

Bail/Remand Lawyers' Scheme

- **Bail/Remand Lawyers' Scheme**

Apart from the constitutional and legal provisions a scheme for providing legal assistance to person in custody has been made operational by RLSA in the State of Rajasthan.

Introduction:

The Rajasthan Remand and Bail Lawyers' Scheme or the 'Model Scheme for Legal Aid Counsel in Rajasthan' or the 'Legal Assistance to Person in Custody Scheme' was drafted by the Rajasthan State Legal Services Authority. The circular/notice dated 17th February, 2012, directed all the District Legal Services Authorities and Taluk Legal Services Committees to comply with the directions/instructions.

The scheme is a positive and progressive step taken by the Rajasthan State Legal Services Authority in compliance with the provisions of the Legal Services Authority Act, 1987.

Components of the Scheme:

- **Why was Remand and Bail Lawyers' Scheme formulated?**

The scheme was formulated in exercise of the powers conferred by Section 2(g), Section 7(2)(a) and Section 12(g) of the Legal Services Authorities Act, 1987 (hereinafter 'the Act'). It furthers the mandate of the Legal Services Authorities in the country – *"...to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities..."*

The purpose of the scheme is in keeping with Article 22(1) of the Constitution which provides that no person who is arrested shall be detained in custody without being informed of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

- **Who is a beneficiary under the scheme?**

Guideline 2(c) of the present scheme provides – 'Person in custody shall have the same meaning as defined in Section 12(g) of the Act.' This means that legal assistance be provided to persons both in police and judicial custody as beneficiaries of this scheme. Also, Section 12(g) reaffirms what Article 22(1) of the Constitution provides and therefore a beneficiary under this scheme would be an indigent person who is arrested.

- **When can one get a lawyer?**

Everybody is entitled to a lawyer. The Act clearly provides that a legal aid lawyer must be provided at arrest while in police custody a lawyer could be with his client. Thus, the two requirements to apply this scheme are – indigence and arrest.

Also, as soon as a person is arrested or detained by the police there is actual chance of harm, loss of life, or imposition of a grave disability in the absence of representation in police custody. The increasing number of cases of custodial violence by police places a larger sense of

responsibility on the Legal Services Authorities to ensure effective legal representation to the accused in custody.

The circular introducing the scheme states that “the names of the Legal Aid Counsel may be displayed outside the Court to which he is attached”. While it also mentions to “affix hoardings in the Police Stations and Jails”

Recommendations

- Names of appointed remand and bail lawyers must be displayed at the police stations.
- Every advocate should be attending to the police stations attached to the court to which he is appointed. There may be more than one police station per court, and that was also a justification for appointing more lawyers under this scheme.
- It should be the duty of the police officer in-charge to inform the arrested person about his/her right to call the remand and bail lawyer.
- A letter must be sent from the State Legal Services Authority to the Deputy Commissioner of Police (at Jaipur & Jodhpur) and the Superintendent of Police (in other districts) to direct all the police stations about the scheme and their duty to inform.
- An order must be sent to all the Magistrates on their role to inform the person about the right to legal aid at the time of first production.

- **Which courts does it apply to?**

Guideline 3 and 5 uses the term ‘**for each Court of Magistrate or more**’. It clearly means that the present scheme applies to all the Courts of Magistrate of every district across the state of Rajasthan. It would include Magistrate courts in metropolitan areas as well.

The intent of adding ‘or more’ indicates that if the matter is argued for remand and bail, a legal aid lawyer will also be available at the District & Sessions court to appeal. In case, the appeal is sought at the High Court, the remand & bail lawyer must provide all the relevant information to the legal aid lawyer so appointed by the High Court Legal Services Committee.

Presently Bail & Remand Advocates are appointed in all the Remand giving courts i.e. Magistrates Courts, Sessions Courts and Executive Courts.

- **Who can be appointed as a ‘Legal-Aid Counsel’?**

Guideline 4 provides that, “Legal Aid Counsel should have put **at least 5 years of practice** at the Bar”. Guideline 7 requires a legal aid counsel “to remain present during remand hours and such as may be directed by Courts concerned”.

