



**JHARKHAND STATE LEGAL SERVICES AUTHORITY
(JHALSA)**

**GAZETTES
&
SCHEMES**

"NYAYA SADAN"
Near A.G. Office, Doranda, Ranchi

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(Lok Adalat) Regulation, 2009**




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राष्ट्रीय विधिक सेवा प्राधिकरण अधिसूचना

नई दिल्ली, 14 अक्टूबर, 2009

सं. एल/28/09—नालसा.—केन्द्रीय प्राधिकरण, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित विनियम बनाता है, अर्थात् :-

1. **संक्षिप्त नाम और प्रारम्भ.**—(1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (लोक अदालत) विनियम, 2009 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. **परिभाषाएं.**—इन विनियमों में, जब तक संदर्भ से अन्यथा अपेक्षित न हो,—

(क) 'अधिनियम' से विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) अभिप्रेत है;

(ख) 'लोक अदालत' से अधिनियम की धारा 19 के अधीन आयोजित की जाने वाली लोक अदालत अभिप्रेत है;

(ग) सभी अन्य शब्दों और पदों के, जो इन विनियमों में प्रयुक्त हुए हैं

किन्तु परिभाषित नहीं है और विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) या राष्ट्रीय विधिक सेवा प्राधिकरण नियम, 1995 में परिभाषित हैं, वही अर्थ होंगे जो उक्त अधिनियम या नियमों में है।

3. लोक अदालतें आयोजित करने की प्रक्रिया.—(1) लोक अदालतें, यथास्थिति, राज्य प्राधिकरणों या जिला प्राधिकरणों या उच्चतम न्यायालय विधिक सेवा समिति या उच्च न्यायालय विधिक सेवा समिति या तालुक विधिक सेवा समितियों द्वारा नियमित अंतरालों पर आयोजित की जा सकेंगी और ऐसी लोक अदालतें किसी निश्चित भौगोलिक क्षेत्र के लिए, जो पूर्वोक्त प्राधिकरण या समितियां ठीक समझें, आयोजित की जाएंगी :

परंतु विशेष लोक अदालतें सभी कुटुम्ब न्यायालयों के लिए नियमित अंतरालों पर आयोजित की जाएंगी।

(2) यथास्थिति, उच्च न्यायालय विधिक सेवा समिति का सदस्य—सचिव या सचिव या जिला प्राधिकरण या तालुक विधिक सेवा समिति का अध्यक्ष विधिक वृत्ति के सदस्यों, महाविद्यालय के विद्यार्थियों, सामाजिक संगठनों, पूर्व और परोपकारी संस्थाओं और अन्य वैसे ही संगठनों के लोक अदालतें आयोजित करने के लिए सहयोजित कर सकेगा।

4. राज्य प्राधिकरण को सूचना—यथास्थिति, उच्च न्यायालय विधिक सेवा समिति या जिला प्राधिकरण का सचिव या तालुक विधिक सेवा समिति का अध्यक्ष राज्य प्राधिकरण को लोक अदालत आयोजित करने के प्रस्ताव के बारे में उस तारीख से बहुत पूर्व, जिसको लोक अदालत आयोजित करने का प्रस्ताव है, सूचित करेगा और राज्य प्राधिकरण को निम्नलिखित सूचना प्रस्तुत करेगा, अर्थात् :—

(i) वह स्थान और तारीख, जिसको लोक अदालत आयोजित किए जाने का प्रस्ताव है;

(ii) क्या ऊपर विनियम 3 के उपविनियम (2) में यथा निर्दिष्ट संगठनों में से किसी ने लोक अदालत के साथ स्वयं को सहयोजित करने के लिए अपनी सहमति दी है;

(iii) मामलों के प्रवर्ग और प्रकृति जैसे लंबित मामले या मुकदमा—पूर्व विवाद, जिनका लोक अदालत के समक्ष रखे जाने का प्रस्ताव है;

(iv) प्रत्येक प्रवर्ग में लोक अदालत के समक्ष लाए जाने वाले प्रस्तावित मामलों की संख्या;

(v) कोई अन्य सूचना, जो लोक अदालत के संयोजन और आयोजन से सुसंगत हो।

5. संबद्ध पक्षकारों की सूचना—लोक अदालतों का संयोजन और आयोजन करने वाले यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति या जिला प्राधिकरण का सचिव या तालुक विधिक सेवा समिति का अध्यक्ष, उस संबद्ध प्रत्येक पक्षकार को जिसका मामला लोक अदालत को निर्दिष्ट किया गया है, समय पूर्व सूचित करेगा जिससे उसे लोक अदालत के समक्ष स्वयं को तैयार करने के लिए अवसर दिया जा सके :

परंतु ऐसी सूचना से अभिमुक्ति दी जाएगी यदि न्यायालय ने मामले को लोक अदालत को निर्दिष्ट करते समय पक्षकारों या उनके अधिवक्ताओं की उपस्थिति में लोक अदालत की तारीख और समय नियत किया है या उसकी सूचना दी है :

परंतु यह और कि यदि कोई पक्षकार लोक अदालत को अपना मामला निर्दिष्ट करने के लिए इच्छुक नहीं है तो संबद्ध न्यायालय द्वारा उस मामले पर उसके गुणागुण के आधार पर विचार किया जाएगा।

6. लोक अदालत की संरचना—

(क) राज्य प्राधिकरण स्तर पर—लोक अदालत आयोजित करने वाला सदस्य—सचिव लोक अदालतों की न्यायपीठें गठित करेगा, प्रत्येक न्यायापीठ में उच्च न्यायालय के आसीन या सेवानिवृत्त न्यायाधीश या सेवारत या सेवानिवृत्त न्यायिक अधिकारी और निम्नलिखित में से कोई एक या दोनों होंगे :

(i) विधिक वृत्ति से कोई सदस्य ; और

(ii) ऐसे ख्यातिप्राप्त सामाजिक कार्यकर्ता जो व्यक्तियों के कमजोर वर्गों, जिनके अंतर्गत अनुसूचित जाति, अनुसूचित जनजाति, स्त्री, बालक, ग्रामीण और शहरी श्रमिक भी हैं, के उत्थान में लगे हैं और जिनकी विधिक सेवा स्कीमों या कार्यक्रमों की कार्यान्वयन में रूचि है।

(ख) उच्च न्यायालय स्तर पर—लोक अदालत आयोजित करने वाला उच्च न्यायालय विधिक सेवा समिति का सचिव लोक अदालतों की न्यायपीठ गठित करेगा, प्रत्येक न्यायपीठ में उच्च न्यायालय के आसीन या सेवानिवृत्त न्यायाधीश या सेवारत या सेवानिवृत्त न्यायिक अधिकारी और निम्नलिखित में से कोई एक या दोनों होंगे :

(i) विधिक वृत्ति से कोई सदस्य ; और

(ii) ऊपर उपपैरा (क) की मद (ii) में यथा वर्णित प्रवर्ग का सामाजिक कार्यकर्ता।

(घ) तालुक स्तर पर—लोक अदालत आयोजित करने वाला तालुक विधिक सेवा समिति का अध्यक्ष लोक अदालतों की न्यायपीठ गठित करेगा, प्रत्येक न्यायपीठ में सेवारत या सेवानिवृत्त न्यायिक अधिकारी और निम्नलिखित में से कोई एक या दोनों होंगे :

() विधिक वृत्ति से कोई सदस्य ; और

() ऊपर उपपैरा (क) की मद () में यथा वर्णित प्रवर्ग का सामाजिक कार्यकर्ता या क्षेत्र के विधिक सदृश क्रियाकलापों में लगा हुआ व्यक्ति अधिमानतः कोई स्त्री ।

7. लोक अदालतों का मामलों का आवंटन—(1) यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति या जिला प्राधिकरण का सचिव या तालुक विधिक सेवा समिति का अध्यक्ष लोक अदालत की प्रत्येक न्यायपीठ को विनिर्दिष्ट मामले समनुदेशित करेंगे ।

(2) यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति या जिला प्राधिकरण का सचिव या तालुक विधिक सेवा समिति का अध्यक्ष लोक अदालत की प्रत्येक न्यायपीठ के लिए एक मामला सूची तैयार कर सकेगा और लोक अदालत आयोजित करने की तारीख के कम से कम दो दिन पूर्व सभी संबद्ध व्यक्तियों को सूचित करेंगे ।

(3) लोक अदालत की प्रत्येक न्यायपीठ उसके समक्ष प्रस्तुत किए गए प्रत्येक मामले में किसी प्रकार के उत्पीड़न, धमकी, असम्यक् प्रभाव, प्रलोभन या दुर्व्यपदेशन के बिना सुलह समझौता कराने के गंभीर प्रयास करेगी ।

8. लोक अदालतों का आयोजन—लोक अदालतें ऐसे समय और स्थान तथा ऐसी तारीख को जिसके अंतर्गत छुट्टी का दिन भी है, जिसे लोक अदालत आयोजित करने वाला यथास्थिति, राज्य प्राधिकरण, उच्च न्यायालय विधिक सेवा समिति, जिला प्राधिकरण या तालुक विधिक सेवा समिति उचित समझे, आयोजित की जा सकेंगी ।

9. लोक अदालतों की अधिकारिता—लोक अदालतों को केवल पक्षकारों के बीच किसी विवाद का समझौता या परिनिर्धारण करने के लिए पक्षकारों की सहायता करने की शक्ति होगी और ऐसा करते समय पक्षकारों के बीच ऐसे विवादों की बाबत वे कोई निदेश या आदेश जारी नहीं करेंगी ।

10. लंबित मामलों के निर्देश—(1) लोक अदालत के पास लंबित मामले पर कार्रवाई करने की तभी अधिकारिता होगी जब सक्षम अधिकारिता वाला कोई न्यायालय आदेश करता है कि मामले को सिविल प्रक्रिया संहिता, 1908 (1908 का 5) की धारा 89 या अधिनियम की धारा 20 में विहित रीति के अनुसार निर्दिष्ट किया जाए ।

(2) लोक अदालत को लंबित मामलों के तंत्र संबंधी निर्देश करने से बचा जाएगा और निर्देश करने वाला न्यायालय प्रथम दृष्ट्या अपना यह समाधान करेगा कि लोक अदालत के माध्यम से मामले के निपटारा होने का अवसर है और लोक अदालत में निर्दिष्ट किए जाने के लिए यह मामला समुचित है :

परंतु विवाह-विच्छेद और आपराधिक मामलों से संबंधित ऐसे विषय, जो दंड प्रक्रिया संहिता, 1973 (1974 का 2) के अधीन शमनीय नहीं है, लोक अदालत को निर्दिष्ट नहीं किए जाएंगे।

(3) उस लंबित मामले में जहां पक्षकारों में से केवल एक पक्षकार ने न्यायालय को लोक अदालत में मामले को निर्दिष्ट करने के लिए आवेदन किया था या न्यायालय का स्वप्रेरणा से यह समाधान हो जाता है कि लोक अदालत द्वारा संज्ञान लिए जाने के लिए मामला समुचित है, तो मामले को पक्षकारों को सुनवाई का युक्तियुक्त अवसर दिए जाने के पश्चात् के सिवाय लोक अदालत को निर्दिष्ट नहीं किया जाएगा।

11. अभिलेखों को समन करना और उसकी सुरक्षित अभिरक्षा के लिए उत्तरदायित्व— (1) यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति, जिला प्राधिकरण का सचिव, सचिव या तालुक विधिक सेवा समिति का अध्यक्ष उन लंबित मामलों के न्यायिक अभिलेख, जिन्हें अधिनियम की धारा 20 के अधीन संबद्ध न्यायालयों से लोक अदालत को निर्दिष्ट किया गया है, मंगा सकेंगे।

(2) यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति, जिला प्राधिकरण का सचिव, या तालुक विधिक सेवा समिति के अध्यक्ष द्वारा सम्यक् रूप से प्राधिकृत अधिकारी न्यायालय से प्राप्त होने वाले अभिलेखों की उन्हें न्यायालय को वापस किए जाने तक सुरक्षित अभिरक्षा के लिए उत्तरदायी होगा।

(3) न्यायिक अभिलेख लोक अदालत द्वारा समाप्त की गई कार्यवाही के दस दिन के भीतर कार्यवाहियों के परिणाम के बारे में पृष्ठांकन सहित वापस कर दिए जाएंगे चाहे लोक अदालत द्वारा मामले का निपटारा किया गया हो या नहीं :

परंतु जहां कहीं समुचित हो, वह संबद्ध न्यायालय, जहां से अभिलेख मंगाए गए थे, दस दिन से परे की अवधि के लिए अभिलेखों को प्रतिधारित करने की अनुज्ञा दे सकेगा।

(4) प्रत्येक न्यायिक प्राधिकरण से यह आशा की जाती है कि वह न्यायिक अभिलेखों के पारेषण में सहयोग करें।

12. मुकदमा-पूर्व मामला—(1) मुकदमा-पूर्व मामले में यह सुनिश्चित किया जाए कि

उस न्यायालय, जिसके लिए लोक अदालत आयोजित की गई है, को मामले को न्यायनिर्णीत करने की राज्यक्षेत्रीय अधिकारिता है।

(2) लोक अदालत को मुकदमा-पूर्व मामले को निर्दिष्ट करने से पूर्व, यथास्थिति, संबद्ध प्राधिकरण या समिति संबद्ध पक्षकारों को युक्तियुक्त सुनवाई का अवसर देगी।

परंतु प्रत्येक पक्षकार का बयान लोक अदालत के समक्ष इसे रखे जाने के लिए, यथास्थिति, संबद्ध प्राधिकरण या समिति द्वारा अभिप्राप्त किया जाएगा।

(3) पक्षकारों के बीच समझौता आधारित किसी पंचाट को केवल अधिनियम की धारा 20 में विहित प्रक्रिया के उल्लंघन पर संविधान के अनुच्छेद 226 और अनुच्छेद 227 के अधीन याचिका फाइल करके चुनौती दी जा सकती है।

13. लोक अदालतों में प्रक्रिया—(1) लोक अदालत के सदस्यों की भूमिका केवल कानूनी सुलहकर्ता की है और उनकी कोई न्यायिक भूमिका नहीं है और वे, यथावश्यक परिवर्तन सहित माध्यस्थ और सुलह अधिनियम, 1996 (1996 का 26) की धारा 67 से 79 में अधिकथित प्रक्रिया का पालन कर सकेंगे।

(2) लोक अदालत के सदस्य प्रत्यक्षतः या अप्रत्यक्षतः मामलों या विषयों का समझौता या परिनिर्धारण करने के लिए किसी भी पक्षकार पर दबाव नहीं डालेंगे या जबरदस्ती नहीं करेंगे।

(3) लोक अदालत के सदस्य उचित परिनिर्धारण या समझौते पर पहुंचने के लिए पक्षकारों के साथ विषयवस्तु पर चर्चा करेंगे और लोक अदालत के ऐसे सदस्य पक्षकारों की उनके विवाद के सौहार्दपूर्ण परिनिर्धारण पर पहुंचने के उनके प्रयास में स्वतंत्र और निष्पक्ष रीति से सहायता करेंगे :

परंतु यदि स्वतंत्र व्यक्ति या प्रशिक्षित मध्यस्थ की सहायता की आवश्यकता पड़ जाती है तो लोक अदालत उसे भी प्राप्त कर सकेगी।

(4) लोक अदालत के सदस्य, अन्य बातों के साथ-साथ, पक्षकारों के अधिकारों और बाध्यताओं, विवाद की प्रतिवेशी रूढ़ियों और रीति रिवाजों तथा परिस्थितियों पर विचार करते हुए नैसर्गिक न्याय, साम्या, निष्पक्षता, विषयनिष्ठता के सिद्धांतों द्वारा मार्ग दर्शित होंगे।

(5) लोक अदालत ऐसी रीति से कार्यवाहियां कर सकेंगी जैसा वह मामले की परिस्थितियों, किसी पक्षकार द्वारा लोक अदालत से मौखिक कथन सुनने के किसी अनुरोध और विवाद के शीघ्र परिनिर्धारण की आवश्यकता सहित पक्षकारों की इच्छाओं पर विचार करते हुए उचित समझे।

(6) लोक अदालत अपनी निजी इच्छा से किसी निर्देश का अवधारण नहीं करेगी बल्कि पक्षकारों के बीच समझौते या परिनिर्धारण के आधार पर ही समझौता या परिनिर्धारण के निबंधनानुसार अधिनिर्णय करके अवधारण करेगी ;

परंतु किसी लोक अदालत को नियमित न्यायालय के रूप में उनके विवाद का न्यायनिर्णयन करने के लिए पक्षकारों की सुनवाई करने की शक्ति नहीं है :

परंतु यह और कि लोक अदालत का अधिनिर्णय न तो अधिमत है और न ही किसी विनिश्चय करने वाली प्रक्रिया द्वारा विचारित राय है ।

14. प्रशासनिक सहायता—लोक अदालत कार्यवाहियों को सुकर बनाने के लिए प्रशासनिक सहायता की व्यवस्था विधिक सेवा उपलब्ध कराने में लगी उपयुक्त संस्थाओं या व्यक्तियों द्वारा की जा सकेगी ।

15. समझौता या परिनिर्धारण की विरचना—लोक अदालत, कार्यवाही के किसी प्रक्रम पर विवाद के निर्धारण के लिए प्रस्ताव कर सकेगी और यह आवश्यक नहीं कि ऐसा प्रस्ताव उसके लिए कारणों के कथन से युक्त हो ।

16. लोक अदालत और पक्षकारों के बीच संसूचना—(1) लोक अदालत पक्षकारों को उससे मिलने के लिए आमंत्रित कर सकेगी या उसे मौखिक या लिखित रूप से संसूचित कर सकेगी और वह पक्षकारों के साथ एक साथ या उनसे पृथक—पृथक मिल सकेगी या संसूचित कर सकेगी । किसी पक्षकार से प्राप्त विवाद से संबंधित तथ्यात्मक सूचना इसलिए अन्य पक्षकार को कोई स्पष्टीकरण प्रस्तुत करने का अवसर मिल सके :

परंतु लोक अदालत कोई सूचना नहीं करेगी यदि एक पक्षकार इसे गोपनीय रखना चाहता है ।

(2) प्रत्येक पक्षकार अपनी निजी पहल या लोक अदालत के आमंत्रण पर विवाद के परिनिर्धारण के लिए सुझाव प्रस्तुत कर सकेगी ।

(3) जब लोक अदालत को यह प्रतीत होता है कि परिनिर्धारण के लक्षण विद्यमान हैं जो पक्षकारों को स्वीकार्य हो सकेंगे तो संभव परिनिर्धारण के निबंधन लोक अदालत द्वारा विरचित किए जाएंगे और उनके विचारों और परिवर्तन, यदि कोई हो, के लिए पक्षकारों को दिए जाएंगे और पक्षकारों द्वारा दिए गए सुझाव पर विचार किया जा सकेगा तथा संभव परिनिर्धारण के निबंधनों को लोक अदालत पुनः विरचित किया जा सकेगा ।

(4) यदि पक्षकार विवाद के समझौते या परिनिर्धारण पर पहुंचते हैं तो लोक अदालत रूपरेखा तैयार कर सकेगा या ऐसे समझौते या परिनिर्धारण के निबंधनों की रूपरेखा तैयार

करने में पक्षकारों की सहायता कर सकेगा।

17. अधिनिर्णय—(1) अधिनिर्णय की रूपरेखा तैयार करना लोक अदालत के मार्गदर्शन और सहायता के अधीन पक्षकारों द्वारा सहमत परिनिर्धारण या समझौता के निबंधन सम्मिलित करते हुए मात्र एक प्रशासनिक कार्य है।

(2) जब दोनों पक्षकार हस्ताक्षर करते हैं या अपना अंगूठा निशान लगाते हैं और लोक अदालत के सदस्य इस पर अधोहस्ताक्षर करते हैं तो यह अधिनिर्णय हो जाता है। (परिशिष्ट—1 पर नमूना देखिए) लोक अदालत का प्रत्येक अधिनिर्णय स्पष्ट और सरल होगा और स्थानीय न्यायालयों में प्रयुक्त प्रादेशिक भाषा या अंग्रेजी में होंगे। इसमें मामले की विशिष्टियां अर्थात् मामला संख्या, न्यायालय का नाम, पक्षकारों के नाम, प्राप्ति की तारीख, स्थायी रजिस्टर (विनियम 20 के अधीन यथाउपबंधित बनाए रखे गए) में मामले की रजिस्टर संख्या और परिनिर्धारण की तारीख भी अंतर्विष्ट होगी। जहां कहीं पक्षकारों का प्रतिनिधित्व काउंसिल द्वारा किया जाता है वहाँ उनसे भी लोक अदालत के सदस्यों के समक्ष परिनिर्धारण या अधिनिर्णय पर अपने हस्ताक्षर करने की अपेक्षा होनी चाहिए।

(3) न्यायालय से लोक अदालत को निर्दिष्ट मामलों के अधिनिर्णय में यह उल्लिखित होगा कि वादी या याची दी गई न्यायालय फीस के प्रतिदाय का हकदार है।

(4) जहां पक्षकारों के साथ काउंसिल नहीं है या काउंसिल द्वारा प्रतिनिधित्व नहीं किया गया है, वहां लोक अदालत के सदस्य परिनिर्धारण अभिलिखित करने के पूर्व पक्षकारों की पहचान का भी सत्यापन करेंगे।

(5) लोक अदालत के सदस्य यह सुनिश्चित करेंगे कि पक्षकार निश्चित और अभिलिखित किए गए परिनिर्धारण के निबंधनों को पूरी तरह से समझने के पश्चात् ही अपने हस्ताक्षर करें। लोक अदालत के सदस्य अपने हस्ताक्षर करने के पूर्व निम्नलिखित के बारे में भी स्वयं का समाधान करेंगे:

(क) यह कि परिनिर्धारण के निबंधन अयुक्तियुक्त या अवैध या एकतरफा नहीं है; और

(ख) यह कि पक्षकारों ने स्वेच्छया न कि किसी धमकी, प्रपीड़न या असम्यक असर के कारण परिनिर्धारण किया है।

(6) लोक अदालत के सदस्यों को अपने समक्ष निकाले गए परिनिर्धारण में ही अपने हस्ताक्षर करने चाहिए और यह सुनिश्चित करने के लिए कि लोक अदालतों का उपयोग बेईमान पक्षकारों द्वारा कपट, कूटरचना, आदि करने के लिए न किया जाए, किसी तीसरे

पक्षकार की सहायता से लोक अदालत के बाहर पक्षकारों द्वारा निकाले गए परिनिर्धारण पर हस्ताक्षर करने से बचना चाहिए।

(7) लोक अदालत कोई जमानत या पारस्परिक सहमति विवाह—विच्छेद मंजूर नहीं करेगी।

(8) मूल अधिनिर्णय न्यायिक अभिलेख (मुकदमेबाजी पूर्व मामले में मूल अधिनिर्णय विधिक सेवा प्राधिकरण या संबद्ध समिति के पास रखा जा सकेगा) का भाग गठित करेगा और अधिनिर्णय की एक प्रति यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति या जिला विधिक सेवा प्राधिकरण के सचिव या तालुक विधिक सेवा समिति के अध्यक्ष द्वारा अभिहित अधिकारी द्वारा प्रत्येक पक्षकार को सम्यक रूप से उनका सही होना प्रमाणित करते हुए निःशुल्क दी जाएगी और संबद्ध प्राधिकरण या समिति की शासकीय मुद्रा सभी अधिनिर्णयों पर लगी होगी

18. गोपनीयता—(1) लोक अदालत के सदस्य और पक्षकार लोक अदालत में कार्यवाहियों से संबंधित सभी विषयों को गोपनीय रखेंगे और लोक अदालत के सदस्यों को उसके सिवाय, जहां अधिनिर्णय के क्रियान्वयन और प्रवर्तन के प्रयोजनों के लिए आवश्यक न हों, किसी न्यायालय के समक्ष लोक अदालत कार्यवाहियों में ऐसे विषयों को प्रकट करने के लिए मजबूर नहीं किया जाएगा।

(2) लोक अदालत के सदस्यों द्वारा किए गए प्रस्ताव और विवाद के संभव परिनिर्धारण की बाबत लोक अदालत में कार्यवाहियों के दौरान पक्षकारों द्वारा व्यक्त मत और की गई चर्चाओं या किसी पक्षकार द्वारा की गई स्वीकृति या लोक अदालत के समक्ष कार्यवाही के अनुक्रम में पक्षकारों के आचरण को अन्य न्यायालय या मध्यस्थ कार्यवाहियों में साक्ष्य में नहीं लाया जाएगा या उपयोग नहीं किया जाएगा।

(3) लोक अदालत के सदस्य किसी अन्य कार्यवाही में ऐसी रीति में किसी पक्षकार के कथन अभिलिखित नहीं करेंगे या पक्षकारों के किसी आचरण या कोई राय व्यक्त नहीं करेंगे जो न्यायालय या मध्यस्थ के समक्ष ऐसे पक्षकार के प्रतिकूल हो।

(4) यदि लोक अदालत का कोई सदस्य गोपनीयता या नैतिक विषयों का अतिक्रमण करता है जो किसी अन्य न्यायिक कार्यवाही के सदृश है तो ऐसा सदस्य लोक अदालत के सदस्यों के पैनल से हटाया जाएगा।

19. लोक अदालत कार्यवाहियों की असफलता—यदि मुकदमा—पूर्व मामले का निपटान लोक अदालत में नहीं होता है तो पक्षकारों को अन्य आनुकल्पिक विवाद समाधान

तकनीकों का अवलंब लेने या न्यायालय में जाने की सलाह दी जा सकेगी और उचित मामलों में उन्हें विधिक सहायता की उपलब्धता के बारे में भी सलाह दी जा सकेगी।

20. परिणामों का संकलन—लोक अदालत के सत्र की समाप्ति पर यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति, जिला प्राधिकार के सचिव या तालुक विधिक सेवा समिति के अध्यक्ष द्वारा अभिहित अधिकारी, परिशिष्ट-2 में दिए गए प्रोफार्मा में राज्य प्राधिकरण को प्रस्तुत करने के लिए परिणामों का संकलन करेगा।

21. लोक अदालत के सदस्यों के नामों का पैनल बनाए रखना—यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति या जिला प्राधिकरण का सचिव या तालुक विधिक सेवा समिति का अध्यक्ष लोक अदालतों में काम करने के लिए सेवा निवृत्त न्यायिक अधिकारियों, अधिवक्ताओं और सामाजिक कार्यकर्ताओं के नामों का पैनल बनाए रखेगा।

22. अधिनियम की धारा 20 के अधीन निर्दिष्ट मामलों के अभिलेख या अन्यथा बनाए रखने की प्रक्रिया—(1) यथास्थिति, सदस्य सचिव, उच्च न्यायालय विधिक सेवा समिति, जिला प्राधिकरण के सचिव या तालुक विधिक सेवा समिति के अध्यक्ष द्वारा अभिहित अधिकारी, एक स्थायी रजिस्टर बनाए रखेगा जिसमें लोक अदालत के निर्देश के माध्यम से उसे प्राप्त सभी मामले या मुकदमे पूर्व विषयों की प्रविष्टि निम्नलिखित विशिष्टियां देते हुए की जाएंगी :

- (i) प्राप्ति की तारीख ;
- (ii) मामले या मुकदमा—पूर्व विषय की प्रकृति ;
- (iii) अन्य विशिष्टियां, यदि कोई हो ;
- (iv) समझौता या परिनिर्धारण की तारीख और ऐसी रीति जिसमें मामले या विषय का अंतिम रूप से निपटान किया गया था ; और
- (v) मामले की फाइल की वापसी की तारीख।

(2) अधिनिर्णय की प्रति, यदि पारित किया गया है, विनियम 17 में कथित रीति में सम्यक रूप से प्रमाणित, स्थायी अभिलेख के रूम में यथास्थिति प्राधिकरण या समिति के कार्यालय में रखी जाएगी।

(3) मुकदमा—पूर्व लोक अदालतों के अधिनिर्णयों के मूल के अलावा अभिलेखों को लोक अदालत द्वारा मामले के निपटान की तारीख से तीन वर्षों की अवधि के पश्चात् नष्ट किए जा सकेंगे।

23. अधिवक्ताओं की उपस्थिति और लोक अदालतों के समक्ष मामलों में अपनाई जाने वाली प्रक्रिया—लोक अदालत में पक्षकारों की ओर से अधिवक्ताओं की उपस्थिति को वर्जित नहीं किया जाएगा और पक्षकारों को व्यक्तिगत रूप से उपस्थिति होने के प्रयास को प्रोत्साहित किया जाएगा। अधिवक्ताओं को लोक अदालत के समक्ष कार्यवाहियों के दौरान अपनी पोशाक और बैंड पहनने से बचने की सलाह दी जा सकेगी।

24. विनियमों का लागू होना—उपरोक्त विनियम राष्ट्रीय विधिक सेवा प्राधिकरण और उच्चतम न्यायालय विधिक सेवा समिति द्वारा आयोजित लोक अदालतों को समुचित परिवर्तनों सहित उसी रीति में लागू होंगे।

यू. शरत चन्द्रन, सदस्य—सचिव
(विज्ञापन—III / 4 / 123 / 09—असा.)

