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EXTRAORDINARY

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GOVERNMENT OF ARUNACHAL PRADESH
LAW, LEGISLATIVE AND JUSTICE DEPARTMENT
CIVIL SECRETARIAT
ITANAGAR

NOTIFICATION

The 7th August, 2024

No. Law/Legn-10/2024.—The following Act of the Arunachal Pradesh Legislative Assembly which was passed in the Second Session of the Eighth Legislative Assembly and received the assent of the Governor of Arunachal Pradesh is hereby published for general information.

(Received the assent of the Governor on 5th August, 2024)

THE ARUNACHAL PRADESH PUBLIC EXAMINATION (MEASURES FOR PREVENTION OF UNFAIR MEANS IN RECRUITMENT) ACT, 2024

(ACT NO. 9 OF 2024)

An

Act

to provide for effective measures to prevent and curb the offences of leakages of question papers and use of unfair means at public examinations for the purpose of recruitment to any post under the State Government (including autonomous bodies, boards or corporations and other authorities) and to provide for special courts for the trial of such offenses and for matters connected therewith or incidental thereto.

Be it enacted by the Arunachal Pradesh State Legislature in the Seventy—fifth year of the Republic of India, as follows :

CHAPTER - 1

PRELIMINARY

1. Short title, extent and commencement :

- (1) This Act may be called the Arunachal Pradesh Public Examination (Measures for Prevention of Unfair Means in Recruitment) Act, 2024.
- (2) It shall extend to whole of Arunachal Pradesh.
- (3) It shall come into force on the date of its publication in the Official Gazette.

2. (1) Definitions : In this Act, unless the subject or context otherwise requires,-

- (a) "Conduct of public examination" means and includes preparation, printing, supervision, coding, processing, storing, transportation, distribution and collection of question papers, answer sheets, OMR sheets and result sheets, scanning, evaluation, declaration of result, etc ;
- (b) "Controller of Examination" means and include Joint Controller of Examination, Deputy Controller of Examination and Assistant Controller of Examination ;
- (c) "Examination Authority" means an examination authority as specified in the Schedule-1 ;
- (d) "Examination centre" means any institution or part thereof or any other place fixed and used for the holding of a public examination and includes the entire premises attached thereto ;

- (e) "Examinee" means a person who has been granted permission by the concerned authority to appear in a public examination, and includes a person authorized to act as scribe on his behalf ;

- (f) "Government" means Government of Arunachal Pradesh ;

- (g) "Institution" means any agency, organization, body, association of persons, business entity, company, partnership or single proprietorship firm, by whatever name it may be called, which is other than the public examination authority and the service provider engaged by such authority;

Explanation – For the purpose of this clause, it is clarified that "company" includes a company as defined in clause (20) of Section 2 of the Companies Act, 2013 ; or a limited liability partnership firm as defined in clause (n) of sub-section (1) of Section 2 of the Limited Liability Partnership Act, 2008.

- (h) "Offence" means any act in contravention of provisions of this Act and includes "unfair means" as defined in Chapter-II of this Act;

- (i) "organized crime" means an unlawful activity committed by a person or a group of persons indulging in unfair means in collusion and conspiracy to pursue or promote a shared interest for wrongful gain in respect of public examination.

- (j) "person associated with service provider" means a person who performs services for or on behalf of such service provider irrespective of whether such person is an employee or an agent or a subsidiary of such service provider, as the case may be ;

- (k) "prescribed" means prescribed by rules made under this Act ;

- (l) "Public examination" means examination for the purpose of recruitment to any post under the State Government including autonomous bodies, boards, corporations and other authorities as specified in the Schedule - II ;

- (m) "public servant" for the purpose of this Act, means and includes any person (i) whether Government employee or (ii) any other person, who is engaged, directly or indirectly, for the purpose of conducting examination by the examination authority, specified in Schedule - I.

Explanation : The term includes a public servant as defined under the Prevention of Corruption Act, 1988 and Bharatiya Nyaya Sanhita, 2023 as amended from time to time.

- (n) "Schedule" means Schedule(s) appended in this Act ;

- (o) "Service provider" means any agency, organization, body, association of persons, business entity, company, partnership or single proprietorship firm, including its associates, sub-contractors and provider of support of any computer resource or any material, by whatever name it may be called, which is engaged by the public examination authority for conduct of public examination ;

- (p) "Special Court" means special court notified under Section 23 of this Act ;

- (q) "State" means State of Arunachal Pradesh ;

- (r) "Undue advantage" means any gratification whatever, other than legal remuneration.

