

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

The Women's and Children's Institutions (Licensing) Act, 1956 (Central Act No. 105 of 1956) - Framing of Rules-Orders-Issued.

DEPARTMENT FOR WOMEN, CHILDREN, DISABLED & SENIOR CITIZENS (JJ)

G.O.Ms.No. 30 _____,

Dated: 27-06-2011.

Read the following:-

1. G.O.Ms.No. 18, WD, CW&DW (Prog.) Dept., Dated 11/5/2001.
2. G.O.Ms.No. 24, WD, CW&DW (JJ) Dept., Dated:15/05/2010.
3. From the Director, WD&CW Department, Lr.No.4402/A2/2010, Dt.20/05/2010 & 13/07/2010.
4. From the Director, JWCS & WSC, Lr.No.P2/393/2008, Dated 26.08.2010.

ORDER:-

The following Notification will be published in the Extra-ordinary issue of the Andhra Pradesh Gazette, Dated: 27-06-2011.

NOTIFICATION

In exercise of the powers conferred by sub section (1) of section 11 of the Women's and Children's Institutions (Licensing) Act, 1956 (Central Act No: 105 -of 1956), the Government of Andhra Pradesh hereby makes the following rules, namely:-

RULES

1. Short title and Commencement:

- (1) These rules may be called the Andhra Pradesh Women and Children's institutions (Licensing) Rules, 2010.
- (2) It shall come into force at once.

2. Definitions:

(i) In these rules unless the context otherwise requires:

- (a) 'Act' means the Women's and Children's institutions (Licensing) Act, 1956 (Central Act No: 105 of 1956);
- (b) 'Licensing Authority' means the authority headed by District Collector at district level, for the institutions functioning within the district and the committee headed by Director, WD & CW for those functioning in more than one district or as may be declared by Government from time to time.
- (c) 'Form' means the form appended to the rules; and as placed on the web-site: <http://www.missingperson.ap.nic.in>
- (d) "Orphan" means a boy or a girl whose parents have died or an abandoned child whose parentage is not known.
- (e) **Registration for issue of License:** "License" means the certificate of recognition/certification granted under Rule 3.
- (f) "Child" means a boy or girl who has not completed the age of 18 years;

(g) “Institution” means an organization or a body whether it is called an orphanage or hostel or a home for neglected women or children, widows home, working women’s hostel or by any other name, maintained or intended to be maintained for reception or care or protection or welfare of women or children; or service providers providing services as helpline/counseling/for tracing missing children etc., or with such facility, even if for a single child or woman who is not excluded under the exemption clause of the Act, including such institutions run by NGOs/CSOs/Trusts/Individuals/private persons/organizations etc., for commercial gain or otherwise.

(ii) Words and expressions used in these rules but not defined shall have the same meaning assigned to them in the Act.

3. Grant of License:

(i) No person/ institution /service providers shall establish or maintain an Institution / facility for women or children or for both except and in accordance with the rules herein and conditions of a License.

(ii) All residential care institutions for children, which obtain license under these rules are deemed to be registered under section 34 (3) of J.J. Act. And thereafter, shall obtain certification as Observation Homes U/s 8(2); as Special Home U/s 9(2); as Children Home U/s 34(2); and recognition as Specialized Adoption Agency U/s 41(4); as Shelter Home U/s 37; and as After Care Organization U/s 44 as per the procedures laid down in the JJ Act and Rules notified from time to time. Further, the Government institutions already functioning under the JJ Act are deemed to have obtained license under these rules.

Any failure to compliance with these rules, the Government or the authority empowered by the Government shall take charge of such institutions with entire premises and infrastructure along with the inmates present. Further, the management of institution shall also be liable for prosecution duly seizing all movable/immovable properties and Bank accounts etc., with them.

(iii) All institutions which obtain License as per process under the Rules herein will be deemed to have been certified/registered/recognized as case may be, under Sec.8(2); Sec.9(2); Sec.34 (2,3); Sec.37(1); Sec.41(4); Sec.44(a) of J.J. Act 2000 and Rules issued there under.

(iv) Every Institution functioning for the welfare/ care of Women/Children or providing services or facility whether for commercial gain or otherwise i.e., on “no-profit and no-loss” basis or for a charitable purpose etc shall obtain license from the date of commencement of these rules.

