

भोपाल, दिनांक 22 मई, 2007

क्र. 3180-197-इक्कीस-अ(प्रा.)- भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश निजी व्यावसायिक शिक्षण संस्था (प्रवेश का विनियमन एवं शुल्क का निर्धारण) अध्यादेश, 2007 (क्रमांक 4 सन् 2007) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद् द्वारा प्रकाशित किया जाता है.

*मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार  
राजेश यादव, उपसचिव.*

MADHYA PRADESH ORDINANCE  
NO. 4 OF 2007

THE MADHYA PRADESH NIJI VYAVSAYIK SHIKSHAN  
SANSTHA (PRAVESH KA VINIYAMAN AVAM SHULK  
KA NIRDHARAN) ADHYADESH, 2007.

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[First published in the " Madhya Pradesh Gazette (Extra-ordinary)" ; dated the 22<sup>nd</sup> May, 2007.]  
Promulgated by the Governor in the fifty- eight year of the Republic of India.

An Ordinance to provide for the regulation of admission and fixation of fee in private professional educational institutions in the State of Madhya Pradesh and to provide for reservation of seats to persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes in professional educational institution and the matters connected therewith or incidental thereto.

WHEREAS, the State Legislature is not in session and the Governor of the Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the constitution of India. The Governor of the Madhya Pradesh is pleased to promulgated the following Ordinance:-

## CHAPTER I PRELIMINARY

Short title,  
extent and  
commencement.

1. (1) This Ordinance may be called the Madhya Pradesh Niji Vyavsayik Shikshan Sanstha (Pravesh Ka Viniyaman Avam hulk Ka Nirdharan) Adhyadesh, 2007.
- (2) It extends to the whole of Madhya Pradesh.
- (3) It shall come into force from the date of its Publication in the official Gazette.

Application.

2. This Ordinance applies to -
  - (a) institutions deemed to be universities, or constituent units thereto, imparting professional education, other than those promoted and maintained by the Central or State Government; and
  - (b) the private unaided professional educational institutions affiliated to a university established under the Central or Madhya Pradesh Act.

Definitions.

3. In this Ordinance, unless the context otherwise requires,-
  - (a) "appropriate authority" means a Central or State authority established by the Central or the State Government for laying down norms and conditions for ensuring standards of professional education;
  - (b) "capitation fees" means any amount by whatever name called whether in cash or in kind paid or collected or received directly or indirectly in addition to the fees determined under this Ordinance;
  - (c) "Committee" means the Admission and Fee Regulatory Committee constituted under section 4;
  - (d) "common entrance test" means an entrance test, conducted for determination of merit of the candidates followed by centralized counselling for the purpose of merit based admission to professional colleges or institutions through a single window

procedure by the State Government or by any agency authorized by it;

- (e) "fee" means all fee including tuition fee and development charges;
- (f) "foreign candidate" means a person holding a foreign passport seeking admission in a deemed university imparting professional education or in a private unaided professional institution in Madhya Pradesh;
- (g) "management" means any person or body, by whatever name called, managing and controlling the private unaided professional educational institution;
- (h) "minority" means a minority defined under section 2 (f) of the National Commission for Minority Educational Institutions Act, 2004(2 of 2005);
- (i) "minority institution" means an institution imparting professional education, established and administered by a minority;
- (j) "non-resident Indian" shall have the same meaning as assigned to it in clause (e) of section 115C of the Income-tax Act, 1961 (43 of 1961);
- (k) "Other Backward Classes" means the Other Backward Classes of citizens as specified by the State Government vide Notification No. F85-XXV-4-84, dated the 26th December, 1984 as amended from time to time;
- (l) "private unaided professional educational institution" means a professional educational institution which is not receiving recurring financial aid or grant-in-aid from any State or Central Government and which is not established or maintained by the Central Government, the State Government or any public body;
- (m) "professional course" means a course of study notified as a professional course by the appropriate authority, such as a degree, diploma or certificate by whatever name called ;
- (n) "professional educational institution" means a college or a school or an institute by whatever name called, imparting professional education, affiliated to a State University, including a private university established or incorporated by an Act of the State Legislature or constituent unit of a deemed to be university under section 3 of the University Grants Commission Act, 1956(3 of 1956), and approved or recognised

by the competent statutory body regulating professional education;

