

A.P. PUBLIC EXAMINATIONS (PREVENTION OF MALPRACTICES AND UNFAIR MEANS) ACT, 1997

Received the assent of the Governor on the 19th August, 1997 published on the 21st August, 1997 in the Andhra Pradesh Gazette, Part IV-B (Ext.).

Statement of Objects and Reasons.

The Laws in force in the State of Andhra Pradesh relating to the educational system are found to be inadequate to control or eradicate effectively organised malpractices in relation to Public Examinations on the part of the persons with vested interests operating individually or collectively by unlawful means for unlawful considerations. As a result, the vast majority of meritorious examinees are adversely affected by such unlawful activity which is disrupting the examination system.

In order to avoid and curb all such irregular activities, the Government have decided to prevent the malpractices and unfair means at or relating to the Public Examinations.

As the Legislative Assembly of the State was not then in session and as it has been decided to give effect to the above decision immediately the Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair Means) Ordinance, 1997 (Andhra Pradesh Ordinance 7 of 1997) has been promulgated by the Governor on 28th April, 1997.

Subsequently, the Government have also decided to enhance the maximum fine that can be imposed under Clauses 8, 9 and 10 to Rs. One Lakh and a new clause 12 has been included to provide for forfeiture of properties of the offenders on conviction for an offence under the Act.

[Appended to L.A. Bill No. 28 of 1997].

[Act 27 of 2006]

The Andhra Pradesh Public Examination (Prevention of malpractices and Unfair Means) Act, 1997 has been enacted so as to prevent malpractices and unfair means at or relating to Public Examinations and for matter connected therewith.

It has been brought to the notice of the Government that some Educational or Tutorial Institutions are indulging in issuing false or misleading advertisements claiming for example, high ranks to their students in the IIT/JEE and other public examinations, whereas, the students studying therein did not actually get such meritorious ranks as claimed.

The provisions of the above Act are silent of preventing such advertisements issued by the Educational Institutions and it has become difficult to curb the activities of such educational institutions inducing students for admission into the institutions through such advertisements.

It is therefore felt imperative to insert a new section 7A in the said Act to curb or misleading advertisements to control such institutions. It has also been decided to specify the same in the preamble of the Act.

Accordingly it has been decided to amend the said Act suitably.
The Bill seeks to give to the above decision.

(Act No. 25 of 1997)

An Act to Prevent Malpractices and Unfair Means at or Relating to Public Examinations and for matters connected therewith or incidental thereto.

Whereas, the laws in force in the State of Andhra Pradesh relating to the educational system are found to be inadequate to control or eradicate effectively organised malpractices

1. Appended to L.A. Bill No. 6 of 2006.

in relation to public examinations on the part of the persons with vested interests operating individually or collectively by unlawful means for unlawful considerations;

"[And whereas, it is also necessary to curb false and misleading advertisements and other modes of publicity intended to induce students to seek admission into various educational institutions or tutorial institutions;"]

And whereas, the vast majority of meritorious examinees are adversely affected by such unlawful activity which is disrupting the examination system;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-eighth Year of the Republic of India, as follows:—

1. Short title, extent and commencement:— (1) This Act may be called the Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair Means) Act, 1997.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) Section 12 shall come into force with immediate effect and the remaining sections shall be deemed to have come into force with effect from 28th April, 1997.

2. Definition:— In this Act, unless the context otherwise requires:—

(a) "*Examination Centre*" means any institution or part thereof or any other place fixed for the holding of a public examination and includes the entire premises attached thereto;

(b) "*Government*" means the State Government of Andhra Pradesh;

(c) "*Notification*" means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly;

(d) "*Prescribed*" means prescribed by rules made by the Government under this Act;

(e) "*Public Examination*" means any examination either qualifying or competitive conducted by the Government or any other authority or body or any University under any law for the time being in force for awarding or granting any degree, diploma, certificate or any other academic distinction or for qualifying for admission into any course of study or for selecting for appointment or regularisation or promotion to any post in public service and includes any other examination declared by the Government by notification to be a public examination.