- **How are legal aid counsels appointed?**

Guideline 3 and 5 provides that “the District Authority or Taluk Committee, as the case may be, shall prepare a Panel of counsels for nomination of Legal Aid Counsel and shall nominate one Legal Aid Counsel from the panel of Counsels prepared by them, for each Court of Magistrate or more, depending upon the quantum of remand cases received each day, for defending persons in custody.

- **What are the duties of the Legal Aid Counsel?**

The present scheme provides that:

- It would be the duty of the Legal Aid Counsel so nominated to oppose remand, apply for bail and move miscellaneous applications as may be required. (Guideline

6)

- It shall be the duty of the Legal Aid Counsel so nominated to remain present during remand hours and such as may be directed by Courts concerned. (Guideline 7)
- It would be the duty of the Legal Aid Counsel so nominated to assist concerned authority or committee for implementation of legal services programmes or schemes. (Guideline 13)
- The Legal Aid Counsel will keep details of the case in which he has extended his legal services in the concerned Court in this regard and by the end of the month, he will submit it to the concerned Presiding Officer of the Court, which will be forwarded to the Chairman, Taluk Committee or Chairman, District Authority as the case may be. (Guideline 15)

Guideline 14 mentions that, "After the stage of bail/remand, if the accused desires and entitled for legal aid, his application form, for providing legal aid, can be sent to concern District Legal Services Authority/ Taluk Legal Services Committee for necessary action."

The following duties must be laid down for remand & bail lawyers:

- Mandatory presence of advocate and accused during remand hour;
- Mere presence of advocate at the time of remand-production does not assure effectiveness; for example, need to oppose 'recovery' related remand;
- Timely filing of bail application on 60th and 90th day by advocate;
- Arguing on the basis of FIR and asking questions on arrest memo (special provisions made under Section 41B of the CrPC) and other police documents to prevent police custody;
- Ensuring special and prepared defence to first time offenders irrespective of multiple charges.

- **What are the don'ts for a legal aid counsel?**

Guideline 10 provides that, "The Legal Aid Counsel shall not prepare and display any personal board or name plate at anywhere and misuse his capacity as Legal Aid Counsel." Guideline 11 further provides that, "Any Legal Aid Counsel demanding remuneration from the aided persons or misuse his capacity shall be liable to be removed from panel and his nomination shall be cancelled immediately."

This reminds a legal aid counsel of their larger responsibility towards the idea of justice to all and to adhere to the highest standards of the noble profession working in the best interests of the client.

- **What is the tenure of a legal aid counsel?**

Guideline 12 provides that, "The District Authority or Taluk Committee, as the case may be, shall change the nomination of Legal Aid Counsel after **every six months** and to nominate to another counsel from the panel so prepared for this purpose, as per rotation." This means that a new Legal Aid Counsel would be appointed every six months for a Magistrate's Court.

- **What kind of remuneration is paid to a legal aid counsel?**

Guideline 9 provides for payment of honorarium per month for discharging his functions, in addition to incidental charges.” The circular introducing the scheme states that, “all payments to the Legal Aid Counsel may be made after submitting monthly report regarding attendance of the Legal Aid Counsel at the time of remand bail or miscellaneous application as the case may be to the concerned judicial officer. Remuneration will be paid from the funds allocated to your District Legal Services Authority under recommendation of the Finance Commission under head Legal Aid to eligible persons”. Further, the remuneration for trial of the case, fee schedule for acting as a defense counsel, appointed by District Legal Services Authority/ Taluk Legal Services Committee, as the case may be, for added person, shall be separately as per Regulation 22 of the Rajasthan State Legal Services Authority Regulations, 1999.

- **How are the Courts & the DLSA monitoring the performance of legal aid counsels?**

Guideline 8 provides that, “the District Legal Services Authority or Taluk Committee, as the case may be, shall insist upon certificate from the Court concerned about the regular attendance of the Legal Aid Counsel concerned.”

