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THE ARUNACHAL PRADESH LEGISLATIVE ASSEMBLY

**THE ARUNACHAL PRADESH PUBLIC EXAMINATION (MEASURES FOR
PREVENTION OF UNFAIR MEANS IN RECRUITMENT) BILL, 2023**

(TO BE INTRODUCED IN THE LEGISLATIVE ASSEMBLY)


31/3/2023
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**THE ARUNACHAL PRADESH PUBLIC EXAMINATION (MEASURES FOR
PREVENTION OF UNFAIR MEANS IN RECRUITMENT) BILL, 2023**

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BILL

to provide for effective measures to prevent and curb the offences of leakages of question papers and use of unfair means at public examinations for the purpose of recruitment to any post under the State Government (including autonomous bodies, boards or corporations & other authorities) and to provide for special courts for the trial of such offences and for matters connected therewith or incidental thereto.

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


1. Short title, extent and commencement-

- (1) This Act may be called the Arunachal Pradesh Public Examination (Measures for Prevention of Unfair Means in Recruitment) Act, 2023.
- (2) It shall extend to whole of Arunachal Pradesh.
- (3) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions- In this Act, unless the subject or 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) "Controller of examination" means and include Joint Controller of Examination, Deputy Controller of Examination and Assistant Controller of Examination;
- (c) "Examination authority" means an examination authority as specified in the Schedule-I;
- (d) "Examination centre" 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;
- (e) "Examinee" means a person who has been granted permission by the concerned authority to appear in a public examination, and includes a person authorized to act as scribe on his behalf;


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- (f) "Government" means Government of Arunachal Pradesh.
- (g) "Offence" means any act in contravention of provisions of this Act and includes "unfair means" as defined in this section.
- (h) "Prescribed" means prescribed by Rules made under this Act.
- (i) "Public examination" means examination for the purpose of recruitment to any post under the State Government including autonomous bodies, boards, corporations & other authorities as specified in the Schedule-II;
- (j) "Schedule" means Schedule(s) appended in this Act.
- (k) "Special Court" means special court notified under section 16 of the Act.
- (l) "State" means State of Arunachal Pradesh
- (m) "Undue advantage" means any gratification whatever, other than legal remuneration.

Explanation.—For the purposes of this clause, the word "gratification" is not limited to pecuniary gratifications or to gratifications estimable in money;

- (n) "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* ,-

- I. impersonate or leak or attempt to leak or conspire to leak question paper; or
- II. sell or attempt to sell or possess or attempt to possess question paper(s) in an unauthorized manner for any undue advantage; or
- III. to procure or attempt to procure or possess or attempt to possess question paper in an unauthorized manner; or
- IV. to solve or attempt to solve or seek assistance to solve question paper in an unauthorized manner; or
- V. conducting examination in any other place other than designated examination center(s) in an unauthorized manner, and
- VI. directly or indirectly assist the examinee in the public examination in unauthorized manner.

***Explanation:-** The term "Any person" includes any (i) examinee and (ii) person (a) working in or (b) engaged by the examination authority, directly or indirectly,


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in the conduct of exams viz. Chairperson, Member, Secretary, Controller, paper setter, moderator, invigilator etc.

- (o) "public servant" for the purpose of this Act means and includes any person (i) whether Government employee or (ii) any other person, who is engaged, directly or indirectly, for the purpose of conducting examination by the examination authority, specified in Schedule-I.

Explanation : The term includes a public servant as defined under the Prevention of Corruption Act 1988 and Indian Penal Code as amended from time to time.

- 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 authorized by virtue of his duties in conduct of public examination shall before the time fixed for opening and distribution of question papers-
- (a) open, leak, sell, 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 to engage 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 not 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.


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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 of 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, 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 negligence 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, - If any person commits an offence of unfair means as defined in sub clauses (i) and (ii) of clause (n) of section 2 of this Act, he shall be punished as provided in Schedule-III.

