

No. 338 (2)/LXXIX-V-1-2024-1-(ka)-9-2024

Dated Lucknow, August 6, 2024

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Sarvajanik Pariksha (Anuchit Sadhano Ka Nivaran) Adhiniyam, 2024 (Uttar Pradesh Adhiniyam Sankhya 8 of 2024) as passed by the Uttar Pradesh Legislature and assented to by the Governor on August 6, 2024. The Grih (Police) Anubhag-9 is administratively concerned with the said Adhiniyam.

THE UTTAR PRADESH PUBLIC EXAMINATION (PREVENTION OF
UNFAIR MEANS) ACT, 2024

(U.P. Act no. 8 of 2024)

[As passed by the Uttar Pradesh Legislature]

AN

ACT

to prevent unfair means, leakage of paper in public examination, proscribe solver gang and to provide for matters connected therewith and incidental thereto.

IT IS HEREBY enacted in the Seventy Fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Uttar Pradesh Public Examination (Prevention of Unfair Means) Act, 2024 .

Short title,
extent and
commencement

(2) It extends to the whole of Uttar Pradesh.

(3) It shall be deemed to have come into force with effect from 15th day of July, 2024.

2. (1) In this Act, unless the context otherwise requires, —

Definition

(a) "conduct of public examination" includes preparation, coding, de coding, printing, collecting, safe custody and distribution of question paper, supervision of public examination, evaluation of answer sheet, declaration of result and other matters connected therewith;

(b) "examinee" means a person who has been granted permission by examination authority to appear in a public examination and includes a person authorised to act as scribe on his behalf in public examination;

(c) "examination authority" in relation to public examination includes,—

(i) Uttar Pradesh Public Service Commission ;

(ii) Uttar Pradesh Subordinate Services Selection Commission ;

(iii) Board, University, Authority or Body under any law for the time being in force ;

(iv) any agency or recruitment committee engaged or constituted by the aforesaid Commission, Board, University, Authority or Body ; and

(v) any other authority, agency or recruitment committee constituted, declared or engaged by the State Government from time to time for conducting public examination.

(d) "examination centre" means premises specified by examination authority to conduct public examination;

(e) "inspection team" means persons authorized by the examination authority to inspect any examination centre and submit report thereof to examination authority;

(f) "person associated with examination authority" means a person who performs services for or on behalf of examination authority irrespective of whether such persons is an employee or an agent or associated with it in any manner whatsoever;

- (g) "public examination" includes,—
- (i) any examination either qualifying or competitive for recruitment or regularization or promotion to any post in public service conducted by examination authority ;
 - (ii) any examination conducted by board, university or body under any law for the time being in force either qualifying or competitive for awarding or granting any degree, diploma, certificate or any other academic distinction or for qualifying for admission into any course of study ; and
 - (iii) any other examination declared by the State Government by notification to be a public examination.
- (h) "public service" means services in any office or establishments of,—
- (a) the State 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 for the time being in force in Uttar Pradesh, whether incorporated or not, including a University ; and
 - (e) any other body established by the State Government or a society registered under 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 State Government.
- (i) "solver gang" means person or group of persons who individually or collectively in one or more public examinations,—
- (i) impersonate himself to be genuine examinee in public examination and appear or attempt to appear in such public examination as genuine examinee; or
 - (ii) acquire any question paper or a part of it or a copy of it, relating to public examination either physically or by any other means before or during conduct of such public examination,—
 - (a) to solve or attempt to solve or provide assistance to solve such question paper for providing wrongful gain or assistance to one or more examinees of such public examination ; or
 - (b) for providing wrongful gain or assistance to one or more examinees of such public examination directly or indirectly in any manner whatsoever which includes means of communication or other modern technology ; or
 - (iii) involve in any manner whatsoever for providing wrongful gain to examinee.
- (j) "supervisory staff" includes persons authorised by examination authority to conduct public examination;
- (k) "unfair means" ,—
- (i) in relation to an examinee while answering questions in a public examination includes,—
 - (a) to take unauthorised help from any person directly or indirectly, or from any material written, recorded, copied, printed or re-produced in any form whatsoever, or the use of any unauthorised telephonic, wireless, electronic, mechanical or other instrument or gadget of whatsoever nature ; or
 - (b) any mark or impression intentionally inscribed on any part of the body or apparel of the examinee, or furniture, fixture or fitment in examination hall which can be used as an aid during public examination.

