

No. 1629 (2) XVII-V-1-1(KA)-16-2002 Dated Lucknow, September 4, 2002

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor pleased to order the publication of the following English translation of the Uttar Pradesh Coaching Viniyaman Adhiniyam, 2002 (Uttar Pradesh Adhiniyam Sankhya 5 of 2002) as passed by the Uttar Pradesh Legislature and assented to by the Governor on September 3, 2002.

THE UTTAR PRADESH REGULATION OF COACHING ACT, 2002

(U.P. ACT NO. 5 Or 2002)

[As passed by the Uttar Pradesh Legislature)

AN

ACT

to provide for restriction on coaching under certain circumstances, and for the registration of the person impairing coaching, or running, managing or maintaining coaching centre, and for matters connected therewith or incidental thereto

IT IS HEREBY enacted in the Fifty-third Year of the Republic of India as follows:-

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| Short title and commencement | 1. (1) This Act may be called the Uttar Pradesh Regulation of Coaching Act, 2002
(2) It shall be deemed to have come into force on June 27, 2002. |
| Definitions | 2. In this Act unless the context otherwise requires,-
(a) 'affiliated college' means a college affiliated to a University;
(b) 'associated college' means a college associated with a University;
(c) 'Board' means-
(i) the Board of High School and Intermediate Education constituted, under the Intermediate Education Act, 1921;
(ii) the Uttar Pradesh Board of Basic Education constituted under the Uttar Pradesh Basic Education Act, 1972; or
(iii) the Uttar Pradesh Pravidhik Shiksha Parishad established under the Uttar Pradesh Pravidhik Shiksha Adhniyam, 1962:
(d) 'coaching' means tuition, instruction or guidance in any branch of learning imparted to three or more persons but does not include a counselling;
(e) 'coaching centre' means a place maintained reserved or arranged for the purposes of coaching but does not include, -
(i) an institution;
(ii) any other school or college recognised, maintained or established by or under any law for the time being in force;
(iii) an institute or academy, by whatever name called, providing |

instruction in fine arts, information technology, computer science, typewriting, stenography or any other technical education of like nature:

(f) 'Competent Officer' means an officer authorised by the State Government by notification to exercise the powers and perform the functions of the competent officer under this Act for such area or in relation to such institution or coaching centre as may be specified in the notification

(g) 'constituent college' means a college maintained by a University:

(h) 'counselling' means an occasional instruction or guidance in any branch of learning by a teacher or employee but does not include instruction or guidance on regular basis in lieu of a remuneration

(i) 'employee' means an employee of an institution;

(j) 'institution' means a University, an affiliated college, an associated college, a constituent college or any other educational institution recognised or controlled by, or affiliated to, a Board, or controlled or recognised by the State Government;

(k) 'teacher', in relation to an institution, means a person employed by the institution for imparting instruction or guiding or conducting research in any branch of learning and includes the Principal, the Director or the Head Master, as the case may be, of the institution:

(l) 'University' means a University established by or under any Uttar Pradesh Act.

Registration of coaching 3. (1) Where a person, not being a teacher or employee, desires to impart coaching or to establish, run, manage or maintain a coaching centre, he may apply to the Competent Officer for registration for the purpose of this Act:

Provided that any person imparting coaching, or running, managing or maintaining any coaching centre from before the commencement of this Act may apply for registration within three months from the date of such commencement.

(2) The application for registration under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by a deposit of such fee, which shall be paid in such manner, as may be prescribed.

(3) The Competent Officer shall, after satisfying himself that the application for registration is in conformity with the requirements of sub-section (2) and the person applying for the registration has fulfilled the conditions specified in section 4, register him in the register prescribed for the purpose and issue him a certificate of registration in the prescribed form:

Provided that no order refusing the registration under this sub-section shall be passed except after giving to the person concerned an opportunity of showing cause.

(4) The certificate of registration issued under sub-section (3) shall be valid unless cancelled or suspended under this Act.

Conditions for registration 4. No person shall be registered under section 3 unless he undertakes in writing not to engage or employ any teacher or employee of an institution for the coaching.

Cancellation and suspension of registration 5. (1) The Competent Officer may, at any time, for sufficient cause cancel or Cancellation and suspend a certificate or registration granted under section 3:
Provided that no order under this sub-section shall be passed,-
(a) except after giving to the person concerned an opportunity of

showing cause; and

(b) unless it appears to the Competent Officer that the person concerned has violated the condition specified in section 4.

