

# वैचारिकी VAICHARIKI



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## प्रस्तावना

"वैचारिकी" का तृतीय अंक प्रस्तुत किया जा रहा है। इस अंक में शासन द्वारा निर्गत तवीनतम। महत्त्वपूर्ण शासनादेशों को संकलित करते हुए जिला मजिस्ट्रेट\जिलाधिकारियों के अधिकार एवं उत्तरदायित्वों को भी विभिन्न अधिनियमों से संकलित कर एकीकृत रूप में प्रस्तुत किए जाने का प्रयास किया गया है।

आशा है विगत की भांति प्रत्येक सरकारी सेवक को यह अंक भी उपयोगी एवं सार्थक सिद्ध होगा तथा वैचारिकी अपनी परम्परा के अनुरूप उन्हें प्रमुख एवं महत्त्वपूर्ण विषयों की जानकारी देने में सहायक बनेगी। आपके सुझाव भावी संकलनों के लिए सदैव आमंत्रित हैं।

मुकुल सनवाल  
निदेशक।

# **PART I**

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## 1. मूल भूत प्राविधान

### उद्देशिका ( Preamble )

हम, भारत के लोग, भारत को सम्पूर्ण प्रभुत्व-सम्पन्न, समाजवादी, धर्म निरपेक्ष लोकतांत्रिक गणराज्य बनाने के लिए तथा उसके समस्त नागरिकों को सामाजिक, आर्थिक और राजनीतिक न्याय, विचार अभिव्यक्ति, विश्वास, धर्म, और उपासना की स्वतंत्रता, प्रतिष्ठा और अवसर की समता प्राप्त कराने के लिए, तथा उन सब में व्यक्ति की गरिमा और राष्ट्र की एकता और अखण्डता सुनिश्चित करने वाली बन्धुता बढ़ाने के लिए दृढ़संकल्प होकर अपनी इस संविधान सभा में आज तारीख 26 नवम्बर, 1949 ई. तिथि मार्गशीष शुक्ल सप्तमी संवत् दो हजार छह विक्रमी को एतद्द्वारा इस संविधान को अंगीकृत, अधिनियमित और आत्मसमर्पित करते हैं।

## **U.P. Government Servant Conduct Rules 1956**

### **(Some notable Rules)**

Regulating the conduct of government servants is essential to ensure that the public have full confidence in them. Any of their misconduts may tarnish the image of the government as well, thus each Govt. servant should thoroughly go through these rules. Certain important rules are given below :

**Rule 3.** (1) Every government servant shall at all times maintain absolute integrity and devotion to duty.

(2) Every government servant shall at all times conduct himself in accordance with the specific or implied orders of government regulating behaviour and conduct which may be in force.

**Rule 4.** Equal treatment to all-

(a) Every government servant shall accord equal treatment to people irrespective of their caste, sect or religion.

(2) No government servant shall practise untouchability in any form.

**Rule 4A.** Consumption of intoxicating drinks and drugs-

A government servant shall-

(a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;

(b) not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug;

(c) refrain from consuming any intoxicating drink or drug in a public place;

(d) not appear in a public place in a state of intoxication

(e) not use any intoxicating drink or drug to excess.

**Rule 5.** Taking part in politics and elctions :

(1) No government servant shall be a member of, or be otherwise associated with, any political party or any organisation which takes part in politics, nor shall he take part in, subscribe in aid of, or assist in any other manner, any movement or organisation which is nor tends directly or indirectly to be, subversive of the government as by law established.

**Rules 11. Gifts :** A government servant shall not without previous approval of the Government-

(a) accept directly or indirectly on his own behalf or on behalf of any other person, or

(b) permit any member of his family who is dependent on him to accept any gift, gratuity or reward from any person other than a close relation:

Provided that he may accept or permit any member of his family to accept from a personal friend a wedding present or a present on a ceremonial occasion of a value not exceeding Rs. 51/-. All government servants shall, however, use their best endeavour to discourage even the tender of such presents.

**Rule 11-A.** No government servant shall-

- (i) give or take or abet the giving or taking of dowry; or
- (ii) demand directly or indirectly from the parents or guardian of a bride-groom as the case may be, any dowry.

**Rule 24.** Movable, Immovable and valuable property :

(1) No government servant shall except with the previous knowledge of the appropriate authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family :

Provided that any such transaction conducted otherwise than through a regular and reputed dealer shall require the previous sanction of the appropriate authority.

**Rule 29.** Bigamous marriages :

(1) No government servant who has a wife living shall contract another marriage without first obtaining the permission of the government, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

(2) No female government servant shall marry another person who has a wife living without first obtaining the permission of the Government.



## सचिवालय कार्य प्रक्रिया

सचिवालय राज्य सरकार का मुख्यालय है जिसके द्वारा राज्य सरकार सम्पूर्ण प्रदेश के प्रशासन पर नियंत्रण तथा जनहित के विभिन्न कार्य-कलापों का संचालन सु-निश्चित करती है।

संगठनात्मक स्वरूप सचिवालय विभिन्न विभागों में बटा हुआ है और प्रत्येक विभाग का विभागाध्यक्ष सचिव होता है। सचिव के कार्यों में सहायता के लिए विशेष सचिव, संयुक्त सचिव, उप सचिव तथा अनुसचिव उपलब्ध रहते हैं जो सचिव के मार्गदर्शन में कार्य करते हैं। विभागों को छोटे-छोटे अनुभागों में विभाजित कर दिया गया है और प्रत्येक विभाग एक अनुभाग अधिकारी के चार्ज में कार्य करता है जो द्वितीय श्रेणी का राजपत्रित अधिकारी होता है।

वर्तमान में सचिवालय में 55 विभाग हैं और अनुभागों की संख्या 340 है। मुख्य सचिव सचिवालय का प्रमुख शीर्ष अधिकारी होता है जो समग्र रूप से सचिवालय के समस्त कार्य-कलापों पर नियंत्रण रखता है। मुख्य सचिव सचिवालय के विभागों का पर्यवेक्षण तथा उनके कार्यों को समन्वित करने के लिए किसी भी विभाग से संबंधित किसी भी मामले के बारे में कोई रिपोर्ट या सूचना माग सकते हैं और संबंधित विभाग का सचिव उनके इस अनुरोध का पालन करेगा।

### विभागों का वर्गीकरण

सचिवालय के विभागों को सामान्यतया निम्न लिखित दो श्रेणियों में वर्गीकृत किया गया है :

क- प्रशासनिक विभाग - इस विभाग के अन्तर्गत प्रशासकीय नियंत्रण में एक या उससे अधिक विभागाध्यक्ष कार्य करते हैं और उनके कार्यकलापों के नियंत्रण का दायित्व इन प्रशासकीय विभागों पर होता है। उदाहरण के रूप में कृषि विभाग, शिक्षा विभाग, उद्योग विभाग, सार्वजनिक निर्माण विभाग, गृह विभाग आदि प्रशासनिक विभाग हैं।

ख- परामर्शदात्री विभाग - यह विभाग मुख्यतया ऐसे नियमों एवं प्रक्रियाओं के निर्माण से संबंधित है जिनका उपयोग राज्य के कार्य-कलापों के संचालन में आवश्यक होता है। इसलिए प्रशासकीय विभागों को प्रायः इन विभागों से नियमों एवं प्रक्रियाओं की व्याख्या हेतु परामर्श अथवा सहमति लेनी पड़ती है। वित्त, नियोजन, न्याय विधायिका तथा कार्मिक विभाग के परामर्शदात्री विभाग हैं।

सचिवालय के प्रमुख कार्य - सचिवालय के प्रमुख कार्य निम्नवत् हैं:

1- राज्य के विभिन्न कार्यक्षेत्रों में सार्वजनिक सेवाओं के संचालन हेतु विधानमण्डल द्वारा अधिनियम विधिक नियम तथा प्रक्रियाओं का निर्धारण,

2- राज्य का वार्षिक आय-व्ययक तैयार करना,

3- राज्य के चतुर्मुख विकास के लिए नीतियों, प्रोजेक्ट्स तथा योजनाओं का निर्धारण,

4- राज्य सरकार द्वारा अनुमोदित विभिन्न नीतियों, योजनाओं, और कार्यक्रमों के समुचित क्रियान्वयन के लिए विभागाध्यक्षों तथा उनके अधीनस्थ अधिकारियों को शासन के आदेशों और निर्देशों को जारी करना,

5- संविधान के उपबंधों तथा उनके अधीन निर्मित नियमावलियों के अनुसार राज्य सरकार के कार्यों का संचालन।

कार्यों का संचालन राज्य के कार्यों का उचित संचालन सचिवालय का एक मुख्य दायित्व है। भारत के संविधान

की धारा 166 के अन्तर्गत कार्य संचालन की दिशा में जो व्यवस्था की गई है वह निम्नवत् है:

**Clause(1)** - All executive actions of the Government of State shall be expressed to be taken in the name of the Governor.

**Clause(2)** - Order and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor.

उपरोक्त से स्पष्ट है कि राज्य सरकार के जो कार्य, निर्णय या आदेश सचिवालय से जारी होंगे, वे सभी राज्यपाल के नाम से जारी किये जायेंगे। इसी कारण जो भी वित्तीय स्वीकृतियाँ या प्रशासकिय आदेश सचिवालय से जारी होते हैं, उन्हें यह लिखा रहता है कि राज्यपाल के कतिपय स्वीकृति/आदेश सर्व्व जारी किया है।

इस प्राविधान के अंतर्गत The Uttar Pradesh Authentication ( Order and the Instruments ) Rules, 1975 बनाये गये। इन नियमों के अंतर्गत समस्त सचिव, विशेष सचिव, संयुक्त सचिव, उप सचिव तथा अनु सचिव राज्यपाल अथवा राज्य सरकार की आर से जारी होने वाले सभी आदेशों सपर हस्ताक्षर करने के लिए अधिकृत किये जा सकते हैं।

**Clause (3)**. The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among the Ministers of the said business.

संविधान की उप धारा के अन्तर्गत, राज्यपाल द्वारा निम्नलिखित नियमावलियाँ बनाई गयी हैं:

(1) Business of UP ( Allocation ) Rules, 1975

(2) Uttar Pradesh Rules of Business, 1975 and UP Secretariat Instructions, 1982

बिजनेस आफ यूपी एलोकेशन रूल्स, 1975 इस नियमावली में राज्य सरकार के समस्त कार्यों का बटवारा सचिवालय के विभिन्न विभागों/अनुभागों में किया गया है।

नियम-2 में यह व्यवस्था है कि राज्य सरकार के समस्त कार्य सचिवालय के उप विभागों/अनुभागों में निष्पादित किये जायेंगे जिसमें इस नियमावली के अन्तर्गत उन कार्यों का बटवारा निर्धारित होगा।

नियम-3 में इस बात की व्यवस्था है कि राज्यपाल, मुख्यमंत्री के परामर्श से, राज्य सरकार के कार्यों का बटवारा मंत्रियों के मध्य उन्हें एक या अधिक विभाग आवंटित करके करेगा।

नियम-4 के अनुसार सचिवालय के प्रत्येक विभाग का प्रमुख शासन का सचिव होगा और उस विभाग में तैनात अन्य अधिकारी उसके अधीनस्थ कार्य करेंगे।

यू पी. रूल्स आफ बिजनेस 1975 - इस नियमावली में विभागों तथा मंत्रियों के मध्य आवंटित कार्यों के निस्तारण की प्रक्रियायें की गई हैं।

नियम-3 के अन्तर्गत इस बात की व्यवस्था है कि सचिवालय के विभागों या अनुभागों में आवंटित समस्त कार्यों

का निस्तारण उस विभाग के प्रभारी मंत्री द्वारा किया जायेगा या उनके द्वारा जारी किये गये सामान्य अथवा विशिष्ट निर्देशों के अन्तर्गत उनका निस्तारण होगा। परन्तु निम्नलिखित दौ अवस्थाओं में विभागीय मंत्री को स्वतंत्र रूप से निर्णय लेने का अधिकार नहीं होगा:

क- ऐसे मामलों में जहाँ पर इस नियमावली के अन्तर्गत सचिवालय के अन्य विभागों से परामर्श या सहमति प्राप्त करने की आवश्यकता है, जैसे वित्त विभाग, नियोजन विभाग, कार्मिक विभाग, न्याय विभाग आदि से।

ख- ऐसे मामलों में जहाँ पर इस नियमावली के अधीन प्रस्तावों को मंत्रीपरिषद, मुख्यमंत्री तथा राज्यपाल के आदेशों के लिए भेजना पड़ता है।

#### नियम -4 अर्न्तविभागीय परामर्श

1. जैसा कि ऊपर इंगित किया गया है, जब किसी मामले का विषय एक से अधिक विभागों से सम्बद्ध हो तो कोई भी आदेश तब तक जारी नहीं किया जायेगा जब तक कि ऐसे सभी विभागों से सहमति न ले ली गयी हो। इस प्रकार की सहमति पाने में असफल रहने पर कैबिनेट के द्वारा या किसी प्राधिकार के अधीन उस मामले में निर्णय लिया जायेगा।

2- जब तक कोई मामला वित्त विभाग द्वारा दिये गये किसी सामान्य या विशेष व्यक्ति द्वारा दिये गये किसी सामान्य या विशेष आदेश द्वारा प्रदत्त व्यय स्वीकृत करने के अधिकार से पूर्णतया समाप्त न हो, तब तक कोई भी विभाग वित्त विभाग की सहमति के बिना कोई भी आदेश जारी नहीं करेगा -

क- जिसमें राजस्व का परित्याग सन्निहित हो,

ख- जिसमें भूमि का कोई अनुदान या राजस्व में कोई छूट या खनिज या वनज या जलशक्ति अधिकार का अनुमोदन, अनुदान, पट्टा या अनुज्ञापति सन्निहित हो,

ग- जो पदों की संख्या या श्रेणी या किसी सेवा की सदस्य संख्या, या सरकारी सवकों के वेतन या भत्ते से संबंधित हो और जिसमें वित्तीय मामला निहित हो, या

घ- जो अन्यथा वित्त से संबंधित हो, चाहे उसमें व्यय सन्निहित हो या नहीं।

-7- कैबिनेट को मामला प्रस्तुत करना- ऐसे सभी मामले जिन्हें कैबिनेट के समक्ष प्रस्तुत किया जाना अनिवार्य है, वे इन नियमावली की प्रथम सूची में दिये गये हैं।

नियम-8- मुख्यमंत्री तथा राज्यपाल को मामला प्रस्तुत किया जाना- ऐसे सभी मामले जो इस नियम की द्वितीय अनुसूची में निर्दिष्ट हों, मुख्यमंत्री या राज्यपाल को, या मुख्यमंत्री और राज्यपाल को, प्रस्तुत किये जायेंगे और उनके निर्णय के अनुसार ही उन पर आदेश जारी किये जायेंगे।

नियम -11-नियमों से छूट देना - मुख्यमंत्री किसी मामले में इस नियमावली में उस सीमा तक, जिसे वह आवश्यक समझें, छूट की आज्ञा या माफी दे सकते हैं।

नियम -12- इसके अन्तर्गत राज्यपाल को यह अधिकार दिया गया है कि वे इस नियमावली की अनुपूर्ति मुख्यमंत्री की मंत्रणा से जारी कर सकते हैं जो 30प्र0 सचिवालय अनुदेश के रूप में होगी। सचिवालय अनुदेश राज्य सरकार के कार्यों को अधिक सुविधापूर्वक निष्पादित किये जाने के लिए बनाये गये हैं।

30प्र0 सचिवालय अनुदेश इस अनुदेश में कैबिनेट की प्रक्रिया, विभागीय कार्य निस्तारण, कार्मिक, गोपन, नियुक्ति तथा सतर्कता विभागों के दायित्वों का संक्षिप्त उल्लेख है। इसके अतिरिक्त सचिवालय कार्य प्रक्रिया की भूमिकाओं का भी उल्लेख किया गया है। लोक सेवा आयोग से परामर्श की प्रक्रिया भी संक्षेप में दी गयी है।

कैबिनेट की प्रक्रिया -

1- मुख्य सचिव कैबिनेट का पदेन सचिव होता है।

2- ऐसे सभी मामले, जो प्रथम अनुसूची में निर्दिष्ट हैं, कैबिनेट में प्रस्तुत किये जाते हैं। इसके अतिरिक्त यदि कोई प्रभारी मंत्री कोई विषय कैबिनेट में ले जाना चाहें तो मुख्य मंत्री के अनुमोदन से कैबिनेट में विचारार्थ प्रस्तुत किये जा सकते हैं। ऐसे निराकरण के लिए मुख्यमंत्री के आदेश पर कैबिनेट में विचार-विमर्श के लिए भेजा जा

सकता है।

मंत्री-मण्डल के लिए टिप्पणी तैयार करते समय निम्नलिखित बातों को ध्यान में रखना चाहिए:

- 1- टिप्पणी के शीर्ष पर शब्द "मंत्री-मण्डल के लिए टिप्पणी" लिखना चाहिए। इसके ठीक नीचे प्रस्ताव की विषय-वस्तु संक्षेप में लिखी जानी चाहिए।
- 2- टिप्पणी छोट-छोटे पैराग्राफों में लिखी जानी चाहिए। अन्तिम पैराग्राफ में वे प्रस्ताव या उन बिन्दुओं को संक्षेप में दिया जाना चाहिए जिन पर मंत्री-मण्डल के आदेश वांछित हो।
- 3- ऐसे मामलों में जिन पर कित्त विभाग या किसी अन्य विभाग से परामर्श लिया जाना अपेक्षित हो तो टिप्पणी में यह बात स्पष्ट रूप से व्यक्त होनी चाहिए कि उक्त विभाग से परामर्श लिया गया है और उस विभाग के विचारों का समावेश किया गया है।
- 4- टिप्पणी संक्षिप्त और विषय संगत होनी चाहिए।
- 5- टिप्पणी के अन्त में शासन के संबंधित सचिव द्वारा हस्ताक्षर किया जायेगा।
- 6- टिप्पणी के अन्त में बायी तरफ दिनांक तथा उस विभाग का नाम तथा पत्रावली संख्या लिखी जायेगी जिससे प्रस्ताव संबंधित हो।

**अन्तर्विभागीय परामर्श की प्रक्रिया** जब किसी मामले में कित्त विभाग या किसी अन्य विभाग से परामर्श करने की आवश्यकता हो तो, निम्नलिखित प्रक्रिया का अनुकरण किया जायेगा :

- 1- प्रशासनिक विभाग में प्रस्ताव का परीक्षण होने के उपरान्त उसके सचिव या उसके अधीनस्थ कोई अधिकारी मामले को प्रभारी मंत्री के विचारार्थ प्रस्तुत करने के पूर्व कित्त विभाग को भेजेगा।
  - 2- कित्त विभाग के विचार प्राप्त होने पर मामले का निस्तारण कित्त विभाग की सलाह के अनुसार किया जायेगा।
  - 3- यदि प्रशासनिक विभाग की सलाह स्वीकार करने में असमर्थ हो तो मामला प्रभारी मंत्री के आदेश से कित्त मंत्री को निर्दिष्ट किया जायेगा। यदि कित्त मंत्री प्रशासनिक विभाग के प्रभारी मंत्री के विचार से सहमत न हो तो असहमति मुख्यमंत्री द्वारा दूर की जायेगी या उसका विनिश्चय मन्त्र-मण्डल द्वारा किया जायेगा।
  - 4- उपर्युक्त प्रक्रिया का अनुसरण यथावश्यक परिद्वर्तन सहित उन सभी मामलों में किया जायेगा जिनमें नियमावली या इन अनुदेशों के अधीन कित्त विभाग से भिन्न विभागों से परामर्श करना आवश्यक हो।
- नियोजन विभाग से परामर्श विकास कार्यों से संबंधित सभी प्रशासनिक विभागों को अपनी योजनाओं को अन्तिम रूप देने के लिए नियोजन विभाग से परामर्श करना पड़ता है। पंचवर्षीय योजनायें या वार्षिक योजनाओं में सम्मिलित विभिन्न योजनाओं के लिए परिव्यय का निर्धारण नियोजन विभाग की सहमति लेने के पूर्व नियोजन विभाग से प्राप्त करना पड़ता है।
- कार्मिक विभाग से परामर्श कार्मिक विभाग का कार्य मुख्यतया सेवा नियमावलियां तैयार करने से संबंधित सिद्धान्तों के बारे में सलाह और सामान्य रूप से सेवा संबंधी सभी प्रश्नों के विषयों से परामर्श देना होता है। यह विभाग राज्य सरकार की सेवा में व्यक्तियों की भर्ती तथा उनकी सेवा की शर्तों का विनियमित करने वाले सामान्य नियम बनाता है।
- इस विभाग में एक सेवा नियमावली सेल भी गठित है जिसमें कार्मिक विभाग, न्याय विभाग तथा कित्त विभाग के प्रतिनिधि होते हैं और किसी भी प्रशासनिक विभाग द्वारा संबन्धित सेवा नियमावलियों के विषय में यह सेल अपनी समन्वित राय उपलब्ध कराता है।

न्याय विभाग से विचार-विमर्श सचिवालय के सभी प्रशासनिक विभाग-न्याय विभाग से निम्नलिखित बिन्दुओं पर परामर्श प्राप्त करते हैं :-

क- परि-नियमों, अधिनियमों, विनियमों, आदेशों तथा सूचनाओं के विषय में,

ख- किसी मामले में निहित कानूनी बिन्दुओं पर,  
ग- सरकार की ओर से किसी मुकदमे को चलाने या वापस लेने के विषय में ।

विधायिका विभाग से परामर्श - विधायिका विभाग किसी कानून के संबंध में प्रारम्भ करने वाला विभाग नहीं है । इसका मुख्य कार्य वास्तव में यह है कि उस विषय के, जिसके संबंध में मंत्री मण्डल द्वारा अनुमोदन हो गया हो, प्रारूप को एक प्राविधिक और कानूनी रूप प्रदान करे ।

विधायिका विभाग प्रस्तुत विधायन के संबंध में निम्नलिखित बातों पर राय भी देगी:

- 1- प्रस्तावित विधायन की विधिक दृष्टि से आवश्यकता,
- 2- प्रस्तावित विधायन को कानून का रूप देने में राज्य विधान मण्डल की क्षमता,
- 3- उसके संबंध में राष्ट्रपति की पूर्व स्वीकृति प्राप्त करने के संबंध में संविधान की अपेक्षाएँ, और
- 4- प्रस्तावित विधायन की संविधान के उपबन्धों के और विशेष रूप से संकलित अधिकारों के उपबन्धों से संगति

## सरकारी सेवकों के विरुद्ध अनुशासनिक कार्यवाही करते समय ध्यान में रखे जाने हेतु मुख्य बातें:-

क- प्रक्रिया / व्यवस्था, जिसका अनुपालन / अनुसरण आवश्यक है

प्रक्रिया व्यवस्था

संदर्भ

1- किसी सरकारी सेवक के विरुद्ध किसी भी माध्यम से प्राप्त शिकायती पत्रों में उल्लिखित तथ्यों का अध्ययन उसके नियंत्रणाधिकारी या उच्चतर अधिकारी द्वारा किया जायेगा। यदि शिकायती पत्र में कोई विशिष्ट तथ्य न दिये गए हों, या और शिकायतकर्ता का नाम व पता न दिया गया हो, तो सामान्यतया शिकायती-पत्र, को निक्षेप कर दिया जायेगा।

एम०जी०ओ० का पुनरीक्षित संस्करण 1981  
का प्रस्तर 7713

2- अन्य शिकायती पत्रों का प्राथमिक जांच विभागीय स्तर पर अथवा आरोप/साक्ष्य प्रमाणों की जटिलता को देखते हुए सतर्कता विभाग से कराई जायेगी परन्तु विभागीय स्तर प्राथमिक जांच दण्डन प्राधिकारी द्वारा स्वयं या आरोपित सरकारी सेवक से कम से कम एक स्तर परन्तु सामान्यतः दो स्तर ऊपर के अधिकारी से सम्पन्न करायी जायेगी। यदि किसी प्रकरण में एक से अधिक अधिकारी/कर्मचारी आरोपित हों, तो जांचाधिकारी एक ही रहेगा।

1. शासनदेश संख्या 820/43-2-14-2 (83)/83, दिनांक 28-2-83 (प्रशासनिक सुधार अनुभाग -2)
2. शासनादेश संख्या -7/2/77-कार्मिक -1, दिनांक 28-2-1977

3- चूंकि जांच की प्रक्रिया इस तथ्य पर निर्भर करती है कि मामला लघु दण्ड का अथवा वृद्ध दण्ड का है और यदि लघु दण्ड का है तो कौन से दण्ड दिये जाने की संभावना है अतः दण्डन प्राधिकारी पिनिशंग अथारिटी द्वारा बिना प्राथमिक जांच कराये स्वप्रेरणा से अथवा प्राथमिक जांच के आधार पर अनियमितता/आरोपों की गम्भीरता व स्वरूप को देखते हुए यह निर्णय लिया जायेगा कि आरोपित सरकारी सेवक को प्रथम दृष्टया निम्नलिखित में से कौन सा/कौन से दण्ड देने का औचित्य है:-

लघु दण्ड

1. भर्त्सनात्मक प्रविष्टि सेंसर देना।
2. दक्षतारोक पर रोका जाना।
3. समयमान में उन प्रकरणों पर जिन पर कोई दक्षतारोक न हो, वेतन वृद्धि रोकना।

अनुशासनिक कार्यवाही के परिणामस्वरूप दिये जा सकने वाले दण्डों का उल्लेख सी०सी०ए० रूल्स के नियम 49/पनिशमेंट एण्ड अपील रूल्स फार सार्विडिनेट सर्विसेज के नियम- 1 में है।

4. उपेक्षा या नियमों अथवा आज्ञाओं का उल्लंघन करने के कारण सरकार को कोई आर्थिक क्षति की पूर्ण रूप से या आंशिक रूप से देतन से वसूली।

**वृहत दण्ड:**

1. नीचे के किसी पद या समयमान में या किसी समय मान में नीचे के किसी स्तर में पदावनति करना।

2. सेवा से हटाना रिमूवल

3. सेवा से पदच्युत करना डिसमिसल जिसमें वह व्यक्ति अन्य सरकारी सेवा के लिये अपात्र हो जाता है।

4- यदि उपरोक्त स्तम्भ संख्या ( 3 ) में उल्लिखित लघु दण्ड संख्या 1 एवं / अथवा ( 2 ) दिये जाने का औचित्य है तो बिना औपचारिक जांच के तथा बिना स्पष्टीकरण मांगे दण्डादेश उस प्राधिकारी द्वारा अपने विवेक का प्रयोग करके जारी किया जा सकता है जिसे इस प्रयोजनार्थ विधिवत् प्राधिकृत किया गया हो।

सी0सी0ए0 रुल्स का नियम 55-बी ए / पनिशमेंट एण्ड अपील रुल्स फार सर्वाडिनेट सर्विसेज का नियम 5 बी-ए

5- यदि दण्डाधिकारी द्वारा प्रथम दृष्टया उपरोक्त स्तम्भ 3 में उल्लिखित लघु दण्ड संख्या 3 एवं/अथवा 4 देने का औचित्य पाया जाय तो आरोपों का स्पष्ट विवरण देते हुए उनके विषय में आरोपित सरकारी सेवक का लिखित स्पष्टीकरण, बिना औपचारिक रूप से आरोप पत्र दिये हुए कर्त सम्मत अवधि में, मांगा जायेगा तथा स्पष्टीकरण, यदि समयान्तर्गत कोई दिया जाय, के प्रकाश में अपने विवेक का प्रयोग करके यथावश्यक दण्डादेश किया जा सकता है। दण्डन प्राधिकारी द्वारा इस प्रक्रिया के उपरान्त औचित्य पाये जाने पर लघु दण्ड संख्या 1 एवं/अथवा 2 भी दिये जा सकते हैं।

सी0सी0ए0 रुल्स का नियम 55- बी /पनिशमेंट फार सर्वाडिनेट सर्विसेज का नियम 5-बीबी

6- यदि प्रथम दृष्टया आरोप/अनियमितताओं की गम्भीरता/स्वरूप को देखते हुए उपर्युक्त स्तम्भ 3 में उल्लिखित कोई वृहद् दण्ड दिये जाने का औचित्य तो नियुक्ति प्राधिकारी जो कि उक्त दण्डों के लिए दण्डन प्राधिकारी है द्वारा स्वयं या अपने द्वारा नियुक्त जांचाधिकारी के माध्यम से विस्तृत जांच कराई जा सकती है।

सी0सी0ए0 रुल्स का नियम 552 पनिशमेंट एण्ड अपील फार सर्वाडिनेट सर्विसेज का नियम 52

7- 1 यदि नियुक्ति प्राधिकारी द्वारा स्वयं या इस प्रयोजनार्थ विधिवत् सक्षम प्राधिकारी द्वारा आवश्यक समझा जाय तो आरोपित सरकारी सेवक को उसके वर्तमान स्थान से स्थानान्तरित अथवा निलम्बित किया जा सकेगा। निलम्बन आदेश यथा सम्भव शासनादेश संख्या 15/8/81- कार्मिक 1, दिनांक 17/11/81 के

शासनादेश संख्या 7/2/78-कार्मिक -1, दिनांक 18 जुलाई, 1979, शासनादेश संख्या 7/2/78-कार्मिक -1, दिनांक 31-5-1984।

साथ प्रसारित प्रारूप संलग्नक पर जारी किया जाना चाहिए।  
निलम्बन सामान्यतया तभी किया यस्जाना चाहिए जब औपचारिक  
जांच करने का निर्णय ले लिया जाये।

2 निलम्बन सामान्यतः उसी दशा में किया जाना चाहिए, जबकि  
आरोपों के सिद्ध होने पर वृहत दण्ड दिये जाने का औचित्य है।

शासनादेश संख्या 22/4/71,नियुक्ति ख  
दिनांक 2 जुलाई,1971 ।

3 यदि निलम्बन काल की अवधि 6 माह से अधिक बीत जाय,  
तो प्रत्येक 6 माह में निलम्बन का पुनरीक्षण किया जाय।

शासनादेश संख्या 7/3/78-सा-1/80  
दिनांक 12 अगस्त, 1980 तथा 7/3/78  
-का 1-7/79, दिनांक 21 दिसम्बर,1979।

4 उक्त जांच हेतु आरोपित सरकारी सेवक को विस्तृत तथा  
स्वतः स्पष्ट आरोप पत्र दिया जायेगा जिसमें प्रत्येक आरोप को  
सिद्ध करने हेतु पृथक-पृथक साक्ष्यों का स्पष्ट उल्लेख हो । यदि  
दण्ड की मात्रा सुनिश्चित करने के लिये आरोपित सरकारी सेवक  
के पुराने अभिलेख देखे जाने प्रस्तावित हों तो आरोप पत्र में ही उस  
पिछले अभिलेख का उल्लेख कर दिया जायेगा।

सी0सी0पी0 रुल्स का नियम- 551 /  
पनिशमेंट एण्ड अपील रुल्स फार सर्वाडिसनेट  
सर्विसज का नियम -51 तथा शासनादेश सं0  
17/6/68 कार्मिक -1,दिनांक 18/1/82।

5 निलम्बन के साथ ही अपघारी कर्मचारी पर आरोप-पत्र  
तामील किया जाय। पुलिस केस दर्ज कराये जाने, गबन के मामले  
तथा लोकहित के ऐसे मामलों, जिसमें तत्काल निलम्बन आदेश  
तामील किया जाना आवश्यक हो, ऐसी आप-वादिक परिस्थितियों  
में निलम्बन आदेश जारी होने के तीन सप्ताह के अन्दर आरोप पत्र  
तामील किया जाय और यदि यह सम्भव न हो तो तब कारण  
अभिलिखित करते हुए अपने ठीक ऊपर के अधिकारी को  
परिस्थितियों से अवगत कराया जाय।

शासनादेश संख्या -7/2/78-कार्मिक-  
1,दिनांक 18/7/79 ।

6 उपरोक्त आरोप पत्र या तो स्वयं दण्डन प्राधिकारी द्वारा या  
उनके पूर्वानुमोदन पर उनकी ओर से तथा उन के कृते के रूप में  
जांचाधिकारी द्वारा आरोपित सरकार सेवक के नाम जारी किया  
जायेगा।

7 आरोपित सरकारी सेवक को अपनी सफाई पेश करने का  
अक्सर प्रदान किया जायेगा।

सी.सी.ए रुल्स नियम - 56 (1)/ पनिशमेंट  
एण्ड अलील रुल्स फार सर्वाडिसनेट सर्विसज  
का नियम -51 संविधान का अनुच्छेद 3112

8 जांचाधिकारी द्वारा जांच के दौरान गवाहों के बयान आरोपित  
सरकारी सेवक के समक्ष तथा विधिवत् शपथ दिलवाने के उपरान्त  
लिये जायेगे।

शासनादेश संख्या- 405/7/बी-153-50,  
दिनांक 10/3/69 ।

9 यदि आरोपित सरकारी सेवक अपनी सफाई में, अपना पक्ष  
प्रस्तुत करने के लिए कोई अभिलेख देखने या उसकी प्रति प्रदान  
करने की प्रार्थना करता है, निम्नलिखित परिस्थितियों के सिवाय

शासनोश संख्या -17/8/68-नियुक्ति ख  
दिनांक 26/6/69 ।



अभिलेख दिखा देना/प्रति प्रदान कर देना चाहिए :-

क. यदि मांगे गये अभिलेख आरोप-पत्र के संदर्भ में सुसंगत नहीं है ।

ख. यदि मांगे गये अभिलेख की प्रति प्रदान करना/दिखाया जाना लोकहित में नहीं है ।

टिप्पणी:-

यदि अभिलेख लम्बे हैं परन्तु उपरोक्तानुसार उन्हें दिखाया जाना/प्रति देना आपत्तिजनक नहीं है तो संबंधित सरकारी सेवक को अभिलेख देखने/उद्घरण लेने की अनुमति देनी चाहिए ।

10 जांच पूरी होने के बाद जांचाधिकारी द्वारा दण्डन प्राधिकारी को जांचाख्या प्रेषित की जायेगी जो अपने क्लिक का प्रयोग करके यथावश्य उपरोक्त स्तम्भ -3 में उल्लिखित कोई एक या अधिक लघु दण्ड अथवा वृहद् दण्ड देने का निर्णय ले सकते हैं यदि स्तम्भ -3 के अनुच्छेद 3, 4 अथवा वृहद् दण्ड में कोई एक या अधिक दण्ड देते हुये दण्डादेश महानाहिन राज्यपाल द्वारा जारी किया जाना हो तो उसे जारी करने से पूर्व लोक सेवा आयोग चाहे पदआयोग की परिधि में हो अथवा नहीं का परामर्श प्राप्त करना आवश्यक होगा। यदि जांचाधिकारी उचित समझे, वह विशिष्ट दण्ड की संस्तुति कर सकता है परन्तु उसके द्वारा दण्ड की संस्तुति जांचाख्या में नहीं की जायेगी वरन् अरुमा शीट पर अंकित की जाएगी।

उत्तर प्रदेश लोक सेवा आयोगकृत्यों का परिसीमन विनियम, 1954 का नियम 8क अधिसूचना संख्या 17/1/81-कार्मिक -1

टिप्पणी:-

यदि दण्ड की मात्रा सुनिश्चित करने के लिये पूर्व अभिलेख देखे जाने का प्रस्ताव हो परन्तु उन अभिलेखों का उल्लेख आरोप-पत्र में न दिया जा सका हो तो विचाराधीन मामले में दण्ड की मात्रा निर्धारित करने के सीमित उद्देश्य से अन्तिम चरण में दूसरी कारण बताओ नोटिस दी जाएगी। यदि आयोग का परामर्श आवश्यक है तो आयोग को मामला संदर्भित करने से पूर्व ही ऐसी नोटिस दी जाएगी।

शासनादेश संख्या 17/6/68-कार्मिक -1, दिनांक 18-1-87।

11. उपरोक्त कार्यवाही पूरी करके नियुक्ति प्राधिकारी दण्डन प्राधिकारी द्वारा स्वतः स्पष्ट व सकारण आदेश जारी किया जाएगा जिसमें आरोपों का संक्षिप्त विवरण जांचाधिकारी का निष्कर्ष / संस्तुति व दण्डन प्राधिकारी की इससे सहमति / असहमति के कारण तथा दण्ड की मात्रा का स्पष्ट उल्लेख किया जाएगा।

शासनादेश संख्या 1524/2-बी-61-63, दिनांक 28-6-63, तथा शासनादेश संख्या -19/11/75-कार्मिक -1, दिनांक 23-9-1977।

12 जांच का शीघ्रता से पूरा किया जाना सुनिश्चित किया जाएगा। अपघारी कर्मचारी से आरोप-पत्र का स्पष्टीकरण 15 दिन से एक माह के अन्दर प्रस्तुत करने को कहा जाय। इससे अधिक समय न दिया जाय। स्पष्टीकरण प्राप्त होने के एक माह के अन्दर जांच पूरी कर ली जाय। और जांच पूरी होने के 15 दिन के अन्दर रिपोर्ट प्रस्तुत कर दी जाय। यदि लोक सेवा आयोग का परामर्श अपेक्षित हो तब जांच रिपोर्ट प्राप्त होने के 6 सप्ताह के अन्दर आयोग का परामर्श प्राप्त कर लिया जाये। अन्यथा जांच रिपोर्ट प्राप्त होने की तिथि से 15 दिन के अन्दर दण्डाधिकारी द्वारा अन्तिम आदेश पारित कर दिया जाय। यदि इस समय सारिणी का अनुपालन न हो सके तब जांच अधिकारी/दण्डन प्राधिकारी कारणों को स्पष्टतया उल्लिखित करेंगे।

शासनादेश सं० 7/8/1977-क्र०-1, दिनांक 30-7-1977।

9- अनुशासनिक कार्यवाही के अन्तिम परिणाम स्वरूप यदि आरोपित सरकारी सेवक को सेवा से पृथक- /पदच्युत करने से भिन्न कोई एक या अधिक दण्ड दिये जाते हैं और उक्त सरकारी सेवक निलम्बित रह चुका है अथवा निलम्बित रहते दण्डादेश के परिणाम स्वरूप पदारुढ़ किया गया है तो निलम्बनकाल के केवल की कटौती के आदेश पारित करने से पूर्व आरोपित सरकारी सेवक को मूल नियम -45 की अपेक्षानुसार कारण बताओ नोटिस दी जायेगी।

शासनादेश संख्या -17/1/82 -कार्मिक -1 दिनांक 13-1-83।

टिप्पणी:-

पुलिस एक्ट की धारा- 7 से शासित होने वाले पुलिस कर्मचारियों के अतिरिक्त अन्य कर्मचारियों के संबंध में जिन आरोपों के विषय में किसी सरकारी सेवक के विरुद्ध विधि न्यायालय में अभियोग चल रहा हो/ चलाया गया हो उन्हीं आरोपों के संबंध में उस सरकारी सेवक के विरुद्ध अनुशासनिक कार्यवाही की जा सकती है।

शासनादेश संख्या -17/1/69-नियुक्ति ख दिनांक 6-6-69 तथा शासनादेश दिनांक 1-7-78।

10- पदच्युत तथा सेवा से पृथक किये जाने का आदेश तात्कालिक प्रभाव अर्थात् उस तिथि से प्रभावी होगा, जिस तिथि को वह आदेश संबंधित सरकारी सेवक को संसूचित किया जाय। उस स्थिति में जहां अधिकारी /कर्मचारी को निलम्बित किया गया हो संसूचित किये जाने की तिथि वही होगी जिस तिथि को आदेश तामीली के लिए डाक या अन्य माध्यम के हवाले कर दिया जाय और सक्षम अधिकारी को उस आदेश में कोई परिवर्तन करने का अधिकार न रह जाय। निलम्बन न होने की स्थिति में तात्कालिक प्रभाव की तिथि वही होगी जिस तिथि को आदेश संबंधित अधिकारी/कर्मचारी पर तामील हो जाय।

शासनादेश संख्या -7/9/1975-कार्मिक -1, दिनांक 25-2-1976।

## (ख) अनुशासनिक कार्यवाही के संबंधों में निषेधात्मक निर्देश

- 1- शिकायती पत्र के संबंध में आरोपित सेवक से स्पष्टीकरण मांगते समय उस शिकायतकर्ता का नाम/पता नहीं बताया जाना चाहिए। शासनादेश संख्या -13/15/77-कार्मिक दिनांक 24-9-77 ।
- 2- सतर्कता विभाग की खुली या गोपनीय जांच, जो प्राथमिक जांच है, के परिणाम सामने आने पर पुनः वैभागीक स्तर पर प्राथमिक जांच नहीं की जानी चाहिए बल्कि सीधे औपचारिक जांच, यदि आवश्यक हो, प्रारंभ की जारी चाहिए। शासनादेश संख्या -13/15/77 कार्मिक -1, दिनांक 24-1-66 ।
3. आरोप पत्र में सतर्कता जांच का उल्लेख नहीं किया जाना चाहिए। शासनादेश सं. 1075/30 । 1-82-49 । (134)/81 टी सी, दिनांक 26-3-83
- 4- यदि मामला, जांच हेतु प्रशासनाधिकरण/सतर्कता अधिष्ठान/अपराध अनुसंधान विभाग को सौंप दिया गया हो तो वैभागीक स्तर पर औपचारिक जांच की जानी चाहिए और यदि वैभागीक स्तर पर जांच चल रही हो तो रोक देनी चाहिए तथा प्रशासनाधिकरण की अन्तिम जांचाख्या प्राप्त होने पर नियमानुसार अग्रिम कार्यवाही की जानी चाहिए। शासनादेश संख्या 12/7/63-नियुक्ति ख, दिनांक 23-12-65 व दिनांक 21-4-69 तथा शासनादेश संख्या 2693/कार्मिक -1,80, दिनांक 18-2-81 ।
- 5- आरोपित सरकारी सेवक को दण्डादेश जारी करने के निमित्त शो-काँज नोटिस दिये जाने की आवश्यकता नहीं है। संविधान के 42 वें संशोधन के फलस्वरूप सेकेन्ड अपॉरच्यु-निटी का स्तर अब समाप्त हो गया है। शासनादेश सं0 7/1/77-कार्मिक -1, दिनांक 27-4-77 ।
- 6- न्यायालय द्वारा दोष सिद्ध के आधार पर यदि दण्ड दिया जाना हो तो न्यायालय के निर्णय के विरुद्ध सरकारी सेवक द्वारा अपील किये जाने की प्रतिक्षा तथा यदि अपील की जा चुकी हो तो उसके निर्णय की प्रतिक्षा नहीं की जानी चाहिए बल्कि टयल (प्राथमिक) कोर्ट द्वारा की गई दोष सिद्ध के आधार पर समूचित दण्डादेश पारित कर देना चाहिये। इस कार्यवाही के लिये संविधान के अनुच्छेद 311 2 ए के अनुसार किसी जांच की आवश्यकता नहीं है। शासनादेश संख्या 7/1/77-कार्मिक -1, दिनांक 12/10/79 ।
- 7- यदि प्रशासनिक कार्यवाही के परिणामस्वरूप आरोपित सरकारी सेवक को पूर्णतया दोषमुक्त नहीं पाया जाता तो अत्यन्त साधारण दण्डस्वरूप घेतावनी नहीं दी जानी चाहिए क्योंकि घेतावनी दण्ड की श्रेणी में नहीं आती है। ऐसी दशा में सेन्सर इन्ट्री दी जा सकती है। सी0सी0ए0 रुल्स का नियम 49/पनिशमेंट एण्ड अपील रुल्स फार सर्वाइडिनेट सर्किसेज का नियम

8- सेवा से पदच्युत करना और सेवा से हटाने का दण्ड आरोपित सरकारी सेवक के वास्तविक नियुक्ति प्राधिकारी से नीचे के स्तर के प्राधिकारी द्वारा नहीं दिया जा सकता ।

संविधान के अनुच्छेद 311 2।

9- दण्डादेश जारी करने हेतु विभागाध्यक्ष या किसी अन्य प्राधिकारी यदि बं जांचाधिकारी नहीं है, की आख्या या राय नहीं प्राप्त करनी चाहिये ।

10- यदि महामहिम राज्यपाल द्वारा प्रशासनाधिकरण की जांच के आधार पर अथवा संविधान के अनुच्छेद 311 2 ग के तहत दण्डादेश पारित किया जाय तो लोक सेवा आयोग के परामर्श की आवश्यकता नहीं है ।

उत्तर प्रदेश, लोक सेवा आयोग कृत्यों का परिसीमन विनियम 1954 के नियम 8क का पदच्युतअधिसमचना संख्या 17/1/1988

11- यदि दण्डादेश महामहिम राज्यपाल से भिन्न, किसी प्राधिकारी द्वारा पारित किये जाने हों तो लोक सेवा आयोग का परामर्श आवश्यक नहीं है चाहे आरोपित सरकारी सेवक की नियुक्ति लोक सेवा आयोग के परामर्श से उनके द्वारा आयोजित चयन के आधार पर की गई हो ।

उत्तर प्रदेश लोक सेवा आयोग कृत्यों का परिसीमन विनियम 1951 के नियम 8सी के नीचे उल्लिखित उदाहरण संख्या 5

12- यदि किसी अनियमितता/आरोप के विषय में कार्यवाही प्रारम्भ होने के पश्चात दण्ड देकर अथवा बिना दण्ड दिये एक बार मामला अन्तिम रूप से समाप्त हो गया है तो ठीक उसी अनियमितता या आरोप के आधार पर किसी सरकारी सेवक के विरुद्ध पुनः दण्डात्मक कार्यवाही नहीं की जा सकती है ।

शासनादेश संख्या 12/7/65 -नियुक्ति स दिनांक 21/12/1965 ।

13- अनुशासनिक कार्यवाही के तहत लम्बित जांच को सी०एस०आर० के अनुच्छेद 351-ए के तहत पेंशन से कटौती के लिये जारी रखा जा सकता है । परन्तु सेवा निवृत्त सरकारी सेवक को कोई अनुशासनिक दण्ड नहीं दिया जा सकता है और न ही उक्त दण्ड के उद्देश्य से कार्यवाही प्रारम्भ की या जारी रखी जा सकती है ।

सी०एस०आर० का अनुच्छेद 351-ए ।

### टिप्पणी

यदि सेवानिवृत्ति के पश्चात कोई तथ्य सामाने आये तो सेवानिवृत्ति के पश्चात भी सी०एस०आर० 351-ए के तहत कार्यवाही की जा सकती है बशर्ते कि जिस घटना को चार वर्ष से अधिक समय न बीत चुका हो ।

## ( ग ) अस्थायी सरकारी कर्मचारियों की सेवा समाप्त करने की व्यवस्था

1- अस्थायी सरकारी कर्मचारियों की सेवा जो दीर्घकालीन तथा संतोषजनक हो मामूली से दोष पर, जल्दबाजी में तथा आवेश में आकर न समाप्त की जाये। सेवायें समाप्त के लिये पर्याप्त औचित्य नितान्त आवश्यक है तथा ऐसी कार्यवाही के पूर्व उसकी अवधि तथा पूर्व सेवानिवृत्ति पर विचार कर लेना चाहिये।

शासनादेश संख्या -20/1/72-नियुक्ति-3  
दिनांक 10-8-72

2- अस्थायी कर्मचारी की सेवा एक माह की नोटिस देकर समाप्त की जा सकती है। सेवा तुरन्त भी समाप्त की जा सकती है और ऐसी समाप्ति पर, सरकारी सेवक को नोटिस की अवधि एक माह या यथास्थिति ऐसी नोटिस एक माह से जितनी-कम हो उतनी अवधि का वेतन पाने का दावेदान होगा नोटिस का प्रारूप संलग्न-2 नोटिस में सेवा समाप्ति के कारण का उल्लेख नहीं होना चाहिए।

1 30प्र0 सरकारीसेवा समाप्ति  
नियमावली,1975 । 2 शासनादेश संख्या  
43/1/71-कार्मिक कार्मिक -1, दिनांक  
5-9-81।

3- अधिष्ठान में कमी के कारण सेवासमाप्ति अन्तिम आगमन प्रथम बर्हिगमन" के सिद्धान्त पर की जाय।

शासनादेश संख्या 43/1/71  
-नियुक्ति-3,दिनांक 14/9/72।

4- यदि किसी कर्मचारी की सेवायें असंतोषजनक कार्य/आचरण के कारण समाप्त की गई है और उसने न्यायालय/अधिकरण में बाद दायर किया है तब काउन्टर एफिडैफिट में सेवा समाप्त के कारणों का अवश्य उल्लेख इस आशय से किया जाय कि वे सेवा समाप्ति के "आधार" नहीं है बल्कि "प्रेरक" है।

- तदैव

5- निम्न कर्मचारियों के संबंध में एक माह का नोटिस या वेतन का प्रतिबन्ध लागू न होगा:-

अ. संविदा पर नियुक्ति

30प्र0 अस्थायी सरकारी सेवकसेवा समाप्त  
नियमावली,1975 का नियम स-4।

ब. पूर्णकालिक सेवा योजन में न हो।

स. जिन्हें आकस्मिक व्यय का धनराशि से अदायगी की जाती है।

द. कार्य प्रभारित बुकचार्ज अधिष्ठान में यथा घोषित।

म. पुर्ननियुक्ति के मामले में।

र. निविर्दिष्ट अवधि, के लिये सेवायोजित।

ल. अल्पकालिक अवस्था / रिक्तियों में सेवायोजित।

उत्तर प्रदेश शासन  
-----अनुभाग  
संख्या-----  
दिनांक-----

### आदेश

श्री ----- (नाम तथा पदनाम)-----को जिसके विरुद्ध निम्नलिखित आरोपों के संबंध में अनुशासनिक कार्यवाही प्रस्तावित है, एतद्द्वारा तात्कालिक प्रभाव से निलम्बित किया जाता है:-

- 1-
- 2-
- 3-
- 4-

2- निलम्बन की अवधि में श्री----- को वित्तीय नियम संग्रह, खण्ड -2, भाग 2 से 4, के मूल नियम 58 के प्राक्विधानों के अनुसार जीवन निर्वाह भत्ते की धनराशि, अर्द्धवेतन पर देय अक्काश वेतन की राशि के बराबर देय होगी तथा उन्हें जीवन निर्वाह भत्ते की धनराशि पर मंहगाई भत्ता, यदि ऐसे अक्काश वेतन पर देय है, भी अनुमन्य होगा, किन्तु ऐसे अधिकारी को जीवन निर्वाह के साथ कोई मंहगाई भत्ता देय नहीं होगा, जिन्हें निलम्बन से पूर्व प्राप्त वेतन के साथ मंहगाई भत्ता अथवा मंहगाई भत्ते का उपात्तिक समायोजन प्राप्त नहीं था । निलम्बन के दिनांक को प्राप्त वेतन ----- प्रतिकर भत्ते भी निलम्बन की अवधि में इस शर्त पर देय होंगे, जब इसका समापन हो जायेगा । ----- व्यय वास्तव में किया जा रहा है । जिसके लिये उक्त प्रतिकर भत्ते अनुमन्य है ।

3- उपरोक्त प्रस्तर -2 में उल्लिखित मद्दों का भुगतान तभी किया जायेगा जब कि श्री ----- इस आशय का प्रमाण-पत्र प्रस्तुत करें कि वह किसी अन्य सेवामयोजन व्यापार, वृत्ति व्यवसाय में नहीं लगे हैं ।

राज्यपाल के आदेश से  
आयुक्त एवं सचिव ।

नियुक्ति प्राधिकारी

श्री-----

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ऐसे मामले में जिनके नियुक्ति प्राधिकारी राज्यपाल नहीं हैं, यहां संबंधित कार्यालय का नाम लिया जाय ।  
यहां आरोपों का संक्षिप्त विवरण लिखा जाय ।

### एक माह के नोटिस देने पर सेवा समाप्ति

( ऐसे प्रकरणों के लिए प्रोफार्मा जहां नियुक्ति प्राधिकारी राज्यपाल हैं )

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उत्तर प्रदेश सरकार  
अनुभाग  
कार्यालय ज्ञाप

सं०-----  
दिनांक-----

नियुक्ति अनुभाग -3 की अधिसूचना संख्या 20/1/74-नियुक्ति -3, दिनांक 11 जून, 1975 के साथ विज्ञापित उत्तर प्रदेश अस्थायी सरकारी सेवक ( सेवा समाप्ति ) नियमावली, 1975 के अन्तर्गत श्री -----अस्थायी----- (पदनाम -----) का यह नोटिस दिया जाता है कि उनकी सेवाओं की अब आगे आवश्यकता नहीं रह गई है और इस नोटिस की प्राप्ति के दिनांक से एक माह की समाप्ति पर उनकी सेवायें समाप्त समझी जायेंगी।

राज्यपाल की आज्ञा से  
सचिव।

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( ऐसे प्रकरणों के लिये प्रोफार्मा जहां नियुक्ति प्राधिकारी राज्यपाल से भिन्न अधिकारी हों )

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----- का कार्यालय  
कार्यालय ज्ञाप  
-----

संख्या-----  
दिनांक-----

नियुक्ति अनुभाग-3, की अधिसूचना संख्या 20/1/74 -नियुक्ति -3, दिनांक 11 जून, 1975 के साथ विज्ञापित उत्तर प्रदेश अस्थायी सरकारी सेवक सेवा समाप्ति नियमावली, 1975 के अन्तर्गत अधोहस्ताक्षरकर्ता श्री ----- अस्थायी ----- पदनाम ----- को नोटिस देने हेतु कि उनकी सेवाओं की अब आगे आवश्यकता नहीं रह गयी है और इस नोटिस की प्राप्ति के दिनांक से एक माह की समाप्ति पर उनकी सेवायें समाप्त समझी जायेंगी।

नियुक्ति प्राधिकारी का हस्ताक्षर  
तथा पदनाम।

## नोटिस के बदले एक महिने के वेतन पर सेवासमाप्ति

ऐसे प्रकरणों के लिये प्रोफार्मा जहां नियुक्ति प्राधिकारी राज्यपाल हैं  
उत्तर प्रदेश सरकार  
अनुभाग  
कार्यालय ज्ञाप

संख्या-----  
दिनांक-----

नियुक्ति अनुभाग-3, की अधिसूचना संख्या 20/1/74 -नियुक्ति-3, दिनांक 11 जून, 1975 के साथ  
विज्ञापित उत्तर प्रदेश अस्थायी सरकारी सेवक (सेवा समाप्ति) नियमवाली, 1975 के अन्तर्गत श्री  
-----अस्थायी -----(पदनाम)-----को  
नोटिस दिया जाता है कि उनकी सेवाओं की अब आगे को आवश्यकता नहीं रह गयी है। उनकी सेवाये इस  
नोटिस की प्राप्ति के दिनांक से समाप्त समझी जायेगी और यह निर्देश दिया जाता है कि नोटिस की एक माह  
की प्राविधानित अवधि के लिये उसी पद पर अपने वेतन तथा भत्ते, यदि कोई हों, की धनराशि के बराबर धन के  
दावेदार होने के हकदार होंगे, जिस दर पर अपनी सेवा समाप्ति से ठीक पूर्व पा रहे थे।

राज्यपाल की आज्ञा से,  
सचिव।

ऐसे प्रकरणों के लिये प्रोफार्मा जहां नियुक्ति प्राधिकारी राज्यपाल से भिन्न अधिकारी हों  
----- का कार्यालय  
कार्यालय ज्ञाप

संख्या-----  
दिनांक-----

नियुक्ति अनुभाग-3 की अधिसूचना संख्या 20/1/74 -नियुक्ति -3, दिनांक 11 जून 1975 द्वारा  
विज्ञापित उत्तर प्रदेश अस्थायी सरकारी सेवक सेवा समाप्ति नियमवाली, 1975 के अन्तर्गत अधोहस्ताक्षरकर्ता श्री  
----- अस्थायी ----- पदनाम -----को नोटिस देते हैं कि  
उनकी सेवाओं की अब आगे आवश्यकता नहीं रह गई और उनकी सेवाये इस नोटिस की प्राप्ति के दिनांक से  
समाप्त समझी जायेगी और यह निर्देश देते हैं कि नोटिस की एक माह की प्राविधानित अवधि के लिये उसी दर  
पर अपना वेतन तथा भत्ते, यदि कोई हों, धनराशि के बराबर के दावेदार होने के हकदार होंगे, जिस दर पर वह  
उनकी अपनी सेवा समाप्ति के ठीक पूर्व पा रहे थे।

नियुक्ति अधिकारी के हस्ताक्षर  
तथा पदनाम।



## नोटिस की शेष अवधि का वेतन देकर सेवा समाप्ति

ऐसे प्रकरणों के लिये प्रोफार्मा जहां नियुक्ति प्राधिकारी राज्यपाल हैं  
उत्तर प्रदेश सरकार  
अनुभाग  
कार्यालय ज्ञाप

संख्या-----

दिनांक -----

कार्यालय ज्ञाप संख्या -----दिनांक-----के क्रम में तथा नियुक्ति अनुभाग -3 की अधिसूचना संख्या 20/1/74 -नियुक्ति-3, दिनांक 11 जून,1975 द्वारा विज्ञापित उत्तर प्रदेश अस्थायी सरकारी सेवक सेवा समाप्ति नियमावली,1975 के अन्तर्गत श्री -----को नोटिस दिया जाता है कि उनकी सेवायें इस नोटिस की प्राप्ति के दिनांक से समाप्त समझी जायेंगी और यह निर्देश दिया जाता है कि संदर्भित कार्यालय ज्ञाप, दिनांक-----में दिये गये एक महीने के नोटिस की शेष अवधि के लिये उसी दर पर अपने वेतन तथा भत्ते,यदि कोई हो, की धनराशि के बराबर धन के दावेदार होने के हकदार होंगे, जिस दर पर वह उनकी अपनी सेवा समाप्ति के ठीक पूर्व पा रहे थे ।

राज्यपाल की आज्ञा से  
सचिव ।

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उस कार्यालय ज्ञाप का नं0 तथा दिनांक लिखा जाय जिसके द्वारा एक महीने का नोटिस दिया गया था ।

ऐसे प्रकरणों के लिये प्रोफार्मा जहां नियुक्ति प्राधिकारी राज्यपाल से भिन्न हैं ।

----- का कार्यालय

कार्यालय ज्ञाप

संख्या-----

दिनांक-----

कार्यालय ज्ञाप संख्या-----,दिनांक -----के क्रम में तथा नियुक्ति अनुभाग-3 की अधिसूचना संख्या 20/1/74-नियुक्ति -3, दिनांक 11 जून,1975 के साथ विज्ञापित उत्तर प्रदेश अस्थायी सरकारी सेवक सेवा समाप्ति नियमावली,1975 के अन्तर्गत अधोहस्ताक्षरकर्ता श्री-----अस्थायी-----पदनाम-----की नोटिस देते हैं कि उनकी सेवायें इस नोटिस की प्राप्ति के दिनांक से समाप्त समझी जायेंगी और यह निर्देश देते हैं कि संदर्भित कार्यालय ज्ञाप, दिनांक-----में दिये गये एक महीने के नोटिस को शेष अवधि के लिये उसी दर पर अपने वेतन तथा भत्ते, यदि कोई हों, की धनराशि के बराबर धन के दावेदार होंगे जिस दर पर वे उनकी अपनी सेवा समाप्ति के ठीक पूर्व पा रहे थे ।

नियुक्ति प्राधिकारी के हस्ताक्षर  
तथा पदनाम ।

## DEPARTMENTAL ENQUIRY

- (a) Charge
- (b) Investigation of the charge
- (c) Findings
- (d) Punishment and appeal

### REASONABLE OPPORTUNITY

- (a) An opportunity to deny his guilt and establish his innocence which he can only do if he is told what the charges levelled against him are and the allegations on which such charges are based.
- (b) An opportunity to defend him-self by cross examining the witnesses produced against him and by examining himself or any other witness in support of the defence, and
- (c) An opportunity to make his representation as to why the proposed punishment should not be inflicted.

