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19-7-04

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
[HOME (GENERAL) DEPARTMENT]
6th LEVEL, 'A' WING, DELHI SACHIVALAYA,
I.P. ESTATE, NEW DELHI

No.F.18/5/94/Home(Genl)/

Dated, the 2004

ORDER

No.F.18/5/94/Home (General) :- In supersession of this Government's Order of even number dated 5th March 2004 and after carefully considering the proceedings dated 20th October, 1993, of the National Human rights Commission, New Delhi; and Commission's letter No. 233/20/97-98(FC) dated 23rd Sept. 2003 the Lt. Governor of NCT of Delhi, is pleased to constitute 'the National Capital Territory of Delhi Sentence Reviewing Board' to review the sentence awarded to a Prisoner undergoing Life sentence convicted by the Courts of Competent jurisdiction in Delhi and make recommendations to him about cases of premature release in appropriate cases and Order as follows:-

1. The Composition of the Board shall be as under :-

- | | |
|---|--------------------|
| (a) Minister In-charge of Prisons | - Chairman |
| (b) Principal Secretary (Home), Govt. of N.C.T. of Delhi | - Member |
| (c) Secretary Law, Justice & Legislative Affairs, Govt. of N.C.T. of Delhi | - Member |
| (d) District and Sessions Judge, Delhi | - Member |
| (e) Chief Probation Officer, Govt. of N.C.T. of Delhi | - Member |
| (f) A senior Police Officer not below the rank of Joint Commissioner of Police, nominated by the Commissioner of Police | - Member |
| (g) Director General of Prisons, Central jail, Tihar, Delhi | - Member Secretary |

2. The Board shall meet at least once in a quarter on a date and place to be notified to Members at least ten days in advance with complete agenda papers.

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

Subject to the provision of Section 433A of the Code of Criminal Procedure, 1973 and Notification No. U 11011/274-UTL(I) dt. 20.3.74 of the Govt. of India, Ministry of Home Affairs, the following categories of convicted Prisoners shall be eligible to be considered for premature release by the Board:-

Eligibility for premature release

Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433 A Cr.PC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e., without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:

- Whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 year incarceration;
- The possibility of reclaiming the convict as a useful member of the society; and

3.63/DA/P/1
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to be sent
all sec's
informed

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31/7/04
20/7/04

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21/7/04

c) Socio-economic condition of the convict's family.

Such convict as stand convicted of a capital offence are prescribed the total period of imprisonment to be undergone including remission, subject to a minimum of 14 years of actual imprisonment before the convict prisoner is released. Total period of incarceration including remission in such cases should ordinarily not exceed 20 years.

Certain categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions. The period of incarceration inclusive of remissions even in such cases should not exceed 25 years. Following categories are mentioned in this connection.

a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.

b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.

c) Convicts whose death sentence has been commuted to life imprisonment.

3.2

All other convicted male prisoners not covered by section 433 A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e., without remissions.

3.3

The female prisoners not covered by section 433A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e., without remissions.

3.4

Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution of India

4.

The following procedure shall be followed for processing the cases for consideration of the Board :-

(i)

Every Superintendent of a Jail in the Union Territory of Delhi who has prisoner(s) undergoing sentence of imprisonment for life shall initiate the case of the prisoners at least 6 months in advance of the date when the prisoner would become eligible for consideration of premature release as per the criteria laid down by the State Government in that behalf.

(ii)

The Superintendent of the Jail shall prepare a comprehensive note in each case mentioning the family and social background of the prisoner along with the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also project clearly the particulars of the conduct and behavior of the prisoner in the jail during the period of his incarceration, behavioral conduct during the period he was released on probation leave/parole change in his behavioral pattern, and offences, if any, committed by him in jail and punishment awarded to him for such offence(s). A report shall also be made about his physical and mental health or any serious ailment from which the prisoner is suffering, entitling his case for special consideration for premature release. The note shall also contain recommendations of the Jail Superintendent on whether or not he

favours for the premature release of the prisoner and in either case it shall be supported by adequate reasons.

