

# THE RAJASTHAN PRISONERS ACT, 1960

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# THE RAJASTHAN PRISONERS ACT, 1960<sup>1</sup>

(39 OF 1960)

[Received the assent of the Governor on the 1st day of November, 1960]

*An Act to consolidate and amend the law relating to prisoners in the State of Rajasthan*

Be it enacted by the Rajasthan State Legislature in the Eleventh Year of the Republic of India as follows:—

**Object**—This Act provides for the duties, functions and responsibilities of authorities holding charge of Prisons in one Consolidated enactment.

**1. Short title, extent and commencement.**—(1) This Act may be called the Rajasthan Prisoners Act, 1960.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force at once.

**2. Definitions.**—(1) In this Act, unless the subject or context otherwise requires,—

(a) "**Court**" includes any officer or person lawfully exercising civil, criminal, revenue or other jurisdiction, and

(b) "**Prison**" includes any place which has been declared by the State Government, by general or special order, to be a subsidiary jail.

(2) In this Act, all references to prisons and to imprisonment or confinement therein shall be construed as referring also to reformatory schools, if any, and to detention therein.

**3. Officer-in-charge of prisons to detain persons committed to their custody.**—The officer-in-charge of a prison shall receive and detain all persons duly committed to his custody under this Act or otherwise by any court according to the exigency of any writ, warrant or order by

1. Noti. No. F. 4(52) LJ/A/58, dated 5.11.1960 (Pub. in Raj. Gaz. Ex.-ord., Part-IV-A, dated 7.11.1960, page 175).

which such person has been committed or until such person is discharged or removed in due course of law.

**4. Officer-in-charge of prisons to return writs, etc., after execution or discharge.**—The officer-in-charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid, other than a warrant of Commitment for trial or after the discharge of the person committed thereby, return such writ order or warrant to the court by which the same was issued or made, together with a certificate endorsed thereon and signed by him showing how the same has been executed or why the person committed thereby has been discharged from custody before the execution thereof.

**5. Officer-in-charge of prisons to give effect to sentences.**—Officers-in-charge of prisons may give effect to any sentence or order or warrant<sup>†</sup> for the detention of any person passed or issued by any court or tribunal acting, whether within or without the State under the general or special authority of the State Government or under the provisions of the Constitution of India or any law for the time being in force.

**6. Warrant to be sufficient authority.**—A warrant under the official signature of an officer of such court or tribunal as is referred to in Section 5 shall be sufficient authority for holding any person in confinement in pursuance of the sentence passed upon him.

**7. Procedure where officer-in-charge of prison doubts legality of warrant.**—(1) Where an officer-in-charge of a person doubts the legality of a warrant or order sent to him for execution or the competency of the person whose official seal or signature is affixed there to pass the sentence and issue the warrant or order, he shall refer the matter to the State Government, by whole order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner, and with such restrictions or mitigations, as may be specified in the warrant or order.

**8. Removal of prisoners.**—(1) The State Government may, by general or special order, provide for the removal of any prisoner confined in a prison,—

(a) under sentence of death, or

(b) under, or in lieu of, a sentence of imprisonment, or

(c) in default of payment of a fine, or

(d) in default of giving security for keeping the peace or for maintaining good behaviour, or

✓(e) otherwise,

to any good prison in the State.

(2) Subject to the orders, and under the control of the State Government, any person who is detained in custody in a person pending inquiry or



trial or otherwise under any writ, warrant or order may, by order, be directed to be removed,—

- (a) from one subsidiary jail to another subsidiary jail in the district, by the Collector of the district;
- (b) from one subsidiary jail to another subsidiary jail within a sub-division, by the Sub-Divisional Officer;
- (c) from a subsidiary jail in one district to a subsidiary jail in another district, by the Collector of the district from which the person is removed with the consent of the Collector of the other district; and
- (d) by the Inspector General of prisons,—
  - (i) from one central jail to another central jail or to a district jail or a subsidiary jail, or
  - (ii) from one district jail to another district jail or a central jail or a subsidiary jail, or
  - (iii) from one subsidiary jail to another subsidiary jail or to a district jail or a central jail.

