

GOVERNMENT OF RAJASTHAN
Home (Gr. XII Department)

No.F.6 (1) H-12/Jail-2002

Jaipur, Dated 17.1 .2007

NOTIFICATION

In exercise of the powers conferred by clause (5) and clause (27) of section 59 of the prisons Act 1894(IX of 1894) of the Central Legislature as adapted to Rajasthan and of all other powers enabling it in that behalf, the Government of Rajasthan hereby makes the following Rules, namely:-

1. **Short title and commencement.** (1) These rules may be called the Rajasthan Prisons (Shortening of Sentences) Rules, 2006.

(2) They shall come into force at once.

2. **Definition.** - In these rules unless the context otherwise requires;

(a) "Act" means the Prisons Act, 1894 (Central Act IX of 1894);

(b) Government means the Government of Rajasthan;

(c) "habitual criminal" means a prisoner liable to be classified as such under the rules for the time being in force: made under the Act;

(d) "premature release" means a release of a prisoner without completing his judicially ordained sentence as a result of shortening of sentence;

(e) "Shortening of Sentence" means the reduction of that period of sentence of a prisoner which he has to serve in the prison upon a judicially pronounced sentence as a matter of grace on the part of the State and as a recognition of his good behaviour in the prison.

3. **Constitution of Advisory Board**----- (1) Advisory Board shall be constituted for every Central Jail and District Jail to recommend to the Government for shortening of sentences and premature release of eligible prisoners in accordance with these rules.

(2) Advisory Board for the Central Jails located at Divisional Headquarter shall be constituted as follows:-

(a) Divisional Commissioner concerned Chairman

(b) District and Sessions Judge within whose jurisdiction the Central Jail is situate. Member

(c) Two non-officials, preferably members of the State Legislature or Parliament nominated by the Government Members

(d) Superintendent of the Central Jail concerned Member-Secretary

(3) Advisory Boards for all other Central Jails and District Jails ('A' & 'B' Class) shall be constituted as follows:-

- | | |
|---|------------------|
| (a) District Magistrate of the District in which the concerned Jail is situate. | Chairman |
| (b) Judicial Officer next in seniority to the District and Sessions Judge within whose jurisdiction the Central Jail or District Jail is situate. | Member |
| (c) Two non-officials, preferably local members of the State Legislature or Parliament nominated by the Government | Members |
| (d) Superintendent or Deputy Superintendent in charge of the concerned Central or District Jail. | Member-Secretary |

4. Terms of office of non-official members of the Advisory Board. - A non-official member of an Advisory Board shall be appointed for a period of two years but the Government may further extend the period by one year or less.

5. Meetings of Advisory Board. - The meeting of an Advisory Board shall be convened by the Member-secretary at least twice a year in respect of a Central Jail or the District Jail concerned, as the case may be, on such date and at such venue as may be appointed for the purpose by the Chairman of the Advisory Board, normally in the months of January and July every year or on such other dates as the Chairman may appoint.

6. Quorum. - The quorum for the meeting of Advisory Board shall be three including Chairman.

7. Scrutiny by the Advisory Board. - Before recommending shortening of sentences or premature release of prisoners, the Advisory Board shall examine the following matters in full and accurate details:-

- (i) Circumstances under which offence was committed and the punishment was awarded by the court;
- (ii) Details of the prisoner's previous history and character in district where the prisoner was resident;
- (iii) Prisoner's conduct in the Prison and the result of imprisonment already undergone by him;
- (iv) Whether the prisoner has been reformed and is fit to be rehabilitated in the society without any difficulty;
- (v) Opinion of the District Magistrate and the Superintendent of Police of the districts in which the prisoner was convicted and was resident, as to what is likely to be the impact of the prisoner's premature release with special reference to the following points :
 - (a) the reaction in the locality;
 - (b) the feelings of the relatives of the victim or victim of the offence;

- (c) whether the life of the accused himself will be safe;
- (d) any other information material to the case of the prisoner; and
- (e) whether the prisoner can be released without any risk to the society;

8. Prisoners eligibility for consideration by the advisory Board.-

(1)The Advisor Board may consider the cases of the following type of prisoners only:-

- (i) a prisoner undergoing a substantive sentence of five years or over, and who has completed two thirds of imprisonment, including remission;
- (ii) a prisoner sentenced to imprisonment for life or for more than 14 years, and who has served 2/3rd of his sentence excluding remission or 13 years 4 months of imprisonment including remission) whichever is less. The period of imprisonment shall include sentence in default of payment of fine, if the same has not been paid;
- (iii) Prisoners awarded sentences by Court-Martial who have served two-third of their sentences including the period of remissions;
- (iv) Prisoners suffering from fatal diseases like cancer, AIDS, or infectious diseases, such as leprosy; provided their disease is likely to be dangerous to other prisoners and conditions prescribed in rule 7 are fulfilled;
- (v) Prisoners who are completely blind or handicapped and are wholly dependent on others for their daily routine work;
- (vi) Prisoners who have attained the age of 70 years in case of male prisoners and 65 years in case of women prisoners and who have completed at least one third of their sentence, and in whose case no public interest is likely to be served by keeping them in prison, provided they are serving sentences for their first and only conviction.

