



MANUAL

FOR

PARA LEGAL VOLUNTEERS

Prepared & Published by

Jharkhand State Legal Services Authority (JHALSA)

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YEAR : 2017



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PARA LEGAL VOLUNTEERS

JHARKHAND STATE LEGAL SERVICES AUTHORITY

PREFACE



“The persons involved in such awareness campaign are required to equip themselves with constitutional concepts, culture, philosophy, religion, scriptural commands and injunctions, the mandate of the law as engrafted under the Act and above all the development of modern science....

The people involved in the awareness campaigns should have boldness and courage. There should not be any iota of confusion or perplexity in their thought or action.”

Hon'ble Mr. Justice Dipak Misra

Judge, Supreme Court of India

(excerpts from order dated 16-9-2014 passed in Voluntary health Association of Punjab Vs Union of India)

Aforesaid golden words have been our inspiration in preparing this Manual so that our main legal awareness work-force at grass root level may be equipped with all the basic knowledge so that they have not any iota of confusion or perplexity in their thought or action.

Para Legal Volunteers are main work force of Legal Services Institution at grass root level. They are deputed at **Panchayat level Legal Services Clinics, Police Stations, Mental Health Institute, Old Age Home, Hospitals where Acid attack victims are treated, community Centre, Juvenile Justice Board, CWC, Front Office etc.** Their ever increasing duties include implementation of ten Schemes of NALSA. They have to visit Government Offices to help the legal service seekers. There are Judgments of Hon'ble Supreme Court of India as well as High Courts of India in which PLVs have been assigned duties. The exposure of PLVs to Govt offices requires them to be well behaved, well trained and man of knowledge. They ought to know **NALSA's Rules, Regulations, Schemes, SOPs, Guidelines and important Judgments of Hon'ble Supreme Court and High Courts of India.**

Therefore, need was being felt to have a **Manual for Para Legal Volunteers in Hindi and English** for pan India use and applications. Every effort has been made to be as simple as possible in this Manual. Every conceivable topic of PLV's use or utility has been included, but, I do admit that there is always scope for improvement. We shall welcome each and every suggestions. Our object is to provide all informations at one place to our PLVs. I hope that this **Manual** will be helpful to our PLVs in discharge of their duties effectively.

It is truly said :

*Great things at work
are never done by one person
They're done by a team of
hardworking individual. Every
tiny piece of work counts
as the building block*

May I take this opportunity to acknowledge the role of PLVs in increasing our visibility, victim compensation and implementation of NALSA's Schemes.

A PLV in Gumla District of Jharkhand namely Bhikhari Oraon came across three orphan children aged about 4 years, 6 years and 9 years respectively. Their parents had been killed. Their step brother was a rickshaw puller with four minor children and unable to look after these three children. Our PLV brought their matter to DLSA for rehabilitation.

DLSA secretary was appointed as legal Guardian of those Children and they were admitted in residential school and their compensation amount Rs 200,000/- was fixed in nationalized Bank.



Then there is one PLV in Chatra namely Bindul Bala. She brought Arti Devi to DLSA. Her husband had broken her legs and killed her son. She had become totally handicapped. This PLV wrote application for her and took Arti Devi to Block Office as many times as she was asked to.



Now the lady has got an Indira Awas and Pension benefit as well as Rs 200,000/- compensation. There are many more such Bhikhari Oraons and Bindul Balas in our Country. The Institution of PLV needs to be strengthened. They need to be constantly nurtured.



Our PLVs undertake Padyatra and Cycle Yatra to reach remote and hilly areas.

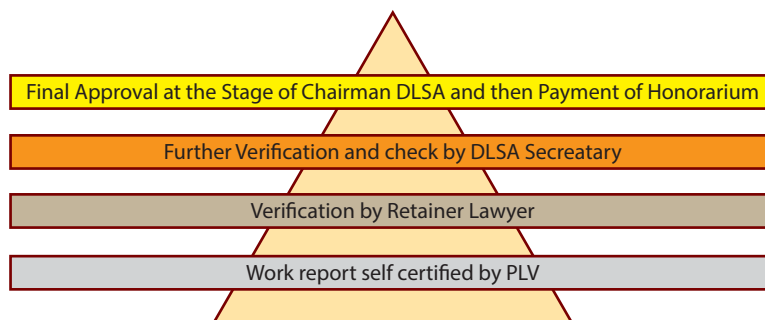


They are infact our unsung heroes.

The data as to Para Legal Volunteers of Jharkhand may be summarised as follows:

Total trained PLV	: 1839
Empanelled PLV	: 1199
Male PLV	: 787
Female PLV	: 412
PLVs deputed at Panchayat LSC	: 355
PLVs deputed at Police Station	: 118
PLV deputed at Front Offices	: 43
PLV deputed at Jails	: 92
JJBs/CWC	: 46
Old Age Home	: 6
Mental Health Institute	: 2
Community Centres	: 42

There is a **three tier PLV's WORK-MONITORING SYSTEM** in the State of Jharkhand which can be shown as follows:



Under the able leadership and guidance of National Legal Services Authority (NALSA) the legal services activities have progressed leaps and bounds. A Legal Services Institution working under National Legal Services Authority now consists of a team of Para Legal Volunteers, Retainers, Remand Advocates, Legal Services Panel Lawyers Mediators under the leadership of Secretary and Chairman of District Legal Services Authority across the country. The strength of the team is each individual member & the strength of each member is the team. We have to achieve the goal of 100% Access to Justice for all as aspired by the Constitution of India. NALSA remembers two rules :

1. Never quit
2. Remember the first rule

(Justice D.N.Patel)

Executive Chairman

Jharkhand State Legal Services Authority

Date : 24th April, 2017

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1. THE-LAW: MAINSTREAMING LEGAL AID THROUGH COMMON SERVICES CENTRES GoI AND UNDP

ACCESS TO JUSTICE FOR MARGINALIZED PERSONS PROJECT

A CONCEPT NOTE

I. Background

The Access to Justice Project for Marginalized Persons has been implemented by Department of justice and UNDP. The key interventions of the Project have been in the field of legal awareness, legal aid and empowerment of the marginalized communities and judicial reform through technical support provided to the National Mission on Justice Delivery and Legal Reform.

Several programs for mainstreaming legal literacy have been successfully run. One of the key endeavors for the future is to scale up and strengthen these successful initiatives. One such initiative would be mainstreaming legal aid related services through CSCs. This will strengthen access to justice especially for the marginalized communities and well as render more visibility to NALSA and SLSAs.

II. MAINSTREAMING LEGAL LITERACY THROUGH COMMON SERVICE CENTRES

The Access to Justice Project has partnered with CSC-E-governance Services India Limited to mainstream legal literacy through common service centres in Jharkhand (10 CSCs in 3 districts) and then through 500 CSCs across 11 districts in Rajasthan. Under the program, 500 VLEs in Rajasthan were trained on social justice legislations such as fundamental rights, the right to information, citizen rights vis-a-vis policing, gender laws, child rights and labour laws. A legal literacy booklet and a short film on various laws was prepared under the project and distributed to the VLEs. The purpose of the training is to provide basic knowledge about the various social justice legislations to the VLEs and through the VLEs to the community at large.

Additionally the partnership involves training of 467 VLEs in the five north east region States of Assam, Arunachal Pradesh, Meghalaya, Mizoram and Tripura, 433 VLEs in three north east States of Manipur, Nagaland and Sikkim and 500 VLEs in Jammu and Kashmir. Under this initiative IEC material, documentary films in various languages and the one time development and hosting of online monitoring application are being developed.

III. CSC OVERVIEW

The Common Services Centres (CSC) Scheme as approved by Government of India in September 2006 for setting up more than 100,000 internet enabled centres in rural areas under the National e-Governance plan (NeGP) is being implemented in a Public

Private Partnership (PPP) mode. The CSCs are proposed to be the delivery points for government, private and social sector services to rural citizens at their doorstep. The CSC Scheme is envisaged to be a bottom-up model for delivery of content, services, information and knowledge, that can allow like-minded public and private enterprises - through a collaborative framework - to integrate their goals of profit as well as social objectives, into a sustainable business model for achieving rapid socio-economic change in rural India.

IV. WHAT IS TNI CSC SCHEME 2.0

The vision of the Scheme is to set up 2.5 lakh CSC in all gram panchayats across the country.

The objectives of CSC Scheme is to provide

- Non discriminatory access to e-services for rural citizens by making CSCs as service delivery centers,
- Enablement and consolidation of online services under one technology platform thereby making service delivery at CSC outlets accountable, transparent and efficient
- Supporting entrepreneurship by building capacities of VLEs and encouraging women as VLEs CSC SPV is a/so providing a variety of other services through their digital portal. These include:
- Digital Literacy: Imparting IT skills to rural youth
- Financial Literacy: Training rural folks especially women on basic aspects of financial literacy and investor awareness
- Educational Facilitation Services: basic computer courses and English for Aam Admi
- Electoral Literacy: Basic rights of the voters through an MoU with ECI
- Tele Medicine: CSC E-Governance is currently successfully running a program called tele medicine. Telemedicine makes it possible to connect health specialists from one end of the world, to patients in the remotest corners. Telemedicine is a great option for patients who find it difficult to travel to clinics or hospitals to consult with a doctor. The costs associated with physical visits to hospitals or doctor's offices can substantially reduce for both patient and doctor, by using telemedicine technologies like video conferencing. Telemedicine is also proving to be the ideal way to manage chronic conditions and administer preventive medicine. By facilitating communication between doctors and patients, telemedicine makes it easy to monitor discharged patients and track patient recovery. A similar platform can be designed for mainstreaming legal aid through the CSCs.

V. THE LAW: MAINSTREAMING LEGAL AID THROUGH CSCs.

Tele Law would connect lawyers/law school clinics/DLSAs/probono service providers/NGOs from any location, to clients/people in search of legal advice in the

remotest corners - anywhere and anytime. Common Service Centres, can be used to provide legal advice and information service to rural masses.

Tele Law would simply mean the use of communications and information technology for the delivery of legal information and advice. This e-interaction between lawyers and people would be through the video-conferencing infrastructure available at the CSCs. In addition, law school based legal aid clinics/probono firms/NGOs working on legal aid and empowerment can also be connected through the CSCs to strengthen access to justice for the marginalised communities.

VI. SCALE UP ACTIVITIES

1. **Piolet Testing and Selection of States:** As a first step, we could select 1000 CSCs in two states, 500 CSCs in Bihar and 500 CSCs in Uttar Pradesh. The above states are among those which have the highest number of pending cases in courts. Further, CSC-SPV is already implementing a program on mainstreaming legal aid through CSC in UP. Therefore it will be easier to understand the challenges and build partnerships in both the select states successfully run the piolet.
2. **Selection and Training of Women Para Legal Volunteers:** 1000 women PLVs may be selected to work alongside the VLE for mainstreaming legal aid services through the CSC. The idea is to promote women entrepreneurship and empowerment. The select PLVs will also be provided with relevant training so that they can fulfill their responsibilities effectively. The training will comprise of 3 days of main course training on various social welfare legislations and schemes of the government. Thereafter the PLVs will be placed on the CSC. After one month of working on the CSC a refresher training of the PLVs will be organized.
3. **Training of VLEs:** VLEs running the select 1000 CSCs will be trained by CSC- e governance society for one day so that they are able to effectively operationalize the tele- law services at their respective CSCs.
4. **Terms of Services of the PLV:** There will be a trained para legal volunteer (woman) present at each CSC for at least ten days in a month. She will be paid a lump sum amount of INR 2000 by SLSAs for her services. PLV at the CSC will be the first point of contact for the marginalized applicant. She will listen to the grievance and offer appropriate advice. She will help the applicant connect with a lawyer through the video conferencing facility at the CSC. She will keep a track of the progress of the applicants' cases/ grievances and maintain a record of the same. She will submit the records maintained by her to the DLSA every week.
5. **Creating a Panel of Lawyers for Legal Advice and Counselling for Marginalized:** NALSA will provide a panel of five-ten lawyers who will be sitting in the state capitals and will be available through video conferencing to provide legal advice/ counselling to the applicant at the 1000 CSCs. Through video conferencing facility at the CSC, the applicant would be able to take advice of the lawyers regarding his case at a nominal charge of 30 Rs per consultation which will be paid to the VLE for use of the CSC. The lawyers who will be available for legal advice will be given a remuneration by NALSA/ DoJ. The applicant will have to show his adhaar card or other relevant records for availing the service. It is pertinent to mention here that, in order to make Tele- Law Services at par with other services available at the CSC, it is advised to levy a nominal charge of Rs

30. This will incentivise the VLE to promote the Tele Law Service along with other services on CSCs.

6. Monitoring and Evaluation of the TeleLaw. For proper monitoring of the above service and preventing its misuse, the VLEs will have to prepare a list of persons who have availed the service, details of each session to be uploaded on the CSC, the action taken by the applicant/or benefit to the applicant of the service rendered. This information will be uploaded within 1 day of availing the session.
7. Role of CSC- E governance: A suitable platform will be designed and launched for legal aid services at the CSC. The CSC will provide technical support to the entire program in two states. Further, an online monitoring application will be designed which will enable, NALSA, SLSAs, DoJ to monitor the program.
8. Information on the LSA activities disseminated through CSCs: Facilitating Marginalised Community in availing the services provided by DLSA /SLSA -information of Legal Literacy Camps, Lok Adalats, copy of the court orders/ judgment may be made available through CSC to the marginalised community. CSCs can also be used to widely publicise the legal aid services provided by DLSAs/SLSAs such as legal awareness camps or lok adalats.
9. Tele caller facility: For taking feedback from the clients regarding the effectiveness of tele law service, two tele callers will be hired who will call up the clients to inquire about the service/ video conferencing and record the response.
10. Coordination between NALSA, DoJ and MelTY: For the above model to function successfully, will require close coordination between NALSA, MelTY and DoJ. An MoU between these bodies may be executed clearly defining their roles, functions, financial liability among others. Once a consensus is built on the above cost sharing and scale up model, A2J project management team can provide support in drafting the MoU and a comprehensive implementation framework.
11. One day launch meeting at the state level: A one day event inaugural will be organised at the state level where select VLEs and PLVs will be invited. Dignitaries from MU, NALSA, Judiciary, MelTY as well as from state governments may be invited.



2. Source for PLVs

NALSA Scheme for Para Legal Volunteer (Revised) provides that :

Groups from whom Para-Legal Volunteers can be selected

- Teachers (including retired teachers)
- Retired Government servants and senior citizens.
- M.S.W. students and teachers.
- Anganwadi Workers.
- Doctors/Physicians.
- Students & Law Students (till they enroll as lawyers).
- Members of non-political, service oriented NGOs and Clubs.
- Members of Women Neighbourhood Groups, Maithri Sanghams and other Self Help Groups including of marginalized/vulnerable groups.
- Educated prisoners with good behaviour, serving long term sentences in prisons.
- Any other person whom the District Legal Services Authority or Taluk Legal Services Committee deems fit to be identified as PLVs.



SUCCESS STORY

Name of PLV : Bhikari Oraon

(DLSA, GUMLA)

Brief of work done: He identified the orphan children whose parents had been murdered in 2014. Their step brother was a rickshaw puller in Gumla with 4 minor children to look after.

He was not able to take care of these three orphan children. The PLV Bhikari Oraon took up their matter vigorously. Completed all the formalities and paper work and ensured their rehabilitation through DLSA. The Secretary, DLSA was made their legal guardian. On 23-1-16 the children were given compensation of Rs. 2 Lakh by His Lordship Hon'ble Mr. Justice AR Dave and children were admitted to residential school in Gumla. One of NALSA documentary is based on this story.



3. Selection of PLVs

NALSA Scheme for Para Legal Volunteer provides

Selection of PLVs- District Level

Selection of the PLVs shall be by a Committee chaired by the Chairman of the District Legal Services Authority. The Secretary shall be one of the Members of the Committee. The Committee shall consist in all of three members including .the Chairman and the Secretary shall be one of the Members of the Committee. The third member, to be appointed at the discretion of the Chairman of the DLSA, shall be one capable of identifying suitable persons, who could be trained as PLVs. This selection process shall not be entrusted to any other body.

Selection of PLVs - Taluk Level

The Chairman of the District Legal Services Authority shall constitute a Committee consisting of the Chairman of DLSA, Member Secretary of DLSA and the Chairman of TLSC and a fourth person at the discretion of the Chairman of DLSA. The place of interview for Taluk Level PLVs shall be at the discretion of the Chairman of DLSA. The Member Secretary of DLSA shall co-ordinate with the selection process.

Empanelment process

Applications may be invited from the local residents by the respective DLSAs and TLSCs or Sub Divisional Legal Services Committee. There could be an advertisement, if required. Copies of either the advertisement or notice calling for applications could be sent to the offices of the Bar Association, Notice Board of the Court premises, Legal Services Authority Offices and District Panchayat Offices. The advertisement shall state the qualifications required for selection as PLVs as stated above with last date for the receipt of applications at the office of DLSA. There shall be a column in the application, wherein the candidate has to express willingness or place of preference to work at either district-level or taluk-level or village-level. In the advertisement there shall be clear mentioning that the work of PLVs does not carry any salary, remuneration or wages except honorarium fixed by the DLSA from time to time.

Method of Selection

The Selection Committee is entitled to use its discretion and shortlist the number of candidates for interview depending upon the number of applications received. Preference shall be given to women while selecting PLVs. Representation from suitable applicants belonging to SC/ST, minority and other backward classes must be ensured.



4. Training of PLVs

NALSA Scheme for Para Legal Volunteers provides :

Under the supervision of Chairman of DLSA, PLVs shall undergo training programme, totally under the control of the Member Secretary. The training shall be held at a convenient place subject to discretion of the Chairman of DLSA. The number of PLVs to be trained at any given point of time in a training programme shall not exceed 50. Wherever the State Judicial Academy has facilities for training, the same may be availed of. The expenses for the training shall be incurred by the Judicial Academy for providing such facility to be reimbursed by the State Government/DLSA concerned.

Trainers/Resource Persons

- In consultation with the State Legal Services Authority, the Chairman of DLSA shall identify the trainers for training the PLVs and other resource persons.
- Suitable persons from the members of the Bar with training skills shall be included in the list of resource persons.
- Others could include :
- NGOs associated with the activities of Legal Services Authority, i.e., persons, who are exposed to the nature of work of the Legal Services Authority.
- Master Trainers of mediation.
- Law Teachers from Law Colleges.
- Post-Graduate students of Law.
- Retired Professors of Law.
- Retired Judicial Officers.
- Revenue Officers.
- Officers from Social Welfare Department.
- Public Prosecutors.
- Police Officers.
- Psychiatrists/Psychologists/Mental Health experts.

Nature of Training

Training that is to be provided to the PLVs would be in accordance with the curriculum prescribed by the NALSA and will be in the following formant :

- (a) Orientation Programme.
- (b) Basic training.
- (c) Refresher course.

There shall be periodical refresher training in order to assess the quality of work turned out by the PLVs. The legal Services Authorities need to assess the work of PLVs and assist them to identify the deficits and how to tackle the problems. faced by the PLVs after their experience



in the field. There shall be annual congregation of PLVs so as to facilitate an exchange of experience. There shall be district wise half-yearly meetings of PLVs to resolve their doubts and facilitate the acquisition of knowledge and upgradation of their skills as per the module.

PLVs shall create awareness among citizens of the benefits of settlement of pending cases through Lok Adalats including the fact that the parties are entitled to refund of court fee and that there shall be no appeal.

Topics for Training

A uniform training module for PLVs shall be prepared by NALSA which shall be applicable to the entire country and the module shall have a special emphasis on the conduct and behaviour of PLVs. The module so prepared shall be translated into regional languages.

Identity Cards

 STATE LEGAL SERVICES AUTHORITY	
	Para-Legal volunteer registration number — ()	
	Name:	
	Father / Husband Name:	
	Village / Town:	
	Signature of Para Legal Volunteer	Signature of Secretary, D.L.S.A.

After completion of the training by the District Legal Services Authority, the PLVs may be subjected to a written and oral test before the PLVs are declared to have successfully completed the training. On being declared successful, they may be given identity cards bearing the emblem of the District Legal Services Authority. The identity card shall have (i) serial number; (ii) name and address of the PLV; (iii) contact number of the PLV; (iv) photograph of the PLV; (v) the date of issue and the period of validity of the identity card. It shall be clearly printed on the reverse side of the identity card that the loss of the identity card should be reported to the nearest Police Station as also its recovery.

The identity card shall not be used for availing of travelling concession either in bus or in any mode of transport.

It shall not be used for availing of any governmental benefits or loan by the holder of the card.

The identity card shall not be used for availing of any other facilities, except for the purpose of identification of the person as PLV.

Validity of Identity Cards

The validity of the identity card shall be for a period of one year. A new card shall be issued to the PLV, if the Chairman, District Legal Services Authority finds him/her eligible to continue as PLVs for more than one year.

Mentors for PLVs

DLSA and TLSC shall maintain a panel of Mentors/Guides whom the PLVs could contact in case of any clarification or assistance in connection with the discharge of their duties as PLVs. There shall not be more than ten PLVs for one Mentor.

Monthly Reports

A monthly report of the existing PLVs, PLVs newly recruited and the training given to the PLVs shall be submitted by the DLSA to the SLSA. The SLSA shall submit a consolidated report of the details of the number of PLVs trained, the resource persons engaged, expenses incurred and the refresher courses, if any, organised, pertaining to each month, to the National Legal Services Authority before 15th day of every month.

NALSA shall cause the copies of such reports sent to the National Committee for Para-Legal Training and Legal Aid Activities set-up by the Chief Justice of India.

The SLSAs shall submit to the NALSA a consolidated District wise report on the activities of the PLVs, specifically the number of persons attended and the nature of advice given and action taken.

Dress of PLV

JHALSA specially manufactured & designed Jacket to distribute amongst PLVs



5. Data-base of PLVs

NALSA Scheme for Para Legal Volunteers provides :

The District Legal Services Authority to maintain a database of all Para-Legal Volunteers in the District.

The District Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the details of the para-legal volunteers of District Authority and Taluk/Mandal/Sub-divisional Committees, their names, addresses, telephone/cell phone number, e-mail ID (if any), number and date of expiry of the identity card issued.

The State Legal Services Authority to maintain a database of all Para-Legal Volunteers in the State.

The State Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the district wise details of the names of para-legal volunteers, their addresses, telephone/cell phone numbers, e-mail ID (if any), number and date of expiry of the identity card issued.

The Legal Services Authorities to work in co-ordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India.

The State, District and Taluk level legal services institutions shall work in coordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India. The directions, if any, given by the Hon'ble Chairman of the National Committee for Para-Legal Training and Legal Aid Activities shall be binding on all legal services institutions in the country.

Monthly Report to SLSA :

Every DLSA / SDLSC is required to send monthly report to SLSA as to data to PLVs in prescribed format.



6. Functions of PLVs

Regulation - 10 of NALSA (Legal Aid Clinics) Regulation, 2011 provides :

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.

JHALSA Circular provides (Letter No. 1932 dt. 17.3.15) :

Kind of work / duties done by PLVs.

1. Organising Awareness Programme to make people aware of their right to get Legal assistance through the legal services institutions.
2. Helping the family of child missing or child trafficking through the DLSA in recovery and rehabilitation of the child.
3. Organising programme to make people aware of benefit of Mediation, Conciliation and Permanent Lok Adalat.
4. Helping the victim of Crime to approach the DLSA for compensation under the Victim Compensation Scheme of the State of Jharkhand.
5. Helping the people to get benefit of the Govt. beneficial schemes.
6. Participating in the programmes of the DLSA.
7. Referring people to the DLSA for Legal assistance.
8. Participating in the capacity building Programmes organized by the Legal Services Institutions.

9. Visiting the Jail, Hospital, Observation Home, Probation Home, Govt. offices in connection with Legal Services Activities.
10. Resolving Family dispute or other dispute in the locality.
11. Maintaining record of daily activities.
12. Submitting record of activities to the DLSA every month.
13. Distributing publicity materials on Legal Services, govt. Beneficial Schemes as well as Legal Literacy Literature published by NALSA and JHALSA on important Legislations
14. Reporting the DLSA about the violation of Child Rights, Communal Harmony and Naxal Victims.
15. Making himself well aware in the locality and ensuring his easy access so that people may feel free to approach him for legal assistance.



SUCCESS STORY

Name of PLV : Basanti Gope

(DLSA, CHAIBASA)

Brief of work done: On 16-8-16 she found a mentally ill lady namely Roibari Purty wandering in Kiriburu forest. She contacted the relatives of the lady but they expressed their inability to look after her. Thereafter, PLV Basanti Gope raised money through donation from Mahila Police Station Police persons, general public and hired a vehicle and got her admitted in RINPAS Ranchi and looked after her for a few month. Now Ms. Purty is hale and hearty.



Similarly Ms Gope got several other mentally ill persons namely Maya Tirkey, one unknown, Budhni Machuain admitted into RINPAS and got them cured . She works for care and rehabilitation of lepers.



7. Maintenance of Register by the PLVs

NALSA Scheme for Para Legal Volunteers provides :

Guidelines with regard to the Records that are required to be maintained by the PLVs.

1. Visitors Register (to be supplied by DLSA) and kept at every Legal Aid Clinic
2. PLV Register (in which there shall be details regarding persons visiting the Legal Aid Clinic, with address and contact no. and nature of complain with brief facts, the kind of legal assistance rendered)
3. Complaint/ Suggestion Box to be kept at every Legal Aid Clinic, which shall be opened once in every week by the Secretary, DLSA himself and will be placed before the Chairman, DLSA and copy of Action Taken Report shall be sent to JHALSA also.
4. Every Register in original shall be preserved at DLSA.
5. Every statement related to payment of honorarium shall be preserved till the audit is over.

Regulation-20 of NALSA (Legal Aid Clinics) Regulation, 2011 provides :

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.



8. Monitoring of the work done by PLV

JHALSA Circular provides (Letter No. 1932 dt. 17.3.15) provides :

Guidelines for Supervision, mechanism for the PLVs to ensure quality services by DLSA

- 1) To ensure that every PLV deputed at Legal Aid Clinic at Panchayat Level/Sub Division Level, Police Stations, Mental Health Institute and Front Offices maintains:
 - a) A Visitor Register (in which the name, address and mobile no., if possible will be entered with the signature of the visitor)
 - b) A PLV Register (in which apart from aforesaid detail, purpose of visit in brief and the kind of assistance required) as well as assistance rendered will be maintained.
- 2) Ensuring submission of statement by the PLV as to the work done by him every month.
- 3) Supervision at the level of Secretary, DLSA (once in every month) and report to Chairman, DLSA with copy to JHALSA.
- 4) Overall monitoring at the level of Chairman, DLSA from the inputs of Retainer Lawyer, Secretary, DLSA as well as from independent sources.
- 5) System of cross checking randomly with the beneficiaries at Legal Retainer Level and Secretary, DLSA Level to ensure quality service.

