

No. 17013/23/2020-PR
Government of India
Ministry of Home Affairs
Women Safety Division

Major Dhyan Chand National Stadium
India Gate, New Delhi – 110002
September 3, 2020

To

1. The Chief Secretaries of all States and UTs.
2. The DG/IG (Prisons) of all States and UTs.

Sub: Grant of Parole/Furlough to inmates and their premature release from Prison - review of Guidelines.

Sir/Madam,

Prison, as a deterrent and an institution of correctional administration, is a key constituent of criminal justice system. Imprisonment besides being a mode of punishment also aims at protecting the society from criminal activities. A balance is, therefore, considered essential between ensuring the rights of inmates and protecting the society from further harm.

2. 'Prisons' and 'persons detained therein' being 'State' subjects, State Governments have enacted rules for premature release of prisoners based on their good conduct and for grant of parole/furlough etc. Model Prison Manual 2016, which is a comprehensive document, covering almost all aspects of prison administration, was prepared by the Ministry of Home Affairs and circulated to all States and UTs in May 2016. It provides detailed guidelines on the issue of inmates 'Contact with the outside World', 'Remission', 'Premature Release' and 'Parole and Furlough' etc. The Ministry of Home Affairs has also shared various guidelines and rulings of the Hon'ble Supreme Court in matters of prison administration with all States and UTs, in the form of advisories issued from time to time. Model Prison Manual, 2016 provides that the privilege of release on parole and furlough should be allowed to selective prisoners on the basis of well-defined norms of eligibility and propriety. Release on parole is not an absolute right. It is a concession. Model Prison Manual, 2016 provides that the following categories of prisoners may not be eligible for release on parole or furlough:

- i) Prisoners whose immediate presence in the society may be considered dangerous or otherwise prejudicial to public peace and order by the District Magistrate and Superintendent of Police;
- ii) Prisoners who are considered dangerous or have been involved in serious prison violence like assault, outbreak of riot, mutiny or escape, or who have been found to be instigating serious violation of prison discipline as per the reports in his/ her annual good conduct report;
- iii) Prisoners convicted for heinous offences, such as dacoity, terrorist crimes, kidnapping for ransom, smuggling of commercial quantity of narcotic and psychotropic substances and such prisoners who in the opinion of District Magistrate/District Superintendent of Police may not report back to the Prison after completion of the furlough period.

3. Counselling and psychological therapy have a significant role in addressing the issue of prisoner reformation. It may, therefore, be necessary for States to evolve and implement suitable behavioural therapy and counseling programs for inmates by involving Psychologists and other experts to bring in the desired behavioural changes.

4. At the same time, concerns have been expressed regarding recidivism, as in some cases, prison inmates, on temporary release from prison either on parole/furlough or on premature release, before completion of their sentence, have re-offended or indulged in criminal activities. This underlines the need to carefully regulate the grant of parole, furlough, remission and premature release to prisoners. It is, therefore, important for State authorities to review their guidelines to ensure that the facility and concession given to inmates, by way of parole, furlough and premature release etc., with the intention of providing them relief and rehabilitation, is not abused and misused by them and their advantage does not turn into disadvantage and nuisance for the society at large. The following provisions may, therefore, be included in the guidelines:

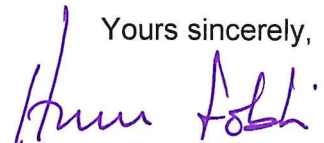
- i) Grant of parole and furlough to those offenders, whose release may have adverse impact on the security of the State or safety of individuals, may be strictly restricted.
- ii) The parole rules of States, including the criteria, duration and frequency may be reviewed after making an assessment based on their experience about the benefits and detriments of such parole.
- iii) Parole and furlough may not be granted as a matter of routine and may be decided by a Committee of officers and behavioural experts, who may meet as per requirement, keeping in view all relevant factors, especially for inmates sentenced for sexual offences, serious crimes such as murder, child abduction, violence etc.
- iv) It may be useful to invariably include an expert Psychologist/Criminologist/ Correctional Administration Expert as a member of the Sentence Review Board and in the Committee which decides grant of parole and furlough to inmates and obtain their opinion before such temporary release.

5. Attention is also invited to some extracts of the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as 'The Nelson Mandela Rules' (enclosed as Annexure), which are reiterated to all States/UTs for their general guidance and implementation.

6. In view of the above, it is requested to **review the existing practices and procedures governing grant of parole, furlough and premature release to inmates**, especially in light of Model Prison Manual, 2016 and guidelines issued by the Ministry of Home Affairs, NHRC and the Apex Court etc. from time to time. It is also requested to include the above mentioned provisions in the protocols developed for the purpose as it is necessary to ensure careful and comprehensive examination of each such case. Further, in order to ensure that inmates released on parole, furlough and premature release etc. do not violate law, systems must be put in place for monitoring and follow up of each case. An action taken report may please be sent to MHA.

Encl: As above

Yours sincerely,



(Arun Sobti)

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Major extracts of the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as 'The Nelson Mandela Rules'

Rule 4: The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily **to protect society against crime and to reduce recidivism**. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.

To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health - and sports-based nature. **All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.**

Rule 94: As soon as possible after admission and after a **study of the personality** of each prisoner with a sentence of suitable length, a **programme of treatment** shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.

Rule 91: The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits **to establish in them the will to lead law-abiding and self-supporting lives** after their release and to fit develop their sense of responsibility.

Rule 92: To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and **strengthening of moral character, in accordance with the individual needs of each prisoner**, taking account of his or her social and criminal history, physical and mental capacities and aptitudes, personal temperament, the length of his or her sentence and prospects after release. For every prisoner with a sentence of suitable length, the prison director shall receive, as soon as possible after his or her admission, full reports on all the matters referred to in paragraph 1 of this rule. Such reports shall always include a report by the physician or other qualified health-care professionals on the physical and mental condition of the prisoner.

Rule 78: So far as possible, prison staff shall include a **sufficient number of specialists such as psychiatrists, psychologists**, social workers, teachers and trade instructors. The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.