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PART - IV - A

Rules and Orders (other than those published in Parts I, I-A and I-L) made by the Government of Gujarat under the Central Acts.

WOMEN AND CHILD DEVELOPMENT DEPARTMENT

Notification

Sachivalaya, Gandhinagar, 11th November, 2003.

DOWRY PROHIBITION ACT, 1961.

No. GH/1/MHY/102002/1441/A.

In exercise of the powers conferred by section 10 of the Dowry Prohibition Act, 1961 (Act No. 28 of 1961), the Government of Gujarat hereby makes the following rules, namely :-

1. Short title and commencement -

- 1) These rules may be called the Gujarat Dowry Prohibition Rules, 2003.
- 2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions -

In these rules, unless the context otherwise requires -

- (i) 'Act' means the Dowry Prohibition Act, 1961 (Act No. 28 of 1961);

- (ii) "Advisory Board" means a board constituted in accordance with sub-section (4) of section 8b of the Act to advise and assist Dowry Prohibition Officers ;
- (iii) "Chief Dowry Prohibition Officer" means Director of Social Defence who is entrusted with the duties and responsibilities under these rules ;
- (iv) "Dowry Prohibition Officer" means an Officer appointed as such by the State Government under section 8B of the Act ;
- (v) "Probation Officer" means a chief Officer or a District Probation Officer or Probation Officer appointed as such under the Probation of Offenders Act, 1958 (Act No. 20 of 1958) ;
- (vi) "Police Officer" means an officer as defined in the Bombay Police Act, 1951 ;
- (vii) "Recognised Welfare Institution or Organisation" means an Institution or Organisation recognized as such under sub-clause (ii) of clause (b) of sub-section (1) of section 7 of the Act ;
- (viii) "District Magistrate" and "complaints" shall have the same meaning as respectively assigned to them and defined under the code of Criminal Procedure, 1973 (act No. 2 of 1974) ;
- (ix) The words and expressions used in these rules but not defined shall have to meaning respectively assigned to them in the Act.

3. **Jurisdiction of Dowry Prohibition Officer :-**

The area in respect of which the Dowry Prohibition Officer has to exercise jurisdiction and power under sub-section (1) of Section 8B of the Act shall be the area specified for the purpose by notification of the State Government in the Official Gaz.

4. **Procedure for filing complaints :-**

A complaint may be filed by any aggrieved person or a parent or other relative of such person or by any Recognised Welfare Institution or Organisation in writing to Dowry Prohibition Officer, either in person or through a messenger or by post.

5. **Additional functions to be performed by the Dowry Prohibition Officer :**

- (i) He shall endeavor to create awareness among the public by organizing camps, publicity through Information and Broadcasting Department, Panchayat Samiti and other media against dowry and to involve local people for prevention of dowry.
- (ii) He shall conduct surprise checks and discreet enquiries to ascertain whether there has been any violation of the provisions of the Act or Rules,
- (iii) He shall receive complaints for any purpose of the Act from the party or person aggrieved or any other person or Organisation.
- (iv) He shall maintain a register for the purpose of the Act to record all complaints, enquiries and results thereof and other relevant information connected therewith in the prescribed form No.1 He shall also maintain separate files with relevant records for each individual case;

- (v) He shall act as the Member Secretary or Convener of the Advisory Board. He shall maintain regular contact with members of the advisory Board for necessary advise and assistance from them. He shall inform the Director of Social Defence or the District Magistrate or any other person authorized by the State Government for the purpose, about all the affairs relating to operation the act, as and when necessary;
- (vi) He shall keep in his custody all the lists of presents submitted by the parties to any marriage and make entries to any marriage and make entries relating there to in a Register to be maintained for the purpose. He shall also examine these lists and ensure compliance of the provisions of the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.
- (vii) He shall discharge his duties with due care, decorum, privacy and in a manner to uphold the dignity and harmony of family relationship.
- (viii) The dowry prohibition officer's approach shall be primarily preventive and remedial and prosecution shall be recommended or resorted to only if all other measures and directions within the stipulated time.
- (ix) Every such complaint received by the Dowry Prohibition Officer shall be serially numbered and duly registered in a register in Form No I annexed to these rules.

