

PREVENTION OF BLACKMARKETING & MAINTENANCE OF SUPPLIES OF ESSENTIAL COMMODITIES (RAJASTHAN CONDITIONS OF DETENTION) ORDER, 1980

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AMENDMENTS MADE TO THE ORDER :-

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|-------------|--------------|
| 1. S.O. 198 | Dt. 19-02-83 |
| 2. Errata | Dt. 13-04-83 |

FOOD & CIVIL SUPPLIES DEPARTMENT

Jaipur, April 15, 1980

G.S.R. 10.- In pursuance of Section 5 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) the State Government hereby determines as follows the conditions of detention of persons ordered under the Act to be detained in any prison in Rajasthan, namely :-

1. Short title and application.- (1) This order may be called the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Rajasthan Conditions of Detention) Order, 1980.

(2) It shall apply to all persons ordered to be detained in Rajasthan by an Order under section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 :

Provided that the Government may, by order, direct that the provisions of this order shall apply in relation to any detenu or any class of detenus with such modifications as may be specified in the order.

2. Definitions.- In this Order, unless the context otherwise requires,—

- (a) "Act" means the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act 7 of 1980);
- (b) "detenu" means any person detained in Rajasthan by an order under section 3 of the Act;
- (c) "Government" means the Government of the State of Rajasthan;
- (d) "Inspector General" means the Inspector General of Prisons, Rajasthan;
- (e) "Jail" means any prison as defined in section 3 of the Prisons Act, 1894 (Central Act 9 of 1894) of the Central Legislature as, adopted to, or in force in, any area of Rajasthan;
- (f) "Prisoner" means a person, other than a detenu, duly committed to be

confined or detained in a Jail;

- (g) "Superintendent" means the officer appointed to be the Superintendent of Jail and includes any person who for the time being is acting as Superintendent.

3. Classification.- A detenu shall ordinarily be treated in the same manner as may, for the time being, be prescribed for a prisoner :

Provided that Government may in any appropriate case issue instructions for giving special treatment to any particular detenu in view of his health, education, status and mode of living before arrest.

4. Custody and Procedure.- (1) A detenu shall ordinarily be removed and detained in any of the Jails in Rajasthan specified for the purpose by the Government.

(2) The detenus shall be kept in cells or association wards, preferably the latter, and allowed to associate freely with each other, but as far as possible, shall be kept separate from ordinary prisoners :

Provided that -

- (a) if the number of detenus of the same class is large, they may be divided into homogeneous groups;
- (b) the Superintendent may detain any detenu separately if he considers it desirable on grounds of health or for any other reason.

5. Diet.- A detenu shall be entitled to the same diet as is prescribed for a prisoner :

Provided that a detenu may, with the permission of the District Magistrate, be permitted to receive food from private sources to the same extent and in the same manner as a prisoner.

6. Clothing and Bedding.- (1) Each detenu may wear his own clothes and his relations may, if permitted so to do by the Superintendent, send him extra clothing and bedding. A detenu who is unable to provide sufficient clothing and bedding shall be supplied with such clothing and bedding on the same scale as a prisoner.

(2) A detenu shall be allowed to bring his own feeding utensils but if for any reason he is unable to do so, the Superintendent shall allow him such utensils as are admissible to a prisoner.

7. Searches.- Every detenu and his cell or ward shall be searched not less than once a week and oftener if the Superintendent considers it necessary, by such jail official not below the rank of a Head Warder as detailed by the Superintendent. Special precaution shall be taken to make the searches through and the fact of the search shall be noted in the Jailor's note book. Detenus shall be searched before and after interviews and at any other time if the Superintendent considers it necessary. In conducting the search of the detenu privacy shall be observed and care shall be taken to avoid humiliation.

