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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
DEPARTMENT OF HIGHER EDUCATION,
(INTEGRATED LAW CELL)
BIKASH BHABAN, SALT LAKE CITY
KOLKATA - 700 091

NOTIFICATION

NO. 408-L/OM-204L/2017, dated, Kolkata the 3rd Day of January, 2019:— In exercise of the powers conferred by section 39 of the Brainware University Act, 2015 (West Ben. Act XXXI of 2015), and in supersession of the earlier rules made in this regard vide Department's Notification No. 14-ILC dated 15.01.2018, published in the Kolkata Gazette Extraordinary dated 15.01.2018, the Governor is hereby pleased to make the following rules:—

Rules

1. Short title and commencement:—

- (1) These rules may be called the Brainware University Rules, 2018.
- (2) They shall come into force on the date of their publication in the *Official Gazette*.

2. Definitions:—

- (1) In these rules, unless the context otherwise require,—
 - (a) "Act" means the Brainware University Act, 2015;
 - (b) "Administrator" means the Administrator appointed by the State Government, by order for the purposes of the Act;
 - (c) "Chairman" means the Chairman of the Regulatory Committee constituted under these rules;
 - (d) "Chancellor" means the Chancellor of the University;
 - (e) "Committee" means the Regulatory Committee constituted by the State Government;

- (f) "endowment fund" means the endowment fund constituted in the manner prescribed under these rules;
- (g) "professional course" means the courses conducted in the University declared as such by Regulatory Body;
- (h) "properties of the University" shall mean and include all properties movable or immovable, held by the University in any form;
- (i) "security deposit" means the security deposit pledged in the name of the State Government by the University;
- (j) "University" means the Brainware University;
- (k) "Visitor" means the Visitor of the University.

(2) All other words and expressions used but not defined in these rules shall have the same meaning as have been assigned to them under the Act.

3. Powers of Visitor:—

- (1) The Governor of the State of West Bengal shall by virtue of his office, be the Visitor of the University.
- (2) Without prejudice to the powers conferred by section 10 of the Act, the Visitor can through its Secretariat, summons any employee including the Chancellor of the University for the purpose of any enquiry or investigation.
- (3) Every Honorary Degree proposed by the University shall be conferred only upon prior approval of the Visitor.
- (4) Any association, understanding or collaboration with International Universities or Organizations in regard to academic programme or faculty exchange programme by the University may be made on the advice of the Visitor.
- (5) The Visitor may address any meeting of the Governing Board and the decision taken in such meeting may not be annulled or reversed or altered in any subsequent meeting of the Governing Board.
- (6) The Visitor shall have powers to give direction to the University from time to time not inconsistent with the provisions of the Act and the rules made hereunder.

4. Visitor's Secretariat:—

- (1) There shall be a Visitor's Secretariat in the Higher Education, Science and Technology and Biotechnology Department and the Additional Chief Secretary or the Principal Secretary or the Secretary of the Department, as the case may be, shall be the ex-officio Secretary to the Visitor.
- (2) All application or proposal for nomination of any member in the Governing Board by the Visitor and any reference to the Visitor in regard to the conferment of Honorary degree including reference regarding attendance of any meeting including convocation of the University or otherwise shall be made through the Visitor's Secretariat.
- (3) The Visitor's Secretariat may, upon receipt of appropriate instruction from the Visitor, communicate the relevant information to the University regarding any reference or proposal referred to under sub-rule (2).
- (4) The Visitor's Secretariat may perform such other acts as it may deem necessary in furtherance of the purposes of the Act.

5. Regulatory Committee:—

- (1) There shall be a Regulatory Committee to be constituted in the manner hereinafter provided, for the purposes of the Act.
- (2) The Regulatory Committee constituted under the Act may act as a Regulator for the University.

- (3) The Regulatory Committee shall meet in such place and on such time as the Committee may decide from time to time:

Provided that the Committee shall not use any premises provided by the University concerned for convening its meeting.