Under Guideline 15, a Legal Aid Counsel is also duty bound to submit a monthly report “to the concerned Presiding Officer of the Court, which will be forwarded to the Chairman, Taluk Committee or Chairman, District Authority as the case may be”.

The State Legal Services Authority must lay down the consequences when a lawyer fails to represent or appear for a client, just as it does for cases of misuse of free legal aid work and identity.

- **How can a legal aid counsel be removed from panel?**

Guideline 11 states that, “Any Legal Aid Counsel demanding remuneration from the aided persons or misuse his capacity shall be liable to be removed from panel and his nomination shall be cancelled immediately.” It is a positive step to ensure accountability on the part of Legal Aid Counsels appointed under the scheme.

- **How is the SLSA monitoring the work of the DLSAs?**

Guideline 15 provides that, “the Chairman, District Authority will send consolidated statistical information at the end of every Quarter to the State Authority.”

- The State Legal Services Authority must examine these reports and direct the District Authorities for improved and effective implementation of the scheme.
- The State Legal Services Authority must also take stock of the possible difficulties the DLSAs might be facing in institutionalising the scheme and assessing the performance of the Remand & Bail Lawyers in their own districts, and the benefits accrued to clients, due to the gaps left in the scheme which must be bridged quickly.

- **What are institutional responsibilities of the DLSA?**

Guideline 10 clearly mentions that, “the District Authority or Taluk Committee, as the case may be, shall give wide publicity to this scheme and display boards outside the Court

room. The Boards should also disclose the names of Legal Aid Counsel and his address and that no payment is required to be made by the persons in custody for availing of the services of the Legal Aid Counsel.” The circular introducing the scheme states that hoardings must also be affixed in the Police Stations and Jails displaying the names of Legal Aid Counsels.

As the motto of the Legal Services Authorities is “Access to Justice for all”, they must strive to realise it in the true spirit. The Rajasthan’s Remand and Bail Lawyers’ Scheme is an attempt to strike at the roots of malpractices and offer solutions for better administration of justice.

***Roles and Responsibilities
of Bail/Remand
Advocates***

- **Roles and Responsibilities of Bail/Remand Advocates**

- To remain present during remand hours and as and when directed by the concerned court.
- To keep details of the case in which he or she has extended his legal services in remand and bail matters.
- To submit monthly details of his work to the presiding officer of the concerned court.
- To be devoted and dedicated towards his duties and legal services activities.
- While Opposing Remand, Bail/Remand Lawyers are expected to be vigilant about the condition of the accused produced from the custody of the police. He should inquire if the accused was subjected to any ill-treatment and the same should be informed to the magistrate and requested to be noted down in the remand order. Lawyers should familiarize themselves of the provisions of Section 41A of IPC and the Arnesh Kumar Vs. State of Bihar and Anr. Judgement so that they can challenge unreasonable arrests.
- The legislature has provided 24 hours after the arrest to the police to carry on preliminary investigation during the presence of the accused in custody. Invariably, when produced after 24 hours, remands are sought by the police without any prior investigation. Remands are usually sought and given to recover under Section 27 of the Evidence Act. It is responsibility of the lawyers to not give the police an opportunity to create evidence under the guise of section 27.
- Remand hours are fixed on Sundays and Court Holidays. The R&B Lawyers appointed in court working on the given holiday should therefore be present during these two days of production. The designated lawyers should inform the magistrate/reader when they leave court for the day and ensure that their contact details are available, so that they may be called if required later in the day.
- The working of the executive magistrate court is different from the regular judicial magistrate court. It is the responsibility of the Remand & Bail Lawyer to inform the court about the responsibility of the Remand & Bail Lawyers. They should be present in the court regularly and thus ensure that the scheme can reach out to people under preventive detention cases.
- Drafting bail applications should be taken very seriously. In the present scenario, set formats are used by the lawyers; just basic details are changed for each case. Bail applications are drafted very 'Casually'. Lawyers are expected to draft each of their bail applications and mention all the relevant facts and grounds in the applications. Lawyers

should be vigilant to move bail application after 60-90 days if the charge-sheet has not been filed. Lawyers must read out the sections which have been alleged against the accused. He should also be able to satisfy the court with the help of legal provisions and judgements. The Practice of insisting on local sureties is not proper. If the client has sureties outside the state where the case is being tried, the lawyers should oppose insistence on local sureties.

