

GUJARAT CONDITIONS OF DETENTION ORDER, 1975

CONTENTS

1. Preliminary
2. Definition
3. .
4. .
5. .
6. Classification
7. Accommodation
8. .
9. Clothing
10. Diet
11. Supply of funds
12. Tasks
13. Searches
14. Interviews
15. Police interviews, photographs and finger prints
16. Books and Newspapers
17. .
18. Correspondence and censorship
19. .
20. .
21. Discipline and punishment for breaches of discipline
22. Medical Attendance
23. Toilet
24. .
25. .
26. Smoking at tobacco
27. Games
28. .
29. Lights for reading
30. Conveyance arrangements
31. .
32. .
33. Miscellaneous
34. .

GUJARAT CONDITIONS OF DETENTION ORDER, 1975

In exercise of the powers conferred by section 5 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (No. 52 of 1974), and in supersession of the orders contained in Government Notification, Home Department No.

GG/265/SB-IV-PSA- 1074/7460. dated the 19th December, 1974, the Government of Gujarat hereby makes the following Order, namely;-

1. Preliminary :-

(1) This Order may be called the Gujarat Conditions of Detention Order, 1975.

(2) It shall come into force at once.

2. Definition :-

In this Order, unless the context otherwise requires,-

(a) "Act" means the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

(b) "Civil Surgeon" means the Civil Surgeon or the Chief Medical Officer of the District in which the security prisoner is detained:

(c) "Commissioner" means the Commissioner of Police, Ahmedabad City:

(d) "Detaining authority" means the Government or an Officer of Government specially empowered under sub-section (1) of section 3 of the Act;

(e) "District Magistrate" means the District Magistrate or Additional District Magistrate of the district in which the security prisoner is detained;

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

(g) "Security prisoner" means a person with respect to whom a detention order is made by the Government, or an officer specially empowered under the Act:

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

3. . :-

The powers conferred by this Order on the Commissioner shall be exercisable by him only in relation to the security prisoners detained in a police lock-up in the area under his charge.

4. . :-

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

5. . :-

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

(i) to any hospital for medical examination for treatment or as an indoor patient if in the opinion of the Superintendent or the Commissioner It is necessary to do so for reasons of the health of such prisoner:

(ii) to a criminal court in the State of Gujarat, if such court requires the attendance of such prisoner 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 security prisoner shall be removed under paragraph (iii) of sub-clause (1) unless the previous permission of Government has been obtained which shall be refused if the Government thinks it necessary to do so in the interest of public order.

6. Classification :-

All security prisoners detained in a jail or a sub-jail shall be placed in Class II. A security prisoner detained in a police lock-up shall be treated as an under trial prisoner.

7. Accommodation :-

Where a security prisoner is detained in a jail or a sub-jail he shall be kept in a cell or association ward.

8. . :-

Security prisoners 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 prisoner; or for any other reasons, confine such security prisoner separately. Security prisoners shall as far as possible, be kept separate from other kinds of prisoners.

9. Clothing :-

Security prisoners 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 security prisoner by his friends or relatives or at his own expense. In cases where security prisoners have not 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 strips.

Note.-(1) Chuddies and Petti-coats will be supplied only to those female security prisoners who use 5.5 meters sarees. (2) Jackets will be supplied for use only in cold weather.

10. Diet :-

(i) Security prisoners shall be given diet on the same scales as are prescribed in the Bombay Jail Manual, 1955 as amended from time to time for Class II convicts.

(ii) Security prisoners detained in a police lock-up shall be given diet on the scale prescribed for under trial prisoners in police lock-ups.

1[(iia) Any security prisoner who wishes to supplement his diet may be permitted once a week to supplement the same, from outside to usual check by the Superintendent;]

(iii) **2** [Notwithstanding anything contained in Sub-clause (iia), any security prisoner 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 security prisoner 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.

(iv) Each security prisoner shall be given daily 5 grams of dry tea, 70 milliliters of milk and 25 grams of Sugar.

[(v) The security prisoners may be allowed to receive from their friends, relatives (non-vegetarian) meals, prepared tea or coffee, or break-fast at the normal timings fixed by the Jail authorities subject to search of utensils containing or which contained any or the aforesaid items or of the carrier of such utensils, by such police or jail officer as may be authorised in this behalf by the Superintendent or the Commissioner both at the time of entry and

exist]

1. Substituted by Notfn. No. 1.
2. Substituted by Notfn. No. 1.

11. Supply of funds :-

(i) A security prisoner may, with the previous sanction of the Government in the Home Department, receive from a specified relative or friend, at intervals of not less than a month, funds not exceeding Rs. 20 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 Rule 49 of the Rules of Gujarat Prisons (Facilities of Interviews Communications etc. to Prisoners) Rules, 1973.

