

JOURNAL FOR LAW STUDENTS AND RESEARCHERS**THE HIGHER EDUCATION COMMISSION OF INDIA
AND THE UNIVERSITY GRANTS COMMISSION AND
THEIR RESPECTIVE ACTS**

Niveditha Sreenivasan

Manipal University Jaipur

INTRODUCTION

The University Grants Commission (UGC) came into existence on twenty eighth December, 1953 and have become a statutory Organization of the govt. of Republic of India by an Act of Parliament in 1956, for the coordination, determination and maintenance of standards of teaching, examination and analysis in university education.

Sir Charles Wood' Dispatch of 1854 was first to introduce an articulated theme of education. Later universities were set up in Bombay, Calcutta, Madras (1857) and then Allahabad(1887). An Inter university Board (1925) was also establish which later came to be known as Association of Indian Universities.

The initial arrangement for a national educational system was introduced in 1944 in the Sergeant Report. It called for a Univeristy Grants Committee in 1945 to supervise the 3 central universities and later all exisiting universities.It was later made statutory in November, 1956. The UGC has suburbanized its operations by putting in place six regional centres at Pune, Hyderabad, Kolkata, Bhopal, Guwahati and Bangalore. The top workplace of the UGC is found at Bahadur Shah Zafar Marg in national capital, with two further bureaus in operation from thirty five, Feroze Shah Road and therefore the South field of University of Delhi in addition.

Higher Education Commission of India Act may be a draft act ready by the Central Government to exchange the United Grants Commission Act as a replacement regulator for educational activity in our country.

Higher Education Commission of India (herein in when brought up as HECI) has responsibilities of necessitate specific educational standards and supervisory responsibilities of educational.

The Commission wants to produce autonomy for schools and give much more opportunities of holistic growth, especially to students at price effective costs. It also tries to reduce interference of different regulators for better functioning and bring all regulators under one roof.

ANALYSIS OF THE UGC AND THE HECI ACTS

The preamble of any act gives the main objects of the respective act. The preamble of the University Grants Commission Act, 1956 says,

‘An act to make provisions for coordination and determination of standards in Universities and for that purpose, to establish a University Grants Commission.’

Further, the preamble of the Higher Education Commission of India says,

‘Whereas the Constitution of India mandates Central Government to take steps for co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions,

Whereas for promoting uniform development of quality of education in higher educational institutions, there is a need for creation of a Body that lays down uniform standards, and ensures maintenance of the same through systematic monitoring and promotion,

Whereas the existing regulatory structure as reflected by the mandate given to University Grants Commission required redefinition based on the changing priorities of higher education and allow its growth,

This Act provides for establishing the Higher Education Commission of India repealing the University Grants Commission Act, 1956.’¹

The preamble of the UGC Act, 1956 was clearly defined and had just one main object. It was an act to make provisions for the coordination and determination of standards of universities. The sole purpose of this act is to determine better standards of education and by improving standards, facilitate better learning process for the students.

Whereas the HECI Act, 2018 mandates the Union Government for determining and co-ordinating standards of HEIs (Higher Educational Institutions). It also emphasizes that there is a need for a body to promote and achieve uniform development and quality in HEIs and for supervising and monitoring it. As the UGC needed redefinition on the constant change in priorities of HEIs and allow growth, the HECI Act was established repealing the UGC Act, 1956.

¹ HECI Draft Bill, 2018

The applicability of the HECI Act was given in the section 1 of the same as

*'This Act is applicable for all higher educational institutions established, under any Act of the Parliament excluding Institutions of National Importance so notified by the Government, Act of State Legislature and to all Institutions Deemed to be Universities so notified by the Government.'*² under sub clause (2) of section 1, Short title and Commencement; though the UGC Act specified the applicability in its section 3, 'Application of Act to institutions for higher studies other than universities establishing that the Act already applies to universities as, *'The Central Government may, on the advice of the Commission, declare by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of section 2.'*

As the HECI does not deal with any 'fund' the Act has not defined the term unlike the UGC Act which deals with the term but it has taken extreme care to define the term 'Higher Education Institution'.

The HECI consists of two additional members as to the ten member policy of the UGC also the selection of the constitution is to be made by a 'Search-cum-Selection Committee' (ScSc Committee) as opposed to UGC which does not mention the selection process of the constitution. It also increased the number of Central Government representatives from two to three. The age limit also was increased from sixty-five years to seventy years. According to the UGC Act, 1956, the Chairperson shall not be an officer of either the Central Government or any State Government but the HECI Act remains silent to this provision.

