

Government of Gujarat
Home Department
No.JLK-392015-GOI-09-J
Sachivalaya, Gandhinagar.
Dated the 29th September, 2015

- Reference:**(1)Government of India, Ministry of Home Affairs (CS Division), New Delhi Letter No.V-13013/70/2012-IS(VI), Dated:17/01/2013.
- (2)Writ Petition (Civil) No.406/2013, before the Hon. Supreme Court of India. Re: Inhuman Conditions in 1382 Prisons in India as reflected in the Graphic Story Published in Dainik Bhaskar (National Edition) dated 24/03/2013 Vs Prisons department/Authorities in India, Order dated 24/04/2015
- (3)Government of India, Ministry of Home Affairs (CS Division), New Delhi Letter No.V-17014/04/2013-PR, Dated: 30/04/2015.
- (4)Gujarat State Legal Services Authority, Ahmedabad, e-mail Letter No.GSLSA/1036/2015, Dated: 18/05/2015.
- (5) Even numbered circular of Home Department, dated 24/06/2015.
- (6) Even numbered circular of Home Department, dated 30/07/2015.
- (7)Writ Petition (Civil) No.406/2013, before the Hon. Supreme Court of India. Re: Inhuman Conditions in 1382 Prisons, Order dated 07/08/2015.
- (8)Gujarat State Legal Services Authority, Ahmedabad, Letter No.GSLSA/1628/2015, Dated: 14/08/2015.

RESOLUTION:

Overcrowding in the prisons of India is the major problem. Many initiatives have been taken to reduce the overcrowding. One of the initiatives taken by the Government of India has been amendment of section 436 in the Cr.P.C. through the Criminal Procedure Code Amendment Act, 2005 and the insertion of a new section 436A. The section 436A is reproduced below:

“436A. Maximum period for which an undertrial prisoner can be detained –
Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation. – In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded”.

The Honourable Supreme Court of India has also taken the serious notice of the inhuman conditions prevailing in 1382 prisons in India as reflected in the Graphic Story published in Dainik Bhaskar (National Edition) dated 24/03/2013.

The Honourable Supreme Court of India has directed vide his order dated 24-04-2015 in Suo Moto Writ Petition (Civil) No.406 of 2013, regarding Inhuman Conditions in 1382 Prisons in India that an Under Trial Review Committee should be set up in every district. The Government has set up the Under Trial Review Committee vide the circular mentioned at reference no.(5) and amended it vide the circular mentioned at reference no.(6). The Honourable Supreme Court of India has further directed vide his order dated 07-08-2015 to add the Secretary of the District Legal Services Authority as one of the members of the committee and the Superintendent of Police to associate the Secretary of the District Legal Services Authority in the meetings.

2. After careful consideration the Government has decided to set up the Under Trial Review Committee of the following mentioned officers in every district of the State for the purpose of implementation of section 436A of the Code of Criminal Procedure, 1973

- (1) The District Judge – Chair Person
- (2) The District Magistrate – Member
- (3) The Secretary of the District Legal Services Authority - Member
- (4) The District Superintendent of Police / the Joint Commissioner of Police(Crime) / the Deputy Commissioner of Police(Crime) – Member

3. The function of the Under Trial Review Committee

(1) The Under Trial Review Committee should consider the cases of all under trial prisoners who are entitled to the benefit of section 436A of the Code of Criminal Procedure, 1973.

In a case of multiple offences a review is conducted after half the sentence of the lesser offence is completed by the under trial prisoners. It is not necessary or compulsory that an under trial prisoner must remain in custody for at least half the period of his maximum sentence only because the trial has not been completed in time.

(2) The Under Trial Review Committee shall meet every year in the month of March, June, September and December.

(3) The review committee shall comply the directions of the Honourable Supreme Court of India.

(4) The review committee shall immediately forward the action taken report of the meeting to the Gujarat State Legal Services Authority.

(5) The concerned Superintendent of Police will act as the member secretary of the committee and associate the concerned Secretary of the District Legal Services Authority in the meetings of the Under Trial Review Committee.

The above instructions shall scrupulously be followed.

4. **Repeal and Savings:** The even numbered circulars of Home Department, Government of Gujarat, dated 24/06/2015 and dated 30/07/2015, regarding Under Trial Review Committee, are hereby repealed :

Provided that such repeal shall not affect the previous operation of the circulars so repealed or anything done or any action taken there under.

By order and in the name of the Governor of Gujarat,


(Dilip G. Soni)

Joint Secretary to Government of Gujarat,
Home Department

Copy to:-

1. The Secretary to the Hon. Governor of Gujarat State, Rajbhavan, Gandhinagar (By Letter),
2. The Principal Secretary to the Hon. Chief Minister, Sachivalaya, Gandhinagar,
3. The Personal Secretary to the Hon. Minister of State (Home), Sachivalaya, Gandhinagar,
4. The Personal Secretary to the Hon. Minister of State (Legal), Sachivalaya, Gandhinagar,

5. The Additional Chief Secretary, General Administrative Department, Sachivalaya, Gandhinagar,
6. The Additional Chief Secretary, Home Department, Sachivalaya, Gandhinagar,
7. The Additional Chief Secretary, Revenue Department, Sachivalaya, Gandhinagar,
8. The Secretary, Legal Department, Sachivalaya, Gandhinagar,
9. The Registrar, Hon. Gujarat High Court, Ahmedabad,
10. The Hon'ble Patron-in-chief, Gujarat State Legal Services Authority, Ahmedabad,
11. All the Joint Secretary/Deputy Secretary/Under Secretary of the Home Department, Sachivalaya, Gandhinagar,
12. Smt. Hemantika Wahi, Advocate, Hon. Supreme Court, New Delhi,
13. The Government Pleader (Criminal), Hon. Gujarat High Court, Ahmedabad,
14. The Government Pleader (Civil), Hon. Gujarat High Court, Ahmedabad,
15. The Director General & Inspector General of Police, Gujarat State, Gandhinagar,
16. The Add. D.G. & I.G. of Prisons, Gujarat State, Ahmedabad,
17. All the District Judges, Gujarat State,
18. All the District Magistrates, Gujarat State,
19. All the Secretaries of the District Legal Services Authority, Gujarat State,
20. All the Additional and Asst. Sessions Judge, Gujarat State(through Legal Department),
21. All the Commissioner of Police, Gujarat State,
22. All the District Superintendent of Police, Gujarat State,
23. All the Jail Superintendents (Through I.G. Prisons), Gujarat State,
24. All the Branches of the Home Department, Sachivalaya Gandhinagar,
25. Section Officer, IT cell, Home Department, Sachivalaya, Gandhingar(with request to upload the circular on the website of the Department),
26. Section Officer Select File,
27. Deputy Section Officer Select File,
28. Select File.