(ii) in relation to any person other than examinee includes,—

(a) to impersonate or leak or attempt to leak or conspire to leak or procure or attempt to procure or possess or attempt to possess question papers unauthorizedly ; or

(b) to solve or attempt to solve or provide assistance to solve question paper, or directly or indirectly assist any examinee in any manner whatsoever, in any public examination for wrongful gains to the examinee ;

(c) to tamper with computer network or computer resource or a computer system in the public examination for wrongful gain to examinee.

Explanation- For the purposes of sub- clause (c), words "computer network," "computer resource" and "computer system" shall have same meanings as respectively assigned to them in clauses (j), (k) and (l) of sub-section (1) of section 2 of the Information Technology Act, 2000 (Act no. 21 of 2000);

(iii) creation of fake website to cheat or for monetary gain ;

(iv) conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain ;

(v) circulating fake question paper as genuine question paper before the examination with the intention of gaining unfair monetary gain and material benefits.

(2) Words and expressions used herein and not defined but defined under any other law for the time being in force shall have the same meaning as respectively assigned to them in those laws.

3. (1) Notwithstanding anything contained in this Act provisions relating to sanction or penalty under this Act shall not apply to those examinee who are appearing in any public examination for acquiring academic, technical, professional or other qualification:

Exclusion

Provided that if such examinee is found to use or in indulgence of unfair means in answering any paper in public examination, answer sheet of concerned paper of such examination shall not be evaluated and result of examination of such examinee shall be declared in the manner prescribed by examination authority.

(2) The provisions of this Act shall not apply to the " public examination" conducted by " public examination authority" as they are respectively defined in clauses (k) and (l) of sub-section (1) of section 2 of the Public Examinations (Prevention of Unfair Means) Act, 2024 (Act no . 1 of 2024).

4. (1) Use or indulgence of unfair means in or in connection with any public examination or the conduct of public examination shall be prohibited.

Prohibition of use or indulgence in unfair means

(2) Violation of provisions of sub-section (1) by examinee shall be enquired in the manner prescribed by the examination authority concerned :

Provided that examinee shall be given opportunity of being heard in such enquiry.

(3) The examination authority concerned shall specify the sanctioning authority in the manner prescribed for imposing sanctions as envisaged in sub-section (1) of section 13 .

5. No person lawfully authorised or permitted by virtue of his duties in conduct of public examination , shall before the time fixed for opening and distribution of question paper to examinee at a examination centre,—

Possession and disclosure of question paper

(a) open, leak, procure or attempt to procure, possess or solve question paper or any portion or copy thereof; or

	(b) give any information or promise to give information to any person or examinee, for which he has knowledge or reason to believe that such information is related to or derived from or have a bearing upon such question paper.
Prohibition to give information	6. No person , who is entrusted with the work pertaining to public examination or conduct of public examination except where he is permitted so by virtue of his duties, shall by indulging in unfair means directly or indirectly give or attempt to give any information or part thereof which has come to his knowledge by virtue of the work entrusted to him, to any person for providing wrongful gains to examinee.
Prohibition to enter examination centre	7. No person , who is not entrusted with any work pertaining to public examination and who is not an examinee , shall during the continuance of public examination enter or attempt to enter into examination centre or having entered into such centre remain there to provide any help or assistance to an examinee in using unfair means in the public examination.
Prohibition to assist	8. The following shall, individually or collectively with more than one or all of the following, be prohibited to assist or attempt to assist any examinee in use of or indulgence in unfair means in public examination :- (i) officer or employee of examination authority ; (ii) management or staff of the institution specified for conduct of public examination or entrusted with the works pertaining to public examination; and (iii) solver gang.
Prohibition to influence public examination	9. No person , whether individually or collectively or in collusion with solver gang, shall influence or attempt to influence any public examination, by threat, inducement, allurements, obstruction or use of force to any member of inspection team, supervisory staff, officer or person appointed, entrusted, engaged, associated by examination authority for conduct of public examination, from performing lawful duty or from entering into any examination centre.
No place other than examination centre shall be used for public examination	10. No person shall use or cause to be used any place, other than the examination centre, for the purposes of holding of public examination.
Prohibition against Solver Gang	11. Without prejudice to the provisions of sections 9 and 10 solver gang shall be prohibited to , — (i) enter into examination centre during or one day prior to public examination ; (ii) possess, procure or attempt to procure, open or leak question paper or its part or copy thereof before concerned public examination ; (iii) solve or attempt to solve question paper or any part thereof during or before concerned public examination for providing wrongful gain to examinee ; (iv) influence or attempt to influence any public examination by threat, inducement, allurements, obstruction or use of force to any member of inspection team, supervisory staff, officer or person appointed, entrusted, engaged or associated by examination authority for conduct of public examination, from performing lawful duty or from entering any examination centre ; (v) get or attempt to get by force, inducement or allurements any information from any person lawfully authorised or entrusted with the work pertaining to public examination or conduct of public examination, for providing wrongful gain to examinee ; (vi) act, attempt or abet to involve or indulge in unfair means to provide wrongful gains to examinee ; and

