

*Government of Jammu and Kashmir,
Civil Sectt. Higher Education Department.
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Notification

Jammu, the Govt. G.O., 2005.

S.R.O. 339 :- In exercise of the powers conferred by Section 23 of the Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002; the Government hereby make the following rules, namely:-

1. **Short title and Commencement** :- (i) These rules may be called The Jammu and Kashmir Private Colleges(Regulation and Control) Rules, 2005.

(2) These Rules shall come into force with effect from the date of their publication in the Government Gazette.

2. **Definition** :- In these rules, unless the context otherwise requires :-

- (a) "Act" means the Jammu and Kashmir Private Colleges (Regulation and Control) Act, 2002;
- (b) "Administrative Department" means the Department of Civil Secretariat holding the administrative control of Higher Education Department;
- (c) "Inspecting Officer" means an officer of Higher Education Department who is nominated by the Administrative Department for the conduct of periodical inspection of Private Colleges.
- (d) "Managing Committee" means the Committee constituted by the educational agency for the management of the affairs of a Private College.
- (e) "Private Institution" means a College(aided or un-aided) established, run or maintained by any educational agency.

Words and expressions used in these rules but not defined shall have the same meaning as assigned to them in the Act.

3. Permission to establish a Private College : (1) No private College shall be established or run without permission in writing of the Competent Authority in terms of the provisions of these rules.

(2) The norms for assessment of a need for establishing a new private institution shall be :-

- (i) Manpower requirements of the State in the field of study;
- (ii) The area where establishment of such institutions shall prove more productive and useful to the society at large.

(3) It shall be the prerogative of the Government to grant permission to an Educational agency for opening any type of courses in a field of study in such institution and the decision of the Government on this subject shall be final. However, the Government reserves the right to revise, from time to time, the list of courses for which it can consider grant of permission to educational institutions.

4. Requirement for issuing permission :- (1) An Educational Agency intending to set up a College or an institution above 10¹² level shall have to satisfy the following requirements, before its case can be considered by the competent authority for grant of permission.

- (i) The educational Agency shall be a society consisting of at least five permanent residents of the Jammu and Kashmir State registered under the Section 4 of Societies Registration Act, Samvat 1948, or a trust managed by at least five permanent residents of Jammu and Kashmir State and registered by Sub-Registrar having jurisdiction over the area.
- (ii) A Certificate duly issued by the concerned District Magistrate (District Development Commissioner) to the effect that members of the Educational Agency, jointly or severally, have no involvement in anti-national/subversive activities;

Provided that there shall be no restriction to member/members of the political parties/social and cultural organizations having primary objective of social cause establishing such an institution.

- (iii) A Government employee or an employee of an autonomous organization shall not be entitled to run a private institution in his own name or in the name of his dependant family members.

- (iv) The educational agency must own in the name of the agency or member thereof, a plot of land with an area as required under the UGC norms and as notified by the University of Kashmir / Jammu vide notifications issued from time to time.
- (v) A building for the College with an appropriate plinth area/floor space for class rooms / laboratories / library / students services / staff room and office as may be required under the norms fixed by the universities of Kashmir and Jammu from time to time, has been raised on the plot of land required in terms of sub-rule (iv) above;

Provided that in case of non-availability of a building, the educational agency shall furnish accounts possessing and amount of Rs. 15.00 lakh or more, and an affidavit to the effect that the said amount shall be utilized for raising a building of appropriate specification before seeking affiliation from the affiliating University.

- (vi) The Educational Agency shall provide a perspective plan for creating residential facilities for students to be admit in the proposed Colleges on the Campus within five years of the establishment of such College.

(2) Following conditions shall also be adhered to by the educational agency for making it eligible for starting teaching facilities with the affiliation of University of Jammu / Kashmir.

