

Bihar Detenu Prisoner Order, 1980

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Rule BIHAR-DETENU-PRISONER-ORDER-1980 of 1980

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Bihar Detenu Prisoner Order, 1980Published vide Notification No. S.O. 914, dated 13th September, 1980S.O. 914 the 13th September, 1980. - In exercise of the powers conferred by Section 5 of the Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980, the Governor of Bihar is pleased to make the following Order, namely:

1. Short title.

- This Order may be called the Bihar, Detenu Prisoner Order, 1980.

2. Definitions.

(a)"Deputy Inspector-General of Police" means the Deputy Inspector-General of Police, Food-cum-Additional Secretary, (Food, Supply and Commerce Department, Bihar);(b)"Government" means the Government of the State of Bihar;(c)"Members of the Detenu prisoners' family" means the prisoner's parents, brothers, sisters, sons, daughters, daughter-in-law, sister-in-law (brother's wife), uncle, nephew, maternal uncle, wife's or husband's brother, daughter's husband and the husband or wife of the prisoner;(d)"Superintendent" means Superintendent of the Jail in which a detenu prisoner is detained for the time being;(e)"Detenu Prisoner" means a person in respect of whom an order is made under Section 3 of the Prevention of Black marketing and Maintenance of Supplies of Essential Commodities Act, 1980.

3.

All the Detenu Prisoners will be kept in one class (Class B) to be assigned by the District Magistrate and Symbol "C" shall be affixed below their names.

4.

Detenu Prisoners may be allowed some minor concessions as may be considered appropriate by the Superintendent in particular cases: Provided that the State Government may also direct the jail authorities to provide such facilities to the detenu prisoner as may be considered appropriate.

5.

Subject to the general or special orders of the Government the I.G. Prisons, Bihar, may transfer detenu prisoners from time to time as may be necessary, from one place of detention to another, when such transfers are considered necessary on medical or administrative ground: Provided that:-(a) A copy of such transfer order shall be sent to the Food, Supply and Commerce Department. (b) Detenu Prisoners shall be transferred to a non-jail hospital without previous reference to and without taking order of Government in the Food, Supply and Commerce Department. (c) Detenu Prisoners shall not be removed from one State to another except with the consent of that other State.

6.

If in the opinion of Civil Surgeon of the District, there is any case of sudden illness of a detenu prisoner in the jail necessitating his immediate transfer to a hospital, other than a Jail Hospital, the Superintendent of the Jail with the previous sanction of the D.M. shall remove the detenu prisoner, under proper guard, to the Sadar Hospital of district or to any other hospital to which such removal may be considered necessary by the Civil Surgeon. The hospital authorities will not be responsible for the safe custody of the detenu prisoner, which will be the responsibility of the Superintendent of Jail, who should, make necessary security arrangement in consultation with D.M. Immediately, after such transfer is made, the Jail Superintendent shall inform the I.G. of Prisons and the Food, Supply and Commerce Department of the action taken and the reason therefor.

7. Nature of detention.

- Detenu Prisoners shall be kept in association wards and allowed to communicate freely with one another. The Superintendent may, however, confine any particular detenu prisoner separately, if he considers it desirable on grounds of health or conduct against jail discipline.

8. Periodical reports.

- The Superintendent shall report through the I.G. Prisons, as soon as practicable after the admission of detenu prisoner whether the degree of confinement to which he is subjected appears to be likely to injure his health. He shall likewise on the first January and on the first July of each year submit a report on the conduct, health and comfort of each detenu prisoner in his charge. But at any time, in case the health of a detenu prisoner undergoes substantial deterioration a special report should be submitted to the Government, I.G. Prisons and the detaining authority immediately.

9. Diet, clothing and equipment.

(1) Same scale of diet shall be allowed to the detenu as laid down in the Bihar Jail Manual Rules for under trial prisoners. (2) Each detenu prisoners may wear his own clothes and friends or relations may, if permitted so to do, by the Superintendent, send in extra clothes and bedding. A detenu prisoner shall not be permitted to wear any political symbol or any form of dress signifying membership of or association with any political organisation nor shall any such symbol or dress be permitted to be sent to any detenu prisoner.

10.