Guidelines with regard to the Crosschecking Mechanism of the work done by the PLV

1. Cross Checking randomly with the beneficiary is essential to ensure quality of work. Retainer Lawyer to cross check randomly the beneficiary shown by PLV and submit his Report to the DLSA.
2. The Secretary, DLSA to randomly cross check with some of the beneficiary in respect of each and every PLV and Report to the Chairman, DLSA.
3. The supervision mechanism will be under overall control of the Chairman, DLSA.
4. This cross checking mechanism will be the basis for release of honorarium to the PLV as well as for appreciation or award to the PLV for his/her work.

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9. Honorarium/Renumeration to the PLVs

Regulation 17 of the NALSA (Legal Aid Clinics) Regulation, 2011 provides :

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.

NALSA Scheme for Para Legal Volunteer (Revised) provides :

Honorarium for the PLVs rendering services in the Legal Aid Clinics and Front Offices

The State Legal Services Authority in consultation with the National Legal Services Authority may fix an honorarium for the PLVs engaged in the legal aid clinics.

However, such honorarium for those who have rendered services on any day shall not be less than Rs. 250/ per day.

The PLVs who bring legal aid applicants from the distant villages to the legal services institutions at the Taluk/District level and to the District ADR Centers shall also be eligible to receive honorarium for such day at the same rate.

PLVs shall also be eligible for honorarium if on any particular day they assist persons in connection with the PLV work by accompanying such persons to Various offices including Courts, however, subject to proof.

JHALSA Circular (Letter No. 1932 dt. 17.3.15)

Guidelines with regard to payment of honorarium to the PLV

1. It shall be the duty of every DLSA to make timely payment of honorarium to the PLVs.
2. The minimum requirement to be fulfilled for payment of honorarium to PLVs are as follows:
 - a. Submission of statement with full details of the beneficiary by the PLVs in which there shall be signature of the beneficiary as well as Retainer Lawyer.
 - b. Report of Retainer Lawyer on the work shown to have been done by the PLV

- c. Cross check at the level of Secretary, DLSA in which he shall randomly select some of the beneficiary for verifying the work done by the PLV
- 3. Final Order as to payment of honorarium at the level of Chairman, DLSA after being satisfied about the work done by PLV.
- 4. At present the payment to PLY are made NALSA fund.

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SUCCESS STORY

Name of PLV : Yadu Mahto

(DLSA, BOKARO)

Brief of work done: He has identified 16 person in 2016 for govt beneficial schemes and ensured benefit of old age pension , widow pension and Indira Awas to them.



दिह-दुस्वान - 09/03/016

आज - 09/03/016

विधिक जागरूकता शिविर आयोजित

विदुशजी। अंतरराष्ट्रीय महिला दिवस के अवसर पर संलग्नकार को विदुशजी शिविर में इस विधिक देख-रेख एवं सहायता केन्द्र विदुशजी को और से कानूनी जागरूकता शिविर का आयोजन किया गया। शिविर को संबोधित करते हुए अधिवक्ता जलप पाठे ने उपस्थित लोगों को महिलाओं एवं बच्चों के संरक्षण तथा वीज प्रदायन से संबंधी कानून को जानकारी दी।

महिला दिवस पर जागरूकता शिविर

विदुशजी। अंतरराष्ट्रीय महिला दिवस के अवसर पर संलग्नकार को विदुशजी शिविर में इस विधिक देख-रेख एवं सहायता केन्द्र विदुशजी को और से कानूनी जागरूकता शिविर का आयोजन किया गया। कानूनी शिविर को संबोधित करते हुए अधिवक्ता जलप पाठे ने उपस्थित लोगों को महिलाओं एवं बच्चों के संरक्षण तथा वीज प्रदायन से संबंधित कानूनी जानकारी दी। शीके पर इस विषय को संबोधित करते हुए, जलप पाठे, सुधीर कर्तव्यी और लोग उपस्थित थे।

पुनार 2जणर - 09/03/016

दिनिक जठारण - 09/03/016

कानूनी जागरूकता शिविर विदुशजी। अंतरराष्ट्रीय महिला दिवस के अवसर पर संलग्नकार को विदुशजी शिविर में इस विधिक देख-रेख एवं सहायता केन्द्र विदुशजी को और से कानूनी जागरूकता शिविर आयोजन किया गया। अधिवक्ता जलप पाठे ने उपस्थित लोगों को महिलाओं व बच्चों के संरक्षण तथा वीज प्रदायन से संबंधित कानूनी जानकारी दी। शीके पर इस विषय को संबोधित करते हुए, जलप पाठे, सुधीर कर्तव्यी और लोग उपस्थित थे।

कानून की जानकारी मिली

विदुशजी। अंतरराष्ट्रीय महिला दिवस के अवसर पर संलग्नकार को विदुशजी शिविर में इस विधिक देख-रेख एवं सहायता केन्द्र को और से कानूनी जागरूकता शिविर का आयोजन किया गया। अधिवक्ता जलप पाठे ने उपस्थित लोगों को महिलाओं व बच्चों के संरक्षण तथा वीज प्रदायन से संबंधित कानून को जानकारी दी। शीके पर इस विषय को संबोधित करते हुए, जलप पाठे, सुधीर कर्तव्यी और लोग उपस्थित थे।

10. Guidelines as to visit of PLV to the Village/LAC

Resolution at 13th All India Meet of State Legal Services Authorities provides :

It has been resolved in 13th All India Meet of SLSAs at Ranchi that PLVs shall visit the clinics (village or community) at least twice a week i.e. on Wednesdays and Sundays. Legal services advocates on panel should also accompany the PLVs.

Resolution of 13th All India Meet of SLSAs with regard to Para Legal Volunteers

- PLVs shall visit the clinics (village or community) at least twice i.e. on Wednesdays and Sundays.
- Legal Services advocates on panel should also accompany the PLVs.
- SLSAs shall prepare the Calender of visit of PLVs in advance so that all stakeholders particularly the beneficiaries may know in advance the visit of PLVs in a particular area or clinic.
- There is a greater need to monitor the activity of Legal Services Clinics and non productive clinics may be shut down or may be shifted to other places.

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SUCCESS STORY

Name of PLV : Ritu Singh

(DLSA, DHANBAD)

Brief of work done: Rinki Shaw is a widow with two minor children . Her inlaws drove her out of matrimonial home. This PLV took up her matter and helped her in getting the insurance claim as also prevailed upon her inlaws to take care of her and her children. She rehabilitated her by persuading her to enter into second marriage and now she is leading happy life.

Sandya Kumari (name changed) was sexually assaulted by one Suraj Saw. Suraj Saw left her in Dhanbad. This PLV helped her in her remarriage and in conducting criminal case against Suraj Saw. In the trial Suraj Saw was punished.

Saraswati Kaharin is a widow and she was employee in BCCL. Her son conspired and by wrong medicine made her look mentally unstable. Her son got job in her place in BCCL and drove her out of her house. This PLV found her on railway track and helped her and ensured maintenance to her from her son.

11. PLVs in Jail and Duties

NALSA Scheme for Para Legal Volunteers (Revised) provides :

Para Legal Volunteers in Jails

A few educated well-behaved prisoners serving longterm sentences in the Central Prison and District Prisons may be identified for being trained as Para Legal Volunteers. Their services shall be available to the other prisoners in the jail including the under trial prisoners. The training of such PLVs may be conducted along with the other PLVs.

Payment

They will be entitled to be paid as PLVs for the services rendered at the prescribed rate of honorarium payable to other PLVs.

Duties of Para Legal Volunteers in Jail

1. Since PLVs in jail are those prisoners who are serving long term sentences, therefore they know the legal services-needs of other inmates and he has to act as bridge between the Legal Services Institutions and the 'prisoners in need of legal aid/services.
2. They shall make the inmates aware about the aim and objectives of DLSA regarding free legal aid available to the inmates.
3. They shall inform the DLSA regarding the legal aid required to all the inmates with respect to appointment of lawyer from defence panel of DLSA.
4. They shall write applications on behalf of inmates for seeking legal aid from DLSA.
5. They shall enquire about the period of detention of inmates/under trial prisoners from the office of concerned Jail and also about the nature of offence and inform the DLSA regarding the under trial prisoners who may get benefit of provisions U/s. 436 A Cr. P.C.
6. They shall inform the DLSA regarding filing of appeal/revision on behalf of inmates
7. They shall inform the DLSA regarding the inmates who were enlarged on bail but are languishing in Jail due to non- availability of bailers.
8. They shall constantly keep a watch on the transgressions of law or acts of injustice inside the jail and bring them immediately to the notice of DLSA for effective remedial actions.
9. When the new inmate comes inside the jail, it is the duty of PLVs to interact with him/her and get aware whether he/she has a lawyer or not and inform the same to the DLSA.
10. In case when any convict states about filing about appeal on his behalf before the Hon'ble Court, it is the duty of PLVs to get collected the number of appeal filed on his behalf and if no such number has been provided by such convict, they have to report the matter to the DLSA.

11. The PLVs shall generate awareness amongst the inmates about the benefits of settlement of disputes through Lok Adalats, Mediation, Conciliation, Arbitration, Negotiation & Judicial Settlement.
12. The PLVs shall inform about the under trial prisoners who are languishing in jail in the offences which are compoundable in nature, so that their matter may be compounded with the help of panel lawyers.
13. The PLVs shall assist the Jail Authority on behalf of DLSA/ SDLSC for organising Legal awareness Camps in the Jail.
14. Such PLVs have to inform the other inmates about their right to file bail application in higher courts if same is rejected by a court and for this he/she is entitled to free legal aid .
15. Such PLVs have to inform the other inmates about their right to file Appeal/Revision in the higher courts if he has been convicted by the Trial Court / Appellate Court and for this he/she is entitled to free legal aid.
16. Such PLVs will be informed about their basic right as jail inmates so that they may be able to make the other inmates aware about the same.



SUCCESS STORY

Name of PLV : Hemraj Chauhan

(DLSA, DHANBAD)

Brief of work done: Gouri Devi aged about 35 years is an acid attack victim from the hand of her husband. This PLV identified her, helped her in conduct of her trial and completed formality for victim compensation and ensured interim compensation of Rs. 2 Lakh. Payment of further 1 Lakh is under process.



Rita Devi is aged about 40 years . Her husband was killed in property dispute. This PLV identified her and took up her matter. Completed formality and ensured payment of Rs. 2 Lakh as victim compensation on 4-3-17.

Aarti Kumari (name changed) was a minor girl wandering at Dhanbad Railway Station. This PLV identified her and took her to CWC, Dhanbad., traced her family , did counselling upon her and reunited her with her family members.

12. PLVs in Police Stations and their duties

As per direction of Hon'ble Supreme Court of India in **WP(C) No. 75/12 in Bachpan Bachao Aandolan vs. Union of India vide order dt. 10/05/13**, the following understanding has been developed between Jharkhand Police and JHALSA :

1. JHALSA through District Legal Services Authorities shall depute 2 Para Legal Volunteers (PLVs) at the local Police Stations: Each of them shall visit once a week i.e. the first PLV shall visit in the first half of the week and second PLV shall visit in the later half of the week (total visits 2 days in a week).
2. The PLV so deputed in the local Police Station shall have an ID Card duly issued by the DLSA concerned.
3. PLV and concerned Police Station shall share the information relating to the missing child with each other.
4. PLV and concerned Police Station shall share coordinate with each other effectively in tracing/restoration of the missing child and reintegration of the restored/recovered child.
5. The PLV shall have full details of the CWC, JJB and special homes/observation homes etc with him.
6. PLV shall keep the contact No. and details of Child Welfare Officer and District Level SJPU (Special Juvenile Police Unit) of the district as provided under JJ Act.
7. PLVs shall have access to AHTU in the district where it is in existence for proper coordination.
8. The Local Police Station as well as the PLV shall contact the DLSA, Secretary for any legal assistance in the matter of the missing child.
9. District Legal Services Authority shall monitor effectively the matter related with missing child for necessary action.



13. PLVs in Mental Health Institute and their duties

NALSA (Legal Services to the Mentally ill Persons and Persons with Mental Disabilities) Scheme, 2015 provides :

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.

Kind of Services to be provided to the Mentally ill Persons and Persons with Mental Disabilities :

NALSA (Legal Services to the Mentally ill Persons and Persons with Mental Disabilities) Scheme, 2015 provides :

Action to be taken by legal services institutions

- The legal services institutions must draw up a panel of sensitive and sensitized legal services lawyers to represent the best interests of the mentally ill person at the time of the production of the person under Section 24 or Section 25 of the Mental Health Act, 1987 and assist the Magistrate while passing an order that would be in the welfare of the mentally ill person.
- The legal services institutions must assist the police through its PLVs assigned to the police stations to refer the mentally disabled persons, who are neglected, homeless or destitute to the Local Level Committee set up under Section 13 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 so that orders such as the appointment of guardian, whether individual or institutional, for the care and rehabilitation of the mentally disabled person is ensured.
- Legal services institutions must devise sensitization programmes with the junction of mental health officials including doctors, police officials and judicial magistrates dealing with inquisition proceedings to evolve locally conducive mode to ensure that wandering mentally ill persons are identified and dealt with securing their human rights by obtaining appropriate judicial orders as may be found necessary¹in each case.

LEGAL SERVICES TO MENTALLY ILL AND MENTALLY DISABLED PERSONS DURING COURT PROCEEDINGS

- The two statutes governing the rights of the mentally ill persons and the mentally disabled persons are The Mental Health Act 1987 and the National Trust for the

Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999. Both entail a hearing before the passing of appropriate orders by the Magistrate or the Local Level Committee as the case may be. It is important that the legal services institutions participate in them through the PLVs or the Panel lawyers.

- It shall be the duty of the legal services institutions to depute its retainer/panel lawyer to the court where an application for reception orders has been moved or is under consideration under Section 19, 20, 22, 24, 25, 26, 27 or 28 of the Mental Health Act, 1987.
- The legal services institutions may request the Magistrates who deal with such applications to give notice to the legal services institutions in all cases, for protecting the interest of the mentally ill persons in relation to whom the application for reception or discharge order is being made.
- The retainer/panel 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/discharge order has been made warrants such an order from the court.
- 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 courts 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.
- The legal services institutions should through the PLVs/panel/retainer lawyers help the cured voluntary patients for moving requests for discharge under Section 18 or by an involuntary patient under Section 19.
- The legal services institutions should through the clinics or as part of the Board of Visitors always keep track of admissions under Section 19 (1) of the Act so that detention beyond the period of the first ninety days is only on the orders of the court.
- The legal services institutions shall also keep track of cases under Section 20 of the Act, so that no cured patient is allowed to remain in the psychiatric hospital, home or facility by default. They must move applications for discharge as soon as the patient is cured.
- The legal services institutions shall also keep track of cases under Section 23 read with Section 25 of the Act, in relation to wandering or destitute mentally ill persons, so that the requirements under Section 28 of the Act, of a ten day review by the Magistrate of the need to keep a person under observation is strictly complied with and no person is detained longer than needed for the issuance of the certificate of mental illness under Section 24 (2) (a) of the Act.
- The legal services institutions through their legal services clinics and PLVs and panel/retainer lawyers should keep track of discharge of patients and wherever necessary

should aid and assist the patient to move the application for discharge to the medical officer in charge or to the court which had passed the reception orders.

- The legal services clinics and PLVs and panel/retainer lawyers should also render assistance to inpatients to obtain leave of absence as provided under Section 45 and Section 46 of the Act. They should also assist the filing of appeals as provided for under Section 49 of the Act.
- The legal services institutions shall also participate in inquisition proceedings under Section 50 of the Act to protect the interests of the mentally ill person. A request must be made to the District Judge to issue notice to the legal services institution whenever an application under Section 50 comes before it.
- 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 the Mental Health Act. The legal services institutions 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 or with the Collector of the appropriate District in terms of Clause (d) of Sub-section (1) of section 50 of that Act. Legal Services institutions must extend legal aid to the mentally ill persons involved in such matters by providing effective assistance as may be appropriate and requested for by the Collector concerned to aid and assist in preparing and processing such proceedings.
- The legal services institutions should follow up every case where a guardian of the person is appointed under Section 53 and /or the manager of the property has been appointed under Section 54 or an order of maintenance has been passed under Section 71 and Section 79 of the Act and take every step to protect the interests of the mentally ill person.
- The legal services institutions should render all help to pursue appeals as provided under Section 76 of the Act.
- The legal services institutions should through the legal services clinics and PLVs and through visits including as Member of the Board of Visitors that there are no transgression of the human rights of the inmates and whenever such transgressions are noticed, shall bring it to the notice of the High Court.
- As the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999, is a comprehensive Act to provide for the care of the mentally disabled, including assistance in care to parents of the mentally disabled and also for arranging the care and finances of the mentally disabled after the death of the parents through appointment of guardians, it is important that legal services institutions inform the public of the Act and further help them to benefit from it. The PLVs and the legal services clinics should come to the assistance of the mentally disabled and their families in the matter of appointment of guardians.
- Legal services institutions shall come to the help of mentally ill and the mentally disabled in protecting their rights of inheritance, owning properties and enjoying financial rights. The persons with mental illness or mental disability have rights with others to inherit property, both movable as well as immovable, and also have a right to control their financial affairs and have access to bank loans, mortgages and other

forms of financial credit, which can be accessed by them personally or through a support person who has no interest in conflict to the person with mental illness or mental disability. Legal services institutions should render all legal help in realizing this.

- Legal services institutions shall assist the mentally disabled for obtaining all benefits under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The legal services institutions shall find out the different beneficial schemes for the mentally disabled and their families. The legal services institutions shall assist the mentally disabled and their families to avail the benefits under such schemes.

AWARENESS AND SENSITISATION PROGRAMME

- The legal services institutions shall organize awareness programmes especially in rural areas, to educate people that mental illness is curable and there is no stigma attached to mental illness or mental disabilities.
- The legal services institutions should explain the need for equal treatment of mentally ill with other persons in the society. 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 and mental disabilities.
- The legal services lawyer in such camps may educate the public and families on the property and other legal rights and the other provisions of law relating to the mentally ill and mentally disabled persons.
- The State Legal Services Authority and District Legal Services Authority may organize training programmes in association with the Judicial Academy to sensitize the judicial officers about the socio-legal problems faced by the mentally ill and mentally disabled 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.

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

Duties of PLVs deputed at Legal Aid Clinic at Mental Health Hospital

1. PLVs shall 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 person.
2. PLVs shall take steps for institutional care for destitute and wandering mentally ill persons.
3. PLVs shall help the persons cured of mental illness in getting assistance of the DLSA or SLSA for their rehabilitation.



14. Disqualification of PLVs and their removal

NALSA Scheme for Para Legal Volunteers (Revised) provides :

Disqualifications of Para-Legal Volunteers and their removal.

- The PLVs shall be disqualified and removed from the panel if he/she:
- Fails to evince interest in the Scheme.
- Has been adjudged insolvent.
- Has been accused of an offence.
- Has become physically or mentally incapable of acting as PLVs.
- Has so abused his/her position or mis conducted in any manner as to render his/her continuance prejudicial to the public interest.
- If she/he is an active political enthusiast of a political party. Any such Para-Legal Volunteer may be Removed by the Chairman, District Legal Services Authority after suitable enquiry and intimation of the same should be sent to the State Legal Services Authority.



SUCCESS STORY

Name of PLV : Bindul Bala

(DLSA, CHATRA)

Brief of work done: Identified one victim Arti Devi whose husband had broken her legs and killed her son.

The husband was in jail and this helpless lady Arti Devi was on the verge of starvation with her lapchild. This PLV took up the matter with DLSA for her rehabilitation. She completed all the formalities and on 4-3-17 a compensation of Rs. 2 Lakh was given to the victim. This PLV helped her in getting Indira Awas as also pension benefit. This PLV brought the victim to Ranchi on her own expense.



15. Circular of NALSA on PLVs



राष्ट्रीय विधिक सेवा प्राधिकरण
NATIONAL LEGAL SERVICES AUTHORITY
(Constituted under the Legal Services Authorities Act, 1987)

यू. शरतचन्द्रन

सदस्य सचिव

U. SARATHCHANDRAN

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(District & Sessions Judge)

Member Secretary

12/11, जाम नगर हाऊस
शाहजहाँ रोड, नई दिल्ली-110011
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e-mail : nalsa1987@gmail.com
कार्या/Offl. : 23385720 (Direct)
मोबाइल/Cell : 9958299347
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Cell: 9968699347

F.No.L/40/2009/NALSA | 336
Dated: 19th April, 2010

To

The Member Secretary,
Jharkhand State Legal Services Authority,
"NYAYA SADAN"
Near AG Office, Doranda, Ranchi – 834002.

Sub: Launching of 'Para Legal Training and Legal Aid Activities' and Consultation at Rajiv Gandhi National Institute of Youth Development, Sriperumbudur, Chennai on 25th April, 2010 at 12.15 PM.

Dear Shri Navneet Kumar,

The National Committee for Para Legal Training and Legal Aid Activities constituted by the Hon'ble Chief Justice of India under the Chairmanship of Hon'ble Mr. Justice P.Sathasivam, Judge, Supreme Court of India is launching the programme of Para Legal Training and Consultation at the Rajiv Gandhi National Institute of Youth Development (RGNIYD) on 25th April, 2010 at 12.15 PM. Hon'ble the Chief Justice of India will launch the programme and the function will be presided over by Dr. Veefappa Moily, Hon'ble Union Law Minister.

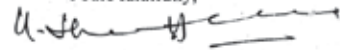
Hon'ble Mr. Justice Altamas Kabir, Judge, Supreme Court of India & Executive Chairman of National Legal Services Authority (NALSA) has directed me to request your goodself to attend the above programme and the Consultation Meeting to be followed after the launching ceremony on 25th April, 2010 at 12.15 PM at RGNIYD, Sriperumbudur, Chennai.

Due to paucity of time, I am furnishing a brief of the proposed programme at RGNIYD, Sriperumbudur, Chennai. 12.20 – 12.25 PM– Welcome Address; 12.25-12.30 PM – Lighting of lamp; 12.30 –Address by Vice President RGNIYD; 12.35 PM – Address by Vice-Chancellor, IGNOU; 12.40 PM – Address by Hon'ble Executive Chairman, TN State Legal Services Authority; 12.45 PM- Special Address by Hon'ble Chief Justice of Madras High Court; 12.55 PM – Keynote Address by Hon'ble Mr Justice P.Sathasivam, Judge, Supreme Court of India; 13.05-13.20 PM – Presidential Address by Dr. M.Veerappa Moily, Hon'ble Union Law Minister; 13.20 – 13.35 PM – Inauguration of the Programme by Hon'ble Mr. Justice K.G.Balakrishnan, the Chief Justice of India; 13.35 – 13.40 PM – Vote of Thanks by Prof. S.Sivakumar; 13.40 – 14.30 PM – Lunch; 14.30 – 16.30 PM- National Consultation Meet at Seminar Hall, RGNIYD.

You are requested to make arrangements for your travel and inform your travel plan immediately to the Member Secretary, Tamil Nadu State Legal Services Authority (TNSLSA) who will make arrangements for your stay and transport from Airport / Railway Station to the place of stay / venue. The contact details of the Member Secretary, Tamil Nadu State Legal Services Authority is given below:

Shri B.Gokuldas, Member Secretary, TNSLSA,
High Court Building, Chennai-600104
Mobile: 09444070601
Office: 044-25343353 & 25342834
Fax: 044-25342268
e-mail: tnslsa@dataone.in

Yours faithfully,


[U.SARATHCHANDRAN]



No. 12/11/11

राष्ट्रीय विधिक सेवा प्राधिकरण
NATIONAL LEGAL SERVICES AUTHORITY
(Constituted under the Legal Services Authorities Act, 1987)

यू. शरत्चन्द्रन
सदस्य सचिव
U. SARATHCHANDRAN
B.Sc., M.P.A.; LL.M., LL.M. (London)
(District & Sessions Judge)
Member Secretary

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फैक्स/Fax :23382121
F.No.L/10/2011/NALSA 4772
Dated: 15th November, 2011

To
The Member Secretary,
Jharkhand State Legal Services Authority,
"NYAYA SADAN"
Near AG Office,
Doranda, Ranchi - 834002.

Sub: Decisions passed in the Meeting of the Central Authority of NALSA held on September, 24, 2011.

Dear Shri B.K.Goswami,

In the meeting of the Central Authority of NALSA held on September 24, 2011 the following important decisions were taken regarding the working of the Para-Legal Volunteers, the Legal Aid Clinics and setting up of law libraries in the Taluk Legal Services Committees (TLSC). The State Legal Services Authority is requested to implement the following directions decisions of NALSA by instructing the District Legal Services Authorities and the TLSCs to take necessary steps:

(I) Para-Legal Volunteers (PLVs) Schemes.

- (i) The Para-Legal Volunteers (PLVs) Scheme of NALSA being a vehicle for reaching out to the poor and marginalised people, the Scheme should be implemented effectively by all Legal Services Authorities.
- (ii) More women PLVs should be recruited and trained in areas where the male PLVs cannot effectively function e.g. while dealing with matters relating to women and domestic problems.
- (iii) The State Legal Services Authorities shall prepare the State-wise directory of PLVs to whom identity cards have been issued in each district. The PLVs recruited by the Taluk Legal Services Committees also shall be included in this directory. The directory should contain the name, address, telephone numbers etc. of the PLVs.

1375
12/11/11

Ranchi
13/11/11

S.No.	Name of District.	Name of Taluk / Mandal / Sub-divisional.	Name and address of the Para Legal Volunteers.	Mobile/Landline number, e-mail ID, if any, of Para Legal Volunteers.
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A copy of the State-wise directory so prepared shall be sent to NALSA by e-mail and also as hard-copy. The Directory shall be renewed every year incorporating additions and deletions. [The validity of the identity cards issued to the PLVs shall be for one year and the same may be renewed if the Legal Services Authority / Committee desires to continue with the services of the PLVs concerned].

- (i) Requests from the political parties to induct their nominees in the list of PLVs shall not be entertained. Only persons with genuine mindset for social service, having inclination for voluntary services to the persons in need of legal services alone shall be selected and selection process should be left exclusively to the Chairman / Chairperson of the District Legal Services Authority and Taluk Legal Services Committee.
- (ii) The PLVs who have already been trained by the civil society organisations, NGOs and other educational institutions also should undergo the training process organised by the State / District Legal Services Authorities. Selection of such PLVs also shall be made in the same manner as done in the case of other PLVs.

(II) Implementation of the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011.