(1959 - ILL JP/67 - Khemchand Vs Union of India SC)

### DISCIPLINARY PROCEDURES

Sequence of action for imposing minor penalty

1. Issue of memo of charge
2. Submission of reply
3. Consideration of representation and record of inquiry, if any held, and finding on each charge
4. Final orders together with reasons thereof
5. Communication of orders in writing

### DISCIPLINARY PROCEDURES

Sequence of action for imposing major Punishments

1. Occurrence of an alleged delinquency
2. Preliminary investigation -- prima facis if exists
3. Decision whether to proceed for major/minor penalty
1. Issue of standard form of memo of charge along with
  - a) Statement of imputations of misconduct
  - b) List of documents
  - c) List of witnesses
2. Delivery of chargesheet
3. Submission of reply
4. Appointment of inquiry officer
5. Appointment of presenting officer
6. Making available assisting officer
7. Conduct of inquiry

8. Report of I.O. on each charge
9. Examination if inquiry proceedings by disciplinary authority and recording his own opinion--
10. Final orders -- speaking order form -- alongwith copy of inquiry report

#### **ROLE OF INQUIRY OFFICER**

1. Should be detached from subject matter
2. Should never bring his personal knowledge
3. Person not biased against delinquent
4. Should not prejudge the issue
5. Should not act a judge and witness
6. conduct enquiry in good faith, fair and reasonable
7. Should conduct enquiry with regard to rules, principles of law and justice
8. Should not act as a prosecutor and a judge
9. Adequate opportunity to delinquent for defence
10. Should reach honest conclusion
11. Should be proper assessment of evidence

#### **SOME IMPORTANT COURT DECISIONS**

##### **CASE LAW**

1. Art 311 -- Vagueness of charges framed -- amounts to denial of reasonable opportunity (1967 ILLJ -- p259 HC Madras -- Aravamade Ayyanger + Commr Police)
2. Findings of facts based on no evidence in enquiry held High Court can interfere (AIR 1964 (SC) p364 Union of India Vs HCSOEB)
3. Non supply of enquiry report to delinquent -- caused serious infirmity (State of Punjab Vs Amar Singh -- CA 938/64-6-1-66)
4. Art 311(2) Dept enquiry -- both stages -- quasi-judicial (before 42 Amendment Act - 1976 of Art 311) AIR 1963 SC Bachittar Singh Vs State of Punjab)
5. Const Art 311(2) -- failure to hold regular enquiry -- charges proved on preliminary enquiry -- CCS (CC + A) Rules -65 -- dismissal set aside (1969 ILLJ p364 -- HC Patna, TK Singh Vs State of Bihar)
6. Failure to give reasonable opportunity to lead his evidence -- (a) Witnesses not examined in presence of accused but tendered for cross examination (b) Opportunity denied for summoning defence witnesses or to examine himself -- Dismissal set aside (1969 ILLJ p509 SC State of UP Vs Sharma CS)
7. Delinquent on leave -- postponement of enquiry requested -- not granted -- held exparte -- order of punishment quashed violation of natural justice (1969 ILLJ p89 HC Madan Vs State of UP)
8. Perverse finding -- what it is? Finding to be supported by legal evidence -- statement

should consist of -- statemen made in presence of accused (1969 ILLJ p377 SC Central Bank Vs PC Jain)

9. Enquiry officer expressed opinion before witnesses were cross-examined (AIR 1958 Allahabad p535 RC Varma)

10. Enquiry officer must act with a detachment of a judge (ARS Chowdhry Vs Union of India -- HC Cal 1957 ILLJ p494)

11. Disallowing accused to cross examine witnesses violation of natural justice

12. Satisfaction of punishing authority with the correctness of finding essential (AIR 1955-- Nagpur p160 F Malik Vs State of Maharashtra)

13. Prehminary enquiry not a substitute for a regular enquiry (1969 ILLJ p364 HC Patna)

14. Enquiry officer biased (1969 ILLJ p509 SC State of UP Vs CS Sharma)

15. Dept enquiry -- acquittal by criminal court dismissal not justified (1967 ILLJ p464 HC Patna)

16. Domestic enquiry -- statements of witnesses recorded behind the back of delinquent statement accepted by IO who asked him to cross examine witnesses neither asked to confirm or deny statements -- witnesses also allowed to depose from statements recorded ex-parte inquiry vitiated violation natural justice (Indian Airline Vs WB COPREYA - 1978 II LLJ p.437 -- HC Madras)

17. Dept enquiry -- inspection of documents refused non supply copies thereof -- violation natural justice -- proceedings quashed -- (AK Dutta Vs Union of India -- HC Cal 1978 II LLJ p337)

18 Termination order based on report containing conclusions without reasons is unsustainable (1986 ILLJ p101 SC Anil Kumar Vs presiding officers + others)

19. Second showcause against the penalty proposed -- nor required -- 42 amendment 1976 under ordinary law or industrial law (1986 ILLJ p36 SC Satyavir Singh and Union of India)

20. Punishment must be proportionate to the offence (UP Service cases 83 p622 SC Bhagatram Vs State of HP)

21. Non summoning certain witnesses by IO Despite employees request -- IO should have stated reasons -- enquiry vitiated dismissal bad -- natural justice violated (UP service cases 83 p745-- HC Alld-- Srinath Sharma Vs UP Public Services Tribunal)

22. Const Art 226 + 311(2) and proviso CCS (CC + A) Rules 165--Dismissal under CP (b) of second proviso to Art 311(2)--held justified--not possible to hold enquiry --(1986 I LLJ p36 SC Satayavir Singh + Union of India)

23. Const of India -- Art 311(2) Non supply of copy of enquiry report before taking final decision--violative of art 311(2) and principles of natural justice. (1988 SCC (L & S) 531 Union of India Vs Ebashyan)

24. Presenting officer from CBI employee denied services of lawyer--enquiry vitiated--Denial of reasonable opportunity (1986 I LLJ p124 SC--Union of India Vs Karunakaran Nair)

25. In the absence of presenting officer IO plays its role--enquiry invalid (1987 II LLJ p208 HC. Karnataka--bel and K kasi)

26. Suspension--can be done by appointing authority or subordinate authority power cannot be delegated to superior authority--suspension by superior office-held illegal (Rule 49A UPCS (CC + A) Rules -- writ petition 3436 of 85--HC Alld.)

27. EB-Promotion--once a government servant is allowed to cross EB or Promoted adverse entries prior to this period are blotted out (AIR 1980 SC 296--Swami Saran Saxena Vs State of UP)

28. Art 311(2) Dismissal--date,time, location not mentioned in charge sheet- -order illegal--Mohd Sheriff Vs UP AIR 82 SC 937)

29. Audi alteram partem--hearing preceding decision--essential--non observance vitiates decision  
(State of Maharashtra Vs Mrs Kamal -- AIR 85 SC -- 119)

30. Officer retired--without holding enquiry on ground doubtful honesty-- order illegal (1981 (1) SLR 577 OP Kapoor Vs Punjab and Haryana)

## प्रशासनिक कार्य में मितव्ययता

(शासनादेश सख्या 1011/दस-सं०-वि०३(1)/88, दिनांक 8-7-88)

(1) यात्रा कार्यक्रमों को नियंत्रित करके अधिकाधिक मितव्ययता की जाय। संबंधित बजट प्राविधान को अन्य व्यय शीर्षकों के प्राविधान के पुनर्विनियोजन/पुनर्वितरण द्वारा बढ़ाया न जाय।

2 आयोजनेत्तर एवं आयोजनागत कार्यालय आकस्मिक व्यय आवर्तक एवं अनावर्तक में कम से कम 5 प्रतिशत की बचत वर्ष 1988-89 के वर्तमान प्राविधान में की जाय। इस सीमा तक वर्तमान प्राविधान व्यय के लिये उपलब्ध न माना जाय और उसे वित्त विभाग को समर्पित कर दिया जाय। विभागों की यह छूट होगी कि वे यह बचत आवर्तक एवं अनावर्तक मदों में से अपनी आवश्यकताओं को देखते हुये नियोजित करें परन्तु यह बचत कार्यालय आकस्मिक व्यय के 5 प्रतिशत के समतुल्य अवश्य होनी चाहिये तथा उसकी पूर्ति अन्य शीर्षक में संभावित बचत के पुनर्विनियोजन से भी स्वीकृत नहीं की जायेगी।

3 केवल इस कारण कि पद धारक बदल गया है, नये फर्नीचर व साज-सज्जा की व्यवस्था न की जाय तथा इस संबंध में निर्धारित मानकों का कड़ाई से पालन किया जाय। फर्नीचर व अन्य साज-सज्जा इत्यादि की क्रय की स्वीकृति धन के पुनर्विनियोजन के माध्यम से आयोजनेत्तर तथा आयोजनागत प्रदान न की जाय। उपरोक्त मदों के लिये धन पुनर्विनियोजन द्वारा उपलब्ध कराने हेतु जो प्रतिनिधायन/अधिकार इस समय विभिन्न स्तरों पर हैं उन्हें तदानुसार स्थगित समझा जावेगा।

4 आवासीय टेलीफोन की सुविधा अपरिहार्य आवश्यकता की स्थिति में ही उपलब्ध की जाय। यह सुविधा उप सचिव श्रेणी से कम के अधिकारियों अथवा उन अधिकारियों जिनका वेतनक्रम 1840-2400 से कम हो, को नहीं दी जा सकेगी। ₹ 1840-2400 के वेतनमान वाले अधिकारियों को भी यह सुविधा गुणवगुण के आधार पर ही दी जा सकेगी।

5 नई स्टाफ कार अथवा जीप न खरीदी जाय। जहां तक नई ट्कों या जीपों के क्रय किये जाने का प्रश्न है ऐसे सभी मामलों में शासन के संबंधित विभाग द्वारा वित्त विभाग के परामर्श से गुणावगुण के आधार पर विचार करके निर्णय लिया जायेगा। यह प्रतिबन्ध उन प्रायोजनाओं संबंधी मोटर गाड़ियों के क्रय पर लागू नहीं होगा जिनका पूरा व्यय भारत सरकार वहन करती है।

6 नव वर्ष अथवा अन्य उत्सवों के अवसर पर बधाई कार्ड को भेजने तथा कलेण्डर डायरी, शुभ-कामना कार्ड तथा पर्सनल लेटर हेड आदि के मुद्रण व वितरण तथा अन्य संबंधित खर्चालि कार्यों के व्यय को कम से कम किया जाय। राजकीय मनोरंजन एवं सत्कार आदि के अवसरों पर पूर्ण शालीनता बरती जाय और इनमें व्यय कम से कम किया जाय।

7 उन्हीं कान्फ्रेंस सेमीनार और मीटिंग्स को आयोजित किया जाय जिनका आयोजन सार्वजनिक हित में नितान्त आवश्यक हो। प्रशिक्षणार्थियों के संवर्गीय प्रशिक्षण व दक्षता में वृद्धि देने वाली टैनिंग जैसे कम्प्यूटर प्रयोग व प्रायोजन संबंधी टैनिंग चालू रखी जाय। अन्य कार्यक्रमों की समीक्षा करके उन्हें बन्द कर देने पर विचार किया जाय।

8 सार्वजनिक उपक्रमों व स्वायत्तशासी संस्थाओं को धन की स्वीकृति उनकी तुरन्त की आवश्यकता व औचित्य को ध्यान में रखते हुए बजट प्राविधान के अनुसार ही दी जाय ।

9 विभिन्न सहायता प्राप्त संस्थाओं को निर्देश किया जाय कि वे अपनी प्राप्तियां बढ़ाये तथा अपने कार्यक्रमों की संख्या व अन्य लागतों को घटाये । उन्हें बजट प्राविधान से अधिक अतिरिक्त धनराशि किन्हीं भी परिस्थितियों में न दी जाय । यह बात संस्थाओं को अभी से स्पष्ट कर दी जाय ।

10 जीरो बेस बजटिंग प्रणाली के आधार पर आयोजनागत/आयोजनेत्तर पक्ष के सभी कार्यक्रमों/कार्यकलापों की समीक्षा हेतु विस्तृत निर्देश पिछले वर्ष जारी किये गये, परन्तु अधिकतर विभागों ने यह समीक्षा नहीं की है ।

अतः यह निर्णय किया गया है कि हर विभाग द्वारा यह समीक्षा अनिवार्य रूप से अगले दो माहों में अवश्य पूरी कर ली जाय ताकि इसके फलस्वरूप जो बचत सम्भावित है उसका प्रभाव शीघ्र से शीघ्र प्रारम्भ ही जाय । यह भी निर्णय किया गया है कि प्रत्येक विभाग इस विषय में अपना आकलन दो माह के पश्चात वित्त नियोजन विभाग को अवश्य प्रेषित कर दें ।

11 जो प्राप्तियां वर्ष 1988-89 के बजट में प्राविधानित हैं उनकी संबंधित विभाग सावधानी से समीक्षा करें और यह सुनिश्चित कर लें कि लक्ष्य को प्राप्त कर लेने में कोई व्यतिक्रम न होने पाये । सार्वजनिक उद्यमों द्वारा व्याज अथवा ऋणों की अदायगी के संबंध में किये गये प्रत्येक व्यतिक्रम की सूचना वित्त विभाग को तुरन्त दी जानी चाहिए । जिन शुल्कों/प्राप्तियों की दरें काफी समय से संशोधित नहीं की गयी हैं उनका पुर्ननिर्धारण लागतों में हुई वृद्धि को ध्यान में रखते हुये तुरन्त किया जाय ।

## जनता की शिकायतों के निराकरण तथा कार्यालय कार्य प्रणाली हेतु व्यवस्था

शासनादेश संख्या 1965/तेता0-2-14/2/27/88

दिनांक 8-8-88

- 1 शिकायतों को सुनने के लिए विशिष्ट रूप से निश्चित दिन को आवश्यक कार्य में व्यस्त होने के बहाने कार्यालयाध्यक्ष या अधिकारी जनता से मिलने के लिए उपलब्ध नहीं रहते हैं ।
- 2 शासन, मण्डल तथा जिला स्तरीय अधिकारियों के ग्रामीण क्षेत्रों के दौरो के कार्यक्रमों से वहां की जनता को व जन-प्रतिनिधियों को अवगत नहीं कराया जाता है, जिससे वहां की जनता उच्च अधिकारियों से मिलने से वंचित रह जाती है । दूसरे, वे अधिकारी नीचे के अधिकारियों से ही वार्ता में व्यस्त रहते हैं और ग्रामीण जनता से मिलने के लिए समय नहीं दे पाते हैं ।
- 3 आपात स्थिति जैसे, बाढ़ आदि के अक्सर पर भी ह्यूटी से दूर अधिकारियों का कोई पता-ठिकाना नहीं रहता है जिससे जनता उनसे मिल नहीं पाती है । यहां तक कि टेलीफोन पर भी उनका जवाब नहीं मिल पाता है ।
- 4 अधीनस्थ अथवा अन्य अधिकारियों को शिकायतें जब आवश्यक कार्यवाही हेतु भेजी जाती है तो उन में उन अधिकारियों का नाम, पद नाम, पूरा पता तथा टेलीफोन नं० आदि शिकायतकर्ता को इंगित नहीं किया जाता है जिसके कारण वे अपनी शिकायतों का नीचे के स्तर पर अनुसरण नहीं कर पाते हैं ।
- 5 अधिकारीगण कार्यालय समय से नहीं आते हैं और पूर्व निश्चित समय दे कर भी जनता से मिलने के लिए उपलब्ध नहीं रहते हैं । यहां तक कि उनके व्यक्तिगत स्टाफ को भी पता नहीं रहता है कि अधिकारी कब मिल सकेंगे ।
- 6 टेलीफोन को अधिकतर अधिकारियों का व्यक्तिगत स्टाफ या वरिष्ठ अधिकारीगण व्यस्त रखते हैं और जन-साधारण अधिकारियों से टेलीफोन पर सम्पर्क करने में असमर्थ रहता है ।
- 7 अधिकारियों द्वारा पत्र के आलेखों के अनुमोदन के पश्चात भी उनकी शुद्ध प्रतियां टंकित किये जाने में काफी समय लग जाता है, इससे शिकायतकर्ता को उत्तर देने में विलम्ब होता है ।
- 8 निर्णय सुस्पष्ट संसूचित नहीं किये जाते हैं, और उनमें जब कमियां इंगित की जाती है तब उनके उत्तर देने में देरी की जाती है ।
- 9 प्रार्थना पत्र अस्वीकृत किये जाने के कारणों का उल्लेख नहीं किया जाता है या नियमों, आदि का संदर्भ नहीं दिया जाता है, जिससे जन साधारण को यह समझ में नहीं आ पाता है कि उसके प्रकरण में लिया गया निर्णय कहां तक औचित्यपूर्ण है ।
- 10 उच्च अधिकारियों से जब शिकायत की जाती है तो नीचे के अधिकारी को बचाने की प्रवृत्ति देखी जाती है ।



11 भूमि व सम्पत्ति पर अनाधिकृत करों के मामलों में छान-बीन करने में अधिकारियों का दृष्टिकोण पूर्वाग्रह रहित नहीं होता है।

2- ऊपर इंगित की गई कठिनाइयों में कुछ तो कार्यालयों में अनुशासन या नियमों के अनुपालन न किये जाने से संबंधित हैं, और कुछ जनता के प्रति अधिकारियों के विहैवियर-प्ररोच से संबंधित हैं। इन कठिनाइयों को नीरोधात्मक उपायों द्वारा या पर्यवेक्षीय दस्तों द्वारा समुचित सावधानी कर्तनी से दूर किया जा सकता है।

### शासनसदेश संख्या -8/9/87-कार्मिक-1/1988

कार्मिक अनुभाग-1

लखनऊ: दिनांक: 30 मार्च, 1988

विषय: दहेज संबंधी मृत्यु के मामलों में अन्तर्ग्रस्त सरकारी कर्मचारियों/अधिकारियों का निलम्बन।

महोदय,

मुझे आपका ध्यान "द सिविल सर्विस क्लासीफिकेशन, कन्ट्रोल एण्ड अपील रूल्स के नियम 49-1 व 49 2 तथा पनिशमेंट एण्ड अपील रूल्स फार सर्वाइनिंगट सर्विसेज के नियम 1-ए 1 व 1-ए 2 की ओर आकृष्ट करने का निर्देश हुआ है, जिनमें यह प्रावधान है कि यदि किसी सरकारी सेवक के विरुद्ध किसी आपराधिक मामले किमिनल चार्ज में कोई जांच/अन्वेषण/ट्रायल लम्बित हों तो उस सरकारी सेवक को उसके नियुक्ति प्राधिकारी द्वारा उपरोक्त कार्यवाही के समाप्त होने तक स्वविवेक से निलम्बित किया जा सकता है और यदि उस सरकारी सेवक को 48 घन्टे या अधिक अवधि से हिरासत में रखा गया हो/कारावास का दण्ड दिया गया हो तो वह सरकारी सेवक हिरासत/कन्विकेशन की तिथि से नियुक्ति प्राधिकारी के आदेशों द्वारा निलम्बित समझा जायेगा। अधिसूचना संख्या -18/4/76-कार्मिक-1, दिनांक 30 अक्टूबर, 1976 द्वारा संशोधित उपरोक्त नियमों की अद्यावधिक प्रति सुलभ संदर्भ हेतु संलग्न है।

2- कभी-कभी दहेज संबंधी मृत्यु कारित मामलों में सरकारी सेवकों के भी अन्तर्ग्रस्त होने के प्रकरण सामने आते हैं। ऐसे सरकारी सेवकों को निलम्बित करने का निर्णय नियुक्ति प्राधिकारी द्वारा स्वविवेक से उपरोक्त नियमों के तहत लिया जा सकता है। उपरोक्त मामलों में निलम्बन का निर्णय लेने हेतु नियुक्ति प्राधिकारी के पथ प्रदर्शनार्थ नीचे कतिपय निर्देशों का उल्लेख किया जा रहा है:-

1 यदि किसी सरकारी कर्मचारी/अधिकारी को भारतीय दण्ड संहिता की धारा-304-ख के अधीन दहेज संबंधी मृत्यु के मामलों के दर्ज किये जाने के संबंध में हिरासत में लिया जाता है तो उसे तत्काल निलम्बित कर देना उचित होगा।

2 यदि सरकारी सेवक को हिरासत में नहीं भी लिया जाता है तो भी उसे सी0आर0पी0सी0 की धारा 173 2 के अन्तर्गत पुलिस रिपोर्ट भजिस्ट्रेट को प्रस्तुत किये जाने पर, तत्काल निलम्बित कर देना उचित होगा जबकि रिपोर्ट से यह प्रथम दृष्टया निर्दिष्ट हो जाय कि सरकारी कर्मचारी/अधिकारी अपराध में शामिल था।

3- अनुरोध है कि उपरोक्त निर्देशों को आप अपने समस्त सक्षम अधीनस्थ प्राधिकारियों की जानकारी में ला दें ताकि उपरोक्त निर्देशों का भली-भांति अनुसरण सुनिश्चित किया जा सके।

प्रेषक

सिद्धार्थ बेहुरा

सचिव

उ.प्र. शासन

सेवा में

समरुत विभागाध्यक्ष एवं प्रमुख कार्यालयध्यक्ष

उ.प्र.

प्रशासनिक सुधार अनुभाग 1

लखनऊ दिनांक 22 दिसम्बर 1987

विषय :- अधिकारियों द्वारा दोरे

महोदय

मुझे यह कहने का निदेश हुआ है कि सरकारी कार्य के निष्पादन में गतिशीलता लाने, भ्रष्टाचार रोकने तथा जनता की शिकायतों के निवारण में दौरो के महत्व पर जोर देते हुये शासनादेश संख्या :4675/तैता0-1-74 1 /81, दिनांक 22 सितम्बर, 1981 के पैरा-3 में निम्न उल्लेख किया गया था -

"इस संबंध में यह भी अनुभव किया जा रहा है कि प्रायः सुगम स्थानों के दौरो के कार्यक्रम बना लिये जाते हैं और कतिपय स्थानों का दौरा तो बार-बार किया जाता है जबकि अन्य कुछ स्थान सदैव उपेक्षित रहते हैं। आवश्यकता इस बात की है कि सुदूर स्थानों का दौरा किया जाय, विशेष कर उन स्थानों का जो पिछड़े क्षेत्र हैं और जहां विकास कार्यों तथा जनता की सहायता की अधिक आवश्यकता है तथा जहां से अधिक संख्या में या गम्भीर किस्म की शिकायतें आती हों। रात्रि ठहराव भी ऐसे स्थानों पर किया जाय और जनता से सीधे सम्पर्क किया जाय ताकि सही तथ्य सामने आ सकें और शिकायतों का निवारण किया जा सके।

2- शासन के नोटिस में यह बात लाई गयी है कि अभी भी अधिकारियों द्वारा सुदूर स्थानों तथा पिछड़े क्षेत्रों का दौरा नहीं किया जाता, जिससे उन क्षेत्रों के ग्रामवासियों की समस्यायें उनके नोटिस में नहीं आती और उनका निराकरण नहीं हो पाता। अतः मुझे आपसे निवेदन करने का निदेश हुआ है कि आप उपर्युक्त सन्दर्भित आदेशों का अनुसरण अपने अधीनस्थ अधिकारियों द्वारा कराना सुनिश्चित करने की कृपा करें।

भवदीय,

सिद्धार्थ बेहुरा  
विशेष सचिव।

संख्या -सा-3-1340,दस-88-916-88

प्रेषक,

श्री बी. के. सक्सेना,  
प्रमुख सचिव,  
उत्तर प्रदेश शासन ।

सेवा में,

समस्त विभागाध्यक्ष एवं प्रमुख कार्यालयाध्यक्ष,  
उत्तर प्रदेश ।

लखनऊ, दिनांक 19 अगस्त, 1988

विषय:-विशेष जोखिम भरे कार्य करते समय नम्बीर रूप से घायल अथवा मृत्यु होने पर सरकारी सेवकों को मिलने वाली विशेष आर्थिक सहायता की अधिक उदार बनाया जाना ।

महोदय,

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि सरकारी सेवकों द्वारा अपने पद के कर्तव्यों का पालन करते हुए विशेष जोखिम भरे कार्य करते समय घालव्य हो जाने अथवा मृत्यु हो जाने पर सरकारी सेवकों तथा उनके परिवार को उत्तर प्रदेश सिविल सर्विसेज असाधारण पेंशन नियमावली के अन्तर्गत विशेष लाभ दिये जाने की व्यवस्था की गयी है । समय की तेजी से बदलती हुई परिस्थितियों एवं विकास की गति के साथ विशेष जोखिम के कार्यों का क्षेत्र काफी बढ़ गया है और इसके साथ ही ऐसी घटनाओं में भी वृद्धि हुई है । उदाहरण स्वरूप विशेष जोखिम की निम्नलिखित परिस्थितियां हो सकती हैं:-

- 1 डकैतों एवं बदमाशों से मुठभेड़,
- 2 विदेशी आक्रमणकारियों से संघर्ष,
- 3 आतंकवादी तत्वों से मुठभेड़,
- 4 हिंसात्मक भीड़ को नियंत्रित करना अथवा तितर-बितर करते समय,
- 5 दैवी आपदाओं जैसे बाढ़, भू-स्खलन, विमर-स्खलन, भूकम्प इत्यादि में सेवा करते हुए तथा अन्य आपातकाल यथा आग बुझाते समय अथवा जीवन रक्षा करते समय ।
- 6 सक्रिय सेवा करते समय, उदाहरण :-
  - 1 ट्रैफिक नियंत्रण करते समय किसी गाड़ी की चपेट में आने की स्थिति में,
  - 2 मोटर गाड़ी चलाते समय वर्षाकाल में पहिये फिसलने के कारण घातक की मृत्यु,
  - 3 लेविल क्रॉसिंग पर बिना रोशनी की रेलगाड़ी से टकराने के कारण मृत्यु,
  - 4 प्रशिक्षण देते समय प्रशिक्षार्थी की चूक से गोली/ग्रिनेड चल जाने से प्रशिक्षार्थी की मृत्यु ।

2- उपर्युक्त परिस्थितियों में सरकारी सेवकों द्वारा पूरी लगन और तत्परता के साथ सरकारी कार्यों का सम्पादन किये जाने तथा विशेष जोखिम भरे कार्यों से निपटने में सरकारी सेवकों का मनोबल बनाये रखने के उद्देश्य से राज्यपाल महोदय उत्तर प्रदेश सिविल सर्विसेज असाधारण पेंशन नियमावली में विशेष जोखिम के कार्यों के लिये उपलब्ध वर्तमान लाभों तथा तात्कालिक आर्थिक सहायता में समुचित वृद्धि किये जाने के लिये निम्नलिखित स्वीकृति सवर्ष प्रदान करते हैं:-

1 कर्तव्य पालन के दौरान जो अधिकारी/कर्मचारी विशेष जोखिम की परिस्थितियों में गम्भीर रूप से घायल हँडो जाने के कारण सेवा में बनाये रखने के योग्य न रह जायें और अन्य किसी कार्य को करने में भी सक्षम न रहे तंतो ऐसे 100 प्रतिशत अक्षम हो गये घायल सेवकों को भी वही पेंशन दी जावेगी जो उत्तर प्रदेश सिविल सर्विसेज असाधारण पेंशन नियमावली के नियम 10 के अन्तर्गत विशेष जोखिम के फलस्वरूप मृत्यु होने की दशा में अनुमन्य हँडोती है। 100 प्रतिशत अक्षमता के लिये मेडिकल बोर्ड की संस्तुति/प्रमाण पत्र आवश्यक होगा।

2 सरकारी सेवकों को विशेष जोखिम के फलस्वरूप उनके परिवारों को उपर्युक्त नियमावली के नियम 10 के शेशेड्यूल 111-एक के अन्तर्गत तात्कालिक एवं दीर्घकालीन राहत के रूप में उपादान ग्रेड्युटी के अतिरिक्त वर्ग 11,2,3 एवं 4 के कर्मचारियों के लिये क्रमशः रु. 50,000, रु. 40,000, रु. 30,000 एवं 20,000 अनुग्रह रराशि के रूप में दिया जायेगा। इस प्रकार ग्रेड्युटी एवं अनुग्रह धनराशि को मिलाकर रु 41,000 व अधिकतम रु 1,05,000 मृतक के परिवार को अनुमन्य श्रेणी 3 व 4 के कर्मचारियों के संबंध में अनुग्रह धनराशि के भुगतान करने के लिये विभागाध्यक्षों को प्राधिकृत किया जाता है तथा श्रेणी 1 व 2 के अधिकारियों के संबंध में प्रशासन के प्रशासकीय विभागों को प्राधिकृत किया जाता है।

3 कर्तव्य पालन के दौरान जो सरकारी अधिकारी/कर्मचारी गम्भीर रूप से घायल हो जाते हैं उन्हें तत्काल 3आर्थिक सहायता की आवश्यकता होती है। उभी केवल पुलिसजनों के लिये गृह पुलिस अनुभाग-6 के शासनादेश रसंख्या-4805 पी/अ/आठ-6-1739/77, दिनांक 5 दिसम्बर,1977 में रु 2500 की आर्थिक सहायता देने रकी व्यवस्था है। अब उक्त शासनादेश की व्यवस्था का अतिक्रमण करते हुए कर्तव्य पालन के दौरान गम्भीर रूप रसे घायल हुए समस्त विभागों के कर्मचारियों/अधिकारियों को रु 5,000 पांच हजार की आर्थिक सहायता 3अनुमन्य होगी जिसे भुगतान करने का अधिकार प्रशासकीय विभागों को होगा, किन्तु जो प्रशासकीय विभाग उचित रसमझे बिना वित्त विभाग की सहमति के यह अधिकारी अपने विभागाध्यक्ष को दे सकते हैं परन्तु इसकी सूचना उतन्हें वित्त सामान्य अनुभाग-3/संबंधित वित्त व्यय नियंत्रण अनुभाग को भी देनी होगी।

33- उपर्युक्त सुविधाएं इस आदेश के साथ जारी होने की तिथि से देय होंगी।

44- उक्त मद संख्या 2 2 व 2 3 में स्वीकृत सुविधाओं के लिये आवश्यक प्राविधान संबंधित प्रशासनिक विभाग 3अपने आय-व्ययक में करावेंगे। मद संख्या 2 1 के संबंध में उत्तर प्रदेश सिविल सर्विसेज असाधारण पेंशन नियमावली के संगत प्राविधान उपरोक्तानुसार संशोधित माने जायेंगे तथा औपचारिक संशोधन यथा समय अलग रसे जारी किये जायेंगे।

भवदीय,  
वी. के. सक्सेना,  
प्रमुख सचिव।

## सेवाओं में अनुसूचित जाति के प्रतिनिधित्व/अनारक्षित नियम का पुनर्वालीकन

शासनादेश संख्या - 22/25/82-कार्मिक-2, दिनांक 31 जनवरी, 1089

राष्ट्रीय एकीकरण अनुभाग के शासनादेश संख्या 15/25/73-(4)-रा.एकी., दिनांक 10 मई, 1976 में यह निर्देश जारी किये गये हैं कि अनुसूचित जाति या अनुसूचित जनजाति के लिए आरक्षित किसी रिक्ति की पूर्ति किसी सामान्य अर्हियों द्वारा नहीं की जानी चाहिए जब तक कि उसे निहित प्रक्रिया के अनुसार आरक्षण मुक्त न कर दिया गया हो। इसी प्रकार पदोन्नति के अक्सर पर आरक्षण विषयक शासनादेश संख्या - 65/2/69-रा.एकी., दिनांक 8 मार्च, 1973 के प्रस्तर 2 में अनुसूचित जाति/जनजाति के उपयुक्त अर्हियों की अनुपलब्धता की दशा में कार्य दृष्टि से आवश्यक होने पर सामान्य अर्हियों में से तदर्थ पदोन्नति किये जाने की व्यवस्था विद्यमान है।

2. इस संबंध में समुचित विचारोपरान्त शासन द्वारा निम्नांकित निर्णय लिये गये हैं :

(1) अनुसूचित जाति/जनजाति के उपयुक्त अर्हियों न मिलने की दशा में आरक्षित रिक्तियों को अन्य वर्ग के अर्हियों से न भरा जाए। केवल प्रशासनिक अपेक्षाओं की पूर्ति के लिए यदि ऐसा किया जाना अपरिहार्य हो तो माननीय मुख्यमंत्री जी काह पूर्व अनुमोदन प्राप्त करने के उपरान्त ही ऐसा किया जाए। अतः राष्ट्रीय एकीकरण अनुभाग के शासनादेश सं. - 15/25/73(4)-रा.एकी., दिनांक 10 मई, 1976 तदनुसार संशोधित समझा जाए।

(2) पदोन्नतियों के घयन में अनुसूचित जाति/जनजाति के उपयुक्त अर्हियों की अनुपलब्धता की स्थिति में सामान्य अर्हियों में से तदर्थ पदोन्नति की व्यवस्था राष्ट्रीय एकीकरण अनुभाग के शासनादेश संख्या - 65/2/69-रा.एकी., दिनांक 8 मार्च, 1973 को तदनुसार संशोधित करते हुए, तात्कालिक प्रभाव से समाप्त की जाती है। ऐसी रिक्तियों के संबंध में भी प्रस्तर 2 (1) में इंगित व्यवस्था समान रूप से लागू होगी।

## आहरण एवं वितरण अधिकारियों द्वारा ध्यान देने योग्य मुख्य बिन्दु

आहरण एवं वितरण विषयक नियमों का उल्लेख फाइनेशियल हेंड बुक खण्ड-5 भाग-1 तथा तत्संबंधी समय-समय पर जारी किये गये शासनादेशों में किया गया है। जिनमें से कुछ महत्वपूर्ण बिन्दुओं का उल्लेख निम्नवत् है:-

### साधारण नियम

- 1- सरकारी धन को व्यय करने में मितव्ययिता बरती जानी चाहिए।
- 2- व्यय आवंटित धनराशि की सीमा के अन्तर्गत रहते हुए किया जाना चाहिए।
- 3- कोषागार/बैंक से धन तब तक आहरित नहीं किया जाना चाहिए जब तक कि उसके तुरन्त भुगतान की आवश्यकता न हो।
- 4- आहरित की गयी धनराशि का भुगतान बिना आवश्यक बिलम्ब के क्यासमय सही दावेदार को करने के उपरान्त उससे रसीद प्राप्त कर सुरक्षित रखी जानी चाहिए।
- 5- धन संबंधी समस्त लेन-देनों को कैश-बुक में अंकित किया जाना चाहिए।
- 6- बिलों को निर्धारित प्रपत्रों में तैयार किया जाना चाहिए। शुद्ध देय धनराशि को अंकों व शब्दों में इस प्रकार लिखा जाय कि घोखाधड़ी की संभावना न रहने पाये।
- 7- बिलों व पंजियों में अंकों के लिखने में सदैव अंग्रेजी अंकों का ही प्रयोग किया जाना चाहिए।
- 8- गैर सरकारी व्यक्तियों/फर्मों के रु. 2000 से अधिक राशि के बिलों का भुगतान "एकान्ट पेयी" बिलों/ड्राफ्टों द्वारा ही किया जाना चाहिए।
- 9- बिल में हस्ताक्षर करने के पूर्व उसे संबंधित पंजी तथा 11-सी0 रजिस्टर में अंकित किया जाना चाहिए। तथा 11सी0 रजिस्टर को यथा अवसर पूर्ण किया जाना चाहिए। समय-समय पर इस बात की जांच कर ली जानी चाहिए कि समस्त बिलों के भुगतान की राशियां कैश बुक में दर्ज कर ली गयी हैं।
- 10- कोषागार में बिल प्रस्तुत करने हेतु बिल को उस शासनादेश में निर्दिष्ट पंजी में चढाकर भेजा जाना चाहिए।
- 11- "भुगतान हिस्चार्ज" करने के उपरान्त बिल को नकद धनराशि के रूप में माना जाता है अतः ऐसे प्रत्येक बिल को प्रस्तर 47-ए में निर्धारित पंजी में चढाकर उसमें भुगतान हेतु अधिकृत कर्मचारी के हस्ताक्षर करवा लिये जाने चाहिए तथा इस पंजी को किसी अन्य उत्तरदायी कर्मचारी की अभिरक्षा में रखा जाना चाहिए।
- 12- साधारणतया समस्त सरकारी लेन देनों के लिए कार्यालय में एक ही कैश-बुक रखी जाती है। कैश-बुक को लिखने विषयक निर्देश कैश-बुक के प्रारम्भ में ही छपे रहते हैं।

### वेतन बिल

- 1- वेतन बिलों को फार्म 11 में तैयार किया जाना चाहिए तथा वेतन स्वीकृत पदों के लिए ही आहरित किया जाना चाहिए।
- 2- अवकाश वेतन तथा ब्रोकर पीरियड के वेतन बिलों के साथ आगणन में संलग्न किया जाना चाहिए। अवकाश वेतन बिल में हस्ताक्षर करते समय देख लिया जाना चाहिए कि अवकाश की अवधि को उससे संबंधित लेख में दर्ज तथा घटा दिया गया है।
- 3- बिल के साथ आवश्यक शिड्यूलों अर्थात् भविष्य निर्वाह निधि शिड्यूल, सान्निधिक बीमा योजना तथा मकान किराया कमुनी का वितरण पत्र आदि विधिवत तैयार कर संलग्न किये जाने चाहिए।
- 4- प्रत्येक वेतन बिल को पंजी में अंकित किया जाना चाहिए तथा प्राप्तकर्ता से भुगतान पंजी में हस्ताक्षर करवा

लिये जाने चाहिए हस्ताक्षरों के नीचे तारीख डल्वा लेनी चाहिए ।

5- वेतन भुगतान को सुनिश्चित करने के लिए भुगतान पंजी की जांच कम से कम माह में एक बार करने के उपरान्त आवश्यक प्रमाण पत्र अंकित कर दिया जाना चाहिए ।

#### प्रासंगिक व्यय बिल

1- प्रासंगिक व्यय के बिल की क्या स्थिति फार्म 14 से 18 में से किसी एक फार्म में तैयार किया जाना चाहिए ।

2- प्रासंगिक व्यय बिल में जिन-जिन मदों का आहरण किया जाता हो, का मिलान वाउचरों से कर दिया जाना चाहिए । यह सुनिश्चित कर लिया जाना चाहिए कि सम्स्त वाउचरों में भुगतान आदेश अंकित व हस्ताक्षरित है तथा प्रत्येक वाउचर पर

"बिल्ड एण्ड कैन्सिल्ड" की मुहर लगा दी है । सम्स्त वाउचरों को कार्यालय अभिलेखों में सुरक्षित रखा जाना चाहिए तथा उनको अगले ऑडिट के समय उनके सम्मुख प्रस्तुत किया जाना चाहिए ।

3- यह सुनिश्चित किया जाना चाहिए कि आहरित की जाने वाली धनराशि बजट "एप्रोप्रियेशन" के अन्तर्गत है तथा सम्स्त मदों को फार्म 13 में रखी जाने वाली पंजी में अंकित कर दिया गया है ।

#### यात्रा भत्ता बिल

1- यह सुनिश्चित कर लिया जाना चाहिए कि यात्रा बिल में संबंधित कर्मचारियों ने आवश्यक प्रमाण पत्र अंकित कर दिये हैं तथा हस्ताक्षर के नीचे दिनांक लिख दिया गया है ताकि उसके द्वारा यात्रा भत्ता प्रस्तुत किये जाने की तिथि विदित हो सके ।

2- यात्रा-भत्ता देय होने की तिथि से एक वर्ष तक के अन्दर दावेदार द्वारा बिल प्रस्तुत कर दिया जाना होता है ।

3- यात्रा-भत्ता बिल का भुगतान सक्षम प्राधिकारी द्वारा बिल को प्रतिहस्ताक्षरित किये जाने के उपरान्त ही किया जा सकता है ।

**मृत सरकारी सेवकों के परिवारों के लिए कल्याणकारी योजनाएं**

संख्या	योजना	प्रारम्भ होने का दिनांक	नियमावली/शासनादेश
1-	पारिवारिक पेंशन	1-4-1965	नई पारिवारिक पेंशन योजना, 1965
2-	मृत्यु आनुतोषिक	1-4-61	30प्र0 रिटायरमेंट बेंनिफिट्स रूल्स, 1961
3-	सामूहिक बीमा एवं बचत योजना	1-3-1976	1 संख्या सामान्य -3 -432/दस -14/76 दिनांक 24-5-1976 2 संख्या बीमा 1/दस-2-80 दिनांक 19-2-1980 3. संख्या बीमा-2627/दस-87/83 दिनांक 29-10-84
4-	भविष्य निधि में जमा धनराशि से संबद्ध बीमा योजना व जी0पी0उफ़0 रूल्स, 1985 का नियम-23।	1-4-1979	संख्या सा-4-209/दस-501-75 दिनांक 12-2-1979
5-	तत्काल सहायता	31-8-1979	संख्या सा-4-1585/दस -87 दिनांक 3-11-1987 के साथ पठित संख्या सा-1468/दस-541-60 दिनांक 31-8-1979
6-	अर्जित अवकाश के बदले नक़द भुगतान	1-4-1979	संख्या सा-4-1283/दस-200-88 दिनांक 17-9-88 के साथ पठित संख्या सामान्य-4-1327 दस-200/ 77 दिनांक 18-7-1979
7-	परिवार के निवास स्थान तक जाने व घरेलू सामान ढोने का व्यय।	1-4-1960	संख्या जी-2-2387/ दस-619-1956 दिनांक 1-4-1960 के साथ पठित यात्रा भत्ता नियमावली का नियम 81-ए
8-	परिवार के एक सदस्य को नौकरी की सुविधा	21-12-1973	प्रदेश सेवा काल में मृत सरकारी सेवकों के आश्रितों की भर्ती नियमावली, 1974
9-	निलम्बनाधीन सरकारी सेवक की मृत्यु होने की		मूल नियम 54-ख (2)



दशा में निम्नान्वय अथवा  
को कार्यविधि माना जाना।

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| 10 | भवन निर्माण/मोटर/<br>स्कूटर/बाईसाइकल आदि<br>अग्निमों पर मृत्यु के दिनांक<br>के उपरान्त ब्याज की कूट। | 17-12-1961 | वित्त (आय-व्ययक -2)<br>संख्या बी-2-317/दस -184-64<br>दिनांक 17-12-1969 |
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## वित्तीय नियम

### 1-वेतन निर्धारण

नियम - उत्तर प्रदेश मूल नियम-अध्याय -4

क्रम संख्या	महत्वपूर्ण बिन्दु	संगत नियम/शासनादेश
1-	सेलेक्शन ग्रेड/समयमान वेतन के वरिष्ठ वेतनक्रम में नियुक्ति की दशा में वेतन निर्धारण अगले उच्चतर प्रक्रम पर।	संख्या जी-2-1456/दस-302-81 दिनांक 30-10-1981
2-	साधारण वेतनमान में अगली वेतन वृद्धि के दिनांक को मौलिक वेतन सेलेक्शन ग्रेड में प्राप्त वेतन के बराबर हो जाने की दशा में सेलेक्शन ग्रेड में उस दिनांक को मूनि0 27 के अन्तर्गत पुनः वेतन निर्धारण।	संख्या जी-2-334/दस-1986/302/81 दिनांक 4-1-1986
3-	सेलेक्शन ग्रेड से उसी वेतनक्रम के किसी पद पर प्रोन्नति होने पर वेतन निर्धारण विषयक प्रतिबन्ध।	संख्या -बे0आ0 -2 -210/ दस -83 - सं0व्य0 सा0 -82 दिनांक 4-2-83 का प्रस्तर -4
4-	उच्चतर पदों पर प्रोन्नति/नियुक्ति के सभी मामलों में 1-1-88 से वेतन निर्धारण मूनि0 22-बी के अन्तर्गत	संख्या-जी-2-724/दस-88-303-88 दिनांक 17-9-1988
5-	प्रोन्नति पर वेतन निर्धारण के दिनांक को घुन्ने हेतु विकल्प की सुविधा वेतन निर्धारित करने की प्रक्रिया।	संख्या -जी-2-854/दस-333/86 दिनांक 17-9-1988
6-	उसी पद/उसी वेतनमान/तत्समान वेतनमान में पुनः नियुक्ति होने पर पूर्व आहरित वेतन की सुरक्षा।	मूल नियम 22 का परन्तुक।

## 2-अवकाश नियम

नियम - मूल नियम -अध्याय-10  
सहायक नियम-अध्याय 6 से 9 व 11 से 17

क्रम संख्या	मुख्य बिन्दु	नियम
1-	साधारण नियम	मू०नि० 55 व 67 से 76 ।
2-	आकस्मिक अवकाश नियमों के अन्तर्गत मान्यताप्राप्त अवकाश नहीं	स०नि०201 ।
3-	आकस्मिक अवकाश विषयक नियम।	एम०जी०ओ० 1981 संस्करण का अध्याय -142 ।
4-	अर्जित अवकाश	संख्या -सामान्य-4-1751/दस-201-76 दिनांक 24-6-1978 के साथ पठित मू०नि० 81-बी 1 /स०नि०157-ए 1
5-	1 चिकित्सा प्रमाण पत्र पर अवकाश	मू०नि०-81-बी 2 /स०नि०157-ए- 2
	2 अवकाश स्वीकृति विषयक प्रतिबन्ध	मू०नि०81-बी 2 /स०नि०157 -ए 2 2 व स०नि० 87 ।
	3 चिकित्सा प्रमाणपत्र विषयक प्राविधान	स०नि० 89 से 97 तक व मू०नि० 71 ।
	4 अधिकृत चिकित्सकों का निर्धारण।	चिकित्सा अनुभाग-7संख्या 761/46-7 -1149/76 दिनांक 22-4-1987 ।
6-	निजी कार्य पर अवकाश	संख्या सा-4-ए०जी०-3/दस-200/70 दिनांक 30-10-1979 के साथ पठित मू०नि० 81-बी 3 /स०नि०157-ए 3
7-	साधारण अवकाश	मू०नि० 81-बी- 5 /स०नि० 157-ए 4 व मू०नि० 85 ।
8-	विशेष विकलांग अवकाश	मू०नि० 83 ।
9-	प्रसूति अवकाश	मू०नि०101 व स०नि०153 व 154 ।

10-	अध्ययन अवकाश	मू०नि० 84 व स०नि० 146 ।
11-	चिकित्सा अवकाश	मू०नि० 101 व स०नि० 155 ।
12-	अवकाश वेतन	संख्या सा-4-1759/दस-200-76 दिनांक 20-6-1978 के साथ पठित मू०नि० 87 क /स०नि० 157-ए 6 ।
13-	अवकाश अवधि में प्रतिकर भत्तों का आहरण	स०नि० अध्याय-12 ।

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### 3- सामान्य भविष्य निधि

नियम - सामान्य भविष्य निर्वाह निधि उत्तर प्रदेश नियमावली, 1985

क्रम संख्या	मुख्य बिन्दु	नियम
1-	फण्ड संख्या के आवंटन हेतु त्रैमासिक विवरण पत्र प्रणाली	संख्या सा-4-ए०जी०-70/दस-82-502- 61 दिनांक 19-2-1983 ।
2-	अभिदान करने की अनिवार्य तिथि	नियम- 4
3-	वैध मासिक अभिदान की राशि	नियम-8
4-	नामांकन	नियम-4
5-	अभिदान की दर व शर्त	नियम-7
6-	अभिदान की वसूली	नियम-10
8-	अस्थायी अग्रिम की वसूली	नियम-14
10-	अन्तिम निष्कासन के आहरण क्रियक शर्तें	नियम-17
11-	ब्याज	नियम-11
12-	अंतिम भुगतान	नियम 20 से 22 व 24
13-	भविष्य निधि में जमा धनराशि से संबद्ध बीमा योजना	नियम 23 ।

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#### 4- सेवानिवृत्ति पेंशन/आनुतोषितक

नियमावली ----- 1 सिविल सर्विस रेगुलेशन्स

(2) उत्तर प्रदेश रिटायरमेंट बेनिफिट्स रूल्स, 1961

क्रम संख्या	मुख्य बिन्दु	नियम
1-	पेंशन स्थायी सरकारी सेवकों की सेवानिवृत्ति पर ही अनुमन्य ।	सी०एस०आर०-368 ।
2-	पेंशन की श्रेणियां	सी०एस०आर० -428 से 465
3-	पेंशन के लिए अर्हकारी सेवा की शर्तें	सी०एस०आर० - 361 ।
4-	20 वर्ष की आयु प्राप्त होने से पहले की गई सेवा पेंशन के लिए अर्हकारी सेवा नहीं ।	सी०एस०आर० -358 ।
5-	पेंशन योग्य सेवा के छः माही भाग का निम्नतम छः माही में पूर्णाकन	सी०एस०आर० 468 ।
6-	परिलब्धियों का तात्पर्य मू०नि० 9(21 X 1) में परिभाषित मूल नियम से है ।	संख्या सा-3-1168/दस-935-87 दिनांक 22-6-87 के साथ पठित सी०एस०आर०-486 ।
7-	औसत परिलब्धियों का तात्पर्य अंतिम 10 माहों की परिलब्धियों के औसत से है ।	सी०एस०आर० 487
8-	पेंशन की दर:-  (1) 33 वर्ष या उससे अधिक पेंशन योग्य सेवा	संख्या सा-3-1168/दस-935-87 दिनांक 22-6-1987

के लिए औसत परिलब्धियों के 50 प्रतिशत के आधार पर जिसका अधिकतम 4500 रु होगा ।

(2) 33 वर्ष से कम होने पर आनुपातिक पेंशन

(3) 10 वर्ष से कम पेंशन योग्य सेवा पर पेंशन के स्थान पर सर्विस ग्रेड्युटी ।

(4) स्वीकार्य पेंशन पूरे रूपये में ।

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| 9-  | पेंशन की स्वीकृति के लिए आवेदन पत्र प्रस्तुत करने की अनिवार्यता ।   | सी०पस०आर०-907 व 930 ।   |
| 10- | अधिकृतता पेंशन व होने वाले विलम्ब को दूर करने के उद्देश्य से कार्य विधि का सरलीकरण व समय सारिणी का निर्धारण । | संख्या सा-3-2085/दस-907/76<br>दिनांक 13-12-77   |
| 11- | सेवानिवृत्ति आनुतोषिक की दर व प्रतिबन्धअन्तिम पेंशन/सेवा निवृत्ति आनुतोषिक                                    | संख्या सा-3-1168/दस-935-87 दिनांक 22-6-1987 काप्रस्तर 6-1 संख्या सा-3-1004/दस-907-76 दिनांक 11-7-1978 व संख्या सा-3-1797/दस-921-84 दिनांक 13-2-1985 के साथ पठित सी०पस०आर०-919 |
| 12- | आनुतोषिक की दर से अदायगी किये जाने पर व्याज का भुगतान   | संख्या सा-1776/दस-971/80 दिनांक 30-11-1984 के साथ पठित संख्या सा-3-664/दस-971/80 दिनांक 29-4-83 तथा संख्या सा-3-1373 /दस-97/80 दिनांक 12-9-1983                               |

## वित्तीय नियमों में कुछ महत्त्वपूर्ण संशोधन /परिवर्द्धन

### 30प्र0 इम्प्लाइज बेनीवोलेंट फण्ड का गठन

सामूहिक बीमा योजना के अन्तर्गत जमा बीमा निधि में उपलब्ध शुद्ध लाभ की राशि का 90 प्रतिशत भाग जमा कर बेनीवोलेंट फण्ड का गठन किया गया ।

सामूहिक बीमा योजना के सदस्यों के स्थायी रूप से अपंग होने के कारण सेवा से हटाये जाने का प्राक्धान है । सहायता की धनराशि का निर्धारण फण्ड की प्रबन्ध समिति द्वारा किया जाता है, जो कम से कम इश्योरेंस कवरेज के 50 प्रतिशत के बराबर और अधिक से अधिक इश्योरेंस कवरेज की धनराशि के बराबर होगी ।

संख्या बीमा-3291/दस-56/1984 दिनांक 29-11-84

बेनीवोलेंट फण्ड से सामूहिक बीमा योजना के सदस्यों की सेवारत मृत्यु पर उनके अध्ययनरत प्रतिभाशाली एवं उदीयमान पुत्रों/पुत्रियों को अध्ययन पूर्ण करने हेतु आर्थिक सहायता प्रदान करने की व्यवस्था शासनादेश संख्या सामूहिक बीमा-बे0फण्ड -29/1988 दिनांक 24-6-88 में उल्लिखित शर्तों तथा दरों पर की गयी है ।

हृदयरोग तथा कैंसर आदि जानलेवा बीमारियों के लिए प्रदेश से बाहर जाकर इलाज कराने के लिए सामूहिक बीमा योजना के सदस्यों को इस फण्ड से 100 रुपया प्रति दिन के हिसाब से देने की व्यवस्था है ।

संख्या सामूहिक बीमा-बे0फण्ड -30/1988 दिनांक 24-6-88

सामूहिक बीमा योजना के विकलांग सदस्यों के सहायक उपकरणों के क्रय हेतु फण्ड से उपकरण का क्रय मूल्य 2000 रुपये को अधिकतम सीमा के अधीन रहते हुए देने की व्यवस्था की गई है ।

संख्या सामूहिक बीमा-बे0फण्ड -31/1988 दिनांक 24-6-88

### टिप्पणी-

सहायता प्राप्त करने हेतु उपरोक्त संदर्भित शासनादेशों के साथ संलग्न प्रारूप में आवेदन पत्र विभाग को प्रस्तुत करना होता है । आवेदन पत्र आवेदक द्वारा तीन प्रतियों में प्रस्तुत किया जाना होता है ।

कार्यालयाध्यक्ष द्वारा प्रविष्टियां पूर्ण करके तथा हस्ताक्षर करके तीनों प्रतियों को प्रशासकीय विभाग/ विभागाध्यक्ष को भेजा जाना होता है तथा प्रशासकीय विभाग/विभागाध्यक्ष द्वारा तीनों प्रतियों को संलग्नक-2 के प्रर के साथ संयोज उत्तर प्रदेश इम्प्लाइज बेनीवोलेंट फण्ड लखनऊ को भेजा जाना होता है ।

### तत्काल सहायता की धनराशि में वृद्धि

दिनांक 3 नवम्बर,1987 से तत्काल सहायता की धनराशि को बढ़ा कर 6 माह का वेतन अथवा अधिकतम 3000 रुपया कर दिया गया है ।

संख्या सा-1585/दस-87 दिनांक 3-11-87

**अधिकृत चिकित्सकों का निर्धारण ।**

अधिकारी/कर्मचारी	अधिकृत चिकित्सक
समूह "क" के अधिकारी	1 मेडिकल कॉलेज के प्रधानाचार्य/रोग से संबंधित विभाग के प्रोफेसर । 2 मुख्यचिकित्सा अधिकारी । 3 राजकीय अस्पताल के प्रमुख/मुख्य/वरिष्ठ अधीक्षक 4 राजकीय अस्पताल के मुख्य/वरिष्ठ कन्सल्टेंट/कन्सल्टेंट ।
समूह "ख" के अधिकारी ।	1 मेडीकल कालेज के रोग से संबंधित विभाग के प्रोफेसर/रीडर । 2 राजकीय अस्पताल के प्रमुख/मुख्य/ वरिष्ठ अधीक्षक 3 राजकीय अस्पताल के मुख्य/वरिष्ठ/कन्सल्टेन्ट
समूह "ग" व "घ" के कर्मचारी	1 मेडीकल कालेज के रोग से संबंधित विभाग के रीडर/लेक्चरर । 2 राजकीय अस्पताल के अधीक्षक/वरिष्ठ फीजीशियन ।

