

Orissa Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Conditions off Preventive Detention) Order, 1979

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Rule

ORISSA-PREVENTION-OF-BLACKMARKETING-AND-MAINTENANCE-OF 1979

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Orissa Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Conditions off Preventive Detention) Order, 1979Published vide Notification S.R.O. No. 64/80, dated 17th January, 1980, Orissa Gazette Extraordinary No. 50, dated 18.1.1980S.R.O.No.64/80. - In pursuance of Clause (a) of Section 5 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance, 1979, the State Government of Orissa do hereby make the following Order specifying the place and conditions of detention for persons ordered to be detained under the provisions of the said Ordinance, namely :

1. Short title, extent and commencement.

(1)This Order may be called the Orissa Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Conditions of Preventive Detention) Order, 1979.(2)It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.

- In this Order, unless the context otherwise requires-(a)"detenu" means a person detained in pursuance of an order made under Section 3 of the Ordinance;(b)"Ordinance" means the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Ordinance,

1979;(c)Words and expressions used but not defined in this Order shall have the meaning assigned to them in the Ordinance.

3. Place of detention.

(1)A detenu shall be lodged in a Central Jail or a Circle Jail or a District Jail or a Special Jails as may be specified in the detention order.(2)A detenu may be transferred from one jail to another jail within the State under a special order of the State Government under Clause (b) of Section 5 of the Ordinance.

4. Classification.

- All detenus shall be placed in one class called class 'D' and receive the same treatment as is provided in the Orissa Jail Manual for Prisoners of Division III of the non-labouring category.

5. Accommodation.

- Detenus shall be kept in cells or association wards preferably the latter and may be allowed to communicate freely with other detenu detained under the same Ordinance but as far as possible shall be kept separately from other prisoners. The Superintendent of the jail may, however, confine any particular detenu or group of detenus separately, if he consider it desirable on grounds of health or for any other reasons.

6. Lock-up and lights.

(1)The Superintendent of the Jail may, in his discretion, direct that detenu shall be locked up at night not later than one after the general lock-up time.(2)Unlocking of cells and association wards shall be carried out in accordance with prison routine.

7. Search and property on admission.

- For search of detenus and safe custody of their properties on admission the provisions of Rules 454 and 492 of the Orissa Jail Manual would be followed.

8. Registration.

- Records and registers relating to detenus shall be maintained separately or in a separate part from those relations to other prisoners.

9. Diet.

(1)Each detenu shall be dieted at Government expense on the scale of diet as laid down in the Orissa Jail Manual for Prisoners of Division III for non-labouring class provided that a detenu may be

allowed to receive food from outside subject to the approval of the Superintendent and Medical Officer.(2)Any detenu who wishes to add to or modify to his diet on the ground of health but is unable to do so at his own expenses, may apply to the Superintendent of the Jail. After the applicant has been medically examined, the Superintendent of the jail may order such addition or modification to his diet as he may consider necessary on medical grounds.

10. Clothing.

(1)A detenu may wear his own cloths, foot wear and headgear consistent with reasonable requirement of health and decency and may, with prior permission of the Superintendent of the Jail, receive the same from private sources, if he does not have adequate personal clothings, footwear and headgear to meet his reasonable requirements.(2)Where a request in writing is made by the detenu to supplement his clothings, footwear and headgear at the cost of the Government and the Superintendent is of opinion, that the detenu is unable to provide himself with the above necessities either from his own source or from private sources, he may be supplemented at the cost of Government in such manner as may be considered reasonable at an expenditure not exceeding rupees one hundred for the entire period of detention.(3)Subject to conditions specified in Sub-clause (2), the personal winter clothings, footwear and headgear of a detenu, who continues to be under detention at any time during the period from the first day of November of any year to the last day of February of the following year may be supplemented at Government cost at an expenditure not exceeding Rs. 50/-. (4)The clothings, footwear and headgear once supplied at Government cost under Sub-clause (2) and (3) shall not be replaced during the period of detention.

