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SECRETARIAT  
OF  
THE ODISHA LEGISLATIVE ASSEMBLY  
NOTIFICATION

The 24th September, 2016

No.8971/L.A.—The following Bill which has been introduced in the Odisha Legislative Assembly on the 24th September, 2016 is herewith published under Rule 68 of the Rules of Procedure and Conduct of Business in the Odisha Legislative Assembly for general information.

**THE ODISHA CONDUCT OF EXAMINATION (AMENDMENT)  
BILL, 2016**

**A**

**BILL**

TO AMEND THE ODISHA CONDUCT OF EXAMINATION ACT, 1988

**BE** it enacted by the Legislature of the State of Odisha in the Sixty-seventh Year of the Republic of India as follows:—

Short title.           **1.** This Act may be called the Odisha Conduct of Examination (Amendment) Act, 2016.

Amendment of section 2.           **2.** In the Odisha Conduct of Examination Act, 1988 (hereinafter referred to as the principal Act), in section 2, for clause (a), the following clauses shall be substituted, namely:—

Odisha Act 2 of 1988.

“(a) “Candidate” means a person who has applied for admission to a recognized examination and has appeared as an examinee in such examination ;

- (a-1) "Examination Body" means a 'University' established by an Act of the State Legislature, or Board of Secondary Education established under the Odisha Secondary Education Act, 1952, or Council constituted under the Odisha Higher Secondary Education Act, 1982 or the Policy Planning Body constituted under the Odisha Professional Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2007 or such other authority or Board responsible for conducting examination as may be specified, by notification, by the State Government; Odisha Act 10 of 1953.  
Odisha Act 19 of 1982.  
Odisha Act 4 of 2007.
- (a-2) "Examination Centre" means any institution or part thereof or any other place fixed for holding of a recognized examination or part thereof or any other place for holding of a recognized examination and includes the entire premises attached thereto;
- (a-3) "Examination Staff" means a person employed, appointed or deputed by the Examination body in connection with the conduct of examination and includes a question paper setter moderator, examiner, invigilator, inspector, tabulator and such other person as may be declared by the Examination body or the State Government, as the case may be, to be the examination staff.
- (a-4) "Recognised Examination" means an examination specified in the Schedule and includes evaluation, tabulation, publication of results and all other matters connected therewith;".

Amendment  
of section 9.

**3.** In the principal Act, for section 9, the following sections shall be substituted, namely:—

"9.(1) Whoever, uses, or attempts to use, or adopt unfair means at the examination centre, or contravenes the provisions of sections 6, 7 and 8 shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees but shall not be less than five hundred rupees or with both.

(2) Whoever,—

- (a) being the examination staff, helps the candidate or candidates to use unfair means or abets for use of unfair means in any form in the examination centre;
- (b) contravenes the provisions of sections 4 and 5;
- (c) neglects in his duty while carrying question papers, answer books, mark foils and such other examination materials as lawfully entrusted to him; or
- (d) manipulates data sheets or mark sheets and result sheets.

shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which may extend to one lakh rupees.

Deemed  
abatement.

9-A. If at any Examination centre mass copies has occurred or question paper has been leaked, the superintendent of the said centre or the person in charge of the said centre by whatever named called, and the Head of the Educational Institution in which the recognised examination is held, shall be deemed to have abetted the commission of offence of unfair means and shall be punished as provided for in sub-section (2) of section 9.

Cognizance  
of offence.

9-B. No court shall take cognizance of an offence under this Act except on a complaint made by an officer as may be authorized in this behalf, by the State Government.

Recovery of  
money spent  
for re-  
examination.

9-C. (1) In addition to the punishments provided for in section 9 or section 9-A, the court shall, when passing the judgement, order the person or persons so convicted to pay, by way of compensation, such amount which shall not be less than the amount spent by the Examination Body for holding the re-examination.

(2) Where the order of compensation made under sub-section (1) is not complied, the same shall be recovered under the provisions of the Odisha Public Demands Recovery Act, 1962 from the said person or persons as the case may be, as if it were an arrear of land Revenue.”.

Insertion of  
new section  
10-A and  
10-B.

4. In the Principal Act, after section 10, the following sections shall be inserted, namely:—

“Power to  
issue  
direction.