- (i) The State Legal Services Authority shall address the Law Universities and Law Colleges within their jurisdiction, requesting to establish legal services clinics envisaged in Section 4(k) of Legal Services Authorities Act, 1987.
- (ii) Responses from the Law Colleges and Law Universities on the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 shall be collected in the questionnaire annexed to this communication alongwith a copy of the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011 through the District Legal Services Authorities.
- (iii) Responses collected shall be forwarded to the National Legal Services Authority so as to reach NALSA on or before 01.12.2011.
- (iv) State Legal Services Authorities and the District Legal Services Authorities may request the local-self government bodies to provide the necessary furniture for the legal aid clinics.
- (v) Each legal aid clinic shall be provided with a blackboard and chalk.
- (vi) The total annual expenses for running a legal aid clinic may be limited to Rs. One lakh per clinic in village areas.
- (vii) Initially the legal aid clinics may be established for a cluster of villages or at Taluk/Mandal/Block level.
- (viii) After watching the progress of the functioning of legal aid clinics so established and ascertaining their requirements, NALSA may be approached for necessary financial assistance to establish more legal aid clinics, which will be done in a uniform manner.

(III) Setting up Law Libraries in TLSCs.

- (i) NALSA had a corpus of Rs.52,43,614/- received as donation for the purpose of setting up of law libraries in the Taluk Legal Services Committees in view of the circumstance that most of the Taluk level legal services institutions are poorly equipped with law books.
- ✓ (ii) It has been decided that the aforesaid corpus will be distributed to the State Legal Services authorities subject to the number of Taluk/Mandal/Sub-divisional Legal Services Committees existing under each State Legal Services Authority. The State Legal Services Authorities shall set up a law library consisting of books worth Rs.10,000/-, making the deficiency with the funds allotted by NALSA to the State Legal Services Authorities.
- (iii) The State Legal Services Authority shall request the Chairman, District Legal Services Authority to buy the law books required for establishing such library of all Taluk/Mandal/Sub-divisional Legal Services Committees under them.
- ✓ (iv) The amount of Rs.10,000/- so made available to set up law-library is only foundational in nature and that the State Legal Services Authorities shall make necessary annual provisions through the District Legal Services Authorities for expanding and updating such libraries.

A report of compliance may be sent at the earliest.

Kindly place this communication before Hon'ble Executive Chairman of the State Legal Services Authority for further directions.

Yours faithfully,


Member Secretary

Encl: As above.



राष्ट्रीय विधिक सेवा प्राधिकरण
NATIONAL LEGAL SERVICES AUTHORITY
(Constituted under the Legal Services Authorities Act, 1987)

यू. शरतचन्द्रन
सदस्य सचिव
U. SARATHCHANDRAN
B.Sc., M.P.A; LL.M., LL.M. (London)
(District & Sessions Judge)
Member Secretary

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F.No.L/06/2011/NALSA | 18/6
Dated: June 09, 2011

To

The Member Secretary,
Jharkhand State Legal Services Authority,
"NYAYA SADAN"
Near AG Office,
Doranda, Ranchi – 834002.

Sub: Amendments in the NALSA Scheme for implementing the project of Para-Legal Volunteers by the State Legal Services Authorities.

Dear Shri B.K.Goswami,

In the meeting of the Central Authority of NALSA held on 03.05.2011 at the Supreme Court of India the following amendments have been brought out in the NALSA's Scheme for Para-Legal Volunteers to be implemented by the State Legal Services Authorities:

1. **Number of Para-Legal Volunteers (PLVs) to be identified by the District Legal Services Authorities and Taluk Legal Services Committees:**
 - (a) The Para-Legal Volunteers (PLVs) to be identified by the District Legal Services Authorities (DLSAs) shall be 100.
 - (b) The number of PLVs to be identified by the Taluk Legal Services Committees (TLSCs) shall be 50.
2. **Monthly reports by Para-Legal Volunteers:**
 - (a) The PLVs shall submit monthly reports to the TLSCs and DLSAs as the case may be. The DLSAs shall collect reports from the TLSCs/Sub-Divisional Legal Services Committees and shall send such reports along with the reports of PLVs of DLSAs to the SLSAs. The SLSAs may fix a date in every month as the last date for submitting such reports.

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3. Honorarium to the Para-Legal Volunteers.

- (a) An honorarium of Rs.250/- per day may be paid to all PLVs engaged for specific works like going to the remote villages, distribution of legal literacy materials, attending the legal aid clinics and 'front offices' of the Legal Services Institutions.
- (b) In addition to the honorarium mentioned in Clause (a) above, where the PLVs have to undergo expenses for travel to places outside his / her base, the Legal Services Institutions would have to meet such expenses.
- (c) The rate of daily honorarium payable to the PLVs for the aforementioned engagements in the metro cities may be as determined by the SLSAs.

4. Identity cards for the PLVs.

- (a) The identify cards issued to the PLVs would be valid initially for a period of one year only.
- (b) The identify cards of PLVs shall specify the date of its expiry in the card itself.

5. Inclusion of Retired Judges to function as PLVs.

- (a) Persons like retired judges could also be considered to function as PLVs whenever their services are available.

The SLSA is requested to carry out amendments in the copies of the Scheme available with them and shall communicate these amendments to the DLSAs and TLSCs/Sub-divisional Legal Services Committees under them immediately on receipt of this communication. Acknowledgment of receipt of the communication may be called from the DLSAs and TLSCs/Sub-divisional Legal Services Committees.

Copies of this communication may be placed before Hon'ble Patron-in-Chief and Hon'ble Executive Chairman of that State Legal Services Authority.

Receipt of this communication may be acknowledged by the SLSAs by e-mail/fax without any delay.

With personal regards

Yours faithfully,
U. Sarathchandra
(U.Sarathchandra)



राष्ट्रीय विधिक सेवा प्राधिकरण
NATIONAL LEGAL SERVICES AUTHORITY
(Constituted under the Legal Services Authorities Act, 1987)

आशा मेनन
सदस्य सचिव
ASHA MENON
(Delhi Higher Judicial Service)
Member Secretary

12/11, जाम नगर हाऊस
शाहजहाँ रोड, नई दिल्ली-110011
12/11, Jam Nagar House
Shahjahan Road, New Delhi-110011

No. L/39/2012-NALSA 1080
May 23, 2013

To

The Member Secretary,
Jharkhand State Legal Services Authority,
"NYAYA SADAN"
Near AG Office,
Doranda, Ranchi – 834002.

Sub:- Directions of Hon'ble Supreme Court of India in W.P. (C) No. 75/2012 titled Bachpan Bachao Andolan Vs. Union of India & Ors. – reg.

Dear Shri B.K.Goswami,

The Hon'ble Supreme Court of India, while dealing with the issue of missing and untraced children, has issued several directions to the Police, the JJBs & CWCs and the NALSA & SLSAs. The directions to the SLSAs are as below and require immediate and strict compliance.

- (i) "The para-legal volunteers, who have been recruited by the Legal Services Authorities, should be utilised, so that there is, at least, one para-legal volunteer, in shifts, in the police station to keep a watch over the manner in which the complaints regarding missing children and other offences against children, are dealt with.
- (ii) "The State Legal Services Authorities should also work out a network of NGOs whose services could also be availed of at all levels for the purpose of tracing and re-integrating missing children with their families which, in fact, should be the prime object, when a missing child is recovered".
- (iii) "As part of the Standard Operating Procedure, a protocol should be established by the local police with the High Courts and also with the State Legal Services Authorities for monitoring the case of a missing child."

An action taken report must reach this office by 10.7.2013.

With regards,

Yours sincerely,

Asha Menon
(Asha Menon)



राष्ट्रीय विधिक सेवा प्राधिकरण
NATIONAL LEGAL SERVICES AUTHORITY
(Constituted under the Legal Services Authorities Act, 1987)

आशा मेनन
सदस्य सचिव
ASHA MENON
(Delhi Higher Judicial Service)
Member Secretary

12/11, जाम नगर हाऊस
शाहजहाँ रोड, नई दिल्ली-110011
12/11, Jam Nagar House
Shahjahan Road, New Delhi-110011

No. L/39/2012-NALSA 1011
May 23, 2013

4/2/13
To

The Member Secretary,
Jharkhand State Legal Services Authority,
"NYAYA SADAN"
Near AG Office,
Doranda, Ranchi - 834002.

Sub:- Directions of Hon'ble Supreme Court of India in W.P. (C) No. 75/2012 titled
Bachpan Bachao Andolan Vs. Union of India & Ors. - reg.

Dear Shri B.K.Goswami,

The Hon'ble Supreme Court of India, while dealing with the issue of missing and untraced children, has issued several directions to the Police, the JJBs & CWCs and the NALSA & SLSAs. The directions are listed below.

1. "We make it clear that, in case of every missing child reported, there will be an initial presumption of either abduction or trafficking, unless, in the investigation, the same is provided otherwise. Accordingly whenever any complaint is filed before the police authorities regarding a missing child, the same must be entertained under Section 154 Cr.P.C. However, even in respect of complaints made otherwise with regard to a child, which may come within the scope of Section 155 Cr.P.C., upon making an entry in the Book to be maintained for the purposes of Section 155 Cr.P.C., and after referring the information to the Magistrate concerned, continue with the inquiry into the complaint. The Magistrate, upon receipt of the information recorded under Section 155 Cr.P.C., shall proceed, in the meantime, to take appropriate action under sub-section (2), especially, if the complaint relates to a child and, in particular, a girl child."
2. "Each police station should have, at least, one Police Officer, especially instructed and trained and designated as a Juvenile Welfare Officer in terms of Section 63 of the Juvenile Act."
3. "There should be, in shifts, a Special Juvenile Officer on duty in the police station to ensure that the directions contained in this Order are duly implemented."

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4. "Every found/recovered child must be immediately photographed by the police for purposes of advertisement and to make people aware of the missing child. Photographs of the recovered child should be published on the website and through the newspapers and even on the T.V. so that the parents of the missing child could locate their missing child and recover him or her from the custody of the police."
5. "In case a missing child is not recovered within four months from the date of filing of the First Information Report, the matter may be forwarded to the Anti-Human Trafficking Unit in each State in order to enable the said Unit to take up more intensive investigation regarding the missing child. The Anti-Human Trafficking Unit shall file periodical status reports after every three months to keep the Legal Services Authorities updated."
6. "In cases where First Information Reports have not been lodged at all and the child is still missing, an F.I.R. should be lodged within a month from the date of communication of this Order and further investigation may proceed on that basis."
7. "Once a child is recovered, the police authorities shall carry out further investigation to see whether there is an involvement of any trafficking in the procedure by which the child went missing and if, on investigation, such links are found, the police shall take appropriate action thereupon."
8. "The State authorities shall arrange for adequate Shelter Homes to be provided for missing children, who are recovered and do not have any place to go. Such Shelter Homes or After-care Homes will have to be set up by the State Government concerned and funds to run the same will also have to be provided by the State Government together with proper infrastructure. Such Homes should be put in place within three months, at the latest."
9. "Any private Home, being run for the purpose of sheltering children, shall not be entitled to receive a child, unless forwarded by the Child Welfare Committee and unless they comply with all the provisions of the Juvenile Justice Act, including registration."

The SLSAs should keep a watch over the implementation of these directions by the Police, giving the necessary push wherever and whenever necessary.

Yours sincerely,

Asha Menon
(Asha Menon)

16. FAQ on Para Legal Volunteers

Q. What are the MODALITIES ?

- Ideally every Taluk Legal Services Committee (TLSC) shall have a panel of PLVs; of a maximum number of 25 (50) on their roll at any given point of time. The District Legal Services Authority (DLSA) shall have 50 (100) active PLVs on their roll.
- PLVs shall be literate, preferably matriculate, with a capacity for overall comprehension.
- Preferably PLVs shall be selected from persons, who do not look up to the income they derive from their services as PLVs, but they should have a mind-set to assist the needy in the society coupled with the compassion, empathy and concern for the upliftment of marginalised and weaker sections of the society. They must have unflinching commitment towards the cause which should be translated into the work they undertake.

Q. What is the selection method of PLVs at different levels ?

- Teachers (including retired teachers)
- Retired Government servants and senior citizens.
- M.S.W students and teachers.
- Anganwadi Workers.
- Doctors/Physicians.
- Students & Law Students (till they enroll as lawyers).
- Members of non-political, service oriented NGOs and Clubs.
- Members of Women Neighbourhood Groups, Maithri Sanghams and other Self Help Groups including of marginalized/vulnerable groups.
- Educated prisoners with good behaviour, serving long term sentences in prisons.
- Any other person whom the District Legal Services Authority or Taluk Legal Services Committee deems fit to be identified as PLVs.

Selection of PLVs - District Level

Selecting the PLVs shall be by a Committee chaired by the Chairman of the District Legal Services Authority. The Secretary shall be one of the Members of the Committee. The Committee shall consist in all of three members including the Chairman and the Secretary shall be one of the Members of the Committee. The third member, to be appointed at the discretion of the Chairman of the DLSA, shall be one capable of identifying suitable persons, who could be trained as PLVs. This selection process shall not be entrusted to any other body.

Selection of PLVs - Taluk Level

The Chairman of the District Legal Services Authority shall constitute a Committee consisting of the Chairman of DLSA, Member Secretary of DLSA and the Chairman of TLSC and a fourth person at the discretion of the Chairman of DLSA. The place of interview for Taluk Level PLVs shall be at the discretion of the Chairman of DLSA. The Member Secretary of DLSA shall co-ordinate with the selection process.

Empanelment process

Applications may be invited from the local residents by the respective DLSAs and TLSCs or Sub Divisional Legal Services Committee. There could be an advertisement, if required. Copies of either the advertisement or notice calling for applications could be sent to the offices of the Bar Association, Notice Board of the Court premises, Legal Services Authority Offices and District Panchayat Offices. The advertisement shall state the qualifications required for selection as PLVs as stated above with last date for the receipt of applications at the office of DLSA. There shall be a column in the application, wherein the candidate has to express willingness or place of preference to work at either district-level or taluk-level or village-level. In the advertisement there shall be clear mentioning that the work of PLVs does not carry any salary, remuneration or wages except honorarium fixed by the DLSA from time to time.

Method of Selection

The Selection Committee is entitled to use its discretion and shortlist the number of candidates for interview depending upon the number of applications received. Preference shall be given to women while selecting PLVs. Representation from suitable applicants belonging to SC/ST, minority and other backward classes must be ensured.

Q. How to trained PLVs ?

Under the supervision of Chairman of DLSA, PLVs shall undergo training programme, totally under the control of the Member Secretary. The training shall be held at a convenient place subject to discretion of the Chairman of DLSA. The number of PLVs to be trained at any given point of time in a training programme shall not exceed 50. Wherever the State Judicial Academy has facilities for training, the same may be availed of. The expenses for the training shall be incurred by the Judicial Academy for providing such facility to be reimbursed by the State Government/DLSA concerned.

Q. Who can be Trainers/Resource Persons for the training of PLVs ?

- In consultation with the State Legal Services Authority, the Chairman of DLSA shall identify the trainers for training the PLVs and other resource persons.
- Suitable persons from the members of the Bar with training skills shall be included in the list of resource persons.
- Others could include:
- NGOs associated with the activities of Legal Services Authority, i.e., persons, who are exposed to the nature of work of the Legal Services Authority.
- Master Trainers of mediation.
- Law Teachers from Law Colleges.
- Post-Graduate students of Law.
- Retired Professors of Law.
- Retired Judicial Officers.
- Revenue Officers.
- Officers from Social Welfare Department,.
- Public Prosecutors.
- Police Officers.
- Psychiatrists/Psychologists/Mental Health experts.

Q. What is the Nature of Training ?

Training that is to be provided to the PLVs would be in accordance with the curriculum prescribed by the NALSA and will be in the following formant:

- (a) Orientation Programme.
- (b) Basic training.
- (c) Refresher course.

There shall be periodical refresher training in order to assess the quality of work turned out by the PLVs. The Legal Services Authorities need to assess the work of PLVs and assist them to identify the deficits and how to tackle the problems faced by the PLVs after their experience in the field. There shall be annual congregation of PLVs so as to facilitate an exchange of experience. There shall be district-wise half-yearly meetings of PLVs to resolve their doubts and facilitate the acquisition of knowledge and upgradation of their skills as per the module.

PLVs shall create awareness among citizens of the benefits of settlement of pending cases through Lok Adalats including the fact that the parties are entitled to refund of court fee and that there shall be no appeal.

Q. What are Topics for Training ?

A uniform training module for PLVs shall be prepared by NALSA which shall be applicable to the entire country and the module shall have a special emphasis on the conduct and behaviour of PLVs. The module so prepared shall be translated into regional languages.

Q. Is PLVs issued I-Cards ?

After completion of the training by the District Legal Services Authority, the PLVs may be subjected to a written and oral test before the PLVs are declared to have successfully completed the training. On being declared successful, they may be given identity cards bearing the emblem of the District Legal Services Authority. The identity card shall have (i) serial number; (ii) name and address of the PLV; (iii) contact number of the PLV; (iv) photograph of the PLV; (v) the date of issue and the period of validity of the identity card. It shall be clearly printed on the reverse side of the identity card that the loss of the identity card should be reported to the nearest Police Station as also its recovery.

The identity card shall not be used for availing of travelling concession either in bus or in any mode of transport.

It shall not be used for availing of any governmental benefits or loan by the holder of the card.

The identity card shall not be used for availing of any other facilities, except for the purpose of identification of the person as PLV.

Validity of Identity Cards

The validity of the identity card shall be for a period of one year. A new card shall be issued to the PLV, if the Chairman, District Legal Services Authority finds him/her eligible to continue as PLVs for more than one year.

Q. Who are Mentors for PLVs ?

DLSA and TLSC shall maintain a panel of Mentors/Guides whom the PLVs could contact in case of any clarification or assistance in connection with the discharge of their duties as PLVs. There shall not be more than ten PLVs for one Mentor.

Monthly Reports

A monthly report of the existing PLVs, PLVs newly recruited and the training given to the PLVs shall be submitted by the DLSA to the SLSA. The SLSA shall submit a consolidated report of the details of the number of PLVs trained, the resource persons engaged, expenses incurred and the refresher courses, if any, organised, pertaining to each month, to the National Legal Services Authority before 15th day of every month.

NALSA shall cause the copies of such reports sent to the National Committee for Para-Legal Training and Legal Aid Activities set-up by the Chief Justice of India.

The SLSAs shall submit to the NALSA a consolidated District-wise report on the activities of the PLVs, specifically the number of persons attended and the nature of advice given and action taken.

Q. What are the duties of trained Para-Legal Volunteers ?

Para-Legal Volunteer shall educate people, especially those belonging to weaker sections of the society, to enable them to be aware of their right to live with human dignity, to enjoy all the constitutionally and statutorily guaranteed rights as also the duties and discharge of obligations as per law.

Para-Legal Volunteers shall make people aware of the nature of their disputes/issues/problems and inform them that they can approach the TLSC/DLSA/HCLSC/SLSA/SCLSC so as to resolve the dispute/issue/problems through these institutions.

Para-Legal Volunteers shall constantly keep a watch on transgressions of law or acts of injustice in their area of operation and bring them immediately to the notice of the TLSC through telephonic message or a written communication or in person to enable effective remedial action by the Committee.

When the PLV receives information about the arrest of a person in the locality, the PLV shall visit the Police Station and ensure that the arrested person gets legal assistance, if necessary, through the nearest legal services institutions.

The PLVs shall also ensure that the victims of crime also get proper care and attention. Efforts shall be made by the PLVs to secure compensation for the victims of crime under the provisions of Section 357-A Cr.P.C.

PLVs shall, with proper authorization from the DLSA/TLSC visit jails, lock-ups, psychiatric hospitals, children's homes/observation homes and shall ascertain the legal service needs of the inmates and intimate the authorities concerned about any absence noticed of basic essential necessities with special emphasis on hygiene.

PLVs shall report violations of child rights, child labour, missing children and trafficking of girl children to the nearest legal services institutions or to the child welfare committee.

Para-Legal Volunteers shall assist the DLSA/TLSC for organizing legal awareness camps in their area of operation.

Para-Legal Volunteers shall give information to the people of their locality about the legal services activities of SLSA/DLSA/TLSC/HCLSC/SCLSC and shall provide their addresses to the people so as to enable them to utilize the free services rendered by the above organizations to the eligible persons.

Para-Legal Volunteers shall generate awareness amongst people about the benefits of settlement of disputes including pre-litigation stage through Lok Adalats, Conciliation, Mediation and Arbitration.

Para-Legal Volunteers shall make people aware of the benefits of inexpensive settlement of disputes relating to Public Utility Services like P&T, Telephones, Electricity, Water Supply, Insurance and hospital services through Permanent Lok Adalat (PLA).

Para-Legal Volunteers shall submit monthly reports of their activities to the DLSA/ TLSC under whom they are working in the prescribed format.

A diary to record the daily activities shall be maintained by each PLVs. The diary shall be printed and given to PLVs by the District Legal Services Authority. Such diary shall be verified and endorsed by the Secretary, DLSA or the Chairman, TLSC as the case may be.

Para-Legal Volunteers shall see that publicity materials on legal services activities are exhibited at prominent places in their area of activity.

Q. What expenses may PLVs incur ?

Reasonable expenses incurred by Para-Legal Volunteers. Bus/Train fare, Postage, Telephone charges etc., may be reimbursed by the TLSC/DLSA/SLSA, on production of proof. Travel expenses limited to the lowest classes by road/rail/steamer to the legal aid beneficiaries brought by the Para-Legal Volunteers also may be reimbursed at the discretion of the Chairman.

The rate of daily honorarium payable to PLVs on the days of their engagement as such in metro-cities may be determined by the SLSA.

The PLVs are not entitled to any travel expenses when they use the transport provided by SLSA/DLSA/TLSC.

Q. Where PLVs Deputed ?

Para-Legal Volunteers to work in the 'Front Offices' of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute one or more PLVs to operate the 'front offices' of the legal services institutions.

Para-Legal Volunteers to work in the 'Legal Aid Clinics' of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute PLVs in the Legal Aid Clinics set up under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. The PLVs engaged in the Legal Aid Clinics shall function in such clinics in accordance with the provisions of the aforesaid regulations.

Honorarium for the PLVs rendering services in the Legal Aid Clinics and Front Offices.

The State Legal Services Authority in consultation with the National Legal Services Authority may fix an honorarium for the PLVs engaged in the legal aid clinics.

However, such honorarium for those who have rendered services on any day shall not be less than Rs.250/- per day.

The PLVs who bring legal aid applicants from the distant villages to the legal services institutions at the Taluk/District level and to the District ADR Centers shall also be eligible to receive honorarium for such day at the same rate.

PLVs shall also be eligible for honorarium if on any particular day they assist persons in connection with the PLV work by accompanying such persons to various offices including Courts, however, subject to proof.

Q. How Para-Legal Volunteers assist in the legal literacy classes and camps ?

The PLVs in consultation with the nearest legal services institutions shall organise micro-legal literacy camps in the area of their operation by organising legal literacy classes

for small groups of persons including labourers, women, children members of SC/ST etc. It shall be the duty of the PLVs to distribute information booklets and other publications of the Legal Services Authorities during the legal literacy classes.

Q. How PLVs help in Resolving local disputes through ADR mechanism ?

The PLVs shall take efforts to bring the parties of the locality involved in disputes, to settlement, by using the machinery of Lok Adalat, Mediation or Conciliation at the District ADR Centers. If no District ADR Center has been set up in the District, the legal services institutions shall take steps for organising a suitable ADR mechanism like Lok Adalat, mediation, conciliation etc. in the village itself in coordination with the PLVs. The PLVs who bring such cases to the ADR process shall be entitled to receive the prescribed honorarium on the day when such proceedings are held.

Para-Legal Volunteers in Jails.

A few educated well-behaved prisoners serving long term sentences in the Central Prison and District Prisons may be identified for being trained as Para Legal Volunteers. Their services shall be available to the other prisoners in the jail including the under trial prisoners. The training of such PLVs may be conducted along with the other PLVs.

Payment.

They will be entitled to be paid as PLVs for the services rendered at the prescribed rate of honorarium payable to other PLVs.

Disqualifications of Para-Legal Volunteers and their removal.

- The PLVs shall be disqualified and removed from the panel if he/she:
- Fails to evince interest in the Scheme.
- Has been adjudged insolvent.
- Has been accused of an offence.
- Has become physically or mentally incapable of acting as PLVs.
- Has so abused his/her position or misconducted in any manner as to render his/her continuance prejudicial to the public interest.
- If she/he is an active political enthusiast of a political party. Any such Para-Legal Volunteer may be removed by the Chairman, District Legal Services Authority after suitable enquiry and intimation of the same should be sent to the State Legal Services Authority.

National level meetings of Para-Legal Volunteers.

The State Legal Services Authority may select suitable PLVs for attending the National Level programmes relating to PLVs to be organised by the National Legal Services Authority as the case may be. The State Legal Services Authority may recommend the names of PLVs who have given outstanding service for considering such PLVs for National awards to be instituted by the National Legal Services Authority.

Q. Whether there any database maintained by DLSA/SLSA ?

The District Legal Services Authority to maintain a database of all Para-Legal Volunteers in the District.

The District Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the details of the para-legal volunteers of District Authority and Taluk/Mandal/Sub-divisional Committees,

their names, addresses, telephone/cell phone number, e-mailID (if any), number and date of expiry of the identity card issued.

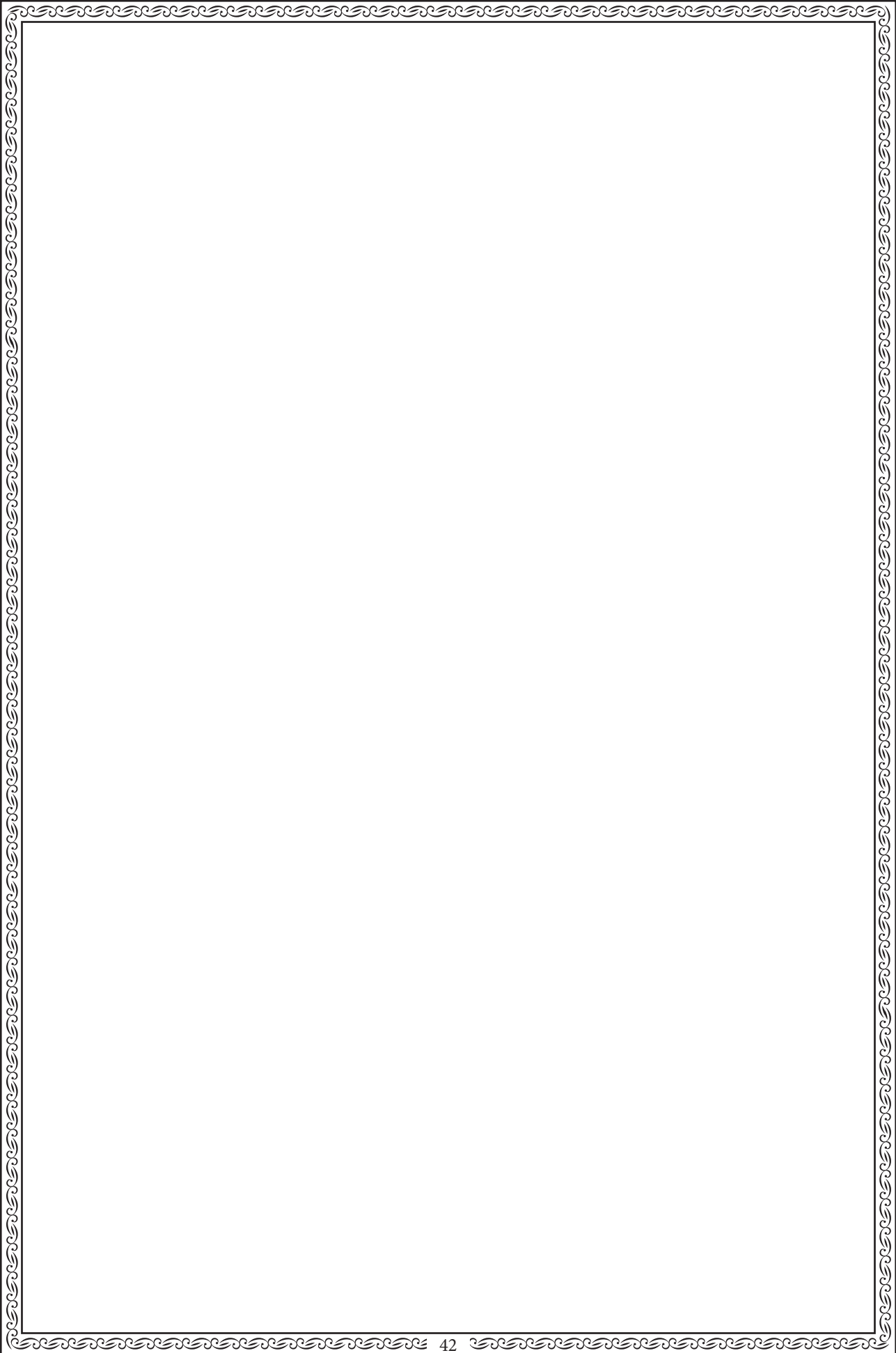
The State Legal Services Authority to maintain a database of all Para-Legal Volunteers in the State.

The State Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the district wise details of the names of para-legal volunteers, their addresses, telephone/cell phone numbers, e-mail ID (if any), number and date of expiry of the identity card issued.

The Legal Services Authorities to work in co-ordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India.

The State, District and Taluk level legal services institutions shall work in coordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India. The directions, if any, given by the Hon'ble Chairman of the National Committee for Para-Legal Training and Legal Aid Activities shall be binding on all legal services institutions in the country.





APPENDIX

Identity Card of Para Legal Volunteers



..... STATE LEGAL SERVICES AUTHORITY
Para-Legal volunteer registration number — ()
Name:
Father I Husband Name:
Village I Town:



Signature of
Para Legal Volunteer

Signature of Secretary,
D.L.S.A.

Dress of Para Legal Volunteers



Database of Para Legal Volunteers

No. of Para Legal Volunteers trained till date					No. of Legal Aid Clinics established					No. of Para Legal Volunteers whose services are being utilized in the Legal Aid Clinics and front offices
Women	Teachers	Long Term Prisoners	Others	Total	At Law school/colleges	At Village/Panchayat level	At Jails	At Observation home etc	Total	

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:

Syllabus of Orientation & Induction Training Programme (5 Days) for PLVs in Jharkhand

Day One : Orientation Course

Date	Time	Resource Person(s).	Topic(s) to be covered.
17.06.2015 (Orientation Course)	08:30 to 09:00 AM 09:00 to 09:30 AM		Arrival of PLVs Registration Process for PLVs.
	09:30 to 10:30 AM	<ul style="list-style-type: none"> Mr. A.V. Singh, Pr. Judicial Commissioner, Ranchi 	Introduction and Ice Breaking Session & Purpose & Role of PLVs.
10:30 to 11:00 AM Tea Break			
17.06.2015 (Orientation Course) continued..	11:00 AM to 01:00 PM	<ul style="list-style-type: none"> Mr. Mohan Choubey Mr. Santosh Kumar, Dy. Secretary, JHALSA, Ranchi Mr. Rajni Kant Pathak, Secretary, DLSA, Ranchi 	<ul style="list-style-type: none"> Basic Structure of Constitution-Preamble etc. Obligations of the State under the Constitution to the marginalized classes of society (Directive Principles of State Policy) Fundamental Rights (including Articles 14, 15, 16, 19, 21 and 22) Duties of a responsible citizen to the community (Fundamental Duties). Article 39 A and Legal Services Authorities Act, 1987 and NALSA Regulations. Do's and Don'ts for PLVs. Dress Code and standards of behavior. Materials. Ethics.

Day Two : Induction Course

18.06.2015 (Induction Course)	08:30 to 09:30 AM	<ul style="list-style-type: none"> Mr. M.S. Pathak, National President, Intl. Manav-adhikaar Sangathan Mr. Vinod Kr. Sahu, Advocate 	<ul style="list-style-type: none"> Basic listening communication, observation skills and Drafting skills.
	09:30 to 10:30 AM		<ul style="list-style-type: none"> Visit of DLSA office and Civil Courts
10:30 to 11:00 AM Tea Break			
18.06.2015 (Induction Course) continued..	11:00 to 01:00 PM	<ul style="list-style-type: none"> Mr. A.V. Singh, Pr. Judicial Commissioner, Ranchi Mr. Navneet Kumar, Member Secretary, JHALSA, Ranchi. Mr. Rakesh Kr. Jha, Advocate 	<ul style="list-style-type: none"> Family Laws (Marriage Laws, Adoption, Maintenance, Custody and Guardianship, Judicial separation & Divorce)

Day Three : Induction Course

19.06.2015 (Induction Course)	08:30 to 09:45 AM	<ul style="list-style-type: none"> Mr. L.K. Giri, Mediator. 	<ul style="list-style-type: none"> Property Laws (Inheritance, Transfers of immovable property, Registration, Revenue Laws)
	09:30 to 10:30 AM	<ul style="list-style-type: none"> Mr. Prof. Namai Das Guru, Central Law University 	<ul style="list-style-type: none"> Criminal Laws (IPC & Cr.P.C. {minimum required knowledge, especially, bail, arrest etc. S.357 A, Cr.P.C., Rights of Prisoners under Jail Manual and Prisoner's Act etc.}).
10:30 to 11:00 AM Tea Break			
19.06.2015 (Induction Course) continued..	11:00 to 11:45 AM	<ul style="list-style-type: none"> Mr. Shambhu Pd. Agrawal, President, RDBA 	<ul style="list-style-type: none"> Criminal Laws continued... (IPC & Cr.P.C. {minimum required knowledge, especially, bail, arrest etc. S.357 A, Cr.P.C., Rights of Prisoners under Jail Manual and Prisoner's Act etc.}).
	11:45 to 01:00 PM	<ul style="list-style-type: none"> Mr. Rajesh Prasad, Asst. Labour Commissioner, Ranchi Ms. Jahan Ara, IEC 	<ul style="list-style-type: none"> Labour Laws (Minimum Wages act 1948, Workmen's Compensation Act, 1923, Unorganized Workers Welfare and Social Security Act 2008 The Inter-State Migrant Workmen (Regulation of employment and conditions of Service) Act, 1979, The Industrial Disputes Act, 1947 (Briefly), legal assistance under the NALSA Scheme (Legal Services to the Workers in the Unorganized Sector) Scheme, 2010.
	01:30 to 03:00 PM	<ul style="list-style-type: none"> Mr. U.S. Chaurasiya, Advocate 	<ul style="list-style-type: none"> Visit of B.M.C. Jail, Hotwar.

Day Four : Induction Course

20.06.2015 (Induction Course)	08:30 to 09:45 AM	<ul style="list-style-type: none"> Ms. Mamta Srivastava, Mediator Mr. Pradeep Sarkar, Advocate 	<ul style="list-style-type: none"> Law relating to Children Juvenile Justice (Care and Protection of Children) Act, 2000, The Child Labour (Prohibition and Regulation) Act of 1986, Missing Children, The Factories Act 1948, Prohibition of Child Marriage Act, 2006.
	09:45 to 10:30 AM	<ul style="list-style-type: none"> Ms. Neelam Shekhar, Mediator Ms. Ansu Ekka, District Resource Person, Mahila Samakhya Society 	<ul style="list-style-type: none"> Gender Centric Laws/Women Laws - Equal Remuneration Act 1976, Maternity Benefit Act, 1961, Protection of Women from 'Domestic Violence Act, 2005, Medical Termination of Pregnancy Act 1971, Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Sexual Harassment at workplace, Important provisions of IPC-Sections 509, 354, 376, 304B, 366, 498A, 494, Dowry Prohibition Act, 1961.
10:30 to 11:00 AM Tea Break			
20.06.2015 (Induction Course) continued..	11:45 to 01:00 PM	<ul style="list-style-type: none"> Ms. Manisha Rani, Mediator 	<ul style="list-style-type: none"> Gender Centric Laws/Women Laws continued..
	11:45 AM to 01:00 PM	<ul style="list-style-type: none"> Mr. B.N. Sharma, Public Prosecutor Kumari Sheela, Mediator 	<ul style="list-style-type: none"> SC & ST (Prevention of Atrocities) Act, 1989 and The Protection of Civil Rights Act, 1955.
	01:30 to 03:00 PM	<ul style="list-style-type: none"> Mrs. Babita Bharti Mrs. Jahan Ara, President CWC 	<ul style="list-style-type: none"> Visit of Juvenile Justice Board/Observation Home, Dumardaga.

Day Five : Induction Course

21.06.2015 (Induction Course)	08:30 to 09:45 AM	<ul style="list-style-type: none"> • Mr. Yogeshwar Mani, AJC XII, Ranchi 	<ul style="list-style-type: none"> • Government orders and schemes promoting social welfare, including MNREGA, Social Security Schemes (pensions, antodaya, Insurance etc), obtaining various certificates (such as caste, disability, birth, Income etc), obtaining ration card, Aadhar card, National Population Register, Voter ID-card, etc, obtaining Passport.
	09:45 to 10:30 AM	<ul style="list-style-type: none"> • Mr. A.V. Singh, Pr. Judicial Commissioner, Ranchi • Mr. R.K. Pathak, Secretary, DLSA, Ranchi 	<ul style="list-style-type: none"> • Government orders and schemes continued..
10:30 to 11:00 AM Tea Break			
21.06.2015 (Induction Course) continued..	11:00 to 01:00 PM		<ul style="list-style-type: none"> • Valedictory Session

Scheme for Para Legal Volunteers (Revised)

INTRODUCTION

During the year 2009 National Legal Services Authority (NALSA) brought out a scheme called the Para-Legal Volunteers Scheme which aimed at imparting legal training to volunteers selected from different walks of life so as to ensure legal aid reaching all sections of people through the process of Para-Legal Volunteers Scheme; ultimately removing the barriers into access to justice. The Para-Legal Volunteers (PLVs) are expected to act as intermediaries bridging the gap between the common people and the Legal Services Institutions to remove impediments in access to justice. Ultimately, the process aims at Legal Services Institutions reaching out to the people at their doorsteps rather than people approaching such Legal Services Institutions.

The western concept of 'Paralegals' cannot be totally adopted to Indian conditions having regard to illiteracy of large sections of the community: The hours of training as applicable to a regular academic course, cannot be adopted. It should be more like a bridge course conceptualised in a simple and need-based module. The PLVs have to be trained in the basics of different Laws which would be applicable at the grassroot level with reference to their day-to-day life, the subtle nuances employed in the working of a judicial system, and the functioning of various other stakeholders like the Police, officials from Social Welfare Department, Woman and Child Welfare Department and other departments dealing with different beneficial schemes of Central and State Governments including the protection officers involved with Domestic Violence and Juvenile Justice Acts.

With the basic knowledge in the laws and other available welfare measures and legislation, they would be able to assist their immediate neighbourhood; Those who are in need of such assistance, so that a person, who is not aware of such right is not only made to understand his rights, but also will be able to have access to measures involving implementation of such rights.

PLVs are not only expected to impart awareness on laws and the legal system, but they must also be trained to counsel and amicably settle simple disputes between the parties at the source itself; which could save the trouble of the affected travelling all the way to the Legal Services Authority/ADR Centres. If the dispute is of such a nature, which cannot be resolved at the source with the assistance of PLVs, they could bring such parties to the ADR Centres, where, with the assistance of the Secretary in charge either it could be referred to LokAdalat or Mediation Centre or Legal assistance could be provided for adjudication in a court of law; depending upon the nature of problem.

Though initially the NALSA Scheme of training of the PLVs included the legal fraternity of Advocates, Advocate community, later on experience revealed, the same to be unfeasible on account of conflict with the professional status of Advocates. The reality that marginalised people living in distant places will not have the benefit of lawyer PLVs also contributed to the practice being discontinued, and NALSA deciding that Advocates shall not be enlisted or engaged as PLVs.

The past experience gained from the working of the system after 2009 and also ground realities ascertained from the paralegals in the respective jurisdiction showed us that there

has to be a re-look into the entire matter and who best could fit the role of a Para-Legal Volunteer. Initially, the training programme of PLVs was only for two-three days. Since the obligations of PLVs were vast in nature, it was felt, there has to be longer duration of training provided to the PLVs. At the same time, the training curriculum for PLVs adopted by NALSA cannot be such as to be training PLVs to become full-fledged lawyers. PLVs are not expected to conduct themselves as legal professionals. The aim of the training should concentrate on basic human qualities like compassion, empathy and a genuine concern and willingness to extend voluntary service without expectation of monetary gain from it. Then the line separating PLVs from professional lawyers should be zealously guarded.

MODALITIES

- Ideally every Taluk Legal Services Committee (TLSC) shall have a panel of PLVs; of a maximum number of 25 (50) on their roll at any given point of time. The District Legal Services Authority (DLSA) shall have 50 (100) active PLVs on their roll.
- PLVs shall be literate, preferably matriculate, with a capacity for overall comprehension.
- Preferably PLVs shall be selected from persons, who do not look up to the income they derive from their services as PLVs, but they should have a mind-set to assist the needy in the society coupled with the compassion, empathy and concern for the upliftment of marginalised and weaker sections of the society. They must have unflinching commitment towards the cause which should be translated into the work they undertake.

GROUPS from whom Para-Legal Volunteers can be selected

- Teachers (including retired teachers)
- Retired Government servants and senior citizens.
- M.S.W students and teachers.
- Anganwadi Workers.
- Doctors/Physicians.
- Students & Law Students (till they enroll as lawyers).
- Members of non-political, service oriented NGOs and Clubs.
- Members of Women Neighbourhood Groups, MaithriSanghams and other Self Help Groups including of marginalized/vulnerable groups.
- Educated prisoners with good behaviour, serving long term sentences in prisons.
- Any other person whom the District Legal Services Authority or Taluk Legal Services Committee deems fit to be identified as PLVs.

Selection of PLVs - District Level

Selecting the PLVs shall be by a Committee chaired by the Chairman of the District Legal Services Authority. The Secretary shall be one of the Members of the Committee. The Committee shall consist in all of three members including the Chairman and the Secretary shall be one of the Members of the Committee. The third member, to be appointed at the discretion of the Chairman of the DLSA, shall be one capable of identifying suitable persons, who could be trained as PLVs. This selection process shall not be entrusted to any other body.

Selection of PLVs - Taluk Level

The Chairman of the District Legal Services Authority shall constitute a Committee consisting of the Chairman of DLSA, Member Secretary of DLSA and the Chairman of TLSC

and a fourth person at the discretion of the Chairman of DLSA. The place of interview for Taluk Level PLVs shall be at the discretion of the Chairman of DLSA. The Member Secretary of DLSA shall co-ordinate with the selection process.

Empanelment process

Applications may be invited from the local residents by the respective DLSAs and TLSCs or Sub Divisional Legal Services Committee. There could be an advertisement, if required. Copies of either the advertisement or notice calling for applications could be sent to the offices of the Bar Association, Notice Board of the Court premises, Legal Services Authority Offices and District Panchayat Offices. The advertisement shall state the qualifications required for selection as PLVs as stated above with last date for the receipt of applications at the office of DLSA. There shall be a column in the application, wherein the candidate has to express willingness or place of preference to work at either district-level or taluk-level or village-level. In the advertisement there shall be clear mentioning that the work of PLVs does not carry any salary, remuneration or wages except honorarium fixed by the DLSA from time to time.

Method of Selection

The Selection Committee is entitled to use its discretion and shortlist the number of candidates for interview depending upon the number of applications received. Preference shall be given to women while selecting PLVs. Representation from suitable applicants belonging to SC/ST, minority and other backward classes must be ensured.

Training of PLVs

Under the supervision of Chairman of DLSA, PLVs shall undergo training programme, totally under the control of the Member Secretary. The training shall be held at a convenient place subject to discretion of the Chairman of DLSA. The number of PLVs to be trained at any given point of time in a training programme shall not exceed 50. Wherever the State Judicial Academy has facilities for training, the same may be availed of. The expenses for the training shall be incurred by the Judicial Academy for providing such facility to be reimbursed by the State Government/DLSA concerned.

Trainers/Resource Persons

- In consultation with the State Legal Services Authority, the Chairman of DLSA shall identify the trainers for training the PLVs and other resource persons.
- Suitable persons from the members of the Bar with training skills shall be included in the list of resource persons.
- Others could include:
 - NGOs associated with the activities of Legal Services Authority, i.e., persons, who are exposed to the nature of work of the Legal Services Authority.
 - Master Trainers of mediation.
 - Law Teachers from Law Colleges.
 - Post-Graduate students of Law.
 - Retired Professors of Law.
 - Retired Judicial Officers.
 - Revenue Officers.
 - Officers from Social Welfare Department.

- Public Prosecutors.
- Police Officers.
- Psychiatrists/Psychologists/Mental Health experts.

Nature of Training

Training that is to be provided to the PLVs would be in accordance with the curriculum prescribed by the NALSA and will be in the following formant:

- (a) Orientation Programme.
- (b) Basic training.
- (c) Refresher course.

There shall be periodical refresher training in order to assess the quality of work turned out by the PLVs. The Legal Services Authorities need to assess the work of PLVs and assist them to identify the deficits and how to tackle the problems faced by the PLVs after their experience in the field. There shall be annual congregation of PLVs so as to facilitate an exchange of experience. There shall be district-wise half-yearly meetings of PLVs to resolve their doubts and facilitate the acquisition of knowledge and upgradation of their skills as per the module.

PLVs shall create awareness among citizens of the benefits of settlement of pending cases through Lok Adalats including the fact that the parties are entitled to refund of court fee and that there shall be no appeal.

Topics for Training

A uniform training module for PLVs shall be prepared by NALSA which shall be applicable to the entire country and the module shall have a special emphasis on the conduct and behaviour of PLVs. The module so prepared shall be translated into regional languages.

Identity Cards

After completion of the training by the District Legal Services Authority, the PLVs may be subjected to a written and oral test before the PLVs are declared to have successfully completed the training. On being declared successful, they may be given identity cards bearing the emblem of the District Legal Services Authority. The identity card shall have (i) serial number; (ii) name and address of the PLV; (iii) contact number of the PLV; (iv) photograph of the PLV; (v) the date of issue and the period of validity of the identity card. It shall be clearly printed on the reverse side of the identity card that the loss of the identity card should be reported to the nearest Police Station as also its recovery.

The identity card shall not be used for availing of travelling concession either in bus or in any mode of transport.

It shall not be used for availing of any governmental benefits or loan by the holder of the card.

The identity card shall not be used for availing of any other facilities, except for the purpose of identification of the person as PLV.

Validity of Identity Cards

The validity of the identity card shall be for a period of one year. A new card shall be issued to the PLV, if the Chairman, District Legal Services Authority finds him/her eligible to continue as PLVs for more than one year.

Mentors for PLVs

DLSA and TLSC shall maintain a panel of Mentors/Guides whom the PLVs could contact in case of any clarification or assistance in connection with the discharge of their duties as PLVs. There shall not be more than ten PLVs for one Mentor.

Monthly Reports

A monthly report of the existing PLVs, PLVs newly recruited and the training given to the PLVs shall be submitted by the DLSA to the SLSA. The SLSA shall submit a consolidated report of the details of the number of PLVs trained, the resource persons engaged, expenses incurred and the refresher courses, if any, organised, pertaining to each month, to the National Legal Services Authority before 15th day of every month.

NALSA shall cause the copies of such reports sent to the National Committee for Para-Legal Training and Legal Aid Activities set-up by the Chief Justice of India.

The SLSAs shall submit to the NALSA a consolidated District-wise report on the activities of the PLVs, specifically the number of persons attended and the nature of advice given and action taken.

Duties of Trained Para-Legal Volunteers

Para-Legal Volunteer shall educate people, especially those belonging to weaker sections of the society, to enable them to be aware of their right to live with human dignity, to enjoy all the constitutionally and statutorily guaranteed rights as also the duties and discharge of obligations as per law.

Para-Legal Volunteers shall make people aware of the nature of their disputes/issues/problems and inform them that they can approach the TLSC/DLSA/HCLSC/SLSA/SCLSC so as to resolve the dispute/issue/problems through these institutions.

Para-Legal Volunteers shall constantly keep a watch on transgressions of law or acts of injustice in their area of operation and bring them immediately to the notice of the TLSC through telephonic message or a written communication or in person to enable effective remedial action by the Committee.

When the PLV receives information about the arrest of a person in the locality, the PLV shall visit the Police Station and ensure that the arrested person gets legal assistance, if necessary, through the nearest legal services institutions.

The PLVs shall also ensure that the victims of crime also get proper care and attention. Efforts shall be made by the PLVs to secure compensation for the victims of crime under the provisions of Section 357-A Cr.P.C.

PLVs shall, with proper authorization from the DLSA/TLSC visit jails, lock-ups, psychiatric hospitals, children's homes/observation homes and shall ascertain the legal service needs of the inmates and intimate the authorities concerned about any absence noticed of basic essential necessities with special emphasis on hygiene.

PLVs shall report violations of child rights, child labour, missing children and trafficking of girl children to the nearest legal services institutions or to the child welfare committee.

Para-Legal Volunteers shall assist the DLSA/TLSC for organizing legal awareness camps in their area of operation.

Para-Legal Volunteers shall give information to the people of their locality about the legal services activities of SLSA/DLSA/TLSC/HCLSC/SCLSC and shall provide their addresses to the people so as to enable them to utilize the free services rendered by the above organizations to the eligible persons.

Para-Legal Volunteers shall generate awareness amongst people about the benefits of settlement of disputes including pre-litigation stage through Lok Adalats, Conciliation, Mediation and Arbitration.

Para-Legal Volunteers shall make people aware of the benefits of inexpensive settlement of disputes relating to Public Utility Services like P&T, Telephones, Electricity, Water Supply, Insurance and hospital services through Permanent Lok Adalat (PLA).

Para-Legal Volunteers shall submit monthly reports of their activities to the DLSA/ TLSC under whom they are working in the prescribed format.

A diary to record the daily activities shall be maintained by each PLVs. The diary shall be printed and given to PLVs by the District Legal Services Authority. Such diary shall be verified and endorsed by the Secretary, DLSA or the Chairman, TLSC as the case may be.

Para-Legal Volunteers shall see that publicity material on legal services activities are exhibited at prominent places in their area of activity.

Expenses incurred by Para-Legal Volunteers

Reasonable expenses incurred by Para-Legal Volunteers e.g. Bus/Train fare, Postage, Telephone charges etc., may be reimbursed by the TLSC/DLSA/SLSA, on production of proof. Travel expenses limited to the lowest classes by road/rail/steamer to the legal aid beneficiaries brought by the Para-Legal Volunteers also may be reimbursed at the discretion of the Chairman.

The rate of daily honorarium payable to PLVs on the days of their engagement as such in metro-cities may be as determined by the SLSA.

The PLVs are not entitled to any travel expenses when they use the transport provided by SLSA/DLSA/TLSC.

Para-Legal Volunteers to work in the 'Front Offices' of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute one or more PLVs to operate the 'front offices' of the legal services institutions.

Para-Legal Volunteers to work in the 'Legal Aid Clinics' of the DLSA/TLSCs.

The Secretary, DLSA or TLSC may depute PLVs in the Legal Aid Clinics set up under the National Legal Services Authority (Legal Aid Clinics) Regulations, 2011. The PLVs engaged in the Legal Aid Clinics shall function in such clinics in accordance with the provisions of the aforesaid regulations.

Honorarium for the PLVs rendering services in the Legal Aid Clinics and Front Offices.

The State Legal Services Authority in consultation with the National Legal Services Authority may fix an honorarium for the PLVs engaged in the legal aid clinics.

However, such honorarium for those who have rendered services on any day shall not be less than Rs.250/- per day.

The PLVs who bring legal aid applicants from the distant villages to the legal services institutions at the Taluk/District level and to the District ADR Centers shall also be eligible to receive honorarium for such day at the same rate.

PLVs shall also be eligible for honorarium if on any particular day they assist persons in connection with the PLV work by accompanying such persons to various offices including Courts, however, subject to proof.

Para-Legal Volunteers to assist in the legal literacy classes and camps.

The PLVs in consultation with the nearest legal services institutions shall organise micro-legal literacy camps in the area of their operation by organising legal literacy classes for small groups of persons including labourers, women, children members of SC/ST etc. It shall be the duty of the PLVs to distribute information booklets and other publications of the Legal Services Authorities during the legal literacy classes.

Resolving local disputes through ADR mechanism.

The PLVs shall take efforts to bring the parties of the locality involved in disputes, to settlement, by using the machinery of Lok Adalat, Mediation or Conciliation at the District ADR Centers. If no District ADR Center has been set up in the District, the legal services institutions shall take steps for organising a suitable ADR mechanism like Lok Adalat, mediation, conciliation etc. in the village itself in coordination with the PLVs. The PLVs who bring such cases to the ADR process shall be entitled to receive the prescribed honorarium on the day when such proceedings are held.

Para-Legal Volunteers in Jails.

A few educated well-behaved prisoners serving long term sentences in the Central Prison and District Prisons may be identified for being trained as Para Legal Volunteers. Their services shall be available to the other prisoners in the jail including the under trial prisoners. The training of such PLVs may be conducted along with the other PLVs.

Payment.

They will be entitled to be paid as PLVs for the services rendered at the prescribed rate of honorarium payable to other PLVs.

Disqualifications of Para-Legal Volunteers and their removal.