- (i) The plot of land must be free from any encumbrances; and shall have a pucca motorable approach road;
- (ii) The plot of land must not be located in a commercial area or in an area with a high density of population;
- (iii) The plot of land, if it exists in the name of one or more member of the educational agency, shall vest in the society / trust duly registered and no member of the Society / Trust shall have the right to alienate his share without the common consent of all other members. Any contravention of rules in this regard shall render the institution established by the educational agency in eligible for continued recognition by the Education Department, and permission issued in its name shall be liable to be withdrawn in such an eventuality.
- (iv) Any action taken by the members of an educational agency regarding alienation for property or inclusion of new members shall be done with the permission of the competent authority;

- (v) The educational agency shall submit a Certificate from concerned Executive Engineer (Works) of the area to the effect that the construction of the building(s), preferably in two or three storeys, is of a standard material as such the building does not endanger the lives of the students and the staff of the proposed institutions;
- (vi) In case hired buildings are proposed to be used for housing the College during the first year of its life, the building shall have to be of such a standard as does not contravene the Municipal / Town area / Notified Area Committee regulations as the case may be;
- (vii) The building must have suitable amenities including separate toilets and common rooms for male and female students;
- (viii) Separate hostel buildings shall be arranged for male and female students;
- (ix) The Educational Agency shall also produce an affidavit signed by all the members to the effect:-

That furniture, books and equipments and teaching aids shall be in place before admissions are made ; and

That facilities for sports and other extra curricular activities shall be provided to the students as provided for University status for the relevant courses.

5. *Application for Seeking Permission* : (1) Any educational agency intending to start / upgrade a private institution shall apply to the competent authority in format "A" or "B" as the case may be annexed to these rules.

(2) The following conditions shall also be entertained: -

- (i) The site for the proposed institution is located within the State and it does not already serve as a campus for any other institution;
- (ii) An affidavit signed by the chairman of the educational agency to the effect that in case permission is granted by the Government in favour of the educational agency, the conditions mentioned in rules 9, 10, 11, and 12 shall be adhered to in letter and spirit.
- (iii) A Society / Trust can be allowed to set up only one institution for a particular course.
- (iv) In case it is found that a person is a member of another Society / Trust running an institution, the competent authority may not permit setting up of another such institution by the applicants.

6. **Conditions Regarding Affiliating and Accreditation :-** (1) The course of study for which permission is sought must be such as are offered for affiliation by Kashmir / Jammu Universities in their respective areas of jurisdiction or any other University established under an Act passed by the Jammu and Kashmir State Legislature with its seat within the territorial jurisdiction of the State;
- (2) Course of study offered with the affiliation of Indira Gandhi National Open University (IGNOU), New Delhi, or with accreditation from "Department of Electronics Accreditation of Computer Courses Society" (DOEACC Society), New Delhi and any other such autonomous organization approved by the government of India for the purpose shall also be considered for grant of permission.
7. **Procedure for Setting up of Institution for Different Courses :-**
- (1) Permission for setting up of institutions for different courses shall be granted by the competent authority after a preliminary inspection of the proposed site by a Committee to be constituted by the competent authority from time to time.
- (2) The Committee shall have three members of whom two shall be Principals of Government Colleges and the third member shall be an expert in the field of study for which permission is sought. These members shall be nominated by the Education Department.
- (3) The report of the Committee shall be examined by the competent authority, who may grant permission for setting up an Institution in a particular field / specialty after assessing the feasibility of the proposal and matters related thereto in terms of rules 3(2) and 3 (3).
8. **Grant of Permission for Establishment of College / Institution :-**
- (1) After processing the case for grant of permission to an educational agency in the Administrative Department, the competent authority shall decide upon the request and issue directions as may be found necessary.
- (2) The letter conveying the grant of permission of the government for setting up of an institution by an educational agency addressed to the Registrar of the affiliating University or manager (Accreditation) of DOEACC society shall be signed by an officer not below the rank of an Under Secretary / Administrative Officer.
9. **Conditions Regarding Admission :-** (1) The institution shall not admit students to the course for which affiliation is allowed by the University in excess of the intake capacity fixed by the Government or the affiliating University.
- (2) The admission shall be made by the affiliating University on the basis of merit or screening through an entrance test, as the case may be, in accordance with the relevant regulations of the affiliating University.

