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SECRETARIAT
OF
THE ODISHA LEGISLATIVE ASSEMBLY
NOTIFICATION

The 27th November, 2024

No.7044/L.A.— The following Bill, which has been introduced in the Odisha Legislative Assembly on the dated 27th November, 2024 is here with published under Rule-68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

**THE ODISHA PUBLIC EXAMINATIONS (PREVENTION OF
UNFAIR MEANS) BILL, 2024**

**A
BILL**

***to prevent unfair means in the public examinations and
to provide for matters connected therewith or
incidental thereto.***

BE it enacted by the Legislature of the State of Odisha
in the Seventy-fifth Year of the Republic of India as follows:—

**CHAPTER I
PRELIMINARY**

Short title and
commencement

1. (1) This Act may be called the Odisha Public Examinations (Prevention of Unfair Means) Act, 2024.

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

CHAPTER II DEFINITIONS

Definitions.

2. (1) In this Act, unless the context otherwise requires, —

- (a) “candidate” means a person who has been granted permission by the public examination authority to appear in public examination and includes a person Authorized to act as a scribe on his behalf in the public examination;
 - (b) “Communication device” shall have the same meaning assigned to it in clause (ha) of sub-section (1) of Section 2 of the Information Technology Act, 2000; 21 of 2000.
 - (c) “Computer network”, “computer resource” and “computer system” shall have the meanings respectively assigned to them in clauses (j), (k) and (l) of sub-section (1) of Section 2 of the Information Technology Act, 2000; 21 of 2000.
 - (d) “Conduct of public examination” shall include all the procedures, processes and activities, as may be prescribed, for being adopted for the conduct of public examination;
 - (e) “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 purposes 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; 18 of 2013.
- (f) “notification” means a notification published in the Official Gazette and the expression “notify” shall be construed accordingly; 7 of 2009.
 - (g) “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 a public examination;

- (h) "Person associated with a 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;
- (i) "Paper setter" means any person or entity appointed by the public examination authority for preparation of questions or question bank or question paper;
- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "Public examination" means any examination conducted by the public examination authority, or conducted by such other authority as may be notified by the State Government;
- (l) "Public examination authority" means the Odisha Public Service Commission, Odisha Staff Selection Commission, Odisha Subordinate Staff Selection Commission, Service Selection Board, Odisha Police Selection Board, State Selection Board constituted under the Odisha Education (Selection Board for the State) Rules, 1992, Odisha Joint Entrance Examination, regulated by the Odisha Professional Educational Institution (Regulation of Admission and Fixation of Fee) Act, 2007, Departments of the State Government and their attached and subordinate offices for recruitment of staff, Selection Agencies / Committees engaged or constituted by the State Government, and all such other authority as may be notified by the State Government from time to time, for conducting public examination or any Examination Authority as specified in Schedule;
- (m) "Public examination center" means such premises, which is selected by the service provider or otherwise

selected by the public examination authority, to be used for conduct of public examination and which, amongst others, may include any school, computer center, institution, any building or part thereof and the same shall include the entire periphery and land appurtenant thereto which may be used for security and Other related reasons for conduct of the public examinations;

- (n) "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;
- (o) "Schedule" means schedule appended to this Act.
- (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 III

UNFAIR MEANS AND OFFENCES

Unfair means.

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—
 - (a) leakage of question paper or answer key or part thereof ;
 - (b) participating in collusion with others to effect leakage of question paper or answer key ;
 - (c) accessing or taking possession of question paper or an Optical Mark Recognition response sheet without authority ;
 - (d) providing solution to one or more questions by

any unauthorized person during a public examination ;

- (e) directly or indirectly assisting the candidate in any manner unauthorizedly in the public examination ;
- (f) tampering with answer sheets including Optical Mark Recognition response sheets ;
- (g) altering the assessment except to correct a *bona fide* error without any authority ;
- (h) willful violation of norms or standards set up by the State Government for conduct of a public examination on its own or through its agency ;
- (i) tampering with any document necessary for short-listing of candidates or finalising the merit or rank of a candidate in a public examination ;
- (j) deliberate violation of security measures to facilitate unfair means in conduct of a public examination ;
- (k) tampering with the computer network or a computer resource or a computer system ;
- (l) manipulation in seating arrangements, allocation of dates and shifts for the candidates to facilitate adopting unfair means in examinations ;
- (m) 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 ;
- (n) creation of fake website to cheat or for monetary gain; and
- (o) conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain.

Conspiracy
for unfair
means.

4. No person or group of persons or institutions shall collude or conspire to facilitate indulgence in any such unfair means.

Disruption
to conduct
public
examination.

5. (1) No person, who is not entrusted or engaged with the work pertaining to the public examination or conduct of public examination or who is not a candidate, shall enter the premises of the examination center, with intent to disrupt the conduct of the public examination.

(2) No person authorized, engaged or entrusted with the duties to conduct public examination shall, before the time fixed for opening and distribution of question papers:

(a) Open, leak or possess or access or solve or seek assistance to solve such question paper or any portion or a copy thereof in unauthorized manner for monetary or wrongful gain;

(b) Give any confidential information or promise to give such confidential information to any person, where such confidential information is related to or in reference to such question paper for monetary or wrongful gain.

