

PUNJAB VIDHAN SABHA

Bill No. 56-PLA-2016

**THE PUNJAB REGULATION OF FEE OF UNAIDED EDUCATIONAL
INSTITUTIONS BILL, 2016**

A
BILL

to provide for the constitution of Regulatory Body with a view to provide a mechanism for the purpose of regulating fee of un-aided educational institutions in the State of Punjab and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Sixty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Punjab Regulation of fee of Un-aided Educational Institutions Act, 2016. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

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

(a) 'academic year' means a period of twelve months prescribed as such, and different academic years may be prescribed for different classes of institutions ;

(b) 'affiliation' means inclusion of the name of an institution in the approved list of affiliated institutions with the Punjab School Education Board or any other such board or authority, approved and authorized by the Central Government for admitting it to the privileges of the said board or authority ;

(c) 'appropriate authority' means,—

(i) in the case of an unaided educational institution recognized or to be recognized by an authority, authorized by the State Government, that authority ; and

(ii) in the case of an unaided educational institution recognized or to be recognized by an authority, authorized by the Central Government, that authority ;

- (d) 'Regulatory Body' means the Regulatory Body, constituted under section 3 ;
- (e) 'complaint' means an allegation made in writing to the Regulatory Body by a student studying in an Unaided Educational Institution or by his parents or guardians, as the case may be, containing a grievance of charging excessive fee or of doing or asking to do any other activity with a motive to gain financial benefit or profit by the Unaided Educational Institution ;
- (f) 'commercialization or profiteering or profit or financial gain' means an activity of charging fee by an Un-aided Educational Institution from any student or parents or guardians in excess of the fee, as fixed or increased under section 5 ;
- (g) 'fee' means any amount by whatever name it may be called, which is charged directly or indirectly by an Unaided Educational Institution for admission of a student for education to any standard of course of Study ;
- (h) 'Fund' means the Unaided Educational Institution Development Fund constituted under section 9 ;
- (i) 'Government' means the Government of the State of Punjab in the Department of School Education ;
- (j) 'local authority' means a Municipal Corporation, Municipal Committee, Notified Area Committee, Town Improvement Trust, Panchayat Samiti or Gram Panchayat or any other authority entrusted with their functions under any law for the time being in force ;
- (k) 'minority institution' means an educational institution established and administered by minority whether based on religion or language having the right to do so under clause (1) of article 30 of the Constitution of India ;
- (l) 'prescribed' means prescribed by rules made under this Act by the Government ;

- (m) 'section' means section of this Act ; and
- (n) 'Unaided Educational Institution' means an affiliated private school, established and administered by any person or body of persons, imparting education up to 10+2 level including a minority institution which does not receive any aid from the Government, but does not include,—
- (i) an aided school ; and
- (ii) a school established and administered or maintained by the Central Government or State Government or any local authority.

3. (1) There shall be constituted a Regulatory Body to be known as the Regulatory Body for Regulating Fee of Un-aided Educational Institutions at the Divisional Level in the State of Punjab to exercise the powers conferred upon and perform the functions assigned to it under this Act.

Constitution of
Regulatory Body.

(2) The Regulatory Body shall consist of the following, namely :—

- (a) Divisional Commissioner of the .. Chair-Person
concerned division ;
- (b) Circle Education Officer of the .. Member-
concerned division ; Secretary
- (c) District Education Officer .. Member
(Secondary Education) posted
at the concerned Headquarter
of the division ;
- (d) District Education Officer .. Member
(Elementary Education) posted
at the concerned Headquarter
of the division ;
- (e) Two members, to be nominated .. Nominated
by the Government from amongst members
the eminent educationists of the
concerned division ;

- (f) One member, to be nominated by the Divisional Commissioner from amongst the Deputy Controllers (Finance and Accounts) or Assistant Controllers (Finance and Accounts) working in the concerned division. Nominated member.

(3) The nominated members referred to in sub-section (2), shall be paid such remuneration and travelling allowance for attending the meeting of the Regulatory Body, as may be prescribed.

Headquarter of the Regulatory Body.

4. The office of the Regulatory Body shall be located at the Headquarter of the concerned Division.

Power to fix and increase fee.

5. An Unaided Educational Institution shall be competent to fix its fee and it may also increase the same after taking into account the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students :

Provided that while fixing or increasing fee, the factors mentioned in sub-section (1) of section 6, shall be kept in view by the Unaided Educational Institution :

Provided further that increase in fee shall not exceed eight per cent of the fee of the previous year, charged by the Unaided Educational Institution :

Provided further that while fixing or increasing fee, an Unaided Educational Institution cannot indulge in profiteering and it cannot charge capitation fee.

Factors to be taken into consideration for fixing or increasing fee.

