

CHAPTER XV
PRISON VISITORS

SECTION I : STATUTORY RULES

[Government Notification, Home Department, No. 1058 (XV)—IV,
Dated 30th April 1962]

In exercise of the powers conferred by clause (25) of section 59 of the Prisons Act, 1894 (IX of 1894), and of all other powers enabling it in that behalf and in supersession of the rules relating to visitors of Prisons in force in any part of the State, the Government of Maharashtra hereby makes the following rules, namely :—

Short title and commencement.

1. (i) These rules may be called, 'The Maharashtra Visitors of Prisons Rules, 1962'.

Definitions.

(ii) They shall come into force on the 1st day of June 1962.

2. In these rules, unless the context requires otherwise—

(a) "Board" means a Board of Visitors constituted in accordance with the provisions of these rules,

(b) "Chairman" means the Chairman of the Board,

(b-1) 'Police Officer' ("including any officer who is competent to investigate any offence under any law for the time being in force".)

(c) "Prohibition Officer" shall have the meaning assigned to it in clause (35) of section 2 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949),

Board of visitors

(d) "Visitor" means a member of the Board.

3. There shall be a Board of Visitors for each prison in the State consisting *ex-officio* visitors and non-official visitors appointed under these rules.

‡Provided that, the State Government may not appoint a Board of Visitors for any prison, regard being had to the safety or security of the prisoners therein, the history or background in which they have been confined in such prison, the nature of the crime committed by them, the circumstances leading to such crime and any other factor relevant in relation to any such prison or prisoners confined therein.‡

* — * Added by Government Notification, Home Department, No. RJM-1058 (XV) 22907 IV, dated 22nd May 1965.

‡ — ‡ Added by Government Notification. Home Department, No. NVJ-1268/C268, dated 22nd July 1969.

4. The following officers shall, in respect of prisons located within their respective jurisdiction, be *ex-officio* visitors, namely :—

Ex-officio
visitors

- (1) The Sheriff of Bombay,
- * (2) Presidency Magistrates, Greater Bombay,*
- (3) Sessions Judges,
- (4) District Magistrates,
- (5) Sub-Divisional Magistrates,
- (6) Taluka Magistrates,
- (7) The Inspector General of Police,
- (8) The Commissioner of Police, Greater Bombay,
- (9) Deputy Inspector General of Police,
- (10) District Superintendents of Police,
- (11) The Commissioners of Divisions,
- (12) Superintending Engineers,
- (13) Executive Engineers
- (14) The Surgeon General with Government of Maharashtra,
- (15) Civil Surgeons who are not medical officers of prisons,
- (16) The Director of Public Health,
- (17) The Assistant Director of Public Health,
- (18) District Health Officers,
- (19) The Director of Education,
- (20) The Director of Social Welfare,
- (21) Educational Inspectors,
- † (22) [The Mayor of any Municipal Corporation constituted under any law for the time being in force in the State.]†
- (23) † [The Commissioner or the Chief Executive Officer of the Municipal Corporation constituted under any law for the time being in force in the State.]†
- (24) The President of a municipality constituted under any law for the time being in force in the State.
- (25) Any other officer nominated by the State Government.

5. (i) There shall ordinarily be eleven non-official visitors, for the prisons in Greater Bombay, nine for each of the central prisons; six for each of the district prisons, Class I and four for each of the remaining prisons.

Non-official
visitors

— Substituted by Govt. Notification, Home Department, No. RJM-1058 (XVI)-IV, dated 2nd August 1962.

†...† Substituted by Govt. Notification, Home Department. No PVP-1371/1 (XVI), dated 23rd May 1973.

- (ii) Subject to the provisions of sub-rule (iii),—
 - (a) the eleven visitors for the prisons in Greater Bombay shall be—
 - (i) five members of the Maharashtra Legislature, and
 - (ii) six persons to be nominated by the State Government of whom not less than three shall be women;
 - (b) the nine visitors for each of the Central prisons shall be—
 - (i) four members of the Maharashtra Legislature, and
 - (ii) five persons to be nominated by the State Government of whom not less than two shall be women;
 - (c) the six visitors for each of the district prisons, Class I shall be—
 - (i) three members of the Maharashtra Legislature, and
 - (ii) three persons to be nominated by the State Government of whom ordinarily not less than one shall be a woman;
 - (d) the four visitors for each of the other prisons shall be—
 - (i) two members of the Maharashtra Legislature, and
 - (ii) two persons to be nominated by the State Government of whom one at least shall be a woman,
 - (iii) No person shall be appointed as a non-official visitor unless he or she is willing to serve as such visitor.

Appointment of
non-official
visitors.

6. (i) The appointment of non-official visitors (other than members of the Maharashtra Legislature) shall, subject to the provisions of sub-rule (4), be made by the State Government from amongst persons who in its opinion, are interested in the administration of prisons and are likely to take interest in the prisoners and their welfare both while they are in prison and after their release.

(ii) The appointment of members of the Maharashtra Legislature as visitors shall, subject to the provisions of sub-rules (iii) and (iv), be made by the State Government annually from amongst the members of the Maharashtra Legislative Assembly representing Greater Bombay, or as the case may be, the District, in which the prison is situated and from amongst the members of the Maharashtra Legislative Council residing in Greater Bombay, or as the case may be, the district, in which the prison is situated.

(iii) The appointment of the members of the Maharashtra Legislature under sub-rule (2) shall be made by turns to be fixed jointly by such members themselves within such period as may be communicated to the members concerned by the Chief Presidency Magistrate in Greater Bombay and elsewhere by the District Magistrate concerned. Where the members fail to fix their turns, the Chief Presidency Magistrate in Greater Bombay and the District Magistrate concerned, elsewhere, shall fix such turns by drawing lots provided the name of any lady member of the Maharashtra Legislature shall not be included in such lot unless she is willing to serve as such visitor.

(iv) The tenure of office of visitors appointed under sub-rule (i) shall ordinarily be three years, and of the members of the Maharashtra Legislature shall be one year or till the member ceases to be a member of the Maharashtra Legislature, whichever is earlier.

(v) All appointments made under this rule shall be notified in the *Official Gazette*.

Explanation.—For the purpose of this rule, a member of the Maharashtra Legislature shall not include a Minister, Deputy Minister or Parliamentary Secretary or the Speaker or the Deputy Speaker of the Maharashtra Legislative Assembly or the Chairman or the Deputy Chairman of the Maharashtra Legislative Council.

Chairman of Board.

7. The Chief Presidency Magistrate, Bombay, in Greater Bombay, and the District Magistrate elsewhere, shall be the Chairman of the Board. In the absence of the Chairman, the meetings of the Board shall be presided over by the Sessions Judge (or by the senior most Sessions Judge if there be more than one present). *[If at any meeting of the Board, the Commissioner of the Division is present, he shall preside over such meeting.]*

Power of Government to terminate appointment of visitors.

8. Notwithstanding anything contained in the foregoing rules, the State Government may, at any time, terminate the appointment of any person appointed as a visitor, *ex-officio* or otherwise.

Every visitor to be provided with copy of rules.

9. Every visitor shall, on appointment, be provided with a copy of these rules.

List of visitors to be posted at Prison Gates.

10. A list of the visitors of the prison shall be posted in a conspicuous place between the two Prison Gates.

— Added by Government Notification, Home Department No. RJM-1063/34031-IV, dated 20th March 1964.

Meetings of Board—Visits to prisons.

11. (i) The Chairman shall convene a quarterly meeting of the Board in the months of January, April, July and October to carry out the duties specified in these rules.

(ii) The Chairman shall arrange a weekly programme of visits to a prison by one of the visitors and the Superintendent of that prison shall give timely intimation to the visitor concerned of the prison and of the week in which he is required to visit the prison in accordance with the programme arranged as aforesaid,

(iii) The Chairman shall also likewise arrange for the periodical inspection of women's wards in a prison by lady visitors.

(iv) Notwithstanding anything contained in sub-rules (ii) and (iii)—

(a) any visitor may visit any prison for which the Board (of which he is the member) is appointed on any day at any time during the day in addition to his or her weekly visit arranged by the Chairman under sub-rule (ii) or (iii),

(b) an *ex-officio* visitor whose headquarter is situated at a place other than the place where a meeting of the Board is held or the prison is situated may not attend the quarterly meetings or pay weekly visits as arranged by the Chairman; but such visitor shall so far as is practicable visit the prison in the course of inspection tour of his subordinate offices located at the place where the prison is situated,

(v) No visitor shall nominate a substitute to function in his place for the purpose of these rules.

Conveyance allowance to non-official

12. A non-official visitor shall be entitled in respect of every visit to a prison made in pursuance of the provisions of these rules to such conveyance charges as may be sanctioned by the State Government from time to time.

visitors. Visitors not to visit after lock-up and on

13. Except for special reasons, which shall be recorded in the Visitors' Book, no visitor shall inspect any prison on Sundays and Jail Holidays, or between the hours of 6 p. m. and 6 a. m.

Holidays and Sundays. Visitors to be accompanied by officer and escort during inspection of prison.

14. On arrival of a visitor in a prison, the officer, if any, on duty at the gate or the Gatekeeper shall arrange for an Executive Officer to accompany the visitor with adequate escort. No visitor shall be allowed to proceed further unless accompanied by the Executive Officer with adequate escort.

15. Visitors may at the time of their visits make a note of the number of prisoners confined in undertrial yards and their respective periods of detention and may make a report in the Visitors' Book about the cases of undertrial prisoners which appear to have been unduly delayed beyond the prescribed period of three months.

Period of deduction of undertrial prisoners to be watched by official visitors.

16. All visitors may, as far as possible—

Duties of visitor

(a) inspect the barracks, cells, wards, worksheds and other buildings of the prison,

(b) ascertain whether—

(i) considerations of health, cleanliness and security are attended to,

(ii) proper management and discipline are maintained in every respect,

(c) examine—

(i) the registers of convicted and undertrial prisoners,

(ii) the punishment book,

(iii) other prison registers containing entries relating to prisoners,

(iv) the prison accounts containing entries relating to prisoners,

(d) hear and attend to all representations and petitions made by prisoners or see and question any prisoner out of hearing, but not out of sight, of the jail officer,

(e) direct, if deemed advisable, that any such representations or petitions including appeal and mercy petitions withheld by the Superintendent under rules in force be forwarded to the State Government,

(f) enter in the Visitors Book,—

(i) the date and hour of the visit,

(ii) any remarks as to the result of the inspection,

(g) call for from the jail record any book wherein entries relating to prisoners are made and inspect it unless the Superintendent for reasons to be recorded in writing refuses to allow such inspection on the ground that it is not desirable so to do in the public interest.

17. (i) No visitor shall have access to such prisoners or class of prisoners as the State Government may from time to time specify.

Access to certain prisoners by visitors prohibited.

(ii) The State Government may appoint the District Magistrate or any other person or persons to visit such prisoners or class of prisoners specified under sub-rule (1) and may issue such instructions for the guidance of the person or persons so appointed as it may think fit,

Action on
remarks by
visitors.

18. (i) Where any visitor has brought to notice any grave irregularity or other important matter requiring immediate attention or where any remarks made by a visitor require specific attention, the Superintendent of the prison shall at once forward a copy of the visitors remarks recorded in that behalf in the Visitors' Book to the Deputy Inspector General of Prisons (Regional) and the Superintendent shall also forward to the Deputy Inspector General of Prisons (Regional) a copy of every other entry made by a visitor in the Visitors' Book on the first day of the month immediately following the month in which such entry was made with such remarks as the Superintendent may desire to offer.

(ii) The Deputy Inspector General may take such action and pass such orders in respect of any communication received by him under sub-rule (i) as he considers appropriate and he may, where he deems fit so to do, bring any matter to the notice of the Inspector General of Prisons. The Superintendent shall also in due course inform in writing the visitor concerned or the Board, as the case may be, about the action taken.

Visits to prisons
by persons other
than Prison
Officers and
visitors.

19. (i) Save as hereinbefore provided and subject to the provisions of sub-rule (ii), no person other than a prison officer or a visitor shall be allowed to enter a prison without the previous permission of the Superintendent *[the Deputy Inspector General of the Region]* the Inspector General of the State Government. Every such person shall be accompanied by a jailor.

† [“ Subject to the provisions of rule 17, permission to visit any prison may be granted,—

(a) In the case of any person conducting research studies who is sponsored by any statutory University or Research Organisation recognised by the Government, by the Superintendent; provided that such research worker agrees in writing to take adequate precautions that in his thesis or research paper to be published or presented to any University or Educational Institution on the conclusion of his research, the identity of

— Substituted by Government Notification, Home Department No. PVP-1371/1/XVI, dated 23rd May 1973.

†— † Added by Government Notification. Home Department. No. PVP-1371/1/XVI, dated 23rd May 1973.

any individual prisoner is not disclosed and to submit such thesis, paper or publication to the Government for approval before it so published or presented ;

(b) In the case of a person who desires to visit any prison as a part of his academic curriculum in any University or other recognised Educational Institution, by the Deputy Inspector General of Prisons of the region concerned at the request of the appropriate educational authority;

(c) In the case of representatives of the Press by the Inspector General of Prisons, subject to the condition that such representative undertakes in writing not to publish any material relating to his visit to the prison without the previous approval of Government ;

(d) In the case of any person desiring to visit only a specific yard of a prison like the Gandhi Yard and Tilak Yard in Yeravda Central Prison, Vinoba's cell in Dhulia district Prison and such other spots of historical interest by the Superintendent of the prison, concerned.

(e) In any other case, by the Superintendent, Deputy Inspector General of Prisons or the Inspector General of Prisons, subject to the condition that such person agrees to abide by the conditions as the Superintendent or Deputy Inspector General of Prisons or as the case may be, the Inspector General of Prisons may consider necessary in the case."] †

20. (i) Except in such special circumstances as may be determined by the Superintendent, the Superintendent may, with a view to affording an opportunity of recognising old offenders, permit, not oftener than once a week, a Police Officer duly deputed in the Greater Bombay by the Commissioner of Police, and elsewhere, by the District Superintendent of Police to have access in the prison office to the admission register and release diary; and it shall be lawful for the Police Officer on the basis of this register and diary to prepare lists of prisoners admitted during the week immediately preceding that in which the inspection was made, of prisoners likely to be discharged in the week following such week and of any unidentified prisoners still under police enquiry, whom the Police may have to inspect on parade.

Power of Police Officers to visit prisons.

(ii) The prisoners who have been convicted under Chapters XII, XVI, XVII and XVIII of the Indian Penal Code of offences punishable with three years, or of attempts to commit offences punishable under sections 328, 363, 364, 365, 366, 366-A, 367, 368 and 369, persons bound down under Sections 109 and 110 of the Code of Criminal Procedure, 1898 and undertrial prisoners whose names are contained in a list prepared under sub-rule (1) shall be paraded at the weekly parade, separately from others; and Police Officers (not exceeding twenty in number), selected by the Commissioner of Police, or as the case may be, the District Superintendent of Police shall be permitted to inspect all these prisoners in the presence of a Jailor. The Police Officers shall not be permitted to hold communications with any prisoners except such as is necessary for the purpose of identification;

Provided that no woman prisoner shall be paraded for the inspection of Police Officers.

(iii) The Superintendent shall for purposes of sub-rules (1) and (2) inform the Commissioner of Police and the District Superintendent of Police of the hour at which the Police Officer can have access to the Prison Office and of the day on which the weekly parade of prisoners will be held.

Power of certain
officers to
interrogate
prisoners etc.

21. (i) (a) The Inspector General of Police, Deputy Inspector General of Police, the Commissioner of Police, Greater Bombay and District Superintendents of Police elsewhere than in Greater Bombay may authorise by letter any Police Officer not below the rank of an Inspector in Greater Bombay and of Sub-Inspector elsewhere (unless for special reasons recorded in such letter a Police officer of a lower rank is specified); or

(b) Any prohibition officer not below the rank of Assistant Collector of Excise may likewise authorise by letter any prohibition officer not below the rank of an Inspector (unless for special reasons recorded in such letter, a prohibition officer of a lower rank is * “Specified) to interrogate any prisoner or to bring witnesses or informers to the prison for the purpose of identifying any prisoner or prisoners; should such a course be necessitated during the investigation of any case, such letter shall be addressed by the officers aforesaid to the Superintendent of the Prison concerned”*

(ii) The Superintendent on receipt of a letter addressed to him under sub-rule (i) shall permit—

— Substituted by Government Notification, Home Department, No. RJM-1058 (XV)/ 22907-IV, dated 22nd May 1965.

(a) the officer specified in the letter to interrogate the prisoner in the presence but not within the hearing of the jailor or some other officer approved by him and also witnesses and informers to be brought in the prison for the purpose aforesaid :

Provided that no prisoner or prisoners shall be paraded by any Jailor before such witnesses or informers for identification except along with a number of prisoners clad in a similar manner.

(iii) Except as provided in sub-rule (i), no police officer or a prohibition officer (neither of such officer being an *ex officio* visitor) shall interrogate any prisoner.

SECTION II : NON-STATUTORY RULES

1. The Inspector General shall be an *ex officio* visitor of the Central Mental Hospital, Yeravda, and the Yeravda Industrial School, Yeravda.

2. Every Deputy Inspector General (Regional) shall be an *ex-officio* visitor of all the mental hospitals (other than the Yeravda Mental Hospital) situated in his region.

Inspector
General to be *ex
officio* visitor of
certain
institutions.
Deputy
Inspectors
General
(Regional) to be
ex officio visitors
of Mental
Hospitals.