Explanation:— For the purposes of this clause, the expression, 'Public Service' means services in any office or establishment of,—

(a) the Government;

(b) a local authority;

(c) a Corporation or undertaking wholly owned or controlled by the State Government;

(d) a body established under any law made by the Legislature of the State whether incorporated or not, including a University;

(e) any other body established by the State Government or by a Society registered under any law relating to the registration of societies for the time being in force, and receiving funds from the State Government either fully or partly for its maintenance or any educational institution whether registered or not but receiving aid from the Government;

(f) "*Unfair means*" in relation to an examinee appearing in a public examination means the unauthorised help from any person in any manner or from any

1. Ins. by Act No. 27 of 2006, dt. 22nd April, 2006.

material written, recorded, printed or reproduced in any form whatsoever or the unauthorised use of any telephonic, wireless or electronic or other instrument of gadget in any manner; and

(g) all words and expressions used but not defined in this Act shall have meaning assigned to them in the Andhra Pradesh Education Act, 1982, or as the case may be, in the Indian Penal Code, 1860.

3. Prohibition of the use of unfair means:— The use of unfair means at or in connection with any public examination by any person is hereby prohibited.

4. Unauthorised possession and disclosure of question paper:— No person who is not lawfully authorised or permitted by virtue of his duties so to do shall, before the time fixed for the examinees to leave an examination centre at a public examination,—

(a) procure or attempt to procure or possess, such question paper or any portion or a copy thereof, or

(b) impart, or offer to impart 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.

5. Prevention of leakage by person entrusted with examination work:— No person who is entrusted with any work pertaining to a 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.

6. Prevention of manipulation of evaluation or record of such evaluation:— No person shall directly or indirectly indulge or involve in any manipulation or attempted manipulation of the evaluation of the performance of an examinee at a public examination or the record of such evaluation.

Explanation:— For the purposes of this section, the expression 'record of evaluation' includes answer scripts, tabulation sheets, marks registers, individual mark sheets, result sheets, or the copies thereof or any other registers or records maintained in this behalf.

7. Prevention of inducement for admission:— No person connected with an educational institution or a tutorial institution shall offer or promise any guarantee of performance or success at a public examination in advance as an inducement for admission into such educational institution or tutorial institution.

[7-A. "Prevention of publication of false or misleading information:— No person connected with an educational institution or a tutorial institution shall publish false or misleading information relating to the success of its students in a public examination.

Explanation:— For the purposes of this section, an advertisement or other mode of publicity:—

- (i) claiming that any student belongs to a particular educational or tutorial institution to which such student was never admitted or;
- (ii) showing against a candidate any rank other than the rank assigned to him/her by the convenor of a public examination while declaring the results of such examination, shall be construed as false or misleading information".

8. Penalty:— Whoever contravenes or attempts or conspires to contravene or abets the contravention of the provisions of Section 3 or Section 4 or Section 5 or Section 6 ²["or Section 7-A"] shall be punishable with imprisonment for a term which shall not be less than three years but which may extend upto seven years and with fine which shall not be less than rupees five thousand, but which may extend upto rupees one lakh.

1. Section 7-A ins. by A.P. Act no. Act No. 27 of 2006. dt. 22-4- 2006.

2. For words "Section 7" Act No. 27 of 2006, dt. 2-4-2006.

9. Penalty for Offence with preparation to cause hurt etc.:- Whoever commits an offence punishable under Section 8 having made preparation for causing death of any person or causing hurt to any person or assaulting any person or wrongfully restraining any person or for putting any person in fear of death or hurt or assault or wrongful restraint shall be punishable with imprisonment for a term which shall not be less than five years but which may extend upto ten years and with fine which shall not be less than rupees ten thousand but which may extend upto rupees one lakh.

10. Punishment for neglect of duties:- Whoever being entrusted with any work or has to perform any duty pertaining to a public examination wilfully neglects such work or duty required to be performed by him shall be punishable with imprisonment for a term which shall not be less than six months but which may extend upto three years and with fine which shall not be less than rupees five thousand, but which may extend upto rupees one lakh.

11. Offences by companies:- (1) Where an offence against any of the provisions of this Act or any rule made thereunder has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of 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 in sub-section (1) where any such offence 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 be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this Section,-

- (a) 'Company' means any body corporate and includes a firm, a society or other association of individuals; and
- (b) 'director' in relation to,-
 - (i) 'a firm' means a partner in the firm;
 - (ii) 'a Society or other association of individuals' means the person who is entrusted, under the rules of the Society or other association, with management of the affairs of the society or other association, as the case may be.