- Compliance of 41A should be checked. Whether the arrest was made after some amount of investigation and there was some apprehension that the crime was committed by the accused.
- When the accused is produced in front of the Magistrate after 24 hours, it is a crucial time to ensure that whether further detention is necessary or not. Remand should only to be given when detention is must.
- To ensure that remand orders should be speaking orders. It should be reasoned and should speak for itself.
- The practice of insisting on local sureties while granting bail should be discouraged.
- Apart from the above the Bail/Remand Lawyers should also check/ ensure that the following points are complied with while granting remand.
 - Efforts must be made by the Investigating Officer to complete the investigation within 24hours as fixed by section 57 of the Said Code.
 - If such completion is not possible and there are grounds for believing that the accusation/information is well founded the officer must forthwith forward the accused to the nearest Judicial Magistrate with a copy of the relevant entries.
 - The Magistrate, who receives such information, may authorize the detention of the accused for a maximum period of 15 days to police custody.
 - If within the said period of 90 days or 60 days the final report is not filed, the accused has an indefeasible right to be released from custody.
 - Thereafter he can be remanded to custody by the Magistrate only if he is not in a position to offer bail.
 - When the accused is so released under the proviso to Sec. 167(2) of the Said Code, it shall be deemed that such release is under Chapter 33 of the Code.
 - Such bail is also liable to be cancelled under Sec. 437(5) or Sec. 439(2) of the said Code as the case may be.
 - If the final report was filed after 60 or 90 days as the case may and the accused has not availed such indefeasible right to be released on bail before the final report is filed, he cannot claim such right to be released on bail.
 - It is duty of Magistrate to inform accused his right of bail by default even in serious cases. i.e. when charge sheet is not filed within prescribed period.
 - The period of detention if ordered by the Executive Magistrate is to be counted.
 - The word custody includes surveillance, restriction and not necessarily in hand.
 - The object of remand is to avoid possible abuse by police and to facilitate

investigation and not to coerce the accused.

- The Magistrate must ensure that the arrest is justified.
- To ensure that in normal circumstances Magistrate must assist the production of accused before court while giving remand.
- The object of remand is to enable the Magistrate to see if remand is necessary and to enable the accused to make representation and Magistrate has to pass a judicial order.
- If during the course of custody, commission of different crime is brought to light, accused can be detained for different offence.
- Should check the time of arrest as required under article 22 (2) of the Constitution of India to ensure that accused is produced within 24 hours.
- If accused makes an allegation of torture inquiry has to be conducted and ask for medical examination of the accused.
- Total period of 60 days or 90 days has to be calculated according to law laid down in various judicial judgements.
- To ensure that when accused is produced under Special Statute the court has jurisdiction to grant remand.
- To ensure that it is duty of Court to provide legal aid to accused even when accused is produced for first time before the Magistrate as per direction of the Hon'ble supreme court in **Criminal Appeal Nos 1899-1900 of 2011 in case of Mohammed Ajamal Mohammed Amir Kasab alias Abu Mujahid v/s State of Maharashtra.**
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***National Legal Services
Authority (Free and
Competent Legal
Services) Regulations,
2010***

NATIONAL LEGAL SERVICES AUTHORITY (FREE AND COMPETENT LEGAL SERVICES) Regulations, 2010

New Delhi, dated 9th September, 2010

No. L/61/10/NALSA. - In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in section 4 of the Act to make available free and competent legal services to the persons entitled thereto under section 12 of the said Act, the Central Authority hereby makes the following regulations, namely: -