10-A (1) The State Government may give such directions to any educational Institution and to any Examination Body as in its opinion are necessary or expedient for carrying out the purpose of this Act and the management of such Institution and head of such Examination Body shall comply with every such directions.

(2) Whoever willfully fails to comply with the direction issued under sub-section (1) shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

Protection of  
action taken  
in good faith.

10-B. No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the Government or any person acting under the direction of the Government in respect of anything which is, in good faith done or intended to be done under this Act.”.

## STATEMENT OF OBJECTS AND REASONS

Education is a vital tool to discover the latent talent skill of an individual. A vibrant educational system will give full opportunity to develop this skill in a modern competitive world. Skill can only be ensured if the examination system is transparent, strong, robust and full proof. Leakage of question papers render the innocent, brilliant and industrious students to suffer. The Odisha Conduct of Examination Act, 1988 was enacted with a view to providing penal action for adoption of unfair means at certain examinations in the State of Odisha by students, teachers and even by the public. Despite the said Act in vogue, in recent past large scale unfair means adopted in the examination shows that the proprietors of Educational Institutions, Head of Educational Institutions, the officials in charge of examination of different Boards and Council, as well as students have scant regard to the provisions of the said Act.

Conduct of examination involves different stages and ultimately culminates in declaring the result of the examination. Malpractices or unfair means in examinations is possibly committed at pre-conduct, during conduct and at the evaluation state which ranges from leakage of question papers, changing of answer books, impersonation in the examination centre, approaching invigilators or examiners, altering the marks in the result sheet and issue of fake certificates or degrees etc, in the following stages:—

- (a) at the stage of question setting; or
- (b) at printing stage i.e. in the printing press; or
- (c) the Educational Institution, which is the custodian of such question papers; or
- (d) by the staff and officers of the authority conducting the Examinations.

Section 9 of the said Act provides that “whoever contravenes any of the provisions of sections 3 to 8 shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to three thousand rupees but shall not be less than five hundred rupees or with both.” Thus, irrespective of different forms of offences, a lower punishment has been prescribed in the Act. But in view of the seriousness of the matter stringent provisions are proposed to be made as deterrent to tackle the menace by amending the said Act.

Taking into consideration all the circumstances, it is felt expedient to make stringent provisions in the Act to eliminate the leakage of question papers. It is considered expedient to enhance the punishment for leakage of question papers, manipulation of data sheets, tampering of marks foils and results. The officials who will indulge in this type of unfair means would also be punished with higher punishment.

Now, amendment of section 9 of the said Act is necessary, so that punishment, as is existing in that section, will be imposed for adopting unfair means at the examination centre and for contravention of sections 6, 7 and 8. But, for helping the students in using unfair means at the examination centre and for contravention of provisions of sections 4 and 5, mishandling the question papers, answer books, mark foils etc., and manipulation of data sheets, mark sheets and result sheets etc., the person or persons found guilty shall be punished with imprisonment for a minimum term of three years and maximum up to seven years and shall also be liable to pay fine up to one lakh rupees.

In this connection, a new section has been proposed to be inserted that if at any examination centre mass copy is detected or question paper has been leaked, the centre superintendent, head of the educational institution shall be deemed to have abetted the commission of offence and shall be punished with imprisonment for a minimum term of three years and maximum up to seven years and shall also be liable to pay fine up to one lakh rupees. Further, where re-examination has been held for contravention of section 9, the amount spent in holding the re-examination, will be recovered from the accused person.

If malpractices (unfair means) in examinations at pre-conduct stage are not checked, examinations will get cancelled and the entire examinations will be conducted once again by the Authority, whereby not only financial loss will be caused to the State exchequer, but it will also cause immense hardship to the students. Apart from that, students who put their best, become the victims of the designs of the unscrupulous miscreants. Such unfair means has become a symptomatic disease of our educational system which is eating into the vital of our society. Malpractice in the examination is harmful for the morale and intellectual development of our society. There is need to take strong step to put an end to this disgraceful acts.

The Bill seeks to achieve the above objectives.

Dr. PRADEEP KUMAR PANIGRAHI  
Member-in-Charge

A. K. SARANGI  
Secretary

Odisha Legislative Assembly