

പതിനാലാം കേരളനിയമസഭ

പതിനെട്ടാം സമ്മേളനം

നക്ഷത്രചിഹ്നമിടാത്ത ചോദ്യം നമ്പർ: 125		03.02.2020-ൽ മറുപടിക്ക്	
തടവുകേന്ദ്രങ്ങൾ സംബന്ധിച്ച കേന്ദ്ര ആഭ്യന്തര വകുപ്പിന്റെ കത്ത്			
ചോദ്യം ശ്രീ. കെ.എം.ഷാജി		മറുപടി പിണറായി വിജയൻ മുഖ്യമന്ത്രി	
(എ)	കേന്ദ്ര സർക്കാരിന്റെ ദേശീയ പൗരത്വ രജിസ്റ്റർ കണക്കെടുപ്പിൽ ഇന്ത്യൻ പൗരത്വം നിഷേധിക്കപ്പെടുന്നവരെ പാർപ്പിക്കുന്നതിന് പണിയേണ്ട തടവുകേന്ദ്രങ്ങളുടെ വിസ്താരം, അതിൽ വേണ്ട സൗകര്യങ്ങൾ തുടങ്ങിയ നിർദ്ദേശങ്ങളും മാതൃകാ ഡിസൈനുകളും അടക്കം ചെയ്ത ഔദ്യോഗിക കത്ത് കേന്ദ്ര ആഭ്യന്തര വകുപ്പിൽ നിന്നും സംസ്ഥാന സർക്കാരിന് ലഭിച്ചിരുന്നുവോ, എങ്കിൽ കത്തിന്റെ പകർപ്പ് ലഭ്യമാക്കുമോ;	(എ)	കത്ത് കേന്ദ്രസർക്കാരിൽ നിന്നും ലഭിച്ചിട്ടുണ്ട്. പകർപ്പ് അനുബന്ധമായി നൽകിയിരിക്കുന്നു.
(ബി)	ഈ കത്തിന്റെ അടിസ്ഥാനത്തിൽ സംസ്ഥാന സർക്കാർ സ്വീകരിച്ച നടപടികൾ എന്തെല്ലാം; വിശദമാക്കുമോ;	(ബി)	ഡിറ്റൻഷൻ സെന്ററുകൾ നിർമ്മിക്കുന്നതുമായി ബന്ധപ്പെട്ട് സംസ്ഥാന സർക്കാർ നടപടികളൊന്നും സ്വീകരിച്ചിട്ടില്ല.
(സി)	കേന്ദ്രസർക്കാരിന് ഇത് സംബന്ധിച്ച് കേരള സർക്കാർ നൽകിയ മറുപടികളുടെ പകർപ്പുകൾ ലഭ്യമാക്കുമോ;	യും (സി) യും	
(ഡി)	ഈ വിഷയത്തിൽ എന്തെല്ലാം തുടർനടപടികൾ സ്വീകരിക്കാനാണ് സംസ്ഥാന സർക്കാർ തീരുമാനിച്ചിട്ടുള്ളതെന്ന് വ്യക്തമാക്കാമോ?	(ഡി) യും	

സെക്ഷൻ ഓഫീസർ

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MOST IMMEDIATE
CONFIDENTIAL

No. 25022/32/2014-F.I (Vol.II)
Government of India
Ministry of Home Affairs
(Foreigners Division)

Major Dhyan Chand National Stadium, India Gate
New Delhi- 110002, the 9th January, 2019

To

1. Additional Chief Secretary (Home)/ Principal Secretary (Home) of all State Governments and Union Territory Administrations
2. DGPs of all State Governments/ UT Administrations