1. Short title, extent and commencement. -

- (1) These regulations may be called the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.
- (2) They shall be applicable to Supreme Court Legal Services Committee, State Legal Services Authorities, High Court Legal Services Committees, District Legal Services Authorities and Taluk Legal Services Committees in India.
- (3) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions. –

- (1) In these regulations, unless the context otherwise requires, -
 - (a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987);
 - (b) “Form” means a Form annexed to these Regulations;
 - (c) “front office” means a room in the Legal Services Institution where legal services are made available;
 - (d) “legal practitioner” shall have the meaning assigned to it in clause (i) of section 2 of the Advocates Act, 1961 (25 of 1961);
 - (e) “Legal Services Institution” means the Supreme Court Legal Services Committee, a State Legal Services Authority, the High Court Legal Services Committee, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;
 - (f) “Para-Legal Volunteer” means a para-legal volunteer trained as such by a Legal Services Institution;
 - (g) “Secretary” means the Secretary of the Legal Services Institution;
 - (h) “section” means the section of the Act;
 - (i) “State regulation” means regulation made by the State Authorities under the Act.

- (2) All other words and expressions used but not defined in these regulations shall have the same meanings assigned to them in the Act.

3. Application for legal services.-

- (1) An application for legal services may be presented preferably in Form-I in the local language or English.
- (2) The applicant may furnish a summary of his grievances for which he seeks legal services, in a separate sheet along with the application.
- (3) An application, though not in Form-I, may also be entertained, if reasonably explains the facts to enable the applicant to seek legal services.
- (4) If the applicant is illiterate or unable to give the application on his or her own, the Legal Services Institutions may make arrangement for helping the applicant to fill up the application form and to prepare a note of his or her grievances.
- (5) Oral requests for legal services may also be entertained in the same manner as an application under sub-regulation (1) and (2).
- (6) An applicant advised by the para-legal volunteers, legal aid clubs, legal aid clinics and voluntary social service institutions shall also be considered for free legal services.
- (7) Requests received through e-mails and interactive on-line facility also may be considered for free legal services after verification of the identity of the applicant and on ensuring that he or she owns the authorship of the grievances projected.

4. Legal Services Institution to have a front office.-

- (1) All Legal Services Institutions shall have a front office to be manned by a panel lawyer and one or more para-legal volunteers available during office hours.
- (2) In the case of court based legal services, such lawyer shall after consideration of the application, forward the same to the Committee set up under regulation 7 and for other types of legal services, the panel lawyer in the front office may provide such legal services.
- (3) The panel lawyer in the front office shall render services like drafting notices, sending replies to lawyers' notices and drafting applications, petitions etc.
- (4) The panel lawyer in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.
- (5) In case of urgent matters, the panel lawyer in the front office may in consultation with the Member-Secretary or Secretary of the Legal Services Institutions provide legal assistance of appropriate nature: Provided that the Committee set up under regulation 7 may consider and approve the action taken by the panel lawyer in the front office.

5. Proof of entitlement of free legal services. --

- (1) An affidavit of the applicant that he falls under the categories of persons entitled to free legal services under section 12 shall ordinarily be sufficient.
- (2) The affidavit may be signed before a Judge, Magistrate, Notary Public, Advocate, Member of Parliament, Member of Legislative Assembly, selected representative

of local bodies, Gazetted Officer, teacher of any school or college of Central Government, State Government or local bodies as the case may be.

- (3) The affidavit may be prepared on plain paper and it shall bear the seal of the person attesting it.

6. Consequences of false or untrue details furnished by the applicant. -

The applicant shall be informed that if free legal services has been obtained by furnishing incorrect or false information or in a fraudulent manner, the legal services shall be stopped forthwith and that the expenses incurred by the Legal Services Institutions shall be recoverable from him or her.