8. Supply of funds.- (1) A detenu may, with the previous sanction of the Detaining Authority, receive from a specified relative or friend, at intervals of not less than a month, an amount not exceeding Rs. 30/- per month and may spend the amount or a similar sum from his private funds on such object and in such manner as may be permissible under the rules. In a case in which for want of funds any detenu is compelled to do without small amenities which his fellow detenus enjoy, such amenities may, if considered absolutely necessary by the Superintendent be supplied to him at Government cost.

(2) All funds so received shall be kept by the Superintendent and spent by him on behalf of the detenu.

(3) Amounts in excess of those prescribed in sub-clause (1) may be received by the Superintendent on behalf of detenus but they shall not be spent in any month beyond the limits laid down in the said sub-clause.

9. Furniture and toilet articles.- A detenu shall be supplied furniture and toilet articles to the same extent as may for the time being be prescribed for a prisoner.

*¹[**10. Interviews.-** (1) Save in accordance with an order of the Superintendent or Officer Incharge of Jail (in case where no post of Superintendent exists) in writing no detenu shall be permitted to have an interview with any person other than a Police Officer.

(2) Every detenu may be allowed to have an interview with his relative or friends twice in a week.

(3) Interviews with relatives, i.e. wife, husband, father, mother, brother, son, daughter, uncle, aunts and children of brothers and sisters shall be limited to an hour's duration and those with others except with the legal practitioners to half an hour and with the legal practitioners for such duration as may be determined by the Superintendent or if there is no post of Superintendent by the Officer Incharge of Jail.

(4) All interviews shall take place in the presence of an officer not below the rank of Sub-Inspector deputed for the purpose by the concerned Superintendent of Police and such Officer may stop the interview if the conversation turns on any undesirable subject and may also report the matter to the Superintendent who may inflict any of the punishments enumerated in clause 14. Subject to this provision ²[the place and] mode of interview shall be determined by the Superintendent or in case if there is no post of Superintendent, by the Officer Incharge of Jail.

(5) The Superintendent or if there is no post of Superintendent then the Officer Incharge of Jail, shall maintain a statement of all interviews between a detenu and his relatives or other persons with the names of the persons present at each interview.]

11. Police interviews. - Subject to the directions of the Government, the Inspector General of Police, Rajasthan may, by general or special order, authorise

any police officer to interview any detenu.

12. Correspondence and Censorship.- (1) A detenu shall ordinarily be permitted to write four letters and receive as many as he likes every week.

(2) No detenu shall write a letter to any other detenu, and not more than one letter shall be enclosed in one envelope except with the special permission of the Superintendent. All correspondence to and from a detenu shall be confined to purely domestic matters or subjects relating to the welfare of the detenu and his near relatives. Letters containing references to communal or political matters shall be withheld as laid down in sub-clause (4).

(3) No letters, newspapers or other communications, shall be transmitted to or from a detenu except through the Superintendent or such other officer as the Government may, by general or special order designate in this behalf.

(4) All letters to and from detenus shall be perused by the Superintendent and, subject to any general or special order of the Government shall be submitted by the Superintendent direct to the Inspector General of Police, Rajasthan who may at his discretion withhold them

(5) Detenu shall be allowed to read books from the Jail library. They shall be allowed to get books from out side at their own expense provided the books are of non-political character and approved by the Superintendent. Detenus may be permitted to buy such newspapers, periodicals and magazines as may be approved by the Government.

(6) Where in the opinion of the Superintendent:-

(a) any newspaper or periodical contains any matter unsuitable on grounds of public interest and safety, or

(b) any communication made to or intended to be delivered to, a detenu contains any matter which is objectionable from the point of view of maintenance of jail discipline,

he shall delete the same or mark it for deletion while forwarding it to the proper authority.

(7) Every letter forwarded to or from a detenu shall be initialed and dated by the officer who handles the letter.

(8) Where in the opinion of the Superintendent, the urgency of the contents of a telegram justifies telegraphic transmission thereof, a detenu may be allowed to send telegraphic messages; all telegrams to and from Government shall be forwarded direct provided that Secretary to Government, Food Department shall always be an intermediary in correspondence with the Central Government telegrams to and from private individuals shall pass through Secretary to Government, Food Department in the absence of special orders of the Government to the contrary.

