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Education Reforms on Anvil

The prohibition of unfair practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010, is a welcome step. However, it is more like a framework around which a more comprehensive and complete policy to govern higher education needs to be built.

The surge of private players in the higher education sector, especially in the professional education streams such as technical and medical, is augmenting the supply side. Certainly a thing to rejoice, as providing quality professional education seems out of reach of the government. Unfortunately, it has also resulted in wide ranging unfair practices that the education providers resort to in their race for RoI (return on investment). From false advertising to opaque fee structure to misrepresentation of key information, the education entrepreneurs are resorting to every trick in the book to maximise profits. These malpractices mislead students into making wrong choices. Such education practitioners are also eroding the credibility of a sector as critical as education.

While the current policy in higher education promotes autonomy of institutions; institution promoters are adopting unfair practices by misusing it. This necessitates a tighter regulation regime to eliminate such practices. In such a scenario, The Prohibition of Unfair Practices in Technical Educational Institutions, Medical Educational Institutions and Universities Bill, 2010, which seeks to address these concerns, is a welcome

step. The Bill aims to balance autonomy and protect the interests of students.

Once the Bill is passed in Parliament, it is expected to regulate the higher education sector and address the key challenges faced by students and other stakeholders. The Bill intends to force institutions to bring transparency in the admission process: prohibit them from providing admissions by charging over and above the scheduled fee (e.g. capitation fee) in any form; and force them to deliver only credible and true information to students. It also aims to curb the widespread practice by institutions to withhold students' degrees, certificates or documents in order to retain the money due to the student, or to compel them to continue in the same institute.

Checks & Balance

The major unfair practices identified by the Bill, its provisions and suggested solutions are:

- **Providing admission by taking money, over and above the scheduled fee (e.g. capitation fee) or taking any favour in kind:** The Bill prohibits capitation fee in any form. It considers the individual offering or paying any undue fee equally liable for punishment. It also mandates educational institutions to provide receipts against any money taken from students. The provision is aimed at bringing transparency in fee related transactions.

- **Making false claims through misleading or false advertising:** The Bill seeks to prohibit institutions from publishing misleading advertisements about their recognitions/credentials, infrastructure, academics and other facilities.

- **Not being transparent in communicating the facts about the institute**

and the fee structure: The Bill mandates publication and release of prospectus at least 60 days prior to the commencement of admissions. The prospectus should contain explicit details of all fee components (including the proportion of the fee to be returned in case the student leaves the course midway) and other such critical and relevant information likely to influence students' decision-making. Also, the price of the prospectus must be reasonable covering printing costs, and no profit must be made out of its sale.

- **Opaque, biased and arbitrary admission process:** The Bill seeks to streamline the admission process protocol by making it compulsory for institutions to include details about admission tests in their prospectus. In case the institution does not have admission tests, it needs to explicitly mention the relevant admission criteria which must be fair, impartial and unbiased. Institutions are allowed to charge only a reasonable fee for admission tests that compensates the cost of conducting tests.

- **Using undue pressure tactics like withholding documents such as degree or diploma:** According to the Bill, if a student withdraws from the course midway, the institute can't refuse to return the student's original certificates or diploma or any other important documents to put undue and unfair pressure on him/her to continue at the institute. The institute also needs to refund to the student, a proportion of the fees, as mentioned in the prospectus.



BY ANIL T.

ROAD TO REFORM

The Bill will treat such malpractices as criminal or civil offences

The Bill will treat such malpractices as criminal or civil offences depending upon the nature of the crime. The monetary penalty of up to Rs 50 lakh, or imprisonment up to three years, or both is proposed for the institution which contravenes the provisions, especially on the capitation fee and advertisement related clauses. Any institution refusing to return students' documents or the pre-mentioned fee proportion, should the student drop out midway, will be liable to a penalty which may extend up to Rs 1 lakh.

Implementation Related Challenges

The Bill is certainly a step in the right direction. However, certain loopholes and subjective provisions in the Bill can make its implementation process challenging.

These necessitate a well-structured framework to address demand side issues in education that contribute to unfair practices. The Bill's intent can be grossly compromised if students and parents are unaware of their rights, and if there is no quick and accessible grievance addressing mechanism in place to address their problems. For example, Section 18 of the Bill proposes that if an institute contravenes any of the provisions, then the students or parents cannot directly move the court of law. They are required to approach through the authorised person, and only after the concerned person is convinced about the

malpractice, can further proceedings begin. Such provisions can be potential loopholes in the whole process and undermine the impact of the Act. Also, the Bill does not propose to cover educational institutions established and administered by minorities. It would have been better to just exempt them from admissions process, rather than exempting them from the purview of the Bill altogether.

Though the clause mandating 'reasonable fee' for admission test and 'reasonable price' for the prospectus seems aimed at preventing institutions from making capital gains out of such transactions, it's not practical. The costs of admission test and prospectus are determined respectively by the number of students applying for the admission test and the number of copies of prospectus sold. It is practically impossible to arrive at projections, especially if historical data is unavailable. While this clause can certainly check the errant institutions that charge prohibitively high amounts, it will be tough on the recently started schools that cannot have a buffer in their financial planning.

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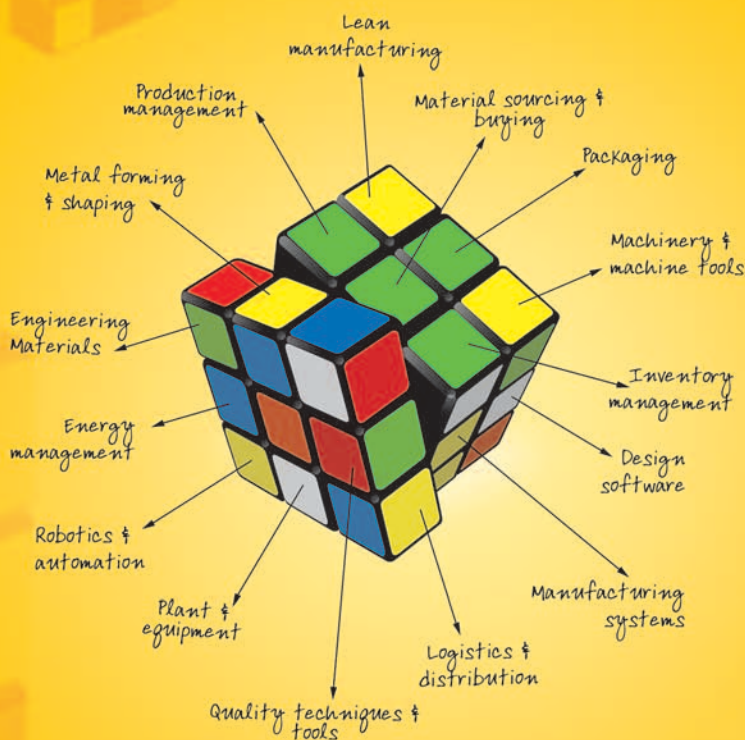
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Need for a Collaborative Approach

The Bill is awaiting Parliament approval for over a year now and is most likely to be passed during this year. It is definitely a good starting point for the government to develop a foolproof higher education reform policy. Keeping it at the central node, a more comprehensive and sound ecosystem can be developed around the Bill by constructive collaboration with institutions and experts. Independent bodies like Advertising Standards Council of India can be roped in to frame ethical standards guideline for advertisements in the education sector; suitable audit system to validate institutions' cash flows; and appropriate legal system to apprehend and prosecute defaulters. Relevant adaptations can be made to achieve the key objectives of the Bill. ■■■

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