7. Scrutiny and evaluation of the application for free legal services;-

- (1) There shall be a Committee to scrutinise and evaluate the application of legal services, to be constituted by the Legal Services Institution at the level of Taluk, District, State and above.
- (2) The Committee shall be constituted by the Executive Chairman or Chairman of the Legal Services Institution and shall consist of,-
 - (i) the Member Secretary or Secretary of the Legal Services Institution as its Chairman and two members out of whom one may be a Judicial Officer preferable having working experience in the Legal Services Institution and;
 - (ii) a legal professional having at least fifteen years' standing at the Bar or Government pleader or Assistant Government Pleader or Public Prosecutor or Assistant Public Prosecutor, as the case may be.
- (3) The tenure of the members of the Committee shall ordinarily be two years which may be further extended for a maximum period of one year and the Member Secretary or Secretary of the Legal Services Institution shall, however, continue as the ex-officio Chairman of the Committee.
- (4) The Committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or not within a period of eight weeks from the date of receipt of the application.
- (5) IF the applicant is not covered under the categories mentioned in section 12, he or she shall be advised to seek assistance from any other body or person rendering free legal services either voluntarily or under any other scheme.
- (6) The Legal Services Institution shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services.
- (7) Any person aggrieved by the decision or order of the Committee, he or she may prefer appeal to the Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.

8. Selection of legal practitioners as panel lawyers. –

- (1) Every Legal Services Institution shall invite applications from legal practitioners for their empanelment as panel lawyers and such applications shall be accompanied with proof of the professional experience with special reference to the type of cases which the applicant-legal practitioners may prefer to be entrusted with.
- (2) The applications received under sub-regulation (1) shall be scrutinised and

selection of the panel lawyers shall be made by the Executive Chairman or Chairman of the Legal Services Institution in consultation with the Attorney-General (for the Supreme Court), Advocate-General (for the High Court), District Attorney or Government Pleader (for the District and Taluk level) and the respective Presidents of the Bar Associations as the case may be.

- (3) No legal practitioner having less than three years' experience at the Bar shall ordinarily be empanelled.
- (4) While preparing the panel of lawyers the competence, integrity, suitability and experience of such lawyers shall be taken into account.
- (5) The Executive Chairman or Chairman of the Legal Services Institution may maintain separate panels for dealing with different types of cases like, Civil, Criminal, Constitutional Law, Environmental Law, Labour Laws, Matrimonial disputes etc.
- (6) The Chairman of the Legal Services Institution may, in consultation with the Executive Chairman of the State Legal Services Authority or National Legal Services Authority as the case may be prepare a list of 5 legal practitioners from among the panel lawyers to be designated as Retainers.
- (7) The Retainer lawyers shall be selected for a period fixed by the Executive Chairman on rotation basis or by any other method specified by the Executive Chairman.
- (8) The strength of Retainer lawyers shall not exceed, -
 - (a) 20 in the Supreme Court Legal Services Committee;
 - (b) 15 in the High Court Legal Services Committee;
 - (c) 10 in the District Legal Authority;
 - (d) 5 in the Taluk Legal Services Committee.
- (9) The honorarium payable to Retainer lawyer shall be, -
 - (a) Rs.10,000 per month in the case of Supreme Court Legal Services Committee;
 - (b) Rs.7,500 per month in the case of High Court Legal Services Committee;
 - (c) Rs.5,000 per month in the case of District Legal Services Authority;
 - (d) Rs.3,000 per month in the case of the Taluk Legal Services Committee:

Provided that the honorarium specified in this sub- regulation is in addition to the honorarium or fee payable by the Legal Services Institution for each case entrusted to the Retainer lawyer.

- (10) The panel lawyers designated as Retainers shall devote their time exclusively for legal aid work and shall be always available to deal with legal aid cases and to man the front office or consultation office in the respective Legal Services Institution.
- (11) The panel prepared under sub-regulation (2) shall be re-constituted after a period of three years but the cases already entrusted to any panel lawyer shall not be withdrawn from him due to re-constitution of the panel.
- (12) The Legal Services Institution shall be at liberty for withdrawing any case from a Retainer during any stage of the proceedings.
- (13) If a panel lawyer is desirous of withdrawing from a case he shall state the reasons thereof to the Member-Secretary or the Secretary and the latter may permit the panel lawyer to do so.
- (14) The panel lawyer shall not ask for or receive any fee, remuneration or any valuable consideration in any manner, from the person to whom he had rendered legal

services under these regulations.

