

DOWRY PROHIBITION

THE DOWRY PROHIBITION ACT, 1961¹

[Act, No. 28 of 1961]

[20th May, 1961]

An Act to prohibit the giving or taking of dowry.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:--

1. For Statement of Objects and Reasons see the Gazette of India, Extra., 1959, Part II, Section 2, p. 397.

Section 1 - Short title, extent and commencement

(1) This Act may be called the Dowry Prohibition Act, 1961.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

1. Came into force on 1-7-1961.

Section 2 - Definition of 'dowry'

In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly--

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person,

at or before¹[or any time after the marriage]²[in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

³[***]

Explanation II.--The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code (45 of 1860).

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1. Substituted by Act 43 of 1986, Section 2, for "or after the marriage" (w.e.f. 19-11-1986).
 2. Substituted by Act 63 of 1984, Section 2, for certain words (w.e.f. 2-10-1985).
 3. Explanation I omitted by Act 63 of 1984, Section 2 (w.e.f. 2-10-1985).
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Section 3 - Penalty for giving or taking dowry

¹[(1)] If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry he shall be punishable²[with imprisonment for a term which shall not be less than³[five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than⁴[five years].]

⁵[(2) Nothing in sub-section (1) shall apply to, or in relation to,--

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of (the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.)

1. Section 3 re-numbered as sub-section (1) thereof by Act 63 of 1984, Section 3 (w.e.f. 2-10-1985).
 2. Substituted by Act 63 of 1984, Section 3, for certain words (w.e.f. 2-10-1985).
 3. Substituted by Act 43 of 1986, Section 3, for certain words (w.e.f. 19-11-1986).
 4. Substituted by Act 43 of 1986, Section 3, for "six months" (w.e.f. 19-11-1986).
 5. Inserted by Act 63 of 1984, Section 3 (w.e.f. 2-10-1985).
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Section 4 - Penalty for demanding dowry

1[4. Penalty for demanding dowry

If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.]

1. Substituted by Act 63 of 1984, Section 4, for section 4 (w.e.f. 2-10-1985).

Section 4A - Ban on advertisement

¹[4A. Ban on advertisement

If any person,--

(a) offers, through any advertisement in any newspaper, periodical, journal or through any other media, any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative;

(b) prints or publishes or circulates any advertisement referred to in clause (a),

he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.]

1. Inserted by Act 43 of 1986, section 4 (w.e.f. 19-11-1986).

Section 5 - Agreement for giving or taking dowry to be void

Any agreement for the giving or taking of dowry shall be void.

Section 6 - Dowry to be for the benefit of the wife or her heirs

(1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman--

(a) if the dowry was received before marriage, within¹[three months] after the date of marriage; or

- (b) if the dowry was received at the time of or after the marriage, within¹[three months] after the date of its receipt; or
- (c) if the dowry was received when the woman was a minor, within¹[three months] after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman.
- ²[(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor,³[or as required by sub-section (3),] he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years or with fine⁴[which shall not be less than five thousand rupees, but which may extend to ten thousand rupees] or with both.]
- (3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being:
- ³[Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall,—
- (a) if she has no children, be transferred to her parents; or
- (b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children.]
- ⁵[(3A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1)³[or sub-section (3)] has not, before his conviction under that sub-section, transferred such property to the woman entitled thereto or, as the case may be,⁶[her heirs, parents or children] the Court shall, in addition to awarding punishment under that sub-section, direct, by order in writing, that such person shall transfer the property to such woman or, as the case may be,⁶[her heirs, parents or children] within such period as may be specified in the order, and if such person fails to comply with the direction within the period so specified, an amount equal to the value of the property, may be recovered from him as if it were a fine imposed by such Court and paid to such woman or, as the case may be, 3[her heirs, parents or children.]
- (4) Nothing contained in this section shall affect the provisions of section 3 or section 4.

1. Substituted by Act 63 of 1984, Section 5, for "one year" (w.e.f. 2-10-1985).

2. Substituted by Act 63 of 1984, Section 5, for sub-section (2) (w.e.f. 2-10-1985).
3. Inserted by Act 43 of 1986, Section 5 (w.e.f. 19-11-1986).
4. Substituted by Act 43 of 1986, Section 5, for certain words (w.e.f. 19-11-1986).
5. Inserted by Act 63 of 1984, Section 5 (w.e.f. 2-10-1985).
6. Substituted by Act 63 of 1986, Section 5, for "her heirs" (w.e.f. 19-11-1986).

