

# **Conservation of Foreign Exchange and Prevention of Smuggling Activities (Rajasthan Conditions of Detention) Order, 1984**

RAJASTHAN

India

## **Conservation of Foreign Exchange and Prevention of Smuggling Activities (Rajasthan Conditions of Detention) Order, 1984**

### **Rule**

### **CONSERVATION-OF-FOREIGN-EXCHANGE-AND-PREVENTION-OF-SMUGGLING ACTIVITIES (RAJASTHAN CONDITIONS OF DETENTION) ORDER, 1984**

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Conservation of Foreign Exchange and Prevention of Smuggling Activities (Rajasthan Conditions of Detention) Order, 1984 Order N.F.8(307) Home-5/174, dated 27.3.1984 Published in Rajasthan Govt. Gazette, part 4-C(I), dated 10.5.1984 In Exercise of the powers conferred by clause (a) of Section 5 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (Central Act 52 of 1974), the State Government hereby makes the following order namely :-

#### **1. Short Title, Application and Commencement.**

(1) This order be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Rajasthan conditions of Detention) Order, 1984. (2) It shall apply to all persons ordered to be detained in Rajasthan by an order under Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974; Provided that the Government may by an order direct the provision 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. (3) This Order shall come into force with immediate effect.

#### **2. Definitions.**

- In this Order, unless there is anything repugnant in the subject or context:-(a) "Act" means the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (Central Act 52

of 1974);(b)"detenu" means any person detained in Rajasthan by an order under Section 3 of the Act;(c)"Detaining Authority" means the Government or the Secretary to Government specially empowered under sub-Section (1) of Section 3 of the Act;(d)"Government" means the Government of the State of Rajasthan;(e)"Inspector General" means the Inspector General of Prisons, Rajasthan;(f)"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;(g)"Prisoner" 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.**

- The detenus shall ordinarily be treated in the same manner as may, for the time being, be prescribed for prisoners :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.(2)The detenu 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 prescribed for a prisoner:Provided that he may be permitted to have his own food from outside subject to usual checks by the Jail authorities.

### **6. clothing and heading.**

(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 on the same scale as that of 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 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 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 object and in such manner as may be permissible under the rules. In cases 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 (1).

## **9. Furniture and Toilet articles.**

- The detenus shall be supplied furniture and toilet articles to the extent as may, for the time being, be prescribed for prisoners.

## **10. Interviews.**

- A detenu shall be allowed interviews with relatives, friends, legal practitioner in accordance with the instructions issued by the Government from time to time. (2) The Superintendent shall maintain a statement of all interviews between a detenu and his relatives or other persons with the instructions issued by the Government from time to time. (3) The Superintendent 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. correspondence and Censorship.**

(1) Detenus shall ordinarily be permitted to write two letters 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 with-held as laid down in sub-clause (4). (3) No letters, newspaper 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 Deputy Collector Customs and Central Excise of the Head-quarters who may at his discretion withhold them.(5)Detenus shall be allowed to read books from the Jail-library. They shall be allowed to get books from outside at their own expense, provided the books are of non-political character and approved by the Collector Customs and Central Excise. The detenu may be allowed laccess to standard newspapers in the prison at Government cost and others approved by the Government at his own cost.(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 initialled and dated by the officer who handles the letter.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 message; all telegrams to and from Government shall be forwarded direct provided that the Chief Secretary to Government shall always be an intermediary in correspondence with the Central Government telegrams to and from private individuals shall pass through the Collector Customs and Central Excise in the absence of special orders of the Government to the contrary.(9)Detenus shall attach to all their outgoing 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 be sent to the Deputy Collector, Customs and Central Excise of the Head-quarter or other officer designated by the Government in this behalf who, if considers that the writer should not be allowed to correspond with the addressee, shall inform the Superintendent accordingly for his further guidance.

## **12. Writing material.**

- All detenus shall be supplied writing material at their own expenses 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 applied unless the paper already supplied is produced or is found to have been properly used.

## **13. Offences and punishment.**

(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 wilfully befools any wall, latrine; washing; or bathing; or (vii) disobeys the orders, or shows disrespect to any officer of the Jail; or (viii) wilfully damages any property belonging to 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 Supdt; or (x) feigns illness; or (xi) wilfully 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 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 alteration 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, for a period not exceeding two months, of the privileges of having interviews; (vi) cancellation of the privilege of wearing his own clothes. (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 period not exceeding one year; Provided that where the act constituting the offence constitutes an offence punishable under the Indian Penal Code 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 to 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 given by him.

## 14. Retention of watches.

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

## **15. Recreation.**

(1)The detenus shall be allowed to play volley-ball and Badminton if there is room in the Jail for this and the number of detenus warrant. (2) They shall be allowed to play indoor games like chess and playing-cards at their own expenses.

## **16. Smoking.**

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

## **17. Non-official visitors.**

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

## **18. Applications or representations.**

(1)The Superintendent shall forward through the Inspector-General, with such observation 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 shall be forwarded to that court by the Superintendent direct.

## **19. Transfer of detenus 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, and(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.

## **20. Miscellaneous.**

(1)All particulars relating to detenus shall be entered (without serial number) in the 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.

## **21. Detention.**

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

## **22. Savings.**

- The State Government may also issue special orders on humanitarian grounds to enable the detenu to perform the obsequies of his kith and kin or for appearing in any examination, without detriment to the security of the State. The special orders issued by the State Government may also relate to maintenance, discipline and punishment in case of special detenus.