परिशिष्ट—1

लोक अदालत के समक्ष

स्थान का नाम

(विधिक सेवा प्राधिकरण अधिनियम, 1987 (केन्द्रीय अधिनियम) की धारा 19 के अधीन प्राधिकरण / समिति द्वारा आयोजित)

याची / वादी / परिवादी :

प्रतिवादी / प्रत्यर्थी :

..... न्यायालय / प्राधिकरण / समिति की कार्यवाही संख्या :

उपस्थिति :-

न्यायिक अधिकारी / सेवानिवृत्त न्यायिक—अधिकारी का नाम :

सदस्यों का नाम : (1)

(2)

अधिनिर्णय

पक्षकारों के बीच विवाद लोक अदालत के अवधारण के लिए निर्दिष्ट किए गए हैं और पक्षकारों ने मामले / विषय पर समझौता / परिनिर्धारण कर लिया है, परिनिर्धारण के निबंधनों के अनुसार निम्नलिखित अधिनिर्णय पारित किया जाता है:

पक्षकारों को सूचित किया जाता है कि न्यायालय की फीस। यदि कोई उनमें से किसी द्वारा संदत्त की गई है तो यह वापस की जाएगी।

याची / वादी / परिवादी

प्रतिवादी / प्रत्यर्थी

न्यायिक अधिकारी

सदस्य

सदस्य

तारीख :

प्राधिकरण / समिति की मुद्रा

परिशिष्ट-2

प्रोफार्मा

लोक अदालत में मामलों का निपटान

स्थान :			तारीख :		
			निपटाए गए मामले की प्रकृति		
क्रम सं०	मामला संख्या	पक्षकारों के नाम	सिविल	दावे	आपराधिक
कुल					

**NATIONAL LEGAL SERVICES AUTHORITY (LOK ADALATS)
REGULATIONS, 2009
NOTIFICATION**

New Delhi, the 14th October, 2009

No. L/28/09-NALSA.— In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987), the Central Authority hereby makes the following regulations, namely: —

1. Short title and commencement. - (1) These regulations may be called The National Legal Services Authority (Lok Adalats) Regulations, 2009.

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

2. Definitions. - In these regulations, unless the context otherwise requires,—

(a) 'Act' means the Legal Services Authorities Act, 1987 (39 of 1987);

(b) 'Lok Adalats' means Lok Adalats to be organised under section 19 of the Act;

(c) all other words and expressions used but not defined in these regulations and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authority Rules, 1995 shall have the meanings respectively assigned to them in the said Act or rules.

3. Procedure for organising Lok Adalats.— (1) Lok Adalats may be organised by the State Authorities or District Authorities or Supreme Court Legal Services Committee or High Court Legal Services Committee or, as the case may be, the Taluk Legal Services Committees at regular intervals and such Lok Adalats shall be organised for a definite geographical area as the aforesaid Authorities or Committees think fit :

Provided that, special Lok Adalats shall be organised for all Family Courts at regular intervals.

(2) The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Taluk Legal Services Committee may associate the members of the legal profession,

college students, social organisations, charitable and philanthropic institutions and other similar organisations for organising the Lok Adalats.

4. Intimation to the State Authority. — The Secretary of the High Court Legal Services Committee or District Authority or Chairman of the Taluk Legal Services Committee, as the case may be, shall inform the State Authority about the proposal to organise the Lok Adalat, well before the date on which the Lok Adalat is proposed to be organised, and furnish the following information to the State Authority, namely: —

(i) the place and the date on which the Lok Adalat is proposed to be organised;

(ii) whether any of the organisations as referred to in sub-regulation (2) of regulation 3 above have agreed to associate themselves with Lok Adalat;

(iii) categories and nature of cases, viz. pending cases or pre-litigation disputes, proposed to be placed before the Lok Adalat;

(iv) number of cases proposed to be brought before the Lok Adalat in each category;

(v) any other information relevant to the convening and organising of the Lok Adalat.

5. Notice to parties concerned. — The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Taluk Legal Services Committee convening and organising the Lok Adalat shall inform every party concerned whose case is referred to the Adalat, well in time so as to afford him an opportunity to prepare himself for the Lok Adalat:

Provided that such notice may be dispensed with, if the court while referring the case to the Lok Adalat fixes or informs the date and time of the Lok Adalat in the presence of the parties or their advocates:

Provided further that if a party is not willing to refer their case to Lok Adalat, the case may be considered on its merits by the court concerned.

6. Composition of Lok Adalat. —

(a) At State Authority Level. — The Member-Secretary organising the Lok

Adalat shall constitute benches of the Lok Adalats, each bench comprising of a sitting or retired Judge of the High Court or a serving or retired judicial officer and any one or both of the following :

(i) a member from the legal profession; and

(ii) a social worker of repute who is engaged in the upliftment of the weaker sections of the people, including the Scheduled Castes, the Scheduled Tribes, women, children, rural and urban labour and interested in the implementation of legal services schemes or programmes.

(b) At High Court Level. — The Secretary of the High Court Legal Services Committee organising the Lok Adalat shall constitute benches of the Lok Adalats, each bench comprising of a sitting or retired Judge of the High Court or a serving or retired judicial officer and any one or both of the following:

(i) a member from the legal profession;

(ii) a social worker belonging to the category as mentioned in item (ii) of sub-para

(c) At District Level. — The Secretary of the District Authority organising the Lok Adalats shall constitute benches of the Lok Adalats, each bench comprising of a sitting or retired judicial officer and any one or both of the following:

(i) a member from the legal profession;

(ii) a social worker belonging to the category as mentioned in item (ii) of sub-para (a) above or a person engaged in para-legal activities of the area, preferably a woman.

(d) At Taluk Level. — The Chairman of the Taluk Legal Services Committee organising the Lok Adalat shall constitute benches of the Lok Adalat, each bench comprising of a sitting or retired judicial officer and any one or both of the following:

(i) a member from the legal profession; and

(ii) a social worker belonging to the category as mentioned in item (ii) of sub-para (a) above or a person engaged in para-legal activities of the area, preferably a woman.

7. Allotment of cases to Lok Adalats.— (1) The Member Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or Chairman of the Taluk Legal Services Committee, as the case may be, shall assign specific cases to each bench of the Lok Adalat.

(2) The Member Secretary, the Secretary of the High Court Legal Services Committee or the District Authority or Chairman of the Taluk Legal Services Committee, as the case may be, may prepare a cause list for each bench of the Lok Adalat and intimate the same to all concerned at least two days before the date of holding of the Lok Adalat.

(3) Every bench of the Lok Adalat shall make sincere efforts to bring about a conciliated settlement in every case put before it without bringing about any kind of coercion, threat, undue influence, allurement or misrepresentation.

8. Holding of Lok Adalats.— Lok Adalats may be organised at such time and place and on such days, including holidays as the State Authority, the High Court Legal Services Committee, the District Authority or the Taluk Legal Services Committee, as the case may be, organising the Lok Adalat deems appropriate.

9. Jurisdiction of Lok Adalats.— Lok Adalats shall have the power only to help the parties to arrive at a compromise or settlement between the parties to a dispute and, while so doing, it shall not issue any direction or order in respect of such dispute between the parties.

10. Reference of cases and matters.— (1) Lok Adalat shall get jurisdiction to deal with a case only when a court of competent jurisdiction orders the case to be referred in the manner prescribed in section 20 of the Act or under section 89 of the Code of Civil Procedure, 1908 (5 of 1908).

(2) A mechanical reference of pending cases to Lok Adalat shall be avoided and the referring court shall, prima facie satisfy itself that there are chances of settlement of the case through Lok Adalat and the case is appropriate to be referred to Lok Adalat:

Provided that matters relating to divorce and criminal cases which are not compoundable under the Code of Criminal Procedure, 1973 (2 of 1974) shall

not be referred to Lok Adalat.

(3) In a pending case where only one of the parties had made application to the court for referring the case to Lok Adalat, or where the court suo motu is satisfied that the case is appropriate to take cognizance by Lok Adalat, the case shall not be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the parties.

11. Summoning of records and responsibility for its safe custody.—

(1) The Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or, as the case may be, the Chairman of the Taluk Legal Services Committee may call for the judicial records of pending cases which are referred to the Lok Adalat under section 20 of the Act from the courts concerned.

(2) The officer duly authorised by the Member Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall be responsible for the safe custody of records from receiving of the same from court till they are returned.

(3) The judicial records shall be returned within ten days of the Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of proceedings:

Provided that wherever it is appropriate, the court concerned from where the records are called may permit the records to be retained beyond the period often days.

(4) Every judicial authority is expected to co-operate in transmission of the judicial records.

12. Pre-litigation matters.— (1) In a pre-litigation matter it may be ensured that the court for which a Lok Adalat is organised has territorial jurisdiction to adjudicate in the matter.

(2) Before referring a pre-litigation matter to Lok Adalat the Authority concerned or Committee, as the case may be, shall give a reasonable hearing to the parties concerned:

Provided that the version of each party, shall be obtained by the Authority

concerned or, as the case may be, the Committee for placing it before the Lok Adalat,

(3) An award based on settlement between the parties can be challenged only on violation of procedure prescribed in section 20 of the Act by filing a petition under articles 226 and 227 of the Constitution of India.

13. Procedure in Lok Adalats.— (1) Members of Lok Adalat have the role of statutory conciliators only and have no judicial role and they, *mutatis mutandis*, may follow the procedure laid down in sections 67 to 76 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Members of Lok Adalat shall not pressurise or coerce any of the parties, to compromise or settle cases or matters, either directly or indirectly.

(3) In a Lok Adalat the members shall discuss the subject matter with the parties for arriving at a just settlement or compromise and such members of Lok Adalat shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute:

Provided that if it found necessary the assistance of an independent person or a trained mediator may also be availed by the Lok Adalat.

(4) Members of Lok Adalat shall be guided by principles of natural justice, equity, fairplay, objectivity, giving consideration to, among other things, the rights and obligations of the parties, custom and usages and the circumstances surrounding the dispute.

(5) The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate taking into account the circumstances of the case, wishes of the parties including any request by a party to the Lok Adalat to hear oral statements, and the need for a speedy settlement of the dispute.

(6) The Lok Adalat shall not determine a reference, at its own instance, but shall determine only on the basis of a compromise or settlement between the parties by making an award in terms of the compromise or settlement arrived at:

Provided that no Lok Adalat has the power to hear the parties to adjudicate their dispute as a regular court:

Provided further that the award of the Lok Adalat is neither a verdict nor an opinion arrived at by any decision making process.

14. Administrative assistance.— Administrative assistance for facilitating Lok Adalat proceedings may be arranged by suitable institutions or persons engaged in providing legal services.

15. Formulating compromise or settlements.— The Lok Adalat may, at any stage of the proceedings, make proposal for a settlement of the dispute and such proposal need not be accompanied by a statement of the reasons therefor.

16. Communication between Lok Adalat and parties.— (1) A Lok Adalat may invite the parties to meet it or may communicate with it orally or in writing and it may meet or communicate with the parties together or with each of them separately. The factual information concerning the dispute received from a party may be disclosed to the other party in order that the other party, may have the opportunity to present any explanation:

Provided that the Lok Adalat shall not disclose any information, if one of the party desires to keep it confidential.

(2) Each party may on its own initiative or at the invitation of the Lok Adalat, submit suggestions for settlement of the dispute.

(3) When it appears to the Lok Adalat that there exists elements of a settlement which may be acceptable to the parties, the terms of a possible settlement may be formulated by the Lok Adalat and given to the parties for their observations and modifications, if any, suggested by the parties can be taken into consideration and terms of a possible settlement may be re-formulated by the Lok Adalat.

(4) If the parties reach a compromise or settlement of the dispute, the Lok Adalat may draw up or assist the parties in drawing up the terms of such compromise or settlement.

17. Award.— (1) Drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by the parties under the guidance and assistance from Lok Adalat.

(2) When both parties sign or affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an award, (see a specimen at Appendix-I) Every award of the Lok Adalat shall be categorical and lucid and shall be written in regional language used in the local courts or in English. It shall

also contain particulars of the case, viz., case number, name of court and names of parties, date of receipt, register number assigned to the case in the permanent register (maintained as provided under regulation 20) and date of settlement. Wherever the parties are represented by counsel, they should also be required to sign the settlement or award before the members of the Lok Adalat affix their signature.

(3) In cases referred to Lok Adalat from a court, it shall be mentioned in the award that the plaintiff or petitioner is entitled to refund of the court fees remitted.

(4) Where the parties are not accompanied or represented by counsel, the members of the Lok Adalat shall also verify the identity of parties, before recording the settlement.

(5) Member of the Lok Adalat shall ensure that the parties affix their signatures only after fully understanding the terms of settlement arrived at and recorded. The members of the Lok Adalat shall also satisfy themselves about the following before affixing their signatures:

(a) that the terms of settlement are not unreasonable or illegal or one-sided; and

(b) that the parties have entered into the settlement voluntarily and not on account of any threat, coercion or undue influence.

(6) Members of the Lok Adalat should affix their signatures only in settlement reached before them and should avoid affixing signatures to settlement reached by the parties outside the Lok Adalat with the assistance of some third parties, to ensure that the Lok Adalats are not used by unscrupulous parties to commit fraud, forgery, etc.

(7) Lok Adalat shall not grant any bail or a divorce by mutual consent.

(8) The original award shall form part of the judicial records (in pre-litigation matter, the original award may be kept with the Legal Services Authority or Committee, concerned) and a copy of the award shall be given to each of the parties duly certifying them to be true by the officer designated by the Member-Secretary or Secretary of the High Court Legal Services Committee or District Legal Services Authority or, as the case may be, the Chairman- of Taluk

Legal Services Committees free of cost and the official seal of the Authority concerned or Committee shall be affixed on all awards.

18. Confidentiality. — (1) The members of the Lok Adalat and the parties shall keep confidential all matters relating to the proceedings in the Lok Adalat and the members of the Lok Adalat shall not be compelled to disclose the matters which took place in the Lok Adalat proceedings before any court of law, except where such disclosure is necessary, for purposes of implementation and enforcement of the award.

(2) The views expressed and discussions made by parties during the proceedings of Lok Adalat in respect of the possible settlement of a dispute and the proposals made by the members of Lok Adalat or admission made by any party or the conduct of the parties in the course of the proceeding before Lok Adalat shall not be brought in evidence or made use of in other court or arbitral proceedings.

(3) Members of the Lok Adalat shall not record the statement of any of the parties or record any conduct of the parties or express any opinion in such a manner as it would prejudice such party in any other proceedings before a court or arbitrator.

(4) If any member of the Lok Adalat violates the confidentiality and the ethical concerns which are akin to any other judicial proceedings, such member shall be removed from the panel of members of Lok Adalat.

19. Failure of Lok Adalat proceedings. — If a pre-litigation matter is not settled in the Lok Adalat, the parties may be advised to resort to other Alternative Dispute Resolution (ADR) techniques or to approach a court of law and in appropriate cases they may be advised about the availability of legal aid.

20. Compilation of results. — At the conclusion of session of the Lok Adalat, the officer designated by the Member Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Taluk Legal Services Committee, as case may be, shall compile the results for submission to the State Authority in the proforma given in Appendix-11.

21. Maintenance of panel of names of Lok Adalat members.—The Member Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Tahik Legal Services

Committee shall maintain a panel of names of retired judicial officers, advocates and social workers to work in Lok Adalats.

22. Procedure for maintaining record of cases referred under section 20 of the Act or otherwise.— (1) The officer designated by the Member Secretary, the Secretary of the High Court Legal Services committee, the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall maintain a permanent register wherein all the cases and pre-litigation matters received by him by way of reference to the Lok Adalat shall be entered giving particulars of:

- (i) date of receipt;
- (ii) nature of the case or pre-litigation matter;
- (iii) other particulars, if any;
- (iv) date of compromise or settlement and the manner in which the case or matter was finally disposed of; and
- (v) date of return of the case file.

(2) A copy of the award, if passed, duly certified in the manner stated in regulation 17 shall be kept in the office of the Authority or Committee, as the case may be, as a permanent record.

(3) Records other than the original of the awards of pre-litigation Lok Adalats may be destroyed after a period of three years from the date of disposal of the matter by Lok Adalat.

23. Appearance of lawyers and the procedure to be followed in the cases before Lok Adalats.—The appearance of lawyers on behalf of the parties at the Lok Adalat shall not be barred and an effort shall be made to encourage the parties to be present personally. The lawyers may be advised to avoid wearing their robes and bands during the proceedings before the Lok Adalat

24. Application of regulations.—The above regulations shall be applicable in the same manner with appropriate changes to the Lok Adalats organised by the National Legal Services Authority and the Supreme Court Legal Services Committee.

U. SARATH CHANDRAN, Member Secy.

[ADVT-III/4/123/09-Ext>.]

BEFORE THE LOK ADALAT

HELD AT _____

[Organised by Authority/..... Committee under Section 19, of the Legal Services Authorities Act, 1987(Central Act)]

Petitioner/Plaintiff/Complainant :

Defendant/Respondent :

No. of proceedings of the Court/Authority/Committee

Present:-

Name of Judicial Officer / :

Retired Judicial Officer

Name of Members : (1)

(2)

AWARD

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement:

.....
.....
.....
.....

The parties are informed that the court fee, ir any, paid by any of them shall be refunded.

Petitioner/Plaintiff/Complainant

Defendant/Respondent

Judicial Officer

Member

Member

Date:

(Seal of the Authority/Committee)

**PROFORMA
DISPOSAL OF CASES IN LOK ADALAT**

Place :			Date :		
			Nature of Cases disposed of		
Sl. No.	Case No.	Name of Parties	Civil	Claims	Criminal
Total					

राष्ट्रीय विधिक सेवा प्राधिकार
(निःशुल्क और सक्षम विधिक सेवा) विनियम, 2010
**National Legal Services Authority
(Free and Competent Legal Services) Regulation, 2010**




सत्यमेव जयते

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राष्ट्रीय विधिक सेवा प्राधिकरण अधिसूचना

नई दिल्ली, 9 सितम्बर, 2010

सं. एल/61/10/रा.वि.से.प्रा.—केन्द्रीय प्राधिकरण, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उक्त अधिनियम की धारा 12 के अधीन हकदार व्यक्तियों को निःशुल्क और सक्षम विधिक सेवा प्रदान करने के लिए अधिनियम की धारा 4 के उपबंधों के अनुसरण में, निम्नलिखित विनियम बनाता है, अर्थात् :-

1. **संक्षिप्त नाम और प्रारंभ.**—(1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधिक सेवा) विनियम, 2010 है।

(2) ये भारत में उच्चतम न्यायालय विधिक सेवा समिति, राज्य विधिक सेवा प्राधिकरणों, उच्च न्यायालय विधिक सेवा समितियों, जिला विधिक सेवा प्राधिकरणों और तालुक विधिक सेवा समितियों को लागू होंगे।

(3) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. **परिभाषाएं**—(1) इन विनियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न

हो,—

(क) “अधिनियम” से विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) अभिप्रेत है;

(ख) “प्ररूप” से इन विनियमों से उपाबद्ध प्ररूप अभिप्रेत है;

(ग) “प्रबंध कार्यालय” से विधिक सेवा संस्था में वह कक्ष अभिप्रेत है, जहां विधिक सेवाएं उपलब्ध करवाई जाती हैं;

(घ) “विधि व्यवसायी” का वही अर्थ होगा, जो अधिवक्ता अधिनियम, 1961 (1961 का 25) की धारा 2 के खंड (झ) में है ;

(ङ) “विधिक सेवा संस्था” से, यथास्थिति, उच्चतम न्यायालय विधिक सेवा समिति, राज्य विधिक सेवा प्राधिकरण, उच्च न्यायालय विधिक सेवा समिति, जिला विधिक सेवा प्राधिकरण या तालुक विधिक सेवा समिति अभिप्रेत है ;

(च) “पैरा विधिक” स्वयंसेवक से विधिक सेवा संस्था द्वारा इस प्रकार प्रशिक्षित “पैरा विधिक” स्वयंसेवक अभिप्रेत है ।

(छ) “सचिव” से विधिक सेवा संस्था का सचिव अभिप्रेत है ।

(ज) “धारा” से अधिनियम की धारा अभिप्रेत है ।

(झ) “राज्य विनियम” से अधिनियम के अधीन राज्य प्राधिकरण द्वारा बनाया गया विनियम अभिप्रेत है ।

2. सभी अन्य शब्दों और पदों के, जो इन विनियम में प्रयुक्त हैं, और परिभाषित नहीं हैं वही अर्थ होंगे जो अधिनियम में हैं ।

3. विधिक सेवाओं के लिए आवेदन—(1) विधिक सेवाओं के लिए कोई आवेदन स्थानीय भाषा या अंग्रेजी में अधिमानतः प्ररूप-1 में प्रस्तुत किया जा सकेगा ।

(2) कोई आवेदक अपनी शिकायत, जिसके लिए वह विधिक सेवाओं को चाहता है, संक्षिप्त रूप में एक पृथक प्रपत्र में आवेदन के साथ दे सकेगा ।

(3) किसी आवेदन, यद्यपि प्ररूप-1 में नहीं है, को भी ग्रहण किया जा सकेगा, यदि आवेदक ने विधिक सेवाएं चाहने के लिए स्वयं को समर्थ बनाने के लिए तथ्यों को युक्तियुक्त ढंग से स्पष्ट कर दिया है ।

(4) यदि आवेदक निरक्षर है या वह स्वयं आवेदन देने में असमर्थ है, विधिक सेवा

संस्था आवेदक के आवेदन प्ररूप को भरने में और शिकायतों का एक टिप्पण तैयार करने में उसकी सहायता करने की व्यवस्था कर सकेगा।

(5) विधिक सेवा के लिए मौखिक अनुरोध को भी उसी रीति में ग्रहण किया जा सकेगा जिस रीति में कोई आवेदन उपविनियम (1) और उपविनियम (2) के अधीन ग्रहण किया जाता है।

(6) पैरा विधिक स्वयं सेवकों, विधिक सहायता क्लबों, विधिक सहायता क्लीनिक्स और स्वैच्छिक समाज सेवा संस्थाओं द्वारा परामर्श प्राप्त करने वाले आवेदक को भी निःशुल्क सेवाओं के लिए भी विचार में लिया जाएगा।

(7) आवेदक की पहचान का सत्यापन के पश्चात् और यह सुनिश्चित होने पर कि आवेदक/आवेदिका द्वारा की गई शिकायत उसकी स्वयं की है, निःशुल्क विधिक सेवाओं के लिए ई-मेल और ऑन-लाईन सुविधा से संपर्क द्वारा प्राप्त अनुरोध को भी विचार में लिया जा सकेगा।

4. विधिक सेवा संस्था में प्रबंध कार्यालय का होना—(1) सभी विधिक सेवा संस्थाओं में कार्यालय समय के दौरान उपलब्ध पैनल वकील और एक या अधिक पैरा विधिक स्वयंसेवक के साथ प्रबंध कार्यालय होगा।

(2) न्यायालय आधारित विधिक सेवाओं के मामले में, आवेदन पर विचार करने के पश्चात् ऐसा वकील उसे विनियम 7 के अधीन गठित समिति को अग्रेषित करेगा और अन्य प्रकार की विधिक सेवाओं के लिए पैनल का वकील प्रबंध कार्यालय में ऐसी विधिक सेवाएं प्रदान कर सकेगा।

(3) प्रबंध कार्यालय में पैनल का वकील सूचनाओं का प्रारूपण, वकीलों की सूचनाओं का उत्तर भेजना और आवेदनों, अर्जियों आदि का प्रारूपण जैसी सेवाएं देगा।

(4) प्रबंध कार्यालय में पैनल का वकील विधिक सेवा संस्थाओं के कर्मचारिवृंद से सचिवीय सहायता प्राप्त कर सकेगा।

(5) अतिआवश्यक विषयों के मामले में, प्रबंध कार्यालय में पैनल का वकील विधिक सेवा संस्थाओं के सदस्य-सचिव या सचिव के परामर्श से समुचित प्रकृति की विधिक सहायता प्रदान कर सकेगा :

परंतु विनियम 7 के अधीन गठित की गई समिति प्रबंध कार्यालय में पैनल के वकील द्वारा की गई कार्रवाई पर विचार और अनुमोदन कर सकेगी।

5. निःशुल्क विधिक सेवाओं के हकदार होने का सबूत—(1) आवेदक का एक शपथपत्र कि वह धारा 12 के अधीन निःशुल्क विधिक सेवाओं के हकदार व्यक्तियों के प्रवर्गों के अधीन आता है प्रस्तुत करेगा जो कि साधारणतया पर्याप्त होगा।

(2) शपथ—पत्र को, यथास्थिति, न्यायाधीश, मजिस्ट्रेट, नोटरी पब्लिक, अधिवक्ता, संसद् सदस्य, विधान सभा सदस्य, स्थानीय निकायों के चुने हुए प्रतिनिधि, राजपत्रित अधिकारी, केन्द्रीय सरकार, राज्य सरकार या स्थानीय निकायों के किसी भी विद्यालय या महाविद्यालय के अध्यापक के समक्ष हस्ताक्षर किया जा सकेगा।

(3) शपथ—पत्र को सादा कागज पर तैयार किया जा सकेगा और उस पर अनुप्रमाणित करने वाले व्यक्ति की मुद्रा होगी।

6. आवेदक द्वारा दिए जाने वाले मिथ्या और असत्य ब्यौरों का परिणाम—आवेदक द्वारा, यदि गलत या मिथ्या सूचना या कपटपूर्ण रीति द्वारा निःशुल्क विधिक सेवाएं प्राप्त की गई है तो उसे सूचित किया जाएगा कि उसकी विधिक सेवाओं को तत्काल रोक दिया जाएगा और विधिक सेवा संस्था द्वारा उस पर उपगत व्यय उससे वसूली योग्य होगा।

7. निःशुल्क विधिक सेवाओं के लिए आवेदन की संवीक्षा और मूल्यांकन—(1) तालुक, जिला, राज्य और उससे ऊपर के स्तर पर विधिक सेवाओं के लिए आवेदन की संवीक्षा और मूल्यांकन करने के लिए विधिक सेवा संस्था द्वारा गठित की जाने वाली एक एक समिति होगी।

(2) समिति विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष द्वारा गठित की जाएगी और जिसमें निम्नलिखित होंगे—

(i) अध्यक्ष के रूप में विधिक सेवा संस्था के सदस्य—सचिव या सचिव, और दो सदस्य जिसमें से एक न्यायिक अधिकारी हो सकेगा जिसे अधिमानतः विधिक सेवा संस्था में कार्य करने का अनुभव हो ;

(ii) यथास्थिति, एक विधिक वृत्तिक या सरकारी प्लीडर या सहायक सरकारी प्लीडर अथवा लोक अभियोजक, जिसे कम से कम 15 वर्ष का विधिज्ञ अनुभव हो।

(3) समिति के सदस्यों की अवधि साधारणतया दो वर्ष की होगी जिसे अधिकतम एक वर्ष के लिए और विस्तारित किया जा सकेगा और विधिक सेवा संस्था का सदस्य—सचिव या सचिव, तथापि, समिति का पदेन अध्यक्ष बना रहेगा।

(4) समिति आवेदन की संवीक्षा और मूल्यांकन करेगी तथा आवेदन की प्राप्ति की तारीख से आठ सप्ताह की अवधि के भीतर यह विनिश्चय करेगी क्या आवेदक विधिक सेवाएं पाने का हकदार है या नहीं।

(5) यदि आवेदक धारा 12 में वर्णित प्रवर्ग के अधीन नहीं आता है, तो उसे स्वेच्छया या किसी अन्य स्कीम के अधीन निःशुल्क विधिक सेवा प्रदान करने वाले किसी अन्य निकाय या व्यक्ति से सहायता प्राप्त करने के लिए परामर्श दिया जाएगा।

(6) विधिक सेवा संस्था ऐसे अभिकरणों, संस्थाओं या व्यक्तियों की सूची रखेगा जिन्होंने निःशुल्क विधिक सेवाएं देने में अपनी रजामंदी व्यक्त की है।

(7) समिति के विनिश्चय या आदेश द्वारा व्यथित कोई व्यक्ति विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष को अपील कर सकेगा या कर सकेगी और अपील पर किया गया विनिश्चय या आदेश अंतिम होगा।

8. वकीलों के पैनल के रूप में विधि व्यवसायियों का चयन—(1) प्रत्येक विधिक सेवा संस्था पैनल वकीलों के रूप में विधि व्यवसायियों के नाम पैनलित करने के लिए उनसे आवेदन आमंत्रित करेगा और ऐसे आवेदनों के साथ मामलों के प्रकार के विशेष संदर्भ के साथ वृत्तिक अनुभव का सबूत लगा होगा, जिसे आवेदक—विधि व्यवसायी को मामला सौंपे जाने में अधिमानता दी जा सकेगी।

