

PROCEDURE/ GUIDELINES ON PREMATURE RELEASE OF PRISONERS

The Commission vide its Letter No. 233/10/97-98(FC) dated 26.9.2003 issued a circular containing procedure/ guidelines on premature release of prisoners to all the Chief Secretaries/ Administrators of the States/ UTs.

All the States/ UTs were requested to review the existing practice and procedure governing premature release of life convicts and bring it in conformity with the guidelines issued by the Commission.

By Speed Post

**Case No.233/10/97-98(FC)
NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION – IV)
>|<**

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Dated the September 26, 2003

To

All the Chief Secretaries/Administrators of States/UTs

Sub : Procedure/Guidelines on premature release of prisoners.

Ref. : Commission's letter of even number dated 8.11.99

Sir,

The National Human Rights Commission has received a number of representations pointing out that the State Governments are applying differing standards in the matter of premature release of prisoners undergoing life imprisonment. After examining the vexed question of disparities and differing standards applied by the various States in considering the cases of prisoners serving life imprisonment for premature release under the provisions of section 432, 433 and 433 A of Cr.P.C., the Commission had issued broad

guidelines vide its letter of even number dated 8.11.1999 for the purpose of ensuring uniformity in the matter. After considering the response received from a number of States/UTs, the Commission vide their letter of even number dated 4 April 2003 put these guidelines on hold for the time being pending re-examination of the entire issue. The Commission has now decided to modify paras 3 & 4 of its guidelines issued vide its letter of even number dated 8.11.99. Para 3 as modified is as follows:

3. Eligibility for premature release

3.1 Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr.PC shall be eligible to be considered for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like;

- a) whether the convict has lost his potential for committing crime considering his overall conduct in jail during the 14 year's incarceration;
- b) the possibility of reclaiming the convict as a useful member of the society; and
- c) Socio-economic condition of the convict's family.

With a view to bring about uniformity, the State/UT Governments are, therefore, advised to prescribe the total period of imprisonment to be undergone including remissions, subject to a minimum of 14 years of actual imprisonment before the convict prisoner is released. The Commission is of the view that total period of incarceration including remissions in such cases should ordinarily not exceed 20 years.

Section 433A was enacted to deny premature release before completion of 14 years of actual incarceration to such convicts as stand convicted of a capital offence. The Commission is of the view that within this category a reasonable classification can be made on the basis of the magnitude, brutality and gravity of the offence for which the convict was sentenced to life imprisonment. Certain

categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions. The period of incarceration inclusive of remissions even in such cases should not exceed 25 years. Following categories are mentioned in this connection by way of illustration and are not to be taken as an exhaustive list of such categories:

- a) Convicts who have been imprisoned for life for murder in heinous cases such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.
- b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.
- c) Convicts whose death sentence has been commuted to life imprisonment.

3.2 All other convicted male prisoners not covered by section 433A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e. without remissions.

3.3 The female prisoners not covered by section 433A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e. without remissions.

3.4 Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution and old paras 3.4 and 3.5 are therefore redundant and are omitted.

4. Inability for Premature Release

Deleted in view of new para 3.

All the States/UTs are requested to review their existing practice and procedure governing premature release of life convicts and bring it in conformity with the guidelines issued by the Commission.

Yours faithfully,

Sd/-

Joint Registrar(Law)