6. (1) For fixing or increasing fee structure by an unaided educational institution, the following factors shall be kept in view, namely :—

- (a) the infrastructure and facilities available or to be made available in the Unaided Educational Institution ;
- (b) the investment made and salaries paid to the teachers and staff ;
and

(c) future plans for expansion and betterment of institution, subject however, to the restrictions of non-profiteering and non-charging of capitation fee.

(2) The fee fixed under sub-section (1), shall be displayed by every Unaided Educational Institution at the conspicuous place in the School premises.

(3) The Unaided Educational Institution shall also ensure that the fee or funds charged by it from the parents or guardians, are not diverted from such institution to the society or the trust, as the case may be, which runs such institution or to any other institution, except as permissible under sub-section (4) of section 10.

7. Subject to the provisions of this Act, the Regulatory Body shall exercise the powers and discharge the functions as mentioned below :—

Powers and
functions of
the Regulatory
Body.

(a) to hear complaints from the students or their parents or guardians with regard to the charging of excessive fee or for doing or asking to do any other activity with a motive to gain financial benefit or profit in contravention of the provisions of this Act by any Unaided Educational Institution ;

(b) to ensure that the Unaided Educational Institutions are not indulging in commercialization of education ;

(c) to check that the fee structure is being kept within the limits as provided under this Act so as to avoid profiteering ;

(d) to strike a balance between autonomy of an Unaided Educational Institution, and measures to be taken in avoiding commercialization of education ;

(e) to check excessive hike in fee by an Unaided Educational Institution with the motive to earn profit ;

(f) to ensure that increase in the fee undertaken by an Un-aided Educational Institution is justified and necessitated by the circumstances like increase in expenditure or because of needed developmental activities, and does not result into profiteering ;
and

(g) to check that funds charged from the students are not diverted to any other purpose, except as permissible under sub-section (4) of section 10.

Jurisdiction of the Regulatory Body.

8. Notwithstanding anything contained in this Act, the Regulatory Body may, if on information is satisfied that an Un-aided Educational Institution has contravened or is contravening any of the provisions of this Act, it may call for the relevant record of such Unaided Educational Institution in order to verify the information.

Constitution of Fund.

9. (1) Every Unaided Educational Institution shall constitute a Fund, to be called the Unaided Educational Institution Development Fund.

(2) The following shall be credited to the Fund, namely :—

(a) fee ;

(b) charge ;

(c) funds ;

(d) any other charge or sum, which may be realized by the Unaided Educational Institution for any purpose ; and

(e) any contributions, endowments or gifts received by the Un-aided Educational Institution.

Utilization of Fund.

10. (1) The fund shall be utilized for the betterment and development of the concerned Unaided Educational Institution.

(2) The Fund or any profit accrued therefrom shall not be used for any personal gains or business or enterprise by the Un-aided Educational Institution.

(3) The Fund can be used by the Un-aided Educational Institution for the activities, which are beneficial to the students.

(4) No amount whatsoever shall be diverted from the Fund by the Unaided Educational Institution to the Society or the Trust or any other institution, except under the management of the same Society or Trust.

11. (1) Any student studying in an Unaided Educational Institution or his parents or guardians, as the case may be, may make complaint to the Regulatory Body with regard to any excessive fee or charge being charged or for doing or asking to do any other activities with a motive to gain financial benefit or profit by the said institution. Complaint.

(2) The complaint referred to in sub-section (1), shall be accompanied by a self attested affidavit disclosing particulars of the concerned Un-aided Educational Institution alongwith the name and address of the complainant.

(3) Any complaint received under this Act, shall be scrutinized by the Regulatory Body within a period of fifteen days from the date of its receipt in accordance with the prescribed procedure, and it shall be finally decided within sixty days.

(4) If after scrutinizing a complaint under sub-section (3), the Regulatory Body finds any substance in it, the Regulatory Body shall give an opportunity of being heard to the concerned Un-aided Educational Institution before taking any final decision on such complaint.

12. The Regulatory Body shall, for the purpose of any enquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely :— Power to summon witnesses and take evidence.

(a) enforcing the attendance of any person or examining him on oath ;

(b) requiring the discovery and production of documents ;

(c) receiving evidence on oath by way of affidavits ; and

(d) issuing commission for the examination of witnesses.

13. (1) The Regulatory Body shall meet at such time and place as the Chairperson may decide. Procedure to be followed by the Regulatory Body.

(2) The Regulatory Body shall follow such procedure of working, as may be prescribed.

(3) All orders and decisions of the Regulatory Body shall be authenticated by the Member-Secretary or any other officer, authorized by him.

Penalties.