(2) उपविनियम (1) के अधीन प्राप्त आवेदनों की संवीक्षा की जाएगी और विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष द्वारा, यथास्थिति, महान्यायवादी (उच्चतम न्यायालय के लिए), महा अधिवक्ता (उच्च न्यायालय के लिए), जिला न्यायवादी या सरकारी अधिवक्ता (जिला और तालुक स्तर के लिए) और अपने-अपने बार संगम के अध्यक्षों से परामर्श करके वकीलों के पैनल का चयन किया जाएगा।

(3) ऐसा विधि व्यवसायी, जिसके पास विधिज्ञ का तीन वर्ष से कम का अनुभव है, का नाम साधारणतया पैनलित नहीं किया जाएगा।

(4) वकीलों का पैनल तैयार करने में ऐसे वकीलों की सक्षमता, निष्ठा, योग्यता और अनुभव को ध्यान में रखा जाएगा।

(5) विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष विभिन्न प्रकार के मामलों जैसे सिविल, दांडिक, सांविधानिक विधि, पर्यावरण विधि, श्रमिक विधि, वैवाहिक विवाद आदि के लिए पृथक पैनल रख सकेंगे।

(6) विधिक सेवा संस्था का अध्यक्ष, यथास्थिति, राज्य विधिक सेवा प्राधिकरण या राष्ट्रीय विधिक सेवा प्राधिकरण के कार्यकारी अध्यक्ष के परामर्श से पैनल वकीलों में से प्रतिधारक के रूप में किए जाने वाले विधि व्यवसायियों की एक सूची तैयार कर सकेगा।

(7) प्रतिधारक वकीलों का चयन कार्यकारी अध्यक्ष द्वारा नियत अवधि के लिए चक्रानुक्रम आधार पर या कार्यकारी अध्यक्ष द्वारा विनिर्दिष्ट किसी अन्य पद्धति द्वारा किया जाएगा।

(8) प्रतिधारक वकीलों की संख्या निम्नलिखित से अधिक नहीं होगी :-

(क) उच्चतम न्यायालय विधिक सेवा समिति में 20;

(ख) उच्च न्यायालय विधिक सेवा समिति में 15;

(ग) जिला विधिक प्राधिकरण में 10;

(घ) तालुक विधिक सेवा समिति में 5।

(9) प्रतिधारक वकीलों को निम्नलिखित मानदेय संदेय होगा -

(क) उच्चतम न्यायालय विधिक सेवा समिति की दशा में 10,000/- रुपये प्रतिमास;

(ख) उच्च न्यायालय विधिक सेवा समिति के दशा में 7,500/- रुपये प्रतिमास;

(ग) जिला विधिक सेवा प्राधिकरण के दशा में 5,000/- रुपये प्रतिमास;

(घ) तालुक विधिक सेवा समिति के दशा में 3,000/- रुपये प्रतिमास ;

परंतु इस उपविनियम में विनिर्दिष्ट मानदेय विधिक सेवा संस्था द्वारा प्रतिधारक वकीलों को सौंपे गए प्रत्येक मामले में संदेय मानदेय या फीस के अतिरिक्त हैं।

(10) प्रतिधारक के रूप में पदाविहित पैनल वकील अपना समय केवल विधिक सहायता कार्य के लिए लगाएंगे और विधिक सहायता मामलों से संबंधित के लिए क्रमशः विधिक सेवा संस्था के प्रबंध कार्यालय या परामर्श कार्यालय में सदैव उपलब्ध होंगे।

(11) उपविनियम (2) के अधीन तैयार किया पैनल, तीन वर्ष की अवधि के पश्चात् पुनः गठित किया जाएगा किन्तु किसी पैनल वकील को पहले से ही सौंपे गए मामलों को पैनल

के पुनः गठित होने के कारण उससे वापस नहीं लिया जाएगा।

(12) विधिक सेवा संस्था कार्यवाही के किसी भी प्रक्रम के दौरान प्रतिधारक से कोई मामला वापस लेने के लिए स्वतंत्र होगी।

(13) यदि कोई पैनल वकील किसी मामले से हटना चाहता है तो वह सदस्य-सचिव या सचिव को कारणों का उल्लेख करेगा और उसके पश्चात् पैनल वकील को ऐसा करने के लिए अनुज्ञात कर सकेगा।

(14) इन विनियमों के अधीन जिस व्यक्ति को विधिक सेवा दी जा रही हो, से पैनल वकील किसी भी रीति में कोई फीस, या पारिश्रमिक या मूल्यवान प्रतिफल नहीं मांगेगा या प्राप्त करेगा।

(15) यदि नियुक्त पैनल वकील संतोषजनक ढंग से कार्य नहीं कर रहा है या उसने अधिनियम और इन विनियमों के उद्देश्य और भावना के प्रतिकूल कार्य किया है, तो विधिक सेवा संस्था समुचित कदम उठाएगी जिस के अंतर्गत ऐसे वकील से मामले से हटाना और उसे पैनल से हटाना भी सम्मिलित हैं।

9. विधिक सलाह, परामर्श, प्रारूपण और हस्तांतर-लेखन के द्वारा विधिक सेवाएं – (1) विधिक सेवा संस्था का कार्यकारी अध्यक्ष या अध्यक्ष विधिक सलाह और अन्य विधिक सेवाएं जैसे प्रारूपण और हस्तांतर लेखन प्रदान करने के लिए वरिष्ठ वकीलों, विधि फर्मों, सेवा निवृत्त न्यायिक अधिकारियों, मध्यस्थों, सुलहकर्ताओं और विधि विश्वविद्यालयों या विधि महाविद्यालयों में विधि प्राध्यापकों का एक पृथक पैनल रखेगा।

(2) विधि सहायता क्लिनिक की सेवाएं ग्रामीण क्षेत्रों में और विधि महाविद्यालयों तथा विधि विश्वविद्यालयों के लिए भी प्रयोग में ली जाएगी।

10. मानीटरी समिति – (1) प्रत्येक विधिक सेवा संस्था न्यायालय आधारित प्रदत्त विधिक सेवाओं और विधिक सहायता मामलों की प्रगति की निकट से मानीटरी के मामलों के लिए एक मानीटरिंग समिति की स्थापना करेगी।

(2) यथास्थिति, उच्चतम न्यायालय या उच्च न्यायालय स्तर पर, मानीटरी समिति, निम्नलिखित से मिलकर बनेगी –

(i) उच्चतम न्यायालय विधिक सेवा समिति के अध्यक्ष या उच्च न्यायालय विधिक सेवा समिति के अध्यक्ष :

(ii) विधि सेवा संस्था का सदस्य सचिव या सचिव :

(iii) विधिक सेवा संस्था के प्रमुख आश्रयदाता द्वारा नामनिर्दिष्ट एक ज्येष्ठ अधिवक्ता ।

(3) जिला या तालुक विधिक सेवा संस्था के लिए मानीटरी समिति राज्य विधिक सेवा प्राधिकरण के कार्यकारी अध्यक्ष द्वारा गठित की जाएगी और जिसमें निम्नलिखित होंगे,—

(i) संबंधित जिला में तैनात उच्च न्यायिक सेवा का ज्येष्ठतम सदस्य, इसका अध्यक्ष होगा;

(ii) विधिक सेवा संस्था का सदस्य—सचिव या सचिव;

(iii) स्थानीय विधि संगम के अध्यक्ष से परामर्श करके नामनिर्दिष्ट होने वाला विधि व्यवसायी जिसे स्थानीय विधि संगम का पंद्रह वर्ष से अधिक का अनुभव हो :

परंतु यह कि यदि कार्यकारी अध्यक्ष का समाधान हो जाता है कि इस उप-विनियम में वर्णित किन्हीं प्रवर्गों का कोई व्यक्ति नहीं है तो वह ऐसे अन्य व्यक्तियों से मानीटरी समिति का गठन कर सकेगा, जैसा वह उचित समझे ।

11. मॉनीटरी समिति के कृत्य — (1) जब कभी किसी आवेदक को विधिक सेवाएं प्रदत्त की जाती हैं, तो सदस्य—सचिव या सचिव यथाशीघ्र मॉनीटरी समिति को प्ररूप-2 में ब्यौरे भेजेगा ।

(2) विधिक सेवा संस्था विधिक सहायता मामलों की दिन—प्रतिदिन की प्रगति के अभिलेख के रखने के लिए मॉनीटरी समिति को पर्याप्त कर्मचारिवृंद और अवसंरचना उपलब्ध कराएगी ।

(3) विधिक सेवा संस्था न्यायालय के पीठासीन अधिकारी से मामलों की प्रगति सुनिश्चित करने के लिए न्यायालय द्वारा अनुरक्षित रजिस्ट्रों का अवलोकन करने के लिए निवेदन कर सकेगी ।

(4) मॉनीटरी समिति उन मामलों की बाबत, जिनके लिए विधिक सहायता अनुज्ञात की गई है की दिन—प्रतिदिन की प्रविष्टियों, मामले की प्रगति और अंतिम परिणाम (सफलता या असफलता) का अभिलेख रखने के लिए, विधिक सहायता प्राप्त मामलों के लिए रजिस्टर रखेगी तथा उक्त रजिस्टर की संवीक्षा प्रत्येक मास समिति के अध्यक्ष द्वारा की जाएगी ।

(5) मॉनीटरी समिति, ऐसे समय के भीतर जो समिति द्वारा अवधारित किया जाए, पैनल के वकीलों से रिपोर्ट मंगाकर न्यायालय की दिन—प्रतिदिन की कार्यवाहियों पर निगरानी रखेगी ।

(6) यदि मामले की प्रगति संतोषप्रद नहीं है तो समिति विधिक सेवा संस्था को समुचित कदम उठाने के लिए सलाह दे सकेगी।

12. मॉनीटरी समिति द्वारा द्वि-मासिक रिपोर्ट प्रस्तुत किया जाना – (1) मॉनीटरी समिति प्रत्येक विधिक सहायता प्राप्त मामले की प्रगति और पैनल वकील या प्रतिधारक वकील के कार्य निष्पादन पर उसका स्वतंत्रा मूल्यांकन अंतर्विष्ट करने वाली द्वि-मासिक रिपोर्ट विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष को प्रस्तुत करेगी।

(2) समिति द्वारा रिपोर्ट का मूल्यांकन करने के पश्चात् विधिक सेवा संस्था का कार्यकारी अध्यक्ष या अध्यक्ष प्रत्येक मामले में की जाने वाली कार्रवाई विनिश्चत करेगा।

(3) विधिक सेवा संस्था के सदस्य-सचिव या सचिव का यह कर्तव्य होगा कि वह मानीटरी समिति की रिपोर्ट विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष के समक्ष प्रस्तुत करे और आदेश प्राप्त करे।

13. वित्तीय सहायता – (1) यदि किसी मामले में, जिसके लिए विधिक सहायता अनुदत्त की गई है, अतिरिक्त व्यय जैसे न्यायालय फीस के संदाय, न्यायालय द्वारा नियुक्त कमीशन को संदेश फीस, साक्षियों या दस्तावेजों के समन के लिए, प्रमाणित प्रतियां आदि प्राप्त करने के लिए व्यय की अपेक्षा है तो विधिक सेवा संस्था पैनल के वकील या मॉनीटरी समिति के सलाह पर अपेक्षित रकम के संवितरण के लिए अतिआवश्यक उपाय करेगी।

(2) अपील या पुनरीक्षण के मामले में, विधिक सेवा संस्था निर्णय और मामले के अभिलेखों की प्रमाणित प्रतियां प्राप्त करने के लिए व्ययों का वहन कर सकेगी।

14. पैनल के वकीलों को फीस का संदाय – (1) पैनल के वकीलों को राज्य विनियमों के अधीन यथा अनुमोदित, फीस की अनुसूची के अनुसार फीस का संदाय किया जाएगा।

(2) राज्य विधिक सेवा प्राधिकरण और अन्य विधिक सेवा संस्था विधिक सहायता के मामलों में पैनल के वकीलों द्वारा दी गई विभिन्न प्रकार की सेवाओं के लिए संदाय किए जाने वाले मानदेय का कालिक रूप से पुनरीक्षण करेंगे।

(3) जैसे ही पैनल के वकील से कार्यवाही के पूर्ण होने की रिपोर्ट प्राप्त होती है, विधिक सेवा संस्था, बिना किसी विलंब के, पैनल के वकील को संदेय फीस और व्ययों का संदाय करेगी।

15. समुचित मामलों में ज्येष्ठ वकीलों की विशेष नियुक्ति – (1) यदि

मानीटरी समिति या विधिक सेवा संस्था के कार्यकारी अध्यक्ष या अध्यक्ष की यह राय है कि ज्येष्ठ वकील की सेवा, यद्यपि वह वकीलों के अनुमोदित पैनल में सम्मिलित नहीं है, किसी विशिष्ट मामले में प्रदत्त की जानी है, तो विधिक सेवा संस्था ऐसे ज्येष्ठ वकील को नियुक्त कर सकेगी।

(2) राज्य विनियमों में किसी बात के होते हुए भी, विधिक सेवा संस्था का कार्यकारी अध्यक्ष या अध्यक्ष ऐसे ज्येष्ठ वकील के लिए मानदेय का विनिश्चय कर सकेगा :

परंतु ज्येष्ठ वकीलों की विशेष नियुक्ति, केवल व्यापक लोक महत्व के मामलों और अत्यंत गंभीर प्रकृति के, आवेदक के जीवन और स्वतंत्रता पर प्रभाव डालने वाले मामलों में बचाव के लिए ही की जाएगी।

16. राष्ट्रीय विधिक सेवा प्राधिकरण और राज्य विधिक सेवा प्राधिकरणों द्वारा विधिक सहायता के मामलों का मूल्यांकन— (1) उच्चतम न्यायालय विधिक सेवा समिति, उच्चतम न्यायालय विधिक सेवा समिति की मॉनीटरी समिति की द्वि-मासिक रिपोर्टों की प्रतियां केन्द्रीय प्राधिकरण को भेजेगी।

(2) उच्च न्यायालय विधिक सेवा समिति, राज्य विधिक सेवा प्राधिकरण अपनी मानीटरी समितियों की द्वि-मासिक रिपोर्टों की प्रतियां अपने प्रमुख आश्रयदाता को प्रस्तुत करेंगी।

(3) जिला विधिक सेवा प्राधिकरण और तालुक विधिक सेवा समिति अपनी मॉनीटरी समिति की द्विमासिक रिपोर्ट की प्रतियां राज्य विधिक सेवा प्राधिकरण को भेजेगी।

(4) राज्य विधिक सेवा प्राधिकरण मानीटरी समिति की समेकित अर्धवार्षिक रिपोर्ट को, प्रत्येक विधिक सहायता प्राप्त मामले में सफलता या असफलता दर्शित करते हुए, केन्द्रीय प्राधिकरण को भेजेगा।

(5) समुचित मामलों में, राष्ट्रीय विधिक सेवा प्राधिकरण का कार्यकारी अध्यक्ष इन विनियमों के प्रभावी और सफल क्रियान्वयन के लिए विधिक सेवा संस्था को पर्यवेक्षित करने, मॉनीटर करने या सलाह देने के लिए अपने केन्द्रीय प्राधिकरण के सदस्यों को नामनिर्देशित और प्राधिकृत कर सकेगा।

यू. शरतचन्द्रन,

सदस्य—सचिव

(विज्ञापन III/4/123/10/असा.)

प्ररूप-1

राष्ट्रीय विधिक सेवा प्राधिकरण
(निःशुल्क और सक्षम विधिक सेवा) विनियम, 2010

(विनियम-3 देखें)

विधिक सेवा के लिए आवेदन का प्ररूप
(इसे क्षेत्रीय भाषा में तैयार किया जाए)

रजिस्ट्रीकरण सं० :

1. नाम :
2. स्थायी पता :
3. टेलीफोन सं० सहित, संपर्क का पता
यदि कोई हो, ई-मेल, आईडी, यदि कोई हो :
4. क्या आवेदक अधिनियम की धारा 12 में
वर्णित व्यक्ति के प्रवर्ग की श्रेणी में आता है :
5. आवेदक की मासिक आय :
6. क्या अधिनियम की धारा-12 के अधीन
आय/अर्हता के समर्थन में शपथपत्र/सबूत
प्रस्तुत किया गया है :
7. विधिक सहायता की प्रकृति या सलाह अपेक्षित है :
8. मामले का संक्षिप्त विवरण, :
यदि न्यायालय आधारित विधिक सेवाएं अपेक्षित हैं।

स्थान :

आवेदक के हस्ताक्षर

तारीख :

प्ररूप-2
राष्ट्रीय विधिक सेवा प्राधिकरण
(निःशुल्क और सक्षम विधिक सेवा) विनियम, 2010
(विनियम-11 देखें)

प्रदत्त विधिक सेवा के बारे में मॉनीटरी समिति को दी गई सूचना

- (i) विधिक सेवा संस्था का नाम :
- (ii) विधिक सहायता आवेदन संख्यांक और वह तारीख जिसको विधिक सहायता दी गई ।
- (iii) विधिक सहायता आवेदक का नाम :
- (iv) मामले की प्रकृति (सिविल, दांडिक, संवैधानिक विधि आदि) :
- (v) आवेदक को समनुदेशित वकील का नाम और अनुक्रमांक :
- (vi) उस न्यायालय का नाम जिसमें मामला फाइल किया जाना है / प्रतिवाद किया जाना है :
- (vii) पैनल के वकील को नियुक्त करने की तारीख :
- (viii) क्या अग्रिम के तौर पर कोई धनीय सहायता जैसे न्यायालय फीस, अधिवक्ता कमीशन फीस, प्रतिलिपि शुल्क आदि दी गई है ?
- (ix) क्या मामले में किसी अंतरिम आदेश या कमीशन की नियुक्ति की अपेक्षा है ?
- (x) अभिलेख प्रस्तुत करने, साक्षियों का समन करने आदि के लिए अनुमानित व्यय :
- (xi) न्यायालय में कार्यवाही की समाप्ति के लिए अपेक्षित समय :

सदस्य-सचिव / सचिव

तारीख :

राष्ट्रीय विधिक सेवा प्राधिकरण
(निःशुल्क और सक्षम विधिक सेवा) संशोधन विनियम, 2012

नई दिल्ली, दिनांक 31 जुलाई, 2012

सं0एल/61/2010—रा.वि.से.प्रा.—राष्ट्रीय विधिक सेवा प्राधिकरण, राष्ट्रीय विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधिक सेवा) विनियम, 2010 का संशोधन करने के लिए निम्नलिखित विनियम बनाता है, अर्थात्:—

1. (1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधिक सेवा) संशोधन विनियम, 2012 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधिक सेवा) विनियम, 2010 (जिसे इसमें इसके पश्चात् मूल विनियम कहा गया है) के विनियम 2 में,—

(क) उप विनियम (1) में,—

(i) खंड (ड) के पश्चात्, निम्नलिखित खंड अंतः स्थापित किया जाएगा अर्थात्:—

‘(डक) “पैनल वकील” से विनियम 8 के अधीन किसी पैनल वकील के रूप में पैनलीकृत कोई विधि व्यवसायी अभिप्रेत है’;

(ii) खंड (च) के पश्चात् निम्नलिखित खंड अंतः स्थापित किया जाएगा, अर्थात्:—

‘(चक) “प्रतिधारक वकील” से कोई पैनल वकील अभिप्रेत है, जो विनियम 8 के उप विनियम (6) के अधीन प्रतिधारित वकील के रूप में अभिहित है’;

3. मूल विनियम (1) में,—

(क) उप विनियम (1) में,—

() “उपलब्ध पैनल वकील के साथ प्रबंध कार्यालय” शब्दों के स्थान पर “कोई व्यक्ति प्रबंध कार्यालय में” शब्द रखे जाएंगे;

() निम्नलिखित परंतुक अंतः स्थापित किया जाएगा, अर्थात्:—

“परंतु किसी मान्यता प्राप्त संस्थान या किसी विश्वविद्यालय से सामाजिक कार्य में मास्टर डिग्री या डिप्लोमा या मनश्चिकत्सा या मनोविज्ञान में मास्टर डिग्री रखने वाले व्यक्तियों को जब कभी आवश्यक हो प्रबंध कार्यालय में भी बुलाया जा सकेगा।”;

(ख) उपविनियम (2) के स्थान पर निम्नलिखित विनियम रखा जाएगा, अर्थात्:—

“(2) न्यायालय आधारित विधिक सेवाओं की दशा में, आवेदन पर विचार करने के पश्चात् किसी पैनल वकील या प्रतिधारित वकील की सेवाएं उपलब्ध कराई जा सकेंगी और ऐसा वकील उसे विनियम 7 के अधीन गठित समिति को अग्रेषित करेगा।”

(ग) उपविनियम (3) के स्थान पर, निम्नलिखित विनियम रखा जाएगा, अर्थात्:—

(3) प्रबंध कार्यालय में पैरा विधिक स्वयंसेवक ऐसी सेवाएं जैसे साधारण सूचना जारी करना, आवेदन और अर्जियों का प्रारूपण, किसी स्थिति में की जाने वाली कार्यवाहियों के अनुक्रम पर आधार सूचना उपलब्ध कराना और विधिक सेवाओं की आवश्यकता वाले व्यक्तियों के मध्य किसी मध्यवर्ती के रूप में कार्य करना तथा विधिक सेवा संस्था को न्याय की पहुंच प्राप्त करने के लिए ऐसे व्यक्तियों को समर्थ बनाने जैसी सेवाएं देना।”;

(घ) उपविनियम (4) के स्थान पर, निम्नलिखित विनियम रखा जाएगा, अर्थात्:—

(4) प्रबंध कार्यालय में यथास्थिति पैरा विधि स्वयंसेवक या पैनल वकील या प्रतिधारित वकील विधिक सेवा संस्थाओं के कर्मचारिवृंद से सचिवीय सहायता प्राप्त कर सकेंगे।”;

(ङ) उपविनियम (5) के स्थान पर, निम्नलिखित विनियम रखा जाएगा, अर्थात्:—

(5) अति आवश्यक मामलों की दशा में, प्रबंध कार्यालय में विधिक सेवाओं की आवश्यकता में व्यक्तियों को समुचित प्रकृति की विधिक सहायता प्रदान करने के लिए प्रतिधारित वकील को बुलाया जा सकेगा :

परंतु विनियम 7 के अधीन गठित समिति ऐसे वकील द्वारा की गई कार्रवाई पर विचार और अनुमोदन कर सकेंगे।”

4. मूल विनियम के विनियम 8 के उपविनियम (10) के स्थान पर, निम्नलिखित उपविनियम रखा जाएगा, अर्थात्:—

“(10) यथास्थिति पैनल वकील या प्रतिधारित वकील विधिक सहायता मामलों पर विचार करने के लिए उपलब्ध होंगे :

परंतु ऐसे वकील अन्य पक्ष पत्र ले सकेंगे किंतु वह किसी पक्षकार के विरुद्ध उपस्थिति नहीं होंगे जिसे विधिक सेवा संस्था के माध्यम से विधिक सहायता दी गई है;

परंतु यह और कि ऐसा प्रतिषेध यहां नहीं होगा जहां दोनों पक्षकारों ने विधिक सहायता प्राप्त की है।”

यू. सरथचंद्रन
सदस्य—सचिव

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

NOTIFICATION

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, elected 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 for 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 preferably 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 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.

(U. Sarathchandran)
Member-Secretary Form -I
National Legal Services Authority

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.

.....

- (i) 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:

NATIONAL LEGAL SERVICES AUTHORITY, (FREE AND COMPETENT LEGAL SERVICES) AMENDMENT REGULATION, 2012

New Delhi, the 31st July, 2012

No.L/61/2010/NALSA. - *In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) the National Legal Services Authority hereby makes the following regulations to amend the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010, namely:-*

1. (1) These regulations may be called the National Legal Services Authority (Free and Competent Legal Services) Amendment Regulations, 2012.

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

2. In the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 (hereinafter referred to as the principal regulations), in regulation 2, -

(a) In sub-regulation (1), -

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

'(ea) "Panel Lawyer" means a legal practitioner empanelled as a Panel Lawyer under regulation 8';

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

'(fa) "Retainer Lawyer" means a Panel Lawyer designated as the Retainer Lawyer under sub-regulation (6) of regulation 8';

3. In regulation 4 of the principal regulations, -

(a) In sub-regulation (1), -

(i) the words "a panel lawyer and" shall be omitted;

(ii) the following proviso shall be inserted, namely:-

"Provided that persons with the qualification of Masters degree in Social Work or Diploma or Masters degree in psychiatry or psychology from any recognised institute or university may also be called to the front office as and when necessary.";

(b) for sub-regulation (2), the following sub-regulation shall be substituted, namely:-

"(2) In the case of court based legal services, services of a panel lawyer or retainer lawyer may be provided and such lawyer shall, after considering the application, forward the same to the

-
- Committee constituted under regulation 7.";
- (c) for sub-regulation (3), the following sub-regulation shall be substituted, namely :-
"(3) The Para-Legal Volunteers in the front office shall render services such as issuing of simple notices, drafting of applications and petitions, providing basic information on the course of action to be taken in a situation and to act as an intermediary between the persons in need of legal services and the legal services institutions to enable such persons to gain access to justice.";
- (d) for sub-regulation (4), the following sub-regulation shall be substituted, namely:-
"(4) The Para-Legal Volunteers or the panel lawyer or the retainer lawyer, as the case may be, in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.";
- (e) for sub-regulation (5), the following sub-regulation shall be substituted, namely:-
"(5) In case of urgent matters, the retainer lawyer may be called to the front office to provide legal assistance of appropriate nature to the persons in need of legal services:
Provided that the Committee constituted under regulations 7 may consider and approve the action taken by such lawyer.";
4. In regulation 8 of the principal regulations, for sub-regulation (10), the following sub-regulation shall be substituted, namely:-
"(10) The panel lawyer or, as the case may be, the retainer lawyer shall be available to deal with legal aid cases :
Provided that such lawyers may take up other briefs, but shall not appear against a party to whom legal aid has been given through the legal services institutions :
Provided further that such restriction shall not be application where both the parties have availed legal aid."

U. Sarathchandran, Member-Secretary

Note : The principal regulations were published in the Gazette of India, Extraordinary vide notification No. L/61/2010/NALSA, dated the 13th September, 2010.

