



RAJASTHAN STATE LEGAL SERVICES AUTHORITY

RAJASTHAN HIGH COURT CAMPUS, JAIPUR BENCH, JAIPUR.

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S. No. F-2(149)/RSLSA/DS-I/FWC/2017/03

Dated 03.10.2017

CIRCULAR

PROTOCOL/GUIDELINES FOR FAMILY WELFARE COMMITTEES

In compliance of order dated 27.07.2017 passed in the case of **Rajesh Sharma & Ors. Vs. State of U.P. SLP (Crl) No. 2013 of 2017** by Hon'ble Supreme Court of India, this Authority has issued directions vide order No. F-2(149)/RSLSA/DS-I/FWC/2017/432, dated 31.08.2017 & order No. F-2(149)/RSLSA / DS-I / FWC / 2017 / 438, dated 04.09.2017, for constitution of Family Welfare Committees (FWC in short) in the State of Rajasthan. Total 107 FWC's have been constituted in compliance of these directions. In addition to it, following directions are hereby issued with immediate effect for effective, transparent, constitution, re-constitution, functioning, submission of report & other related matters:

A. Constitution/ Re-Constitution of FWC:

1. If already constituted FWC's are not sufficient, looking to the work load/ area of the district, the Concerned District Legal Services Authority shall send proposal for constitution of more FWC in the District for approval by this Authority. After approval from this Authority, the more FWC may be constituted. The number of FWC may be decided as per work-load/ area of District.
2. Chairman/ Members, Permanent Lok Adalat (if Full Time Chairman/ members are appointed) may be the Chairman of the Family Welfare Committees.
3. Two other members shall be nominated by the District Legal Services Authority (in short DLSA) in each F.W.C. These members may be Para Legal Volunteers/Social Workers/ Retired Persons/Wives of working officers/other citizens who may be found suitable and willing.
4. The tenure of the committee shall be two year from the date of its constitution or as provided by Rajasthan State Legal Services Authority.
5. Endeavour shall be made to ensure that the Committee consists of one woman member.

6. No person shall be eligible for selection as a member of the Committee, if he/ she:
 - a) has been convicted for any offence in the past;
 - b) has been removed or dismissed from service of the Central Government or a State Government or an undertaking or corporation owned or controlled by the Central Government or a State Government.
7. No person shall be the Chairperson or Member of more than one Committee.
8. The Chairperson or any Member of the Committee may be removed forthwith by the Chairperson of the DLSA with the prior approval of this Authority, if he/ she:
 - i) remains absent continuously for more than one week without any valid reason; or
 - ii) is found guilty of misuse of power or serious complaints are received against him which is found true after examination by the concerned DLSA.
9. The Chairperson or any Member of the Committee may express his/ her unwillingness to work as such, by giving fifteen days' notice in writing to the Chairperson of the DLSA.
10. If the Chairperson or any Member of the Committee expresses his unwillingness to work as such or is removed from the Committee, the DLSA shall initiate steps for appointment of new Chairperson/Member within a period of seven days from such expression of unwillingness or removal of the Chairperson/ Member.
11. The Chairman, DLSA shall initiate steps for appointment of new Chairperson/ Member of the Committee or extension of terms of the incumbent Chairperson/ Member fifteen days before the expiry of the term of the Chairperson/ Member.
12. The appointment as Chairperson/ Member of the Committee shall not confer any right on the Chairperson or the Member to claim regular appointment in the Authority.
13. The expenses on the working of the Committee may be defrayed out of the cost fund wherever considered necessary or proper.

B. No Right arises in favour of Chairman/ Member of FWC:-

The Family Welfare Committees may be reconstituted, discontinued, abandoned or dissolved in part or full without assigning any reason by the concerned DLSA's, therefore, the Chairman and Members of the Family Welfare Committees have no right to continue for two years. It is neither an employment nor the right to continue, therefore, no right arises in favour of Chairman or Members of Family Welfare Committees.



C. Over-all control over the Family Welfare Committees:

All the Family Welfare Committees shall discharged their duties under the control and direction of concerned District Legal Services Authority (in short DLSA). The Chairman, DLSA shall review the working and performance of the Family Welfare Committees from time to time and at least once in three months.