11. Bedding.

- Each detenu may use his own bedding consistent with reasonable requirements of health and decency and may, with the prior permission of the Superintendent of the Jail receive the same from private sources if, his personal items of beddings are inadequate to meet his reasonable requirements. Where in the opinion of the Superintendent, a detenu does not have adequate items of beddings from private sources those may be supplemented at Government cost on a scale not exceeding the scale laid down in the State Jail Manual for Prisoners of Divisions III.

12. Funds and allowances.

(1)A detenu may receive from a relative or friend, at intervals, funds not exceeding Rs. 50/- per month to enable him to supplement the amenities of life in jail.(2)All funds so received shall be kept by the Superintendent and spent by him on behalf of the detenu. No part of the funds so received or the unspent balance shall be paid to the detenu except at the time of his release from the detention.

13. Smoking.

- A detenu may be allowed to smoke at his own cost and may receive reasonable supplies of tobacco, cigars, cigarettes or bidies from his friends and relatives. Supplies may be restricted at the discretion

of the Superintendent of Jail in the interest of the detenu's health.

14. Discipline and searches.

(1) Detenus shall, for purpose of discipline, be subject to the rules relating to civil prisoners not inconsistent with the provisions of this Order. (2) Every detenu and his cell or ward shall be searched not less than once a week and if the Superintendent of the Jail considers it necessary at any time by the Jailor or Assistant Jailor as directed by the Superintendent Special precautions shall be taken to make those searches thorough and the fact of the search shall be noted in the Jailor's Report Book. Detenus shall be searched before and after the interviews and at any other time if the Superintendent of the Jail considers it necessary. Every person permitted to interview a detenu and the detenu himself shall be searched before and after the interview.

15. Photographs and finger prints.

- The Superintendent of Police or any Police Officer authorised by him in this behalf may take photographs and register finger prints of detenu in jail. Explanation. - The Superintendent of Police will include the Superintendent of Police (Vigilance).

16. Conduct, offence and punishment.

- A detenu - (i) shall reside in the accommodation allotted to him by the Superintendent of the Jail whether in an association ward or a cell; (ii) shall not proceed beyond the limits of the jail without the general or special permission of the Superintendent of the Jail in this behalf; (iii) shall obey the orders of the Superintendent of the Jail issued from time to time for the comfort, safety and health or for the discipline, orderly conduct and control of detenus; (iv) shall attend the roll call and answer to his name in person at such time and places within the jail as may be appointed in this behalf; (v) shall conform to the standards of cleanliness and dress laid down by the Superintendent of the Jail; (vi) shall not do anything wilfully with the object of effecting his own bodily welfare. (vii) shall not have in his possession any coin, currency notes or negotiable instruments, any weapons, sticks, razors other than safety razors, pieces of iron or any other article which can be used as a weapon; (viii) shall not exchange or sell any of his kit, equipments, clothes or other possessions; (ix) shall not refuse to take the prescribed diet; and (x) shall not refuse to place himself in specified position of photographs and to register his finger prints as may be required under Clause 14.

17.

Any detenu who contravenes any of the provisions of Clause 16 or refuses to obey any order issued thereunder or does any of the following acts, namely : (i) assault, insults, threatens or obstructs any prisoner or detenu or any officer of the jail or any other servants of the Government or any person employed in or visiting the jail; or (ii) quarrels with any prisoner or detenu 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 an unauthorised manner; or(v)bribes or attempts to bribe any servant of the Government or any person employed in or visiting the jail; or(vi)commits any nuisance or wilfully defouls any well latrine washing or bathing place; or(vii)disobeys the orders or shows disrespect to any officer of the jail; or(viii)wilfully damages or attempts to damage any property belonging to the Government or tampers 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 on the Jail; or(x)feigns illness; or(xi)wilfully brings a false accusation against any officers of the jail or a prisoner or a detenu;(xii)omits or refuses to report as soon as it comes to his knowledge any damage done or attempted to be done to any property belonging to the Government the occurrence of any fire, any plot of conspiracy for an escape, attempt or preparation to escape and any attack or preparation for attack upon any officer of the jail, or fails to render all the assistance in his power to discover the culprit in any of the aforesaid cases; 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 case an attempted escape on the part of any of the prisoners or detenu or of any attack upon such officer or upon any of the prisoners or detenues shall be deemed to have committed a jail offence.