राष्ट्रीय विधिक सेवा प्राधिकार
(विधिक सहायता क्लिनिक) विनियम, 2011

**National Legal Services Authority
(Legal Aid Clinics) Regulation, 2011**




सत्यमेव जयते

भारत का राजपत्र The Gazette of India

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फा. सं. एल./08/11/नालसा.— केन्द्रीय प्राधिकरण, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 20 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और उक्त अधिनियम की धारा 4 के उपबंधों के अनुसरण में निम्नलिखित विनियम बनाता है, अर्थात् :-

1. संक्षिप्त नाम और प्रारंभ.—(1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (विधिक सहायता क्लिनिक) विनियम, 2011 है।
2. ये राजपत्र में उनके प्रकाशन की तारीख से प्रवृत्त होंगे।
2. परिभाषाएं.—(1) इन विनियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—
 - (क) 'अधिनियम' से विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) अभिप्रेत है;
 - (ख) 'जिला अविस् केन्द्र' से तेरहवें वित्त आयोग की निधि से स्थापित जिला

अनुकल्पित विवाद समाधान केन्द्र अभिप्रेत है और जिसके अंतर्गत ऐसी अन्य समान सुविधाएं जैसे जिला स्तर पर न्याय सेवा सदन भी है;

(ग) 'विधिक सहायता क्लिनिक' से परिक्षेत्रा में लोगों को आधारीय स्वास्थ्य सेवाएं उपलब्ध कराने वाले प्राथमिक स्वास्थ्य केन्द्रों की तरह पराविधिक स्वयंसेवक या वकीलों की सहायता से ग्रामीणों को आधारीय विधिक सेवाएं उपलब्ध कराने के लिए जिला विधिक सेवा प्राधिकरण द्वारा स्थापित सुविधाएं अभिप्रेत हैं और जिसके अंतर्गत विधि सेवाएं उपलब्ध कराने के लिए जिला विधिक सेवा प्राधिकरण द्वारा स्थापित सुविधाएं अभिप्रेत हैं और जिसके अंतर्गत विधि महाविद्यालयों और विधि विश्वविद्यालयों द्वारा चलाए जाने वाले विधिक सहायता क्लिनिक हैं

(घ) 'विधिक सेवा संस्था' से यथास्थिति, कोई राज्य विधिक सेवा प्राधिकरण, जिला विधिक सेवा प्राधिकरण या तालुक विधिक सेवा समिति अभिप्रेत है;

(ङ) 'पैनल वकील' से राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधि सेवाएं विनियम, 2010 के विनियम 8 के अधीन चयनित पैनल वकील अभिप्रेत हैं;

(च) 'पराविधिक स्वयंसेवक' से किसी विधिक सेवा संस्था द्वारा प्रशिक्षित कोई पराविधिक स्वयं सेवक अभिप्रेत है;

(छ) 'पक्षीय वकील' से राष्ट्रीय विधिक सेवा प्राधिकरण (निःशुल्क और सक्षम विधि सेवाएं) विनियम, 2010 के विनियम 8 के अधीन चयनित पक्षीय वकील अभिप्रेत है;

(ज) 'धारा' से अधिनियम की धारा अभिप्रेत है।

(2) सभी अन्य शब्दों और पदों के जो इन विनियमों में प्रयुक्त हैं और परिभाषित नहीं हैं किंतु अधिनियम में परिभाषित हैं, वहीं अर्थ होंगे जो उक्त अधिनियम में हैं।

3. विधिक सहायता क्लिनिक की स्थापना.— वित्तीय संसाधनों की उपलब्धता के अधीन रहते हुए जिला विधिक सेवा प्राधिकरण, सभी ग्रामों के आकार पर आधारित, विशेषतया जहां लोग विधिक सेवा संस्थानों तक पहुंच के लिए भौगोलिक, समाजिक या अन्य अवरोध कर सामना करते हैं, अन्य ग्रामों के किसी समूहों के लिए विधिक सहायता क्लिनिकों की स्थापना करेगा।
4. विधिक सहायता क्लिनिकों में निःशुल्क विधिक सेवाओं के लिए पात्रता मानदंड.— प्रत्येक व्यक्ति जो धारा 12 में विनिर्दिष्ट मानदंडों को पूरा करता है विधिक सहायता क्लिनिकों को निःशुल्क विधिक सेवाएं प्राप्त करने का पात्र होगा।

5. विधिक सहायता क्लिनिक का प्रबंध कार्मिक.— (1) विनियम 3 के अधीन स्थापित प्रत्येक विधिक सहायता क्लिनिक में विधिक सहायता क्लिनिकों के कार्य समय के दौरान कम से कम दो पराविधिक स्वयं सेवक उपलब्ध रहेंगे।
- (2) क्षेत्रीय अधिकारिता रखने वाले विधिक सेवा संस्थान या जिला विधिक सेवा प्राधिकरण, विधिक सहायता क्लिनिकों में प्रशिक्षित पराविधिक स्वयंसेवकों को तैनात कर सकेंगे।
- (3) जब विधिक सहायता क्लिनिकों में वकीलों को तैनात किया जाता है, ऐसे क्लिनिकों में लगे हुए पराविधिक स्वयंसेवकों का यह कर्तव्य होगा कि वह वकीलों को अर्जी, आवेदन, अभिवचन और अन्य विधिक दस्तावेजों के प्रारूपण में सहायता करें।
- (4) राज्य विधिक सेवा प्राधिकरण पराविधिक स्वयं सेवकों को उनके लंबी अवधि के भविष्य के उत्थान के लिए विधि में डिप्लोमा या डिग्री के लिए प्रोत्साहित कर सकेगा।
6. विधिक सहायता क्लिनिक में वकीलों की तैनाती.—(1) क्षेत्रीय अधिकारिता रखने वाला निकटतम विधिक सेवा संस्थान, विधिक सेवा क्लिनिक में अपने पैनल वकीलों या पक्षीय वकीलों को तैनात कर सकेगा।
- (2) यदि मामले को किसी ऐसे वकील को सौंपा जाता है जिसमें लंबी अवधि के दौरान उसके अनुर्तन और निरंतर ध्यान देने की अपेक्षा है तो उसी वकील को जिसे मामला सौंपा गया था विधिक सेवाएं जारी करने के लिए न्यस्त किया जाएगा।
7. विधिक सहायता क्लिनिक में वकीलों द्वारा मिलने की आवृत्ति.— स्थानीय अपेक्षाओं और वित्तीय संसाधनों की उपलब्धता के अधीन रहते हुए क्षेत्रीय अधिकारिता रखने वाली विधि सेवा संस्था विधिक सहायता क्लिनिकों में वकीलों के मिलने की आवृत्ति विनिश्चित कर सकेगा और यदि निरंतर विधिक सेवाओं को उपलब्ध कराने के लिए स्थितियों की मांग है तो ऐसी विधिक सेवा संस्था विधिक सहायता क्लिनिकों में वकीलों के बारंबार मिलने की व्यवस्था पर विचार कर सकेंगे।
8. विधिक सहायता क्लिनिकों के प्रबंध के लिए वकीलों का चयन.—(1) विवादों के सौहार्दपूर्ण समाधान के कौशल वाले पैनल वकील या पक्षीय वकील विधिक सहायता क्लिनिक में तैनाती के लिए विचार किए जाएंगे;
- परंतु कम से कम तीन वर्ष से व्यवसाय करने वाली महिला वकीलों को वरीयता दी जाएगी।

9. विधिक सहायता क्लिनिक में विधिक सेवाएं—(1) विधिक सहायता क्लिनिकों में दी जाने वाली विधिक सेवाएं विस्तृत प्रकृति की होंगी।

(2) विधिक सहायता क्लिनिक असुविधाग्रस्त व्यक्तियों की सहायता हेतु, जब कभी आवश्यक हो, उनकी विधिक समस्याओं का समाधान करने के लिए, एकल खिड़की प्रसुविधा के समान कार्य करेंगी।

(3) विधिक सलाह के साथ—साथ अन्य सेवाएं जैसे महात्मा गांधी राष्ट्रीय रोजगार गारंटी (मनरेगा) स्कीम के अधीन रोजगार कार्ड, विभिन्न सरकारी प्रयोजनों के लिए परिचय पत्र के लिए आवेदन करना जैसी अन्य सेवाएं, सरकारी कार्यालयों और लोक प्राधिकारियों के साथ संपर्क करना, सामान्य व्यक्तियों की सहायता करना जो सरकारी पदधारियों, प्राधिकारियों और अन्य संस्थानों के साथ अपनी समस्याओं के समाधान के लिए क्लिनिक में आते हैं, विधिक सहायता क्लिनिक में विधिक सेवाओं का भी भाग होगा :

परंतु विधिक सहायता क्लिनिक किसी समस्या पर आरंभिक सलाह द्वारा सलाह देकर, अभ्यावेदन और नोटिसों प्रारूपण में सहायता, विभिन्न सरकारी योजनाओं, लोक वितरण प्रणाली और अन्य सामाजिक सुरक्षा स्कीमों के अधीन उपलब्ध विभिन्न अभिलाभों के लिए प्ररूप भरने में सहायता प्रदान करेंगे :

परंतु यह और कि समुचित मामलों में विधिक सहायता क्लिनिक में आवेदक द्वारा विधिक सेवाएं प्राप्त करने के लिए और कार्यवाही करने के लिए विधिक सेवा संस्थाओं को प्रतिनिर्देश किया जाएगा।

10. विधिक सहायता क्लिनिकों में पराविधिक स्वयंसेवकों के कृत्य.—(1) विधिक सहायता क्लिनिकों में लगे हुए पराविधिक स्वयंसेवकों विधिक सलाह चाहने वाले व्यक्तियों को आरंभिक सलाह ऐसे व्यक्तियों को जो विशेषतया निरक्षर हैं अर्जी, अभ्यावेदन या सूचनाओं के प्रारूपण में, सरकारी स्कीम के अधीन उपलब्ध विभिन्न लाभों के लिए आवेदन प्रारूपों को भरने में सहायता देंगे।

(2) पराविधिक स्वयंसेवक, यदि आवश्यक हो, विधिक सहायता चाहने वाले व्यक्तियों के साथ सरकारी कार्यालयों में पदधारियों के साथ संपर्क करने के लिए और ऐसे व्यक्तियों की समस्याओं को हल करने के लिए जाएंगे।

(3) यदि विधिक सहायता क्लिनिक पर किसी वकील की सेवाओं की आवश्यकता है तो

पराविधिक स्वयंसेवक बिना किसी विलंब के निकटतम विधिक सेवा संस्थान से किसी वकील की सेवाएं उपलब्ध कराने के लिए संपर्क करेंगे।

(4) आपात दशा में पराविधिक स्वयंसेवक विधिक सेवा क्लिनिक में विधिक सेवा चाहने वाले व्यक्ति को निकटतम विधिक सेवा संस्था ले जाएंगे।

(5) पराविधिक स्वयंसेवक विधिक सहायता क्लिनिकों में विधिक सेवा चाहने वाले व्यक्तियों को विधिक शिक्षा और साक्षरता की सहायता में पुस्तिका और अन्य सामग्री वितरित करेंगे।

(6) पराविधिक स्वयंसेवक विधिक सहायता क्लिनिकों के स्थानीय क्षेत्र में विधिक सेवा संस्थानों द्वारा आयोजित विधिक जागरूकता कैंपों में सक्रिय रूप से भाग लेंगे।

11. विधिक सहायता क्लिनिक की अवस्थिति.—(1) विधिक सहायता क्लिनिक ऐसे स्थानों पर अवस्थित होंगे जहां परिक्षेत्र के व्यक्ति सहजता से पहुंच सकें।

(2) विधिक सेवा संस्था स्थानीय निकाय संस्थाओं जैसे ग्राम पंचायत से अनुरोध कर सकेंगे कि वह विधिक सहायता क्लिनिक की स्थापना के लिए कोई कक्ष उपलब्ध कराएं:

परंतु यदि ऐसा कोई कक्ष उपलब्ध नहीं होता है तब तक जिला विधिक सेवा प्राधिकरण विधिक सहायता क्लिनिक की स्थापना के लिए अनुकल्पित उपलब्ध होने तक किराए पर कक्ष उपलब्ध कराएगा।

12. विधिक सहायता क्लिनिक के लिए सुविधाजनक कक्ष प्राप्त करने में स्थानीय निकाय संस्थाओं की सहायता :—(1) राज्य विधिक सेवा प्राधिकरण ग्राम पंचायत, मंडल या ब्लाक पंचायत, नगरपालिका और निगम आदि जैसी स्थानीय निकाय संस्थाओं से अपेक्षा करेगा कि वे विधिक सहायता क्लिनिक के कार्यकरण के लिए स्थान उपलब्ध कराए।

(2) चूंकि विधिक सहायता क्लिनिक परिक्षेत्र में लोगों की प्रसुविधा के लिए होता है, राज्य विधिक सेवा प्राधिकरण इस आवश्यकता पर जोर दे सकेगा कि स्थानीय निकाय संस्था और प्रशासक विधिक सहायता क्लिनिकों के कार्यकरण में सहयोग करें।

13. विधिक सहायता क्लिनिक के नाम को प्रदर्शित करने वाला साईन बोर्ड:— (1) अंग्रेजी और स्थानीय भाषा दोनों में, एक साईन बोर्ड होगा जिसमें विधिक सहायता क्लिनिक के नाम, कार्य घंटे और दिनों जिनको विधिक सहायता क्लिनिक खुला रहेगा, उल्लेख

होगा।

(2) विधिक सहायता क्लिनिक के कार्य, घंटे राज्य क्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्था द्वारा, जिला विधिक सेवा प्राधिकरण के परामर्श से विनियमित किए जाएंगे :

परंतु परिक्षेत्र में लोगों की स्थानीय शर्तों और अपेक्षाओं के अधीन रहते हुए, विधिक सहायता क्लिनिक सभी रविवारों और अवकाश दिनों को कार्य करेंगे।

14. विधिक सहायता क्लिनिक में अवसंरचना— (1) प्रत्येक सहायता क्लिनिक में कम से कम मूलभूत और आवश्यक फर्नीचर जैसे एक मेज और 5 से 6 कुर्सियां होंगी।

(2) यदि विधिक सहायता क्लिनिक की स्थापना किसी स्थानीय निकाय संस्थाओं के भवन में की जाती है तो ऐसे स्थानीय निकायों से अनुरोध किया जाएगा कि वे विधिक सहायता क्लिनिक में उपयोग के लिए आवश्यक फर्नीचर उपलब्ध कराएं।

(3) यदि विधिक सहायता क्लिनिक किसी किराए पर लिए गए परिसर में स्थापित किया जाता है तो जिला विधिक सेवा प्राधिकरण, विधिक सहायता क्लिनिक में अपेक्षित फर्नीचर उपलब्ध करा सकेगा:

परंतु यदि जिला विधिक सेवा प्राधिकरण के पास विधिक सहायता क्लिनिक स्थापित करने के लिए अपना भवन है तो अवसंरचनात्मक सुविधाएं ऐसे प्राधिकरण द्वारा उपलब्ध कराई जाएंगी।

15. प्रचार :— (1) स्थानीय निकाय संस्थाओं से अनुरोध किया जाता है कि वे विधिक सहायता क्लिनिक का पर्याप्त प्रचार करें।

(2) स्थानीय निकाय संस्थाओं के निर्वाचित प्रतिनिधियों से अनुरोध किया जाए कि वे अपने निर्वाचन क्षेत्र या वार्ड में लोगों तक विधिक सहायता की उपयोगिता के संदेश का प्रसार करें।

16. विधिक सहायता क्लिनिक में पराविधिक स्वयंसेवी या वकील विवादों को सौहार्दपूर्ण रूप से सुलझाने का प्रयास करेंगे :— (1) विधिक सहायता क्लिनिक में लगे हुए पराविधिक स्वयंसेवी या वकील विधिक सहायता क्लिनिकों में लाए गए व्यक्तियों के पूर्व मुकदमा विवादों का समाधान करने का प्रयास करेंगे।

(2) यदि पराविधिक स्वयं सेवी या वकील यह महसूस करते हैं कि ऐसा विवाद अनुकल्पित विवाद समाधान तंत्रों के माध्यम से सुलझाया जा सकता है तो वे ऐसे

विवादों को राज्यक्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्था या जिला अनुकल्पित विवाद समाधान केन्द्र को निर्दिष्ट कर सकेंगे।

17. विधिक सहायता क्लिनिकों में सेवाएं प्रदान करने वाले वकीलों और पराविधिक स्वयंसेवियों के मानदेय :-

(1) उपलब्ध वित्तीय संसाधनों के अधीन रहते हुए, राज्य विधिक सेवा प्राधिकरण, राष्ट्रीय विधिक सेवा प्राधिकरण के परामर्श से विधिक सहायता क्लिनिक में लगे हुए वकीलों और पराविधिक स्वयंसेवियों का मानदेय नियत कर सकेगा :

परंतु ऐसा मानदेय वकीलों के लिए कम से कम 500 रूपए प्रतिदिन और पराविधिक स्वयंसेवियों के लिए 250 रूपए प्रतिदिन होगा।

(2) उन मामलों में जहां विधिक सहायता क्लिनिक उन कठिन भू-भागों में और सुदूर स्थानों में जहां परिवहन सुविधाएं अपर्याप्त हैं, स्थित हैं वहां विशेष महत्व दिया जाएगा।

18. निकटतम विधिक सेवा संस्थाओं द्वारा विधिक सहायता क्लिनिक में या अपने परिसरों के निकट लोक अदालतें आयोजित करना :- (1) राज्यक्षेत्रीय अधिकारिता रखने वाली निकटतम विधिक सेवा संस्था या जिला विधिक सेवा प्राधिकरण, विधिक सहायता क्लिनिक में या उसके आसपास के क्षेत्र में पूर्व मुकदमा विवादों के लिए अदालतें आयोजित कर सकेगा।

(2) विधिक सहायता क्लिनिक से भेजे गए विवादों के पूर्व मुकदमा निपटारे के लिए आयोजित लोक अदालतें धारा 20 की उपधारा (2) में विहित प्रक्रिया और राष्ट्रीय विधिक सेवा प्राधिकरण (लोक अदालत) विनियम, 2009 के उपबंधों का भी अनुसरण करेंगे।

19. विधिक सहायता क्लिनिक का प्रशासनिक नियंत्रण—(1) विधिक सहायता क्लिनिक, जिला विधिक सेवा प्राधिकरण के सीधे प्रशासनिक नियंत्रण के अधीन होंगे।

(2) राज्य विधिक सेवा प्राधिकरण को विधिक सहायता क्लिनिकों के संबंध में निदेश या मार्गदर्शी सिद्धांत जारी करने की शक्ति प्राप्त होगी।

20. अभिलेखों और रजिस्टरों का रखरखाव—(1) विधिक सहायता क्लिनिक में सेवा प्रदान करने वाले वकील और पराविधिक स्वयंसेवी विधिक सहायता क्लिनिक में रखे गए रजिस्टर में अपनी उपस्थिति अभिलिखित करेंगे।

(2) विधिक सेवाओं की मांग करने वाले व्यक्तियों के नाम और पते, ऐसे वकील या

पराविधिक स्वयंसेवी का नाम जो विधिक सहायता क्लिनिक सेवाएं प्रदान करता है, प्रदान की गई सेवा की प्रकृति वकील या पराविधिक स्वयंसेवी की टिप्पणियां और विधिक सेवाओं की मांग करने वाले हस्ताक्षर को अभिलिखित करने के लिए प्रत्येक विधिक सहायता क्लिनिक में एक रजिस्टर होगा।

(3) विधिक सहायता क्लिनिकों के अभिलेख विधिक सहायता सेवा के अध्यक्ष या सचिव के अधीन होंगे जिनकी उसके ऊपर राज्य क्षेत्रीय अधिकारिता है।

(4) जिला विधिक सेवा प्राधिकरण विधिक सहायता क्लिनिक से अपेक्षा कर सकेगा कि वह ऐसे अन्य रजिस्टर, जिसकी अपेक्षा की जाए भी रखें।

(5) विधिक सहायता क्लिनिक में पराविधिक स्वयंसेवियों और वकीलों का यह कर्तव्य होगा की वे जब कभी अपेक्षा की जाए राज्य क्षेत्रीय अधिकारिता रखने वाली विधिक सेवा संस्था को रजिस्टर सौंपें।

21. चल लोक अदालत यान का उपयोग —(1) विधिक सहायता क्लिनिक में विधिक सेवा प्रदान करने वाले वकील या पराविधिक स्वयंसेवी जिला विधिक सेवा प्राधिकरण से अनुरोध कर सकेंगे की वे उनके द्वारा पहचान किए गए विवादों के निपटारे के लिए विधिक सहायता क्लिनिक लोक अदालत न्यायपीठ के सदस्यों सहित चल लोक अदालत वैन भेजें।

(4) अंतिम वर्ष की कक्षाओं में विधि के छात्र अपनी संस्था के संकाय सदस्य के पर्यवेक्षण के अधीन ऐसे विधिक सहायता क्लिनिकों में विधिक सहायता प्रदान कर सकेंगे।

(5) राज्य विधिक सेवा प्राधिकरण उन लोगों की जो ऐसे विधिक क्लिनिकों में विधिक सहायता की मांग करते हैं, जिनकी समस्या का समाधान करने के लिए अनुकल्पित विवाद समाधान शिविर जिनके अंतर्गत लोक अदालतें भी हैं आयोजित कर सकेंगे।

(6) जिला विधिक सेवा प्राधिकरण ऐसे छात्रों को प्रमाण पत्र जारी कर सकेगा जो ऐसे विधिक सहायता क्लिनिकों में अपने समनुद्देशन को पूरा करते हैं।

25. विधिक सेवा प्राधिकरण द्वारा प्रशिक्षित पराविधिक स्वयंसेवियों की सेवाएं विधि महाविद्यालयों, विधि विश्वविद्यालयों द्वारा संचालित विधिक सहायता क्लिनिकों में उपलब्ध कराई जाएं —प्रशिक्षित पराविधिक स्वयंसेवी निशुल्क विधिक सेवाओं की मांग करने वाले व्यक्तियों की सहायता करने वाले और संकाय के सदस्यों और छात्रों के साथ अन्योनक्रिया करने के लिए नियम 24 के अधीन स्थापित विधिक सहायता

क्लिनिकों में तैनात किए जाएं।

26. राज्य विधिक सेवा प्राधिकरणों द्वारा विधिक सहायता क्लिनिकों के कार्यकरण के आवधिक पुनर्विलोकन संचालित करना —(1) राज्य विधिक सेवा प्राधिकरण, जिला विधिक सेवा प्राधिकरणों, विधि महाविद्यालयों, विधि विश्वविद्यालयों से उनकी अधिकारिता में कार्यरत विधिक सहायता क्लिनिकों के कार्यकरण पर मासिक रिपोर्ट एकत्रित करेगा।
- (2) राज्य विधिक सेवा प्राधिकरण तीन मास में कम से कम एक बार या अधिक बारमबार ऐसे विधि सहायता क्लिनिकों के कार्यकरण का आवधिक पुनर्विलोकन संचालित करेगा।
- (3) राज्य विधिक सेवा प्राधिकरण विधिक सहायता क्लिनिकों में सेवाओं का सुधार करने के लिए समय-समय पर यह सुनिश्चित करने के लिए निर्देश जारी कर सकेगा की समाज के कमजोर वर्गों के सदस्यों को दक्ष रीति में विधिक सेवाएं उपलब्ध कराई जाती हैं।
- (4) राज्य विधिक सेवा प्राधिकरण उनकी अधिकारिता के भीतर विधिक सहायता क्लिनिकों के कार्यकरण के बारे में त्रिमासिक रिपोर्टें राष्ट्रीय विधिक सेवा प्राधिकरण को भेजेगा।

यू. शरतचंद्रन, सदस्य सचिव
(विज्ञापन III / 4 / 123 / 11-असा.)

**NATIONAL LEGAL SERVICES AUTHORITY (LEGAL AID CLINICS)
REGULATIONS, 2011**

NOTIFICATION

New Delhi, the 10th August, 2011

National Legal Services Authority (Legal Aid Clinics) Regulations, 2011

F. No. L/08/11/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 said Act (the Central Authority hereby makes the following regulations, namely:—

- 1. Short title and commencement.**- (1) These regulations may be called the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. (2) 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) “District ADR centre” means the District Alternative Dispute Resolution Centre established with the funds of the 13th Finance Commission and includes any other similar facilities like Nyayaseva Sadans at the district level;
 - (c) “legal aid clinic” means the facility established by the District Legal Services Authority to provide basic legal services to the villagers with the assistance of Para-Legal Volunteers or Lawyers, on the lines of a primary health centre providing basic health services to the people in the locality and includes the legal aid clinic run by the law colleges and law universities;
 - (d) “legal services institution” means a State Legal Services Authority, District Legal Services Authority or the Taluk Legal Services Committee, as the case may be;
 - (e) “panel lawyer” means the panel lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;

(f) “para-legal volunteer” means a para-legal volunteer trained as such by a legal services institution;

(g) “retainer lawyer” means a retainer lawyer selected under regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010;

(h) “section” means the section of the Act;

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

3. **Establishment of legal aid clinic.-** Subject to the financial resources available, the District Legal Services Authority shall establish legal aid clinics in all villages, or for a cluster of villages, depending on the size of such villages, especially where the people face geographical, social and other barriers for access to the legal services institutions.

4. **Eligibility criteria for free legal services in the legal aid clinic.-** Every person who fulfils the criteria specified in section 12 shall be eligible to get free legal services in the legal aid clinics.

5. **The personnel manning the legal aid clinic.-** (1) Every legal aid clinic established under regulation 3 shall have at least two para-legal volunteers available during the working hours of the legal aid clinics.

(2) The legal services institution having territorial jurisdiction or the District Legal Services Authority may depute trained para-legal volunteers to the legal aid clinics.

(3) When lawyers are deputed to the legal aid clinic, it shall be the duty of the para-legal volunteers engaged in such clinic to assist the lawyers in drafting petitions, applications, pleadings and other legal documents.

(4) The State Legal Services Authority may encourage para-legal volunteers to obtain diploma or degree in law for betterment of their prospects in the long run.

6. **Deputing lawyers to the legal aid clinic. -** (1) The nearest legal services institution having territorial jurisdiction may depute its panel lawyers or retainer lawyers to the legal aid clinic.

(2) If the matter handled by any such lawyer requires follow-up and

continuous attention for a long duration, the same lawyer who had handled the matter may be entrusted to continue the legal services.

7. **Frequency of visit by lawyers in the legal aid clinic.** - Subject to the local requirements and availability of financial resources, the legal services institution having territorial jurisdiction may decide the frequency of the lawyers' visit in the legal aid clinics and if the situation demands for providing continuous legal services, such legal services institution may consider arranging frequent visits of lawyers in the legal aid clinic.

8. **Selection of lawyers for manning the legal aid clinics.**- (1) The Panel lawyers or retainer lawyers with skills for amicable settlement of disputes, shall alone be considered for being deputed to the legal aid clinic:

Provided that preference shall be given to women lawyers having practice of at least three years.

9. **Legal services in the legal aid clinic.** - (1) Legal services rendered at the legal aid clinic shall be wide ranging in nature.

(2) The legal aid clinic shall work like a single-window facility for helping the disadvantaged people to solve their legal problems whenever needed.

(3) Besides legal advice, other services like preparing applications for job card under the Mahatma Gandhi National Rural Employment Guarantee (MGNREG) Scheme, identity card for different government purposes, liaison with the government offices and public authorities, helping the common people who come to the clinic for solving their problems with the government officials, authorities and other institutions also shall be part of the legal services in the legal aid clinic:

Provided, that the legal aid clinic shall provide assistance by giving initial advice on a problem, assistance in drafting representations and notices, filling up of forms for the various benefits available under different government schemes, public distribution system and other social security schemes:

Provided further that, in appropriate cases, the legal services sought for by the applicants in the legal aid clinic shall be referred to the

legal services institutions for taking further action.

10. Functions of para-legal volunteers in the legal aid clinic.- (1) The para-legal volunteers engaged in the legal aid clinic shall provide initial advice to the persons seeking legal service, help such people, especially the illiterate, in drafting petitions, representations or notices and filling-up the application forms for various benefits available under the government schemes.

(2) para-legal volunteers shall, if necessary, accompany the persons seeking legal services to attend the government offices for interacting with the officials and for solving the problems of such persons.

(3) If services of a lawyer is required at the legal aid clinic, the para-legal volunteers shall, without any delay, contact the nearest legal services institution to make available the services of a lawyer.

(4) In case of emergency, the para-legal volunteers may take the persons seeking legal services in the legal aid clinic to the nearest legal services institutions.

(5) para-legal volunteers shall distribute pamphlets and other materials in aid of legal education and literacy to the persons seeking legal services in the legal aid clinic.

(6) para-legal volunteers shall take active part in the legal awareness camps organised by the legal services institutions in the local area of the legal aid clinic.

11. Location of legal aid clinic. - (1) Legal aid clinics shall be located at places where the people of the locality can have easy access.

(2) The legal services institutions may request the local body institutions, such as the village *panchayat*, to provide a room for establishing legal aid clinics:

Provided that if no such rooms are available, the District Legal Services Authority may take a room on rent till alternative accommodation is available for establishing the legal aid clinic.

12. Assistance of the local body institutions in obtaining a convenient room for the legal aid clinic. - (1) The State Legal Services Authority

shall call upon the local body institutions like the village *panchayat*, *mandal* or block *panchayat*, municipality and corporation etc, to provide space for the functioning of the legal aid clinic.

(2) Since the legal aid clinic is for the benefit of the people in the locality, the State Legal Services Authority may impress upon the local body institution and the district administration the need to co-operate with the functioning of the legal aid clinics.

- 13. Sign-board exhibiting the name of the legal aid clinic.** - (1) There shall be a sign-board, both in English and in the local language, depicting the name of the legal aid clinic, working hours and the days on which the legal aid clinic shall remain open.

(2) Working hours of the legal aid clinic shall be regulated by the legal services institution having territorial jurisdiction, in consultation with the District Legal Services Authority:

Provided that subject to the local conditions and requirements of the people in the locality, legal aid clinics shall function on all Sundays and holidays.

- 14. Infrastructure in the legal aid clinic.** - (1) Every legal aid clinic shall have at least the basic and essential furniture like a table and 5 to 6 chairs.

(2) If the legal aid clinic is established in the building of the local body institutions, such local bodies may be requested to provide the essential furniture for use in the legal aid clinic.

(3) If the legal aid clinic is established in hired premises, the District Legal Services Authority may provide the furniture required in the legal aid clinic:

Provided that if the District Legal Services Authority has its own building to establish legal aid clinic, the infrastructural facilities shall be provided by such Authority.

- 15. Publicity.** - (1) Local body institutions shall be persuaded to give adequate publicity for the legal aid clinic.

(2) The elected representatives of the local body institutions may be persuaded to spread the message of the utility of legal aid clinic to the

people in his or her constituency or ward.