Provided that such institution established even with one child or more or are intended to be established for children shall follow the conditions or standards prescribed under Juvenile Justice Act and rules thereof. Such licensed institutions are open for verification by the authorities implementing the Juvenile Justice (Care and Protection of Children) Act 2000 and reserves the authority of withdraw or cancel license if any granted to such institutions which are functioning contrary to the provisions of the JJ ACT.

Provided further that nothing in this Rules shall apply to the institutions maintained for women and children that are mentioned in Section 10 of the Women's and Children's Institutions (Licensing) Act, 1956.

- (iv) (a) "Licensing authority" for an institution in a district shall be a committee, consisting of District Collector, Superintendent of Police concerned with Project Director, District Women & Child Development Agency as convener.
- (b) "Licensing authority" for Institutions with branches or presence in more than one district shall be the Director, Women Development & Child Welfare Department, Hyderabad.
- (c) On receipt of the application along with Child Development Project Officer report and its enclosures duly recommended by the Project Director, District Women and Child Development Agency, the licensing authority shall satisfy himself, if required, by arranging/field inspections etc., and based on such reports of Child Development Project Officer and its own enquiry, download the license and grant the same as mentioned in Form - II, within 20 days of receipt of report.
- (d) The Licensing authority after making such an inquiry, by an order in writing, refuse to grant a license.

Provided that the grounds for refusal to grant license or for revocation of a license already granted shall be duly communicated to the applicant or the holder of a license, as the case may be.

Provided further that the Licensing Authority shall not ordinarily, permit any licensed institution concerned to admit as inmates, persons of different sex, but may permit minors for reasons to be recorded and subject to such conditions and limitations as may be necessary in their interest (children or women).

4. Conditions for establishing/maintaining of Institution/facility /service or proposing an establishment of institution/facility/service:

- (a) The Institution applying for license shall be registered under the Societies Registration Act, 1860/Companies Act, 1953/Society (Telangana Areas) registration Act of 1350 F, Indian Trust Act; or any such Act providing for such registration.
- (b) All Institutions for reception/care/protection/welfare of Women & Children shall ensure :-
 - (i) Suitable accommodation in secured premises with proper protection, with basic facilities, access to education, vocational training, periodic medical check-up and follow up thereon, counseling, amenities with hygienic and sanitary conditions including potable water, quality of which should be got certified by the laboratories (notified by Government) once in every year.
 - (ii) Age prescribed calorific diet, proteins and calories including local foods/local seasonal vegetables/fruits to the residents, with menu displayed in institution.
 - (iii) Required specialist treatment and therapy to Disabled children by specialist institutions, preferably Government institutions.

- (iv) Home committees of women/children to encourage the participation and to respect the opinion of the residents of the institution with a redressal mechanism to sort out the problems of all residents in a speedy and systematic manner.
- (c) Strict adherence to instructions, guidelines and minimum standards of care or standard operating procedures as may be prescribed by Government, Director, Women Development & Child Welfare Department, authorities concerned and the Licensing authority.
- (d) The Directors/Office bearers/Trustees/ Board Members/ Office bearer/ invitees and staff of the institution shall be mentally sound and shall not have/had any criminal record or involved in any offence/ plead guilty of an offence involving moral turpitude/ financial fraud.
- (e) Objectives of institution, details of name, address, occupation, qualifications of the individuals and in case of Association, that of the Directors/Board Members and staff/employees working in the institution, shall be displayed on their website duly updating the same every year, in such manner as may be prescribed by Government/Licensing authority.
- (f) Whenever the institution finds a child/person whose family background is not known, or such a child/person is brought to their institution, they shall report the same to the nearest police station (if the Child/Person is brought to them by the persons other than the police) and shall also enter the details in the “missing and found persons” website at <http://missingperson.ap.nic.in> and inform the concerned in such manner as may be directed by the Government/Licensing Authority. If any child/person goes missing from their institution, they shall report the same to the concerned Police Station, and shall enter the same on the website of “Missing & found persons” at <http://missingperson.ap.nic.in>.
- (g) Any other institution or organization having a database/ information about missing and found persons shall also enter the same in <http://missingperson.ap.nic.in> website.
- (h) Victims of Trafficking are received only by licensed/ recognized institutions for such victims such as Swadhar / Ujjwala Home or protection home meant for such trafficked victims and minor trafficked victims by institutions notified for such trafficked minor victims.
- (i) Rights and entitlements of stakeholders i.e., Women/ Children under various schemes/statutory provisions are protected and ensured at all times.
- (j) Person in charge of an institution meant for women/ girls whether called Superintendent or by any other name, shall be a woman only.
- (k) Without the previous written consent of the Licensing Authority, the institution/service provider shall not;
 - (i) Change its name or location as specified in the certificate. However, for reason to be justified, location change of the organization, should be intimated to the Licensing Authority within 30 days.