(3) The College shall not admit any student without the express permission of the affiliating University.

(4) The intake capacity of the institutions shall be revised after every three years on the basis of infrastructure development and faculty appointed by each institution over the preceding period of three years.

10. Fee Structure :- (1) The fees for admission to a course in any Educational Institution including tuition fee shall be charged at the rates not exceeding the fee structure to be fixed by a Fee Fixation Committee as may be constituted by the Government.

(2) A nominee of the affiliating University shall be associated by the Fee Fixation Committee in fixation of the fee structure under sub-rule (1).

(3) The Fee Fixation Committee for purposes of determination of fee structure shall take into account amongst other relevant factors the facilities available, infrastructure made available, the age of the institution, investment made, future plan of expansion and betterment of the educational standard etc.

Provided that the said Committee shall ensure that no capitation fee is charged by any institution and that there is no profiteering.

(4) The Fee fixation Committee shall seek views/suggestions of Educational Institution before fixing the fee structure for a course available in the said Institution.

(5) All the seats in an Institution shall be filled strictly in accordance with the merit determined by the affiliating University.

(6) In case of Institutions which have been granted the status of "Minority Institutions" the distribution of seats to be filled by the University and the Management shall be made in the prescribed manner.

(7) The Fee Fixation Committee may meet as often as may be necessary to determine the fee structure for the students to be admitted to a course in any institution and shall meet after every three years to revise the fee structure.

11. Appointment of Staff :- (1) An affiliated Institution shall appoint teaching and non-teaching staff in conformity with the standards of eligibility fixed by the affiliating University.

(2) The teaching staff and non-teaching staff shall be appointed on regular basis in numbers fixed by the affiliating University within three years of affiliation by the University.

(3) At least 70% teacher of an affiliated institute must not have attained the age of superannuation fixed by the Government.

(4) No Teacher or a member of non-teaching staff shall continue to hold an appointment in an affiliated institute beyond the age of 65 years.

(5) The number of adhoc teachers shall not be more than 30% of the total strength of teaching staff at any point of time.

(6) A teacher is working on adhoc basis for a period of three consecutive years in the same institute shall have a claim for being considered for regularization.

- (7) The selection of teachers shall be made by a duly constituted Selection Committee with one member each of Higher Education Department and the affiliating University, and one subject expert to be nominated by Dean Academics of the affiliating University; Principal of the institution shall be member secretary of the Selection Committee.;

Provided that the same person shall not be nominated as the subject expert for more three institutions;

Provided further that the Selection Committee shall be reconstituted after every two years.

- (8) Selection of teachers shall be preceded by the publication of a Notice in two leading English dailies of the State, inviting applications for teaching positions.
- (9) The appointment of teachers shall as a rule, be made from amongst the eligible permanent residents of State, who apply for the post.
- (10) There shall be no discrimination in matters of appointment of teachers on the basis of residence in a region / Division / District of the State.
- (11) The Selection Committee shall maintain the record note of the minutes of each meeting and the minute book shall remain in the custody of the Principal of the institute.