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

(iii) Amounts in excess of those prescribed in sub-clause (i) may be received by the Commissioner or the Superintendent on behalf of security prisoners but they shall not be spent in any months beyond the limits laid down in the said sub-clause.

12. Tasks :-

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

13. Searches :-

Security prisoner 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 security prisoner 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 thorough 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 Jailer, Deputy Jailer, Jail Guard or such other officer as may be authorised in this behalf by the Commissioner or the Superintendent.

14. Interviews :-

1

[(i) No security prisoner shall be permitted to have an interview-

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

(b) with a police officer, or near 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."

2[(ii) A security prisoner may be allowed only one interview per month with near relative under paragraph (b) of clause (i)].

(iii) Not more than three visitors shall be allowed to remain present simultaneously at any one interview, except in the case of near relatives when the number may be increased to five.

1[(iv) Application for Interview-

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

(b) from a police officer or near relative 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 an interview to continue for more than half an hour with a near relative. The duration of an interview with a lawyer, when permitted, may however extend up to one hour.

(vi) 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 security prisoner and the visitor that future interviews are liable to be prohibited if the visitor indulges in any publicity on behalf of the security prisoner.

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

(ii).

4[(ix) In addition to the interviews permissible under the preceding provisions of this clause, a security prisoner may with the permission of the State Government, be allowed interview with legal advisers in connection with any criminal case filed against him, a writ petition in relation to his detention and any such proceeding, if any, by a prior appointment. All such interviews shall take place on the premises in which the security prisoner 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. Such an interview shall take place within sight, but not within the hearing range, of a jail Officer. No Police Officer shall be present either within sight or within hearing range at the interview.]

(x) In addition to the interviews permissible under the preceding provisions of this clause, a security prisoner may, with the permission of Government, be granted not more than two special interviews for the settlement of his business or professional affairs. Such interviews shall ordinarily take place within a period not exceeding two months from the date of detention of the security prisoner concerned and shall be conducted in accordance with the provisions of this clause as regards place, duration and conditions of the interview, and the proceedings shall be strictly confined to the objects for which the interview is granted.

(xi) In addition to the interviews permissible under the preceding provisions of this clause, a security prisoner 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 Government may allow any additional interviews to the security prisoner with his election agent, for the purposes of his candidature at the election.

(xii) In addition to the interviews permissible under the preceding provisions of this clause, a security prisoner may if he so desires with the permission of the Government, be allowed to have interviews with a 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 interviews shall be conducted in

accordance with the provisions of this clause as regards place, duration and conditions of the interview, and the proceedings shall be strictly confined to the object for which the interview is granted.

5 [Explanation.-For the purpose of this clause, "near relatives" means father, mother, wife or husband, and any child of a security prisoner.]

1. Substituted by Notfn. No. 1.
2. Substituted by Notfn. No. 1.
4. Substituted by Notfn. No. 5.
5. Added by Notfn. No. 1.

15. Police interviews, photographs and finger prints :-

(i) The Government in Home Department may by a general or special order authorise any police officer or officers of the Central or State Government either singly or jointly, to interview a security prisoner. Such Police Officer or other Officer may be accompanied by their subordinate officers if the Commissioner or the Superintendent so directs.

(ii) While visiting any room, cell or ward. a police officer or other officer authorised under sub-clause (1) shall be accompanied by such escort as the Commissioner or the Superintendent considers necessary for the safety of the authorised officer. The escort shall, if the officer so requires, stand out of ear-shot, but within sight, while he is speaking to a security prisoner.

(iii) An officer authorised under sub-clause (i) may, with the permission of the Commissioner or the Superintendent, interview a security prisoner in the ordinary Interview room, without any officer attached to the place of detention being present.

(iv) The Commissioner or the Superintendent or any Police Officer or other officer of the Central or State Government authorised by the Commissioner or the Superintendent in this behalf may take photographs, register the finger prints and take specimens of the signature and handwriting of a security prisoner.

16. Books and Newspapers :-

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

17. . :-

(i) Security prisoners may be allowed at Government expense one weekly newspaper for every 40 and one daily newspaper for every 20 security prisoners, out of the list of newspapers considered suitable for convicts of Class II. Security prisoners may be allowed, at their cost. any other weekly or daily newspapers included in the said list, provided that if any security prisoner wants any newspapers not included in the said list, he shall obtain the orders of Government. through the Commissioner or the Superintendent, as the case may be.

(ii) Books (including periodicals not treated as newspapers) may be received by the security prisoners 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 books to the security prisoner 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 security prisoner shall not have in his possession more than three such books at a time.

18. Correspondence and censorship :-

(i) Security prisoners shall ordinarily be permitted to write two letters per week. Extra letters and telegrams may be allowed when necessary by the Commissioner or the Superintendent in his discretion.