12. Forfeiture of property of certain persons:- (1) Where a person has been convicted of any offence under this Act, the Court may, in addition to awarding any punishment, by order in writing, declare that any property movable or immovable or both belonging to the person, which has been or appears to have been or believed to have been used for or involved in or procured or acquired or obtained by the commission of that offence, shall stand forfeited to the Government.

(2) Where any person is accused of any offence under this Act, it shall be open to the Court having jurisdiction to try the case to pass an order that all or any of the properties, movable or immovable or both, belonging to the person, shall, during the period of and until the conclusion of such trial, be attached, and where such trial ends in conviction, the properties so attached shall be liable to forfeiture to the Government to the extent it is required for compensating the Government of the expenditure incurred for conducting the public examination again, in respect

of which the offence has been committed, cancelling such public examination conducted earlier due to such offence and for the purpose of realisation of any fine imposed under this Act.

13. Power to give directions:— The Government or any officer or authority specifically empowered by the Government by order in this behalf may give directions to any educational institution or tutorial institution or any officer, or other person to give effect to any of the provisions of this Act or any rule or order made thereunder and such directions shall be complied with.

14. Protection of action taken in good faith:— No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act or the rules or orders made thereunder.

15. Act to override other laws:— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

16. Power to make Rules:— (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall immediately after it is made, be laid before the Legislative Assembly of the State, if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17. Repeal of Ordinance 7 of 1997:— The Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair means) Ordinance, 1997 is hereby repealed.

1.A.P. PUBLIC EXAMINATIONS (PREVENTION) OF MALPRACTICES AND UNFAIR MEANS) RULES, 1997

[G.O.Ms.No.114, Education (IE), 13th May 1997]

In exercise of the powers conferred by Section 15 of the Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair Means) Ordinance, 1997 (Ordinance No.7 of 1997), the Governor of Andhra Pradesh hereby makes the following Rules relating to Prevention of Malpractices and Unfair Means in Examinations under the Control of Government/Boards/Universities/Other Educational Institutions in Government and Private Sectors.

RULES

1. Short title, Applicability and Commencement:— (1) These rules may be called "The Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair Means) Rules, 1997.

(2) They shall come into force at once.

(3) These rules shall apply to all the Educational Institutions whether Government or Private imparting education to the students of the following-classes or categories in the State of Andhra Pradesh to enable the students to qualify in the examinations to be conducted for the purpose; namely:—

- (a) Junior Colleges (All Institutions imparting Intermediate Education with or without high school/degree classes/courses);
- (b) Degree Colleges (imparting degree courses with or without attached Intermediate Sections);
- (c) Oriental Colleges;
- (d) Hindi Mahavidyalayas;
- (e) Law Colleges (Colleges imparting Law Courses either exclusively or as Degree Colleges offering Law Courses also);
- (f) Post-Graduate Centres (Colleges imparting Post-Graduation Degree/ Diploma Courses either exclusively or as Degree Colleges offering Post Graduation Courses also);
- (g) Professional Colleges, viz. Medical, Engineering Agriculture, Pharmacy, Veterinary and Polytechnic Institutions;

2. Definitions:— In these Rules unless the context otherwise requires;

- (a) 'Examination Centre' means any Institution or part thereof or any other place fixed for the holding of a public examination and includes the entire premises attached thereto;
- (b) 'Government' means the State Government of Andhra Pradesh;
- (c) 'Notification' means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly;
- (d) 'Prescribed' means prescribed by rules made by the Government under the Andhra Pradesh Public Examinations (Prevention of Malpractices and unfair Means) Ordinance, 1997.

(e) 'Public Examination' means any examination either qualifying or competitive conducted by the Government or any other authority or body or any University constituted or established under any law for the time being inforce for awarding or granting any degree, diploma, certificate or any other academic distinction or for qualifying for admission into any higher courses of study or for selecting for appointment or regularisation or promotion to any post in public service and includes any other examination declared by the Government by notification to be a public examination.