12. **Service Conditions of Staff** :- (1) The probationary period of teachers and other employees shall not ordinarily exceed two years. An employee on probation shall be deemed to have been confirmed upon the completion of probationary period satisfactorily, irrespective of the issuance of a formal order.
- (2) If for any reason the probationary period of an employee is proposed to be extended, the reason thereof shall be communicated to the competent authority by the managing committee, before the employee completes two years of service.
- (3) The managing Committee shall not terminate the services of an employee who has completed the probationary period except in accordance with the rules laid down for this purpose by the affiliating agency.
- (4) The managing Committee may take disciplinary action against any member of staff in terms of the rules laid down by the affiliating University. However, enquiry report shall be forwarded to the Registrar of the affiliating University before awarding any punishment.
- (5) Salary of the teaching staff shall be paid according to UGC or AICTE pay scales as adopted by the State Government.
- (6) Allowances to the staff shall be paid commensurate with basic pay according to the norms fixed by the affiliating agency.
- (7) An adhoc teacher shall be paid salary at the minimum of the pay scale for lecturers + allowances at rates paid to regular teachers.
- (8) A provision for CP Fund and Gratuity for the employees shall also be kept in the annual Budget of the institution.

- (9) The employees of an institution shall be entitled to benefits of leave as are applicable to their counterparts in Government Institutions.
- (10) Welfare measures for the staff as are provided under Labour Laws of the State shall be ensured by the management.
- (11) Complaints of harassment of the staff or gender bias against the management, if any, shall be looked into by Higher Education Department, and the Government shall, after due investigation into such complaints, fix punishment in the form of fine or withdrawal of permission according to the gravity of the charge.

13. Maintenance of Service Record and Accounts:-

- (1) The affiliated institution shall maintain attendance registers of students and staff and they shall be kept in safe custody for examination of the inspecting authority.
- (2) The affiliated Institution shall maintain a Service Book of each employee, and it shall remain in the custody of the Principal.
- (3) The affiliated Institution shall maintain Acquaintance Roll for payment of salary to staff.
- (4) The Institution shall carry out all financial transactions through Bank.
- (5) The Institution shall make all payments exceeding Rs. 500/- through cheques. Payment through cheques of amounts less than Rs. 500/- shall be optional.
- (6) The Institution shall maintain a Cash Book and also Ledgers for each head of account.
- (7) The Institution shall get the accounts audited at the end of each financial year by a Chartered Accountant.
- (8) The Institution shall prepare, annually, a Statement of Income and Expenditure and a list of the assets and liabilities, certified by a Chartered Accountant.

14. Grant-in-aid Institutions (1) Institutions covered under Government Order No. 53-Edu of 1975 dated 27/01/1975 and Rules 10-19 of the Jammu and Kashmir Financial Code (Vol. 1) shall continue to be eligible for grant-in-aid in terms of the said rules.

- (2) Continuation of grant-in-aid to the existing aided institutions shall be subject to the following conditions :-
 - (i) Fee shall be charged from students at rates fixed by the Government for Government Colleges from time to time. These institutions can, however, charge a limited amount of Rs. 500/- per student annually as Development Fund for the College.
 - (ii) Institutions charging tuition fee shall not be eligible for receipt of grant-in-aid from Government (as it is an indicator of the commercial proclivities of the management).

- (iii) Grant in -aid shall be commensurate with the actual staff in position.
- (iv) The organization shall not run any other institution in which tuition fee is charged.
- (v) The grant-in-aid institutions shall maintain standards of quality education, percentage of results, extracurricular activities and sports, and physical facilities, which shall be evaluated by the Government periodically.

15. Withdrawal of Grant-in -Aid Facility :- (1) The Government may withdraw the status of an aided institution as such in case it:

- (i) fails to conform to the standards expected of a grant-in-aid institution in terms of Rule 14 (2) supra and the Grant-in-Aid Rules issued under Government order No. 53-Fidu of 1975 dated 27/01/1975;
- (ii) adopts a policy of discrimination in making appointments of teachers and other staff on the basis of region, religion, or caste and colour;
- (iii) fails to maintain transparency in accounts;
- (iv) resorts diversion of grant-in-aid for purposes other than those for which it is released;
- (v) fails to maintain separate savings bank account in a branch of Jammu and Kashmir Bank for the receipt and utilization of Government Funds including grant-in-aid;
- (vi) fails to produce on the documents before the authority appointed for the purpose of inspection of the institution.