The HECI strictly does not deal with any grants or funds to be given to the universities or otherwise nor does it have a fund in its own name unlike the UGC of which inquiring about the financial needs of a university and allocating funds are primary functions. HECI on the other hand has the primary functions of ensuring academic standards of HEIs are maintained consistently.

² HECI DraftBill, 2018

One of the very few provisions of UGC which talks about the standards of education is sub clause (i) of section 12 of the Act, which says,

‘(i) require a University to furnish it with such information as may be needed relating to the financial position of the University or the studies in the various branches of learning undertaken in that University, together with all the rules and regulations relating to the standards of teaching and examination in that University respecting each of such branches of learning;’

The UGC, if the University does not comply with the rules had the power to just withhold the grant which was to be given previously to the university whereas any University which does not comply with the provisions of the HECI shall not be authorized to commence its first operations if it came into existence AFTER the enactment of the HECI Act. This clearly shows the difference in power of UGC and HECI.

‘Section 16 of the HECI Act, 2018

16. Authorisation to University or institution empowered to award degree or diploma to commence first academic operations-

(1) No higher educational institution empowered, by or under law, to award any degree or diploma established after the coming into force of this Act shall commence its first academic operations unless it is so authorized, in accordance with such norms as may be specified by the Commission:

Provided further that a higher educational institution or institution Deemed to be University in existence before the commencement of this Act shall deemed to have been authorised under this Act for a period of three years from the date of notification of this Act in the gazette unless revoked in accordance with the provisions of this Act.

Provided further that a Higher Educational Institution or institutions Deemed to be University shall comply with all the provisions of various Regulations notified under this Act within the stipulated period as mentioned above, otherwise authorization will be revoked.’³

³ S.16 of HECI Draft Bill, 2018

Section 14 of the UGC Act, 1956

‘Consequences of failure of Universities to comply with recommendations of the Commission-

If any University 1[grants affiliation in respect of any course of study to any college referred to in subsection (5) of section 12A in contravention of the provisions of that sub-section or] fails within a reasonable time to comply with any recommendation made by the Commission under section 12 or section 13, 2[or contravenes the provision of any rule made under clause (f) or clause (g) of sub-section (2) of section 25, or of any regulation made under clause (e) or clause (f) or clause (g) of section 26,] the Commission, after taking into consideration the cause, if any, shown by the University 3[for Such failure or contraventions may withhold from the University the grants proposed to be made out of the Fund of the Commission.’⁴

Another major difference between the Acts comes in the provisions for penalties where HECI has the power to punish or impose any penalty to any Universities of Institutions or HEIs which includes an amount of fine, withdrawal of degree/diploma or may direct to stop any operations and also to make the management liable for a punishment with imprisonment of three years as per the Criminal Procedure Code whereas the UGC just imposes a fine for Rs. 1000 to each members of the management.

Section 23 of the HECI Act

23. Penalties for non-compliance:

‘(1) If any University grants affiliation in respect of any course of study to any institution in contravention of the provisions of the regulation/rule/recommendation issued by the Commission, or violates any of the norm/standard laid down by the Commission, or fails within a reasonable time to comply with it, the Commission, after taking into consideration the cause, if any, shown by the University/Institution for such failure or contravention may impose a penalty on such University and/ or on such Institution which may include fine, or withdrawal of power to grant degrees/diplomas or direction to cease operations.

(2) The Chief Executive and other members of Management of such institution who do not comply with the penalty imposed by the Commission shall be liable for prosecution as per

⁴ S.14 of HECI Draft Bill, 2018

procedure laid down under the Criminal Procedure Code and may be punished with imprisonment for a term which may extend up to three years.’⁵

Section 24 of the UGC Act to be read with section 23 of the same.

