

L. A. BILL No. XXIV OF 2011.

A BILL

*to provide for the regulation of collection of fee by educational
institutions in the State of Maharashtra and for matters connected
therewith and incidental thereto.*

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WHEREAS the National Policy on Education envisages that the commercialization of education and profiteering by the educational institutions should be curbed ;

AND WHEREAS the State Government desires that steps should be
10 taken to prevent the commercialization of education through profiteering
by the educational institutions ;

AND WHEREAS the practice of charging exorbitant fees by the educational institutions is on increase in the State ;

AND WHEREAS with a view to effectively curb this undesirable practice and commercialization of education which result in frustration among meritorious and indigent students and to maintain excellence in the standard of education, it is expedient in the public interest to regulate collection of fee by the educational institutions in the State of Maharashtra and to provide for matters connected therewith and incidental thereto; it is hereby enacted in the Sixty-second Year of the Republic of India as follows :—

CHAPTER I

PRILIMINARY

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Short title,
extend and
commence-
ment.

1. (1) This Act may be called the Maharashtra Educational Institutions (Regulation of Collection of Fee) Act, 2011.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

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Definitions.

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

(a) “academic year” means the year specified by the Government or, as the case may be, any Board or Council to which respective educational institution is affiliated ;

(b) “aided school” means a school receiving any kind of aid in monitory or non-monitory form, from the Government or any other Government body or local authority or public sector undertaking or Semi-Government organization and includes a school receiving partial grants ;

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(c) “appointed date” means the date appointed by the State Government under sub-section (3) of section 1 ;

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(d) “Divisional Fee Regulatory Committee” means the Divisional Fee Regulatory Committee constituted under section 7 ;

(e) “Deputy Director” means the Deputy Director of Education or any equivalent officer designated as such by the State Government, working under the Director of Education (Primary), Director of Education (Secondary and Higher Secondary), or Deputy Director of any other Directorate of the State Government, entrusted with the task of supervision of the educational institutions imparting any kind of education in the State ;

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(f) “Diploma in Teachers Education College” means a training college for teachers’ education approved by the National Council for Teachers Education ;

(g) “Director” means the Director of Education or any equivalent officer designated as such by the State Government and includes the Director of Education (Primary), Director of Education (Secondary and Higher Secondary), or Director of any other Directorate of the State Government, entrusted with the task of supervision of the educational institutions imparting any kind of education in the State ;

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(h) "Education Division" means an Education Division notified as such by the State Government, by notification in the *Official Gazette* ;

(i) "educational institution" means a recognized school, pre-primary, primary, secondary and higher secondary school, Junior college or Diploma in Teachers Education College, by whatever name called, either Indian or foreign, managed by the Government, local authority or a private management including the educational institution established and administered by any minority ;

(j) "Executive Committee" means the Executive Committee of the Parent-Teachers Association ;

(k) "fee" means the amount, fixed as a fee under sections 5 and 6 and includes,—

(i) Tuition fee ;

(ii) Term fee, which shall not exceed one month tuition fee per term ;

(iii) Library fee and deposit ;

(iv) Laboratory fee and deposit ;

(v) Gymkhana fee ;

(vi) Caution money ;

(vii) Examination fee ;

(viii) Hostel fee and Mess charges ;

(ix) Admission fee ;

(x) such other fee or deposit as security or amount for any other item, as may be approved by the Government ;

(l) "Government" means the State Government or the Central Government, as the case may be ;

(m) "Government educational institution" means a school established, owned or maintained by the Government or a local authority ;

(n) "higher secondary school" or "Junior College" means a school or college imparting education at Standards XI and XII level ;

(o) "local authority" means,—

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(i) in relation to educational institution managed by a *Zilla Parishad*, the *Zilla Parishad* constituted under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 ;

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(ii) in relation to educational institution managed by Municipal Corporation, the Municipal Corporation constituted under the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, or as the case may be, the City of Nagpur Corporation Act, 1948 ;

