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Public Examination Misconduct And Constitutional Protections: A Critical Study Of The Public Examination Act, 2024

Author - Amita Pawar

Research scholar at Faculty of Law, University of Delhi

Co-Author- Advocate Shamli

Punjab and Haryana High Court, Chandigarh

INTRODUCTION

Public examinations in a country like India, is not only a mark of academic excellence but also milestone for self-identity and financial stability. These exams act as symbol of months of effort, self-sacrifice, and their 'dream jobs'. However recently, the integrity of such examinations has been questioned time and again. The education sector is no exception to corruption and scams. This has destroyed the trust people place in the same system that is supposed to thrive on excellence and justice.

This issue can be well understood in context of one of the biggest exam scam in India, i.e., *Vyapam scandal in Madhya Pradesh* which revealed a deep-rooted network of conspiracy between candidates, intermediaries and even political figure of high position.[1] Later, the *SSC CGL paper leak in 2017*[2] and the *teacher recruitment scams in Rajasthan* of 2019 are concrete evidence of the aforementioned assertion that public exams are prone to manipulation.[3] These incidents do not merely affect the timeliness of the recruitment process, they have a bigger outcome, i.e., faith in the very idea of fair competition is lost, and results in an obvious question: whether the state can still guarantee equal opportunity.[4]

[1] Aman Sethi, *The Mystery of India's Deadly Exam Scam,* The Guardian (Dec. 17, 2015), updated Nov. 29, 2017, https://www.theguardian.com/world/2015/dec/17/the-mystery-of-indias-deadly-exam-scam.

[2] *SSC Paper Leak Case: SC Allows Declaration of Re-Exam Results*, New Indian Express (Apr. 1, 2019), https://www.newindianexpress.com/nation/2019/Apr/01/ssc-paper-leak-case-supreme-court-allows-declaration-of-re-examinations-result-1958850.html.

[3] *Rajasthan Question Paper Leak Scams*, Indian Express (Mar. 31, 2024), https://indianexpress.com/article/political-pulse/rajasthan-question-paper-leak-scams-key-bjp-campaign-ammo-against-ashok-gehlot-9013544/.

[4] See *Vedpal v. State (NCT of Delhi)*, 2024 SCC OnLine Del 1905.

From Administrative Malpractice to Constitutional Concern

At the outset, examination scams might be considered as a result of administrative failure. But this go beyond mere administrative domain because of the contemporary unethical practices like candidate impersonation, mass cheating, and organised syndicates at deep levels, directly prejudice the right of equality of opportunity enshrined under Article 14. The damage does not end here since the career trajectory of most of the candidates depends solely on these exams and when such opportunities are stolen, it is a gross violation to their right to life and dignity, which has been established by the Supreme Court as part and parcel of Article 21 and individual freedom.[5] What makes matters worse is that the state is becoming increasingly dependent on surveillance technologies with the aim of ensuring examination security. Biometric verification, facial recognition applications, and 24/7 CCTV can ensure the process, yet it also casts urgent questions on personal privacy, given the foundations postulated in K.S. Puttaswamy v. Union of India.[6] The so-called ethical or administrative violation, first, should be interpreted as a constitutional one and, thus, as the issue that reaches the very basis of basic rights.

Legislative Response: The Public Examination Act, 2024

The Act, the first legislative initiative attempting to directly criminalise malpractice in public exams, was enacted by Parliament following these challenges to curb malpractice in such exams, including by establishing a broad range of offences, specifying severe sanctions, and giving investigatory bodies greater authority in this area. Authorities.