Subject : Model Detention Centre/ Holding Centre/Camp Manual

Sir/ Madam,

I am directed to refer to this Ministry's letter of even number dated 9th/10th September, 2014 and 7th September, 2018 conveying instructions regarding setting up of Detention Centres/ Holding Centres/ Camps in various States/ UTs for restricting the movements of illegal immigrants/ foreign nationals awaiting deportation after completion of sentence due to non-confirmation of their nationality and to say that the Hon'ble Supreme Court of India in their orders dated 12.09.2018 and 20.09.2018 in IA No. 105821/2018 in W.P.(Civil) No.406/2013 filed by Collaborative Network for Research and Capacity Building, Guwahati had directed the Union of India to prepare a manual for detention centres. In pursuance of these directions, this Ministry had prepared a draft of the Model Detention Centre/ Holding Centre/Camp Manual and circulated to all State Governments & UT Administrations and other stakeholders for their comments vide letter of even number dated 3rd October, 2018. The matter was subsequently discussed in a meeting held on 30th October, 2018 under the Chairmanship of Special Secretary (Border Management), Ministry of Home Affairs, which was attended by officers from various State Governments & UT Administrations and Bureau of Immigration.

2. Based on the comments received from various State Governments/ UT Administrations & other stakeholders and the deliberations at the meeting held on 30th October, 2018 referred to above, this Ministry has prepared the Model Detention Centre/ Holding Centre/Camp Manual, a copy of which is enclosed for information and necessary action.

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3. It is requested that the enclosed Model Detention Centre/ Holding Centre/Camp Manual may be circulated to all concerned for implementation and strict compliance.
4. This issues with the approval of the competent authority.

Yours faithfully



(Pramod Kumar)
Director (Foreigners)
Tel. No. 23077508

Copy to:-

1. Joint Secretary (WS), Ministry of Home Affairs
2. Ministry of External Affairs [Shri Amit Narang, Joint Secretary (CPV)], Patiala House Annexe, New Delhi
2. Bureau of Immigration (Shri Rajeev Ranjan Verma, Joint Director)
3. FRROs - Delhi, Mumbai, Chennai, Kolkata, Amritsar, Bangalore, Hyderabad, Kochi, Thiruvananthapuram, Calicut, Goa, Lucknow and Ahmedabad



(Pramod Kumar)
Director (Foreigners)

MODEL
DETENTION CENTRE/HOLDING
CENTRE/ CAMP
MANUAL
2019

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI

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CHAPTER - 1**LEGAL PROVISIONS WITH REGARD TO DEPORTATION AND DETENTION OF A FOREIGN NATIONAL**

- 1.1** In terms of section 3 (2) (c) of the Foreigners Act, 1946, Central Government may by order provide that the foreigner shall not remain in India or in any prescribed area therein. Further, in terms of section 3(2) (e) of the Foreigners Act, 1946, Central Government may by order provide that the foreigner shall comply with such conditions as may be prescribed or specified – (i) requiring him to reside in a particular place, (ii) imposing any restrictions on his movements.
- 1.2** The powers vested in the Central Government under sections 3(2)(c) and 3(2)(e) of the Foreigners Act, 1946 and the Foreigners Order, 1948 have also been delegated to the State Governments and UT Administrations vide Notifications S.O. nos. 590 & 591 [F.No.4/3/56-(I)F.I] dated 19th April, 1958. These powers have also been delegated to the Joint Director, Bureau of Immigration vide Notification G.S.R, 605(E) [F.No.25022/96/99-F.I] dated 13th July, 2000. Subsequently, separate notifications were issued from time to time delegating these powers to new State Governments/ UTs formed by re-organization of States/UTs.
- 1.3** Paragraph 11 of the Foreigners Order, 1948, issued in exercise of the powers conferred by section 3 of the Foreigners Act, 1946 provide

that the civil authority may, by order in writing, direct that any foreigner shall comply with such conditions as may be specified in the order in respect of –

- (1) his place of residence;
- (2) his movements;
- (3) his association with any person or class of persons specified in the order; and
- (4) his possession of such articles as may be specified in the order.

1.4 Further, in terms of section 3(2)(g) of the Foreigners Act, 1946, the Central Government may by order provide that the foreigner shall be arrested and detained and confined.

1.5 Section 4 of the Foreigners Act, 1946 reads as follows:-

"4. Internees.— (1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

(2) Any foreigner (hereinafter referred to as a person on parole) in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 requiring him to reside at a place set apart for

the residence under supervision of a number of foreigners, shall while residing therein, be subject to such conditions as to maintenance discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

(3) No person shall —

(a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbor an escaped internee or person on parole, or

(b) give an escaped internee or person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee or the person on parole.