23. Prohibition of the use of the word “University” in certain cases

‘No institution, whether a corporate body or not, other than a University established or incorporated by or under a Central Act, a Provincial Act or a State Act shall be entitled to have the word “University” associated with its name in any manner whatsoever:

Provided that nothing in this section shall, for a period of two years from the commencement of this Act, apply to an institution which, immediately before such commencement, had the word “University” associated with its name.’⁶

24. Penalties

‘Whoever contravenes the provisions of section 22 or section 23 shall be punishable with fine which may extend to one thousand rupees, and if the person contravening is an association or other body of individuals, every member of such association or other body who knowingly or wilfully authorises or permits the contravention shall be punishable with fine which may extend to one thousand rupees.’⁷

Further there shall be an ‘advisory council’ as per the HECI Act chaired by the Minister of Human Resource Development and the Commission is to take steps to implement the said ‘advices’. This shows the direct and deep involvement of the Central Government with the Commission.

As per the new regulator, the UGC Act shall be repealed within one year of the former’s enactment. The HECI Act shall be applied for all matters of the same notwithstanding the Architect Act of 1972 and the Advocates Act, 1961. Further HECI also replaces the AICTE (All India Council for Technical Education) and NCTE (National Council for Technical Education) and shall be handling their powers as a single authority, the Higher Education Commission of India.

⁵ S. 23 of HECI Draft Bill, 2018

⁶ UGC Act, 1956

⁷ UGC Act, 1956

But, even after repealment, the regulations by it shall be in force even after the new body comes into force till any such overriding effect as notified in the Official Gazette.

The rules and regulations by the UGC are given below:-

1. *UGC Inspection of University Rules, 1960 (under section 25(2) of UGC Act*

A committee will be appointed to inspect the university to examine and report on financial needs of a university or its standards of teaching, examination or research or both. The Vice Chancellor of the university shall be send a questionnaire seeking relevant answers and three representatives of the university according to the provisions of the rules shall be associated with the inspection.

2. *UGC Rules regarding fitness of universities*

There are four rules given here namely

- a) *'UGC (Fitness of Certain Universities for Grants) Rules, 1974*
- b) *UGC (Fitness of Agricultural Universities for Grants) Rules, 1975*
- c) *UGC (Fitness of Technological Universities for Grants) Rules, 1978*
- d) *UGC (Fitness of Open Universities for Grants) Rules, 1988'⁸*

These rules point out that those universities to which these rules apply shall be declared fit to receive grants from the Central Government, the United Grants Commission or any other organization receiving any funds from the Central Government.

3. *UGC (Returns of Information by Universities) Rules, 1979*

All Universities shall according to the UGC shall acknowledge the returns and give necessary information to the UGC as per these rules.

4. *Recognition of colleges in terms of regulations, 1974 (framed under the UGC Act)*

The institutions which are competent under s. 2(f) of the Act shall be recognised by the commission after consultation with the University as per this regulation.

⁸ UGC Rules regarding fitness of universities

5. *UGC (Establishment and maintenance of Institutions) Regulations, 1985*

The UGC has the power to establish autonomous organizations by submitting a project report containing its functions after approval from the Government.

6. *UGC regulations regarding the Minimum Standards of Instructions for the Grant of the First Degree.*

These regulations are namely:

- a) *‘UGC Letter No. F 1-117/83(CPP) dated 2.1.1986 to Vice-Chancellors of all Universities regarding Minimum Standards of Instructions for the Grant of First Degree*
- b) *UGC Regulations, 1985 regarding the Minimum Standards of Instruction for the Grant of the First Degree through Formal Education*
- c) *UGC Regulations, 1985 regarding the Minimum Standards of Instruction sfor the Grant of the First Degree through Non-Formal/Distance Education*
- d) *Partial Modifications of UGC regulations,1985 regarding the Minimum Standards of Instructions for the Grant of First Degree(UGC Letter No. F.1-117/83/ CPP dated 30th May 1986)’⁹*

These regulations emphasize the minimum standards required for the students, programme of study, examination, teachers, information, and physical facilities to be part of a university. The minimum standards of the said are specified in the regulation and an (y relaxation provided shall be according to the regulation.