चिकित्सा अनुभाग-7-संख्या 761/45/-7-1149/76, दिनांक 22-4-87

**कार्यभार ग्रहण काल**

सहायक नियम 174 के अपवाद के अधीन यदि स्थानान्तरण करने वाले अधिकारी द्वारा, प्रशासनिक दृष्टिकोण से, सरकारी सेवक से अपेक्षा की जाती है कि वह नयी नियुक्ति के स्थान पर तुरन्त कार्यभार ग्रहण कर ले तो कार्यभार ग्रहणकाल की अनुमन्य अवधि में से शेष रही अवधि को विशेष आकस्मिक अवकाश के रूप में स्थानान्तरण के 6 माह के भीतर उपयोग की स्वीकृति प्रदान की गयी है ।

यह आदेश दिनांक 14 अगस्त 1988 के बाद हुए स्थानान्तरणों के संदर्भ में प्रभावी होता है ।

संख्या जी-1-1156/दस-204/81 दिनांक 17-9-88



### नगर प्रतिकर भत्तों की दर का 1-7-88 से संशोधन

वेतन सीमा रुपया	कानपुर ₹	आगरा, इलाहाबाद, लखनऊ, वाराणसी, मेरठ, बरेली, गोरखपुर, मुरादाबाद. तथा अलीगढ़ ₹
999 तक	30-00	25-00
1000 से 2500 तक	50-00	40-00

नये वेतनमानों में ₹ 2500 प्रतिमाह से अधिक वेतन पाने वाले सरकारी सेवकों को भी उतनी धनराशि नगर प्रतिकर भत्ते के रूप में अनुमन्य होगी जिसे वेतन में मिलाकर कानपुर नगर 2500 रुपया प्रतिमाह तथा उपर्युक्त अन्य नगर में 2540 रुपया प्रतिमाह से अधिक न हो ।

- टिप्पणी:- 1 वेतन का तात्पर्य मु0नि0 9 21 1 में पारिभाषित मूल वेतन से है ।  
2 यह आदेश 1 जुलाई, 1988 से प्रभावी होते हैं ।

संख्या जी-1-1166/दस-262/88 दिनांक 17-9-88

### निःशुल्क निवास गृह के बदले मकान किराया भत्ता की दरों में 1-7-1988 से संशोधन

ऐसे सरकारी सेवकों, जिन्हें उनकी सेवा शर्तों के अनुसार निःशुल्क आवास की सुविधा अनुमन्य है किन्तु सरकारी आवास उपलब्ध नहीं कराया गया हो, के संबंध में जनवरी 86 से पुनरीक्षित वेतनमान में मकान किराया भत्ता की दरें -

मूल वेतन वेतन सीमा ₹	कानपुर, लखनऊ, आगरा वाराणसी, इलाहाबाद, बरेली, गोरखपुर, तथा गाजियाबाद ।	स्तम्भ 2 को छोड़कर शेष सभी जिला मुख्यालय के शहर मसूरी तथा 2.5 लाख या इससे अधिक जनसंख्या वाली नगर- पालिकाएं	स्तम्भ 2 व 3 में अंकित स्थानों के अतिरिक्त अन्य नगरपालिकाएं तथा 1000 मी0 से अधिक ऊंचाई वाले सभी पर्वतीय क्षेत्र जो स्तम्भ 2 या 3 में नहीं आते ।	स्तम्भ 2,3 तथा 4 को छोड़- कर सभी स्थानों पर ।
750-900	150	90	45	20
1000-1999	250	150	75	40
2000-2999	400	250	125	55

3000-4499	600	350	175	90
4500-और अधिक	850	500	250	125

नोट - 1 निःशुल्क आवास के बदले मकान किराया भत्ता की अनुमन्यता हेतु नगरों की जनसंख्या का आधार वर्ष 1981 की जनगणना है ।

2 वेतन का तात्पर्य मूल नियम 9 21( ) में पारिभाषित "मूल वेतन" से है ।

संख्या जी-1-1188/दस 270/88 दिनांक 22-9-88

### 1-1-88 से उच्चतर पदों पर नियुक्ति/प्रोन्नति पर वेतन निर्धारण

1 जनवरी 1988 अथवा उसके उपरान्त की तिथि से उच्चतर पदों पर वेतनमान की 2050 रुपये की सीमा के प्रतिबन्ध को समाप्त कर कर दिया गया है । अतः उक्त नियम का लाभ उच्चतर पदों पर नियुक्ति/प्रोन्नति की दशा में सभी सरकारी सेवकों को चाहे वे किसी भी वेतनमान में कार्यरत हों, वेतन निर्धारण हेतु अनुमन्य होगा ।

संख्या जी-2-724/दस-88-303-88 दिनांक 17-9-88

### पदोन्नति पर वेतन निर्धारण के दिनांक को चुनने हेतु सुविधा

दिनांक 14-8-88 अथवा उसके उपरान्त पदोन्नति होने पर सरकारी सेवक को उसके वेतन निर्धारण की तिथि के संबंध में विकल्प की सुविधा अनुमन्य की गयी है ।

उसे यह विकल्प उपलब्ध होगा कि वह वेतन निर्धारण के दिनांक हेतु पदोन्नति की तिथि अथवा निम्नतर पद के वेतनमान में पढ़ने वाली अगली वेतन वृद्धि के दिनांक में से किसी एक को चुन सकता है । संबंधित कर्मचारी द्वारा विकल्प पदोन्नति के दिनांक से एक माह के अन्दर दिया जायेगा और एक बार दिया गया विकल्प अन्तिम होगा ।

1- पदोन्नति के दिनांक से विकल्प देने की दशा में : संबंधित सरकारी सेवक को वेतन उक्त दिनांक को निम्न पद के वेतनमान में अनुमन्य वेतन के संदर्भ में मूल नियम 22-बी के अनुसार निर्धारित कर दिया जायेगा । इस स्थिति में निम्नतर वेतनमान में उसकी अगली वेतनवृद्धि के दिनांक को उसका वेतन पुर्ननिर्धारित नहीं किया जायेगा ।

2-अगली वेतन वृद्धि के दिनांक से विकल्प देने की दशा में: पदोन्नति पर प्रारम्भ में उसका वेतन मूल नियम 22 ए( ) में निहित प्रक्रिया के अनुसार निर्धारित कर दिया जायेगा और तदुपरान्त निम्न पद के वेतनमान में अगली वेतन वृद्धि के दिनांक को मूल नियम 22-बी के उपबन्धों के अनुसार उसका वेतन पुर्ननिर्धारित किया जायेगा । संबंधित कर्मचारी को अगली वेतन वृद्धि दूसरी बार किये गये वेतन निर्धारण के दिनांक से 12 माह की अर्हकारी सेवा पूरी करने के पश्चात अनुमन्य होगी ।

संख्या जी-2-454/दस-333/86 दिनांक 17-9-88

## सेवा मुक्ति पर अर्जित अवकाश के बदले समतुल्य नकद भुगतान की अधिकतम सीमा अवधि में वृद्धि

शासनादेश संख्या सामान्य -4-1687 /दस-83-200-77 टी-सी दिनांक 25-7-85 में उल्लिखित शर्तों के अन्तर्गत अनुमन्य अर्जित अवकाश के बदले समतुल्य नकद भुगतान की अधिकतम सीमा अवधि दिनांक 1 जनवरी, 1987 से निम्न रहेंगी ।

1 सेवा से त्यागपत्र देने /सेवा छोड़ देने के अलावा अन्य दशाओं में जिनका उल्लेख उपरोक्त शासनादेश में किया गया है में सेवामुक्त होने पर -240 दिन ।

2 सेवा से त्यागपत्र देने/सेवा छोड़ देने पर-120 दिन ।

संख्या सा-4-1283/दस -200-88 दिनांक 17-9-99

## ग्रामीण आवास भत्ता की स्वीकृति व दरों का निर्धारण

ग्रामीण क्षेत्रों में तैनात ऐसे समस्त पूर्णकालिक सरकारी सेवकों जिन्हें शासनादेश संख्या जी-1-1187/दस-263-88 दिनांक 19-9-88 के अधीन मकान किराया भत्ता नहीं मिलता है, को जनवरी 1986 से पुनरीक्षित दरों में नीचे तालिका में उल्लिखित वेतन स्लेव्स में उनके सम्मुख इंगित दरों पर "ग्रामीण आवास भत्ता" दिनांक 1 जुलाई, 1988 से दिया जायेगा ।

वेतन सीमा ₹0	ग्रामीण आवास भत्ते की दर ₹0
750-999	25-00
1000-1999	40-00
2000-2999	65-00
3000-4400	90-00
4500 और इससे अधिक	125-00

टाउन एरिया तथा नोटीफाइड एरिया में नियुक्त सरकारी सेवकों को भी उपरोक्त दरों पर ग्रामीण आवास भत्ता दिया जायेगा ।

टिप्पणी:- वेतन का तात्पर्य उस मूल वेतन से है जो मूल नियम 9 21( )1 में प्यारिभाषित है ।

संख्या जी-1-1175/दस 367/88 दिनांक 22-9-1988

1 जनवरी, 1986 अथवा उसके उपरान्त सेवा निवृत्त /मृत सरकारी सेवकों के विषय में पेंशन/पारिवारिक पेंशन का सरलीकरण/उदारीकरण

33 वर्ष अथवा उससे अधिक पेंशन योग्य सेवा अवधि के लिए -

औसत परिलब्धियों का 50 प्रतिशत परन्तु अधिकतम 4500 रु प्रतिमाह । उससे कम सेवा पर आनुपातिक पेंशन ।

### सेवा निवृत्ति आनुतोषिक

पेंशन योग्य सेवा की प्रत्येक पूरी छः माही अवधि के लिए अंतिम मासिक परिलब्धियों का एक चौथाई परन्तु उसके 16-1/2 गुणे से अधिक नहीं होगा । स्वीकार्य धनराशि एक लाख रुपये की अधिकतम सीमा के अधीन होगी ।

5 वर्ष से कम पेंशन योग्य सेवा पर आनुतोषिक अनुमन्य नहीं होता है ।

### पारिवारिक पेंशन की दर

मृतक का प्रतिमासिक मूल वेतन

=====

- 1) 1500 रु तक
- 2) 1501 रु से 3000 रु
- 3) 3001 रु या उससे अधिक

मासिक पारिवारिक पेंशन

=====

- मूल वेतन का 30 प्रतिशत  
मूल वेतन का 20 प्रतिशत परन्तु कम से कम 450 रु  
मूल वेतन का 15 प्रतिशत परन्तु न्यूनतम 600 रु  
अधिकतम 1250 रु

### मृत्यु आनुतोषिक की दर

मृतक की सेवा अवधि

- 1 1 वर्ष से कम
- 2 1 वर्ष या अधिक परन्तु 5 वर्ष से कम ।
- 3 5 वर्ष या अधिक परन्तु 20 वर्ष से कम
- 4 20 वर्ष या उससे अधिक

आनुतोषिक राशि

- अंतिम मासिक परिलब्धियों का 2 गुना ।  
अंतिम परिलब्धियों का 6 गुना ।  
अंतिम परिलब्धियों का 12 गुना ।  
पेंशन योग्य सेवा की प्रत्येक पूर्ण छः माही अवधि के लिए परिलब्धियों के आधे के बराबर जो उसके 33 गुने से अधिक नहीं होगा । स्वीकार्य धनराशि एक लाख रुपये की अधिकतम सीमा के अधीन रहेगी ।

परिलब्धियों का तात्पर्य 1 जनवरी, 1986 से लागू वेतनमानों में मूल नियम 9 21 ( 1 ) में परिभाषित मूल वेतन से है ।

नोट:- जब तक जनवरी 86 के वेतनमानों में वेतन निर्धारित नहीं हो जाता है तब तक अन्तरिम व्यवस्था के अनुसार 1979 के वेतनमानों में मूल वेतन के साथ 1-1-86 की दर पर महंगाई भत्ता तथा 1-4-86 की दर पर तदर्थ महंगाई भत्ता और अन्तरिम सहायता के योग को मूल वेतन माना जायेगा ।

संख्या सा-3-1168/दस-935-87 दिनांक 22-6-87

### यात्रा भत्ता की दरों का पुनरीक्षण

दिनांक 14-8-88 को या उसके पश्चात प्रारम्भ हुई यात्राओं के विषय में पुनरीक्षित दरें निम्न प्रकार हैं ।

नियम 16 में वेतन के आधार पर किया गया वर्गीकरण समाप्त कर दिया गया है । दिनांक 1-1-1986 से लागू नये वेतनमानों में वायुयान एवं रेल से यात्रा करने हेतु सरकारी सेवक निम्न प्रकार से प्राधिकृत होंगे ।

क्रम संख्या	सरकारी सेवक/वेतन सीमा	यात्रा की अधिकृत श्रेणी
1	शासन के सचिव, विशेष सचिव तथा ₹ 5000 प्रतिमाह या उससे अधिक वेतन पाने वाले ।	वायुयान अथवा रेल का वातानुकूलित कोच प्रथम श्रेणी
2	₹ 2700 से ₹ 4999 प्रतिमाह तक वेतन पाने वाले ।	रेल की प्रथम श्रेणी या वातानुकूलित कोच द्वितीय श्रेणी
3	₹ 1400 से ₹ 2699 प्रतिमाह तक वेतन पाने वाले ।	रेल की प्रथम श्रेणी
4	₹ 1399 तक वेतन पाने वाले	रेल का द्वितीय श्रेणी स्लीपर

### आनुषंगिक व्यय-

नियम 23 1 के अनुसार आनुषंगिक व्यय निम्न प्रकार से अनुमत्य होगा

क्रम संख्या	सरकारी सेवक/वेतन सीमा	आनुषंगिक व्यय की दर
1	₹ 2700 प्रतिमाह या उससे अधिक वेतन पाने वाले-	7 पैसे प्रति किलोमीटर
2	₹ 1400 से ₹ 2699 प्रतिमाह तक वेतन पाने वाले-	5 पैसे प्रति किलोमीटर
3	₹ 1399 प्रतिमाह तक वेतन पाने वाले-	3 पैसे प्रति किलोमीटर ।

हवाई यात्राओं के दौरान आनुषंगिक व्यय वायुयान के मानक किराये के 1/5 जिसका अधिकतम प्रत्येक यात्रा के लिए 20 रुपये पूर्ववक्त रहेगा ।

## दैनिक भत्ता

नियम 23 सी 1 के अधीन अनुमन्य दैनिक भत्ते की पुनरीक्षित दरें निम्न होगी:-

सरकारी सेवक का वर्ग	साधारण दर स्तम्भ 3 व 4 में उल्लिखित स्थानों से भिन्न स्थानों के लिए	"ख" वर्ग के नगरों के लिए दरें जिनमें नगरपालिकाओं तथा लिए दरें जिनमें केंटोनमेंट और नोटीफाइड नगरपालिकाओं तथा एरिया जहां कहीं विद्यमान केंटोनमेंट और हैं, सम्मिलित होंगी- मुरादाबाद अलीगढ़, झांसी, सहारनपुर, मथुरा, रामपुर, शहजहांपुर, मिर्जापुर, मुजफ्फरनगर, और फर्रुखाबाद फिरोजाबाद, गोरखपुर, मेरठ नैनीताल, मंगूरी, देहरादून और गाजियाबाद।	"क" वर्ग के नगरों के दरें जिनमें नगरपालिकाओं तथा लिए दरें जिनमें केंटोनमेंट और नोटीफाइड नगरपालिकाओं तथा एरिया जहां कहीं विद्यमान केंटोनमेंट और हैं, सम्मिलित होंगी- निकटवर्ती नोटीफाइड एरिया जहां कहीं विद्यमान हों, सम्मिलित इलाहाबाद, बरेली, हांगी, कानपुर, वाराणसी, हरिद्वार, फैजाबाद, फिरोजाबाद, गोरखपुर, मेरठ नैनीताल, मंगूरी, देहरादून और गाजियाबाद।
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1	2	3	4
1-रु 5000 प्रतिमास या उससे अधिक वेतन पाले वाले	रु 35-00	रु 40-00	रु 50-00
2-रु 2700 से 4999 प्रतिमास तक वेतन पाले वाले ।	रु 30-00	रु 35-00	रु 45-00
3-रु 2000 से 2699 प्रतिमाह तक पाले वाले ।	रु 25-00	रु 30-00	रु 35-00
4-रु 1400 से 1999 प्रतिमाह तक वेतन पाले वाले ।	रु 20-00	रु 25-00	रु 30-00
5-रु 1399 प्रतिमाह तक वेतन पाले वाले ।	रु 15-00	रु 18-00	रु 20-00

उत्तर प्रदेश के बाहर के स्थानों पर सरकारी सेवकों को उन्हीं दरों से दैनिक भत्ता अनुमन्य होगा जैसे कि उन स्थानों में केन्द्र सरकार के सरकारी सेवकों के लिए अनुमन्य है । इन स्थानों पर सभी सरकारी सेवकों को तथा प्रदेश के "क" वर्ग के नगरों में ऐसे सरकारी सेवकों, जिनका वेतन 2700 प्रतिमाह या उससे अधिक हों, जो सरकारी कार्यवश जाते हैं और उन्हें वहां किसी अन्य संस्थान/होटल में ठहरना पड़ता है, उनको शासनादेश संख्या सा-4-1307/दस- 88-600 /88 दिनांक 23-9-88 में उल्लिखित दरों व शर्तों के अधीन विशेष दर से दैनिक भत्ता अनुमन्य होता है ।

सड़क द्वारा की जाने वाली यात्राओं के लिए सड़क मील भत्ता रोड माइलेज नियम 23 बी 2 के अधीन निम्न प्रकार देय होगा :-

1. ₹ 3000 प्रतिमाह या उससे अधिक वेतन पाने वाले सरकारी सेवक-

(क) मोटर कार, मोटर ट्रक, मोटर कैरियर या जीप से की गयी सड़क यात्राओं के लिए:

1. प्रथम 500 किलोमीटर तक की गयी यात्रा के लिए ₹ 1-75 प्रति किलोमीटर।

2. 500 किलोमीटर से अधिक परन्तु 1200 किलोमीटर तक तय की गई दूरी के लिए ₹ 1-40 प्रति किलोमीटर।

3. 1200 किलोमीटर से अधिक तय की गई के लिए शून्य।

(ख) उपरोक्त (क) में वर्णित वाहनों के अलावा प्रेट्रोल/डीजल अन्य वाहनों तथा मोटर साइकिल/स्कूटर इत्यादि से की गई सड़क यात्राओं के लिए ₹ 1=00 प्रति किलोमीटर। इस प्रति बन्ध के अधीन कि एक माह में ₹.200 से अधिक धनराशि अनुमन्य न होगी।

(ग) प्रेट्रोल/डीजल चालित वाहन के साधनों के अलावा अन्य वाहनों/पैदल की गई सड़क यात्राओं के लिए ₹ 0=50 प्रति किलोमीटर इस प्रति बन्ध के अधीन कि एक मास में ऐसी यात्राओं के लिए ₹ 100 से अधिक धनराशि अनुमन्य न होगी।

2. ₹ 2999 प्रतिमाह तक वेतन पाने वाले सरकारी सेवक-

(क) प्रेट्रोल, डीजल चालित वाहन के किसी भी साधन से की गयी सड़क यात्राओं के लिए ₹ 1=00 प्रति किलोमीटर इस प्रतिबन्ध के अधीन कि एक माह में ऐसी यात्राओं के लिए ₹ 200 से अधिक धनराशी अनुमन्य नहीं होगी।

(ख) प्रेट्रोल, डीजल चालित वाहन के अलावा अन्य वाहनों से या पैदल की गयी सड़क यात्राओं के लिए ₹ 0-50 प्रति किलोमीटर इस प्रतिबन्ध के अधीन कि एक माह में ऐसी यात्राओं के लिए ₹ 100 से अधिक धनराशि अनुमन्य नहीं होगी।

3. यात्रा पर जाते समय तथा गन्तव्य स्थान से वापसी में निवा स्थान से बस स्टेशन/रेलवे स्टेशन के बीच की जाने वाली अल्प दूरों की यात्राओं के लिए समस्त सरकारी सवकों के लिए ₹ 1. 75 प्रति किलोमीटर की दर से सड़क मील भत्ता ग्राह्य होगा। उक्त अल्प दूरियों की गणना पूर्ववत् नियम 14 सपठित परिशिष्ट V के आधार पर ही की जायेगी।

स्थानान्तरण की दशा में अनुमन्य सुविधाएं

(क) सामान ले जाने की अधिकतम सीमा

सरकारी सेवक को स्थानान्तरण के अवसर पर नियम - 42 (2) (1) (111) में अंकित व्यक्तिगत सामान की दुलाई पर हुए व्यय की प्रतिपूर्ति निम्न सीमा के अधीन अनुमन्य की जायेगी।

( यदि यात्रा परिवार सहित की गयी हो )

सरकारी सेवक/वेतन सीमा	व्यक्तिगत सामान की दुलाई के लिए अधिकतम सीमा
1. ₹ 5000 या उससे अधिक वेतन पाने वाले ।	6000 किलो ग्राम या 4 पहियों का एक वेगन।
2. ₹ 2700 से ₹ 4999 प्रतिमाह तक वेतन पाने वाले ।	6000 किलो ग्राम या 4 पहियों का एक वेगन
3. ₹ 2000 से ₹ 2699 प्रतिमाह तक वेतन पाने वाले ।	3000 किलो ग्राम
4. ₹ 1400 से ₹ 1999 तक वेतन पाने वाले ।	2500 किलो ग्राम
5. ₹ 1399 प्रतिमाह तक वेतन पाने वाले	1250 किलो ग्राम ।

यदि यात्रा स्वयं अकेले की गई हो- तो उपरोक्त उल्लिखित सीमा के 2/3 भाग तक की अधिकतम सीमा तक के व्यक्तिगत सामान की दुलाई का व्यय ही देय होगा ।

सामान ले जाने के व्यय की प्रतिपूर्ति के संबंध में नियम 42 (2)(11) (111) के अन्तर्गत कार्ट या ठेले द्वारा सामान की दुलाई हेतु विद्यमान व्यवस्था को समाप्त कर दिया गया है । सरकारी सेवकों के स्थानान्तरण के अवसर पर अब अपने व्यक्तिगत सामान के परिवहन हेतु मालगाड़ी से स्वयं के जोखिम पर अनुमन्य दुलाई व्यय तथा उसके साथ उसका 25 प्रतिशत अतिरिक्त व्यय अनुमन्य होगा । इस सीमा तक टूक द्वारा सामान ले जाने का वास्तविक व्यय भी अनुमन्य होगा ।

एकमुश्त स्थानान्तरण अनुदान - शासकीय कार्य के हित में एक स्थान से दूसरे स्थान पर स्थानान्तरण होने की दशा में नियम 42 1 की शर्तों के अनुसार एकमुश्त स्थानान्तरण अनुदान निम्न दरों पर अनुमन्य होगा :-

शासकीय सेवक/वेतन सीमा	एकमुश्त स्थानान्तरण अनुदान
1- ₹ 5000 या उससे अधिक प्रतिमाह तक वेतन पाने वाले।	1200-00 ₹
2- ₹ 2700 से ₹ 4999 प्रतिमाह तक वेतन पाने वाले।	900-00 ₹
3- ₹ 2000 से ₹ 2699 प्रतिमाह तक वेतन पाने वाले।	750-00 ₹
4- ₹ 1400 से 1999 तक प्रतिमाह वेतन पाने वाले।	600-00 ₹



5- ₹ 1399 प्रतिमाह तक वेतन पाने वाले।

300-00 ₹

सरकारी सेवकों का स्थानान्तरण एक ही जिले में होने की दशा में एकमुश्त स्थानान्तरण अनुदान देय नहीं होगा।

**पैकिंग भत्ता:-**

(क) एक जनपद से दूसरे जनपद में स्थानान्तरण की दशा में अनुमन्य होने वाले एकमुश्त स्थानान्तरण अनुदान का 25 प्रतिशत भाग पैकिंग भत्ते के रूप में अनुमन्य होगा।

(ख) एक ही जनपद के अन्दर स्थानान्तरण के मामलों में ₹ 1999 प्रतिमाह तक वेतन पाने वालों को ₹ 75 तथा ₹ 1999 प्रतिमाह से अधिक वेतन पाने वाले सरकारी सेवकों को ₹ 150 पैकिंग भत्ता के रूप में देय होगा।

(संख्या सा-4-1307/दस-88-600/88 दिनांक 23-9-88)

**मकान किराया भत्ता की दरों में संशोधन-दिनांक 1-7-88 से प्रभावी**

वेतन सीमा	कानपुर, लखनऊ, आगरा, वाराणसी, इलाहाबाद, बरेली, मेरठ, गोरखपुर, गाजियाबाद, नैनीताल तथा मसूरी	स्तम्भ-2 को छोड़कर शेष सभी जिला मुख्यालय के शहर, तथा 2.5 लाख या उससे अधिक जनसंख्या वाली नगर-पालिकायें।	स्तम्भ -2 व 3 में अंकित स्थानों के अतिरिक्त अन्य सभी नगरपालिकाओं तथा 1000 मीटर से अधिक ऊंचाई वाले सभी पर्वतीय क्षेत्र जो स्तम्भ 2 व 3 में नहीं आते।
₹	₹	₹	₹
1	2	3	4
750-999	150	90	45
1000-1999	250	150	75
2000-2999	400	250	125
3000-4499	600	350	175
4500 और अधिक	850	500	250

ऐसे क्षेत्र जिनमें इस समय मकान किराया भत्ता विशेष परिस्थितियों के अनुसार दिया जा रहा है किन्तु स्तम्भ 2 से 4 में अब निर्धारित की गयी क्षेत्रों में नहीं आते हैं, उन्हें भी स्तम्भ 4 में उल्लिखित श्रेणी के लिए संस्तुत दरों पर मकान किराया भत्ता अनुमन्य होगा।

मकान किराया भत्ता बिना रसीद प्रस्तुत किये अनुमन्य होगा।

संख्या जी-1-1187/दस-263/88 दिनांक 19-9-88,  
संख्या जी-1-1432/10-263-88, दिनांक 26-10-88  
संख्या जी-1-1608/10-263/88, दिनांक 28-11-88

भिन्न भत्तों आदि की अनुमन्यता के लिए वेतन स्तर का निर्धारण ( अन्तरिम रूप से ) मकान किराया भत्ता, नगर प्रतिकर भत्ता प्रतिनियुक्ति भत्ता ग्रामीण आवासीय भत्ता शैक्षिक सहायता, निःशुल्क आवास के बदले मकान किराया भत्ता व यात्रा भत्ता आदि सुविधाओं की अनुमन्यता हेतु दिनांक 1-1-86 से लागू होने वाले वेतन मानों में वेतन निर्धारण होने तक अन्तरिम व्यवस्था के रूप में वर्तमान वेतनमानों में अनुमन्य मूल वेतन के साथ दिनांक 1-1-86 की दर पर महंगाई भत्ता, दिनांक 1-4-86 की दर पर तदर्थ महंगाई भत्ता व अन्तरिम सहायता की धनराशि को जोड़ कर वेतन सीमा निर्धारित की जायेगी ।

[ संख्या बे आ-1-3448/10-84 एम -88 दिनांक 22-10-88 ]

अर्जित अवकाश जमा होने की अधिकतम सीमा में वृद्धि

मूल नियम 81 ख 1 तथा सहायक नियम 157 क 1 में निर्धारित किसी एक समय में जमा योग्य अर्जित अवकाश की अधिकतम 180 दिन की सीमा के स्थान पर दिनांक 1-1-87 से 240 दिन कर दिया गया है ।

संख्या सा-4-1335/10-88-203-86 दिनांक 17-9-88

सामान्य भविष्य निधि नियमावली

सामान्य भविष्य निधि 1935 के स्थान पर राज्यपाल महोदय द्वारा भारत के संविधान के अनुच्छेद 309 के अन्तर्गत प्राप्त शक्ति का उपयोग कर नयी नियमावली "जनरल प्रोविडेंट फण्ड उ.प्र. रुल्स 1985" बनाकर दिनांक 29.10.85 से लागू की गयी ।

( असाधारण गजट दिनांक 19.10.85 में प्रकाशित विज्ञापित संख्या जी- 4- 1890/x-502,1985 दिनांक 29.10.85 )

राज्य कर्मचारी सामुहिक बीमा एवं बजत योजना के दावा प्रपत्रों का संशोधन

दिनांक 1.10.1987 से सेवा निवृत्त अथवा सेवा से अन्यथा पृथक होने वाले कर्मचारियों / अधिकारियों से कोई भी प्रपत्र नहीं भरवाया जाना होता है । उनके दावे जी.आई. एस. प्रपत्र संख्या 26 पर संबंधित कार्यालय/विभाग द्वारा तैयार कर के बीमा निदेशालय को भेजे जायेंगे । जी.आई.एस. प्रपत्र संख्या 27 में सेवारत अवस्था में मृत अधिकारियों / कर्मचारियों के दावों का प्रेषण किया जायेगा ।

प्रपत्रों के प्रारूप संबंधित शासनादेश के साथ संलग्न है ।

संख्या बीमा - 2084/दस-87-10/1987 दिनांक 31.7.1987

## उत्तर प्रदेश राज्य सरकार के मंत्रियों/राज्य मंत्रियों/उप मंत्रियों के प्रति शिष्टाचार एवं सौजन्य प्रदर्शन

( शासनादेश संख्या 299/56-3क ) 1/24/77 दिनांक 6 मार्च, 1979

राज्य के भीतर उत्तर प्रदेश सरकार के मंत्रियों, राज्य मंत्रियों, उप मंत्रियों व सभा सचिवों, विधान परिषद के सभापति, उप सभापति तथा विधान सभा के अध्यक्ष / उपाध्यक्ष के साथ बरते जाने वाले शिष्टाचार आदि के संबंध में हिदायतें:

- ( क ) आरम्भिक
- ( ख ) आगमन का वर्गीकरण
- ( ग ) आगमन की सूचना
- ( घ ) स्वागत
- ( च ) भेंट करना
- ( छ ) विदा करना
- ( ज ) सामान्य

### ( क ) आरम्भिक

राज्य सरकार के सदस्यों के रूप में मंत्रियों के साथ उस समय जब कि उनका जिला हेडक्वार्टर्स और दूर के स्थानों में आगमन हो, अधिक से अधिक शिष्टाचार बरता जाना चाहिए । इनमें वे बातें शामिल होंगी:

मंत्रियों के संबंध में आदेश राज्य मंत्रियों, विधान परिषद के सभापति, उप सभा पति तथा विधान सभा के अध्यक्ष/उपाध्यक्ष के संबंध में लागू होंगे :-

2- शिष्टाचार संबंधी पहलु के अलावा, इन मौकों पर मंत्रियों को सरकार के मुख्य कार्यकारी अफसरों से व्यक्तिगत रूप से जानकारी हासिल करने और उनके जरिये इस बात के संबंध में सीधे जानकारी प्राप्त करने का मौका मिलता है कि प्रशासन कैसा चल रहा है और सरकार की नीतियों का क्या प्रभाव पड़ रहा है । जहां तक अफसरों का संबंध है, वे अपना दृष्टिकोण और कभी-कभी अपनी कठिनाइयों को मंत्रियों के सामने रख सकते हैं और सामान्य नीति के मामले में कीमती सलाह हासिल कर सकते हैं जो किसी और तरह से सम्भव नहीं हो सकती है । इस प्रकार ऐसे संपर्कों से प्रशासन की कार्य क्षमता बढ़ सकती है ।

3- उसके साथ ही, सरकार यह चाहती है कि सभी प्रबंधों में आह्वानों और तड़क-भड़क से बचा जाय और सादागी तथा विफ्रायतशरी बरती जाय । सरकार के सदस्यों के स्वागत के लिये या उनके साथ-साथ दौरे पर जाने के लिए सरकारी कर्मचारियों को अपना सामान्य कार्य तब तक न छोड़ना चाहिए जब तक कि नियमों में यह बात निर्धारित न की गयी हो कि वे सरकार के सदस्यों के साथ उपस्थित रहें या ऐसा करना इतना जरूरी नहीं है कि सामान्य सरकारी कार्य को स्थगित करने का औचित्य सिद्ध हो सके । सरकार यह भी चाहती है कि इन नियमों का कड़ाई से पालन किया जाय जब तक ऐसी बहुत ही असामान्य परिस्थितियां मौजूद न हो जिनके कारण नियमों के खिलाफ काम करना जरूरी हो जाय ।

## (ख) आगमन का वर्गीकरण

- 4- मंत्रियों के आगमन नीचे दी हुयी श्रेणियों में वर्गीकृत किये जायेंगे,
- 1 औपचारिक
  - 2 अनौपचारिक, और
  - 3 गैर सरकारी ।

कोई आगमन तब तक औपचारिक न समझा जायेगा जब तक मंत्री जी के दौरे के कार्यक्रम में इसका उल्लेख न किया गया हो । कोई आगमन गैर सरकारी नहीं समझा जायेगा जब तक कि दौरे के कार्यक्रम में इसका उल्लेख न किया गया हो । मंत्रियों के आगमन ज्यादातर सरकारी काम से होते हैं और यदि किसी आगमन का औपचारिक या गैर सरकारी आगमन के रूप में उल्लेख न किया गया हो तो उसे "अनौपचारिक" आगमन समझा जायेगा ।

5- अन्य औपचारिक तथा अनौपचारिक आगमन के संबंध में स्वागत आदि का प्रबन्ध करना जरुरी होगा किन्तु गैर-सरकारी आगमन के संबंध में ऐसे प्रबन्ध की जरुरत नहीं होगी ।

## (ग) आगमन की सूचना

6- मुख्य मंत्री की दशा में मुख्य मंत्री के निजी सचिव और दूसरे मंत्रियों की दशा में उनके निजी सचिव दौरे के कार्यक्रम या आगमन संबंधी हिदायतों में यह उल्लेख करने के लिये जिम्मेदार होंगे कि आगमन "औपचारिक" और "अनौपचारिक" या "गैर सरकारी" प्रकार की श्रेणियों में किस श्रेणी का है ताकि स्थानीय अफसरों को अपने कर्तव्य के संबंध में कोई शंका न रहे ।

इस संबंध में कोई त्रुटि रह जाने पर जिला अधिकारी इसे सरकार के मुख्य सचिव की जानकारी में ला सकते हैं ।

7- मंत्री जी का निजी सचिव सभी आगमनों के संबंध में सूचना जारी करने के लिये जिम्मेदार होगा इस सूचना में नीचे दी गयी बातों का उल्लेख होगा:-

- 1 पहुंचने का समय और सफर करने का साधन अर्थात् हवाई जहाज, रेलगाड़ी, मोटरकार आदि ।
- 2 ठहरने का मुकाम,
- 3 आगमन के दौरान उनके कार्यक्रमों, का व्यौरा ,
- 4 प्रस्थान करने का समय और सफर करने का साधन
- 5 मंत्री के साथ कौन-कौन लोग रहेंगे ।

8- आगमन की सूचना आने के दिनांक से काफी पहले दी जायेगी आम तौर पर 5 दिन की सूचना उचित समझी जायेगी । केवल आकस्मिक आगमन के मौके पर इस अवधि को शिथिल किया जा सकता है ।

9- यदि ठीक समय पर सूचना नहीं दी जाती है तो स्थानीय अफसरों के लिये इन हिदायतों का पालन करना कठिन होगा, और उस हालत में यदि औपचारिकतायें बरतने में कोई कमी रह जाय तो मंत्री उस पर यकीनन कोई ध्यान नहीं देंगे ।

10- औपचारिक आगमन की दशा में, आगमन की सूचना निजी सचिवों द्वारा निम्नलिखित अफसरों को भेजी

जायेगी:-

- 1 डिवीजन का कमिश्नर प्रभाग आयुक्त
- 2 जिला अधिकारी
- 3 पुलिस अधीक्षक
- 4 मंत्री के विभाग पोर्टफोलियो के, अन्तर्गत आने वाले स्थानीय कार्यालय के अध्यक्ष ।
- 5 मुख्य मंत्री की दशा में समस्त विभागों के और अन्य मंत्रियों की दशा में संबंधित मंत्री के पोर्टफोलियो के अन्तर्गत आने वाले विभागों के रेंज या सर्किल ऑफिसर जिनके क्षेत्राधिकार के भीतर वह स्थान पड़ता है जहां कि आगमन होना है
- 6 मुख्य मंत्री की दशा में स्थानीय कार्यालयों के समस्त अध्यक्ष ।
- 7 केन्द्रीय सरकार के विभागों के सबसे सीनियर अधिकारी, जो उस स्थान में तैनात हों जहां कि आगमन होना है ।

निजी सचिव 1, 2, 3, तथा 5 को कार्यक्रम की प्रतिज्ञियां सीधे भेज देगा और साथ ही उनके पास आवश्यक अतिरिक्त प्रतियां भी वितरण के लिए भेज देगा ।

2 किसी स्थान पर अनौपचारिक तथा गैर सरकारी आगमन की दशा में केवल 2 तथा 3 में उल्लिखित अधिकारियों को उसी तरह सूचना भेजी जायेगी जिस तरह औपचारिक रूप से आगमन होने पर भेजी जाती है ।

3 राज्य सरकार के वे अफसर जिनका ऊपर जिक्र किया गया है आगमन की सूचना अपने से ठीक नीचे के मातहत गजेटेड अफसरों को देगे ।

(घ) स्वागत

(क) औपचारिक आगमन

11- (1) रेल या हवाई जहाज से यात्रा की स्थिति में मुख्य मंत्री जी का रेलवे स्टेशन या हवाई अड्डे पर, जैसी भी स्थिति हो, जिलाधिकारी तथा पुलिस अधीक्षक, वरिष्ठ पुलिस अधीक्षक, जहां जो भी तैनात हो तथा मुख्य मंत्री जी से संबंधित अन्य विभागों के वरिष्ठतम अधिकारी स्वागत के लिये उपस्थित रहेंगे । यदि आगमन मण्डल मुख्यालय पर हो तो मण्डलायुक्त तथा रेंज के पुलिस उप महानिरीक्षक भी सूचनायें उपस्थित रहेंगे ।

1. (क) अन्य मंत्रियों के आगमन के अवसर पर वरिष्ठ सिविल तथा पुलिस अधिकारी एवं मंत्री जी से संबंधित विभागों के वरिष्ठतम अधिकारी स्वागतार्थ उपस्थित रहेंगे ।

2. (क) तहसील हेडक्वार्टर या ख तहसील के किसी दूर के स्थान में आगमन की दशा में, मंत्री का स्वागत करने के लिये जिला अधिकारी किसी गजेटेड आफीसर की भेजेंगे । पुलिस अधीक्षक भी मुनासिब दर्जे के किसी अफसर को मंत्री के स्वागत करने के लिये भेजेंगे ।

टिप्पणियां .

1 स्वागत के बाद जिला अधिकारी/पुलिस अधीक्षक, अन्य सीनियर सिविल/पुलिस अफसर, जैसी भी सूचित हो, के लिये आगन्तुक विजीटर के साथ उनके सफर में जिले के विभिन्न स्थानों में जाना जरूरी न होगा । लेकिन इसमें अफसरों को अपने विवेक से काम लेना चाहिये और यदि किसी विशेष आगमन के मौके पर ऐसा करना आवश्यक हो तो वे आगन्तुक के साथ सफर में पूरी दूरी तक या कुछ दूरी तक जा सकते हैं ।

2 जिलाधिकारी के लिये यह भी आवश्यक है कि वह सड़क से होकर आने वाले विशिष्ट आगन्तुकों का स्वागत करने के लिये हेड क्वार्टर से बाहर जाये और फिर उनके साथ हेडक्वार्टर वापस आये और इसी तरह उन्हें

विदा करने के लिये उनके साथ जिले की सीमा तक जाये ।

3 यदि दूर के स्थान में आगमन का संबंध किसी विभाग से हो तो संबंधित विभाग के किसी राजपत्रित अधिकारी को या जिलाधिकारी द्वारा नामांकित अधिकारी को उपस्थित रहना चाहिये ।

12- (क) ऐसी दशाओं में जब कि मंत्री ने कार से सफर किया हो और वे किसी सर्किट हाउस, इंसपेक्शन बंगले या किसी अन्य स्थान में ठहरे हो, संबंधित पदाधिकारियों के लिए मंत्री के आगमन के समय इन स्थानों पर उपस्थित रहना आवश्यक नहीं है, सिवाय उस दशा में जब कि निजी सचिव से प्राप्त आगमन की सूचना में ऐसा करने का विशेष अनुरोध किया गया हो । आगमन का समय अनिश्चित होने के कारण ऐसे मामलों में उनका उपस्थित रहना जरूरी नहीं समझा गया है ।

(ख) अनौपचारिक आगमन

(ख) अनौपचारिक आगमन की दशा में जिला मजिस्ट्रेट तथा पुलिस अधीक्षक जिला मजिस्ट्रेट के कर्मचारियों में से किसी गजेटेड आफिसर को और पुलिस अधीक्षक के कर्मचारियों में एक गजेटेड पुलिस आफिसर को मुख्य मंत्री का स्वागत करने के लिये भेजेंगे और किसी अन्य मंत्री के स्वागत के लिए जिला मजिस्ट्रेट के कर्मचारियों में से किसी जिम्मेदार अधिकारी/कर्मचारी को और पुलिस अधीक्षक के कर्मचारी वर्ग में से किसी पुलिस अधिकारी/कर्मचारी को भेजेंगे ।

(ग) गैर सरकारी आगमन

(ग) गैर-सरकारी आगमन की दशा में औपचारिक रूप से स्वागत की व्यवस्था करने की कोई जरूरत नहीं है ।

13- मुख्य मंत्री के आगमन/प्रस्थान के अवसर को छोड़कर रात्रि के समय हवाई जहाज अथवा रेल द्वारा अन्य मंत्रियों के आगमन प्रस्थान पर उनके स्वागत/विदा करने की व्यवस्था करना आवश्यक नहीं है परन्तु उनके स्वागत प्रस्थान के समय एक राजपत्रित पुलिस अधिकारी अवश्य ही उपस्थित रहेगा । यदि कोई मंत्री दिन में या रात में सफर करते हुए रास्ते में हों तो किसी अधिकारी का उनसे मिलना जरूरी नहीं है । लेकिन अगर कोई मंत्री यह चाहते हों कि राज्य सरकार का कोई अधिकारी उनसे उस समय मिले जब कि वे रात में रेल या हवाई जहाज से पहुंच रहे हों या वह चाहते हों कि उनके लिये परिवहन जैसी सुविधाओं की व्यवस्था की जाय तो तदनुसार प्रबंध किया जायेगा, बशर्ते कार्यक्रम में इस बात का विशेष उल्लेख किया गया हो ।

(घ) भेंट करना

(क) औपचारिक आगमन

14- मुख्य मंत्री जी के आगमन पर 1 जिला अधिकारी पुलिस अधीक्षक तथा विभागों के सबसे सीनियर अधिकारी मुख्य मंत्री जी से भेंट करेंगे:-

किन्तु प्रतिबन्ध यह है कि यदि मुख्य मंत्री जी सरकिट हाउस/इंसपेक्शन हाउस में न ठहरे बल्कि किसी गैर सरकारी व्यक्ति के यहां ठहरें तो अफसरों के लिये उनसे भेंट करना अनिवार्य नहीं होगा ।

2 भारत सरकार के वर्तमान आदेशों के अनुसार आगमन के स्थान पर तैनात केन्द्रीय सरकार के प्रत्येक विभाग के सबसे सीनियर अधिकारी के लिए यह जरूरी है कि वह मुख्य मंत्री से भेंट करें ।

प्रस्तावित आगमन की सूचना मुख्य मंत्री के निजी सचिव के द्वारा जिला अधिकारी को भेजी जायेगी और जिला अधिकारी केन्द्रीय सरकार के संबंधित अफसरों को सूचित करने का प्रबन्ध करेगा ।

(अ) अन्य मंत्रियों/ राज्य मंत्रियों के आगमन पर- 1 जिलाधिकारी, पुलिस अधीक्षक और मंत्री के अधीनस्थ विभाग या विभागों के सबसे सीनियर अफसर मंत्री से भेंट करेंगे । किसी अन्य अफसर के लिये मंत्री से भेंट करना जरूरी नहीं होगा ।

किन्तु यदि मंत्री किन्हीं अन्य अफसरों से मिलना चाहें तो मंत्री के वैयक्तिक कर्मचारियों द्वारा कार्यक्रम में या अलग से इस बात का उल्लेख किया जायेगा । यदि इसकी पहले से सूचना देना संभव न हो तो जिले में पहुंचते ही जितनी जल्दी संभव हो सके इसकी सूचना वैयक्तिक कर्मचारी द्वारा जिला अधिकारी या संबंधित अधिकारी को दे दी जायेगी :

किन्तु प्रतिबन्ध यह है कि यदि मंत्री सर्किट हाउस/इंस्पेक्शन हाउस में न ठहरें बल्कि किसी गैर-सरकारी व्यक्ति के यहा ठहरे तो अफसरों के लिये उनसे भेंट करना अनिवार्य नहीं होगा ।

(द) केन्द्रीय सरकार के प्रत्येक विभाग के अधिकारी के लिये मंत्रियों से भेंट करना आवश्यक नहीं है । परन्तु यदि मंत्री किन्हीं अधिकारियों से मिलना चाहेंगे तो उसकी सूचना मंत्रियों के निजी सचिव/वैयक्तिक सहायक द्वारा जिलाधिकारी को भेजी जायेगी और जिलाधिकारी केन्द्रीय सरकार के संबंधित अफसरों को सूचित करने का प्रबंध करेगा ।

15- इस प्रकार भारत सरकार की हिदायतों के अधीन राज्य के हेडक्वार्टर पर तैनात केन्द्रीय सरकार के प्रत्येक विभाग के सबसे सीनियर अफसरों के लिये यह जरूरी है कि वे मंत्री जी से भेंट करें । जब कोई नया अफसर कार्यभार ग्रहण करेगा या कोई नया मंत्री नियुक्त हो तो मंत्री से दोबारा भेंट करना जरूरी होगा ।

16- अगर कोई मंत्री किसी स्थान पर कुछ ही घंटे रहे तो किसी अफसर के लिये उनसे मिलना जरूरी न होगा सिवाय उस हालत के जबकि भेंट करने के लिये उनसे अनुरोध किया गया हो ।

17- (1) मंत्री के वैयक्तिक कर्मचारियों द्वारा एक अम्यागल (पंजी विजीटर्स बुक) रखी जायेगी जिनमें मंत्री से भेंट करने के लिये आये हुए सभी व्यक्ति अपना नाम दर्ज करेंगे । यदि उस समय जब कि कोई व्यक्ति मंत्री से भेंट करने के लिये आया हो मंत्री मौजूद न हो या वे भेंट करने के लिये आये हुए व्यक्ति से मिलने में असमर्थ हों तो भेंट करने के लिये आया हुआ व्यक्ति वहां अपना कार्ड भी छोड़ जायेगा । वैयक्तिक कर्मचारीवांग इस बात का प्रबन्ध करने के लिये जिम्मेदार होगा कि मंत्री के आगमन के दौरान अम्यागल पंजी उस स्थान पर आसानी के साथ उपलब्ध रहे जहां मंत्री ठहरे हों । साथ ही वैयक्तिक कर्मचारीवांग उसे यह सूचना देगा कि वास्तविक भेंट के लिये उसे दूसरी बार अपने की जरूरत है या नहीं और यदि आने की जरूरत है तो उसे किस दिन और कितने बजे आना होगा ।

17- (2) भेंट करने के लिये जहां तक संभव हो घंटे नियत कर दिये जायेंगे । वैयक्तिक कर्मचारीवांग सभी संबंधित व्यक्तियों को उनकी सूचना दे देगा । भेंट के वक्त की सूचना वैयक्तिक कर्मचारीवांग द्वारा जिलाधिकारी, पुलिस उप पुलिस अधीक्षक तथा मंत्री के मातहत विभाग या विभागों के सबसे ऊंचे अधिकारी या पदाधिकारियों को हमेशा ही पहले दी जानी चाहिए जबकि व्यक्तिगत भेंट का वक्त नियत न होने के कारण कोई सुविधा न हो ।

## (ख) अनौपचारिक और गैर सरकारी आगमन

18- मंत्री के अनौपचारिक और गैर सरकारी आगमन की दशा में उनसे किसी अन्तर्गत को भेंट करने की जरूरत नहीं है सिवाय उस हालत के जब कि मंत्री जी विशेष अफसर से मिलने की खास तौर पर इच्छा प्रकट करें।

## (घ) विदाई

19- जब मंत्री रेलगाड़ी या हवाई जहाज से प्रस्थान करें तो रेलवे स्टेशन या हवाई अड्डे पर मंत्री को विदा करने के लिये वहीं अफसर जायेंगे जो उनके आगमन के समय मौजूद रहे हों।

## (ज)

20- केवल जिलाधिकारी एवं पुलिस अधीक्षक जब सरकारी कार्य से लखनऊ में हों तो उन्हें मुख्य मंत्री जी से भेंट करना अनिवार्य है। अन्य विभागों के जिला स्तर के आफीसर, जिला स्तर के आफीसरों के दर्जे के संभागीय (रीजनल) अफसर या उनसे बाद के पद के अफसर जब सरकारी कार्य से लखनऊ आयें तो उन्हें अपने विभाग के इंचार्ज मंत्री से भेंट करने के लिये जाना चाहिए। इस प्रकार भेंट करने के लिये आये अफसरों के वास्ते निजी सचिव मुख्य मंत्री/मंत्री के निवास-स्थान और कार्यालय दोनों ही जगह एक अभ्यागत पंजी रखेगा किन्तु यदि भेंट करने के लिये आये हुए व्यक्ति से मिलने के लिये मुख्य मंत्री/मंत्री के पास समय न हो तो वह व्यक्ति अभ्यागत पंजी में अपना नाम दर्ज कर देगा।

21- मंत्री का वैयक्तिक कर्मचारीवर्ग यह सुनिश्चित करने के लिये विशेष सावधानी बरतेगा कि उन से भेंट करने के लिये आने वाले अफसरों को बैठने, आदि की आवश्यक सुविधा दी जाय और उन्हें उससे अधिक समय तक इंतजार न करना पड़े जितना कि बिल्कुल ही जरूरी हो।

(1) आकस्मिक आगमन की दशा में यह संभव है कि कुछ अफसर जिनकी उपस्थिति हिदायतों के अधीन आगमन के स्थानों पर होनी जरूरी है दौरे पर हो। ऐसी हालत में उन्हें अपना दौरा रद्द नहीं करना चाहिए।

(2) जब आगमन अचानक रूप से हो तो यदि मंत्री जिला तथा /अन्य अधिकारियों से मिलना चाहें तो वैयक्तिक कर्मचारीवर्ग तार द्वारा उन्हें सूचना देगा।

23- स्वागत संबंधी हिदायतें राज्य हेडक्वार्टर को दिये जाने वाले वापसी सफर, या "रिसेस" के लिये नैनीताल अथवा अन्य पर्वतीय स्थानों में कियेजाने वाले सफर पर लागू होगी।

24- इन हिदायतों में दी गयी किसी बात का यह अर्थ न लगाया जाना चाहिए कि उससे मंत्री के स्वागत के अवसर पर उपस्थित होने या उनसे भेंट करने के गैर सरकारी व्यक्तियों के विशेषाधिकार पर कोई हस्तक्षेप होता है, सिवाय किसी ऐसे हस्तक्षेप के जो सुरक्षा की दृष्टि से आवश्यक समझा जाय।

25- (1) मंत्रियों के आगमन के मौकों पर सुरक्षा विषयक जरूरी इंतजामों के संबंध में अलग नियम लागू होते हैं।



(2) इस प्रकार मंत्रियों के आगमन के संबंध में किये जाने वाले अन्य स्थानीय इंतजाम इन हिदायतों के अन्तर्गत नहीं आते हैं ।

26- इन हिदायतों में ऐसे संशोधन किये जा सकते हैं जिनकी मंत्री किसी विशेष आगमन के अक्सर पर हिदायत करें । ऐसे संशोधनों की सूचना निजी सचिव द्वारा संबंधित, अफसरों को ठीक समय पर दे दी जायेगी ।

### राज्य सरकार के उप मंत्रियों तथा सभा सचिवों का आगमन

1-वे हिदायतें उप मंत्रियों तथा सभा सचिवों दोनों ही के आगमन पर लागू होती हैं, लेकिन मुख्यतः शब्द उप मंत्री ही इस्तेमाल किया गया है

2- स्वागत- 1 औपचारिक आगमन की दशा में, रेल या हवाई जहाज से सफर करने वाले उप मंत्री का रेलवे स्टेशन या हवाई अड्डे पर, जैसी भी सूरत हो, कोई गजेटेड या सिविल या पुलिस अफसर जो मंत्री का स्वागत करने के लिये जिला अधिकारी या पुलिस अधीक्षक द्वारा तैनात किया गया हो, स्वागत करेगा । यदि जिन स्थान पर आगमन हो, हेडक्वार्टर हो, तो विभागाध्यक्षों या उसके द्वारा भेजे गये अफसर का उपस्थित रहना भी लाजमी होगा बशर्त कि उक्त मंत्री उस विभाग से संबंध रखता हो । उप मंत्री इस बात का प्रबन्ध करेंगे कि उनके आगमन की सूचना संबंधित अफसर के पास ठीक समय पर भेज दी जाय ।

2 दूर के नगरों में माल या पुलिस विभाग के सबसे ऊंचे अफसर जो उपलब्ध हों, उपस्थित रहेंगे ।

3 यदि उप मंत्री ने मोटर कार से सफर किया हो तो जिस स्थान पर उप मंत्री ठहरने वाले हों वहां उनके पहुंचने के समय किसी अफसर के उपस्थित रहने की जरूरत नहीं है ।

3- भेंट करना- 1 उप मंत्री से संबंधित विभाग या विभागों का सबसे सीनियर अफसर उनसे भेंट करेंगे । जिलाधिकारी, पुलिस अधीक्षक तथा राज्य सरकार के अन्य अफसर भी, यदि उनकी ऐसी इच्छा हो, उप मंत्री से मिल सकते हैं:

किन्तु प्रतिबन्ध यह है कि यदि उप मंत्री कुछ ही घंटों के लिये ठहरने वाले हों तो किसी अफसर को उनसे मिलना जरूरी न होगा सिवाय उस दशा के जब कि ऐसा करने के लिये उनसे कहा गया हो ।

यह भी प्रतिबन्ध है कि यदि उप मंत्री या सभा सचिव सरकिट/इंसपेक्शन हाउस में न ठहरें बल्कि किसी गैर-सरकारी व्यक्ति के यहां अफसरों के लिये उनसे भेंट करना जरूरी नहीं होगा ।

2 यदि उस समय जब कि कोई व्यक्ति भेंट करने के लिये आया हो उप मंत्री मौजूद न हो, या भेंट करने के लिये आये हुए व्यक्ति से मिलने से असमर्थ हो, तो भेंट करने के लिये आया हुआ व्यक्ति अपना कार्ड छोड़ जायेगा । यदि उप मंत्री चाहते हो कि यह दोबारा आये तो वे उसे यह सूचित करने का प्रबन्ध करेंगे कि उसे किस दिन और कितने बजे दोबारा भेंट करने के लिये आना चाहिये ।

3 भेंट करने के लिये जहां तक संभव हो, घंटे नियत कर दिये जायेंगे और उप मंत्री के साथ जाने वाले वैयक्तिक सहायक कर्मचारीवर्ग सभी संबंधित व्यक्तियों को उनकी सूचना दे देगा, ताकि संबंधित अफसरों को

व्यक्तिगत भेंट का वक्त नियत न होने के कारण कोई असुविधा न हो ।

4 किसी पदाधिकारी के लिये उप मंत्री के प्रस्थान के समय विदा करने के लिये जाना जरूरी न होगा ।

5 अनौपचारिक अथवा गैर सरकारी आगमनों के संबंध में किसी प्रकार की औपचारिकता बरतने की जरूरत नहीं है ।

शनिवार, दिनांक 4 अगस्त, 1979 के भारत के राजपत्र के भाग 1 खण्ड 1 में प्रकाशनार्थ  
**राष्ट्रपति सचिवालय**  
**अधिसूचना**

नई दिल्ली, दिनांक 26 जुलाई, 1979

सं0 33-पेज/79- इस विषय में जारी की गई सभी पहली अधिसूचनाओं का अतिक्रमण करते हुए, निम्नांकित व्यक्तियों के रैंक तथा पूर्वता के संबंध में निम्न सारणी, जिसे राष्ट्रपति ने अनुमोदित कर दिया है, आम सूचना के लिए प्रकाशित की जाती है:-

- 1- राष्ट्रपति
- 2- उप-राष्ट्रपति
- 3- प्रधानमंत्री
- 4- राज्यों के राज्यपाल अपने-अपने राज्यों में
- 5- भूतपूर्व राष्ट्रपति
- 5-क- उप प्रधान मंत्री
- 6- भारत का मुख्य न्यायाधिपति लोकसभा अध्यक्ष ।
- 7- केन्द्रीय मंत्री-मण्डल के मंत्री राज्यों के मुख्य मंत्री अपने-अपने राज्यों में उपाध्यक्ष योजना आयोग राज्य सभा और लोक सभा में विपक्ष के नेता ।
- 8- भारत स्थित विदेश के असाधारण तथा पूर्वाधिकारी राजदूत तथा राष्ट्र मण्डल देशों के उच्चायुक्त राज्यों के मुख्य मंत्री अपने-अपने राज्यों से बाहर । राज्यों के राज्यपाल अपने-अपने राज्यों से बाहर ।
- 9- उच्चतम न्यायालय के न्यायाधीश ।
- 10- राज्य सभा का उप सभापति । राज्यों के उप मुख्य मंत्री लोक सभा का उपाध्यक्ष योजना आयोग के सदस्य । केन्द्र के राज्य मंत्री ।
- 11- भारत का महान्यायवादी एटोर्नी-जनरल मंत्री मण्डल का सचिव । भारत के नियंत्रक तथा महालेखा-परीक्षक कंट्रोलर एण्ड आडिटर जनरल । उप राज्यपाल अपने-अपने संबंधित क्षेत्रों में ।
- 12- फुल जनरल अथवा उसके समान रैंक वाले सेनाध्यक्ष ।
- 13- भारत स्थित विदेश के असाधारण दूत तथा पूर्वाधिकारी मंत्री ।
- 14- राज्यों के विधान मण्डलों के सभापति और अध्यक्ष अपने-अपने राज्यों में उच्च न्यायालयों के मुख्य न्यायाधिपति अपने-अपने क्षेत्राधिकार में ।
- 15- राज्यों के मंत्री मण्डल स्तर के मंत्री अपने-अपने राज्य में । संघ शासित क्षेत्रों के मुख्य मंत्री और दिल्ली के मुख्य कार्यकारी पार्षद् केन्द्र के उप मंत्री ।
- 16- लेफ्टिनेंट जनरल अथवा उसके समान रैंक वाले स्थानापन्न सेनाध्यक्ष ।
- 17- अल्पसंख्यक आयोग का अध्यक्ष ।