(vii) give any information or promise to give information to any person or examinee, for which he has knowledge or reason to believe that such information is related or derived from or has a bearing upon question paper of public examination, for providing wrongful gains to examinee.

12. No person shall directly or indirectly indulge in or be involved in any manipulation of or attempt to manipulate evaluation of performance of any examinee at a public examination or the record of evaluation thereof where such record is maintained in any manner whatsoever .

Prevention of manipulation in evaluation

Explanation- For the purposes of this section, the expression " record of evaluation " includes answer script, tabulation sheet, marks register, individual marks sheet, result sheet, or copy thereof or any other register or record maintained in this behalf in any manner whatsoever.

13. (1) Where any examinee contravenes, or attempts or abets to contravene the provisions of sub-section (1) of section 4 , his result of concerned public examination shall be withheld and he may be debarred from appearing any public examination for a period of one calendar year subsequent to calendar year in which his result is withheld for contravention of provision of sub-section (1) of section 4:

Penalty

Provided that such order of debar shall not disqualify him to appear in any public examination or public service after the period of debar.

(2) Where any person other than examinee as mentioned in sub - clause (ii) of clause (k) of sub-section (1) of section 2 contravenes the provisions of sub-section (1) of section 4 , he shall be punished with imprisonment of not less than two years but which may extend to ten years and with fine.

(3) Where any person contravenes the provisions of sections 5, 6, 7, 10 or 12 , he shall be liable to be punished with imprisonment of not less than two years but which may extend to ten years and a fine of rupees two lakh which may extend upto rupees five lakh.

(4) Where any person contravenes the provisions of sections 8 or 9 , he shall be liable to be punished with imprisonment of not less than three years but which may extend to ten years and a fine of rupees three lakh which may extend upto rupees ten lakh.

(5) Where a solver gang contravenes the provisions of sections 8, 9 or 11 , he shall be liable to be punished with imprisonment of not less than seven years but which may extend to fourteen years and fine of rupees ten lakh which may extend upto rupees twenty - five lakh :

Provided that if a solver gang repeats such offence, he shall be liable to be punished with a sentence of imprisonment for life and a minimum fine of fifty lakhs which may extend up to one crore rupees.

(6) Where any person, whether in connivance with solver gang or not, for monetary or wrongful gains, by causing threat to life or wrongful restraint of a person associated with the examination authority obstructs or influences the fair conduct of public examination he shall be liable for punishment of imprisonment for life and minimum fine of rupees fifty lakhs which may extend up to one crore.

14. Whoever , being entrusted with any work or performance of any duty pertaining to a public examination, wilfully neglects any work or duty which is required to be performed by him and which may result in the question paper being leaked before the public examination or the conduct of the public examination to be prejudiced, shall be punishable with imprisonment for a term which shall not be less than two years but which may extend upto seven years and with fine.

Punishment for neglect of duties

Offences by
companies

15. (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 contained 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 rules of the society or other association, with management of the affairs of the society or other association, as the case may be.

Attachment and
confiscation of
property

16. (1) No person operating as a member of solver gang, singularly or in group, who is accused of an offence under sections 8, 9 and 11 of this Act shall hold or be in possession of any property which is acquired by committing an offence under aforesaid sections.