6. Constitution of the Committee:—

- (1) The Regulatory Committee shall consist of the following members:-
 - (a) the Chairman- who shall be an Officer of the State Government not below the rank of a Special Secretary to the Government of West Bengal and to be appointed by the State Government by Order;
 - (b) the Vice Chairman (Academic) of the West Bengal State Council of Higher Education,-Ex-officio-member;
 - (c) One Vice chancellor of a State-aided University, to be nominated by the State Government, for a period of two years;
 - (d) the Director of Public Instruction, West Bengal- Ex-officio member;
 - (e) the Director of Technical Education, West Bengal,-ex-officio member; and
 - (f) two persons not below the rank of Deputy Secretary to the Government of West Bengal, one from amongst the State Administrative Service and other from the West Bengal Legal Service, to be nominated by the State Government by order.
- (2) The Member-Secretary of the West Bengal State Council of Higher Education shall act as the Member Secretary of the Committee.
- (3) The tenure of the Chairman of the Committee shall be for three years or until he attains the age of sixty-five years, whichever is earlier.
- (4) The Committee may co-opt Legal and Accounts experts as member to the Committee who shall also be from the officers of the State Government.
- (5) A member shall cease to his membership in the Committee as soon he ceases to the post or capacity by virtue of which he becomes the member of the Committee.

7. Powers and functions of the Committee:— Without prejudice to the generality of the provisions of the Act and the rules made hereunder, the Regulatory Committee shall have the following powers, namely:-

- (1) to call for any records of the University, its campuses, centers or institutions run by the University;
- (2) to cause inspection of the University, its building, halls, hostel, library, laboratory, including campus, center and other institutions maintained by the University,
- (3) to inspect the academic, administrative and financial activities of the University,
- (4) to summon any person associated with the University or to any witness in relation to any proceedings conducted by the University and to enforce their attendance in the same manner and with the same authority vested to a Civil Court under the provisions of the Code of Civil Procedure, 1908,
- (5) to recommend to the State Government for dissolution of any authority of the University including the Governing Board;
- (6) to recommend to the University for starting new course and also to suggest syllabus and curriculum of various subjects or courses as per UGC guidelines, if any,
- (7) to prescribe fees of professional courses in the University and to recommend course fee for other courses, not inconsistent with the rules of relevant regulatory bodies and in considering the unit cost of education, infrastructural facilities provided to the students, quality of education and faculties provided, etc.

- (8) to direct the University to adopt the admission policy not inconsistent with the norms of Regulatory Bodies,
- (9) to recommend to the State Government the dissolution of the University,
- (10) to do such other functions under the provisions of the Act.

8. Determination of certain disputes by the Committee:—

- (1) The University, its authority or Body including its employee may prefer application to the Regulatory Committee regarding any disputes in between the University or body or employees.
- (2) The Regulatory Committee may, upon giving an opportunity of hearing to the other party in dispute, determine the dispute and issue necessary direction in this regard.
- (3) Every direction issued in this regard is binding upon the University, its employee or any Body or authority of the University.
- (4) The proceedings drawn under this rule shall be deemed to be a proceeding drawn under the Arbitration and Conciliation Act 1996.
- (5) The result of the proceedings shall be binding on the party to the dispute concerned.

9. Fixation of fees in professional courses:—

- (1) The State Government shall determine the tuition fees for professional courses, by notification, not inconsistent with the provisions of the Act.
- (2) The University subject to the provisions of the Act, shall be bound to follow the instructions and directions given by the Regulatory Committee or the State Government, as the case may be:

Provided that in case of any conflict directions given by the Regulatory Committee and the State Government, the State Government's directions shall prevail.

10. Determination of poor and economically Backward Classes :—

- (1) The State Government in consultation with other relevant Departments of the Government, determine the criteria for identifying a person or student to be belong to the economically Backward Classes.
- (2) The State Government may, from time to time, determine and notify the appropriate authorities who will be competent to issue certificate identifying the poor and economically Backward Classes.
- (3) The University shall make provisions for reservation of five percent of its whole intake capacity for the economically weaker persons domiciled in the State of West Bengal.

