

## Analysis of Private Higher Education Institutions

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### **Introduction:**

There are three levels of education; elementary, secondary and higher. The first two are imparted at the school level, whereas higher education is imparted at the college and university level. There may be two types of providers of education: public and private. Private institutions may be partly funded by the government (aided) or entirely self-funded (unaided). Public institutions are established, funded and managed by the government. Private providers of education often step in when the government has limited resources to provide universal access to education. In most markets, the private sector is characterised by a profit-motive. However, when it comes to education, the private sector is required to operate on a not for profit basis. Some experts are of the view that certain private providers of education dilute the quality of education due to a lack of regulatory oversight and restrict access due to charging high fees from students. On the other hand, some consider private involvement to be necessary to enhance investment and quality, as a result of increased competition, in higher education. The Standing Committee on Human Resource Development is currently examining the subject "Role of Private Sector in Higher Education". In this context, we present an analysis of private institution in providing higher education in India. This note maps out the regulatory framework and highlights analysis with regard to private higher education.

### **Regulatory Framework for Higher Education:**

Education falls under the Concurrent List of the Constitution. This means that both the centre and states can enact laws related to education. In addition, the mandate of determining standards of higher education and research lies with the centre, as this falls under the Union List. Further, states have powers to incorporate, regulate and wind up universities as a subject under the State List. At the centre, the Ministry of Human Resource Development (MHRD) formulates policies, and implements laws and schemes related to education in the country. Under the Ministry, the Department of Higher Education is responsible for the higher education sector. At the state government level, Departments of Education carry out similar functions. Institutions offering specialised professional disciplines in sectors such as health, agriculture, etc, are regulated by their respective ministries. The main regulators for higher education are the University Grants Commission (UGC) and the All India Council for Technical Education (AICTE). In addition, there are 15 professional councils regulating various professional courses. These are statutory bodies established by Acts of Parliament such as the Medical Council of India, Bar Council of India, Council of Architecture, etc. According to All India Survey on Higher Education (AISHE), there were a total of 665 universities, 36812 colleges, 487 autonomous colleges and 127 Deemed Universities in the country.

**Establishment of Private Universities:**

A university must be a trust, society, not for profit entity or should be run by one. There are two routes to establish a private university. Primarily, it may be set up through an Act of Parliament (central university) or an Act of a state legislature (state university). Till date, no private university has been set up through an Act of Parliament. The other route is by being declared a deemed university. Currently, 229 universities are privately managed. States may differ in the land norms and other procedural steps required in setting up a private university. However, an analysis of laws in some states such as Rajasthan, Madhya Pradesh and Gujarat shows that largely these requirements are similar across states. In Haryana, private universities are required to be self-financed and maintain an endowment fund with a minimum amount of Rs 3 crore. Before a university can be established, the sponsoring body is also required to hold a minimum of 20 acres of land, if outside the municipal limits, or a minimum of 10 acres, if within the municipal limits.

**Procedure to establish:** A Proposal with five years expected cash flow statement, letter of intent and initial sum of money submitted to the government. Proposal contains: objectives of the university, types of programmes of study, deed of the institution (which is a trust/society/non-profit entity under Section 25 of the Companies Act, or is being run by one), fee structure, admissions format, composition details of board of governors, availability of academic research and training facilities, building plan and land deed, etc. Once the proposal is approved, the state government tables the Bill for the establishment of the private university, for passage by the state legislature. The university shall maintain standards as prescribed by the relevant regulator (UGC, except in the case of technical, professional courses: AICTE or other councils). It shall get accredited by a body such as the National Assessment and Accreditation Council, within a stipulated period of time.

The UGC has powers regarding the recognition, functioning and de-recognition of deemed universities. It is also empowered with disbursing grants to other universities for their maintenance and development, and with regulating fees charged by universities. Failure to comply with UGC standards may result in withdrawal of grants or termination of affiliation of a college to a university, if the college does not comply with fee and other regulations. Private universities offering technical courses such as engineering, town planning, management, etc, and receiving funding from AICTE, are required to comply with its academic standards and regulations.

**Analysis of Private Institutions:**

**For-profit Educational Institutions:** Private providers are typically driven by a profit motive, but over the years, the Supreme Court of India has interpreted the nature of educational institutions to be charitable and not for profit. Therefore, supernormal or illegal profits cannot be made by providing education. If a revenue surplus is generated it is to be used by the educational institution for the purpose of its expansion and education development. However, both National Knowledge Commission(2005) and Yashpal Committee(2008) recommended that it is essential to stimulate private investment in higher education to extend educational opportunities. There are many private, not for profit higher education institutions that have been operating in countries like the USA for many years such as Stanford University, Massachusetts Institute of Technology, etc.

Alternatively, the University of Phoenix in the US is private and for profit. The UK higher education system is also characterised by many private providers, which operate on a not for profit basis.