The intent of the Act is clear through the Statement of Objects and Reasons, that the candidates should be assured that all their years of preparation will be weighed fairly, without endemic corruption or other irregularities. However, the said law is still not free from issues and raises three very important questions: *(i) Does the act suffers from issue of overly broad provisions which undermines due process? (ii) Does it provide an effective mechanism for its application without violating fundamental rights?* And above all, *(iii) will it succeed in eradicating the deeply rooted problem of corruption which appears to be multifaceted in issue of public examination?*

ANATOMY OF THE ACT

Legislative Scope and Definitional Breadth

The Public Examination Act, 2024 casts a **wide net**. Its application to examinations conducted by UPSC, SSC, RRB, IBPS, and the NTA, along with any other authority the Central Government may notify, reflects Parliament's determination to ensure that central recruitment and admissions are insulated from manipulation.[7] This elasticity is defensible: given India's expanding examination ecosystem and the emergence of digital testing platforms, the law had to remain adaptive. Yet, adaptability without statutory

[5] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.
[6] *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
[7] *Public Examination (Prevention of Unfair Means) Act*, No. 1 of 2024, § 2(k), Sch. (India).

guardrails carries risks. The power to notify "such other authority" is vested entirely in the executive, without criteria, consultation requirements, or parliamentary oversight. As administrative law has long recognised, unguided discretion invites arbitrariness, and under Article 14, arbitrariness is the antithesis of equality.[8]

The definitional sections further illustrate this tension between comprehensiveness and precision. Section 2(f), which defines "institution," encompasses virtually any organisational entity except the examination authority and its contracted service providers.[9] On the one hand, this prevents actors from sheltering behind technical corporate structures, a recurrent problem in scams where shell companies or coaching centres were used as conduits. On the other hand, the absence of culpability thresholds risks sweeping in peripheral entities with indirect connections. For instance, a coaching centre loosely associated with a candidate could be exposed to liability even absence of concrete involvement. The absence of a requirement of **mens rea** dilutes the principle that criminal law should target intentional wrongdoing, not incidental association.

A similar problem emerges with Section 2(h), the definition of "organised crime." The Act captures any unlawful activity committed in "collusion and conspiracy to pursue or promote a shared interest for wrongful gain."[10] The legislative intention is sound: to recognise that examination fraud often operates as a syndicate, with middlemen, facilitators, and insiders colluding systematically. The *Vyapam scandal* revealed how networks of politicians, bureaucrats, and middlemen institutionalised fraud.[11] Yet, the drafting collapses organised criminality into ad hoc misconduct. A small group of candidates sharing leaked material could be deemed an "organised crime syndicate," despite the absence of continuity, hierarchy, or financial scale typically associated with organised crime jurisprudence.[12] This kind of overbreadth has been rejected before; in *Shreya Singhal v. Union of India*, the Supreme Court struck down Section 66A of the IT Act for vagueness and overreach.[13] Unless interpreted narrowly, Section 2(h) risks a similar fate.

Finally, Section 4 criminalises collusion or conspiracy to facilitate unfair means. While conspiracy is a well-established category in Indian criminal law, the absence of explicit **mens rea qualifications** in this context is troubling. Candidates who merely receive leaked questions online or via online platforms, without proof of facilitation, could be prosecuted. This blurs the line between culpable conspiracy and incidental knowledge, weakening the integrity of criminal liability standards.

Offence Design and Punitive Architecture

The heart of the statute lies in Section 3, which sets out a **long catalogue of unfair means**: from obvious acts like question paper leaks, impersonation, and tampering with OMR sheets, to more open-ended

[8] *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.
[9] *Public Examination Act* § 2(f).
[10] Id. § 2(h).
[11] Aman Sethi, *The Mystery of India's Deadly Exam Scam,* The Guardian (Dec. 17, 2015), updated Nov. 29, 2017, https://www.theguardian.com/world/2015/dec/17/the-mystery-of-indias-deadly-exam-scam.
[12] Cf. *State of Maharashtra v. Bharat Shanti Lal Shah*, (2008) 13 SCC 5.
[13] *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

provisions such as "wilful violation of norms" and "deliberate violation of security measures."[14] The strength of this section lies in its breadth; past scandals have revealed that fraudsters exploit technical loopholes, innovating constantly, from digital hacking to fake websites. A closed list of offences would have left the law perpetually lagging. Yet, catch-all clauses create **interpretive uncertainty**. What counts as a "wilful violation of norms"? Does an examiner deviating from protocol in good faith, perhaps to address logistical difficulties, become criminally liable? Without a clear statutory threshold, the provision risks ensnaring low-level staff acting without fraudulent intent.