- 16. Para-legal volunteers or lawyers in the legal aid clinic shall attempt to resolve disputes amicably.** - (1) The para-legal volunteers or the lawyers engaged in the legal aid clinics shall attempt to amicably resolve the pre-litigation disputes of the persons brought to the legal aid clinics. (2) If the para-legal volunteers or the lawyers feel that such dispute can be resolved through any of the ADR mechanisms, they may refer such disputes to the legal services institution having territorial jurisdiction or to the District ADR centre.
- 17. Honorarium for the lawyers and para-legal volunteers rendering services in the legal aid clinics.-** (1) Subject to the financial resources available, the State Legal Services Authority in consultation with the National Legal Services Authority may fix the honorarium of lawyers and para-legal volunteers engaged in the legal aid clinics:
- Provided that such honorarium shall not be less than Rs. 500/- per day for lawyers and Rs. 250/- per day for the para-legal volunteers.
- (2) Special consideration may be given in cases where the legal aid clinic is situated in difficult terrains and in distant places where transport facilities are inadequate.
- 18. The nearest legal services institutions to organise lok adalats at the legal aid clinic or near to its premises.** - (1) The nearest legal services institution having territorial jurisdiction or the District Legal Services Authority may organise lok adalats for pre-litigation disputes at the legal aid clinic or in its vicinity. (2) The lok adalats organised for pre-litigation settlement of the disputes sent from the legal aid clinic shall follow the procedure prescribed in sub-section (2) of section 20 and also the provisions in the National Legal Services Authority (Lok Adalats) Regulations, 2009.
- 19. Administrative control of the legal aid clinic.-** (1) legal aid clinics shall be under the direct administrative control of the District Legal Services Authority (2) The State Legal Services authority shall have the power to issue instructions and guidelines on the working of the legal aid clinics.
- 20. Maintenance of records and registers.-** (1) lawyers and para-legal

volunteers rendering service in the legal aid clinic shall record their attendance in the register maintained in the legal aid clinic.

(2) There shall be a register in every legal aid clinic for recording the names and addresses of the persons seeking legal services, name of the lawyer or para-legal volunteer who renders services in the legal aid clinic, nature of the service rendered, remarks of the lawyer or para-legal volunteer and signature of persons seeking legal services.

(3) The records of the legal aid clinics shall be under the control of the Chairman or the Secretary of the legal services institution having territorial jurisdiction over it.

(4) The District Legal Services Authority may require the legal aid clinic to maintain other registers also, as may be required.

(5) It shall be the duty of the para-legal volunteers and the lawyers in the legal aid clinic to hand over the registers to the legal services institution having territorial jurisdiction as and when called for.

21. Use of mobile lok adalat vehicle. - (1) The lawyers rendering legal services in the legal aid clinic or the para-legal volunteers may request the District Legal Services Authority to send the mobile lok adalat van with members of the lok adalat bench to the legal aid clinic for settlement of the disputes identified by them.

(2) The mobile lok adalat van fitted with the facilities for conducting the proceedings of the lok adalat may also be used for conducting lok adalat at the legal aid clinic or at a place near to it or even at village congregations such as *melas* and other festive occasions.

22. Legal aid clinics run by the law students. - The above regulations shall *mutatis mutandis* be applicable to the student legal aid clinics set up by the law colleges and law universities:

Provided that students of law colleges and law universities also may make use of the legal aid clinics established under these regulations with the permission of the District Legal Services Authority.

23. Law students may adopt a village for legal aid camps. – (1) Law students of the law colleges or law universities may adopt a village, especially in the remote rural areas and organise legal aid camps in

association with the legal aid clinic established under these regulations.

(2) The law students may, with the assistance of the para-legal volunteers engaged in the legal aid clinics, conduct surveys for identifying the legal problems of the local people.

(3) The surveys referred to in sub-regulation (2) may include gathering information relating to the existing litigations and unresolved pre-litigation disputes also.

(4) The surveys referred to sub-regulation (2) may also focus on the grievances of the local people which would enable the National Legal Services Authority to take necessary steps by way of social justice litigation as provided in clause (d) of section 4.

(5) The law students conducting such surveys shall send reports to the State Legal Services Authorities with copies to the legal services institutions having territorial jurisdiction and also to the District Legal Services Authority.

24. Legal aid clinics attached to the law colleges, law universities and other institutions. - (1) The law colleges, law universities and other institutions may set up legal aid clinics, as envisaged in clause (k) of section 4 attached to their institutions as a part of the clinical legal education.

(2) The law colleges, law universities and other institutions establishing such legal aid clinic shall inform the State Legal Services Authority about the establishing of such legal aid clinic.

(3) The State Legal Services Authority shall render the required technical assistance for the operation of such legal aid clinics and shall take measures to promote the activities of such legal aid clinics.

(4) The law students in the final year classes may render legal services in such legal aid clinics under the supervision of the faculty member of their institution.

(5) The State Legal services Authority may organise alternative dispute resolution camps, including lok adalats, to resolve the problems of the people who seek legal aid in such legal aid clinics.

(6) The District Legal Services Authority may issue certificates to the students who complete their assignment in such legal aid clinics.

25. Services of para-legal volunteers trained by the Legal Services Authorities may be made available in the legal aid clinics run by the Law Colleges, Law Universities etc. - Trained para-legal volunteers may be deputed to the legal aid clinics established under regulation 24 for assisting the persons seeking free legal services and for interacting with the students and the members of the faculty.

26. The State Legal Services Authorities to conduct periodical review of the functioning of legal aid clinics.-(1) The State Legal Services Authority shall collect monthly reports from the District Legal Services Authorities, law colleges and law universities on the functioning of legal aid clinics working in their jurisdiction.

(2) The State Legal Services Authority shall conduct periodical review of the working of such legal aid clinics at least once in three months or more frequently.

(3) The State Legal Services Authority may issue directions from time to time for improving the services in the legal aid clinics to ensure that members of the weaker sections of the society are provided legal services in an efficient manner.

(4) The State Legal Services Authority shall send quarterly reports about the functioning of the Legal Aid Clinics within their jurisdiction to the National Legal Services Authority.

U. SARATHCHANDRAN, Member Secretary

[ADVT. III/4/123/11-Exty.]

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

Ministry of Law and Justice
(Department of Legal Affairs)




सत्यमेव जयते

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MINISTRY OF LAW AND JUSTICE

(विधि कार्य विभाग)

(Department of Legal Affairs)

अधिसूचना

NOTIFICATION

नई दिल्ली, 15 सितम्बर, 2011

New Delhi, the 15th September, 2011

का.आ. 2083(अ).— केन्द्रीय सरकार, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा ग की उप-धारा (1) के तीसरे परन्तुक के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय प्राधिकरण के परामर्श से, स्थायी लोक अदालत की अधिकारिता का अवधारण करने के प्रयोजन

S.O. 2083(E).- In exercise of the powers conferred under third proviso to sub-section (1) of Section 22 C of the Legal Services Authorities Act, 1987 (39 of 1987), the Central Government, in consultation with the Central Authority hereby increases the limit of the value of properties in dispute for the purpose of determining the jurisdiction of Permanent

के लिए विवादित संपत्तियों के मूल्य की सीमा उक्त अधिनियम की धारा 22 ग की उप-धारा (1) के दूसरे परन्तुक में यथा विनिर्दिष्ट "दस लाख रुपये" से बढ़ाकर राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से "पच्चीस लाख रुपये" करती है।

(पफा. सं.ए—
60011 / 37 / 2004—प्रशासन III
(वि.का.))

एम.ए. खाँ यूसुफी,
संयुक्त सचिव और विधि सलाहकार

Lok Adalat from "ten lakh rupees" as specified in the second proviso to sub-section (1) of Section 22 C of the said Act to "twenty five lakh rupees" with effect from the date of publication of this notification in the Official Gazette.

[F.No. A-60011/37/2004-Admn. III
(LA)]

M.A. KHAN YUSUFI,
Jt. Secy. and Legal Adviser

SCHEMES



ACTION PLAN FOR NATIONAL COMMITTEE FOR PARA LEGAL TRAINING AND LEGAL AID ACTIVITIES

Hon'ble the Chief Justice of India has set up a National Committee for Para Legal Training and Legal Aid Activities under the Chairmanship of Hon'ble Mr. Justice P.Sathasivam, Judge, Supreme Court of India. The formal launching of the activities of the Committee took place on 25th April, 2010 at Rajiv Gandhi National Institute of Youth Development by Hon'ble Mr. Justice K.G.Balakrishnan, Chief Justice of India in the presence of Hon'ble Mr. Justice P.Sathasivam, Judge, Supreme Court of India. Dr. M.VeerappaMoily, Hon'ble Union Law Minister, Hon'ble Mr. Justice H.L.Gokhale, Chief Justice of Madras High Court and Hon'ble Mr. Justice E.DharmaRao, Executive Chairman, Tamil Nadu State Legal Services Authority spoke on the occasion. If we examine the history of legal aid in India, we can see that it has been a journey from charity to Constitutional right. The Fundamental right conferred under Article 14 providing for equality and equal protection of laws, become meaningless if the citizens face barriers to 'access to justice'.

In the Indian society, barriers to access to justice are multifarious. In the report of the Expert Committee on Legal Aid under the Chairmanship of Mr. Justice Krishna Iyer - "Processual Justice to the People" - a large number of barriers to 'access to justice' have been enumerated. Illiteracy, social backwardness, physical, geographical, social and psychological distancing and even mental incapacity act as real barriers to the common people for getting access to the seats of justice. The result is that they become silent sufferers even while they face abject denial of justice.

Para-Legal Volunteers (PLV) Scheme of NALSA

Para legal volunteers are intended to bridge the gap between the people who suffer the problems of 'access to justice' and the legal services institutions which are often located in towns and cities, far away from villages and geographically inaccessible areas. Para-legal volunteers are a group of people with some basic training in the laws and legal system of our country, who like the "barefoot doctors" in China, can provide primary assistance to the common people who face problems relating to their rights conferred by law.

Para-legal volunteers help the poor and disadvantaged to free them from the stranglehold of the mighty and powerful for protecting their legal rights. The ultimate object of para legal volunteers is to help the legal services institutions established under the Legal Services Authorities Act, 1987 for bringing the voice of the voiceless to be heard and to get their grievances redressed. It is indeed a part of the preventive and strategic legal aid programme contemplated under Section 7 (2) (c) of the Legal Services Authorities Act, 1987.

National Legal Services Authority (NALSA) has already put in place a Scheme for Para-Legal Volunteers. The Andhra Pradesh State Legal Services Authority (APSLSA) has been a pioneer in organizing Para-legal volunteers in their State. NALSA has adopted APSLSA's scheme and issued directions to all SLSAs to implement it.

Under the NALSA scheme of para legal volunteers, the para legal volunteers are identified and selected from the educated youth, teachers, anganwadi workers, field level officers of various government departments, NGOs, social clubs, social workers, members of co-operative societies, trade-unions and those willing persons who are interested in providing voluntary legal services to the poor and marginalized sections of the society.

Voluntariness is the hallmark of the para legal volunteers. Therefore, in the NALSA's scheme para legal volunteers are motivated and trained for rendering their services purely voluntary. However, the reasonable expenses incurred by the para legal volunteers in the process of rendering legal services will be reimbursed to them by the legal services institutions. Para legals are given training on the important laws which have some bearing in the day-to-day lives of the common people. The topics covered in the training programmes are:

- i) Laws relating to marriage - Hindu Marriage Act, Christian Marriage Act, Muslim Women's Protection Act and Special Marriage Act.
- ii) Child Marriage Restraint Act.
- iii) Family Courts Act.
- iv) Guardian and Wards Act 1980.
- v) Hindu Minority and Guardianship Act.
- vi) Maternity Benefit Act.
- vii) Medical Termination of Pregnancy Act, and the related laws on Pre-Natal

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- Diagnostics.
- viii) Dowry Prohibition Act.
 - ix) Laws relating to maintenance of wives and parents including senior citizens.
 - x) Harassment of working women.
 - xi) Protection of Women from Domestic Violence Act-2005.
 - xii) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
 - xix) Legal Services Authorities Act.
 - xx) A.D.R.
 - xxi) Mental Health Act and Disabilities Act.

Para legal volunteers are given training by the District Legal Services Authorities at the Taluk and District Levels.

Educated prisoners serving long-term sentence in jails also are given legal training. This would include the laws relating to the plea-bargaining, appeal, revision etc. Such trainings will help the prisoners and under-trials who are lodged in jails as incommunicados for early disposal of their cases.

The trained para legals are required to keep a constant watch on the instances of transgressions of law and justice in their areas of operation and to bring such instances and the affected persons to the legal services institutions like District Legal Services Authorities (DLSAs), Taluk Legal Services Committees (TLSCs) and even to the higher legal services institutions like Supreme Court Legal Services Committee (SCLSC) and High Court Legal Services Committees (HCLSCs).

Para legal volunteers can also be trained to man the front office of the legal aid clinics. Para legal volunteers are further required to assist in organising legal awareness programmes and ADR mechanisms like, lokadalat, mediation & conciliation.

The para legal volunteers under the NALSA scheme are, in short, to act as intermediaries between common man and the legal services institutions, bridging the gap between such institutions and common people and thereby bringing justice to the door steps.

The Action Plan of the National Committee of Para Legal Training and Legal Aid Activities.

Under the auspices of the National Committee for Para Legal Training and Legal Aid Activities, the PLV will be given training at the local level with the assistance of District Legal Services Authorities and utilize their services as para legal volunteers.

For this purpose, the NALSA will identify 90 trainers. It is proposed to give training to the Member Secretaries of all 35 State Legal Services Authorities (SLSAs) as trainers. The remaining trainers will be selected by the SLSAs from amongst lawyers and law teachers (one person from each category from each SLSA).

A Training of Trainers (TOT) Programme will be organized at Rajiv Gandhi National Institute for Youth Development (RGNIYD) with the help of Indira Gandhi Open University (IGNOU). Since IGNOU conducts para legal courses, the services of IGNOU to train the trainers can be availed off. After the TOT Course, the trainers are expected to conduct training programmes for the PLVs at District/Taluk level. The Para-Legal volunteers can also join the academic courses on Para Legal Services offered by IGNOU on payment basis, if they desire so. Since the Minister of Youth Affairs expressed their inability to use the National Service Volunteers (NSV) as Para-Legal volunteers, as originally schemed, NALSA decided to go ahead with its own scheme of PLVs and gave training to 3 persons from each State to act as trainers in their own states, in a TOT programme held at Chandigarh Judicial Academy in 2009.

At the behest of the National Committee for Para Legal Training and Legal Aid Activities, the TOT training will take place at RIGNID sometime in August-September, 2010 which will be inaugurated by the Hon'ble Executive Chairman, NALSA. The date of the TOT will be fixed subject to the convenience of Executive Chairman, NALSA. In the meantime, the State Legal Services Authorities shall identify and select one lawyer and a law teacher each to act as trainers to undergo the TOT at RIGNID. The ultimate objective is to create a training base for the para legal volunteers not only for the NSVs under the NYKs but also for training the other para legal volunteers under the NALSA scheme and to transform them as intermediaries and thereby bridging the gap between common people and the legal services institutions.

U. Sarathchandran, Member Secretary,
National Legal Services Authority & Member, National Committee for
Para Legal Training & Legal Aid Activities.

A SCHEME FOR LEGAL SERVICES TO DISASTER VICTIMS THROUGH LEGAL SERVICES AUTHORITIES

1. Background

Sub clause (e) of Section 12 Legal Services Authorities Act, 1987 makes the victims of disasters who are under circumstances of undeserved want as a result of such disaster eligible for free legal services to file or defend a case. But in a disaster of catastrophic nature whether it is natural or manmade, the victims are often taken unawares and are subjected to face the grim situation of loss of life, becoming homeless, destruction of property or damage to or degradation of environment and subject to human sufferings and damage beyond the coping capacity of the community of the affected area.

Even though it is the duty of the Government and the Administration of the locality to come to the help of the victims of disasters, Legal Services Authorities by virtue of sub-clause (e) of Section 12 can play an effective role by coordinating the activities of the State Administration in the disaster management by way of strategic interventions in an integrated and sustainable manner, reducing the gravity of the crisis and to build a platform for early recovery and development. The Legal Services Authorities shall endeavour to help the victims and the administration for reducing risk and assisting them to adopt disaster mitigation policies and strategies, reducing the vulnerabilities of the geographical and social situation and strengthening their capacities for managing human made and natural disasters at all levels.

2. Name of the Scheme.

This Scheme shall be called the Scheme for Legal Services to the victims of disasters through Legal Services Authorities.

3. Objective

The objective of the scheme is to provide legal services to the victims of disaster - both manmade and natural - who are under circumstances of undeserved want being victims of mass disaster, ethnic violence, caste atrocities, flood, drought, earth-quake or industrial disasters.

The intervention of Legal Services Authorities should be for coordinating

the integrated, strategic and sustainable development measures taken by the Government and Disaster management Authorities for reducing the period of crises and for building a platform for early recovery and development. The thrust of the efforts for by the State Legal Services Authorities shall be for strengthening the capacity of the victims for managing the disaster at all levels and to coordinate with the Government departments and non-governmental organisations and also for providing legal aid to the victims.

4. Strategic Intervention by the State Legal Services Authorities.

The strategy for intervention by the Legal Services Authorities for helping the victims of disasters shall be on the following lines:

1. Ensuring immediate help by Governmental and Non-Governmental Agencies to the victims.
2. Coordinating the activities of different departments of the Government and the NGOs for bringing immediate relief.
3. Supervising the distribution of relief materials.
4. Supervising the construction of temporary shelter or transporting the victims to a safer place.
5. Supervising the reunion of families.
6. Supervising the health care and sanitation of the victims and preventing the spread of epidemics.
7. Supervising the needs of women and children.
8. Ensuring the availability of food, medicine and drinking water.
9. Supervising the reconstruction of damaged dwelling houses.
10. Supervising the restoration of cattle and chattel.
11. Legal Awareness Programmes in the relief camps on the legal rights of the victims.
12. Organising Legal Aid Clinics in the affected areas for assisting in reconstruction of valuable documents.
13. Assisting the victims to get the benefits of the promises and assurances announced by the Government and Ministers.

14. Assisting in the rehabilitation, care and future education of orphaned children.

15. Taking steps for appropriate debt relief measures for the victims.

16. Assisting in the rehabilitation of the old and disabled who lost their supporting families.

17. Assisting in the problems relating to Insurance Policies.

18. Arranging Bank Loans for restarting the lost business and avocations.

19. Arranging for phyciatrist's help / counselling to the victims who are subjected to physiological shock and depression on account of the disaster.

5. Machinery for Legal Services.

The State Legal Services Authorities shall establish a Core group in all districts under the control of the District Legal Services Authorities to spring into action in the event of a disaster, whether manmade or natural.

The Core group shall consist of a senior judicial officer, young lawyers including lady lawyers selected in consultation with the local bar association, Medical Doctors nominated by the local branch of the Indian Medical Association and the NGOs by accredited by the State Legal Services Authority. The Secretary of the District Legal Services Authority shall maintain a Register containing the Telephone numbers and the cell numbers of the members of the Core group.

STRATEGY FOR LEGAL AID TO THE VICTIMS

6. Ensuring immediate help by Governmental and Non-Governmental agencies to the victims.

The nodal agency for responding to a disaster shall be the State and District Disaster Management Authorities set up under the Disaster Management Act, 2006. The State Legal Services Authority should immediately alert the District Legal Services Authority concerned who in turn shall get in touch with the Disaster Management Authority of the State and District and gather the details of the steps taken by the latter.

(a) The Core group set up the District Legal Services Authority shall immediately proceed to the area where the disaster has occurred and get

involved in the work of relief.

(b) The District Legal Services Authority and the Core team shall coordinate the activities of the relief operations by involving themselves and without causing any hindrance to the smooth flow of the relief operations.

7. Coordinating different departments of the government and the NGOs for brining immediate relief.

The State Legal Services Authority at the apex level shall get in touch with the State Disaster Management Authority / Department to ensure that all the departments of the State Government including health, finance, social welfare and police are involved in the relief operations. The State Legal Services Authorities shall coordinate the implementation of the Plan of Action, if any, prepared by the Disaster Management Authorities.

(a) The State and District Legal Services Authorities shall obtain a copy of the disaster management plan, if any, prepared by the State Disaster Management Authority / District Disaster Management Authority.

(b) The State Legal Services Authority / District Legal Services Authority shall as far as practicable follow the aforesaid plan and, if necessary, make suggestions to the state administration or Disaster Management Authorities for improving the quality of relief operations.

8. Supervising the distribution of relief materials.

In the event of a disaster, the first and foremost step to be taken is to ensure that the victims are provided with adequate support to tide over their undeserved wants. This includes provision of food, safe drinking water and transferring the victims to safe shelters. The District Legal Services Authority in coordination with the Disaster Management Authority and State Government Departments, shall supervise effective and timely supply of relief materials to the victims of the disaster.

9. Supervising the construction of temporary shelters or transporting victims to safer place.

District Legal Services Authority and the Core team shall supervise construction of temporary shelters and transportation of victims to such shelters to other safer places. Any lapses can be reported to the government

officer incharge to ensure that the lapses are remedied immediately.

10. Supervising the reunion of families.

A disaster may result in sudden disruption of the cohesive unit of families. Members of the family are likely to get separated on account of the disaster or by reason of the rescue operations or on account of medial emergencies. Separation can occur due to loss of life also.

The Core team shall visualise such probable traumatic situations in the families affected by the disaster and shall take necessary steps for consoling the victims and shall take earnest search for the missing members of the families.

11. Supervising the health care of the victims and preventing the spread of epidemics.

The District Legal Services Authority shall take prompt steps for coordinating with the District Medical Officer for ensuring that the victims of the disaster are given proper medical care. The injured victims shall be given prompt treatment.

(a) When a large number of affected persons are congregated in relief camps, adequate sanitation has to be ensured. Steps shall be taken to ensure that the public health authorities are performing cleaning and sanitation of the camps on a regular basis.

(b) The District Legal Services Authority shall ensure that adequate preventive measures are taken by the health authorities against outbreak of contagious and infectious diseases and water-born diseases can occur in the relief camps.

(c) Right to health being a concomitant to the Right to Life guaranteed under Article 21 of the Constitution of India, the disaster victims are entitled to adequate health facilities and the Legal Services Authorities are duty-bound to ensure the same through appropriate measures.

12. Supervising the needs of women and children.

Women and children are beneficiaries of free legal aid under Section 12 of Legal Services Authorities Act. They are the most vulnerable group amongst the victims of any disaster. Safety of women and children in the camps and their valuables like ornaments and personal belongings are to be protected. The

District Legal Services Authority shall ensure that the Police takes necessary steps for preventing theft and anti-social activities. Legal Services Authorities shall coordinate with the Police Officers to ensure the safety of women and children.

13. Ensuring the availability of food, drinking-water and medicine.

The need for food, safe drinking water and medicine are basic human needs and hence are attributes of the Right to life under Article 21 of the Constitution of India. Legal Services Authorities can therefore rightfully intervene and coordinate with the State Government, District Administration and Health Authorities to ensure the availability of food, safe drinking-water and medicine to the victims living in the shelters.

14. Supervising the reconstruction of damaged dwelling houses.

Housing is one of the important problems faced by the victims of disasters. Partial or total damage may occur to houses in disasters like earthquake, flood and communal riots. Assurances given by the Ministers and Government officials ex-gratia payment and funds for reconstruction of damaged houses of the victims may go unfulfilled or forgotten due to passage of time. Efforts shall be taken by the Legal Services Authorities to ensure that such promises are fulfilled and the promised funds or other relief measures are disbursed to the victims without delay.

15. Supervising the restoration of cattle and chattel.

Loss of cattle, chattel and household articles are concomitant with all mass disasters. Thieves, looters and anti-socials have a field day during riots and ethnic violence and also during the havocs like flood, drought, pestilence and earth-quake. The District Legal Services Authority in coordination with the Police or Armed Forces shall ensure that the valuables belonging to the victims are not looted or stolen houses. Similarly, steps shall be taken to protect livestock and chattel also. The Legal Services Authorities shall coordinate with the animal-husbandry department of the government to save the livestock.

16. Legal Awareness Programmes in the relief camps on the legal rights of the victims.

Once the victims are relieved from the immediate shock and impact of the

disaster, the Legal Services Authority may chose a convenient time and place near the relief camps for imparting legal awareness to the victims. Women lawyers may be entrusted with the job of conducting informal legal awareness programme, mainly related to the rights of the disasters victims to avail of the relief measures from the authorities. The legal remedies available and the mode in which the benefits of the offers and schemes announced by the government are to be availed of also may be included as topics. Legal Awareness Programmes shall not be conducted in a ceremonial manner. Inaugural function and other formalities shall be totally avoided. The ambience of disaster and the mood of grief stricken victims should be fully taken in to account by the resource persons and the steps for legal awareness shall be taken in such a manner as to go along with the measures for consolation and redressal of the grievances of the victims. Visits by women lawyers to the camps and homes of the victim will be desirable.

17. Organising Legal Aid Clinics in the affected areas for assisting in the reconstruction of valuable documents.

It is likely that the victims of disaster have lost their valuable documents like titled deeds, ration cards, identity cards, school and college certificates, certificate of date and birth, passport, driving licence etc. The District Legal Services Authority shall organise legal aid clinics in the affected areas and assist the victims to get duplicate certificate and documents by taking up the matter with the authorities' concerned. Arrangements for issuing Death Certificates of the deceased victims also shall be made.

18. Taking care of the rehabilitation and the future care and education of the orphaned children.

Orphaned children are the living monuments of disasters. Loss of childhood, paternal affection are likely to haunt them for the rest of their lives. At times, the orphaned children may get affected with psychiatric problems also.

The Legal Services Authority shall seek the help of voluntary organisations large business houses and Corporates for the educational needs and accommodation of such children till they attain the age of maturity. In

appropriate cases, the Legal Services Authority may assist such children to be taken care of under provisions of the Juvenile Justice (care and protection) Act.

19. Taking steps for appropriate debt relief measures for the victims.

Rehabilitation of disaster victims will be a gigantic challenge for any administration. The adequate funds should be made available to the victims who lost everything in their life for rebuilding their avocation, buying agricultural implements and other implements required for their avocations in which they were engaged prior to the disaster. Victims belonging to fisherman community may require huge amounts for buying nets, boats and outboard engines. Such measures of rehabilitation may require the assistance of government departments concerned. The State Legal Services Authority shall coordinate with Public Sector Banks, Social Welfare Department and other departments concerned for helping the victims to re-start their avocations. In appropriate cases, provisions in the laws relating to debt relief shall be invoked.

20. Rehabilitation of the old and disabled who lost their supporting families.

Persons with disabilities as defined in Clause (e) of Section 2 of Disabilities (Equal Opportunity) Protection of Rights and Full Participation Act, 1995 are entitled to free legal aid under Section 12 of the Legal Services Authorities Act. Senior citizens are entitled to certain benefits under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act. The senior citizens and disabled persons who lost their support on account of disasters shall be identified and appropriate legal aid shall be given to them.

21. Problems relating to Insurance Policies.

The Legal Services Authorities shall take up the insurance claims of the disaster victims with the Insurance Companies for settlement of such claims. Negotiations may be undertaken with the Insurance Company officials for a settlement favourable to the victims. In appropriate cases the service of Insurance Ombudsman also may be availed of.

22. Arranging Bank Loans for restarting the lost business and avocations.

The victims who suffered substantial loss of their business and

implements used in their avocations shall be helped by adopting proper restorative measures. For this purpose, efforts shall be made to make available financial assistance of nationalised banks and other public sector financial institutions. The Legal Services Authorities shall persuade the officials of such financial institutions to raise to the occasion for helping the victims.

23. Arranging for the services psychologists / psychiatrists help for counselling the victims suffering from psychological shock and depression on account of the disaster.

Mental shock and the related psychiatric manifestations are usually seen associated with the traumatic effects of disasters on the victims and their family members. Sudden loss of human life and the horrifying experiences of the trauma of the disasters can result in mental shock and psychiatric problems not only to the victims but also to their family members. The District Legal Services Authority shall in coordination with the District Medical Officer make necessary arrangements for the services of psychiatrists and psychologists.

The District Authority shall ensure the presence of the members of the Core group at the relief camps everyday till the victims are rehabilitated.

24. District Legal Services Authority shall collect reports from the Core Group.

District Legal Services Authority shall collect daily reports from the Core group working at the location of the disaster. Copies of such reports shall be sent to the State Legal Services Authority. The State Legal Services Authority shall consolidate the reports and send a comprehensive report to the National Legal Services Authority and copies thereof shall also be sent to the District Management Authorities of the State and District. Copies of the report shall be placed before the Patron-in-Chief of the State Authorities and also in the meeting of the State Authority.

If any difficulty arises in giving effect to this Scheme, the State Legal Services Authority and District Legal Services Authority or the Core group may seek guidance from the Executive Chairman of the State Authority.

NATIONAL LEGAL SERVICES AUTHORITY (LEGAL SERVICES TO THE MENTALLY ILL PERSONS AND PERSONS WITH MENTAL DISABILITIES) SCHEME, 2010

*(Adopted in the Meeting of the Central Authority of NALSA
held on 8.12.2010 at Supreme Court of India)*

Persons with disability, especially those suffering from mental illness and other barriers like mental retardation do not get proper attention from the authorities in the matter of access to justice. The result is that they are sidelined and are viewed only from the prism of the paternalistic "social welfare" which looks upon them as merely as persons who are in need of special protection by the State and the society. India being a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD) 2008 and since our country has ratified the Convention, it is obligatory for our legal system to ensure the human rights and fundamental freedoms of persons with disability (including mentally ill persons and persons with mental disabilities) are enjoyed on equal basis with others and to ensure that they get equal recognition before the law and equal protection of the law. The Convention further requires to ensure effective access to justice for persons with disabilities on an equal basis with others. In other words, the Convention has the philosophical underpinnings with a right based and inclusive approach and it treats persons with disabilities as those to be accepted as persons living in the inherent diversity in society.