11. Reservation of seats:—

- (1) The University shall make reservation of seats for the students domiciled in the State of West Bengal to the tune of twenty-five percent in each course/programme in an academic year.
- (2) The State Government may by notification determine the appropriate persons who shall be competent to issue domiciled certificate for this purpose.

12. Tuition Fees Waiver Scheme:—

- (1) The University shall waive tuition fees of poor and economically Backward Classes students to the tune of at least five percent.
- (2) The State Government may under sub-rule (1) recommend to the University for waiver of tuition fees, considering the social need of the State under the principle of corporate social responsibility.
- (3) The State Government on satisfaction of necessary documents regarding income of parents or guardians may recommend to the University for allowing free-ship.

- (4) In allowing the free-ship scheme, the State Government may consider the market demands of the subject and cost to be incurred in pursuing a specific course.

13. Maintenance/ Utilization of Endowment Fund:-

- (1) There shall be established an Endowment Fund by the University as provided under the Act.
- (2) The endowment fund shall be established and executed in Form-A appended to the Schedule to these rules and the instrument is to be properly stamped and registered before the appropriate Registering authority.
- (3) A certified copy of the registered instrument executing Endowment fund shall be submitted to the State Government soon after its registration.
- (4) The State Government may, from time to time, collect the status of the fund from the bank in which the fund is kept invested, and the executor of the fund shall furnish a bank guarantee to this effect.
- (5) The Annual report of the University shall consist a statement to the effect along with details that the Endowment Funds is regularly administered.

14. Maintenance/ Utilization of Security Deposit:-

- (1) There shall be pledged a security deposit of Rs. 1.00 crore in Form-B appended to the Schedule to these rules by the University.
- (2) The Deed of Pledge shall be executed in favor of the State Government along with a Bank Guarantee.
- (3) The Deed of Pledge shall be executed by the Chancellor of the University being authorized by the sponsoring trust and to be registered before the appropriate Registering authority.
- (4) An Officer of the State Government not below the rank of an Assistant Secretary to the Government of West Bengal will be authorized to execute the Deed of Pledge on behalf of the State Government.
- (5) The State Government may at any point of time, upon satisfaction to that effect that the provisions of the Act is violated by the University, may forfeit the security deposit through the Bank Guarantee furnished in this behalf.
- (6) The University shall be given an opportunity of being heard before forfeiting the security deposit.

15. Procedure during dissolution or winding up of the University:-

- (1) Notice of dissolution of the University shall be given to the State Government at least one year in advance.
- (2) The notice of dissolution shall be accompanied by a resolution of the Governing Board along with a resolution of the sponsoring trust.
- (3) On receipt of notice of winding up the State Government shall appoint an Administrator which shall replace the Governing Board of the University and also the Chancellor of the University.
- (4) The outgoing Governing Board shall however provide all assistance to the Administrator along with full details on the working of the University.
- (5) The property of whatever kind owned or possessed by the University shall be used by the Administrator during the dissolution process of the University.
- (6) The Administrator shall soon after his appointment, prepare an inventory of all properties, including its assets and liabilities and shall furnish to the State Government for consideration.
- (7) The University shall not be dissolved until the liabilities of the University are completely meet up by realizing the same from the properties of the University.

16. Powers and functions of Administrator:—

- (1) The person associated with higher education who shall preferably be an Officer of the State Government not below the rank of a Joint Director of Public Instruction, or of a Joint Secretary to the State Government may be appointed as Administrator.
- (2) The administrator shall on his appointment, immediately stop all kind of admission process in any course pursued in the University.
- (3) No new employment shall be permitted during dissolution procedure. However, auditor or some other experts necessary in furtherance of closure of the University may be engaged by the Administrator.
- (4) The administrator, shall wherever necessary, apply to the relevant regulatory authority for closure of courses from the immediately next academic session and shall strive to obtain No Objection Certificate from relevant regulatory authority.
- (5) The Administrator shall arrange all examinations for the remaining students and publish results and award degree to the eligible students in regular manner until the last student of the University is passed out.
- (6) After closure of all academic activities, the Administrator shall submit a report to the State Government regarding the assets and liabilities of the University.