7. *UGC Regulations, 1991 regarding Minimum Qualifications for Appointment of Teachers in Universities and Colleges*

The minimum qualifications for a person to be appointed as teacher is provided in this regulation.¹⁰

8. *List of Degrees Specified for the Purposes of section 22 of the University Grants Commission Act, 1956¹¹*

⁹ UGC regulations regarding the Minimum Standards of Instructions for the Grant of the First Degree

¹⁰ To be read with s. 2(f), UGC Act, 1956

¹¹ S.22, UGC, Act, 1956

The contents are as given:

- a) Notification No. F. 87-9/58 (CUP) dated 1st December, 1958
- b) Notification No. F33-72/59 (CUP) dated 17th November, 1960
- c) Notification No. F. 33-87/63 (CUP) dated 6th July, 1964
- d) Notification No. F.33-87/63 (CUP) dated 27th April, 1966
- e) Notification No. F. 1-59/66 (CDN) dated 18th June, 1968
- f) Notification No. F. 1-59/66 (CD) dated 17th February, 1969
- g) Notification No. F. 1-59/66 (CDN) dated 22nd December, 1969
- h) Notification No. F. 1-59/66 (CDN) dated 26th February, 1971
- i) Notification No. F. 1-59/66 (CDN) dated 15th November, 1953
- j) Notification No. F. 1-59/66 (CDN/CP) dated 18th July, 1975

In exercise of the powers bestowed by sub-section (3) section twenty two of the UGC Act, 1956 (3 of 1956), the UGC with the approval of the Central Government below this list has nominal the degrees for the aim of this section.

9. *UGC (Fitness of Health Sciences and Medical Universities for receiving Grants) Rules, 1996*

They are eligible for receiving grants from the Central Government.

11. *UGC (Affiliation of faculties by Universities) rules, 2009*

The Universities seeking affiliation should satisfy the standards prescribed by the regulator. A college that needs to induce permanent affiliation shall apply to the University anytime when finishing 5 years of temporary affiliation within the performa beside the prescribed fee within the kind of Demand Draft drawn in favour of the Registrar of the University.

Any proposal for adding new programmes shall be thought-about by the University solely when guaranteeing equitable distribution of facilities for educational activity, having due regards, especially, to the requirements of the unserved, underdeveloped, rural, hilly, social group and backward areas inside its jurisdiction.

12. UGC rules on Minimum Qualifications for -

Appointment of lecturers and alternative educational workers in Universities and faculties and measures for the upkeep of Standards in educational activity, 2010

13. UGC (Credit Frame Work for Online eLearning Courses through SWAYAM) rules, 2016

The web learning Courses shall be created accessible on the SWAYAM platform by the operative (**Private Investigator**) known by the National Massive Open On-line Courses (MOOCs) arranger, through the host establishment, as per the schedule finalised by him/her and shall be subjected to such terms and conditions of the Act.

14. UGC (Minimum Qualifications required for the appointment and career Advancement of teachers in Universities and institutions affiliated to it.) Regulations, 2000.¹²

No person shall be appointed to a teaching post in university or in any establishments as well as the constituent or connected faculties recognised below clause (f) of section 2 of the UGC Act, 1956 or in an establishment deemed to be a university below section three of the same Act during a subject if he/she doesn't fulfil the wants on the qualifications for the acceptable subjects as provided during this regulation. Amendments- 2002, 2006 and 2009.

15. UGC (Establishment of and Maintenance of standards in Private Universities) Regulations, 2003.

Private Universities should maintain and regulate specific standards for protecting the interests of student to not create a financial burden on any competent student.

16. UGC (Minimum Standards of Instruction for the Grant of the First Degree through Formal Education) Regulations, 2003.

Students who have not passed the examination conducted by a Board or University at the 12th grade are not eligible for admission in first degree programme

17. UGC (Minimum Standards of Instruction for the grant of the Master's Degree through Formal Education) Regulation, 2003.

¹² UGC Regulations, 2000

No student shall be eligible for admission to a Master's Degree programme in any of the faculties unless he/she has successfully completed three years of an undergraduate degree, or earned prescribed number of credits for an undergraduate degree through the examinations conducted by a university/autonomous institution or possess such qualifications as recognised by the concerned university as equivalent to an undergraduate degree.

18. UGC (Admission to specified Professional Programmes) Interim Regulations, 2003.

These regulations shall apply to every university under a Central or Provincial or a State Act, which includes all affiliated and recognized institutions and all institutions which are deemed to be a "University" under section 3, of the UGC Act of 1956 which conduct specific professional programmes and they shall be subject to such terms and conditions mentioned in the Act.

19. UGC (Grant of Degree and other awards by universities) Regulations, 2003

These shall apply to all Universities established or incorporated by or under a Central Act, a Provincial Act, or a State/Union Territory Act and to all Institutions deemed to be Universities under section 3 of the UGC Act and shall ensure to follow the objectives given under section 3 of the regulation and shall be subject to such terms and conditions given in the Act.

