

No.V-17011/06/2015-PR
Government of India
Ministry of Home Affairs
(CS Division)

5th Floor, NDCC-II Building,
Jai Singh Road, New Delhi
Dated : the 23rd September, 2015
~~24th~~

To,

✓ The Chief Secretaries of all States/UTs

✓ The Principal Secretary/Secretary Home (In-charge of Prisons)
of all States/UTs

✓ DG (Prisons)/IG(Prisons) of all States/UTs

Sub: Security advisory for shifting of high risk prisoners from the jail of one State/UT to the jail of another State/UT- reg.

Sir/Madam,

As you are aware "Prisons" is a State subject under Entry 4 of List II of the Seventh Schedule to the Constitution. The management and administration of Prisons falls exclusively in the domain of the State Governments, and is governed by the Prisons Act, 1894 and the Prison Manuals of the respective State Governments.

2. The transfer of prisoners from one State to another State is governed under the Transfer of Prisoners Act, 1950. Section 3 of the Transfer of Prisoners Act, 1950 provides for transfer of prisoners through mutual consent of the two State Governments, where any person is confined in a prison in a State -

- (a) under sentence of death, or
- (b) under or in lieu of, a sentence or imprisonment or transportation, or
- (c) in default of payment of a fine, or
- (d) in default of giving security for keeping the peace or for maintaining good behavior.

The Statement of object and reasons of the Transfer of Prisoners Act 1950 provides that the *transfer of such prisoners may be considered if it is administratively desirable and necessary.

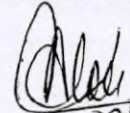
3. State Governments are expected to follow the spirit of the legislation to prevent security hazards in such transfer. Transfer of **high risk prisoners** i.e., prisoners convicted or charged in terror related cases or heinous crimes like murder, rape, human trafficking or any other kind of organized crime etc., from one State/UT should be considered taking into account security implications of such transfers in both the transferring and the receiving State/UT.

4. States/UTs need to be extremely cautious in shifting of such prisoners to the jails of other States and inputs from both Central and State security agencies like IB/Special branch of the State/UT need to be taken to avoid any adverse security implications in transfer of such prisoners who may misuse the provisions of Transfer of Prisoners Act., 1950 for obtaining transfer on other proxy grounds. The transfer of such prisoners may also have law and order repercussions in both the transferring and the receiving States which needs to be assessed based on the inputs of State and Central Security agencies.

5. The State/UT administrations should consult the IB/Special branch of the State/UT and obtain their views/comments before shifting of such high risk prisoners from one State to another State in all such cases as mentioned in para 3 above. In case the IB provides adverse inputs dissuading from such transfers, the transfer of such prisoners should be avoided.

The receipt of this advisory may kindly be acknowledged.

Yours faithfully,



(Kumar Alok)

Joint Secretary to the Government of India
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