- (ii) Alter the purpose or objective or activities or any service of Institution specified in the license.
- (l) Updated report on residents/beneficiaries shall be provided to licensing authority starting with Application for License in Form-I-A with only changes to be reported at <http://missingperson.ap.nic.in> in Form-I-B for every six months thereafter and in such manner as prescribed by Government or licensing authority.
- (m) Whenever a foreign national is visiting the home or institution, the particulars about him or her shall be intimated to the respective District Collector along with the copy of his/her passport under intimation to Head of the Department concerned.
- (n) A volunteer from NGO/ Organization may be allowed to work in the home/institution by the local Project Director, District Women and Child Development Agency.

Provided that the Project Director, District Women & Child Development Agency shall check the antecedents of the volunteers and allow if the volunteer has a sound record and character with no history of child abuse and if services provided by the volunteer will contribute to development of the residents. No male volunteer shall be allowed to stay in the girls homes/institutions.

5. Application for License:

- (i) Every person or Institution desiring to establish or maintain an Institution or conduct/provide facility or service shall :-
 - a) Make an online application for license at <http://missingperson.ap.nic.in> to the Child Development Project Officer concerned under intimation to District Project Director in the Form-I along with particulars as required.
 - b) Upload photographs and all documents as required.
 - c) Make available all Originals to Child Development Project Officer at the time of enquiry for verification.

Provided that a person maintaining an Institution or providing a facility or service at the commencement of this Act / Rules shall, within a period of three months from such commencement, make an application for such license.

- (ii) Verification of the application:
 - (a) On receipt of the application for license, the Child Development Project Officer concerned shall inspect the institution and verify the original documents and submit online report to the Project Director, District Women & Child Development Agency.
 - (b) The CDPO shall download the copy of the application, visit the institution and verify the following:
 - 1) Objectives, antecedents and activities of the applicant/management and in case of an Association, the office bearers of the managing committee/governing body, particulars of governing body and the staff of Institution copy of Annual report, copy of Annual

audited accounts, list of residents and particulars of facilities as reported in application and as mentioned in Form-I.

- 2) All other conditions prescribed under rule 4.
- 3) If the CDPO on verification finds any discrepancy/ inadequacy in the information/ details submitted by the organization/management of the home, she shall return the application to the person/officer responsible of the home for rectification and re-submission.

(c) Child Development Project Officer shall update the application on online with her findings and send the hard copy duly attested, to the Project Director concerned within 30 days of receipt of the application.

6. Validity of License:

- (a) A License granted under this Act will be valid for a period of three years for the institutions to be newly established.
- (b) For well established institutions adhering to all conditions and minimum standards of care as prescribed by Government / License Authority from time to time, the license may be granted for the period up to 10 years depending on the reputation and record of institution concerned.

7. License not Transferable:

- (a) A license granted under these rules shall not be transferable.
- (b) Any change in governing body/executive committee/ Management body should invariably be intimated to licensing authority.

8. Power of the Licensing Authority:

- (a) Power to give directions to manager or incharge of a licensed institution:-

Subject to the directions, if any, given by the Government, the Licensing Authority may from time to time, give such general or special directions to the manager/incharge of a recognized home/service provider as it thinks fit for the proper management of the home/facility of service. The manager/person incharge shall comply with such directions.

- (c) Delegation of powers:-

Subject to the control/directions of the State Government, the Licensing authority may, by general or special order in writing and subject to such conditions and limitations, as may be specified therein, delegate to any senior Officer/staff such of its powers and functions under this Act, as it may deem necessary, for the efficient carrying on of its administration.