(2) Notwithstanding anything in sub-rule (1)

- (i) a prisoner who has been sentenced-to imprisonment for life for an offence for which death penalty is one of the punishment provided by law or who has been sentenced. to death but his sentence has been commuted under Section 433 of Code of Criminal Procedure, 1973, into one of imprisonment for life, shall be considered only after he has served 14 years of actual imprisonment excluding remission but including the period of detention spent during enquiry, investigation or trial, on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.
- (ii) prisoners sentenced to imprisonment for life under Sections 304 B, 376, 396, 467, and 489 'D of the Indian Penal Code may be considered for premature release only after completion of 14 years of actual imprisonment (with the period undergone during trial), on the condition that such a prisoner shall also have to earn a minimum of 4 years of remission in order to be eligible for consideration.

Explanation:- For the purpose of this rule, remission shall mean only that part of the remission which is actually earned by a prisoner in accordance with the provisions of the Jail Manual but shall not include any special remission that may be awarded to prisoners in general to mark the occasion of some events like Independence Day, Republic Day, Centenary Celebrations of National Leaders, visit of some dignitaries to jail, etc.

9. Prisoners not eligible for consideration by the Advisory Board.-

Notwithstanding anything in these Rules, the Advisory Board shall not consider the cases of following types of prisoners: -

(1). Prisoners convicted of forgery or any offence against the State involving violence;

Explanation- For this purpose an offence punishable under sections 466, 468, 469 and section 471 to 474 of the Indian Penal Code shall be deemed to be a variation of the offence of forgery.

(2) Prisoners convicted of offences punishable under Sections 366, 366A, 366B, 372, 373, 498B, and 498C of Indian Penal Code;

(3) Prisoners who are habitual criminals, meaning thereby having three or more convictions, all of which are of such a nature as to justify their classification as habitual criminals;

(4) Prisoners detained under any Preventive Detention Law;

(5). Prisoners convicted under Terrorist and Disruptive Activities (Prevention) Act, 1987 (Central Act 28 of 1987);

(6). Prisoners convicted under Narcotic Drugs and Psychotropic Substances Act 1985 (Central Act 61 of 1985); and

(7) Prisoners convicted under the Prevention of Terrorism Act, 2002 (Central Act 15 of 2002).

10. Procedure. - In order that all necessary information might be placed before the Advisory Board, the following procedure shall be adopted:-

(i) The Secretary of the Advisory Board shall collect full particulars regarding each prisoner eligible for consideration by the Board before the date appointed for the meeting of the Board and shall place full accurate details regarding the prisoner's previous history and character, judgment of the sentencing court depicting circumstances in which the offence or offences were committed and sentences were awarded, his prison record together with the report of the District magistrate and the District Superintendent of Police of the district containing information whether the prisoner is considered fit for premature release etc, before the Board. Any other information required by the Advisory Board shall also be made available from the records of the prison.

(ii) Before coming to a decision in each case whether a prisoner is fit for release without any danger to himself and the community at large, the Advisory Board shall carefully scrutinize and consider the judgment of the court, reports of the police and the District Magistrate concerned on the conduct and character of the prisoner recommended for release, any conditions to be prescribed in case of release and the prisoner's conduct and behavior in the prison. Only the prisoner whose conduct has been exemplary in the prison should deserve the consideration of the Advisory Board.

(iii) Report about physical and mental conditions of prisoner fit for release shall be obtained by the secretary of the Advisory Board from the Medical Officer in-charge of the prison concerned and the same be placed before the Board for consideration for final recommendation is made to the Government.

(iv) The Advisory Board shall then submit its recommendations with full history of each case along with relevant papers in form-1 to the Government.

(v) In case of a prisoner convicted by Court-Martial the prisoner's antecedents need not ordinarily be inquired into and it will be sufficient to enquire about his behavior in prison.

11. Conditions for release. - The Advisory board may recommend release of a prisoner conditionally or unconditionally whenever a prisoner is to be released prematurely. Stringent conditions shall be imposed on a prisoner recommended to be released conditionally if so accepted by the Government, and the prisoner so recommended for release shall be made to enter into a bond in Form-2.

12. Consideration by Government. - (1) On receipt of the proceedings of the Advisory Board, and any other relevant paper the Government may order release of a prisoner in cases for which, having regard to all the circumstances of the case, it considers that the prisoner may be released without any harm or danger to the society and the victim and his family. The Government may, if so advised seek more information from any other source it deems fit in order to reach a considered decision.

(2) Government may accept or reject of a recommendation for the release a prisoner

Provided that while issuing an Order of rejection in respect of a recommendation of premature release by an Advisory Board, it shall be sufficient for the Government to state in the said Order, that the matter has been considered in detail and the Order has been passed after taking all the relevant aspects into account.

(3) In case of a prisoner sentenced by Court-Martial the Government shall forward its recommendations to the Government of India for necessary orders.

13. Overriding effect. - In case of an inconsistency between these Rules and provisions in any other Rules made under the Act, the provisions these Rules shall prevail and have overriding effect.

