



Government  of Maharashtra

Commissionerate of Skill Development, Employment and Entrepreneurship, Maharashtra State

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Public Opinion Notice

‘Maharashtra Private Placement Agencies (Registration and Regulation) Bill, 2021’ Draft

The Commissionerate, Skill Development, Employment and Entrepreneurship, Govt. of Maharashtra has prepared a draft of Maharashtra Private Placement Agencies (Registration and Regulation) Bill, 2021. This draft of Bill has been published and available at “Notifications/Circular” section of web portal www.mahaswayam.gov.in of Department of Skill Development, Employment and Entrepreneurship, Government of Maharashtra for public opinion.

Stake Holders and public of state may submit their objections, suggestions and opinion in writing on our official mail id csdeeplacementact@gmail.com on or before September 14th, 2021 by 22:00 hrs.

Date : 31/08/2021

Place: Navi Mumbai

sd/-

Commissioner

Skill Development, Employment and Entrepreneurship
Maharashtra State

“DRAFT LEGISLATION”

The Maharashtra Private Placement Agencies (Registration and Regulation) Bill, 2021

Whereas it is expedient to have clear policies, legislation and implementing mechanisms for the effective working of private placement agencies thereby helping them to play a constructive role in contributing a labour market with providing recruitment activities transparently free from fraud and exploitative conditions.

And whereas it is expedient to provide for the registration and regulation of private placement agencies operating or willing for recruitment activities for the recruitment of employee or workers in the State and for matters connected therewith or incidental thereto, for the purposes aforesaid, it is hereby enacted by the State Legislature in the Seventy- Second year of the republic of India as follows:-

CHAPTER - I PRELIMINARY

1. Short Title, Extent, Application and Commencement:-

- 1) This Bill may be called “**The Maharashtra Private Placement Agencies (Registration and Regulation) Bill, 2021.**”
- 2) It extends to the whole of the State of Maharashtra.
- 3) The Bill covers all activities of the Private Placement Agencies within the purview of this Bill functioning in the territorial jurisdiction of the State of Maharashtra.
- 4) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions:-

- 1) Unless the context otherwise requires,-
 - (a) “Appellate Authority” means an officer or Authority authorised by the State Government under section 6 to hear appeal under Section 8 of this Bill.
 - (b) “Controlling Authority” means the Controlling Authority appointed under Section 6 of this bill.
 - (c) “Employer” means any person or establishment, who employs an employee either directly or otherwise either on behalf of himself or any other person,
 - (d) “Employment” means Persons those of working age who, during a short reference period, were engaged in any activity to produce goods or provide services for pay or profit.
 - (e) “Establishment” means an individual, an institution, partnership firm, company or factory or charitable or co-operative institution either registered or not registered under any bill, offering employment.
 - (f) “Government” wherever referred otherwise means Government of Maharashtra.
 - (g) “Job seeker” means a person seeking for a job, work or Employment.
 - (h) “Local Office” means any office or place or portal established and maintained by the State Government as having jurisdiction over the area in which the private placement agencies concerned are situated.
 - (i) “Overseas Placement” means actual appointment of Job Seeker in employment of the Employer of foreign countries or overseas.
 - (j) “Placement” means actual appointment of Job Seeker in employment of the Employer.
 - (k) “Private Placement Agency” means a person or body of persons other than a Government Agency, Department or Organization engaged in the recruitment activity or the business of providing / supplying unskilled, semi-skilled, skilled and highly skilled workers to any person, Establishment, Government Department, Semi-Government Department and Government Undertaking and Semi-Government Undertaking within the State of Maharashtra or in any other State of India or outside India;
 - (l) “Prescribed” means prescribed by rules made under this bill.

- (m) “Registration Certificate” means written instrument, authority, permission or consent issued by Controlling Authority under this Bill.
 - (n) “Recruitment activity” means activities such as collection of application, scrutiny of applications, conducting an examination, sponsoring or recommending the names of appropriate candidates or job seekers through any medium such as electronically Online mode, Job Fairs, Campus Recruitment, Training with Placement, Coaching for Common or Competitive Examination for Placement to domestic or foreign or overseas private establishments and thereafter communicating the results of placement to the local office.
 - (o) “Service charges or fee” means an amount charged from an Establishment or from a candidate for rendering placement activities and related services.
- 2) Words and expressions used in this Bill and not defined shall have the same meaning as defined under any corresponding Code/Act/Rules for the time being in force.

CHAPTER - II PROHIBITION OF UNAUTHORISED RECRUITMENT ACTIVITIES

3. Prohibition of Recruitment Activities by Unregistered Private Placement Agency

- 1) No person or Private Placement Agency or Establishment in the state of Maharashtra shall carry out recruitment activities or mobilise, publish or cause to be published any advertisement for recruitment/placement or arrange or take the part in the recruitment campaign for the recruitment of employees or workers, by any mode, through manually or electronically online, for any Private or Public Employer within the District, state, country or outside the country, unless he holds the valid Registration Certificate issued under this Bill by competent authority.