**Enrollment:** The total population of India is currently above 121 crore. Gross Enrollment Ratio (GER) is calculated as a percentage of total number of students enrolled in a specific level of education (higher education in this case) divided by the total population within the relevant age group (18-24 years). In India, GER in higher education has more than doubled over a period of 11 years, going from 9% in 2002-03 to 24% in 2013-14. The Rashtriya Uchchar Shiksha Abhiyan is a centrally sponsored scheme, mainly to provide funding to state higher educational institutions. The scheme's objective is to achieve 30% GER in higher education by 2020. While GER has increased, it reflects that currently only 24% of people who should be enrolled in universities (as per target age-group of 18-24 years) are actually enrolled. This is fairly low compared to other countries such as the USA 84%, UK 59% and Japan 55%.

It may be noted that over the past 10 years, the central government expenditure on higher education, has been fairly constant around 1-1.5% of its total expenditure. While various committees have observed the importance of private sector investment in higher education to raise this expenditure, Currently, India spends 1% of its GDP on higher education. In contrast, USA spends about 3% of its GDP on higher education, Canada 2.5%, Chile 2%. USA, Chile and Korea also show high proportions of private expenditure on higher education (between 1.7% to 2.1% of GDP).

Data indicates that currently the private sector is playing a significant role in addressing access to higher education. As on December 2014, there were a total of 36,812 colleges. Of these, 20,390 colleges were private and 6,768 were public colleges. At the state level, Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu are states with the maximum number of colleges, followed by Uttar Pradesh and Gujarat. These states also consist of the highest number of private colleges. The enrollment in private colleges is 64% and in Govt. colleges is 36%.

**Types of Disciplines:** With regard to the types of disciplines studied, in the Indian higher education sector, most students at the under graduate level are enrolled in the arts stream (33.79%), followed by engineering & technology (18.89%) and commerce (14.51%). Whereas most students opt for management studies at the post graduate stage (20.64%), the leading stream at the M. Phil level is social science (24.07%). At the Ph. D. level, most students chose science (22.15%).

The NKC observed that in disciplines such as engineering, medicine and management there has been a rise in privatisation of education such that two-thirds to three-fourths of these seats are in private institutions. A UGC report noted that the distribution of public and private institutions in India is skewed. This is because enrollment in public universities is largely concentrated in conventional disciplines (arts and sciences) whereas in private institutions, more students are enrolled in market-driven disciplines (engineering, management, etc). A British Council report focusing on India, suggested that the latter types of disciplines are typically more employable and that majority of firms hire engineering and management graduate. The Yashpal Committee also pointed out that while private investment is high in the emerging areas of engineering, medicine and management; majority of enrollment is still taking place in the traditional disciplines like arts, etc. The Committee said that the private sector should not confine itself to the commercially viable

sectors such as management, accountancy, medicine, etc. Therefore, the responsibility of maximising enrollment currently stays with the government.

**Fee Structure:** Private higher education institutions are often accused of charging capitation fees (any amount in excess of fees charged for the course of study) from students, in turn making them unaffordable. Fee structures of private institutions may be one reason for inaccessibility of higher education. According to the Yashpal Committee, capitation fees in private institutions ranged from Rs 1-10 lakh for engineering courses, Rs 20-40 lakh for advanced courses in medicine, Rs 5-12 lakh for dental courses and Rs 30,000-50,000 for courses in arts and science.

In 2002, the Supreme Court ruled that the fees charged by private unaided educational institutes, could be regulated. Also, while banning capitation fee, it allowed institutes to charge a reasonable surplus. In 2003, the Court ruled that the fee structure in professional courses shall be approved by a committee in order to curb profiteering and charging of capitation fees. Post this judgment, some states such as Madhya Pradesh, Andhra Pradesh and Karnataka set up these committees. However, cases have been cited where some committees have determined the fee structure not by taking into account the financial viability of the institutes, but by how much students can afford to pay.

The Standing Committee on Human Resource Development, while examining the Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010, stated that many private institutions charge exorbitant fees. In the absence of well-defined norms, fees charged by such universities have remained high. UGC Regulations currently regulate fees for courses offered in deemed universities, to an extent. They state that the fees charged shall have a reasonable relation to the cost of running the course and the institution shall ensure that there is no commercialisation of education.

Private institutions claim that certain other factors contribute to revision in fee structures: (i) sudden increase in charges, or levying of additional fee by the affiliating universities, sometimes requires the increase in fee structure, (ii) escalating maintenance of institutions, administrative expenses (maintenance of lab equipment, purchase of new software and so on) due to market variations and upward revision of pay for the staff, (iii) additional fees/charges in respect of value-added courses or services provided by the university, and (iv) other unforeseen circumstances.