14. Repeal and savings.- The Rajasthan Prisons (Shortening of Sentences) Rules-1958; and rule 135 of Part XXV and rules 136-152 of Part XXVI of the Prison Rules, 1951 are hereby repealed. All action taken under the said rules shall so far as they are consistent with these Rules, be deemed to have been passed or taken under these Rules.

FORM 1
[Rule 10 (iv)]

Recommendation of Advisory Boardas on.....
(Place) (Date)

1. Convict Register No.
2. Name, parentage with husband's Name if female
3. Age on admission
4. Previous occupation
5. Village
6. Police Station
7. District
8. Division
9. Offence With sections
10. Name of sentencing courts
11. Date of Sentences
12. Sentences (in years and months)
13. Sentence served already in years and months
14. Remission already earned
15. Total of columns 13 and 14
16. Date of expiry of sentence
17. Previous convictions with dates, offences and place of each
18. Mental and physical condition reported by Medical Officer (Jails)
19. Special service rendered, if any, such as detection of escape, impending mutiny, etc.
20. Character and conduct in Jail with Supdt's opinion reg. release.
21. REMARKS

Checked with warrants and records of remission and certified as correct.

Full Signature of Jailor
Date

Signature of Medical Officer
Date

Full Signature of Superintendent
Central/District.....Jail
Date

FORM 1 (contd.)
[Rule 10 (iv)]

No.

Dated

Forwarded to the District Magistrate for report on the following points as provided in Rule 7 of the Rajasthan Prisons (Shortening of Sentences Rules, 2006;

- (i) The reaction in the locality if the prisoner is released prematurely;
- (ii) The feelings of relations of the victim or victims of the offence who suffered at the hands of the accused in the case of premature release;
- (iii) Whether the life of the accused itself will be safe if he is to be released prematurely;
- (iv) Any other information material to the case of prisoner;
- (v) Whether the prisoner can be released with any risk to the society and whether they are of opinion that the prisoner may be released conditionally or unconditionally. If conditional release is recommended conditions to be imposed may also be indicated.

sd\
Secretary of the Advisory Board
(Supdt. o Central Jail.....)
District

Report of District Magistrate
Supdt. of Police

Signature of Supdt. of Police

Signature of District Magistrate

.....
Recommendation of the Advisory Board

No.....

Date.....

The Advisory Board considered the case of this convict in its meeting held on..... (dated) in..... (name) prison and after careful scrutiny of the relevant record and the opinion of the Superintendent, Jail, Medical officer of Prison. District Magistrate and the Superintendent of Police of(name) district and taking into account all the factors given in rules 7 and 8 of the Rajasthan Prisons (Shortening of Sentences Rules 2006 does hereby make the following recommendation for premature release of the convict... (name and convict No.)

1. Circumstances in which offence was committed and sentences were awarded
2. Prisoner's previous history and character in the district where he was resident
3. Prisoner's conduct in the prison and result of sentence already undergone
4. Prisoner's mental and Physical condition in the prison
5. Sentence undergone in years and months
6. Remission earned
7. Total of 5 and 6
8. Age of prisoner on the date of report

- 9. Whether Board agrees with the opinion of DM/SP and Supdt. Central or Distt. Jail.
- 10. Whether conditional/unconditional release recommended and in the former cases conditions to be indicated.
- 11. Final remarks.

Place.....
Date.....

Signature of the Advisory Board
.....Chairman
..... Member
..... Member
..... Member
.....Secretary

FORM 2
(Rule 11)

BOND

Whereas I (name).....Son of.....inhabitant of (place)was sentenced to..... imprisonment for a period of from,.....have been ordered to be released by the state government before that date of expiry of my normal period of imprisonment on condition of my entering into a bond to observe the conditions specified hereinafter; I hereby bind myself to the Governor of the State of Rajasthan for the unexpired period of my sentence as follows:-

(1) That I shall present myself, within fourteen days from the date of my release, before the superintendent of Police of the district to which I belong or before the Police Circle officer who has jurisdiction over my place of resident and will produce copies of the order and the bond executed by me.

(2) That I shall submit myself to the supervision of the said Police officer;

(3) That I shall keep the said Police officer advised of my place of residence and means of livelihood;

(4) That I shall not quit the said district of -----without the written permission of said Police officer.

(5) That I shall not associate with bad characters or lead a dissolute life;

(6) That I shall live honestly and peaceably and will endeavour to earn an honest livelihood;

(7) That I shall not commit an offence punishable by any law in force in the Indian Union;

(8) That I shall carry out such lawful directions as may from time to time be given by said police officer for the due observance of the conditions mentioned above;

(9) That in the case of breach of the above conditions on my part. I hereby bind myself to forfeit to the Government of..... the sum of Rupees....I and to render myself liable to be re-arrested to undergo the unexpired portion of my sentence of imprisonment on the date of release.

In witness whereof I have appended hereunto my signatures/thumb impression this the.....date of.....

Witnesses:-

(1)

(2)

Signature|/Thumb Impression

By Order of the Governor

Sd\-

(Seema Singh)

Dy. Secretary (Home-Jail)