The punitive design of the Act is even more striking. Sections 9 to 11 declare all offences cognizable, non-bailable, and non-compoundable, while prescribing **mandatory minimum sentences** of three years for general offences and five years for organised crimes.[15] Fines scale up dramatically: individuals may face penalties of up to ten lakh rupees, while institutions and service providers may be fined up to one crore, with property forfeiture and debarment from future contracts.[16] The design unmistakably signals deterrence, treating exam fraud as a form of organised crime that corrodes state legitimacy.

This philosophy, however, sits uneasily with established principles of **proportionality**. Unlike the **Bharatiya Nyaya Sanhita, 2023**, which retains flexibility in sentencing for cheating and forgery, the Public Examination Act offers no gradation.[17] A clerical employee who negligently mishandles a sealed question packet and a cartel that plans a national-level leak are placed under the same punitive umbrella. The uniform designation of offences as non-bailable compounds the problem, effectively mandating pre-trial detention even for marginal or peripheral actors. The Supreme Court in *Hussainara Khatoon* underscored the dangers of excessive pre-trial detention, while in *Mithu v. State of Punjab*, it struck down mandatory minimums for violating Article 21's due process guarantee.[18]

The liability clause affecting the service providers raises further questions. **Section 8** places a reverse burden of proof on the directors and senior management of the company and holds them criminally liable unless they can show they acted with due diligence.[19] Although this strict framework can be defended on the premise that 'examination scams is a result of failures in procurement and outsourcing'. It may discourage genuine intermediaries from providing their services. If we look at the conventional approach on corporate criminal liability in India, we will see that it is based on thresholds like *knowledge, consent, or active involvement, rather than strict vicarious responsibility.*[20] Without appropriate safeguards, this framework risks being overly broad and less incentivising for better service providers.

This paper is not concerned with the question whether there is a need of the Act or not, it rather questions whether the current framework can balance conflicting issues of corruption and constitutional safeguards.

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[14] *Public Examination Act* § 3.
[15] Id. § 9–11.
[16] Id. § 10.
[17] *Bharatiya Nyaya Sanhita*, No. 45 of 2023, §§ 336–342 (India).
[18] *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81; *Mithu v. State of Punjab*, (1983) 2 SCC 277.
[19] *Public Examination Act* § 8.
[20] *Sunil Bharti Mittal v. CBI*, (2015) 4 SCC 609.

The law is definitely drafted rigidly so that it addresses the issue of exam fraud cases, but the same rigidity creates various issues highlighted in the paper. The law can have an unintended effect on the 'principle of fairness' in its attempt to restore confidence by means of harsh scrutiny. This tussle between deterrence and due process is the main constitutional issue in the act.

CONSTITUTIONAL PROTECTIONS AND DUE PROCESS

Equality and Arbitrary Classification under Article 14

At the outset, the Act might look as if it a stringent measure against the problem of exam frauds. For the said purpose, the statute adopts a deterrence approach, but a closer look shows inconsistencies in treating different actors involved in these scams. Candidates enjoy an explicit grant of immunity,[21] whereas institutions and service providers are exposed to some of the harshest penalties: fines that may reach one crore rupees, blacklisting, and even forfeiture of property.[22] Although the Statement of Objects justifies this asymmetry as a means of protecting aspirants, the result is uneven. A candidate actively complicit in malpractice may walk free, while a service provider guilty of only marginal negligence could face the full weight of criminal prosecution.

The Supreme Court's ruling in *State of Assam v. Arabinda Rabha* sheds light on this issue.[23] The Court held that recruitment processes must remain transparent, fair, and inclusive, striking down one that was tainted by favouritism and irregularities. Public employment, the Court observed, cannot be monopolised by a select few at the expense of equal opportunity. Read in this light, the Act's uneven allocation of liability undermines equal protection. By shielding candidates altogether while disproportionately penalising institutional actors, it risks creating an irrational classification that runs counter to its stated objective of ensuring fair recruitment.