(iii) in relation to educational institution managed by the Municipal Council, *Nagar Panchayat* or, as the case may be, Industrial Township, the Municipal Council, *Nagar Panchayat* or Industrial Township constituted under the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 ;

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(iv) any other authority treated as local authority under any other law ;

(p) "management" means,—

(i) in the case of an educational institution managed by the Government, the Government ;

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(ii) in the case of an educational institution managed by a local authority, the local authority ;

(iii) in any other case, managing committee or the governing body, by whatever name called, of an educational institution to which the affairs of the educational institution are entrusted and, where such affairs are entrusted to any person, by whatever name or designation called, includes such person ;

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(q) "minority educational institution" means an institution established and administered by minority having right to do so under clause (1) of article 30 of the Constitution of India ;

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(r) "Parent-Teachers Association" means the Parent-Teachers Association constituted under section 4 ;

(s) "pre-primary school" means a school imparting education of Nursery, Junior Kinder Garten, Senior Kinder Garten level or any pre-primary school level by whatever name called but does not include a crèche ;

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(t) "prescribed" means prescribed by the rules made under this Act ;

(u) "primary school" means a school imparting education at Standards I to IV level ;

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(v) "private educational institution" means any pre-primary, primary, secondary or higher secondary school, junior college or Diploma in Teachers Education College, whether aided or un-aided established, administered and maintained by any management which has received permission or no objection certificate by the Government under any law but does not include a school giving, providing or imparting religious instructions only ;

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(w) "profiteering" means any amount accepted in cash or kind, directly or indirectly which is in excess of fee ;

(x) "Revision Committee" means the Revision Committee constituted under section 11 ;

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(y) "rules" means the rules made under this Act ;

(z) "secondary school" means a school imparting education at Standards V to X level.

CHAPTER II

PROHIBITION OF COLLECTION OF EXCESS FEE AND DETERMINATION OF FEE

3. No educational institution itself or on its behalf shall collect any fee in excess of the fee fixed under this Act. Prohibition of collection of excess fees.

5 4. (1) (a) Every private school shall constitute the Parent-Teachers Association. Parent-Teachers Association.

(b) The Parent-Teachers Association shall be formed by the head of the school within thirty days from the beginning of the each academic year. Parent of every student in the school shall be a member of the Parent-Teachers Association and an annual amount of rupees fifty, in case of urban area and rupees twenty, in case of rural area, shall be collected from each member of such Association.

(c) On formation of the Parent-Teachers Association, the election for constitution of the Executive Committee shall be held and notice of one week before such election shall be given to the members of the Parent-Teachers Association.

(2) (a) The Executive Committee shall consists of,—

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|----------------------------|--|
| (i) Chairperson | .. Principal or Head Master |
| (ii) Vice-Chairperson | .. One from amongst the parents |
| 20 (iii) Secretary | .. One from amongst the teachers |
| (iv) Two Joint Secretaries | .. Both from amongst parents. |
| (v) Member | .. One each from every division from amongst parent. |

(b) Out of the total members in the Executive Committee, there shall be at least one member from the Scheduled Castes, the Scheduled Tribes or Backward Class of citizens to be rotated in the manner prescribed and at least fifty per cent. of the members shall be women.

(c) The list of members of the Executive Committee shall be displayed on the notice board within a period of fifteen days from formation of the Executive Committee and copy thereof shall forthwith be forwarded to the concerned Education Officer.

(d) The term of the Parent-Teachers Association shall be for the period of one academic year and no member of the Executive Committee shall contest the election within the period of five years since the formation of the Executive Committee.

(e) The Executive Committee shall meet atleast once in a month. The procedure to be followed for conducting the meeting of the Executive Committee shall be such as may be prescribed. The Parent-Teachers Association shall discharge such duties and perform such functions as may be assigned to it under this Act and as may be prescribed.

