

The Andhra Pradesh Public Examinations (Prevention Of Malpractices And Unfair Means) Act, 1997

ANDHRA PRADESH

India

The Andhra Pradesh Public Examinations (Prevention Of Malpractices And Unfair Means) Act, 1997

Act 25 of 1997

- Published in Gazette 25 on 21 August 1997
- Assented to on 21 August 1997
- Commenced on 21 August 1997
- [This is the version of this document as it was from 20 April 2006 to None.]
- [Note: The original publication document is not available and this content could not be verified.]

Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair means) Act, 1997 Act No. 25 of 1997 Last Updated 26th October, 2019 Statement of Objects and Reason - (Act No. 25 of 1997). - 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 organised 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. As a result, the vast majority of meritorious examinees are adversely affected by such unlawful activity which is disrupting the examination system. In order to avoid and curb all such irregular activities, the Government have decided to prevent the malpractices and unfair means at or relating to the Public Examinations. As the Legislative Assembly of the State was not then in session and as it has been decided to give effect to the above decision immediately the Andhra Pradesh Public Examinations (Prevention of Malpractices and Unfair means) Ordinance, 1997 (Andhra Pradesh Ordinance 7 of 1997) has been promulgated by the Governor on 28th April, 1997. Subsequently, the Government have also decided to enhance the maximum fine that can be imposed under clauses 8, 9 and 10 to Rs. One lakh and a new clause 12 has been included to provide for forfeiture of properties of the offenders on conviction for an offence under the Act. As appended to L.A. Bill 28 of 1997. Statement of Objects and Reason - (Act 27 of 2006). - The Andhra Pradesh Public Examination (Prevention of Malpractices and Unfair Means) Act, 1997 has been enacted so as to prevent malpractices and unfair means at or relating to Public Examinations and for matter connected therewith. It has been brought to the notice of the Government that some Educational or Tutorial Institutions are indulging in issuing false or misleading advertisements claiming for example, high ranks to their students in the ITT/JEE and other public examinations, whereas, the students studying therein did not actually get such meritorious ranks as claimed. The provisions of the above Act are silent of preventing such advertisements issued by the Educational Institutions and it has become difficult to curb the

activities of such educational institutions inducing students for admission into the institutions through such advertisements. It is therefore felt imperative to insert a new section 7A in the said Act to curb or misleading advertisements to control such institutions. It has also been decided to specify the same in the preamble of the Act. Accordingly it has been decided to amend the said Act suitably. The Bill seeks to give effect to the above decision. Appended to L.A. Bill No. 6 of 2006. Received the assent of the Governor on 19-8-1997, published in the Andhra Pradesh Gazette, Part IV-B (Extraordinary), dated 21-8-1997. 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 organised 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, it is also necessary to curb false and misleading advertisements and other modes of publicity intended to induce students to seek admission into various educational institutions or tutorial institutions.] [Inserted by Act 27 of 2006, dated 20.4.2006.] 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 :

1. Short title, extent and commencement.

(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.

2. Definitions.

- 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 regularisation 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 unauthorised help from any person in any manner or from any material written, recorded, printed or reproduced in any form whatsoever or the unauthorised use of any telephonic, wireless or electronic or other instrument or gadget in any manner; and(g)All words and expressions used but not defined in this Act shall have the meaning assigned to them in the Andhra Pradesh Education Act, 1982, (Act 1 of 1982) or as the case maybe, in the Indian Penal Code, 1860 (Central Act 45 of 1860).

3. Prohibition of the use of unfair means.

- The use of unfair means at or in connection with any public examination by any person is hereby prohibited.

4. Unauthorised possession and disclosure of question paper.

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

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

- 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.

6. Prevention of manipulation of evaluation or record of such evaluation.

- 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.Explanation: - For the purposes of this section, the expression 'record of evaluation' includes answer scripts, tabulation sheets, marks registers, individual mark sheets, result sheets, or the copies thereof or any other registers or records maintained in this behalf.

7. Prevention of inducement for admission.

- 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.

7A. [Prevention of publication of false or misleading information. [Inserted by Act 27 of 2006, dated 20.4.2006.]

- No person connected with an educational institution or a tutorial institution shall publish false or misleading information relating to the success of its students in a public examination. Explanation: - For the purpose of this Section, an advertisement or other mode of publicity: -(i) claiming that any students belonging to a particular educational or tutorial institution to which such student was never admitted or; (ii) showing against a candidate any rank other than the rank assigned to him/her by the convenor of a public examination while declaring the results of such examination, shall be construed as false or misleading information.]

8. Penalty.

- 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 [or Section 7A] [Inserted by Act 27 of 2006, dated 20.4.2006.] shall be punishable with imprisonment for a term which shall not be less than three years but which may extend up to seven years and with fine which shall not be less than rupees five thousand but which may extend upto rupees one lakh.

9. Penalty for offence with preparation to cause hurt etc..

- 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 up to ten years and with fine which shall not be less than rupees ten thousand but which may extend up to rupees one lakh.

10. Punishment for neglect of duties.

- Whoever being entrusted with any work or has to perform any duty pertaining to a public examination wilfully 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 up to three years and with fine which shall not be less than rupees five thousand, but which may extend up to rupees one lakh.

11. Offences by companies.

(1) Where an offence against any of the provisions of this Act or any rule made thereunder 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 : 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.(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 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 rule of the society or other association, with management of the affairs of the society or other association, as the case may be.

12. Forfeiture of property of certain persons.

(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, cancelling such public examination conducted earlier due to such offence and for the purpose of realisation of any fine imposed under this Act.

13. 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.

14. 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.

15. Act to override other laws.

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

16. Power to make rules.

(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 maybe 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 effect 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.

17. Repeal of Ordinance 7 of 1997.

- The Andhra Pradesh Public Examination (Prevention of Malpractices and Unfair Means) Ordinance, 1997 is hereby repealed.