Explanation:— For the purposes of this clause, the expression 'public service' means services in any office or establishment of—

- (a) the Government;
- (b) a local authority;
- (c) Board/Council or undertaking wholly owned or controlled by the State Government;
- (d) a body/council established under any law made by the Legislature of the State whether incorporated or not, including a University; and
- (e) any other body established by the State Government or by a society registered under any law relating to the registration on Societies for the time being inforce and receiving funds from the State Government either fully or partly for its maintenance or any Educational Institution whether registered or not but receiving aid from the Government;
- (f) 'Unfair means' in relation to an examinee appearing in a public examination means soliciting from, or resorting to an unauthorised help from any person in any manner or from any material written, recorded or printed or reproduced in any form whatsoever or by gestures or the unauthorised use of any telephonic, wireless or electronic or other instrument or gadget in any manner;
- (g) All words and expressions used but not defined in these rules shall have the same meanings assigned to them in the Andhra Pradesh Education Act, 1982, or as the case may be in the Indian Penal Code.

3. Prohibition of the use of unfair means:— The use of unfair means at or in connection with any public examination by any person is hereby prohibited.

4. Unauthorised possession and disclosure of question paper:— No person who is not lawfully authorised or permitted by virtue of his duties so to do shall, before the time fixed for the examinee to leave for an examination centre to attend to a public examination,

- (a) Procure or attempt to procure or possess or attempt to possess such question paper or any portion or a copy thereof, or
- (b) impart, or offer to impart 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 to be answered by such examinees at such Centres.

5. Prevention of Leakage by person entrusted with Examination work:— No person who is entrusted with any work relating to the selection, finalisation and

printing of question papers; or with any other work pertaining to a 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 or attends to any work, without any reasonable care and caution which results in the leakage of any material information.

6. Prevention of manipulation of evaluation or record of such evaluation:— No person shall directly or indirectly indulge or involve in any manipulation or attempted manipulation of the evaluation of the performance of an examinee at a public examination or the record of such evaluation;

Explanation:— For the purposes of this rule, the expression 'record' of evaluation includes answer scripts, tabulation sheets, marks registers, individual marks sheets, result sheets, or the copies thereof or any other registers or records maintained for the purpose.

7. Prevention of Inducement for admission:— No person connected with an educational institution or a tutorial institution shall offer or promise any guarantee of performance or success at a public examination in advance as an inducement for admission into such educational institution or tutorial institution.

8. Penalty:— Whoever contravenes or attempts or conspires to contravene or abets the contravention of the provisions of Rule 3 or Rule 4 or Rule 5 or Rule 6 or Rule 7 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend upto seven years with fine which shall not be less than rupees five thousand but which may extend upto Rupees twenty five thousand.

9. Penalty for Offence with preparation to cause hurt etc.:— Whoever commits an offence punishable under Section 8 having made preparation for causing death of any person or causing hurt to any person or assaulting any person or wrongfully restraining any person or for putting any person in fear of death or hurt or assault or wrongful restraint shall be punishable with imprisonment for a term which shall not be less than five years but which may extend upto ten years and with fine which shall not be less than rupees ten thousand but which may extend upto rupees fifty thousand;

10. Punishment for neglect of duties:— Whoever being entrusted with any work or has to perform any duty pertaining to a public examination wilfully neglects such work or duty required to be performed by him shall be punishable with imprisonment for a term which shall not be less than six months but which may extend upto three years and with fine which shall not be less than rupees five thousand;

11. Offences by Companies/Tutorial Institutions/ Printing Press:— (1) Where an offence has been committed by a Company/Tutorial College/Printing Press every person, who at the time the offence was committed was incharge of, and was responsible to, the company/tutorial institutions/printing press for the conduct of business of the Company etc., 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-rule shall render any such person liable to any punishment, if he proves that the offence was committed without his

knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-rule (1) where any such offence 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 be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:— For the purpose of this rule,

(a) 'Company' means any body corporate and includes a firm, a society, a printing press, or other association of individuals, and

(b) 'director' in relation to,—

(i) 'a firm' means a partner in the firm;

(ii) 'a society or other association of individuals' means the person who is entrusted under the rules of the society or other association, with management of the affairs of the Society or other association, as the case may be.

12. Power to give direction:— The Government or any officer or authority specifically empowered by the Government by order in this behalf may give directions to any educational institution or tutorial institution or any officer or other person to give effect to any of the provisions of these rules or order made thereunder and such directions shall be complied with from time to time;

13. Protection of action taken in good faith:— In these rules, no suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under these rules or orders made thereunder.