- अनुसूचित जाति एवं अनुसूचित जन जाति आयोग का अध्यक्ष ।  
 संघ लोक सेवा आयोग का अध्यक्ष ।  
 मुख्य निर्वाचन आयुक्त ।  
 उच्च न्यायालय के मुख्य न्यायाधिपति अपने-अपने क्षेत्राधिकार से बाहर ।  
 उच्च न्यायालयों के जज अपने-अपने क्षेत्र में ।
- 18- राज्यों के मंत्री मण्डलों के मंत्री अपने-अपने राज्य से बाहर ।  
 राज्यों के विधान मण्डलों के सभापति और अध्यक्ष अपने-अपने राज्य से बाहर ।  
 मोनोपॉली तथा रेस्ट्रिक्टिड ट्रेड प्रैक्टिसेज कमीशन का अध्यक्ष ।  
 राज्य विधान मण्डलों के उप सभापति तथा उपाध्यक्ष अपने-अपने राज्यों में  
 राज्य के राज्य मंत्री अपने-अपने राज्यों में ।  
 संघ शासित क्षेत्रों के मंत्री और दिल्ली महानगर परिषद् के सभापति संघ शासित क्षेत्र में ।
- 19- बिना मंत्री परिषद् वाले संघ शासित क्षेत्रों के मुख्यायुक्त अपने-अपने क्षेत्रों में  
 राज्यों के उप मंत्री अपने-अपने राज्यों में ।  
 संघ शासित क्षेत्रों की विधान सभाओं के उपाध्यक्ष और दिल्ली महानगर परिषद् का उप-सभापति अपने-अपने संघ शासित क्षेत्रों में ।
- 20- राज्यों के विधान मण्डलों के उप सभापति तथा उपाध्यक्ष अपने-अपने राज्यों से बाहर राज्यों के राज्य मंत्री अपने-अपने राज्यों से बाहर ।  
 उच्च न्यायालय के जज अपने-अपने क्षेत्राधिकार से बाहर ।
- 21- संसद सदस्य ।
- 22- राज्यों के उप मंत्री अपने-अपने राज्यों से बाहर ।
- 23- आर्मी कमांडर/उप-थल सेनाध्यक्ष अथवा अन्य सेवाओं में उनके समान पद वाले अधिकारी राज्य सरकारों के मुख्य सचिव अपने-अपने राज्य में ।  
 भाषाई अल्पसंख्यकों का आयुक्त ।  
 अनुसूचित जाति तथा अनुसूचित जनजाति का आयुक्त  
 अल्पसंख्यक आयोग के सदस्य ।  
 अनुसूचित जाति अनुसूचित जनजाति आयोग के सदस्य ।  
 फुल जनरल के रैंक के अथवा उसके समान रैंक वाले अधिकारी ।  
 भारत सरकार के सचिव इस पद को पदेन धारण करने वाले अधिकारियों सहित  
 अल्प संख्यक आयोग का सचिव ।  
 अनुसूचित जाति तथा अनुसूचित जनजाति आयोग का सचिव ।  
 राष्ट्रपति का सचिव ।  
 प्रधान मंत्री का सचिव ।  
 सचिव, राज्य सभा /लोक सभा ।  
 महान्यायवादी ( सॉलिसिटर-जनरल )
- 24- लेफ्टिनेंट जनरल के रैंक के अथवा उसके समान रैंक वाले अधिकारी ।
- 25- भारत सरकार के अपर सचिव ।  
 अपर महान्यायाधिकर्ता ( एडीशनल सॉलिसिटर जनरल )  
 राज्यों के महाधिवक्ता ।  
 टैरिफ आयोग का अध्यक्ष ।  
 स्थायी एवं अस्थायी कार्यदूत ( चार्ज दि अफेयर्स ) तथा स्थानापन्न उच्चायुक्त ।  
 संघ शासित क्षेत्रों के मुख्य मंत्री और दिल्ली के मुख्य कार्यकारी पार्षद अपने-अपने

संघ शासित क्षेत्रों से बाहर ।  
राज्य सरकारों के मुख्य सचिव अपने-अपने राज्यों से बाहर ।  
उप नियंत्रक तथा महालेखा परीक्षक डिप्टी कम्प्यूटर एण्ड आडिटर जनरल ।  
संघ शासित क्षेत्रों की विधान सभाओं के उपाध्यक्ष और दिल्ली महानगर परिषद  
का उप सभापति अपने-अपने संघ शासित क्षेत्रों से बाहर ।  
निदेशक, केन्द्रीय अनुसंधान ब्यूरो ।  
महानिदेशक, सीमा सुरक्षा दल ।  
महानिदेशक, केन्द्रीय आरक्षित पुलिस ।  
निदेशक, अधिसूचना ब्यूरो ।

उप-राज्यपाल अपने-अपने संघ शासित क्षेत्रों से बाहर सदस्य, मोनोपौलीज एण्ड रेस्ट्रिक्टेड ट्रेड प्रैक्टिसेज कमीशन ।

संघ शासित क्षेत्रों के मंत्री और दिल्ली के कार्यकारी पार्षद अपने-अपने संघ शासित क्षेत्रों से बाहर मेजर जनरल के रैंक के अथवा समान रैंक वाले सशस्त्र सेनाओं के प्रिंसिपल,स्टाफ आफिसरज संघ शासित क्षेत्रों की विधान सभाओं के अध्यक्ष और दिल्ली महानगर परिषद का सभापति अपने-अपने संघ शासित क्षेत्रों से बाहर ।  
26- भारत सरकार के संयुक्त सचिव और उनके समान रैंक वाले अधिकारी मेजर जनरल के रैंक के अथवा उसके समान रैंक वाले अधिकारी ।

नोट- इस पूर्वता सारणी का क्रम राजकीय समारोहों के लिए है और सरकार के दिन प्रतिदिन के कार्य संचालन पर लागू नहीं होता ।

नोट-2 सारणी में व्यक्तियों की पूर्वता अनुच्छेदों ( आर्टिकल्स ) की संख्या के क्रम से होगी । एक ही अनुच्छेद की प्रविष्टियां वर्ग क्रमानुसार रखी गयी हैं, जिनका नाम एक ही अनुच्छेद में दिया गया है, उनकी परस्पर पूर्वता अनुच्छेद में प्रविष्टि की तिथि के अनुसार नियत होगी । किन्तु जब कभी एक ही अनुच्छेद में प्रविष्टि विभिन्न राज्यों अथवा संघ शासित क्षेत्रों के गणमान्य व्यक्ति अपने राज्यों अथवा संघ शासित क्षेत्रों के बाहर किसी समारोह में उपस्थित होंगे और उनकी प्रविष्टि की तिथि निर्धारित करना कठिन होगा, तब उनकी परस्पर पूर्वता, उन लोगों के बाद जिनकी पूर्वता अनुच्छेद में प्रविष्टि की तिथि के आधार पर निर्धारित हो जायेगी : राज्यों और संघ शासित क्षेत्रों के नामों के वर्ग क्रमानुसार नियत की जा सकती है ।

नोट 3:- अनुच्छेद 7 में, राज्य में होने वाले सरकारी समारोहों में संबंधित मुख्य मंत्री की संघ के मंत्री मण्डल स्तर के मंत्री ( मंत्रियों ) से पूर्वता प्रदान की जाएगी ।

नोट 4:- अनुच्छेद 8 में:-

( क ) भारत में असाधारण राजदूत तथा पूर्णाधिकारी तथा राष्ट्रमंडलीय देशों के उच्चायुक्तों को विभिन्न राज्यों के राज्यपालों से उनके संबंधित राज्यों से बाहर सामूहिक रूप से पूर्णता प्राप्त होगी ।

( ख ) राज्यों के राज्यपालों को अपने-अपने राज्यों से बाहर सामूहिक रूप से अपने राज्यों से बाहर मुख्य मंत्रियों से पूर्वता प्राप्त होगी ।

नोट 5:- गणमान्य विदेशी व्यक्तियों और भारतीय राजदूतों, उच्चायुक्तों और पूर्णाधिकारी मंत्रियों को उनके भारत आने पर विदेश मंत्रालय उपयुक्त पूर्वता प्रदान करेगा ।

नोट 6- एक ही तिथि को निर्वाचन होने की अवस्था में, राज्यों की विधान परिषदों के सभापतियों का स्थान विधान सभाओं के अध्यक्षों से पूर्व होगी ।

नोट 7- उन बड़े राज्यों समारोहों में जहां संसद सदस्यों को सामूहिक रूप से आमंत्रित किया जाता है, उनके लिए सुरक्षित स्थान मुख्य न्यायाधिपति, लोक सभा के अध्यक्ष, राजदूतों आदि के तुरन्त बाद हो ।

नोट 8- संघ शासित क्षेत्रों की विधान सभाओं के अध्यक्ष और दिल्ली महानगर परिषद के सभापति का स्थान उसी अनुच्छेद (आर्टिकिल) में समाविष्ट मंत्रियों और कार्यकारी पार्षदों से पूर्व होगा ।

नोट 9- अनुच्छेद 23 में

(क) विदेश मंत्रालय में विदेश सचिव के अलावा अन्य सचिव आपस में भारतीय विदेश सेवा के ग्रेड -1 में अपनी वरिष्ठता के अनुसार पूर्वता ग्रहण करेंगे और वे दोनों विदेश सचिव के बाद पूर्वता ग्रहण करेंगे ।

(ख) अल्पसंख्यक आयोग तथा अनुसूचित जाति एवं अनुसूचित जनजाति आयोग के सदस्यों को इन आयोगों के सचिवों से हमेशा ही पूर्वता प्राप्त होगी ।

(ग) दिल्ली/नई दिल्ली में होने वाले सरकारी समारोहों में आर्मी कमांडर्स/उप-सेनाध्यक्ष तथा अन्य सेवाओं में उनके समकक्ष अधिकारी हमेशा ही भारत सरकार के सचिवों के बाद स्थान क्रम ग्रहण करेंगे ।

नोट 10- अनुच्छेद 25 में -

(क) विदेश मंत्रालय में अपर सचिव आपस में भारतीय विदेश सेवा के ग्रेड -11 में अपनी वरिष्ठता के अनुसार पूर्वता ग्रहण करेंगे ।

(ख) अपर महान्यायाधिकर्ता को राज्यों के महाधिवक्ता से ऊपर पूर्वता प्राप्त होगी ।

(ग) उप राज्यपालों को मुख्य मंत्रियों तथा दिल्ली के मुख्य कार्यकारी पार्षद से ऊपर पूर्वता प्राप्त होगी और मुख्य मंत्रियों तथा मुख्य कार्यकारी पार्षद, दिल्ली की विधान सभाओं के अध्यक्षों और दिल्ली महानगर परिषद के सभापति से ऊपर पूर्वता प्राप्त होगी ।

(घ) संघ शासित क्षेत्रों की विधान सभाओं के उपाध्यक्ष और दिल्ली महानगर परिषद का उप-सभापति संघ शासित क्षेत्रों के मंत्रियों तथा दिल्ली के कार्यकारी पार्षदों के बाद पूर्वता ग्रहण करेंगे ।

नोट 11- अनुच्छेद 26 के प्रयोजन के लिए यह बात गृह मंत्रालय निर्धारित करेगा कि किन अधिकारियों के पद भारत सरकार के संयुक्त सचिवों के पदों के समान हैं ।

### उत्तर प्रदेश का सहायक पूर्वताधिपत्र

कोटिक्रम	पदनाम
( 1 )	( 2 )
4	राज्यपाल
8	मुख्य मंत्री
16	विधान परिषद के सभापति विधान सभा के अध्यक्ष
16-अ	उच्च न्यायालय के मुख्य न्यायाधिपति
17	लोक आयुक्त
17-अ	राज्य के मंत्रीगण
	नेता विरोधी दल ( विधान परिषद/विधान सभा )
	प्युनी जजेज
	उप सभापति, विधान परिषद
	उपाध्यक्ष, विधान सभा,
	राज्य के राज्य मंत्री
20	उप मंत्री
	महापौर-अपने क्षेत्र में
20-अ	अध्यक्ष, जिला परिषद ( अपने क्षेत्र में )
	अध्यक्ष, नगरपालिका ( अपने क्षेत्र में )
22	संसद सदस्य
22-	विधान परिषद तथा विधान सभा के सदस्य
24	मुख्य सचिव
24-अ	अध्यक्ष, राजस्व परिषद,
25	लेफ्टिनेंट जनरल अथवा सशस्त्र सेना के समकक्ष अधिकारी
26	एडवोकेट जनरल
	लोक सेवा आयोग के अध्यक्ष
28	सदस्य, राजस्व परिषद
	अध्यक्ष, लोक सेवा अधिकरण
	विश्वविद्यालय के कुलपति
29	राज्य सरकार के आयुक्त एवं सचिव,
	पुलिस महानिरीक्षक
	मण्डलायुक्त, उनके समकक्ष या उनसे उच्च स्तर के
	राज्य सरकार के विभागाध्यक्ष,
	भारत सरकार के समकक्ष विभागाध्यक्ष स्तर के अधिकारी,
	उत्तर प्रदेश लोकसेवा आयोग के सदस्य,
	सदस्य न्यायिक गजस्व परिषद,

- स्वाशासकीय राजकीय निगमों के समकक्ष मुख्य कार्यअधिकारी,  
महा लेखाकार, उत्तर प्रदेश,  
मेजर जनरल अथवा सशस्त्र सेना के समकक्ष अधिकारी ।
- 30 राज्य सरकार के सचिव/विशेष सचिव,  
अतिरिक्त पुलिस महानिरीक्षक  
अन्य विभागाध्यक्ष ( जो ऊपर क्रम संख्या 15 में सम्मिलित नहीं है )
- 31 भारत सरकार के समकक्ष विभागाध्यक्ष ।  
जिला अधिकारी,  
जिला न्यायाधीश  
उप पुलिस महानिरीक्षक  
पुलिस अधीक्षक  
मुख्य चिकित्साधिकारी ।



## LAWS REGARDING PRESS

Freedom guaranteed to the Press has certain inherent dangers, if it does not function with a sense of social responsibility it may do incalculable harm and cause mischief by abusing its powers. Powerful parties, financial groups or big industrial houses seek to control the Press to further their private interests to the detriment of the public. "Moreover, goaded by commercial motive to earn profit, many newspapers indulge in stunts to pander to the vulgar instincts of human beings, such as blackmailing, yellow journalism, horrorcomics, veiled pornography and the like". Apart from constitutional restraints, there are laws in our country relating to the Press which seek to put statutory curbs on freedom of the Press. A distinction has to be made between Press laws which are special laws solely directed against the Press and laws on the Press which are general laws applicable to all citizens including the Press.

### **Press Laws.**

Some of the important laws on the Press which are of general application and affect the Press also are discussed below:

#### **Official Secrets Act, 1923**

Section 3(c) of the Official Secrets Act, 1923 makes it an offence if any person for any purpose prejudicial to the public safety and the interests of State obtains, collects, records or publishes or communicates to any other person any sketch, plan, model, article or note or document or information which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy, and he shall be punishable with imprisonment for a term which may extend to 14 years. In the like manner, under Sec.5, it is an offence if any person discloses any such information in his possession.

#### **The Press and Registration of Books Act, 1867**

The Press and Registration of Books Act, 1867 is merely a procedural law and a regulatory measure and it is not intended to put any restrictions on freedom of the Press or to establish governmental control over newspapers. It is an act for the regulation of printing presses and newspapers, for the preservation of copies of books and newspapers in India for the registration of such books and newspapers.

#### **Indian Telegraph Act, 1885**

Section 5(2) of Indian Telegraph Act, 1885 empowers the government or an authorised officer to intercept, detain or withhold any telegraphic message. Provisions of Section 5 (2) read as follows:

" On the occurrence of any public emergency or in the interest of public safety,

the Central Government or a State Government of any officer specially authorised in this behalf by the central Government of a State Government, may, if satisfied that it is necessary or expedient so to do in the security of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States of public order or for preventing incitement to the commission of an offence, for reason to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the Order."

#### **The Young Persons (Harmful Publications) Act, 1956**

Section 3 of Young Persons (Harmful Publications) Act, 1956 provides penalties where such harmful publication is advertised, sold, distributed or possessed. Section 4 empowers the State Government, in the manner described therein that every copy of such harmful publication shall be forfeited. Section 6 of the Act confers on a police officer power to seize and destroy harmful publications.

#### **The Delivery of Books and Newspapers (Public Libraries) Act, 1954**

Section 3A of the Delivery of Books and Newspapers (Public Libraries) Act, 1954 enjoins upon the publisher of every newspaper to deliver, at his own expense one copy of each issue of such newspaper as soon as it is published, to such public libraries as may be notified by the Central Government. Contravention of any provision of this Act becomes punishable with up to rupees fifty.

#### **The Police (Incitement to Disaffection) Act, 1922**

The Police (Incitement to Disaffection) Act, 1922 penalises any act which causes or is likely to cause disaffection towards the Government, among the members of a police force or which induces or attempts to induce any member of a police force to withhold his services or to commit a breach of discipline.

#### **The Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954**

This Act is intended to control advertisement of certain drugs and prohibit the advertisement of remedies alleged to possess magic qualities.

#### **Indian Penal code, 1860 and Cr.P.C., 1873**

In addition to above mentioned laws applying restrictions to erring newspapers, these codes also contain provisions which provide for punishment of a person who commits such offence by printing, publishing, or circulating an objectionable matter.

In the Indian penal Code, Secs.121-121A (Abetment or conspiracy to wage war against the Government of India); S. 124A (Sedition, that is to incite disaffection

against the Government established by law in India, by words which have a tendency to create public disorder); and S. 131 (inciting or abetting mutiny or seduction from duty of a member of the armed forces) are intended to protect security of the State.

### **Customs Act, 1962**

Section 11 of the Customs Act, 1962 empowers the Central Government to prohibit the import or export, inter alia, of documents which are prejudicial to security of India, the maintenance of public order and standards of decency morality."<sup>10</sup>

(A National Information Policy - Lok Sabha Secretariat Publication - 1987)

**PART II**  
**Duties/ Responsibilities/ Powers**  
**of**  
**Collector**

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## EVOLUTION OF OFFICE OF COLLECTOR

The district bureaucracy and its structure in this country were conceived and given shape more than a century ago with certain limited objectives. The head of the district administration has been the Collector. His principal functions were the maintenance of law and order, collection of revenue and administration of various Government regulations. However, in the post independence period he has been entrusted with and involved in various developmental functions. Though most of the developmental activities at the district level are carried out by the various functions/line departments, the Collector as the chief executive of the district has come to assume a central role as the coordinator of the programmes implemented at the district. Over the year, the number of departments/agencies and programmes as well as the technical content of these programmes have agencies/departments on an average at the district level at present. In spite of the multi-farious functions which the Collector has been called upon to discharge, it must be said that Collector has done well so far and has been administration in the district. However, in the process certain essential functions like maintenance of land records etc have suffered due to inadequate attention. Mixing up of law and order, land revenue administration etc with developmental work has brought the Collector into conflict with various forces in the district and as a result, both maintenance and development administration have suffered in the process. It is not un-common to see that this has also resulted in the tenure of a Collector being shortened by quick transfers.

Now that development administration has become more complex and also the quantum of work and the need to work with people's representatives increased, it is necessary to provide leadership at a much higher level than prevalent at present. Equally, so, it is necessary to insulate the Collector from other forces to enable him to take firm action in law and order matters and also discharge efficiently the maintenance administration functions of land revenue and land records, election matters, public distribution system etc.

(Adopted from ANNEXURE IB of the December 1985 Report of the committee to Review the existing administrative arrangements for rural development and poverty alleviation programmes) under the chairmanship of Mr. G.V. K. Rao).

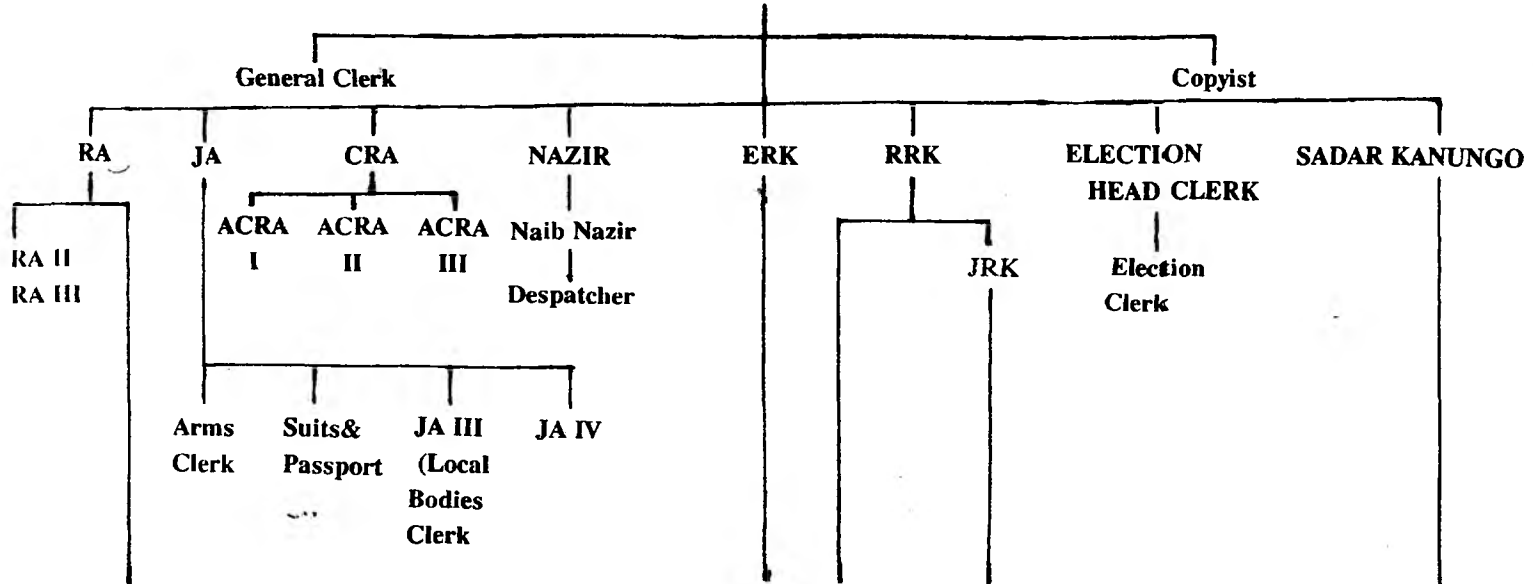
# COMPOSITION OF COLLECTORATE

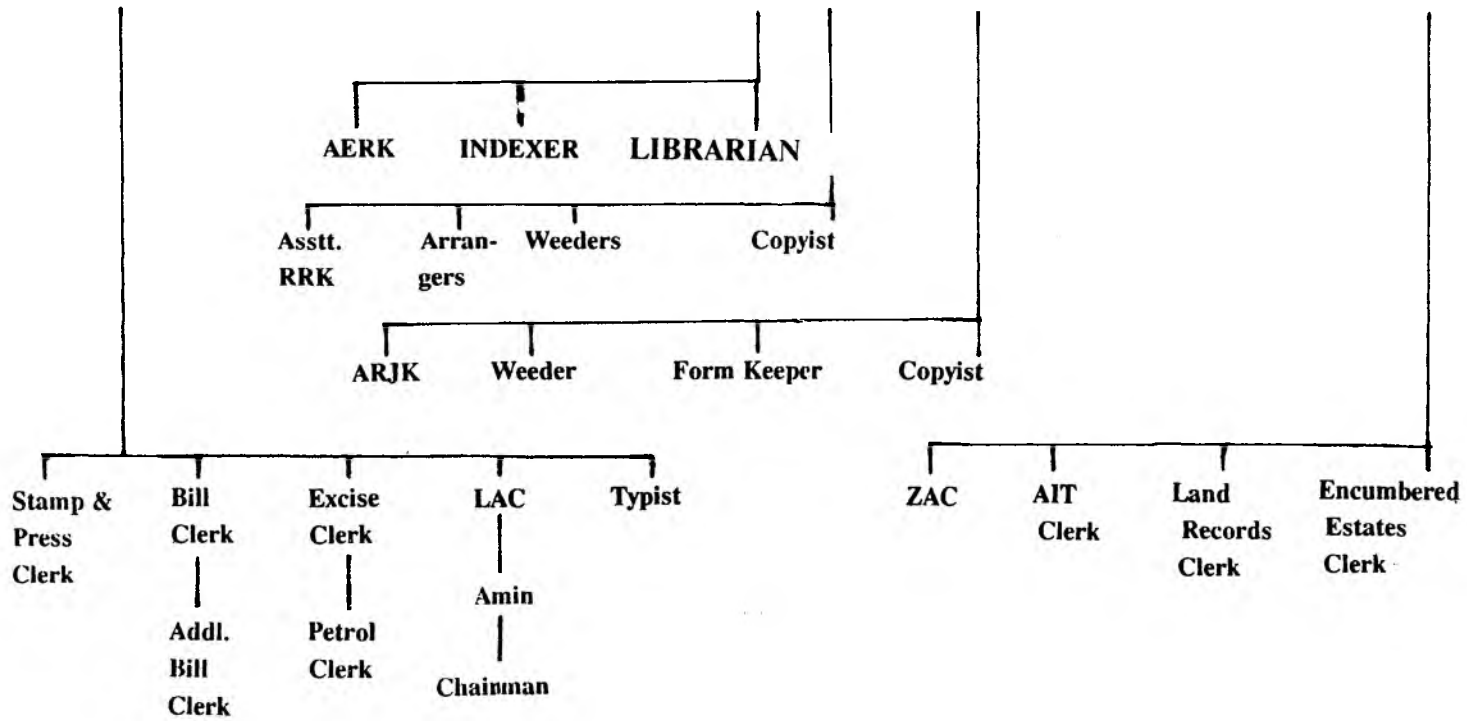
## REVENUE MANUAL

### APPENDIX 'W'

(Referred to in paragraph I of Appendix C)

#### OFFICE SUPERINTENDENT







128. The Statement and returns required to be furnished by the Collector are summarised below in a handy form :

S1. Name of return no.	Authority to whom furnished	Date by which furnished	No. of prescribed form	Relative paragraph of the Rev. Manual
1. Statement of Revenue on the roll	Commissioner	Beginning of Oct.	Form III (RD no. 24)	118
2. Copy of entreis of register of revenue not on the roll for proceeding year	Ditto..	Ditto..	Form II..	118
3. Half-yearly statement of local rates and cesses	Treasury Officer	By the end of march & Sept.	No prescri -bed form	119
4. Monthly statement of collection	Commissioner	Monthly	.. Form VI (RD no. 25)	122
5. Copy of statement of district totals for half-year ending March 31, from Tahsils	Ditto..	Middle of April	Form VIII (RD no.29)	123
6. Copy of memo for lump collections for half year ending September 30, from tahsils	Ditto..	Oct. 31	Ditto..	124
7. Tauzi	Govt.through Commissioner.	Ditto..	Form X (RD no. 30)	124

- |  |                           |                                 |                          |     |
|--|---------------------------|---------------------------------|--------------------------|-----|
| 8. Annual estimate of collections of land revenue on the roll for each month of the revenue year | Commissioner.             | As early as possible in October | Form XI (RD no. 21)      | 125 |
| 9. Demand statement for the following year   | Government & Commissioner | Oct. 1                          | Form XII (Misc. 102 -A)  | 125 |
| 10. Budget estimates for the current year  | Ditto..                   | Ditto..                         | Form XIII (Misc. 10 -3A) | 125 |
| 12. Statement of actual demand collections & balance for the proceeding year                     | Ditto..                   | Sept. 15                        | Form XIV                 | 125 |

**1043.** All appointments and promotions in District Offices, except those of Office Supdt. and Treasury Head Clerks, which are dealt with in the following rules, may be made by the District Officer.

G.O. no. 4307/I-B-105-B-55, dated June 22, 1967.

(2) Appointment to the post of Treasurer is subject to the approval of the Government (See paragraph 1467).

**765.** Under section 18(3) of the United Provinces Land Revenue Act, 1901, the State Govt. have delegated to Collectors their powers to place Assistant Collectors, I Class, in charge of one or more sub-divisions of district and to remove them therefrom.

G.O. no. 4259/I-20-F, dt DEC. 26, 1901.

## ACQUISITION

### 1. The Ancient Monuments Preservation Act 1904

**Sec. 4 :** Acquisition of rights in or guardianship of an ancient monument

(1) Collector may purchase or take a lease of any protected monument.

(2) Collector may accept a gift or bequest of any protected monument.

### 2. The Antiquities and Art, Treasures Act 1972

**Sec. 19 :** Collector may make an order for compulsory acquisition of such antiquity or art treasure.

### 3. The Indian Treasure Troves Act 1878

**Sec. 16 :** Power to acquire the treasure on behalf of the Government.

**Sec. 17 :** Decision of Collector is final and no suit to lie against him for acts done bonafide.

### 4. Land Acquisition Act 1894

**Sec. 4 :** The land in any locality is likely to be needed for any public purpose then collector shall cause publication of preliminary notification.

**Sec. 5A:** Hearing of objection and making report to the government.

**Sec. 7 :** After declaration, collector to take order for acquisition.

**Sec. 8 :** Collector shall cause the land to be marked out, measured and planned.

**Sec. 9 :** Notice to persons interested at convenient places and with particular details.

**Sec.10 :** Power to require and enforce the making of statements as to names and interest.

**Sec. 16 :** When the collector has made an award 4/5 11, he may take possession of the end.

**Sec. 17 :** Special powers in cases of urgency.

### 5. The Land Acquisition (Mines) Act 1885

**Sec. 3 :** Declaration that mines are not needed and acts as an advisor.

### 6. The Oil and Natural Gas Commission Act 1959

**Sec. 24 :** Compulsory acquisition of land for the commission under the provisions of land Acquisition Act 1894.

### 7. The Road Side Land Control Act 1945

**Sec. 8(3) :** On receipt of a claim under sub sec (2) the state Govt either shall proceed to acquire the land concerned under the Land Acquisition Act 1894 or transfer the claim for disposal to the collector.

### 8. The UP Acquisition of Property (Flood Relief) Act 1948

**Sec. 4 :** Use of requisitioned land in such a manner as may appear to it to be expedient for any public purpose.

**Sec. 6 : Payment of compensation by compensation officer**

**Sec. 7 : Where any land or building material has been requisitioned, the authority acquires it by publishing.**

**The UP Ancient Monuments Preservation Act 1904**

**Sec. 4 : The Acquisition of rights in or guardianship of ancient monuments.**

**Sec. 20 C : Power to acquire a protected area under the Land Acquisition Act 1894.**

**10. The UP Imposition of Land Holdings Act 1960**

**Sec. 14 : The collector shall at any time acquire of surplus land.**

**11. The United province (Minor) Irrigation Works Act 1920**

**Sec. 18 : Any land or interest in land, it is necessary to acquire in pursuance of a scheme notified, shall, for the purpose of the Land Acquisition Act 1894, be deemed to be required for public purpose.**

**12. The UP Panchayat Raj Act 1947**

**Sec. 33 : Gaon Sabha or Gaon Sabhas may make any application in the prescribed form to the collector to acquire land and collector may acquire such land for G.S.**

**Rule 129 : Application for acquisition of land for Gaon Sabha through collector.**

## APPEALS

### 1. The Indian Forest Act 1927

**Sec. 17 :** Appeals from order passed under section 11, 12, 15 or 16. Collector may by notification in the official Gazette, appoint to hear appeals from such orders.

### 2. The Opium Act 1857

**Sec. 10 :** Any person dissatisfied with the judgement of Deputy Agent or collector may appeal to the Agent.

### 3. The UP Encumbered Estate Act 1934

**Sec. 45(3)** An appeal against any decision, decree or order of a collector under this act shall lie to the commissioner.

### 5. The UP. Excise Act 1910

**Sec. 11 :** The order passed by collector shall be appealable to the excise commissioner.

### 6. The Jaunsar Bhabar Security of Tenure and Land Records Rule 1953

**Rule 19 :** Appeals from orders of the Tehsildar or the Assistant Collector shall lie to the Collector.

### 7. The Jaunsar Bhabar Zamindari Abolition and Land REforms Act 1956

**Sec. 25 :** Appeal to the collector against the order of the compensation officer and decision of the collector shall be final.

### 8. Jal Sambharan Evam Sewar Vyavastha Adhiniyam 1975

Appeals before collector against the order of Assistant collector of the sub-division.

### 9. The UP Land Revenue Act 1901

**Sec. 132 :** Appeals in case of partition. To decide all appeals against the orders previously passed by the Assistant Collector.

### 10. The UP Monor Irrigation Works Rule 1920

**R.B. :** Appeals against order passed under section 16(b), (e) and (g) shall lie to the superintending canal officer and those under Sec. 16(e) to the collector of the district.

### 11. The Spirituous Preparations (Inter State Trade and Commerce Control Rules)

**Rule 21 :** Orders passed by District Excise Officer are appealable to the collector.

## **ATTACHMENT/SALE/DISPOSAL**

### **The Dangerous Drugs Act 1930**

**Sec. 34(2)** : Collector may cause articles to be sold which are liable to speedy and natural decay.

### **2. The Destruction of Records Act 1917**

**Sec. 3** : Power to certain authorities to make rules for disposal of documents.

### **3. The Essential Commodities Act 1955**

**Sec. 6A** : Where any essential commodity is seized, be produced, before the collector of the district. If the collector satisfied that there has been a contravention of the order, may pass order of confiscation.

### **4. The Opium Rules 1961**

**R. 62** : Disposal of opium or medicine containing opium, remaining with licensee after expiry of licence.

### **5. The UP Imposition of Land Holding Act 1960**

**Sec. 149** : Allotment and sale of movable property.

**Sec. 150** : The collector may attach and take under his own management any specific area, share, patti or mahal.

**Sec. 160** : Sale of defaulters specific area, patti or mahal if collector is of the opinion that prior taken steps were not sufficient.

**Sec. 161** : Land to be sold free of encumbrances.

**Sec. 162** : Collector may realise the arrear by attachment and sale of interest of defaulter in any other immovable property of the defaulter.

**Sec. 164** : Every sale under this section of this act shall be made either by collector in person or by an assistant collector.

**Sec. 167** : Deposit by purchaser, resale in default of deposit.

**Sec. 169** : Liability of purchaser for loss by re-sale.

**Sec. 172** : Applications to set aside sale on deposit of arrear etc.

## COMMITTEES, NOMINATION & APPOINTMENT

### 1. The Area Development Act 1978

**Sec. 18 :** The authority shall by notification establish a District Committee and Collector will be the ex.officio chairman.

### 2. The UP Bhoomi Evam Jal Sanrakshan Adhiniyam 1963

**Sec. 6 :** Establishment and constitution of Zila Samitis and Collector who shall also be the chairman thereof.

### 3. The UP Land Revenue Act 1901 :

**Sec. 182(A):** Appointment of receiver by collector when an arrear of revenue or any other sum recoverable as an arrear of revenue due.

### 4. The UP Panchayat Raj & Bhumi Prabandhak Samiti

(Election of Members) Rules 1961

**Sec. 11:** May nominate member from the village to the Bhumi Prabandhak Samiti. Collector shall nominate only such persons under sub rule (1) as are not disqualified 4/5 and cls (c) of Sec.5(a) of the Act.

### 5. The UP Sadar Kanoongo's Services Rules 1968

**R.9(2):** Collector may also make appointments in the officiating and temporary vacancies not exceeding 3 months, of candidates approved for appointment.

### 5. The Shri Badrinath & Shri Kedar Nath Temples Act 1939

**Sec. 5(e)&(f):** There is no Zila Parishad in the distt. of Chamoli and Uttarakashi, Collector can nominate the member.

### 7. The UP Sugar Cane (Regulation of supply and purchase) Act, 1953

**Sec. 6(2) :** The state govt may by rules provide for annual meeting of the development council. Every such meeting shall be presided over by the collector.



## **ARREST/SEIZURE/DETENTION/CONFISCATION**

### **1.The UP Excise Act 1910**

**Sec. 50** : Power of arrest, seizure and detention.

**Sec. 51** : Collector may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable u/s 60,62,63 or 65.

**Sec. 52** : Collector may issue a warrant for the Search for any intoxicants materials, utensils implements or apparatus in respect of which the alleged offence has been/likely to be committed.

**Sec. 55** : Power of collector to search without warrant.

## **DECLARATION/PUBLICATION**

### **1.The Indian Treasure Trove Act 1878**

**Sec. 9** : If no suit is filed then the collector shall declare treasure to be ownerless.

### **2.The Indian Forest Act 1972**

**Sec. 31** : The collector shall cause a translation into the local vernacular of every notification issued u/s 30 and affixation in conspicuous places to be ensured by collector.

### **3.The UP Road, Side Land control Act 1945**

**3.3(2)** Copies of every notification of declaration under rule section (i) shall be published by collector.

## **DEFENCE OF FALSE SUITES**

### **Manual of Govt. Order**

**Para 330** : When a defendent receives a summon in a civil suit which he alleges to be false, he should, if he intends moving Govt. for assistance, report the matter, as soon as, possible, to the collector.

## **DETERMINATION & PAYMENT OF COMPENSATION/ALLOWANCES/COSTS/TAXES ETC.**

### **1. The Indian Forest Act 1927**

**Sec. 11(2)d:** Power to acquire land over which right is claimed.

The Collector with the consent of claimant/court or both, may award compensation in land or partly in land or partly in money.

### **2.The Land Acquisition Act 1894**

**Sec. 5 :** To decide any dispute regarding sufficiency of amount paid for any damage at the time of entry into property to be acquisitioned.

### **3.The Northern India Canal and Drainage Act 1973**

**Sec. 14 :** Decision regarding compensation for damage caused by entry- The decision of the collector as to the amount of compensation payable for damage caused by the entry of canal officer, shall be final.

**Sec. 15 :** Compensation for damage to land- If the amount of compensation is not acceptable to the occupant the canal officer shall refer the matter to the collector who shall proceed to award compensation u/s 43 of the Land Acquisition Act 1870. **Sec. 32(c):** Claim on account of interruption from other causes- The collector may award to the Petitioner reasonable compensation for the loss caused by the interruption of water supply otherwise than in the manner described u/s 32(b).

**Sec. 61 :** Disposal of claims to compensation- All claims for compensation for loss consequent on the removal or modification of the obstruction or the construction of work may be made before the collector who will deal with the same as prescribed u/s10.

### **4.The UP Acquisition of Property (Flood Relief) Act 1948**

**Sec. 6 :** Payment of compensation- When no agreement is reached as to the amount of compensation between the person interested and the requisitioning authority the matter shall be referred to the compensation officer (Collector) for determination of the amount of compensation which shall except as provided in Sec. 11 be final and conclusive.

**Sec. 9 :** Payment of compensation for acquisition where any land is acquired u/s 7 these shall be paid to the person interested compensation by the compensation officer in accordance with the principles set out in the Land Acquisition Act 1894.

### **5.The Rule Under UP Acquisition of Property (FR) 1948**

**Rule 6-10 :** When any land or building material is requisitioned or acquired under the provisions of the Act the requisitioning authority or the compensation officer shall determine the amount of compensation to be paid for the land and building material. If the compensation is not accepted, the requisitioning authority and compensation officer shall report to the state govt. the facts of the case.

**6.The United Provinces Ropeways act 1922**

**Sec. 17(2) :** The Collector shall award compensation to person whose tree, structure or object has been removed with a view to allow construction, maintenance, alteration or use of the ropeway.

**7.The UP Bhoomi Evam Jal Sanrakshan Adhiniyam 1966**

As soon as may be after the date of taking possession of the land the collector shall determine the compensation payable for every year or part of the year during which the land remains under such temporary possession and also the person entitled there to.

**8.UP Govt. Estates Thekedari Abolition Act 1958**

**Sec. 8 :** Compensation statement- For purposes of assessment and payment of compensation under sub section (2) of section 7 the collector shall prepare a compensation statement.

**9.The UP Land Revenue Act 1901**

Person refusing or failing to accept settlement- The collector may with, the previous sanction of the Board either from the Mahal or holding under direct management during such term or any part there and shall pay to the person so excluded any allowance to which he may be entitled under section 74.

**10.The UP Luxuries (In Hotels) Tax Rules 1975**

**Rules 6 :** Assessing Authority- The collector shall be the assessing authority for the purposes of this act. After the tax has been assessed under sub rule (4) or (5) the collector shall issue an assessment order in L.T. Form V.

**11.The United Provinces Minor Irrigation Works Act 1920**

**Sec. 9 :** Compensation for damage caused by entry u/s 8- In case of dispute as to the amount of compensation the decision of the collector shall be final.

**Sec. 38A1 :** determination of compensation relating to water courses/damage by entry or other damages- The decision of the collector regarding the sufficiency of the amount shall be final.

**12.Manoeuvres, Field, Firing and Artillery Practices Act 1937**

**Sec. 6(1 & 4) :** The Collector of the district shall depute one or more revenue officers to determine the amount of compensation to be paid under this act and in case of the claimant being dissatisfied, appeal may be decided by the commission headed by collector.

**13.Ancient Monuments Preservation Act 1904**

**Sec. 21 :** Assessment of Market value or compensation-The market value or compensation of the property which the Govt. is empowered to purchase, under this act shall be assessed by the collector with the assistance of two assessors.

**14.The Pensions Act 1971**

**Sec. 5 :** Claim to be made to the collector or other authorised officer - Any person having a claim relating to any such person or grant may prefer such claim to the

collector of the district or deputy commissioner or other officer authorised in this behalf by the appropriate Govt. and such collector, deputy commissioner or other officer shall dispose of such claim in accordance with such rules as the chief revenue-authority may subject of the general control of the appropriate govt. from time to time prescribe in this behalf.

## ELECTIONS

### 1. Representation of Peoples Act -

District Election officer means- Collector of the district.

**Sec. 25 :** Provision of polling stations constituencywise.

**Sec. 78(1) :** Lodging of accounts with the District election officer.

**Sec. 26(1) :** Appointment of Presiding officers for polling stations.

### 2. UP Krishi Utpadan Mandi Niyamavali 1965

**Rule 4 :** The Collector shall delimit the market area into ten constituencies by dividing the total number of Gaon Sabhas of the market area into ten compact groups.

**Rule 7 :** Preparation of voters list - The collector shall cause the list to be prepared, and amended. He shall hear and decide the objection. His decision shall be final.

**Rule 9 :** The collector shall cause a notice to be published in Hindi in the leading hindi daily news paper circulating in the market area.

**Rule 12 :** On the presentation of nomination paper the collector shall verify the names of the proposer, seconder and the candidates with the list of voters.

**Rule 13 :** The collector shall publish a list in form no. 11 of all nominations received with a notice that the nomination shall be scrutinised on the date appointed.

**Rule 24 :** The collector shall, upon being satisfied of the fact of death of the candidate, countermand the poll.

**Rule 32 :** The Collector shall require the market committee to deposit by a specified date all expenditure incurred by him in connection with or incidental to the election of members.

## ENQUIRY

### 1. The Indian Treasures Troves Act 1878- Sec. 7

On the day notified under Sec. 5, the collector shall cause the treasure to be produced before him and shall enquire as to and determine (a) the person by whom the place in which and circumstance under which such treasure was found and (b) as far as possible, the person by whom and the circumstances under which such treasure was hidden.

### 2. The Land Acquisition Act 1894

Every objection under sub section (1) shall be made to the collector in writing and the collector shall give the objector an opportunity of being heard either in person or by pleader and shall after hearing all such objections and after making such further enquiry make a report to the Govt. with his recommendation.

**Sec. 11 :** The collector after hearing the objections shall make an award under his hand (i) of the true area of the land (ii) compensation which in his opinion should be allowed for the land (iii) and apportionment of the said compensation among all the interested persons.

**Sec. 14 :** For the purposes of enquires under this Act the collector shall have power to summon and enforce the attendance of the witness including the parties interested or any of them to compel the production of documents in the same manner as is provided under the code of civil procedure.

### 3. The Northern India Canal & Drainage Act 1873

**Sec. 7 :** Notice as to claims for compensation - As soon as is practicable after the issue of such notification the collector shall cause public notice to be given at convenient places stating that the State Govt. intends to apply or use the said water and the claims for compensation in respect of the matters mentioned in sec. 8 may be made before him.

**Sec. 10 :** Enquiry into claim and amount of compensation - The Collector shall proceed to inquire into any such claim and to determine the amount of compensation which should be given to the claimant.

**Sec. 17 :** Govt. to provide means of crossing canals - on receiving statement in writing signed by not less than five of the persons of such lands to the effect that suitable crossings have not been provided on any canal. The collector shall cause enquiry to be made and shall report his opinion to the Govt.

### 4. The opium rules 1961

**Rule 8 :** The collector can recommend to the Excise Commissioner for granting a permit to any person desiring opium for scientific industrial or medicinal purposes.

**Rule 28 :** The collector or the district excise officer on being satisfied may grant applicant a pass in form 0.11.

**Rule** Export of medicines containing opium by whole seller on manufacture- The collector, on being satisfied may grant the applicant an export pass in form 0.13.

### **5.The UP Imposition of ceiling on land holdings Act 1960**

#### **Sec. 5 : Imposition of ceiling**

### **6.The United Provinces Minor Irrigation Works Act 1920**

**Sec. 4 :** The collector shall publish a notice as to the date and place of enquiry to hear the suggestion, objections and evidence adduced by the persons likely to be affected by the proposed construction.

**Sec. 6 :** If the collector after considering the objections/suggestions finds that the owners of at least one half of the land likely to be affected by the construction or maintenance of work consent or more than one half of such owners oppose a report to this effect shall be submitted to the state Govt.

### **7.The UP Land Tenures (Regulation of Transfer) Reenactment and Validation Act 1972**

**Sec. 5 :** Where as a result of any lease or transaction becoming void by virtue of the provisions of Sec. 3, any person to whom such lease was granted or on whom any right was conferred is required to deliver any land under his personal cultivation he may make an application to the collector for exemption of the land (which does not exceed the circle area) from the operation of this Act. The Collector after an enquiry may make an order of exemption or may make an award of compensation as the case may be.

### **8. The Indian Works of Defence Act 1903**

**Sec. 12 :** After considering the objection put forward by the person interested, the collector shall make an award under his hand of (i) the area of the land and the nature of the obstruction from the land is to be kept free (ii) the compensation which in his opinion should be allowed for any damage caused or to be caused and (iii) apportionment of the said compensation among the interested persons.

**Sec. 14-16 :** Adjournment of inquiry, power to summon and enforce attendance of witness and production of documents and matters to be considered and neglected.

### **9.The wild life protection Act 1972-**

#### **Sec. 19, 21, 22 and 24 :**

**Sec. 19 :** Collector to determine rights - whenever any area is declared to be sanctuary the collector shall inquire into and declare to be sanctuary the collector shall inquire into and determine the existence, nature and extent of the rights of the person over the land comprised within the limits of sanctuary.

**Sec. 21 :** The collector shall publish in the regional language a proclamation specifying the limits of sanctuary and amount of compensation.

**Sec. 22 :** The collector shall inquire into the claims proposed and existence of any right.

**Sec. 23 :** The collector will exercise the powers to enter in or upon any land and to survey, demarcate and make a map of the same.

**Sec. 24 :** In case of a claim to a right in or over any land referred to in Sec. 19 the collector shall pass on order admitting or rejecting the same in whole or in part.

## GRANTS/CANCELLATION

### 1. The UP Bhoodan Yojna Act 1952

**Sec. 14(2) :** Where the committee or other authority or person fails to grant any land in accordance with sub sec (i) within a period of 3 years- collector himself grants such land to landless agricultural labourers.

### 2. The United Provinces Agricultural Tenants Privileges Act 1949

**Sec. 6-12 :** Grant of declaration and cancellation thereof- Declaration under this Act can be granted and cancelled for modified by Asstt. Collector.

## IMPOSITION OF PENALTY/FINE

### 1. The UP Cotton Ginning and Pressing factories Rules 1964

The Collector of the district (Prescribed Authority) in case of default made in the compliance of Sec. 12, 13, 14 (4) and (5) can impose fine as prescribed under this Act.

### 2. The UP Land Revenue Act 1901

**Sec. 30 :** Penalty for wilfully erasing, removing or damaging a boundary or survey mark to pay such sum not exceeding fifty rupees for each mark so erased removed or damaged as may be necessary to restore it.

### 3. The Indian Stamp Act 1899

**Sec 40 :** In case the document is not produced within the period specified by the collector he may require the payment of deficit stamp duty, if any together with penalty u/s 40 of this Act.

## IMPOUNDING

### 1. Indian Stamp Act 1899

**Sec. 33 :** Impounding of instrument Every person having by law or consent of parties authority to receive evidence and every person incharge of a public office except an officer of Police, before whom any instrument chargeable in his opinion with duty is produced or comes in the performance of his functions shall if it appears to him that such instrument is not duly stamped. impound the same.

## **INFORMATION TO BE GIVEN TO COLLECTOR**

### **1. Indian Treasure Trove Act 1878**

Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall as soon as practicable give to the collector notice in writing of the date, place, nature and amount of the treasure found.

### **2. The Northern India Canal and Drainage Act**

The Divisional canal officer send a copy of notice specifying the land needed for the proposed water course to the collector of each district in which any part of such land is situate.

**Sec. 23 :** The Divisional Canal Officer shall send a copy of the notice regarding the transfer of the water course to collector of every district through which such water course passes.

### **3. Rules made under UP Opium smoker Act 1934**

**Rule 8 :** Change of residence by opium smoker to be reported to collector.

### **4. The UP Cotton Ginning and Pressing Factories Rules 1964**

**Rule 14 :** Notice to be given to collector for leasing and report for transfer to ownership of the factory.



## INSPECTIONS

### 1. The Indian Stamp Act 1899

**Sec. 73 :** Collector may authorise to inspect- The Collector may authorise in writing any officer to enter upon any premises where the Collector has reason to believe that the documents in connection with any such instruments are kept.

### 2. Court Fees Act 1870

The Collector within the local limits of whose revenue jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected and take or cause to be taken copies of the record of any case in which application for probate or letters of administration has been made.

### 3. The UP Promotion and Protection of fruit trees (Regulation of Harmful Establishment and Housing Schemes) Act, 1985

The Collector or the Director or any officer authorised by any of them may at all reasonable times enter into or upon any harmful establishment or site of any housing scheme in order to carry out the purposes of this Act.

### 4. The Copra Cess Act 1974

**Sec. 11 :** Power to inspect Mills and take copies of accounts.

**Sec. 17 :** Composition of offences.

## ISSUE OF WARRANT OF ARREST

### 1. The UP Excise Act 1910

**Sec. 51 :** The Collector may issue a warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under sec. 60, 62, 63 and 65 of this Act.

### 2. Dangerous Drugs Act 1930

**Sec. 22 :** The Collector or any other officer authorised by the State Govt. in this behalf or presidency Magistrate or a Magistrate of the 1st and 2nd class may issue warrant for the arrest of any person whom he has reason to believe to have committed any offence punishable under Chapter III.

## **LICENCE/PASSES/PERMITS ETC. - GRANTING AND CANCELLATION**

### **1. The Elephants Preservation Act 1879**

**Sec. 5 :** Grant of licence to kill or capture wild elephant -

The Collector or Dy. Commissioner of any district may subject of such rules as may for the time being be in force under this Act grant licences to kill or capture wild elephants.

**Sec. 8 :** Any officer of Revenue or Police or any forest officer who may find any person killing injuring, capturing or attempting to kill injure or capture any wild elephant except in the cases mentioned in Sec 5 may require him to produce the license granted to him.

### **2.The UP Mines Mineral (Concession) Rules 1963**

**Rule 5 :** An application for grant of a mining lease shall be addressed to the State Govt. and be handed over personally to the District Officer (Collector) or to the officer authorised in this behalf by the district officer.

### **3. The Opium Rules 1961**

**Rule 3** The Collector may subject to the standing orders, if any, of the state Govt. and the Excise Commissioner grant the applicant a licence on conditions prescribed under this rule.

#### **Rules 4, 5, 6, 7 & 8**

Under these rules the Collector may grant licences to a licensed whole sale druggists, licensed retail druggists. Addicts for oral consumption, registered opium smoker and for scientific, industrial or medical purposes.

#### **Rule 45,46,50 and 52**

Sale of opium with special permission/sanction of collector by licences, licensed vendor, licenced whole sale druggist on expiry of license.

**R.50** Any person holding license in form 0-2, 0-3, 0-4, may transmit medicine containing opium by post if transmission is covered by the pass issued by Collector.

**R. 59** Collector may cancel or suspend any license or permit.

### **4.The Roadside Land Control Act 1945**

**Sec. 12 :** Not with standing anything contained in any other law for the time being in force no land within a controlled area shall be used for the purposes of charcoal kiln, pottery kiln or lime kiln except with a licence from the collector.

### **5.The Rules made under UP Opium Smoking Act 34**

**Rule 7 :** The Collector shall supply each registered opium smoker with a permit in form appended to these rules free of charge.

**Rule 10 :** Any registered opium smoker fails to comply with any of the conditions set forth in these rules his permit will in the absence of a satisfactory explanation, be liable to cancellation by the Collector or to suspension for such period as he may

decide.

**6. The UP Excise Act 1910**

**Sec. 16 :** Grant of passes for import, export and transport- passes for import, export and transport of intoxicants may be granted by the Collector.

**Sec. 17 :** No intoxicant shall be manufactured, no hemp plant shall be cultivated, no liquor shall be bottled for sale, except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector.

**Sec. 42 :** In local areas where the state Govt. so notifies no tari producing tree shall be tapped, no tari shall be drawn from any tree except under the authority and subject to the terms and conditions of a licence granted in this behalf by the Collector under Sec. 45.

**R. 18/19 :** License to sell spirituous preparation to be granted by Collector.

**7. The UP Number and Location of Excise Shop Rules 1968**

**R. 2 :** Subject to the control of the state and the Excise Commissioner, the distribution and general location of retail shops shall be determined by the Collector.

**8. The UP Opium Smoking Rules 1935 :**

**R. 7 :** The Collector shall supply, each registered opium smoker with a permit in Form C :

**9. The UP Permit For Possession of Foreign Liquor by Club Rules 1980**

**R.2** The Collector with the previous approval of the Excise Commissioner, may grant a permit in accordance with the provisions of rule- Sec. (a),(b) of Sec. 31 of the Act.

**10. The UP Power Alcohol Act 1940**

**Sec. 10 :** Power of licencing to sell petrol.

**Sec. 10(a) :** power when supply fails.

**11. The UP Spirituous preparation (Inter-State Trade and Commerce Control) Rules 1957 :**

**R. 5 :** Application to be made to the collector for a license to import.

**R. 6 :** On receipt of the application U/S 5, the Collector shall make such inquiries as he deems necessary, and may grant license or refuse to grant the license.

**R. 12 :** Application to be made to the Collector of the district for a license to export.

**R. 13 :** On receipt of the application U/S 12, the Collector shall make such inquiries as he deems necessary and may grant the application or may refuse to grant a license.

**12. The UP Regulation of money lending Act 1976**

**Sec. 4 (1):** Registration Authority.

**13. The UP Intoxicant Prohibition Rules 1978**

**Rule 4 :** foreigner may be granted a permit in prohibition area by the Collector.

**14. The Spirituous Preparations (Inter State Trade and Commerce Control Act 1959) Rule 19**

On receipt of the application under rule 17, the Collector shall make such enquiries as he deems necessary and may grant the applicant a licence in from on payment of Rs. 1,00 or may refuse to grant a licence.

**The Uttar Pradesh Electric Wire and Transformers (Prevention and Punishment of Theft) Act 1976**

**Sec. 3 :** on sale and storage of Aluminium and copper. No person shall carry on the business of purchase or sale of aluminium or copper or store it for carrying on such business except under a licence granted by the licensing authority of the district in which he ordinarily resides or carries on business.

## LOAN/SUSPENSION OF LOANS/REMISSION OF LOANS

### 1. Rules under the Agriculturists Loan Act, 1884 : Takavi Rules (UP) 1942

**R. 4(c)** : Collectors and empowered to grant loans for the relief of distress on the occurrence of certain calamities without any delay.

**R.11(b)** : Estimates and allotments for sugar cane seed for the current year.

**R. 14** : Additional estimates for unforeseen demands calling for taqavi loans.

### 2. Taqavi Rules 1942 (Governing the Grant of Loans under Act XIX of 1883 and a Ct XII of 1884

**R. 7** : Annual estimates regarding provisions of Fund and Collector will submit their estimates not later than 15th Oct. to the Commissioner.

**R. 9** : Collector's duties regarding the estimates of Agricultural Department

**R. 10** : Estimates for tube wells and agricultural machinery.

**R. 20** : Intimation of expenditure refunds and further requirement by Collector.

**R. 61** : Commissioner's sanction required when exceeds certain limits.

**R. 64** : Without the express permission of the Collector no advance shall be made to a minor or Pardanasheen woman.

**R. 79** : Agricultural Engineers recommendation to Collector not to take more than 3 weeks.

**R. 80** : Enquiries by the Collector not to take more than 4 weeks.

**R. 83** : It is essential that collectors should avoid unnecessary delay in furnishing their reports to the Agricultural Engineer.