Liberty and Procedural Fairness under Article 21

The Act also implicates Article 21, which guarantees life and personal liberty except by a procedure established by law that is "fair, just, and reasonable." By declaring every offence to be cognizable, non-bailable, and non-compoundable, without distinguishing between levels of severity, the law risks offending the principle of proportionality.[24] While large-scale organised leaks may warrant stringent bail restrictions, however minor infractions, such as technical lapses by low-level staff, do not justify pre-trial detention without judicial discretion.

Another area of concern lies in the reverse burden clauses contained in Sections 8 and 10(3). These provisions make directors, managers, and senior officers of service providers liable unless they can demonstrate both ignorance of misconduct and that they exercised due diligence.[25] Such presumptions invert

[21] Statement of Objects and Reasons, *The Public Examination (Prevention of Unfair Means) Bill*, Bill No. 30 of 2024 (India).
[22] *Public Examination Act*, § 8–11.
[23] *State of Assam v. Arabinda Rabha*, Civil Appeal No. 1587 of 2023 (India).
[24] *Public Examination Act*, § 9.
[25] *Public Examination Act*, § 8(3) & 10(3).

the presumption of innocence, shifting the evidentiary burden onto the accused. The Supreme Court in *Maneka Gandhi v. Union of India* articulated that any restriction on liberty must satisfy the tests of fairness and reasonableness.[26] Blanket reverse burdens, when coupled with mandatory minimums of three to ten years' imprisonment, appear excessive and vulnerable to constitutional challenge.

Privacy and Proportionality in Surveillance

The Act's definition of "public examination centre" extends to the premises, periphery, and surrounding land, effectively legitimizing widespread surveillance through CCTV, biometric checks, and digital monitoring.[27] While such measures may be justified to deter impersonation or collusion, their breadth must be tested against the proportionality framework laid down in *K.S. Puttaswamy v. Union of India*. Under this framework, state action must pursue a legitimate aim, be necessary to achieve that aim, and be the least restrictive alternative.[28]

In practice, examination authorities have increasingly turned to biometric verification and constant monitoring of candidates. Yet without robust data-protection protocols, the retention and potential misuse of personal data become inevitable risks. Comparative jurisdictions such as the United Kingdom and Singapore employ surveillance measures but pair them with strong data-protection legislation and independent oversight.[29] The absence of equivalent safeguards in India renders the Act's surveillance powers constitutionally vulnerable, particularly in light of the Digital Personal Data Protection Act, 2023, which emphasizes consent and purpose limitation.

Several judicial precedents provide interpretive guidance on the Act's constitutionality. In *Shreya Singhal v. Union of India*, the Supreme Court struck down Section 66A of the IT Act for vagueness and overbreadth, warning that laws lacking precise standards enable arbitrary enforcement.[30] Many of the Act's provisions, such as "willful violation of norms" or "deliberate violation of security measures", are similarly vague, inviting selective application.

In *Vedpal v. State (NCT of Delhi)*, the Delhi High Court emphasised that cheating in public examinations undermines the very basis of meritocracy and equal opportunity. That reasoning undoubtedly supports a tougher approach, and it aligns with the Act's stated objective of deterrence. Yet the same judgment also drew attention to the need for proportionate penalties, cautioning against punishing peripheral actors in the same way as core offenders.[31] A similar note of restraint can be seen in the Supreme Court's ruling in *Vanshika Yadav v. Union of India*.[32] Faced with alleged irregularities in NEET-UG 2024, the Court refused

[26] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.
[27] *Public Examination Act*, § 2(m).
[28] *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
[29] Information Commissioner's Office (UK), *Exams and Data Protection*, ICO Guidance (2020); Singapore Examinations & Assessment Bd., *Annual Report* (2021).
[30] *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.
[31] *Vedpal v. State (NCT of Delhi)*, 2024 SCC OnLine Del 1905.
[32] *Vanshika Yadav v. Union of India*, 2024 INSC 568.

to cancel the entire examination without concrete proof of systemic failure, preferring instead to adopt focused remedial steps.