Note : In the case of Chairperson and Members of APPSC, proceedings shall be initiated under the provisions of Article 317 of the Constitution.


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11. **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 special Court and a copy of such order shall be served on the person concerned.

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

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

Provided that the special 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 special 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.

12. **Liability of Management etc. to pay all cost and expenditure -**If any person or Management or Institution or Limited Liability Partnership or others has been found guilty of the offence under this Act, such person or Management or Institution or Limited Liability Partnership or others shall be liable to pay cost and expenditure related to the examination, as may be determined by the State Government and such cost shall be recoverable as public demand under the provisions of Bengal Public Demands Recovery Act, 1913 or as applicable.


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Provided that such person or Management or Institution or Limited Liability Partnership or others shall be banned and black listed and the State Government may also initiate criminal proceedings under this Act or any other law for the time being in force.

13. **Offences to be Cognizable, non-bailable and non-compoundable,-** All offences specified under this Act, shall be cognizable, non-bailable and non-compoundable.
14. **Investigation of the offences,-** No police officer below the rank of Deputy Superintendent of Police shall investigate any offence committed under this Act.
15. **Cases triable by special Courts-** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (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 special Court constituted under this Act.
16. **Constitution of special Courts-** The State Government shall, after consultation with the High Court, designate and notify a court not below the court of Additional Sessions Judge, as special court to try the offence punishable under this Act.
17. **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.
18. **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 difficulties.
19. **Power to make rules, - (1)** The State Government, by notification to be published in the Official Gazette, may make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are so made, before the State Legislature, while it is in session.


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SCHEDULE-I

(See section 2(c))

- 1. Arunachal Pradesh Public Service Commission (APPSC);**
- 2. Arunachal Pradesh Staff Selection Board (APSSB);**
- 3. Any other authority or agency or recruitment committee or Board engaged or constituted by the State Government;**
- 4. State Funded Universities;**
- 5. Any Society, Corporation, Local Body, Public Sector Undertaking (PSU) etc. owned, controlled or aided by the State Government;**
- 6. Any other authority notified by the State Government.**

SCHEDULE-II

(See section 2 (i))

- 1. Any examination conducted by Arunachal Pradesh Public Service Commission;**
- 2. Any examination conducted by Arunachal Pradesh Staff Selection Board;**
- 3. Any examination conducted by any other authority or agency or recruitment committee or Board engaged or constituted by the State Government;**
- 4. Any examination conducted by State Funded Universities;**
- 5. Any examination conducted by any Society, Corporation, Local Body, Public Sector Undertaking (PSU) owned, controlled or aided by the State Government;**
- 6. Any examination conducted by any other authority notified by State Government.**



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SCHEDULE-III

(See section 10)

<u>SL.No.</u>	<u>Offence</u>	<u>Penalty (concurrent)</u>
<u>1.</u>	<u>As defined in section 2, clause (n) (i)</u>	<p>(i) Imprisonment of either description for a term which may extend to 3 (three) years and shall also be liable to fine which shall not be less than Rs. 1 lakh and in case of default of payment of fine, imprisonment of either description for a term of 1(one) year.</p> <p>(ii) On conviction, debarment from taking any examination specified in Schedule-II for 10 (ten) years.</p>
<u>2.</u>	<u>As defined in section 2, clause (n) (ii)</u>	<p>(i). Imprisonment of either description for a term which shall not be less than 5 (five) years but which may extend to imprisonment of 10 (ten) years and shall also be liable to fine which shall not be less than Rs. 10 (lakh) which may extend to Rs.10 crore and in case of default of payment of fine shall also be liable to imprisonment of either description for a term of 2 (two) years.</p> <p>(ii) Removal from the post</p> <p>(iii) Dismissal from Government service after following due procedure in the case of Government Servants</p> <p>and (iv) debarment from holding any post in future in Government/ Government owned, controlled or aided organization.</p>



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