

TO BE PUBLISHED IN PART IV OF DELHI GAZETTE EXTRAORDINARY
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI

No.F.13(6)/98/LAD

Dated the 30.4.1998

The following Act of the Legislative Assembly received the assent of the President on 21.4.1998 and is hereby published for general information.

The Delhi Tibbia College (Take Over) Act, 1997
(Delhi Act No.6 of 1998)

(As passed by the Legislative Assembly of the National Capital Territory of Delhi).

An

Act

to provide for the taking over, in the public interest, of the Ayurvedic and Unani Tibbia College, Delhi and for matters connected therewith or incidental thereto.

WHEREAS the Tibbia College, Delhi is being managed by a Tibbia College Board constituted under the Tibbia College Act, 1952 (Delhi Act No.5 of 1952);

AND WHEREAS of late the said Board has been facing a number of problems;

AND WHEREAS the Tibbia College Board passed a resolution that "A&U Tibbia College and its allied units should be taken over by the Government of Delhi";

AND WHEREAS the taking over of the Tibbia College and its allied units is necessary in the interest of promotion of Indian Systems of Medicine and for providing better educational facilities to the students and improved service conditions of its employees;

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty-eighth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the
Delhi Tibbia College
(Takeover) Act, 1997.
- (2) It shall come into force on
such date as the Government
may, by notification in the
official Gazette, appoint.

Definitions.

2. In this Act, unless the context
otherwise requires;
 - (a) 'appointed day' means the day on
which this Act comes into force;
 - (b) 'Board' means the Tibbia College
Board established under section 4
of the Tibbia College Act, 1952
(Delhi Act No.5 of 1952);
 - (c) 'College' means the Ayurvedic and
Unani Tibbia College, Delhi, and
includes its allied units;
 - (d) 'Delhi' means the National Capital
Territory of Delhi;
 - (e) 'Government' means Lieutenant
Governor of National Capital
Territory of Delhi appointed by the
President under article 239 read
with article 239 AA of the
Constitution;
 - (f) 'notification' means a notification
published in the official Gazette;
 - (g) 'prescribed' means prescribed by
rules made by the Government under
this Act;
 - (h) 'principal Act' means The Tibbia
College Act, 1952 (Delhi Act No.5
of 1952);
 - (i) 'specified date' means such date as

the Government may for the purpose of any provision of this Act, by notification, specify; and different dates may be specified for different provisions of this Act.

CHAPTER II

TAKING OVER OF TIBBIA COLLEGE

Ownership
of the
College to
vest in
Government.

General
effect of
vesting.

3. On and from the appointed day, the management of the College shall stand transferred to, and shall vest absolutely in, the Government.
4. (1) The College, referred to in section 3 shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property movable and immovable, including lands, buildings, stores, instruments, equipment, cash balances, cash on hand, reserve funds, investments and book debts and all other rights and interests in or arising out of such property as were, immediately before the enforcement of this Act, in the ownership, possession, power or control of the Board or the Tibbia College, whether within or outside the National Territory Delhi, and all books of account, registers and all other documents of whatever nature relating thereto.
- (2) All property as aforesaid which has vested in the Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting it and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be

deemed to have been withdrawn.

- (3) Every liability of the Board in respect of any period prior to the appointed day shall be the liability of and shall be enforceable against the Government.
- (4) No liability of the Board for the contravention, before the appointed day, of any provision of the law for the time being in force shall be enforceable against the Government.
- (5) Pending legal cases - If, on the appointed day, any suit, appeal or other proceedings, of whatever nature, in relation to any property which has vested in the Government under section 3, instituted or preferred by or against the Board is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the taking over of the management of College or of anything contained in this Act but the suit, appeal or other proceeding may be pursued, prosecuted or enforced by or against the Government.
- (6) The Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Head of the College by whatever designation he may be called, as to powers of the Board or the College, and duties as the Government may deem desirable and fit.

Delivery of 5.
possession
of properties
of College.

- (1) Every person having, on the appointed day, in his possession, custody or control of any property forming part of, or relatable to,

the College, shall deliver forthwith such property to the Government or to any officer or other employee of the Government as may be authorised by the Government in this behalf.

- (2) Any person who has, on the appointed day, in his possession or under his control any books, papers or other documents relating to the College (including the minutes books containing resolutions in relation to the College adopted by persons in charge of the management of the Board before the appointed day), the current cheque books relating to College, any letters, memoranda, notes and other communications between the College and the Board, shall, notwithstanding anything contained in any other law for the time being in force, be liable to account for the books, papers, and other documents (including such minutes books, cheque books, letters, memoranda, notes and other communications) to the Government or to such person (being an officer or other employee of the Government) as may be authorised by the Government in this behalf.

- (3) Every person in charge of the management of the College, immediately before the appointed day, shall, within ten days from that day or within such further period as the Government may allow, furnish to the Government a complete inventory of all the properties and assets (including particulars of donations received, book debts, investment and belongings) forming part of, or relatable to, the College immediately before the appointed day and all liabilities and

obligations of the Board in relation to the College subsisting immediately before that day and also of all agreements entered into by the Board in relation to the College and in force, immediately before the appointed day.