- The PLVs shall be disqualified and removed from the panel if he/she:
- Fails to evince interest in the Scheme.
- Has been adjudged insolvent.
- Has been accused of an offence.
- Has become physically or mentally incapable of acting as PLVs.
- Has so abused his/her position or misconducted in any manner as to render his/her continuance prejudicial to the public interest.
- If she/he is an active political enthusiast of a political party. Any such Para-Legal Volunteer may be removed by the Chairman, District Legal Services Authority after suitable enquiry and intimation of the same should be sent to the State Legal Services Authority.

National level meetings of Para-Legal Volunteers.

The State Legal Services Authority may select suitable PLVs for attending the National Level programmes relating to PLVs to be organised by the National Legal Services Authority as the case may be. The State Legal Services Authority may recommend the names of PLVs who have given outstanding service for considering such PLVs for National awards to be instituted by the National Legal Services Authority.

The District Legal Services Authority to maintain a database of all Para-Legal Volunteers in the District.

The District Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the details of the

para-legal volunteers of District Authority and Taluk/Mandal/Sub-divisional Committees, their names, addresses, telephone/cell phone number, e-mail ID (if any), number and date of expiry of the identity card issued.

The State Legal Services Authority to maintain a database of all Para-Legal Volunteers in the State.

The State Legal Services Authority shall maintain a directory of Para-Legal Volunteers and the same shall be updated periodically. The directory shall contain the district wise details of the names of para-legal volunteers, their addresses, telephone/cell phone numbers, e-mail ID (if any), number and date of expiry of the identity card issued.

The Legal Services Authorities to work in co-ordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India.

The State, District and Taluk level legal services institutions shall work in coordination with the National Committee for Para-Legal Training and Legal Aid Activities set up by the Chief Justice of India. The directions, if any, given by the Hon'ble Chairman of the National Committee for Para-Legal Training and Legal Aid Activities shall be binding on all legal services institutions in the country.

MODULE FOR THE ORIENTATION - INDUCTION - REFRESHER COURSES FOR PLV TRAINING

I. ORIENTATION COURSE

Immediately upon initial empanelment the PLVs shall be given a day's orientation course.

Course objectives:

The objective of the Orientation Programme is to provide an overview of the role of the PLVs and lay down the Code of Ethics that they will be required to be adhered to.

- The Orientation Programme should include inter alia the following:
- Introductions and Ice-Breaking Session
- Purpose & Role of PLVs.
- Basic Structure of the Constitution - Preamble etc.
- Obligations of the State under the Constitution to the marginalised classes of society (Directive Principles of State Policy)
- Fundamental Rights (including Articles 14, 15, 16, 19, 21, 22)
- Duties of a responsible citizen to the community (Fundamental Duties).
- Article 39 A and Legal Services Authorities Act, 1987 and NALSA Regulations.
- Do's and Don'ts for PLVs.
- Dress Code and Standards of behaviour.
- Materials
- Ethics.

II. INDUCTION COURSE

The induction training will be for a period of four days and should cover the following topics:

- Basic listening, communication, observation skills and Drafting skills.
- Family Laws (Marriage Laws, Adoption, Maintenance, Custody and Guardianship, Judicial separation & Divorce).
- Property Laws (Inheritance, Transfers of immovable property, Registration, Revenue Laws).
- Criminal Laws (IPC & Cr.P.C {minimum required knowledge, especially, bail, arrest etc. S.357 Cr.P.C., Rights of Prisoners under Jail Manual and Prisoner's Act etc}).
- Labour Laws (Minimum Wages Act 1948, Workmen's Compensation Act 1923, Unorganised Workers Welfare and Social Security Act 2008, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Industrial Disputes Act, 1947 (Briefly), legal assistance under the NALSA Scheme (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010.
- Gender Centric Laws/Women Laws - Equal Remuneration Act 1976, Maternity Benefit Act 1961, Protection of Women from Domestic Violence Act 2005, Medical Termination of Pregnancy Act 1971, Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Sexual Harassment at Workplace, Important provisions of IPC - Sections 509, 354, 376, 304B, 366, 498A, 494, Dowry Prohibition Act, 1961.
- Laws relating to children - Juvenile Justice (Care and Protection of Children) Act, 2000, The Child Labour (Prohibition and Regulation) Act of 1986, Missing Children, The Factories Act 1948, Prohibition of Child Marriage Act, 2006.
- SC & ST (Prevention of Atrocities) Act, 1989 and The Protection of Civil Rights Act, 1955.
- Government orders and schemes promoting social welfare, including MNREGA, Social Security Schemes (pensions, antodaya, insurance etc), obtaining various certificates (such as caste, disability, birth, income etc), obtaining ration card, Aadhar card, National Population Register, Voter ID-card, etc, obtaining Passport.
- Visits to Govt. Offices, Courts, Police Stations, Prisons, Revenue Offices, DLSAs, TLSCs etc. Interaction with Protection Officers, CWCs/JJBs, appropriate authority under PCPNDT Act, 1994 etc.

III. ADVANCE TRAINING

After the PLVs have had field experience for three months it is important that an advanced training programme is conducted lasting for three days. The occasion should be utilized by the Chairpersons of the DLSAs to discuss the work done by the PLVs, the shortcomings generally noticed and their continuance. The Mentors should also participate in this programme for guiding the PLVs to resolve the problems faced by the PLVs in the discharge of their duties and public interaction. The Chairpersons of the DLSAs should also obtain feedback from the PLVs in order to remove administrative bottlenecks. During this training programme the PLVs should be introduced to special laws which could include:

- Right to Information Act, 2005
- Motor Vehicles Act, 1988
- Mental Health Act, 1987 and legal assistance under the NALSA scheme Legal Services to the mentally ill Persons and Persons with Mental Disabilities) Scheme, 2010.
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

- Right to Education Act, 2009
- Alternate Dispute Resolution (S 89 C.P.C.)
- Basic skills in mediation and counselling
- LokAdalat, including pre-litigation and its benefits.
- Plea-bargaining
- Rights of marginalised groups such as those living with HIV/AIDS, Disabled, trans genders etc.
- The Immoral Traffic (Prevention) Act, 1956 and issues relating to sex workers.
- Disaster Management and Legal assistance to victims of disaster under the NALSA Scheme - Legal Services to Disaster Victims through Legal Services Authorities.
- Environmental issues
- The Protection of Children from Sexual Offences Act, 2012.

Ideally, the SLSAs should by itself or through the DLSAs organize workshops at regular intervals on special topics which could be for a day or two. These should be need based, that is to say, if on a review of the working of the PLVs, the SLSAs/DLSAs feel that certain subjects need to be revisited and discussed again or that in a given area certain issues exist which need to be addressed or tackled and which have not been dealt with by the prescribed course content, such topics and issues should be discussed in the one day/two days workshops.

Inter-District workshops should be organised by the SLSAs for a day to encourage experience sharing and introduction of better practices. Good work done could be recognised and appreciated and commendation certificates given on the occasion.



**LANDMARK JUDGMENTS
IN WHICH PARA LEGAL VOLUNTEERS HAVE
BEEN ASSIGNED ONE OR OTHER KIND OF DUTY**

Voluntary Health Association of Punjab Versus Union of India and Others

Supreme Court of India

Voluntary Health Ass. Of Punjab vs Union Of India & Ors

Decided on 8 November, 2016

Bench: **Hon'ble Mr. Justice Dipak Misra, Hon'ble Mr. Justice Shiva Kirti Singh**

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (CIVIL) NO. 349 OF 2006

WITH

WRIT PETITION (CIVIL) NO. 575 OF 2014

JUDGMENT

Hon'ble Mr. Justice Dipak Misra, J.

The two writ petitions being inter-connected in certain aspects were heard together and are disposed of by the singular order. We shall first deal with the grievance agitated in Writ Petition (Civil) No. 349 of 2006 and thereafter advert to what has been asserted in the other writ petition. Be it stated immediately that the issues raised in Writ Petition (Civil) No. 349 of 2006 are not agitated for the first time, for they had been raised on earlier occasions and dealt with serious concern and solemn sincerity. It is because they relate to the very core of existence of a civilized society, pertain to the progress of the human race, and expose the maladroit efforts to throttle the right of a life to feel the mother earth and smell its fragrance. And, if we allow ourselves to say, the issues have been highlighted with sincere rhetorics and balanced hyperboles and ring the alarm of destruction of humanity in the long run. It is not a group prophecy, but a significant collective predication. The involvement of all is obvious, and it has to be. The heart of the issue that is zealously projected by the petitioner is the increase of female foeticide, resultant imbalance of sex ratio and the indifference in the implementation of the stringent law that is in force. In essence, the fulcrum of the anguished grievance lays stress on the non-implementation of the provisions of The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (for brevity the Act) and The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (for short the Rules) framed under the Act by the competent authorities who are obliged to do so.

2. The grievance has a narrative, and it needs to be stated.
3. Realising the rise of pre-natal diagnostic centres in urban areas of the country using pre-natal diagnostic techniques for determination of sex of the foetus and that the said centres had become very popular and had tremendous growth, as the female child is not welcomed with open arms in many Indian families and the consequence that such centres became centres for female foeticide which affected the dignity and status of women, the Parliament brought in the legislation to regulate the use of such

techniques and to provide punishment for such inhuman act. The objects and reasons of the Act stated unequivocally that it was meant to prohibit the misuse of pre-natal diagnostic techniques for determination of sex of the foetus, leading to female foeticide; to prohibit advertisement of pre-natal diagnostic techniques for detection or determination of sex; to permit and regulate the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders; to permit the use of such techniques only under certain conditions by the registered institutions; and to punish for violation of the provisions of the proposed legislation. The Preamble of the Act provides for the prohibition of sex selection before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental thereto. Be it noted when the Act came into force, it was named as the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and after the amendments in 2001 and 2003, in the present incarnation, it is called The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

4. As the violence and cruelty meted out to women gradually got revealed due to rights and protections prescribed under various legislations, the Court perceived the magnitude of the crime. Such a situation compelled this Court, in *Ajit Savant Majagvai v. State of Karnataka*, while dealing with the physical violence, torture, mental cruelty and murder of the female particularly the wife, to comment on the degeneration of relationship and the prevalent atmosphere by observing that:- 3. Social thinkers, philosophers, dramatists, poets and writers have eulogised the female species of the human race and have always used beautiful epithets to describe her temperament and personality and have not deviated from that path even while speaking of her odd behaviour, at times. Even in sarcasm, they have not crossed the literary limit and have adhered to a particular standard of nobility of language. Even when a member of her own species, Madame De Stael, remarked I am glad that I am not a man; for then I should have to marry a woman, there was wit in it. When Shakespeare wrote, Age cannot wither her; nor custom stale, her infinite variety, there again was wit. Notwithstanding that these writers have cried hoarse for respect for woman, notwithstanding that Schiller said Honour women! They entwine and weave heavenly roses in our earthly life and notwithstanding that the Mahabharata mentioned her as the source of salvation, crime against woman continues to rise and has, today undoubtedly, risen to alarming proportions.
4. It is unfortunate that in an age where people are described as civilised, crime against female is committed even when the child is in the womb as the female foetus is often destroyed to prevent the birth of a female child. If that child comes into existence, she starts her life as a daughter, then becomes a wife and in due course, a mother. She rocks the cradle to rear up her infant, bestows all her love on the child and as the child grows in age, she gives to the child all that she has in her own personality. She shapes the destiny and character of the child. To be cruel to such a creature is unthinkable. [Emphasis added]
5. We may repeat, the aforesaid observation though made totally in a different context but nonetheless, it seemingly stated the marrow of the problem. Needless to emphasise, the predicament with regard to female foeticide by misuse of modern science and technology has aggravated and enormously affected the sex ratio. To eradicate the malady, the Parliament, as stated earlier, had enacted the Act. In the first year of this

century, a petition under Article 32 was moved for issuing directions to implement the provisions of the said Act by (a) appointing appropriate authorities at State and district levels and the Advisory Committees; (b) issuing direction to the Central Government to ensure that the Central Supervisory Board meets every 6 months as provided under the PNDT Act; and for banning of all advertisements of prenatal sex selection including all other sex- determination techniques which can be abused to selectively produce only boys either before or during pregnancy. A two-Judge bench in Center for Enquiry into Health & Allied Themes (CEHAT) and others v. Union of India and others[2] and Center for Enquiry into Health & Allied Themes (CEHAT) and others v. Union of India and others[3] on 04.05.2001 issued certain directions. Apart from the directions contained in the said orders, the Court, while finally disposing of the writ petition, issued the following directions:-

- (a) For effective implementation of the Act, information should be published by way of advertisements as well as on electronic media. This process should be continued till there is awareness in the public that there should not be any discrimination between male and female child.
 - (b) Quarterly reports by the appropriate authority, which are submitted to the Supervisory Board should be consolidated and published annually for information of the public at large.
 - (c) Appropriate authorities shall maintain the records of all the meetings of the Advisory Committees.
 - (d) The National Inspection and Monitoring Committee constituted by the Central Government for conducting periodic inspection shall continue to function till the Act is effectively implemented. The reports of this Committee be placed before the Central Supervisory Board and State Supervisory Boards for any further action.
 - (e) As provided under Rule 17(3), the public would have access to the records maintained by different bodies constituted under the Act.
 - (f) The Central Supervisory Board would ensure that the following States appoint the State Supervisory Boards as per the requirement of Section 16- A: 1. Delhi, 2. Himachal Pradesh, 3. Tamil Nadu, 4. Tripura, and 5. Uttar Pradesh.
 - (g) As per the requirement of Section 17(3)(a), the Central Supervisory Board would ensure that the following States appoint the multi-member appropriate authorities: 1. Jharkhand, 2. Maharashtra, 3. Tripura, 4. Tamil Nadu, and 5. Uttar Pradesh. It will be open to the parties to approach this Court in case of any difficulty in implementing the aforesaid directions.
6. Despite the directions issued by the Court, there had not been proper implementation and that compelled the present petitioner, namely, Voluntary Health Association of Punjab to file the present Writ Petition seeking various directions. The Court on 08.01.2013 took note of the fact that the provisions had not been adequately implemented by the various States and Union Territories and accordingly directed for personal appearance of the Health Secretaries of the States of Punjab, Haryana, NCT of Delhi, Rajasthan, Uttar Pradesh, Bihar and Maharashtra, to examine what steps they had taken for the proper and effective implementation of the provisions of the Act as well as the various directions issued by this Court.
7. At a later stage, a reference was made to 2011 Census of India to highlight there had been a sharp decline in the female sex ratio in many States. It was also observed that

there had been no effective supervision or follow-up action so as to achieve the object and purpose of the Act. It was observed that mushrooming of various sonography centres, genetic clinics, genetic counselling centres, genetic laboratories, ultrasonic clinics, imaging centres in almost all parts of the country called for more vigil and attention by the authorities under the Act. The Court also found that their functioning was not being properly monitored or supervised by the authorities under the Act or to find out whether they are misusing the pre-natal diagnostic techniques for determination of sex of foetus leading to foeticide.

8. A reference was made to various facets of the Act and the Rules and ultimately the Court in *Voluntary Health Association of Punjab v. Union of India and others*[4] issued the following directions:-
 - 9.1. The Central Supervisory Board and the State and Union Territories Supervisory Boards, constituted under Sections 7 and 16-A of PN & PNDT Act, would meet at least once in six months, so as to supervise and oversee how effective is the implementation of the PN & PNDT Act.
 - 9.2. The State Advisory Committees and District Advisory Committees should gather information relating to the breach of the provisions of the PN & PNDT Act and the Rules and take steps to seize records, seal machines and institute legal proceedings, if they notice violation of the provisions of the PN & PNDT Act.
 - 9.3. The committees mentioned above should report the details of the charges framed and the conviction of the persons who have committed the offence, to the State Medical Councils for proper action, including suspension of the registration of the unit and cancellation of licence to practice.
 - 9.4. The authorities should ensure also that all genetic counselling centres, genetic laboratories and genetic clinics, infertility clinics, scan centres, etc. using pre-conception and pre-natal diagnostic techniques and procedures should maintain all records and all forms, required to be maintained under the Act and the Rules and the duplicate copies of the same be sent to the district authorities concerned, in accordance with Rule 9(8) of the Rules.
 - 9.5. States and District Advisory Boards should ensure that all manufacturers and sellers of ultrasonography machines do not sell any machine to any unregistered centre, as provided under Rule 3-A and disclose, on a quarterly basis, to the State/Union Territory concerned and the Central Government, a list of persons to whom the machines have been sold, in accordance with Rule 3-A(2) of the Rules.
 - 9.6. There will be a direction to all genetic counselling centres, genetic laboratories, clinics, etc. to maintain Forms A, E, H and other statutory forms provided under the Rules and if these forms are not properly maintained, appropriate action should be taken by the authorities concerned.
 - 9.7. Steps should also be taken by the State Government and the authorities under the Act for mapping of all registered and unregistered ultrasonography clinics, in three months time.
 - 9.8. Steps should be taken by the State Governments and the Union Territories to educate the people of the necessity of implementing the provisions of the Act by conducting workshops as well as awareness camps at the State and district levels.
 - 9.9. Special cell be constituted by the State Governments and the Union Territories to monitor the progress of various cases pending in the courts under the Act and take steps for their early disposal.

9.10. The authorities concerned should take steps to seize the machines which have been used illegally and contrary to the provisions of the Act and the Rules thereunder and the seized machines can also be confiscated under the provisions of the Code of Criminal Procedure and be sold, in accordance with law.

9.11. The various courts in this country should take steps to dispose of all pending cases under the Act, within a period of six months. Communicate this order to the Registrars of various High Courts, who will take appropriate follow-up action with due intimation to the courts concerned. A further direction was given to file the Status Report within a period of three months. It is apt to note here that in the concurring opinion Dipak Misra, J. only highlighted certain aspects that pertained to direction contained in paragraph 9.8.

9. We may profitably reproduce certain passages from the concurring opinion:-

14. Female foeticide has its roots in the social thinking which is fundamentally based on certain erroneous notions, egocentric traditions, perverted perception of societal norms and obsession with ideas which are totally individualistic sans the collective good. All involved in female foeticide deliberately forget to realise that when the foetus of a girl child is destroyed, a woman of the future is crucified. To put it differently, the present generation invites the sufferings on its own and also sows the seeds of suffering for the future generation, as in the ultimate eventuate, the sex ratio gets affected and leads to manifold social problems. I may hasten to add that no awareness campaign can ever be complete unless there is real focus on the prowess of women and the need for women empowerment.

X X X X X

19. A woman has to be regarded as an equal partner in the life of a man. It has to be borne in mind that she has also the equal role in the society i.e. thinking, participating and leadership.

X X X X X

21. When a female foeticide takes place, every woman who mothers the child must remember that she is killing her own child despite being a mother. That is what abortion would mean in social terms. Abortion of a female child in its conceptual eventuality leads to killing of a woman. Law prohibits it; scriptures forbid it; philosophy condemns it; ethics deprecate it, morality decries it and social science abhors it. Henrik Ibsen emphasised on the individualism of woman. John Milton treated her to be the best of all Gods work. In this context, it will be appropriate to quote a few lines from Democracy in America by Alexis de Tocqueville: If I were asked to what the singular prosperity and growing strength of that people [Americans] ought mainly to be attributed, I should reply: To the superiority of their women.

X X X X X

32. A cosmetic awareness campaign would never subserve the purpose. The authorities of the Government, the non-governmental organisations and other volunteers are required to remember that there has to be awareness camps which are really effective. The people involved with the same must take it up as a service, a crusade. They must understand and accept that it is an art as well as a science and not simple arithmetic. It cannot take the colour of a routine speech. The awareness camps should not be founded on the theory of Euclidian geometry. It must engulf the concept of social vigilance with an analytical mind and radiate into the marrows of the society. If awareness campaigns are not appositely conducted, the needed guidance for the

people would be without meaning and things shall fall apart and everyone would try to take shelter in cynical escapism.

33. It is difficult to precisely state how an awareness camp is to be conducted. It will depend upon what kind and strata of people are being addressed to. The persons involved in such awareness campaign are required to equip themselves with constitutional concepts, culture, philosophy, religion, scriptural commands and injunctions, the mandate of the law as engrafted under the Act and above all the development of modern science. It needs no special emphasis to state that in awareness camps while the deterrent facets of law are required to be accentuated upon, simultaneously the desirability of law to be followed with spiritual obeisance, regard being had to the purpose of the Act, has to be stressed upon. The seemly synchronisation shall bring the required effect. That apart, documentary films can be shown to highlight the need; and instil the idea in the mind of the public at large, for when the mind becomes strong, mountains do melt.

34. The people involved in the awareness campaigns should have boldness and courage. There should not be any iota of confusion or perplexity in their thought or action. They should treat it as a problem and think that a problem has to be understood in a proper manner to afford a solution. They should bear in mind that they are required to change the mindset of the people, the grammar of the society and unacceptable beliefs inherent in the populace.

10. As directed in the judgment, the matter was listed and certain clarifications were sought for by the Union of India with regard to the directions vide direction Nos. 2, 3, 4 and 6 pointing out that the authorities mentioned in direction No. 2 should also include appropriate authority under Section 17 and Section 17A of the Act. With regard to direction No. 6, it was submitted that instead of Forms A, E and H, Forms A, D, F, G & H be substituted. The said prayers were allowed and the States were directed to file their respective status report.
11. On 16.9.2014 the Court took note of the directions already issued and proceeded to deal with I.A. No. 11 of 2013 and recorded the submission of Mr. Sanjay Parikh, learned counsel that the Union of India has to animate itself in an appropriate manner to see that the sex ratio is maintained and does not reduce further. It was also urged by him that the Central Supervision Committee which is required to meet to take stock of the situation and the National Monitoring Committee who is required to monitor the activities, had failed in their duties.
12. Mr. Parikh had also drawn the attention of the Court to the proviso to Section 4(3) of the Act which reads as follows:-
 4. Regulation of pre-natal diagnostic techniques.-- On and from the commencement of this Act,-- (1) (2) (3) Provided that the person conducting ultrasonography on a pregnant woman shall keep complete record thereof in the clinic in such manner, as may be prescribed, and any deficiency or inaccuracy found therein shall amount to contravention of the provisions of section 5 and section 6 unless contrary is proved by the person conducting such ultrasonography.
13. It was propounded by him that the concerned authorities have not acted in accordance with the aforesaid provision in all seriousness as a result of which the nation has faced the disaster of female foeticide. On that day, Mr. Colin Gonsalves, learned senior counsel appearing for the writ petitioner had drawn our attention to the affidavit filed by the petitioner contending, inter alia, that the sex ratio in most of the States had decreased and in certain States, there had been a minor increase, but the same is not

likely to subserve the aims and objects of the Act. After referring to the history of this litigation which has been continuing in this Court since long, he had submitted that certain directions are required to be issued.

14. The Union of India was directed to file an affidavit of the Additional Secretary of Health and/or any other concerned Additional Secretary clearly stating what steps had been taken and on the basis of the steps taken, what results have been achieved. It was also directed that all the States shall file their responses through the concerned Health Secretaries. The direction further contained that the affidavits shall be comprehensive and must reflect sincerity and responsibility.
15. On 25.11.2014 the Court noted that affidavits by certain States had been filed and certain States, namely, Assam, Arunachal Pradesh, Bihar, Goa, Gujarat, Kerala, Madhya Pradesh, Meghalaya, Mizoram, Odisha, Tripura, and UT of Daman and Nagar Haveli and Puducherry had not filed the affidavits. Two weeks time was granted to file the necessary affidavits. At that juncture, it was thought appropriate to advert to the States by dividing them into certain clusters. It was decided to deal with the situation pertaining to the States of Uttar Pradesh, Haryana and NCT of Delhi first. The affidavit filed by the State of Uttar Pradesh was considered and in that context it was observed that the census conducted in 2011 cannot be the guideline for the purposes of PC-PNDT Act. It was felt that a different methodology was required to be adopted by the State. Paragraph 28 of the affidavit, which is of significance, is extracted below:-

28. That it is pertinent to mention herein that according to ANNUAL HEALTH SURVEY (AHS) for the year 2010-11, 2011-12 and 2012-13, improvement has been revealed in the State in respect of Sex Ratio At Birth, Sex Ratio of Child (0 to 04 years age) and Sex Ratio in all age group, which is clear with the table given below:

Year of Annual Health	Sex Ratio (at birth)	Sex Ratio (0 to 4 years of ages)	Sex Ratio (In all Survey)
2010-11	904	913	943
2011-12	908	914	944
2012-13	921	919	946

It is necessary to mention here that on a query being made by the Court, learned counsel for the State was not in a position to explain on what basis the said figures had been arrived at, for the same was not reflectible from the assertions made in the affidavit.

16. As far as the State of Haryana is concerned, the chart given in paragraph 15 of the affidavit indicated district-wise and month-wise sex ratio of births during the year 2014. It is as follows:-

|District wise and month wise Sex Ratio at Birth during year| 2014 in Haryana State as per CRS (Prov) | |Sr. |District |Up to |Up to |Up to|Up to|Up to|Up to| |No | |Jan.14 |Feb.14 |Mar |April|May |June | | | |14 |14 |14 |14 | |1 |Ambala |1012 |993 |959 |939 |913 |910 | |2 |Bhiwani |824 |812 |843 |848 |846 |832 | |3 |Faridabad |929 |892 |889 |884 |890 |890 | |4 |Fatehabad |859 |898 |890 |888 |886 |874 | |5 |Gurgaon |829 |856 |851 |854 |855 |839 | |6 |Hissar |892 |872 |883 |878 |885 |880 | |7 |Jhajjar |797 |793 |793 |801 |800 |811 | |8 |Jind |886 |876 |878 |911 |915 |899 | |9 |Kaithal |953 |921 |920 |928 |927 |918 | |10 |Karnal |911 |899 |888 |881 |889 |894 | |11 |Kurukshetra |956 |904 |900 |892 |890 |888 | |12 |Mewat |920 |942 |932 |923 |920 |919 | |13 |Mohindergarh |777 |776 |797 |786 |782 |770 | |14 |Palwal |867 |871 |871 |871 |876 |875 | |15 |Panchkula |853 |837 |860 |914 |902 |914 | |16 |Panpat |924 |931 |915 |904

|903 |895 | |17 |Rewari |856 |850 |849 |822 |816 |806 | |18 |Rohtak |894 |884 |865 |863 |859 |889 | |19 |Sirsa |897 |872 |879 |885 |892 |886 | |20 |Sonapat |859 |884 |850 |838 |834 |835 | |21 |Yamuna naga |903 |940 |916 |897 |894 |869 | | |Haryana State |889 |884 |881 |878 |878 |874 | Nothing had been filed stating as to how the aforesaid figures had been reached except making a statement that the figures were arrived at on the basis of entry in certain registers.