In this background, the following guidelines are issued for the legal services institutions (State Legal Services Authorities, District Legal Services Authorities, Taluk Legal Services Committees, High Court Legal Services Committees, Supreme Court Legal Services Committee) to be followed while they deal with legal services to the mentally ill and persons with mental disabilities: -

PART-1: MATTERS TO BE CONSIDERED WHILE RENDERING LEGAL SERVICES TO MENTALLY ILL PERSONS:

(1) Mental illness is curable - The Legal Services Institutions shall keep in

mind the fact that mental illness is curable on proper medication and care.

- (2) **Mentally ill persons are entitled to all human rights and fundamental freedoms** - While dealing with mentally ill persons for rendering legal services it shall be the prime concern of the legal services institutions to promote, protect and ensure the full and equal enjoyment of human rights and fundamental freedoms of the mentally ill persons.
- (3) **Respect for the inherent dignity of mentally ill persons** - The legal services institutions shall promote respect for the inherent dignity, individual autonomy including independence of mentally ill persons.
- (4) **Non-discrimination** - The legal services institutions shall not discriminate mentally ill persons merely because of his state of mental health. It shall be always borne in mind that they are entitled to be treated without any discrimination, on equal basis with others and are entitled to equal protection and equal benefit of the law.
- (5) **Reasonable accommodation** - The legal services institutions shall ensure that the mentally ill persons are afforded situations with appropriate modification and adjustments, where needed in a particular case, to ensure that they enjoy on an equal basis with others all human rights and fundamental freedoms (see Article -2 of CRPD).
- (6) **The right of mentally ill persons to get treatment** - Right to treatment and to get proper health care, emanating from Article 21 of the Constitution of India is equally applicable to all mentally ill persons. Mentally ill persons deprived of treatment either due to illegal confinement or superstition or lack of means shall be ensured to get treatment facilities available in the psychiatric hospitals or psychiatric nursing homes. The provisions in chapter IV of the Mental Health Act, 1987 may be invoked in appropriate cases.
- (7) **Informed consent for treatment** - Legal services institutions shall ensure that when a person is subjected to treatment for mental illness, his / her informed consent has been obtained. If any person is incapable of giving such consent, the informed consent of his / her relatives or friend and if no relative or friend or if there is no relative or friend the satisfaction of the court under Part II Chapter V of Mental Health Act, 1987 shall be

ensured.

- (8) **Legal services during the proceedings for Reception Orders** - It shall be the duty of the legal services institutions to depute its retainer lawyer to the court which deals with every application for a reception orders under Part III of Chapter IV of the Mental Health Act, 1987. The Legal Services Authorities may request the Magistrates who deals with such application that the Legal Services Institution having jurisdiction in that area is given notice in all cases, for protecting the interest of the mentally ill persons in relation to whom an application for reception order is made. The retainer lawyer shall gather the details of the circumstances and shall liaise with the relatives of the alleged mentally ill persons, Doctors in the psychiatric hospitals or psychiatric nursing homes or any other competent person to ensure that the condition of the person against whom the application for reception order has been made warrants such an order from the Court.
- (9) **Privacy and dignity of mentally ill persons** - Mentally ill persons are entitled to right to privacy and dignity emanating from the right to life under Article 21 of the Constitution of India. The legal services institutions shall always uphold and ensure the privacy and dignity of mentally ill persons during the spell of their illness. This shall be especially observed in the case of women who are mentally ill and incapable of taking care of themselves.
- (10) **Protection of the other fundamental rights of the mentally ill persons** - Legal Services Institutions while dealing with mentally ill persons shall ensure that because of his / her being mentally ill his / her human rights and fundamental rights are not violated.
- (11) **Humane living conditions in the mental hospitals and other places where mentally ill persons are confined** - The legal services institutions shall in consultation with the State Authority for Mental Health organize visits to psychiatric hospitals or psychiatric nursing homes and other places where mentally ill are confined to ensure that there is humane living condition at such places. The legal services institutions shall take up the matter with the State Mental Health Authority and the State Government in cases of lack of humane living conditions.

(12) Legal services to the mentally ill persons confined in psychiatric hospitals or psychiatric nursing homes - The Legal Services Institutions shall organize frequent visits to psychiatric hospitals or psychiatric nursing homes and other places where the mentally ill persons are confined and shall gather information about the existence of any legal problems for any mentally ill persons which he / she cannot deal with on account of mental illness. The information so gathered shall be utilized by the legal services institutions for providing legal aid to such mentally ill persons for protection of his / her rights. For gathering such information, the visitors from legal services institutions shall interview the mentally ill persons, hospital authorities and the relatives / friend, if any, of the mentally ill persons.

(13) Legal services in case of forced admission into the psychiatric hospitals or psychiatric nursing homes - Legal services institutions shall attempt to gather information during its visits to the psychiatric hospitals or psychiatric nursing homes as to whether any of the persons admitted there are victims of forced admission or not. In such cases, legal services shall be given to such persons for their release from the psychiatric hospitals or psychiatric nursing homes.

(14) Legal Services Institutions to follow up the condition of the mentally ill persons against whom a Reception Order has been passed - The Legal Services Institutions having local jurisdiction shall keep a list of the mentally ill persons against whom reception orders have been passed by the Court under Part III of Chapter IV of Mental Health Act, 1987 and shall monitor the progress of treatment of the mentally ill persons in the psychiatric hospitals or psychiatric nursing homes where the mentally ill persons is detained as per the reception order.

The legal services institutions shall bring to the notice of the Magistrate concerned about any cured mentally person remaining in the psychiatric hospitals or psychiatric nursing homes where such mentally ill person has been sent as per the reception order.

(15) Legal services during inquisition proceedings - Where an alleged mentally ill person is possessed of property and if no persons mentioned

in Clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act is coming forward with an application for holding judicial inquisition under Chapter VI of Mental Health Act, the legal services institutions in consultation with District Legal Services Authorities concerned shall take appropriate steps for initiating judicial inquisition regarding the mental condition of the alleged mentally ill persons, custody of his / her person and management of his / her property.

For this purpose the Legal Services Institutions may contact any of the aforesaid persons referred to in Clauses (a) to (d) of Sub-section (1) of Section 50 of Mental Health Act, 1987 in writing and may also take up the matter with the Advocate General of the State.

(16) Legal services institutions to step in when there is attempt to misappropriation of property of mentally ill persons - On getting information about the misappropriation or fraudulent dealing with the properties of mentally ill persons by any person, the legal services institutions in consultation with the District Legal Services Authority concerned shall invoke the provision in Chapter VI of the Mental Health Act, 1987.

(17) Legal Services for non-criminal mentally ill persons confined in jails - Legal services institutions through the panel lawyers deputed for jail visits or otherwise shall attempt to identify whether any non-criminal mentally person is detained in any of the prisons. If any such person is found, necessary legal aid may be given to such mentally ill person for transferring them to the psychiatric hospitals or psychiatric nursing homes for treatment as per law.

(18) Legal services for making available the benefits of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 - The definition of 'disabled' under Section 2 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 includes mentally ill persons. Therefore, the legal services institutions shall provide legal services to mentally ill persons for availing of the benefits under the PWD Act, 1995 in appropriate cases.

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- (19) Legal aid to mentally ill persons under Section 91 of Mental Health Act, 1987** - Legal services institutions can play a effective role in the situation mentioned in Section 91 of Mental Health Act, 1987 provided that the mentally ill person is in custody in a psychiatric hospital or psychiatric nursing home, irrespective of his / her proof of means. However, in all cases under Section 91 where the mentally ill person has no sufficient means to engage a legal practitioner, the legal services institutions shall provide legal services to such mentally ill persons.
- (20) Legal awareness programmes and public advocacy relating to mental illness and the rights of mentally ill persons** - The legal services institutions shall organize awareness programmes especially in rural areas, to educate people that mental illness is curable and the need for equal treatment of mentally ill with other persons in the society. Such awareness camps may be organized for the cured mentally ill persons and also for the relatives of the mentally ill persons in a particular locality to educate them about the aforesaid the matters for changing the mind set of the society towards mentally ill persons. In such special legal awareness camps the presence of psychiatrists, lawyers and social workers can help the participants to clear their doubts and misconception about mental illness. The lawyer in such camps may educate on the property and other legal rights and the other provisions of law relating to the mentally ill persons,
- (21) Special legal awareness programmes for sensitizing Judicial officers and panel lawyers** - The State Legal Services Authority / District Legal Services Authority may organize training programmes in association with Judicial Academy to sensitize the judicial officers about the socio-legal problems faced by the mentally ill persons, their parents, relatives and family members. Similar programmes may be organized with the help of the bar associations to sensitize the panel lawyers and the other members of the legal profession.
- (22) Setting up of legal aid clinics for dealing with the problems of mentally ill persons** - The District Legal Services Authorities may set up special legal aid clinics in association with the psychiatric hospitals or psychiatric nursing homes to sensitize the family members of the persons

with mental disabilities and for discussing the issues relating to inheritance, guardianship, family pension benefits, properties belonging to the mentally ill persons and to take steps for institutional care for destitute and wandering mentally ill persons.

(23) Organizing rehabilitation measures for the cured mentally ill persons -

The legal services institutions in consultation with District Legal Services Authorities and the State Legal Services Authorities shall assist the persons cured of mental illness for their rehabilitation. For this purpose, the Legal Services Authorities may liaise with the Social Welfare Department. The District Legal Services Authority / State Legal Services Authority shall make frequent visits to the places where such rehabilitated persons are accommodated to ensure that they are given proper shelter with humane conditions, proper food, continued medication and vocational training.

(24) Co-operation with the NGOs and Volunteer Social Organizations -

The legal services institutions shall co-ordinate with NGOs and other volunteer social organizations for dealing with the issues relating to mentally ill persons.

(25) Observance of the World Mental Health Day on 10th October every year -

All legal services institutions may organize programmes on 10th October every year for observing it as the World Mental Health Day. The programmes shall focus on creating awareness about the mental illness, promoting mental health advocacy and spreading the message that the mentally ill persons are entitled to human rights and other legal rights, as persons living in the inherent diversity in the society and as persons before the law on an equal basis with others in all aspects of life.

PART - II

MATTERS TO BE CONSIDERED WHILE RENDERING LEGAL SERVICES TO MENTALLY RETARDED PERSONS:

- (1) Mentally retarded persons are not mentally ill persons -** There is a confusion even amongst the legal community that mentally retarded people are mentally ill. Mentally retarded persons are suffering from mental disabilities due to developmental disorders. Mental retardation

of permanent nature is not curable. They are, therefore, treated as persons with disabilities under Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act). The statutory provisions for the welfare of mentally retarded persons are (i) PWD Act, 1995 and; (ii) National Trust Act, 1999. They also come under the purview of the UN Convention on the Rights of Persons with Disabilities (CRPD), 2008.

- (2) **Legal services to mentally retarded persons (MRs)** - The legal services institutions shall get in touch with the Social Welfare Department of the State Government and find out the different beneficial schemes for the MRs. Indian Railways and some State Governments have schemes for travel facility for MRs. The Income-Tax Act also gives some benefits to the parents of MRs. The legal services institutions shall attempt to make available the benefits under various schemes to the MRs and their family members.
- (3) **Legal services for ensuring the health care of MRs** - MRs like any other citizens are entitled to right to health services as a part of the fundamental rights.
- (4) **Legal services for ensuring the fundamental rights of MRs** - The legal services institutions shall provide assistance to the MRs for protecting their fundamental rights, equality and equal treatment.
- (5) **Right to education** - The policy in CRPD is an inclusive policy providing respect for MRs, evolving capacity of MRs, for preserving their identity, respect their inherent dignity and individual autonomy. The Convention envisages the right of MRs to get education on the basis of equal opportunity and for the development of their mental, physical abilities and creativity to their fullest potential. Therefore, the Legal Services Institutions shall always attempt to safeguard the above mentioned rights of MRs whenever they are found to be deprived of such rights.
- (6) **Legal services for the benefits under PWD Act, 1995** - Legal services institutions shall assist the MRs for obtaining benefits under the PWD Act, 1995.

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- (7) **Prevention of exploitation and abuse of MRs** - MRs are one of the vulnerable groups likely to be exploited. Female MRs are the most vulnerable of the group. Therefore, the legal services institutions shall come to the assistance of MRs in preventing their exploitation including sexual abuse and also for taking legal action against the abusers and exploiters.
- (8) **Legal services for MRs for owing and inheriting properties and to have financial rights** - Legal services institutions shall come to the help of MRs in protecting the rights of inheritance, owing properties and enjoying financial rights.
- (9) **Appointment of guardians under the National Trust Act, 1999** - Loss of both parents often leads to a situation that the MRs become orphans. Therefore, appointment of guardian as contemplated under National Trust Act, 1999 is of great importance. Legal services institutions shall come to the assistance of MRs in the matter of appointment of guardian.
- (10) **Need for setting up of a supported network** - The legal services institutions with the help of the Social Welfare Department of the State Government, NGOs, charitable trust, relatives of the MRs and social workers shall encourage to set up a supported network at the local level for the welfare of MRs. The supported network in each locality shall take care of the MRs to ensure that the MRs are not becoming destitutes and their food, health and other essential needs are taken care of uninterruptedly.
- (11) **Creating awareness campaigns amongst the other school children** - It is important that the normal children are made aware of the fact that MRs and other persons with disabilities are also equally entitled to the rights provided by the laws and the protection of laws like any other persons. Therefore, the Legal Services Authorities shall on the World Disability Day organize special awareness programmes in the primary schools to create awareness amongst the young children to change their mindset towards MRs. Video films, charts, picture, skits and thematic presentations can be used in such programmes.
- (12) **Awareness camps for educating the family members of MRs** - The legal

services institutions in association with the schools in their locality shall organize awareness camps for the family members of MRs. Services of specialists in counseling, psychiatric, psychological, social work and lawyers also can be made use of in their programmes. Siblings of MRs also may be included in such programmes.

(13) Awareness programmes for the general public - Awareness programmes may be conducted for the general public to educate the public that MRs and other disabled persons also have the rights on par with the other normal persons.

(14) Sensitization Programme for Judicial Officers and Lawyers - Special sensitization programmes can be organized with the assistance of Judicial Academy and bar associations for sensitizing judicial officers and lawyers about the MRs and their rights.

U. SARATHCHANDRAN
MEMBER-SECRETARY
NATIONAL LEGAL SERVICES AUTHORITY

NATIONAL LEGAL SERVICES AUTHORITY (LEGAL SERVICES TO THE WORKERS IN THE UNORGANISED SECTOR) SCHEME, 2010

*[Adopted in the Meeting of the Central Authority of NALSA
held on 8.12.2010 at Supreme Court of India)*

In the Regional Conference of the State Legal Services Authorities of the Western Region organised by the National Legal Services Authority (NALSA) at Ahmedabad on 28-29 August, 2010 the topic of deliberations was 'Workers in the Unorganised Sector and the Role of Legal Services Authorities'. Detailed discussions took place on the plight of unorganised workers in securing their statutory rights and availing of the benefits of the various schemes put in place by the State Governments.

It is estimated that the workers in the unorganised sector contribute more than 60 per cent of the national economy. Unlike their brethren in the organised sector, they are generally reluctant to come to the forefront and demand for the benefits under the various schemes and other welfare measures put in place by the labour department and other institutions because of their sheer unorganised or loosely organised nature. Such workers are generally not confined to any particular area as their place of work has no permanent status. Quite often their work is seasonal and when the work at once place is finished they migrate to oilier places in search of work. They do different kinds of work depending on the availability of work. Some stick on to certain avocations on the basis of caste and tradition and yet remain unorganised.

In this scenario, the general problem the authorities and welfare institutions face is that the workers in the unorganised sector are not identifiable. Illiteracy, poverty and the concern for earning their daily bread compel these workers to forsake the benefits of the various social welfare measures. It is the duty of the legal services institutions to reach out to the workers in the unorganised sector for making available the benefits of various schemes and to provide them the protection of law.

Most of the schemes and welfare laws for the benefits of the workers in the unorganised sectors are dispensed through the institutional mechanisms

of Boards and Corporations. Such schemes and laws are in the nature of social security measures and provide assistance to the unorganised workers, at least to tide over their difficult times. Legal services institutions should come to the help of this disadvantaged group to make available the benefits though small in quantum, to ease their struggle against the odds of life.

Legal Services Authorities can come to the help of the workers in the unorganised sector in the following manner:

1. Identifying the unorganised workers within the jurisdiction of each legal services institution by conducting surveys.

State Legal Services Authorities may take steps for conducting surveys for identifying unorganised workers and all other categories of workers included in Central Act 33 of 2008. Services of law students, NGOs and para-legal volunteers also can be availed of for conducting such surveys. Surveys can be conducted in a phased manner, gradually covering entire area within the jurisdiction of the legal services institutions concerned. The beneficiaries may be categorised into groups depending on the different welfare schemes of the State Government implemented through the Boards and Corporations (i.e. Construction Workers Welfare Board, Bidi Workers Welfare Board, Artisans Welfare Corporation etc). The survey should indicate whether the workers belonging to each category have made efforts to avail of the benefits of the scheme or scheme / legislation / programme of the government. The next step shall be to liaise with the Boards / Corporations concerned to make available the benefits of the schemes / programmes. Every effort shall be made to ensure that all deserving unorganised workers are brought to avail of the benefits.

2) Conducting legal awareness programmes for the identified groups of unorganised workers.

After identification of the unorganised labourers in each category, legal awareness programmes may be organised for creating awareness amongst them about the different welfare schemes and social security measures available. For this purpose, awareness programmes may be organised, as far as possible, at the place of work itself (c.g construction work sites, market places in the case of street-vendors etc). Legal awareness classes can be conducted in other places like community halls also. Care shall be taken that

the timing of the awareness programmes does not conflict with the work of workers. Lunch intervals and holidays can be utilised for the awareness campaigns.

3) Persuading and assisting the workers in the unorganised sector to avail of the benefits under the different social welfare legislations, administrative programmes and schemes put in place by the State Governments.

Workers in the unorganised sector may be temperamentally not inclined to undergo the hassles for availing of the benefits of the schemes, programmes etc. Most of them being poor, illiterate and belonging to the lower strata of the society may not have the mental capacity to demand for their entitlements. Migrant workers being eager to go back to their villages after the work are unlikely to have support from the local people where they work. They are worst sufferers and victims of exploitation. Any such situation demanding individual will have to taken care of attention and, if necessary, legal aid can be given.

4) Reaching out to the unorganised labourers and facilitating their bargaining capacity with the employers and the institutional mechanisms for their welfare.

Unorganised workers seldom have bargaining capacity for securing their rightful entitlements. This leads to exploitation by the employers. Temporary nature of their work also disables them from using the collective bargaining techniques. Support by the legal services institutions to the unorganised workers will empower them in demanding their legal rights and entitlements. It shall be ensured that the workers are able to approach the Legal Services Authorities with confidence to avail of the benefits under the Central Act 33 of 2008.

5) Providing legal assistance in appropriate cases.

If any particular case requires legal action the legal services institution shall provide necessary legal assistance. For cases of court based legal services the eligibility criteria prescribed under Section 12 of the Legal Services Authorities Act, 1987 shall be kept in mind. The provisions of the Contract Labour (Regulation and Abolition) Act, 1970; The Bonded Labour System (Abolition) Act, 1976; The Inter-State Migrant Workmen Act, 1979; The Child

National Legal Services Authority, New Delhi
'DOVE Mission' and 'KUTTY Mission' of the
Kothamangalam Taluk Legal Services Committee in Kerala
(supported by the National Legal Services Authority).

GUIDELINES

I.

Objective.

1. The objective of the 'Dove Mission' and 'Kutty Mission' shall be to take necessary steps for preventing and eradicating domestic violence in the Kothamangalam Taluk under the auspices of the Taluk Legal Services Committee, Kothamangalam in the Ernakulam District of the State of Kerala. The term 'domestic violence' shall have the same meaning as assigned to it in the Protection of Women from Domestic Violence (PWDV) Act 2005.
2. The aforesaid two projects shall be a part of the preventative and strategic legal aid programme of the Taluk Legal Services Committee (TLSC) as envisaged in Section 7(2)(c) of the Legal Services Authorities Act, 1987.
3. These projects shall be implemented with the assistance of the members of the local body institutions, 'Jagratha Samithy', teachers including Anganwadi teachers, NGOs and Para Legal Volunteers (PLVs) identified and trained by the Legal Services Authority.
4. The implementation of the projects shall be guided by the directions issued by the National Legal Services Authority.
5. Directions issued by the Executive Chairman of Kerala State Legal Services Authority shall be binding on those who execute the aforesaid projects.
6. The District Legal Services Authority, Ernakulam, shall have the immediate control and supervision of the project.

II.

Procedure for Implementation of the Project.

1. The TLSC shall organise surveys in the different wards of the municipality and panchayats within the Taluk to identify the families or houses affected with domestic violence.
2. The survey shall be conducted by the PLVs or law students specially engaged by the TLSC. Assistance of the local 'JagrathaSamithy', members of the local body institutions and NGOs also may be sought for.
3. Before presuming that a family / house is affected with domestic violence, care shall be taken to ascertain whether the incidents of domestic violence are repetitive in nature or whether such incidents are only solitary or emotional outbursts at random that could be corrected by appropriate counselling.⁴ The survey shall focus on the reasons for the incidence of domestic violence; for example:
 - (a) drunken behaviour of a family member;
 - (b) use of drugs or narcotic substances;
 - (c) lack of harmonious relationship;
 - (d) personality conflicts;
 - (e) repetitive incidents of quarrelsome behaviour;
 - (f) sexual assaults / sexual aberrations;
 - (g) financial / economic problems;
 - (h) demand for dowry;
 - (i) other reasons.
5. After conducting survey, the TLSC may send a team consisting of lawyers, social workers, PLVs and members of 'JagrathaSamithy' to the families or homes identified to be affected by domestic violence.
6. The parties to domestic violence may be called to a convenient place for

conciliation and counselling.

7. Services of experts like sociologists, psychologists, psychiatrists, medical doctors and economists may be availed of in appropriate cases.
8. A panel of sociologists and economists available in the Taluk e.g faculty members of the relevant disciplines in the Arts and Science Colleges and a panel of sociologists, psychologists, psychiatrists and medical doctors who can provide voluntary services from within the Taluk also may be maintained.
9. In appropriate cases, where services of specialists in psychiatry, medicine or psychology is required from outside the Taluk, reasonable expenses for bringing them may be met by the TLSC.
10. Counselling the parties involved in the domestic violence shall be one of the important steps. Sometimes repeated counselling may be necessary.
11. Services of the functionaries of religious institutions cast/religious organisations also may be made use of.
12. Counselling shall be conducted at a congenial place away from public institutions .like court, police station or panchayat office. A neutral place agreeable to the parties shall, as far as practicable, be ideal for conducting counselling.
13. During the counselling process parents and relatives of the parties may also be involved. However, involvement of parents of the parties may be made use of only if they maintain a non-partisan and unbiased approach.
14. Individual problems of the parties to domestic violence such as psychiatric problems, alcoholic/narcotic habits may require special assistance by doctors, psychologist, and psychiatrists. Services of these professionals shall be used in a discreet manner. However, the privacy and confidentiality of the parties shall be maintained scrupulously.
15. The Chairman of the TLSC may set up different committees/teams for counselling in different wards. Members of the local body institutions

and the 'JagrathaSamithy' of each ward shall co-operate with the committees/teams set up by the Chairman, TLSC.

16. Counselling shall focus on the principles of equality and fundamental rights of both the male and female members of a family. If the parties in a domestic violence are not husband and wife, but a female member of a family suffering domestic violence from a male member or another female in the family, appropriate counselling may be given to both the parties.
17. If any legal issue is the cause of domestic violence, services of a lawyer may be made use of.
18. As far as practicable, involvement of police officers in resolving the family dispute may be avoided, except in the circumstances where the cause of violence is due to the influence of a person un-related to the family.

III.

Empowerment of Women Members of the Identified Families.

1. The TLSC and all persons connected with this project shall endeavour to empower the women in the identified families and make them aware of their fundamental right to equality and shall endeavour to facilitate the overall development of the family and its members.
2. The teams deputed by the TLSC shall make suggestions to the affected women the ways and means to become self-reliant and economically independent, given the fact that economic independence of women reduces the incidence of domestic violence.
3. If the women in the identified families are not earning members, the team may give advice for improving the economic status of the family by the women engaging in micro-enterprises and other income generating activities.
4. The TLSC may help the women concerned to obtain bank loans and assistance of government departments for setting up home-based or micro-level activities that would generate income for the family.

IV. Legal Awareness Classes at Ward Level.

1. The TLSC may organise ward level legal awareness programmes at convenient places.
2. The legal awareness programmes may be organised for the members of all houses in a locality.
3. There shall be no formal functions like inauguration, inviting VIPs etc in such legal awareness programmes.
4. The legal awareness programmes shall be made as informal as possible.
5. Services of women lawyers, law students and PLVs also may be used in such programmes.
6. PLVs may be deputed for distributing pamphlets relating to prevention of domestic violence.
7. The women in the locality shall be made aware of the different provisions of the Protection of Women from Domestic Violence (PWDV) Act 2005 and the different functionaries there under. Addresses, location and the contact number of the Probation Officers, Service Providers etc shall be made available to all women in the locality.
8. No special provision may be made for food and refreshments in such programmes. As far as practicable, the participants themselves may be encouraged to make available such refreshments, as a community effort.
9. As far as practicable, the gathering in the legal awareness programmes shall not exceed 50. Men also may be encouraged to attend such programmes.

V. Monitoring of the Identified Families.

1. The 'JagrathaSamithy' of each village and the members of the team set up by the TLSC for a locality shall be vigilant in preventing the incidents of domestic violence in the locality.
2. Without infringing the rights of privacy, the identified families shall be

under the discreet monitoring by the 'JagrathaSamithy' / team.

3. If there is a manifest indication of domestic violence such as physical violence in the identified family, the members of the 'JagrathaSamithy' may knock at the door or push the bell button - if the house has a calling bell.
4. The members of the 'JagrathaSamithy' may advise the perpetrator of physical violence to resist from the proceeding with it and apprise such person of the legal consequences.5. 'JagrathaSamithy' and members of the team shall keep such instances confidential and shall not divulge the details thereof to the general public or to the media.
6. In an actual scene of domestic violence, the approach of the 'JagrathaSamithy' / teams shall be conciliatory, advisory and impartial in nature and they shall maintain utmost restraint, level-headedness and maturity.
7. After having been able to resolve the domestic problems of an identified family, the 'JagrathaSamithy' /team members may have friendly visits to the identified families and may share the happiness of the family with its members.
8. The local body institutions may take measures for appreciating the peaceful post- incident life of the identified family members.

VI. 'Kutty Mission'.

1. The child victims of domestic violence may be given immediate help by the TLSC.
2. Urgent steps may be taken for rehabilitation of a child in extreme cases of violence in the family.
3. The TLSC shall take steps for early restoration of the child to the parents, as far as practicable, to both parents. The TLSC may seek the assistance of the Child Welfare Committee (CWC) set up under the Juvenile Justice (Care and Projection of Children) Act 2000.

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4. The TLSC shall take steps to see that children enjoy the love and affection of both parents.
 5. The TLSC shall encourage setting up of legal literacy clubs in all High Schools.
 6. The members of the legal literacy clubs may be made aware of the provisions of the PWDV Act and also about the rights of the children.
 7. The members of the legal literacy clubs may be encouraged to inform the quarrelling parents and elders in the family about the legal consequences of domestic violence. Under the project 'Kutty Mission' all efforts shall be taken to make the children aware of the legal consequences of domestic violence and they may be advised to report such matters to the teachers, who in turn, through the legal literacy clubs, inform the TLSC about the incidents of domestic violence.

VII. Social Audit.

1. The TLSC shall conduct Social Audit of the two projects with a view to assess the impact on and the usefulness of the project to the people of the Taluk.
2. For this purpose, the TLSC shall organise public meetings at block / ward level and shall record the opinions of the people.³ The TLSC may prepare a format / proforma for recording the opinions, suggestions and criticisms of the project. A PLV shall be entrusted with the recording of the opinions during the proceedings of the Social Audit.
4. Social Audit shall be conducted in each block / ward at frequent intervals not exceeding three months and TLSC in consultation with the District Legal Services Authority. The DLSA shall evaluate the results of the Social Audit and shall issue necessary directions to the TLSC to make amends and for improving the implementation of the projects.
5. MPs, MLAs and members of the local body institutions shall be encouraged to participate in the Social Audit proceedings.

