

F.N.17013/13/2009-PR
Government of India
Ministry of Home Affairs

New Delhi, the 23rd March 2009

To

Principal Secretary (Prisons)/ Principal Secretary (Home-in charge of prisons)
All State/ Union Territories

Sir

Subject: Ban of smoking etc in prison premises –advisory-
regarding

As you are aware the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 was enacted in Parliament in May 2003 mainly with a view to discourage the consumption of cigarettes and other tobacco products. This Act is applicable to the entire country. The statutory provisions relating to prohibition of smoking in public places such as work places, hotels, restaurants, discos, bars and pubs, have been further strengthened with effect from 2nd October 2008. However, the above laws do not appear to cover prisons as they would not fall within the category of public place.

The smoking is not a constitutional right whereas breathing fresh air, free from toxins, is a fundamental right guaranteed under the Constitution. The sale/ consumption of tobacco products in the prison premises is a public health hazard, especially to the vast majority of non-smokers as passive smoking is equally harmful. Since Indian jails are overcrowded, the non-smoker prisoners are very much prone to the ill effects of the smoking. It is, therefore, desirable that the jail authorities may explore the possibility of declaring the jails tobacco free/ smoke free as also prevent the sale of tobacco products in the prison premises by invoking suitable legislation or making suitable provision in their jail manuals. This will not only protect the health of prison inmates but also remove corruption in prison.

Yours faithfully

Sd/-
(Neeraj Kansal)
Director (CS)