**9. Lunatic prisoners how to be dealt with.**—(1) Where it appears to the State Government that any person detained or imprisoned under any order or sentence of any court is of unsound mind, the State Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the State, thereto be kept and treated as the State Government directs, during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned or, if on the expiration of that term, it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the State Government that the prisoner has become of sound mind, the State Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the State or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The time during which a prisoner is confined in a lunatic asylum under sub-section (1) shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

(4) To every person who is kept in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned the provisions of the Indian Lunacy Act, 1912<sup>1</sup> (Central Act IV of 1912), shall apply.

1. Now see the Provision of Mental Health Act, 1987 (14 of 1987).

(5) In any case in which the State Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the State, the State Government may order his removal of any such asylum or place within any other State by agreement with the Government of that State.

**10. Release of prisoners for special reasons.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, the State Government or any authority to which the State Government may delegate its powers in this behalf, for any special reasons, direct that a prisoner may be released for a period not exceeding fifteen days (excluding the time required for journeys and the days of departure from or arrival at the prison) either without conditions or upon such conditions specified in the direction as the prisoner accepts and may at any time cancel his release.

(2) The authority directing the release of any prisoner under sub-section (1) may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or under the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

(4) No prisoner shall, without the special sanction of the State Government, be released under this section, unless:—

- (a) he has served at least six months of his sentence including remissions,
- (b) his conduct has been, in the opinion of the Superintendent of the jail in which or is serving his sentence, uniformly good,
- (c) he is not a habitual criminal under the rules made under any law relating to prisons for the time being in force in the whole or any part of the State, and
- (d) the offence for which he has been convicted does not, in the opinion of the authority directing release, involve grave moral turpitude or mental depravity.

**11. Surrender of prisoners.**—(1) Any prisoner released under Section 10 shall surrender himself to the officer-in-charge of the prison from which he was released upon the expiration of the period for which he was so released.

(2) If a prisoner does not surrender himself as required by sub-section (1)—

- (a) he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence, and



- (b) he shall be further liable, upon conviction, to be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to five hundred rupees or with both.

**12. Release of prisoners recommended for pardon.**—The High Court may, in any case in which it has recommended to the State Government the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

**13. Power to make rules.**—(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

- (a) the procedure to be followed in respect of the proceedings for the release of prisoners,
- (b) the conditions of release of prisoners including conditions for supervision and restrictions on their movement during the period of their release,
- (c) travelling allowances for prisoners during the period of release, and
- (d) all matters which may be or are required to be prescribed under any provisions of this Act.

**14. Repeal and Savings.**—(1) The Prisoners Act, 1900 of the Central Legislature as adapted to the pre-reorganisation State of Rajasthan and the corresponding laws in force in the Abu, Ajmer and Sunel areas are hereby repealed.

(2) All rules, orders and directions made under the said corresponding laws in force in the Abu, Ajmer and Sunel areas are hereby repealed.

(3) The provisions of the Rajasthan General Clauses Act, 1955 (Raj. Act 8 of 1955) relating to repeal and saving shall apply to the enactments, rules, orders and directions hereby repealed or superseded as if such enactments, rules, orders and directions had been repealed by a Rajasthan law.

(4) Until new rules, orders and directions are made under this Act, the rules, orders and directions made under the Prisoners Act, 1900 of the Central Legislature as adapted to the pre-reorganisation State of Rajasthan and in force at the commencement of this Act, shall unless they are inconsistent with or repugnant to the provisions thereof, continue to be in force and shall apply to the whole of the State of Rajasthan as formed by Section 10 of the State Re-organisation Act, 1956 (Central Act 37 of 1958)