Provided that a Private Placement Agency which is in existence on or before the date of publication of this Bill, shall obtain Registration Certificate within 180 days of the date of commencement of this Bill.

CHAPTER - III REGISTRATION OF PRIVATE PLACEMENT AGENCY

4. Registration and Renewal of Private Placement Agency

- 1) An Application for Registration of Placement Agency under section 3 shall be in such form and manner as may be prescribed and shall be accompanied by non refundable fee and Security deposit as may be prescribed.
- 2) A Placement Agency may be classified as per working area like Within a District (D), State (S), Country(C) and Outside the Country (OC).
- 3) Controlling Authority shall scrutinise and make enquiry in respect of application received under this section with such procedure as may be prescribed.
- 4) On satisfaction of the Controlling Authority, a Registration Certificate shall be issued and it shall be valid for Three Years from date of issue on such terms and conditions as may be prescribed.
- 5) A Registration Certificate may be renewed from time to time by an application and non refundable fee as may be prescribed.
- 6) The Registration Certificate issued under this bill shall be Non-Transferable, and Benefit under this Agreement cannot be sold, transferred, assigned, pledged, attached or encumbered in any manner.

5. Suspension, Revocation and Cancellation of Registration

- 1) If the Controlling Authority is satisfied either on a reference made to him in this behalf or otherwise, that-
 - a) The Registration Certificate issued under Section 4 has been obtained by misrepresentation, fraud or suppression of any material fact, or

- b) Any Beneficiary makes written complaint alleging any distinct incident involving fraud, charging of exorbitant fees, cheating, providing a job other than assured, etc., or
- c) The Registration holder has, without reasonable cause failed to comply with the conditions or contravened any of the provisions of this Bill or rules made hereunder, then, without prejudice to any other penalty which the holder of the Registration is liable under this Bill, the Controlling Authority may, after giving the holder of the Registration a reasonable opportunity to be heard by an order, in writing, revoke the Registration or cancellation of the Registration and forfeit the bank guarantee furnished under subsection (1) of Section 3 by him or any part thereof and communicate the order to the holder of the Registration:

Provided that where the Controlling Authority considers it necessary so to do for special reasons, he may, pending such cancellation of Registration or forfeiture, by order, suspend the Registration for such period as may be specified in the order and serve, by registered post, such order on the holder of the Registration.

- (2) Subject to any rules that may be made in this behalf, the Controlling Authority may vary or amend a Registration Certificate issued under this Bill.

CHAPTER - IV AUTHORITES

6. The State Government shall by notification in the *Official Gazette*-

- 1) Appoint an officer holding the post of Commissioner, Skill Development, Employment and Entrepreneurship to be the State Controlling Authority for the implementation and monitoring purpose of this Bill and Rules made thereof,
- 2) Appoint an officer holding the post not below the rank of Assistant Commissioner, Skill Development, Employment and Entrepreneurship to be the Controlling Authority for the purpose of this Bill and Rules made thereof, and define the limits within which a Controlling Authority shall exercise the power conferred on him, by this Bill and Rules made thereof,
- 3) Appoint an officer holding the post not below the rank of Deputy Commissioner, Skill Development, Employment and Entrepreneurship to be the First Appellate Authority for the purpose of this Bill and Rules made thereof,
- 4) Appoint an officer holding the post not below the rank of Secretary/Principal Secretary/Additional Chief Secretary of Skill Development, Employment and Entrepreneurship department to be the Second Appellate Authority for the purpose of this Act and Rules made thereof,

7. Powers and Duties of Controlling Authority

- 1) If the Controlling Authority, on the basis of any complaint filed before him or otherwise, is satisfied that any Private Placement Agency is established or working or advertising recruitment activity in contravention of the provisions of section 3, he may, by order, direct the closure of such Private Placement Agency or recruitment activity, with immediate effect,

Provided that, the Controlling Authority shall, before passing any such order, give the concerned Placement Agency, a reasonable opportunity of being heard.

- 2) The Controlling Authority satisfied with the identity of Agency, exceptional activity occurrence, may issue the one time permission for recruitment and placement activity within a year, with a simple request application enclosed with details of activity, occurrence and identity of the Private Placement Agency without registration under this bill as may be prescribed.
- 3) The Controlling Authority may exercise such other powers and functions as may be prescribed.
- 4) The procedures to be followed by the Controlling Authority for exercising his powers and discharging his functions under this Bill as may be prescribed.

