

## Bihar Open Prison Rules, 2008

Preamble:- Whereas it is necessary to frame rules for sending convicts to open prisons with a view to encourage good conduct, satisfactory performance of work and a life of self-discipline among the convict prisoners of Bihar; and to provide the convict prisoners with a pre-release opportunity to learn social adjustment and economic self dependence, the Govt. of Bihar in exercise of the powers conferred by Sub section (18) of sec. 59 of the Prisons Act. 1894 (Central Act 9 of 1894), hereby makes the following rules, namely

1. **Short Title And Commencement-** (1) The rules may be called the Bihar Open Prison Rules, 2008. (2) It shall extend to the whole of the State of Bihar. (3) They shall come into force on the date of their publication in the Bihar Gazette.
2. **Definitions-** In these rules unless there is any thing repugnant in the subject or context;
  - (i) **'Advisory committee'** means a committee formed to supervise and evaluate the working of the open Prisons and to take decision for transferring the eligible prisoners to open Prisons.
  - (ii) **'Assistant Inspector General'** means the Assistant Inspector General of Prisons, Bihar.
  - (iii) **'Deputy Secretary'** means the Deputy Secretary to the Govt., Home Department, Bihar.
  - (iv) **'Director Probation'** means the Director of Probation Services, Bihar.
  - (v) **'Family'** means a prisoners mother, father, wife, husband, unmarried daughters and minor children upto age of 18 years.
  - (vi) **'Government'** means the Government of Bihar.
  - (vii) **'Inspector General'** means the Inspector General of Prisons, Bihar.
  - (viii) **'Officer-in-Charge'** means any Jail officer deputed by the Inspector General of Prisons, Bihar for the purpose of looking after the Prisoners kept in an open Prison.
  - (ix) **'Open Jail or Prison'** means the place, which is declared to be an open Jail for the detention of the Prisoners in pursuance of Sub section (1) of Section-3 of the prisons Act, 1894 (Central Act 9 of 1894) as adopted to the State of Bihar.
  - (x) **'Superintendent'** means the Superintendent of the Jail, where convicts who are to be sent to the open Prison are confined.
3. **Eligibility for admission to open prisons-** A prisoner shall be eligible for admission to an open Prison, if :-
  - (a) His ordinary place of residence is inside the State of Bihar,
  - (b) He has been regularly performing his scheduled task in the Jail,

- (c) He has served at least one half of his substantive sentence, excluding remission. In case of prisoner sentenced to life imprisonment, he has served at least 10 years period in the jail, excluding remission. This requirement may be relaxed for prisoners above 60 years of age or prisoners with terminal diseases,
- (d) He has shown good conduct and behavior; and has committed no prison offence,
- (e) He is not below the age of thirty years,
- (f) He is not in custody in any other case except the case in which he has been convicted,
- (g) He has been sentenced for not less than 6 years.
- (h) He is not ineligible for any reason as given in Rule 4.

4. **Ineligibility for admission to open Prisons-** A Prisoner shall be ineligible for admission to open Prisons, if

- (a) He has been convicted by a court-martial.
- (b) He has been convicted under Explosive Substances Act, N.D.P.S. Act or National Security Act.
- (c) He is convicted for crimes like rape, dacoity, kidnapping, terrorist activities, crime against the state etc.
- (d) He is convicted for preplanned mass murders or he is professional murderer, who has been convicted for murder on contract.
- (e) He is convicted for murder of public servants on duty.
- (f) He has escaped from jail or from police custody or he attempted to escape from any lawful custody.
- (g) He is habitual offender with more than one previous convictions of imprisonment to his credit .
- (h) He is a civil prisoner or detenue.
- (i) He is a habitual offender and comes in the purview of Rule 573 (1) of Bihar Jail Manual.

5. **Recommendations for sending prisoners to open Prisons-**

The Superintendent of the jail concerned shall forward application of a prisoner desirous and eligible for admission to open prison to the Inspector General of Prisons with his recommendation. The format for this purpose will be prescribed by Inspector General of Prisons.