- (x) The Dowry Prohibition Officer shall scrutinise the complaint and if it is found that the nature and the contents of the complaint is such apparently coming within the preview of section 3 or 4A or 5 or 6 of the Act, he will immediately conduct an enquiry to collect such evidence from the parties as to the genuineness of the complaint.
- (xi) The Dowry Prohibition Officers shall quarterly report to the Chief Dowry Prohibition Officer as to the number of complaints received under the Act and the action taken or the nature of settlement of the issue in Form No. II annexed to these rules. The Dowry Prohibition Officer shall send such details or reports as may be required by Chief Dowry Prohibition Officer or the Government from time to time.
- (xii) The Dowry Prohibition Officer shall conduct an on the spot investigation and can collect such evidence either oral or in writing from the parties or witnesses or he can fix up a hearing of the parties and witnesses in his office or in a place convenient to him without causing much inconvenience or hardship to the parties.
- (xiii) The Dowry Prohibition Officer shall intimate or serve notices to the parties and witnesses of the date, time and place of hearing or the complaints in Form No. III annexed to these rules.
- (xiv) Every petition shall be enquired into and heard and come to a finding within a month from the date of its receipt.

- (xv) Where on the date fixed for hearing of the complaint or petition or on any other date to which such hearing may be adjourned, the complainant or Petitioner does not appear the Dowry Prohibition Officer, may in its discretion, either dismiss the complaint or petition for default or hear and come to finding as to its merit, which shall be recorded in the case file.
- (xvi) The Dowry Prohibition Officer may utilize the services of Chief Officer or District Officers of the area for collecting information or conducting enquiries or assisting in any stage of enquiries or proceedings relating to a complaint, petition or application under the Act.
- (xvii) On receipt of requisition from the Dowry Prohibition Officer, the Probation Officers shall conduct necessary enquiries, collect information and furnish such details or report promptly as requested by him.
- (xviii) Where any dowry is received by any person other than the woman and a complaint is received in respect of non-transfer of such dowry to the woman who is entitled to it in accordance with section 6 of the Act, the Dowry Prohibition Officer shall issue directions to parties to transfer the same within the stipulated time.
- (xix) He shall specifically make it clear that marriages performed within his jurisdiction are likely to be visited by him or his staff alongwith police officers to see that the provisions of the Act are not contravened.

- (xx) The Dowry Prohibition Officer shall make necessary enquiries regarding non-observance of the provisions of the Act in respect of the marriages held or proposed to be held within his jurisdiction.
- (xxi) He shall ascertain and confirm by suitable means in respect of as many number of marriages as are held within his jurisdiction as to whether the provisions of the Act are being followed and are not being contravened.
- (xxii) The Dowry Prohibition Officer while making enquiries under the Act or when he attends any marriage for the purpose of making enquiries, take the assistance of any police officer or other officers to assist him in the performance of his functions and it shall be the duty of the Police Officer to render all assistance required by the Dowry Prohibition Officer.
- (xxiii) He shall render assistance to the police in investigating the complaint filed under the Act and the Court in the trial of the case.
- (xxiv) He shall seek the guidance of Advisory Board in matters relating to their functioning under the Act.
- (xxv) The Dowry Prohibition Officer (Member Secretary or Convenor of the Advisory Board) shall send a copy of the proceedings of each meeting of the Advisory Board, within a fortnight from the date of meeting to the Director of Social Defence and the District Magistrate for information and necessary action.
- (xxvi) He shall also perform such other duties as may be assigned in this regard by the State Government.

6. **Appointment, duties and functions of Chief Dowry Prohibition Officer :-**

- (1) The State Government shall designate the Director of Social Defence as the Chief Dowry Prohibition Officer to administer and co-ordinate the work relating to dowry prohibition throughout the State.
- (2) The Chief Dowry Prohibition Officer shall co-ordinate the work of Dowry Prohibition Officers and shall be responsible for creating consciousness and awareness to prevent system among the public and to set up programmes with a view to uproot the evil of dowry system.
- (3) The Chief Dowry Prohibition Officer shall be responsible for the preparation and submission of an annual report on the progress of implementation of Dowry Prohibition Act and related matters and of such statistics as may from time to time be required by the Government.
- (4) The Chief Dowry Prohibition Officer shall issue instructions to all the Departments of the State Government to the following effects :
 - (i) Every government servant shall after his marriage furnish a declaration stating the he has not taken any dowry to Head of Department. The declaration shall be signed by the wife, father and father-in-law.
 - (ii) One specified day in a year to be observed as a Dowry Prohibition Day.