Deterrence at the Expense of Due Process

The very first issue is its blanket treatment of offences irrespective of their degree of seriousness. By designating every offence as cognizable and non-compoundable, it overlooks the long-standing practice in Indian criminal law of distinguishing the offences on the basis of their culpability. The immunity to candidates, though defensible, does not justify heavy sanctions against service providers and coaching institutions, who could be punished under this act due to their indirect involvement in paper leaks done by their students, rather than an active involvement in the scam.

The second issue is with regard to individual freedom under Article 21. The Supreme Court has ruled in *Maneka Gandhi* and other cases that any curtailment of liberty should be fairly and proportionately justified. The Act imposes a 'minimum sentence', thus effectively eliminating court discretion to weigh punishment based on the extent of culpability. This framework, coupled with the reverse burden clauses, can be said to go against the principle of 'presumption of innocence'.

Lastly, the expansive scope of the Act, specifically with regard to the surveillance framework that includes the whole examination peripheries. This must be carefully examined through the lens of the 'proportionality test' established in *Puttaswamy*. Without strong checks and balances and an independent check on these powers, there is the danger that they will overreach the rights of the candidates.

POLITICAL NEXUS, CORRUPTION, AND INSTITUTIONAL CAPTURE

The Enduring Problem of Political Collusion

One of the most surprising gaps in the Public Examination Act is that there is no separate provision to address the political aspect of these examination scams. It fails to address the fact that some of the worst scandals have thrived under the shield of political patronage. The *Vyapam scam* of Madhya Pradesh is a prime example of this assertion. It had involvement of politicians, bureaucrats who managed to arrange impersonation of candidates, manipulate answer sheets, and secure admissions or government posts for their close relatives. It did not stop here, investigations were delayed, and whistleblowers were threatened. This incident demonstrates a hard truth, that no matter how strict a statutory framework may appear on paper, it cannot succeed if investigations remain vulnerable to political interference.

The *Rajasthan paper leak scandal* is a more contemporary example of 'institutional capture'. Repeated leaks in teacher recruitment and other examinations became an opportunity for vote banks of the politicians. Rather than being addressed by structural reforms, it became a part of the election manifesto to weaponise the issue against the other parties. While opposition leaders demanded accountability, but in reality, the enforcement agencies appeared to be pursuing cases against political rivals rather than the actual master-mind behind the scam.

Service Providers and Procurement Opacity: The Eduquity Example

Beyond direct candidate-level patronage, corruption has also operated through politically connected service providers. The case of **Eduquity Career Technologies**, repeatedly awarded government contracts despite documented technical failures and allegations of malpractices, reveals the opacity of procurement processes.[33] Reports suggest that political donations and influence may have insulated the company from accountability, allowing it to continue conducting high-stakes examinations. This demonstrates how corruption at the vendor-selection stage undermines examination integrity as effectively as candidate-level fraud. Yet, while the Act criminalizes misconduct by service providers, it does not address **procurement transparency** or impose accountability on public officials who repeatedly contract with tainted vendors.

Statutory Gaps and Risks of Misuse

Two features of the Act exacerbate these concerns. First, there is no explicit provision addressing misconduct facilitated by politically influential candidates or institutions, even though scandals like *Vyapam* make clear that political patronage is a systemic enabler. Second, **Section 12 of the Act**, which empowers the Central Government to transfer investigations to central agencies, is framed in entirely discretionary terms.[34] In the absence of statutory criteria or judicial oversight, this power may become a tool for selective enforcement, shielding allies while targeting opponents. Far from enhancing transparency, such discretion risks weaponizing the law for partisan advantage.