Regulation of
fees in
Government
educational
institutions
and aided
schools.

5. It shall be competent for the Government to regulate the fee in the Government educational institutions and aided schools. The fee shall be fixed in the manner as may be determined by the Government.

Regulation of
fees in private
educational
institutions.

6. (1) The management of the private educational institutions shall be competent to regulate the fees in such institutions. 5

(2) On the formation of the Executive Committee, the management of the school shall submit the details of the proposed fee along with the relevant record to the Executive Committee for its approval atleast before eight months of the commencement of the next academic year. While giving the approval, the Executive Committee shall have authority to 10 decide the amount of fee afresh.

(3) After considering all the relevant factors laid down under section 9, the Executive Committee shall approve the fees within a period of thirty days from the date of receipt of the details of the proposed fee and the record under sub-section (2) and communicate the details of the fee 15 so approved in writing to the management forthwith. The details of the fee so approved by the Executive Committee shall be displayed on the notice board.

(4) If the Executive Committee fails to decide the fees within the period specified in sub-section (3), the management shall immediately 20 refer the matter to the Divisional Fee Regulatory Committee for its decision under intimation to the Executive Committee in such manner as may be prescribed. During the pendency of the reference, the management of school shall be at liberty to collect the proposed fee till the final decision of the Divisional Fee Regulatory Committee. 25

(5) If the difference between the fees decided by the management and the fees approved by the Executive Committee is not more than fifteen per cent., then the fees communicated by the Executive Committee under sub-section (3) shall be binding on the management and if the difference is more than fifteen per cent., then management 30 may prefer an appeal to the Divisional Fee Regulatory Committee, within a period of thirty days from the date of such communication under sub-section (3) in such manner as may be prescribed :

Provided that, the Divisional Fee Regulatory Committee may entertain such appeal or reference after the expiry of the period of thirty days, if it 35 is satisfied that there are sufficient reasons for not preferring an appeal or reference within time.

(6)(a) The Divisional Fee Regulatory Committee shall decide the appeal as far as possible within the period of ninety days from the date of its filing after giving the opposite party an opportunity of being heard. 40

(b) While deciding the appeal or reference, the Divisional Fee Regulatory Committee shall not grant any stay to the fee proposed by the management or, as the case may be, the fee approved by the Executive Committee.

(c) On decision in appeal or reference, the Divisional Fee Regulatory Committee may pass appropriate orders for refund of the excess fee to the student concerned. In case the management fails to refund the excess fee to such student, the Divisional Fee Regulatory Committee shall
5 proceed to recover such excess fee from the management as an arrears of land revenue and pay the same to such student.

(d) The decision of the Divisional Fee Regulatory Committee in appeal or reference shall be displayed on the notice board of the concerned school by the management.

10 (7) The management or the Executive Committee aggrieved by the decision of the Divisional Fee Regulatory Committee in appeal or reference may, within thirty days from the date of such decision, prefer an appeal before the Revision Committee in such manner as may be prescribed.

15 7. (1) The Government shall, by notification in the *Official Gazette*, constitute a Divisional Fee Regulatory Committee for each Education Division.

Constitution
of Divisional
Fees
Regulatory
Committee.

(2) The Divisional Fee Regulatory Committee shall consist of the following members, namely :—

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| 20 | (a) A retired District Judge, nominated by the Government in consultation with the High Court. | Chairperson. |
| | (b) Divisional Chairman of the Maharashtra State Board of Secondary and Higher Secondary Education. | Member. |
| 25 | (c) A Chartered Accountant or Cost and Works Accountant | Member. |
| | (d) Retired Head of Central Board of School Education or Indian Certificate of Secondary Education or any other Board or their nominees not connected directly or indirectly with any educational institution, or retired officer not below the rank of Joint Director of Education of the Government. | Member. |
| 30 | | |
| 35 | (e) Regional Deputy Director of Education | <i>Ex officio</i>
Member -
Secretary. |

(3) Every appointment of a member under clauses (c) and (d) of sub-section (2) shall be made by the State Government on the
40 recommendation of the Selection Committee.