**R. 85** : Allotment of funds by the Board of Revenue and supply of information by the Agricultural Engineer to Executive Engineer.

**R. 95** : Collector to make inquiries and return application.

**R. 98** : Collector to have Taqavi forms filled up by the approved applicants and to fix the instalments of repayments.

**R. 99** : Collector to remit the necessary amount to the Agricultural Engineer.

**R. 102** : Collector's report on the admissibility of the loan.

**R. 103 to 113** : Special rules for making advance of Taqavi in the form of sugar cane seed.

**R. 114 to 124** : Special rules for making advances of Taqavi in the form of

i) Improved varieties of seed other than sugar cane seed.

ii) Agricultural Implements

iii) Fertilizers

iv) Cow and she buffaloes and services of Govt. stud-bulls.

**R. 165-174** : Special rules for advances made to relieve distress on the occurrence of widespread calamity.

**R. 226-238 :** Remission and suspension of loans by Collector of the district.

**3. The UP Muslim Waqfs (Recovery of Dues) Rules 1964:**

## **MEMORANDUM OF TRANSFER**

**1. Manual of Govt. Order :**

**Para 39 :** Memorandum on transfer of district charge.

**Para 40 :** Subjects of which mention should be made in the memorandum.

**Para 41 :** If a district officer is proceeding on short leave and if he has been informed that he is likely to be reported to the same district, then this memorandum may be limited to the matters likely to require attention during his leave.

## **MORTGAGE AND REDEMPTION**

**1. The UP Agriculturists Relief Act 1934 :**

**Sec. 10 :** Application under this, if the principal money sanctioned does not exceed Rs. 500/-, be brought before Collector.

**Sec. 22 :** Investment of powers of Collector by state govt on Assistant Collector.

**2. The UP Debt Redemption Rules 1941 :**

**R. 10 :** Determination of area of protected level to be mortgaged.

**R. 11 :** Determination of period of mortgage and area to be mortgaged.

## **COGNIZANCE/PERMISSION/SANCTION/APPROVAL**

### **1. The Ancient Monuments Preservation Act 1904 Object :**

Preservation of Ancient monuments of ancient historical importance.

**Sec. 5 :** The Collector may, with the previous sanction of the central Govt. Propose to the owner to enter into an agreement with (the central Govt.) for preservation of any ancient monument in his district.

**Sec. 10 :** Compulsory purchase of monument.

**Sec. 18 :** Central Govt. may direct that any object or class of object (Such as sculptures, carvings shall not be moved without written permission of Collector. The applicant may appeal to the Commissioner. His decision will be final.

**Sec. 20 :** Authorises any officer of Arche logical department to enter and fmake carvation in any protected area with written permission of collector.

### **2. The Road side Land Control Act 1945 :**

**Sec. 5 :** No person shall erect any building, or make or extend any excavation or layout any means of access to road in a controlled area except with previous permission of the collector in writing.

### **3.The UP Kshetra Samiti and Parishad Adhiniyam 1961**

**Object :** The Establishment of Kshetra Samiti and Zila Parishad, in the districts of UP for the pursuance of the principle of Democratic decentralisation of govt. functions and for establishing proper municipal Govt. in rural areas; to correlate the power and function of Gaon Sabhas with Kshetra Samiti and Zila Parishad.

**Sec. 8 :** For transfer of immovable property by Zila Parishad-Collectors approval is required.

### **4. The UP Panchayat Raj Act, 1947**

**Object :** To establish and develop local self-government in the rural areas of UP and to make better provision for village administration and development.

**Section 38 (c) :** No member of Gram Panchayat shall acquire or attempt to acquire any share or interest in any licence, lease, sale, exchange, contract, employment without the written permission of Collector.

### **5. The UP Spirituous preparations (Inter State Trade and Comn) Control Rule 1957**

**R. ((3) :** No imported preparation can be distributed or removed from any place without the permission of the collector of the district.

## **6.UP REGULATION OF AGRICULTURAL CREDIT ACT 1973**

**Object :** With a view to securing adequate flow of credit for agricultural production and development through Commercial Bank and other institutional credit agencies, the act was passed in 1973.

**Sec. 11 A :** Where agriculturist fails to pay the amount together with interest on the due date, the bank officer may forward to the collector a certificate specifying the amount due from agriculturist. On receipt of certificate the collector shall proceed to recover from agriculturist the amount specified therein together with expenses of recovery.



## **POSSESSION/RESTORATION OF POSSESSION**

### **1. The Jaunsar Bhabar Zamindari and Land Reforms Act :1956**

**Object :** The Bill was introduced with the aim of making up ZALR Act applicable to the Paragana of Jaunsar Bhabar of Dehradun District as the condition of this Paragana were peculiar to the rest of the State. The act provides for the acquisition of rights, title and interest of intermediaries between the State and the title of the Soil.

**Chapter III Section 15 :** Provides for the declaration after the second notification in the official gazette that the rights, titles and interest of all intermediaries in the land in such areas cease and vest in State free from all on encumbrances. Section 17 : After notification under section 15 it shall be lawful for the collector or any officer appointed on his behalf) to take charge of any notified area, to enter upon any land and to survey and make measurements.

### **2.UP Bhumi Evam Jal Sanrakshan Adhiniyam**

**Object :** An act to amend and consolidate the law relating to the conservation and improvement of soil and water-resources in UP.

#### **Section 14 & 17 :**

Both these sections deal with taking temporary possession of land and restoration of possession respectively by order of collector. The duration of such possession shall not exceed five years. After expiry the restoration shall be done to the concerned person.

### **3.The UP Govt. Estate Thekedari Declaration Act 1958**

**Section 6 :** After the determination of lease it shall be lawful for the collector or any officer on his behalf to take over possession and charge of the lands included in the leases, to enter upon any lands. Building included in the lease.

**Section 8 :** For the purpose of assessment and payment of compensation, the collector shall prepare compensation statement.

### **4.The UP Homeopathic Medical College Act 1979**

**Object :** For taking over, in the public interest the management of certain Homeopathic Medical Colleges for a limited period and for ensuring proper management.

**Section 6 :** Where any person having possession custody of any property relating to a scheduled college fails to deliver possession, the administrators may apply to the collector and collector shall deliver possession over such property to the Administrators even by the use of force.

### **5. The Imposition of Land Holdings Act 1960**

**Sec. 14-(1) & (2) :**

The collector shall take possession of the surplus land determined under Section 11,12,13 of the act, after ejecting the person found in occupation of such land (may cause use of the force). He can also accept the voluntary surrender of land which is likely to be declared surplus under the provisions of the act.

**Sec. 34 :** The collector can retake possession of surplus land if illegally occupied.

**6.The UP Land Tenures Act (Regulation of transfer) (Reenactment and Validation) (1972**

**Sec. 4 (4):** It shall be lawful for the collector to take over possession and charge of land included in such lease or transactions and to enter upon any land, building or place.

**Section 5 :** The collector may make an order of exemption in case of such land which was under personal cultivation and its transaction or lease has become more than the ceiling limits (imposition of ceiling or land holdings Act 1960).

**7. The UP Land Revenue Act 1901**

**Object :** An act to consolidate and amend the law relating to land revenue and the jurisdiction of revenue officers in UP.

**Sec. 40 :** Settlement of disputes as to entries in annual register- (1) All disputes regarding entries in annual registers shall be decided by collector by summary-inquiry.

## **PREPARATION AND MAINTENANCE OF LAND RECORDS/OTHER RECORDS/REGISTERS**

### **1. The imposition of ceiling on land holdings rule 1961**

**Sec. 14B (i)** The collector shall maintain a register in CLH (Ceiling on Land Holdings Forms) showing details of all land declared surplus in his district. (ii) Collector shall also ensure that necessary correction are made revenue recofes in respect of surplus land referred.

### **2.The UP Land Revenue Act 1901**

**Sec. 21 :** Collector's power to form and alter Lekhpal Halkas. The collector may rearrange the villages of the district in Lekhpal Halkas and from time to time alter the limits of such Halkas.

**Sec 27 :** The collector shall maintain a map and field book of such villages in his district and shall cause all changes to be recorded therein.

**Sec. 30 :** The collector may order fine not exceeding Rs fifty to any person found spoiling border pillar < boundary marks etc.

**Section 31 :** Register of revenue paying and revenue free mahals-

(a) A list of all revenue paying mahals.

(b) A list of all revenue free mahals.

**Sec. 33 :** The collector shall maintain the record of rights (annual register).

### **3. UP Land Records Manual**

Almost entire manual is relevant to the maintenance of land records. It is responsibility of collector to ensure the maintenance of records, accordingly.

### **4. The United Province Estate Act 1920**

**Sec. 8:** The information of the registration of any declaration of estate will be furnished to the collector by the Registering officer and thereupon collector shall cause a note to be made in the record of rights relating to the immovable property.

**Sec. 30 :** Registration of such declaration for settlement of the property.

**Sec. 34 (2) :** The decision of the collector regarding the agricultural nature of the lease shall be final and conclusive.

### **5. Rule made under UP Opium Smoker Act 1934**

**Rule 4(a) :** A register of Opium Smoker shall be maintained in accordance with the direction of the collector.

**Rule 7,8,9,10 :**

deal with the c of place of residence and subsequent cancellation of the permit in case of no npliances of the rules.

## **PRESERVATION AND PROTECTION**

### **1.The Ancient Monument Preservation Act 1904**

**Sec. 5 :** Preservation of Ancient Monument by agreement. The agreement may include. maintenance of Monument, custody of, restriction on owners rights to destroy it, or built it, payment of any expences by the owner etc.

**Sec. 7 :** Collector may order prohibiting any contravention of the agreement.

**Sec. 13 :** A place of worship which has been purchased, taken as a protected monument, on it being used for religious to protect from misuse.

### **2. UP Land Revenue Act 1901**

**Sec. 109 :** The Collector on receipt of any application, at any stage of partition may stop or quash the proceedings.

**Sec. 110,111, 113 and 114 :**

deal with the partition among co-sharers and the proceedings there of.

### **3.The Ancient Monuments and Archae logical sites protection Act, 1956**

**Sec. 6 :** Preservation of protected monuments by agreement.

### **4. Antiquities and Art Treasures Act 1972**

**Object :** An act to regulate the export trade in antiquities and art treasures, to provide for the prevention of smuggling and fraudulent dealings in antiquities.

**Sec. 19(2) :** On the issue of the order for compulsory acquisition of the antiquity or art treasure the collector of the district shall give notice to the owner and it will be lawful for the collector to take possession of antiquity or art treasure.

### **5.The Elephant Preservation Act 1979**

**Sec. 2 to 5 :** No person shall kill, injure, or capture any wild elephant except in self defence, elephant found injuring human being or cultivation or as permitted by a licence granted under this act by the order of the collector.

### **6. The Wild Life Protection act 1972**

**Sec. 19,20,21,22,23 :**

Whenever any area is declared to be a sanctuary the collector shall inquire into and determine the existence nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary.

**Sec. 26 :** Powers of collector could be delegated to any other officer.

## **PROHIBITION**

### **1.The UP Bhoomi Evam Jal Sanrakshan Adhiniyam 1963**

**Sec. 22 :** Prevention of action prejudicial to soil and water conservation- Such person should be given notice by the collector (show cause) as to why order prohibiting from doing that act should not be passed.

## **PROSECUTION SANCTION**

### **1.Indian Stamp Act 1899**

**Sec. 70 :** No prosecution which has been repealed under this act shall be instituted without the sanction of the collector.

### **2. UP Excise Act 1910**

**Chapter 9;** deals with powers and duties of the officers such as to investigate into offences punishable under this act, power of detention.... This includes collector's powers to issue warrant of arrest (Section 53).

## RECOVERY OF AREARS/LOANS/EXCISE AMOUNT DUES/TAXES

### 1.The Court Fees Act 1970

**Sec. 6B :** The Section authorises the collector to recover court fee as arrear of land revenue.

### 2. Foreign Exchange Regulation Act 1973

**Sec. 70** Recovery sum due to the Govt.

**70(iii) :** If the amount can not be recovered from such person in the manner provided in Cl(i) or Cl(ii) the adjudicating officer may send required certificate to the collector and there after collector shall proceed to recover from the said person the amount specified as if it were an arrear of land revenue.

### 3.The Indian Stamp Act 1899

**Sec. 48 (Chap. IX) :**

All duties, penalties and other sum required to be paid under the Chapter may be recovered by the collector by attachment and sale of the movable property of the person as arrear of land revenue.

### 4.Land Improvement Act 1883

**Object :** An act to consolidate and amend the law relating to loans of money by the Govt. for agricultural improvements.

**Section :** Under the act all loan granted and interest chargeable and costs, shall be recovered by the Collector when they become due; from the borrower or from the surety.

### 5.The Medicinal and Toilet Preparation Act 1955

**Object :** An act to provide for the drug and collection of duties of excise on medicinal and toilet preparation containing alcohol narcotic drug or narcotics.

**Sec. 5 :** Recovery of sums due to govt.- If the amount payable to the govt. is not recovered from the person the Excise officer may forward a recovery certificate for the said amount due on the person to the collector who on receipt will proceed to recover the amount as an arrear of the land revenue.

### 6.The Northern India Canal & Drainage Act 1873

**Sec. 16 :** Revocery of amount due- Any due amount not paid to the Divisional Canal Officer by the due date shall be recovered by the collector, on the demand of such officer as if it were an arrear of land revenue.

### 7. UP Excise Act 1910

**Chapter VII Sec. 39 :**

**Recovery of Excise Revenue-** All excise revenue including all amounts due to the govt. by any person on account of any contract relating to Excise revenue, may be

recovered from the person liable to pay the same as arrears of land revenue by the collector.

#### **8.The Agricultural Produce Cess Act 1966**

##### **Section 9(i) :**

The collector shall assess the cess payable and issue notice for recovering the amount.

**Sec. 11 :** The collector shall assess and collect duty on exported items.

(a) Deduct amount due from money owned to person.

(b) Recover dues by sale of goods.

(c) The amount of cess if remained unpaid, shall be recovered from the liable person as if it was an arrear of land revenue.

#### **9.The Revenue Recovery Act 1890**

**Sec. 3:** Recovery of Public demands by enforcement of process in other district than those in which they become payable- In such cases the district collector, in whose district the recoverable amount is accrued, may send to the collector in whose district the defaulter has property, a certificate stating the particulars of defaulter and amount due. It will be recovered as an arrear of the land revenue.

**Sec. 5 :** The Collector on request from other public officer may proceed to recover the due amount from the liable person.

#### **11. The UP Luxuries (in Hotels) Tax Rules 1975**

**Rule 13 :** If after expiry of period allowed under any order of assessment, the whole or any part of the amount of the tax remains unpaid, the collector will take steps for the recovery of the amount of tax remaining unpaid as an arrear of land revenue.

#### **12The UP Muslim Waqfs (Recovery of dues) Rule 1964**

##### **Rule 4(1) :**

If the defaulter fails to pay the amount by the date fixed in the notice issued under Rule-3, the Board may send a letter of request in the form set out in schedules I of these rules, certifying the amount due, to the collector.

**Rule 5 :** Procedure to be followed by the collector - The collector shall proceed to recover from the defaulter the amount specified in the said letter as per paras of 58,59,60F to 60H and 85 of Revenue Manual.

**Rule 6 :** The remission of amount by the collector.

**Sec. 14 :** Recovery of rent - If any person fails to pay within the time allowed by the officer incharge, he may - forward to the collector the specified certificate- The collector after giving an opportunity to the person, he may proceed to recover the amount as an arrears of land revenue.

#### **14.The UP Minor Irrigation Works Act 1920:**

**Sec. 29 :** Power to contract for collection of dues- the collector may enter into an

agreement with any person for the collection and payment to the state govt. by such person of any sum payable under this Act by a third party.

(3) If such person makes default in the payment of any sum to the collector under this section, such sum may be recovered from him by the collector under section 28, and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the collector from such third party.

#### 15. The UP Motor Vehicle Taxation Act 1935

**Sec. 14 :** Recovery of Tax - when any person without any reasonable cause fails or refuses to pay the tax, taxation officers may forward to the collector a certificate under his signatures specifying the amount of tax due from such person, and the collector, on receipt of such certificate, shall proceed to recover such tax as if it were an arrear of land revenue.

#### 16. UP Municipalities Act 1916

**Sec. 173 A :** Recovery of taxes as arrears of land revenue-

(1) Where any sum is due on account of a tax other than octroi or toll or any similar tax payable upon immediate demand from a person to a board, the board may, without prejudice to any other mode of recovery apply to the collector, to recover such sum together with costs of the proceedings as if it were an arrears of land revenue.

**Sec. 29 :** Recovery of rent on land-

(1) Where any sum is due on account of rent from a person to a board in respect of land vested in, or on trusted to the management of the board, the board may apply to the collector to recover any arrear of such rent as if it were an arrear of land revenue.

(2) The collector on being satisfied that the sum is due shall proceed to recover it as an arrear of land revenue.

#### 17. UP Special Powers Act 1932

**Sec. 4 :** Power to collect an arrear of a liability as an arrear of land revenue. (i) Any person to whom an arrear of a liability is due may apply in writing to the collector to realise it and collector shall, after satisfying himself that the amount claimed is due, proceed to recover it as an arrear of land revenue.

(2) Also applicable for recovery.

**Sec. 5 :** Application to collector for recovery realised in excess- Any person from whom an amount has been realised under section 4 in excess of amount due from him may apply to the collector. If on inquiry it appears necessary the collector may order it to be refunded to the applicant and for this purpose may, if necessary, recover it as arrears of land revenue.

#### 18. The UP Sugar Cane (Regulation of Supply and Purchase) Act, 1953

**Sec. 17 (4) :** The Cane Commissioner shall forward a certificate under his signatures specifying the amount of arrears an account of the prices of cane plus interest, if any.



due from the occupier and the collector, on receipt of such certificates, shall proceed to recover from such occupier the amount specified therein as if it were an arrear of land revenue.

**19. The Zila Parishad (Recovery of tax and Rent on Land) Rule 1975**

**Sec. 5 :** Resolution of Zila Parishad- A Zilla Parishad shall take reasonable steps for the expeditious recovery of arrears by issue of arrest warrant and sale of property as arrears of land revenue.

**Sec. 5 :** The list of defaulters will be handed over to the collector of the District in which Zila Parishad is situated or to any other district in UP in which defaulter resides or has property.

**Sec. 5 :** Recovery of Arrears.

(1) Upon receipt of certificate under rule 4, (refers to Sec. 158,159,237, of the act) alongwith the list and the resolution the collector shall proceed to recover as the arrears of land revenue.

(2) The cost of recovery of the said arrears shall be added to and be recoverable in the same manner as the arrears of land revenue.

**Sec. 9 :** Reference to collector outside UP-

(Section 158, 159 and 237 of the Act)

Procedure for collection is dealt with.

**20 The Customs Act 1962**

**Sec. 142(c) :** On receipt of certificate- Signed by Assistant Collector customs specifying the amount due from such person, to the collector of the district in which such person lives or owns property, it is to be recovered as if it were an arrears of land revenue.

**21. UP Consolidation of Holdings Act S 29 A**

Recovery of Compensation- Recovery as if an arrear of land revenue.

**22. Lok Sahayak Seva Act 1956**

**Sec. 9 :** Liability for causing loss of, or damage to Govt. Property-

Any such loss has to be recovered by the collector as procedure- laid down in the Act.

**23. Indian Forest Act Section 62**

Recovery of money payable as if an arrear of land revenue.

**24. The Copra Cess Act 1979**

**Sec. 10 :** Recovery of sums from any person due to the govt. by collector as arrear of land revenue.

**25. The UP Luxuries (In Hotels) Rule 1975 R. 14**

**Sec. 13 :** Refund of fee paid on memorandum of appeal.

**Sec. 14 :** Refund of fee on application of revision of judgement.

**Sec. 15 :** Refund where court recovers or modifies its former decision on ground of mistake.

**26. Indian Stamp act 1890**

**Sec. 48:** Recovery of duties and penalties :

All duties, penalties and other sums required to be paid under this chapter may be recovered by the collector of the district by sale of the movable property of the person from whom the same are due as the recovery of arrears of land revenue.

**27. UP Co-operative Societies Act-1965**

**Sec. 95(i) :** All sums due from a co-operative society to state govt. under provisions of this act, may, on issue of certificate from the registrar be recovered in the same manner as arrears of land revenue.

(2) Sums due from a society to the state govt. or central govt. and recoverable under section (i) may be recovered firstly from the property of the society or from its member if its (Society) liability is limited.

**REMOVAL OF OBSTRUCTION/HARMFUL ESTABLISHMENT  
AND STOP EXECUTION OF HOUSING SCHEMES**

**(1) The United Provinces aerial ropeways Act 1922**

**Sec. 17 :** Where any tree interfere with the construction, maintenance alteration or use of the ropeway, the collector may order the object to be removed.

**(2) The UP Promotion and protection of forest trees act 1985.**

**Sec. 8 :** Power to remove harmful establishments and stop the execution of housing scheme.

## REQUISITION

### The U.P. Acquisition of Property (Flood Relief) Act 1948 :

**Sec. 2 :** Compensation officer and requisition authority mean the collector and assistant collector of the 1st class, provided that the same officer shall not be the requisitioning authority and compensation officer in respect of the same case.

**Sec. 3 :** Requisitioning authority may requisition any land or building material by serving notice on the owner and the person in possession.

**Sec. 4 :** When any land or building material has been requisitioned under section 3, the requisitioning authority may use it in such manner as may appear to it to be expedient for any public purpose. **Sec. 5 (a) :** The requisitioning authority may require any person to furnish such authority as may be specified.

(b) He may direct the person in possession of the land or building material, shall not dispose of it till the expiry of such period as may be specified in the order.

**Sec. 10** Requisitioning authority may release any land or building material from requisition to such person as may have rightful claim to possession.

#### **2. Rule under Up Acquisition of property (FR) Act 1948**

When it is decided to acquire any land or building material. The Requisitioning authority shall issue a notice in form II to the owner of the land or the building material.

#### **3. UP Rural Development (Acquisition of land) Act 1948**

##### **4. Sanction**

**Taqavi : Under Act XII of 1884 ( Agricultural Loans Act.)**

The District officer shall prepare estimates for the guidance of officers granting Taqavvi, and the collector should deal severally with instances in which the amount is necessary for the work have been given.

#### **XIX of 1883 (Land Improvements Loan Act )**

If the loan has been made for making improvement under Act XIX of 1883, in special case the period of recovery may be extended up to 10 years by the collector.

## **SEARCH/SEIZURE/CONFISCATION/POWER OF ENTRY**

### **(1) The Dangerous Drugs Act 1930**

**Sec. 23.** If the collector has reason to believe that any dangerous drug is concealed in any building, he may enter into such building, vessel or place. He may seize such drug and all materials used in the manufacture thereof and any other article which he has reason to believe. He may also detain and search if he thinks proper, arrest any person whom he has reason to believe to have committed an offence punishable relating to such drug.

### **(2) The Essential Commodities Act - 1955 (As Ammended)**

**Sec.6A (1):** (a) If collector is satisfied that there has been a contravention of the order in respect of the essential commodity so siezed, may order confiscation thereof. (B) If collector is satisfied in respect of vessel vehicle, conveyance or qnimal so siezed that it was used for the purpose of smuggling any essential commodity in contravention of the order he may order confication of such vessel, vehicle, conveyance or animal.

### **(3) The Indian Stamps Act 1899**

**Sec. 73 A :** The collector may authorise any officer to enter upon any premises where he has reason to believe that any resisters, books, records, papers, decouments are kept and to inspect them and to seize them. That officer will produce them before collector.

### **4. Mirzapur Stone Mahal Act 1886**

**Sec. 15:** The collector may order to arrest a person for evasion of duty in respect of non cognizable offence. He may seize any stone, if the stone is being transported.

**Sec. 16:** A magistrate may issue warrant for the search, after sunrise and before the sunset, of any building, vessel or place of which an offence under section 11 or section 7 has been committed and for the seizure of any stone of found there.

### **5. The UP Excise Act 1910:**

**Sec. 52:** The Collector is empowared to search any place without warrant where unlawful import, export, transport, manufacture, sale are being made. He has power of seizure anything found in such place which to be liable to confiscation. He may detain and search, he may arrest any person found in such place to be guilty.

**Sec.73 A:** Where any intoxicant is confiscated the collector may order the intoxicant to be destroyed. Provided that the intoxicant shall not be destroyed except after expiration of three months from the date of confiscation. Adequate sample shall be preserved for evidence.

### **6. The UP Land Tenures (Regulation of Transfer )**

(Re-enactments and Validation Act.) 1972

**Sec. 4 (d)** - If the books, Accounts and other documents are not produced as required to enter upon any land, building or other place the collector may do so and he may seize and take possession of such books, documents and other documents.

**7. The UP Opium Smoking Act 1934:**

**Sec. 19 A** : Whenever the collector is believed that an offence punishable under this Act is being committed in any place, he may search any such place.

**8. The Rules made under UP Opium smoking Act 1934**

**Rule. 11:** Any prepared opium or any instrument in respect of, which an offence under the Act has been committed, shall on confiscation under section 24 of the act, be destroyed by the court after the period of appeal has expired or if any appeal has been made provided the appeal has been decided.

**9. The Indian Treasure Troves Act 1878**

**Sec. 3:** Collector means (i) Any Revenue officer in an independent charge of a district, and (ii) any officer appointed by the collector under this Act.

**10. Indian Stamp Act 1899.**

**Sec. 73A:** Any Revenue officer appointed by the Collector whose duty it is to see that proper duty is paid.

**11. As "Authorised officer under UP Highspeed diesel oil and diesel oil (Maintenance of Supplies and distribution order ) 1981.**

## **SETTLEMENT OF LAND REVENUE/DETERMINATION OF RENTS/ANNULMENT OF SETTLEMENT**

### **1.UP Land Revenue Act 1901:**

**Sec. 96:** If the areas of field in the newly surveyed village maps have not been received from the officer, the Lekhpal will make entries in column of the 18 as follows in pencil and fill up actual figures when he gets the same

**Sec. 99:** All groves of Bhumidhars and Sirdars Exempted from the payment of land revenue shall be marked with a in Column 18 of the Krasra.

**Sec. 100:** Determination shall be done by the collector that the rent payable by the under proprietor or lesser in accordance with the provisions.

**SEC. 102:** He shall have the powers of a settlement officer.

**Sec. 103:** The Collector determines revenue of specific areas transferred during settlement.

**Sec. 130:** The revenue of the Mahal shall be distributed by the collector over the several portions into which the mahal is divided.

**Sec. 153:** The collector may order the existing settlement of the patti or mahal in respect of which the areas is due to the annulment.

**Sec. 154:** The collector by order may make management during annulment.

**Sec. 155:** The collector shall issue a proclamation of attachment for annulment of settlement.

**Sec. 159:** The Collector offer to the person entitled to settlement on expiry of period for which land is farmed or taken under management.

**Sec. 186** Rent of land held by proprietor of Mahal attached as expropriatory tenant. to be fixed by collector.

**Sec. 190:** The collector is empowered to enter upon and survey land.

### **Settlement of disputes Regarding land and (Boundary): Revenue Act 1901:**

**Sec. 29 (a)** The collector may at any time order the owners of villagers, Mahals or fields, to erect proper boundary marks.

(b) The collector may order to repair in such for and material as he may prescribe all boundary marks lawfully erected thereon.

**Sec. 41:** If the collector is unable to satisfy himself that which party is in possession, he shall ascertain by summary inquiry who is the person best entitled to the property and shall put such person in possession.

**Sec. 118:** Building of one sharer on Land allotted to another, the limits of such land

and the rent to be paid for it shall be fixed by the collector.

**Sec. 120:** The collector shall consider Tanks, Wells, water courses and enabankments as attached to the land for the benefit of which they were originally made.

**Sec. 131:** When the petition has been made, the collector shall issue a proclamation thereof, and the petition shall take effect from the first day of July next.

**2. The Mirzapur Stone Mahal Act 1886**

**Sec.** If a dispute as to the right to store stone on, or transport stone over, any land arises between the person claiming to store or transport the stone and the proprietor of the land, it shall, on the application for that purpose by either of the disputing parties to the collector be decided by him.

**3. The Northern India Canal and Drainage Act 1873:**

**Sec. 68:** Whenever the dispute arises between two persons in respect of maintenance of watercourse, the divisional canal officer will inquire into the disputes. After such inquiry he shall pass his order thereon, unless he transfers the matter to the collector, who shall thereupon inquire into and pass his order on the said matter.

**4. The UP Minor Irrigation Works Act 1920:**

**Sec. 37:** If there is a dispute between private person, the collector shall inquire into and pass an order determining the said matter. The order of the collector as to the use or distribution of water shall be final.

## MISCELLANEOUS

### **3.The Indian soldier Litigation Act. 19 25:**

**Sec. -** any Indian Soldier, who has property in his district and who is a party to any proceedings pending before any court, is unable to appear therein, the collector may certify the facts in the prescribed manner to the court.

### **The Indian Stamp Act. 1899**

**Sec. 16:** If application is made in writing to the collector for charge exemption from duty, he may order if rule prescribe.

**Sec. 18:** Where any chargeable instrument can not be duly stamped by a private person, It may be taken within the said period of three months to the collector, who shall stamp the same in such manner as may the rule prescribe.

### **Sec. 31: Adjudication as to proper stamp:**

The collector shall determine the duty (if any) the instrument is chargeable. He may require to be furnished with an abstract of the instrument.

**Sec. 32:** The collector shall certify by endorsement on chargeable instrument that the full duty with which it is chargeable has been paid.

**Sec. 38:** A person shall send an authenticated copy of such instrument to the collector stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the collector.

**Sec. 41:** If the collector is satisfied that the omission to duty stamp such instrument has been occasioned by accident, mistake or urgent necessity he may receive such amount and proceed as hereinafter prescribed.

**Sec. 47 A:** Power of payer to stamp bills and promissory note received by him unstamped. The Indian Registration Act 1908 refer the instrument of conveyance, exchange, gift, settlement, award or trust to the collector for the determination of the market value of such property and the proper duty payable thereon,

**Sec. 49:** Collector may make allowance for impressed stamp spoiled in the cases hereinafter.



**Sec. 51:** The collector may make allowance for stamped papers used for printed form of instrument.

**Sec. 53:** The collector may give in lieu thereof other stamps of the same description and value, and any other description to the same amount in value. He may deduct the same value in money for each rupee.

**Sec. 54:** The collector may give allowance for stamps not required for use.

**Sec. 55:** The collector shall repay to the person issuing new debenture, the value of the stamp on the original or on the new debenture, whichever shall be less. The original debenture is produced before the collector.

**Sec. 56:** The collector will look after the statement of cases under Reference and Revision in respect of the Indian Stamp Act .

**Sec. 70:** No prosecution in respect of any offence punishable under this act shall be instituted without the sanction of the collector.

**5.The UP Land Utilization Act 1942:**

**Sec. 3:** The collector may call upon the landlord of any land which has not been cultivated previously or not cultivated during the Rabi and Khari . The collector may let out such land for cultivation and the collector may cancel the notice.

**6.The UP Luxuries (In Hotels) Tax Rule 1975:**

**Rule 4:** The collector may verify the returns from the bound register that the returns are true to the best of his information and belief.

**Rule 15:** The collector may : on the application of proprietor, who has paid luxuries tax under the act and on payment of fee of ten rupees issue a certificate regarding the payment of tax.

**7. The Judicial officers Protection Act 1850;**

**Non liability to suit if collector acting judicially for official acts done in good faith.**

**8.Citizenship Act 1955:**

**Sec. 5:** The collector in the absence of any fraud cannot strictly speaking legally cancel

**a certificate of citizenship granted by him under sub section (1) 9a) even where he had acted without Jurisdiction in granting the certificate.**

**9. UP Milk Act 1976:**

**Drv. 16 (4): Collector to recover cess on purchase milk as an arrear of land revenue.**

**10. U.P. Finance Code 1912 :  
Chapter VIII**

**11. UP Sales Tax Act 1948:**

**Sec. 33: Realisation of sales tax arrears as arrears of land revenue.**

**12. UP Local Rates Act 1914**

**Sec. 6: All sums due on account of any local rates shall be recoverable as if they were arrears of land revenue.**

**13. Collection Manual:**

**Chapter IV**

**14. UP Labour Welfare Fund Act 1965**

**Sec. 17: Any sum payable be recoverable as an arrears of land revenue.**

**15. The Electricity (Supply) Act 1948:**

**Sec. 45: (2) Expenses incurred by Board shall be recoverable as an arrears of land revenue.**

**16. The UP Krishi Utpadan Mandi Adhiniyam 1964:**

**Sec. 13 (9): Chirman / vice Chairman of the committee shall take oath administered by collector.**

**Sec. 20: Recovery of sums dues to committees as arrears of land revenue and power to write off irrecoverable dues.**

**Sec. 20 (2) : A committee may write off any amount due to it, if it is certified by the**

collector to be beirecoverable.

**17. The Indian Succession Act. 1925**

**Sec. 199:** Report to be furnished by te collector on demand of District Judge when estate includes revenue paying land.

**18.The UP Motor Vehicle Taxation Act 1935:**

**Sec. 14:** Recovery of tax as an arrear of land revenue on the basis of the report produced by tax officer.

**19. Entertainment & Betting Tax Act 1937:**

**Sec. 21 :** Exemption under section 6 (1) and refund under section 6 (2).

**Sec. 22:** Form of exemption U/S 6 (1).

**Sec. 23:** Application for exemption.

**Sec. 27:** Inspection of books etc.

**20.The Revenue Manual.**

**P. 19:** To verify the district treasury balance.

**P. 24:** Verification of currency chest balance by Head of the district.

**21.The collection Manual:**

**P. 7:** Appointing authority for collection Amins, WBN, AWBN Tahsildars and Clerks.

**P. 249:** On request collect dues as arrears of land revenue.

**P. 250:** Attachment and sales of moveable property.

**P. 267:** Attachment or lease of land to the revenue arrears.

**P. 270:** Proclamation of attachment.

**P. 286:** Setting aside of sale.

22. The UP Consolidation of Holding Act 1953:

**Sec. 4: Declaration land notification regarding consolidation.**

**Sec. 7: Power of collector of revision of village map & Field book including annual registers.**

23. Indian Stamp Act.

**Sec. 10. A: Power of collector to permit the payment of duty in cash.**

**Sec. 32: (I) To refund penalty paid U/S 38 (I).**

**Sec. 45: To refund penalty or excess duty in certain cases.**

**Sec. 56: To control of and statement of case to chief revenue authority. Within Collector's Establishment**

Para 1043 in Revenue Manual.

**All appointment in District Offices except those of office suptt. and treasury head clerks may be made by the collector.**

**Para 1052 : The Punishment of subordinate officials attached to district offices and appeals against order of such punishments, shall be regulated by the rules for the time being made by UP Govt. under Rule 54 of the classification control land appeals.**

**Para 815 : The Collector may transfer Tahasildars from one of Tahasil to another.**

**Part 816: Naib Tahasildars may be transferred from one of Tahasil to another by the collector of the District.**

## UP Z.A. & L.R. ACT

Section:	Kind of Power
13 (3)	Collector may allow a Thekeder to retain Land in excess of 30 acres with certain restriction.
25	Collector has power to take over estate upon publication of notification issued under section 4. He may detail on officer for the purpose.
122-B (4-A)	Power of hearing revision against the order of Asstt. Collector.
122-C	Power to allot land for housing site for members of SC/ST (Delegated to Asstt. Collector).
122-C (6)	Power to cancel allotment of land.
122-C (8)	Power to direct delivery of allotted land to person after agreement.
125 A (2)	Power to have contribution from gaon sabha towards consolidated gaon sabha fund.
137	Power to cancel or modify Bhumidhari Sand under certain circumstances.
143	Power to declare use of holding for Industrial of residential purpose.
144	Power to declare use of land for agriculture purpose.
161	Power to permit exchange of Land.
167(2)	Power to use force for eviction froms Land vested in the Stae.
187 (a)	Power to let out land of Bhumidar to an Assami in the circumstances mentioned therein.
195	Power to approve admission of person to certain type of land by the land management committee. As Bhumidhar.
197	Power to approve admission of person as Assami to certain type of land by the land management committee.

- 198 (4) Power to cancel allotment of land under certain conditions.
- 198 (ii) Power to use or caused to be used force for ejectment
- 198 (a) Power to put evict unauthorised occupant of land held by a member of ST.
- 212-A(4) Power to evict occupant of land of public utility.
- 218 Power to confirm writing off of irrecoverable arrears of rent, sayar or other dues by the land management committee.
- 232 (4) Power to issue order for putting a Adhivasi to his land.
- 233-A Power to commute rent payable by an Adhivasi.
- 240-I Power to decide appeal regarding compensation amount.
- 246 Power to cause preparation of statement for determination of land revenue.
- 246 (b) Power to correct arithmetical or clerical mistake in the statement of land revenue.
- 282 Power to attach and sale of movable property to realise dues against land revenue.
- 284 Power to attach, land and of sale to realise land revenue.
286. Power to affect and sale of interest of defaulter or non payment of land revenue.
- 286-A Power to following to recover land revenue :-  
 (a) Appoint receiver of any movable or immovable property.  
 (b) Remove person from possession or custody of property.  
 (c) Commit the property to the management of receiver.  
 (d) Confer upon the receiver powers as member therein.
- 286 A (3) Power to extend duration of appointment of the receiver.

## **Revenue Manual**

### **C\_\_ Duties and Responsibilities of District Officer and the Treasury Officer**

#### **I \_\_ District Officer**

**1486.** The responsibility for the proper management and working of the district treasuries rests with the local Revenue Officers acting under the orders of the Provincial Government, and no portion of this responsibility is to be imposed on the Accountant General. The system of inspection of treasuries by officers of the Accounts Department has been substituted for the inspections previously carried out by Commissioners or other supervising officers and is not intended to relieve the District Officers of their responsibility in the matter of management and inspection. (Rule 4 of the U.P. Treasury Rules and paragraph 469 of the Financial Handbook, Volume V, Part II).

A District Officer is primarily responsible to Government for the due accounting for all moneys received and disbursed, and for the safe custody of cash, notes, stamps, opium, securities, and other Government property.

**1487.** The treasury is in general charge of the District Officer who may entrust the immediate executive charge to a treasury officer subordinate to him, but he cannot divest himself of administrative charge. [Rule 4(2) of the United Provinces Treasury Rules and paragraph 402 of the Financial Handbook, Volume V, Part II.]

Government has repeatedly ruled that the appointment of a subordinate to the immediate charge of a treasury in no way relieves a district officer from responsibility, and this responsibility must be held to extend now only to the security of the cash balance, with the stamps and opium, and the immediate detection of any irregular practice on the part of subordinates, but also to the correctness of the returns, and the punctuality of their submission and to implicit obedience by the treasury officer to the instructions issued from the Accounts Office and the Deputy Controller of the Currency. (Resource Manual, Article 3 and paragraph 410 of the Financial Handbook, Volume V, Part II.)

**1488.** District or Superintending Officers should remember that when an irregularity of any kind is brought to their notice by the Accountant General or by the Deputy Controller of the Currency nothing but a report on their own knowledge, after personal investigation can be considered satisfactory; it is not enough for them to pass on the explanation of a subordinate; reports prepared in this manner have more than once, by lulling suspicion, led to greater irregularity afterwards. (Paragraph 411 of the Financial Handbook, Volume V, Part II).

**1489.** A District Officer is bound to satisfy himself, by examination, once in the first six months of the each financial year and once in the second six months on a date on which he personally verifies the cash balance, with an interval of not less than four months between each verification:

(a) that the actual stock of stamps (both under double and single locks) and opium and securities correspondence with the book balances as well as with the balances of stamps and opium shown in the treasury plus and minus memo a certificate to this effect being noted upon the plus and minus memo;

(b) that the stock of the bill and other similar forms, which are intended for use in money transactions, is carefully kept under lock and key and verified with the balances of such forms on the stock- book.

**1490.** The duty of verifying and certifying to the monthly cash balance and of signing the monthly cash accounts, must be performed by the District Officer in person, when at headquarters, and must, on no account, be delegated to any subordinate officer, unless upon the ground of properly attested actual physical inability to perform the duty. (Resource Manual, Article 19, and G. O. No. 3215/X\_\_149, dated the 30th August, 1909).

The totals of all accounts and returns and the balance of the cash accounts should be entered in words as well as figures.

**1491.** The Accounts Officers are required to report to the State Government, the name of any District Officer who does not submit the cash balance report on the due date. The Government of India has requested the State Government to view with severe displeasure any avoidable delay on the part of any District Officer in the despatch of his monthly statement of treasury transactions, his first and second lists of payments with schedules and vouchers, or of his cash balance report and cash accounts with schedules and papers complete. (Paragraphs 462 and 463 of Financial Handbook, Volume V, Part II).

**1492.** (a) If the District Officer be absent on tour on the first of the month the duty of verifying the cash balance and of signing the accounts may be entrusted to the senior gazetted subordinate of the district staff present at headquarters not being officer in charge of the treasury, or to any assistant or Deputy Collector in permanent charge of a sub division. The head of the district should, however, perform the duty in person at least once in every six months. The fact of his absence must be distinctly noted in the returns and accounts.

(b) If neither the head of the district nor any gazetted officer of the district staff, other than the Treasury Officer himself is present at headquarters when the accounts are ready for signature, the cash balance may be verified and the accounts be signed by the Treasury Officer, but the absence of all other officer as above must be certified on the face of the account, and the cash balance should be verified by another officer and reported to the Deputy Controller of the Currency and Accountant General as soon as any such other officer returns to headquarters. (Resource Manual, Article 19).



**1493.** When the verification of the cash balance takes place on a date other than first of a month, it should be reported to the Deputy Controller of the Currency in the usual form of cash balance report (Resource Manual, Article 19).

**1494.** The tahsil balances must be verified once a year by a gazetted officer, if possible by a covenanted officer, and where sub-divisional treasuries are in the charge of gazetted officers, the District Officer should verify the balances during his winter tour.

**NOTE**—While verifying the balances the inspecting officer should see that the balance-sheet of the sub-treasury placed before him bears the signatures of both the tahsildar or officer-in-charge of the sub-treasury and the tahsildar in token of their responsibility for its correctness.

**1495.** The District Officer should be particularly careful, when assuming or making over charge of a district, to see that the stock is thoroughly verified, and the certificate, which is required from a relieving officer showing the state of the cash, stamps and opium balances, should be invariably despatched to the Accountant General on the same day that charge is transferred. (Paragraph 115 of the Financial Handbook, Volume V, Part I).

**1496.** The procedure required in verifying a cash balance by counting is explained in detail in Article 20 of the Resource Manual. It will be observed that only one bag in twenty of silver coin need be weighed. The District Officer is required to count every note of Rs.100 or more in value with his own hand. In addition to following the procedure explained in this article the District Officer should also satisfy himself of the correctness of the totals in the cash balance report and in the cash-book or the registers from which he verifies the cash balance. [Finance (A) Department file No. 179/1921].

**1497.** A quarterly certificate should be entered on the register of deposit receipts by every District Officer not in personal charge of the treasury, that he has personally and carefully examined the register, and that the entries are made with the utmost care and regularity, (Paragraph 348, Financial Handbook, Volume V, Part I).

**1498.** The examination is not intended to be mechanical, and to secure only that all necessary entries are made and initiated without fail at the time of the transaction, but also that no moneys are unnecessarily placed in deposit or allowed to remain there without good cause. (Paragraph 348, Financial Handbook, Volume V, Part I, Note).

**1499.** If an embezzlement or loss of public money, stamps, or opium should occur in an office of treasury, immediate notice should be sent to the Accountant General, and as soon as possible afterwards a detailed report of the circumstances, specifying the nature and extent of the loss and showing the errors or neglect of rules by which such loss was rendered and the prospects of effecting a recovery must also be sent under the signature of the head of the office in order to enable the Accountant General to report the case for the information of Government. (Paragraph 82 of the Financial Handbook, Volume V & part II).

## SOME NOTEWORTHY CASE LAW

### (1) Restoration

1978 Awc 497 (sc) (J) Krishna Ayyar

Restoration was moved after 8 years held "courts are for hearing and not to shut hearing."

1977 RD 978\_\_ Compassionate ground is not a ground for restoration.

### (2) Sec. 122 B Z. A. & L. R. Act

Possession not claimed\_Damages will not be imposed\_Notification\_Rajaswa Anubhag 1260 No. 8639/75 Sa\_12\_2384/75 dated 10.9.75 and B. O. No. 11693/G\_5\_639/73 dated 22.10.75 1980 Awc 39 (Rw)

Dropping of proceedings\_No bar to further proceedings. No resjudicata\_There can be real unauthorised occupation by same man on same piece of land\_proceedings u/s 122 B would be justified. 1982 RD 99

- Land once belonged to Gaon Sabha at any point of time no right -to plaintiff. 1984 RD 19

- Land belonging to Gaon Sabha and Khatauni entry prove it,erection of building or raising construction on such land, can not divest authorities from ordering ejection and that they should pay the damages imposed on each one of them. 1982RD 40

- Wrongful construction on G. S. Land\_Removal of Revenue Court or officer can remove wrongful construction of property belonging to G. S. 1966 AWR 734 Report  
1968 ALJ 1108 distinguished  
1980 All CJ 486

- Declaration of title can not be made in proceedings u/s 122 B of U.P.Z.A. & L.R. Act for sec. 122 B (4 F)

1986 RD 363

- G. S. litigation urgent cases\_\_suit may be filed and later action can be notified by LMC 1977 RD 141 (BR)

- G. S.\_\_Appeal through private counsel is not competent but if resolution and permission of collector to engage a private counsel appeal would be complete then. 1977 RD 243

1977 RJ 96

1977 AWC 20 (Rev.)

### (3) Sec. 209/210 Z. A. & L. R. Act

Tresspasser over Gaon Sabha land can not acquire Sirdari rights how soever long his possession may be

This section was amended,

1977 AWC iii (R)

by ordinance No. 17 of 1976

1977 RJ 256

later on converted into account

1977 RD 58

in 1977

1977 RJ 119

1977 RD 304

If a person is not in possession on sirdari of his father he can acquire sirdari rights by reason of his being in possession for prescribed period of limitation u/s 210\_\_1978 RJ 28 (HC)

**Adverse possession**

Burden of proof\_\_Burden on defendant to prove having extinguished plaintiff's right by adverse possession\_\_entry in remarks column\_\_unsupported by PA 10 or record of serial number of Diary or date is no entry in the eye of law. 1974 RD 269

- Adverse possession of two different persons can not be taken even though they may be related together as brothers.

1970 RD 387 (HC)

- Adverse possession\_\_ Interpretation of Burden to establish possession contrary to law and without consent of Land Holder as on opp. party. Failure to establish participation in cultivation as saji does not make possession one of without consent\_\_Question is to be decided by court on evidence on record\_\_Failure by court to do so renders judgement erroneous.

1977 RD 378

**Rent Receipts**

Possession of receipt is a good piece of evidence of possession over the property. 1977 RD 362

**(4) Recovery of Arrears of Land Revenue**

- AIR 1972 321 Mere proof of inadequacy of price realised at court sale would not be sufficient in the eye of Law to set aside a court sale.

- AIR 1939 Nag. 269 (order 21 rule 77) sale of moveable property is complete when officer conducting it, DECLARES WHO IS Purchaser and grant receipt in acknowledgement of purchase money.

- AIR 1950 All. 450 money deposited of immovable property in auction sale\_\_then sale is completed.

- AIR 1930 Alld 516 (021 rule 78 etc) Sales of moveable\_\_essence of notice to J. D. resulting in injustice to J. D. still the court has no power to set aside sale.

- AIR 1953 SC 425 sale becomes absolute u/o 21 rule 65 and the property becomes vested in purchaser from the sale and not from the time when the sale becomes absolute sale completes on auction.

- Absence of attachment irregularity and not to render sale void 1934 Rangoon 188 rul. 1934 Raj. 123 Failure to issue publication at all does not ipso facto vitiate the sale

1934 Raj. 185

An express order for sale is not always necessary.

1977 Cal. 357

-Sale deed can not be treated as invalid on plea of inadequate price 1975 RD 280 (HC)

- Payment of 25 per cent after conclusion of sale and 75 per cent within 15 days\_\_payment by cheque\_\_no payment

Deepak Cold Storage Vs. State 1978 RD 289

- 1968 RO 115 (Mr. Satish (JJ) In case the property situated within Municipal limits, the recovery can not be made under the provisions of U. P. Z. A. & L. R. Act.

- AIR 1981 All. 21. Auctioned sale\_\_setting aside of Grounds\_\_irregularity or fraud in publishing or conducting Sale not sufficient by itself to set aside sale\_\_It must result in substantial injury to judgement debtor.

- Proclamation affixed on conspicuous place on road approaching the property and on notice board of court sufficient. No proclamation for adjourned date of auction 10

illegality.

1983 All. Vidhi Nirnaya 83 (AW RS Singh (j) Jalan Industries V. U.P. Finance Corpn.

- Property situated in urban area the recovery shall be done under the provisions of L. R. Act.

Sec. 178 Proclamation after every resale is necessary u/s 164 sale is to be made after expiry of 30 days after proclamation.

AIR 1971 SC 2337 and 1974 SC 1331

- 1981 AWC (FB) 320 Court has no option except to confirm the sale when no objection has been filed. 1978 RD 319 Appeal lies to Commissioner

AIR 1971 SC 2337 insufficiency/inadequacy of

AIR 1980 All. 63 price is no ground for

1987 AWC 354 cancellation of sale.

1969 RD 102

Sale

Sec. 279 U.P.Z.A. AND L.R. Act\_\_Applicability of\_\_Amount recoverable as arrears of land revenue\_\_Sec. 279 application several modes of recovery enumerated in section can be taken simultaneously.

- Application of R 285 (i) should be filed before Commissioner and not Collector\_\_Application to Collector will be bad and appeal before commissioner against order of Collector would be required. 1971 RD 538

- Unless the court is satisfied about the adequacy of price the act of confirmation of sale would not be proper exercise of judicial discretion.

AIR 1970 SC 2037

- Inadequate auction will not be a material defect to set aside the auction, as held in 1955 RD 396

- Adjournment of Sale within a month fresh proclamation not necessary. 1969 RD 97 (SC)

- Sec. 279 Z.A. AND L. R. Act for setting aside sale, material irregularity or mistake in publishing or concluding sale to be proved, ignoring intimation to sale proceedings does not make sale proceeding illegal. 1969 RD + 1975 RD 314

- Fresh proclamation not necessary when sale adjourned for not:-

(i) more than 14 days objection not fatal. 1955 RD 396

(ii) 1/4th amount paid forthwith remaining amount on 13th day but returned by court and was paid after expiry of 15 days no default. 1955 RD 396

(iii) Inadequacy of price no ground for refusing sale

1955 RD 396

**Recovery of dues** Sale

- Sec. 279 of U. P. Z. A. and L. R. Act\_\_Use of mode\_\_The authority concerned is expected to use his discretion in each case in adopting any one or more of the, several processes mentioned in Sec. 279 for purposes of realising the dues.

1983 RD 259 (SC)

- Recovery of arrears of land revenue by sale of property objection by third person to the attachment\_\_Objection must be first decided before proceeding further in the matters.

1985 RD 37 (HC)

**(5) Limitation Act**

Section 5 Limitation Act No application for condonation of delay\_\_ No relief as it is question of jurisdiction.

1956 RD 203, 1964 RD 194

In case the court has given benefit even without application then this is wrong exercise of jurisdiction and it will be set aside. 1956 AWR 202

Rev. u/s 113 LR 29. 80 Pratapgarh

Shiv Murli Vs. Chotto decided by...on 17.7.81

In this case Commissioner Faizabad Division admitted a time barred objection which was supported with an affidavit and application u/s 5 Limitation Act but no order was passed on it\_\_ The Board has set aside this order of Commissioner.

- Mistaken advice of counsel is good ground for condonation of delay 1969 All 210

1972 SC 749 \_\_ 1957 SC 286

- No Limitation is provided for moving a petition u/s 34 LR Act 1986 RD 206 (KN Misra HC)

**(6) Entries in Kutumb Register/Age**

It has been held that when the relationship of a particular person is in question the entries in Kutumb Register has to be given greater weight than voter list.

1977 RD 363

**Age**

Entries in school register and admission form maintained in the course of regular official duty constitute a good proof of age. Failure to register date of birth and municipal records or village chawkidar's register would not be of much relevance.

1982 RU (Sec) 392

**(7) Admissions**

Erronions admission on question of law never binds a party\_\_

Can not be deprived of their due share merely on basis of statement before consolidation.

Ram Lakhani Vs. DDC 1983 ALJ 301

- Made by defendant in his written statement it must be taken as a whole and it is not permissible to rely on a part of admission ignoring the others.

1986 Reported + unreported cases 275

**(8) Revision Against Interlocutory Order**

1978 RD 215 No revision lies against interlocutory orders.

1966 RD 220

70 RD 475, 479

Decision of one issue by lower court and then giving date for hearing\_\_ No revision lies as the order is interlocutory.

1969 RD 300 BR

- Exercise of judicial discretion\_\_ order not subject to revision

1971 ALJ 23

- Interlocutory order\_\_ Revision does not lie 1972 RD 149

- Opportunity to produce evidence not allowed\_\_ No revision lie

1969 RD 224

- Refusing stay\_\_ No revision lies\_\_ 1969 ALJ 3 (Rev)

-Revisonal powers discretionary\_\_Not to be exercised when no injustice has been done. 1971 AWR 244

**(9) C. H. Act**

- Commencement of consolidation proceedings\_\_execution proceedings will not abate under sec. 5 C. H. 1980 ALJ 145

- Sec. 49: Plff. plea was that defendants played fraud on her\_\_Suit on basis of title is not barred.

1980 unreported judgement 979

U/s 27 (2), 49\_\_Scope and applicability of Sec. 27(2)

Applicability of Sec. 27 (2) applicability of bar of Sec. 49 CH Act\_\_Mistake consisting in reversal of plot no. in numbering in consolidation map\_\_Correctio allowed.

1981 RD 259

Map not in accordance with record of rights

1980 RD 53 HC

Processings u/s 12 B, 12 C, Finality of order however irregular illegal or erroneous such order may be bar of sec., 49 CH operation 1970 RD 292

- 1977 ALR 107 It is duty of DDC to have passed an order for making an entry in name of Gaon Sabha as has been held in (F B) rulings in civil Misc. writ No. 321 of 1977 of 264\_76 1977 AWC 73

**(10) Inherent Power:**

For correction of error which is merely clerical no notice is necessary to opp. party.

1966 ALJ Ru. 4.

- Application to exercise its inherent powers is not necessary Action can be taken by the court of its own motion.

1950 AWR (HC) 275, 1979 Cal. 338

Party invoking jurisdiction must be diligent and must not be guilty of laches.

- Every authority has power to recall its order if it has been passed without giving an opportunity of hearing to a person likely to be affected by this order.

1978 ALJ 49

**(11) Evidence Act**

Sec. 32 statement made in an other case\_\_not admissible in another case\_\_when witness is alive but not produced and examined. AIR 1972 All 291

**(12) Sec. 176 U.P.Z.A. AND L.R. Act/229 Z.A. AND L.R. Act**

- In a case u/s 229 B Gaon Sabha is necessary party\_\_summon not addressed to G.S.\_\_Not proper suit.

1976 RD 299

**- Partition Suit**

Maintainability of suit u/s 176. Suit is maintainable by any unrecorded co-tenant\_\_State Govt. is not necessary party. 1970 RD 383

- Suit for division of holding u/s 176\_\_Defendant denying plaintiff's title.

A person not recorded in a holding, it would be necessary first for such person to

establish his title u/s 229 B and then would be entitled for further action for division.

1982RD 295 BR (CB)

- Claim for continuancy on ground of land being ancestral\_\_entire land must come down in identical form when only some plots included in disputed land\_\_It is not ancestral holding. 1985 ALJ 671 (HC) KN misc.

**(13) Lease/Patta**

- Proceeding u/s 198 (2) read with Rule 178 A Land management Committee and not Gaon Sabha to be made and impleaded party.

1976 RD 240 BR (EB)

- Allotment of Abadi Site RR 115 L, 115 M, 115 N\_\_Allotment of Abadi Site\_\_Allottee must be residing in the circle of Gaon Sabha.

Only Assistant Collector alone can cancel allotment civil court has no jurisdiction.

1981 ALJ 1330

- Abadi land appurtenant to building\_\_settled u/s 9 U.P.Z.A. AND L.R. Act with occupier. 1980 ALJ (NOC) 54 Widowed daughter and major son of Pradhan can not be said to be family member of Pradhan. 1982 RD 216

- 1977 RD 408 Sailash Kumar Vs. Caon Sabha (HC FB) Consolidation courts do not have jurisdiction to decide the validity of leases granted by LMC\_\_Only Collector or Extra Collector has to decide the cancellation of lease.

Further referred in case Data Din Vs. G.S. 1980 RD 8

- Consolidation authorities not competent to cancel the lease granted by LMC

1984 all 92, 1977 RD 408 Rule on

1983 RD 139 (HC)

- Lease granted by LMC could be cancelled only in proceeding u/s 198 consolidation courts do not have jurisdiction to cancel such leases.

1977 RD 408 relied on 1984 ACS 92

**(14) Panchayat Raj Act**

- Sec. 28 e (i) U.P. Panchayat Raj Act\_\_scope and applicability of requisition of interest by relations of members or office bearers of Gaon Sabha, Panchayat or LMC\_\_No prohibition under this section\_\_Only members and office bearers themselves are prohibited.

1983 Revenue Reporter 545

**95 GG PR Act**

- Suspension of Pradhan of Gaon Sabha pending enquiry under clause 95G No reasonable opportunity to show cause is required to be given to Pradhan. 1985 ALJ 1267

- Order of suspension against Pradhan pending inquiry under clause (gg) can not be said to be invalid on ground of absence of discussion of explanation of pradhan and absence of finding as to correctness or otherwise of his explanation.

Clause (gg) explanation under clause (f) is not applicable\_\_Period for which order has been passed not required to be specified.

Salik Ram Mishra Vs. Collector Deoria

DB ..... ND Ojha and AN Dissha 1985 ALH 1267

- Pradhan to be removed under Sec. 95 (G) III Panchayat Raj Act if he persists in refusing to perform his duty. One or two instances not enough.

**(15) General**

- Where an entry is held not in accordance in law it can otherwise be corrected.

1974 ALJ 706

- Suit must fail for non joinder of necessary party

1967 RD (136 (HC)DB

- Where a plaintiff though entitled to various alternative reliefs sued only for one relief within the period of limitation. It was held that he should not be allowed to amend the plaint in such a way as to enforce him other reliefs which have become time barred.

AIR 1914 All 80 (83) DB

AIR 1956 Assam 76

AIR 1954 Pat 439

AIR 1946 albd 324

AIR 1928 Oudh 305

- 1965 RD 197 The mutation case will not be stayed because of the existence of civil suit.

- 1973 RD 129 If Lekhpal has failed to comply with any of the provisions contained in para A 80 and A 81 the entry in remarks column of Khasra will not be deemed to have been made in the discharge of his official duties.

- Civil Court has no jurisdiction to set aside orders of revenue court of exclusive jurisdiction 1958 ALJ 303 (SC)

- Accrual of Bhumidhari right. No such rights accrue in a Tank (Sec. and 132 U.P.Z.A. AND L.R. Act)

1983 See Vidhi Nirnaya 45 (BR)

- Gaon Sabha + Bhumi Prabandhak Samiti Manual\_\_Para 128 Appeal, on behalf of Gaon Sabha filed by Penal Lawyer under direction of Collector valid\_\_1983 ALJ 1364 (R.S.Singh)

- 1982 RD 199 defect in proclamation can be agitated by even third person and at any stage.

- 1971 RD 466 Land earmarked for public purpose (also 1982 RD 237) Gaon Sabha can not divert its use of such land.

- No revision no appeal lies against orders to set aside exparte orders u/s 200 + 201 LR Act 1982 RD 102

**- Amaldaramad**

The entries made in CH form 45 on the basis of bogus and forged orders\_\_ Can be corrected u/s 33 and 39 LR Act

1986 All Vidhi Nirnaya 313

**- Bhumidhari Sanad**

Posthumous grant of Bhumidhari sanad is not stipulated under the provision of Z.A. AND L.R. Act 1976 RJ 131

Sanad granted in favour of deceased\_\_not cancelled u/s 137\_\_It was not nullity. 1984 RD 315

**- Remand**

Held also that instead of remanding case for fresh findings, ends of justice will be better served if findings are recorded by higher court on basis of material on record.

Smt. Shahajahan Begam Vs. Virendra Kumar 1987 ALJ 72



Para 128 GS Manual do not apply on restoration applications or ex parte decree\_\_1978 ALJ 31 \_\_ 74

- AIR 1976 SC 376

Sri Krishna V. Kurkshetra University  
(H. R. Khanna, P.N. Bhagwati and S. Murtaza Fazal. SC

Once the candidate is allowed to take the examination, rightly or wrongly, then the statute which empowers the university to withdraw the candidature of the applicant has worked itself out and the candidate can not be refused admission subsequently for any infirmity which should have been looked into before signing the candidate permission to appear.

Before issuing admission card to a student to appear at Part I Law Examination in April 1972 it was the duty of the university authorities to scrutinize the admission form filed by the student in order to find out weather it was in order. Equally it was the duty of the head of the Department of law.

**PART III**

**Duties / Responsibility / Powers**

**of**

**District Magistrate**

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## जिला मजिस्ट्रेट के कार्यालय का ऐतिहासिक मूल्यांकन

राष्ट्रीय पुलिस आयोग की पांचवी रिपोर्ट अध्याय 21 पेज 39-45 का सारांश

जिला पुलिस का जिला मजिस्ट्रेट के साथ घनिष्ठ संबंध होता है, जो कि जिले के ढांचे में मुख्य कार्यकारिणी के रूप में काम करता है। पारणामस्वरूप एक तरफ तो जिला पुलिस एक कठोर श्रेणीबद्ध संगठन का अंग है और दूसरी ओर जिला मजिस्ट्रेट के प्रति उसकी बड़ी मात्रा में कार्यात्मक दायित्व है। जिला पुलिस और पुलिस अधीक्षक, इस प्रकार दो प्रकार से नियंत्रित होते हैं। अर्थात् पुलिस के अधिकारियों द्वारा श्रेणीबद्ध नियंत्रण और जिले के मुख्य कार्यकारी द्वारा कार्यात्मक नियंत्रण।

ब्रिटिश शासन काल के समय बल्कि ईस्ट इंडिया कम्पनी के शुरु के दिनों में भी जिले को सरकारी प्रशासन की एक इकाई के रूप में माना जाता था और जिले का प्रभारी अधिकारी राजस्व इकट्ठा करने और पुलिस तथा न्याय प्रशासन का काम करता था। बाद में लाई कान्वालिस ने राजस्व संबंधी कार्यों को अलग कर दिया था और पुलिस या न्याय प्रशासन संबंधी कार्यों को एक अधिकारी को सौंप दिया गया। जिसे "जज मजिस्ट्रेट" कहा जाता है। 1838 और 1845 के बीच कलेक्टर के पास केवल राजस्व प्रशासन ही रहने दिया गया था और जज मजिस्ट्रेट को सामान्य प्रशासन सौंप दिया गया जिसमें कानून और व्यवस्था को बनाये रखना और छोटे फौजदारी मामलों का प्रशासन शामिल था। दूसरी प्रगति तब हुई जब टोरचर आयोग 1855 की सिफारिशों पर निदेशकों के न्यायालयों ने सारी मद्रास प्रेजीडेंसी के लिए पुलिस आयुक्त के अधीन एक अलग पुलिस बल स्थापित करने की अनुमति दे दी।

पुलिस तथा न्यायपालिका को अलग-अलग करते हुए 1829 में सर राबर्ट पील द्वारा इंग्लैंड में जो उदारतावादी सुधार किये गये थे वे ऐसे आदर्श थे जिनके लिए भारत के ब्रिटिश प्रशासक लालायित थे। किन्तु इस देश में अपने प्रशासन को सुरक्षित बनाये रखने की दृष्टि से इन्हें लागू नहीं कर सके। इस बात से कुछ हद तक 1838 से 1845 की अवधि के बीच अपनाये गये उदारतावादी सुधारों से और 1857 के विद्रोह से भारत में ब्रिटिश शासन को बड़ा झटका लगा था।

1861 के अधिनियम बन जाने के तत्काल बाद सेक्रेटरी ऑफ स्टेट ने यह निदेश दिया कि मजिस्ट्रेटों और पुलिस अधिकारियों के मार्गदर्शन के लिए सुस्पष्ट और अलग-अलग नियम बनाये जाने चाहिए। उनके व्यक्तिगत दृष्टिकोण के अनुसार भारतीय परिस्थितियों में "पुलिस अधिकारियों को मजिस्ट्रेटों को सौंपना" अपेक्षित था। बहस तथा मुल्ह की ब्रिटिश प्रणाली के साथ सामंजस्य रखते हुए देश के प्रान्तों के प्रशासनों के साथ इस मसले पर विचार-विमर्श किया गया और प्रान्तों की सरकारों ने यह सुझाव रखा था कि पुलिस अधिनियम की धारा 4 में "सामान्य नियंत्रण और निदेशन" शब्दों की व्याख्या की जानी चाहिए। किन्तु अंततः मामले को अस्पष्ट ही छोड़ दिया गया और उसे संबंधित क्षेत्र के अधिकारियों के विवेक पर छोड़ दिया गया।

ऐसा दिखाया देता है कि भारत में जिला प्रशासन को नियंत्रित करने वाला सिद्धान्त एक अधिकारी पर निर्भर रहता था। जो कि केन्द्रीय सरकार के निदेशों के अनुसार कार्यवाही करेगा। सर जे. एफ. स्टीफन ने इस सिद्धान्त का बड़ी खूबी के साथ प्रतिपादन किया जब उन्होंने यह लिखा कि "जिला अधिकारी की स्थिति को बनाये

रखना भारत के लिए बिल्कुल अनिवार्य है । " ऐसा लगता है कि देश में कम से कम ब्रिटिश युग की समाप्ति तक प्रशासनिक प्रणाली पुलिस सहित के विकास को नियंत्रित रखने के लिए यह मुख्य सिद्धान्त रहा है ।

### मजिस्ट्रेटी नियन्त्रण और निदेशन से संबंधी मौजूदा कानून :- .

जिले में पुलिस प्रशासन के लिए कानून में अपेक्षित प्रबंधों का पुलिस अधिनियम 1861 की धारा 4 के पैराग्राफ 2 में उल्लेख किया गया है ।

"जिला मजिस्ट्रेट के सारे स्थानीय क्षेत्राधिकार में पुलिस प्रशासन जिला अधीक्षक और सहायक जिला अधीक्षक के अधीन रहते हुए जैसा कि राज्य सरकार आवश्यक समझे, उस मजिस्ट्रेट के सामान्य नियन्त्रण और निदेशन के अधीन होगा ।"

मौजूदा कानूनी ढांचे में भी बल के अतिरिक्त प्रबंध से संबंधित मामलों में पुलिस अधीक्षक को कार्य संचालन संबंधी काफी स्वतंत्रता सौंपी गयी है । जिला मजिस्ट्रेट द्वारा सामान्य नियन्त्रण और निदेशन का अर्थ पुलिस बल के आंतरिक प्रबंध में उन अधिकारियों द्वारा किसी प्रकार के हस्तक्षेप के रूप में नहीं लगाया जा सकता है वास्तव में यद्यपि राज्य पुलिस विनियमों और मैनुअलों में जिला मजिस्ट्रेट को अपराध प्रशासन के विभागाध्यक्ष के रूप में बताया गया है किन्तु पुलिस अधिनियम या दंड प्रक्रिया संहिता में कानून द्वारा उसे ऐसी हैसियत प्रदान नहीं की गयी है । कानूनी तौर पर पुलिस अधीक्षक पर नियन्त्रण रखने और उसे निदेश देने की जिला मजिस्ट्रेट की क्षमता केवल चुनौदा तथा विशेष परिस्थितियों तक सीमित की जानी चाहिए और इसे एक नियम के बजाय एक अपवाद के रूप में प्रयोग में लाया जाना चाहिए ।

**DISTINCTION BETWEEN  
LAW AND ORDER  
AND  
PUBLIC ORDER**

**SOME RULINGS :**

"The law on the point is well settled that there is no formula by which one case can be distinguished from another in discriminating 'law and order' from public order. The act by itself is not the determinant of its gravity: it is its potentiality and reach upon the society that matters. It is the length, magnitude and intensity of the terror wave unleashed by a particular eruption of disorder that helps distinguish it as an act affecting public order from that concerning law and order. It is the potentiality of the act to disturb even tempo of life of the community which makes it prejudicial to maintenance of public order. The impact of the activities upon the local community is to be seen as to whether it has the effect on the normal flow of the community in the locality. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order or public order".

Vikram Pratap Singh vs State of UP  
AIR 1985 All 958

"The distinction between the areas of 'law and order' and 'public order' is one of degree and extent on the degree and extent of the reach of the act in question on the society. It is the potentiality of the act to disturb the even tempo of the life of the community which makes it prejudicial to the maintenance of public order. If the contravention in its effect is confined only to a few individuals directly involved as distinguished from a wide spectrum of the public, it would raise a problem of law and order and 'public order' may have a common 'epicenter' but it is the length, magnitude and intensity of the terror-wave unleashed by a particular eruption of disorder that helps distinguish it as an act effecting 'public order' from the concerning 'law and order'.

Ram Ranjan Chatterjee vs State of West Bengal  
AIR 1975 Sc 609.

"Place where breach of peace takes place should be situated in public place and should cause reasonable apprehension in the minds of the residents of the locality in regard to maintenance of public order for the breach to be a case of public order i.e. must affect public tranquility".

Bimla Dewan Vs Lt. Govt. of Delhi.

"Activities of detenu paralysing work of certain contractions engaged in important affairs of oil refining Held, activities of detenu relate to public order and not law and order.

Application of law would be thus to maintain public, order, public safety and order and general security".

**Yogendra Singh Versus State of Bihar**  
1985 Cr.L.J.89

"An Act likely to cover breach of public order can be a ground of detention whereas an act which merely affects law and order cannot be such a ground."

**Amar Mani Tripathi vs. State of UP**  
ALJ 1985 132 (LKO Bench) Shiv Shankar vs I/C Police station Hasangunj Lucknow.

**Provisions Regarding use of Force for maintaining Public Law and Order  
Criminal Procedure Code**

**MAINTENANCE OF PUBLIC ORDER AND TRANQUILITY**

**A- Unlawful assemblies**

**129. Dispersal of assembly by use of civil force.-** (1) Any Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Corresponding Law: s. 127 of Act V of 1898,

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Corresponding Law: S. 128 of Act V of 1898

**130. Use of armed forces to disperse assembly :-** (1) If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

Corresponding Law: S. 129 of Act V of 1898.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Corresponding Law: s. 130 of Act V of 1898.

**131. Power of certain armed force officers to disperse assembly.:-** When the public



security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

Corresponding Law: S. 131 of Act V of 1898.

**132. Protection Against prosecution for acts done under preceding section. :-**(I) No prosecution against any person for any act purporting to be done under Section 129, Section 130 or Section 131 shall be instituted in any Criminal Court except -

(a) with the sanction of the central Govt. where such person is an officer or member of the armed forces;

(b) with the sanction of the State Govt. in any other case.

(2)(a) No Executive Magistrate or police officer acting under any of the said sections in good faith;

(b) no person doing any act in good faith in compliance with a requisition under Section 129 or Section 130;

(c) no officer of the armed forces acting under Section 131 in good faith;

(d) no member of the armed forces doing any act in obedience to any order which he was bound to obey;

shall be deemed to have thereby committed an offence

Corresponding Law: S 132 of Act V of 1898.

(3) In this section and in the preceding sections of this Chapter:-

(a) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other Armed Forces of the Union so operating;

(b) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(c) "member", in relation to the armed forces, means a person in the armed forces other than an officer.

Corresponding Law: S. 132-a of Act V of 1898.

## **UP Police Regulations**

### **Section C- Main principles governing the use of Force**

The main principles governing the use of force of any kind are -

(1) the magistrate, if present, and the senior police officer should act throughout in co-operation.

- (2) all attempts to disperse a crowd by warnings and exhortation shall be made before it is ordered to disperse.
- (3) once the order to disperse has been defined or when, after the order has been given the attitude of the crowd remains defiant force shall be used.
- (4) if a magistrate is present, the **responsibility for using force shall rest with him** and it is for him to direct the senior police officer to use force. If no magistrate is present, the responsibility will rest with the senior police officer.
- (5) the magistrate if present, or if no magistrate is present, the senior police officer is responsible for seeing that the minimum force necessary for the effective dispersal of the crowd and the making of necessary arrests is used.
- (6) The kind and duration of the force used shall, subject to the reservation in clause 7, be decided by the senior police officer and the least deadly weapon, of which the circumstances permit, shall be used. No ulterior object, such as punitive or repressive effect, shall be taken into consideration.
- (7) The use of force must cease immediately the object has been attained. The magistrate, if present, has power to decide when sufficient force has been applied. He should make this decision after consultation with the senior police officer.

#### **Section D- Rules governing the use of Firearms**

- (1) Fire shall be opened only if the magistrate, or if no magistrate is present, the **Police officer-in-charge** deems it absolutely necessary to open fire for the protection of life or property.
- (2) If a magistrate is present, the responsibility for ordering the use of firearms will rest with him and he will direct the senior police officer present to open fire.
- (3) When the magistrate has ordered the senior police officer to open fire, he shall not fetter the discretion of that officer by prescribing the number of rounds to be fired. The senior police officer will invariably give the order to fire and be responsible for controlling such fire.
- (4) The order to stop firing shall be given by the senior police officer as soon as the crowd shows a disposition to retire or disperse.

**The magistrate, if present has power to order the senior police officer to stop firing.** Such order should be given after consultation with the senior police officer.

- (5) Whenever firing has taken place, the senior police officer present shall unless the duty is taken over by a magistrate, record detailed information of the events leading to the firing, the reasons why firing was considered necessary the consequences of the firing with particulars of the dead and injured person and all other relevant details

#### **Manual of Government Orders**

**407. Firing during disturbances.**-(1) When in exercise of the powers given by the section 128 of the Criminal Procedure Code, a Magistrate, who is engaged in dispersing an unlawful assembly, is compelled to direct the police acting under him to use their fire arms, he shall, if possible, give beforehand to the mob full warning that firing will be effective and that blank cartridges will not be used.

(2) Firing should never be in the air or over the heads of the crowd, and it is important that magistrates should realize that no variation of this order is permitted. Firing in the air or over the heads of the crowd only encourages further violence by giving the impression that there is nothing to fear from the weapons of the police.

(3) Paragraph 70 of the Police Regulations lays down that blank cartridges will not be served out to the police, employed to suppress a riot. This paragraph with which all magistrates should be well acquainted also defines how responsibility is shared between magistrates and police officers.

(4) If in the course of dealing with a disturbance of the peace, firearms have been used by the police, an inquiry must be held with the least possible delay. In un-important cases the inquiry may be held by the sub-divisional magistrate. In all other cases the inquiry must be made by the DM unless he is incapacitated or unless he himself ordered the firing in which case the inquiry will be made by the Commissioner. The result of such inquiries should be submitted to Govt. with the least possible delay and should not be communicated to the press.

## APPROVAL

### Town Area Act

**Sec.15:** (1) The Committee shall, when so required by the DM, revise the assessment list of persons liable to pay tax.

(2) Every assessment, list shall be confirmed by the DM and if he refuses to confirm, it shall be altered under his direction.

(3) An assessment list confirmed by the DM shall not be subject to alteration except upon revision of the assessment list.

**Sec. 15A :** (4) Proposals for taxation and draft of the rules prepared by the committee shall be submitted to the prescribed authority, or if none is so appointed, the DM.

**Sec. 15B :** (1) The prescribed authority or the DM may reject the proposals or sanction them, with or without modification.

(2) When the proposals are sanctioned with or without modification, a copy of the draft rules on the subject shall be forwarded to the State Government.

(3) After the rules have been framed, by the State Govt, a copy shall be forwarded to the prescribed authority or DM and the committee. The committee will pass a resolution directing the imposition of the tax from a particular date and forward a copy to the prescribed authority or the DM, who shall notify in the same manner prescribed.

**Sec. 16 :** The DM may, by order, exempt in whole or in part, from the payment of any tax imposed under this Act, any person or class of persons or property or description of property.

**Sec. 17 :** The Committee shall cause a copy of every assessment list, prepared revised and confirmed to be posted in a conspicuous place in the town area and shall cause a register of the assessments to be maintained at such place and in such manner as the District Magistrate may prescribe.

### U.P. Dookan and Vanijya Adhistan Adhiniyam 1962 with rules 1963

**Section 8(2):-** The choice of a close day not being a close day which is a public holiday shall, subject to the approval of the authority appointed by the State Government in this behalf, rest with the employer. A notice specifying all close days shall be prominently displayed by the employer in a conspicuous place in the shop or commercial establishment.

**Rule 6:-** Every District Magistrate shall, for the area within his jurisdiction, be the authority empowered under sub sec (2) of Sec 8 to approve the choice of a close day.

**U.P. Jail Manual**

**Para 822** : Previous sanction of whipping : Supt to award punishment of whipping only with the approval of DM.

**UP TOWN AREA MANUAL  
THE UNITED PROVINCES TOWN AREAS ACT 1914**

**SECTION 9 (2)**

The committee shall revise, when so required by the DM, the establishment list (of permanent staff required by it).

(3) Every establishment list prepared/revised shall be subject to confirmation by the PA/DM, who may get it altered by the committee under direction.

**SECTION 10 (1)**

The Chairman shall appoint the permanent staff prescribed in the establishment list, subject to approval of the PA/DM in the case of the Bakshi.

(2) Chairman may fine, suspend or dismiss any member of the permanent staff so appointed. However, dismissal of a member of the staff whose pay exceeds Rs 30/- a month, shall be subject to confirmation by PA/DM, who shall give reasonable opportunity of representation.

**Sec. 26 :**

The committee may by general or special order in writing provide if so advised by the prescribed authority or DM, for all or any of the following matters within the town area, namely :

- (a) the regulation of offensive callings or trades
- (b) the disposal of corpses by burning or burial
- (c) the repair or removal of dangerous or ruinous buildings
- (d) the prohibition of the storage of more than fixed quantity of petroleum or kerosene in any building
- (e) the regulation or prohibition of any description of traffic
- (f) the regulation of slaughter houses
- (g) the prohibition for reasons of public health of the use of any place for the sale of meat in default of a licence granted by the committee or otherwise than in accordance with the conditions of the licence
- (h) the fixing of conditions according to which the licence for the sale of meat may be granted, refused, suspended or withdrawn.

**U.P. Police Regulations****PARA 524**

The SP may within his district, transfer all officers of and below the rank of inspector. In case of inspectors and officers in charge of police stations, he must before passing orders obtain the approval of the DM. Should the DM and SP disagree with regard to the transfer of any officer the matter may be referred to the DIG of range for decision.

## ARREST

### Criminal Procedure Code Amendment Acts (UP) 1973

**Sec. 167 :** Insertion of new section 167-A in Act No. 2 of 1974- After section 167 of the Cr P.C., 1973 as amended in its application to U.P., the following section shall be inserted, nymely--

**"167-A : Procedure on arrest by Magistrate-**

For avoidance of doubts, it is hereby declared that the provisions of Sec 167 shall, so far as may be, apply also in relation to any person arrested by, or under any order, or direction of, a Magistrate, whether executive or judicial.

#### The Code of Criminal Procedure

**Sec. 44 : Arrest by Magistrate:** (1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his jurisdiction, he may himself arrest or order any person to arrest the offender and subject to provisions regarding bail, commit the offender to custody.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue warrant.

#### UP Excise Act 1910

**Sec.51 :** The collector may issue a warrant for the arrest of any person whom has reason to believe that an office punishable under Sec.60,62,63 or 65 has been or is likely to be committed he may issue a warrant for search for any intoxicant materials,still,utensial implement or apparatuses in respect of which the alleget offence has been or is likely to be committed.

**Sec. 53(1)** Power of collector or officer of the Excise Deptt of Search without warrant:

(1) Whenever a collector or an officer of the Excise Deptt not below such as the State Govt. may prescribe or empower officer not below the rank of (sub-inspector) has reason to believe that an offence punishable under Sce.60,61,62,63, or 65 has been, is being or likely to be committed on any place without offording the offerder an apportuinity of escape any time, by day or night seal and search such place.

**Sec.53(2)-** The collector may seize anything forward in such place which he has reason to believe to be liable to confiscation under this Act and any detail and search and, if he proper arrest any person forward in such place whom he has reason on believe to be guilty of such offence as aporesaid.

**Sec.54:** Procedure for arrest: Any warrant issued by the collector under Sec 51 & 52 any be executed by any officer selected by the collector for that purpose.

**The Prevention of Balckmarketing and Maintenance of Supplies Essential commodities Act, 1980.**  
(Act No. 10 of 1980)

**Sec 3 (2):** The District magistrate may also, if satisfied, with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community it is necessary so to do, make an order directing that such person be detained.

**EXPLANATION :** For the purposes of this sub-sections, the expression "Acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" Means -

(a) committing or instigating any person to commit any offence punishable under the Essential Commodities Act, 1955 (10 of 1955), or under any other law for the time being in force relating to the control of the production, supply or distribution of, or trade and commerce in, any commodity essential to the community ; or -

(b) dealing in any commodity -

(i) Which is an essential commodity as defined in the Essential commodities Act, 1955 10 of 1955 or

(ii) with respect to which provisions have been made in any such other law as is referred to in cl(a).

With a view to making gain in any manner which may directly or indirectly defeat or tend to defeat the provision of that Act or other law aforesaid.

After such order the DM shall forthwith report the fact to the state Govt. to which he is subordinate together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the matter, and no such order shall remain in force for more than 12 days after the making there of unless in the meantime it has been approved by the state Govt.

**National Security Act 1980**

**Sec. 3 - (1) The Central Govt. or the State Govt. may -**

(a) If satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India; or

(b) If satisfied with respect to any foreigner that with a view to regulating his continued Presence in India or with a view to making arrangements for his expulsion from India,

It is necessary so to do, make an order directing that such person be detained.

(2) The Central Govt. or the State Govt. may if satisfied with respect to any person

that with a view to preventing him from acting in any manner prejudicial to the security of the state or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained.

District Magistrate may if satisfied as provided in sub clause (ii) and (iii) of clause () of sub section (1) and sub section (2) exercise the powers conferred by the said section.



**APPOINTMENT/RECOMMENDATION/NOMINATION/  
ELECTION**

**The Cr.P.C. (Amendment) Act, U.P., 1983**

**Sec. 12 :** In section 12 of the said Code, after sub-section (3) the following sub-section shall be inserted, namely:

(4) Where the office of the Chief Judicial Magistrate is vacant or he is incapacitated by illness absence or otherwise for the performance of his duties, the seniormost among the Addl Chief Judicial Magistrates and other Judicial Magistrates present at the place, and in their absence, the District Magistrate and in his absence the senior-most Executive Magistrate shall dispose of the urgent work of the Chief Judicial Magistrate."

**Sec. 20 :** In section 20 of the said Code, after sub-section (5), the following sub-section shall be inserted, namely:

(6) The State Government may delegate its powers under sub-section (4) to the District Magistrate.

**Sec. 54 :** After sec 54 of the said Code, the following section shall be inserted, namely:

54-A: Test identification of the accused: When a person is arrested on a charge of committing an offence and his test identification by any witness is considered necessary by any court having jurisdiction, it shall be lawful for an Executive Magistrate acting at the instance of such court, to hold test identification of the person arrested.

**The Cr.P.C. (Amendment) Act, 1978**

**Sec. 24 :** For section 24 of the principal Act, the following section shall be substituted, namely:

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion, fit to be appointed as Public Prosecutors or Addl Public Prosecutors in the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Addl Public Prosecutors for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

**The Uttar Pradesh Children Rules, 1962**

**Sec. 3 :** Persons authorized to bring children in need of care and protection before a Court- The DM may by order authorize such person as he thinks fit to take action under sub-section (1) of Sec 3 of the U.P. Children Act, 1987. This sub-section authorizes any police officer or other person duly empowered in this behalf, to bring before a Court any person aged below 16 years, who,

(a) is found wandering without any settled home or visible means of subsistence,

or having a parent or guardian incapable of exercising or not ordinarily exercising due care over him, or

(b) is begging or receiving alms, or

(c) is found destitute, or

(d) is under the care of a parent or guardian, who, by reason of criminal or drunken habits, habitually neglects and ill-treats him, or

(e) frequents the company of a reputed thief, or

(f) who is residing in the house of a prostitute and is in danger of seduction or prostitution

(g) is likely to be exposed to moral danger or enter a life of crime.

#### **The U.P. Zila Parishads (Appointment of Counsel) Rules, 1973**

**Rule 4:-Procedure of appointment-**(1) When it is proposed to engage a Zila Parishad Counsel, the Zila Parishad shall call for the recommendations of the District Magistrate and shall make the selection out of the persons recommended by the District Magistrate for this purpose. The District Magistrate shall send his recommendations to the Zila Parishad confidentially containing the names of twice the number of counsel intended to be appointed, giving the order of preference and stating their age, experience and his own opinion on their individual merits; if only one counsel is to be appointed the District Magistrate shall similarly recommend three names:

Provided that a person who has less than ten years' of regular practice at the Bar shall not be eligible for appointment as senior counsel and a person with less than seven years' regular practice for appointment as junior counsel;

Provided further that where a person who is a member of the Zila Parishad or is holding any office under the Zila Parishad shall not be appointed as Zila Parishad Counsel.

(2) Before recommending the names of legal practitioners under sub-rule (1) the District Magistrate shall invite applications from the local lawyers for appointment as Zila Parishad counsel by affixing a notice on the notice board of the office of the District Magistrate, District Judge and outlying Civil Court, if any, and the Bar Association or Association at least ten days before the date of receiving the applications. While selecting the candidates, the District Magistrate shall consider the length of practice of the applicant, the qualifications, general reputation, integrity, etc and shall also consult the District Judge in the matter. The District Government Counsel, Additional District Government Counsel, Assistant District Government Counsel or the panel lawyer of the Government shall not be considered for appointment as Zila Parishad Counsel.

#### **U.P. Security Prisoners Rule 1972**

**Rule 51(3):- Allowance to dependants:-** All applications for maintenance allowance shall be sent to the DM of the district in which the security prisoner ordinarily resides, who shall, after such enquiry as may be necessary, forward the application to

the State Government with a report on the circumstances of the dependents of the security prisoner. If the applicant is not a resident of the U.P., the application shall be forwarded direct to the State Government.

### **The cantonments Act 1924**

**Section 13. Constitution of Cantonment Boards--**(1) Cantonments shall be divided into three classes, namely:-

- (i) Class I Cantonments, in which the civil population exceeds ten thousand;
- (ii) Class II Cantonments, in which the civil population exceeds two thousand five hundred, but does not exceed ten thousand; and
- (iii) Class III Cantonments, in which the civil population does not exceed two thousand five hundred.

(2) For the purposes of sub-section (1), the civil population shall be calculated in accordance with the latest official census, or, if the Central Government, by general or special order, so directs, in accordance with a special census taken for the purpose.

(3) In Class I Cantonments, the Board shall consist of the following members, namely:

- (a) The Officer Commanding the station or, if Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command;
- (b) an Executive Magistrate nominated by the District Magistrate;
- (c) the Health Officer;
- (d) the Executive Engineer;
- (e) four military officers nominated by name by the Officer Commanding the station by order in writing;
- (f) seven members elected under this Act.

(4) In Class II Cantonments, the Board shall consist of the following members, namely:

- (a) the Officer Commanding the station, or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command;
- (b) an Executive Magistrate nominated by the District Magistrate;
- (c) the Health Officer;
- (d) the Executive Engineer;
- (e) (i) in cantonments of which the civil population exceeds seven thousand five hundred, three military officers.
- (ii) in cantonments of which the civil population exceeds five thousand, but does not exceed seven thousand five hundred, two military officers,
- (iii) in cantonments of which the civil population does not exceed five thousand, one military officer, nominated by name by the Officer Commanding the Station by order in writing;
- (f) such number of members elected under this Act as is equal to the number of members constituted or nominated by or under Cls. (b) to (e).

(5) In Class III Cantonments, the Board shall consist of the following members, namely:

(a) The Officer Commanding the station, or if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command;

(b) one military officer nominated by name by the Officer Commanding the Station by order in writing;

(c) one member elected under this Act.

(6) The Officer Commanding the station may, if he thinks fit, with the sanction or of the Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under Cl. (e) of sub-section (3), Cl. (e) of sub-section (4) or Cl. (d) of sub-section (5), any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment or in the vicinity thereof.

(7) Every election or nomination of a member Board and every vacancy in the membership thereof shall be notified by the Central Government in the Official Gazette.

### **The UP Homeguards Adhiniyam 1963**

**Section 8. Calling out of Home Guards--**Subject to the provisions of this Act and the rules made thereunder--

(a) the District Magistrate or the District Commandant may by order call out any home guard attached to a unit posted in the district for duty in any area within that district;

(b) the Commandant-General or such officer of the Home Guards, as may be authorised by him in this behalf, may call out any home guard for duty in any part of the State or outside the State.

Manual of Govt. order, Home (Police) Department.

Para 454- Where no APP is available for prosecution of any particular case in a court of Magistrate, the DM may appoint any other person to be the APP in charge of the case. A police officer not below the rank of inspector may also be appointed, if he has not taken any part in the investigation into the offence to which the prosecution relates.

Manual of Govt. orders, Civil Defence Department.

Para 702 - The state govt may appoint as members of the civil defence corps persons who are fit and willing to serve as such and the controller may appoint any members of such as such office or command in the corps, as such member is, in his opinion fit to hold. This power has been delegated by the state govt. to the DM's.

UP Municipalities (Conduct of Election of Members) order, 1964 Sec.445

Returning Officer - (1) For each ward there shall be a returning officer who shall be such officer of Government as the DM may, in consultation with the

Director, designate or nominate.

(Director means Director of Elections (Local Bodies)).

#### **SECTION 5 :**

The DM may, in consultation with the Director appoint one or more person to assist any Returning officer in the performance of his functions.

#### **SECTION 71.**

Custody of the return and of the ballot boxes and papers relating to election - (1) The Returning Officer shall, after reporting the result of the election under para 60, forward the return to the DM for safe custody.

(2) The Returning Officer shall also forward to the District Magistrate for safe custody the packets of ballot papers and all the papers relating to the elections.

#### **SECTION 72.**

about inspection of papers in custody of D.M.

Information of Govt. about casual vacancy for less than one year

(1) If upon receipt of report or information that vacancy has occurred in a Committee by reason of death, resignation, removal or avoidance of election of an elected member, the DM finds that the term of office of that member would, in the ordinary course of events, have determined within one year of occurrence of the vacancy, he shall report the case to the State Govt. for orders under section 13-I of the Act.

(2) If the State Govt. directs that the vacancy be filled, the DM shall proceed as under para 75 and if the State Govt. directs that the vacancy be left unfilled, he shall inform the committee accordingly.

#### **75. Election for casual vacancy of member**

(1) when a vacancy occurs under para 77 or by reason of the death or resignation or removal of an elected member or by avoidance of his election, the DM shall immediately on receiving information of the vacancy send a report to the Director and subject to the provisions of para 74 forward to the committee his proposals regarding the date by which the ward concerned is to elect a person for the purpose of filling the vacancy.

(2) After considering the reply, if any, received from the committee which shall be sent within 10 days of the forwarding of his proposals, the DM shall issue the notification under section 13-H of the Act and the election shall be held as provided in the said section

(3) For the purposes of all bye-elections the reference in paras 14, 30, 31, 32, 55, 69, 70 and 80 and sub para 2 of para 27 to the State Govt. or to the Director shall be deemed to be reference to the DM.

#### **SECTION 77**

Multiple elections.

(2) The resignation under sub para (1) (from all but one seats to which a contestant is elected) shall be made by a notice in writing from the candidate to the

DM specifying the ward in which the candidate wants to retain his seat and the ward or wards in which he wishes to resign.

## **SECTION 82.**

Reports of Election Tribunals and sending of records -

(1) Every Election Tribunal shall communicate to the DM its findings under section 25 and its orders under section 27 of the Act as soon as the findings or orders are given.

(2) The records of cases disposed off by the Election Tribunal appointed under this Act shall be forwarded by the Tribunal to the DM of the district in which the Town Area is situated. The DM shall consign the records received from the Election Tribunal in his custody and ordinarily preserve them for a period of five years unless a longer period is fixed by the State Govt. in any particular case and thereafter deal with it in such manner as may be specified by the Director.

### **UTTAR PRADESH TOWN AREAS (CONDUCT OF ELECTION OF CHAIRMAN) RULES, 1964**

22. Election for casual vacancy in the office of the Chairman- the provisions of these rules shall apply, as far as may be, to every election held under sub section 3 of section 8 - A of the Act : (Town Areas Act)

Provided that all references to the State Govt in the relevant rules or the order (UP Town Areas (Conduct of Election of Members) order, 1964) shall be deemed to be reference to the DM.

### **UP Jail Manual**

4) **Sec.954:-** Office of Supt. falling temporarily vacant:-

If it falls vacant and there is no time to refer the matter to the inspector-general for state govt orders, the DM shall, pending govt orders, make necessary arrangements for the work of the jail reporting his action to the IG at time.

5) **Sec.955:-** Appointment of teachers in religious and moral subjects:

The DM is authorized to appoint honorary teachers in religious and moral subjects who may be permitted to lecture in the jail once a week, the day & hour being fixed by the supt.

6) **Sec.956:** Suggestions affecting discipline & Mgt:-

The DM & shall report to the IG any Step which he may consider necessary affecting the discipline and mgt of jail.

**Sec. 195:** Recommendation for release of sick convict:

The supt may recommend for release of a convict suffering from a disease which is likely to prove fatal if the convict remains in prison, but from which there is a reasonable chance of recovery if he is released provided that the DM of the dist. of conviction has no objection to the release of the convict.

**Para 252:** In cases where sentence does not exceed one year and the offence is not of a serious nature the application should be forwarded without delay as possible to the DM of the dist. of conviction. After satisfying himself about the correctness of details, the DM shall forward the application with his recommendation to the state govt.

**Para 263:** The DM should not accept applications from convicts whose normal dates of release fall due within 3 months from the date of their application as by the orders are passed by the state.

**Para 264:** The DM shall briefly give his reasons where he considers a particular guardian unsuitable.

**Para 269:** Guardians: When the guardian is not a probation officer or a person well known to the authorities of the jail, the DM may issue a letter of authority to the prospective guardian in order that there may be no difficulty in the handing over of the convict to his rightful guardian.

**Para 669(b):** Appointment of non-official visitors: the names of all persons recommended for appointment by a dist. committee shall be reported to state govt & in case the DM disagrees with the dist. committee on any name, he shall inform the state govt by March 1, of the year in which appointment is due.

**Para 670:-** In case the number of ex-officio non-official visitors of a jail becomes large, the DM shall place the names of such ex officio visitors on a roster so that not more than 3 visitors shall be entitled to visit the jail for a period of two or three months at a time in accordance with the roster.

**Para 965:** When the supt of a central jail is absent on duty or casual leave, the Deputy supt. or failing him Magistrate of first class to be detailed by the DM, shall hold the executive charge of the jail.

**Para 969:** When a part-time supt. holding both executive & medical charges of a dist jail is absent and if circumstances so require, a Magistrate of first class, or in his absence, the jailor or a Tahsildar subject to the approval of the DM shall hold executive charge.

**Para 1313(a):** The purchase of grains & other jail requirements for storage in each distt. shall be controlled by a local grain purchase committee with the DM or a Magistrate nominated by him as a member.

Non official visitor other than MLA and a non-official gentleman, preferably a businessman not connected directly or indirectly with grain trade of jail contracts to be nominated by the DM annually.

The DM shall preside over the meetings & in his absence the supt. of central /distt./jail in an adjourned meeting, members do not turn again, the DM/suptd. may transact the business.

### **The United Provinces Town Areas Act 1914**

**SECTION 8-A (3) :** A vacancy of a chairman is to be filled by re- election at a date fixed by the DM within three months from the date of occurrence.

(5) Chairmans resignation to be forwarded to DM, whose acceptance to be conveyed to the committee.

(6) Till a committee is elected, the DM or any officer nominated by him in this behalf shall perform the functions of and be deemed to be the chairman/TAC.

### **THE UNITED PROVINCES MELAS ACT, 1938**

#### **SECTION 5: POWER TO APPOINT COMMITTEE :**

The District Magistrate shall, in accordance with such rules as may be framed by the (State Govt.) in the behalf, appoint a committee to assist the officer incharge in the performance of his duties.

### **THE CENSUS ACT, 1948**

#### **SECTION 6.**

Discharge of duties of census officers in certain cases.

(1) Where the DM, or such authority as the State Govt. may appoint in this behalf, by a written order so directs-

(a) every officer in command of any body of men belonging to the naval, military or air forces, or of any vessel of war, of India,

(b) every person (except a pilot or harbourmaster) having charge or control of vessel.

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock up or of any public, charitable, religious or educational institution.

(d) every keeper, secretary or manager of any sarai, hotel, boarding house, lodging house, emigration depot or club.

(e) every manager or officer of a railway or any commercial or industrial establishment, and

(f) every occupant of immovable property wherein at the time of the taking of the census persons are living.

shall perform such of the duties of a census officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property or are employed under him as may be specified in the order.

#### **SECTION 7.**

Power to call upon certain persons to give assistance.

The DM, or such authority as the State Govt. may appoint in this behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon-

(a) all owners and occupiers of land, tenure holders, and farmers and assignees of land revenue, or their agents,



(b) all members of the district, municipal, panchayat and other local authorities and officers and servants of such authorities, and

(c) all officers and members of staff of any factory, firm or establishment, to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure holders, farmers and assignees, or in the premises of factories, firm and other establishments, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code.

### **UP KSHETTRA SAMITIES (CHOOSING OF REPRESENTATIVES OF COOPERATIVE SOCIETIES) RULES, 1962**

#### **SECTION 3.**

#### **RETURNING OFFICER AND ASSISTANT RETURNING OFFICER**

(1) The District Election Officer shall be the Returning Officer for conducting the election of representatives of cooperative societies for a kshetra samiti.

(2) The Returning officer may appoint a Block Development officer, Assistant Development officer, a Cooperative Inspector, a Panchayat Inspector or an Agricultural Inspector, as Assistant Returning officer.

(3) The Assistant Returning officer shall assist the Returning officer in the performance of his functions and shall also be competent to perform all or any of the functions of the Returning Officer.

#### **SECTION 4.**

#### **APPOINTMENT OF DATES**

(1) As soon as may be, after the commencement of the rules and every time thereafter when any member is to be chosen under clause (iii) of subsection (1) of section 6, the District Magistrate of the district in which the 'khand' is situated shall, by an order appoint for the election of members under the aforesaid clause, a date on which the members of the electoral college/colleges, formed under Rule 6 shall meet and elect their representative(s).

(2) A copy of the order, made under sub rule (1) shall be pasted at the notice board of the collectorate and shall also immediately be sent to the Returning officer, the District cooperative officer/the Assistant Registrar, cooperative societies, District Industries officer and the District Cane Officer.

#### **SECTION 7.**

#### **NOTICE OF MEETING.**

The Returning officer/Assistant Returning officer shall immediately after the

issue of the order under Rule 4, obtain the list in triplicate in form 1 of the members of each electoral college from the officers- the District Industries officer, the District Cooperative officer/the Assistant Registrar, Cooperative Societies, the District Cane Officer, who may respectively be concerned with each of the categories of the societies mentioned in Rule 5, and shall thereupon issue notice by post under certificate of posting at least ten days prior to the date fixed in the order issued under Rule 4, to every member of the electoral college to elect their representative/representatives from amongst themselves. The notice shall contain the following particulars.

- (a) The number of persons to be elected by an electoral college; and
- (b) the date, time and place of the meeting.

(2) Such notice shall also be published by affixation at such prominent place at the headquarters of the khand as the Returning Officer may fix in this behalf.

### **UTTAR PRADESH ZILA PARISHADS (CHOOSING OF MEMBERS OF KSHETTRA SAMITI RULES 1963)**

**SECTION 3.(1).** As soon as may be after the commencement of these rules and every time thereafter under any member has to be chosen under clause (ii) of sub section (1) of section 18 of UP Kshetra Samiti and Zila Parishads Adhinyam, the District Magistrate of the district shall by a written order appoint

- (a) the date for filing of nominations and scruting thereof, which shall be a date at least seven days after the date of the District Magistrate's order and
- (b) the date on which and the hours between which a poll shall, if necessary be taken which shall be a date not earlier than the third day after the date fixed under clause (a).

[2] On the issue of order under sub rule (1) the returning officer shall give a public notice which shall state-

- (a) number of members to be chosen by the Kshetra Samiti
- (b) the place and date on which and the hours between which nomination papers shall be filed.
- (c) the place and date on which and the hours between which the nomination papers filed shall be taken up for scruting and
- (d) the place and date on which and the hours between which the poll of any shall be held

[3] The notice shall be sent by post, under certificate of posting to every member at his last address.

### **U.P. Police Regulations**

#### **PARA 89**

The village chokidar is responsible to the DM for the due performance of his duties.

**Rule 96 (i)** Village chawkidars are appointed by the DM v/s 3 to 6 of NW Provinces village & Read Police Act 1873 or under sections 29 to 32 of oudh laws Act, 1876. They may be dismissed by the DM under section 10 of the Act of 1873 or section 36 of

Act of 1876. They are also liable to prosecution under section 11 of Act of 1873 or section 37 of Act of 1876.

**UP WATER SUPPLY & SEWARAGE ACT 1975  
SEC 20 CONSTITUTION OF JAL SANSTHAN**

(2) A Jal Sansthan constituted to have jurisdiction over the local area of a Municipal Board shall consist of an officer subordinate to the DM nominated by the latter as one of the members.

**SECTION 12 BC : HOLDING OF ELECTION :--**

Subject to the supervision and control of the nirvachan Nideshak (panchayat), the District Magistrate shall superwise the conduct of all elections of members of Gaon Panchayats and pradhans and Up Pradhans of Gaon Sabha in the district.

## **APPEAL/REVISION**

### **TOWN AREA ACT**

**Sec. 18 :** (1) An appeal against the assessment or levy of any tax shall lie to the prescribed authority or DM or to such Magistrate as he may appoint.

(4) The decision of the appellate authority shall be final and shall not be called in question in any court.

**Sec.29(2) :** An appeal from an order of the committee relating to sanitation matters shall lie to the prescribed authority or DM and the decisions of appellate authority shall be final and cannot be called in question in any court.

### **UP PANCHAYAT RAJ ACT 1947**

Provided that an order of the prescribed authority, removing or dismissing a Secretary shall be appealable within a period and in the manner, to be prescribed, to the District Magistrate, or if any other authority is prescribed in that behalf, to such other authority.

### **The Arms Act 1959 and the Arms Rules 1962**

**Section 18. Appeals--**(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of, the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed thereof;

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908)\* with respect to the computation of periods of limitation thereunder.

(4) Every appeal under this section shall be made by a petition in writing and shall

be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force, pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

#### ARMS RULES

**Rule 5. Appellate authorities--**(1) For the purposes of the Act and these rules the appellate authority to whom an appeal shall lie from an order of the licensing or other authority specified in column (1) of the table below shall be that specified in the corresponding entry in column (2) thereof.

TABLE

Authority	Appellate authority
(1)	(2)
(a) Tahsildar; or Ist or 2nd Class Magistrate of Sub-Divisional Magistrate	District Magistrate.
(b) Additional District Magistrate District Magistrate.	(i) Commissioner of division, or in a Union territory, the Administrator thereof, or (ii) in the State of Madras, Andhra Pradesh and Kerala, the Board of Revenue, or (iii) in the State of Jammu and Kashmir, Rajasthan, West Bengal, Gujarat and in any other State not being a State mentioned in entry (ii) above, in which there is no post of Commissioner of a Division, the State Government.

(c) Commissioner of Police	Commissioner of the Division or in a Union territory, the Administrator thereof.
(d) Commissioner of a Division	State Government.
(e) Head of Indian Mission, or Political Officer.	Central Government. Authority that empowered.
(f) Other specially empowered officers.	

**Legislative Changes--Under Rule 5 in column 'Authority'--**

--in clause (a) --The words "Sub-Divisional Magistrate" were substituted for the words "Sub-Divisional Officer" by GSR 1567/20-8-1968.

--Clause (b) was omitted and clauses (c) and (d) were numbered as clauses (b) and (c) and clause (d) was newly added, by SO 1470/25-3-1963.

Under column--Appellate authority--

--Item (1) was substituted by GSR 755/11-5-1964.

(2) For the purpose of sub-section (6) of section 17 of the Act, the licensing authority shall be deemed to be subordinate to the appellate authority.

**UP AGRICULTURAL DISEASES AND PESTS ACT 1954**

**Section 8. Appeal against costs--**(1) Any occupier referred to in section 7 may, within thirty days from the date of the first demand of such cost, prefer an appeal to the District Magistrate on the grounds that--

(i) the costs include charges for items other than the cost of labour, material or use of implements,

(ii) the charges for labour, material, or use of implements are unreasonably high, or more than the expenditure actually incurred.

(2) On receipt of the appeal under sub-section (1) the District Magistrate shall, after giving the occupier opportunity of being heard, pass such orders thereon as he thinks fit.

**MISCELLANEOUS**

Revisions against the judgement of the settlement officers be to the Deputy Directors i.e. DM.

Manual of Government orders, revenue department, chapter 3, Para(6) sub para (3).

**THE UP PANCHAYAT RAJ ACT, 1947**

**SECTION 9 : ELECTORAL ROLL FOR GAON SABHA - District magistrate the Appellate authority.**

**An appeal shall lie to the District Magistrate, within such time and in such manner as may be prescribed, against any order of the Electoral Registration officer in regard to inclusion, deletion or Correction of a name in the Gaon Sabha electoral roll.**

## **COMPOUNDING/ADJUDICATION**

### **UP. Cotton ginning and pressing Factories Act, 1949**

**Section 22:-** Compounding offences, etc :- (a) The DM may accept from any person whose licence is liable to be suspended, withdrawn or cancelled under this Act or who reasonably suspected of having committed an offence under this Act, a sum of money in lieu of such suspension, withdrawal of cancellation or by way of composition for the offence which may have been committed, as the case may be.

(b) On payment by such person of such sum to the DM he shall if in custody, be set at liberty and if the criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal.

### **Manual of Govt.orders, Labour Deptt.Chapter 112,Para 797**

DM/City Magistrate are the prescribed authorities under payment of wages act for adjudication of claims arising out of deductions in wages or delay in the payment of wages. The procedure for adjudication is contained in the payment of wages rules.

### **UP sales of motor Spirit, diesel, oil and alcohol taxation Act 1939.**

**SEC 13 POWER TO COMPOUND OFFENCE** (1) The DM may accept from any person who has committed an offence punishable under this Act or rules made there under by way of composition of such offence, a sum of money not exceeding one thousand rupees or a sum double the amount of tax payable under sec3 in respect of sales conducted by such person which ever is greater.

(2) on the payment of such sum of money to the DM, the accused person shall be discharged, the property siezed if any such person or property in respect to such offence.

### **UP OBJECTIONABLE ADVERTISEMENT CONTROL RULES 1952**

#### **RULE 8 POWERS TO COMPOUND OFFENCE UNDER SEC 11 OF THE ACT**

The DM may compound any offence punishable under the Act, provided (a) he is satisfied that the offence is not being repeated and there is no likelihood of it being repeated and (b) the party concerned pays such compounding charges not exceeding RS 200 as may be imposed by the DM.



## **DYING DECLARATION**

### **M.G.O. Home (Police) Department, Para 423**

Dying Declaration of a person in a hospital-The medical officer in-charge of the hospital should at once call the DM, or in his absence any senior magistrate present at the station, to arrange for the record of dying declaration of such persons as are likely to die and are in a fit state to make a statement. In case both are absent, a stipendiary magistrate should be called if possible, if there is no time to call them,

The Medical officer in-charge of an out lying dispensary should at once call on the Tahsildar, or in his absence, the nearest special Executive Magistrate or BDO, to record the dying declaration of such persons as are likely to die and are in a fit state to make a statement.

If there is, in his opinion, no time to call on the Tehsildar or Magistrate, he may himself record the dying declaration.

## DELEGATION OF POWERS/GENERAL POWERS/ SAVING CLAUSE

### **Criminal Procedure Code**

**Sec. 12 :** In section 12 of the said Code, after sub-section (3) the following sub-section shall be inserted, namely:

(4) Where the office of the Chief Judicial Magistrate is vacant or he is incapacitated by illness absence or otherwise for the performance of his duties, the seniormost among the Addl Chief Judicial Magistrates and other Judicial Magistrates present at the place, and in their absence, the District Magistrate and in his absence the senior- most Executive Magistrate shall dispose of the urgent work of the Chief Judicial Magistrate."

**Sec. 20 :** In section 20 of the said Code, after sub-section (5), the following sub-section shall be inserted, namely:

(6) The State Government may delegate its powers under sub-section (4) to the District Magistrate.

**Sec. 123 :** In sec 123 of the principal Act-- (i) In sub-sec (1) for the words 'the Chief Judicial Magistrate', the words and figures "the District Magistrate" in the case of an order passed by an Executive Magistrate under Sec 117, or the Chief Judicial Magistrate in any other case shall be substituted.

(ii) In sub-section (2), (5), (6), (7), and (9), for the words 'Chief Judicial Magistrate' wherever they occur, the words and figures 'District Magistrate, in the case of an order passed by an Executive Magistrate under Sec 117, or the Chief Ju 1 Magistrate in any other case' shall be substituted.

### **Town Areas Act**

**Sec. 35 :** If any committee refuses or omits to perform any prescribed duty, the prescribed authority or DM may perform such duty and, any assessment made or revised or any other thing done by the authority or DM in the exercise of the power conferred by this section may be enforced as if it has been made, revised or done by the committee.

**Sec. 36 :** The State Government may supersede the committee in case of persistent default or abuse of powers and all powers and duties of the committee, may during the period of supersession, be exercised and performed by the prescribed authority, or if none is so appointed, the DM.

**Sec. 38 :** The State Govt may by notification extend to all or any town areas, or to any part, of a town area any enactment for the time being in force in any municipality. So long as the extension is in force, the functions of the Municipal Board shall be

discharged by the prescribed authority or the DM or the committee if so empowered by the State Government.

### **The Unlawful Activities (Prevention) Act 1967**

**Sec. 16 : Bar of Jurisdiction:** Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Govt or the DM or any officer authorised in this behalf by either, shall be called in question in any court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**Sec. 18 : Protection of action taken in good faith:** (2) No suit, prosecution or other legal, proceeding shall be against the DM or any officer authorised in this behalf by the Government or the DM in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

### **The Code of Criminal Procedure**

**Sec. 6 : Classes of Criminal Courts-** Besides the High Courts and the Courts constituted under any other law, other than this Code, there shall be in every State, the following classes of criminal Courts, namely--Executive Magistrate.

#### **Sec. 22 : Local jurisdiction of Executive Magistrates-**

(1) Subject to the control of State Government, the District Magistrate may from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers under this Code.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every magistrate shall extend throughout the district.

**Sec. 23 : Subordination of Executive Magistrates-** (1) All Executive Magistrates except the Addl District Magistrate shall be subordinate to the District Magistrate, and every executive Magistrate (other than the Sub Divisional Magistrate) exercising powers in a sub division shall also be subordinate to the Sub Divisional Magistrate subject to the general consent of the District Magistrate.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the Distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

**Sec. 34 : Withdrawal of powers:** (2) Any powers conferred by the Chief Judicial Magistrate or District Magistrate may be withdrawn by the respective Magistrate, by whom such powers were conferred on any person.

**Sec. 35 : Powers of Judges and Magistrates exercisable by their successors-in-office -** (3) When there is any doubt as to who is the successor-in-office of any Magistrate as the case may be, shall determine this by order in writing.

**Sec. 132 : Protection against prosecution for acts done under previous section:** No prosecution shall be launched against any person for any act done u/s 129 or 130 in any Criminal Court except with the sanction of the State Government. No action of any Executive Magistrate done in good faith shall be questioned.

**Sec. 411 : Making over or withdrawal of cases by Executive Magistrate:** Any District Magistrate or Sub-Divisional Magistrate may make over for disposal any proceeding which has been started before him to a subordinate Magistrate or withdraw or recall any case which he has made over to any subordinate Magistrate and may decide the case himself or refer it to any other Magistrate.

#### **UP Zila Parishad (Conduct of Proceeding Rules) 1962**

**Sec. 8 : Arrangement of the list of Business (c) Reading of, and discussion on, a communication, if any, sent by the Commissioner or the District Magistrate as the case may be**

**Sec. 38 : Minute book and resolutions:** (2) Copies of every resolution passed by a Zilla Parishad at a meeting shall, within ten days from the date of the meeting, be forwarded to District Magistrate and to the commissioner of the division.

(4) When subsequent to action being taken in respect of any resolution under sub-rule (2), but before the minutes recording the resolution are confirmed as required by sub rule (3), any alternation is made in the wording of such minutes, the same shall be communicated to the DM and to the Commissioner of the Division.

**Sec. 39 : Right of Government servants, persons authorized by the State Govt and other persons to attend and take part in discussion:** (1) The District Magistrate of the district may attend any meeting of the Zilla Parishad or of any committee thereof, and address it on any subject with which the Zilla Parishad or the committee, as the case may be, is concerned.

#### **UP Security Prisoners Rules 1972**

**Rule 4:-(1) Classification of security prisoners into superior or ordinary class shall be in the discretion of the detaining authority.**

(2) Where the detaining authority is the District Magistrate, the DM of the district of residence of the security prisoner shall ordinarily make the classification, if the security prisoner is arrested in a district other than a district of his residence, or is transferred to another district without being classified, the classification shall be made by the DM of the district where the security prisoner for the time being detained.

#### **Manual of Govt. Order ,Personnel Deptt., Chapter 140,Para 1042**

The DM will record annual entries in respect of all district level officers(except those of police officers) connected with planning and development this will not be open to the reviewing or accepting officer to make any judgement to it. If more than one distt. falls within the jurisdiction of a district level officers. The entry of the DM

will be confined to the contribution of officer in the successful implementation of district plans, his general reputation for integrity and his behaviour with public. In the event of an adverse entry being given by the DM, a representation against it will be made to the commissioner on whose recommendation a decision will be taken by govt. in administrative department.

**Manual of Govt. orders, soldiers welfare department, chapter 147,Para 1173**

DM is the chairman of Zila Sainik Parishad.

**Inspection**

**Manual of Government Order,Home (Jail)Deptt. Chapter 82,Para 645**

It is the duty of DM to visit the district jail at least once a month and this duty must be performed by DM/ADM personally and may not be delegated to subordinate magistrate. Where SDM's are required to visit the district jail under the orders of Govt. those visits will be in addition to those made by the DM.

**Manual of Govt. Orders, Labour Deptt.,Chapter 111,112,Para 684,796**

The DM is an inspector for his district under the Factories Act for factories and other establishment. He is also an inspector for the purposes of payment of wages act in respect of all factories falling within his jurisdiction.