**Reservation:** In the past, the Supreme Court has stated that private unaided educational institutions have full autonomy in their administration. The Court has also stated that the principle of merit should not be sacrificed, i.e., students should be admitted on the basis of their academic capability or merit. The management of a private institution can exercise its discretion for quota in admitting students, subject to satisfying the test of merit based admissions. This meant that the government could not mandate its reservation policy on a private unaided educational institute. Reservation is affirmative action for socially and economically backward classes, scheduled castes (SCs), scheduled tribes (STs), etc. The justification for disallowing reservations in these institutions was the encroachment of their right and autonomy in determining admission procedures, etc. Such reservation was only possible if decided mutually by the institution and the government.

The Constitution (93rd Amendment) Act was enacted in 2005, inserting Article 15(5) in the Constitution. This empowered the government to mandate reservations in private (aided and

unaided) educational institutions, except in minority educational institutions, for socially and educationally backward classes of citizens, SCs, STs, etc. This was challenged in 2008, wherein the Court upheld the constitutional validity of Article 15(5). It said that if reservations were imposed on these minority institutions, they would lose their minority character and would fail to be brought on the same platform as non-minorities. However, the Court left the question regarding applicability of reservations to private unaided institutions unanswered, as this aspect had not directly been challenged. In 2014, this issue was challenged in Supreme Court in context of the Right to Education (RTE) Act, 2010. The Act mandates 25% reservation in elementary schools (including private unaided) for economically weaker sections of society. The Court reasoned that the law mandates the government to reimburse the cost of such education to private institutes, and is in line with the constitutional goal of equality of opportunity. It held Article 15(5) constitutionally valid with regard to reservations in private unaided educational institutes.

**Accreditation:** It is important to improve the quality of higher education institutions along with quantitative expansion. Accreditation is a way of measuring such quality of institutions. It is the process of assessing the performance of institutions that volunteer to be accredited, on the basis of a few set parameters. These parameters may include: (i) curriculum, (ii) teaching-learning evaluation, (iii) research and consultancy, (iv) infrastructure and learning resources, (v) student support, (vi) governance, leadership and management, (vii) innovations and best practices, (viii) students' performance, (ix) improvement in attainment of outcomes and, (x) facilities and technical support, etc. Once these have been considered a final grade is assigned to the institution by the accrediting authority. The objective behind such a review process is mainly to help potential students assess the quality of institutions and thereby make an informed choice. It also enables institutions to identify strengths, weaknesses and internal areas of planning. It may also be useful for providing data to funding agencies as well as enhancing employability of graduates. In India, the National Assessment and Accreditation Council (NAAC) is an autonomous body established by UGC in 1994. Its main function is to ensure quality education via assessment and accreditation of institutions that volunteer for the same. The reassessment of an institution takes place after a period of five years. An institution may apply for reassessment of a grade it has been accredited with, by the Council, after one year of acquiring such a grade, but not later than three years. The National Board of Accreditation was established under the AICTE Act, 1987. The Board's powers include: (i) conducting assessment or accreditation of a technical institution or programme, (ii) working with colleges and technical institutions to develop mechanisms for quality assessment, and (iii) sharing results of the assessment process with institutions. Largely, the Board looks at programme accreditation. Both the Council and the Board, accredit public and private higher education institutions.

However, effective ways and strategies need to be devised to ensure that these bodies complete accreditation within the stipulated time frame. Currently, they suffer from a backlog of many applications of institutions waiting to be accredited. The NKC stated that only 10% of all institutions had been accredited. In addition, institutions need to ensure that post-accreditation complacency does not set in, as quality up-gradation is not a one-time phenomenon. An Internal Quality Assurance Cell (IQAC) in institutions may continuously focus on academic excellence and

administrative efficiency. Finally, accreditation bodies such as the Council may inform institutions, from time to time, where they stand in terms of standards of excellence from a global perspective.

### **Conclusion:**

It is true that the private higher education institutions play important role in providing higher education, but because of high fees criteria, the poor students could not get admission in these institutions. The academically poor students get admission in private institutions on Management Quotas. The “Reservation Policy” has been decided by the Government and it has been implemented in Government Institutions but the private institutions do not implement at all even after the order of Hon’ble Supreme Court. Most of the private institutions have very poor infrastructure, insufficient and less qualified faculty members. In mostly institutions, the teaching and non-teaching staffs are over burdened and they are paid a little amount against their work. The employees working in private institutions are not satisfied because their future is not stable. How did such institutions obtain approval by AICTE and higher grade from NAAC to operate is a mystery to many? The government and higher education department must initiate to improve these loopholes so that the contribution of private institutions in providing higher education is increased.

### **References:**

1. UGC Regulations, 2010
2. AICTE Act, 1987
3. [www.knowledgecommission.gov.in](http://www.knowledgecommission.gov.in)