

GUJARAT CONDITIONS OF DETENTION (PASA) ORDER, 1985

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GUJARAT CONDITIONS OF DETENTION (PASA) ORDER, 1985

GUJARAT CONDITIONS OF DETENTION (PASA) ORDER, 1985

1. Preliminary :-

- (1) This order may be called the Gujarat Conditions of Detention (Prevention of Anti-Social Activities) Order, 1985.

(2) It shall come into force at once.

2. . :-

It this order, unless the context otherwise requires,

(a) "Civil Surgeon" means the Civil Surgeon or the Chief Medical Officer of the District in which the detenu is detained;

(b) "Commissioner" means the Commissioner of Police, Ahmedad City; Baroda city, Rajkot City, Surat city, or as the case may be,

(c) "detaining authority" means the Government or as the case may be, an officer empowered under sub-section (2) of section 3 of the Act;

(d) "Detenu" means a person with respect to whom a detention order is made by the detaining authority, making the detention order under the Act;

(e) "District Magistrate" means the District Magistrate of the district in which the detenu is detained;

(f) "the Government" means the Government of Gujarat;

(g) "Act" means the Gujarat Prevention of Anti-Social Activities Act, 1985.

(h) "Superintendent" means (1) in the case of a detenu detained in a police lock-up, the Superintendent of Police of the district in which the detenu is detained, and (2) in the case of a detenu detained in a jail or sub-jail, the person in charge of the jail or sub-jail in which the detenu is detained.

3. . :-

A detenu shall be detained in a jail or a sub-jail or a police lock-up.

4. . :-

(1) Any detenu may be removed from a jail, sub-jail or police lock-up, as the case may be,

(i) to any hospital for medical examination or treatment or as an in door patient if the opinion of the superintendent or the Commissioner it is necessary to do so for the reason of the health of such detenu;

(ii) to a criminal court in the State of Gujarat, if such court requires the attendance of such detenu for answering a charge of a criminal

offence in any proceedings against him; or

(iii) to any civil or criminal court in the State of Gujarat for giving evidence in any case pending before it.

(2) No detenu shall be removed under paragraph (iii) of sub-clause (1) unless the previous permission of the Government has been obtained which shall be refused if the Government thinks it necessary to do so in the interest of public order.

5. CLASSIFICATION :-

All detenu detained in a jail or a sub-jail shall be placed in Class-IIA, detenu detained in a police lock-up shall be treated as an under-trial prisoner.

6. ACCOMMODATION :-

Where a detenu is detained in a jail or a sub-jail, he shall be kept in a cell or association ward,

7. . :-

Detenus shall be allowed to communicate with each other provided that the Superintendent or the Commissioner may, if he considers it desirable to do so on the ground of the health of the detenu or for any other reasons, confine such detenu separately. Detenus shall, as far as possible, be kept separate from other kinds of prisoners.

8. CLOTHING :-

Detenus may be allowed to use their own clothes and bedding. The Superintendent or the Commissioner may, in his discretion, permit the supply of extra clothes and bedding to a detenu by his friend or relatives or at his own expense. In cases where detenus have no sufficient clothing of their own and have neither funds to buy it with, nor friends or relatives to supply it, they may be supplied with clothing at Government cost, on the scales mentioned below. The pattern of this clothing shall be different from that for convicts and the cloth shall be without the jail regulation stripes:

Note: (1) Chuddies and petticoats will be supplied only to those female detenus of either class who use 5.5 Meters sarees.

(2) Jacket will be supplied for use only in cold weather.

9. Diet :-

(i) Detenu shall be given diet on the same scale as are prescribed in the Bombay Jail Manual, 1955 as amended from time to time for

Class II convicts.

(ii) Detenu detained in a police lock-up shall be given diet on the scale prescribed for undertrial prisoners in police locks ups.

(iii) Any detenu who wishes to supplement his diet may be permitted once a week to supplement the same, from outside subject to usual checks by the Superintendent.