18.

(1)Whereupon such enquiry as he thinks fit to make the Superintendent of the Jail is satisfied that a detenu is guilty of a jail offence he may award the detenu one or more of the following punishments:(a)Confine in cells for a period not exceeding 14 days;(b)Reduction or alteration of diet for a period not exceeding 14 days;(c)Cancellation or reduction of the concession of receiving funds from outside, if any, for a period not exceeding 2 months;(d)Cancellation or reduction, of the privileges of writing and receiving letters or of receiving newspapers and books, if any, for a period not exceeding two months;(e)Cancellation or reduction of the privileges of having interviews, if any, for a period not exceeding two months;(f)Cancellation of the privilege of wearing his own clothes;(g)Cancellation of the privilege of smoking;(2)If any detenu is guilty of a jail offence which by reason of his having frequently committed such offence or otherwise is in the opinion of the Superintendent of the Jail not adequately punishable by him under the provisions of Sub-clause (1), he may forward such prisoner to the Court of a Magistrate 1st Class having jurisdiction, and such Magistrate thereupon shall enquire into and try the charge so brought against the detenu and upon conviction shall sentence him to imprisonment for a term not exceeding one year or to fine or both:Provided that where the act constituting the offence amounts to an offence punishable under the Indian Penal Code with imprisonment for term exceeding one year nothing in this Order shall preclude the detenu from being tried and sentenced for such offence in accordance with the provision of that Code.(3)The Superintendent of the Jail may use or require to be used such forces as may, in his opinion, be necessary to compel obedience on the part of any detenu to any lawful order issued by him.

19. Books and newspapers.

- Detenu may be allowed to receive books or newspapers not containing any immoral objects or subjects, from relatives or friends subject to prior inspection and approval of the Superintendent of the Jail.

20. Interviews.

(1) No detenu shall be permitted to have an interview with any person other than a Police Officer or a Civil Supplies Officer except on a written order of the Superintendent of the Jail. (2) Any application for an interview between a detenu and person other than a Police Officer or Civil Supplies Officer may be made by the detenu himself or by the other party to the Jail Superintendent stating the relationship, if any, of the detenu to the other party and the purpose for which the interview is sought. The Superintendent by an order in writing may permit such detenu to have interview with his near relatives for discussion of personal and domestic matters or with any other person for specific and unobjectionable purpose. (3) The Superintendent of the Jail shall fix the dates and hours at which such interview may be allowed and no interview shall be allowed at any other time except with the special permission of the Superintendent. (4) Interview shall take place in the presence of an officer deputed by the Superintendent of the Jail, who may terminate an interview at any time, if in his opinion the conversation is detrimental to the public interest or safety. (5) A detenu shall not be permitted to have an interview with more than two persons excluding minor children at a time. (6) Permission of interview with relatives or friends shall not be granted more than once in a week but the Superintendent may in his discretion grant interview at shorter intervals, if he considers that special or urgent grounds exist for such a concession. (7) The time allowed for an interview with relatives or friends shall not exceed one hour and in other cases for more than half an hour but may be extended by the Superintendent at his discretion. (8) Interview with legal advisers or lawyers for professional consultation on matters relating to the detention of the detenu or other legal proceedings may be permitted without the presence of any other person. (9) The District Superintendent of Police or the Superintendent of Police (Vigilance) may, by general or special order, authorise any Police Officer or Officers or accompanied or unaccompanied by Subordinate Police Officer to interview any detenu. The Secretary of the Food and Civil Supplies Department or the District Magistrate may, by general or special order, authorise any Civil Supplies Officer not below the rank of Assistant Civil Supplies Officer accompanied or unaccompanied by Subordinate Civil Supplies Officers to interview any detenu. The Police and Civil Supplies Officers authorised shall be allowed to interview the detenu in the ordinary interview room without a Jail Officer being present on making a written requisition to this effect.