**Management
of Tibbia
College.**

6. (1) The Government or any officer, by whatever designation, which the Government may by order in writing specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs of the College, the right and interest of the College in relation to which have vested in the Government under section 3, and to do all such things as such specified officer is authorised to exercise and do.

- (2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, it shall be lawful for the Government to reorganise and reconstruct the College and thereby form such units as the Government may deem fit.

**Provisions
relating
to the
employees
of the
College.**

7. Where the services of a person, who has been immediately before the appointed day employed in the College, are, in the opinion of the Government necessary having regard to the requirements of the College, he shall become, from the date of his appointment by the Government, an employee of the Government and shall hold office or service in the Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such College had not been transferred to and vested in the Government and continue to do so unless and until his employment in the College is duly terminated or until his remuneration and terms and conditions of employment are duly altered by the

Government :

Provided that such employees shall, in themselves, constitute a separate class and group of employees of the Government and shall not be equated to or merged with the other employees of the Government.

Certain powers of the Government.

8.

(1) The Government shall be entitled to receive up to the specified date, to the exclusion of all other persons any money due to the College, realised after the appointed day, notwithstanding that the realisation pertained to a period prior to the appointed day.

(2) Save as otherwise provided in this Act, the liabilities in relation to the College in respect of any period prior to the appointed day shall be the liabilities of the Government.

CHAPTER III

MISCELLANEOUS

Act to override all other enactments.

9.

The provisions of this Act or any notification, order or rule made thereunder, shall have effect notwithstanding anything inconsistent therewith contained in any law (other than this Act) or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court, tribunal or authority.

Contracts etc. to cease to have effect unless ratified by the Government.

10.

(1) Every contract (including any contract of employment or other arrangement) entered into by the Board in relation to the College, the management of which has vested in the Government under section 3, and in force immediately before the appointed day, shall, on and from the date of the expiry of ninety days from the appointed day, cease

to have effect unless such contract or other arrangement has been, before the expiry of that period, ratified, in writing, by the Government; and in ratifying such contract or other arrangement, the Government may make such alterations or modifications therein as it may think fit:

Provided that the Government shall not omit to ratify any contract or other arrangement and shall not make any alteration or modification therein-

- (a) unless it is satisfied that such contract or other arrangement is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the College; and
 - (b) except after giving the party or parties to the contract as the case may be, or other arrangement a reasonable opportunity of being heard and except after recording, in writing, its reasons for refusal to ratify the contract or other arrangement or for making any alteration or modification therein.
- (2) Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract or other arrangement is terminated, altered or modified under sub-section (1), or who ceases to exercise any powers or hold any office by reason of exercising any powers or hold any office by reason of any provision contained in section 4, shall be entitled to claim any compensation for the premature termination of the contract or other arrangement or for any alteration or modification therein or for the

loss of his powers or office.

Penalties.

11. Any person who -

- (a) having in his possession or custody or under his control any property forming part of the College, wrongfully withholds such property from the Government, or any person authorised by the Government, as the case may be, in this behalf, or
- (b) wrongfully obtains possession of, or retains, any property forming part of the College or willfully withholds or fails to furnish to the Government, or any person specified by the Government, as the case may be, any document relating to the College, which may be in his possession, custody or control or fails to deliver to the Government or any person specified by the Government, any assets, books of accounts, registers or other documents in his custody relating to the College, or
- (c) wrongfully removes or destroys any property forming part of the College or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

offences
by companies.

12.

- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, 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 had 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 is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer of the company, shall 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 other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

Protection
of action
taken in
good faith.

13. No suit, prosecution or other legal proceedings shall lie against the Government or any officer or other employee of the Government or any person authorised under this Act for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Power
to make
rules.

14. (1) The Government may, by notification, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the manner in which the day to day administration of the College shall be run;
 - (b) system for release of financial assistance;
 - (c) the procedure for the designated officer to exercise powers of general superintendence, direction, control, and management of the affairs of the College;
 - (d) the manner in which the existing employees of the College shall be absorbed in the service of the Government; and
 - (e) any other matter which is required to be or may be prescribed.
- (3) Every rule made by the Government under this Act shall be laid as soon as may be after it is made, before the House of the Legislative Assembly of Delhi while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or agree that the rule should not be made, the rule shall thereafter have effect only in such modified

form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

15. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of a period of two years from the commencement of this Act.

- (2) Every order made under this section shall, as soon as may be, after it is issued, be laid before the Legislative Assembly of Delhi.

Repeal of
Tibbia
College
Act, 1952.

16. The Tibbia College Act, 1952 (Delhi Act No.5 of 1952) is hereby repealed with effect from the day of the coming into force of this Act:

Provided that anything done or any action taken under the Act so repealed which could have been done under this Act if it had then been in force shall be deemed to have been done or taken under the corresponding provisions of this Act:

Provided further that subject to the provisions of this Act the repeal of the principal Act shall not render invalid any order, notice, notification, recovery or other thing issued or effected thereunder, before the day of coming into force of this Act, nor shall it affect the enforcement of any liability incurred thereunder before the commencement of this Act.



(R.T.L.D' SOUZA),

Under Secretary(L.A.),
Govt. of N.C.T. of Delhi.