17. On a perusal of the affidavit by the NCT of Delhi, it was noted that in paragraph 5, it had been stated, thus:-

5. It is submitted that Sex Ratio at Birth in Delhi, which is a reliable indicator of violations under the PC & PNDT Act, has improved by 9 points in 2013 over the previous year. The data available from Civil Registration System indicates that Sex Ratio at Birth was 809 females per 1000 males in the year 2001 and it is currently at 895 in 2013 Annexure R-I.

18. At that stage, the Court felt the need for verification of the documents that formed the basis on which these figures had been reached. It was also clarified that the figures that had been put forth did not show much indication of improvement but it was necessary to verify whether the figures that had been set forth was correct or not. The purpose was to find out whether there was degradation of sex ratio or stagnation or any steps had really been taken by the concerned States to improve/enhance the sex ratio or not; and accordingly it was directed that a meeting be held under the auspices of National Inspection and Monitoring Committee wherein the Additional Secretary who had filed the affidavit for the Union of India and two other Joint Secretaries of the Ministry of Health and Family Welfare shall remain present. The deponents who had filed the affidavits before this Court on behalf of the State of Uttar Pradesh and NCT of Delhi were directed to remain present.

The Director General, Health Services, State of Haryana and the Principal Secretary along with the Special Secretary, State of Uttar Pradesh were also directed to remain present in the meeting and to produce the relevant registers/records before the said Committee on the date fixed. Mr. Gonsalves, learned senior counsel for the petitioner and Mr. Parikh, learned counsel for the impleaded respondent(s) were allowed to be present. The report was required to be filed before this Court by 10.12.2014. It was further directed that apart from the sex-ratio, the aforesaid three States shall also bring records with regard to the prosecutions levied by the State yearwise and the stage of the prosecution.

19. Pursuant to order dated 25.11.2014, the Committee verified the data submitted by three States, namely, Uttar Pradesh, Haryana and Delhi. As far as the State of Uttar Pradesh was concerned, on a perusal of the report, it transpired that the figures that were submitted by the State of Uttar Pradesh had been verified by the Committee and found to be correct. On a perusal of the report along with the documents that had been annexed to, it was noticed that certain cases were pending for trial before the trial Court. Regard being had to the fact that they had been instituted long back, a direction was issued to the effect that the proceedings that were pending before for trial and where there was no stay order of the High Court or this Court, the same shall be taken up in quite promptitude and be disposed of within a period of three months commencing 20th January, 2015. Be it stated certain other directions were issued to be complied with by the State of Uttar Pradesh.

20. At a subsequent stage, the data furnished by the States, i.e., Bihar, Himachal Pradesh, Rajasthan and Tamil Nadu were verified. On 15.4.2015 this Courts attention was drawn

to the sex ratio in Delhi which had been verified by the Monitoring Committee as per the population census. The said sex ratio relates to 2011 which reads as follows:- Sex Ratio as per Population Census The universal sex ratio of Delhi as per population census for all age groups taken together was 821 females per 1000 males in 2001 and it has become 866 females per 1000 males as per provisional data of census 2011. Children sex ratio (0-6) of Delhi went down marginally from 868 (as per census 2001) to 866 (as per census 2011). As can be seen from statement 1.3, at both points of the figures of Delhi were below than All India level. The district-wise scenario for the children of 0-6 years varies in different districts.

Statement 1.3: Sex ratio of Delhi/All India as per population Census Data |Sl. No |Item |Census Year | |A |District wise sex ratio |2001 |2011 | | |(Children of 0-6 years) | | | |South |888 |878 | | |South West |846 |836 | | |North West |857 |863 | | |North |886 |872 | | |Central |903 |902 | | |New Delhi |898 |884 | | |East |865 |870 | | |North East |875 |875 | | |West |859 |867 | | |Delhi | | | | | |Children of 0-6 years |868 |866 | | |All ages |821 |866 | | |All India | | | | | |Children of 0 -6 years |927 |914 | | |All ages |933 |940 | Source: Population census 2011 21. Our attention was also drawn to the document which is 'Monthly monitoring of the sex ratio of institutional birth'. It stated thus:- The data is collected on monthly basis from 50 major hospitals which accounts for 50.87% of total registered births in the year 2013 in Delhi. This helps to review the sex ratio at the highest level in the shortest possible time without waiting for the yearly indicators. The sex ratio of institutional births on the basis of these 50 hospitals was also 895 in the year 2013. Efforts will be made to increase the coverage of health institutions under the monthly monitoring system to make this exercise meaningful and truly representative of the ground reality.

22. Learned counsel appearing for NCT of Delhi, had drawn our attention to the affidavit filed by the Union of India and especially to Annexure 'E'. Annexure 'E' is only report on registration of births and deaths in Delhi in 2013. At page 114, the profile of birth Registration had been mentioned under the caption 'The birth registration in civil registration system'. It is as follows:-

During 2013, a total of 370000 birth events were registered by all the local bodies taken together. Out of them, 1.95 lakhs (52.76%) were male and 1.75 lakhs (47.24%) were female. Statement 3.1: Total Number of Births registered under CRS sex-wise.

Year	Total Births	Male	Female	Sex Ratio
2001	296287	163816 (55.29)	132471 (44.71)	809
2002	300659	164184 (54.61)	136475 (45.39)	831
2003	301165	165173 (54.84)	135992 (45.16)	823
2004	305974	167849 (54.86)	138125 (45.11)	823
2005	324336	178031 (54.89)	146305 (45.11)	822
2006	322750	176242 (54.69)	146508 (45.39)	831
2007	322044	174289 (54.12)	147755 (45.88)	848
2008	333908	166583 (49.89)	167325 (50.11)	1004
2009	354482	185131 (52.22)	169351 (47.78)	915
2010	359463	189122 (52.61)	170341 (47.39)	901
2011	353759	186870 (52.82)	166889 (47.18)	893
2012	360473	191129 (53.02)	169344 (46.98)	886
2013	370000	195226 (52.76)	174774 (47.24)	895

23. The data furnished by the NCT of Delhi was contested on the ground that it was collected from 50 major hospitals. The Court noticed that there had really been no improvement with regard to the sex ratio. The Court took note of the submissions of Mr. Gonsalves, learned senior counsel for the petitioner and Mr. Parikh, learned counsel for the impleaded respondent(s) and observed that under Section 16(2)(f)(ii) and (iii) there should be eminent women activists from non-governmental organisations and eminent gynaecologists and obstetricians or experts of stri-roga or prasuti tantra to be the members and thought it apt to state that there can be eminent women activists from non-governmental organizations, eminent gynaecologists and obstetricians or experts of stri-roga or prasuti tantra and eminent radiologists or sonologists but care has to be taken that they do not have conflict of interest.

24. On 15.09.2015, the Court noted the submission of Ms. Anitha Shenoy, learned counsel appearing for Dr. Sabu Mathew George, the newly impleaded party, that the appropriate authorities are not following the mandate enshrined under Rule 18A of the Rules. Keeping in view the language employed in the said Rule, the Court directed that all the appropriate authorities including the State, districts and sub-districts notified under the Act shall submit quarterly progress report to the Government of India through the State Government and maintain Form H for keeping the information of all registrations readily available. The Court further directed that the States shall file the compliance report pertaining to sub-rule (6) of Rule 18A of the Rules and also directed counsel for the Union of India to apprise the Court about the information received from the various appropriate authorities.

25. On 17.11.2015 when the matter was taken up, the Court adverted to the fact that the State of Odisha, as directed, had provided the Committee relevant documents, especially the documents which are required for eradicating the deficiencies pointed out by the Committee. Be it noted, the Committee had earlier pointed out certain deficiencies. The State had filed the documents in pursuance of the order of the Court and the Committee had filed report pertaining to the State of Odisha. Paragraph 4 of the report reads as follows:-

4. The State of Odisha had cited the data on Sex Ratio at Birth from the Civil Registration of births of State. State Provided the relevant data and C.D. M.O, Odisha. There are 314 rural registration units & 100 urban registration units I 30 districts in Odisha State. All the data is based on the records of civil registration system. The Sex Ratio at Birth (SRB) data for the year 2013 submitted in the affidavit is 886 whereas as per the records submitted by the State data for the same period is 890. The representatives of the State clarified that in the affidavit, the figures were provisional.

26. Mr. Gonsalves, learned senior counsel had also filed a chart containing 'District-wise Sex Ratio at Birth of Odisha State' commencing from the year 2010 to 2014. The said chart is reproduced below:- District wise sex ratio at birth of Odisha State |Sl.No |Name of the |2010 |2011 |2012 |2013 |2014 | | |District | | | | |1 |2 |3 |4 |5 |6 |7 | |1 |Angul |894 |900 |879 |890 |904 | |2 |Balasore |923 |891 |912 |870 |870 | |3 |Argarh |923 |889 |913 |891 |913 | |4 |Bhadrak |923 |891 |876 |883 |875 | |5 |Bolangir |945 |930 |933 |950 |939 | |6 |Boudh |983 |957 |936 |934 |918 | |7 |Cuttack |860 |874 |860 |854 |843 | |8 |Deogarh |896 |954 |958 |954 |938 | |9 |Dhenkanal |856 |833 |850 |845 |849 | |10 |Gajapati |875 |930 |927 |890 |892 | |11 |Ganjam |902 |880 |867 |813 |794 | |12 |Jagatsinghpur |912 |905 |842 |777 |852 | |13 |Jajpur |863 |876 |828 |824 |823 | |14 |Jharsuguda |859 |902 |882 |908 |878 | |15 |Kalahandi |888 |935 |968 |989 |942 | |16 |Kandhamal |912 |943 |950 |962 |940 | |17 |Kendrapara |881 |836 |828 |734 |705 | |18 |Keonjhar |934 |923 |950 |965 |930 | |19 |Khurda |892 |876 |884 |885 |842 | |20

|Koraput |935 |943 |960 |945 |942 | |21 |Malkangiri |948 |947 |993 |942 |935 | |22 |Mayurbhanj |955 |934 |936 |931 |933 | |23 |Nawarangpur |962 |932 |936 |979 |965 | |24 |Nayagarh |874 |859 |774 |844 |811 | |25 |Nuapada |945 |956 |955 |909 |1055 | |26 |Puri |933 |888 |874 |873 |854 | |27 |Rayagada |955 |954 |939 |931 |945 | |28 |Sambalpur |906 |918 |908 |891 |903 | |29 |Subarnapur |940 |934 |946 | |39 |965 | |30 |Sundargarh |911 |892 |865 |897 |906 | | |Odisha |911 |902 |896 |886 |889 | Learned counsel submitted that when the sex ratio reduces below 900, there is a signal of a social disaster. He had pointed out that there were many districts where it had fallen below 900 and drawn the attention of the Court to two districts, namely, Kendrapara and Ganjam to highlight that the sex ratio had gone down to 705 and 794 in 2014. Be it stated, the two districts were only referred to highlight how the sex ratio had fallen in the year 2014 than what it was in 2010.

27. We have adumbrated the history of the litigation, the directions issued by this Court from time to time and adverted to how this Court has appreciated the impact of sex ratio on a civilized society having regard to the legislative intent under the Act, the suggestions given by the learned counsel for the petitioner, the verification done by the Monitoring Committee, and the crisis the country is likely to face if the obtaining situation is allowed to prevail. As is manifest, this Court had issued directions from 2001 onwards in different writ petitions and in the instant writ petition, as noticed earlier, number of directions were issued and, thereafter, certain clarifications were made. The narration shows the concern.
28. It needs no special emphasis that a female child is entitled to enjoy equal right that a male child is allowed to have. The constitutional identity of a female child cannot be mortgaged to any kind of social or other concept that has developed or is thought of. It does not allow any room for any kind of compromise. It only permits affirmative steps that are constitutionally postulated. Be it clearly stated that when rights are conferred by the Constitution, it has to be understood that such rights are recognised regard being had to their naturalness and universalism. No one, let it be repeated, no one, endows any right to a female child or, for that matter, to a woman. The question of any kind of condescension or patronization does not arise.
29. When a female foetus is destroyed through artificial means which is legally impermissible, the dignity of life of a woman to be born is extinguished. It corrodes the human values. The Legislature has brought a complete code and it subserves the constitutional purpose. We may briefly refer to the scheme of the Act and the Rules framed thereunder. Section 2 of the Act is the dictionary clause and it defines foetus, Genetic Counselling Centre, Genetic Clinic, Genetic Laboratory, pre-natal diagnostic procedures, pre-natal diagnostic techniques, pre-natal diagnostic test, sex selection, sonologist or imaging specialist. Section 3 provides for Regulation of Genetic Counselling Centers, Genetic Laboratories and Genetic Clinics. Section 3A imposes prohibition of sex- selection. Section 3B prohibits the sale of ultrasound machine, etc., to persons, laboratories, clinics, etc., not registered under the Act. Section 4 regulates pre-natal diagnostic techniques. Section 5 stipulates written consent of pregnant woman and prohibition of communicating the sex of foetus. Section 6 prohibits determination of sex. Chapter IV of the Act deals with the Central Supervisory Board. Sections 7 16A deal with the constitution of the Board, meetings of the Board, functions of the Board, which includes reviewing and monitoring implementation of the Act and Rules made thereunder. Section 16A commands the States and Union Territories to have a Board to be known as the State Supervisory Board or the Union Territory Supervisory Board, as the case may be, to carry out the functions enumerated therein. Chapter V

provides for the Appropriate Authority and Advisory Committee. Sub-section (4) of Section 17 deals with the powers of the Appropriate Authority. The said provision being significant is extracted hereunder:- (4) the Appropriate Authority shall have the following functions, namely (a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic;

- (b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;
- (c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action;
- (d) to seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration;
- (e) to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also to initiate independent investigations in such matter;
- (f) to create public awareness against the practice of sex selection or pre- natal determination of sex;
- (g) to supervise the implementation of the provisions of the Act and rules;
- (h) to recommend to the Board and State Boards modifications required in the rules in accordance with changes in technology or social conditions;
- (i) to take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.

30. Section 17A enumerates the powers of the Appropriate Authorities. The said provision reads as follows:-

17A. Powers of Appropriate Authorities.- The Appropriate Authority shall have the powers in respect of the following matters, namely:-

- (a) summoning of any person who is in possession of any information relating to violation of the provisions of this Act or the rules made thereunder;
- (b) production of any document or material object relating to clause (a);
- (c) issuing search warrant for any place suspected to be indulging in sex selection techniques or pre-natal sex determination; and
- (d) any other matter which may be prescribed.

31. Section 18 deals with the registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics. Sections 19 and 20 provide for certificate of registration and cancellation or suspension of registration. Chapter VII deals with offences and penalties. Section 22 stipulates prohibition of advertisement relating to pre- conception and pre-natal determination of sex and punishment for contravention and Section 23 deals with offences and penalties. Section 24 which has been brought into the Act by way of an amendment with effect from 14.02.2003 states with regard to presumption in the case of conduct of pre-natal diagnostic techniques. Section 26 provides for offences by companies. Section 28 provides that no court shall take cognizance of an offence under the Act except on a complaint made by the Appropriate Authority concerned, or any officer authorized in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or a person who has given notice of not less than fifteen days in the manner prescribed. Section

29 occurring in Chapter VIII which deals with miscellaneous matters provides for maintenance of records. Section 30 empowers the appropriate authority in respect of search and seizure of records. The rule framed under Section 32 of the Act is not comprehensive. Various Forms have been provided to meet the requirement by the Rules. On a perusal of the Rules and the Forms, it is clear as crystal that attention has been given to every detail.

32. Having stated about the scheme of the Act and the purpose of the various provisions and also the Rules framed under the Act, the dropping of sex ratio still remains a social affliction and a disease.

33. Keeping in view the deliberations made from time to time and regard being had to the purpose of the Act and the far reaching impact of the problem, we think it appropriate to issue the following directions in addition to the directions issued in the earlier order:-

- (a) All the States and the Union Territories in India shall maintain a centralized database of civil registration records from all registration units so that information can be made available from the website regarding the number of boys and girls being born.
- (b) The information that shall be displayed on the website shall contain the birth information for each District, Municipality, Corporation or Gram Panchayat so that a visual comparison of boys and girls born can be immediately seen.
- (c) The statutory authorities if not constituted as envisaged under the Act shall be constituted forthwith and the competent authorities shall take steps for the reconstitution of the statutory bodies so that they can become immediately functional after expiry of the term. That apart, they shall meet regularly so that the provisions of the Act can be implemented in reality and the effectiveness of the legislation is felt and realized in the society.
- (d) The provisions contained in Sections 22 and 23 shall be strictly adhered to. Section 23(2) shall be duly complied with and it shall be reported by the authorities so that the State Medical Council takes necessary action after the intimation is given under the said provision. The Appropriate Authorities who have been appointed under Sections 17(1) and 17(2) shall be imparted periodical training to carry out the functions as required under various provisions of the Act.
- (e) If there has been violation of any of the provisions of the Act or the Rules, proper action has to be taken by the authorities under the Act so that the legally inapposite acts are immediately curbed.
- (f) The Courts which deal with the complaints under the Act shall be fast tracked and the concerned High Courts shall issue appropriate directions in that regard.
- (g) The judicial officers who are to deal with these cases under the Act shall be periodically imparted training in the Judicial Academies or Training Institutes, as the case may be, so that they can be sensitive and develop the requisite sensitivity as projected in the objects and reasons of the Act and its various provisions and in view of the need of the society.
- (h) The Director of Prosecution or, if the said post is not there, the Legal Remembrancer or the Law Secretary shall take stock of things with regard to the lodging of prosecution so that the purpose of the Act is subserved.

- (i) The Courts that deal with the complaints under the Act shall deal with the matters in promptitude and submit the quarterly report to the High Courts through the concerned Sessions and District Judge.
- (j) The learned Chief Justices of each of the High Courts in the country are requested to constitute a Committee of three Judges that can periodically oversee the progress of the cases.
- (k) The awareness campaigns with regard to the provisions of the Act as well as the social awareness shall be undertaken as per the direction No 9.8 in the order dated March 4, 2013 passed in Voluntary Health Association of Punjab (supra).
- (l) The State Legal Services Authorities of the States shall give emphasis on this campaign during the spread of legal aid and involve the **para-legal volunteers**.
- (m) The Union of India and the States shall see to it that appropriate directions are issued to the authorities of All India Radio and Doordarshan functioning in various States to give wide publicity pertaining to the saving of the girl child and the grave dangers the society shall face because of female foeticide.
- (n) All the appropriate authorities including the States and districts notified under the Act shall submit quarterly progress report to the Government of India through the State Government and maintain Form H for keeping the information of all registrations readily available as per sub- rule 6 of Rule 18A of the Rules.
- (o) The States and Union Territories shall implement the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014 forthwith considering that the training provided therein is imperative for realising the objects and purpose of this Act.
- (p) As the Union of India and some States framed incentive schemes for the girl child, the States that have not framed such schemes, may introduce such schemes.

34. Before parting with the case, let it be stated with certitude and without allowing any room for any kind of equivocation or ambiguity, the perception of any individual or group or organization or system treating a woman with inequity, indignity, inequality or any kind of discrimination is constitutionally impermissible. The historical perception has to be given a prompt burial. Female foeticide is conceived by the society that definitely includes the parents because of unethical perception of life and nonchalant attitude towards law. The society that treats man and woman with equal dignity shows the reflections of a progressive and civilized society. To think that a woman should think what a man or a society wants her to think is tantamounts to slaughtering her choice, and definitely a humiliating act. When freedom of free choice is allowed within constitutional and statutory parameters, others cannot determine the norms as that would amount to acting in derogation of law. Decrease in the sex ratio is a sign of colossal calamity and it cannot be allowed to happen. Concrete steps have to be taken to increase the same so that invited social disasters do not befall on the society. The present generation is expected to be responsible to the posterity and not to take such steps to sterilize the birth rate in violation of law. The societal perception has to be metamorphosed having respect to legal postulates.
35. Now, we shall advert to the prayers in Writ Petition (Civil) No. 575 of 2014. The writ petition has been filed by Indian Medical Association (IMA). It is contended that Sections 3-A, 4, 5, 6, 7, 16, 17, 20, 23, 25, 27 and 30 of the Act and Rules 9(4), 10 & Form F (including foot-note), which being the subject matter of concern in the instant writ petition, are being misused and wrongly interpreted by the concerned

authorities thereby causing undue harassment to the medical professionals all over the country under the guise of the so-called implementation. It is also urged that, implementation of steps and scrutiny of records was started at large scale all over the country and lot of anomalies were found in records maintained by doctors throughout the country. It is however pertinent to mention here that the majority of the defaults were of technical nature as they were merely minor and clerical errors committed occasionally and inadvertently in the filing of Form F. It is also put forth that the Act does not classify the offences and owing to the liberal and vague terminology used in the Act, it is thrown open for misuse by the concerned implementing authorities and has resulted into taking of cognizance of non-bailable (punishable by three years) offences against doctors even in the cases of clerical errors, for instance non-mentioning of N.A. (Not Applicable) or leaving of any column in the concerned Form F as blank. It is further submitted that the said unfettered powers in the hands of implementing authority have resulted into turning of this welfare legislation into a draconian novel way of encouraging demands for bribery as well as there is no prior independent investigation as mandated under Section 17 of the Act by these Authorities. It is also set forth that the Act states merely that any contravention with any of the provisions of the Act would be an offence punishable under Section 23(1) of the said Act and further all offences under the Act have been made non-bailable and non-compoundable and the misuse of the same can only be taken care of by ensuring that the Appropriate Authority applies its mind to the fact of each case/complaint and only on satisfaction of a prima facie case, a complaint be filed rather than launching prosecution mechanically in each case. With these averments, it has been prayed for framing appropriate guidelines and safeguard parameters, providing for classification of offences as well, so as to prohibit the misuse of the PCPNDT Act during implementation and to read down this Sections 6, 23, 27 of PCPNDT Act. That apart, it has been prayed to add certain provisos/exceptions to Sections 7, 17, 23 and Rule 9 of the Rules.

36. In our considered opinion, whenever there is an abuse of the process of the law, the individual can always avail the legal remedy. As we find, neither the validity of the Act nor the Rules has been specifically assailed in the writ petition. What has been prayed is to read out certain provisions and to add certain exceptions. We are of the convinced view that the averments of the present nature with such prayers cannot be entertained and, accordingly, we decline to interfere.
37. In the result, Writ Petition (Civil) No. 349 of 2006 stands disposed of in terms of the directions issued by us and Writ Petition (Civil) No. 575 of 2014 stands dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

Hon'ble Mr. Justice Dipak Misra
Hon'ble Mr. Justice Shiva Kirti Singh

New Delhi;

November 8, 2016

[1] (1997) 7 SCC 110

[2] (2001) 5 SCC 577

[3] (2003) 8 SCC 398

[4] (2013) 4 SCC 1



BACHPAN BACHAO ANDOLAN VERSUS UNION OF INDIA & ORS.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.75 OF 2012

Bachpan Bachao Andolan ...Petitioner(s)

Versus

Union of India & Ors. ...Respondent(s)

With Contempt Petition (C) No.186/2013 in Writ Petition (C) No.75/2012

ORDER

This matter has been listed pursuant to the directions given on 26th April, 2013, when the contempt petition filed in the writ petition by the petitioner, complaining of the manner in which a complaint made regarding a missing child was sought to be handled by the concerned police station, was being considered. It has also come up on account of the other directions which had been given for implementing the various provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000, as amended in 2006 [‘Juvenile Act’, for short].

On 17th January, 2013, when this matter came up for consideration, we had given an interim direction that in case a complaint with regard to any missing children was made in a police station, the same should be reduced into a First Information Report and appropriate steps should be taken to see that follow up investigation was taken up immediately thereafter. An element of doubt has been raised on behalf of the State of Madhya Pradesh regarding the recording of First Information Report relating to a missing child, having regard to the provisions of Section 154 of the Code of Criminal Procedure, 1973 [‘Cr.P.C.’, for short], which relates to information in cognizable cases.

We do not, however, see any difficulty in the orders, which we have already passed. We make it clear that, in case of every missing child reported, there will be an initial presumption of either abduction or trafficking, unless, in the investigation, the same is proved otherwise. Accordingly, whenever any complaint is filed before the police authorities regarding a missing child, the same must be entertained under Section 154 Cr.P.C.

However, even in respect of complaints made otherwise with regard to a child, which may come within the scope of Section 155 Cr.P.C., upon making an entry in the Book to be maintained for the purposes of Section 155 Cr.P.C., and after referring the information to the Magistrate concerned, continue with the inquiry into the complaint. The Magistrate, upon receipt of the information recorded under Section 155 Cr.P.C., shall proceed, in the meantime, to take appropriate action under sub-section (2), especially, if the complaint relates to a child and, in particular, a girl child.

On the last occasion, when the matter was taken up, we were informed by some of the States that the directions, which we had given in our Order dated 17th January, 2013,

had been duly implemented and affidavits to that effect have also been filed. Some of the information given therein is seriously objected by Mr. H.S. Phoolka, learned counsel appearing for the petitioner. In any event, even if the figures shown are incorrect, in order to rectify the situation, we are inclined to accept the suggestion made by Ms. Shobha, learned advocate, appearing for the National Human Rights Commission, that each police station should have, at least, one Police Officer, especially instructed and trained and designated as a Juvenile Welfare Officer in terms of Section 63 of the Juvenile Act.

We are also inclined to accept the suggestion that there should be, in shifts, a Special Juvenile Officer on duty in the police station to ensure that the directions contained in this Order are duly implemented.

To add a further safeguard, we also direct the National Legal Services Authority, which is being represented by its Member Secretary through Ms. Anitha Shenoy, learned advocate, that **the para-legal volunteers, who have been recruited by the Legal Services Authorities, should be utilized, so that there is, at least, one paralegal volunteer, in shifts, in the police station to keep a watch over the manner in which the complaints regarding missing children and other offences against children, are dealt with.**

Ms. Shobha, learned counsel, has also made another useful suggestion regarding a computerized programme, which would create a network between the Central Child Protection Unit as the Head of the Organization and all State Child Protection Units, District Child Protection Units, City Child Protection Units, Block Level Child Protection Units, all Special Juvenile Police Units, all Police stations, all Juvenile Justice Boards and all Child Welfare Committees. The said suggestion should be seriously taken up and explored by the National Legal Services Authority with the Ministry of Women and Child Development. Once introduced, the website link should also be made known to the public at large.