(2) If the District Magistrate has reason to believe that the property, whether movable or immovable, in possession of any person has been acquired as a result of the commission of an offence as mentioned in sub-section (1), he may order attachment of such property, whether or not cognizance of such offence has been taken by the Court.

(3) The procedure provided for attachment in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act no. 46 of 2023) shall apply to every such attachment.

(4) The District Magistrate may appoint an Administrator of any property attached under sub-section (2) and the Administrator shall have all the powers to administer such property in the best interest thereof.

(5) The District Magistrate may provide police help to the Administrator for proper and effective administration of such property.

(6) Where any property is attached under sub-section (2), the claimant thereof may, within three months from the date of knowledge of such attachment, make a representation to the District Magistrate showing the circumstances in and the sources by which such property was acquired by him.

(7) If the District Magistrate is satisfied about the genuineness of the claim made under sub-section (6), he shall forthwith release the property from attachment and thereupon such property shall be delivered to the claimant.

(8) Where no representation is made within the period specified in sub-section (6) or the property is not released by District Magistrate under sub-section (7), the District Magistrate shall refer the matter with his report to the Court competent to try an offence under the Act .

(9) Where the District Magistrate has refused to attach any property under sub-section (2) or has ordered for release of any property under sub-section (7), the State Government or any person aggrieved by such refusal or release may make an application to the competent Court as referred under sub-section (8) for inquiry as to whether the property was acquired by or as a result of the commission of an offence by a member of solver gang, singularly or in group, who is accused of an offence under sections 8, 9 and 11 of this Act. The Court may, if it considers it necessary or expedient in the interest of justice so to do, pass an order confirming or setting aside the order of the District Magistrate.

(10) On the receipt of reference under sub-section (8) or an application under sub-section (9), the Court competent to try an offence under this Act shall fix a date for inquiry and give notice thereof to the person making the application under sub-section (9) or, as the case may be, to the person making the representation under sub-section (6) and to the State Government, and also to any other person whose interest appears to be involved in the case.

(11) On the date so fixed or any subsequent date to which the inquiry may be adjourned, the Court shall hear the parties, receive evidence produced by them, take such further evidence as it considers necessary, and decide whether the property was acquired as a result of the commission of an offence under sections 8, 9 and 11 of this Act by a solver gang and pass such order as may be just and necessary in the circumstances of the case.

(12) In any proceedings under this section, the burden of proving that the property in question or any part thereof was not acquired by a person as the result of the commission of an offence under sections 8, 9 and 11 of this Act by a solver gang, shall be on the person claiming the property.

(13) If upon such inquiry, the Court finds that the property was not acquired by a solver gang as a result of the commission of any offence under sections 8, 9 and 11 of this Act, it shall order for release of the property in favor of the person from whose possession it was attached.

(14) Where the accused is convicted of any of the offence under sections 8, 9 and 11 of this Act, the Court, in addition to awarding any sentence, by order in writing, declare that any property belonging to such accused shall be deemed to vest in the State free from all encumbrances.

Explanation:- For the purpose of this section “property” means all property, whether movable or immovable, derived or obtained from the commission of an offence under sections 8, 9 and 11 of this Act by a solver gang or property which has been acquired by means of funds relating to crime and shall also include cash, irrespective of the person in whose name such property stands or in whose possession it is found.

17. (1) The offences punishable under this Act shall be cognizable, non-bailable and non-compoundable and exclusively triable by Court of Sessions.

Cognizance and
Trial

(2) The offences under this Act shall be investigated by a police officer not below the rank of the Deputy Superintendent of Police or Assistant Commissioner of Police.