- (iii) The Superintendent of the jail shall make a reference to the Deputy Commissioner of Police / Superintendent of Police of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the jail. However in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police / Superintendent of Police of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police / Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner.
- (iv) On receipt of the reference, the concerned Deputy Commissioner of Police / Superintendent of Police shall cause an inquiry to be made in the matter through a senior police officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Deputy Commissioner of Police / the Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/apprehensions. In case the concerned Deputy Commissioner of Police / Superintendent of Police is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and material. He shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.
- (v) The Superintendent of Jail shall also make a reference to the Chief Probation Officer and shall forward to him a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasons material. The Chief Probation Officer shall furnish his report with recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.
- (vi) On receipt of the report recommendations of the Deputy Commissioner of Police / the Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Director General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Director General of Prisons shall examine the case, bearing in mind the report recommendations of the Superintendent of Jail. Deputy Commissioner of Police / Superintendent of Police and the Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.

5. The Board shall follow the following Procedure and Guidelines while reviewing the cases and making its recommendation to the competent authority.

- (i) The Director General of Prisons shall convene a meeting of the Sentence Review Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail, recommendations of the Deputy Commissioner of Police / Superintendent of

- Police, Chief Probation Officer and that of the Director General of Prisons alongwith the copies of documents if any.
- (ii) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary (Home). The Member Secretary (Director General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The Board shall consider the case and take a view. As far as practicable, the Sentence Reviewing Board shall endeavor to make unanimous recommendation. However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board.
 - (iii) While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty / remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large. The Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release. The Board shall take into account the circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again.
 - (iv) Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the reconsideration of the case of a convict already rejected shall be done only after the expiry of a period of not less than Six months from the date of last consideration of his case.
 - (v) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on grounds to be stated or may ask the Sentence Review Board to reconsider a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the Competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith, with or without conditions.

By Order and in the name of
Lt. Governor of NCT of Delhi

(PETER BARA)
DY. SECRETARY HOME (JAIL)
Dated, the 16/7/ 2004

No.F.18/5/94-Home(G)/ 33/7

Copy forwarded for information and necessary action to :-

1. Pr. Secretary to the Chief Minister, (Minister, In-Charge of Prisons), Govt. of NCT of Delhi.
2. Pr. Secretary (Home), Govt. of NCT of Delhi.
3. Secretary (Law), Govt. of NCT of Delhi.
4. District & Sessions Judge, Delhi
5. D.G. (Prison), Prison Headquarters, Central Jail, Tihar, Delhi.
6. Chief Probation Officer, Govt. of NCT of Delhi.
7. The Joint Registrar (Law), NHRC, (Law Division-IV), Sardar Patel Bhawan, Sansad Marg, New Delhi.
8. Commissioner of Police, P.H.Q. I.P. Estate with the request to nominate a senior Police Officer not below the rank of Joint Commissioner of Police, as member of the Board.

Copy for information to :-

1. Secretary to the Lt. Governor, Delhi.
2. O.S.D. to the Chief Secretary, Delhi.
3. Superintendents of Central Jail No. 1,2,3,4,5,6A and New Delhi.

(PETER BARA)
DY. SECRETARY HOME (JAIL)

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
HOME (GENERAL) DEPARTMENT
5TH LEVEL, 'A' WING, DELHI SACHIVALAYA,
I.P. ESTATE, NEW DELHI

New Guidelines

ORDER

No F.18/5/94-Home (General) :- In supersession of this Government's Order of even number dated 12th July 2000 and after carefully considering the proceedings dated 20th October, 1999, of the National Human rights Commission, New Delhi; and Commission's letter No. 233/20/97-98(FC) dated 26th Sept. 2003 the Lt. Governor of Delhi; is pleased to constitute 'the N.C.T. of Delhi Sentence Reviewing Board' to review the sentence awarded to a Prisoner undergoing Life sentence convicted by the Courts of Competent jurisdiction in Delhi and make recommendations to him about cases of premature release in appropriate cases and Order as follows:-

