

Published on 07-03-2018

Fourteenth Kerala Legislative Assembly

Bill No. 107

**THE KERALA PROFESSIONAL COLLEGES
(REGULARISATION OF ADMISSION IN
MEDICAL COLLEGES) BILL, 2018**

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Kerala Legislature Secretariat
2018

KERALA NIYAMASABHA PRINTING PRESS.

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[Translation in English of “2018-ലെ കേരള പ്രൊഫഷണൽ കോളേജുകൾ (മെഡിക്കൽ കോളേജുകളിലെ പ്രവേശനം ക്രമവൽക്കരിക്കൽ) ബിൽ” published under the authority of the Governor]

**THE KERALA PROFESSIONAL COLLEGES (REGULARISATION OF
ADMISSION IN MEDICAL COLLEGES) BILL, 2018**

A

BILL

to provide for regularisation of admission of students made in certain medical colleges in the State during the academic year 2016-17.

Preamble.—WHEREAS, it is expedient to provide for regularisation of admission of students in certain medical colleges in the State during the academic year 2016-17;

BE it enacted in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Professional Colleges (Regularisation of Admission in Medical Colleges) Act, 2018.

(2) It shall be deemed to have come into force on the 20th day of October, 2017.

2. *Regularisation of admission in medical colleges.*—Notwithstanding anything contained in the Kerala Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence in Professional Education) Act, 2006 (19 of 2006) or in any judgment, decree, order or any proceedings of any court or the Admission Supervisory Committee constituted under section 4 of the said Act or any other authority or in any agreement or instrument made under any law for the time being in force, it shall be legally permissible for the Government to regularise the admission of candidates who were qualified for admission in the discipline of medicine in any medical college in the State during the academic year 2016-17, but their admission was cancelled by any court

or Admission Supervisory Committee, irrespective of the mode of submission of application and the non-production of any document before the Admission Supervisory Committee, subject to such terms and conditions as the Government may deem fit:

Provided that such admission shall not be regularised unless such candidate has duly attended the course during the said academic year.

3. *Procedure for regularisation.*—(1) The managements of the medical colleges who have admitted candidates as specified in section 2 to the discipline of medicine in any medical college and their admission was cancelled, may, within fifteen days from the date of commencement of this Act, apply for regularisation of such admission.

(2) Every application for regularisation of admission under this Act shall be submitted to the Government through the University concerned and the University shall, within seven days of receipt of such application, forward the same to the Government with a report containing its remarks on the following matters, namely:—

(i) whether the student who got admission is qualified and is eligible as per the rank list prepared on the basis of the National Eligibility cum Entrance Test, for admission in the discipline of medicine as per laws and orders in force applicable for the academic year 2016-17;

(ii) whether the students as mentioned in the application has duly attended the course during the academic year 2016-17;

(iii) whether the student is otherwise eligible to continue the course.

(3) An officer not below the rank of a Secretary to Government, as may be authorised by the Government by special order in this behalf, shall be the Competent Authority to consider an application under this Act. The Competent Authority shall have the power to summon any person and to call for any document for the proper disposal of such application.

(4) On receipt of an application for regularisation under this section, the Government shall call for a report on it from the Director of Medical Education and after hearing the applicant and the respondents or any other person concerned, if necessary, consider the application and pass orders on it, including order for payment of the regularisation fee payable under this Act.

(5) Where the application is sanctioned by the Government, a direction in this respect shall be issued to the University concerned and notwithstanding anything contained in any University Act or any statute or ordinance made thereunder or in any other law for the time being in force, the University shall issue orders necessary for the enrolment of such students in the University and thereafter such students shall be considered as regular students of the discipline of medicine under the University with effect from the academic year 2016-17 till the completion of their course in the discipline.

Explanation.— For the purposes of this section, “University Act” means an Act establishing a University, passed by the State Legislature.

