

## Note on abolition of capitation fee in private institutions And taking action against such institutions

Collection of capitation fee is prohibited in Karnataka State. Action can be initiated against such institutions under the provisions of :

1. The Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 has come into force from 11.7.1983
2. The Karnataka Education Act, 1983 and Rules under the Karnataka Education Act

### **Important Provisions made under the Acts are as follows:**

The Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984

#### **Section 3 – Collection of Capitation fee prohibited :**

Notwithstanding anything contained in any law for the time being in force, no capitation fee shall be collected by or on behalf of any educational institution or by any person who is in charge of or is responsible for the management of such institution.

#### **Section 5 – Regulation of fees etc.**

- 5 (1) “It shall be competent for the Govt. by notification, to regulate the tuition fee or any other fee or deposit or other amount that may be received or collected by any educational institution or body of such institutions in respect of any or all class or classes of students.”
- 5(2) “No educational institution shall collect any fees or amount or accept deposits in excess of the amounts notified under sub section (1) or permitted under the proviso to section 3.
- 5(3) “Every educational institution shall issue an official receipt for the fee or capitation fee or deposits or other amount collected by it.
- 5(4) “All monies received by any educational institution by way of fee or capitation fee or deposits or other amount shall be deposited in the account of the institution in any Schedule Bank and shall be applied and expended for the improvement of the institution and the development of the educational facilities and for such other related purposes and to such extent and in such manner as may be specified by the government”.
- 5(5) “In order to carry out the purpose of such section (4) the Govt. may require any educational institution to submit their programs or plans of investment and development of the institution for the approval of the Govt.”

#### **Section 6 – Regulation of Expenditure and maintenance of accounts etc.,**

- 6(1) The Govt. may regulate the expenditure of the educational institutions and the maintenance of accounts by them in such manner as may be prescribed.

6(2) The Govt. may require such educational institutions to submit such returns or statements, as it may deem necessary for carrying out the purposes of this Act.

#### **Section 7 – Penalties :**

Whoever contravenes the provisions of this Act or the rules or orders made there under, shall on conviction be punishable with imprisonment for a term which shall not be less than three years but which shall not exceed seven years and with fine which may extend to five thousand rupees. Where the conviction is for an offence under section 3 or

section 5 the institution or the person convicted there under shall refund the money so collected in excess to the party from whom it was collected.

**Section 9 – Power to enter and inspect:**

- 9(1) Any officer not below the rank of a gazetted officer authorized by the State Govt., in this behalf, may at any time during the normal working hours of any educational institution enter such institution or any premises thereof or any premises belonging to the management of such institution if he has reason to believe that there is or has been any contravention of the provisions of this Act and search and inspect any record, accounts, register or other documents related to such institution and seize any such record, accounts, register or other documents or the purpose of ascertaining whether there is or has been such contravention.
- 9(2) In order to secure proper and effective utilization of the finances and resources or other assets of any educational institution in existence at the commencement of this Act it shall be competent for the Govt. to invoke the provisions of sub section (1) and ascertain such finances and assets of an institution and after such ascertainment to give such direction to the managements as they deem fit.
- 9(3) The provisions of the Code of Criminal Procedure 1973 (Central Act 2 of 1974) relating to searches and seizure shall apply, so far as may be, to searches and seizures under Sub-section (1).

**Section 10 – Application of the Act to Minority institutions :**

Nothing in this Act or the rules or orders made there under shall apply to any minority educational institution to the extent to which they are inconsistent with the rights guaranteed under Article 30 of the constitution of India.

**Section 11-Cognizance of offences :**

No court shall take cognizance of any offence under this Act except with the sanction of the Govt. or such officer as it may authorize in this behalf.

**Section 13-Protection of Act done in good faith:**

No suit prosecution or other legal proceeding shall be instituted against the Govt. or any officer authority or person empowered to exercise the powers or perform the functions by or under this act for anything which is in good faith done or intended to be done under this Act or under the rules or orders made there under.

**The Karnataka Education Act, 1983**

**Section 39 – Withdrawal of recognition :**

- 1(a) Withdrawal of recognition where any local authority or the Governing Council of any private educational institution – fails to fulfill all or any of the conditions of recognition** or fails to comply with the orders of the competent authority in regard to accommodation, equipments, syllabi, text books, appointment, punishment and dismissal of teachers.

**Section 51 – Money received from sources other than grant:**

- (1) Subject to any law for the time being in force any money received by way of voluntary donation from donors may be accepted by the institution or the Governing Council and the fact shall be intimated within 90 days from the date of such acceptance to the competent authority. Such money shall be deposited in the account of the institution in such Nationalised or Scheduled Bank as may be

approved by the State Government and be applied and expanded for the improvement of the institution and the development of educational facilities and for such other purposes as may be prescribed.

- (2) **Subject to any law for the time being in force no money shall be collected before, during or after admission of any person by any educational institution as a condition precedent to such admission except, towards the prescribed fees.**

**Section 125 : Penalty for collecting money in contravention of Section 51.**

**Where any educational institution is found to be collecting money in contravention of the provisions of the subsection (2) of section 51, every person, who at the time of such collection was in charge of and shall be responsible to the institution for its management shall, on conviction be punished with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees. On such conviction the institution shall refund the monies so collected to the person from whom it was collected.**

**State Govt. may stop the grant if the accounts are not maintained properly.**

**Section-53 : Power of State Govt. to withhold, reduce or withdraw grant:**

- 2(1) without prejudice to the generality of the provisions of sub-section (1) or any other provision of this Act, the State Government may after such enquiry as they may deem fit, withhold, reduce or withdraw any grant payable to any educational institution if the Governing Council of the institution concerned fails to fulfill all or any of the conditions of grant.