Provisions regarding bail	<p>18. No person accused of an offence under sub-section (5) of section 13 of this Act shall be released on bail unless,—</p> <p>(i) the Public Prosecutor has been given an opportunity to oppose the bail application for such release; and</p> <p>(ii) where the Public Prosecutor opposes the bail application, the Court of Sessions is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:</p> <p>Provided that a person accused of an offence under this Act who is a woman, sick or infirm, may be released on bail if the Court of Sessions so directs.</p>
Liability of Management <i>etc.</i> to pay all costs and expenses	<p>19. (1) If any person, institution, printing press, service provider contracted or ordered for,—</p> <p>(i) examination; or</p> <p>(ii) management for conducting examination; or</p> <p>(iii) authorized to keep or transport the examination material, is found guilty of an offence under this Act, they shall be liable to pay costs and expenses as determined by the competent Court and shall be barred forever for such assignment in future.</p> <p>(2) If question papers are solved or assistance is provided in any way by mass copying in the examination centre, then the said centre shall be debarred from conducting any public examination.</p>
Public Servant	<p>20. Every person engaged in the conduct of public examination shall be deemed to be a public servant within the meaning of clause (28) of section 2 of the Bharatiya Nyaya Sanhita, 2023 (Act no. 45 of 2023).</p>
Power to issue directions or order	<p>21. The State Government may, from time to time, issue directions or order in writing, for giving effect to the provisions of this Act.</p>
Protection of action taken in good faith	<p>22. No suit, prosecution or other legal proceeding shall lie against the State Government or any person in public service involved in public examination which is in good faith done or intended to be done under this Act or the rules made thereunder.</p>
Appeal	<p>23. The provisions of Chapter XXXI of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Act no. 46 of 2023) shall, <i>mutatis mutandis</i>, apply to an appeal against any judgment or order passed by a competent Court under the provisions of this Act:</p>
Power to make rules	<p>24. (1) The State Government may, by notification in the <i>Gazette</i>, make rules not inconsistent with the provisions of this Act, for carrying out the purposes of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) declaration of result of examinee found to use or in indulgence of unfair means under section 3;</p> <p>(b) enquiry of examinee under sub-section (2) of section 4;</p> <p>(c) manner of specifying sanctioning authority under sub-section (3) of section 4;</p> <p>and</p> <p>(d) any matter which is to be or may be prescribed or in respect of which provision is to be made by rules under this Act.</p>

25. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law of the State of Uttar Pradesh for the time being in force. Overriding effect

26. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, within a period of two years from the date of commencement of this Act, by an order published in the *Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of such difficulty. Power to remove difficulties

(2) Every order made under sub-section (1) shall be laid , as soon as may be, before both the Houses of State Legislature and the provisions of sub-section (1) of section 23 - A of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act no. 1 of 1904) shall apply.

27. The Uttar Pradesh Public Examinations (Prevention of Unfair Means) Act, 1998 (U.P. Act no. 13 of 1998) and the Uttar Pradesh Public Examination (Prevention of unfair means) Ordinance, 2024 (U.P. Ordinance no. 6 of 2024) are hereby repealed: Repeal and savings

Provided that such repeal shall not affect ,—

- a. the previous operation of the Act so repealed ; or
- b. any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed ; or
- c. any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the provisions of the Act so repealed; or
- d. any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including authorizations made, powers conferred, orders given and indemnity granted) by or under the Act or the Ordinance so repealed shall, in so far it is not inconsistent with any provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act as if the provisions of this Act were in force at all material times.

STATEMENT OF OBJECTS AND REASONS

Injustice done to youth by malpractices in public examinations are no less than national sin, and State Government is determined to take stringent action against those elements who are trying to play with the future of youngsters seeking employment in Uttar Pradesh. If appointment of deserving candidates is not conducted honestly, it forces youth to migrate from the State.

Malpractices in public examinations lead to delays and cancellation of examinations adversely impacting the prospects of millions of youth. At present, the Uttar Pradesh Public Examinations

(Prevention of Unfair Means) Act, 1998 is not found capable to deal with unfair means adopted or offences committed by various entities and solver gangs involved in the conduct of public examinations by the State Government and its agencies.

Therefore, it is imperative that elements that exploit vulnerabilities of examination system are identified and effectively dealt with by a comprehensive State legislation.

The objective of the Bill is to bring greater transparency, fairness and credibility to the public examination systems and to reassure the youth that their sincere and genuine efforts will be fairly rewarded and their future is safe.

The Bill is aimed at effectively and legally deterring persons, organised gangs or institutions that indulge in various unfair means and adversely impact the public examination systems for monetary or wrongful gains.

Students and competitive candidates will be kept free from criminal liability in view of their future but decisive and strict action will be taken against those guilty of adversely affecting the public examinations.

The Bill would aid State Agencies in preventing the criminal elements from disrupting conduct of State level public examinations.

The Uttar Pradesh Public Examinations (Prevention of Unfair Means) Bill, 2024 is introduced accordingly

By order,
ATUL SRIVASTAVA,
Pramukh Sachiv.