Section 7 - Cognizance of offences

¹[7. Cognizance of offences

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),--

(a) no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act;

(b) no Court shall take cognizance of an offence under this Act except upon--

(i) its own knowledge or a police report of the facts which constitute such offence, or

(ii) a complaint by the person aggrieved by the offence or a parent or other relative of such person, or by any recognized welfare institution or organisation;

(c) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

Explanation.--For the purposes of this sub-section, "recognized welfare institution or organisation" means a social welfare institution or organisation recognized in this behalf by the Central or State Government.

(2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply to any offence punishable under this Act.]

²[(3) Notwithstanding anything contained in any law for the time being in force a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.]

1. Substituted by Act 63 of 1984, Section 6, for section 7 (w.e.f. 2-10-1985).

2. Inserted by Act 43 of 1986, Section 6 (w.e.f. 19-11-1986).

Section 8 - Offences to be cognizable for certain purposes and to be ²[non-bailable] and non-compoundable

¹[(8. Offences to be cognizable for certain purposes and to be ²[non-bailable] and non-compoundable

(1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as if they were cognizable offences--

(a) for the purposes of investigation of such offences; and

(b) for the purposes of matters other than--

(i) matters referred to in section 42 of that Code; and

(ii) the arrest of a person without a warrant or without an order of a Magistrate.

(2) Every offence under this Act shall be ²[non-bailable] and non-compoundable.]

1. Substituted by Act 63 of 1984, Section 7, for section 8 (w.e.f. 2-10-1985).

2. Substituted by Act 43 of 1986, Section 7, for "bailable" (w.e.f. 19-11-1986).

Section 8A - Burden of proof in certain cases

¹[8A. Burden of proof in certain cases

Where any person is prosecuted for taking or abetting the taking of any dowry under section 3, or the demanding of dowry under section 4, the burden of proving that he had not committed an offence under these sections shall be on him.]

1. Inserted by Act 43 of 1986, section 8 (w.e.f. 19-11-1986).
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Section 8B - Dowry Prohibition Officers

¹[8B. Dowry Prohibition Officers

(1) The State Government may appoint many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.

(2) Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely:--

- (a) to see that the provisions of this Act are complied with;
- (b) to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;
- (c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and
- (d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.

(3) The State Government may, by notification in the Official Gazette, confer such powers of a police officer as may be specified in the notification on the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.

(4) The State Government may, for the purpose of advising and assisting Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an Advisory Board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).]

1. Inserted by Act 43 of 1986, Section 8 (w.e.f. 19-11-1986).

Section 9 - Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

¹[(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of section 3 shall be maintained and all other matters connected therewith; and

(b) the better co-ordination of policy and action with respect to the administration of this Act.]

²[(3)] Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or³[in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1. Inserted by Act 63 of 1984, Section 8 (w.e.f. 2-10-1985).

2. Sub-section (2) renumbered as sub-section (3) thereof by Act 63 of 1984, Section 8 (w.e.f. 2-10-1985).

3. Substituted by Act 20 of 1983, Section 2 and Schedule, for certain words (w.e.f. 15-3-1984).

Section 10 - Power of State Government to make rules

10. Power of State Government to make rules

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the additional functions to be performed by the Dowry Prohibition Officers under sub-section (2) of section 8B;

(b) limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of section 8B.

(3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.]

1. Substituted by Act 43 of 1986, Section 9, for section 10 (w.e.f. 19-11-1986).

THE DOWRY PROHIBITION (MAINTENANCE OF LIST OF PRESENTS TO THE BRIDE AND BRIDEGROOM) RULES, 1985

In exercise of the powers conferred by section 9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby makes the following rules, namely :--

1. Short title and commencement.--

(1) These rules may be called the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985.

(2) They shall come into force on the 2nd day of October, 1985 being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

2. Rules in accordance with which lists of presents are to be maintained.--

(1) The list of presents which are given at the time of the marriage to the bride shall be maintained by bride.

(2) The list of presents which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.

(3) Every list of presents referred to in sub-rule (1) or sub-rule (2),--

(a) shall be prepared at the time of the marriage or as soon as possible after the marriage;

(b) shall be in writing ;

(c) shall contain,--

(i) a brief description of each present;

(ii) the approximate value of the present ;

(iii) the name of the person who has given the present; and

(iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship ;

(d) shall be signed by both the bride and the bridegroom.

Explanation 1.--Where the bride is unable to sign, she may affix her thumb-impression in lieu of her signature after having the list read out to her and obtaining the signature, on the list, of the person who has so read out the particulars contained in the list.

Explanation 2.--Where the bridegroom is unable to sign, he may affix his thumb-impression in lieu of his signature, after having the list read out to him and obtaining the signature, on the list of the person who has so read out the particulars contained in the list.

