



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No. 494 Dispur, Thursday, 26th October, 2023, 4th Kartika, 1945 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 26th October, 2023

No. LGL.45/2023/12.— The following Ordinance of the Assam Legislative Assembly which was promulgated by the Governor of Assam on 20th October, 2023 is hereby published for general information.

ASSAM ORDINANCE NO. VIII OF 2023
THE ASSAM PUBLIC EXAMINATION (MEASURES FOR PREVENTION
OF UNFAIR MEANS IN RECRUITMENT) ORDINANCE, 2023.

**AN
ORDINANCE**

Preamble

to provide for effective measures to prevent and curb the offences of leakage 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, authorities, boards or corporations, and to provide special courts for the trial of such offences and for matters connected therewith or incidental thereto.

WHEREAS, the Legislative Assembly of the State of Assam is not in session and the Governor of Assam is satisfied that circumstances exist which render it necessary for him to take immediate action for bringing this Ordinance;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Assam is pleased to promulgate, in the Seventy-fourth Year of the Republic of India, the following Ordinance, namely: -

Short title, extent and commencement

1. (1) This Ordinance may be called the Assam Public Examination (Measures for Prevention of Unfair Means in Recruitment) Ordinance, 2023.
- (2) It extends to the whole of the State of Assam.
- (3) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Ordinance, 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) "examination authority" means an examination authority as specified in the Schedule-I;
 - (c) "examination center" 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;
 - (d) "examinee" means a person who has been granted permission by the examination authority to appear in a public examination, and includes a person authorized to act as scribe on his behalf in public examination;

- (c) "Prescribed" means prescribed in rule made under this Ordinance;
- (f) "public examination" means examination for the purpose of recruitment to any post under the State Government including autonomous bodies, authorities, boards or corporations as specified in the Schedule-II;
- (g) "Schedule" means Schedule appended to this Ordinance;
- (h) "Special Court" means special court designated for the purpose of the Ordinance;
- (i) "State Government" means Government of Assam;
- (j) "unfair means" includes,-
 - (i) in relation to any person including 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,-
 - (a) to impersonate or leak or attempt to leak or conspire to leak question paper;
 - (b) to procure or attempt to procure or possess or attempt to possess question paper in unauthorized manner;
 - (c) to sell or attempt to sell (either directly or through an intermediary) question paper(s), which may or may not be in possession, for wrongful gain;
 - (d) to solve or attempt to solve or seek assistance to solve question paper in unauthorized manner;
 - (e) directly or indirectly assist the examinee in the public examination in unauthorized manner;
 - (f) conducting examination in any other place other than designated examination centers.

(g) printing of question papers on blank answer scripts in any other place other than designated printing press.

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| Prohibition of use of unfair means | 3. | No person shall use any unfair means in any public examination on conduct of public examination. |
| Possession and disclosure of question paper | 4. | <p>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-</p> <p>(i) open, leak or procure or attempt to procure, possess or solve such question paper or any portion or a copy thereof; or</p> <p>(ii) 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.</p> |
| Prevention of leakage by person entrusted or engaged with examination work | 5. | No person, who is entrusted or engaged 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. |
| Unauthorized possession or disclosure of question paper and answer sheet or OMR sheet in any form | 6. | <p>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-</p> <p>(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</p> <p>(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.</p> |
| Prohibition to enter in examination center | 7. | 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. |
| No place other than the examination center shall be used for public examination | 8. | 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. |

**Offences by
Management,
Institution or
others**

9. (1) Whenever an offence under this Ordinance has been committed by Management or Institution or Limited Liability Partnership or others, every person who at the time the offence was committed was in charge 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 Ordinance 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 Ordinance has been committed by Management or 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 neglect 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.

Penalties

10. (1) If any examinee indulges in unfair means as defined under section 2, clause (j) shall be liable to be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine, which shall not be less than one lakh rupees and in case of default of payment of fine such examinee shall also be liable to be punished with imprisonment of either description for a term of nine months.

- (2) If any person, including examinee, whether entrusted or authorized with the conduct of public examination or not, in conspiracy or otherwise indulges or attempts to indulge in unfair means as defined in section 2, clause (j) and contravenes or abets to contravene any of the provisions of this

Ordinance, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to imprisonment of ten years and shall also be liable to fine which shall not be less than ten lakh rupees but which may extend to ten crore rupees and in case of default of payment of fine such person shall also be liable to be punished with imprisonment of either description for a term of two years:

Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than five years.