(iv) Notwithstanding anything contained in sub-clause (iii) any detenu who wishes to supplement his diet on medical grounds, may apply to the Superintendent or the Commissioner, as the case may be. The superintendent or Commissioner shall get the detenu examined by a medical officer attached to the place of detention who may order such modification of, or addition to his diet, as he may consider necessary on medical grounds.

(v) Each detenu shall be given daily 5 grams of dry tea. 20 milliliters of milk and 25 grams of sugar.

(iv) Detenu may be allowed to receive from their friends or relatives fruits twice a week, the total quantity of fruits on each such occasion being not more than 500 Grams. Similarly detenu may be allowed to receive from their friends or relatives non-vegetarian preparations not exceeding 250 grams once a week. All articles of fruits etc., thus received shall be subject to search by such police or jail officer as may be authorised in this behalf by the Superintendent or the Commissioner.

10. 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, funds, not exceeding Rs. 30 per month and may spend those funds or a similar sum from his own private funds on such objects and in such manner as may be permissible under the rules. In case in which for want of funds any detenus are compelled to do without small amenities which their fellow detenu enjoy, such amenities may if considered absolutely necessary by the Commissioner or the Superintendent, be supplied to them at Government cost.

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

(3) Amounts in excess of those prescribed in sub-clause (1) may be received by the Commissioner or 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.

11. TASK :-

The detenus who shows their willingness shall be assigned tasks by the Commissioner or the Superintendent with due regard to their state of health, physical and mental capacity, character antecedents and may receive remuneration for their labour at such rates as may be prescribed by the Inspector General of Prisons, State of Gujarat.

12. SEARCHES :-

Detenus and the rooms, wards or cells in which they are accommodated shall be searched not less than once a week, but may be searched often or at any time if the Commissioner or the Superintendent considers it necessary. A detenu shall also be searched immediately after admission and thereafter before and after every interview with any person other than a police-officer. Special precautions shall be taken to make the searches through and the fact that the search has been made shall be noted in the report book of the officer making the search. The search shall be made by a Jailor, Deputy Jailor, Jail Guard or such other officer as may be authorised in this behalf by the Commissioner or the Superintendent.

13. INTERVIEWS :-

(i) No detenu shall be permitted to have an interview

(a) With any person other than a police officer or relatives except with the written order of the Government in the Home Department, and

(b) With a police officer, or family members and relatives, except with the written order of the Superintendent of Jail in which the security prisoner is detained under an order made under section 5 of the Act.

(ii) A detenu may be allowed only two interviews per month with family members and relatives under paragraph (b) of Sub-clause (i).

(iii) Not more than three visitors shall be allowed to remain present simultaneously at any one interview, except in the case in family

members and relatives when the number may be increased to five.

(iv) Applications for interview

(a) from persons other than a police officer or family members and relatives shall be made to the Government in the Home Department, and

(b) from a police officer or family members and relatives shall be made to the Superintendent of Jail referred to in paragraph (b) of sub- clause (i) in Form 'A' appended to this order;

(v) The Superintendent or the Commissioner shall appoint the time, place and duration of each interview, and shall not ordinarily allow in interview to continue for more than half an hour with a family member and relative. The duration of an interview with a lawyer, when permitted may, however, extend upto one hour.

(v) Every interview shall take place in the presence and within the hearing of an officer attached to the place of detention or a police officer who may terminate it at any time, if in his opinion the conversation is detrimental to the public interest or safety.

(vii) After the interview is over or terminated, the officer present at the interview shall warn both the detenu and the visitor that future interviews are liable to be prohibited if the visitor indulges in any publicity on behalf of the Detenu.

(viii) Government may, for special reasons, permit additional interviews in excess of the number permissible under sub-clause (2).