(4) The State Government shall constitute a Selection Committee consisting of the following, namely :—

- (a) Chairperson of the Revision Committee. Chairperson.
 (b) The Principal Secretary, Law and Judiciary Member
 Department.
 (c) The Secretary, in charge of the School Member:
 Education Department. 5

Provided that, where the Chairperson of the Revision Committee is, by reason of absence or otherwise, unable to act as a Chairperson of the Selection Committee, the Chairperson acting as such under the proviso to sub-section (2) of section 11 shall act as a Chairperson.

Term of office of Chairperson and other members of Divisional Fee Regulatory Committee. 8. (1) The term of office of the Chairperson and members of the Divisional Fee Regulatory Committee shall be for a period of three years from the date of their nomination and in case of vacancy arising earlier, for any reason, such vacancy shall be filled for the remainder period of the term. 10

(2) The Chairperson and the members of the Divisional Fee Regulatory Committee shall not be eligible for re-appointment. 15

(3) The Chairperson or a member of the Divisional Fee Regulatory Committee may resign from the office in writing addressed to the Government and on such resignation being accepted, his office shall become vacant and may be filled in within a period of three months from the date of occurrence of vacancy. 20

(4) The Chairperson or a member of the Divisional Fee Regulatory Committee shall be removed, if he does any act which, in the opinion of the Government, is unbecoming of a member or Chairperson of such Committee. The Chairperson or a member so removed shall not be eligible for re-appointment on such Committee : 25

Provided that, no Chairperson or member shall be removed from the Divisional Fee Regulatory Committee without giving him an opportunity of being heard.

(5) The salaries and allowances to be paid to the Chairperson and members of the Divisional Fee Regulatory Committee shall be such as may be prescribed. 30

(6) A person shall be disqualified for appointment as the Chairperson or member of the Divisional Fee Regulatory Committee, if such person,—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude, or 35

(b) is an undischarged insolvent ; or

(c) is of unsound mind and stands so declared by a competent court ; or 40

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government, or

(e) has, in the opinion of the Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member, or

(f) has such other disqualifications as may be prescribed; or

5 (g) is holding any office, post or is in any way connected with any educational institution.

9. (1) The following factors shall be considered while deciding the fee leviable by a school, namely :— Factors for determination of fee.

(a) the location of the school;

10 (b) the available infrastructure, the facilities provided and as mentioned in the prospectus or web-site of the school

(c) status regarding accreditation of the school as determined by the National Accreditation Board for Education and Training or international school award or the I.S.O. Certificate;

15 (d) the expenditure on administration and maintenance;

(e) the excess fund generated from non-resident Indians, charity on the part of management and contribution by the Government for providing free-ship for the Scheduled Castes, the Scheduled Tribes and Vimukta Jatis and Nomadic Tribes Students;

20 (f) qualified teaching and non-teaching staff as per the norms and their salary components;

(g) reasonable amount for yearly salary increments;

(h) any other factor as may be prescribed.

25 (2) The Divisional Fee Regulatory Committee shall indicate the different heads under which the fee shall be levied.

(3) Every private school preferring an appeal before the Divisional Fee Regulatory Committee shall place the copy of decision in appeal on its notice board.

30 10. (1) The powers and functions of the Divisional Fee Regulatory Committee shall be to adjudicate the dispute between the school management and the Parent-Teachers Association regarding fee to be charged by the school management from the students. Powers and functions of Divisional Fee Regulatory Committee.