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| Debarment on conviction | 11. An examinee who has been convicted of an offence under the provision of this Ordinance shall be debarred from taking any public examination as defined in clause (f) section 2 read with Schedule-II for a period of two years. |
| Attachment and confiscation of property | 12. In case of connection of a person in an organized crime in conspiracy with the examination authority or otherwise indulges or attempts to indulge in unfair means or contravene any of the provisions of this Ordinance, the Court shall make an order of recovery of any wrongful gains made by such person, by way of attachment and sale any of the assets/ property movable or immovable, or both, of such person by following the procedure laid down in the Code of Criminal Procedure, 1973. |
| Liability of Management etc. to pay all cost and expenditure | 13. If the person of the Management or Institution or Limited Liability Partnership or others has been found guilty of the offence under sub-section (2) of section 10 of this Ordinance, the Management or Institution or Limited Liability Partnership or others shall be liable to pay all cost and expenditure related to the examination, determined by the Special Court and shall be banned forever. |
| Public Servant | 14. Every person engaged in the conduct of the public examination, while acting or purporting to act in pursuance of the provisions of this Ordinance or rules made thereunder, be deemed to be a public servant within the meaning of section of the Indian Penal Code 1860. |
| Offences to be Cognizable, non-bailable and non-compoundable | 15. All Offences specified under this Ordinance, shall be cognizable, non-bailable and non-compoundable. |

Central
Act No.2
of 1974

Central
Act No.45
of 1860

- Investigation of the offences** 16. No police officer below the rank of Deputy Superintendent of Police shall investigate any offence committed under this Ordinance.
- Power to appoint special Courts** 17. The State Government shall, after consultation with the Chief Justice of Gauhati High Court, designate and notify as many Special Courts to try offences under this Ordinance and a court not below the court of Additional District and Sessions Judge shall be designated as a Special Court.
- Cases triable by Special Courts** 18. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified under this Ordinance shall be tried by the special courts designated for the purpose of the Ordinance.
- Appeal** 19. Appeal from any order or judgment of the Special Court shall lie to the Gauhati High Court.
- Application of any other law not barred** 20. The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of any other law for the time being in force.
- Protection of action taken in good faith** 21. No suit, prosecution or other legal proceeding shall lie against the State Government or any person acting under the direction of State Government for anything which is done in good faith or intended to be done under this Ordinance or the rules made thereunder.
- Power to make rules** 22. The State Government may make rules for carrying out the provisions of this Ordinance.
- Power to remove difficulties** 23. If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order, publish in Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance as may appear to be necessary for removing the difficulty.

Central
Act No.2
of 1974

GULAB CHAND KATARIA,
GOVERNOR OF ASSAM.

GEETANJALI DAS SAIKIA,
Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.

SCHEDULE-I	
[Section (2b)]	
(1)	Assam Public Service Commission.
(2)	Gauhati High Court.
(3)	State Level Recruitment Commission for Class III Posts.
(4)	State Level Recruitment Commission for Class IV Posts.
(5)	Any other authority or agency or recruitment committee engaged or constituted by the State Government.
(6)	State Funded Universities.
(7)	Board of Secondary Education, Assam.
(8)	Assam Higher Secondary Education Council.
(9)	Teacher's Eligibility Test for L.P & U.P Schools.
(10)	Teacher's Eligibility Test for Secondary Schools
(11)	State Level Police Recruitment Board, Assam.
(12)	Medical and Health Recruitment Board, Assam.
(13)	Assam Engineering Service Recruitment Board.
(14)	Assam College Service Recruitment Board.
(15)	Any examination conducted by the Public Sector Undertaking owned by the State Government.
(16)	Any examination conducted by any Societies, Corporations, Local Bodies and all PSU's owned by the State Government substantially or partially.
(17)	Any other examination notified by the State Government or conducted by any agency appointed by the State Government.

SCHEDULE-II	
[Section 2(f)]	
(1)	Any examination conducted by the Assam Public Service Commission.
(2)	Any examination conducted by the Gauhati High Court.
(3)	Any examination conducted by the State Level Recruitment Commission for Class III Posts.
(4)	Any examination conducted by State Level Recruitment Commission for Class IV Posts.
(5)	Any examination conducted by any other authority or agency or recruitment committee engaged or constituted by the State Government.
(6)	Any recruitment examination conducted by the State Funded Universities.
(7)	Any recruitment examination conducted by the Board of Secondary Education, Assam
(8)	Any recruitment examination conducted by the Assam Higher Secondary Education Council.
(9)	Any examination conducted by the State Level Police Recruitment Board, Assam.
(10)	Any examination conducted by The Teachers' Eligibility Test of LP & UP Schools.
(11)	Any examination conducted by The Teachers' Eligibility Test of Secondary Schools.
(12)	Any examination conducted by Medical & Health Recruitment Board.
(13)	Any examination conducted by Assam Engineering Service Recruitment Board.
(14)	Any examination conducted by Assam College Service Recruitment Board.
(15)	Any examination conducted by the Public Sector Undertaking owned by the State Government.
(16)	Any examination conducted by any Societies, Corporations, Local Bodies and all PSU's owned by the State Government substantially or partially.
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