- (15) If the panel lawyer engaged is not performing satisfactorily or has acted contrary to the object and spirit of the Act and these regulations, the Legal Services Institution shall take appropriate steps including withdrawal of the case from such lawyer and his removal from the panel.

9. Legal services by way of legal advice, consultation, drafting and conveyancing. –

- (1) The Executive Chairman or Chairman of the Legal Services Institution shall maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the law universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.
- (2) The services of the legal aid clinics in the rural areas and in the law colleges and law universities shall also be made use of.

10. Monitoring Committee. -

- (1) Every Legal Services Institution shall set up a Monitoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in legal aided matters.
- (2) The Monitoring Committee at the level of the Supreme Court or the High Court, as the case may be, shall consist of, -
 - (i) the Chairman of the Supreme Court Legal Services Committee or Chairman of the High Court Legal Services Committee;
 - (ii) the Member-Secretary or Secretary of the Legal Services Institution;
 - (iii) a Senior Advocate to be nominated by the Patron-in-Chief of the Legal Services Institution.
- (3) The Monitoring Committee for the District or Taluk Legal Services Institution shall be constituted by the Executive Chairman of the State Legal Services Authority and shall consist of, -
 - (i) the senior-most member of the Higher Judicial Services posted in the district concerned, as its Chairman;
 - (ii) the Member-Secretary or Secretary of the Legal Services Institution;
 - (iii) a legal practitioner having more than fifteen years' experience at the local Bar to be nominated in consultation with the President of the local Bar Association: Provided that if the Executive Chairman is satisfied that there is no person of any of the categories mentioned in this sub-regulation, he may constitute the Monitoring Committee with such other persons as he may deem proper.

11. Functions of the Monitoring Committee. -

- (1) Whenever legal services are provided to an applicant, the Member-Secretary or Secretary shall send the details in Form-II to the Monitoring Committee at the earliest.
- (2) The Legal Services Institution shall provide adequate staff and infrastructure to the Monitoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.

- (3) The Legal Services Institution may request the Presiding Officer of the court to have access to the registers maintained by the court for ascertaining the progress of the cases.
- (4) The Monitoring Committee shall maintain a register for legal aided cases for recording the day-to-day postings, progress of the case and the end result (success or failure) in respect of cases for which legal aid is allowed and the said register shall be scrutinised by the Chairman of the Committee every month.
- (5) The Monitoring Committee shall keep a watch of the day-to-day proceedings of the court by calling for reports from the panel lawyers, within such time as may be determined by the Committee.
- (6) If the progress of the case is not satisfactory, the Committee may advise the Legal Services Institution to take appropriate steps.

12. Monitoring Committee to submit bi-monthly reports.

- (1) The Monitoring Committee shall submit bi-monthly reports containing its independent assessment on the progress of each and every legal aid case and the performance of the panel lawyer or Retainer lawyer, to the Executive Chairman or Chairman of the Legal Services Institution.
- (2) After evaluating the reports by the Committee, the Executive Chairman or Chairman of the Legal Services Institution shall decide the course of action to be taken in each case.
- (3) It shall be the duty of the Member-Secretary or Secretary of the Legal Services Institution to place the reports of the Monitoring Committee before the Executive Chairman or Chairman of the Legal Services Institution and to obtain orders.

13. Financial assistance . –

- (1) If a case for which legal aid has been granted requires additional expenditure like payment of court fee, the fee payable to the court appointed commissions, for summoning witnesses or documents, expenses for obtaining certified copies etc., the Legal Services Institution may take urgent steps for disbursement of the requisite amount on the advice of the panel lawyer or Monitoring Committee.
- (2) In the case of appeal or revision the Legal Services Institution may bear the expenses for obtaining certified copies of the judgment and case records.