(4) The Central Government may, by order, provide for regulating access to, and the conduct of persons in, places in India where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees or persons on parole therein of such articles as may be prescribed."

CHAPTER – 2**INSTRUCTIONS ISSUED BY THE MINISTRY OF HOME AFFAIRS
WITH REGARD TO DETENTION CENTRES****Instructions issued on 02.07.1998**

2.1 In the letter no. 25019/3/97-F.III dated 02.07.1998 issued by the Ministry of Home Affairs to all State Governments and Union Territory Administrations, it was suggested that the State Governments/UT Administrations who have been delegated powers under section 3(2)(e) of the Foreigners Act, 1946 may exercise these powers to restrict the movements of the foreign nationals who are awaiting deportation after completion of the sentence awarded to them pending confirmation of their nationality. It was also provided therein that movements of such foreign nationals should be restricted in one of the detention centres/ camps of foreigners to ensure their physical availability at all times for expeditious repatriation/deportation as soon as the travel documents are ready.

Instructions issued on 23.11.2009

2.2 In the letter no. F.14011/55/09-F.VI dated 23.11.2009 issued by the Ministry of Home Affairs addressed to all State Governments/ UT Administrations conveying the detailed procedure to be adopted for deportation of illegal immigrants from Bangladesh, State Governments/ UT Administrations were requested to set up sufficient number of detention

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centres in each State/UT where the suspected illegal immigrants would be detained pending their deportation.

Instructions issued on 07.03.2012

2.3 Hon'ble Supreme Court of India in their order dated 28.2.2012 in W.P(Crl.) no.310 of 2005 filed by Prof. Bhim Singh Vs Union of India & others had observed that the foreign nationals who have completed their sentence should be formally released from jail immediately and be kept in appropriate place with restricted movements pending their deportation/ repatriation. Hon'ble Court had further observed that the places they are to be kept – detention centre or by whatever name such places are called- must have basic facilities of electricity, water and hygiene. In pursuance of these orders of the Hon'ble Supreme Court of India, the Ministry of Home Affairs had issued instructions to all State Governments/ UT Administrations vide letter no. 28020/90/2009-F.III(Vol.IV) dated 7.3.2012 in which the State Governments and Union Territory Administrations were requested to ensure that all foreign nationals who have completed their sentence but whose deportation/ repatriation is awaited due to non-confirmation of nationality/ issue of travel document by the country concerned are released from jails immediately and that they are kept at appropriate place outside the jail premises with restricted movements pending their repatriation. It was further informed that the restrictions may be imposed under the powers delegated to the State Governments/ UT Administrations under section 3(2)(e) of the Foreigners Act, 1946 and

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paragraph 11 of the Foreigners Order, 1948. State Governments/ UT Administrations were also requested to ensure that the places where they are being kept must have basic facilities of electricity, water and hygiene and that there is appropriate security at these places.

Instructions issued on 24/29.04.2014

2.4 Ministry of Home Affairs issued detailed consolidated instructions to all State Governments and Union Territory Administrations vide letter no. 25022/19/2014-F.I dated 24/29.04.2014 regarding the procedure to be followed for deportation/ repatriation of a foreign national. These instructions also provide for imposing restrictions on movements of foreigners who are awaiting deportation due to non-possession of valid travel document in detention centres/ camps.

Instructions issued on 9/10.09.2014

2.5 The issue of setting up of Detention Centres/ Holding Centres/ Camps in various States/UTs for restricting the movements of illegal immigrants/ foreign nationals awaiting deportation after completion of sentence due to non-confirmation of nationality was further reviewed by the Ministry of Home Affairs and following instructions were issued to the State Governments and Union Territory Administrations vide letter no. 25022/32/2014-F.I dated 9/10.09.2014:-