- (o) "reserved seats" means the seats reserved in favour of persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes as may be notified by the State Government;
- (p) "sanctioned intake" means and implies the total number of seats sanctioned by an appropriate authority and notified by the State Government for admitting students in each course of study in a professional institution;
- (q) "Scheduled Castes" means any caste, race or tribe or part of, or group within caste, race or tribe specified as Scheduled Castes with respect to the State of Madhya Pradesh under article 341 of the Constitution;
- (r) "Scheduled Tribes" means any tribe or tribal community or part of, or group within such tribe or tribal community specified as Scheduled Tribes with respect to the State of Madhya Pradesh under article 342 of the Constitution.

## CHAPTER II ADMISSION AND FEE REGULATORY COMMITTEE

Constitution, composition,  
disqualifications and  
functions of Committee.

- 4.(1) The State Government shall, by notification in the official Gazette, constitute a Committee to be called the Admission and Fee Regulatory Committee, for the supervision and guidance of admission process and for the fixation of fee to be charged from candidates seeking admission in a professional educational institution.
- (2) The Committee shall be presided by a Chairperson who has been a Vice-Chancellor of a Central University or a State University or an institution deemed to be University or a senior administrative officer not below the rank of Principal Secretary to the State Government or Joint Secretary to the Government of India and shall include four other members having expertise in matters of finance, administration or law, technical education and medical education.

- (3) The term of the Committee shall be three years from the date of its notification, and in case of any vacancy arising earlier, for any reason, the State Government shall fill such vacancy for the remainder of the term.
- (4) No act or proceedings of the Committee shall be deemed to be invalid by reason merely of any vacancy or any defect in the constitution of the Committee.
- (5) No person who is associated with a private aided or unaided educational institution shall be eligible for being a member of the Committee.
- (6) The Chairperson or any member of the Committee shall cease to be so, if he performs any act, which in the opinion of the State Government is unbecoming of Chairperson or a member of the Committee.
- (7) The Committee may frame its own procedure in accordance with the regulations notified by the State Government in this regard.
- (8) The Committee may require a private aided or unaided professional educational institution or, a deemed University to furnish, by a prescribed date, information as may be necessary for enabling the Committee to determine the fee that may be charged by the institution in respect of each professional course, and the fee so determined shall be valid for such period as notified by the State Government.
- (9) The Committee may hear complaints with regard to admission in contravention of the provisions contained herein, collecting of capitation fee or fee in excess of fee determined or profiteering by any institution, and if the Committee after enquiry finds that there has been any violation of the provisions for admission on the part of the unaided professional colleges or institution, it shall make appropriate recommendations for returning any excess amount collected to the person concerned, and also recommend to the Government for imposing a fine upto rupees ten lakhs, and the Government may on receipt of such recommendation, fix the fine and collect the same in the case of each such violation or decide any other course of action as it deems fit and the amount so fixed together with interest thereon shall be recovered as if it is an arrear of land revenue, and the Committee may also declare admission made in respect of any or all seats in a particular college or institution to be

dehors merit and therefore invalid and communicate the same to the concerned university, and on the receipt of such communication, the University shall debar such candidates from appearing in the examination and cancel the results of examination already appeared for.

- (10) The Committee may, if satisfied that any unaided professional college or institution has violated any of the provisions of this Act and after approved of the State Government, recommend to the University or appropriate authority for withdrawal of the affiliation or recognition of such college or institution or decide any other course of action as it deems fit.
- (11) The Committee shall have the power to regulate its own procedure in all matters arising out of the discharge of its functions and shall for the purposes of making any enquiry under this Act have all the powers of a civil court under the Code of Civil Procedure, 1908(5 of 1908) while trying a suit in respect of the following matters, namely:-
  - (a) summoning and enforcing the attendance of any witness and examining him on oath;
  - (b) requiring the discovery and production of any document;
  - (c) receiving evidence on affidavits;
  - (d) issuing commissions for the examinations of witnesses.
- (12) The Committee shall ensure that the admission in an institution is done in a fair and transparent manner.