14. Payment of fee to the panel lawyers. -

- (1) Panel lawyers shall be paid fee in accordance with the Schedule of fee, as approved under the State regulations.
- (2) The State Legal Services Authority and other Legal Services Institution shall effect periodic revision of the honorarium to be paid to panel lawyers for the different types of services rendered by them in legal aid cases.
- (3) As soon as the report of completion of the proceedings is received from the panel lawyer, the Legal Services Institution shall, without any delay, pay the fees and expenses payable to panel lawyer.

15. Special engagement of senior advocates in appropriate cases. –

- (1) If the Monitoring Committee or Executive Chairman or Chairman of the Legal Services Institution is of the opinion that services of senior advocate, though not included in the approved panel of lawyers, has to be provided in any particular case the Legal Services Institution may engage such senior advocate.
- (2) Notwithstanding anything contained in the State regulations, the Executive Chairman or Chairmen of the Legal Services Institution may decide the honorarium for such senior advocate:
Provided that special engagement of senior advocates shall be only in cases of great public importance and for defending cases of very serious nature, affecting the life and liberty of the applicant.

16. Evaluation of the legal aid cases by the National Legal Services Authority and State Legal Services Authorities.–

- (1) The Supreme Court Legal Services Committee shall send copies of the bi-monthly reports of the Monitoring Committee of the Supreme Court Legal Services Committee to the Central Authority.
- (2) The High Court Legal Services Committees, the State Legal Services Authorities shall submit copies of the bi-monthly reports of their Monitoring Committees to their Patron-in-Chief.
- (3) The District Legal Services Authorities and Taluk Legal Services Committees shall submit copies of the bi-monthly reports of their Monitoring Committees to the Executive Chairman of the State Legal Services Authority.
- (4) The State Legal Services Authorities shall also send consolidated half- yearly reports of the Monitoring Committees, indicating the success or failure of each of the legal aided cases, to the Central Authority.
- (5) In appropriate cases, the Executive Chairman of the National Legal Services Authority may nominate and authorise the members of its Central Authority to supervise, monitor or advise the Legal Services Institution for effective and successful implementation of these regulations.

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Member-
Secretary

Form-I

National Legal Services Authority

(Free and Competent Legal Services) Regulations, -2010

(see regulation-3)

The Form of Application for Legal Services

(this may be prepared in the regional language)

- Registration No. :
1. Name :
2. Permanent Address :
3. Contact Address with phone no. if any,
e-mail ID, if any. :
4. Whether the applicant belongs to the category :
of persons mentioned in section -12 of the Act
5. Monthly income of the applicant :
6. Whether affidavit/proof has been produced
in support of income/eligibility u/s 12 of the Act :
7. Nature of legal aid or advise required :

8. A brief statement of the case, if court based :

legal services is required.

Signature of the applicant

Place:

Date:

Form-II
National Legal Services Authority
(Free and Competent Legal Services) Regulation, 2010
(see regulation-11)

Information furnished to the Monitoring Committee about the legal Services provided

- (i) Name of the Legal Services Institution. :
- (ii) Legal aid application number and :
- date on which legal aid was given.
- (iii) Name of the legal aid applicant. :
- (iv) Nature of case :
- (civil, criminal, constitutional law etc.).
- (v) Name and roll number of the lawyer :

.....

assigned to the applicant.

- (vi) Name of the Court in which the :
- case is to be filed / defended.
- (vii) The date of engaging the panel lawyer. :
- (viii) Whether any monetary assistance like, :
- court fee, advocate commission fee, copying
- charges etc. has been given in advance?
- (ix) Whether the case requires any interim orders :
- or appointment of commission?
- (x) Approximate expenditure for producing :
- records, summoning of witnesses etc.
- (xi) The expected time for conclusion of the :
- proceedings in the Court.

MEMBER-SECRETARY /
SECRETARY

Dated:

