



## **HARYANA STATE LAW COMMISSION**

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### **TENTH REPORT**

**To amend the Haryana Prison Rules, 2022 – To  
permit prisoner to transfer some part of his wages  
in the canteen account.**

**Government of Haryana**

# **HARYANA STATE LAW COMMISSION**

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**Government of Haryana**

**HARYANA STATE LAW COMMISSION****TENTH REPORT****12 MAY, 2023****To amend the Haryana Prison Rules, 2022 – To permit prisoner to transfer some part of his wages in the canteen account.**

Prisoners in many jails across the world face numerous challenges, including limited access to basic necessities like food, day to day needs and health care. One of the biggest problems faced by the prisoners is the quality of food, and medical facility served to prisoners in the prison, which can lead to malnutrition and health problem for prisoners. In addition, the high cost of food and medical facility in jail canteens is a major concern. Many prisoners are unable to afford the prices charged which can lead to hunger/starvation and malnutrition. Some prisoners resort to trading goods or services to obtain food, day to day necessities, medical facilities, which can lead to conflict and exploitation. Other prisoners may not be able to access the canteen due to non-availability of amount in their canteen account and other confinements. Improving the quality, accessibility, and affordability of food, day to day necessities and medical facility in jails, is essential for promoting the well-being of Incarcerated individuals. Prison authorities must take

steps to address these issues and ensure that prisoners have access to basic necessities like food, daily needs and health care. Overall, the canteen can be a significant source to redress the stress and hardship being suffered by the prisoners in the prison and addressing these problems is crucial for promoting the health and well-being of incarcerated individuals.

Prisoners do not cease to be human beings when put behind bars. The Supreme Court and many other courts of India have reiterated this position in several cases so that prisoners do not become a victim themselves. They are provided with a proper rehabilitative environment to help them improve and become better beings.

It has been inter alia held by the Hon'ble Supreme Court of India in case *Charles Sobraj vs. The Suptd., Central Jail, Tihar 1978 AIR 1514* that imprisonment does not spell fair-well to fundamental rights although by a realistic re-appraisal, Courts will refuse to recognize the full panoply of Part III of the Constitution enjoyed by a free citizen. Whenever fundamental rights are flouted or legislative protection ignored to any prisoner's prejudice, this Court's writ will run breaking through stone walls and iron bars, to right the wrong and restore the rule of law.

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Prisoners retain all rights, enjoyed by free citizens except those lost necessarily as an incident of confinement. Rights enjoyed by prisoners under Articles 14, 19 and 21 though limited are not static and will rise to human heights when challenging situations arise.

Same view has been taken by the Hon'ble Supreme Court in case *R.C.Cooper v. Union of India, [1971] 1 CR 512 ; Menaka Gandhi v. F. Union of India & Anr., [1978] 1 CR8 and Mohammad Giasuddin vs. State of Andhra Pradesh [1978] 1 CR 153.*

The Government of Haryana, Jail Department, through D.G. Jails issued letter to all the Superintendents of Jail in the State of Haryana bearing No.54067/818/D.G.Jail/2002/B-3 dated 23.12.2022 vide which it has been directed that the dire necessities of day today use as mentioned in the aforesaid letter be provided to the prisoners. The expenses of which shall be borne out of the Jail Canteen Funds. However, much still needs to be done because apart from the articles mentioned in the aforesaid letter to be provided to the prisoners, the special prisoners, who are differently impaired, need some items to protect their health and meet with the necessities which are required for those specially impaired persons. Jail Canteen is the only source of articles which can be purchased by the prisoners in the Jail premises. So, it is dire necessity that the prisoner may be allowed to use some part of his wages earned by him in the Jail for the protection of his health and to meet with day today

dire necessities of life. The Haryana Prison Rules, 2022 has made a provision of Prison Canteen vide Chapter 44 and through Rule 965, the family members/relatives of the prisoners are allowed to deposit the money in the canteen account of the prisoners through online mode only, but these Rules do not have any provision to permit the prisoner to deposit any money in the canteen account from the wages he has earned by working in the Jail premises. There may be prisoners whose family members or relatives are not in such an economic position to deposit the money in the canteen account of the prisoners, so those prisoners may be deprived of using the canteen articles available in the Jail canteen because they could not have any amount in their canteen account.

To deprive prisoner from using his own assets, money or any other substance which he has earned during imprisonment, amounts to interference in the fundamental rights of a citizen (prisoner). The amount/wages earned by the prisoner in prison through his hard earned labour is the property of the prisoner and every citizen, though in imprisonment, has a right to use his property, particularly if he so requires to fulfill his dire necessities. Rule 869 (5) of the Haryana Prison Rules, 2022, ensures that the wages earned by the prisoner shall be deposited in the prisoners saving bank account (quarterly) and the passbook shall be kept with prisoner concerned. No doubt, the pass book is handed over to the prisoner but the Haryana Prison Rules, 2022 do not permit the prisoner to use the amount of his

wages for even his dire necessitates because he has only the pass book with him but he cannot operate his bank account. He cannot visit the bank concerned as the Haryana Prison Rules, 2022 do not allow him to go outside the prison/jail just for the purpose to withdraw or transfer the amount so that he could deposit the same in his canteen account in prison because canteen is the only source for the prisoner to take the items for his day to day needs/dire necessities.