(4) The bride or the bridegroom may, if she or he so desires, obtain on either or both of the lists referred to in sub-rule (1) or sub-rule (2) the signature or signatures of any other person or persons present at the time of the marriage.

ORISSA DOWRY PROHIBITION RULES, 2000
WOMEN & CHILD DEVELOPMENT DEPARTMENT
NOTIFICATION

The 5th June 2000

S.R.O. No. 410/2000- 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 carry out the purposes of the said Act, namely:-

1. (1) These Rules may be called the Orissa Dowry Prohibition Rules, 2000
- (2) They shall come into force on the date of their publication in the Orissa Gazette .
2. (1) In these rules, unless the context otherwise required,-
 - (a) 'Act' means the Dowry Prohibition Act, 1961;
 - (b) 'Commission' means the State Commission for Women constituted under the Orissa State Commission for Women Act, 1993 (Orissa Act 19 of 1994);
 - (c) 'Complaint', 'District', 'District Magistrate' and 'Public Prosecutor' shall have the same meaning as respectively assigned to them under the Code of Criminal Procedure, 1973 (Act 2 of 1974);
 - (d) 'Director' means the Director of Social Welfare, Orissa, an Officer appointed as such by the Government;
 - (e) 'Dowry Prohibition Officer' means an Officer appointed as such by the State Government under Section 8-B; Short title and commencement .
 - (f) 'Family Counseling Centre' means those institutions or organisations which are recognised by the Government by notification or otherwise for the purpose;
 - (g) 'Form' means form appended to these Rules;
 - (h) 'Government' means the Government of Orissa;
 - (i) 'Section' means a section of the Act;
 - (j) 'Superintendent of Police' means the District Superintendent of Police and shall include any Additional District Superintendent of Police or other person appointed by general or special

orders of the Government to perform all or any of the duties of a District Superintendent of Police under the Police Act, 1861 in any district; and

(k) 'Voluntary Organisation' means any institution or organisation registered under the Societies Registration Act (Act XXI of 1860) and recognised as such by the Government. (2) All other words assigned to them in the Act, the Code of Criminal Procedure, 1973 the Indian Penal Code, 1860 and the Indian Evidence Act, 1872.

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

- (a) He shall create awareness among the public against dowry by holding camps and by other suitable means with the assistance of other Departments of Government and Voluntary organisations;
 - (b) He shall settle dispute relating to dowry by counseling or otherwise with the assistance of the Family Counseling Centres or other persons/ Institutions as selected by him;
 - (c) He shall take steps necessary for expeditious investigations of such cases by police agency;
 - (d) He shall send the evidence collected by him relating to the offences under the Act to the concerned police officer investigating the case who may take such evidence into consideration;
 - (e) He shall advise the Public Prosecutor or Assistant Public Prosecutor, as the case may be, relating to any case under the Act during trial;
 - (f) He shall submit quarterly reports to the District Magistrate or Superintendent of Police or the Director or the Commission, as the case may be, relating to the number of complaints received, action taken and settlement made, if any, in Form-A;
 - (g) He shall maintain separate files with relevant records for each individual case of complaint; and
 - (h) He may also refer any case to the Advisory Board constituted under rule 7 of these rules for their advice/assistance.
4. The Dowry Prohibition Officer,-
- (i) shall entertain complaints of any offence under the Act from any person aggrieved or parents or other relatives of the victim in person or by post. He may also take suo motu action on his own information or otherwise of such offences;
 - (ii) shall serially number and duly register the complaints so received in a Register in Form-B;
 - (iii) shall examine the complaint, take up preliminary enquiry to collect such evidence as to the genuineness of the complaints;

(iv) shall give notice to the parties and witnesses intimating them the date, time and place of hearing of the complaint in order to collect evidence;

(v) shall hear the parties and witnesses and record their evidence in a summary manner; and

(vi) may utilize the services of other Officers for collecting secret information or assisting him in the enquiry relating to a complaint. 5. Dowry Prohibition Officer shall exercise same power as exercised by the Su- divisional Magistrate under the Code of Criminal Procedure, 1973 for the purpose of summoning witnesses, ensuring attendance and production of document during the enquiry.

6. Parties to any marriage or any of the parents of either party to any marriage shall furnish a list of presents maintained under the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985, framed under the Act, if so required by the Dowry Prohibition Officer.

7. (1) The Government on recommendation of the District Magistrate shall appoint an Advisory Board consisting of five social welfare workers, out of whom at least two shall be women from the area under the jurisdiction of the concerned Dowry Prohibition Officer. There shall be proper representation from the weaker sections of the society and legal profession in the Advisory Board. Procedure for filling complaint. Limitation on the exercise of power of the Dowry Prohibition Officer. Submission of list of presents by parties to the marriage. Constitution and functions of Advisory Board.