(2) The Divisional Fee Regulatory Committee may authorise any officer not below the rank of the Education Officer or the Education Inspector to enter any educational institute or any premises belonging to the management of such school, if the Divisional Fee Regulatory Committee finds so necessary, and search, inspect and seize any records, accounts, registers or other documents belonging to such school or the management in so far as such records, accounts, registers or other documents are necessary and relevant to decide the issues before the said Committee. The provisions of the Code of Criminal Procedure, 1973 relating to search and seizures shall apply, so far as may be, to searches and seizures under this section.

(3) The Divisional Fee Regulatory Committee shall regulate its own procedure, for the discharge of its functions, and shall, for the purpose of making any inquiry under this Act, have all powers of a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely :— 5 5 of 1908.

(i) the summoning and enforcing the attendance of any witness and examining him on oath ;

(ii) the discovery and production of any document ;

(iii) the reception of evidence on affidavits ;

(iv) the issue of commission for the examination of the witness. 10

(4) No judicial order shall be passed by the Divisional Fee Regulatory Committee in the absence of the Chairperson. The order of the Divisional Fee Regulatory Committee shall be binding on the parties to the proceedings before it for three academic years. It shall not be called in question in any civil court except by way of an appeal before the Revision Committee constituted under this Act. 15

(5) At the time of resolving the dispute, the Divisional Fee Regulatory Committee shall not grant any interim stay to the fee determined by the school management. On decision in appeal or reference, the Divisional Fee Regulatory Committee may pass appropriate orders for refund of the excess fee to the student concerned. In case the management fails to refund the excess fee to such student, the Divisional Fee Regulatory Committee shall proceed to recover such excess fee from the management as an arrears of land revenue and pay the same to such student. 20 25

(6) The Divisional Fee Regulatory Committee shall on determining the fee leviable by a private school, communicate its decision to the parties concerned.

(7) The Divisional Fee Regulatory Committee shall indicate the different heads under which the fee shall be levied. 30

(8) The orders passed by the Divisional Fee Regulatory Committee shall be binding on the private school for three academic years. At the end of the said period, the private school shall be at liberty to revise its fee structure by following the procedure as laid down under this Act.

Constitution of Revision Committee. 11. (1) The State Government shall constitute a Revision Committee in the State, by notification in the *Official Gazette*, which shall consist of the following members, namely.— 35

(a) A retired High Court Judge nominated by the Chairperson. Government in consultation with the High Court. 40

(b) Any retired person holding the post of Member Director of Education or equivalent post or retired Head of the Central Board of School Education or Indian Certificate of Secondary Education or other such Boards. 45

- (c) A Chartered Accountant or Costs and Works Accountant. Member
- (d) Joint Director of Education (Secondary and Higher Secondary), Directorate of Education, Maharashtra State, Pune. *Ex officio* Member-Secretary.

(2) Every appointment of member under clauses (b) and (c) of sub-section (1) shall be made by the State Government on the recommendation of a Selection Committee consisting of the following, namely :—

- (a) Chairperson of the Revision Committee. Chairperson.
- (b) The Principal Secretary, Law and Judiciary Department. Member.
- (c) The Secretary, in charge of the School Education Department. Member :

Provided that, where the Chairperson of the Revision Committee is, by reason of absence or otherwise, unable to act as Chairperson of the Revision Committee, the State Government may refer the matter to the High Court for nominating a retired High Court Judge to Act as a Chairperson.

12. (1) The provisions of sub-section (6) of section 6, section 8 and sub-sections (2) to (7) of section 10 shall, *mutatis mutandis*, apply to the Revision Committee.

(2) The decision of the Revision Committee shall be final and conclusive and shall be binding on the parties for three academic years.

At the end of the said period, the private school may be at liberty to revise its fee structure by following the procedure as laid down in section 6.

13. No suit, prosecution or other legal proceedings shall lie against the Chairperson or member of the Divisional Fee Regulatory Committee or the Revision Committee or any officer of it, for executing any order made by it or in respect of anything which is in good faith done or intended to be done by such Chairperson, member, officer or person under this Act or under any rule or order made thereunder.

