



The Karnataka Public Examination (Measures for Prevention of Corruption and Unfair Means in Recruitment) Act, 2023

Act No. 45 of 2024

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KARNATAKA ACT NO. 45 OF 2024

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THE KARNATAKA PUBLIC EXAMINATION (MEASURES FOR PREVENTION OF CORRUPTION AND UNFAIR MEANS IN RECRUITMENT) ACT, 2023

(Received the assent of Governor on the 06th day of September, 2024)

An Act to provide for strict and effective measures to curb the use of unfair corrupt means and leakage of question papers at public examinations conducted for the purpose of recruitment to any post in or under the Karnataka State Government including autonomous bodies, authorities, boards or corporations and to provide for designated courts for the trial of such offences;

Whereas it is considered necessary to provide for strict and effective measures to curb the use of unfair, corrupt means and leakage of question papers at public examinations conducted for the purpose of recruitment to any post in or under the Karnataka State Government including autonomous bodies, authorities, boards or corporations, and to provide for designated courts for the trial of such offences and for matters connected therewith or incidental thereto and for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Seventy-fourth Year of the Republic of India, as follows: -

1. Short title and Commencement.- (1) This Act may be called the Karnataka Public Examination (Measures for Prevention of Corruption and Unfair Means in Recruitment) Act, 2023.

(2) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.- (1) In this Act, unless the 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, evaluation, declaration of result etc;
- (b) "examination authority" means an examination authority as specified in the Schedule-I;

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- (c) "examination center" 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;
 - (d) "examinee" means a person who has been granted permission by the concerning authority to appear in a public examination, and includes a person authorized to act as scribe on his behalf in public examination;
 - (e) "public examination" means examination for the purpose of recruitment to any post under the State Government including autonomous bodies, authorities, boards or corporations as specified in the Schedule-II;
 - (f) "unfair means" includes,-
 - (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 including examinee to impersonate or leak or attempt to leak or conspire to leak, to procure or attempt to procure or possess, to solve or attempt to solve or seek assistance to solve question paper in unauthorized manner or directly or indirectly assist the examinee in the public examination in unauthorized manner.

(2) The words and expressions used but not defined, shall have the same meaning assigned to them in the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

3. Prohibition of use of unfair means.- No person shall use unfair means at any public examination.

4. Possession and disclosure of question paper.- No person who is lawfully authorized by virtue of his duties to conduct public examination shall before the time fixed for opening and distribution of question papers,-

- (a) open, leak or procure or attempt to procure, possess or solve such question paper or any portion or a copy thereof; or

- (b) 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.

5. Prevention of leakage by person entrusted or engaged with examination work.- No person, who is entrusted or engaged 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.

6. Unauthorized possession or disclosure of question paper and answer sheet or OMR sheet in any form.- No person who is lawfully authorized or permitted by virtue of his duties to do so, shall, before the time fixed for the distribution of question papers,-

- (a) 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
- (b) 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.

7. Prohibition to enter in examination center.- 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 center.

8. No place other than examination center 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 center, for the purpose of holding public examination.

9. Offences 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 the offence

was committed was incharge 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 or 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 neglect 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.

10. Penalties.- (1) If any examinee indulges in unfair means as defined under clause (f) of section 2, shall be liable to be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine, which shall not be less than ten lakh rupees and in case of default of payment of fine such examinee shall also be liable to be punished with imprisonment of either description for a term of fifteen months.

(2) If any person, including examinee, whether entrusted or authorized with the conduct of public examination or not, in conspiracy or otherwise indulges or attempts to indulge in unfair means as defined in clause (f) of section 2 or contravenes or abets to contravene any of the provisions of this Act, shall be punished with imprisonment of either description for a term which shall not be less than eight years but which may extend to imprisonment of twelve years and shall also be liable to fine which shall not be less than fifteen lakh rupees but which may extend to ten crore rupees and in case of default of payment of fine such

person shall also be liable to be punished with imprisonment of either description for a term of two years:

Provided that, the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than five years.