4. *Matters to be considered by the Competent Authority.*—While considering an application for regularisation received under this Act, the Competent Authority shall,—

(i) consider whether the student who got admission has qualification and eligibility as per the rank list prepared on the basis of the National Eligibility cum Entrance Test, for admission in the discipline of medicine as per laws and orders in force and applicable for the academic year 2016-17;

(ii) confirm that no student is continuing in the college in violation of any other law for the time being in force;

(iii) not consider the mode of submission of application by the students;

(iv) not consider the non-production of any document or any material before the Admission Supervisory Committee;

(v) ensure that no capitation fee was collected by the management;

(vi) ensure that there was no profiteering by the management.

5. *Payment of regularisation fee.*—(1) Where the Government sanctions an application for regularisation of admission under this Act, the management of such medical college shall be liable to pay a regularisation fee of three lakh rupees per student for such regularisation.

(2) The competent authority as per sub-section (3) of section 3 shall be competent to impose the fee as provided in sub-section (1) and it shall be specified in the order issued as per sub-section (4) of section 3.

6. *Repeal and saving.*—(1) The Kerala Professional Colleges (Regularisation of Admission in Medical Colleges) Ordinance, 2018 (1 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The Admission Supervisory Committee had cancelled the medical admission made in certain medical colleges in the State for the reasons that the directions of the Admission Supervisory Committee as per the Kerala Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-Exploitative Fee and Other Measures to Ensure Equity and Excellence in Professional Education) Act, 2006 (19 of 2006) was not complied with, details as to the vacant seats were not published in the website, transparency in admission procedures were not followed and the decision of the Committee was upheld by the Hon'ble High Court of Kerala and Hon'ble Supreme Court.

2. On the basis of the representations received from the students aggrieved by the above decision of the Admission Supervisory Committee and the Orders of the Hon'ble High Court of Kerala and the Hon'ble Supreme Court, and from various political parties, the Government, by analysing the Order of the said Committee and the decisions of the Hon'ble High Court of Kerala and the Hon'ble Supreme Court in this respect, have examined this matter in detail and decided that the students shall not be the victims for no fault of their own. The students having lower 'NEET' rank than the students who got admission in such medical colleges have secured admission in other colleges and are

continuing their studies. The managements concerned had not properly produced such documents relating to 'NEET' rank before the Admission Supervisory Committee. In order to regularise the admission of the students who are qualified and the students who are continuing their studies in the said colleges as per and after the interim order of the Hon'ble High Court the Government had decided to make a necessary legislation.

3. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Professional Colleges (Regularisation of Admission in Medical Colleges) Ordinance, 2017 was promulgated by the Governor of Kerala on the 20th day of October, 2017 and the same was published in the Kerala Gazette Extraordinary No.2244 dated 20th October, 2017 as Ordinance No. 21 of 2017.

4. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 9th day of November, 2017 and ended on the same day.

5. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Kerala Professional Colleges (Regularisation of Admission in Medical Colleges) Ordinance, 2017 was promulgated by the Governor of Kerala on the 20th day of December, 2017 and the same was published in the Kerala Gazette Extraordinary No.2783 dated 20th day of December, 2017 as Ordinance No.34 of 2017.

6. Eventhough a Bill to replace the sid Ordinance by an Act of the State Legislature was published as Bill No. 91 of the Fourteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 22nd day of January, 2018 and ended on the 7th day of February, 2018.

7. As the provisions of the said Ordinance had to be kept alive and the Legislative Assembly of the State of Kerala was not in session, the Kerala Professional Colleges (Regularisation of Admission in Medical Colleges) Ordinance, 2018 was promulgated by the Governor of Kerala on the 12th day of February, 2018 and the same was published in the Kerala Gazette Extraordinary No. 332 dated 12th day of February, 2018 as Ordinance No. 1 of 2018.

8. The Bill seeks to replace Ordinance No. 1 of 2018 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

K. K. SHAILAJA TEACHER.