(3) No person, who is entrusted or engaged with any work pertaining to public examination shall, except where he is authorized in furtherance of his duties so to do, reveal or cause to be revealed or make known to any other person any information or part thereof which has come to his knowledge for any undue advantage or wrongful gain.

Duties of Paper
Setter.

6. Any person who is appointed as a paper setter for any examination shall not 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 public examination authority in this behalf.

Other
offences.

- 7.** If any person or group of persons or institution commits any unfair means or offence under sections 3, 4, 5 and Section 6, the public examination Authority or the service provider shall forthwith report the offence to the concerned police authorities and in case the service provider reports the offence to the police authorities shall also inform the public examination Authority:

Provided that if the service provider resorts to unfair means and commits the offence or is involved in facilitating an offence, the public examination authority shall report the same to the concerned police authorities.

No premises
other than
examination
center shall be
used for Public
Examination.

- 8.** It shall be an offence for the service provider or any person associated with the service provider to cause any premises, other than the examination center, authorized by the public examination authority, to be alternatively used for the purpose of holding public examination, without the written approval of the public examination Authority:

Provided that nothing contained in this section shall be an offence where any change in the examination center without prior consent of the public examination authority is due to any force majeure.

Punishment for
offences.

- 9.** (1) Any person, including the person associated with a service provider, shall be deemed to have committed an offence if he individually or in collusion with any other person or group of persons or institutions assists any person or group of persons or institutions in any manner unauthorizedly in the conduct of public examination.
- (2) Service provider or any person associated with it shall be deemed to have committed an offence if he fails to report incidence of any unfair means or commission of any offence.
- (3) Where an offence committed by a service provider is, prima facie, established during investigation to have been committed with the consent or connivance of any

director, manager, secretary or other officer of such service provider, such person shall also be liable to be proceeded against:

Provided that nothing contained in this sub-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.

CHAPTER IV

PUNISHMENT FOR OFFENCES

Cognizable offences.

10. All offences under this Act, shall be cognizable, non-bailable and non-compoundable.

Punishment for offences under this Act.

11. (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 ten lakh 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:

45 of 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 the conduct of any public examination for a period of four years.

(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 the 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:

45 of 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.

Organized crimes.

- 12.** (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.

45 of 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.

CHAPTER V

INQUIRY AND INVESTIGATION

Officers empowered to investigate.

- 13.** (1) An officer not below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police shall investigate any offence 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 Investigating Agency.

CHAPTER VI

MISCELLANEOUS

Members, officers and employees of recruiting agency to be public servants.

14. 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 the Bharatiya Nyaya Sanhita, 2023:

45 of 2023

Protection of action taken in good faith by any public servant.

15. 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 servants 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.

Act to be in addition to other laws.

16. The provisions of this Act shall be in addition to, and not in derogation 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.

Power to make rules.

17. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may

provide for all or any of the following matters, namely:

(a) To lay down procedures, processes and activities for being adopted for conduct of the public examination.

(b) Any other matter which is to be or may be prescribed.

Power to
remove
difficulties.

18. (1) 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 within three years, not inconsistent with the provisions of this Act, as appear to it to be necessary for removal of difficulty.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made before the State Legislative Assembly.

THE SCHEDULE

[See Section 2 (1) (l) and (o)]

ANY EXAMINATION CONDUCTED BY—

1. Odisha Public Service Commission.
2. Odisha Staff Selection Commission.
3. Odisha Subordinate Staff Selection Commission.
4. Service Selection Board.
5. Odisha Police Selection Board.
6. State Selection Board constituted under the Odisha Education (Selection Board for the State) Rules, 1992.
7. Odisha Joint Entrance Examination, regulated by the Odisha Professional Educational Institution (Regulation of Admission and Fixation of Fee) Act, 2007.
8. Departments of the State Government and their attached and subordinate offices for recruitment of staff, and
9. All such other authority as may be notified by the State Government.

STATEMENT OF OBJECTS AND REASONS

1. Malpractices and unfair means such as impersonation, cheating and disrupting the examination process, leakage of information related to an exam before the scheduled time, unauthorized entry into examination hall lead to delays and cancellation of examinations adversely impacting the prospects of millions of youth. At present, there is no specific substantive law to deal with unfair means adopted or offences committed by various entities involved in the conduct of public examinations as defined in the Bill. Therefore, it is imperative that elements that exploit vulnerabilities of examination system are identified and effectively dealt with by a comprehensive State Legislation.
2. The objective of the Bill is to bring greater transparency, fairness and credibility to the public examination systems and to reassure the youth that their sincere and genuine efforts will be fairly rewarded and their future is safe. The Bill is aimed at effectively and legally deterring persons, organized groups or institutions that indulge in various unfair means and adversely impacts the public examination systems for monetary or wrongful gains.

MOHAN CHARAN MAJHI
MEMBER-IN-CHARGE

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OSD-CUM-SECRETARY
ODISHA LEGISLATIVE ASSEMBLY