VII. Finance & Audit.

1. The National Legal Services Authority has supported the projects of 'Dove Mission' and 'Kutty Mission' undertaken by the Kothamangalam TLSC.
2. The funds required for implementation of this project may be provided to the Kothamangalam TLSC by the State Legal Services Authority through the District Legal Services Authority, Ernakulam.
3. Donations / Contributions, if any, by any other government departments or institutions shall be received only by the District Legal Services Authority, Ernakulam.
4. The TLSC may maintain proper accounts for the funds received from the District, State / National Legal Services Authority for implementation of the projects. The fund may be deposited in the regular bank account of the TLSC.
5. Income and expenditure relating to the implementation of the two projects shall be audited by a Chartered Accountant, as early as possible after the 31st March of every year, and utilisation certificate signed by the Chairman, TLSC shall be sent to the State Legal Services Authority through the District Legal Services Authority, Ernakulam. The Kerala State Legal Services Authority shall forward such statement of accounts and utilisation certificate to the National Legal Services Authority.
6. The funds provided by the National Legal Services Authority may be utilized for meeting the expenditure like setting up of a 'front office' with necessary furniture for such office; purchase of a computer with printer and internet facility; creating a website for the projects and for paying honorarium to the PLVs, specialist professionals including lawyers who render service during the counselling and awareness programmes. Special permission shall be obtained from the Executive Chairman of the Kerala State Legal Services Authority for other items of expenditure.
7. A separate identifiable account relating to the funds provided by National Legal Services Authority may also be maintained by the TLSC, in addition to its regular books of account.

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

The following Act of Parliament received the assent of the President on the 30th December, 1999, was published in the Gazette of India, (Extra), Part II Sec, 1, No. 57, dated December 30, 1999/Pausa 9, 1921

PARLIAMENT ACT NO. 44 OF 1999

[30th December, 1999]

An act to provide for the constitution of a body at the national level for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifteenth year of the Republic of India as follows :-

Chapter I : Preliminary

1. Short title and extent.-

1. This Act may be called the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999
2. It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.- In this Act, unless the context otherwise requires,-

- a. "autism" means a condition of uneven skill development primarily affecting the communication and social abilities of a person, marked by repetitive and ritualistic behavior;
- b. "Board" means Board of trustees constituted under section 3;
- c. "cerebral palsy" means a group of non-progressive condition of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, perinatal or infant period of development;

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- d. "Chairperson" means the Chairperson of the Board appointed under clause (a) sub-section (4) of section 3;
 - e. "Chief Executive" Officer" means the Chief Executive Officer appointed under sub-section (1) of section 8;
 - f. "Member" means a Member of the Board and includes the Chairperson;
 - g. "Mental retardation" means a condition of arrested or incomplete development of mind of person, which is specially characterized by sub-normality of intelligence;
 - h. "Multiple disabilities" means a combination of two or more disabilities as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; (1 of 1996);
 - i. "Notification" means notification published in the Official Gazette;
 - j. "Persons" with disability" means a person suffering from any of the conditions relating to autism, cerebral palsy, mental retardation or a combination of any two or more of such conditions and includes a person suffering from severe multiple disability;
 - k. "Prescribed" means prescribed by rules made under this Act;
 - l. "Professional" means a person who is having special expertise in a field, which would promote the welfare of persons with disability;
 - m. "Registered organization" means an association of persons with disability or an association of parents of persons with disability or a voluntary, as the case may be, registered under section 12;
 - n. "Regulation" means the regulations made by the Board under this Act;
 - o. "Severe disability" means disability with eighty percent or more of one or more of multiple disabilities;
 - p. "Trust" means the National Trust for Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disability

constituted under subsection (1) of section 3.

**Chapter II : The National Trust For Welfare of Persons with
Autism, Cerebral Palsy, Mental Retardation and Multiple Disability**

**3. Constitution of the National Trust for Welfare of Persons with
Autism, Cerebral Palsy, Mental Retardation and Multiple Disability
etc.-**

- (1) With effect from such date as the Central Government may, by notification, appointment, there shall be constituted, for the purpose of this Act, a body by the name of the National Trust for Welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities which shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provision of this Act, to acquire, hold and dispose of property, both movable and immovable, and both movable and immovable, and contract, and shall, by the said name, sue or be sued.
- (2) The general superintendence, direction and management of the affairs and business of the Trust shall vest in a Board which may exercise all powers and do all acts and things which may be exercised or done by the Trust.
- (3) The head office of the Trust shall be at New Delhi and the Board may, with the previous approval of the Central Government, establish offices at other places in India.
- (4) The Board shall consist of -
 - a. a chairperson to be appointed by the Central Government from amongst, the persons having expertise and experience in the field of autism, cerebral palsy, mental retardation and multiple disability;
 - b. nine persons to be appointed in accordance with such procedure as may be prescribed from amongst the registered organization out of which three members each shall be from voluntary organization, association of

persons with autism, cerebral palsy, mental retardation and multiple disability and from associations of persons with disability, members:

Provided that initial appointment under this clause shall be made by the Central Government by nomination;

- c. eight persons not be below the rank of joint Secretary to the Government of India nominated by the Govt. represent the Ministries or Departments of Social Justice and Empowerment, Women and Child Development, Health and Family Welfare, Finance, Labor, Education, Urban Affairs and Employment and Rural Employment and Poverty Alleviation, Members, ex-officio;
 - d. three persons to be nominated by the Board representing the associations of trade, commerce and industry engaged in philanthropic activities, members;
 - e. the Chief Executive Officer, who shall be of the rank of Joint Secretary to the Government of India, Member Secretary, ex-officio;
- (5) The Board may associate with itself, in such manner and for such purpose as may be determined by regulation, any person whose assistance or advice it may desire for carrying for any other out the objects of the Trust:

Provided that such person shall have a right to take part in the discussion relevant to that purpose but shall not have right to vote at a meeting of the Board and shall not be a member for any other purpose:

Provide further that the maximum number of persons so associated shall not exceed eight and so far as possible the person so associated shall belong to the registered organization or from the professional.

4. Term of office of Chairperson and Members, meeting of Board etc.-

- (1) The Chairperson or a Member shall hold office for a term of three

years from the date of his appointment or until his successor shall have been duly appointed, whichever is longer:

Provide that no person shall hold office as the Chairperson or other Member after he has attained the age of sixty-five years.

- (2) The conditions of service of the Chairperson and other Members shall be such as may be prescribed.
- (3) A casual vacancy in the Board shall be filled in accordance with the provisions of section 3 and a person appointed shall hold office only for the remainder of the term for which the member, in whose place he was appointed, would have held that office.
- (4) Before appointing any person as the Chairperson or a Member, the Central Government shall satisfy itself that the person does not and will not, have any such financial or other interest as is likely to affect prejudicially his function as such member.
- (5) No Member of the Board shall be a beneficiary of the Trust during the period such Member holds office.
- (6) The Board shall meet at least once in three months at such time and place as may be determined by the Board by regulations and shall observe such rules of procedure in the transaction of business at a meeting as may be prescribed.
- (7) The Chairperson, if for any reason is unable to attend the meeting of the Board, any Member elected by the Members present from amongst themselves at the meeting, shall preside at the meeting.
- (8) All question which come up before any meeting of the Board shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the person presenting shall have a second or casting vote.

5. Resignation of Chairperson and Members.

- (1) The Chairperson may resign his office by writing under his hand addressed to the Central Government:

Provide that the Chairperson shall continue in office until the appointment of his successor is made by the Central Government.

- (2) A Member may resign from office by writing under his hand addressed to the Chairperson.

6. Disqualifications.-No person shall be a member if he -

- a. is, or become, of unsound mind or is so declared by a competent court; or
- b. is, or has been, convicted of an offence, which in the opinion of the Central Government, involves moral turpitude; or
- c. is, or at any time has been, adjudicated as an insolvent.

7. Vacation of office by members.

- If a member -

- a. becomes subject to any of the disqualification mentioned in section 6; or
- b. is, without obtaining leave of absence, absent from three consecutive meeting of the Board; or
- c. tenders his resignation under section 5, his seat shall thereupon become vacant.

8. Chief Executive Office and staff of Trust.-

- (1) The Central Government shall appoint the Chief Executive Officer to exercise such powers and performs such duties under the direction of the Board as may be prescribed or as may be delegated to him by the Chairperson.
- (2) The Board shall, with the previous approval of the Central Government, appoint such other officers and employees as it considers necessary to carry out the objectives of the Trust.
- (3) The salary and allowances payable to, and the other terms and conditions of service of, the Chief Executive Officer, other officers and employees of the Trust shall be such as may be determined by regulations.

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- 9. Vacancies in Board not to invalidate acts, etc.-** No act or proceeding of the Board shall be called in question on the ground merely of the existence of any vacancy, in or any defect in the constitution of, the Board.

Chapter III : Objects of the Trusts

- 10. Objects of Trust.-** The objects of the trust shall be:
- a. to enable and empower persons with disability to live as independently and as fully as possible within and as close to the community to which they belong;
 - b. to strengthen facilities to provide support to persons with disability to live within their own families;
 - c. to extend support to registered organization to provide need based services during the period of crises in the family of persons with disability ;
 - d. to deal with problems of persons with disability who do not have family support;
 - e. to promote measures for the care and protraction of persons with disability in the event of death of their parent or guardian;
 - f. to evolve procedure for the appointment of guardians and trustees for persons with disability requiring such protection;
 - g. to facilitate the realization of equal opportunities, protection of right and full participation of persons with disability; and
 - h. to do any other act which is incidental to the aforesaid object.

Chapter IV : Powers and Duties of the Board

Powers and Duties of Board.-

- (1) The Board shall:
- a. receive from the Central Government a one-time contribution of rupees one hundred crores for a corpus, the income where of shall be utilized to provide for adequate standard of living for persons with disability;
 - b. receive bequest of movable property any person for the benefit of the person with disability in general and for furtherance of the

objectives of the Trust in particular:

Provide that it shall be obligatory on the part of the Board to make arrangement for adequate standard of living for the beneficiary named in the bequest, if any and to utilize the property bequeathed for any other purpose for which the bequest has been made:

Provide further that the Board shall not be under any obligation to utilize the entire amount mentioned in the bequest for the exclusive benefit of the persons with disability named as beneficiary in the bequest;

- c. receive from the Central Government such sums as may be considered necessary in each financial year for providing financial assistance to registered organization for carrying out any approved Programme.

(2) For the purpose of sub-section (1), the expression "approved Programme" means-

- a. any Programme which promote independent living in the community for persons with disability by-
 - I. creating a conducive environment in the community;
 - ii. counseling and training of family members of persons with disability;
 - iii. setting up of adult training units, individual and group

homes;

- b. any programme which promotes respite care, foster family care or day care service for persons with disability;
- c. Setting up residential hostels and residential homes for persons with disability;
- d. Development of self-help group persons with disability to pursue the realization of their rights;
- e. setting up of local committee to grant approval fir guardianship and

-
- f. such other programmes which promote the objective of the Trust.
- (3) While earmarking funds for the purpose of clause:© of sub-section (2), preference shall be given to woman with disability or to persons with severe disability and to senior citizen with disability.

Explanation:- For the purpose of this sub-section, the expression;-

- a. "Persons with severe disability" shall have the same meaning as is assigned to it under sub-section (4) of section 56 of the persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995;
- b. "Senior citizen" means a person who is above the age of sixty-five years or more.

Chapter V : Procedure for Registration

12. Procedure for registration. -

- (1) Any association of person with disability, or any association of parents of persons with disability or a voluntary organization whose main object is promotion of welfare of persons with disability may make an application for registration to the Board.
- (2) An application for registration shall be made in such form and manner and at such place as the Board may by regulation provide and shall contain such particulars and accompanied with such documents and such fees may be provided in the regulation.
- (3) On receipt of application for registration, the Board may make such inquiries as it thinks fit in respect of genuineness of the application and correctness of any particulars thereon.
- (4) Upon receipt of such application the Board shall either grant registration to the applicant or reject such application for reasons to be recorded in writing:

Provided that where registration has been refused to the application, the said applicant may again make an application for registration after removing defects, if any in its previous application.

Chapter VI : Local level Committees

13. Constitution of local level committees. -

- (1) The Board shall constitute a local level committee for such area as may be specified by it from time to time.
- (2) A local committee shall consist of:-
 - a. an officer of the civil service of the Union or of the State, not below the rank of a District Magistrate or a District Commissioner of a district;
 - b. a representative of a registered organization; and
 - c. a person with disability as defined in clause (t) of section 2 of the persons with disabilities (Equal Opportunities, Protection of rights and Full Participation) Act, 1995
- (3) A local level committee shall continue to work for a period of three years from the date of its constitution or till such time it is reconstituted by the Board.
- (4) A local level committee shall meet at least once in every three months or at such interval as may be necessary.

14. Appointment for guardianship.-

- (1) A parent of a person with disability or his relative may make as application to the local level committee for appointment of any person of his choice to act as a guardian of the persons with disability.
- (2) Any registered organization may make an application in the prescribed form to the local level committee for appointment of a guardian for a person with disability:

Provide that no such application shall be entertained by the local level committee, unless the consent of the guardian of the disabled person is also obtained.
- (3) While considering the application for appointment of a guardian, the local level committee shall consider:-

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- a. whether the person with disability needs a guardian;
 - b. the purpose for which the guardianship is required for person with disability.
- (4) The local level committee shall receive, process and decide applications received under sub-section (1) and (2), in such manner as may be determined by regulation:

Provide that while making recommendation for the appointment of a guardian, the local level committee shall provide for the obligation which are to be fulfilled by the guardian.

- (5) The local committee shall send to the Board the particulars received by it and orders passed thereon at such interval as may be determined by regulations.

15. Duties of guardian. - Every person appointed as a guardian of a person with disability under this chapter shall, wherever required, either have the care of such person of disability and his property or be responsible for the maintenance of the person with disability.

- (1) Every person appointed as a guardian under section 14 shall, within a period of six months from the date of his appointment, deliver to the authority which appointed him, an inventory of immovable property belonging to the person with disability and all assets and other movable property received on behalf of the person with disability, together with a statement of all claims due to and all debts and liabilities due by such person with disability.
- (2) Every guardian shall also furnish to the said appointing authority within a period of three months at the close of every financial year, an account of the property and assets in his charge, the sums received and disbursed on account of the person with disability and the balance remaining with him.

17. Removal of guardian. -

- (1) Whenever a parent or a relative of a person with disability or a registered organization find that the guardian is :-

-
- a. abusing or neglecting a person with disability; or
 - b. misappropriating or neglecting the property, it may in accordance with the prescribed procedure apply to the committee for the removal of such guardian.
- (2) Upon receiving such application the committee may, if it is satisfied that there is a ground for removal and for reasons to be recorded in writing, remove such guardian and appoint a new guardian in his place or if such a guardian is not available make such other arrangement as may necessary for the care and protection of person with disability.
 - (3) Any person removed under sub-section (2) shall be bound to deliver the charge of all property of the person with disability to the new guardian, and to account for all moneys received or disbursed by him.

Explanation,- For the Purpose of this chapter, the expression "relative" includes any person related to the person with disability by blood, marriage or adoption.

Chapter VII : Accountability and Monitoring

18. Accountability. -

- (1) The books and documents in the procession of the Board shall be open to inspection by any registered organization.
- (2) Any registered organization can submit a written requisition to the Board the access of any book or document maintained by the Board.
- (3) The Board shall frame such regulations as it think necessary for allowing the access of any books or document to a registered organization.

19. Monitoring. - The Board shall determine by regulations the procedure for evaluating the prefunding status of registered organization seeking financial assistance from it and such regulations may also provide for the guidelines for monitoring and evaluating the activities of the registered

organizations who are receiving financial assistance from the Trust.

20. Annual general meeting. -

- (1) The Board shall in each year hold an annual general meeting of registered organizations, and not , more than six months shall elapse between the date of one annual general meeting and that of the next.
- (2) A notice of the annual general meeting along with a statement of accounts and records of its activities during the preceding year be sent by the Board to every registered organization at such time as may be determined by regulations.
- (3) The quorum for such meeting shall be such number of persons of the registered organization as may be determined by regulation.

Chapter VIII : Finance, Accounts and Audit

21. Grants by the Central Government. - The Central Government may, after due appropriation made by parliament by law in this behalf, make to the Trust a one-time contribution of rupees one hundred crores for a corpus, the income whereof may be utilized the objects of the Trust under this Act.

22. Fund. -

- (1) There shall be constitute a fund to be called the National Trust for Welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple disabilities Fund and there shall be credited thereto.
 - a. all money received from the Central government;
 - b. all moneys received by the trust by way of grants, gifts, donation, benefaction, bequests or transfers;
 - c. all moneys received by the Trust in any other manner or from any other source.
- (2) All moneys belonging to the fund shall be deposited in such banks or invested in such manner as the Board may, subjects to approval of the Central Government, decide.

(3) The funds shall be applied towards meeting the administrative and other expenses of the Trust including expenses incurred in the exercise of its powers and performance of duties by the Board in relation to any of its activities under section 10 or for anything relatable thereto.

23. Budget. - The Board shall prepare, in such form and at such time in each financial year as may be prescribed, the budget for the next financial year showing the estimated receipt and expenditure of the Trust and shall forward the same to the Central Government.

24. Accounts and Audit. -

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts of the Trust including the income and expenditure accounts in such form as the Central Government may prescribe and in accordance with such general direction as may be issued by that Government in constitution with the Comptroller and Auditor-General of India.

(2) The accounts of the Trust shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred by him in connection with such audit shall be payable by the Board of the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and by other person appointed by him in connection with the audit of the accounts of the Trust shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand and production of books of accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Trust.

(4) The accounts of the Trust as certified by the Comptroller, and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be

forwarded annually to the Central Government, and that Government shall cause the same to be laid before each House of Parliament.

- 25. Annual Report.** - The Board shall prepare every year, in such form within such time as may be prescribed an annual report giving a true and full accounts of its activities during the previous year and copies thereof shall be forward to the Central Government and that Government shall cause the same to be laid before each House of Parliament.
- 26. Authentication of orders, etc.** - All orders and decisions of the Board and instrument issued in the name of the Trust shall be authenticated by the signature of the Chairperson, the Chief Executive Officer or any other officer authorized by the Chairperson, in this behalf.
- 27. Returns and information.** - The Board shall furnish to the Central Government such reports, returns and other information as that Government may require time to time.

Chapter IX : Miscellaneous

- 28. Power of Central Government to issue directions.** -
- (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in exercise of its power or the performance of its duties under this Act, be bound by such direction on questions of policy as the Central Government may give in writing it from time to time:
- Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.
- (2) The decision of the Central Government whether a question is one if policy or not shall be final.
- 29. Power of Central Government to supersede Board.**
- (1) If the Central Government on the complaint of a registered organization or otherwise has reason to believe that the Board in unable to perform or has persistently made default in the performance of the duties imposed on it, the Central Government

may issue notice to the Board asking why it should not be superseded:

Provide that no order superseding the Board shall be made by the Central Government, unless a notice affording reasonable opportunity to the Board has been given in writing that why it should not be superseded.

- (2) The Central Government after recording reasons in writing and by issuing a notification in the Official Gazette supersede the Board for a period of not more than six months:

Provided that on the expiration of the period of super session Central Government may reconstitute the Board, in accordance with section 3.

- (3) Upon the publication of the notification under sub-section (2),-
- a. all the members of the Board shall, notwithstanding that their term of office had not expired as on the date of super session, vacate their office as such members;
 - b. all the powers and duties which may, by or under the provision of this Act, be exercised or performed by or on behalf of the trust shall, during the period of supersession, be exercised and performed by such person as the Central Government may direct.
- (4) On the expiration of the period of super session specified in the notification issued under sub-section (2), the Central Government may:-

- a. extend the period of super session for such further period as it may consider necessary so that the total period of supersession does not exceed more than six months; or
- b. reconstitute the Board in the manner provided in section 3.

30. Exemption from tax on income. - Notwithstanding anything contained in the Income-tax Act, 1961, or any other law for the time being in force relating to tax on income, profit or gains, the Trust shall not be liable to pay income-tax or any other tax in respect of its income, profits or gains

derived.

- 31. Protection of action taken in good faith.** - No suit, prosecution or other legal proceeding shall lie against the Central Government or the Trust or any member of the Board or Chief Executive officer or any officer or other employee of the Trust or any other person authorized by the Board to perform duties under this Act for any loss or damage caused or likely to be caused by anything which is done in good faith.

Explanation:- For the purpose of this section, the expression "good faith" shall have the same meaning as is assigned to it in the Indian Penal Code (45 of 1860)

- 32. Chairperson, Members and officers of Trust to be public servants.** - All Members, Chief Executive Officer, other officers and employees of the Trust shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servant within the meaning of section 21 of the Indian Penal Code.

- 33. Delegation.** - The Board may, by general or special order in writing, delegate to the Chairperson or any members or any officer of the Trust or any other person subject to such conditions and limitations, if any, as may be specified in the order such of its powers under this Act, (except the power to make regulations under section 35) as it may deem necessary.

- 34. Power to make rules.** -

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-
 - a. the procedure in accordance with which the person representing registered organization shall be elected under clause (b) of sub-section (4) of section 3;
 - b. the condition of service of the Chairperson and Members under subsection (2) of section 4;

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- c. the rules procedure in the transaction of business at meeting of the Board under sub-section (6) of section 4;
 - d. the powers and duties of Chief Executive Officer under sub-section (1) of section 8;
 - e. the form in which an application for guardianship may be made by a registered organization under sub-section (2) of section 14;
 - f. the procedure in accordance with which a guardian may be removed under section 17;
 - g. the form in which, and the time within which, the budget of the trust shall be forwarded to the Central Government under section 23;
 - h. the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 24;
 - i. the form in which, and the time within which, the annual reports shall be prepared and forwarded under section 25;
 - j. any other matter which is required to be, or may be, prescribed.

35. Power to make regulations. -

- (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and rules generally to carry out the purpose of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulation may provide for all or any of the following matters, namely:-
 - a. the manner and purpose for which a person may be associated under sub-section (5) of section 3;
 - b. the time and place at which the Board shall meet under sub-section (6) of section 4;
 - c. the terms and conditions of service of, Chief Executive

Officer, other officer and employees of the Trust under sub-section (3) of section 8;

- d. the form manner in which the application shall be made for registration under sub-section (2) of section 12 and the particulars which such application shall contain under that sub-section;
- e. the manner in which application for guardianship shall be received, proceed and decided by the local level committee under sub-section (4) of section 114;
- f. the particulars of application and orders passed thereon by the local level committee under sub-section (5) of section 14;
- g. the procedure for evaluating the pre-funding status of the registered organization and framing of guidelines for monitoring and evaluating the activities of such registered organization under section 19;
- h. the time within which notice for annual general meeting shall be sent and quorum for such meeting under sub-section (2) and (3) of section 20; and
- i. any other matter which is required to be, or may be provided by regulation.

36. Rules and regulations to be laid before Parliament. -

Every rule and every regulation made under this Act 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 or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification, in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 or regulation.

**THE PERSONS WITH DISABILITIES
(EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND
FULL PARTICIPATION) ACT, 1995**

(1 of 1996)

[1st January, 1996]

An Act to give effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region.

WHEREAS the Meeting to Launch the Asian and Pacific Decade of Disabled Persons 1993-2002 convened by the Economic and Social Commission for Asia and Pacific held at Beijing on 1st to 5th December, 1992, adopted the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region;

AND WHEREAS India is a signatory to the said Proclamation;

AND WHEREAS it is considered necessary to implement the Proclamation aforesaid.

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

**CHAPTER I :
PRELIMINARY**

1. Short title, extent and commencement.-

1. This Act may be called the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
2. It extends to the whole of India except the State of Jammu and Kashmir.
3. It shall come into force on such date as the Central Government may, by notification, appoint.

2. Definitions. - In this Act, unless the context otherwise requires,-

- a. "Appropriate Government" means,-
 - i. in relation to the Central Government or any

-
- establishment/wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonment Act, 1924, the Central Government;
- ii. in relation to a State Government or any establishment wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government;
 - iii. in respect of the Central Co-ordination Committee and the Central Executive Committee, the Central Government;
 - iv. in respect of the State Co-ordination Committee and the State Executive Committee, the State Government;
- b. "blindness" refers to a condition where a person suffers from any of the following conditions, namely:-
- i. total absence of sight; or
 - ii. visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses; or
 - iii. limitation of the field of vision subtending an angle of 20 degree or worse;
- c. "Central Co-ordination Committee" means the Central Co-ordination Committee constituted under sub-section (1) of section 3;
- d. "Central Executive Committee" means the Central Executive Committee constituted under sub-section (1) of section 9;
- e. "cerebral palsy" means a group of non-progressive conditions of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, peri-natal or infant period of development;
- f. "Chief Commissioner" means the Chief Commissioner appointed under sub-section (1) of section 57
- g. "Commissioner" means the Commissioner appointed under sub-section (1) of section 60;

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- h. "competent authority" means the authority appointed under section 50;
 - i. "Disability" means-
 - i. blindness;
 - ii. low vision;
 - iii. leprosy-cured;
 - iv. hearing impairment;
 - v. loco motor disability;
 - vi. mental retardation;
 - vii. mental illness;
 - j. "employer" means,-
 - i. In relation to a Government, the authority notified by the Head of the Department in this behalf or where no such authority is notified, the Head of the Department; and
 - ii. in relation to an establishment, the Chief Executive Officer of that establishment;
 - k. "establishment" means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) and includes Departments of a Government;
 - l. "hearing impairment" means loss of sixty decibels or more in the better ear in the conversational range of frequencies;
 - m. "institution for persons with disabilities" means an institution for the reception, care, protection, education, training, rehabilitation or any other service of persons with disabilities;
 - n. "leprosy cured person" means any person who has been cured of leprosy but is suffering from-
 - i. loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;

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- ii. manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;
 - iii. Extreme physical deformity as well as advanced age which prevents him from undertaking any gainful occupation, and the expression "leprosy cured" shall be construed accordingly;
 - o. "loco motor disability" means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any [form](#) of cerebral palsy;
 - p. "medical authority" means any hospital or institution specified for the purposes of this Act by notification by the appropriate Government;
 - q. "mental illness" means any mental disorder other than mental retardation;
 - r. "mental retardation" means a condition of arrested or incomplete development of mind of a person which is specially characterized by sub normality of intelligence;
 - s. "notification" means a notification published in the Official Gazette;
 - t. "person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority;
 - u. "person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device;
 - v. "prescribed" means prescribed by rules made under this Act;
 - w. "rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels;

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- x. "Special Employment Exchange" means any [office](#) or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, respecting-
 - i. persons who seek to engage employees from amongst the persons suffering from disabilities;
 - ii. persons with disability who seek employment;
 - iii. vacancies to which person with disability seeking employment may be appointed;
 - y. "State Co-ordination Committee" means the State Co-ordination Committee constituted under sub-section (1) of section 13;
 - z. "State Executive Committee" means the State Executive Committee constituted under subsection (1) of section 19.

CHAPTER II

THE CENTRAL COORDINATION COMMITTEE

3. Central Co-ordination Committee. - (1) The Central Government shall by notification constitute a body to be known as the Central Co-ordination Committee to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Central Co-ordination Committee shall consist of-

- a. The Minister-in-charge of the Department of Welfare in the Central Government, Chairperson, ex officio;
- b. The Minister of State-in-charge of the Department of Welfare in the Central Government, Vice Chairperson, ex officio;
- c. Secretaries to the Government of India in-charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Legal Affairs, Public Enterprises, Members, ex officio;
- d. Chief Commissioner, Member, ex officio;

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- e. Chairman Railway Board, Member, ex officio;
 - f. Director-General of Labour, Employment and Training, Member, ex officio;
 - g. Director, National Council for Educational Research and Training, Member, ex officio;
 - h. three Members of Parliament. of whom two shall be elected by the House of the People and one by the Council of States, Members;
 - i. three persons to be nominated by the Central Government to represent the interests, which in the opinion of that Government ought to be represented, Members;
 - j. Directors of the-
 - i. National Institute for the Visually Handicapped, Dehradun;
 - ii. National Institute for the Mentally Handicapped, Secundrabad;
 - iii. National Institute for the Orthopaedically Handicapped, Calcutta;
 - iv. Ali Yavar Jung National Institute for the Hearing Handicapped, Bombay, Members, ex officio;
 - k. four Members to be nominated by the Central Government by rotation to represent the States and the Union territories in such manner as may be prescribed by the Central Government: Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;
 - l. five persons as far as practicable, being persons with disabilities, to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members: Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;

m. Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, ex officio;

(3) The office of the Member of the Central Co-ordination Committee shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.

4. Term of office of Members. -

1. Save as otherwise provided by or under this Act a Member of Central Co-ordination Committee nominated under clause (i) or clause (1) of sub-section (2) of section 3 shall hold office for a term of three years from the date of his nomination:

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

2. The term of office of an ex officio; Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.

3. The Central Government may if it thinks fit remove any Member nominated under clause (i) or clause (1) of sub-section (2) of the section 3, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.

4. A Member nominated under clause (i) or clause (1) of sub-section (2) of section 3 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.