16. Deputation of Officers to Grant-in-Aid Institutions :-

(1) Government may, if it is found public interest, depute its own officer to head an aided institution in order to improve the working of such institution and, also depute accounts personnel to maintain the accounts in a transparent manner and according to the established practice in Government offices and institutions.

17. Take over of the Grant-in-Aid Institutions :- (1) Government may decide to take over or close a grant -in-aid institutions when its functioning is found unsatisfactory or inconsistent with the requirements of grant-in-Aid rules or if it is found that the grant-in-aid received from the Government has not been used for the purposes for which it was given.

(2) Before such take over or closure the management of the institution shall be called upon to explain its position with regard to miss-use or diversion of grant-in-aid, and / or failure to maintain the academic standards as required under the statutes of the affiliating University.

Provided, however, if it is not deemed to be in public interest to provide such an opportunity to the institution, the Government may take over or close a grant-in-aid institution without affording any such opportunity.

18. *Inspection of Institutions* :- (1) An institution established with the permission of the government, shall be open to inspection by an inspection team appointed by the competent authority.
- (2) The inspection team shall consist of three members.
- (3) Education Department shall nominate, in the month of April every year, officers of Education Department who will function as members of inspection team in respect each private institution, aided or unaided.
- (4) The inspection team for an institution shall not be repeated for two consecutive years.
- (5) The inspection team shall be assisted by an official of Higher Education Department with knowledge of accounting.
- (6) The inspection report shall be prepared according to the format in Form "B" annexed to these rules.
- (7) The inspection team shall make definite observations about the institution and its functioning and also suggest, remedial measures, to be taken by the management for improving the working of the institution.
- (8) The competent authority shall examine the annual report of the inspection team and issue directions to the educational agency / management to make good the deficiencies reported by the inspection team, failing which competent authority shall be free to contemplate action against the defaulters.
19. *Withdrawal of permission to run an Unaided Private Institution* :-
- (1) An Institution is expected to raise its own infrastructure within three or four years of its affiliation. Failure of the management to raise immovable infrastructure within two years of starting the teaching / training programme shall make it liable to closure through withdrawal of permission granted in favour of the educational agency sponsoring it.
- (2) Permission can be withdrawn if the report of the Inspection Committee indicates that the institutions :-
- (i) failed to provide adequate teaching staff;
- (ii) charges fee from students at rates higher than those fixed by the Fee-Fixation Committee.

- (iii) charges extra fees by way of forcing students to pay for unnecessary items like uniform, printed notes etc., distributed by the management;
- (iv) pays salary to members of management or allows them to participate in the teaching programme;
- (v) suffers embezzlement of funds by the management.

(3) Permission can be also be withdrawn on receipt of complaints from students or others regarding:-

- (i) excessive and unreasonable rent for hostel and mess charges.
 - (ii) Unhygienic conditions in the hostels;
 - (iii) Overcrowding of students in hostel rooms;(the upper limit of students per room shall be four);
 - (iv) Appointment of underqualified staff;
 - (v) Failure to appoint teachers for certain subjects like 'teaching of languages' (Urdu/Hindi/Punjabi) as the case may be;
 - (vi) Restriction of optional subjects to less than optimal requirement;
 - (vii) Curtailment of working hours.
 - (viii) Delay in starting of classes;
 - (ix) Failure to add essential facilities;
 - (x) Harassment of students and / or gender bias of the management.
- (4) An institution running more than one courses in the same building with inadequate space or in shifts and thus compromising on quality of education can also face withdrawal of permission by Government.
- (5) Before withdrawal of permission, however, the management of the institution shall be given due opportunity to explain its position, and for this purpose a show - cause notice shall be served on it.
- (6) If the management fails to respond to the show cause notice within the specified period or if the explanation of the Management is found unsatisfactory, the Government may withdraw the permission for running the institution.
- (7) The Government may, in public interest, withdraw the permission of an institution without issuing any Show Cause Notice.