21. Correspondences.

(1) A detenu shall ordinarily be permitted to write four and receive six letters per week. On urgent occasions such as death and serious illness in the detenu's family this rule may be relaxed by the Superintendent of the Jail. No letters, newspapers or other communications shall be transmitted to or from any detenu except through the Superintendent of the Jail or such other officer of the Jail, authorised by the Superintendent. (2) Receipt and despatch of telegrams by detenus shall be subject to the control as hereinbefore provided for letters except that the number of telegrams which may be despatched or received by a detenu shall be within the discretion of the Superintendent. It shall be his duty to ensure that only telegrams, the urgency of the contents of which justified the use of telegraphic transmission shall be despatched or received by detenu under this sub-clause. Any telegram despatched or received by a detenu which is in the opinion of the Superintendent, does not conform to this standard or urgency, shall be considered to be a letter to be included under the total

number of letters permitted to be written and received by the detenu under Sub-clause (1) and the detenu shall be informed accordingly in each case. The Superintendent may despatch any telegram from a detenu including a petition submitted in telegraphic form by post instead of telegrams in any case where in his opinion the subject-matter is not of sufficient urgency to justify transmission by telegraph.

22. Representation.

- The Superintendent of the Jail will forward all representation received from the detenu to the authority who makes the order of detention with his comments, if any, ordinarily within three days of the receipt of such representation.

23. Facilities with regard to litigation.

(1) When a detenu is or likely to be party to any pending or contemplated proceedings in a Court of law, the following facilities, if necessary, may be granted to him by the Superintendent for the purpose of proceedings in the Court of law, namely : (i) writing of more letters than are allowed under Clause 21; (ii) more interviews than are allowed by orders under Clause 20; (2) Detenus shall be allowed all reasonable facilities to consult and instruct their lawyers and also to consult a legal practitioner or any other person of his choice for the purpose of drafting his representation against his detention and no member of the Police or Civil Supplies Organisation shall be allowed to be present during such interview. The jail official may, if necessary, be present at such interview but not within hearing range. Any documents which the detenu may like to pass on to their lawyers or legal adviser shall be passed through jail authorities to ensure proper scrutiny.

24. Medical treatment.

(1) Notwithstanding anything contained in this order (or order of detention) when the Superintendent of the Jail is of the opinion that a detenu should be given treatment in a hospital he shall be taken to the District Headquarters Hospital or the Sub-divisional Headquarters Hospital, as the case may be and detained therein under custody, if in the opinion of the Medical Officer of such hospital the detenu requires treatment as an indoor patient. When the Medical Officer in charge of such hospital is of the opinion that the detenu is in need of specialised medical attention which is not available in any of the aforesaid hospitals, the detaining authority may direct removal of the detenu to any such Government hospital where such specialised medical facilities are available for treatment as an indoor patient or to any other jail only for treatment as an outdoor patient in such hospital after obtaining approval of the State Government as quickly as possible. (2) The jail authorities shall carry into effect the directions given by the Medical Officer in respect of the treatment of the detenu.

25. Miscellaneous.

- Such other instructions not inconsistent with this Order, as may be necessary for the guidance of

the jail officers may be issued from time to time by the Inspector General of Prisons or other officer in charge of prison in the State with the approval of the State Government.

26.

Where any of the provisions of the Jail Manual is inconsistent with any provision of this Order, the provision of this Order shall apply to the detenu.