(a) A detenu prisoner may, if he so desires, be furnished, at the cost of Government with jail made plain white clothing in accordance with following scale. -Dhoti3Kurta or shirt2Gamachha2Banian2Towel2Woolen coat1 Flannel Shirt1
If the period of detention falls between the 1st November and the 1st February. (b) A Detenu Prisoner who desires to have clothing of his own choice in preference to the jail made clothing on the scale specified above, may be paid for the purpose a suitable amount not exceeding-(i) Rs. 200 at an interval of 6 months for cotton clothing; and (ii) Rs. 400 for warm clothing if the period of detention falls between the 1st November and 1st February in any year. (c) A Detenu Prisoner may be supplied with the following bedding and footwear. -Blankets2Sheet2Pillow1Pillow cases2 pairs, a yearChappal1 pair a year.Charpoy1Mattress1Mosquito net1 (d) A Detenu Prisoner shall not be entitled to take away with him on release from the jail. -(i) the woollen clothings unless he has used them for atleast six months; or (ii) the kurta, dhoti or shirt, unless he has used them for atleast six months; or (iii) the chappals, unless he has used them for atleast six months, supplied to him for use in the jail.

11.

Detenu Prisoner may be permitted to smoke at his own cost and may also receive supplies of smokes from his friends and relatives.

12. Interviews.

- The Superintendent in consultation with an officer deputed by the D.I.G. (Food) may permit any person to interview a detenu prisoner. The Superintendent shall have full discretion to refuse an interview in the case of unsatisfactory conduct of the prisoner or for other sufficient cause, the Superintendent may disallow interview during a period specified by him: Provided that the order refusing an interview, or disallowing interview for a period shall be reported by the Superintendent to Government in the Food, Supply and Commerce Department alongwith the reasons therefor.

13.

Interviews may be granted once in a week to the detenu prisoners. The day on which the interview shall take place will be fixed by Jail Superintendent.

14.

(i) As a general rule interview shall be allowed only with - (a) member of the detenu prisoner's family; or (b) if there is no competent male member of the detenu prisoner's family with whom he can discuss his business affairs, an agent of the prisoner. (ii) The subject-matter of any interview shall be confined to the personal, domestic or business affairs of the detenu prisoner. (iii) An interview shall not except with the written permission of the Superintendent or of the D.M., last for more than half an hour.

15.

Subject to the provisions of clauses 19 and 21, all interviews with the detenu prisoner shall be held in the presence of a member of a police deputed for the purpose by the D.I.G. (Food).

16.

The Superintendent may require an interviewer to prove his identity before allowing him to interview a detenu prisoner.

17.

Notwithstanding anything contained in clauses 12 and 13 in urgent cases, such as various illnesses of detenu prisoner, the Superintendent may allow an interview to a near relative. The Officer deputed under clause 12 shall be consulted, if possible.

18.

The D.I.G. (Food) and the S.P. (Food) are permitted to interview detenu prisoners, either separately or jointly, and accompanied, if desired, by a Subordinate Police Officer.

19.

The Police Officer mentioned in clause 18 shall be allowed to interview detenu prisoners without the presence of any jail officer on their making a written requisition to this effect to Superintendent.

20.

In the case of other police officers who are permitted by Government or the District Magistrate to interview detenu prisoners, permissions to interview them alone shall be granted only if the request is endorsed on the permission by the authority granting the permission.

21.

A detenu prisoner shall be allowed all reasonable facilities to interview and instruct his legal advisers in connection with a pending or contemplated legal proceeding in which he is or will be a party, in the presence of an officer of the Food Intelligence squad but not within his hearing distance.

22.

In addition to the interview permissible under clauses 13 and 21, a detenu prisoner may, with the permission of the authority under whose orders he is detained, be granted not more than two special interviews for the settlement of his business or professional affairs. Such interview shall be conducted in the premises of the jail in which he is continued, in accordance with the provisions of clauses 14(3), 15 and 16 as regards duration and conditions of the interview, and the proceedings shall be strictly confined to the objects for which the interview was granted.