### CHAPTER III ADMISSIONS

Eligibility. 5. The eligibility for admission to a private unaided professional educational institutional shall be such as may be notified by the appropriate authority.

6. In private unaided professional educational institution, admission to Common entrance test. sanctioned intake shall be on the basis of the common entrance test in such manner as may be prescribed by the State Government.

## Admission

7. Every admission to private unaided professional educational institution shall be made in accordance with the provisions of this Ordinance or the rules made thereunder and every admission made in contravention thereof shall be void.

## Reservation

of seats.

8. In admission to private unaided professional educational institutions, other than the minority educational institutions referred to in clause (1) of article 30 of the Constitution of India, there shall be reservation at the stage of admission for the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes of citizens as may be prescribed by the State Government.

## CHAPTER IV FIXATION OF FEE

Factors.

9. (1) Having regard to -
  - (i) the location of the private unaided professional educational institution;
  - (ii) the nature of the professional course;
  - (iii) the cost of land and building;
  - (iv) the available infrastructure, teaching, non teaching staff and equipments;
  - (v) the expenditure on administration and maintenance;
  - (vi) a reasonable surplus required for growth and development of the professional institution;
  - (vii) any other relevant factor,the Committee shall determine, in the manner prescribed, the fee to be charged by a private unaided professional educational institution.
- (2) The Committee shall give the institution an opportunity of being heard before fixing any fee:

Provided that no such fee, as may be fixed by the Committee, shall amount to profiteering or commercialization of education.



CHAPTER V  
MISCELLANEOUS

Appeal.

10. The State Government shall appoint for not more than one year at a time, an appellate authority, consisting of a person who has been a judge of the High Court or a person who has held office not below the rank of the Chief Secretary of a State, before which a person or a professional institution aggrieved by an order of the Committee in the State may file an appeal, within a period of 30 days of passing of such an order.

Ordinance to  
have overriding  
effect.

11. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.

12. The State Government may, by notification, make rules for carrying out the purposes of this Ordinance.

Power to make  
regulations

13. (1) The State Government may, by notification in the official Gazette, make regulations consistent with this Ordinance and the rules made thereunder.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

- (a) the constitution and working, and terms and conditions of the Committee;
- (b) the eligibility of admission, manner of admission and allocation of seats in a professional institution including the reservation of seats for foreign or non-resident Indian candidates;
- (c) the manner or criteria of determination of fee to be charged by a professional institution from the candidates;
- (d) the fees to be charged by the professional educational institution from the candidates;

- (e) any other matter which has to be, or may be, prescribed.

Rules to be laid  
before Legislative  
Assembly

14. Every rule made under this Act shall be laid, as soon as may be after it is made, before Legislative Assembly.

Power to  
remove  
difficulties.

15. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order published in the official Gazette, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Ordinance .

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before Legislative Assembly.

Protection of action  
taken in good faith.

16. No suit, prosecution or other legal proceeding shall lie against the State Government or the appellate authority or Chairperson and members of the Committee for anything which is in good faith done or intended to be done under this Ordinance.

BHOPAL

Dated the 21<sup>st</sup> May 2007.

BALRAM JAKHAD  
Governor,  
Madhya Pradesh

## STATEMENT OF OBJECTS AND REASONS

Article 15(5) of the Constitution of India, as inserted by the Constitution (Ninety-third Amendment) Act, 2005, provides for making any special provision by law by the State Government for advancement of any socially and educationally backward classes of citizen or for the Scheduled Castes or the Scheduled Tribes in relation to admission to educational institution including private educational institutions, whether aided or unaided, other than minority educational institutions, notwithstanding anything contained in article 15 and article 19 (1) (g) of the Constitution.

2. In the light of the above constitutional provision, it is considered necessary to provide for regulation of admission and determination of fee in private professional educational institutions in the State of Madhya Pradesh and to provide for reservation of seats to persons belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes in private professional educational institutions.

3. Hence this Bill.

BHOPAL:

DATED THE 2007

MEMBER-IN-CHARGE