Explanation — For the purposes of this clause, the word "gratification" is not limited to pecuniary gratifications or to gratifications estimable in money ;

- (2) Words and expressions used herein but not defined and defined under any other law for the time being in force, shall have the same meanings as assigned to them in those laws.

CHAPTER - II

UNFAIR MEANS AND OFFENCES

3. The unfair means relating to the conduct of a public examination shall include any act or omission done or caused to be done by any person or group of persons or institutions, and include but not be restricted to, any of the following acts for monetary or wrongful gain :

- (i) in relation to an examinee, to take unauthorized help in public examination from any person or group directly or indirectly or from any material written, recorded, copied or printed, in any form whatsoever, or use of any unauthorized electronic or mechanical instrument or gadget ;

- (ii) in relation to any person*;
 - (a) impersonate or leak or attempt to leak or conspire to leak question paper or answer key or part thereof ;
 - (b) participating in collusion with others to effect the leakage of question paper or answer key ;
 - (c) sell or attempt to sell or possess or attempt to possess question paper(s) in an unauthorized manner for any undue advantage ;
 - (d) procure or attempt to procure or possess or attempt to possess question paper(s) or an Optical Mark Recognition response sheet in an unauthorized manner ;
 - (e) tampering with answer sheets including Optical Mark Recognition response sheets ;
 - (f) solve or attempt to solve or seek assistance to solve question paper in an unauthorized manner ;
 - (g) directly or indirectly assist the examinee in the public examination in unauthorized manner ;
 - (h) altering the assessment except to correct a *bonafide* error without any authority ;
 - (i) willful violation of Standard Operating Procedures (SOPs) for conduct of public examination(s) ;
 - (j) tampering with any document necessary for short- listing of examinee(s) or finalizing the merit or rank of examinee(s) in a public examination ;
 - (k) deliberate violation of security measures to facilitate unfair means in conduct of a public examination ;
 - (l) tampering with the computer network or a computer resource or a computer system ;
 - (m) manipulation in seating arrangements, allocation of dates and shifts for the candidate(s)/examinee(s) to facilitate adopting unfair means in examinations ;
 - (n) threatening the life, liberty or wrongfully restraining persons associated with the public examination authority or the service provider or any authorized agency of the Government ; or obstructing the conduct of a public examination ;
 - (o) creation of fake website to cheat or for monetary gain; and
 - (p) conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain.

***Explanation :** The term "Any person" includes any (i) examinee and (ii) person (a) working in or (b) engaged by the examination authority, directly or indirectly, in the conduct of exams viz- Chairperson, Member, Secretary, Joint Secretary, Deputy Secretary, Under Secretary, Controller, Joint Controller, Deputy Controller, Assistant Controller, paper setter, moderator, invigilator, brokers, middlemen, conduit etc.

4. **Prohibition of use of unfair means :** No person, or group of persons or institutions shall collude or conspire to facilitate indulgence in any such unfair means at any public examination.
5. **Possession and disclosure of question paper :** No person authorized by virtue of his duties in conduct of public examination shall before the time fixed for opening and distribution of question papers -
 - (i) open, leak, sell, or procure or attempt to procure, possess or solve such question paper or any portion or a copy thereof; or
 - (ii) give any confidential information or promise to give such confidential information to any person or examinee, where such confidential information is related to or in reference to such question paper.
6. **Prevention of leakage by person entrusted or engaged with examination work :** No person, who is entrusted to engage with any work pertaining to public examination shall, except where he is permitted by virtue of his duties so to do directly or indirectly divulge or cause to be divulged or make known to any other person any information or part thereof which has come to his knowledge by virtue of the work being so entrusted to him.
7. **Unauthorized possession or disclosure of question paper and answer sheet or OMR sheet in any form :** No person who is not lawfully authorized or permitted by virtue of his duties to do so, shall, before the time fixed for the distribution of question papers-
 - (i) procure or attempt to procure or possess, such question paper or answer sheet or OMR sheet or any portion or copy thereof in any form ; or
 - (ii) impart or offer to impart, such information which he knows or has reason to believe to be related to, or derived from or to have a bearing upon such question paper.