23. Letters.

- All letters to and from detenu prisoners shall be shown to the Superintendent or Officer deputed by the D.I.G. (Food) under clause 12. Any communication containing matter which is prejudicial to jail discipline or which contains a false statement against the jail authorities shall be withheld by the Superintendent and forwarded to the Government for information and orders. The Superintendent may in his discretion withhold any communication which in substance is only repetition of a previous communication on which orders have already been passed by Government and of which the detenu prisoner has been informed. If any such communication is withheld the Superintendent, shall report to Government the substance of the communication and the reason for withholding it. Letters which the Superintendent and the officer aforesaid agree to be un-objectionable shall be delivered or forwarded without delay. The other letters shall be made over to the officer aforesaid who will take the orders therein of the District Magistrate. Letter to which the District Magistrate sees no objection shall be delivered or forwarded. The remaining letters shall be forwarded forthwith to the D.I.G. (Food).

24.

On receipt of the letters referred to in clause 23, the D.I.G. (Food) may in his discretion forward or withhold them, while withholding the letters he may send to Government a list of the letters withheld and the reasons therefor once in a week.

25.

Notwithstanding anything contained in clauses, 23 and 24, the District Magistrate or the D.I.G. (Food) may direct the delivery of any letter to or from a detenu prisoner after the deletion therefrom of any portion which to the D.M. or D.I.G. (Food) as the case may be appears objectionable.

26.

Where a letter is withheld by the D.I.G. (Food), the detenu prisoner shall be informed through the Superintendent of the fact of withholding. The Superintendent shall inform the detenu prisoner where a letter is withheld by him.

27.

Each letter delivered or forwarded shall be initialled and dated by the officer handing it.

28.

Detenu prisoners shall be allowed to Write four and receive eight letters per week. Necessary postage shall be provided by the jail at the cost of Government. Letters shall be written in prisoners letters form supplied by the jail authorities. They shall be written on both sides of the paper and shall not occupy more than two pages. Letters shall be confined entirely to purely personal matters and addressed to and received from members of the detenu prisoner's family only.

29.

Clauses 23 to 26 shall not apply to communication from a detenu prisoner to his legal advisers, in connection with a pending or contemplated legal proceedings to which he is or will be a party and such communications shall be forwarded, by the Superintendent without any delay to the addressee. The Superintendent may, with the permission of the District Magistrate, delete any matter, in such communication which is objectionable and obviously unconnected with a pending or contemplated legal proceedings. The District Magistrate while passing orders in such cases, shall not go into finer questions or relevancy and shall not delete any portion which is not obviously unconnected with a pending or contemplated legal proceedings.

30.

Detenu Prisoners shall attach to all their outgoing correspondence a slip containing the full name and address and relationship of addressee and of person mentioned in the letter. These slips shall be sent to the D.I.G. (Food), or any 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 subject to the provisions in clause 29 inform the Superintendent or the officer concerned for his further guidance.

31.

Notwithstanding anything contained in clauses 23 to 30 it shall be lawful for detenu prisoner who is a member of the State Legislature or Parliament to address any communication to the Speaker or Chairman of the House of which he is a member or to the Chairman of a Committee including a Committee of Privileges of such House, or of a Joint Committee of both Houses of the State Legislature or of Parliament as the case may be. All such communications shall be forthwith forwarded to the addressee by the Superintendent who shall simultaneously sent to the Government a copy of the aforesaid communications so as to be dealt with by them in accordance with the rights and privileges of the prisoner, as a Member of the House to which he belongs.

32. Representation to Government or petition addressed to court.

(1)The Superintendent shall forward with such observations as may appear necessary, every representation which a detenu prisoner may from time to time be desirous of submitting to Government.(2)The Government shall always be the intermediary in correspondence to the Central Government.(3)Every representation submitted by a detenu prisoners shall be written on both sides of the paper and no such representation shall occupy more than two pages.(4)The Superintendent shall forward any petition addressed by a detenu prisoner to the High Court or any other Court of law direct, forwarding a copy of the same to the Government and I.G. of Prisons to avoid delay.

33. Telegrams.

(1)The cost of telegrams sent by a detenu prisoner shall be borne entirely by him. The telegram form shall be supplied by the jail authorities.(2)Subject to sub-section (1) telegrams, shall be deemed to be letters and shall be governed by clauses 25 and 30.