20. Unauthorized Institution :- (1) Unauthorized institutions include a College or an institution by any name that:-

- (i) runs a course in an academic or professional field above the level of 10+2 standard without the prior permission of the Government.
- (ii) is affiliated to a university with its seat outside the State in contravention of Kashmir and Jammu Universities Act, 1969.
- (iii) is a franchisee institution sponsored by or affiliated with any non-governmental organization based within or outside State for a course not recognized by any of the Universities of the State for purposes of equivalence with any course approved by these Universities.

Provided that an institution running courses after due affiliation with or accreditation from Sh. Mata Vaishno Devi University, Indira Gandhi National Open University (IGNOU) Department of Electronics Accreditation of Computer Courses Society (DOEACC Society) and other such autonomous organizations recognized by Government of India shall not be liable to closure if it seeks permission on the commencement of this Act, from the Government to run the recognized courses.

- (2) An institution granted permission for a course/courses by the Government but running other courses that fall in any of the above three categories shall also be treated as an unauthorized institution for such courses.
- (3) Un-authorized Institutions shall not make any admissions to any of the courses. However, the students who are already admitted shall be allowed to continue their studies till the conclusion of their academic programme.

21. Penalty for re-establishing Unauthorized Institutions:-


- (1) A list of unauthorized institution shall be prepared by the Education Department after collection information from available sources of information, every year in the month of April.

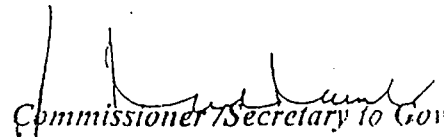
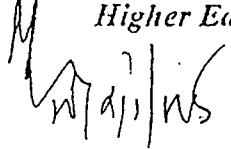
- (2) An institution that violates the Act and falls in any of the categories of Rule 20 of these rules shall be treated as an unauthorized institution and the persons/ members of the educational agency running such institution and the administrators/head of such institution shall be liable to conviction.
 - (3) The educational agency/ person sponsoring such institution and the head of administration of such an institution shall upon conviction before a First Class Judicial Magistrate be liable to a minimum fine of fifty thousand rupees which can, however extend to two lakh rupees.
 - (4) In case of an educational agency consisting of a group of persons, all the members of such agency shall be liable to the above fine individually.
 - (5) If an unauthorized institution issues advertisement for admissions, the educational agency/person running it shall be liable to prosecution under law for the time being in force.
22. Other Conditions: (1) No member of the society/ trust/ managing/ committee/ advisory committee or a committee with any other name sponsoring/supervising an institution shall participate in the teaching work or receive any monthly remuneration from the funds of the institution.
- (2) Members of the society /trust/ committees of the society or the trust shall be eligible to receive T.A/ D.A for attending meetings/ pursuing matters with regard to the promotion of the interests of the institutions run by it.
 - (3) Private Institutions shall, after their affiliation to the University for a course/ courses, furnish at the end of each academic session or as required by the Government, statistical information. Financial Statement, Statements of Income and Expenditure and such other information as may be required by the Competent Authority.
 - (4) (i) No aided institution or its management can give effect to sale, mortgage, pledge or transfer of possession in respect of any immovable property, except with the prior permission of the competent authority; and no such permission can be granted if, in the opinion of the competent authority such action shall adversely affect the working of the institution.

(ii) In case any such transaction is made by educational agency without the permission of the competent authority, it shall be null and void, and the persons involved shall be dealt with under law in force.

23. Power to Relax Rules:- Where the Government is of the opinion that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing relax any of the provisions of these rules.
24. Repeal and Savings: (1) All rules and other corresponding these rules and in force immediately before the commencement of these rules are hereby repealed.
- (2) Notwithstanding such repeal any thing done or action taken under the provisions of the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.

By order of the Government of Jammu and Kashmir


20/12/05


Commissioner/Secretary to Government
Higher Education Department

20/12/05

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