17. Annual report of the University:—

- (1) The University shall within 30th August every year submit to the State Government an Annual Report regarding the working of the University.
- (2) The annual report shall interalia contain the academic and administrative detail of the University.
- (3) No Annual report shall be accepted unless the same is accompanied with the resolution of the Governing Board to the effect that the annual report is placed in the Governing Board and passed unanimously.

By order of the Governor,

DR. R. S. SHUKLA

Additional Chief Secretary to the Government of West Bengal

SCHEDULE**FORM-A****ENDOWMENT AGREEMENT**

(See rule 13)

I, Sri/ Smt. _____, the Chancellor of the Brainware University, being empowered by the sponsoring trust namely _____, vide its resolution dated _____ (copy being part of this instrument) do, hereby, make a fixed deposit of Rs. Ten Crores in _____ Bank, vide No _____ (description) out of the trust's funds, specifically for the purpose of establishment of an endowment for the use and benefit of the University.

I. Schedule and Form of Contributions:-

The trust sponsored the University in its meeting dated _____ resolves that a sum of Rs. Ten Crores will be placed in a nationalized bank namely _____ in the form of a long term fixed deposits in the name of the University out of its own fund accumulated from its income as reflected in the last years balance sheet of the trust furnished to the Income Tax Department along with its Annual Return and Audit Report. The Fund will be known as the Brainware University Endowment Fund and will be kept invested until dissolution/ winding up of the University. The Society further resolved that the Fund will never be removed from the above mentioned bank unless the bank is going into liquidation or otherwise closed. It is also resolved that the interest proceeds of the fund shall only be used for the development of the University.

II. Purpose:-

The Brainware University Endowment Fund shall be a permanent endowment and shall be used for the benefit of the University. The purpose of the fund is actually to secure the smooth functioning of the University during winding up procedure. The fund guarantees the student of the University that there should not be sudden closure of the University for which the future of the student may be jeopardized.

III. Administration:-

The Endowment Fund shall be administered by the Sponsoring society. The Endowment Fund shall never become the part of the University fund. These funds and all future earning to the endowment, including those made by the sponsoring society in future, shall be subject to the provisions of this agreement and shall be classified as permanent endowment funds.

IV. Investment:-

The Chancellor acknowledges and agrees that in connection with administration and management of the endowment funds, the sponsoring society may charge certain expenses against the endowment funds for administration, management, and similar charges.

V. Declaration:-

I hereby further declare that I shall remain bound and accountable to place the whole endowment fund to the Administrator as may be appointed by the State Government during the dissolution of the University.

Given under my hand, sealed and delivered

Witness:

- 1.
- 2.

FORM-B

PROFORMA DEED OF PLEDGE OF SECURITY DEPOSIT

(See rule 14)

I, Sri/ Smt. _____, the Chancellor of the _____ Brainware University, being empowered by the sponsoring trust namely _____, vide its resolution dated _____ (copy being part of this instrument) do, hereby, make a fixed deposit of Rs. One Crore in _____ Bank, vide No _____ (description) out of the trust funds, and the same is hereby pledged along with the Bank Guarantee (being part of this instrument) in the name of the State Government in the Department of Higher Education on this ____ day of _____, 2018 on the following terms and conditions:-

1. That I, being the Chancellor of the Brainware University, hereby, undertake that the University shall abide by the provisions of the Brainware University Act, 2015, in its true spirit and objectives;
2. That I, being the Chancellor of the Brainware University, hereby, undertake that the University shall abide by the Government instructions issued from time to time not inconsistent with the provisions of the Brainware University Act, 2015;
3. That I, being the Chancellor of the Brainware University, hereby, pledge the Bank Guarantee (Description) of Rs. 1.00 Crore which is fixed as a long term deposit in _____ Bank at _____ Branch vide (Description) in favor of the State Government in the Department of Higher Education and hereby undertake that in the event of any breach or violation of any provisions of the Brainware University Act, 2015 the State Government may forfeit the said sum of Rs. 1.00 Crore at one time or in installments on the strength of the above mentioned Bank Guarantee.

Given under my hand, sealed and delivered

Witness:

1.

2.