9. Revocation of License:

The Licensing Authority or Director, Women Development & Child Welfare or Government may, as the case may be without prejudice to any

other penalty to which a person to whom a license has been granted may be liable, under this Act or any other statute, revoke the license;

- (a) if it is satisfied that the institution is not being conducted in accordance with the conditions laid down in the rules or the license;
- (b) the management of the institution is being persistently carried on in an unsatisfactory manner or is being carried on in a manner highly prejudicial to the moral/physical/mental well-being of the inmates;
- (c) the institution has in the opinion of the Licensing Authority, otherwise rendered itself unsuitable for the purpose;
- (d) If there is any instance of neglect/abuse/exploitation of the inmates, by the staff or any other person.
- (e) If complete and correct information is not provided, as prescribed by Government or licensing authority.
- (f) If information of "missing" or "found person" is not provided on website and to the concerned as prescribed.
- (g) If there is any violation of minimum standards of care and protection or guidelines as prescribed by Government and licensing authority from time to time.

Provided (i) that no order of revocation shall be made until an opportunity is given to the person to show cause as to why the certificate should not be revoked. In every case of revocation, the grounds thereof shall be communicated to the person in the prescribed manner.

Provided (ii) further that for reasons to be stated in writing and where situation warrants in the interest of inmates or residents, the licensing authority may suspend the license and order for closure of the institution without following the above proviso.

10. Appeals:

- (i) Where the licensing authority is other than the State Government, any person aggrieved by an order of the Licensing Authority refusing to grant a license or revoking a license, may within 30 days of receipt of order, prefer an appeal to the Director, Women Development & Child Welfare or to State Government against such refusal or revocation.
- (ii) The order of the State Government on such appeal shall be final.
- (iii) Serving of notices to the aggrieved Person/NGO by the Licensing Authority shall be as per the provisions of the Code of Civil Procedure 1908.

11. Cessation of Institution/Service Provider: -

- i) An institution /Service Provider shall be closed and cease to function under the following circumstance:
 - a) Where a certificate in respect of a home is revoked under Rule 9.
 - b) Where an appeal has not been preferred under Rule 10 against the order of revocation, immediately on the expiration of the period prescribed for such appeal;

- c) Where such appeal has been preferred but the order of revocation is upheld, from the date of the appellate order.
- (ii) When any institution ceases to function under Rule 9 or Rule 10 or 16, the Licensing Authority may direct that any woman or child who is an inmate of such home shall be-
 - (a) Restored to the custody of her or his parent, husband or lawful guardian, as the case may be, provided the licensing authority satisfies itself of proper protection and care of such person and person to be restored is willing for such restoration or
 - (b) transferred to another Licensed home or
 - (c) entrusted to the care of any other suitable person:

Provided that no woman/girl child shall be entrusted to the care of any person other than a woman and the licensing authority satisfies itself of care and protection of such woman being ensured.

- (iii) Revocation/ cancellation of license shall entail blacklisting of the Institution for a minimum period of 5 years. The Institution/Service provider will become ineligible for funds from State Government/Government of India/etc., apart from action as may be warranted under other statutes/law.

12. Issue of Duplicate license.

In case, the license granted, by the Licensing Authority/Director, Women Development and Child Welfare Department, Hyderabad is lost, destroyed or mutilated, the Individual/Association may apply to the, Licensing Authority through the concerned Child Development Project Officer or Project Director for grant of duplicate license. The Licensing authority or Director/Commissioner, Women Development & Child Welfare Department, Hyderabad on being satisfied with the reasons furnished in the application etc., shall communicate the orders of issue/refusal within 30 days of receipt of application.

13. Renewal of License:

- (a) All Institutions shall apply for renewal of license 60 days prior to date of expiry of license.
- (b) The Licensing authority, if required, by causing/ facilitating visits, shall satisfy itself that all conditions/standards prescribed have been adhered to and may grant renewal for a minimum period of 3 years.

Provided that a license may be renewed on an application made within sixty days (60) from the date of its expiration, if the licensing authority is satisfied that there was sufficient cause for not making the application earlier.

