the Principle Act shall be substituted as follows, namely:-

"Private institution shall reserve seats for candidates belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes from out of the total sanctioned intake seats in such a manner as notified by the State Government;

Provided that where the seats reserved for the Scheduled Castes, Scheduled Tribes and Other Backward Classes in private institution are left unfilled due to non-availability of the candidates, the same shall be filled from the candidates belonging to the same category appeared in common entrance test in order of merit based on waiting list;

Provided further that if seats remain unfilled even thereafter, the same shall be filled by inviting applications again from the candidates of same category based on merit of Qualifying Examination;

Provided also that if seats of a private institution remain unfilled even thereafter due to non availability of candidates, such seats shall be filled from the students belonging to non-reserved categories in the order of merit based on waiting list, described in section 8 of this Act.

Amendment of section 10

10.

Section 10 of the Principle Act shall be substituted as follows, namely :-

"In case seats other than reserved seats, whether government and General seats or otherwise, remain unfilled due to non-availability of candidates through common entrance test and common counseling, such unfilled seats shall be filled from the candidates appeared in common entrance test in the order of merit based on waiting list;

Provided that if the seat or seats of a private institution remain unfilled even thereafter due to non-availability of candidates, the same shall be filled from the candidates of same category based on merit of Qualifying Examination by inviting applications again."

Amendment of section 12

11.

Section 12 of the Principle Act-

(i) sub-sections (1) and (2) shall be substituted as follows, namely :-

(1) The State Government shall appoint an Appellate Authority which shall consist of the following :-

- (a) A retired judge of High Court nominated by the State Government.
- (b) One Retired Government officer retired from a post not below the rank of Chief Secretary or equivalent nominated by the State Government.
- (c) One Eminent Educationist to be nominated by the Governor.

A person or private institution aggrieved by the order of Admission and Fee Regulatory Committee may file an appeal within a period of one month of receiving such order.

(2) The Authority shall come into existence from the date of its notification and the office of the nominated members shall be for a period of three years or until they attain the age of sixty-five years whichever is earlier;

Provided that the office of the Chairman of the Authority shall be for a period of three years or until the attainment of age of 68 years whichever is earlier and in case of any vacancy arising earlier in the Authority, for any reasons, the State Government shall fill such vacancy, not later three month from the date of vacancy, for the remainder of the term

(ii) New sub sections (3)(4)(5) and (6) after sub section (2) shall be inserted as follows, namely :-

(3) No act or proceeding of the Appellate Authority shall be deemed to be invalid by the reason merely of any vacancy in or any defect in the constitution of the Authority.

- (4) No person who is associated with any private institution in any manner shall be eligible for being as Chairman or a Member of the Authority.
- (5) (1) The Chairman or a Member may, by writing under his hand addressed to the State Government, resign from the office of the Chairman or, as the case may be, of the Member at any time.
- (2) The State Government shall remove a person from the office of the Chairman or a Member referred to in sub-section(1) if the person :-
- becomes an undischarged insolvent;
 - is convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude;
 - refuses to act or becomes incapable of acting;
 - has, in the opinion of the State Government, so abused the position of the Chairman or any Member as to render that person's Continuance in office detrimental to the public interest or the Chairman or any Member of the Authority shall be removed, if he performs any act, which in the opinion of State Government is unbecoming of Chairman or Member of the Authority;
- Provided that, no such Chairman or any Member shall be removed by the State Government without giving him an opportunity of being heard;
- (6) The Chairman shall preside over the meeting of the Authority and in absence of Chairman, the Authority shall choose one of its members for chairing that particular meeting and the Authority may adopt its own procedure as it deems fit.

**Amendment of
Section 13**

12.

Section 13 of the Principle Act shall be substituted as follows, namely:-

"If any person or private institution violates the provisions of this Act, the Admission and Fee Regulatory Committee or Appellate Authority may take one or more of the following action against such institution/person :-

- Direct the withdrawal of affiliation of such institution from the statutory body with which such institution is affiliated or recognized or direct the appropriate authority to withdraw the recognition of such institution.
- Direct the statutory body, university or board which grants degrees, diplomas or certificates to such institution to cancel the admission and registration of such students admitted in violation of this Act.
- Direct the institution to admit any students to whom admission has wrongly been denied due to non-compliance of the provisions of this Act.
- Impose financial penalties for each violation of the Act which shall not be less than Rupees ten lakh per violation and which shall be recovered by the State Government as arrears of land revenue;

(e) Impose penalty in case of charging fee in excess of prescribed fee by the concerned private institution which can be upto five to ten times of excess fee charged pre person/student. The minimum amount of penalty shall be 10 lac.

(f) Order the institution to refund to a student within such time as specified in the order, any amount received by it in excess of the fees fixed by the Committee or any amount received by way of capitation fee or any amount received for profiteering :

Provided that if the institution fails to refund the amount within the specified time to the student, the same shall be recoverable along with cumulative interest thereon at the rate of 12 percent per annum as an arrear of land revenue and paid to the student;

(g) Order the institution to stop admission or reduce the sanctioned intake in any professional course for such period as it may deem fit;

(h) All such directions or orders shall be binding on private institutions;

Provided that, before any action is taken as mentioned above, a reasonable opportunity of hearing shall be provided to such person or institution by the admission and fee regulatory committee and or appellate authority."

Amendment of
section 14

13.

Section 14 of the Principle Act shall be substituted as follows, namely:-

"The provisions of this Act shall have overriding effect notwithstanding anything inconsistent contained in any other Act."

Amendment of
section 17

14.

Section 17 of the Principle Act shall be substituted as follows, namely :-

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification or order, make such provisions which are not inconsistent with the provisions of this Act, as appears to be necessary or expedient, for removing the difficulties;
- (2) Every Order made under this section shall, as soon as may after it is made, be laid before State Legislative Assembly.

By Order,

MEENA TIWARI,
Principal Secretary.

Statement of Objectives and Causes

The Uttarakhand Unaided Private Professional Education Institutions (Regulation of Admission and Fixation) Act, 2006 Has been enacted by the State Legislative Assembly. In view of the practical difficulties in implementation of the Uttarakhand Unaided Private Professional Education Institutions (Regulation of Admission and Fixation) Act, 2006 and for setting up of equality, transparency and fairness in admission process, fees etc of private professional educational institutions, the relevant amendments in the said act has become necessary.

2- Said bill fulfill the above objectives.