(ix) In addition to the interviews permissible under the preceding provisions of this clause, a detenu may, with the permission of the State Government, be allowed only one interview with legal advisers in connection with any court matter against him. All such interview shall take place on the premises in which the detenu is confined and shall be subject to such conditions and restrictions as the Commissioner or the Superintendent may consider necessary to ensure security and prevent the passing of unauthorised communications unconnected with the case relating to which the interview is granted.

(x) In addition to the interviews permissible under the preceding provisions of this clause, a detenu who wishes to stand as a candidate for any election to Parliament or State Legislature shall

be allowed bi-weekly interviews, with his election agent up to the date fixed for taking the poll and the Government may allow any additional interviews to the detenu with his election agent for the purposes of his candidature at the election.

(xi) In addition to the interviews permissible under the preceding provisions of this clause, a detenu may, if he so desires with the permission of the Government, be allowed to have only one interview with legal practitioner or any other person of his choice and at his cost for the purpose of drafting a representation against the order of detention. Such interview shall be conducted in accordance with the provisions of this clause as regards place, duration and conditions of the interviews, and the proceedings shall be strictly confined to the object for which the interview is granted.

14. Police Interviews, Photographs and finger prints :-

(1) The detaining authority may, by general or special order, authorise any police-officer or officers either singly or jointly to interview a detenu. Such police officer or officers may be accompanied by subordinate police-officers if the Commissioner or the Superintendent so directs.

(2) While visiting any room, cell or ward, every police officer shall be accompanied by such escort as the Commissioner or the Superintendent considers necessary for his safety. The escort shall, if the police-officer so requires, stand out of ear-shot, but within sight, while he is speaking to a detenu.

(3) The Police Officer or officers so authorised may, with the permission of the Commissioner or the Superintendent, interview a detenu in the ordinary interview room, without any officer attached to the place of detention being present.

(4) The Commissioner or Superintendent or any police officer authorised by him in this behalf may take photographs, register the finger prints and take specimens of the signature and hand-writing of a detenu

15. Books and News Papers :-

Detenus may be allowed to read books and periodicals which are available in the library, if any, attached to the place of detention.

16. . :-

(1) Detenus may be allowed at Government expense one weekly

newspaper for every 40 and one daily newspaper for every 20 detenus, out of the list of newspapers considered suitable for convicts of Class-II under the Bombay Jail Manual Detenus may be allowed at their cost, any other weekly or daily news papers included in the said lists, provided that if any detenu want any newspapers not included in the said list, he shall obtain the orders of the Government, through the Commissioner or the Superintendent, as the case may be.

(2) Books (including periodicals not treated as newspapers) may be received by the detenu through the post subject to the conditions that the postal article containing the books shall first be opened by the Commissioner or the Superintendent, as the case may be, or any person appointed by him in this behalf, and the delivery of such book to the detenu shall be refused by the Commissioner or the Superintendent, as the case may be if in his opinion it is not suitable;

Provided that a detenu shall not have in his possession more than three such books at a time.

17. Correspondence And Censorship :-

(1) Detenu shall ordinarily be permitted to write two letters per week and receive any number of letters.

(2) A detenu may be allowed to correspond with another detenu in another place of detention on condition that such correspondence is limited to personal and private matter.

(3) All letters to and from detenus shall be censored by the Commissioner or the Superintendent as the case may be. If in the opinion of the Commissioner or the Supdt. he despatch or delivery of any letter is likely to be detrimental to the public interest or safety or the discipline of the place of detention, he shall either withhold such letter, or despatch or deliver it after deleting any objectionable portion therefrom, In respect of the censoring of letters of detenus, the Commissioner or the Superintendent shall comply with any general or special instruction issued by the Government.

(4) Every letter forwarded to or from any detenu shall be initialled and dated by the officer who handled the letter.

(5) The receipt and despatch of telegrams by detenus shall be

subject to the same control as is hereinbefore provided for letters except that the number of telegrams which may be despatched by detenus shall be within the discretion of Commissioner or the Superintendent.