14. Penalty:

Any person who fails to obtain license before establishing the institution OR who fails to apply for license within the period specified for institutions already established and continues to run/ provide facilities /services OR violates any of the provisions of the rules /conditions made

hereunder OR any of the conditions of a license shall be punishable with imprisonment for a term which may extend to 3 months, or with fine which may extend to two hundred and fifty rupees, or with both apart from being liable for action under other provisions of law for illegal confinement of residents concerned etc.

15. Inspection:

The Commissioner/ Director, Women Development & Child Welfare Department, District Project Director, District Women and Child Development Agency or District Collector or officers authorized by them shall have the right to make surprise /periodical inspections.

Provided that any officer (who shall be atleast a first Level Gazetted Officer) authorized by them in writing, by general or special order, may enter at all reasonable times any home for inspection and to know whether the provisions of the Act or rules, conditions of license are being complied with or not and may require the production of any document relating to the institution.

16. Surrender of license and its effect:

- (i) The Chief functionary of a institution, if specially authorized in this behalf by resolution of the managing committee, may, on giving six months notice in writing to the Licensing Authority, apply for the withdrawal of the license granted in respect of that institution. After expiry of the said period from the date of notice unless before that time the notice is withdrawn, the license shall cease to have effect; and the License of the particular unit of the organization shall cease to function.
- (ii) No woman or child shall be received into any such institution after the date of such notice; but nothing in this rule shall be construed to affect the obligation of the Chief functionary to comply with all the requirements of this Act and the rules, regulations, directions and orders thereunder until the license ceases to take effect under rule 11.
- (iii) The Children or Women/residents/stakeholders of such institution shall be admitted to similar institutions with the approval of the licensing authority or his representative.

17. Discharge of inmates of institutions:

- (i) Subject to the regulations, if any, made by the Licensing Authority the managing committee of a home is satisfied that an inmate of the institution has become fit to earn his or her livelihood or is otherwise fit to be discharged from the institution, the Chief functionary may discharge such inmate after obtaining approval of licensing Authority or officer delegated with such power.
- (ii) Notwithstanding anything contained in sub-rule (i), no female inmate of an institution shall be discharged or given in marriage or entrusted to the care of any other person unless such female has made a declaration before the licensing authority or officer specified by it in this behalf, that she consents to such discharge, marriage or entrustment, as the case may be.
- (iii) Based on the Pre-Discharge Enquiry Report (Form-III), the Discharge order (Form-IV) shall be issued.

18. Reports regarding deaths of inmates:

The Chief functionary/incharge of the home/institution shall, immediately after the occurrence of any death among the inmates/residents of the home, send a written report thereof to the licensing authority explaining the cause of death to the best of his/her knowledge, with evidence of medical reports, proof of Documents.

19. Protection of acts done in good faith:

No suit, prosecution or other legal proceeding shall lie against any person who performs any function under this Act for anything done or intended to be done in good faith under this Act or any rule, regulation, direction or order thereunder.

20. General Rules:

- (i) The State Government or the “Andhra Pradesh Society for Protection and Empowerment of Women & Children” may prescribe guidelines/regulations, monitoring systems, standards not inconsistent with this Act and the rules made thereunder, for enabling the licensing authority or functionaries concerned to perform their functions under these Rules.
- (ii) The State Government or “Andhra Pradesh Society for Protection and Empowerment of Women and Children” or a body as authorized shall monitor and evaluate the implementation of the Act/Rules annually, by reviewing matters/causing inspections or by arranging Social audit of the institution or service provider or facility concerned.
- (iii) The Government/Director, Women Development & Child Welfare shall make available the online programme with Forms, duly modifying the same, as and when required, in partnership with NIC, Government of India.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.CHAYA RATAN
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner,
Women Development & Child Welfare Department,
A.P.Hyderabad.
The Director,
Juvenile Welfare, Correctional Services & Welfare of Street Children,
A.P.Hyderabad.
The Director of Printing, Stationery & Stores Purchase
(Printing Wing) Hyderabad for publication of the Notification in A.P.Gazette
and for supply of 300 copies to Government.

All District Collectors.

Copy to:-

All Heads of the Departments.

The P.S. to Chief Minister

The P.S. to Chief Secretary

The P.S to M (IKP, WCD&SC)

The P.S. to Spl.C.S. to Govt., Dept, for W.C.D & S.C.

Law Department.

SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER