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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS ETC

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 19th August, 1997, and the said assent is hereby first published on the 21st August, 1997 in the Andhra Pradesh Gazette for general information.

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 organized 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;

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:-

Short title,
extent and
commencement

1. (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.

Definitions:

- 2 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 regularization 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 establishments 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 unauthorized help from any person in any manner or from any material written, recorded, printed or reproduced in any form whatsoever or the unauthorized use of any telephonic, wireless or electronic or other instrument or gadget in any manner; and

Act 1 of 1982
Central Act 45 of
1860

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

Prohibition of the use of unfair means. 3.

The use of unfair means at or in connection with any Public Examination by any person is hereby prohibited.

Unauthorized possession and disclosure of question paper. 4.

No person who is not lawfully authorized or permitted by virtue of his duties so to do shall, before the time fixed for the examinees to leave an examination center 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.

Prevention of leakage by person entrusted with examination work. 5.

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.

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| Prevention of manipulation of evaluation or record of such evaluation. | 6 | <p>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.</p> <p>Explanation: For the purposes of this section, 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 in this behalf.</p> |
| Prevention of inducement for admission. | 7. | 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. |
| Penalty | 8. | 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 or section 7 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. |
| Penalty for offence with preparation to cause hurt etc., | 9. | 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. |
| Punishment for neglect of duties. | 10. | Whoever being entrusted with any work or has to perform any duty pertaining to a Public Examination willfully 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. |
| Offences by Companies. | 11. | <p>(1) Where an offence against any of the provisions of this Act or any rule made there under 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;</p> <p>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.</p> <p>(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</p> |

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.

Forfeiture of property of certain persons

- 12 (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, canceling such public examination conducted earlier due to such offence and for the purpose of realization of any fine imposed under this Act.

Power to give directions.

13. 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 there under and such directions shall be complied with.

Protection of action taken in good faith

- 14 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 there under.

Act to over ride other laws.

- 15 The provisions of this Act shall have effect notwithstanding any thing inconsistent therewith contained in any other law for the time being in force.

Power to make Rules.

16. (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 affect 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.

Repeal of ordinance
7 of 1997.

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

G.BHAVANI PRASAD
Secretary to Government
Legislative Affairs & Justice,
Law Department.

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O/o the District Educational Officer, Nellore
Date 21-02-2013

Rc.No. 8034/C3/2012

Copy communicated to all the Deputy Educational Officers, Mandal Educational Officers in the District and to the Chief Superintendents, Departmental Officers and custodians of SSC Public Examinations, March - 2012.

Sd/- Muvva Ramalingam
DISTRICT EDUCATIONAL OFFICER
SPSR NELLORE DISTRICT