The State Legal Services Authorities should also work out a network of NGOs, whose services could also be availed of at all levels for the purpose of tracing and re-integrating missing children with their families which, in fact, should be the prime object, when a missing child is recovered. Various other suggestions have been made by Ms. Shobha in her written submission, regarding installation of computerized cameras, which can also be considered by all the concerned authorities. A similar response has been made on behalf of the National Legal Services Authority, and similar suggestions have been made. The details, as indicated in the response, can always be worked out in phases by the Juvenile Justice Boards and the Child Welfare Committees in consultation with the National Legal Services Authority, since each have a responsible role to play in the welfare of children, which, if the statistics given are to be believed, are difficult to accept. In fact, as has been pointed out by Mr. Phoolka, out of more than 3,000 children missing in 2011, only 517 First Information Reports had been lodged. The remaining children remain untraced and are mere slips of paper in the police stations.

One of the submissions, which has been made in the response filed by the NALSA, is with regard to the role of the police and the directions given by this Court, from time to time, in the case of Sampurna Behura vs. Union of India & Ors. [Writ Petition (C) No.473 of 2005]. Accordingly, in addition to what has been recorded, as far as the suggestions made on behalf of the National Human Rights Commission is concerned, we add that, as suggested on behalf of the NALSA, every found/recovered child must be immediately photographed by the police for purposes of advertisement and to make people aware of the missing child. Photographs of the recovered child should be published on the website and through the newspapers and even on the T.V. so that the parents of the missing child could locate their missing child and recover him or her from the custody of the police. The Ministry of Home

Affairs shall provide whatever additional support by way of costs that may be necessary for the purpose of installing such photographic material and equipment in the police stations.

Apart from the above, all the parties involved shall have due regard to the various directions given in Sampurna Behura's case [supra] where also provision has been made for a child to be sent to a Home and for taking photographs and publishing the same so that recovery could be effected as early as possible.

The other suggestion of NALSA is that a Standard Operating Procedure must be developed to handle the cases of missing children and to invoke appropriate provisions of law where trafficking, child labour, abduction, exploitation and similar issues are disclosed during investigation or after the recovery of the child, when the information suggests the commission of such offences. As part of the Standard Operating Procedure, a protocol should be established by the local police with the High Courts and also with the State Legal Services Authorities for monitoring the case of a missing child. In Delhi, such a protocol could be established with the help of the All India Legal Aid Cell on Child Rights, set up by NALSA, in association with the Delhi State Legal Services Authority, and the petitioner herein, Bachpan Bachao Andolan. In fact, the same could be treated as a nodal agency of the All India Legal Aid Cell on Child Rights. We have given directions in regard to the utilization of the para-legal volunteers, which is one of the suggestions made on behalf of the NALSA.

As has been pointed out by Mr. Phoolka, learned counsel appearing on behalf of the petitioner, an Office Memorandum was issued on 31st January, 2012, by the Ministry of Home Affairs, Government of India, by way of an advisory on missing children and the measures needed to prevent trafficking and for tracing of such children. In the said Office Memorandum, a missing child has been defined as, "a person below eighteen years of age, whose whereabouts are not known to the parents, legal guardians and any other person, who may be legally entrusted with the custody of the child, whatever may be the circumstances/causes of disappearance. The child will be considered missing and in need of care and protection within the meaning of the later part of the Juvenile Act, until located and/or his/her safety/well being is established."

In case a missing child is not recovered within four months from the date of filing of the First Information Report, the matter may be forwarded to the Anti-Human Trafficking Unit in each State in order to enable the said Unit to take up more intensive investigation regarding the missing child. The Anti-Human Trafficking Unit shall file periodical status reports after every three months to keep the Legal Services Authorities updated.

It may also be noted that, in cases where First Information Reports have not been lodged at all and the child is still missing, an F.I.R. should be lodged within a month from the date of communication of this Order and further investigation may proceed on that basis.

Once a child is recovered, the police authorities shall carry out further investigation to see whether there is an involvement of any trafficking in the procedure by which the child went missing and if, on investigation, such links are found, the police shall take appropriate action thereupon.

The State authorities shall arrange for adequate Shelter Homes to be provided for missing children, who are recovered and do not have any place to go to. Such Shelter Homes or After-care Homes will have to be set up by the State Government concerned and funds to run the same will also have to be provided by the State Government together with proper infrastructure. Such Homes should be put in place within three months, at the latest.

Any private Home, being run for the purpose of sheltering children, shall not be entitled to receive a child, unless forwarded by the Child Welfare Committee and unless they comply with all the provisions of the Juvenile Justice Act, including registration.

Having regard to the order passed herein, the contempt proceedings, which have been initiated by the petitioner, are dropped. In the event, all the States have not yet filed their status reports, the time for filing the same is extended till the next date.

We appreciate the efforts of the petitioner- organisation, Mr. H.S. Phoolka, learned counsel appearing on behalf of the petitioner, all the other counsel, who have appeared in this matter on behalf of the different Authorities, including NALSA and the National Human Rights Commission, and we hope that such interest will continue to subsist hereafter. Let this matter be listed again after three months.

Hon'ble Mr. Justice ALTAMAS KABIR, CJI

Hon'ble Mr. Justice VIKRAMAJIT SEN, J

Hon'ble Mr. Justice S.A. BOBDE, J

New Delhi, May 10, 2013.

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Apne Aap Women Worldwide Trust ... Versus The State Of Bihar & Ors

Patna High Court

Apne Aap Women Worldwide Trust ... vs The State Of Bihar & Ors

Decided on 20 November, 2014

Civil Writ Jurisdiction Case No.1882 of 2013

1. Apne Aap Women Worldwide Trust India through Ms. Tinku Khanna (W/O Indranil Roy) Technical Specialist- Survivor Leadership and Advocacy, Apne Women Worldwide (India) Trust. 2. Soumya Pratheek alias Soumya Suresh, Monitoring and Documentation Officer Apne Aap Women Worldwide, India Trust. Having its Bihar State Coordination Office at Jagdish Mills Compound, Ram Manohar Lohia Path Near Bus Stand Forbesganj, Dist.- Araria- 854138 and registered office at D-56, Anand Niketan Top Floor, New Delhi 110021 Petitioner/s Versus 1. The State of Bihar through the Secretary, Department of Home, Old Secretariat, Patna, Bihar, 2. The Secretary, Department of Social Welfare (Women and Child) Old Secretariat, Patna, Bihar, 3. The Principal Secretary, Human Resources Department, Patna, Bihar, 4. The State Project Director, Sarva Shiksha Abhiyan, Bihar Shiksha Parishad, Shiksha Bhawan, Rashtra Bhasha Parishad, Saidpur, Rajendra Nagar, Patna, 5. The Chairperson, State Commission for Protection of Child Rights 22 Hardinge Road, Patna, 6. The District Magistrate, Araria, 7. The Superintendent of Police, Araria, 8. The Chairperson, Child Welfare Committee, District- Araria Respondent/s

For the Petitioner/s : Mr. Alok Kumar Choudhary, Advocate Mr. Nagendra Kumar, Advocate

For the Respondent/s : Mr. P.N. Shahi AAG-10 Mr. Ritesh Kumar No.1, AC to AAG-10

**CORAM: HONOURABLE MR. JUSTICE V.N. SINHA And
HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**

C.A.V. JUDGMENT (Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Petitioner-Trust, a Non-Government Organisation, has been established by well meaning public spirited citizens of India to provide for education, health care, legal protection and job skill to women and children found in the red light area by following the Gandhian principles of Antodaya (upliftment of the last woman), Ahimsa (non-violence). Sex trafficking and prostitution are the worst form of violence against women. Any attempt to end sex trafficking, prostitution requires internalization of the principles of non-violence. The mission of the trust is to end trafficking of women and children. Its objectives are to support community based initiatives, to mitigate the circumstances of those trapped/ caught by the sex industry/ prostitution. Develop leadership amongst the affected to end sex trafficking and prevent inter-generational prostitution. Build linkages between grass root activist and policy makers for ending sex trafficking. To create awareness in society on discrimination against women and girls, particularly issues relating to sex trafficking, prostitution, sexuality and violence against women and girls.

2. Present writ petition was initially filed with 10 prayers contained in Paragraphs 1A to 1K. By filing I.A. No. 1656 of 2013 prayer was made to delete the prayer contained in Paragraphs 1E, 1G, 1H and 1I, which was allowed under order no. 4 dated 07.03.2013. The prayer which still survives in the writ petition is to direct the respondents to carry out their constitutional obligation enshrined in Article 23 of the Constitution by strictly enforcing the provisions of the Immoral Traffic (Prevention) Act, 1956 (hereinafter referred to as the Act) and to conduct operations in red light area/ other areas in presence of women social worker, to direct the State respondents to appoint Special Police Officers not below the rank of Inspector for dealing with the offences under the Act and to maintain the victims rescued in shelter homes certified by the State Social Welfare Department as per IT(P) A norms. Further prayer made in the writ petition is to direct the respondents to enforce the directions of the Supreme Court issued in the case of Budhadev Karmaskar Vs. State of West Bengal AIR 2011 Supreme Court 2636.
3. In the light of the prayer made in the writ petition State respondent no. 1 filed counter affidavit duly affirmed by the Principal Secretary, Department of Home asserting that to combat social evil of human trafficking in Bihar the Department of Social Welfare has formulated State Plan of Action called ASTITVA providing for integrated approach by several Departments of the Government (Education, Rural Development, Social Welfare, Labour, Human Resources, Health, Police, District Administration etc.) vide resolution of the Government issued from Social Welfare Department bearing No. 595 dated 31.12.2008. The basic objectives of ASTITVA are as follows :
 - i. To prevent, control and eradicate human trafficking, ensure qualitative action at source, transit and destination areas of trafficking.
 - ii. Ensure and prioritize proper rescue, rehabilitation and sustainable repatriation with special emphasis on livelihood, socio-economic empowerment.
 - iii. Human trafficking is an organized crime, therefore, ensuring legal action against pimps, traffickers etc. iv. Ensuring sensitization, mobilization and capacity building of Government/Non-Government bodies for minimizing the vulnerability of human trafficking in the State.
4. Perusal of resolution notifying ASTITVA-BIHAR indicates that there is State, District level Anti Human Trafficking Coordination Committee established under the Chairmanship of Chief Secretary of the State and District Magistrate of the district concerned. It also indicates that Anti Human Trafficking Task Force has been constituted at both State, District level under the Chairmanship of Director General of Police and Superintendent of Police concerned. Besides Anti Human Trafficking Prosecution Monitoring Committee has also been established both at the State, District level under the Chairmanship of Director General Prosecution and the District Magistrate concerned. Further perusal of resolution of the Government formulating ASTITVA indicates that Village Level Anti Human Trafficking Bodies, Cross-Border Anti Human Trafficking Prevention Bodies are also required to be constituted. The Director General of Police under his Memo No. 30 dated 17.06.2009 constituted Anti Human Trafficking Unit (AHTU) in the district situate on the borders of the State. Besides there are three other units under the control of Additional Director General of Police, C.I.D. working in C.I.D., Bihar, Patna, I.G., Muzaffarpur Zone and D.I.G., Magadh Range, Gaya. The Director General of Police, Bihar under Memo No. 185 dated 27.09.2011, 187 dated 24.10.2011 and 201 dated 23.11.2011 appointed all Zonal I.G., Range D.I.G. and Superintendent of Police including Rail as Nodal Officer in their respective jurisdiction to enforce the provisions of the Act. It has further been averred

in the counter affidavit that participation, coordination of activities by the different Departments of the Government is necessary to minimize the cases of trafficking, rescue and rehabilitation of victims and for ensuring such participation, coordination I.G. of Police (Weaker Section), C.I.D. requested the Principal Secretary, Home Department vide his letter no. 112 dated 10.06.2011 and letter no. 148 dated 10.07.2012 to direct the District Magistrate to include one officer from each concerned department in AHTUs constituted in districts to provide strength and make AHTUs more effective. The Home (Special) Department under letter no. 11159 dated 30.06.2011 directed all the District Magistrates of Bihar to include one officer from each concerned Department in AHTUs constituted in the district. It has further been averred in the affidavit that for the success of State Plan of Action to contain the menace of human trafficking training of the officers including police officer is necessary. Training of Trainers (TOTs) programme for the police officers and officers from other concerned department is being conducted in workshop at State level. The trainers are being used to impart training at district level workshop. I.G. (Weaker Section), C.I.D. issued instruction to all the Superintendent of Police of Bihar to organize workshop for training of the police officers in the district under his letter no. 210 dated 05.12.2011. He also issued letter no. 207 dated 29.11.2011 and 128 dated 27.06.2012 to persuade the police officers to take admission in human trafficking certificate course conducted by Indira Gandhi National Open University. It has also been stated in Paragraph 12 of the affidavit that Home (Special) Department informed the Social Welfare Department under letter no. 3740 dated 26.04.2011 that appointment and training of Special Police Officers under Section 13 of the Act is to be made by the Social welfare Department by adopting the procedure prescribed under Section 19 of the Bihar Police Act. In Paragraph 13 of the counter affidavit it has been stated that it is important to prepare a data base of missing children and women, rescued victims and human traffickers for effectively curbing the menace of human trafficking. In this regard Social Welfare Department of the Government had issued instruction contained in letter no. 1161 dated 18.05.2012, 1284 dated 20.06.2012, 1464 dated 12.07.2012. In turn I.G. (Weaker Section), C.I.D., Bihar has also issued instructions under letter no. 197 dated 21.11.2011, 162 dated 24.07.2012 to all the Superintendent of Police of Bihar directing them to submit monthly compliance report in the prescribed performa to Social Welfare Department.

5. A separate counter affidavit has also been filed on behalf of respondent nos. 2 to 6 stating that the Department of Social Welfare, Government of Bihar is serious in dealing with the anti human trafficking and has framed State Action Plan called ASTITVA to combat human trafficking which has been notified in Bihar gazette vide notification no. 595 dated 31.12.2013, which is perhaps mistake for 31.12.2008 whereunder different committees have been constituted at State, District level to deal with the issues related to human trafficking i.e. prevention, raid & rescue and rehabilitation of trafficked victims. It has also been averred in the said affidavit that in the light of the order passed by this Court dated 29.10.2013 reports have been sought from all the District Magistrates regarding cases registered against human trafficking as well as rehabilitation details of trafficked victims in format contained in letter no. 2787 dated 25.11.2013. In Paragraphs 6, 7 of the affidavit it has been averred that State has also formulated scheme/ created fund for providing rehabilitation support to the women victim of violence including victim of human trafficking, domestic violence and other violence which is known as social rehabilitation fund and Rs. 95.10 lakhs has been allocated for the 38 districts of the State for extending support to the women victim, out of which Rs. 21.13 lakhs was disbursed amongst 402 victims.

6. By filing supplementary counter affidavit on behalf of respondent no. 2 further statement has been made that the District Level Anti Human Trafficking Unit has been formed in all the districts of Bihar which meets on regular basis to deal with the issues relating to human trafficking, such as, prevention, raid & rescue and rehabilitation of trafficked victims. In the said affidavit it has further been stated that to build the capacity of different functionaries involved in the Anti Human Trafficking Programme steps are being taken in the light of the guidelines of the Government of India to sensitize, develop the capacity of the officers by imparting training to not only the officers but also to the trainers. In Paragraph 7 of the supplementary counter affidavit again statement has been made about the creation of the social rehabilitation fund for providing rehabilitation support to the victims in which Rs. 95.10 lakhs has been allocated for the 38 districts of the State. In Paragraph 8 of the supplementary affidavit statement has been made that constitution of Advisory Board in the light of the provisions contained in Section 13(3) of the Act for protection and rehabilitation of trafficked victims is under consideration of the Government.
7. By filing rejoinder affidavit petitioners in Paragraphs 3, 9 pleaded that the concept of trafficking, as understood in the Indian context, is required to be reviewed in the light of the definition of trafficking given in Palermo Protocol referred to in the report of J.S. Verma Committee on the amendments to the criminal law, as according to the petitioners, the provisions of the Act is not able to fulfil the objectives it is meant to achieve. In order to overcome the shortcomings, placing reliance on the observations made by National Human Rights Commission, Verma Committee recommended introduction of new Section 370 in the Penal Code expanding, clarifying the scope of trafficking with specific explanations introducing new Section 370-A dealing with exploitation of trafficked person as also making the same a punishable offence. It has also been stated in the rejoinder that victims of trafficking are required to be specially treated by specialized police, civil officers in the shelter/ Corrective Institutions as also by the Child Welfare Committee under the watchful eyes of independent bodies. In Paragraph 7 of the rejoinder petitioner asserted that the Anti Human Trafficking Units set up in the country have miserably failed to crack the network of national, international traffickers, thus, permitting their trade to flourish. In Paragraph 8 of the rejoinder it has been stated that Protective Homes are required to be modernized and psychologically revolutionalised and made useful homes for productivity. In Paragraphs 10, 11, 13 of the rejoinder petitioner stated that even after introduction of the State Plan of Action called ASTITVA in collaboration with the several departments of the Government, namely, Education, Rural Development, Social Welfare, I.C.D.S, Labour, Human Resources, Health, Police and District Administration, there is nothing on record to indicate the degree, extent to which the State Action Plan has succeeded in curbing the organized crime of trafficking as hardly any facts, figures are made available from 38 districts of the State in the counter affidavit. Counter affidavit does not refer to the number of cases registered/ tracked by the Anti Human Trafficking Units in past three years or since the date of its inception. It is also silent about the measures which were taken to rehabilitate the rescued women and children so as to prevent their return into the black holes of the prostitution. In Paragraph 12 of the rejoinder petitioner asserted that State, District level and other Committees are wholly non-functional and cannot eliminate the suffering of the victims of trafficking unless it is tackled at the grass-root level, which is being effectively done by the N.G.O. but crippled by the inaction of police. In Paragraphs 14, 15 of the rejoinder petitioner referred to the order of the Director General of Police bearing Memo No. 30 dated 17.06.2009, Annexure-B whereunder Anti Human Trafficking Units were constituted and submitted that no positive action was taken by the Units. The respective

Superintendent of Police failed to take swift action in a professional manner against the accused trafficker. The Superintendent of Police also did not care to maintain a list of the victims and the steps taken for their rehabilitation as has been envisaged in the State Plan of Action ASTITVA dated 31.12.2008, Annexure-A. Feed back from the Superior Nodal Officer of their respective jurisdiction has also not been received which is indicative of the lack-luster approach of the State in the matter of human trafficking. In the same paragraph petitioner further averred that in the district of Araria Anti Human Trafficking Unit is not handling the cases of trafficking as per the provisions of the Act. Thus, failing in their statutory duty in rescue of the victims of Uttari Rampur, as according to petitioner, Superintendent of Police, Araria did not involve AHTUs in rescue of victims which is indicative of the fact that the exercise of establishing the Unit is nothing but sham. In this connection, petitioner has also referred to the instruction issued by I.G., C.I.D. dated 24.10.2011 addressed to all the Superintendent of Police of Bihar enumerating the duties of AHTUs and chalking out the manner in which Superintendent of Police should associate AHTUs in anti trafficking operations. In Paragraph 18 of the rejoinder petitioner asserted that the police administration is still functioning in contravention of the provisions of Section 13 of the Act as no special police officer has yet been appointed for conducting the rescue operation under the Act. In Paragraph 20 of the rejoinder petitioner stated that steps taken to rehabilitate the victim has not at all been mentioned in the counter affidavit. Counter affidavit is also silent about the establishment, maintenance of shelter homes for rehabilitation of the victims and grant of legal advice, counselling, job training and health care facilities to them. In Paragraphs 23, 24, 25 of the rejoinder petitioner asserted about the apathetical attitude of Child Welfare Committee, Araria and that of State Commission for Protection of Child Rights and pointed out that there is hardly any implementation of the Act and the Juvenile Justice Act in the district of Araria.

8. By filing rejoinder to the supplementary counter affidavit petitioner asserted that the authorities of the State responsible for executing the State Plan of Action (ASTITVA) are lacking in sensitivity as in 27 out of 38 districts of the State District Level Committee, Anti Human Trafficking Units held its meeting after passing of order dated 01.08.2013 in the instant case. In five districts meetings were held in the preceding five months and no meeting at all has been held in other six districts and thereby the authorities failed to discharge their constitutional obligation as enshrined in Article 23 of the Constitution. In Paragraph 6 of the rejoinder petitioner asserted that the officers connected with the implementation of the action plan were provided training way back in the year 2011 when the Criminal Law Amendment Act providing for new definition of human trafficking had not been inserted in the Penal Code, as such, it is absolutely expedient in the interest of justice that elaborate training programme be organized to ingrain in the mind of the Special Police Officers as to how they are required to deal with the menace of trafficking in the light of Palermo concept of trafficking and the amended law for effectively tackling the menace of human trafficking in the State which has assumed horrific proportions. In Paragraph 7 of the rejoinder petitioner asserted that money allocated under the Social Rehabilitation Fund amounting to Rs. 95.10 lakhs is meager considering the extent and enormity of medical and financial requirement of the victims. It is also stated in the same paragraph that a sum of Rs. 12.82 lakhs was spent towards the welfare and rehabilitation of 276 victims. In the same paragraph further statement has been made that in most of the districts detailed by the State in their list there is neither any victim nor disbursement. In the same paragraph it is further stated that in the district of Araria there has been no efforts whatsoever to rescue and rehabilitate those suffering from inter-generational

prostitution and young girls of the age of 12 years are being thrown into the ugly trade which is well within the knowledge of the district authorities but no action has been taken by them despite fervent appeals by the petitioners necessitating the filing of present Public Interest Litigation. In the same paragraph it has further been averred that petitioners informed the District Magistrate and Superintendent of Police, Araria, the Nodal Officer of Anti Human Trafficking Unit at Araria that there was wide spread trafficking going on in Kali Mela in January, February, 2012 but no action was taken against the Mela contractor who remained unscathed right under the august nose of the public functionaries. In Paragraph 8 of the rejoinder to the supplementary counter affidavit petitioner averred that in spite of the direction of the High Court to file affidavit indicating the number of cases where the District Level Anti Human Trafficking Unit has taken action including steps for rehabilitation of the victim indicating the measure taken in the last six months with brief reports, no such report has been brought on record. In Paragraph 9 of the rejoinder petitioners asserted that Special Police Officers, as envisaged under Sections 13(1) (2) and (2A), has not been appointed, as such, there is no occasion to implement sub-section (3) of Section 13 of the Act. In the same paragraph petitioner further averred that in the earlier counter affidavit it was mentioned that Special Police Officers are to be appointed by the Social Welfare Department as per the procedure in Section 19 of the Bihar Police Act but it is not known whether any such appointment has been made till date. In Paragraph 10 of the rejoinder petitioner stated that Act provides for mechanism which ensures that trafficking police officer can undertake search of any premises with or without warrant as the situation may require but it is mandatory for the police officer in terms of sub-section (2) of Section 15 of the Act to call upon and ensure presence of two or more respectable inhabitants of the area to attend and witness the search in all cases. Out of two inhabitants of the area associated to witness the search one must be a woman. It is also incumbent on the Special Police Officer or the Trafficking Police Officer in terms of sub-section (4) of Section 15 of the Act to remove the person from within the premises found therein and forthwith produce him/ her before the Magistrate as per sub-section (5) of Section 15 of the Act. In this connection petitioner pointed out that in view of the new definition of trafficking given in Section 370 of the Penal Code, it is important for the State machinery to be aware about the procedure in which offence of trafficking is to be dealt with and until Special Police Officers are appointed under Section 13 of the Act and understand the mechanism provided under sub-sections (2)(4)(5) of Section 15 of the Act implementation of Sections 370, 370-A inserted by Criminal Law Amendment Act may not be secured. In the same paragraph it has further been averred that as per sub-section (6A) of Section 15 of the Act any woman or girl removed under sub-section (4) by the Special Police Officer must be removed in presence of at least two women police officers. In case, any woman or girl removed under sub-section (4) is required to be interrogated, the interrogation be done by woman police officer, if available, otherwise in presence of a lady member of a recognized welfare institution or organisation. In Paragraph 11 of the rejoinder to the supplementary counter affidavit petitioners asserted that in order to eliminate trafficking and effectively rehabilitate the trafficked victims the State must first endeavour to set up shelter homes duly certified by the Welfare Department so as to ensure that the rescued victims are provided healthy environment for reverting back to a dignified existence. It is further important that such shelter homes must be continuously monitored by the State authorities to ensure their proper maintenance and also granted adequate security and rehabilitation machinery so that such women may be brought back into the society with self confidence and dignity. In Paragraph 12 petitioners asserted that the State Action Plan ASTITVA originated with much

enthusiasm but failed to gather momentum and fulfil the goal it sought to achieve as the Home Department could not gear up the requisite machinery to tackle the flourishing trafficking trade and the AHTUs did not meet at necessary intervals to address itself to the purpose for which it was created and has remained an empty formality. Finally petitioners stated that in the interest of justice, it is expedient that the High Court should issue necessary direction calling upon the State as well as District Units to make it mandatory to file reports periodically which shall be reviewed by impartial bodies, Committees created for the purpose.

9. By filing supplementary counter affidavit on behalf of respondent no. 1 it was clarified that due to inadvertence Home (Police) Department requested the Social Welfare Department under Memo No. 3740 dated 26.04.2011 to appoint, impart training to special police officers under Section 13 of the Act with further information that the Home (Police) Department under Memo No. 8483 dated 04.08.1997 has already notified all the Superintendent of Police, Deputy Superintendent of Police, Inspector posted in Criminal Investigation Department (C.I.D) and the districts of the State as special police officers under the Act and requested Social Welfare Department under letter no. 11264 dated 16.09.2013 to arrange for imparting training to the notified special police officers in the light of the earlier letter dated 04.08.1997 and furnish the said information to this Court by filing affidavit in the present case.
10. By filing rejoinder to the supplementary counter affidavit filed by respondent no. 1 petitioners submitted that though special police officers have been duly notified under Memo No. 8483 dated 04.08.1997 the notified officers have not been effectively implementing the provisions of the Act and discharging their statutory duties and human trafficking seems to be on the rise. The concerned officers have perfunctorily addressed themselves to the issue on account of their failure to treat the victims rescued as per the provisions of the Act for non-availability of victim friendly rehabilitation shelter homes with adequate support mechanism. In this connection, it was also pointed out that the State Government has not taken any steps to provide adequate medical, counselling support to the victim and the treatment meted out to them after their recovery is causal inasmuch as they are left without any monitoring mechanism and the entire rescue operation becomes an exercise in futility defeating the provisions of the Act. In Paragraph 3 of the rejoinder petitioners referred to notification of the Government bearing Memo No. 8443 dated 04.08.1997 whereunder Special Police Officers were notified under Section 13 of the Act and submitted that bare perusal of the said notification would indicate that although the name of the Act has been substituted by Act No. 44 of 1986 and the word "Suppression of Immoral Traffic in Women and Girls" substituted from the nomenclature of the Act with the word "Prevention" but the authorities of the State are not aware about the change in the nomenclature of the Act and thereby are also not aware about the purpose, large context which persuaded the Parliament to change the nomenclature of the Act to provide for Prevention of Trafficking and Rehabilitation of the victims by ensuring minimum standard for correctional treatment as also to make the Penal provisions more stringent. In Paragraph 6 of the rejoinder petitioners asserted that the training imparted to the special police officers has not produced any tangible result as they are not discharging their duties in terms of the provisions of the Act and continue to conduct raid without the presence of a women social worker.
11. Petitioners also filed rejoinder to the supplementary counter affidavit filed on behalf of respondent no. 1 asserting in Paragraph 5 that from the pleadings filed on behalf of the State respondents itself it will appear that AHTUs were constituted in the year 2008 but became active only after the present Public Interest Litigation was filed.