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- (1) All State Governments/ UT Administrations should set up sufficient number of Detention Centres / Holding Centres/ Camps for restricting the movement of illegal immigrants / foreign nationals awaiting deportation/ repatriation after completion of sentence due to non-confirmation of nationality, under the provisions of section 3(2)(e) of the Foreigners Act, 1946. State Government/UT Administration concerned may decide on the number of such Detention Centres/ Holding Centres/ Camps to be set up in the State/UT, area/ space required, security measures required to be provided etc. keeping in view the actual requirements based on the number of such illegal immigrants etc. to be housed as well as the progress of deportation proceedings.
- (2) Such Detention Centres/ Holding Centres/ Camps should be set up outside the jail premises and it may be ensured that all the basic amenities like electricity with generator, drinking water (including water coolers), hygiene, accommodation with beds, sufficient toilets/ baths with provision of running water, provision for kitchen, round the clock security arrangements, Sentry posts and guard room etc. are provided. There should be sufficient open space within the compound for detainees to move around in a secure environment. There should be properly segregated accommodation for male and female detainees. There should be a proper boundary wall with dense

barbed wire fencing above the boundary wall. The staff posted should be well trained to ensure that the detainees are treated with due dignity. Provision may also be made for medical attendance for the detainees.

- (3) No specific approval is required from the Ministry of Home Affairs for setting up of Detention Centres/ Holding Centres/ Camps.
- (4) Naming of such places i.e. whether as Detention Centre or Holding Centre or Camp may be decided by the State Governments/ UT Administrations concerned.
- (5) Pending acquisition of land and construction of building, State Governments/ UT Administrations may consider hiring of suitable accommodation of this purpose. In case of non-availability of Government buildings, State Government/ UT Administration concerned may look in for hiring private building, subject to production of non-availability certificate and rent assessment by CPWD/PWD. If it is decided to hire a private building for the Detention centre/ Holding centre/ Camp, it may be ensured that all existing codal formalities under General Financial Rules (GFRs) are strictly followed.

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- (6) In NCT of Delhi, the Detention Centres are being maintained by the Social Welfare Department which is working satisfactorily. All other State Governments/ UT Administrations may consider adopting this pattern i.e. entrusting the maintenance of such Detention Centre/ Holding Centre/ Camp to the Social Welfare Department in the State/UT.

All State Governments/ UT Administrations were requested to take appropriate action to implement the above mentioned decisions.

Instructions issued on 07.09.2018

2.6 Instructions were issued by the Ministry of Home Affairs to Government of Assam with copy to all State Governments/ UT Administrations vide letter no. 25022/32/2014-F.I dated 07.09.2018 reiterating the earlier instructions issued vide letter dated 9/10.09.2014 and requesting them to take necessary action to implement these decisions. Further, it was informed that pending setting up of such Detention Centres/ Holding Centres/ Camps outside jail premises, if any specific area in the jail premises has been earmarked by the State Government for housing such foreign nationals awaiting deportation as purely temporary measure, it may be ensured that such premises are well segregated from the prisons housing under trial and convicted prisoners and that strict prison regimes applicable to such under trial and convicted

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prisoners are not made applicable to the foreign nationals housed in the detention centres. It was also requested to ensure that the persons housed in such detention centres are permitted to meet/ communicate with the family members and that no restrictions are imposed on this account.

CHAPTER – 3

CATEGORIES OF PERSONS WHO MAY BE DETAINED IN A DETENTION CENTRE/ HOLDING CENTRE/ CAMP

3.1 Following categories of foreign nationals may be detained in a Detention Centre/ Holding Centre/ Camp:-

- (1) Foreign nationals who have completed their sentence or acquitted by Courts awaiting deportation due to – (a) non-confirmation of nationality; (b) non-issue of travel documents by the Mission of the concerned foreign Government in India; and / or (c) delay in arranging air tickets by the foreigner concerned or by the Mission of the country concerned, for deportation.
- (2) Illegal immigrants detected by the State Governments/ UT Administrations or the law enforcement agencies awaiting deportation.
- (3) Persons declared as foreigners by the Foreigners Tribunals awaiting deportation.
- (4) Foreigners who had arrived on forged/fraudulently obtained travel documents but were allowed to land on medical

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emergency and after their discharge from hospitals, are waiting to be declared to be 'fit for air travel'.

- (5) Foreigners against whom orders of restriction or deportation are issued by FRROs/FROs in their jurisdictional area in addition to State Governments/UT Administrations.
- (6) Foreigners violating visa norms (i.e. cases of overstay, indulging in activities which are not permitted under the visa granted to the foreigner etc.)
- (7) Foreigners detained in suspicious background/ violent behavior etc.