(6) In all cases in which a letter or telegram is withheld, the detenu shall be informed of the fact of such withholding.

(7) When the telegram is to or from the Government, it shall be forwarded, directed, provided that if the telegram is to or from the Central Government, it shall be sent through the Government.

(8) Detenus shall attach to all their outgoing letters and telegrams a slip containing the full name and address and relationship of the addressee and of such person mentioned in the letter or telegram.

(9) The Commissioner or the Superintendent, as the case may be, shall have discretion to decide in the case of a petition submitted in telegraphic form whether it should be forwarded by telegraph or by post.

18. . :-

Notwithstanding anything contained in clause 17 all communications between a detenu who is a member of any House of Parliament or of a State Legislature and the Presiding authority of such House of which he is a member or any officer thereof or the Chairman of a Committee (including a Committee of Privileges) of such House or a Joint Committee of both the Houses of Parliament, or as the case may be, of the State Legislature shall be forwarded direct to the addressee. Any question which such detenu wishes to be asked in any such House shall also be forwarded to the presiding authority thereof :

Provided that if any detenu has not made or subscribed an oath of affirmation as required by the Constitution of India and has not taken his seat in such House, the Commissioner or Superintendent shall bring that fact to the notice of the presiding authority of that House while forwarding to him any such communication or question from such detenu.

19. . :-

(1) The Commissioner or the Superintendent shall forward without delay, through the Inspector General of Prison, State of Gujarat, with such observations as he may think fit, any representation

other than a representation made under section 9 of the Act, which a detenu may submit to the Government.

(2) Where any detenu makes a representations under section 9 of the Act, the Superintendent shall forthwith forward it direct to the Government. Where the detaining authority is other than Government the Superintendent shall also forward a copy of the representation to such detaining authority and the detaining authority shall forward the same with it remarks, to the Government with the utmost expedition.

(3) All petitions from detenus addressed to Courts shall be transmitted with the utmost expedition. The Superintendent, where the place of detention is a jail, shall forward such petitions direct to the Court concerned and forward copies thereof to the Inspector General of Prisons, Where the place of detention is a Sub-jail or a police lock-up the Commissioner or the Superintendent as the case may, be, shall send such Petitions to the Inspector General of Prisons who shall forward them to the Court concerned after keeping copies thereof. When a petition is addressed to the High Court, it shall be sent to the Registrar, High Court, Gujarat, in a sealed envelope. The Inspector General of Prisons shall forward copies of such petitions to the Government whenever he considers it necessary to do so.

20. Discipline and Punishment for Breach of Discipline :-

Detenus shall, for the purposes of discipline and punishment for breaches of discipline, be subject, as if they were convicted criminal prisoners to. the provisions of the Prisons Act, 1984 (IX of 1984), and the rules in the Bombay Jail Manual in so far as they are not inconsistent with these conditions or any special orders passed by a competent authority in this behalf.

21. Medical Attendance :-

(1) The Civil Surgeon shall depute a Medical Officer to visit each detenu detained in a police lock-up and report on his physical condition. The said Medical Officer shall visit the detenu at least once a week and more often if the Civil Surgeon or the Commissioner or the Superintendent, as the case may be, thinks fit, and submit a report on his condition to the Commissioner or the District Magistrate, as the case may b3, affect the first day of each month and at any other time he considers necessary.

(2) Detenus detained in a jail or sub-jail, in the events of illness be

treated in the same way as convicted criminal prisoners are treated under the rules prescribed in the Bombay Jail Manual.

22. Toilet :-

(1) Every detenu shall, for cleaning teeth be supplied with neem or babul sticks at Government expense.

(2) Detenus shall be given at the Government cost, hot water for their bath, during winter if they make a request for it.