CHAPTER - V
APPEAL

8. Appeal-

- 1) Any person aggrieved by an order of the Controlling Authority, made under section (4) or (5), may prefer an appeal, in such form and manner and on payment of such fee as may be prescribed, against the order to the Appellate Authority within a period of thirty days from the date of receipt of such order:

Provided that, the Appellate Authority may, in exceptional cases, entertain the appeal after the expiry of the period of thirty days, subject to the maximum period of 60 days, if he is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.

- 2) On receipt of an appeal under sub-section (1), the First Appellate Authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal within 45 days.
- 3) If the Appellant is aggrieved by an order of the First Appellate Authority, may prefer a second appeal in such form and manner and on payment of such fee as may be prescribed, against the order of the First Appellate Authority to the Second Appellate Authority within the period of thirty days from the date on which the order of the First Appellate Authority is received or after forty-five days from the date of filing of the first appeal in case where the Appellant does not receive any order from the First Appellate Authority:

Provided that, the Second Appellate Authority may, in exceptional cases, admit the appeal even after the expiry of the period of thirty days or forty-five days, as the case may be, subject to the maximum period of 60 days, if it is satisfied that the Appellant was prevented by sufficient cause from filing the appeal in time.

- 4) The Second Appellate Authority may direct to the Controlling Authority to provide the Registration or Renewal or Revocation of Registration to the Appellant within such period as he may specify in his order or he may reject the appeal within the period of forty-five days from the date of filing of the appeal, after recording reasons in writing for such rejection:

Provided that, before issuing any order, the Second Appellate Authority shall give an opportunity of being heard to the Appellant, First Appellate Authority, as well as the Controlling Authority or any of his subordinate duly authorised for this purpose.

CHAPTER - VI
RESPONSIBILITIES AND DUTIES OF PRIVATE PLACEMENT AGENCIES

9. Responsibilities and Duties of Private Placement Agencies

- 1) The Private Placement Agency shall furnish the details of placement of employee or worker or engaged persons to the Controlling Authority within 60 (Sixty) days from the date has been employed within or beyond the boundaries of State of Maharashtra in the form and manner as may be prescribed.
- 2) No Private Placement Agency shall employ, engage or deploy any person, if he/she does not attains the minimum age for engaging in the employment as provided by or under any law.
- 3) Every Private Placement Agency shall display a signboard specific colour combination and size may be prescribed outside its office showing the name of Private Placement Agency, Address, Contact Details and its Registration Number with validity date in English as well as State official language Marathi.
- 4) Every Placement Agency shall display Registration Certificate issued by the Controlling Authority in conspicuous place in its office.
- 5) Every Private Placement Agency shall maintain a register of placed candidates containing the names, sex, permanent and corresponding address, photos, nature of work and other details of persons, as well as Employers details, in the form and manner as may be prescribed.

- 6) It shall be mandatory for the private placement agencies to produce any of the records as directed by the Controlling Authority envisaging compliance with the provisions of this Bill, such as may be prescribed.
- 7) It shall be mandatory for the Private Placement Agencies to maintain utmost secrecy & integrity as regards to disclosure of any information, data of Job Seeker to third party etc.
- 8) It shall be obligatory for Private Placement Agencies not to transmit information; data etc. to any other unauthorised and illegal purpose and also take adequate care to see that placement is not made for illegal activities.
- 9) It shall be mandatory for the Private Placement Agency to provide the same job to Job Seeker which has been assured of.
 Provided that the Job Seeker agreed to work other than the assured job in written.
- 10) Every official communication or transaction viz. monetary or non monetary made by the private placement agency shall bear the issued registration number.
- 11) Other Responsibilities, functions and duties of Private Placement Agencies shall be such, as may be prescribed from time to time.

CHAPTER – VII

FACILITATION TO PRIVATE PLACEMENT AGENCIES

10. Facilitation to Private Placement Agencies-

- 1) Local office will facilitate the registered Private Placement Agencies for identification, mobilisation of Candidates/Job Seekers in the form and manner as may be prescribed.
- 2) Local office will organise the Job Fairs, Career Guidance, counselling workshops and seminars jointly with registered Private Placement Agencies.
- 3) Local office will facilitate the registration of unregistered Job Seekers considered in the process of recruitment by the Private Placement Agency as per the data availability.

CHAPTER - VIII OFFENCES AND PUNISHMENT

11. Offences and Punishments-

- 1) Any person or Private Placement Agency or Establishment, who contravenes the provisions of section 3 of this bill shall be punishable with imprisonment for a term which may extend to 7 (seven) years or with fine, which may extend to 1 (one) lakh rupees, or with both.
- 2) Any person or Private Placement Agency, or Establishment, who contravenes the provisions of section 9 or any other provision of this bill or any of the rules made under this bill or any of the condition of Registration Certificate issued herein shall be punishable with imprisonment for a term which may extend to 3 (three) year or with fine, which may extend to fifty thousand rupees, or with both.