6. **Order for sending prisoners to open prisons-** (1) All the

recommendations sent by the Superintendent of various jails shall be put up before the Advisory Committee under the chairmanship of Inspector General of Prisons. The committee after going through the recommendations of the Superintendents will, subject to available accommodation from time to time, select prisoners to be sent to open prison.

- (2) The committee may reject the proposal of a prisoner, even if it fulfills criterion given in Rule 3, citing reasons for doing so.
  - (3) Ordinarily, preference would be given to those convicts who have served longer term of sentence inside closed prison. The committee may also decide criterion to prepare priority list, subject to the provisions of these rules.
7. **Work and employment-**(1) The prisoner will be allowed to engage in livelihood activity inside the open prison with the permission of officer in charge. The livelihood activities, which are allowed in the open prison, will be prescribed by the I.G. Prison.
- (2) Jail Administration may give vocational training to these prisoners to enable them to earn their Livelihood.
  - (3) If a prisoner has no work within the campus of open prison, he may be allowed to engage himself in job out side the open prison campus, with the approval of I.G. Prisons, within the area with a radius of 5 K.M.
  - (4) A prisoner, who prefers to work outside the open prison area, shall give complete detail about the place of work, nature of job and particulars of employer and other details in prescribed form to the officer in charge concerned. Such prisoners shall necessarily return to open prison on or before the time of evening roll-call. Only day time jobs will be allowed outside the open prison campus.
  - (5) Jail authorities shall be at liberty to pay surprise visits to the place of work of the prisoner. If the prisoner is not found at the prescribed place, the officer in charge may take necessary action against the defaulting prisoner and may recommend his withdrawal from open prison and retransfer to the closed jail, and such prisoner shall also be proceeded against for having committed a prison offence.
8. **Wages-**(1) The wages or earnings as earned by the prisoners shall be utilized by them for themselves or for their families.
- (2) Administrative charges as fixed by the Inspector General of Prisons shall be recovered from each prisoner of the open prison out of his earning.
  - (3) The prisoners shall be allowed to have a Saving Bank Account in the nearest Bank or Post office.
9. **Lodging and Boarding-**(1) Prisoners/group of prisoners/ Prisoners with families shall be allotted tents/pre fabricated accommodation/houses. as the case may be, at government expense for the time they spend in open prison. I.G. Prison will issue instructions regulating the construction of houses, their use and allotment.

- (2) Prisoners will be entitled to get food ration as per diet scale or equivalent cash amount, as prescribed by I.G. Prisons only for themselves. Their family members/attendant will not be entitled for food ration/cash amount.

10. **Prisoners Families-** The prisoners can keep their families in the open prison with the permission of the I.G. Prison. In case of prisoner above 60 years of age, an attendant to take his care may be allowed with the permission of I.G. Prisons. The maximum number of members living with the prisoner will be 4.

11. **Internal Management Of The Open Prison-** (1) General instructions for the internal management of the open prison (in view of their location, work daily average population, security etc.) shall from time to time be issued by the inspector general of prisons. He may cause by such instructions, the formation and working of -

(i) Prisoner Panchayat,

(ii) Work and discipline committee, and

(iii) Prisoners Cooperative Society in the open prison.

(2) The prisoners panchayat shall consist of seven members. The member's will be called 'Panch'. The 'Panch' will be elected by the prisoners, through a process of voting from amongst the prisoners. The term of each Panchayat will be for one year from the date of constitution of Panchayat.

(3) The prisoners Panchayat shall be empowered to deal with minor acts of commissions/omissions/misconduct of the prisoners. It may also impose minor penalty on the defaulter prisoner e.g. fine upto Rs.200/- or putting the defaulter to additional hard labour in the works of common utility or social boycott for upto one month or curtailment in facilities admissible to prisoner, subject to approval of officer in charge of open prison

(4) Electricity charges up to prescribed limit will be paid by government. I.G. Prisons will issue instructions regarding this limit and usage of electricity.

(5) The prisoners shall have to attend a roll-call each morning and evening at the time fixed by the Inspector General of Prisons.

(6) Prison authorities (Superintendent or Jailor), in whose jurisdiction the open prison is situated, shall visit the open prison at least once a week, and shall interview all the prisoner.