- (iii) Pledge to be administered in the students in schools and colleges and other institutions not to give or take dowry

7. Submission of list of presents by parties to the marriage :-

The parties to any marriage or any of the parents or either of them shall furnish a copy of the list of presents prepared in accordance with the Dowry Prohibition (Maintenance of List of Presents to the Bride and Bridegroom) Rules, 1985 to the concerned Dowry Prohibition Officer within one month from the date of marriage.

8. Procedure for Prosecution of Officers :-

In all cases of complaints investigated by Dowry Prohibition Officers when there is a prima facie finding as to the commission of an offenders alongwith the statement recorded, all other connected documents of the proceeding and a brief account of his findings. This report shall be deemed to be a report under section 173 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974.)

9. Recognition of Welfare Institutions :

- (1) A Welfare Institution or Organization primarily devoted to any of the following kinds of work and has rendered remarkable service in the field for a period of not less than three years will be eligible for seeking recognition under sub clause (ii) of clause (b) of sub section (1) of section 7 of the Act.

- (a) Social Welfare including care, protection and training of women.
- (b) Organization of Women of a State wide or All India character, Prominent Mahila Samajs or Women's Organizations :
- (c) Social Defence including care and protection of Destitute, Rescue women and children.
- (d) Any organization of lawyers interested in eradicating social evils.

- (2) Any welfare institutions or organizations eligible under sub rule (1) desiring recognition shall make an application to the State Government in Form No. IV annexed to these rules together with a copy of each of the Rules, Bye Laws, Articles of association, lists of its members and officer bearers and report regarding its activities and past record of Social or Community Service.
- (3) The State Government may after making such enquiry by a senior officer of the department and after considering the report as to the nature and past record of service of the organization or institution which has presented the application in this regard grant recognition for a period of five years which can be renewed after submitting a renewal application.

- (4) An application for renewal or recognition shall be submitted in Form No. V annexed to these rules in the manner prescribed in sub rule (2) which shall be processed as per the procedure laid down in sub rule (3) and Recognition shall be granted or renewed in cases where the working of the institution or organization is reported to be fairly satisfactory.
- (5) The State Government may withdraw the recognition granted to an institution or organization if the working report of the institution or organization is found unsatisfactory by the Chief Dowry Prohibition Officer or otherwise.

10. Limitation and Conditions subjects to which a Dowry Prohibition Officer may exercise powers of Police officer :

- (1) Save and except the provision of Chapter V of the Code of Criminal Procedure, namely, the power of arrest of a person without warrant, the Dowry Prohibition Officer shall have the powers of a police officer under the said Code for the purpose of investigation and submission of report before the competent Magistrate.
- (2) Whether the Dowry Prohibition Officer has reasonable grounds for believing that an offence punishable under this Act has been or is being or is about to be committed within his jurisdiction and that the search of any premises with warrant cannot be made without undue delay, he may, after sending the grounds of his belief to the District Magistrate search such premises without a warrant.

- (3) Before making a search under sub rule (2), the Dowry Prohibition Officer shall call upon two or more residents of the locality in which the place to be searched is situated, to attend and witness the search, and may issue an order in writing to them or any of them to do so.
- (4) Any person, without reasonable cause, refuses or neglects, to attend and witness a search under this rule, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code (Act No. 45 of 1860).

11. Declaration of Dowry Prohibition Officer as public servant :

Every Dowry Prohibition Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. (Act No. 45 of 1960)

12. Protection of action taken in good faith :

No suit or other legal proceeding shall lie against the Government, Chief Dowry Prohibition Officer and any Police Officer or person assisting to him, Probation Officer in respect of anything which is in good faith done or intended to be done in pursuance of the Act or the rules.

13. Interpretation :

If any question arises relating to the interpretation of these rules, the same shall be referred to the State Government for decision.