Note : In case detention of a foreign national is required to be done on the basis of orders issued under the National Security Act (NSA) or the Public Safety Act (PSA) (*in the case of State of Jammu & Kashmir*) on security considerations, such detention may be done in jails.

CHAPTER – 4**AMENITIES TO BE PROVIDED IN THE DETENTION CENTRES/
HOLDING CENTRES/ CAMPS**

- 4.1** Detention Centres/ Holding Centres/ Camps shall be set up outside the jail premises.
- 4.2** Naming of such places i.e. whether as Detention Centre or Holding Centre or Camp may be decided by the State Governments/ UT Administrations concerned.
- 4.3** No specific approval is required from the Ministry of Home Affairs for setting up of Detention Centres/ Holding Centres/ Camps.
- 4.4** Pending acquisition of land and construction of building, State Governments/ UT Administrations may consider hiring of suitable accommodation for this purpose. In case of non-availability of Government buildings, State Government/ UT Administration concerned may look in for hiring private building, subject to production of non-availability certificate and rent assessment by CPWD/PWD. If it is decided to hire a private building for the Detention centre/ Holding centre/ Camp, it may be ensured that all existing codal formalities under General Financial Rules (GFRs) are strictly followed.
- 4.5** The number and size of detention centres/ holding centres/ camps to be set up in each State/ UT may be determined by the individual State Government/ UT Administration keeping in view the actual

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requirements based on the number of such foreign nationals to be housed (as mentioned in para 3.1 above) as well as the progress in deportation proceedings. State Governments/ UT Administrations may consider setting up of one detention centre in the city/ district where major Immigration Check Posts (ICPs) in the State are located.

- 4.6** State Governments/ UT Administrations may prescribe the authority that will be in charge of the detention centres. On completion of the sentence of the foreigner, the Jail authorities concerned may hand over the foreign national to the authority in charge of the detention centre. The jail authorities shall also send all the medical records of that particular foreigner to the detention centre.
- 4.7** A thorough medical checkup of the foreigner will be done at the time of admission in a detention centre. Complete medical records of the foreigner will be maintained in the detention centre.
- 4.8** There should be a provision for transfer of foreigners in detention from one detention centre to another due to administrative reasons or to facilitate their stay in Metros during the waiting period for issuance of travel documents or to facilitate the foreigner's interview with their concerned Mission/Embassy/Consulate etc.
- 4.9** Every detention centre shall have a cell which will provide help to the detainee foreigners for contacting their concerned Mission/ Embassy/ Consulate or their family through proper procedures.

- 4.10** The detention centre/ holding centre/ camp should be designed to provide all the necessary facilities for the inmates to maintain standards of living in consonance with human dignity. All basic amenities like electricity with generator, drinking water (including water coolers), hygiene, accommodation with beds, sufficient toilets/ baths with provision of running water, communication facilities, provision for kitchen etc. shall be provided. There should be proper drainage and sewage facilities.
- 4.11** All accommodation provided for use of inmates, particularly for sleeping, will meet basic requirements of healthy living. Accommodation shall be built in a manner so as to ensure adequate cubic contents of air, floor space, lighting, ventilation and climatic protection.
- 4.12** It may be ensured that LPG connection is provided in the Kitchen. It may also be ensured that LPG cylinders are kept under proper security to avoid any fire hazards and misuse by the foreigners.
- 4.13** CCTV cameras shall be installed at various places for monitoring purposes.
- 4.14** Adequate fire safety systems shall be installed in the detention centre/ holding centre/ camp.
- 4.15** The requirements of administration and supervision will be taken into account while planning buildings.