(9) Detenus shall attach to all their out going correspondence (including telegrams) a slip containing the full name and address and relationship, if any, of the addressee, and of each person mentioned in the letter or telegram. These slips shall be sent to Secretary to Government, Food Department, Rajasthan, or other

officer designated by the Government in this behalf, who, if he considers that the writer should not be allowed to correspond with the addressee, shall inform the Superintendent accordingly for his further guidance.

13. Writing material.- All detenus shall be supplied writing material at their own expense, provided that the supply of paper shall be subject to the following conditions :-

(1) It shall be supplied in small quantities at a time and shall before delivery to the detenu be numbered and Jail stamps affixed to it; and

(2) An additional lot shall not be supplied unless the paper already supplied is produced or is found to have been properly used.

14. Offence and punishments.- (1) A detenu :-

(i) shall reside in the accommodation allotted by the Superintendent whether in an association ward or a cell,

(ii) shall not proceed beyond the limits of the Jail save with permission of the Superintendent given by general or special order in this behalf,

(iii) shall obey the orders of the Superintendent issued from time to time for the comfort, safety and health, or for the discipline, orderly conduct and control of detenus,

(iv) shall attend roll-call and answer to his name in person at such time and place within the Jail as may be appointed by the Superintendent,

(v) shall conform to the standards of cleanliness and dress laid down by the Superintendent,

(vi) shall not do anything wilfully with the object of affecting his own bodily welfare,

(vii) shall not have, in his possession any coin, currency note or negotiable instrument, any weapon, stick, razor, other than a safety razor, piece of iron, or any other article which may be used as a weapon,

(viii) shall not exchange or sell any of his kit, equipment, clothes, furniture or other possession, and

(ix) shall not refuse to take the prescribed diet.

(2) Any detenu who contravenes any of the provisions of sub-clause (1) or refuses to obey any order issued thereunder, or does any of the following acts, namely :-

(i) assaults, insults, threatens, or obstructs any prisoner or detenu or any officer of the Jail or any other Government servant or any person employed in or visiting the Jail, or

(ii) quarrels with any person in the jail, or

(iii) is guilty of indecent, immoral or disorderly conduct, or

(iv) communicates or attempts to communicate with any person outside the jail in any unauthorised manner, or

(v) bribes or attempts to bribe any Government servant or any person employed in or visiting the jail, or

- (vi) commits any nuisance or willfully befouls any well, latrine, washing, or bathing places, or
- (vii) disobeys the orders of, or shows disrespect to any officer of the jail, or
- (viii) willfully damages any property belonging to Government or tempers with any locks, lamps or lights in the jail, or
- (ix) receives, possesses or transfers any article in contravention of an order of the Superintendent, or
- (x) feigns illness, or
- (xi) willfully brings a false accusation against any officer of the jail or prisoner or detenu, or
- (xii) omits or refuses to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any officer of the Jail, or
- (xiii) abets the commission by a prisoner or detenu of any of the foregoing acts, or
- (xiv) omits or refuses to help any officer of the jail in the case of an attempted escape on the part of any of the prisoner or detenu, shall be deemed to have committed a jail offence.

(3) (a) Whereupon such enquiry as he thinks fit to make, the Superintendent is satisfied that a detenu is guilty of a jail offence, he may award the detenu one or more of the following punishments :-

- (i) Confinement in a cell for a period not exceeding fourteen days;
- (ii) Reduction or alternation of diet for a period not exceeding fourteen days;
- (iii) Cancellation or reduction, for a period not exceeding two months, of the concession of receiving funds from outside;
- (iv) Cancellation or reduction, for a period not exceeding two months, of the privileges of writing and receiving letters or of receiving newspapers and books;
- (v) Cancellation or reduction, for a period not exceeding two months, of the privileges of having interviews;
- (vi) Cancellation of the privilege of wearing his own cloths.