1 The Composition of the Board shall be as under :-

- | | | |
|-----|---|------------------------------|
| (a) | Minister In-charge of Prisons | - Chairman |
| (b) | Principal Secretary (Home),
Govt. of N.C.T. of Delhi | - Member |
| (c) | Secretary Law, Govt. of N.C.T. of Delhi | - Member |
| (d) | District and Sessions Judge, Delhi | - Member |
| (e) | Chief Probation Officer, Govt. of N.C.T. of Delhi | - Member |
| (f) | A senior Police Officer not below the rank of
Joint Commissioner of Police, nominated by
the Commissioner of Police | - Member |
| (g) | Director General of Prisons, Central Jail, Tihar, | - Member Secretary New Delhi |

2 The Board shall meet at least once in a quarter on a date and place to be notified to Members at least ten days in advance with complete agenda papers

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

3 Subject to the provision of Section 433A of the Code of Criminal Procedure, 1973 and Notification No. U-11011/2/74-UTL(I) dt. 20.3.74 of the Govt. of India, Ministry of Home Affairs, the following categories of convicted Prisoners shall be eligible to be considered for premature release by the Board:-

Eligibility for premature release

3.1 Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433 A Cr PC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e., without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like;

- 95 (SRB) 10/1/04
- Whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 year incarceration;
 - The possibility of reclaiming the convict as a useful member of the society, and

New guide line...

Socio-economic condition of the convict's family

Certain categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions. The period of incarceration inclusive of remissions even in such cases should not exceed 25 years. Following categories are mentioned in this connection.

- a) Convicts who have been imprisoned for life for murder in heinous cases such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.
 - b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.
 - c) Convicts whose death sentence has been commuted to life imprisonment.
- 3.2 All other convicted male prisoners not covered by section 433 A Cr PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e. without remissions.
- 3.3 The female prisoners not covered by section 433A Cr PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e. without remissions.
- 3.4 Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution.
4. The following procedure shall be followed for processing the cases for consideration of the Board :-
- (i) Every Superintendent of a Jail in the Union Territory of Delhi who has prisoner(s) undergoing sentence of imprisonment for life shall initiate the case of the prisoners at least 6 months in advance of the date when the prisoner would become eligible for consideration of premature release as per the criteria laid down by the State Government in that behalf.
 - (ii) The Superintendent of the Jail shall prepare a comprehensive note in each case mentioning the family and social background of the prisoner along with the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also project clearly the particulars of the conduct and behaviour of the prisoner in the jail during the period of his incarceration, behavioural conduct during the period he was released on probation leave/parole, change in his behavioural pattern, and offences, if any, committed by him in jail and punishment awarded to him for such offence(s). A report shall also be made about his physical and mental health or any serious ailment from which the prisoner is suffering, entitling his case for special consideration for premature release. The note shall also contain recommendations of the Jail Superintendent on whether or not he favours for the premature release of the prisoner and in either case it shall be supported by adequate reasons.
 - (iii) The Superintendent of the jail shall make a reference to the Deputy Commissioner of Police / Superintendent of Police of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the jail. However in case the place where the prisoner was ordinarily residing at the time of

commission of the offence is different from the place where he committed the offence a reference shall also be made to the Deputy Commissioner of Police / Superintendent of Police of the district in which the offence was committed. In either case he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police / Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner.

- (vi) On receipt of the reference, the concerned Deputy Commissioner of Police / Superintendent of Police shall cause an inquiry to be made in the matter through a senior police officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Deputy Commissioner of Police / the Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/apprehensions. In case the concerned Deputy Commissioner of Police / Superintendent of Police is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and material. He shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.
- (v) The Superintendent of Jail shall also make a reference to the Chief Probation Officer and shall forward to him a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasons material. The Chief Probation Officer shall furnish his report with recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.
- (vii) On receipt of the report/recommendations of the Deputy Commissioner of Police / the Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case in the Director General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Director General of Prisons shall examine the case, bearing in mind the report/recommendations of the Superintendent of Jail, Deputy Commissioner of Police / Superintendent of Police and the Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review Board. regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.
- (viii) The Board shall follow the following Procedure and Guidelines while reviewing the case and making its recommendation to the competent authority :-
 - (i) The Director General of Prisons shall convene a meeting of the Sentence Review Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail, recommendations of the Deputy Commissioner of Police / Superintendent of Police, Chief Probation Officer and that of the Director General of Prisons alongwith the copies of documents if any.
 - (ii) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting it shall be chaired by the Principal Secretary (Home). The Member Secretary (Director General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The Board shall consider the case and take a view. As far as practicable, the Sentence Reviewing Board shall endeavour to make unanimous recommendation.