12. **Retransfer of Prisoners from open Prison-** Prisoners who commit act of misconduct or who fail to pay penalties as imposed by the prisoner's Panchayat or who do not perform their scheduled task or who for any other reason are found undesirable in the open prison shall be sent back to the closed jails by the Officer-in-Charge of the open prison with permission of the Inspector General of Prisons.

13. **Remission** - Prisoners lodged in open prison shall be entitled for ordinary remission subject to a maximum limit of 5 days a month for their good conduct and behavior. They will be eligible for special remission of the Superintendent, if they are engaged in community work, sanitary work or security work subject to maximum of 2.5 day per month. They shall be entitled for I.G.(Prisons) remission once a year depending upon the recommendation of the officer in charge. They shall be eligible for State Government remission awarded on special occasions.

Prisoner's History Ticket and remission cards shall be retained and maintained in the closed jail office in whose jurisdiction the open prison is situated.

14. **Release of Prisoners-** Probable date of release shall be calculated by the Jail authorities of closed jail in whose jurisdiction open prison is situated; and accordingly concerned prisoner shall be transferred to the closed jail two weeks before the date of release.

At the time of release prisoner concerned shall be allowed to take only his personal belongings along with him, but he would not be allowed to carry any material that has been utilized for the construction of house in open prison premises.

15. **Security and Watch-** For the purpose of security and watch over the prisoners in open prison, necessary personnel will be deputed, who shall ensure proper discipline, regular attendance and watch over activities of the inmates and their family members. They shall also maintain a watch over the visitors who come from outside to meet the prisoners in open prison. The entry of visitors to open prison will be regulated and the prison staff may refuse entry to any person for security reasons or to maintain discipline. Outsider coming to meet the prisoners may be searched, if required. An interview-cum-visitors register shall be maintained. Prison officials will be at liberty to search the houses of inmates, if required.

A list of all prisoners living in the open prison shall be sent to the nearest Police Station.

16. **Medical Facilities-** Medical officer posted in the closed jail, in whose jurisdiction the open prison is situated, shall visit the open prison once a

week and shall provide medical aid to the needy prisoners. He shall also attend the sick prisoner or his family members in case of emergency. In case, a sick prisoner requires a higher treatment, he shall be shifted to nearest Govt. Hospital/Jail Hospital on the recommendation of jail doctor. The prisoner may be shifted to a hospital at other place outside the district but inside the State on recommendation of medical board constituted by civil surgeon with the permission of District Magistrate. For shifting the prisoner to a hospital outside the state, permission of State Government will be required.

The Prisoners will be entitled to receive medicine as in closed prisons.

17. **Advisory Committee-** A Committee consisting of the following shall be constituted to direct, evaluate and to take decision for transferring the eligible prisoners to Open prison:-

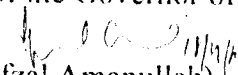
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|----|--|------------------|
| 1. | Inspector General of Prisons                                       | Chairman         |
| 2. | Additional/Joint/Dy. Secretary to Govt.,<br>Home Department        | Member           |
| 3. | Assistant Inspector General of Prisons                             | Member Secretary |
| 4. | Director, Probation Services,                                      | Member           |
| 5. | Superintendent, Central Jail (to be<br>nominated by I.G. Prisons.) | Member.          |

The quorum of Committee for transacting the business shall be present with 3 members including the Chairman of the committee. The Committee shall sit normally in, January and in July every year or at other times, if required, and take decision on selection/transfer of prisoners to open prison. It shall also evaluate the working of open prison and suggest such steps and measures, as are considered necessary for the improvement in the open prison. The committee shall submit its report together with proposals at the beginning of each financial Year.

18. **Inspections** - The Assistant Inspector Generals of Prisons shall inspect the open prison once a quarter and submit his report to the Inspector General of Prisons. The Inspector General of Prisons shall inspect the open prison at least once a Year and submit his report to the Government.

19. **Powers of Government-** Not withstanding anything contained in these rules the Government shall have full powers to close open prison or pass orders in respect of any prisoner regarding his withdrawal from open prison and such orders shall be final.

By order of the Governor of Bihar

  
(Afzal Amanullah)

Principal Secretary to the Government.