8. **Prohibition to enter in examination centre :** No person who is not entrusted or engaged with the work pertaining to public examination or conduct of public examination or who is not an examinee, shall enter the premises of the examination centre.
9. **No place other than examination centre shall be used for public examination :** No person who is entrusted or engaged with the work pertaining to public examination shall use or cause to be used any place, other than the examination centre, for the purpose of holding public examination.
10. **Offence by Management, Institution or others :** (1) Whenever an offence under this Act, has been committed by Management or Institution or Limited Liability Partnership or others, every person who at the time of the offence was committed was in-charge of, or was responsible to the Management or Institution or Limited Liability Partnership or others for conduct of the business of the Management or Institution or Limited Liability Partnership or others, as well as the Management or Institution or Limited Liability Partnership or others, 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 under this Act, if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1) where an offence under this Act, has been committed by Management, Institution or Limited Liability Partnership or others and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, partner, manager, secretary or other officer of the Management, or Institution or Limited Liability Partnership or others, such director, partner, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER - III

PUNISHMENT FOR OFFENCES

11. All offences under this Act, shall be cognizable, non-bailable and non-compoundable.
12. (1) Any person or persons resorting to unfair means and offences under this Act, shall be punished with imprisonment for a term not less than three years but which may extend to five years and with fine up to one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed, as per the provisions of the Bharatiya Nyaya Sanhita, 2023.
- (2) The service provider shall also be liable to be punished with imposition of a fine up to one crore rupees and proportionate cost of examination shall also be recovered from such service provider and he shall also be barred from being assigned with any responsibility for conduct of any public examination.
- (3) Where it is established during the investigation that offence under this Act, has been committed with the consent or connivance of any Director, Senior Management or persons in-charge of the service provider firm, he shall be liable for imprisonment for a term not less than three years but which may extend to ten years and with fine of one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed as per the provisions of the Bharatiya Nyaya Sanhita, 2023.
- (4) Nothing contained in this section shall render any such person liable to any punishment under the Act, if he proves, that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.
13. (1) If a person or a group of persons including the examination authority or service provider or any other institution commits an organized crime, he shall be punished with imprisonment for a term not less than five years but which may extend to ten years and with fine which shall not be less than one crore rupees. In case of default of payment of fine, an additional punishment of imprisonment shall be imposed as per the provisions of the Bharatiya Nyaya Sanhita, 2023.
- (2) If an institution is involved in committing an organized crime, its property shall be subjected to attachment and forfeiture and proportionate cost of examination shall also be recovered from it.
14. **Debarment on conviction :** An examinee who has been convicted of an offence under provisions of this Act, shall be debarred from taking any public examinations in future.

CHAPTER - IV**INQUIRY AND INVESTIGATION**

15. (1) **Inquiry and Investigation of the offences** - No police officer below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police shall investigate any offence committed under this Act.
- (2) Notwithstanding anything contained in sub-section (1), the State Government shall have the powers to refer the investigation to any State or Central Investigating Agencies.

CHAPTER - V**MISCELLANEOUS**

16. The Chairperson, Members, officers and other employees of the public examination authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of Bharatiya Nyaya Sanhita, 2023.
17. No suit, prosecution or other legal proceedings under this Act, shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers:

Provided that the public servant, in the service of any public examination authority shall be subject to administrative action in terms of service rules of such public examination authority.

Provided further that nothing shall prevent proceeding against such public servants where, *prima-facie* case exists for establishing commission of an offence under this Act.

18. **Proper upkeep of examination related documents** : The Arunachal Pradesh Public Service Commission and the Arunachal Pradesh Staff Selection Board or any other authority or agency or recruitment committee or Board constituted by the State Government shall arrange proper upkeep of the examination related documents for a period of five years if there is no court case or complaint and in case the examination is challenged or complained against, till the case is finally disposed of as the same are required for proper investigation and enquiry.

19. **Attachment and confiscation of property** : (1) No person shall hold or be in possession of any proceeds of any offence under this Act.