However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board

While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty / remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large. The Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release. The Board shall take into account the circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again.

- (iv) Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the reconsideration of the case of a convict already rejected shall be done only after the expiry of a period of not less than Six months from the date of last consideration of his case
- (v) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on grounds to be stated or may ask the Sentence Review Board to reconsider a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the Competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith, with or without conditions

By Order

(PETER BARA)
DY. SECRETARY HOME (JAIL)

No.F 18/5/94-Home(G)/ / 1005-

Dated 5/7/94

Copy forwarded to :-

1. Pr. Secretary to the Chief Minister (Minister In-Charge of Prisons), Govt. of NCT of Delhi.
2. Pr. Secretary (Home), Govt. of NCT of Delhi.
3. Secretary (Law), Govt. of NCT of Delhi
4. District & Sessions Judge, Delhi
5. D.G. (Prison), Prison Headquarters, Central Jail, Tihar, Delhi.
6. Chief Probation Officer, Govt. of NCT of Delhi
7. Commissioner of Police, P.H.Q. I.P. Estate with the request to nominate a senior Police Officer not below the rank of Joint Commissioner of Police, as member of the Board.

Copy for information to :-

1. Secretary to the Lt. Governor, Delhi.
2. O.S.D. to the Chief Secretary, Delhi.
3. Superintendents of Central Jail No. 1, 2, 3, 4, 5, 6A and 7 New Delhi

(PETER BARA)
DY. SECRETARY HOME (JAIL)

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
HOME (GENERAL) DEPARTMENT

5, Sham Nath Marg, Delhi-54.
Dated -2000.

ORDER

No. F.18/5/94-Home (General) :- In supersession of this Government's Order of even number dated 19th May, 1999 the Lt. Governor of Delhi; after carefully considering the proceedings dated 20th October, 1999, of the National Human rights Commission, New Delhi; is pleased to constitute 'the N.C.T. of Delhi Sentence Reviewing Board' to review the sentence awarded to a Prisoner undergoing Life sentence convicted by the Court of Competent jurisdiction in Delhi and make recommendations to him about cases of premature release in appropriate cases and Order as follows:-

1. The Composition of the Board shall be as under :-

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| (c) Secretary Law, Govt. of N.C.T. of Delhi. | - Member |
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| (g) Inspector General of Prisons, Central jail, Tihar, New Delhi | -Member Secretary |

2. The Board shall meet at least once in a quarter at the State Headquarters on date to be notified to Members at least ten days in advance with complete agenda papers.

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

3. Subject the provision of Section 433A of the Code of Criminal Procedure, 1973 and Notification No. U-11011/2/74-UTL(I) dt. 20.3.74 of the Govt. of India, Ministry of Home Affairs, the following category of convicted Prisoners shall be eligible to be considered for premature release by the Board:-

- (i) Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr. P.C. shall be eligible to be considered for premature release from the prison immediately after serving of the sentence of 14 years of actual imprisonment i.e. without the remissions.
- (ii) All other convicted male prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 14 years of imprisonment inclusive of remissions and after completion of 10 years actual imprisonment i.e. without remissions.
- (iii) All other convicted female prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions and after completion of 7 years actual imprisonment i.e. without remissions.
- (iv) Convicted prisoners undergoing the sentence of life imprisonment on attaining the age of 65 years provided he or she has served at least 7 years imprisonment including the remissions.

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
HOME (GENERAL) DEPARTMENT**

5, Sham Nath Marg, Delhi-54.
Dated - -2000.

ORDER

No. F.18/5/94-Home (General) : - In supercession of this Government's Order of even number dated 19th May, 1999 the Lt. Governor of Delhi; after carefully considering the proceedings dated 20th October, 1999, of the National Human rights Commission, New Delhi ; is pleased to constitute 'the N.C.T. of Delhi Sentence Reviewing Board' to review the sentence awarded to a Prisoner undergoing Life sentence convicted by the Court of Competent jurisdiction in Delhi and make recommendations to him about cases of premature release in appropriate cases and Order as follows:-

1. The Composition of the Board shall be as under :-

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| (b) Principal Secretary(Home), Govt. of N.C.T. of Delhi | - | Member |
| (c) Secretary Law, Govt. of N.C.T. of Delhi. | - | Member |
| (d) District and Sessions Judge, Delhi | - | Member |
| (e) Chief Probation Officer, Govt. of N.C.T. of Delhi. | - | Member |
| (f) A senior Police Officer not below the rank of I.G.
of Police, nominated by the Commissioner of Police | - | Member |
| (g) Inspector General of Prisons, Central jail, Tihar,
New Delhi | - | Member Secretary |

2. The Board shall meet at least once in a quarter at the State Headquarters on date to be notified to Members at least ten days in advance with complete agenda papers.

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

3. Subject the provision of Section 433A of the Code of Criminal Procedure, 1973 and Notification No. U-11011/2/74-UTL(I) dt. 20.3.74 of the Govt. of India, Ministry of Home Affairs, the following category of convicted Prisoners shall be eligible to be considered for premature release by the Board:-

- (i) Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr. P.C. shall be eligible to be considered for premature release from the prison immediately after serving of the sentence of 14 years of actual imprisonment i.e. without the remissions.
- (ii) All other convicted male prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 14 years of imprisonment inclusive of remissions and after completion of 10 years actual imprisonment i.e. without remissions.
- (iii) All other convicted female prisoners undergoing the sentence of life imprisonment shall be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions and after completion of 7 years actual imprisonment i.e. without remissions.
- (iv) Convicted prisoners undergoing the sentence of life imprisonment on attaining the age of 65 years provided he or she has served at least 7 years of imprisonment including the remissions.

- (v) The convicted prisoners undergoing the sentence of imprisonment for life and who are suffering from terminal diseases like cancer, T.B., AIDS. Irreversible kidney failure, cardio respiratory disease, leprosy and any other infectious disease etc. as certified by a Board of Doctors on completion of 5 years of actual sentence or 7 years of sentence including remissions.

discretion

4. The following category of convicted prisoners undergoing Life Sentence may not be considered eligible for premature release:-

- (i) Prisoners convicted of the offences such as rape, dacoity, terrorist crimes etc.
- (ii) Prisoners who have been convicted for organised murders in a premeditated manner and in an organized manner.
- (iii) Professional murderers who have been found guilty of murder by hiring them.
- (iv) Convicts who commit murder while involved in smuggling operations or having committed the murder of public servants on duty.

5. The following procedure shall be followed for processing the cases for consideration of the Board :-

- (i) Every superintendent of Central District Jail who has prisoner(s) undergoing sentence of imprisonment for life shall initiate the case of the prisoner at least 3 months in advance of the date when the prisoner would become eligible for consideration of premature release as per the criteria laid down by the State Government in that behalf.
- (ii) The Superintendent of Jail shall prepare a comprehensive note in each case giving out the family and societal background of the prisoner. The offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also reflect fully about the conduct and behavior of the prisoner in the jail during the period of his incarceration, behavior conduct during the period he was released on probation leave, change in his behavioral pattern and the jail offences, if any, committed by him and punishment awarded to him for such offence(s). A report shall also be made about his physical mental health or any serious ailment with which the prisoner is suffering entitling his case special consideration for his premature release. The note shall also contain recommendation of the Jail Superintendent whether he favours for the premature release of the prisoner or not and in either case it shall be supported by adequate reasons.
- (iii) The Superintendent of jail shall make reference to the Deputy Commissioner of Police / Superintendent of Police of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the jail. However in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police / Superintendent of Police of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police / Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner.
- (iv) On receipt of the reference, the concerned Deputy Commissioner of Police / Superintendent of Police shall cause an inquiry to be made in the matter through senior police officer of appropriate rank and based on his own assessment shall make his recommendations. While making the

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of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical ground/apprehensions. In case the concerned the Deputy Commissioner of Police / the Superintendent of Police is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and material. He shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.

(v) The Superintendent of Jail shall also make a reference to the Chief Probation Officer and shall forward to him a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasons material. The Chief Probation Officer shall furnish his report recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.

(vi) On receipt of the report recommendations of the Deputy Commissioner of Police / the Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Inspector General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Inspector General of Prisons shall examine the case, bearing in mind the report recommendations of the Superintendent of Jail. Deputy Commissioner of Police / Superintendent of Police and the Chief Probation Officer and shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.

6. The Board shall follow the following Procedure and Guidelines while reviewing the cases and making its recommendation to the competent authority:-

(i) The Inspector General of Prisons shall convene a meeting of the Sentence Review Board on a date and time at the State Headquarters, an advance notice of which shall be given to the Chairman and Members of the Board at least ten days in advance of the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail, recommendations of the Deputy Commissioner of Police / Superintendent of Police, Chief Probation Officer and that of the Inspector General of Prisons alongwith the copies of documents if any.

(ii) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary(Home). The Member Secretary (Inspector General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The Board shall consider the case and take a view. As far as practicable, the Sentence Reviewing Board shall endeavor to make unanimous recommendation. However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board.

(iii) While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty / remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The paramount consideration before the Sentence Review Board being the welfare of the prisoner.

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prisoner merely on the ground that the police have not recommended his release on certain farfetched and hypothetical premises. The board shall take into account the circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again.

- (iv) Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the reconsideration of the case of a convict already rejected shall be done only after the expiry of a period of one year from the date of last consideration of his case.
- (v) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on the grounds to be stated or may ask the Sentence Review Board to reconsider a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the Competent authority has ordered to grant remission and order his premature release, the prisoner shall be released forthwith with or without conditions.

By Order

(MUKESH PRASAD)
DY. SECRETARY : HOME (GENERAL)

No. F.18/5/94-Home(G)/

4335-4344

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14/1/2001
Dt. 12/7/2000

Copy forwarded to :-

1. Pr. Secretary to the Chief Minister (Minister In-charge of Prisons), Govt. of NCT of Delhi.
2. Pr. Secretary (Home), Govt. of NCT of Delhi.
3. Secretary (Law), Govt. of NCT of Delhi.
4. District & Sessions Judge, Delhi.
5. I.G. (Prisons), Prisons Headquarters, Central jail, Tihar, Delhi.
6. Chief probation Officer, Govt. of NCT of Delhi.
7. Commissioner of Police, Delhi, P.H.Q., I.P. Estate, New Delhi with the request to nominate a senior Police officer not below the rank of I.G. of Police, as member of the Board.

Copy for information to :

1. Secretary to the Lt. Governor, Delhi.
2. O.S.D. to the Chief Secretary, Delhi.
3. Superintendents of Central jail No. 1, 2, 3, 4, 5, and 6A, New Delhi.

(MUKESH PRASAD)
DY. SECRETARY : HOME (GENERAL)

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appraisal. The period spent, on violation of the conditions, shall not be counted towards part of sentence served.

1240. At the time of admission of a prisoner as convict, the prisoner would be furnished with a booklet which would contain the present rules. The said booklet would be available both in English/Hindi. In case the convict knows neither English nor Hindi, suitable assistance would be provided to explain the contents.
1241. The Inspector General (Prisons) shall send for consideration for government, all cases of convicts who have not availed parole or furlough in the entire calendar year in accordance with the procedure laid down. The government may consider these cases for grant of parole where they meet eligibility criteria.
1242. Ordinarily, a convict fulfilling all eligibility condition should not be allowed to avail more than 15 weeks of Parole and Furlough in a conviction year and this will be ensured by superintendent of prison.
1243. The prison administration will ensure that all the correspondences pertaining to parole or furlough shall be made through e-office.

CHAPTER-XX

PREMATURE RELEASE

1244. The primary objective underlying premature release is reformation of offenders and their rehabilitation and integration into the society, while at the same time ensuring the protection of society from criminal activities. These two aspects are closely interlinked. Incidental to the same is the conduct, behavior and performance of prisoners while in prison. These have a bearing on their rehabilitative potential and the possibility of their being released by virtue of remission earned by them, or by an order granting them premature release. The most important consideration for premature release of prisoners is that they have become harmless and now have become eligible as useful member of a civilized society.
1245. Premature release of prisoners can be of following four types:-
- I By way of commutation of sentence of life convict and other convict under Section 433 of the Code of Criminal Procedure, 1973 by the Government.