**Section-142 : Application of the Act to certain institutions:**

**Nothing in this Act or the rules made there under shall apply to any minority educational institution to the extent they are inconsistent with the rights guaranteed under Article 30 of the Constitution of India.**

**The Karnataka Educational institutions (Classification, Regulation and Prescription of Curricula etc.,) Rules 1985**

**Rule 10 – Collection of fees :**

- (1) The procedure for collecting fee in all classes from pre-primary upto the degree level in all recognized educational institutions shall be open, transparent and accountable.
- (2) The fees to be collected shall be classified as : a) Term fees b) Tuition fees c) Special development fees.

(3) (a) Term Fees:-

- i) No term fees shall be collected from pre-primary and lower primary students.
- ii) In upper primary and higher classes, term fees shall be collected at the rate specified by the State government or the competent Authority authorized in their behalf through a notification and shall be collected only for the items listed in the said notification.
- iii) Term fees collected by the recognized educational institutions for each term from the students shall be subject to exemption made by the State Government from time to time in this regard.

(b) Tuition fees

i) In case of Government and recognized private aided institutions tuition fees shall be collected only from the failed students at the rates specified by the State Government or the Competent Authority authorized in this behalf.

ii) In case of recognized private unaided institutions tuition fees may be collected from all the students, which shall be commensurate with the expenditure incurred towards salary of staff and the quality of education provided by the institution.

(c) Special Development fees : may be collected

i) In the case of recognized aided educational institution up to a maximum of Rs 300/- per year {This has been revised to Rs 500/- vide In the case of recognized aided educational institution up to a maximum of Rs 300/- per year {This has been revised to Rs 500/- vide Amendment in Notification No ED 4 Vivida 2001, Bangalore dated 5<sup>th</sup> July 2001.}

ii) In the case of recognized unaided educational institution up to a maximum of Rs 600 per year.

(4) Every recognized private educational institution shall maintain a brochure showing the details of items of fees and the amount of fees prescribed for each item. The same shall be displayed prominently on the notice board of the educational institution for the information of parents and students.

(5) The fees specified shall not be varied to the disadvantage of the parents in the middle of the academic year on any account.

(6) Details of the specified fee together with the brochure shall be sent to the Departmental Authorities for information. The specified fee may be collected in cash if the amount of fee is less than Rs. 1000/- and if such amount is Rs. 1000/-

and above, either by cash or demand draft at the option of the parent. It shall be the duty of the Head of the institution to issue official fee receipts for all fees received and it shall be delivered immediately on production of cash or Demand Draft as the case may be to the person making the payment. The receipt shall however be issued in the name of the student concerned.

- (8) The amount of fee collected under different items shall be accounted as per specified procedure ..... The Head of the institution shall be responsible for safe custody of funds, its proper accounting and for production of accounts for verification before the concerned authorities.

**Rule 13. Regulation of admission**

**Rule 14. Procedure of admission.**

**Rule 15. Violation of rules regarding admission, fees, or any provisions of the act or Rules by the Institution :**

Rule 15 (1) Any parent who is aggrieved by:

- (a) Violation of any of the provisions of these rules with respect to admission by the institutions.
- (b) Violation of any provisions of these rules with respect to collection of fees.

May file a petition in writing to the District Level Education Regulating Authority constituted under [Rule 16]

- (2) The District Regulating Authority may also suo-moto or on complaint made by any person interested orally or otherwise make an enquiry to satisfy themselves as to the correctness of the complaint and may pass as if may consider fit, after giving an opportunity to the party adversely affected by it an opportunity of making representation.

**Rule 16 Constitution and Functions of District Level Education Regulating Authority :**

(1) There shall be a District Level Education Regulating Authority (herein after called the Regulating Authority) for every district consisting of the following members namely:-

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|---|----------|
| (a) Deputy Commissioner of the dist       | Chairman |
| (b) Chief Executive Officer, ZP           | Member   |
| (c) Executive Engineer, ZP                | Member   |
| (d) Deputy Director PUE of district       | Member   |
| (e) Deputy Director of Public Instruction | Member   |

**Circular No c8(4) Admission/01/2001-02 dated 21.1.2002**

**In addition to the above provisions in the Acts and Rules a circular was issued vide No c8(4) Admission/01/2001-02 dated 21.1.2002 giving clear guidelines regarding the fee to be collected and procedures to be followed for the completion of admissions in private schools. Following of these instructions has to be ensured.**

**Proposal for setting up of Task Force Teams for monitoring the abolition of Capitation fee in Primary and Secondary schools**

The problem of violation of the provisions particularly the collection of donations is more in cities like Bangalore, Mysore etc. As the number of schools is very large in the cities in addition to the District Regulating Authority Special Task Force teams may be set up in bigger cities like Bangalore, Mysore, Hubli, Dharwar, Mangalore and Belgaum with selected departmental officers to look to the complaints in this regard.

Wide publicity may be given for the benefit of parents. The Task Force Teams may visit the institutions and give report to the District Regulating Authority and the DDPI for further action. For selected cities the Task Force Teams may be set up educational block wise. Such a team shall consist of a leader of EO cadre and two members of high school headmaster's cadre.

The Task Force Teams shall send weekly reports to the DPI (Pry. Edn.). The same shall be reviewed monthly at the state level and necessary guidance provided to the teams from time to time.