Application of certain provisions of Divisional Fee Regulatory Committee to the Revision Committee.

Protection of action taken in good faith.

CHAPTER III

REGULATION OF ACCOUNTS AND MAINTENANCE OF RECORDS

14. The Government shall regulate the maintenance of accounts by the private educational institution in such manner as may be prescribed.

15. The private educational institution shall maintain such records and in such manner as may be prescribed.

Regulation of accounts.

Maintenance of records.

CHAPTER IV

OFFENCES AND PENALTIES

Offences and
penalties.

16. (1) Whoever contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to five lakhs rupees.

(2) The person convicted under this section shall refund the excess fee to the student from whom it was collected in contravention of this Act.

(3) The person who repeatedly contravenes the provisions of this Act or the rules made thereunder shall be ineligible for holding official post in any management or school, as the case may be.

Offences by
management.

17. (1) Where an offence under this Act or rules made thereunder is committed by a management, every person, who, at the time when the offence was committed, was in charge of, and was responsible to, the management for the conduct of the business of the management, as well as the management, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that, nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he has taken due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act or rules made thereunder has been committed by a management and it is proved that the offence has been committed with the consent or connivance of, or is attributed to any neglect on the part of any officer bearer or officer or servant of the management, such officer bearer, officer or servant concerned shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Compounding
of offences.

18. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under section 16 may be compounded by any officer as may be specially authorised by the Government in this behalf, either before or after institution of the proceeding for any offence punishable under this Act, by accepting from any person charged with such offence by way of composition of the offence, a sum not less than the amount of maximum fine and not more than double the amount of the maximum fine for the offence punishable by or under this Act:

Provided that, in the event of offence of charging of excessive fee, such sum shall not be less than double the amount of fee excessively charged or five lakhs rupees, whichever is higher.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence committed by him was compounded.

(3) Where an offence has been compounded under sub-section (1), no proceeding shall be taken against the accused person in respect of the same offence and any proceeding if already taken shall stand abated and the accused, if in custody, shall be discharged forthwith.

19. No Court shall take cognizance of any offence punishable under this Act except with the sanction of the Government or such officer as the Government may authorise in this behalf. Cognizance of offences.

20. Every offence under this Act shall be cognizable and non-bailable. Offence to be cognizable and non-bailable.

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CHAPTER V

MISCELLANEOUS

21. The State Government may issue to any educational institution such general or special directions, consistent with the provisions of this Act and the rules made thereunder, as in its opinion are necessary or expedient for carrying out the purposes of this Act or for giving effect to any of the provisions contained therein or in any rules or orders made thereunder and the management of the educational institution shall comply with every such direction. Power to issue directions.

22. (1) The State Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out all or any of the purposes 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 each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, 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.

23. The provisions of this Act or the rules and orders made or issued thereunder, 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 such law. Act to have overriding effect.

24. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty : Power to remove difficulties.

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The undesirable practice of charging exorbitant fees from the students by the educational institutions is on increase in the State. This undesirable practice has been contributing to a large scale commercialisation of education and frustration among meritorious and indigent students. The National Policy of Education envisages that the commercialization of education and profiteering by the educational institutions should be curbed. With a view to effectively curb this undesirable practice of charging of exorbitant fees and tendency of commercialization of education which results in frustration among the meritorious and indigent students, the Government considers it expedient to regulate the collection of fee by the educational institutions, such as Pre-Primary, Primary, Secondary and Higher Secondary Schools, Junior Colleges and Diploma in Teachers Education colleges, by enacting a suitable legislation in that behalf.

2. Hence this Bill.

Mumbai,

Dated the 19th April 2011.

RAJENDRA DARDA,

Minister for School Education.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1(3).—Under this clause, power is taken to the State Government to bring the Act into force on such date as it may, by notification in the *Official Gazette*, appoint.

Clause 2(h).—Under this clause, power is taken to the State Government to notify, by notification in the *Official Gazette*, the Education Division for the purposes of the Act.