- (2) If an officer, investigating an offence committed under this Act, has reason to believe that any property represents proceeds of any offence under this Act, he shall with the prior approval in writing of the State Government make an order seizing such property, movable or immovable (including land possession certificate) or both of a value approximately to the value of proceeds gained through crime, and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order or, as the case may be, the special Court and a copy of such order shall be served on the person concerned.

- (3) The investigating officer shall duly inform the Special Court, within forty- eight hours of the seizure or attachment of such property.

- (4) It shall be open to the Special Court either to confirm or revoke the order of seizure or attachment made under sub-section (2).

Provided that the Special Court shall not pass an order unless an opportunity of making representation is given to the person whose property is being attached.

- (5) Where the accused has been convicted of any offence punishable under this Act, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both belonging to the accused and specified in the order shall stand confiscated to the State Government free from all encumbrances.

Explanation, - For the purpose of this section "proceeds of any offence under this Act" means all kind of properties which have been derived or obtained from commission of any offence under this Act, or have been acquired through funds traceable to any offence under this Act and shall include cash, irrespective of person in whose name such proceeds are standing or in whose possession they are found.

20. **Liability of Management etc. to pay all cost and expenditure** : If any person or Management or Institution or Limited Liability Partnership or others has been found guilty of the offence under this Act, such person or Management or Institution or Limited Liability Partnership or others shall be liable to pay cost and expenditure related to the examination, as may be determined by the State Government and such cost shall be recoverable as public demand under the provisions of Bengal Public Demands Recovery Act, 1913 as arrear of land revenue.

Provided that such person or Management or Institution or Limited Liability Partnership or others shall be barred and the State Government shall also initiate criminal proceedings under this Act, or any other law for the time being in force.

21. **Constitution of High Level Enquiry Committee :** In case of occurrence of malpractice in recruitment examination, the State Government, may within a reasonable time, constitute a High Level Enquiry Committee to enquire into the matter and to submit its report to State Government within such time as may be specified in constitution order.
22. **Establishment of Grievances Redressal Cell :** The recruiting agencies shall establish Grievances Redressal Cell to redress all the examination related issues stage wise of the examination in a time bound manner.
23. **Cases triable by Special Courts :** Notwithstanding anything contained in the Bharatiya Nagrik Suraksha Sanhita, 2023 (Act No. 46 of 2023) or in any other law for the time being in force, the offences specified under this Act, shall be tried by the Special Court constituted under this Act.
24. **Constitution of Special Courts :** The State Government shall, after consultation with the High Court, designate and notify a Court not below the Court of Additional Sessions Judge, as Special Court to try the offence punishable under this Act.
 Provided that, if the designated Court(s) has to try the offence of corruption in examination, the Court(s) already designated to try cases under Prevention of Corruption Act, 1988 shall try such cases without further designating special court(s) under this Act.
25. **Act not in derogation of any other law :** The provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force.
 Provided that the provisions of this Act, shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law in force.
26. **Power to remove difficulties-**(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulties.
 (2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislative Assembly.
27. **Power to make rules, :** (1) The State Government, by notification to be published in the Official Gazette, may make rules for carrying out the purposes of this Act.
 (2) All rules made under this Act, shall be laid, as soon as may be after they are so made, before the State Legislature, while it is in session.

SCHEDULE - I

[See Section 2(c)]

1. Arunachal Pradesh Public Service Commission (APPSC) ;
2. Arunachal Pradesh Staff Selection Board (APSSB) ;
3. Any other Authority or Agency or Recruitment Committee or Board engaged or constituted by the State Government ;
4. State Funded Universities ;
5. Any Society, Corporation, Local Body, Public Sector Undertaking (PSU) etc. owned , controlled or aided by the State Government ;
6. Any other Authority notified by the State Government.

SCHEDULE - II

[See Section 2(f)]

1. Any examination conducted by Arunachal Pradesh Public Service Commission;
2. Any examination conducted by Arunachal Pradesh Staff Selection Board;
3. Any examination conducted by any other Authority or Agency or Recruitment committee or Board engaged or constituted by the State Government;
4. Any examination conducted by State Funded Universities;
5. Any examination conducted by any Society, Corporation, Local Body, Public Sector Undertaking (PSU) owned, controlled or aided by the State Government;
6. Any examination conducted by any other Authority notified by State Government.

Yashpal Garg, IAS
 Commissioner to the
 Government of Arunachal Pradesh,
 Itanagar.