Bill No. 5 of 2024

THE MANIPUR PREVENTION OF MALPRACTICES IN HIGH SCHOOL LEAVING CERTIFICATE AND HIGHER SECONDARY EXAMINATIONS BILL, 2024

(As introduced in the Manipur Legislative Assembly on .....)

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The Manipur Prevention of Malpractices in High School Leaving Certificate and Higher Secondary Examinations Bill, 2024

A

Bill

to provide for penal provisions for malpractices in the examinations conducted by Board of Secondary Education, Manipur (BOSEM) and Council of Higher Secondary Education, Manipur (COHSEM) and to make the examinations free and fair, and the matter connected therewith.

Be it enacted by the Legislature of Manipur in the Seventy-fifth Year of the Republic of India as follows:

CHAPTER - I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Manipur Prevention of Malpractices in High School Leaving Certificate and Higher Secondary Examinations Act, 2024.

(2) It shall extend to the whole of the State of Manipur.

(3) It shall come into force from the date of its publication in the Official Gazette.

Definitions.

2. In this Act, unless the context otherwise requires, -

(a) "code" means the Code of Criminal Procedure, 1973;

(b) "educational institution" means any school or institution recognized/ affiliated to the Board of Secondary Education Manipur (BOSEM) and/ or the Council of Higher Secondary Education Manipur (COHSEM);

(c) "examination" means High School Leaving Certificate Examination and Higher Secondary Examination conducted by BOSEM and COHSEM respectively;

(d) "malpractice" in relation to any examination means any unauthorized act committed by taking or giving or attempting to take or give any help from or to any person or from any material, written, recorded, typed, printed or transmitted from any person, in any form whatsoever; and includes,-

I. to impersonate or leak or attempt to leak or conspire to leak question paper; or

II. to procure or attempt to procure or possess or attempt to possess question paper in unauthorized manner; or

III. to solve or attempt to solve or seek assistance to solve question paper in unauthorized manner; or

IV. directly or indirectly assist the candidate in the examination in unauthorized manner; and

(e) "refusal to work" in relation to any person to whom any work in connection with any examination has been assigned means, his failure to attend at, or absence from, the place of work, without obtaining permission of the authority competent to grant such permission or his refusal to do the work or any other conduct on his part, which results in or is likely to result in cessation or substantial retardation of the work and the words "to refuse to do the work", with all their grammatical variations and cognate expressions shall be construed accordingly.

Examination system.

3. The examination system, whether by internal assessment, practical, external assessment or partly internal and partly external assessment, shall be regulated by the provisions of the rules made in this regard by the BOSEM and COHSEM respectively with the approval of the State Government so as to make it a reliable and effective method of evaluation of student's merit.

Duties of certain persons entrusted with the examination work.

4. No person-

(a) who is appointed as a question paper setter or as evaluator of answer scripts or as custodian and for transportation of answer scripts at any examination shall supply or cause to be supplied the question paper drawn by him or a copy thereof or communicate the contents of such paper to any person or give publicity thereto in any manner, except in accordance with the instructions given to him in writing by his appointing authority in this behalf; or

(b) who is entrusted with the work of printing, cyclostyling, typing, or otherwise producing copies of any question paper set for the purposes of any examination shall supply or cause to be supplied a copy thereof or communicate the contents thereof to any person or give publicity thereto in any manner, except in accordance with the instructions given to him in writing by the authority which entrusted the work to him; or

(c) who is entrusted with the custody, or is otherwise in possession of any question paper set for the purposes of any examination shall supply or distribute or cause to be supplied or distributed any copy thereof or communicate the contents thereof to any person or give publicity thereto in any manner, except in accordance with the instructions given to him in writing by the authority which entrusted the custody or give possession thereof to him.

Prohibition of copying at examination, etc.

5. No person shall in or near an examination hall copy answers to the question papers set at the examination, from any book, notes or answer papers of other candidates or commit any other malpractices.

Prohibition of impersonating at examinations.

6. No person shall appear or write at any examination for or on behalf of any other candidate.

Prohibition of loitering near examination centres, etc.

7. No person, save in the discharge of his duties or orders of his superiors, shall during the hours when an examination is conducted or any evaluation or tabulation work relating to any examination is done and one hour preceding the commencement of such examination, evaluation or tabulation work, loiter within the premises wherein the examination is held or evaluation or tabulation work is done or at any public or private place within a distance of one hundred metres from such premises:

Provided that nothing contained in this section shall apply in respect of *bonafide* activities of any such person.

Alteration of the answers written at an examination, etc.

8. No person shall-

(a) save in accordance with the rules or orders governing the conduct of an examination, -

(i) change, modify, vary or alter the answers written by a candidate at such examination; or

(ii) introduce additional answer books or sheets into an answerscript or remove or substitute the answer scripts or any part thereof;

(b) intentionally or knowingly, -

(i) make incorrect entries in an answer script or marks register or marks card; or

(ii) total or re total wrongly the marks obtained by any candidate; or

(iii) feed wrong data to the computer, intending thereby to wrongfully increase or decrease the marks awarded or to be awarded to the candidate at an examination.