Clause 4(2)(b) and (e).—Under this clause, power is taken to the State Government to prescribe,—

(a) the manner of rotation of the Scheduled Castes, the Scheduled Tribes or Backward Class of Citizens for inclusion as a member of the Executive Committee;

(b) the duties and functions of the Parent-Teachers Association other than those assigned under the Act.

Clause 6(7).—Under this clause, power is taken to the State Government to prescribe the manner in which appeal is to be filed before the Divisional Fee Regulatory Committee.

Clause 7(1).—Under this clause, power is taken to the State Government to constitute, by notification in the *Official Gazette*, a Divisional Fee Regulatory Committee for each Education Division.

Clause 8(1) and (6)(f).—Under this clause, power is taken to the State Government to prescribe,—

(a) the salaries and allowances to be paid to the Chairperson and the members of the Divisional Fee Regulatory Committee ;

(b) the disqualifications other than those mentioned in sub-clause (6) for a person who may be disqualified for being appointed as a Chairperson or a member of the Divisional Fee Regularity Committee.

Clause 9(1)(h).—Under this clause, power is taken to the State Government to prescribe any other factor other than those mentioned in sub-clauses (a) to (g) of sub-section (1) which may be taken into account by the Divisional Fee Regularity Committee while determining the fee leviable by the private educational institution.

Clause 11 (1).—Under this clause, power is taken to the State Government to constitute, by notification in the *Official Gazette*, the Revision Committee in the State .

Clause 12(1).—Under this clause, power is taken to the State Government to prescribe,—

(a) the salaries and allowances to be paid to the Chairperson and members of the Revision Committee ;

(b) the disqualifications other than those mentioned in sub-clauses (a) to (g) of sub-section (6) for a person who may be disqualified for being appointed as a Chairperson or a member of the Revision Committee.

Clause 14.—Under this clause, power is taken to the State Government to prescribe the manner in which the Government shall regulate the maintenance of accounts by the private schools.

Clause 15.—Under this clause, power is taken to the State Government to prescribe the records and the manner in which such record shall be maintain by the private educational institutions.

Clause 18.—Under this clause, power is taken to the State Government to authorize any officer to give sanction to take cognizance of any offence.

Clause 21.—Under this clause, power is taken to the Government to issue general or special direction to any educational institution for carrying out the purposes of this Act.

Clause 22(1).—Under this clause, power is taken to the State Government to make the rules, by notification in the *Official Gazette*, for carrying out all or any of the purposes of the Act.

Clause 24.—Under this clause, power is taken to the State Government to make an order within a period of two years from the appointed day for removing the difficulty which may arise in giving effect to the provisions of the Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill involves proposal for constitution of a Divisional Fee Regulatory Committee at the Education Division level and the Revision Committee at the State level. The Chairperson and members of both the Committees include the retired District Court and retired judges of the High Court, Chartered Accountants or Costs and Works Accountants and the Government officials. Both the Committees will require expenditure on account of salary and allowances of the Chairperson and non-official members of the Committees and staff and other administrative expenses from the Consolidated Fund of the State. It is not possible to determine exact financial liability on this account at this stage. However, expenditure may have to be incurred from the Consolidated Fund of the State, as and when necessary by the Government for the purposes of this Act.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF
THE CONSTITUTION OF INDIA

**(Copy of Government of Maharashtra Order,
Law and Judiciary Department)**

In exercise of the power conferred upon him by clause (3) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the consideration of the Maharashtra Educational Institutions (Regulation of Collection of Fee) Bill, 2011.

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. XXIV OF 2011.]

**[A Bill to provide for the regulation of
collection of fee by educational
institutions in the State of Maharashtra
and for matters connected therewith
and incidental thereto.]**

**[SHRI RAJENDRA DARDA,
Minister for School Education.]**

**DR. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Assembly.**

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