20. UGC (Promotion of Equity in Higher Education Institutions) Regulations, 2012

Without prejudice to the directives or instructions of the Central Government or the State Governments issued from time to time in respect of treatment of students from the SC/ST, no HEI shall discriminate a student belonging to these categories, or allow or condone any constituent of the HEI to discriminate such a student or group of such students, and take measures to ensure the same.

21. UGC (Mandatory Assessment and Accreditation of HEIs) Regulations, 2012

The process of assessment and accreditation of Higher Education Institutions shall have the objectives as mentioned under section 3 of the said regulation and shall be subject to such terms and conditions provided under these regulations.

22. UGC (Grievance Redressal) Regulations, 2012

There shall be A 'Grievance Redressal Committee' constituted under these regulations which shall address and consider the grievances and the grievances shall be such as defined under sub clause (f) of section 2 of these regulations and shall apply to all Universities established or incorporated by or under a Central Act, a Provincial Act, or a State/Union Territory Act and to all Institutions deemed to be Universities under section 3 of the UGC Act.

23. UGC (Institutions deemed to be Universities) Regulations, 2016

Institutions which are deemed to be Universities shall be subject to such objectives under section 3 of these regulations such as to engage in such areas of specialization with proven ability to make distinctive contributions to the objectives of higher education system among others and shall follow the rules and regulations as given.

24. UGC (Prevention, prohibition and redressal of sexual harassment of women employees and students in HEIs) Regulations, 2015

Every Higher Educational Institution shall wherever required, appropriately subsume the spirit of the definition given under section 2 of these regulations in its policy and regulations on prevention and prohibition of sexual harassment against employees and the students, and modify its ordinances and rules in consonance with the requirements of the Regulations and shall be subject to the provisions of the Act.

25. UGC (Promotion and Maintenance of Standards of Academic Collaboration between Indian and Foreign Educational Institutions) Regulations, 2016 repealing the UGC (Promotion and Maintenance of Standards of Academic Collaboration between Indian and Foreign Educational Institutions) Regulations 2012.

A Foreign Educational Institution collaborating with an Indian Educational Institution shall satisfy the criteria and conditions given under sub clause (1) of section 3 of these regulations and an Indian Educational Institution collaborating with a Foreign Educational Institution shall satisfy the criteria and conditions given under sub clause (2) of section 3 of these regulations and shall abide with the procedures for collaborations and approval and whatever rules provided in these regulations and shall be subject to such terms and condition of the Act.

26. UGC Regulations on Curbing the Menace of Ragging in Higher Educational Institutions, 2009

This regulation was brought in consideration of the determination of the Central Government and the University Grants Commission to prohibit, prevent, and eliminate the scourge of ragging including any conduct by any student or students whether by words spoken or written or by an act which has the effect of teasing, treating or handling with rudeness a fresher or any other student, or indulging in rowdy or undisciplined activities by any student or students or any other act which is in contradiction with the regulations.

CONCLUSION

The UGC exists as a mediator between the government and higher education sector in relation to financial, recruitment and administrative powers. This was clearly indicated in the HECI Act. HECI is supposed to act as a body of regulation which is entitled for management of academic standards in the whole of India along with punitive powers. Furthermore, the act transfers all the rights and powers related to funding to the government. This gives the government a much more dominating position to grant funds in their accord, thereby ruining the freedom of academic innovations.

The bill, after implementation withdraws all financial powers from the previous regulatory body and transfers it to the Union Government. But this change gives the HECI sole and strict power in authorising, monitoring and even shutting down bogus institutions. This draft bill tries to build a much more secure and trustworthy higher educational environment. However, it cannot be ignored that it also exposes higher education in the country to possible fee hikes, profiteering and it also puts lakhs of students in a predicament, especially from a socially and financially backward families, and may also result in a disadvantage to many already existing educational institutions. The UGC had compromised much that have made it difficult to implement good policies in the realm of higher education. It is apparent that this bill has been created to try and overcome these shortcomings of the UGC. *However much will be in the hands of the people who will man this authority.*

REFERENCES

- ❖ The Higher Education Commission of India Act, 2018 (draft)
- ❖ The University Grants Commission Act, 1956
- ❖ The University Grants Commission Regulations
- ❖ <https://www.ugc.ac.in/> - The official website of the University grants Commission