(b) If any detenu is guilty of a jail offence which by reason of having frequently been committed or otherwise, is in the opinion of the Superintendent not adequately punishable by him under the provisions of sub-clause 3 (a) he may forward such detenu to the court of a judicial Magistrate of the first class having jurisdiction and such Magistrate shall thereupon inquire into and try the charges so brought against the detenu and upon conviction shall sentence him to imprisonment for a term not exceeding one year.

Provided that where the act constituting the offence constitutes an offence punishable under the Indian Penal Code or under any other law for the time being

in force with imprisonment for a term exceeding one year, nothing in this clause shall preclude the detenu from being tried and sentenced for such offence in accordance with the provisions of the Indian Penal Code.

(4) The Superintendent may use or require to be used such force as may in his opinion be necessary to compel obedience on the part of any detenu to any lawful order by him.

15. Retention of watches.- The detenus shall be allowed to keep their watches with them in the Jail but no responsibility for their safety will be taken by the Government.

16. Recreation.- The detenus shall be allowed to play Volley ball if there is room in the Jail for this and the number of detenus warrants.

They shall be allowed to play Badminton and indoor games like Chess and playing cards at their own expenses.

17. Smoking.- The detenus shall be allowed to smoke cigarettes at their own expenses.

18. Non-official visitors.- Non-official visitors, appointed by the Government, may visit the detenus also.

19. Applications or representations.- (1) The Superintendent shall forward through the Inspector General, with such observations as he may think fit, any representation which a detenu may submit to the Government.

(2) The Superintendent shall forward to the Government without delay any petition which a detenu may address to it:

Provided that when the application or representation is addressed to a court, it will be forwarded to that court by the Superintendent direct.

20. Transfer of detenu to a civil hospital in emergent cases.- (1) In cases where it is necessary to remove a detenu to a civil hospital outside the jail for operative or other special treatment which cannot conveniently be given in the jail itself, the orders of the Government shall be obtained. In emergent cases the Superintendent is authorised to anticipate the sanction of the Government, but he should make an immediate report of all cases in which he avails himself of the authority.

The Superintendent should ask the Inspector General of Police, Rajasthan to make arrangements for guarding these detenus during their stay in the hospital. For the purpose of jail discipline, the Superintendent should depute a jail official to see that the provisions of the order are properly observed.

(2) In respect of a detenu detained in a hospital under sub-clause (1) the preceding provisions of the order shall apply as far as may be, as if :-

(a) all references to the jail were references to the Hospital, or

(b) all references to the Superintendent were references to the Principal Medical Officer or the Medical Officer-in-charge of the hospital as the case may

be.

21. Transfer.- Detenus shall be transferred from one jail to another within Rajasthan with the sanction of the Inspector General.

22. Miscellaneous.- (1) All particulars relating to detenus shall be entered in a separate register which will be in the form of register of civil prisoners and all statistics of detenus shall be shown separately in jail returns.

(2) A copy of the order shall be shown to the detenus on their arrival in a jail.

(3) Such other local instructions as may be necessary for the guidance of jail officers may be issued by the Inspector General in consultation with the Government.

23. Detention.- A detenu who is transferred from the State of Rajasthan to any other State shall be detained in the jail of that State and shall be governed by the rules for the time being in force in that State to which he is transferred.

24. Savings.- The State Government may also issue special orders regarding maintenance, discipline, and punishment in cases of certain detenus.

FROM 'A'

Form of application for interview
(vide clause 10)

1. Name of detenu to be interviewed.
2. Name of the applicant.
3. Relationship of the applicant to the detenu to be interviewed.
4. Full address of the Applicant.....
5. Purpose for which the interview is desired.....
6. Date of the interview, last taken, if any....

Signature of the Applicant,

(No. F. 17(41) F/S/Legal/80)

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By Order of the Governor,
Dy. Secretary to the Government.

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