Duty of employees of educational institutions to do examination work.

9. Notwithstanding anything contained in any law for the time being in force or in any contract or any judgment, decree or order of any court or tribunal, it shall be the duty of every officer, teacher or other employee of every educational institution and every person in the service or pay of or remunerated by any educational institution to do any work assigned to him, in connection with any examination.

CHAPTER-II

PENALTIES

Punishment for impersonating at examinations.

10. Any person who contravenes the provisions of section 6 shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one Lakh rupees but not less than twenty thousand rupees or with both, or under Juvenile Justice Act, 2015 in case of a juvenile.

Punishment for loitering, etc., near an examination centre.

11. Any person, other than a candidate on the day of examination, who contravenes the provisions of section 7 shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to fifty thousand rupees or with both.

Punishment for alteration of answers written at an examination.

12. Any person other than a candidate who contravenes the provisions of section 8 shall, on conviction, be punished with imprisonment for a term which may extend to two years or with fine which may extend to five lakhs rupees but not less than twenty thousand rupees or with both.

Punishment for affecting the body or property of any persons entrusted to work related to examination.

13. Any person who commits any offence affecting the body or against the property of any person entrusted with any work relating to or appointed in connection with any examination, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees but not less than fifty thousand rupees or with both.

14. Any person who contravenes the provisions of section 4 shall, on conviction, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to imprisonment of ten years and shall also be liable to fine which shall not be less than ten 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. Prohibition of other malpractices at examinations, etc.

15. Any person, who, without reasonable excuse, refuses to do any work connected with any examination and assigned to him, shall be punished in accordance with conduct rules. Punishment for contravention of section 9.

16. If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or rules made thereunder other than those punishable under the provisions herein before contained, he shall, on conviction, be punished with fine which may extend to fifty thousand rupees for every such contravention and when the offence is a continuing one, with a daily fine not exceeding ten thousand rupees during the period of contravention of the Act or rules. Punishments not otherwise provided for.

17. Whoever abets any offence punishable under this Act shall be punishable with the punishment provided for the offence. Punishment for abetment of offences.

18. Notwithstanding anything contained in this Act, a person who is a juvenile as defined in the Juvenile Justice (Care and Protection of Children) Act, 2015 who commits an offence under this Act shall be tried under the said Act. Trial in case of juvenile.

2 of 2016.

19. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be cognizable offences and shall be non-bailable. Offences to be cognizable and non-bailable.

20. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be tried in a summary way by any Judicial Magistrate of the First Class and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial: Offences to be tried summarily.

Provided that in the case of conviction for any offence in a summary trial under this section, it shall be lawful for the Magistrate to pass sentence of imprisonment for any term for which such offence is punishable under this Act.

CHAPTER-III

MISCELLANEOUS

Power to make rules.

21. The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to remove difficulties.

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

1. The proposed law is to provide penal provisions for malpractices in Higher Secondary Examination (HSE) and High School Leaving Certificate (HSLC) Examination conducted by Council of Higher Secondary Examination, Manipur (CoHSEM) and Board of Secondary Examination, Manipur (BoSEM) respectively.

2. The Council/Board Examinations conducted by CoHSEM and BoSEM are two of the most important examinations that a student has to take in their school career. The marks obtained in these examinations directly or indirectly impact admission prospects of students in Higher Educational Institutions. Not only this, position holders in HSE as well as HSLCE are widely appreciated, recognized and even awarded in different ways. Since the examinations have an important bearing in the life of a student, students generally work harder for appearing in them. Also, the quality of a school in Manipur is often judged based on the results of its students in the two Board Examinations.

3. It is, therefore, imperative that the Council/Board Examinations are conducted in the most free and fair manner so that its results reflect the actual learning and understanding of a student.

4. At present, some penal provisions are provided under Regulations for Conduct of Examinations adopted by Board of Secondary Education Manipur, such as barring from appearing in future examinations of the Board for 5 years, expulsion in case of malpractices such as using unfair means, impersonation, leakage, threatening of officials, etc. This is considered not stringent enough to deter students and others from indulging in malpractices in Board and Council Examinations.

5. The Manipur Human Rights Commission after considering complaint Case No. 102 of 2020, in order to prevent the adoption of unfair means by the students, their guardians and teachers/authorities at the time of examinations, has also recommended the State Government to enact necessary Act or Law based on Karnataka model without further delay.

   Hence, this Bill.

Th. Basanta Kumar Singh
Minister (Education), Manipur

FINANCIAL MEMORANDUM

As and when the proposed legislation is enacted and brought into operation, there shall be no additional expenditure from the Consolidated Fund of the State.

MEMORANDUM ON DELEGATED LEGISLATION

1. Clause 21 empowers the State Government to make rules for carrying out the provisions of the proposed law.

2. Clause 22 empowers the State Government to remove difficulty arises in giving effect to the provisions of the proposed law by orders, published in the Official Gazette.

The delegations are not excessive and normal in character.