14. (1) If any Un-aided Educational Institution contravenes the provisions of this Act or the rules made thereunder, it shall be punishable with fine, which may extend to thirty thousand rupees in the case of an Un-aided Educational Institution of Primary Level, rupees fifty thousand in the case of an Un-aided Educational Institution of Middle Level, and rupees one lac in the case of an Un-aided Educational Institution of Secondary and Senior Secondary Level for each contravention.

(2) If an Un-aided Educational Institution contravenes the provisions of this Act or the rules made thereunder for the second time, it shall be punishable with fine, which shall be sixty thousand rupees in the case of an Un-aided Educational Institution of Primary Level, rupees one lac in the case of an Un-aided Educational Institution of Middle level, and rupees two lac in the case of an Un-aided Educational Institution of Secondary and Senior Secondary Level for each contravention.

(3) If an Un-aided Educational Institution contravenes the provisions of this Act or the rules made thereunder for the third time, then besides imposing penalty as mentioned in sub-section (2), the Regulatory Body shall direct the concerned authority to withdraw recognition or affiliation of such Un-aided Educational Institution.

(4) The Regulatory Body may direct the Un-aided Educational Institution to refund the fee in excess of the fee as displayed by such institution.

Appeal.

15. Any person or Un-aided Educational Institution aggrieved by any direction or order passed under this Act, may file an appeal to the Government within a period of forty five days from the date of passing of such order or direction.

Bar of jurisdiction
of civil courts.

16. No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter, which is by or under this Act is required to be settled, decided or determined by the Regulatory Body.

Protection of
actions taken in
good faith.

17. No suit, prosecution or other legal proceedings shall lie against the Chairperson or any member of the Regulatory Body or any officer or other employee or any person acting under the direction either of the Government or of the Regulatory Body, in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules or order made thereunder.

18. (1) Every Unaided Educational Institution shall maintain proper accounts of fee and charges, and also maintain other relevant record and prepare annual statement of account in such form, as may be prescribed. Accounts and audit.

(2) The accounts maintained under sub-section (1), shall be audited by a qualified Chartered Accountant.

19. Every Un-aided Educational Institution shall prepare, in such form and at such time for each academic year, as may be prescribed, its annual report by a qualified Chartered Accountant giving full account of its fees, received during the previous academic year, and forward a copy thereof to the Regulatory Body. Annual report.

20. The Government in consultation with the Chairperson shall provide such officers and employees, as may be decided by it to discharge the functions of the Regulatory Body under this Act. Staff of the Regulatory Body.

21. If any difficulty arises in giving effect to provisions of this Act, the Government may, by an order in writing, make such provision including any adaptation or modification of any provision of this Act, as appears to it, to be necessary or expedient for the purpose of removing the difficulty. Power to remove difficulties.

22. The Government may, from time to time, issue such directions to the Regulatory Body, as it may deem fit, for giving effect to the provisions of this Act and it shall be the duty of Regulatory Body to comply with such directions. Power to issue directions.

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

(2) Every rule made under this Act shall be laid as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter, 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.

STATEMENT OF OBJECTS AND REASONS

In the State of Punjab, excessive fees are being charged by the Private Unaided Educational Institutions from the students. Therefore, with a view to decrease the excessive financial burden on the parents of the students, the Hon'ble Punjab and Haryana High Court,—*vide* its order dated 9th April, 2013 passed in CWP 20545 of 2009 — Anti Corruption and Crime Investigation Cell *versus* State of Punjab & Others has given directions to establish a Regulatory Body/Mechanism to regulate the fees of these Institutions in order to secure the right to education as envisaged under article 41 of the Constitution of India.

At present, there is no law in the State of Punjab to regulate the fees of the afore-said Institutions. Therefore, in order to comply with the said orders/directions of the Hon'ble Punjab & Haryana High Court, the Punjab State Regulatory Body is being established in the State of Punjab by enacting a law in the public interest.

Hence The Punjab Regulation of Fee of Unaided Educational Institutions Bill, 2016, is being introduced in the Hon'ble House.

DALJIT SINGH CHEEMA,
Minister for Education,
Punjab.

FINANCIAL MEMORANDUM

There are remuneration and travelling allowance to nominated members for attending the meeting of the Regulatory Body as may prescribed in the Regulatory Authority/Mechanism in the State of Punjab. Budget provides for the financial year 2016-17 and so on the Punjab Regulation of Fee of Unaided Educational Institutions Bill, 2016.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 23 of The Punjab Regulation of Fee of Unaided Educational Institutions Bill, 2016 empowers to the State Government to make rules to carry out the purposes of this Act. The powers sought are necessary for the proper implementation of the provisions of the Act and are normal in nature.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH :
The 19th December, 2016

SHASHI LAKHANPAL MISHRA,
Secretary.

N.B.— The above Bill was published in the *Punjab Government Gazette (Extraordinary)*, dated the 19th December, 2016 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly)