

Premature Release

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GOVERNMENT OF NAGALAND
HOME DEPARTMENT: HOME BRANCH

NOTIFICATION

Dated Kohima, the 16th May, 2001

NO.HOME/J-46/99: Whereas the National Human Rights Commission in its proceedings held on 20-10-99 had recommended the guidelines for Constitution of the State Sentence Review Board, procedure and eligibility criteria for premature release of prisoners.

And whereas the State Government considered it necessary to adopt the above said guidelines.

Therefore, the State Government resolves to adopt the above said guidelines as here under:-

1. COMPOSITION OF THE STATE SENTENCE REVIEW BOARD:

A Review Board is hereby constituted for the review of sentence awarded to a prisoner and for recommending his/her premature release in the concerned cases. The Review Board shall be permanent body having the following as members:-

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| 1. | Minister, Jail | -Chairman. |
| 2. | Home Commissioner | -Member |
| 3. | Secretary, Law(Legal Remembrancer) | -Member |
| 4. | A District & Session Judge nominated by
The High Court. | -Member |
| 5. | A Senior Police Officer nominated by the
DG(Police)not below the rank of IG. | -Member |
| 6. | Inspector General of Prisons. | -Member Secy. |

The recommendations of the Sentence Review Board shall not be invalid merely by reason of any vacancy in the Board or the inability of any member to attend the Board meeting(s). The meetings of the Board shall not be however, held if the quorum is less than four members including the Chairman.

2. PRODUCTIVITY OF THE BOARD'S MEETING:

The State Sentence Review Board shall meet at least once quarterly.

However, it shall be open to the Chairman of the Board to convene a meeting of the Board more frequently as may be deemed necessary.

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3. ELIGIBILITY FOR PREMATURE RELEASE.

The following categories of inmates shall be eligible to be considered for premature release by the Sentence Review Board;

- 3.1 Every convicted prisoner whether male or female undergoing sentence for life imprisonment and covered by the Provisions of Section 433A Cr.PC shall be eligible to be considered for premature release from prison immediately after serving sentence of 14 years of actual imprisonment i.e. without remissions.
- 3.2 All other convicted male prisoners undergoing sentence for life shall be considered for premature release after they serve at least 14 years of imprisonment, inclusive of remission and completion of 10 years of actual imprisonment, i.e. without remissions.
- 3.3 All other convicted female prisoners undergoing life imprisonment shall be considered for premature release after they have served for 10 years imprisonment inclusive of remissions and after completion of 7 years actual imprisonment i.e. without remissions.
- 3.4 Convicted prisoners undergoing the sentence of life imprisonment on attending the age of 65 years provided he or she has undergone at least 7 years of imprisonment including remissions.
- 3.5 The convicted prisoners undergoing the sentence of imprisonment for life and who are suffering from terminal disease like Cancer, TB, AIDS, irreversible kidney failure, cardio-respiratory disease, leprosy and any other infectious disease, as certified by a Board of Doctors on completion of 5 years of actual sentence or 7 years of sentence including remissions.

4. INABILITY FOR PREMATURE RELEASE.

The following category of convicted prisoners undergoing life sentence may not be considered eligible for premature release.

- 4.1 Prisoners convicted of offences such as rape, dacoity, terrorist crime etc.
- 4.2 Prisoners who have been convicted for organized murders in a premeditated matter and organized manner.
- 4.3 Professional murderers who have been found guilty of murder by being hired.
- 4.4 Convicts who commit murder while being involved in smuggling operations or having committed murder of public servants on duty.

5. PROCEDURE FOR PROCESSING OF CASES FOR CONSIDERATION OF THE REVIEW BOARD.

- 5.1 Every Supdt. of a Central Jail who has prisoner(s) undergoing sentence(s) of imprisonment for life, shall initiated cases of the prisoner(s) would become illegible for consideration of premature

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release as the criteria laid down by the State Government in that behalf.

- 5.2 The Supdt. of Jail shall prepare a comprehensive note in each case giving the name of family and social background of the prisoner, the offence for which he/she was convicted and sentenced and the circumstances under which the offence was committed. He will also reflect full about the conduct and behaviour/conduct during the period of probation, change in his behaviour pattern and jail offences, if any, committed by him and punishment awarded to him for such offence(s). A report shall also be made about his physical/mental health or any serious ailment from which the prisoner suffers entitle him/her for premature release. The note shall also contain recommendations of the Jail Supdt. whether he favours premature release of the prisoner and in either case it shall be supported by adequate reasons.
- 5.3 The Supdt. of Jail shall make reference to the Supdt. of Police of the District where the prisoner was ordinary residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from Jail. However, in case, the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Supdt. of Police of the District in which the offence was committed. In either case he shall forward a copy of the note prepared by him to enable the Supdt. of Police to express his views in regard to the desirability of the premature release of the prisoner.
- 5.4 On receipt of the reference; the concerned Supdt. of Police shall cause an inquiry to be made in the matter through a senior police officer of appropriate rank and based on his own assessment, shall make his recommendations. While making the recommendations, the Supdt. of Police shall not act mechanically and oppose the premature release on untenable and hypothetical grounds/apprehensions. In case the Supdt. of Police is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and materials. He shall return the reference to the Supdt. of the concerned jail not later than 30 days from the receipt of the reference.
- 5.5 The Supdt. of Jail shall also make a reference to the Chief Probation Officer of the State and shall forward to him a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner, having regard to his family and social background, his acceptability by his family members and society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good

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citizen. He will not act mechanically and recommend each and every case for premature release. In either case, he should justify his recommendation by reasons/materials. The Probation Officer shall furnish his report/recommendations to the Supdt. of Jail not later than 30 days from the receipt of the reference.

5.6

On receipt of the report/recommendations of the Supdt. of Police and the Chief Probation Officer, the Supdt. of Jail shall put up the case to the Inspector General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board. The Inspector General of Prisons shall examine the case, keeping in mind that the report of recommendations of the Supdt. of Jail, the Supdt. of Police and the Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government/Sentence Review Board. Norms/guidelines/directives issued by the Courts would be adhere to.

6.

PROCEDURE AND GUIDELINES FOR THE REVIEW BOARD.

6.1

The Inspector General of Prisons shall convene a meeting of the Sentence Review Board on a date and time at the State Headquarters, notice of which shall be given to the Chairman and members of the Board at least ten days in advance of the scheduled meeting and it shall contain the complete agenda/papers i.e. the note of the Supdt. of Jail, recommendations of the Supdt. of Police, the Chief Probation Officer and that of the Inspector General of Prisons along with the copies of documents, if any.

6.2

A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Judicial Secretary(Law)-cum-Legal Remembrancer. The Member Secretary(Inspector General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The Board shall consider the case and take a view. As far as practicable, the Sentence Review Board shall endeavour to make unanimous recommendation(s). However, in case of dissent, the majority view shall prevail and will be deemed to be the decision of the Board.

6.3

While considering the case of premature release of the prisoner, the Board shall keep in view the general principles of amnesty/remission of the sentences as laid down by the State Government or by Courts as also in the matter. The paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large, the Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the Police had not recommended his release on certain farfetched and hypothetical premises. The Board shall take into

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account and circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or rather offence again.

6.4 Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the consideration of the case of a convict already rejected shall be done only after the expiry of a period of one year from the date of last consideration of his case.

6.5 The recommendations of the Sentence Review Board shall be placed before the competent authority without delay, for consideration. The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on the grounds to be stated or may ask the Sentence Review Board to reconsider a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the competent authority has ordered to grant remission and ordered his premature release, the prisoner shall be released forthwith or without conditions.

By order and in the name of the Governor.


(H.K. KHULU) IAS
Home Commissioner

No. HOME/JL-46/99 /// Dated Kohima, the 16th may, 2001.

1. The Special Secretary to the Governor of Nagaland, Kohima.
2. The Principal Secretary to the Chief Minister, Nagaland, Kohima.
3. The P.S. to the Speaker, NLA, Kohima.
4. The P.S. to Dy. Speaker, NLA, Kohima.
5. The P.S. to Ministers/MOS, Nagaland, Kohima.
6. The Chairperson, National Human Rights Commission, Sardar Patel Bhavan, Sansad Marg, New Delhi-110001.
7. The Secretary, Ministry of Home Affairs, North Block, New Delhi.
8. The P.S. to the Chief Secretary, Nagaland, Kohima.
9. The Addl. C.S. & Commissioner, Nagaland, Kohima.
10. All Commissioners & Secretaries/Secretaries/Addl. Secretaries of the Govt. of Nagaland.
11. The Inspector General of Police, Nagaland, Kohima.
12. All Deputy Commissioners in Nagaland.
13. The Director, Printing & Stationery, Nagaland, Kohima for publication in the Gazette.


(H.K. KHULU) IAS
Home Commissioner