(ii) All letters to and from security prisoners shall be censored by the Commissioner or the Superintendent, the 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 withheld such letter or despatch or deliver it after deleting any objectionable portion therefrom. In respect of the censoring of letters of security prisoners. the Commissioner or the Superintendent shall comply with any general or special instructions issued by the Government.

(iii) Every letter forwarded to and from any prisoner shall be initialled and dated by the officer who handled the letter.

(iv) The receipt and despatch of telegrams by security prisoners shall be subject to the same control as is hereinbefore provided for letters, except that the number of telegrams which may be

despatched by security prisoners shall be within the discretion of the Commissioner or the Superintendent.

(v) In all cases in which letter or a telegram is withheld the security prisoner shall be informed of the fact of such withholding.

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

(vii) Security prisoners shall attach to their outgoing letters and telegram a slip containing the full name and address and relationship of the addressee and of such person mentioned in the letter or telegram.

(viii) 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.

19. . :-

Notwithstanding anything contained in clause 18, all communications between a security prisoner 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 officers 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 State Legislature shall be forwarded direct to the addressee. Any question which such security prisoner wishes to be asked in any such House shall also be forwarded to the presiding authority thereof:

Provided that If any security prisoner has not made or subscribed an oath or affirmation as required by the Constitution 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 security prisoner.

20. . :-

(i) The Commissioner or the Superintendent shall forward, without delay through the Inspector General of Prisons, with such observations as he may think fit, any representation (other than a representation made against the order of his detention under the

Act) which a security prisoner may submit to Government.

(ii) Where any security prisoner makes a representation against the order of his detention the Superintendent shall forthwith forward it to the detaining authority, through Government in the Home Department.

(iii) All petitions from security prisoners 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 envelop. The Inspector General of Prisons shall forward copies of such petitions to Government whenever he considers it necessary to do so.

21. Discipline and punishment for breaches of discipline :-

Security prisoners, 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 1894), and the rules in the 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.

22. Medical Attendance :-

(i) The Civil Surgeon shall depute a Medical Officer to visit each security prisoner detained in a police lock-up and report on his physical condition. The said Medical Officer shall visit the prisoner 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 be, after the first day of each month and at any other time he considers necessary.

(ii) Security prisoners detained in a jail or sub-jail, shall in the event of illness be treated in the same way as convicted criminal prisoners are treated under the rules prescribed in the Jail Manual.

23. Toilet :-

(i) Every security prisoner shall be supplied with neem or babul sticks at Government expense. If he so desires a security prisoner may be provided with hot water for his bath during winter.

(ii) Every security prisoners shall be supplied with one cake of jail made toilet soap, per month, for bathing, at Government expense. The weight of each such cake shall be 1 15 grams approximately and if jail made soap is not available, any medium quality toilet soap manufactured in India and available locally shall be supplied.

1 (iii) Every security prisoner shall be supplied 100 grams of soap once a month at Government cost for washing his clothes.]

1. Substituted by Notfn. No. 2.

24. . :-

Security prisoners who have no shaving equipment of their own shall be allowed to have the services of the jail barber. Security prisoners shall be given this facility once a week. 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 envelop. The Inspector General of Prisons shall forward copies of such petitions to Government whenever he considers it necessary to do so.

25. . :-

All female prisoners shall be allowed to retain their glass bangles. If any female prisoner 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.

26. Smoking at tobacco :-

A security prisoner 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.

27. Games :-

Whenever accommodation permits, security prisoners may be permitted by the Commissioner or the Superintendent to play

Inexpensive indoor games such as a ring, tennis at Government expense.

28. . :-

Security prisoners may be permitted to play chess, draughts and carrom at their own expense.

29. Lights for reading :-

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

30. Conveyance arrangements :-

(i) Whenever a security prisoner is released or transferred to another place of detention, his travel shall be by the lowest class.

(ii) Whenever a security prisoner 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.

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

(iv) Whenever possible, a security" prisoner 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.

(v) Whenever a security prisoner 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 37 paise for each 12 hours or a fraction thereof.

(vi) Whenever a security prisoner 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 75 paise for each 24 Kilometres or a fraction thereof.

31. . :-

Whenever a security prisoner 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 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 75 paise;

(ii) luggage charges at the rate of Rs-0.19 paise per journey.

32. . :-

(1) A security prisoner 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.

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

33. Miscellaneous :-

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

34. . :-

Notwithstanding anything contained in this order, a security prisoner 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 Prisoners Act, 1894 and shall be governed by 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 envelop. The Inspector General of Prisons shall forward copies of such petitions to Government whenever he considers it necessary to do so.

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 the Act.