(3) Every detenu shall be supplied with one such cake of jail made soap, per month, for bathing at Government expense. The weight of each such cake shall be 115 grams approximately and if jail made soap is not available, any medium quality toilets soap manufactured in India and available locally shall be supplied.

(4) Every detenu shall be supplied at Government expense with 100 grams of soap for washing clothes once a month.

23. . :-

Detenus who have not shaving equipment of their own shall be allowed to have the services of the jail barber. Detenu shall be given this facilities once a week.

24. . :-

All female detenus shall be allowed to retain their glass bangles. If any female detenu requires to be supplied with bangles at Government cost, unbreakable bangles of a suitable type, not exceeding two for each hand shall be supplied to her and she shall be allowed to retain these bangles at the time of her release. Glass bangles shall not be supplied or replaced at Government cost.

25. Smoking and Tobacco :-

A detenu may be permitted to smoke or chew tobacco or to do both at his own expense, provided that either or both the privileges shall be liable to be withdrawn if abused.

26. Games :-

Whenever accommodation permits, detenus may be permitted inexpensive games such as ring, tennis at Government expense. The necessary materials for such games be provided by Government at a cost not exceeding Rs. 100. Detenus, may, with the previous permission of the Superintendent or Commissioner, receive materials for such games from friends or relatives.

27. Lights for Reading :-

Detenus shall be supplied with sufficient light for reading at night till 10.00 p.m. A separate light may not be provided for each detenu in barracks.

28. Conveyance Arrangements :-

(1) Wherever a detenu is released or transferred to another place of detention, his travel shall be arranged by the following classes of railway accommodation, namely by the lowest class.

(2) Whenever a detenu is released or transferred to another place of detention and the journey is to be performed by sea, he shall be given accommodation in the lowest class.

(3) Whenever a detenu is released and the journey is to be performed by bus, he shall be given the actual bus fare.

(4) Wherever possible, a detenu may also be permitted to send free of cost his luggage, to the railway station, wharf or pier, or the bus stand, as the case may be, in the cart, if any, attached to the place of detention.

(5) Whenever, a detenu is released and the journey to be performed by him by railway, steamer, or bus is of a duration of 12 hours or more, he shall be given a subsistence allowance at the Re. 1 for each 12 hours or fraction thereof.

(6) Whenever a detenu is released and there are no means of conveyance such as railway, steamer or bus available to him, he shall be given a composite allowance at the rates of 75 Paisa each 24 Kilometres or fraction thereof,

29. . :-

Whenever a detenu is transferred to another place of detention whether in this State or another State or removed to Delhi in connection with the hearing of petition made by him or made out on behalf of the detenu to the Supreme Court and the journey to be performed by railway, steamer or bus is of a duration of 12 hours or more, he shall be given

(i) a diet allowance for each 12 hours or fraction thereof at the rate of Rs. 3/-.

(ii) luggage charges at the rate of Re. 1 per journey.

30. . :-

(1) A detenu shall be handcuffed or bound while being escorted to or from the place of detention or police lock up if the Commissioner or the Superintendent so directs in writing subject to general instructions of the Government in the matter.

(2) Notwithstanding anything contained in sub-clause (1), detenu may be handcuffed or bound by the Officer in charge of the escort if he has reason to believe that the detenu will use violence or attempt to escape or that an attempt will be made to rescue him.

31. Miscellaneous :-

All particulars relating to detenus shall be entered in a separate register (with serial numbers) and returns of satisfies relating to them shall be submitted as far as may be on the lines of jail returns.

32. . :-

Notwithstanding anything contained in this Order, a detenu who has been convicted of an offence under any law for the time being in force and sentenced to imprisonment shall be deemed to be a convicted criminal prisoner within the meaning of the Prisons Act, 1894 and shall be governed by the provisions of that Act, and the rules made thereunder during the term of imprisonment:

Provided that nothing in this condition shall affect the power of the Government to remove such convicted criminal prisoner from one place of detention to another place of detention under clause (b) of section 5 of Act.