D. Procedure on Receipt of Complaint:

1. As soon as any case/complaint for offence under Section 498A IPC is received from the police or the Magistrate (after registration of FIR or without registering the formal FIR/case), the same shall be referred immediately to the concerned DLSA.
2. As soon as the complaint or matter is received in the office of the DLSA, the same shall be entered into a register to be maintained under the direction and control of concerned Full Time Secretary, DLSA in following format:-

S.No.	FIR/Case No. & P.S.	Offence	Date of receipt of the complaint by DLSA	Which Police Station/ Court sent it to DLSA	Date of Disposal of the complaint by the Committee	Date of Submission of Report to concerned Authority

3. Every case shall be assigned a particular number and the file of the case shall be kept in the record of the office till order of disposal by Full Time Secretary, DLSA under the general or specific order of Chairman, DLSA.
4. The Full Time Secretary under the specific or general directions of Chairman, DLSA shall allot the case to a particular Family Welfare Committee and inform the Chairman of the Family Welfare Committee about the case.
5. The Committee would meet at least once every week during working hours. Considering the number of cases, the sittings of the Committee may be increased as directed by the Chairperson of the DLSA. The Committee would endeavour to list at least 8 to 10 cases in every sitting, unless the number of complaints referred to the Committee is less. If no case is pending in any DLSA, there is no need to arrange sitting of FWC.
6. The parties shall be intimated about the case & they shall be directed to appear before the FWC on the time & date fixed by the Full Time Secretary.
7. All the meetings of the Family Welfare Committees shall be held at the office of the DLSA or any other place as fixed by the Full Time Secretary.



Circular: Protocol/Guidelines For Family Welfare Committees

8. Every Family Welfare Committee shall maintain a register of attendance wherein they shall mark attendance of the person by obtaining signature/thumb impression along with case number of the concerned case along with the mobile number of the concerned person in the following format:-

S.No.	Date	FIR/Case No.	Name	Complainant/accused	Mobile/Phone No.	Signature

9. The Committee may have interaction with the parties personally or on telephone or by any other mode of communication including electronic communication, video conferencing and make a gist of the interaction.
10. Till the report of the Committee is received, no arrest should normally be affected.
11. The Family Welfare Committee shall be duty bound to submit its report to Full Time Secretary within one month from the date of receipt of the complaint.
12. The functioning and other transaction of the Family Welfare Committee shall be in conformity with the direction of Hon'ble Supreme Court passed in the above referred judgment **Annexure I**.
13. At least two members must be present while deciding the matter in the Family Welfare Committee. If this above Coram is not available in a particular Family Welfare Committee whom the case has been referred, the DSLA is free to transfer the case to any other Family Welfare Committee.
14. The final report would be signed by all the Members and the Chairperson. In the event of any difference of opinion among the Members of the Committee, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairperson of the Committee shall prevail.
15. All the meetings of the Family Welfare Committees shall be as far as possible be held in camera and proceeding shall be confidential. After conclusion of the conciliation or reunion efforts, the Family Welfare Committee shall submit its report to Full Time Secretary in the prescribed Performa [**Annexure II**] and Full Time Secretary shall communicate the result/report of the Committee to the concerned Magistrate/Police Station without any delay.
16. The cases which relate to offences involving tangible physical injury or death would not be referred to the Committee.
17. The report may be considered by the Investigating Officer or the Magistrate on its own merit.
18. The Members of the Committee will not be called as witnesses.



19. All the necessary registers, stationary & technical support shall be provided by DLSA and will be kept in the custody of the concerned DLSA.
20. In case the Committee requires any further administrative support, the same shall be extended, upon request by the DLSA concerned.

E. Maintaining Transparency, Honesty & Impartiality in FWC:

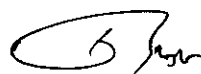
1. The Chairman and Members are duty bound to communicate the Full Time Secretary about their personal interest in a particular case, if any, and the Full Time Secretary shall be free to assign the case to any other Family Welfare Committee as per general or specific direction of Chairman, DLSA.
2. The Chairman and the Members of the Family Welfare Committees shall be duty bound to maintain high standard of morals, transparency and honesty while discharging their duty in Family Welfare Committee and concerned DLSAs is duty bound to ensure honest, smooth and transparent functioning of Family Welfare Committee.
3. If any complaint is received regarding the working or misconduct or partiality of the Family Welfare Committee, the Full Time Secretary is free to transfer the case to any other Family Welfare Committee under the general or specific direction of Chairman, DLSA after examining the veracity of the complaint.

F. Solution of Practical Problems/ Difficulties:

1. In case of any difficulty or problem, all the concerned stakeholders including Chairman, Members of Family Welfare Committee, police officials or parties may contact Full Time Secretary who shall be having general superintendence and control over the functioning of the Family Welfare Committees.
2. In case of any difficulty or practical problem, the Chairman, DLSA are free to issue more directions regarding working of the Family Welfare Committee which shall not be inconsistent with the directions issued by Hon'ble Apex Court passed in **Rajesh Sharma & Ors. Vs. State of U.P. SLP (Crl) No. 2013 of 2017's case.**

G. Basic Minimum Training to Chairman/ Members FWC:

1. The Chairperson and Members of the Committee would be imparted basic minimum training by concerned DLSA on the criminal justice process and provisions of IPC as well as judicial pronouncements under intimation to this Authority.



2. The training regarding judicial propriety, maintaining high standard of morals, honesty and impartiality shall also be imparted to the members & chairmen of FWC.
3. Refresher Training may be held for the Chairperson and the Members of the Committee from time to time but at least once every three months.
4. The training could be provided to any new Member or Chairperson who is inducted into Committee as early as possible.
5. All endeavours shall be made to promote harmony and respectful solution to the dispute between the parties.

H. Review of Work of the Committee:

1. The constitution and working of the Committee may be reviewed from time to time by the concerned Chairman, DLSA. Such review would be conducted at least once in three months and this would be followed by a yearly review.
2. The Secretary, DLSA would prepare a note on the working of the Committee(s) and place the same along with the relevant record, before Chairman, DLSA who will decide whether the FWC's are working as per expectation enshrined in this circular.
3. The Committee shall maintain a record of the number of complaints received by the Committee, time taken for disposal of such complaints and pendency of such complaints at the beginning and the end of the month, besides record in respect of those complaints which remain pending for more than one month in the below mentioned format:

S.No.	FIR/Case/ No. & P.S.	Offence	Date of receipt of the complaint by the Committee	Date on which interaction is held by the Committee	Date of Disposal of the complaint by the Committee	Remarks

4. The report would be submitted by the Committee to the DLSA by the 5th of every month and the DLSA shall examine the record to evaluate the efficiency of the FWC.
5. Based on the review of the constitution and working of the Committee, the Chairman, DLSA may take appropriate steps and issue necessary directions for the proper functioning of the Committee.
6. If any complaints are received against the Chairperson and/ or the Members of the Committee, the same would be placed before the concerned



Chairman, DLSA who would dispose of the complaints as expeditiously as possible.

7. The Chairman, DLSA shall be competent to remove any member/chairman of FWC without assigning any reason with the prior approval of this Authority.

I Honorary to the Chairman/ Members of FWC:

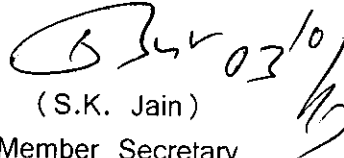
1. The Chairpersons and Members of the Committee would be paid honorarium as per sitting basis i.e. the Chairperson of the Committee would be paid Rs. 1000/- (Rupees One thousand only) per sitting & the Members would be paid Rs. 500/- (Rupees Five hundred only) per sitting.
2. If the Committee sits for only half a day, then only half of the honorarium would be admissible to them.
3. The Chairman & members of the FWC shall be paid Honorarium out of costs fund of DLSA.
4. If any DLSA does not have sufficient cost fund, the fund may be transferred to concerned DLSA from the cost fund of RLSA, Jaipur on the request of DLSA.

J Submission of Report to this Authority:

The DLSA shall submit its report to this Authority in the following format at the end of each quarter:-

Number of FWC in the District	How many cases are referred to FWC's	Number of cases in which the Conciliation proved Successful	Number of cases where conciliation was unsuccessful.	Pendency cases before FWC.

By Order


(S.K. Jain)

Member Secretary

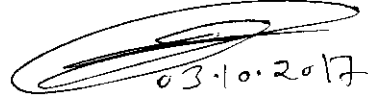
Rajasthan State Legal Services Authority
Jaipur

No.F-2(149)/RSLSA/DS-I/F.W.C./2017/23068-23190

Dated:-03.10.2017

Copy forwarded to following for information and necessary action:-

1. Private Secretary to Hon'ble the Executive Chairman Sb., Rajasthan State Legal Services Authority, Jaipur.
2. Private Secretary to Member Secretary, Rajasthan State Legal Services Authority.
3. Chairman, DLSAs, All Rajasthan.
4. Director General of Police, State of Rajasthan.
5. All Inspector General of Police, State of Rajasthan.
6. All Superintendent of Police, State of Rajasthan.
7. All Full Time Secretaries, State of Rajasthan with a direction to circulate these directions to all the Courts and police stations.
8. Full Time Secretary, Rajasthan High Court Legal Services Committee, Jaipur/Jodhpur.
9. Deputy Secretary-I, Deputy Secretary-II, Deputy Secretary (AP & ADR), Deputy Secretary-Administration (Non-Judicial), RSLSA.
10. Deputy Secretary, RSLSA, Jodhpur.
11. Administrative Officer, RSLSA.
12. Establishment Section, RSLSA.
13. Reserve File/Guard File.



(Nihal Chand, RJS)

Deputy Secretary-I

Rajasthan State Legal Services Authority,
Jaipur (Raj.)

Annexure I

Directions Issued by Hon'ble Apex Court

Hon'ble Supreme Court of India in case *Rajesh Sharma & Ors. Vs. State of U.P. & Anr., Criminal Appeal No.1265/2017 arising out of SLP (Crl.) No.2013/ 2017* has been pleased to give the following directions, in so far as they pertain to State and District Legal Services Authorities:

- (a) *In every district one or more Family Welfare Committees be constituted by the District Legal Services Authorities preferably comprising of three members. The constitution and working of such committees may be reviewed from time to time and at least once in a year by the District and Sessions Judge of the district who is also the Chairman of the District Legal Services Authority.*
- (b) *The Committees may be constituted out of para legal volunteers/social workers/retired persons/ wives of working officers/other citizens who may be found suitable and willing.*
- (c) *The Committee members will not be called as witnesses.*
- (d) *Every complaint under Section 498A received by the police or the Magistrate be referred to and looked into by such committee. Such committee may have interaction with the parties personally or by means of telephone or any other mode of communication including electronic communication.*
- (e) *Report of such committee be given to the Authority by whom the complaint is referred to it latest within one month from the date of receipt of complaint.*
- (f) *The committee may give its brief report about the factual aspects and its opinion in the matter.*
- (g) *Till report of the committee is received, no arrest should normally be effected.*
- (h) *The report may be then considered by the Investigating Officer or the Magistrate on its own merit.*
- (i) *Members of the committee may be given such basic minimum training as may be considered necessary by the Legal Services Authority from time to time.*
- (j) *The Members of the committee may be given such honorarium as may be considered viable.*
- (k) *It will be open to the District and Sessions Judge to utilize the cost fund wherever considered necessary and proper.*

Annexure II

Format of the Report to be given by the Committee to the concerned DLSA

S. No.

Date of receipt of complaint by the Committee:

FIR / Case No.....PS.....

Offence.....

Date on which interaction was held with the parties:.....

Date of disposal of the complaint:.....

Brief facts of the case:

Opinion of the Chairman:

Opinion of the First Member:

Opinion of the Second Member:

Over-all conclusion of the Family Welfare Committee:

SIGNATURE OF FWC

Chairman

Member-I

Member-II