**Manual of Govt orders, Labour Deptt. chapter 114,Para 815**

The DM is an inspector for his district under the Maternity benefits Act.

**Manual of Govt. orders,Labour Deptt. Chapter 115,Para 821**

The DM is an inspector for his district under the contract Labour(Regulation and Abolition) Act.

**Manual of Govt. Order,Ferries,Chapter 104,Para 768.**

The DM is empowered to make rules, classify rivers and grant exemption from tolls/ in respect of ferries managed by distt.Board.

**Manual of Govt. Orders, petitions Deptt/Chapter 105,Para 772**

In every district,the DM will specify in consultation with the anti-corruption officer of the distt. a magistrate to receive on working days at fixed hours complaints against all classes of officials placed in the distt. Such officer will be known as the district complaint officer.

**Manual of Govt. orders, Planning Deptt/Chapter 109,Para 780**

All the DM's of districts falling in a division are member of divisional planning committee.

**Manual of Govt.Orders, Vigilance Deptt/Chapter 121,Para 839.**

A Distt.Anti Corruption committee was set up in each district in pursuance of

G.O. No. 5729/XXXIX(2) -12/1974 dated orctober 22,'77

DM-President.

SP-Member

3 non-officials nominated by Govt. Members.

This committee works after complains of corruption brought against public servants in a district.

**Manual of Govt. orders, National Integration Deptt./Chapter 123,Para 873**

A district integration committee should be set up in each district under the chairmanship of the DM. This committee will perform 2 important functions,namely-

- (1) to look after the matters relating to Harijans.
- (2) to prevent communal tension.

**Manual of Government Orders Power Deptt. para 678**

Any Support for transmission line (aerial) can be fixed on private premises if the DM by order in writng so directs and determines the amount of compensation, annual rent both of which should, in his opinion be paid to the owner or occupier.

**Manual of Govt. Orders, Food and Civil Supply Deptt. para 725**

The DM is the in-charge of rationing and supplies in his district and he is asisted by distt. Supply officer and other staff.

**Manual of Govt.Orders,orders, Panchayat Raj Deptt.Chapter 102,Para 762**

The DM will be ultimately responsible for all work connected with Panchayati Raj in his district and he shall discharge his responsibility through the ADM(Dev.)DDO's and Distt.Panchayati Raj officers.

**Manual of Govt. orders Revenue Department Chapter I**

The DM is responsible for the revenue admin, and maintenance of Law and order in his district. He is assisted by a no. of Deputy-Collector, Tehsildars, Naib Tahsildars, Kanungos and Lekhpals in discharge of his duties.

**Manual of Govt.Orders,Revenue DEptt.Chapter1,Para(2)**

For Consolidation of Land holdings, there exists a seperate organisation under Revenue Deptt. The hierarchy is like

Commissioner/Director of Consolidation-Joint Director of consolidation-Deputy Directors of Consolidation-

Settlement officers-consolidation officers-sulordinate staff.

DM is ex-officis deputy director of consolidation.

**Manual of Govt. rules/orders of public health deptt. para 304, 305, 306**

The Dm shall be directly responsible for the measures to be taken to deal with the epidemics.

**Manual of Govt orders, general Admin.Deptt. Chapter12,para116,Subpara (2)(3)**

DM's are required to maintain close personal touch with commanding officer of army within the district.

There are no restrictions either on the subject of correspondence,or on the

channel of communication between local military and civil authorities. DM can communicate with such Area commander. Brigade commander or commanding officer of nearest military station. DM's are required to inform the Commanding Officer of station of any political outrage, epidemic, any crime or any matter of serious public disorder. He will invariably supply the C.D. with a copy of fortnightly report required under section 950 of manual of govt orders.

**Manual of govt orders, general Admin Deptt. chapter 12, para 119, & 120.**

On receipt of information regarding "March of Troops" DM shall immediately inform the SP about no. of troops, places of their encampment and expected time of arrival.

DM shall also appoint a police or civil Liaison officer who will accompany the troops on the march. He shall also give him a copy of written instructions.

**Manual of Govt. orders, general Admin, Deptt. Chapter 12, Para 125**

If any well substantiated complaint is received by the DM against a commissioned officer of the Armed forces or a detachment of troops, he should immediately inform brigade commander. In case of naval and air-force personnel the information should be sent to naval or air head quarters.

**Manual of Govt. Orders, general Admin Deptt. Chapter 12, Para 144.**

The duties of DM in connection with manoveres are laid down in "The Manoveres, Field firing and Artillery Practice Act" They include the giving of suitable assistance in the choice of a suitable site and assessment and payment of compensation

**UP Exise Act, Section 10**

The Administration of Excise Department in any district unless the state Govt. otherwise directs, be under the charge of collector of that district.

DM's should give personal attention to the public news in the press regarding affairs concerned with their districts and maintain as close contact as possible with, press correspondents they should give immediate intimation to the correspondents concerned and a copy should at the same time be endorsed to the Information Directorate.

Any information demanded by Director, Information should be supplied to him without delay. Whenever an officer has occasion to contact representative of press with a view issuing a press communique, information should be given to the Director, Information accordingly.

**Manual of Govt. orders, Civil Defence Deptt, Chapter 94, Para 701 & 704**

The DM acts as the controller of civil defence at the district level. He discharges his duties with the assistance of a Deputy Controller, who is a senior officer of Up (PCS)

**M.G.O. General Administration Deptt. chapter II**

DM's other duties include enforcement of cinematograph rules, surprise

inspections by him or any other person to who he assigns this task.

## **UP Jail Manual**

### **Chapter 36**

**Sect. 951.:** DM is the Ex-officio visitor of any central prison in his District.

**Sect. 233.:** For central prisons, the DM within whose jurisdiction the person is located, is the chairman.

**Para 280(2)** If the DM is satisfied that the prisoners, education character and antecedent, the nature of the offence committed justify superior class treatment to the prisoner may either on his own motion or as a recommendation made by the court of session/Magistrate accord superior class-

(a) To a prisoner not covered by the following :

(1) Offence under chapter V-A VI. VII and VIII. Sections 161; Chapter XII, XV, XVI, XVII, XVIII and XXVI of the JPC.

(2) Offences under section 25, & 27 of the Arms Act, 1969;

(3) Offences under Prevention of corruption Act 1947.

(4) Offences under Unlawful Activities (Prevention) Act. 1967.

(5) Offences under Control of goondas Act, 1970.

(6) Offences under Prevention of food adulteration Act. 1954.

(7) Offences under abetment of any of the offences mentioned above.

(8) Offences under Sec 14, of the torcyers Act, 1946;

(9) Any other offences involving violence or moral turpitude.

(b) to a prisoner covered by the above, but in very exceptional cases.

### **Town Areas Act**

**Sec. 4 :** PA/DM may delegate his powers under this Act or rules made thereunder, other than his powers under section 39- A (power of DM to prohibit execution of orders by Town Area Committee) to any revenue officer above tehsildar, and may revise such orders at any time.

**Section 8(B)-** It is the duty of the TAC to render such assistance to the PA/DM as he may reasonably require in the discharge of his functions under this act.

### **SECTION 9 : POWER TO MAKE RULES :**

Subject to the rules made by the State Govt. the District Magistrate may make rules to provide generally against the outbreak or spread of fire, and particularly for the following purposes -

(I) providing for the safety of buildings and structures put up in the mela, and of articles brought into the mela.

(II) prescribing conditions subject to which huts and other structures may be constructed- including limits to the height of such huts or structures and the area on which they are to be built and distances between them

(iii) providing for the supply of sand and jars of water at each hut or elsewhere, and



(iv) restricting the use of fires, for cooking or for any other purposes.

Savings as to order - No order made in exercise of any power conferred by or under this Act shall be called in question in any court.

DM of every district any part of which is included in the special development area is an ex-officio member of Special Area Dev. Authority.

## **UP POLICE REGULATIONS**

**PARA 6.** The DM is the head of the criminal administration of the district, and in the capacity controls and directs the action of the police. He has special powers with reference to the allocation of village chowkidars in his district. He has department of village chowkidars ; his approval is, necessary to the transfer of inspectors and officers incharge of police stations (paragraph 524) and he may recommend rewards and entries in service and character roles (paragraph 296 of Police Manual). Such part of the suprentendents corrospondence with the Inspector General as relates to buildings, as concerns or affects the general administration of the district by the DM as the chief excutive officer, must pass through the office of the DM.

## **UP URBAN PLANNING AND DEVELOPMENT ACT 1973**

### **SEC 4 THE DEVELOPMENT AUTHORITY**

(3) The Authority in respect to a development area which includes the whole or any part of a city as defined in the UP Nagar Mahapalika adhiniyam 1959 shall consist of besides other members the DMs of ewvery district any part of which is included in the development area, ex - officers.

## **THE POLICE ( INCITEMENT TO DISSATISFACTION ) ACT, 1922**

### **SEC 5**

Sanction to trial of offences by subordinate courts. No corut shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaints of the District Magistrate.

## **THE UP COURSE BOOKS ACT, 1979**

### **SEC. 2 G**

Prescribed Authority means the DM and indicatēs any officer authroised by him in writing to perform any of his function under this Act.

## **PUBLIC DEBT RULES, 1946**

**RULE 22 (3)** On receipt of the application by the Bank. The Bank if it contemplates making a vesting order under the Act may, if it considers proper; request a Dm to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce.

**BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**

**SECTION 10 :**

**AUTHORITIES WHO MAY BE SPECIFIED FOR IMPLEMENTING THE PROVISIONS OF THIS ACT :**

The State Govt. may confer such powers and impose such duties on a DM as may be necessary to ensure that the provisions of this Act are properly carried out and the DM may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which powers or duties shall be carried out by the officer so specified.

**Section 13 :**

**vigilance committees :**

**(2) EACH VIGILANCE COMMITTEE CONSTITUTED FOR A DISTRICT SHALL CONSIST OF THE FOLLOWING MEMBERS FNAMELY :**

- (a) the DM or a person nominated by him, who shall be the Chairman
- (b) three persons belonging to the SC's and ST's and residing in the district, to be nominated by the DM
- (c) two social workers resident in the distrit, to be nominated by the DM
- (d) one person to represent the financial and crdit institutions in the district, to be nominated by the DM
- (e) each vigilance committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by
- (f) the DM in the case of a vigilance committee constituted for a district.

## **DISPERSAL OF UNLAWFUL ASSEMBLY**

### **THE CODE OF CRIMINAL PROCEDURE**

**Sec. 129 : Dispersal of assembly by use of civil force:** Any Executive Magistrate may command any unlawful assembly to disperse if it is likely to cause a disturbance of the public peace. If it does not disperse, he may proceed to disperse it by force and may require the assistance of any male person for the purpose. He may, if necessary arrest and confine persons who form part of the Assembly.

**Sec. 130 : Use of armed forces to disperse assembly:** If it cannot be otherwise dispersed, the Executive Magistrate of the highest rank who is present, may cause it to be dispersed by armed forces. Such Magistrate may arrest and confine persons forming part of the assembly.

## EXECUTION

### **Criminal Procedure Code**

#### **Sec. 78 :**

**Warrant forwarded for execution outside jurisdiction :**

When a warrant is to be executed outside the local jurisdiction of the Court issuing it, such court may forward it to the executive Magistrate/District Superintendent of Police/Commissioner of Police, within the local limits of whose jurisdiction it is to be executed and such officer shall endorse his name thereon and if possible, cause it to be executed.

#### **Sec. 79 :**

**Warrant directed to police officer for execution outside jurisdiction :**

(1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall additionally take it for endorsement either to an Executive Magistrate or to a Police Officer not below the rank of an Officer-in-charge of a Police Station in the local limits of whose jurisdiction the warrant is to be executed.

(2) The Magistrate or Police Officer shall endorse his name on the warrant and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same and the local police shall, if so required, assist such officer in executing the warrant.

#### **Sec. 80 :**

**Procedure on arrest of person against whom warrant issued :**

When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall unless the court issuing the warrant is within 30 km or nearer than the Executive Magistrate/Distt. Superintendent of Police/Commissioner of Police within whose jurisdiction the arrest was made or unless security is taken u/s 71, be taken before such Executive Magistrate/DSP/Comm. of Police.

#### **Sec. 81 :**

**Procedure by Magistrate before whom such person arrested is brought :**

(1) After ascertaining the identity of the person, the Executive

Magistrate/DSP/Comm. of Police shall direct his removal in custody to the Court which issued the warrant. Provided that the person may be released on bail or security if the circumstances so permit, and then Magistrate/DSP/Commissioner of Police, shall forward the bond to the Court which issued the warrant.

**Sec. 83 :**

**Attachment of property of person absconding :**

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made, and if the property is outside the district in which the Court is situated, the order must be endorsed by the District Magistrate within whose district such property is situated.

## INQUIRY/INVESTIGATION/INQUEST

### I      **The Criminal Law (Second Amendment) Act, 1983**

**Sec. 176 :** In Sec 176 of the Cr.P.C., in sub-section (1) for the words 'when any person dies while in the custody of the police', the words, brackets and figures when any person dies while in the custody of the police or when (i) the case involves suicide by a woman within seven years of her marriage, or,

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman shall be substituted.

**Sec, 148 :** Whenever a local inquiry is necessary for Sec 145, 146 or 147, a DM or SDM may depute a subordinate Magistrate to make the inquiry, with written instructions and may declare by whom the costs are to be paid. The report will be evidence.

### II      **The Indian Explosives Act 1884**

**Section 9:-Inquiry into Accidents:-** (1) Where any accident such as is referred to in section 8 occurs in or about or in connection with any place, carriage or vessel under the control of any of the Indian forces, an inquiry into the causes of the accident shall be held by the Naval, Military, or Air force authority concerned and where any such accident occurs in any other circumstances, the District Magistrate or in a presidency town, the Commissioner of Police shall in cases attended by loss of human life, or may, in any other case, hold or direct a Magistrate subordinate to him to hold, such an inquiry.

(2) Any person holding an inquiry under this section shall have all the powers of a Magistrate in holding an inquiry into an offence under the code of criminal procedure, 1898 and may exercise such of the powers conferred on any officer by rules under section 7 as he may think it necessary or expedient to exercise for the purposes of the inquiry.

**Section 9-A(2):-** Inquiry into more serious Accidents- Where the Central Government orders an inquiry under this section, it may also direct that any inquiry under section 9 pending at the time shall be discontinued.

(3) The person appointed to hold an inquiry under this section shall have all powers of a civil court under CPC 1908.

#### **Manual of Govt. Order, General Admin. Deptt, Chapter 12, Para 127**

In cases, where there is a reason to suspect that a civilian has been killed/wounded by a member of the armed forces, should be investigated by SP or a senior officer appointed by the DM.

Whenever a serious affray takes place between civilian and the armed forces personnel, the DM shall invariably either proceed himself to the place or at once depute the SP or other senior officers to investigate the matter on the spot at the earliest possible time.

**Sec. 161:-** Inquiries on a convict's death: When a convict dies in the course of transfer from one jail to another, the DM, of dist in which the death occurs, is required to make inquiries into the circumstances resulting the convit's death. On receiving information, the DM shall make investigation into circumstances of the escape and send a reoprt to IG with his recommendations. He shall forward a copy of the report to the govt in the Home Deptt(Jail).

**SECTION 159.**

When a prisoner dies in the course of transfer from one district to another, the Magistrate of the district to which the prisoner was being tranferred is required to make enquiries into the circumstances attending the death.

## LICENCE/ALLOTMENT

### The UP Dookan And Vanijya Adhiniyam 1962 with rules 1963

#### **Rule 22 (1) :-**

Whenever the Collector is satisfied in respect of a shop that it deals exclusively or mainly in the material needed for burial, funeral and cremation purposes, he shall issue a notification in form "J" in respect of the shop.

(2) The notification shall be published by-

- (a) delivering a copy thereof to the employer of the shop and another to the Inspector concerned; and
- (b) being displayed on the notice board of the office of the Collector.

(3) A notification under sub rule (1) may for reasons to be rewarded, be cancelled by the Collector after allowing the employer of the shop an opportunity to show cause against the proposed cancellation.

#### **Section 15:- Saving of Indian Arms Act, 1878:-**

Nothing in this act shall affect the provisions of the Indian Arms Act provided that an authority granting a licence under this Act may direct by an order written on the licence that it shall have the effect of a like licence granted under the said Indian Arms Act.

### The Cinematograph Act 1952

**Section 11:- Licensing authority :-** The authority having power to grant licenses under this part shall be the District Magistrate provided that the State Government may, by notification in the official Gazette, constitute, for the whole or any part of a (Union territory) such other authority as it may specify in the notification to be the licensing authority.

**Section 13:- Power of Central Government or local authority to suspend exhibition of films in certain cases--**(1) The lieutenant-Governor, or, as the case may be, the chief commissioner, in respect of the whole or any part of a Union Territory and the District Magistrate in respect of the district within his jurisdiction may, if he is of opinion that any film which is being publicly exhibited is likely to cause a breach of peace, by order, suspend the exhibition of the film and during such suspension, the film shall be deemed to be an uncertified film in the State, part, of district as the case may be.



(2) Where an order under sub section (1) has been issued by the chief commissioner or a district magistrate, as the case may be, a copy thereof together with a statement of reasons thereof, shall forthwith be forwarded by the person making the same to the Central Government, and the Central Government shall either confirm or discharge the order.

(3) An order made under this section shall remain in force for a period of 2 months from the date thereof, but the Central Government may, if it is of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as it thinks fit.

**Section 15:- Power to revoke licence:-** Where the holder of a licence has been convicted of an offence under section 7 or section 14 the licence may be revoked by the licensing authority.

#### **U.P. Cotton ginning and pressing Factories Rules, 1964**

**Rule 7:-** Authority by whom, the form in which, the conditions subject to which and the fee on payment of which, a licence may be granted under sub-section (1) of Section 4 of the Act(1). The Deputy Director of Agriculture (Cotton), Uttar Pradesh, Lucknow, shall grant licences in the forms given in Schedule H or I, as the case may be, for cotton ginning and cotton pressing factories, subject to fulfilment of the conditions and rules given hereunder :

(a) An application for the grant of a licence shall be made by the owner of a cotton ginning or pressing factory as the case may be, in the prescribed form in Schedule 'G' which can be obtained from the offices of the District Magistrates or of the Deputy Director of Agriculture (Cotton), Uttar Pradesh, Lucknow, on payment of rupee one for each form.

Note--Cost of application form for licence shall be credited in 'XXV-A-Agriculture Agricultural Receipts--(d) Other Receipts-Agriculture- Miscellaneous'.

(b) Application shall be made to the Deputy Director of Agriculture (Cotton), Uttar Pradesh, through the District Magistrate.

(c) In forwarding the application, the District Magistrate shall ascertain and report (i) whether there is a need of a ginning/pressing factory in the locality and (ii) whether the particulars given in the application form are correct.

#### **Arms Act-**

##### **Section 13. Grant of Licences--**

(1) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.

(2) On receipt of an application, the licensing authority, after making such inquiry, if any as it may consider necessary, shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same.

(3) The licensing authority shall grant--

(a) a licence under section 3 where the licence is required--

(i) by a citizen of India in respect of a smooth-bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a

muzzle-loading gun to be used for bona fide crop protection :

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle-loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or

(ii) in respect of a point 22 bore rifle or an air-rifle to be used for target practice by a member of a club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10, or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.

State of U. P. v. Jaswant Singh. AIR 1968 All 383, DB : 1968 All WR (HC) 404 :  
1968 All Cri R 258 : 1968 All Lj 1029.

**Section 15. Duration and renewal of licence--**(1) A licence under section 3 shall, unless revoked earlier, continue in force for a period of three years from the date on which it is granted :

Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period.

(2) A licence under any other provision of Chapter II shall, unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(3) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from time to time, and the provisions of section 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.

**Section 16. Fees, etc for licence--**The fees on payment of which the conditions subject to which, and the form in which, a licence shall be granted or renewed shall be as may be prescribed. :

Provided that different fees, different conditions and different forms may be prescribed for different types of licences :

Provided that a licence may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

#### **UP Excise Act**

**Sec.16:-**Passes for import, export or transport of intoxicants may be granted by the collector.

**Sec.11:-**Manufacture of intoxicants prohibited except under the authority and subject to the terms & conditions of a licence granted in that behalf by the collector.

**Sec.20:(1)** No person not being licensed to manufacture, cultivate, collect or sell any intoxicant shall have in his possession any quantity of any intoxicant in excess of such quantity as the State Govt. has declared to be the limit of sale by retail except under a permit granted by the collector in that behalf.

(3) license order shall not have in his possession at any place other than that authorised by his licence, any quantity of any (intoxicant) in excess of such quantity as the state govt has declared to be the limit of sale by retail,except under permit granted by the collector in that behalf.

**Sec.39:- Recovery of excise revenue:**

**Sec.42:Manufacture of Tari:**

In local areas where the State Govt.so notified-

- (a) No tari producing tree shall be tapped,
- (b) No tari shall be drawn from any tree.

Except under the authority and subject to the terms & condition of a licence granted in that behalf by the collector.

### **SARAIS ACT 1887**

**Sec. 3 :**

Within 6 months after this Act shall come into operation, the Magistrate of the District in which any sarai to which this Act shall apply may be situated shall, and from time to time thereafter such magistrae may, give to the keeper of every such sarai notice in writing of this Act by leaving such notice for the keeper in the sarai and shall by such notice require the keeper to register the sarai as by this Act provided. Such notice may be in the form inschedule to the Act annexed.

**Sec. 4 :**

**Registers of sarais to be kept-**

The Magistrate of the district shall keep a register in which shall be entered by such magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all sarais within his jurisdiction, and the situation of every such sarai.

**Sec. 6.**

Magistrate may refuse to register keeper not producing certificate of character :

The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a sarai a person who does not produce a certificate of character in such form and signed by such person as the (State Govt.) shall from time to time direct.

- (a) Substituted for the words Provincial Govt. by ALD 1950 (26.1.1950).

**THE UNITED PROVINCES MELAS ACT, 1938**

**SECTION 7 :**

**POWER TO LICENCE**

The DM may, by rule, prescribe fees on payment of which and conditions subject to which any person or class of persons may be licensed to ply any profession, trade or calling in the meal area.

## **PROHIBITORY ORDERS/POWERS TO ISSUE DIRECTIONS**

**Sec. 144 : Power to issue order in urgent cases of nuisance or apprehended danger:**

(1) In cases where, in the opinion of a DM, a SDM or any other EM especially empowered by the State Govt on the behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by Sec 134, direct any person to abstain from a certain act or take certain order with respect to certain property in his possession or under his Management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot or an affray.

(2) In cases of emergency, an order can be served ex-parte.

(3) An order may be directed to a particular individual, or to persons or a particular place or area, or to the public frequenting a particular area.

(4) No order under Sec 144 shall remain in force for more than 2 months from the making thereof:

Provided that, if State Govt considers it necessary, it may by notification, direct that an order made by a Magistrate under Sec 144 shall remain in force for such further period not exceeding 6 months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Govt may, either on its own or on the application of any person aggrieved, rescind or alter any order made by it.

(7) Where an application under Sub Sec (5) or (6) is received, the Magistrate or the State Govt as the case may be shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and of the Magistrate rejects the application-wholly, or in part, he shall

record in writing the reasons for so doing.

#### **The U.P. Agriculture Diseases and Pests Act 1954**

**Section 3. Declaration by the State Government--**Where it appears to the State Government that any disease, pest, parasite or weed is injurious to plants in any area and that it is necessary to take measures to eradicate such disease, parasite, pest or weed or to prevent its introduction, spread or reappearance, the State Government may by order publish in the official Gazette, declare the area to be an affected area for such period as may be specified, and with reference to such area, also--

(a) declare any disease, parasite, pest or weed to be a plant disease, parasite, pest or noxious weed for purposes of this Act;

(b) prohibit or restrict the movement or removal of any plant, soil or manure from one place to another;

(c) direct that such preventive or remedial measures shall be carried out as the District Magistrate may consider necessary to eradicate, destroy or prevent the introduction, spread and re-appearance of any noxious weed, parasite, pest, plant, or plant disease; and

(d) prohibit the plantation or growing of any plant, within such areas as may be specified, which is likely to be injurious to the other crop in the area so specified.

**Section 4. Power to issue directions--**(1) On or after the issue of a notification under section 3, the District Magistrate, may by notice--

(i) direct every occupier within the affected area to carry out such preventive or remedial measures as the District Magistrate may specify in the notice, to eradicate, destroy or prevent the introduction, spread, or re-appearance of any parasite, noxious weeds, pest, plant or plant disease; and

(ii) call upon any male person, not being below the age of 18 years and residing within the said area, to render such assistance in carrying out the measures referred to in clause (i):

Provided that no person who is by reason of old age, physical disability or any other reasonable cause, incapable of rendering assistance or who lives at a distance of more than 5 miles from the place where his presence is required shall be called upon to render such assistance;

(iii) specify the area within which and the period during which the measures specified in clause (i) are to be carried out.

(2) It shall not be necessary to notify every occupier under clause (1) of sub-section (1) or other person whose assistance is required under clause (ii) of the said sub-section and a proclamation in this behalf made by beat of drum or other customary mode in the area, village or locality shall be deemed sufficient notice to all affected persons residing in that area, village or locality.

#### **U.P. Nagar Mahapalika Adhiniyam 1959**

-Whenever it appears to the DM to be necessary for the preservation of public place in order, he may, subject to the control of the Prescribed authority, prohibit or regulate, by public notice the slaughter within the limits of the city, of animals or animals of any specified description for purposes other than sale and prescribe the mode and route by which such animals shall be brought and meat shall be conveyed from the place of slaughter.

#### **The U.P. Course Books Act 1979**

##### **SEC 4 ( TO BE READ WITH SEC 2 (G)**

(1) Where the Prescribed Authority has reason to believe that any dealer has stored or continued to store or acquired for storage, whether on his own account or an account of or in partnership with another person, any course books, the prescribed Authority may, by order, require him to sell at the notified price the whole or a specified part of such stock to the state Govt. or to such person or class of persons and in such manner and with such time or it may satisfy in this behalf.

(2) When any person against whose an order is passed under subsection (1) fails to comply with it, the Prescribed Authority may take, or cause to be taken such stock of course books or part thereof, as the case may be, in its custody, and may deliver or cause to be delivered such stock or part thereof to the State Govt. or such person or class of persons as may have been specified in the order, and may cause to be paid to the dealer the notified price thereof.

##### **Sec (6) To be read with Sec 2 (g)**

The prescribed Authority may with a view to securing compliance with this Act or to satisfying it self that this Act has been complied with :

(a) require any person to make any statement or to furnish any information or

statistics.

(b) require any person believed to be dealer to maintain and produce for inspection such books, "accounts and records relating to his business or to the stock of course books under his custody or control as may be specified.

(c) require any dealer or any person employed by a dealer to produce such books, accounts and other documents relating to the stock of course books under his custody or control as may be specified.

(d) examine and seize any books, accounts or other documents which in the opinion of such officer would be useful for, or relevant to any proceedings in respect of any contravention of this Act and return such books, accounts and other documents to the person from whom they were seized after copies thereof of extracts there from, certified under his hand, have been taken, or,

(3) Search any premises, vehicle and prepare an inventory of any course books found therein, or seize any course books in respect of which he has reason to believe that a contravention of this Act has been, is being or is about to be, committed and thereafter take or authorise the taking of all measures necessary for procuring the production of stock so seized in court and for its safe custody pending such production.

#### **U.P. Excise Act**

**Sec. 58 :** Power to close shops for sake of public peace :

The DM by notice in writing to the licencees may require that any SHOP in which any intoxicant is sold shall be closed at such times or for such period as he may think necessary for the preservation of public peace.

#### **U.P. Accommodation and Requisition Act**

**10. Power to order repairs.** (1) Where the DM requisitions any accommodation under this Act, he may at any time by notice in writing order the owner to execute such repairs, and within such time, as may be specified in the notice.

(2) The owner shall not ordinarily be required to execute repairs at a cost exceeding one month's letting value of the accommodation in a year. If in the opinion of the DM the accommodation needs any special repairs and the aggregate cost of all repairs is in any year likely to exceed one month's letting value of the accommodation and the owner does not agree to carry out such repairs, the DM may refer the matter to the Court which shall make such order and on such terms including those relating



to payment of compensation, as it may consider necessary.

**11. Execution of order in case of non-compliance-** (i) if any person fails to comply with any order made under Sec 3 the court shall, on the application of the DM execute the order as if it were a decree passed by the court.

**12. Power of entry and inspection-** The DM or any person authorised by him in this behalf may, after giving reasonable notice, enter any premises and inspect such premises or any property thereon for the purpose of determining whether an order under Sec 3 may be made.

**Sec. 15.** No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the DM.

#### **Sarais Act 1887**

**9. Power to shut up, secure, clear and clean deserted sarais-**

If any sarai by reason of abandonment or of disputed ownership remain untenanted, and there by become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner or to the person claiming to be the owner, if he be known and resident within the district, and may also cause such notice to be put on some conspicuous part of the sarai, requiring the persons concerned therein, whoever they may be, to secure, enclose clean or clear the same and if such requisition shall not be complied with within eight days, the Magistrate of the district may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the sarai, and shall be recoverable like penalties under this Act, or in case of abandonment or disputed ownership of the sarai, by the sale of any material found therein.

**10. Taking down or repairing ruinous sarais-**

If a sarai or any part thereof be deemed by the Magistrate of the district to be in a ruinous state, or likely to fall or in any way dangerous to the persons or animals lodging in or halting at the sarai, he shall give notice in writing to the keeper of the sarai, requiring him forthwith to take down, repair or secure (as the case may be) the sarai or such part thereof as the case may require.

If the keeper do not begin to take down, repair or secure the sarai or such part as aforesaid within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the sarai as he shall think

necessary to be taken down, repaired or otherwise secured.

**11. Sale of materials of ruinous sarais-**

If any such sarai or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provision of the last preceding section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such sarai on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

**14. Penalty for infringing Act or regulations-**

If the keeper of a sarai offend against any of the provisions of this Act or any of the regulations made in pursuance of the Act, he shall for every such offence liable on conviction before any Magistrate of a penalty not exceeding twenty rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues:

Provided always that this act shall not exempt any person from any penalty or other liability to which he may be subject, irrespective of this Act.

All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under section 61 of the Code of Criminal Procedure.

**15. Convictin for third offence' to disqualify person from keeping sarais-** where a keeper of a sarai is convicted of athird offence under this Act, he shall not afterwards act as a keeper of a sarai without the licence in writing of the Magistrate of the district, who may either withhold such licence or grant the same on such terms and conditions as he may think fit.

**Locusts Destruction Act 1951**

**SEC 3**

**MEASURES FOR DESTRUCTION**

Whenever it appears to the DM that any area in his district is being invaded or is in danger of an invasion, by locusts, he may -

(i) direct every occupier within any area in the district to carry out such measures as the DM may deem fit in order to eradicate and destroy the locusts and to prevent their spread or reappearance :

(ii) call upon any male person not below the age of 18 years resident of the area to render all possible assistance in the destruction of locusts under clause

(iii) specify the area within which and the period during which the measures specified in clause (i) are to be carried out.

### **UP Police Regulations**

**Para II-** In most places where religious processions and public ceremonies such as the Moharram are persitted, the route and the procedure to be followed are fixed by custom of long standing and have been prescribed by competent authority. In such cases it is the duty of the police to see that order is kept, and that deviations are made from the route and procedure hither to followed on prescribed.

In special cases not provided for by established custom or existing orders, the police should apply for and follow the instructions of the DM on in his absence, of the sub divisional or other magistrate empowered to pass an order under section 144 CRPC.

### **VACCINATION ACT, 1880**

#### **SECTION 18 :**

Order by Magistrate when notice not complied with :

If such notice is not complied with, the Supdt. of Vaccination shall report the matter to the Magistrate of the District, or such Magistrate as the State Govt. or the Magistrate of the District from time to time appoint in this behalf : and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order

#### **SECTION 19 :**

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and unless cause or excuse is shown, shall deal with the disobedience as an offence punishable under Section 22.

### **The Naik Girls Protection Act 1929**

**SECTION 4 A :**

**CONSEQUENCES OF PROCEEDINGS UNDER SECTION 3 OR SECTION 4 :**

(b) The DM may permit the manager of the settlement of which such minor girl is sent for detention, or the person under whose guardianship she may be, or has been placed in accordance with the provisions of section 4, to arrange for and solemnize her marriage with a person of the same faith; and

(c) The DM may from time to time pass orders regulation the conduct or proceedings of the manager or the guardian as aforesaid, and may remove any such girl from the custody of any such guardian or manager and send her to any other settlement or place her in the custody of any other guardian.

**SECTION 4 B :**

**FINALITY OF DM'S ORDERS :**

All orders passed by the DM in accordance with the provisions of this Act or the rules made thereunder shall be final and not subject to appeal or revision in any court and shall not be liable to be questioned in any civil court.

**The Dramatic Performance Act 1876**

**SECTION 3 :**

**POWER TO PROHIBIT CERTAIN DRAMATIC PERFORMANCE :**

Whenever the State Govt. is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is

- a. of scandalous or defamatory nature or
- b. likely to excite feelings of disaffection to the Govt. established by law in India, or
- c. likely to deprave and corrupt persons present at the performance.

The state gov. or outside the presidency towns the state gov. or such magistrates as sit may empower in this behalf, may by order prohibit the performance.

**SECTION 4 :**

**THE POWER TO SERVE ORDER TO PROHIBITION :**

Penalty for disobeying order :

A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room or place is

which such performance is intended to take place; and any person on whom such order is served, and who does, or willingly permits, any act in disobedience to such order, shall be punished on conviction before a Magistrate with imprisonment of a term which may extend to three months or with fine or both.

#### SECTION 8 :

Power to grant warrant to police to enter and arrest and seize : If any magistrate has reason to believe that any house room or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be required, by night or by day, and by force, if necessary, any such house, room or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses and other articles found therein and reasonably suspected to have been used, or to be intended to be used, or the purpose of such performance.

#### UP FLOOD EMERGENCY POWERS (EVALUATION AND REQUISITION) ACT 1951

#### SECTION 3

(1) The DM may, if it appears necessary for the purpose of protecting life and property from the danger caused or threatened by flood, by order, direct that, subject to any exemptions made by general order on special permission, all persons or any class of persons in any area to be specified shall remove themselves or be removed from or to any specified part thereof and may do any other act which is necessary for this purpose.

(2) Any order made under subsection (i) for the removal of persons may specify

(a) the route or routes by which all or any class of persons are to remove themselves or be removed from the specified area

(b) the time or times by which they are to remove themselves or be removed from the specified area;

(c) the place or places to which they are to proceed or be taken, or removing themselves or being removed from the specified area; and may make such other incidental or supplementary provisions as may appear necessary or expedient for the purposes of the said order.

**Section 3-A**

Power to divert flow or remove obstruction.

(1) Whenever the DM of the opinion that for the purpose of preventing an imminent danger to life or serious damage to property, caused :

- (i) to direct the flow of the flooded water; or
- (ii) to remove wholly or in part any wall, embankment or any other object causing obstruction to the flow of such water in any direction;

He may make such order, as he thinks necessary, for diverting the flow of such water or for the removal of such wall, embankment or object, as the case may be.

(2) An order made by the DM under sub section 1 shall be executed by such agency and in such manner as may be specified in the order.

**Section 4**

Accommodation of evacuated persons.

The DM may, for the purpose of accomodating any persons who have left or have been removed from their houses in accordance with any order made under section 3, take possession of any premises other than-

- (a) premises used for the purpose of religious worship;
- or
- (b) a private dwelling house in use as such.

## PUNISHMENT/PENALTY/EXEMPTION

### **The Prevention of Seditious Meetings Act 1911**

**Sec. 6 : Penalties:** (1) Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area contrary to the provisions of Sec 4 shall be punished with imprisonment for a term which may extend to six months, or with fine or with both.

(2) Any public meeting which has been prohibited u/s 5 shall be deemed to be an unlawful assembly within the meaning of Ch VIII of the IPC and of Ch IX of the CrPC.

**Sec. 7 : Penalty for delivery of speeches in public places:** Whenever, in a proclaimed area in a public place or a place of public resort, otherwise than at a public meeting held in accordance with, or exempted from, the provisions of Sec 4 without the permission in writing of the DM or the Commissioner of Police as the case may be, previously obtained, delivers any lecture, address or speech on any subject likely to cause public excitement or disturbance to persons then present, may be arrested without warrant and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

### **The Cinematograph Act 1951**

**Section 7: Penalties for contraventions of this part:-**

(1) If any person--

(a) exhibits or permits to exhibit in any place-

(i) any film other than a film which has been certified by the Board as suitable for unrestricted public exhibition or for public exhibition restricted to adults or to members of any profession or any class of persons and which, when exhibited, displays the prescribed rank of the Board and has not been altered or tampered with in any way since such mark was affixed thereto.

(ii) any film, which has been certified by the Board as suitable for public exhibition restricted to adults, to any person who is not an adult.

(iia) any film which has been certified by the Board as suitable for public exhibition restricted to any profession or class of persons, to a person who is not a member of such profession or who is not a member of such class, or

(aa) exports or attempts to export any film which is not certified by the Board as a film fit for exhibition outside India or

(b) without lawful authority (the burden of proof shall be on him) alters or tampers within anyway any film after it has been certified, or

(c) fails to comply with the provision contained in section 6-A or with any order of the Central Government or by the Board in the exercise of any of the powers punishable conferred on it by this Act or the rules made thereunder, he shall be imprisoned for a term which may extend to two years, or with fine

which may extend to 20,000 rupees, or with both, and in the case of continuing offence with a further fine which may extend to 5,000 rupees for each day during which the offence committed.

Provided that notwithstanding anything contained in section 29 of the CrPC, it shall be lawful for any metropolitan magistrate, or any judicial magistrate of the first class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding 5,000. As on any person convicted of any offence punishable under this act:

Provided further that no distributor or exhibitor or owner or employee of a cinema house shall be liable to punishment for contravention of any condition or enforcement of caution on a film certified as "UA"-- under this act.

(2) If any person is convicted of an offence punishable under this section committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to the Government.

(3) The exhibition of a film, in respect of which an "A" certificate or a "S" certificate or a "UA" certificate has been granted, to children below the age of 3 years accompanying their parents or guardians shall not be deemed to be an offence within which the section means.

### **Security of Prisoners Act**

**Rule 56:- Punishments:-** (a) The superintendent may inflict on a security prisoner any of the punishments that he may award to a convicted prisoner for any offence specified in section 45 of the Prisoners Act 1894, read with para 806 of U.P. Jail Manual.

Provided that a security prisoner shall in no circumstances be punished with whipping.

(b) If any security prisoner is guilty of any offence against prison discipline which, by reason of his having frequently committed such offences or otherwise in the opinion of the superintendent, is not adequately punishable by infliction of any punishment which he has power under rule (a) of this rule to award to a security prisoner, the superintendent may forward such prisoner to the court of DM or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances and such Magistrate shall thereupon enquire into and try the charge so brought against the prisoner, and upon conviction may sentence him to imprisonment which may extend to one year.

Provided that where the act constituting the offence punishable under IPC with imprisonment for a term exceeding one year, nothing in this rule shall preclude the security prisoner from being tried and sentenced for such latter offence.,

Provided also that any such case may be transferred for inquiry and trial by the DM to any Magistrate of the first class having jurisdiction and provided further that no security prisoner shall be punished twice for the same offence.



## Goondas Act

3. Externment, etc. of Goondas -- Where it appears to the District Magistrate-

(a) that any person is a Goonda and

(b) (i) that his movements or acts in the district or any part thereof are causing, or are calculated to cause alarm, danger or harm to persons or property; or

(ii) that there are reasonable grounds for believing that he is engaged or about to engage, in the district or any part thereof, in the commission of any offence punishable under Chapter XVI, Chapter XVII, or Chapter XXII of the Indian Penal Code, or under the Suppression of Immoral Traffic in Women and Girls Act, 1956, or under the U.P. Excise Act, 1910, or in the abetment of any such offence ; and

(c) that witnesses are not willing to come forward to give evidence against him by reason of apprehension on their part as regards the safety of their person or property-

The District Magistrate shall by notice in writing inform him of the general nature of the material allegations against him in respect of clause (a), (b) and (c) and give him a reasonable opportunity of tendering an explanation regarding them.

(2) The person against whom an order under this section is proposed to be made shall have the right to consult and be defended by a counsel of his choice and shall be given a reasonable opportunity of examining himself, if he so desires, and also of examining any other witnesses that he may wish to produce in support of his explanation, unless for reasons to be recorded in writing the District Magistrate is of opinion that the request is made for the purpose of delay.

(3) Thereupon the District Magistrate on being satisfied that the conditions specified in clauses (a), (b) and (c) of sub-section (1) exist may by order in writing--

(a) direct him to remove himself outside the district or part, as the case may, by such route, if any, and within such time as may be specified in the order, and to desist from entering the district or the specified part thereof until the expiry of such period not exceeding six months as may be specified in the order;

(b) (i) require such person to notify his movements or to report himself, or to do both, in such manner, at such time and to such authority or person as may be specified in the order;

(ii) prohibit or restrict possession or use by him of any such article as may be specified in the order;

(iii) direct him otherwise to conduct himself in such manner as may be specified in the order, until the expiry of such period not exceeding six months as may be specified in the order.

4. Permission to return temporarily.-- The District Magistrate may, by an order, permit any person in respect of whom an order has been made under clause (a) of sub-section (3) of Section 3 to enter or return, for a temporary period, into or to the area from which he was directed to remove himself, subject to such conditions as the District Magistrate may specify and may at any time rescind any such permission.

5. Extension of period of order.---- The District Magistrate may after giving, except where for reasons to be recorded in writing he is satisfied that it is impracticable so to do, to the person concerned an opportunity of making a

representation in that behalf, extend from time to time in the interest of the general public the period specified in the order made under section 3, but the period so extended shall in no case exceed two years in the aggregate.

7. Recognizance for certain purposes.---(1) The District Magistrate or the Commissioner may for the purpose of-

(a) securing the attendance of any person against whom an order is proposed to be made under section 3, or has been made but its operation has been stayed under Section 6; or

(b) securing the due observance of any direction; requirement, prohibition, restriction or condition specified in an order made in respect of any person under Section 3, Section 4, Section 5 or Section 6,--

require such person to enter into a bond, with or without sureties and the provisions of the Code of Criminal Procedure, 1898 shall mutatis mutandis apply in relation to such bond as they apply in relation to bonds executed or required to be executed under the said Code.

(2) In particular and without prejudice to the generality of the foregoing provisions-

(a) the District Magistrate while issuing notice to any person under sub-section (1) of Section 3 may issue a warrant for his arrest with endorsement thereon of direction in terms of the provisions of Section 76 of the said Code and the provisions of Section 75 to 92 of the said Code shall, so far as may be, apply in relation to such warrant as if the District Magistrate were a Court;

(b) if any person who is required to execute a bond for the observance of any direction, requirement, prohibition, restriction or condition fails to do so, he shall be committed to prison, or if he is already in prison, be detained in prison until the period for which the direction, requirement, prohibition, restriction or condition is to operate or until within such period he executes the bond with or without sureties, as the case may be, in terms of the order, and the provisions of Section 120 to 122, 123-A, 124, 126 and 126-A of the said Code shall mutatis mutandis apply as if the District Magistrate or the Commissioner were a court;

8. Nature of evidence.---The District Magistrate or the Commissioner may for the purpose of satisfying himself as to whether the conditions necessary for the making or confirmation of an order under Section 3 or Section 5 exist or not, take into consideration any evidence which he considers to have probative value and the provisions of the Indian Evidence Act, 1872, shall not apply.

Power to consider matter of probative value under Section 8 r/w Rule 23.  
See Rule 23.

Raja Sukhanandan v. State, AIR 1972 All 498: 1972 AWR.: 1972 ALJ 537: 1972 All. Cr. R 211.

9. Rescission of order .----The District Magistrate or the Commissioner may at any time rescind an order made under section 3, whether or not such order was confirmed in appeal under Section 6.

10. Punishment for contravention of orders under Section 3 to 6.-- Whoever contravenes any order made under Section 3, Section 4, Section 5 or Section 6 shall be punishable with rigorous imprisonment for a term which may extend to three years but shall not be less than six months, and shall also be liable to fine.

11. Forcible removal of externed Goonda re-entering, etc., in contravention of order,---(1) Where, after an order is made against a person under Section 3, Section 4, Section 5 or Section 6 such person-

(a) has failed to remove himself from the district or part as directed by the order ;  
or

(b) has re-entered the area, from which he was ordered to remove himself during the period of operation of that order,- the District Magistrate may cause him to be arrested and removed in police custody to such place outside the area specified in the said order as he may direct;

(2) Any police officer may arrest without warrant any person reasonably suspected of an act or omission specified in sub-section (1), and shall forthwith forward the person so arrested to the nearest Magistrate who shall cause him to be forwarded to the District Magistrate, who may thereupon cause the person to be removed in police custody to such place outside the area specified in the said order as he may direct.

(3) The provisions of this section are in addition to and not in derogation of the provisions of Section 10.

12. Cognizance of offence.-- No Magistrate shall take cognizance of an offence punishable under Section 10, except--

(a) upon a report in writing of the facts constituting such offence made by a police officer or

(b) upon information received from any person other than a police officer, or upon his own knowledge or suspicion, that such offence has been committed.

13. Savings as to orders.-- No order made in exercise of any power conferred by or under this Act shall be called in question in any court.

## **SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT**

### **SEC 7 PROSTITUTION IN OR IN THE VICINITY OF PUBLIC PLACES -**

Any woman or girl who comes on prostitution, and the person with whom such prostitution is committed on, in any premises which are within a distance of two hundred yards of any place of public religious place, educational institution, hostel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the commissioner of police or District Magistrate, in the manner prescribed shall be punishable with imprisonment for a term which may extend to three months.

**THE UP AGRICULTURAL DISEASES AND PESTS ACT 1954**

**SECTION 9 :**

Failure to carryout directions or render assistance :

(1) The DM may, if after hearing the objection of the person concerned, is satisfied that -

(a) an occupier failed to comply with any directions issued under section 4, or  
 (b) any person failed to render assistance required of him under section 4, order such occupier or person to pay a penalty upto Rs 50/-.

(2) The order requiring payment of penalty under sub section (1) shall be final and conclusive and shall not be questioned in any court.

(3) The penalty under sub section (1) shall be recoverable as arrears of land revenue.

**REMAND**

**Cr.P.C.**

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the officer in-charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector may where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate on when the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary herein after prescribed relating to the case, and shall at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and where an order for such further detention is made, the period during which the accused person was detained in custody under the orders by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate, the records of the case together with a copy of the entries in the diary relating to the case which was transferred to him by the officer in charge of the police station or the police officer making the investigation as the case may be.

## REMOVAL

### UP Town Area Act

**Sec. 7A : Removal of a Chairman or a Member of a committee :** (1) The prescribed authority, or, where an authority has not been prescribed, the District Magistrate may remove a Chairman or any member of the committee, who, in its or his opinion--

- (a) has been guilty of gross misconduct or failure in the discharge of his duties or,
- (b) has failed to pay for a period of more than one year any taxes or any other dues payable by him to the committee, or,
- (c) has become disqualified for being a member under section 6-k.

Provided that before making such an order the person shall be allowed an opportunity to submit his explanation on the charge or charges against him. No order for removal shall take effect unless it is confirmed by the State Govt.

### Cr.P.C.

**Sec. 133 : Conditional order for removal of nuisance:** Any District Magistrate, Sub-Divisional Magistrate or Executive Magistrate specially empowered by the State Government may make a conditional order to any person requiring a person causing obstruction or public nuisance to remove it, or if he objects, to appear before himself or any subordinate Executive Magistrate and show cause why the order should not be made absolute. No such order shall be questioned in any Civil Court.

**Sec. 137 : Procedure where existence of public right is denied:** If a person denies public right, the Magistrate shall make an enquiry. If he finds that there is evidence in support of the denial he shall stay the proceedings until the matter is decided by a competent court, and if he finds that there is no such evidence, he shall proceed u/s 138.

**Sec. 138 : Procedure where he appears to show cause:** When the person appears the Magistrate shall take evidence and if he is satisfied that the order is reasonable, he shall make it absolute, with or without modifications, and if he is not satisfied, no further proceedings will be taken.

**Sec. 139 : Power of Magistrate to direct local investigation and examination of an expert:** The Magistrate may for the purposes of an inquiry u/s 132 or 138, direct a local investigation to be made or summon and examine an expert.

**Sec. 140 : Power of Magistrate to furnish written instructions etc:** When the Magistrate directs a local investigation by any person he may furnish written instructions for the purpose and declare by whom the costs shall be paid. The report shall be used as evidence. The Magistrate may Direct who will pay the costs of summoning and examination of an expert.

**Sec. 141 : Procedure on order being made absolute and consequences of disobedience:** When the order is made absolute, u/s 136 or 138 the Magistrate shall give notice to the person concerned to do the act. If the act is not performed within the time fixed, the Magistrate may cause it to be performed and may recover the costs through sale of property of the person. If the property is outside the jurisdiction of the Magistrate, the order shall authorise its attachment and sale when endowed by the Magistrate within whose local jurisdiction the property attached is found. No suit shall lie in respect of any thing done in good faith under this section.

**Sec. 142 : Injunction pending inquiry :** If a Magistrate making an order u/s 133 feels that immediate measures should be taken to prevent imminent danger to the public, he may issue injunction to the person pending determination of the matter. In default of the person obeying such injunction, the magistrate may himself use means to prevent such danger. No suit shall lie in respect of anything done in good faith under this Sec.

### **MOTOR VEHICLE ACT, 1939**

#### **SEC 75 (4)**

#### **POWER TO REMOVE ANY SIGN OR ADVERTISEMENT OBSCURING A TRAFFIC SIGN**

A state Govt. may, by notification in official Gazette, empower any DM or SP to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which in his opinion so similar in appearance to a traffic sign as to be misleading.

#### **M.G.O. Power Deptt. Paras 678-680**

District Magistrates should see that electric supply lines etc are so erected as not to interfere with public traffic and the passage of religions processions. If they consider that any supply main erected by a licensee is likely to interfere with traffic or the passage of a religions procession the matter should be settled in consultation with the Electrical inspector to Govt.

Where any tree standing or lying near an aerial line or where any structure or other object which has been placed or has fallen near on aerial line subsequent to the placing interrupt or interfere with, the conveyance or transmission of energy or the accessibility of any works it is desirable that the DM, When approached by the licensee or the electrical Inspector to Govt. should take prompt action to have the tree, structure or object removed or otherwise dealtwith as he thinks fit.

If the owner of a premise refuses entry the DM is empowered u/s 20 of Electricity Act is empowered to issue a special order authorising the licensee or his accredited representatives to enter premises to which energy is or has been supplied by him for the purpose of inspecting, testing or removing works belonging help the licensee by issuing such orders when approached by him.

**Manual of Govt Order, Labour Deptt., Chapter 114, para 813**

Housing board may apply to the DM for eviction of the person or the dependent in occupation being a defaulter under UP industrial housing ACT and he may in evicting such person, use or cause to be used such force as may be necessary for the purspose.

## **REQUISITION**

### **Manual of Govt-order, Home(Police) Deptt.Chapter 43,Para 434**

DM's should see that the high court rules regarding obtaining records are strictly absened in all cases in which SP's desire to obtain the records of cases tried by Magistrates on the ground that an application for revision might be considered; neither the sP's nor the aPP's should be permitted to obtain a records, simply by applying for it, either from the court or from the record-room. DM's must not delegate any police officer the authority to sign requisition for records but they must themselves exercise an independent judgement and themselves obtain the record, when the SP's show sufficient cause and allow the officer to see it.The SP's application to the DM on the subject any note made by him for the magistrate's consideration in connection with the case are on no account to be made upon,or to remain with the judicial file. They must remain with DM's own file, and should be destroyed when no longer required.

There is,however no objection of APP being allowed to inspect, without payment of any fee, the records of cases decided by magistrate on presenting a formal application inspection to the court concerned, or to the officer-in-charge of the record room. The application may be made direct by the APP concerned and need not be submitted through the DM. The inspection shall, however, only be made in the record room jand files must not be taken out to prepare acquittal reports.

### **UP Storage Requisition Act 1955**

#### **SEC 3**

**POWER OF REQUISITION (I)** If in the opinion of the DM it is necessary to requisition any storage accomodation for storing foodgrains or other foodstuffs he may by order in writing, requisition such storage accomodation and may further order that the possession there of shall be delivered to him within such time (not being less their three days fram the date of service of the order ) as may be specified,

Provided that no accomodation which is bonafide used for residential purposes shall be requisitioned :

Provided further that no otehr accomodation which is not ordinarily used for storage shall be requisitioned without the prior sanction of the state government which shall, before according sanction, give an opprotunity to the owner and occupier if any to be heard.

### **Police Regulations**

#### **PARA 71**

A requisition for armed police in excess of the district allocation should, if



possible, be made to the DIG at least six weeks before the date on which additional force is required and will be sent through the DM and commissioner provided in cases where this will cause delay, application may be made semiofficially after consultation with the DM.

## **UP Flood Emergency Powers (Evacuation and Requisition) Act 1951**

### **Section 5**

#### **Requisition of boats.**

(1) The District Magistrate may, if it appears necessary with a view to meeting or averting danger caused or threatened by floods to life and property of persons residing in any area, by written order requisition any boat and may make such further orders as may appear to him to be necessary or expedient in connection with such requisition.

(2) A copy of the order shall be served on the owner of the boat, or where the owner is not readily traceable or the ownership is in dispute, by passing a copy of the order at a prominent place in the vicinity where the boat lying.

(3) If the owner of the boat does not after service of the order in the manner provided in subsection (2), place the boat in possession of the authority mentioned therein such authority may seize the boat from any person who may for the time being be in possession thereof.

(4) Where the District Magistrate has requisitioned any boat, he may use of deal with it in such manner as may appear to him to be expedient.

## **UP ACCOMMODATION AND REQUISITION ACT (94)**

### **SEC. 2 (C) : DM INCLUDES AN ADDL. DM.**

### **SEC. 3 : POWER OF REQUISITION :**

(1) Where the DM is of opinion that any accommodation is needed or likely to be needed for any public purpose, and that the accommodation should be requisitioned. the DM-

(a) Shall call upon the owner as well as the occupier of the accommodation by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the accommodation should not be requisitioned, and

(b) may, by order, direct that neither the owner of the accommodation nor any other person shall, without permission of the DM, dispose of, or structurally alter, the accommodation or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by the owner or occupier of the accommodation the DM is satisfied that it is necessary or expedient so to do, he may, by order in writing, requisition the accommodation and may make such further orders as appear to him to be necessary or expedient in connection with the requisitioning :

Provided that no accommodation or part thereof-

(a) Which is bona fide used by the owner thereof as the residence of himself or his family, or,

(b) Which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodating persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall provide such tenant with alternative accommodation which, in his opinion is suitable.

(3) The Provisions of Section 4 shall apply in relation to service of a notice under clauses (a) of sub section (1) as they apply in relation to service of an order under the clause (b) of that sub section.

**Sec. 5.** The DM shall pay to the owner of the accommodation requisitioned by him such compensation either in a gross sum of money, or by periodical payments, as may be depend upon between him and the owner.

**Sec. 6 (1)** Where no agreement as specified in sec 5 is reached.

## **RECOVERY/COMPENSATION**

### **UP Storage Requisition Act 1955**

**SEC 7 COMPENSATION BY AGREEMENT (I)** The DM shall pay to the owner of the storage accomodation requisitioned by him such compensation as may be agreed upon in writing between him & the owner.

2. The compensation for the requisitioning of the storage accomodation shall consist of

- (a) a recurring payment, in respect of the period of requisition of a sum equal to the rent which would be payable for the use and occupation of the property;
- (b) sums necessary to compensate owner for
  - (i) pecuniary loss due to requisitioning
  - (ii) expenses on account of vacating the requisitioned premises.

### **UP Excise Act 1910**

All Excise revenue (uncluding all dues) on account of any contract relating to the excise revenue, may be recovered from the person primarily liable to pay the same, or from his surity as arrease of land revenue or in the manner provided for recovery of public demands by any law inforce. In case of defalut the collector may take the grant, for which the lience has been given, under ngt at the rish of the defaulter, or may declare the grant fourfeited and re-sell it at the risk and loss of defaulter.

### **UP Flood Emergency Powers (Evaluation and Requisition) Act 1951**

#### **SECTION 6**

##### **COMPENSATION FOR PREMISES**

(1) Whenever District Magistrate takes possession of any premises under section 4 or requisitions any boat under section 5 the owner of the building or the boat, as the case may be, shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say-

- (a) The District Magistrate shall determine the amount of compensation after taking into consideration-
  - (i) in the case of a building, the rent payable for similar buildings in the locality;
  - and
  - (ii) in the case of boat, the prevailing rates of hire for such boats;

**RELEASE****Cr.P.C.**

**Sec. 123 : Power to release persons imprisoned for failing to give security:** The District Magistrate may order a person who has been imprisoned for failing to give security u/s 117 to be discharged at any time the order may be with or without conditions. He may order the amount of the security or number of sureties or the time period, to be reduced. If any condition is upon which a person has been discharged, is not fulfilled, the District Magistrate or his successor in office may cancel the same. The person may then be re-arrested by any police officer without warrant and produced before the District Magistrate, who may remand such person in prison to undergo the unexpired portion of the sentence.

**The UP Storage Requisition Act 1955****SEC 10 RELEASE FROM REQUISITION**

(I) Where any storage accommodation is to be released the DM shall release it in favour of the person from whom it was requisitioned.

(ii) When releasing a storage accommodation from requisition the DM shall, as far as possible restore it in as good a condition as it was when possession thereof was taken subject to changes if any caused by reasonable wear and tear as an interest title force.

## REPORT/INFORMATION/RECORD/PETTITION

### UP Jail Manual

**Sec.22:** Report to the DM of recent injuries,ect:- The supt shall report at once to the DM full particulars of any recent injuries, wounds, contusions or abrasions found on the person of any prisoner, which appear to be due to vidence and which are not explained by the nature of the case in which the prisoner is accused or convicted.

**Sec. 43:** Report to the DM in case of militay prisoners:- Where a convict is found to be a military prisoner and the fact was not already known to the convicting Magistrate, the supt. shall inform the DM.

**Sec.87:** Procedure on the case of petitions for mercy from convicts other than those sentenced to death. Petitions of mery by convicts other than condemned prisoners, shall be forwarded by the supt. to the DM of the dest. of conviction with a report on the full points-(1)health,(2) age, as found after medical examination (3) conduct on jail;(4) Period served in jail by the convict, including & excluding remissions.

This petition of mercy recived by DM or on behalf of a convict, is required to be submitted to the state Govt.

**Sec.128A:** Whenever an M.L.A. M.L.C. an M.P. after his conviction by a court is transferred from a jail of one district to a jail in another dist. an intimation should immedicately be sent by the supt. of the jail from where the prisoner is transferred through the DM of his dist. to the DM of the dist. to which the prisoner is to be transferred.

**Sec.195(b)** If the convict is undergoing imprisonment in default of furnishing security under Sec.122,of CrPC, the supt shall refer the case to the DM of the dist of conviction under Sec.123 of CrPC ,through the SP.

**Sec. 197 (c)** Recommendation for release of convicts suffering from fatal illness :

The DM has to give a report whether there is any one capable of looking after the convict, if released,

**Para 244:** Opinion of DMs: The DM of dist. of convection shall record his opinion supported, particulatly in the case of professional dacoit, by detailed reasons, on lthe revision sheet as to the advisability of releasing the convict in advance of the expiry of his sentence along with brief account of the crime, convicts history, his conduct and association previous to conviction.

**Para 386:** Condemned Convicts developing insanity: When a convict under death sentence develop insanity after conviction, the supt shall stay the execution of the sntence of death & inform the DM who shall submit immediately a report, through the sessions judge,for orders of state govt.

**Para 439(6):** The supt. shall forward to the Dist, Magistrate every month a list of undertrial prisoners awaiting bail in Magistrate court who have been under detention for over a month. A copy of this list shall at the same time be sent to the commissioner of the Division in which the jail is situated.

**Para 511:** For lunatics who cannot be transferred to mental hospital before expiry of sentences, the matter is reported to the DM for his orders with a view to the convict being treated as a non-criminal patient & transferred to the mental hospital.

**Para 636:** Report in case of an outbreak : In more than one cases of an infectious death a daily report of such death shall be reported by the supt to the DM.

**Para 656:** On death of a prisoners, supt. shall inform the DM of the dist. to which the deceased belonged.

**Para 659:** In every case of sudden or unnatural death/supposed suicide or whenever there is any doubt of complaint or question concerning the cause of death of any prisoner, the supt. shall forth with report the fact to the nearest Magistrate empowered to hold inquests under Sec. 174 (5) of the Cr.P.C.

#### **Army Act 1950**

**SEC 105 CAPTURE OF DESERTERS :-** (I) The commanding officer shall give written information of desertion to such civil authorities as in his opinion may help in the apprehension of the deserter, and such civil authorities may take steps to apprehend the said deserter as if he were a person for whose apprehension a warrant has been issued by a magistrate , and shall deliver the deserter when apprehended, into military custody,

#### **Police Regulations**

##### **PARA 70 SECTION E**

After every disturbance necessitating firing and if the senior police officer present is not the SP he will immediately send a report of the occurrence to the SP and DM

##### **PARA 101**

The officer incharge of a P.S. if the following kinds of offences are reported

1. dacoity
2. robbery
3. Torture by Police
4. Escape from police custody
5. forging of currency notes
6. manufacture of counterfeit coins,
7. serious fraud on public money
8. important cases of murder, rioting, burglary and theft,

breaches of peace between different classes, communities in political groups and other cases of special interest,

Shall send a copy of the report immediately in a red envelope to the DM besides others.

**PARA 101 A.** Copies of reports shall be sent to DM in all important cases on categories of cases in which they require special reports to be sent.

**PARA 500 (A)** When a court censures the conduct of a police officer an enquiry must be made immediately into the points which the court had held deserving of censure, without waiting for the result of an appeal, if any.

(b) If the officer whose conduct is censured is below the rank of SO, the SP of the district will conduct the enquiry, either in person or through a gazetted officer. On completion thereof he will forward a report to the DM

(c) If the DM considers that no further action is necessary he will second his opinion and forward copies of the SP's report and his opinion to the Govt. through the Commissioner sending similar copies to the DIG of the range. If he considers that further action is necessary he will record his opinion and return the papers to the SP, sending copies to Govt. The SP in due course intimate to the DM the action he has taken.

**PARA 501 A.** A police officer for his defence can ask for expence from the Govt. through an application forwarded through the SP and DM to the inspector general of police

#### PRESS & REGISTRATION OF BOOKS ACT, 1867

#### SECTION 4 : KEEPER OF PRINTING PRESS TO MAKE DECLARATION :

(1) No person shall, within India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the District, Presidency or subdivisional Magistrate within whose local jurisdiction such press may be :

#### SECTION 5 : RULES AS TO PUBLICATION OF NEWSPAPERS:

2. The printer and the publisher of every such newspaper shall appear in person or by agent authorised in this behalf in accordance with rules made under Sec 20. before a District, Presidency or subdivisional magistrate within whose local jurisdiction such newspaper shall be printed or published, and shall make and subscribe, in duplicate, the following declaration:

#### SECTION 8 : NEW DECLARATION BY PERSONS WHO HAVE SIGNED A DECLARATION AND SUBSEQUENTLY CEASED TO BE PRINTERS OR PUBLISHERS:

If any person has subscribed to any declaration in respect of a newspaper under sec 5 and the declaration has been authenticated by a Magistrate under Sec 6. and subsequently that person ceases to be the printer or publisher of the newspaper

mentioned in such declaration, he shall appear before any District, Presidency or sub-divisional magistrate, and make and subscribe in duplicate the following declaration:

**INDIAN RAILWAYS ACT 1890**

**REPORT OF RAILWAY ACCIDENTS :**

**SECTION 83 :** When any of the following accident occurs in the course of working a railway, namely :-

- (a) any accident attended with loss of human life, or with grievous hurt as defined in the IPC or with serious injury to property ;
- (b) any collision between trains of which one is a train carrying passengers ;
- (c) the derailment of any train carrying passengers, or of any part of such a train;
- (d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property ;
- (e) any accident of any other description which the central Govt. may notify in this behalf in the official Gazette; the railway administration working the railway and if the accident happens to a train belonging to any other railway administration the other railway administration also shall, without delay send notice of the accident to the state Govt. and the station master nearest to the place at which the accident occurred shall, without necessary delay give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer incharge of the police station within local limits of which the accident occurred.

**Manual of Govt. Order, Home (Jail) Deptt. Chapter 83, Para 650**

Petitions for clemency presented to a Jail superintendent, shall be forwarded by him to DM along with a brief report as to prisoner's age, health and conduct in jail, the period of sentence, and the period of imprisonment with and without remissions already undergone by him.

Petitions on behalf of convicted person shall be presented to the DM of the district in which the prisoner was convicted and must be accompanied by copies of relevant judgements or orders. In such case DM shall order for the report similar to that said above.

Then, DM shall record his views as to the advisability of granting the petition and forward it along with the accompanying documents and jail reports to the government. If the convict is not in the jail, the fact that he has not surrendered to his jail or is at large should be mentioned by the DM in his forwarding letter.

No petition shall be received/forwarded on behalf of any convicted person, who is evading surrender to jail.

**Manual of Govt. Orders, Home (Jail) Deptt., Chapter 83, Para 651**



In no circumstances should a memorial or petition for pardon addressed to the president of India be withheld by the DM or Jail- superintendent as power to withhold such memorials and petitions in certain circumstances vests solely with the State Govt.

**U/S 33 of Electricity Act read with rule 44A of Indian Electricity rules** notice of accidents resulting in death of a person due to electric shock is to be sent to the Electrical Inspector to Govt. Within 24 hrs by a telegram by licensee on whose works or owner on whose premises the accident occurs. Such a report is also received by the DM/SDM u/s 174(2) of Cr.P.C. sent through Electricity Inspector.

**Manual of Govt. orders Power Deptt. Chapter 87, Para 676,678,680**

It is the duty of DM to watch the working of Electricity supply undertakings and bring to govt's notice any act done by such undertakings, which is against public interest in their opinion.

**Manual of Govt.order,general Admin Deptt. Chapter 11,Para 108,109,110,111,112.**

All important occurrences within the districts shall be reported demi-officially by DM to Govt.with a copy to the commissioners.

The occurrences to be reported include.

- (a) Specially serious crimes.
  - (b) Professional dacoities.
  - (c) murder of peculiar atrocity.
  - (d) Fire-raising in houses.
  - (e) serious defalcations of public money.
  - (f) accident with severe loss of life.
  - (g) severe injury caused by shooting parties,
  - (h) accusations or ill-treatment or torture by police,
- (i) riots
- (j) all cases of hurt/assault involving foreigners excepting alleged but unconfirmed assaults or assaults of an insignificant character.
- (k) political outrages.
- (l) natural calamities-floods,earthquakes,drought.
- (m) serious development in public health,famine and other aspects of economic situation.
- (n) Serious untoward incidents in law and order sphere.
- (o) special important events which are political or administrative importance.

The reports concerning clauses(i) to (o) should be sent telegraphically occurrences of communal,agrarian or political riots should be reported by DM to govt by telegram and repeated to the commissioner. Report whether telegraphic or otherwise should

contain the fullest possible details of casualties.

Report which relate to the commission of serious crimes/riots involving serious breach of peace, or outrages which have a political aspect, or reports in respect of serious untoward incidents in the law and order sphere, should be sent to home secretary by name; all other reports should be sent to the chief-secretary by name. In all such cases, the district officers should also endorse a copy of the report to secretary to Govt. of any other department which is concerned.

Any preliminary report sent should be followed by a further report intimating the action taken or the result of any investigation or trial, if held.

Report on enquiries made by govt on certain incidents or on public complaint should be entrusted to some responsible officer; should be prepared and sent without inordinate delay. In cases, where enquiries take time an interim report making the outline of the case must be sent to Home- Secretary.

#### **UP Municipalities (Conduct of Elections of Members). order, section 74,75.**

On receipt of report or information that vacancy has occurred in a board by reason of death, resignation, removal or avoidance of election of an elected member, the DM finds that term of office of that member would, in the ordinary course of events, have determined within one year of occurrence of vacancy, he shall report the case to the state Govt. per orders u/s 131 of UP Municipalities Act.

He has also to send a report to the director along with his proposals regarding the date by which the ward concerned is to elect a person for the purpose of filling the vacancy.

#### **Manual of Govt. Orders, Information Deptt. Chapter 75, Para 601**

At the instance of GOI, the state Govt. are required to send, once every quarter, a list of newspapers which commenced publication during that quarter and another similar list in respect of those newspapers which ceased publication during that period. The DM should send the lists for period ending March 31, June 30, September 30 & December 31 to the Directorate of information and public relations, UP within 15 days of month following the quarter. The list should mention the language, periodicity and place of publication of the newspapers concerned.

#### **Manual of Govt. Orders, Information Deptt. Chapter 76, Para 607.**

Newspapers will be black listed by the govt only for publishing inflammatory matter likely to foment communal bitterness, violence or public disorder or for habitually indulging in the publication of seditious or obscene matter. In all such cases a severe warning goes unheeded a report stating the facts of the case, together with his recommendations should be submitted to Director of Information, UP for direction by government whether the issue of court notices, summons etc to that particular newspapers should/should not be continued newspapers will be black-listed for the issue of court-notices, summonses etc only by and with the approval of Govt.

**Army Act**

When a member of armed forces seriously injures a civilian, the commissioned officer must report the matter to the DM.

**Police Act**

**Sec. 58 :**

Police to report apprehensions :

Officers-in-charge of police station shall report to the District Magistrate, or if he so directs, to the Sub-Division, the cases of all persons arrested without warrant, whether such persons have been granted bail or not.

**ARMS RULES 1962**

**Rule 6 :**

Reasons to be communicated to the appellate authority in certain cases :

Where a licensing authority is of opinion that it will not be in the public interest to furnish reasons for the refusal, renewal, variation of conditions, revocation or suspension, of a licence, to the applicant, the recorded reasons therefor and the facts of the case shall be communicated by him to the appellate authority.

**Rule 17 (2) :**

Traveller's (temporary) licence :

A copy of every such licence shall be forthwith sent to the DM having jurisdiction over the place of destination of the licence, such authority shall satisfy himself, when necessary, that the licensee has complied with condition 7 entered on the form of the license.

**Rule 20 (2) :**

Manufacture, conversion, shortening, repair, test, sale, etc of arms or ammunition:

A copy of every licence granted in form IX by an authority other than the DM of the place of business, factory or shop of the licence shall forthwith be sent to that District Magistrate.

**Rule 23 :**

Licensing authorities to furnish information to the DM:

A copy of every licence granted in any form by any authority other than the DM shall be sent forthwith to the DM having jurisdiction over the area in which the place of business or residence of the licensee is situated.

**Rule 34 :**

Export by land or river of arms and ammunition :

When a licence for export of arms or ammunition by land or river is granted in Form XVIII a copy of the licence shall forthwith be sent by the licensing authority :

(a) where the arms or ammunition are exported by rail, to the DM of the place from which the consignment is to be despatched or, in the State of Jammu and Kashmir, to the State Govt. and such authority shall forthwith send a copy to the railway authorities at the station from which the consignment is to be despatched;

(b) where the arms or ammunition are exported by road or river, to the DM having jurisdiction over the area out of which they are to cross the frontier of India; and such magistrate may, in his discretion, require the licensee to produce the arms or ammunition for this inspection before allowing them to leave the area.

**Rule 45**

Licence to keep in custody arms and ammunition :

The licensee in Form XIV shall not accept for custody arms or ammunition without satisfying himself that there is no mala fide intention on the part of the depositor or any person on whose behalf the deposit is being made. The dealer shall either inform the nearest police-station and the district magistrate personally, or despatch information to the officer-in-charge of the police station and the DM by registered post on the day of deposit or return or disposal, as the case may be, of such arms or ammunition.

**Rule 50 :**

Previous consent in certain case :

A licence having effect beyond the local limits of the authority of the officer granting it shall not be granted for the transport or export or re-import of any arms or ammunition to a place, without ascertaining that there is no objection to the grant of such licence on the part of -

(i) the DM having jurisdiction over the area in which such place is situated, or  
 (ii) the Govt. of the State of J & K, if such place is in that State, or  
 (iii) the Secy., General Admn. Dept., Govt. of Pondicherry, if such place is in any of the Ex-French Settlements in India.

(2) For the purposes of sub-rule (1), either -

(i) a certificate of 'no objection' may be obtained by the applicant for the licence,  
 or

(ii) an enquiry may be made by the authority to whom application for grant of such licence is made.

**Section 41 :****Minutes**

(1) Minutes of proceedings of each meeting shall be recorded in a book and shall be signed by the person presiding over the meeting before the close of the meeting and shall at such times and in such place as may be fixed by the Board, be open to inspection free of charge by any inhabitant of the cantonment.

(2) Copies of the minutes shall as soon as possible after each meeting, be forwarded for information to the officer commanding the area, the officer commanding the sub area, the DM and the Defence Estate Officer and in cantonments where Navy, or Airforce Stations are located, copies of the minutes shall be forwarded for information to the command Head Quarters of the Navy or, as the case may be, the Air force.

**Town Area Act****SECTION 6 (4)**

If any member of a Town Area Committee wishes to resign, he shall forward his resignation in writing to PA/DM, who may accept it.

**Manual of Govt. Orders, Municipal Deptt. Chapter 56, para 512**

The blueprint of large-scale building location or shop-complex location drawn by Town and Country planning Department under master plans or town planning schemes, should be referred to DM for his recommendation before forwarding the same to chief town and country planner UP for "on objection" comment.

**Manual of Govt. orders, Food Prod'n, Chapter 61, Para 526**

Dissemination of Agricultural Information-It is the duty of DM to see that the information supplied by Bureau of Agricultural information is made widely known in village through panchayats, Educational institutions, co-operative societies, District Boards and other departmental agencies working in rural areas.

**Manual of Govt. orders, Information Deptt. Chapter 76, Para 602 & 604**

Whenever there is any important occurrence the DM should, when submitting his special report to the chief-secretary send a copy to the Director of Information Directorate.

- (a) Specially serious crimes.
- (b) Professional dacoities.
- (c) Murder of peculiar atrocity.
- (d) Fire-raising in houses.
- (e) serious defalcations of public money.

- (f) accident with severe loss of life.
- (g) severe injury caused by shooting parties.
- (h) accusations of ill-treatment or torture by police.
- (i) riots
- (j) all cases of hurt/assault involving foreigners excepting alleged but unconfirmed assaults or assaults of an insignificant character.
- (k) Political outrages.
- (l) natural calamities-floods, earthquakes,drought.
- (m) serious development in public health,famine and other aspects of economic situation.
- (n) Serious untoward incidents in law and order sphere.
- (o) Special important events which hare political or administratiave importance.

### **UP JAIL MANUAL**

#### **SEC 196 :**

(A) The superintendent shall, on 1st of May every year, submit to the IG a list containing the name of every convict who owing to old age, infirmity or illness is permanently incapacitated from the commission of further crime of thenature of that for which he has been convicted.

In cases which appear to him suitable for reference to Govt. the IG shall, after forwarding the cases to the District Magistrates of the district of conviction through the SPs and obtaining their views whether there is any objection to the conditional or unconditional release the convicts, report the fnames of such convicts to the State Govt. with his recommendation whether the convicts should be released.

#### **SEC 198 (a) :**

Nomination rolls of convicts under fourteen year rule :

The superintendent shall submit, through the SP & the DM of the district of conviction, for the consideration and others of the state Govt. V/S 432 oif CRPC, 1973, the nominal roll in duplicate of every life convict and of every convict sentenced to more than fourteen years imprisonment or transportation or to transportation and imprisonment for terms exceeding fourteen years in aggregate, as soon as the term of imprisiionment undergone by the convict together with any remissions earned by him under the rules amounts to fourteen years. Before forwarding the roll the Govt. the DM shall, after consulting through the SP or the DM of the district of residence, if such district of residence fis other than the district of conviction, record on the roll-

- (1) his opinion whether there is any objection to the immediate release of the convict.
- (2) if these is any objection to the immediate release of the convict, his suggestion as to the total period of imprisonment inclusive of remissions which the convict should serve and
- (3) a brief account of the circumstances of the crime or crimes for which the convict was convicted.

#### **SECT. 251 : RELEASE ON PROBATION :**

Certain convicts are eligible for release on probation, under the UP Prisoners release on probation Act, 1938 (UP) Act VII of 1938, under the following two sections of the said act :

(a) under sec. 2, when the convict agrees to pass the remainder of his sentence under the supervision of a guardian.

(b) Under Sec. 8 when the convicts enters into a bond with one or more sureties for his good behaviour for the observance of such conditions as the State Govt. may impose.

**Application under sec. 8 (Sec. 252) :**

Action under section 3 of Act is generally taken only in cases in which the sentences does not exceed one year and the offence fis not of a serious nature. In such cases it is essential that the application should be forwarded with as little dealy as possible. No form is prescribed for such application and it may be submitted to the DM of the district of conviction. The DM shall satisfy himself that the application contains all the necessary particulars. He shall make such inquires as he considers necessary within as short time as possible. Particulars in regard to the convicts age and conduct shall be obtained by the DM from the Supdt. of Jail directly. The DM shall forward the application with his recommendation to the state Govt. It is not necessary for the DM to send such applications through the IG or the commissioner.

### **Police Regulations**

#### **Para 7 :**

The DM should be promptly informed by the supdt. of the occurrence of all serious crimes and of any sudden increase in the crime generally should receive a fortnightly statement of the crime in the district, of locatization and cause.

The Supdt. of Police should also keep the DM informed of alle vents that are of importance from a police point of view and should frequently seek an opportunity of discussing matters with him personally when both officers are not at headquarters on tour together frequent demi official correspondence should take the place of oral discussion.

### **THE MINES ACT, 1952**

#### **SEC. 16 :**

The Owner, agent or manager of a mine shall, before the commncement of any mining operation, give to the DM of the district in which the mine is situated, notice in writing in such form and containing such particulars relating to mine as may be prescribed. Any such notice shall be so given as to reach the person concerned at least one month before the commencement of any mining operation.

### **THE NAIK GIRLS PROTECTION ACT, 1929**

#### **SECTION 2 :**

**POWER OF THE DISTRICT MAGISTATE TO DEMAND INFORMATION :**

The DM may from time by general or special order which shall be published in the prescribed manner require any member or members of the naik caste for the time being present in the local limits of his jurisdiction to appear before him and furnish with him such information as may be prescribed for the purpose of this ACT.

**Police Regulations**

**Para 661 :**

If there are groundes for supposing that the convicts funeral will be made the ocassion of a public demonstration, due notice shal! be given to S.P/ D.M.



## **Revocation/Refusal/Rejection/Termination/Suspension**

### **The Cinematograph Act 1952**

**Section 15 : Power to revoke licence :** Where the holder of a licence has been convicted of an offence under section 7 or section 14 the licence may be revoked by the licensing authority.

### **Arms Act**

**Section 14. Refusal of licenses--**(1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant--

(a) a licence under section 3, section 4, or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,--

(i) Where such licence is required by a person whom the licensing authority has reason to believe--

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or

(2) to be of unsound mind, or

(3) to be for any reason unfit for a licence under this Act; or

(ii) where a licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(3) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish statement.

**Section 17. Variation, suspension and revocation of licences--**(1) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence,--

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act ; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver up the licence.

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying a licence under sub-section (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by each authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence;

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in his order of suspension or revocation.

#### **UP Excise Act, Section 34,35**

DM (or any other Authority under this Act) can cancel/suspend licenses permits/pass under this Act on following conditions-

(a) Duty/fee payable has not been duly paid.

(b) Breach of terms/Conditions of license by holder or his servant or any other person acting on his behalf with his express or implied permission

(c) If the holder is convicted of an offence punishable under this Act.

or, any revenue law or, in case offence is non-bailable/cognizable, or, under Dangerous Drugs Act, or, under Merchandise Marks Act, or, under s/482 to 489 of IPC }

(d) If the license, permit or pass has granted on the application of the grantee of an exclusive privilege under this Act, on the requisition of writing of such grantee.

(e) If the conditions of the license/permit provide for such cancellation/suspension at will.

The license can be cancelled on any ground other than those mentioned above

forth with without notice or on the expiration of 15 days notice in writing of its intention to do so. In such cases the license fee paid shall be remitted to the holder.

Compensation in excers of fee remitted is payable of the excise commissioner gives directions in the regard.

## **STAY/INJUNCTION**

### **Town Area Act**

**Sec. 39A :** (1) The prescribed authority or if none is so appointed, the DM, may within the limits of his district, by order in writing, prohibit the execution or further execution of any resolution passed under this Act by the committee or by its officer or servant, if such resolution is likely to cause obstruction, annoyance or injury to the public, or to any class or body of persons lawfully employed, or danger to human life, health or safety or a riot or affray.

(2) A copy of such order, with a statement or reasons for making it, shall be forwarded to the State Govt. who can modify or rescind it.

(3) The committee shall take action to prevent any person from executing such a resolution.

### **Cr.P.C**

**Sec. 142 : Injunction pending inquiry:** If a Magistrate making an order u/s 133 feels that immediate measures should be taken to prevent imminent danger to the public, he may issue injunction to the person pending determination of the matter. In default of the person obeying such injunction, the magistrate may himself use means to prevent such danger. No suit shall lie in respect of done in good faith under this Sec.

**Sec. 143 : A Magistrate may prohibit repetition or continuance of public danger:** A District Magistrate, Sub-Divisional Magistrate or any Executive Magistrate specially empowered by the State Govt or DM may order the person not to repeat or continue the public nuisance.

## **SEARCH/SEIZURE/INSPECTION/DEPOSIT/FORFEITURE/SALE**

### **The Indian Explosive Act 1884**

**Section 7:-** Power to make rules conferring powers of Inspections, search, seizure, detention and removal.

(1) The Central Government may make rules consistent within Act authorising any officer either by name or in virtue of his office-

(a) to enter, inspect, and examine any place, carriage, or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a licence granted under this act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported or imported in contravention of this Act or of the rules made under this Act,

(b) to search for explosives therein

(c) to take samples of any explosive found therein on payment of the value thereof, and

(d) to seize, detain, remove, and if necessary destroy any explosive found therein

(2) The provisions of the code of criminal procedure relating to searches under that code shall, sofar as the same are applicable, apply to searches by officers authorised by rules under this section.

### **Criminal Procedure Code**

**Sec. 92 : Procedure as to letter and telegrams:** (1) If in the opinion of the District Magistrate any document, parcel or thing in the custody of the post and telegraph department is wanted for the purpose of an investigation trial etc, he may require the postal or telegraph authority as the case may be, to deliver the document, parcel or thing to such person as he directs.

(2) If any other Magistrate, whether Executive or Judicial or any Commissioner of Police or DSP, feels that any document, parcel or thing is required for investigation, trial etc, he may require the postal or telegraph authority to search for and detain such thing, sending the order of a District Magistrate, Chief Judicial Magistrate or Court of Sessions.

**Sec. 93 : When search warrant may be made:** (1a) When any Court has reason to believe that a person to whom a summon or order u/s 91 or requisition u/ss (1) of Sec. 92 has been or might be addressed will not or would not produce the document, parcel or thing as required, or

(b) When such document or thing is not shown to the Court to be in the possession of any person, or,

(c) When the Court considers that the purpose of any inquiry, trial etc will be served by a general search or inspection, It may issue a search warrant for search or inspection.

(2) The Court may specify the particular place or part thereof which is to be searched or inspected.

(3) No Magistrate other than a District Magistrate or Chief Judicial Magistrate is authorised under the section, to grant a warrant for the search of a document, parcel or thing in the custody of the postal and telegraph authority.

**Sec. 94 : Search of place suspected to contain stolen property, forged documents, etc:**

(1) If a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable to enter the place, search it, take possession of any property suspected to be stolen, to convey such property to a Magistrate or guard it until the offender is taken to a Magistrate.

(2) The objectionable article to which this section applies are counterfeit coin, pieces of metal made in contravention of the Metal Tokens Act, 1889 or brought into the country in contravention of Sec. 11 of Customs Act, 1962, Counterfeit currency notes and stamps, forged documents, false seals, obscene objects (Sec. 292 of IPC), instruments or materials used for the production of any of the above mentioned articles.

**Sec. 95 : Power to declare certain publications forfeited and to issue search warrants for the same:**

(1) If it appears to the material the publication of which is punishable under sections 124-A, 153-A, 153-B, 292, 293 or 295-A of the IPC, the State Government may, by notification declare every copy forfeited and any Magistrate may by warrant authorise any police officer, not below the rank of sub-inspector to enter upon and search for the same in any premises.

**Sec. 97 : Search for person wrongfully confined:** If any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class has reason to believe that a person has been wrongfully confined, he may issue a search-warrant for the purpose.

**Sec. 98 : Power to compel restoration of abducted females:** Upon complaint on oath of the abduction or unlawful detention of any woman or female child under the age of 18 years for any unlawful purpose a District Magistrate may make an order for the restoration of such person to her liberty or to her lawful guardian as the case may be, and may compel compliance with such order using force if necessary.

**Sec. 103 : Magistrate may direct search in his presence:** Any Magistrate may direct

the search in his presence of any place for the search of which he is competent to issue a search-warrant.

### **The Cinematograph Act 1952**

**Section 7-A Power of Seizure:-** (1) Where a film in respect of which no certificate has been granted under this Act is exhibited, or a film certified as a suitable for public exhibition restricted to adults is exhibited to any person who is not an adult or a film is exhibited in contravention of any of the other provisions contained in this Act or of any order made by the Central Government the Tribunal or the Board in the exercise of any of the powers conferred on it, any police officer may enter any place in which he has reason to believe that the film has been or is being or is likely to be exhibited search it and seize the film.

(1-A) Where any film which is not certified by the Board as a film fit for exhibition outside India is attempted to be exported, any police officer may, in pursuance of an order made in this behalf by the District Magistrate or any Magistrate of the first class empowered in this behalf by the District Magistrate, enter any place in which he has reason to believe that the film is kept, search it and seize the film.

(2) All searches under this Act shall be carried out in accordance with the provisions of the CrPC relating to searches.

### **IV UP cotton Ginning and pressing Factories Act 1925**

**Section 13:-** Power of the State Government to make rules (f) The power to entry and inspection which may be exercised by District Magistrate or by any officer specially empowered in this behalf by the State Government.

### **UP Cotton Ginning and Factories Rules 1964**

**Rule 10:-Persons authorised to give a certificate under Section 8 of the Act-(1)** The Economic Botanist (Cotton) to Government, Uttar Pradesh, Bulandshahr, shall be the person authorised to give a certificate regarding the content of any package or bale of cotton a certificate as to the existence therein of any caked material or patches due to watering and also a certificate as to the normal quantity of moisture which a given quantity of cotton should contain and the quantity of moisture which it actually possesses.

(2) The Deputy Director of Agriculture (Cotton), Uttar Pradesh, Deputy Directors of Agriculture, District Agricultural Officer, Additional District Agricultural Officers, Regional Cotton Extension Officers, U.P., District Magistrates and Sub-Divisional Magistrates of the districts concerned shall be the persons authorised to seal the stock and to send a representative sample of the bales or packages in respect of which any complaint under section 6 and 7 has been received to the authority specified in Rule 10(1) for examination.

**Rule 11:- Procedure for making complaint under sub-section (1) of section 8 of the Act-(1)** The complaint to the effect that there has been a contravention of the

provisions of sections 6 and 7 made to the authorities specified in Rule 10(2) shall be accompanied by a treasury receipt of Rs 10.

(2) On receipt of the complaint or on their own motion, the officers given in Rule 10(2) shall get the stock, in respect of which complaint under section 6 and 7 has been received, sealed. Before scaling the stock a representative sample shall be collected and sent to the authority specified in Rule 10(1). The representative sample shall weight 20 lb, and shall be taken out of at least 20 bales or packages, provided that the number of bales or packages sealed exceeds this number. If the number of bales or packages is twenty or less, representative sample shall be taken from all of them. The sample so collected shall bear the seal of the officer collecting the sample, the owner and the complainant if the latter too so desires.

**Rule 15:- State Government's power to enter and inspect--**The Deputy Directors of Agriculture (Cotton), Uttar Pradesh; Deputy Director of Agriculture, District Agriculture Officer, Additional District Agriculture Officers, Regional Cotton Extension Officers, Regional Cotton Inspectors, District Magistrates and Sub-Divisional Magistrates shall be the persons authorised to enter into and inspect at all reasonable times any cotton ginning or cotton pressing factory for the purposes of exercising the powers and carrying out the duties under section 9 of the Act.

#### **Arms Rules**

**Rule 27. Inspection of premises, stock and record--**Every Magistrate and Police Officer not below the rank of Inspector, or if the Central Government so directs, of sub-Inspector, acting within the local limits of his authority or any officer of the Central Government specially empowered in this behalf may--

(a) enter and inspect the premises in which arms or ammunition or manufactured or in which arms or ammunition are kept by a manufacturer or dealer in such arms or ammunition; and

(b) examine the stock and accounts of receipts and disposals of arms and ammunition or any other register or document.

Legislative changes--In Rule 27 the words "acting within the local limits of his authority" were substituted for the words "may within the local limits of his authority", by GSR 3/28-12-1967.

**Rule 49. Inspection--**(1) Arms and ammunition deposited in a police-station or with a dealer and transferred to the district malkhana and the register maintained for the purpose shall be inspected periodically by the district magistrate or other officer appointed by the State Government in this behalf in accordance with such procedure as may be prescribed by the State Government.

(2) The arms or ammunition deposited in a unit armoury and the register maintained for this purpose shall be inspected periodically by the officer commanding the unit or any other officer empowered by him in accordance with the



procedure prescribed by the Government of the State, where the unit is for the time being located.

### **The U.P. Home Guards Adhiniyam 1963**

**Section 12(4):-** Any Magistrate may issue a warrant to search for and seize wherever they may be found any certificate, arms, accoutrements, clothing or other articles not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the code of criminal procedure 1898 by a police officer, or, if the magistrate issuing the warrant so directs, by any other person.

### **The Agricultural Diseases and Pestes Act 1954**

**Section 5. Power to enter upon land or premises--**Any officer who may be authorized by the District Magistrate in this behalf may after giving notice enter upon any land, water, premises situate in the affected area for the purposes of ascertaining whether--

(i) any noxious weed, parasite, pest or plant disease exists on such land, water or premises; and

(ii) the prescribed preventive or remedial measures specified in clause (i) of sub-section (1) of section 4 are being carried out.

### **Section 6 :**

Power to carry out measures :

Where on inspection of any land, water or premises an officer authorised in this behalf under sec 5, finds that the preventive or remedial measures specified under clause (i) of sub sec (1) of sec 4 have not been carried out as directed, he may, subject to any general or special order of the District Magistrate, carry out at the expense of the occupier the said preventive or remedial measures.

### **Excise Act**

#### **Sec.48: Power to enter and inspect places of manufacture & Sale:**

The Collector may enter & inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of or stores any intoxicant.

### **Arms Act**

#### **Section 21 :**

Deposit of arms, etc. on possession ceasing to be law ful :

(1) Any person having in his possession any arms or ammunition the possession whereof has, in consequence of the expiration of the duration of a licence or of the suspension or revocation of a licence or by the issue of a notification under

section 4 or by any reason whatever, ceased to be lawful, shall without unnecessary delay deposit the same either with the officer-in-charge of the nearest police station or subject to such conditions as may be prescribed with licensed dealer or where such person is a member of the armed forces of the Union, in a unit armoury.

**Explanation :** In this sub section "unit armoury" includes an armoury in a ship or establishment of the Indian Navy.

(2) Where arms or ammunition have or has been deposited under sub section (1), the depositor or in the case of his death his legal representative, shall, at any time before the expiry of such period as may be prescribed, be entitled -

(a) to receive back anything so deposited on his becoming entitled by virtue of this Act, or any other law for the time being in force to have the same in his possession;

(b) to dispose, or authorise the disposal, of anything so deposited by sale or otherwise to any person entitled by virtue of this Act or any other law for the time being in force to have or not prohibited by this Act or such other law from having, the same in his possession and to receive the proceeds of any such disposal :

Provided that nothing in this sub section shall be deemed to authorise the return or disposal of anything of which confiscation has been directed under section 37.

(3) All things deposited and not received back or disposed of under sub-section (2) within the period therein referred to shall be forfeited to Govt. by order of the DM.

Provided that in the case of suspension of a licence no such forfeiture shall be ordered in respect of a time covered by the licence during the period of suspension.

(4) Before making an order under sub section (3) the DM shall, by notice in writing to be served upon the depositor or in the case of his death, upon his legal representative, in the prescribed manner, require him to show cause within thirty days from the service of the notice why the things specified in the notice should not be forfeited.

(5) After considering the cause, if any, shown by the depositor or, as the case may be, his legal representative, the DM shall pass such order as he thinks fit.

(6) The Government may at any time return to the depositor or his legal representative things forfeited to it or the proceeds of disposal thereof wholly or in part.

#### **Section 22 :**

Search and seizure by Magistrate :

(1) Whenever any Magistrate has reason to believe :

(a) that any person, residing within the local limits of his jurisdiction has in

his possession any arms or ammunition for any unlawful purpose, or

(b) that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety, the Magistrate may, after having recorded the reasons for his belief, cause a search to be made of the house or premises occupied by such person or in which the Magistrate has reason to believe that such arms or ammunition are or is to be found and may have such arms or ammunition, if any, seized and detain the same in safe custody for such period as he thinks necessary, although that person may be entitled by virtue of this Act or any other law for the time being in force to have the same in his possession.

(2) Every search under this section shall be conducted by or in the presence of a Magistrate or by or in the presence of some officer specially empowered in this behalf by the central Govt.

#### **Section 23 :**

Search of vessels, vehicles for arms etc.

Any Magistrate, any police officer or any other officer specially empowered in this behalf by the Central Govt., may, for the purpose of ascertaining whether any contravention of this Act or the rules made thereunder is being or is likely to be committed, stop and search any vessel, vehicle or other means of conveyance and seize any arms or ammunition that may be found therein along with such vessel, vehicle or other means of conveyance.

#### **Manual of Government Order, Home(jail)deptt. Chapter 82, Para 645**

It is the duty of DM to visit the district jail at least once a month and this duty must be performed by DM/SDM.

#### **Manual of Govt. Orders, Inspection of PS, Chapter 30, Para 403**

The DM should inspect each PS once a year. ADM(E) or SDM's can be asked to inspect PS in their jurisdiction. He can also direct any subordinate Executive Magistrate to inspect the P.S. An inspection book for use by Magistrate should be kept at every PS. This book must be sent to SP after inspection and shall be forwarded to DM by him for information.

#### **UP Storage Requisition Act**

##### **SEC 6**

##### **POWER OF ENTRY AND INSPECTION**

The DM or any person authorised by him in this behalf may enter and inspect any premises for the purpose of determining whether such premises can be used for the storage of foodgrains and foodstuffs.

## SANCTION/PERMISSION

### PARA 187

If it is desirable to deport foreigners the order of the DM should be obtained.

### Prosecution

**The orphanages and other charitable Homes Act.-** Section 25 No prosecution under this Act shall be instituted except with the previous sanction of DM or the chief presidency Magistrate, as the case may be.

### Manual of Govt. order Home (Police) Deptt. Chapter 40,Para 414

**Prosecution under explosives act-** DM is empowered to give consent for prosecution. This power has been delegated to him by state govt. vide the GOI notification no. 6.0 1359, pulished in gezette of India, dated May 14, 1977, at page 1583,part II,Section 3(ii).

### Manual of Govt Orders, Labour Deptt. Chapter 116,Para 822

In order to mitigate the hardship of old persons and pensioners the power to sanction pensions under old age pension scheme and to remit the old age pension to the pensioners, has been delegated to all DM's with effect from september 1,1975. The present rate of pension is Rs. 40 per month.

### UP Industrial Disputes Act,Section 16, Subsection(1)

No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the DM,or by a public servent other than DM with the previons sanction of DM.

### Cr.P.C.

**Sec. 196 :** In sec 196 of the Principal Act (b) after sub-section (1) the following sub-section shall be inserted, namely--

'(1A): No Court shall take cognizance of-- (a) any offence punishable under Sec 153B or sub-section (2) or sub-section (3) of Sec 505 of the I.P.C., or

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.'

(c) In sub-section (3) for the words, brackets and figures 'under sub-section (1)' the words brackets figures and letters 'under sub-section (1) or sub-section (1A)' and the District Magistrate may before according sanction under sub-section (1A)' shall be substituted.

### **Town Area Act**

**Sec. 23A :** No expenditure from the town fund shall be incurred without prior sanction in writing of the DM for the purpose of defraying the costs of any proceedings instituted or commenced in any court of law by, or on behalf of the Town Area Committee.

### **The Prevention of Seditious Meetings Act 1911**

**Sec. 4 : Notice to be given of public meetings--** (1) No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or for the exhibition or distribution of any writing or printed matter relating to any subject, shall be held in any proclaimed area--

(a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate or the Commissioner of Police, as the case may be, at least three days previously, or

(b) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.

### **Power of Magistrate to cause report to be taken**

(2) The DM or any Magistrate of the first class authorised by the DM in this behalf, may, by order in writing, depute one or more police-officers, not being below the rank of head constable, or other persons, to attend any such meeting for the purpose of causing a report to be taken of the proceedings.

**Sec. 5 : Power to prohibit public meetings:** The District Magistrate or the Commissioner of Police as the case may be, may at any time, by order in writing, of which public notice shall forthwith be given, prohibit any public meeting in a proclaimed area if, in his opinion, such meeting is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity.

### **The Unlawful Activities (Prevention) Act, 1967**

**Sec. 8 : Power to notify places for the purposes of an unlawful assembly:** (1) where an association has been declared unlawful by the Central Government notification, the Government may, in the official Gazette, notify any place, which, in its opinion is used for the purpose of such unlawful association.

(2) On the issue of notification under sub-section (1), the DM within the local limits of whose jurisdiction such notified place is situated or any officer authorised by him in writing in this behalf shall make a list of all movable properties (other than utensils, tools of artisans and other such articles as he considers to be of a trivial nature) found in the notified place in the presence of two respectable witnesses.

(3) If, in the opinion of the DM, any articles specified in the list are, or may be used for an order prohibiting any person from using the articles save in accordance with the written order of the DM.

(4) The DM may thereupon make an order that no person who at the date of the notification was not a resident in the notified place, shall, without the permission of the DM, enter, or be on or in the notified place:

Provided that nothing in this sub-section shall apply to any near relative of any person who was a resident in the notified place at the date of the notification.

(5) Where in pursuance of sub-section (4) any person is granted permission to enter, or to be on or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.

#### **UP Panchayat Raj Act 1947**

**Sec. 28-C: Members and officers not to acquire interest in contracts etc with Bhumi Prabhandhak Samiti:** (1) No member or office bearer of Gaon Panchayat or Bhumi Prabhandhak Samiti shall, otherwise than with the permission in writing of the Collector, knowingly acquire or attempt to acquire or stipulate for, or agree to receive, or continue to have himself or through a partner or otherwise, any share or interest in any licence, lease, sale, exchange, contract or employment with, by, or on behalf of the Samiti concerned:

Provided that a person shall not be deemed to acquire or attempt to acquire or continue to have or stipulate for or agree to receive any share or interest in any contract or employment with, by, or on behalf of the Samiti concerned:

- a) having acquired any interest before he became a member or office bearer;
- b) having a share in a joint-stock company which makes a contract, and
- c) having a share or interest in the occasioned sale through the Samiti concerned of an article in which he regularly trades up to a value not exceeding Rs 50 in any one year.

(2) No court or other authority shall enforce at the instance of any person a claim based upon a transaction in contravention of the provisions of sub-section (1).

#### **Cr.P.C.**

**Sec. 196 : Prosecution for offences against the State and for criminal conspiracy to commit such offence:** (1-A) No Court shall take cognizance if any offence punishable u/s 153-B or Sub-Section (2) or (3) of Sec 505 of the IPC or a criminal conspiracy to commit such offence, except with the previous sanction of the Central Govt, State Govt or the DM.

(2) No Court shall take cognizance of an offence of criminal conspiracy punishable u/s 120-B of the IPC unless the criminal conspiracy is punishable with death, life imprisonment or rigorous imprisonment for two years or more, unless the State Govt or District Magistrate has consented in writing to the initiation of the proceedings.

(3) The District Magistrate before according sanction under sub-section (1-A) or (2), may order a preliminary investigation by a police officer not below the rank of Inspector.

**Sec. 365 : Court of Session to send finding and sentence to District Magistrate:** In cases tried by the Court of Sessions or a Chief Judicial Magistrate, the Court or Magistrate shall send a copy of its finding and sentence if any) to the District

Magistrate within whose local jurisdiction the trial was held.

### **The UP Children's Rules 1962**

**Sec. 9 : Detention of child in place of safety:** The DM may, by order, authorize such persons as he may think fit, to take action under sub-section (1) of Sec 19 of the U.P. Children Act, 1987. This sub-section authorizes a person not below the rank of Sub-Inspector or any person duly authorized, to take to a place of safety any child in respect of whom an offence punishable under this Act or under clause XVI of the IPC, has been or there is reason to believe has been, or is likely to be committed.

**Sec. 16 : (1)** A society working in the field of juvenile delinquency or crime prevention and seeking recognition from the Government, shall submit a formal application in this behalf to the DM of the district in which the society wants to operate. The application shall, in addition to other such information as the society may like to give, contain the following particulars:

- (a) name of the society
- (b) date of establishment
- (c) number and date of registration, if any
- (d) aims and objects
- (e) constitution and a list of office-bearers and members of the Executive Committee, if any, and
- (f) a brief resume of the achievements of the society in the field of juvenile delinquency or crime prevention.

(2) The DM shall, on the receipt of the application, make such preliminary inquiry as he may consider necessary and forward the application with his comments to the director of Harijan and Social Welfare, U.P.

**Sec. 43 :** Not less than three months before an inmate is entitled to be discharged from the school, a notice shall be sent by the Superintendent to the DMs of the districts in which the inmate's parents or near relatives reside to direct the parents or relatives as the case may be, to come and receive the inmate at the approved school in the date of discharge and to arrange for his after-care.

### **UP Home Guards Act 1963**

**Section 9. Powers, privileges and protection of Home Guards--**(1) Subject to the provisions of this Act and the rules made thereunder, a home guard when called out under Section 8 to serve as auxiliary to the police or to help in maintaining public order or internal security shall have the same powers, privileges and protection as a member of the police force appointed under any enactment for the time being in force, and shall, subject to such adaptations and modifications as may be made therein by the State Government by notification in the Gazette, be subject to the provisions of the Police Act, 1861 and the rules or regulations made thereunder in the same manner and to the same extent as he would, if such home guard held a corresponding rank in the police force to the one he holds for the time being in the Home Guards.

(2) No prosecution shall be instituted against a home guard in respect of anything

done or purporting to be done by him in the discharge of his duty as a home guard, except with the previous sanction of the District Magistrate having jurisdiction over the area in which the home guard was enrolled or in which the act was committed.

**UP Town Areas Act**  
**SECTION 7-B**

A committee may institute a suit for compensation for the loss, waste or misapplication of money or property belonging to it caused by negligence or misconduct, with the previous sanction of the DM or State Govt.

**The Orphanages and other charitable Homes, etc, Act, 1960**

**Sec. 25:** NO prosecution under this Act shall be instituted except with the previous sanction of the DM or the Chief Presidency Magistrate,\* as the case may be,

**UP Jail Manual**

**Para 409:** If DM or Magistrate in-charge consider it undesirable that the body of an executed criminal should be made over to the relatives or friends of the deceased, such body shall, under written orders of the magistrate be burnt or buried in accordance with the rawial or religious austoms of the community of the deceased Relatives or friends of the deceased not exceeding four in number may at the discretion of the Magistrate and under conditions be may impose, be admitted any customary rites. In their absence, the aremony shall be performed under the discretion of the senior christian, Hindu or Muhammadan Officer of the Jail as the case may be.

**Para:426:** Separate Confinement of approvers: In all cases where after a confession has been recorded and no instructions has been received from the Magistrate that seprate confinement is no lnger necessary the supt shall, after waiting for a few days, seek orders of the DM as to the approver's separate confinement.

**Para 660:** No investigation by the police shall be made inside the jail except under the orders of the DM.

**THE INDIAN ELECTRICITY ACT 1910**

**SECTION 12 :**

Provisions as to the opening and breaking up of streets, railways and transways :

(1) Any licensee may, from time to time but subject always to the terms and conditions of his licence within the area of supply, or, when permitted by the term of his licence to lay down or place electricity supply-lines within the area of supply, within that area -

- (a) open and breakup the soil and payment of any street, railway or transway.
- (b) open, lay down, repair, etc.

(2) Nothing contained in sub section (17) shall be deemed to authorise or empower



a licensee, without the consent of the local authority or of the (owner or occupier) concerned, as the case may be, to lay down or place any electric supply line, or other work, in, through or against building, or on, over or under any land not dedicated to public use whereon, wherever or whereunder any electricity-supply line- or work has not already been lawfully laid down or placed by such licensee.

Provided that any support of an (overhead line) or any stay or strut required for the sole purpose of security in position any support of an (over head line) may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate or in a presidency town the Commissioner of Police by order in writing so directs provided, also that, such fixing shows sufficient cause, the District Magistrate or Commissioner of Police may by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under sub section (2) the District Magistrate or the Commissioner of police shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

#### **UP Securities Prisoners Rules 1972**

##### **Rule 13 :**

A security prisoner may, with the previous sanction of the Superintendent receive funds from a relative or friend to enable him to supplement the amenities of life in jail. The maximum that can be spent by him during any calendar month shall not exceed Rs 15. In case of Security prisoners of the superior class the District Magistrate may permit such expenditure ordinarily upto Rs 50 and with the State Govt. upto Rs 100.

##### **Rule 16 :**

No security prisoner shall be permitted to have an interview with a person other than a police officer exception the written order of the State Govt. or the District Magistrate. As the general rule, the DM who has passed the original order of detention, shall be the authority to grant or refuse an interview. The DM of the district in which the prisoner is detained may, however, also grant or refuse an interview in exceptional cases.

##### **Rule 35 :**

**Writing Materials :** Loose paper may be supplied to security prisoners for the writing of the permissible number of letters. For other purposes ordinary school exercise books may be purchased from the funds at their disposal under rule 13 and the pages shall be numbered. The extraction of leaves from such exercise books by a security prisoner shall be treated as breach of jail discipline.

##### **Rule 47 :**

**Serious illness :** If a security prisoner is seriously ill, the superintendent shall report the fact to the District Magistrate, the IG or prisons as the State Govt. and shall also inform any friend or relation of the prisoner if so desired by him.

**Rule 66 :**

Non-official visitors, other than members of the legislature who are ex-officio non-official visitors will not, except with the specific permission of the DM or the State Government be permitted to visit security prisoners.

**Arms Act 1959**

**Sec. 39 :**

Previous sanction of the DM necessary in certain cases :

No prosecution shall be instituted against any person in respect of any offence under sec. 3 without the previous sanction of the DM.

**Manual of Govt. orders Emigration, chapter 18, para 236,237,238.**

Supervision and control of Emigration agents and transit arrangements for emigration rests with the respective DM's counter signature of DM for issue/renewal of licenses for emigration agency is necessary. Which he can refuse if he is satisfied that the person asking for agency is unfit for the job.

Sites of transit depots can be established only after prior approval of DM.

**Police Regulations**

**PARA 10**

-The sanction of the DM is necessary to the expansion of a crime from the crime register, except railway police cases.

**PARA 390**

The rural police may be reallocated within the district with the sanction of the DM.

## SOME NOTABLE CASE LAW

### Section 107 /116 Cr.P.C

A Magistrate can act only on Information . But there can be no hard rules for the source, quality or character of the information.

(1958 Cr.L.T. 344)

If there is a dispute relating to land action can be taken U/S 107 Cr.P.C. But it is proper to proceed U/S 145 Cr.P.C.

(1954 Cr.L.J. 190)

Proceedings once terminated can not be initiated on same ground

(1981 Cr.L.J. N.O.C. 153 All.)

### Section 133 Cr.P.C.

Existence of a proper order under Sec. 133 Cr.P.C. is condition precedent for issuing an injunction order contemplated by Sec. 142 of the Code.

(1977 Cr.L.J.1036)

Section 142 enables magistrate to make an Interim order of Injunction at any time during pending of proceedings - Interim order should confine it self to preventing particular nuisance contemplated by conditional order under Sec. 133 - Magistrate has no jurisdiction to travel beyond precincts of conditional order Magistrate to exercise judicial discretion on basis of material placed before him.

(1978 AWE 434)

Injunction - An injunction u/s 142 Cr.P.c. is not to be issued merely because a conditional order u/s 133 Cr.P.C. has been made. Before issuing such an injunction the court has to satisfy it self that immediate measures have to be taken to prevent imminent danger or injury of a serious kind to public. The magistrate should before issuing an injunction u/s 142 Cr.P.C. indicate either in the order itself or some where in the file of the case, the reasons as to why he considers it necessary to make such an order.

(1977 All Cr.C. 134: 1977 Cr.L.J. 1036)

### Section 145 Cr.P.c.

For action u/s 145 Cr.P.C. threatened breach of peace is essential

(1977 Cr.L.J. 2046 (Mad.))

It is not necessary that at the time of final order the apprehension of peace should subsist

1950 SC. 70)

To drop proceedings - The rights of the parties have been decided by the court but Magistrate not to drop proceedings.

(1977 UP Cr. Cases 289 All)

Preleminary order - Cancellation - It may be cancelled where it is shown either that there is no dispute or it is not likely to cause breach of peace .

(1944 Allid. 210)

**Section 133 Cr.P.C.**

Three years delay in complaining against a grievance which occurs intermitently or reasonably cannot be characterized as belated action.

(1974 Cr.L.J. 1306)

Accumulation of rain water on the public thoroughfair on account of construction of wall upon ones own land does not attract Sec. 133.

(1975 Cr. L.J. 1306)

Noise- If amounts to nuisance - It amounts to nuisance. But it must be such as to interfere effectively and substantially.

(1964 Cr.L.J. 94)

The magistrate acting under Section 137 A Cr.P.C. has no jurisdiction to call upon the complainant to lead evidence in rebuttal and the he is not required to weigh the evedince of the parties in order to find out which of the versions is correct.

(Ashwini Prasad V/S Kamala 1968 ALJ 464)

Magistrate if can drop proceedings - He has power but in that case it must show good cause.

(1943 All 19)

Taking of evidence before order absolute - Necessity - It is necessary (1936 Pat 577).

Order based on local inspection merely - if can be made absolute without evidence - It ought not to be absolute merely on that basis.

(1934 Pat . 316)

**Section 145 Cr.P.C.**

Preliminary order U/S 145 (1) and order U/S 146 for attachment not written separately. It do not imply that the impugned order is legally vitiated. The non recording of two separate orders would at the most amount to irregularity It is curable U/S 465 Cr.P.C.

(1977 Cr.L.J. 450 Alld)

District Magistrate can transfer the case to any subordinate magistrate who can pass orders under the section. (1928 mod 1220)

It is not necessary that such magistrate must have teretorial juirisdiction where transfer made afer priliminary orders. But if no preliminary order is passed then the transferee magistrare must have teretorial jurisdiction (Ibid).

Even in case covered by sec 145 action under Sec. 107 Cr.P.C. may be taken. But in such cases both the parties should be proceded against.

(1953 Cr.L.J. 816)

**Section 110 Cr.P.c.**

Final order binding over persons for good behaviour. It must be pased u.s in 111 in first instance

(1977 All. Cr.P.C. 333)

Order for imprisonment in the alternative -legality- it is not illegal

(1953 all 753, 1953 Cr.L.J. 1759)

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Number of Defence witnesses - If a ground for acquittal - Mere number does not entitle to an acquittal.

(1942 Oudh 356, 1943 Cr.L.J.398)

Residence within local limits - if necessary for jurisdiction - It is not only the alleged acts or there apprehended repetition should be within the magistrates jurisdiction.

(1945 Cr.L.J. 532)

Evidence of previous convictions - When not necessary . If the requirements of the section can otherwise be proved, it will not be necessary.

(1939 Cr.L.J. 399)

Sarpanch or Mukhia - If quasi Police witness . They are not.

(1935 Alld. 850)

Police Officer - If competent witness of reputation - Held he is

(1935 Cr.L.J. 183).

#### 1980 A.W.C. 197

(A)- Arms Act 1959, Secs. 25, 38 - Criminal P.c., 1973 Sec. 156- Police Officer who is a eye-witness if becomes investigating officer then there is no assurance that what the eye-witness have stated was true.

(B) Arms Act 1959, Sec., 25 Punishment for offences - Accused can not be convicted on the bare testimony of police officer.

(C) Arms Act 1959, Sec. 39- distt. Magistrate granting sanction - Duty of - Sanction not to be granted in a routine manner or for mere asking by a police officer object of according sanction - authority not to permit the liberty of a citizen to be taken away by a police officer. (Para 12).

#### 1978 A.C.C. 238

Under the Arms Act a person can be prosecuted only after the District Magistrate has given the necessary sanction for his prosecution. This sanction is intended to be nor is an automatic formality : it is absolutely essential that the provisions in regard to sanction should be observed with complete strictness, reading of the sanction will be that the District Magistrate gave the sanction for the prosecution of the applicant without considering the evidence that was available against him. Obviously, therefore, he gave the sanction without applying his mind to the facts and circumstances of the case. Such a sanction is no sanction in the eyes of law. The prosecution of the applicant in the absence of a proper sanction was not in accordance with law and court has therefore no option but to acquit him.

#### THE ARMS ACT. 1959

The licensing authority must give reasons in his order refusing to grant licence : S.P. Mohammad Vs. Commr.

(1971 4 MLJ 26)

The licensing authority has to act quasi-judicially while acting under S. 17 : K.N. Naik Vs. ADM

(1971 KLJ 130)

Witness - Hostile - Portion of his testimony corroborated by other evidence can be relied upon. Keshoram Bora V.State of Assam (1978) 2 SEC 407

### THE PREVENTION OF FOOD ADULTERATION ACT 1954

An article of food is adulterated when it is not of nature, substance or quality while it purports to be : Public Prosecutor Vs. K. Ramling.

(ASB 1969 A.P. 445)

### 1979 UP Criminal Law Journal

Indian Penal Code 1860 - Sec. 324 & 325- Appreciation of Evidence - a llegal presence of independent witnesses - Non examination of them without giving satisfactory reason - Prosecution version becomes doubtful. (Para 3 )

Criminal Procedure Code, 1973 - Section 154-FIR Delay - No satisfactory explanation for delay given - Inference can be drawn that there were deliberations before lodging the FIR (Para 4 ).

Criminal Trial - Injuries sustained at about the time of occurrence by accused person not explained - Defence giving explanation of injuries which became more probable - Prosecution case becomes doubtful.

### 1982 ACC 350

Non - production of such witness who prepared the FIR tells heavily on prosecution as in their absence it was not possible to ascertain what exactly was the version of the informant.

-Certain eye-witness were not examined to support the prosecution story and their non-production is again a circumstance which reflects on the varacity of ocular testimony in his case. A presumption arises under Section 114 illustration (g) of Indian Evidence Act that such evidence if produced would have been unfavourable to prosecution.

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