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Indian Education Sector – Closing Some Doors And Opening Some Windows

With admission processes across all segments well and truly over for this year, it has been a busy month for the planners in the various education departments in India. While the higher education department is seeking to break free of some shackles, the pre-school and school departments are looking at extending their stranglehold on previously untouched aspects.

Higher Education – Wooing Foreign Universities

Background

The Ministry of Human Resource Development (“**HRD Ministry**”) has sent proposals to the Department of Industrial Policy and Promotion and the Department of Economic Affairs to permit Foreign Universities/Foreign Educational Institutions (“**FEIs**”) to open their campuses in India.

With an unusual determination given the backdrop of political compulsions, the HRD Ministry is attempting to bypass the deadlocked Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010 (“**The Foreign Education Bill**”) which was introduced in 2010 in the Lok Sabha (the equivalent of House of Representatives/Commons). With the Foreign Education Bill pending approval for over three years now, the HRD Ministry has decided to exercise its powers under the University Grants Commission Act, 1956 (“**UGC Act**”) to open doors for FEIs in India.

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The HRD Ministry is in the process of finalizing the UGC (Established and Operations of Campuses of Foreign Educational Institutions) Rules (the “**Rules**”) by which FEIs can set up campus in India and issue foreign degrees.

Key Provisions

The Rules, which are currently not in the public domain in full form, reportedly provide that once FEIs are notified by the UGC, they can open campuses in India. Some of the conditions which need to be fulfilled as per the press release issued by the HRD Ministry are that a FEI needs to:

- a. Be registered as a company engaged in non-profit activities under Section 25 of the Companies Act (Section 8 of the new Companies Act, 2013);
- b. Be ranked among the top 400 universities of the world as per the ranking published by Quacquarelli Symonds (QS) or the Academic Ranking of World Universities (ARWU) by Shanghai Jiao Tong University or Times Higher Education;
- c. Be not-for-profit legal entities, which have been in existence for atleast twenty years and accredited by internationally accepted system of accreditation;
- d. Offer programmes of study/courses equivalent to the quality as is offered to students in the main campus; and
- e. Maintain a corpus fund of not less than Rupees 250,000,000 (approximately US\$ 4,000,000).

The degrees provided by these FEIs will be treated as foreign degrees and will therefore need to be subjected to equivalence accorded by the Association of Indian Universities.

While the Rules appear to have relaxed the requirement to maintain a corpus of Rupees 500,000,000 (approximately US\$ 8,000,000) which was provided in The Foreign Education Bill, reports indicate that the restriction provided in The Foreign Education Bill on FEIs, concerning the extent of revenue permitted to be used and the purpose for which the same can be used, remain. In terms of The Foreign Education Bill, FEIs can utilize a maximum of 75% of the revenue into educational activities and the remaining has to be deposited in the corpus fund and the surplus revenue cannot be utilized for any purpose other than for the growth and development of the

educational institute set up in India. There also appears to be a restriction concerning the number of campuses that can be set up by FEIs and the cap has been set at 4 campuses.

Converting to Reality

Historically, and even as per present reports, the top ranked Universities have expressed no interest in setting up campuses in India. According to the HRD Ministry, 631 FEIs were operating in 2010 including by way of programmatic collaboration with local institutions and twinning arrangements. The present operators in India are not Harvard, Cambridge, Oxford or Ivy League institutions. While it is not clear whether the figures take into account technical education which is separately regulated by the AICTE and not the UGC, there are open questions as to what happens to the existing arrangements which do not meet the criteria of being within the global rankings.

The lack of interest from the top Universities is not necessarily related to the restrictions imposed by the regulations but rather a reflection of the fact that premier institutions do not attempt to replicate their campuses beyond the original one from a view point of exclusivity and non-dilution of all that is their hallmark. The question, however, is would the other institutions ranked in the top 400 globally opt to expand to India.

Much as in other arena where India benefits from sheer numbers, the number of aspiring students is a draw. Whether, FEIs would be able to look beyond the fact that the initial corpus is not only locked in but continually grows and continues to be locked in and that there will be a need for the FEIs to look at elaborate structures and arrangements to take profits out of India is something that will unfold slowly.

School Education – Clamping Down on Franchising Relationships

The Central Board of Secondary Education (“**CBSE**”), the largest board regulating private schools in India has amended its affiliation byelaws in an attempt to prevent commercialization in a sector which is supposed to be operated by not-for-profit entities and where increasingly the franchise model had become a popular mode of expansion.

The CBSE now expressly bars franchisee schools from making payment for the use of the name, motto and logo of the franchiser institution and or any other non-academic activities. With such a bar the basis of the franchise

model will be largely curbed as the general heads of payment by the franchisee schools is hit. Without the financial rewards flowing to the franchisor institution, which is often on a revenue sharing basis, the rationale for the model will fall.

Whether this will reduce the popularity of CBSE as a go-to Board will depend on whether other school Boards adopt similar restrictions.

Pre-School Education – Start of Regulations

The hitherto unregulated segment of playschools, day care centers and crèches will see Government intervention. The lack of standard concerning both pricing and curriculum are the primary drivers of this move. The Women and Child Development (“WCD”) ministry has proposed implementing a policy which is aimed at 158.7 million children below six years and provides for sizes of classrooms, outdoor space, use of different language as medium of instruction, student-caregiver ratio, minimum qualification required to be employed at such centres.

Age and developmentally appropriate and child-centric curriculum will be specified and such centres which will require registration and accreditation, will be monitored by the National Early Childhood Care and Education (“NECCE”) Council which is proposed to be set up within three months of the policy being ratified.

Expectedly, there has been some reservation from the play schools who are of the opinion that standardization of curriculum and learning aids goes against the very spirit of developing children as individuals and over-regulating a segment which is supposed to gently introduce the concept of group interaction, learning and discipline. Standardization of curriculum will bring to the fore the same issues related to rote and herd learning which the primary or secondary levels of schooling in India are accused of suffering from.

The need of the hour is consultation with the segment’s experts for the curriculum to take into account the customisation that the play schools offer.

Feedback

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