- II. By way of remitting sentence of a prisoner under Section 432 of the Code of Criminal Procedure, 1973 by the Government.
- III. By order of the Head of the State passed exercising power under Article 72 or Article 161 of the Constitution of India, as the case may be.
- IV. Premature release under any special law enacted by the State providing for release on probation of good conduct prisoners after they have served a part of the sentence.

1246. For premature release under Rules 1245 (I) & 1245 (II) of life convicts, the rules as prescribed in this chapter may be followed.

Composition of the Sentence Review Board (SRB)

1247. The Government shall constitute a Sentence Review Board (SRB) to recommend premature release of life convicts in appropriate cases. This should be recommended by body having following members and may be reconstituted as per the orders of the Government from time to time:

- a) Minister In-charge of Prisons - Chairman
- b) Principal Secretary (Home), Govt. of NCT of Delhi - Member
- c) Principal Secretary, Law, Justice & Legislative Affairs, Govt. of NCT of Delhi - Member
- d) District and Sessions Judge, Delhi - Member
- e) Inspector General of Prisons, Delhi - Member Secretary
- f) Director of Social Welfare along with the Report of Chief Probation Officer, Govt. of NCT of Delhi - Member
- g) A senior Police Officer not below the Rank of Special Commissioner of Police, nominated by the Commissioner of Police - Member

In case minister in charge of prisons is not available then Principal Secretary (Home) may Chair the meeting.

Quorum

1248. The cases put forward to the Sentence Review Board (SRB) shall be considered even when one or more members of the Committee are

not able to attend the meeting or when there is a vacancy on the Committee. The quorum shall comprise of 4 members including chairman and the Sentence Review Board (SRB) shall not take any decisions when the quorum is not complete. It shall however be ensured that at least Principal Secretary (Law) or District & Session Judge, Delhi shall be part of the quorum.

Periodicity of the SRB's meetings

1249. SRB should meet at least once in three months at the notified place on a date to be noticed to its members at least 10 days in advance by the Member Secretary. The notice of such meeting shall be accompanied by complete agenda papers.

1250. However, the Chairman of the SRB can convene a meeting of the Committee more frequently, even at short notices, if necessary.

Eligibility for premature release

1251. Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr.P.C shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to recommend to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:-

- a) Whether the convict has lost his potential for committing crime considering his overall conduct in Jail during the 14 year incarceration.
- b) The possibility of reclaiming the convict as a useful member of the society and
- c) Socio-Economic condition of the Convict's family.

1252. Certain categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions but not less than 14 years of actual imprisonment. The following categories are mentioned in this connection:-

- a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the Jail, murder during parole or furlough, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.
- b) Gangsters contract killers smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.
- c) Convicts whose death sentence has been commuted to life imprisonment.

1253. All other convicted male prisoners not covered by Section 433A of code undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e. without remissions.

1254. The female prisoners not covered by Section 433A CrPC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e. without remissions.

1255. Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on ground of terminal illness or old age etc. may be dealt with under the provisions of Article 72 of the Constitution of India.

Procedure

1256. The Procedure to be followed for eventual consideration by the SRB under the rules for every life convict eligible shall be as follows:-

- i Every Superintendent in charge of a prison shall initiate the case of a prisoner at least three months in advance of his/her becoming eligible for consideration for premature

release as per the criteria laid down for eligibility of premature release of life convicts.

- ii. The Superintendent prison shall prepare a comprehensive note for each prisoner, giving his family and societal background as per the record of the case, the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. The Superintendent shall also reflect fully on the conduct and behavior of the prisoner in the prison during the period of his incarceration, and during his/release on probation/leave, change in his/behavioral pattern, and prison offences, if any, committed by him/and punishment awarded to him for such offences. A report shall also be made about his physical and mental health or any serious ailment with which the prisoner is suffering, entitling him for premature release as a special case. The note shall contain recommendation of the Superintendent i.e., whether he favors the premature release of the prisoner or not. In either case such recommendation shall be supported by adequate reasons.
- iii. The Superintendent of the jail shall make a reference to the Deputy Commissioner of Police/ Superintendent of Police of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the Jail. However, in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police/ Superintendent of Police of the district in which the offence was committed in either case, he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police/ Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner.
- iv. On receipt of the reference, the concerned Deputy Commissioner of Police/ Superintendent of Police shall cause an inquiry to be made in the matter through a senior police

officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Deputy Commissioner of Police/ Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/ apprehensions. In case the concerned Deputy Commissioner of Police/ Superintendent of Police is not in favor of the premature release of the prisoner, he shall justify the same with cogent reasons and material. He shall return the reference to the Superintendent of the concerned Jail not later than 30 days from the receipt of the reference.