The Haryana State Law Commission has thoroughly considered the case of the prisoners regarding prison canteen. CHAPTER 44 of the Haryana Prison Rules, 2022 deals with prison canteen. Rule 965 (CHAPTER 44) is reproduced here for ready reference :-

*“965. (1) The family members/relatives of the prisoners shall be allowed to deposit money in their canteen account through online mode only.*

*(2) Staff members may also deposit in canteen account to purchase any article from the canteen.*

*(3) The maximum amount of money which can be deposited in a calendar month shall be determined by the Director General from time to time.*

*Provided that at no time any prisoner or staff member have any money in excess of the prescribed sum.”*

Rule 965(1) deals with deposits in the canteen account. This Rule allows the family members/relatives of the prisoners to deposit money in the canteen account of the prisoners through on line mode only. Rule 965(2) permits staff members to deposit money in canteen account to purchase any article from the canteen. But this Rule 965 does not allow the prisoner to deposit any amount/money in his canteen account. The prisoner earns wages by doing work/labour assigned to the prisoner in the prison and the wages so earned by the prisoner are to be deposited in the prisoners' saving bank account (quarterly) and the pass-book shall be kept with the prisoner concerned (Rule 869(5)).

As discussed above, there is no provision in the Haryana Prison Rules, 2022 which permits the prisoner to deposit any amount of wages earned by him in the prison, in his canteen account. The Law Commission is, therefore, of the opinion that Rule 965 should be amended by adding Rule 965(1) sub-rule (a) after Rule 965(1), which shall read as under :-

***Rule 965(1)(a) “The prisoner may use 1/3rd of the amount of his wages for depositing the same in his canteen account and for that***



*purpose, the prisoner may be, on request, taken to the bank concerned once in a quarter (three months) for transferring the amount from the saving Bank account of his wages to his canteen account.”*

It is also in the notice of the Law Commission that there are prisoners, who cannot earn wages due to some reasons beyond their control. Such as some categories of prisoners mentioned in Rule 870(a) prisoners above the age of seventy years, if not found suitable for work by the Medical Officer ; and in Rule 870(b) prisoner found unfit by the Medical Officer or by the "Classification and Security Monitoring Committee" and in Rule 870 (d) it is clarified that prisoners, who are sick and infirm, and those undergoing prison punishments and the prisoners, who were not attended by any of his relatives in last 45 days, they also, rather, more deserving prisoners in whose canteen account some amount is to be deposited so that they could get the advantage of canteen services in the prison.

The Law Commission is of the view that these prisoners shall be provided with some amount from the Prison Inmates Welfare Funds, to be deposited in their canteen account. Rule 971 deals with utilization of profits i.e. "Prison Inmate Welfare Fund." Rule 971 reads as under :-

*“971.(1) The profit generated from canteen sales etc. shall constitute ‘Prison Inmate Welfare Fund’ and a separate account shall be opened in each prison for this fund.*

*(2) This fund shall be used exclusively for welfare of prisoners as per the Standard Operating Procedure (SOP) prescribed by the Director General.*

*(3) The Superintendent shall be empowered to utilize ‘Prison Inmate Welfare Fund’ in the following manner, namely :-*

*“(a) @ Rs.20/- per prisoner on celebration of national festivals and other occasions as notified by the Director General.*

*(b) @ Rs.5/- per prisoner on one item of sports at a time per month.*

*(c) Rs.25,000/- per month for purchase and repair of items for prisoners use like water coolers, projectors, television sets, sound system etc.. In case amount exceeds Rs.25,000/-, prior sanction of the Director General shall be sought.*

*(d) for cultural activities like dramas, music and dance, symposiums etc. and*

*(e) for any other welfare purpose with the prior approval of the Director General”.*

The Law Commission is of the opinion that Rule 971(A) after Rule 971 may be added as follows :-

***971-A. “The prisoners, who cannot earn wages due to some reasons beyond their control such as prisoners mentioned in Rule 870 (a), (b) and (d) and the prisoners who were not attended by any relatives in last 45 days, shall be provided with a reasonable amount (to be decided by the Director General Prisons) from Prison Inmates Welfare Funds to be deposited in their canteen account.”***

### **RECOMMENDATIONS**

In the light of the above discussion, the Law Commission recommends amendments in the Haryana Prison Rules, 2022 by adding following Rule 965(1)(a) after Rule 965(1) :-

***Rule 965(i)(a) “The prisoner may use 1/3rd of the amount of his wages for depositing the***

*same in his canteen account and for that purpose, the prisoner may be, on request, taken to the bank concerned once in a quarter (three months) for transferring the amount from the saving Bank account of his wages to his canteen account.”*

And we further recommend that following Rule 971-A be added after Rule 971 :-

*Rule 971-A. “The prisoners, who cannot earn wages due to some reasons beyond their control such as prisoners mentioned in Rule 870 (a), (b) and (d) and the prisoners who were not attended by any relatives in last 45 days, shall be provided with a reasonable amount (to be decided by the Director General Prisons) from Prison Inmates Welfare Funds to be deposited in their canteen account.”*

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