11. Debarment on conviction.- (1) An examinee who is prima facie found guilty by the examination authority in impersonation or of submitting fabricated document or documents which have been tampered with or of making statements which are incorrect or false, or of suppressing any material information or of using or attempting to use unfair means in the

examination hall or otherwise resorting to any other irregular and improper means in connection with any examination, such examinee shall in addition to rendering himself liable to a criminal prosecution, be debarred either permanently or for a specified period by the examination authority from admission to any examination or appearance at any interview or examination held by the examination authority.

(2) An examinee who has been convicted of an offence under the provision of this Act shall be debarred from taking any public examination for a period of two years.

12. 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 or both, 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 Designated Court and a copy of such order shall be served on the person concerned.

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

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

Provided that, the Designated 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 Designated 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.

13. Liability of Management etc., to pay all cost and expenditure.- If the person of the Management or Institution or Limited Liability Partnership or others has been found guilty of the offence under sub-section (2) of section 10 of this Act, the Management or Institution or Limited Liability Partnership or others shall be liable to pay all cost and expenditure related to the examination, determined by the Designated Court and shall be banned forever.

14. Offences to be Cognizable, non-bailable and non-compoundable.- All offences specified under this Act, shall be cognizable, non-bailable and non-compoundable.

15. Investigation of the offences.- No police officer below the rank of Additional Superintendent of Police shall investigate any offence committed under this Act.

16. Cases triable by Designated Courts.- Without prejudice to the provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), or

in any other law for the time being in force, the offences specified under this Act shall be tried by the courts designated under this Act.

17. Power to appoint Designated Courts.- The State Government may, by notification in the Official Gazette, designate as many Courts of Sessions in consultation with the Chief Justice of the High Court of Karnataka as it may be necessary to try offences punishable under this Act.

18. 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.

19. 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.

20. 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.

21. Power to amend Schedule.- The State Government by notification published in the Official Gazette may amend schedules of the Act to add New Examination Authority or Public Examination and may by like notification amend or vary the entries of the schedules.

22. 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 difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the Houses of the State Legislature.

23. Power to make rules.- (1) The State Government may make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid as soon, as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.

SCHEDULE-I

(Section 2(b))

- (1) Karnataka Public Service Commission
- (2) Karnataka Examination Authority (KEA)
- (3) All other authority or agency or recruitment committee engaged or constituted by the State Government
- (4) State Funded Universities
- (5) Karnataka School Examination and Evaluation Board
- (6) Karnataka Police Recruitment Wing
- (7) Public Sector Undertaking owned by State Government
- (8) Any Societies, Corporations, Local Bodies and all PSUs owned by the State Government substantially or partially
- (9) Any other authority notified by State Government

SCHEDULE-II

[Section 2(e)]

- (1) Any examination conducted by the Karnataka Public Service Commission.
- (2) Any examination conducted by the Karnataka Examination Authority (KEA)
- (3) Any examination conducted by any other authority or agency or recruitment committee engaged or constituted by the State Government.
- (4) Any recruitment examination conducted by the State Funded Universities.

- (5) Any recruitment examination conducted by the Karnataka School Examination and Evaluation Board
- (6) Any examination conducted by the Karnataka Police Recruitment Wing
- (7) Any examination conducted by the Public Sector Undertaking owned by State Government.
- (8) Any other examination conducted by any Societies, Corporations, Local Bodies and all PSU's owned by State Government substantially or partially.
- (9) Any other examination notified by the State Government or conducted by any agency appointed by the State Government.

The above translation of ಕರ್ನಾಟಕ ಸಾರ್ವಜನಿಕ ಪರೀಕ್ಷೆ (ನೇಮಕಾತಿಯಲ್ಲಿನ ಭ್ರಷ್ಟಾಚಾರ ಮತ್ತು ಅನುಚಿತ ವಿಧಾನಗಳ ಪ್ರತಿಬಂಧಕ ಕ್ರಮಗಳು) ಅಧಿನಿಯಮ, 2023 (2024ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 45) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

THAAWARCHAND GEHLOT
GOVERNOR OF KARNATAKA

By Order and in the name of
the Governor of Karnataka,

(G. SRIDHAR)
Secretary to Government
Department of Parliamentary
Affairs and Legislation