(2) Three members including the Chairperson shall constitute the quorum to transact the business of the meeting of the Board.

(3) (i) The Board shall be appointed by the Government from the area in respect of which such Board shall be formed.

(ii) The tenure of such Board shall normally be three years, and members of the Board can be re-nominated for a maximum of two consecutive terms.

(iii) The Government shall, however, have the right to supersede such Board at any time without assigning any reason thereof.

(4) (a) There shall be a Chairperson for each Advisory Board who shall be nominated from among the members or, as the case may be, elected by the members.

(b) The Dowry Prohibition Officer shall act as Convener of the Board or he may direct any subordinate officer of his choice to act as such in his place.

(5) The Convener shall, with the consent of the Chairperson, call for meetings of the Board.

(6) The functions of the Advisory Board shall primarily include the following, namely:-

- (a) to discuss the quarterly reports of the Dowry Prohibition Officer;
- (b) to render advice and assistance to the Dowry Prohibition Officer as and when necessary; and
- (c) to discuss any other matter relating to dowry problem and to convey its opinion to the Dowry Prohibition Officer.

(7) The Convener shall send a copy of the proceedings of each meeting of the Advisory Board within a fortnight from the date of meeting to,

- (i) the District Magistrate;
- (ii) the Sub-divisional Magistrate; and
- (iii) the Director.

8. (1) The membership of any member of the Advisory Board shall cease in case of such member:-

- (i) remaining absent at three consecutive meetings of the Board without sufficient reasons, or Termination of membership of the Advisory Board and filling up any vacancy.
- (ii) for any other reasons to be assigned by the Government.

(2) To fill up the resultant vacancy, a new member may be nominated by the District Magistrate for the remaining period of the term of the Board.

9. Every Dowry Prohibition Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

10. Any rules, regulations or orders corresponding to these rules and in force immediately before the commencement of these Rules, are hereby repealed. Provided that any order made, or action taken under the rules, regulations or orders so repealed shall be deemed to have been made or taken under these rules.

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

ORISSA DOWRY PROHIBITION (AMENDMENT) RULES, 2010

WOMEN & CHILD DEVELOPMENT DEPARTMENT

NOTIFICATION

The 22nd August 2011

No. 15759-V-WP-Misc. - 16/2010-WCD - 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. (i) These Rules may be called the Orissa Dowry Prohibition (Amendment) Rules, 2010
(ii) This shall come into force on the date of 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 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) ‘Recognized Welfare Institution or Organization’ means an Institution or Organization recognized 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 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 endeavour to create awareness among the public by organizing camps, publicity through the Information & Public Relations Department, Panchayat Samitis and other media against dowry and shall involve local people in prevention of dowry.
- (b) He shall conduct surprise checks and discreet inquiries to ascertain whether there has been any violation of the provisions of the Act and 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 scrutinize 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 4-A 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 his 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 utilize 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 inquiry 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 and report promptly as requested by him.
- (h) 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 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 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 marriage, for the purpose of making inquiries, shall take the assistance of an 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 complaints 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 upholding the dignity and harmony of family relationships.
- (p) 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 are found ineffective or parties fail to comply with the orders or directions within the stipulated time.
- (q) The Dowry Prohibition Officer shall send quarterly reports to the Chief Dowry Prohibition Officer as to the numbers 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 also 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 a copy of the proceedings of each meeting of the Advisory Board, within a fortnight from the date of the meeting of the Advisory Board to the 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 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 the operation of the Act, as and when necessary".

4. In the said rules, the Rule 4, 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 Recognized Welfare Institution or Organization in writing, 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 results thereof and other relevant information connected therewith 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 on the spot investigation and collect evidence from the parties or witnesses or fix up a hearing of the parties or witnesses in his office or in a place convenient to him without causing any inconvenience or hardship to the parties,

(e) inquire every position & 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 Bride groom) Rules, 1985".

6. In the said rules, after Rule B, the following rule along with its marginal heading shall respectively be inserted, namely:-

"8.A. 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 along with the statement recorded, all other connected

documents of the proceedings and a brief account of the findings. This report shall be deemed to be a report under Section 173 of the Code of Criminal Procedure, 1973 (Act 2 of 1974)".

"8. B. (1) A Welfare Institution or Organization primarily devoted to any of the following kinds of work which 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) Organization of women of a Statewide or all India Character, Prominent Mahila Samitis or Women's Organization;
 - (c) Social Defence including care and protection of destitutes, rescued women and children;
 - (d) Any organization of lawyers interested in eradicating social evils.
- (2) Any Welfare institution or organization 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 organization if the working of the institution/organization is found or reported to be unsatisfactory by the Chief Dowry Prohibition Officer or otherwise".

"8. C (1) The State Government shall designate a Senior Officer of the concerned Department as the Chief Dowry Prohibition Officer to administer and coordinate the work of Dowry Prohibition Officers & shall be responsible for creating consciousness and awareness to prevent dowry system among the public and to set out programmes with a view to uproot the evils 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. Procedure for prosecution of Offenders. Recognition of Welfare Institutions. .

(3) The Chief Dowry Prohibition Officer shall issue instructions to all the Departments of the State Government to the following effect :-

(i) Every Government servant shall after his marriage furnish a declaration stating that he has not taken any dowry to the Head of the Department. The declaration shall be signed by his wife, father, mother, father-in-law and mother-in-law.

(ii) One specified day in a year shall be observed as Dowry Prohibition Day.

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

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

**NOTIFICATIONS AND CIRCULARS
GOVERNMENT OF ODISHA**

WOMEN & CHILD DEVELOPMENT DEPARTMENT

Dt. 5/4/2012

U.O.I. No. 217/S-W&CD

V-WP-Misc-71/2011

Sub: Amendment in Orissa Government Servants' Conduct Rules in view of publication of the Orissa Dowry Prohibition (Amendment) Rules. 2010.

Women & Child Development Department vide its U.O.I. No. 868-S/WCD Dt. 17.09.2011 had requested for amendment in the Government Servants' Conduct Rules concerning the issue of the Orissa Dowry Prohibition (Amendment) Rules, 2010 vide Notification No. 15759 Dt.22.08.2011.

It is reiterated that the amended Rule at 8(C)(3)(i) stipulates that, "Every Government servant shall after his marriage, furnish a declaration stating that he has not taken any dowry, to the Head of the Department. The declaration shall be signed by the wife, father, mother, father-in-law and mother-in-law".

This being a statutory prohibition against the Government servants and is a disciplinary measure, this, may be considered to be inserted in the Orissa Government Servants Conduct Rules at the appropriate place for effective enforcement of the provision of Law.

In a case disposed off recently against the W&CD Department, the Hon'ble Odisha Human Rights Commission observed that the Act alongwith its Rules must be implemented properly and report on implementation be submitted before the Hon'ble OHRC time to time.

It is therefore requested that the matter may be taken up expeditiously.

Shri U.N. Behera, L.A.S.

Sd/-

Special Secretary,

(ARTI AHUJA)

General Administration Department.

Commissioner-cum-Secretary

LANDMARK JUDGMENTS

- **S. Gopal Reddy vs State Of Andhra Pradesh AIR 1996 SC 2184**
Amount demanded but not given by complainant to petitioner nor agreed to be given – S. 2 not attracted.

Section 2 - Voluntary presents given at or before or after the marriage to the bride or the bridegroom, as the case may be, of a traditional nature, which is given not as a consideration for marriage, but out of love, affection or regard, would not fail within the mischief of the expression 'dowry'.

- **L. V. Jadhav vs Shankarrao Abasaheb Pawar & Ors 1983 AIR SC 1219**

The object of Section 4 is to discourage the very demand for property or valuable security as consideration for a marriage between the parties thereto. Section 4 prohibits the demand for "giving" property or valuable security which demand, if satisfied, would constitute an offence under Section 3 read with Section 2 of the Act. There is no warrant for taking the view that the initial demand for giving of property or valuable security would not constitute of an offence and that an offence would take place only when the demand was made again after the party to whom the demand was made agreed to comply with it.

- **Koppisetti Subbharao @ Subramaniam Vs. State of Andhra Pradesh AIR 2009 SCW 4122**

Any 'demand' of money, property or valuable security made from the bride or her parents or other relatives by the bridegroom or his parents or other relatives or vice versa would fall within the mischief of 'dowry' where such demand is not properly referable to any legally recognized claim and is relatable only to the consideration of marriage.

- **Jugal Kishore Prusty vs State Of Orissa II (1992) DMC 80**

The duty of the sanctioning authority according sanction for initiating the prosecution in respect of offences under S. 4 is to apply his mind fully and carefully to the materials placed before him and to consider if the sanction could be accorded for prosecution. Therefore, where there was no proper application of mind by the sanctioning Authority according sanction for initiating the prosecution against the petitioner for having committed the offence under S. 4 prosecution would be without jurisdiction.