12. Offences by Companies:

- 1) Where an offence under this Bill has been committed by a company, every person, who, at the time when 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 an offence under this Bill 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 shall also be deemed to be guilty of the offence and shall be liable to be proceeded and punished accordingly.

Explanation - For the purposes of this section,-

- (1) "Company" means a body corporate and includes a firm or other association of persons or body of individuals, whether incorporated or not; and
- (2) "Director" in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

CHAPTER – IX MISCELLANEOUS

13. Fees for services rendered:-

- 1) It shall be lawful for private placement agency after holding a valid Registration Certificate, to charge and receive such fees or service charges from Employer as per mutual agreement. It should, however, be ensured that any amount of charges to be paid by the employer to the Private Placement Agency for making placement services should not affect the rate of wage of Job Seeker.
- 2) No private placement agency shall charge or receive any form of fees, remuneration, profit or compensation from Job Seeker, other than as prescribed under this Bill.

14. Applicability of Sub-section 9 (1):-

Sub-section (1) of Section 9 shall be applicable *mutatis mutandis* to establishments which are created through independent statutes or through executive orders.

Provided, that the State Government or the Government Departments of the State of Maharashtra to whom the placement is made through the above bodies shall also intimate to the State Controlling Authority, as may be prescribed.

Explanation:-*Bodies created through independent statutes/executive order means State Selection Boards, District Selection Committee and the likes etc.*

15. Cognizance of offences:-

- 1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate First Class shall try any offence punishable under this Bill.
- 2) All the offences under this Bill shall be cognizable and non-bailable.

16. Applicability of provisions for Search or Seizure:-

The provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974) relating to any search or seizure shall be applicable to any search or seizure made under this Bill.

17. Authorities as Public Servant:-

Every Controlling Authority and Appellate Authority appointed under this Bill shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

18. This Bill Status with other laws:-

This Bill shall be in addition to and not in derogation to any other laws for the time being in force.

19. Power to make rules. –

- (1) The State Government may, by notification, make rules for carrying out the provisions of this Bill.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following or matters connected to this Bill, namely : -
 - (a) the form and manner in which the Registration is to be issued
 - (b) non-refundable fees and security deposit with an application for Registration
 - (c) the scrutiny and enquiry to be conducted
 - (d) terms and conditions subject to which such Registration is to be issued
 - (e) non-refundable fees and conditions of renewal of Registration
 - (f) one time permission for recruitment and placement activity without Registration
 - (g) powers and functions of Controlling Authority
 - (h) the procedures to be followed by the Controlling Authority for exercising his powers and discharging his functions
 - (i) the form and manner of appeal
 - (j) responsibilities and duties of Private Placement Agencies
 - (k) facilitation to private placement agencies
 - (l) fees for services rendered by private placement agencies
 - (m) any other matter which is, or may be necessary for the any other purposes this Bill.
- (3) Every rule made under this Bill shall be laid as soon as may be after it is made before the State Legislative Assembly.

20. Protection of action taken in good faith–

No suit, prosecution or other legal proceeding shall lie against the State Government or any authority including any other person authorized by him or by Controlling Authority for anything which is done in good faith or intended to be done in pursuance of this Bill or the rules made there under.

21. **Power to remove difficulties.** - If any difficulty arises in giving effect to the provisions of this Bill, the State Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provision of this Bill, as may be necessary for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of three years from the commencement of this Bill.

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STATEMENT OF OBJECT AND REASONS

For the past two decades, the increasing need to provide services to a rapidly growing and flexible labour market has led to the spectacular growth of Private Placement Agencies (for short the “PPA”). While PPA have long complemented the traditional employment market, they are now considered as a catalyst for new forms of human resource management services in India and foreign countries, which can be contributors to better working conditions.

1. Through this regulation “Maharashtra Private Placement Agencies (Registration and Regulation), Bill 2021, Government of Maharashtra seeks to establish clear policies, legislation and implementing mechanisms for the effective working of private placement agencies thereby helping them play a constructive role in contributing to a labour market free from exploitative conditions. The bill also provides dynamic labour market information to the Job Seekers, Employers & various Government Agencies to frame & implement the human resource policies.
2. PPA plays an important role in the functioning of the labour market and their activities have a great bearing on the domestic and overseas employment market. In that view of the matter it is urgently required to set the general parameters & guidelines for the regulation, placement and employment of workers by these agencies.
3. Therefore, the State of Maharashtra wants to legislate on the subject covering the activities of private placement agencies.
4. The Bill seeks to achieve the above objectives.

Place: Mumbai,
Dated:

2021.

Minister of Skill Development, Employment
and Entrepreneurship, GoM.

FINANCIAL MEMORANDUM

The Bill “Maharashtra Private Placement Agencies (Registration and Regulation) Bill 2021, proposes to establish clear policies, legislation and implementing mechanisms for the effective working and regulation of private placement agencies.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as a Bill of the State Legislature.