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- 4.16** There should be a proper boundary wall with dense barbed wire fencing above the boundary wall. The boundary wall should be minimum 10 ft. high with main gate, wicket gate and strict access control measures. Proper illumination should be provided all along the wall and in the Centre.
- 4.17** Adequate number of security personnel for round the clock security, sentry posts and guard room etc. shall be provided.
- 4.18** While allotting the security personnel, the requirement for monitoring the perimeter security/ watch towers/ vulnerable/ strategic points may also be kept in view. A path way along the perimeter wall may be provided for the patrol by the security personnel. Adequate Lady security may also be deployed commensurate with the women detainees.
- 4.19** There should be a periodic security audit by the appropriate authorities.
- 4.20** There should be sufficient open space within the compound for detainees to move around in a secure environment.
- 4.21** There should be properly segregated accommodation for male and female detainees.
- 4.22** It should be ensured that members of same family are not separated and all family members are housed in the same detention centre.

- 4.23** There should be a provision for a Safety Cell for segregation of foreigners with behavioral issues that may be criminal in nature which may be detrimental to the safety and security of other inmates or Detention Centre staff.
- 4.24** Strict prison regimes applicable to under trial and convicted prisoners should not be made applicable to the foreign nationals housed in the detention centres/ holding centres/ camps.
- 4.25** The persons housed in the detention centres/ holding centres/ camps should be permitted to meet/ communicate with the family members and no restrictions shall be imposed on this account.
- 4.26** As regards meeting visitors other than family members, the provisions in the model prison manual 2016 may be followed.
- 4.27** State Governments/ UT Administrations/ FRROs/FROs etc. may devise appropriate system for keeping records of the visitors etc.
- 4.28** The staff posted at the detention centre/ holding centre/ camp should be well trained to ensure that the detainees are treated with due dignity.
- 4.29** State Governments/ UT Administrations may decide the complement of staff including wardens, security personnel, Superintendents, office personnel etc. to be provided at the detention centre/ holding centre/ camp depending upon the average number of inmates housed in the detention centre/ holding centre/ camp. They may also consider

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engagement of interpreters of different languages as and when needed.

- 4.30** Adequate provision should be made for medical attendance for the detainees. A mobile medical dispensary may also be made available. An ambulance facility may be provided for attending to the medical emergency 24X7. Posting/ detailing of a staff nurse/training of some staff for giving first aid may also be considered. Any additional medical facilities to be provided may be considered by the State Governments/ UT Administrations concerned.
- 4.31** Special attention may be given to the women/ nursing mother, transgender detainees, children, etc.
- 4.32** Creche facilities for children may be provided.
- 4.33** Children lodged in the detention centre may be provided educational facilities by admitting them in local schools nearby.
- 4.34** A skill centre may also be provided within the detention centre.
- 4.35** Total area required for a Detention Centre/ Holding Centre/ Camp may be decided, by the State Government/ UT Administration concerned taking into account the approximate number of foreigners to be accommodated at any given point of time and various amenities to be provided. Apart from the basic facilities to be provided like living area, toilets & bathrooms, kitchen, dining hall etc., other facilities like covered lobby outside rooms, open area, library, recreational facilities, space for indoor games, space for yoga

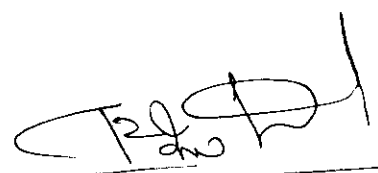
& meditation and open space for outdoor games etc. may be provided depending upon availability of space.

4.36 The scales of diet for inmates may be prescribed by the State Governments/ UT Administrations following the scales prescribed in the Model Prison Manual 2016, which is drawn from the ICMR guidelines on the same. The scales may vary according to local customs and dietary habits of the inmates but should as far as possible in compliance with the prescribed standards. State Governments/ UT Administrations may also modify the scales at any time if it deems fit. They may also draw up their own procedures for supply of food items to the inmates.

4.37 State Governments/ UT Administrations may consider entrusting the maintenance of such Detention Centre/ Holding Centre/ Camp and for providing ancillary staff to maintain such facilities like sweepers etc. to the Social Welfare Department in the State/UT or to any other agency as they deem fit.

4.38 A Grievances Redressal Cell may be set up. In case of complaints by the detainee, it should be investigated thoroughly by a Grievances Redressal Cell and appropriate action taken.

4.39 Besides the above, it may be ensured that amenities as incorporated in the Model Prison Manual 2016, which are not specifically covered above are also provided at the Detention Centres/ Holding Centres/ Camps to the extent possible.


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