5. A casual vacancy in the Central Co-ordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

6. A Member nominated under clause (i) or clause (1) of sub-section (2) of section 3 shall be eligible for renomination.

7. Members nominated under clause (i) and clause (1) of sub-section

(2) of section 3 shall receive such allowances as may be prescribed by the Central Government.

5. Disqualifications. -

1. No person shall be a Member of the Central Coordination Committee, who-
 - a. is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or
 - b. is of unsound mind and stands so declared by a competent court, or
 - c. is or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or
 - d. is or at any time has been convicted of an offence under this Act, or
 - e. has so abused in the opinion of the Central Government his position as a Member as to render his continuance in the Central Coordination Committee detrimental to the interests of the [general](#) public.
2. No order of removal shall be made by the Central Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.
3. Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 4, a Member who has been removed under this section shall not be eligible for renomination as a Member.

6. Vacation of seats by Members. -If a Member of the Central Coordination Committee becomes subject to any of the disqualifications specified in section 5, his seat shall become vacant.

7. Meetings of the Central Co-ordination Committee. - The Central Coordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the Central Government.

8. Functions of the Central Co-ordination Committee. -

1. Subject to the provisions of this Act, the function of the Central Coordination Committee shall be to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.
2. In particular and without prejudice to the generality of the foregoing, the Central Coordination Committee may perform all or any of the following functions, namely:-
 - a. review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organizations which are dealing with matters relating to persons with disabilities;
 - b. develop a national policy to address issues faced by, persons with disabilities;
 - c. advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability;
 - d. take up the cause of persons with disabilities with the concerned authorities and the international organizations with a view, to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies;
 - e. review in consultation with the donor agencies their funding policies from the perspective of their impact on persons with disabilities;
 - f. take such other steps to ensure barrier-free environment in public places, work-places, public utilities, schools and other institutions;
 - g. monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;

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- h. to perform such other functions as may be prescribed by the Central Government.

9. Central Executive Committee. -

1. The Central Government shall constitute a Committee to be known as the Central Executive Committee to perform the functions assigned to it under this Act.
2. The Central Executive Committee shall consist of-
 - a. the Secretary to the Government of India in the Ministry of Welfare, Chairperson, ex officio;
 - b. the Chief Commissioner, Member, ex officio;
 - c. the Director-General for Health Services, Member, ex officio;
 - d. the Director-General, Employment and Training, Member, ex officio;
 - e. six persons not below the rank of a Joint Secretary to the Government of India, to represent the Ministries or Departments of Rural Development, Education, Welfare, Personnel, Public Grievances and Pension and Urban Affairs and Employment, Science and Technology, Members, ex officio;
 - f. the Financial Advisor, Ministry of Welfare in the Central Government, Member, ex officio;
 - g. Advisor (Tariff) Railway Board, Member, ex officio;
 - h. four members to be nominated by the Central Government, by rotation, to represent the State Governments and the Union territories in such manner as may be prescribed by the Central Government.
 - i. one person to be nominated by the Central Government to represent the interest, which in the opinion of the Central Government ought to be represented, Member;
 - j. five persons, as far as practicable, being persons with

disabilities, to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members:

- j. Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
 - k. Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, ex officio;
3. Members nominated under clause (i) and clause (j) of sub-section (2) shall receive such allowances as may be prescribed by the Central Government.
 4. A Member nominated under clause (i) or clause (j) of sub-section (2) may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.

10. Functions of the Central Executive Committee. -

1. The Central Executive Committee shall be the executive body of the Central Coordination Committee and shall be responsible for carrying out the decisions of the Central Coordination Committee.
2. Without prejudice to the provisions of sub-section (1), the Central Executive Committee shall also perform such other functions as may be delegated to it by the Central Coordination Committee.1

11. Meetings of the Central Executive Committee. - The Central Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the Central Government.

12. Temporary association of persons with Central Executive Committee for particular purposes. -

1. The Central Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the Central Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
2. A person associated with the Central Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the Central Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.
3. A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the Central Government.

CHAPTER III

THE STATE CO-ORDINATION COMMITTEE

13. State Co-ordination Committee. -

1. Every State Government shall, by notification, constitute a body to be known as the State Co-ordination Committee to exercise the powers conferred on, and to perform the function assigned to it, under this Act.
2. the State Coordination Committee shall consist of-
 - a. The Minister-in-charge of the Department of Social Welfare in the State Government, Chairperson, ex officio;
 - b. the Minister of State in charge of the Department of Social Welfare, if any, Vice-Chairperson, ex officio;
 - c. Secretaries to the State Government in charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Public Enterprises, by whatever name called,

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- Members, ex officio;
- d. Secretary of any other Department, which the State Government considers necessary, Member, ex officio;
 - e. Chairman Bureau of Public Enterprises (by whatever name called) Member, ex officio;
 - f. five persons, as far as practicable, being persons with disabilities, to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members:
Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
 - g. three Members of State Legislature, of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any;
 - h. three persons to be nominated by that State Government to represent agriculture, industry or trade or any other interest, which in the opinion of State Government ought to be represented, Members, ex officio;
 - i. The Commissioner, Member, ex officio;
 - j. Secretary to the State Government dealing with the welfare of the handicapped, Member-Secretary, ex officio.
3. Notwithstanding anything contained in this section, no State Co-ordination Committee shall be constituted for a Union territory and in relation to a Union territory, the Central Coordination Committee shall exercise the functions and perform the functions of a State Coordination Committee for the Union territory: Provided that in relation to a Union territory. The Central Coordination Committee may delegate all or any of its powers and functions under this sub-section to such person or body of

persons as the Central Government may specify.

14. Terms and Conditions of Service of Members. -

1. Save as otherwise provided by or under this Act, a Member of a State Co-ordination Committee nominated under clause (f) or clause (h) of subsection (2) of section 13 shall hold office for a term of three years from the date of his nomination:

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

2. The term of office of an ex officio Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.
3. The State Government may, if it thinks fit, remove any Member nominated under clause (f) or clause (h) of sub-section (2) of section 13, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.
4. A Member nominated under clause (f) or clause (h) of sub-section (2) of section 13 may, at any time, resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.
5. A casual vacancy in the State Co-ordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.
6. A Member nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall be eligible for renomination.
7. Members nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall receive such allowances as may be prescribed by the State Government.

15. Disqualifications. -

1. No person shall be a Member of the State Co-ordination Committee, who -

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- a. is, or at any time, has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors; or
 - b. is of unsound mind and stands so declared by a competent court, or
 - c. is or has been convicted of an offence which in the opinion of the State Government involves moral turpitude, or
 - d. is or at any time has been convicted of an offence under this Act, or
 - e. has so abused, in the opinion of the State Government, his position as a member as to render his continuance in the State Co-ordination Committee detrimental to the interests of the general public.
2. No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.
 3. Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 14, a Member who has been removed under this section shall not be eligible for renomination as a Member.
- 16. Vacation of Seats.** - If a Member of the State Co-ordination Committee becomes subject to any of the disqualifications specified in section 15, his seat shall become vacant.
- 17. Meetings of The State Co-ordination Committee.** - The State Co-ordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.
- 18. Functions of the State Co-ordination Committee.** -
1. Subject to the provisions of this Act, the function of the State Co-ordination Committee shall be to serve as the state focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.

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2. In particular and without prejudice to the generality of the foregoing function the State Coordination Committee may, within the State perform all or any of the following functions, namely:-
- a. review and coordinate the activities of all the Departments of Government and other Governmental and Non-Governmental Organizations which are dealing with matters relating to persons with disabilities.,
 - b. develop a State policy to address issues faced by persons with disabilities;
 - c. advise the State Government on the formulation of policies, Programmes, legislation and projects with respect to disability;
 - d. review, in consultation with the donor agencies, their funding from the perspective of their impact on persons with disabilities;
 - e. take such other steps to ensure barrier-free environment in public places, work places, public utilities, schools and other institutions;
Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
 - f. monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
 - g. to perform such other functions as may be prescribed by the State Government.

19. State Executive Committee. -

1. The State Government shall constitute a committee to be known as the State Executive Committee to perform the functions assigned to it under this Act.
2. The State Executive Committee shall consist of-

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- a. the Secretary, Department of Social Welfare, Chairperson, ex officio;
 - b. the Commissioner, Member, ex officio;
 - c. nine persons not below the rank of a Joint Secretary to the State Government, to represent the Departments of Health, Finance, Rural Development, Education, Welfare, Personnel Public Grievances, Urban Affairs Labor and Employment, Science and Technology, Members, ex officio;
 - d. one person to be nominated by the State Government to represent the interest, which in the opinion of the State Government ought to be represented. Member;
 - e. five persons, as far as practicable being persons with disabilities. to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members:
Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
 - f. Joint Secretary dealing with the disability division in the Department of Welfare, Member-Secretary, ex officio.
3. Members nominated under clause (d) and clause (e) of sub-section (2) shall receive such allowances as may be prescribed by the State Government.
 4. A Member nominated under clause (d) or clause (e) may at any time resign his [office](#) by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.

20. Functions of the State Executive Committee. -

1. The State Executive Committee shall be the executive body of the State Co-ordination Committee and shall be responsible for

carrying out the decisions of the State Co-ordination Committee.

2. Without prejudice to the provisions of sub-section (1), the State Executive Committee shall also perform such other functions as may be delegated to it by the State Co-ordination Committee.

21. Meetings of the State Executive Committee. - The State Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government.

22. Temporary association of Persons with State Executive Committee for particular purposes. -

1. The State Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the State Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
2. A person associated with the State Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the State Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.
3. A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the State Government.

23. Power to give directions. - In the performance of its functions under this Act,-

- a. the Central Co-ordination Committee shall be bound by such directions in writing, as the Central Government may give to it; and
- b. the State Co-ordination Committee shall be bound by such directions in writing, as the Central Co-ordination Committee or the State Government may give to it:

Provided that where a direction given by the State Government is

inconsistent with any direction given by the Central Coordination Committee, the matter shall be referred to the Central Government for its decision.

- 24. Vacancies not to invalidate proceedings.** - No act or proceeding of the Central Co-ordination Committee, the Central Executive Committee, a State Co-ordination Committee or a State Executive Committee shall be called in [question](#) on the ground merely on the existence of any vacancy in or any defect in the constitution of such Committees.

CHAPTER IV :

PREVENTATION AND EARLY DETECTION OF DISABILITIES

- 25. Appropriate Governments and local authorities to take certain steps for the prevention of occurrence of disabilities.** - Within the limits of their economic capacity and development, the appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall-
- a. undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
 - b. promote various methods of preventing disabilities;
 - c. screen all the children at least once in a year for the purpose of identifying "at-risk" cases;
 - d. provide facilities for training to the staff at the primary health centres;
 - e. sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;
 - f. take measures for pre-natal, parental and post-natal care of mother and child;
 - g. educate the public through the pre-schools, schools, primary health centres, village level workers and anganwadi workers;
 - h. create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the

preventive measures to be adopted.

**CHAPTER V :
EDUCATION**

26. Appropriate Governments and local authorities to provide children with disabilities free education, etc. - The appropriate Governments and the local authorities shall-

- a. ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;
- b. endeavor to promote the integration of students with disabilities in the normal schools;
- c. promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;
- d. endeavor to equip the special schools for children with disabilities with vocational training facilities.

27. Appropriate Governments and local authorities to make schemes and programmes for non-formal education, etc.- The appropriate Governments and the local authorities shall by notification make schemes for-

- a. conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;
- b. conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;
- c. imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;
- d. imparting education through open schools or open universities;
- e. conducting class and discussions through interactive electronic or

other media;

- f. providing every child with disability free of cost special books and equipments needed for his education.

28. Research for designing and developing new assistive devices, teaching aids, etc. - The appropriate Governments shall initiate or cause to be initiated research by official and non-Governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.

29. Appropriate Governments to set up teachers' training institutions to develop trained manpower for schools for children with disabilities. -The appropriate Governments shall set up adequate number of teachers' training institutions and assist the national institutes and other voluntary organizations to develop teachers' training programmes specializing in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.

30. Appropriate Governments to prepare a comprehensive education scheme providing for transport facilities, supply of books, etc. - Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme which shall make Provision for-

- a. transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
- b. the removal of architectural barriers from schools, colleges or other institutions, imparting vocational and professional training;
- c. the supply of books, uniforms and other materials to children with disabilities attending school;
- d. the grant of scholarship to students with disabilities;
- e. setting up of appropriate fora for the redressal of grievances of parents regarding the placement of their children with

-
- disabilities;
 - f. suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
 - g. restructuring of curriculum for the benefit of children with disabilities;
 - h. restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

- 31. Educational institutions to provide amanuensis to students with visual handicap.** - All educational institutions shall provide or cause to be provided amanuensis to blind students and students with or low vision.

CHAPTER VI EMPLOYMENT

- 32. Identification of posts which can be reserved for persons with disabilities.** - **Appropriate Governments shall -**

- a. identify posts, in the establishments, which can be reserved for the persons with disability;
- b. at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.

- 33. Reservation of Posts** - Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent. for persons or class of persons with disability of which one per cent. each shall be reserved for persons suffering from-

- i. blindness or low vision;
- ii. hearing impairment;
- iii. locomotor disability or cerebral palsy,
in the posts identified for each disability:

Provided that the appropriate Government may, having regard to the

type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

34. Special Employment Exchange -

1. The appropriate Government may, by notification require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or [return](#) as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.
2. The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.

35. Power to inspect record or document in possession of any establishment - Any person authorized by the Special Employment Exchange in writing, shall have access to any relevant record or document in the possession of any establishment, and may enter at any reasonable time and premises where he believes such record or document to be, and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information.

36. Vacancies not filled up to be carried forward - Where in any [recruitment](#) year any vacancy under section 33, cannot be filled up due to non-availability of a suitable person with disability or, for any other sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government.

37. Employers to maintain records -

1. Every employer shall maintain such record in relation to the person with disability employed in his establishment in such form and in such manner as may be prescribed by the appropriate Government.
2. The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorized in this behalf by general or special order by the appropriate Government.

38. Schemes for ensuring employment of persons with disabilities - (1)

The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for-

- a. the training and welfare of persons with disabilities;
- b. the relaxation of upper age limit;
- c. regulating the employment;
- d. health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
- e. the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
- f. constituting the authority responsible for the administration of the scheme.

39. All educational institutions to reserve seats for persons with disabilities -

All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities.

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40. **Vacancies to be reserved in poverty alleviation schemes** - The appropriate Governments and local authorities shall reserve not less than three per cent. in all poverty alleviation schemes for the benefit of persons with disabilities.
41. **Incentives to employers to ensure five per cent of the work force is composed of persons with disabilities** - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide incentives to employers both in public and private sectors to ensure that at least five per cent. of their work force is composed of persons with disabilities.

CHAPTER VII AFFIRMATIVE ACTION

42. **Aids and appliances to persons with disabilities** - The appropriate Governments shall by notification make schemes to provide aids and appliances to persons with disabilities.
43. **Schemes for preferential allotment of land for certain purposes** - The appropriate Governments and local authorities shall by notification frame schemes in favor of persons with disabilities, for the preferential allotment of land at concessional rates for -
- a. house;
 - b. setting up business;
 - c. setting up of special recreation centers;
 - d. establishment of special schools;
 - e. establishment of research centers;
 - f. establishment of factories by entrepreneurs with disabilities.

CHAPTER VIII NON-DISCRIMINATION

44. **Non-discrimination in transport** - Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to-
- a. adapt rail compartments, buses, vessels and aircrafts in such a

-
- way as to permit easy access to such persons;
- b. adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.
- 45. Non-discrimination on the road** - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for-
- a. installation of auditory signals at red lights in the public roads for the benefit of persons with visually handicap;
- b. causing curb cuts and slopes to be made in pavements for the easy access of wheel chair users;
- c. engraving on the surface of the zebra crossing for the blind or for persons with low vision;
- d. engraving on the edge of railway platforms for the blind or for persons with low vision;
- e. devising appropriate symbols of disability;
- f. warning signals at appropriate places.
- 46. Non-discrimination in the built environment** - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for-
- a. ramps in public buildings;
- b. adaptation of toilets for wheel chair users;
- c. braille symbols and auditory signals in elevators or lifts;
- d. ramps in hospitals, primary health centers and other medical care and rehabilitation institutions.
- 47. Non-discrimination in Government Employment** - (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:
- Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same [pay](#) scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

CHAPTER IX RESEARCH AND MANPOWER DEVELOPMENT

- 48. Research** - The appropriate Governments and local authorities shall promote and sponsor research, inter alia, in the following areas-
- a. prevention of disability;
 - b. rehabilitation including community based rehabilitation;
 - c. development of assistive devices including their psycho-social aspects;
 - d. job identification;
 - e. on site modifications in offices and factories.
- 49. Financial incentives to Universities to enable them to undertake research** - The appropriate Governments shall provide financial assistance to universities, other institutions of higher learning, professional bodies and non-Governmental research units or institutions, for undertaking research for special education rehabilitation and manpower development.

CHAPTER X RECOGNITION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES

- 50. Competent authority** - The State Government shall appoint any authority as it deems fit to be a competent authority for the purposes of this Act.
- 51. No person to establish or maintain an institution for persons with**

disabilities except in accordance with a certificate of registration -

Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except under and in accordance with a certificate of registration issued in this behalf by the competent authority:

Provided that a person maintaining an institution for persons with disabilities immediately before the commencement of this Act may continue to maintain such institution for a period of six months from such commencement and if he has made an application for such certificate under this section within the said period of six months, till the disposal of such application.

52. Certificate of registration. -

1. Every application for a certificate of registration shall be made to the competent authority in such [form](#) and in such manner as may be prescribed by the State Government.
2. On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and where it is satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder it shall grant a certificate of registration to the applicant and where it is not so satisfied the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate the competent authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in such manner as may be prescribed by the State Government.

3. No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and maintain such standards as may be prescribed by the State Government.
4. A certificate of registration granted under this section,-

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- a. shall, unless revoked under section 53, remain in force for such period as may be prescribed by the State Government;
 - b. may be renewed from time to time for a like period; and
 - c. shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.
5. An application for renewal of a certificate of registration shall be made not less than sixty days before the period of validity.
 6. The certificate of registration shall be displayed by the institution in a conspicuous place.

53. Revocation of certificate -

1. The competent authority may, if it has reasonable cause to believe that the holder of the certificate of registration granted under sub-section (2) of section 52 has -
 - a. made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or
 - b. committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted, it may after making such inquiry, as it deems fit, by order, revoke the certificate:
 - c. Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate should not be revoked.
2. Where a certificate in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation:
Provided that where an appeal lies under section 54 against the order of revocation, such institution shall cease to function -
 - a. where no appeal has been preferred immediately on the expiry of the period prescribed for the filing of such appeal, or

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- b. where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.
 3. On the revocation of a certificate in respect of an institution, the competent authority may [direct](#) that any person with disability who is an inmate of such institution on the date of such revocation, shall be-
 - a. restored to the custody of her or his parent, spouse or lawful guardian, as the case may be, or
 - b. transferred to any other institution specified by the competent authority.
 4. Every institution, which holds a certificate of registration, which is revoked, under this section shall, immediately after such revocation, surrender such certificate to the competent authority.
 54. **Appeal** - (1) Any person aggrieved by the order of the competent authority, refusing to grant a certificate or revoking a certificate may, within such period as may be prescribed by the State Government, prefer an appeal to that Government against such refusal or revocation.
(2) The order of the State Government on such appeal shall be final.
 55. **Act not to apply to institutions established or maintained by the Central or State Government -**
Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.

CHAPTER XI

INSTITUTION FOR PERSONS WITH SEVERE DISABILITIES

56. **Institutions for persons with severe disabilities** - The appropriate Government may establish and maintain institutions for persons with severe disabilities at such places as it thinks fit.
(2) Where, the appropriate Government is of opinion that any institution other than an institution, established under sub-section (1), is fit for the

rehabilitation of the persons with severe disabilities, the Government may recognize such institution as an institution for persons with severe disabilities for the purposes of this Act:

Provided that no institution shall be recognized under this section unless such institution has complied with the requirements of this Act and the rules made thereunder.

(3) Every institution established under sub-section (1) shall be maintained in such manner and satisfy such conditions as may be prescribed by the appropriate Government.

(4) For the purposes of this section "person with severe disability" means a person with eighty per cent. or more of one or more disabilities.

CHAPTER XII

THE CHIEF COMMISSIONER AND COMMISSIONERS FOR PERSONS WITH DISABILITIES

57. Appointment of Chief Commissioner for persons with disabilities -

1. The Central Government may, by notification appoint a Chief Commissioner for persons with disabilities for the purposes of this Act.
2. A person shall not be qualified for appointment as the Chief Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.
3. The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits of the Chief Commissioner shall be such as may be prescribed by the Central Government.
4. The Central Government shall determine the nature and categories of officers and other employees required to assist the Chief Commissioner in the discharge of his functions and provide the Chief Commissioner with such officers and other employees as it thinks fit.
5. The officers and employees provided to the Chief Commissioner

shall discharge their functions under the [general](#) superintendence of the Chief Commissioner.

6. The salaries and allowances and other conditions of service of officers and employees provided to the Chief Commissioner shall be such as may be prescribed by the Central Government.

58. Functions of the Chief Commissioner - The Chief commissioner shall -

- a. coordinate the work of the Commissioners;
- b. monitor the utilization of funds disbursed by the Central Government;
- c. take steps to safeguard the rights and facilities made available to persons with disabilities;
- d. Submit reports to the Central Government on the implementation of the Act at such intervals as the Government may prescribe.

59. Chief Commissioner to look into complaints with respect to deprivation of rights of persons with disabilities - Without prejudice to the provisions of section 58 the Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to -

- a. deprivation of rights of persons with disabilities;
- b. non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights or persons with disabilities, and take up the matter with the appropriate authorities.

60. Appointment of Commissioners for persons with disabilities -

1. Every State Government may, by notification appoint a Commissioner for persons with disabilities for the purposes of this Act.
2. A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

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3. The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Commissioner shall be such as may be prescribed by the State Government.
 4. The State Government shall determine the nature and categories of officers and other employees required to assist the Commissioner in the discharge of his functions and provide the Commissioner with such officers and other employees as it thinks fit.
 5. The officers and employees provided to the Commissioner shall discharge their functions under the [general](#) superintendence of the Commissioner.
 6. The salaries and allowances and other conditions of service of officers and employees provided to the Commissioner shall be such as may be prescribed by the State Government.

61. Powers of the Commissioner - The Commissioner within the State shall-

- a. co-ordinate with the departments of the State Government for the programmes and schemes, for the benefit of persons with disabilities;
- b. monitor the utilization of funds disbursed by the State Government;
- c. take steps to safeguard the rights and facilities made available to persons with disabilities;
- d. submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

62. Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities -
Without prejudice to the provisions of section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to -

-
- (a) deprivation of rights of persons with disabilities;
 - (b) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities, and take up the matter with the appropriate authorities.

63. Authorities and officers to have certain powers of civil court - The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

- a. summoning and enforcing the attendance of witnesses;
- b. requiring the discovery and production of any document;
- c. requisitioning any public record or copy thereof from any court or office;
- d. receiving evidence on affidavits; and
- e. issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

64. Annual report to be prepared by the Chief Commissioner -

- 1. The Chief Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the Central Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the Central Government.
- 2. The Central Government shall cause the annual report to be laid before each House of Parliament along with the recommendations

explaining the action taken or proposed to be taken on the recommendation made therein insofar as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation or part.

65. Annual reports to be prepared by the Commissioners -

1. The Commissioner shall prepare in such [form](#) and at such time for each financial year as may be prescribed by the State Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the State Government.
2. The State Government shall cause the annual report to be laid before each State Legislature along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein insofar as they relate to the State Government and the reasons for non-acceptance, if any, of any such recommendation or part.

**CHAPTER XIII
SOCIAL SECURITY**

66. Appropriate Governments and local authorities to undertake rehabilitation -

1. The appropriate Governments and the local authorities shall within the limits of their economic capacity and development undertake or cause to be undertaken rehabilitation of all persons with disabilities.
2. For purposes of sub-section (1), the appropriate Governments and local authorities shall grant financial assistance to non-governmental organizations.
3. The appropriate Governments and local authorities while formulating rehabilitation policies shall consult the non-governmental organizations working for the cause of persons with disabilities.

67. Insurance scheme for employees with disabilities -

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1. The appropriate Government shall by notification frame an insurance scheme for the benefit of its employees with disabilities.
 2. Notwithstanding anything contained in this section, the appropriate Government may instead of framing an insurance scheme frame an alternative security scheme for its employees with disabilities.

68. Unemployment allowance. - The appropriate Governments shall within the limits of their economic capacity and development shall by notification frame a scheme for payment of an unemployment allowance to persons with disabilities registered with the Special Employment Exchange for more than two years and who could not be placed in any gainful occupation.

CHAPTER XIV MISCELLANEOUS

69. Punishment for fraudulently availing any benefit meant for persons with disabilities - Whoever, fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both.

70. Chief Commissioners, Commissioners, officers and other staff to be public servants - The Chief Commissioner, the Commissioners and other officers and staff provided to them shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

71. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against the Central Government, the State Governments or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made there under.

72. Act to be in addition to and not in derogation of any other law - The provisions of this Act, or the rules made thereunder shall be in addition to, and not in derogation of any other law for the time being in force or any

rules, order or any instructions issued there under, enacted or issued for the benefit of persons with disabilities.

73. Power of appropriate Government to make rules - (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

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

(a) the manner in which a State Government or a Union territory shall be chosen under clause (k) of sub-section (2) of section 3;

(b) allowances which members shall receive under sub-section (7) of section 4;

(c) rules of procedure, which the Central Co-ordination Committee shall observe in regard to the transaction of business in its meetings under section 7;

(d) such other functions which the Central Co-ordination Committee may perform under clause (h) of sub-section (2) of section 8;

(e) the manner in which a State Government or a Union territory shall be chosen under clause (h) of sub-section (2) of section 9;

(f) the allowances which the Members shall receive under sub-section (3) of section 9;

(g) rules of procedure which the Central Executive Committee shall observe in regard to transaction of business at its meetings under section 11;

(h) the manner and purposes for which a person may be associated under sub-section (1) of section 12;

(i) fees and allowances which a person associated with the Central Executive Committee shall receive under sub-section (3) of section 12;

(j) allowances which members shall receive under sub-section (7) of section 14;

(k) rules of procedure which a State Co-ordination Committee shall

observe in regard to transaction of business in its meetings under section 17;

(l) such other functions which a State Co-ordination Committee may perform under clause (g) of sub-section (2) of section 18;

(m) the allowances which Members shall receive under sub-section (3) of section 19;

(n) rules of procedure which a State Executive Committee shall observe in regard to transaction of business at its meetings under section 21;

(o) the manner and purposes for which a person may be associated under sub-section (1) of section 22;

(p) fees and allowances which a person associated with the State Executive Committee may receive under sub-section (3) of Section 22;

(q) information or return which the employer in every establishment should furnish and the Special Employment Exchange to which such information or return shall be furnished under subsection (1) of section 34;

(r) the form and the manner in which record shall be maintained by an employer under subsection (1) of section 37;

(s) the form and manner in which an application shall be made under sub-section (1) of section 52;

(t) the manner in which an order of refusal shall be communicated under sub-section (2) of section 52;

(u) facilities or standards required to be provided or maintained under sub-section (3) of section 52;

(v) the period for which a certificate of registration shall be valid under clause (a) of sub-section (4) of section 52;

(w) the form in which and conditions subject to which a certificate of registration shall be granted under clause (c) of sub-section (4) of section 52;

(x) period within which an appeal shall lie under sub-section (1) of section 54;

(y) the manner in which an institution for persons with severe disabilities shall be maintained and conditions which have to be satisfied under sub-section (3) of section 60;

(z) the salary, allowances and other terms and conditions of service of the Chief Commissioner under sub-section (3) of section 57;

(za) the salary, allowances and other conditions of service of officers and employees under subsection (6) of section 57;

(zb) intervals at which the Chief Commissioner shall report to the Central Government under clause (d) of section 58;

(zc) the salary, allowances and other terms and conditions of service of the Commissioner under sub-section (3) of section 60;

(zd) the salary, allowances and other conditions of service of officers and employees under subsection (6) of section 60;

(ze) intervals within which the Commissioner shall report to the State Government under clause (d) of section 61;

(zf) the form and time in which annual report shall be prepared under sub-section (1) of section 64;

(zg) the [form](#) and time in which annual report shall be prepared under sub-section (1) of section 65;

(zh) any other matter which is required to be or may be prescribed.

(3) Every notification made by the Central Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme framed by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), 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 or 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, notification or scheme, both Houses agree that the rule, notification or scheme should not be made, the rule, notification or scheme 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, notification or scheme, as the case may be.

(4) Every notification made by the State Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme made by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two Houses or where such legislature consists of one House before that House.

74. Amendment of Act 39 of 1987 - In section 12 of the Legal Services Authorities Act, 1987, for clause (d), the following clause shall be substituted, namely:-

(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act. 1995."

K. L. MOHANPURIA.
Secy. to the Govt. of India