34. Jail Visitors.

(1)The District Magistrate shall be the special visitor of the detenu prisoners confined in any jail in the district.(2)The Governor may appoint any person, not being an official to be visitor of the detenu prisoners confined in any jail.(3)A non-official visitor shall have access to detenu prisoners once a fortnight but shall not visit or interview any detenu prisoner except in the presence of the Superintendent.

35. Newspapers and books.

(1)Detenu prisoners shall at the discretion of the Superintendent be allowed at the cost of Government newspapers, magazines and books as noted below.The Superintendent may permit them to supplement the newspapers, magazines and books at their own cost.(2)Three newspapers for every group of sixteen detenu prisoners may be supplied at the discretion of the Superintendent, so that when, for example there are three detenu prisoners speaking three different languages each of them may have the facilities of newspapers.(3)All newspapers, magazines, and books supplied to

detenu prisoners whether at the cost of Government or at their own cost, shall be subject to strict checking. In case Superintendent considers it necessary to withhold any newspapers, magazines, etc., he shall take the orders of the District Magistrate.

36.

Notwithstanding anything contained in this order, it shall be open to the Government to direct that any particular detenu prisoner or such prisoners shall not be given for such period as may be specified in the direction the benefits of interviews, letters, books, magazines and newspapers allowed by clauses 13, 28 and 35.

37. Exercise.

- Detenu Prisoners shall be allowed to take exercise outside their wards for a period of atleast one hour each morning and evening.

38.

(1) If desired by detenu prisoners, a course of physical drill may be arranged under a warder or head warder of the reserve guard. Such exercise would be given two or three days a week for about 20 minutes at a time. (2) Detenu Prisoners detained in the Central and District Jails may be allowed to have the following articles of indoor and outdoor games at the cost of Government to play the same during the hours prescribed by the Superintendents. Indoor games. Playing cards 1 packet for every 12 prisoners. Chess 1 set for every sixteen prisoners. Carrom 1 set for every sixteen prisoners. Outdoor games. Volley balls, bladder, net, etc. - 1 set for every 36 prisoners in each of the Central Jails. Tenyocoit, net, etc. - 1 set for every 36 prisoners in each of the District Jails.

39. Labour.

- A detenu prisoner shall not be assigned any task including physical labour, unless he voluntarily expresses his willingness to undertake it. In all cases where a task is assigned appropriate remuneration shall be paid if he is willing to accept the same and committed to the private fund of the detenu prisoners kept with the Superintendent of the Jail.

40. Writing materials.

- A detenu prisoner may be allowed the use of an exercise book and pencil or pen and ink. The exercise book shall be of the ordinary school pattern, and pages shall be numbered. The exercise book shall be periodically inspected to see that no pages are missing therefrom.

41. Allowance to prisoners.

(1)A detenu prisoner may, with the previous sanction of the Government receive from friends, relatives or other persons at intervals of not less than a month, funds not exceeding Rs. 50 per month to enable him to supplement the amenities of life in prison. Detenu prisoners' may if they so wish, pool any funds so received by them.(2)All funds so received shall be kept by the Superintendent and be spent by him on behalf of the detenu prisoners.

42.

Each detenu prisoner may be paid a monthly cash allowance at the rate of Rs. 10 to meet the cost of toilet requisites and other sundries.

43. Discipline.

- Every detenu prisoner and his ward shall be searched not less than once a week and more often if the Superintendent considers it necessary by the Assistant Jailor in the presence of the Jailor. Special precaution shall be taken to make the searches thorough and the fact of the search shall be noted in the Jailor's report book. The detenu prisoner shall be searched before and after interviews and at any other time if the Superintendent considers it necessary.

44. Hunger strikes.

- If a detenu prisoner abstains from food and thereby is, in the opinion of the Medical Officer, endangering his health or life, the Medical Officer may administer food to him in such manner as the circumstances appear to the Medical Officer to warrant.

45. Conduct and duties of detenu prisoners.

- A detenu prisoner-(i)shall reside in the accommodation allotted to him by the Superintendent in the association ward;(ii)shall not proceed beyond the limit of the prison save with the 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 discipline, orderly conduct and control of the detenu prisoners;(iv)shall attend roll-call and answer to his name in person at such time and places within the prison 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 wilfully do anything likely to affect 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 may be used as weapon or receive, possess or transfer any article in contravention of an order of the Superintendent;(viii)shall not exchange or sell any of his kit equipment, clothes, furniture or other possessions; and(ix)shall not resort to hunger strike.

46. Offences and penalties.

- Any detenu prisoner who contravenes any of the provisions of clause 40 or clause 45 or refuses to obey any order issued thereunder or does any of the following acts, namely:-(i) assaults, insults, threatens or obstructs, any fellow prisoner or any officer of the prison or any other Government servant, or any person employed in or visiting the prison; or(ii) quarrel in the prison with any person; or(iii) is guilty of indecent, immoral or disorderly conduct; or(iv) communicates, or attempts to communicate in an unauthorised manner with any person inside or outside the prison; or(v) bribes or attempts to bribe any Government servant or any other person employed in or visiting the prison; or(vi) commits any nuisance or wilfully defouls any well, latrine, washing or bathing place; or(vii) disobeys the orders of or shows disrespect to any officer of the prison, or does anything likely to affect the health, safety or discipline of the prison; or(viii) wilfully damages any property belonging to Government or tampers with any locks, lamps or lights in the prison; or(ix) makes groundless complaint; or(x) attempts to commit or abets the commission by fellow prisoner of any of the foregoing acts; or(xi) omits or refuses to help any officer of the prison in the case of an attempted escape on the part of his fellow prisoners; or(xii) omits or refuses to report as soon as it comes to his notice the occurrence of any plot or conspiracy, any escape or preparation to escape, or any attack or preparation for attack upon any prisoner or prison officials; shall be deemed to have committed a detenu prison offence.

47.

(1) Whereupon such enquiry as he thinks fit to make, the Superintendent is satisfied that a detenu prisoner is guilty of a detenu prison offence, he may award the detenu prisoner one or more of the following punishments -(a) confinement in cells for a period not exceeding fourteen days;(b) reduction or alteration of diet for a period exceeding fourteen days;(c) cancellation or reduction for a period not exceeding two months of the concession of receiving funds from outside;(d) cancellation or reduction for a period not exceeding two months of the privilege of writing and receiving letters or of receiving newspapers and books;(e) cancellation or reduction for a period not exceeding two months, of the privilege of having interview; and(f) cancellation of the privilege of wearing his own clothes.(2) In lieu of the punishments provided in sub-clause (1), a detenu prisoner on conviction by a Magistrate of a detenu prison offence shall be liable to imprisonment of either description for a term not exceeding one year or to fine or to both: Provided that where the act constituting the offence constitutes an offence punishable under the Indian Penal Code or under any special or local laws, nothing in these sub-clauses shall preclude the detenu prisoner from being tried and sentenced for such offence in accordance with the provisions of the Indian Penal Code, 1860 or the special or local laws, as the case may be.(3) The Superintendent shall refer the case to the Magistrate for action under sub-clause (2) only when he is of opinion that by reason of the seriousness of the offence or of the frequent commission of such offences by the prisoner or for some other sufficient reason the offence cannot be adequately punished by him under the provision of sub-clause (1).

48.

The Superintendent may withdraw any privileges conferred by these orders from any detenu prisoner who misconducts himself.

49. Appearance at examinations.

- Subject to the provisions of clauses 50 to 59, a detenu prisoner may study for, and appear at any examination held by or under the control of-(a)any university established by an Act of the Legislature of the State of Bihar;(b)any institution in Bihar recognised by the Government.

50.

A detenu prisoner intending to study for, and appear at an examination specified in clause 49, shall provide himself at his own cost with the necessary books and shall himself obtain the permission of the examining authority concerned to appear at the examination. The Superintendent shall, however, afford to such prisoner all reasonable facilities for carrying on necessary correspondence with the examining authority.

51.

A detenu prisoner, who is a bonafide student, may be paid a sum of Rs. 10 per month for pursuing his studies. His examination fee may be payable by Government.

52.

In deserving cases, a sum of Rs. 100 may be paid in the case of a detenu prisoner, who is a college student and a sum of Rs. 40 in the case of a detenu prisoner who is a school student for purchasing text books, papers, etc. Their fees for University Examination may be payable by Government.

53.

The following facilities shall be afforded to every detenu prisoner studying for any examination specified in clause 49. -(a)Books prescribed or recommended by the examining authority for the examination for which the detenu prisoner is studying as well as the necessary books of reference shall not be withheld by the Superintendent.(b)Letters or telegrams written bonafide by a detenu prisoner to an examining authority or received by him from such authority for the purpose of examination shall not be deemed to be letter or correspondence for the purpose of clauses 23 to 26, 28 and 30 and shall not be governed by these clauses.(c)A detenu prisoner may at his own cost be allowed to have additional exercise books, magazines, pens and ink to such extent as the Superintendent may think necessary for the preparation of the examination.

54.

The Government shall incur no expenditure in connection with such examination except. -(a)the cost involved in the correspondence between the detenu prisoner or the Superintendent and the examining authority for obtaining the necessary permission to appear at the examination; and(b)when the examination is held inside the Jail, the charges in respect of the invigilation and the conduct of such examination incurred with the previous sanction of the Government.

55.

No detenu prisoner shall be permitted to appear at an examination unless arrangement made or proposed by the examining authority for holding such examination have been previously approved by the Government.

56.

Where there is no objection to a detenu prisoner being examined inside a jail but it is necessary or convenient that he should be transferred to another jail where he may sit for such examination, the Inspector General of Prisons may in his discretion, direct his transfer to such jail and his re-transfer therefrom after the examination is over.

57.

If the examination of a detenu prisoner is permitted to be held inside a jail, the necessary stationary shall be provided by the examining authority.

58.

When an examination includes practical or oral tests which cannot in opinion of the Government be suitably held inside the jail, he shall be allowed to sit for the examination at the nearest examination centre and the district authorities shall make proper arrangement for escort and guard.

59.

When a detenu prisoner intending to appear at any examination specified in clause 49 applies for the necessary permission to the examining authority, the Superintendent shall while forwarding the application inform such authority that the orders of the Government will be communicated as soon as, possible. The Superintendent shall at the same time send a copy of the application to the Government and he shall state whether the examination includes any practical and oral tests which made it impossible for the prisoner to take it inside the jail. The Superintendent shall communicate to the examining authority the orders of the Government as soon as they are received.

60.

Where an examining authority permits the examination of a detenu prisoner to be held inside the jail, the Superintendent shall make all necessary arrangements for the receipt and safe custody of the question papers and blank answer books, invigilation and the collection, safe custody and transmission of the completed answer book to the authority concerned. If the arrangements are likely to involve any extra expenditure, the Superintendent shall obtain the previous orders of the Government.

61.

The Government may refuse to allow any detenu prisoner to appear at examination without assigning any reason.

62. History Ticket.

- (i) Every detenu prisoner shall be provided with a history ticket containing the information, so far as they are applicable to the prisoner specified in Rules 508 and 509 of the "Rules for Superintendence and Management of jails and subsidiary jails in Bihar and Orissa".(ii)No article shall be issued for the use of detenu prisoner unless it has been noted in his history ticket and passed by the Superintendent.(iii)That a detenu prisoner if transferred from one jail to another, the clothing and other articles except furniture supplied to him at the cost of Government shall be sent with him. A list of the articles so sent shall be noted in his history ticket.

63. Matters not specifically provided for in this order.

- (i) Except so far as the Rules and Orders relating to criminal prisoners are inconsistent with this Order or with any special Order issued by the Government relating to detenu prisoner they shall mutatis mutandis apply to detenu prisoners, as if they were criminal political prisoners and have been sentenced to simple imprisonment.(ii)Cases of special difficulties shall be referred to the District Magistrate for orders in matters affecting the discipline and routine of the Jail. The District Magistrate shall consult the Inspector-General of Prisons.

64.

The order shall not apply to detenu prisoner who has been since convicted for an offence by a Court of Law during the period of his detention for an offence committed by him before he was taken in detention. Rules for Superintendence and Management of Jails will govern the case of such prisoners.