- v. The Superintendent of Jail shall also make a reference to the Chief Probation Officer and shall forward a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasoned material. The Chief Probation Officer shall furnish his report with recommendations to the Superintendent of the Jail not later than 30 days from the receipt of the reference.
- vi. On receipt of the report/ recommendations of the Deputy Commissioner of Police/ Superintendent of Police and Chief Probation Officer, the Superintendent of Jail shall put up the case to the Inspector General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Inspector General of Prisons shall examine the case, bearing in mind the report/ recommendations of the Superintendent of Jail. Deputy Commissioner of Police/ Superintendent of Police and Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review

Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.

1257. The Board shall follow the following Procedure and Guidelines while reviewing the cases and making its recommendations to the competent authority.

- a) The Inspector General of Prisons with the prior approval of chairman shall convene a meeting of the Sentence Review Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail recommendations of the Deputy Commissioner of Police/ Superintendent of Police, Chief Probation Officer and Inspector General of Prisons along with the copies of documents, if any.
- b) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary (Home). The Member Secretary (Inspector General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The board shall consider the case and take a view. As far as practicable, the Sentence Review Board shall endeavor to make unanimous recommendation. However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board. If equal numbers of members are of opposing views, the decision of the chairman will be final. However, the views of the opposing members should be recorded.
- c) While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty/ remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large. The Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release. The Board shall take into account the circumstances

in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again.

- d) Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the reconsideration of the case of a convict already rejected shall be after the expiry of a period of Six months from the date of last consideration of his case. It is prescribed that decision of the case of a convict of premature release should be through speaking order in writing.
- e) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on grounds to be stated or may ask the SRB to reconsider a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith with or without conditions.

Violation of Conditions

1258. If any convict violates any condition then he will be dealt as under:-

- I If any convict, before being released from the prison, after being recommended by the SRB and yet to be approved by the Government for release commits any prison offence or offence under any law for the time being in force then his case will again be put up before next SRB after withdrawing his case from the Government, or if the case is approved by the Government then the case of the convict will be put up before the next SRB only after approval of the Government.
- II If any convict after being released from the prison violates any condition of the release or commits any offence under any law for the time being in force then he will be sent back to the prison after taking approval from the Government to serve the original sentence.

Monitoring of Cases

1259. A computerized record of all the prisoners serving sentence in the prisons, for a follow up of their cases, is extremely desirable in every prison as well as at the Prisons Headquarters and at the Home or Prison Department of the Government. The monitoring system should be based on the following guidelines:

- I. There should be a single file system for the case of every prisoner. Such files shall be maintained at the prison institution.
- II. This file will have a complete record of information regarding the consideration of a prisoner's premature release on any grounds on previous occasions and the date of reconsideration of the case.
- III. Full record of information regarding the stage of each prisoner's premature release shall be kept in a register prescribed for the purpose as well in computers.
- IV. Monitoring of all cases shall be done every month at the prison level and every three months at Prisons Headquarters level.

CHAPTER XXI

PRISON DISCIPLINE

1260. Prison discipline is the prime mover of a dynamic and interactive human mechanism called the correctional process, which an offender undergoes to get reformed into a law-abiding and dignified citizen, who can become self-reliant after his release and deserve a rightful place in the mainstream of the society.

1261. An offender, after release, always faces cold treatment and rejection from the society at large. On account of such rejection and dislike, the gap between offender and the society becomes wider. This sends the offender back into the world of crime, and from there again to custody, making a vicious circle. This is how crime recurs. Correctional work aims to bridge the gulf between the offender and the mainstream society.

1262. Prison discipline should be reformatory and curative and not retributive and repressive and should be carried on with a view to