This pattern of omission and discretion strikes at the heart of the **rule of law**. If politically connected actors escape scrutiny, while service providers and institutions bear the full brunt of the law, the state risks violating Article 14's guarantee of equality before the law. Arbitrary or selective investigation also weakens the safeguards of Article 21, creating in effect a dual system of enforcement, lenient for the influential but harsh for the ordinary candidate or institution.

These risks must not be ignored and any significant reform must create investigative agencies that are free of political influence. One of the reforms should be to create a separate 'exam integrity unit', which shall be responsible for the procurement process and judging it on the principle of conflict-of-interest to place cases involving politically exposed individuals under compulsory judicial review. It is also significant to establish effective whistleblower and witness protection systems. In the absence of these protective measures, whistle-blowers are left exposed to the threats.

[33] *Eduquity Career Technologies: Alleged Fraud, Political Donations, and Constitutional Rights Violations in the Wake of SSC Protests*, Legal Maestros (2024), https://legalmaestros.com/current-legal-update/eduquity-career-technologies-alleged-fraud-political-donations-and-constitutional-rights-violations-in-the-wake-of-ssc-protests/.

[34] *Public Examination Act*, § 12.

CONCLUSION & SUGGESTIONS: TARGETED AMENDMENTS & SAFEGUARDS

Legislative Clarifications and Proportionality

The current language of the Act is highly likely to fail the constitutional tests which might result in misplaced convictions. The term ‘organised crime’ or ‘tampering’ is so broadly expressed that it is likely to include even those ancillary people who were not directly involved in the exam scams. Thus, the scope of aforementioned and other similar definitions highlighted in the paper shall be revisited to include more robust thresholds. Moreover, there is a need to grade punishments. A clerk or any person with an inadvertent mistake related to exam or paper handling procedure, cannot fairly be held liable the same way a mass-planned organisation. A progressed, graded system of sanctions would not diminish deterrence but rather bring the Act to a point of proportion.

Due Process Protections

Even though categorisation of offences is not arbitrary or illegal per se. However, looking this issue from a constitutional lens would reveal that the move to categorise all offences as non-bailable and non-compoundable under this Act, places a significant burden on individual freedom under Article 21. Instead, different levels of misconduct should be differentiated. For an instance a negligent procedural irregularity and an organised scam shall be treated through different approach. This would preserve the ‘deterrence value’ of the law without weakening the constitutional safeguards.

Political Accountability and Transparency

Any form of reform will never work unless the political aspect is approached directly. In cases where politically exposed individuals are concerned, they should automatically be sent to an independent investigative authority, not under the control of the executive. Procurement processes should be subject to conflict-of-interest rules and transparency obligations, limiting the recurrence of cases like Eduquity, where politically connected vendors repeatedly secured contracts despite failures. Finally, whistleblower and witness protection mechanisms are indispensable, particularly in light of the chilling reprisals witnessed during the Vyapam scandal.

Institutional Design and Technological Safeguards

A dedicated exam integrity unit, mandated to publish periodic audit and enforcement reports, could create transparency and consistency across jurisdictions. Technology must be leveraged: encrypted digital question banks, blockchain timestamping, and randomized digital allocation of exam centres are now globally recognized tools for reducing human discretion and leak vulnerability. Such institutional and technological measures, coupled with legislative refinement, would ensure that deterrence does not come at the expense of constitutional fairness.

Conclusion

The Public Examination Act, 2024 reflects the important notions that examination fraud is not a petty criminal act but an organised threat to meritocracy and public confidence. The deterrent-heavy approach coupled with candidate immunity, reflects a progressive recognition of deep-rooted culpability. Yet, this notion is highly prone to constitutional failure by vague definitions, disproportionate mandatory minimum punishments, and its silence on the issue of political influence on both scams and procurement policies.

A sustainable framework for examination integrity cannot rely solely on harsher punishments, rather it must embed constitutional values, and institutional transparency. Future study on this issue should move beyond doctrinal critique to empirical study of enforcement mechanism, comparative study of global best practices, and careful evaluation of candidate rights. Only then India's examination system can evolve into a domain where deterrence coexists with fairness and trust.

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