

COMMENTARY ON CONSTITUTION OF COMMITTEES FOR ADMISSION AND FIXATION OF FEES

- References:**
1. 'St. Stephen's College v. University of Delhi', AIR1992SC1630, 1991(2)SCALE1217, (1992)1SCC558
 2. 'T.M.A. Pai Foundation v. State of Karnataka', AIR2003SC355, JT2002(9)SC1, (2002)8SCC481.
 3. 'Islamic Academy of Education and Anr. v. State of Karnataka and Ors.', AIR 2003 SC3724, 2003(6)SCALE325, (2003)6 SCC697.
 4. 'P.A. Inamdar and Ors. Vs. State of Maharashtra and Ors.', AIR2005SC3226, JT2005(7)SC313

A. Whether private/professional colleges can admit 100% students?

- i. The 50% quota system, ie. the right to fill up 50% seats by the government and the balance 50% by the management was laid down by the Hon'ble Supreme Court in 'St. Stephen's College v. University of Delhi', AIR1992SC1630, 1991(2)SCALE1217, (1992)1SCC558.
- ii. The correctness of the said ratio of 50% seats has since been answered by the Apex Court (Coram of 11 Judges) in 'T.M.A. Pai Foundation v. State of Karnataka', as under;

“The basic ratio laid down by this Court in St. Stephen's College case (supra) is correct, as indicated in this judgment. However, rigid percentage cannot be stipulated. It has to be left to authorities to prescribe a reasonable percentage having regard to the type of institution, population and educational needs of minorities.”

Therefore, the current position of law is that while the thump rule is 50%, the quantum/ number of such seats can be modified by the government, according to the local needs and different percentage can be fixed for minority unaided and non-minority unaided and professional colleges. Many states have apparently passed legislation/ regulations fixing the number of seats.

B. What is the procedure for Admission?

- i. In order to ensure transparency and merit, admissions shall be at the State level through common tests.
- ii. Every State has to constitute Committee for the purpose of Admission which shall monitor and regulate the field. This is necessary to protect the interest of the student community as a whole as also the minorities themselves, in maintaining required standards of professional education.
- iii. The Admission Committee shall consist of;
 - a. Retired Judge of High Court (nominated by the Chief Justice of that State)
 - b. One Doctor or Engineer of repute nominated by the retired Judge, depending on the type of institution.
 - c. The Secretary of the State Government in charge of Medical Education or Technical Education, as the case may be, shall be a member and Secretary of the Committee.
 - d. Committee to nominate/co-opt an independent person of repute.
 - e. One of the Vice-Chancellors of the University in that State.
- iv. Powers of Admission Committee:

The Committee shall have powers to oversee the tests to be conducted by the association. This would include the power to call for the proposed question paper(s), to know the names of the paper-setters and examiners and to check the method adopted to ensure papers are not leaked. The Committee shall supervise and ensure that the test is conducted in a fair and transparent manner. Before exempting any institute or varying in percentage of quota fixed by the State, the State Government must be heard before the Committee. It is clarified that different percentage of quota for students to be admitted by the management in each minority or non-minority unaided professional college(s) shall be separately fixed on the basis of their need by the respective State Governments and in case of any dispute as regards fixation of percentage of quota, it will be open to the management to approach the Committee.

C. What is the procedure for Fixation of Fees?

- i. In order to ensure admission of students on non-exploitative terms, States shall constitute five member Fee Committee.
- ii. The Fee fixation Committee shall consist of;
 - a. Retired Chief Justice of High Court (nominated by the Chief Justice of that State).
 - b. Chartered Accountant of repute nominated by the retired Chief Justice.
 - c. A representative of the MCI or AICTE, depending on the type of institution.
 - d. The Secretary of the State Government in charge of Medical Education or Technical Education, as the case may be, shall be a member and Secretary of the Committee.
 - e. Committee to nominate/co-opt another independent person of repute.
- iii. Procedure for fixing Fees:

Each educational Institute must place before this Committee, well in advance of the academic year, its proposed fee structure. Along with the proposed fee structure all relevant documents and books of accounts must also be produced before the committee for their scrutiny. The Committee shall then decide whether the fees proposed by that institute are justified and are not profiteering or charging capitation fee. The Committee will be at liberty to approve the fee structure or to propose some other fee which can be charged by the institute. The fee fixed by the committee shall be binding for a period of three years, at the end of which period the institute would be at liberty to apply for revision. Once fees are fixed by the Committee, the institute cannot charge either directly or indirectly any other amount over and above the amount fixed as fees. If any other amount is charged, under any other head or guise e.g. donations the same would amount to charging of capitation fee. The Governments/ appropriate authorities should consider framing appropriate regulations, if not already, framed, whereunder if it is found that an institution is charging capitation fees or profiteering that institution can be appropriately penalised and also face the prospect of losing its recognition/affiliation.