

Government of Orissa
Women & Child Development Department

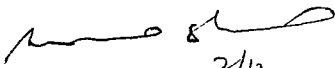
No. 8386 /WCD., Date: 16.3.2006
11-WP-11/05

MEMORANDUM

Sub: Orissa Dowry Prohibition (Amendment Rules – 2005).

Dowry is an age old social evil. Its impact is deep rooted and in majority of cases the consequence are destructive and even fatal. To curb this Social evil Dowry Prohibition Act came into force during 1961. In our State Dowry Prohibition Rules 2000 were framed as per Section 10 of Dowry Prohibition Act 1961. (Copy enclosed)

2. Honourable Supreme Court of India has directed all States including Orissa in W.P. (Civil) No.499/1997 to frame Dowry Prohibition Rules basing on the Draft Model Rules framed by Government of India, for bringing uniformity in the Rules in all the States. It may be pointed out that, Orissa has already framed Dowry Prohibition Rules 2000, even before Draft Model Rules were circulated. Necessary Amendments were made on the basis of Draft Model Rules framed by Government of India. The Law Deptt. has given their concurrence to the Draft Rules.
3. Cabinet may peruse the Draft Orissa Dowry Prohibition (Amendment) Rules 2006 and approve the same if deemed appropriate.


2/17
Commissioner-cum-Secretary to Govt.

WOMEN & CHILD DEVELOPMENT DEPARTMENT NOTIFICATION

In exercise of the powers conferred by Section 10 of the Dowry Prohibition Act, 1961, (28 of 1961) the State Government do hereby make the following rules to amend the Orissa Dowry Prohibition Rules, 2000, namely:-

1. (1) These rules may be called the Orissa Dowry Prohibition (Amendment) Rules, 2006.

(2) They shall come into force on the date of their publication in the Orissa Gazette.

2. In the Orissa Dowry Prohibition Rules, 2000, (hereinafter referred to as the said rules), in sub-rule(1) of Rule-2,

(i) after clause (a), the following clause shall be inserted, namely:-

“(a-i) ‘Advisory Board’ means a Board constituted in accordance with sub-section(4) of section 8-B of the Act to advise and assist the Dowry Prohibition Officers.”

(ii) after clause (c), the following clause shall be inserted, namely:-

“(C-i) ‘ Chief Dowry Prohibition Officer” means an officer of the State Government entrusted with the duties and responsibilities under these rules;” and

(iii) after clause (h), the following clauses shall respectively be inserted, namely:-

“(h-i) ‘Officer In-charge of a Police Station’ means an officer of police station as defined in the Code of Criminal Procedure and shall have the same meaning as assigned under the code of Criminal Procedure, 1973(2 of 1974)”;

(h-ii) ‘Probation Officer’ means a District Probation Officer or Additional District Probation Officer or City Probation Officer appointed as such under the Probation of Offenders Act, 1958, (20 of 1958)

(h-iii) ‘ Recognised Welfare Institution or Organisation’ means an Institution or Organisation recognised as such under sub-clause (ii) of Clause (b) of sub-section (1) of section 7 of the Act’;

3. In the said rules, for the rule 3, the following rule shall be substituted, namely:-

“3. The additional functions to be performed by the Dowry Prohibition Officer shall be as follows:-

(a) He shall endeavor to create awareness among the public by organising camps, publicity through information and public Relations Department, Panchayat Samiti and other media against dowry and to involve local people for prevention of dowry.

(b) He shall conduct surprise check and discreet inquiries to ascertain whether there has been any violation of the provisions of the Act and the Rules.

(c) Every such complaint received by the Dowry Prohibition Officer shall be serially numbered and duly registered in a Register in Form No.II.

(d) The Dowry Prohibition Officer shall scrutinise the complaint and if it is found that the nature and the contents of the complaint is apparently coming within the purview of Section 3 or 4 or 4A or 5 or 6 of the Act, he shall immediately conduct an inquiry to collect such evidence from the parties to ascertain the genuineness of the complaint.

- (e) Where on the date fixed for hearing of the complaint or petition the complainant or the petitioner does not appear on the date so fixed, the Dowry Prohibition Officer may in its discretion either dismiss the complaint or petition for default or hear and come to a finding as to its merit, which shall be recorded in the case file.
- (f) The Dowry Prohibition Officer may utilise the services of District Probation Officer or Additional District Probation Officers or City Probation Officers of the area for collecting information or conducting inquiries or assisting in any stage of inquiries or proceedings relating to a complaint, petition or application under the Act.
- (g) On receipt of requisition from the Dowry Prohibition Officer, the Probation Officers shall conduct necessary inquiries, collect information and furnish such details or report promptly as requested by him.
- (h) Where any dowry is received by any persons other than the women and a complaint is received in respect of non-transfer of such dowry to the women who is entitled to it in accordance with section 6 of the Act, the Dowry Prohibition Officer shall issue directions to the parties to transfer the same within the stipulated time.
- (i) He shall keep in his custody all the list of presents submitted by the parties to any marriage and make entries relating thereto in a Register to be maintained for the purpose. He shall also examine these lists and ensure compliance of the provisions of Dowry Prohibition (maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.
- (j) He shall specifically make it clear that marriages performed within his jurisdiction are likely to be visited by him or his staff along with Officer in-charge of a Police Station to see that the provisions of the Act are not contravened.
- (k) The Dowry Prohibition Officer shall make necessary inquiries regarding non-observance of the provisions of the Act in respect of the marriages held or proposed to be held within his jurisdiction.
- (l) 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.
- (m) The Dowry Prohibition Officer while making inquiries under the Act or when he attends any marriages for the purpose of making inquiries, take the assistance of officer of a Police Station or other Officers to assist him in the performance of his functions and it shall be the duty of the Officer of the Police Station to render all assistance required by the Dowry Prohibition Officer.
- (n) He shall render assistance to the police in investigating the complaint filed under the Act and the Court in the trial of the case.
- (o) He shall discharge his duties with due care, decorum, privacy and in a manner uphold the dignity and harmony of family relationships.
- (p) The Dowry Prohibition Officers' approach shall be primarily preventive and remedial and prosecution shall be recommended or resorted to only if all other measures and direction are found ineffective or parties failed to comply with the orders or directions within the stipulated time.

- (q) The Dowry Prohibition Officer shall send 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 or 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 the Chief Dowry Prohibition Officer or the Government from time to time.
- (r) He shall seek the guidance of the Advisory Board in the matters relating to his functioning under the act.
- (s) The Dowry Prohibition Officer (Convenor of the Advisory Board) shall send copy of the proceedings of each meeting of the Advisory Board, within a fortnight from the date of the meeting of the Advisory Board with a copy to State Government for information and necessary action.
- (t) He shall also perform such other duties as may be assigned in this regard by the State Government.
- (u) He shall act as the Member Secretary (Convenor) of the Advisory Board. He shall maintain regular contact with the members of the Advisory Board for necessary advice and assistance from them. He shall inform the district Magistrate or any other person authorized by the State Government for the purpose, about all the affairs relating to operation of the Act, as and when necessary.”

4. In the said rules, for rule4, the following rule shall be substituted, namely:-

“4. The Dowry Prohibition Officer shall:-

- (a) entertain complaints regarding any offence under the Act from any person aggrieved or parents or other relatives of the victim or any Recognised Welfare Institution or Organisation in writing addressed to either in person or through a messenger or by post;
- (b) maintain a register for the purpose of the Act to record all complaints, enquiries and result thereof and other relevant information connected therewith inform and also maintain separate files with relevant records for each individual case;
- (c) give notice to the parties and witnesses intimating them the date, time and place of hearing of the complaint in Form.III;
- (d) conduct an on the spot investigation and shall collect-evidence from the parties or witnesses or he will fix up a hearing of the parties or witness in his office or in a place convenient to him without causing any inconvenience or hardship to the parties.
- (e) inquire every position and hear and come to a finding within a month from the date of its receipt”.

5. In the said rules, for rule 6, the following rule shall be substituted namely:-

“6. Parties to any marriage or any of the parents of either party to any marriage shall furnish to the concerned Dowry Prohibition Officer within one month from the date of marriage a list of presents maintained under the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985;

6. In the said rules, after rule 8, the following rules alongwith its marginal heading shall respectively be inserted, namely:-

Procedure for prosecution of offenders. 8A. In all cases of complaints investigated by Dowry Prohibition Officers where there is a prima facie finding as to the Commission of an offence, the report shall be submitted to the Competent Magistrate for prosecuting the offenders alongwith the statement recorded, all other connected documents of the proceedings 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 2 of 1974).

Recognition of Welfare Institution. 8B. (1) A Welfare Institution or Organisation primarily devoted to any of the following kinds of work and has rendered 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, namely:-

- (a) Social Welfare including care, protection and training of women;
- (b) Organisation of women of a State wide or All India Character, Prominent Mahila Samities or Women's Organisation;
- (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 institution or organisation eligible under sub-rule (1) and desiring recognition shall make an application to the State Government in Form-IV together with a copy of each of the Rules, Bye Laws, Articles of association, lists of its members and office bearers and a report regarding its activities and past record of social or Community Service.

(3) The State Government may after making such inquiry by a Senior Officer of the concerned 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 of recognition shall be submitted in Form-V in the manner provided under sub-rule (2) which shall be processed as per the procedure laid down in sub-rule (3) and recognition shall be granted/ 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 organisation if the working of the institution / organisation is found or reported to be unsatisfactory by the Chief Dowry Prohibition Officer or other wise.

Method of appointment, duties and functions of Chief Dowry Prohibition Officer

8.C(1) The State Government shall designate the Senior Officer of the concerned department as the Chief Dowry Prohibition Officer to administer and coordinate the work of Dowry Prohibition Officers and shall be responsible for creating consciousness and awareness to prevent dowry system among the public and to set out programmes with a view to up root the evil of dowry system.

(2) The Chief Dowry Prohibition Officer shall be responsible for preparation and submission of an annual report on the progress of implementation of the Act and related matters and of such statistics as may from time to time be required by Government.

(3) 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 that he has not taken any dowry to the Head of Department. The declaration shall be signed by the wife, father, mother, father-in-law and Mother-in-law.
- (ii) One specified day in a year to be observed as Dowry Prohibition Day.
- (iii) Pledge to be administered to the students in schools and colleges and other institutions not to give or take dowry.

Limitation subject to which a Dowry Prohibition Officer may exercise powers of Police Officers.

8.D(A) Save and except the provisions 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 or report before the competent magistrate.

(1) Whenever 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.

(2) 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;

(3) 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 (45 of 1860).

Protection of action taken in good faith

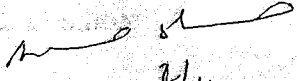
8.E. No suit or other legal proceeding shall lie against the Government, Chief Dowry Prohibition Officer, Dowry Prohibition Officer and any Police Officer or Person assisting him, Probation Officer in respect of anything which is in good faith done or intended to be done in pursuance of the Act or the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

7. In the said rules, after rule 11, the following Forms shall be inserted, namely:-

"Form-I".

The Law Deptt. have concurred in the Draft Orissa Dowry Prohibition (Amendment) Rules 2006 vide their UOR No.1308-L-DI.20.09.2004.

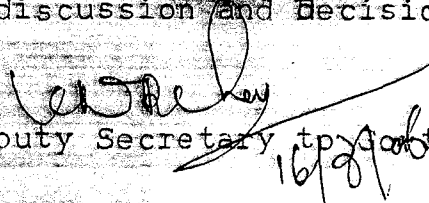
The memorandum is placed before the cabinet for favour of consideration and approval.


2/1,
Commissioner-cum-Secretary to Govt
W&CD Deptt.

Government of Orissa
Women & Child Development Department

Memo No. 8382 /WCD, dtd. 16.3.2006
II-WP-11/2005

Forty copies of the Memorandum forwarded to the Deputy Secretary to Govt., Parliamentary Affairs Deptt. for information. The Memorandum may be included in the next meeting of the Cabinet for discussion and Decision.


Deputy Secretary to Govt.
16/3/06

Form – I

[See rule 4(b)]

REGISTER OF COMPLAINTS/ PETITIONS

<i>Sl. No</i>	<i>List of Complaints</i>	<i>Name of the address of petitioner</i>	<i>Relationship with the married couple</i>	<i>Date of marriage fixed or held</i>	<i>Date of receipt of petition / complaint</i>	<i>Date of hearing</i>	<i>Nature of Disposal</i>	<i>Initials of Officer</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Dowry Prohibition Officer

Form - II (C)&(Q)

[See rule-3(III) & (XVI)]

QUARTERLY PROGRESS REPORT REGARDING THE IMPLEMENTATION OF DOWRY PROHIBITION ACT, 1961

Sl. No	Details of petition / complaints received	From whom Name and address	Nature of Complaints / petition	Date of Registration	Action taken	Nature of settlement of issue	Dated initials of the Officers	Res
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	

Dowry Prohibition Officer

Form-III]
[See rule 4 (c)]
NOTICE TO APPEAR BEFORE DOWRY PROHIBITION OFFICER

To

(Name of person against
whom complaint has been
received and address)

Whereas your attendance is necessary to collect information and gather evidence to a complaint of(state shortly the alleged offence) you are hereby required to appear in person before the Dowry Prohibition Officer on the day ofat.....(time) in the Office of the.....(place).

Dowry Prohibition Officer

(Office Seal)

Dated theday of200

Form-IV

[See rule 8B(2)]

**FORM OF APPLICATION FOR RECOGNITION OF
WELFARE INSTITUTION/ORGANISATION**

1. Name of the Welfare Institution / Organisation. :
2. Full Address :
3. Aims and Objectives :
4. Name and address of the Head of The Institution/Organisation :
5. Brief account of its activities :
6. Justification for granting recognition :
7. Has any such application been made Previously, if so its results together with Its date, month and year :
8. Any other particulars :

Enclosures:

- (1)
- (2)
- (3)

Place:

Date:

Signature of the head of the Welfare
Institution / Organisation

Form-V

[See rule 8B(4)]

**FORM OF APPLICATION FOR RENEWAL OF CERTIFICATE OF
RECOGNITION**

1. Name of the Welfare Institution / Organisation :
2. Full Address :
3. Brief account of the achievements during last five years :
4. Name and address of head of the institution/Organisation :
5. Certificate No., date and date of expiry :
6. Any other particulars. :

Place:

Date:

Signature of the head of the Welfare
Institution / Organisation