(2) Where any certificate of registration is suspended or cancelled under sub-section (1), no person shall be entitled to any compensation or to refund of any registration fee.

Appeal

6. Any person aggrieved by an order passed under section 5, may, within Appeal thirty days from the date of such order, prefer an appeal against the order to the State Government, which may, after giving an opportunity of hearing to the appellant, pass such orders as it thinks fit.

Restrictions on coaching

7. (1) No person, not being a teacher or employee, shall,-

(a) impart coaching with or without remuneration;

(b) establish, run, manage or maintain or cause to be established, run, managed or maintained any coaching centre; unless he holds a valid certificate or registration issued under section 4.

(2) No teacher or employee shall.-

(a) impart coaching in a coaching centre or any other place, other than the institution in which he is for the time being employed;

(b) establish, run, manage or maintain or cause to be established, run, managed or maintained any coaching centre, or

(c) accept any remuneration or fee, other than his legal remuneration as teacher or employee, as the case may be.

Inspection

8. (1) The Competent Officer may inspect any records of a coaching centre.

(2) The owner or the person incharge of a coaching centre shall produce before the Competent Officer such records as may be required by the Competent Officer during the inspection.

(3) The Competent Officer shall, after making the inspection under this section, prepare a report showing the defects or irregularities, if any, noticed by him during the inspection and forward a copy thereof to the owner or the person incharge of the coaching centre and the State Government.

(4) Upon receiving the report under sub-section (3), the owner or the person incharge of the coaching centre shall rectify the defects or irregularities mentioned in such report within the time fixed by the Competent Officer for the purpose.

Penalties

9. (1) Whoever wilfully contravenes, or abets the contravention of, the provisions of sub-section (1) of section 7 shall be punished with fine which may extend to one lakh rupees.

(2) Whoever wilfully contravenes, or abets the contravention of, the provisions of sub-section (2) of section 7 shall be punished with fine which may extend to fifty thousand rupees.

(3) Whoever wilfully contravenes, or abets the contravention of, the provisions of sub-section (4) of section 8 shall be punished with fine which may extend to ten thousand rupees.

(4) No court shall take cognizance of an offence punishable under this section except on a complaint in writing made by the Competent Officer or by such other officer as the State Government may, by notification, authorize in this behalf.

Competent Officer to be public servant 10. The Competent Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Panel Code.

Protection of action taken in good faith 11. No suit, prosecution or other legal proceeding shall lie against the Competent Officer, the State Government or any other person for anything which is in good faith done or intended to be done, in pursuance of this Act or the rules or order made there under.

Offences by companies 12. (1) If the person committing an offence under this Act is a company, the company, as well as every person incharge of and responsible to the company for the conduct of its business at the time of the commission of the offence 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 such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, secretary, manager or other officer of the company, such director, secretary, manager or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly

Explanation-For the purpose of this section-

(a) "company" means any body corporate, and includes a firm or association of individuals, and

(b) "director" in relation to a firm, means a partner in the firm

Over-riding effect 13. Notwithstanding anything to the contrary contained in any Over-riding effect Uttar Pradesh Act, the provisions of this Act shall have effect.

Power is remove difficulties 14. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by a notified order, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiry of a period of two years from the date of commencement of this Act.

(3) Every order made under sub-section (1) shall be laid as soon as may be, before both Houses of the State Legislature and the provisions of sub-section (1) of section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

Power to make rules 15. The State Government may, by notification, make rules for carrying out the purposes of this Act.

Repeal and saving 16. (1) The Uttar Pradesh Regulation of Coaching Ordinance, 2002 is hereby repealed.
(2) Notwithstanding such repeal, anything done or any action taken under the

Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under this Act as if the provisions of this Act were in force at all material times.

By order,
A. B. SHUKLA
Pramukh Sachiv

STATEMENT OF OBJECTS AND REASONS

The State Government received complaints that the teachers of the Universities, Degree colleges and other aided institutions were imparting coaching or running, managing or maintaining coaching centres and were not taking interest in imparting instructions in their respective Universities, colleges or institutions. It was, therefore, decided to make a law to provide for restriction on coaching under certain circumstances and for registration of the person imparting coaching or running, managing or maintaining coaching centre. Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Regulation of Coaching Ordinance, 2002 (U.P. Ordinance no. 8 of 2002) was promulgated by the Governor on June 27, 2002.

This Bill is introduced to replace the aforesaid Ordinance.