Even now nothing tangible has been done to prevent trafficking by conducting raid, rescue and above all to rehabilitation of a trafficked victim. In the same paragraph petitioners challenged the respondents to produce before the Hon'ble Court even a single case where a trafficked victim has been rescued, rehabilitated so as to free her from the clutches of trafficking or to prevent her from being further trafficked. In the same paragraph petitioners further stated that they have often seen that after a victim is rescued no sooner she is sent back to the same environment from where she was trafficked in the name of reintegration results in re- trafficking and negation of her fundamental rights.

12. By filing counter affidavit on behalf of respondent nos. 6, 7, 8 Collector, Araria informed this Court that District Level Anti Human Trafficking Committee has been functioning in Araria district and several steps have been taken by the Committee for prevention of trafficking and rehabilitation of the victim and thereby Committee is discharging its constitutional obligation. It has further been averred in the said affidavit with reference to proceedings of the Committee dated 26.08.2013 that petitioner-N.G.O. has also been included in Awareness sub-committee of District Level Anti Human Trafficking Committee, Araria so as to enable the petitioners to take active part in prevention of human trafficking. Perusal of resolution of the Committee dated 26.08.2013 further indicates that besides Awareness sub-committee Raid, Rescue, Prosecution Monitoring Committee were also formed to root out human trafficking. In Paragraphs 7, 8 of the aforesaid affidavit it has been asserted that in the district of Araria 39 cases under the Act have been registered at the instance of District Level Anti Human Trafficking Committee in which 41 victims have been rescued, out of whom 33 have received their cheque of Rs. 6,000/-, the amount of rehabilitation support and payment to the remaining eight shall be made after fund is received for the purpose. In the same paragraph further statement has been made that training workshop was organized on 20.11.2013 and next training workshop is proposed to be held in January, 2014.
13. In rejoinder to the supplementary counter affidavit filed on behalf of respondent nos. 6, 7, 8 petitioners stated that though Anti Human Trafficking Committee has been constituted in the district of Araria there is no tangible effect of its existence as rampant human trafficking still pervades in the area and the question of the State fulfilling its constitutional obligation is a far cry. In the same paragraph it has also been averred that disbursement of Rs. 6,000/- to a trafficked victim can hardly suffice towards her rehabilitation as rehabilitation of any woman, much less a woman under awkward circumstances, requires special care which can hardly be provided with Rs. 6,000/-. In Paragraph 5 of the said rejoinder petitioners stated that though Non-Government Organisation "Apne Aap" has been included in one of the sub-committees of the Anti Human Trafficking Unit, Araria but the petitioners are not able to perceive any sincere effort by the so called sub-committee inasmuch as rampant trafficking is still existing in the area which also extends across the border and persons known to be seasoned trafficker have been allowed to move freely and continue trafficking girls into the flesh trade. It has also been stated in the same paragraph that in a recent case registered in Araria Mahila Police Station vide Case No. 40/13 Md. Gainul a noted trafficker of the area trafficked one Raushni Khatoon, a minor girl, who after rescue was sent to her parents' house wherefrom she has been re-trafficked all over again within a week of the incident. It is further stated in the same paragraph that had the District Level Anti Human Trafficking Committee stepped into action and secured her proper rehabilitation by housing her in shelter home with vocational training facility occasion to enable her tormentor to re-traffic her into the black holes could have been

avoided. In Paragraphs 6, 8 of the said rejoinder petitioners asserted that in absence of Standard Operating Procedure to prevent human trafficking there is bound to be misapplication of the funds and no amount of funding will ensure rehabilitation of trafficked victims. In Paragraph 7 petitioners asserted that in the district of Araria few cases of trafficking have been reported but in many other districts not even a single case of human trafficking has been reported although this Court under orders dated 29.10.2013 directed to furnish figures of trafficking cases reported in all the districts.

14. Further counter affidavit has been filed on behalf of respondent no. 2. In Paragraph 3 whereof statement has been made that to combat human trafficking Government has established women police station in all the districts of Bihar and for smooth functioning of the said police station State Government has sanctioned 647 posts under letter no. 8750 dated 01.12.2011 and series of motivational-cum-capacity building training/ sensitization programme has been organized for Station House Officers of all the women police station. In Paragraph 4 of the said affidavit statement has been made that on pilot basis female counsellors have been deputed in 23 police station of Patna district to provide immediate service of trauma counselling to the victims. It has also been averred in the same paragraph that Child Welfare Committee has been constituted in all the districts of the State for proper rehabilitation, social integration of child victim. It has further been stated in the same paragraph that C.W.C. in every district has been asked to conduct home study (social investigation report) to assess, ensure safety of the rescued victim by providing necessary medical, psychological assistance to the victim during her stay in the institution. C.W.C. has also been directed to maintain a list of local N.G.Os. providing residential support, special services in their respective districts. In Paragraph 5 of the said affidavit statement has been made that Government has established short stay homes in 21 districts for social, economic rehabilitation of women who are victims of domestic violence. In the same paragraph it has further been averred that the Act and the Protection of Women from Domestic Violence Act, 2005 mandate that at least one such home for women should be established in each district. It has further been stated in the same paragraph that principal thrust is to reintegrate the women with her family. The home provides a compassionate environment along with essential services to the women affected by domestic violence and trafficking. The services include nutritious food, medial, psychiatric services, legal aid and vocational training amongst others. It is also stated in the same paragraph that through Short Stay Homes total number of human trafficking cases registered are 52, out of which 29 have been properly rehabilitated between 01.04.2013 till 31.12.2013. In Paragraph 6 statement has been made that State Government has sanctioned establishment of protection homes and correctional homes for women, girl victim of trafficking under the provisions of the Act. In Paragraph 7 of the said counter affidavit it has been averred that till December 31, 2013 67 cases relating to human trafficking has been registered in concerned police station across the State, out of which three have been disposed of, remaining 64 are pending for disposal in the concerned Court. Out of three disposed of cases, in one case accused has been convicted but in two cases accused has been acquitted by the concerned Court. In Paragraph 8 of the aforesaid affidavit further statement has been made that the State Government in the Home Department has notified district-wise Nodal Police Officers to handle cases relating to exploitation of women/ crime against women. In Paragraphs 9, 10 of the said affidavit further statement has been made that a sum of Rs. 95.10 lakhs has been allocated for disbursement amongst the victims of trafficking, women help line has been established in 35 districts so as to enable the women in distress to seek assistance of crisis intervention centre where counselling as well as legal assistance is provided to the victim. In the same paragraph

further statement has been made that human trafficking cases registered so far are 43, out of which 28 victims have been properly rehabilitated between 01.04.2013 to 31.12.2013. In Paragraph 13 statement has been made that State Government has established Block Referral Unit in 66 blocks to work as relief point for women in distress for providing counselling services and also linking them to available referral services, such as, help line, Short Stay Homes, medical, legal aid as the case may be.

15. By filing further supplementary affidavit petitioners asserted that Raushni Khatoon, a trafficked victim after rescue was restored to her parents, who sent her to her in-laws house where trafficker Md. Gainul had easy access, as a result thereof Raushni once again landed in the clutches of Gainul. Raushni was again rescued by the petitioner-organization and the organization wanted to rehabilitate her but police again handed her to her in-laws, from where she is still being trafficked. In the same paragraph, it has further been asserted that petitioners reliably learnt that Gainul is a regular visitor to the house of the in-laws of Raushni. In Paragraph 6 of the said affidavit further statement has been made that Gainul is a renowned trafficker, he is named accused in several cases, every time he is arrested, is released on bail and he continues to indulge in the horrific trade of trafficking and has been moving scot-free in the area. In Paragraph 7 of the said affidavit petitioners prayed for rescue and rehabilitation of Raushni, a minor girl as she is still under constant threat of being trafficked and handed over to Gainul. In the same paragraph further prayer is made to arrest, prosecute Gainul, who is the kingpin of trafficking trade flourishing in Forbesganj area. In Paragraph 8 of the said affidavit petitioners stated that C.W.C. functions under the aegis of Social Welfare Department has proved itself to be a non-functional body as rescued girls who are sent to C.W.C. are not properly taken care of and more often victims of trafficking are not provided protective care of shelter home which result in their return to the same ugly environment of exploitation.
16. Respondent no. 2 also filed second supplementary counter affidavit. In Paragraph 3 whereof statement has been made that Department has sanctioned Short Stay Homes for women, girls in all the 38 districts under the Chief Minister's Women Empowerment Scheme with aim and object to provide temporary shelter, support to women, girls who has no support system to rely on and also to rehabilitate women, girls socially, economically by providing them training, counselling. In Paragraphs 4, 5 of the said affidavit it has been averred that Short Stay Homes have been established through N.G.Os. in 31 districts of the State. In 13 districts operation of Short Stay Home has been stopped for the time being as irregularities were found in the proper functioning of the N.G.O. concerned. In the same paragraph further statement has been made that proposal has been invited from interested N.G.Os. working in 18 districts to consider their case for permitting them to establish, run Short Stay Home in those districts. In Paragraphs 8, 9 of the said affidavit statement has been made that Department has organized three days' training of trainers workshop on anti human trafficking in the years 2011, 2012. Similar training was also organized in the year 2014 in which altogether 100 participants were present, out of whom 44 were police officers, 29 were prosecution officers and remaining were representatives of different N.G.Os.
17. Union of India, respondent no. 9 has also filed counter affidavit in the matter asserting that the Central Government is concerned with the issue of trafficking of women, children for sexual exploitation. The Ministry of Women and Child Development has issued advisory dated 09.09.2009, 31.01.2012 and 30.04.2012 advising the States for effective implementation of the Act to prevent trafficking of women, children. In Paragraph 5 of its counter affidavit respondent no. 9 has stated that as per sub-section (4) of Section 13 of the Act the Central Government appointed officers of Delhi Special

Police Establishment above the rank of Inspector of Police to serve as trafficking police officer for the purpose of investigating any offence under the Act. Special police officers so appointed shall exercise all the powers, functions in discharge of their duties as special police officer under the Act. In Paragraph 7 the affidavit states that the Ministry of Women and Child Development is implementing Ujjwala, a comprehensive scheme for prevention of trafficking and rescue, rehabilitation, reintegration of victims of trafficking of sexual, commercial exploitation. One of the important components of the scheme is establishing, maintaining protection and rehabilitative homes for women and child victims of commercial, sexual exploitation. The inmates are provided vocational training for their economic rehabilitation. The homes are established/maintained by Non-Government Organisations. In Paragraphs 8, 9, 10, 11, 12 the affidavit states that Government of India is also implementing schemes concerning crèche, pre-school programme, day and night care centres, counselling centres as also their broad features. In Paragraphs 13, 14, 15, 16, 17 the affidavit states about the protocol for pre-rescue, rescue and post-rescue operation as also strategy, guidelines for such operation and rehabilitation.

18. In the light of the orders of this Court dated 21.07.2014, 22.08.2014 petitioners filed supplementary affidavit highlighting issues which needs to be addressed by the authorities for effective implementation of the Act. In Paragraph 3 of the said supplementary affidavit petitioners reiterated that they are actively engaged in fighting human trafficking and work in cooperation with all other stakeholders i.e. Government, Academia, Civil Society and the media to support each others' effort to create new partnership and develop effective tools to fight human trafficking. In the same paragraph petitioners stated that without the cooperation of the Government it may not be possible to combat the evil of trafficking and to grant protection to the victim (s) from the traffickers. In Paragraphs 4, 7 of the supplementary affidavit petitioners referred to Section 21 of the Act and submitted that it is the duty of the Government to establish Protective Homes, Corrective Institutions to protect the victims of trafficking in every districts of the State but the Government has not established adequate number of Protective Homes, Corrective Institutions to protect the victims in accordance with the Act. It is also stated in the same paragraph that rescue, rehabilitation of the trafficked victim must go together. Rescue of the trafficked victim without rehabilitation is meaningless. In the same paragraph it is further stated that the State Government with the cooperation of the Central Government should commit adequate financial support for execution of viable schemes to rehabilitate victims in gender sensitive manner. In Paragraph 6 of the supplementary affidavit petitioners stated that financial support of Rs. 6,000/- each for rehabilitation of the victim is wholly insufficient and victims are vulnerable to re-trafficking. In the same paragraph it is further stated that rehabilitation of the victim will not happen in absence of sufficient financial assistance. In Paragraph 8 of the supplementary affidavit petitioners referred to Section 13 of the Act casting statutory duty upon the respondent authorities to appoint Special Police Officers and Advisory Boards for specified area but the police officers appointed as Special Police Officer have neither been trained nor appointed in accordance with the gazette dated 31.12.2008 issued by the Social Welfare Department of the Government. In Paragraph 9 of the supplementary affidavit petitioners asserted that the police authorities are not taking action in the light of the newly substituted Sections 370, 370-A of the Penal Code to deter the traffickers from indulging in trafficking of human being, particularly women and children. In Paragraph 10 of the supplementary affidavit petitioners asserted that search of the premises by the Special Police Officers without warrant is being conducted ignoring the provisions of sub-section (2) of Section 15 of the Act which

provides for search of a premises in presence of two or more respectable inhabitants of the locality in which the premises is situate, one of whom shall be a woman, may be from an area other than the one in which premises is situate. In Paragraph 11 of the supplementary affidavit petitioners asserted with reference to Section 23 of the Act that the Government has not yet notified the Rules in official gazette for granting protection to the witness for effective prosecution of the case filed against a trafficker. In Paragraph 12 of the supplementary affidavit petitioners referred to sub-section (6A) of Section 15 of the Act which provides for interrogation of a woman in connection with a case filed under the Act by a woman police officer but in absence of woman police officer, in presence of a lady member of the recognized welfare institution only and submitted that while interrogating the women Special Police Officer or the trafficking police officer are generally ignoring the said provision of the Act and women are being interrogated by the male police officers in absence of lady member of a recognized welfare institution. In Paragraph 13 petitioners referred to Section 17 of the Act which deals with intermediate custody of the persons removed under Section 15 or rescued under Section 16 of the Act and asserted that without adequate training of police personnel compliance of Section 17 of the Act is virtually impossible. According to the petitioners, sensitization of the police personnel in this regard is necessary and there has been cases where production has been delayed and manipulations made in between. In Paragraph 14 petitioners referred to Section 17-A of the Act which provides conditions to be observed before placing the person rescued under Section 16 in the custody of parents/ guardians and submitted that Magistrate concerned are not observing the provision in letter and spirit and without taking adequate precaution and satisfying themselves about the capacity or genuineness of the parents/ guardians or husband to keep such person are handing over the person rescued under Section 16 to the parents/guardians or husband. In Paragraph 15 of the supplementary affidavit petitioners referred to Section 21 of the Act and submitted that Government has not taken adequate steps to establish Protective Homes. The homes which have already been established are not maintaining minimum standards as specified in the licence granted. No strict vigilance or control mechanism has yet been evolved by the State Government for ensuring minimum standard in the Protective Homes/ Corrective Institutions. Corrective Institutions are being mismanaged and rescued victims are not provided adequate care and protection for a sufficient period, result being that inmates fall prey to unsavory elements. In the same paragraph, it is further asserted that there is hardly any counselling, vocational training facility available in the Protective Homes. In Paragraph 16 of the said affidavit petitioners referred to Sections 22, 22-A of the Act, which require establishment of special Courts for trial of trafficking cases and with reference to the said provision it has been asserted that the Special Courts are not constituted for speedy trial of trafficking cases result being that such cases remained pending for indefinite period.

19. Respondent no. 2 also filed supplementary counter affidavit in the light of the aforesaid two orders reiterating the statements made earlier and further stated in Paragraph 6 thereof that the Government of Bihar has prepared Standard Operating Procedure (SOP) on conducting raid, rescue, care & protection and rehabilitation of trafficked victims in consultation with the representatives of Non-Government Organisation serving in the field, Chair-Person of Child Welfare Committees constituted under the Juvenile Justice (Care and Protection of Children) Act, 2000 and Assistant Director, District Child Protection Unit of all the districts. In the light of the feed back received in the consultation process from the stakeholders Standard Operating Procedure will be notified soon for its implementation. In Paragraph 7 of the supplementary counter affidavit statement has been made that under Section 22-A of the Act Government in

consultation with Patna High Court has notified special Courts for speedy trial of the cases filed under the Act. In Paragraph 8 of the affidavit further statement has been made that in terms of the provisions of the Act State Government is in the process of establishing protection, correctional homes through Non-Government Organisation with financial support from the Government and Non-Government Organisation also. Selection of Non-Government Organisation for setting up correctional home is under process and short-listing of eligible N.G.Os. has already been completed. In Paragraph 9 of the affidavit statement has been made that the State is in process of formulating scheme for vocational training (residential) and rehabilitation of trafficked victims so that they can be gainfully employed.

20. In the light of the pleadings filed by the parties and the order of this Court dated 09.09.2014 petitioners through Ms. Tinku Khanna and the State respondents through Director, Social Welfare, Bihar, Patna submitted their joint submission. Perusal of joint submission indicates that the submissions have been categorized in four headings : Prevention, Raid & Rescue, Rehabilitation and Prosecution.

(A) Prevention :

- (i) Vulnerability mapping of children living in red light area and children at risk to be trafficked (Nomadic and Semi- Nomadic tribes mostly living in border areas of the State) and preparation of individual child care plan by the Child Welfare Committee in each district.
- (ii) Linkage of vulnerable families with Government Schemes.
- (iii) Ensuring enrolment and retention of vulnerable children in school.
- (iv) Creating gender resource centre in the blocks where vulnerability of children is high.
- (v) Imparting life skills and job ready skills to the youth living in red light area and linking the children from red light area to sustainable livelihood opportunities.
- (vi) Monthly monitoring of vulnerable children by the notified officer, who should submit report, on the basis of which appropriate action shall be taken by the Social Welfare Department.
- (vii) Police to work as watch dog against knowntraffickers.
- (viii) Anganwari Sevika be held accountable for birth registration, especially in red light areas, N.G.Os. working at the grass-root level may also be consulted for verification.
- (ix) Establishment and proper functioning of Day Care Centre, Anganwari Centre etc.
- (x) Middle, High school be set up near red light area.
- (xi) Kasturba Gandhi Balika Vidyalaya (KGBV) to be recognized as safe space for the rescued minor survivors of trafficking.
- (xii) KGBV be upgraded to Class-XII from Class-VIII, which is its present status in Bihar.
- (xiii) Instructions be issued to the authorities not to grant licence for the travelling theatre, Nautanki as according to the petitioners travelling theaters are the recruiting grounds for the young girls in the name of

performing entertainer but girls are made to perform nude dance leading to their commercial, sexual exploitation.

(B) Raid & Rescue

- (i) There should be raid in red light areas/ other areas where children, women are in distress following the Standard Operating Procedure. The raiding party must consist of women police officer and N.G.O. representative.
- (ii) Rescued victims be placed in reception centre established at divisional level and subjected to counselling by trauma counsellor followed by medical examination after production of the victim before the concerned C.W.C.
- (iii) Police personnel dealing with trafficking cases must be well-versed with the provisions of the Act and Sections 370, 370-A of the Penal Code to book the trafficker in connection with the offence of trafficking, exploitation of the trafficked person by imparting training so as to enable the police officer to effectively deal with the problem of trafficking.
- (iv) Adequate number of Protective Homes, Corrective Institutions be established in every district of the State in order to protect the victim of trafficking. In order to protect the victim in accordance with the Act rescue of trafficked victim should go along with the effective rehabilitation. Each victim should be placed in the Protective Homes, Corrective Institutions for a considerable period of time so that she can get opportunity to equip herself with adequate skill that would prevent her getting re-trafficked. The shelter homes should effectively look into the needs of a victim regarding legal advice, counselling, job ready skill training and health care. The care givers working in homes should be trained for capacity building as well as enhancing motivation.
- (v) When a child is recovered from a red light area the intents of the parents, guardians, husband should be checked, rechecked through P.R.I. representative and also from native police station before granting interim relief/ custody to the parent/ guardian. In this regard the Authority/ Court shall verify the character of the custody keeper.
- (vi) Annual Social Audit must be made by independent agency and for the same Nodal Department should take all necessary steps.

(C) Rehabilitation

- (i) Victim be given identity card like BPL, AADHAR through which she will link herself to number of social security schemes i.e. Indira Awas Yojna, MANREGA, RGRSB Yojna, Jan- Dhan Yojna etc. The victim be also allotted land as in many cases traffickers have gained control over the victim because they know that she does not have any safe place to go.
- (ii) Victims should get trained into skills that would help her in becoming economically self sufficient. The residential vocational training be provided by the Department concerned to the victim in the trade of her choice and bank loan, if required, may also be sanctioned. During training period she be not handed over to any person like natural guardian, husband or others. To meet the emergencies in the family like demise, marriage etc. victim may be allowed to leave the place of her stay for a day or two with direction to come back on the date fixed.

(D) Prosecution

- (i) Witness protection is vital for effective prosecution of the case. In absence of effective witness protection programme most of the witnesses turn hostile, result being cases instituted against the traffickers end in acquittal for want of evidence. It is expected from the Government that AHTUs in coordination with District Legal Services Authority ensure conducive atmosphere to make it safe for the victims to testify in favour of the prosecution. Family of the trafficked victim should be brought into the purview of social security system.
- (ii) Trafficked victim should be compensated during the interim period.
- (iii) The police and the prosecution should work in tandem for securing effective conclusion of the case in a time frame preferably within six months.

21. Director General of Police, Chief Secretary, Bihar having gone through the joint submission filed by the petitioners, Director, Social Welfare filed supplementary counter affidavit, counter affidavit respectively in the matter stating that the joint submission made by the petitioners, Director Social Welfare is appropriate as it covers overall the issues concerning protection of vulnerable children, women from human trafficking and provide for proper rehabilitation of trafficked victims. In Paragraph 5 of the supplementary counter affidavit filed on behalf of Director General of Police, Bihar, Patna it has been stated that since trafficking of person is an organized crime, source information is a major area of intelligence collection in detecting crime of trafficking and rescue of victim. Besides crime stoppers, help lines, police control room etc., Non-Government Organisation are also important source of information. The Non-Government Organisation working at local level may play a crucial role in providing information regarding scene of crime which includes brothel or places of exploitation, the source, transit, destination point, the vehicle used for transfer of victim at any place, the other places where women juvenile are exploited or are kept in distress etc. It is quite essential that list/ data of Non-Government Organisation recognized by the State Government at district and local level is prepared and provided to the district police/ AHTU as also duly publicized. The recognized N.G.O. should provide information to the police/ other stakeholders regarding the crime. In Paragraph 6 of the said affidavit it is further stated that police headquarter has sent a proposal to the Government of Bihar for creation of Anti Human Trafficking Police Stations in 14 districts of the State i.e. Patna, Gaya, Munger, Muzaffarpur, Katihar, Purnia, Madhubani, Begusarai, Sitamarhi, Motihari, Kishanganj, Araria, Bettiah and Saharsa as these districts have been found to be more prone and vulnerable to the crime of human trafficking. In this connection, reference is also made to the direction of the Supreme Court in Writ Petition (Civil) No. 75/ 2012 for creation of Anti Human Trafficking Police Station. In Paragraph 7 of the affidavit it has also been averred that when information is received regarding victims/ activities relating to CAS and/or trafficking the police needs help, assistance of concerned Department in district while conducting raid and rescue operation. It is, therefore, necessary that the concerned Department, such as, Social Welfare, Labour, Public Health Engineering etc. may notify a Nodal Officer for Anti Human Trafficking Unit at State, District level so as to enable the Anti Human Trafficking Unit at the State, District level to take prompt action.
22. In Paragraph 7 of the counter affidavit filed on behalf of the Chief Secretary, Bihar, Patna it has been stated that it has been decided to formulate scheme through which trafficked victims may be imparted residential, vocational training for their economic

empowerment. The ultimate purpose of imparting training is to link the victim with income generating avenues to make the victim self reliant. In the same paragraph it has further been averred that there is no specific protocol that specifies roles and responsibilities of various stakeholders involved in preventing rescue, care & protection and rehabilitation of trafficked victim of commercial, sexual exploitation and child labour. Various Government Departments and other stakeholders play important role in the rescue, repatriation and rehabilitation of the victims. During raid as well as post-raid operation there is no clear laid out mechanism and supporting instructions which could be relied upon by the various stakeholders for taking necessary steps. Inter- departmental linkages, therefore, has to be formalized and mechanism for coordination is required to be clearly laid out which the Department concerned has developed as a set of guidelines (SOP) for safe rescue, care, protection and rehabilitation of the trafficked victims and contents thereof was brought to the notice of the State Level Anti Human Trafficking Coordination Committee in its meeting held on 10.10.2014 and the SOP shall be implemented after the same is notified. In Paragraph 8 of the affidavit it has been averred that trafficking of women, children for commercial, sexual exploitation is an organized crime that violates basic human rights. Appreciating such fact Ministry of Women and Child Development has also formulated a comprehensive scheme for prevention of trafficking for rescue, rehabilitation and reintegration of victim - Ujjwala. In the same paragraph, it has further been averred that in the meeting of State Level Anti Human Trafficking Coordination Committee it was decided to organize workshop in collaboration with UNICEF, Patna especially in border districts for proper implementation of integrated Scheme Ujjwala. In Paragraph 9 of the affidavit statement has been made that decision has been taken to map out all red light colonies in each block and prepare block-wise plan for identification of all children in the age group of 0-18 years in the areas. It has further been decided to strengthen KGBV where vulnerability is very high, especially in age group of 12-18 years so that trafficked victims could get residential education, vocational training for longer period of time.

23. Before proceeding to consider the prayer made in the writ petition in the light of the pleadings, submissions made by the parties, it is necessary to notice Article 23 of the Constitution which provides for prohibition of traffic in human beings and forced labour. Any contravention of Article 23 is an offence punishable in accordance with law. India having become signatory and ratified International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of the Prostitution of Others at New York on 09.05.1950 enacted Suppression of Immoral Traffic in Women and Girls Act, 1956 for punishing those who indulge in trafficking of women and girls for immoral purposes. Later, India became signatory and ratified the Convention for Elimination of all Forms of Discrimination Against Women 1979 which provides for prohibition of discrimination against women in all its forms, amended the nomenclature of the aforesaid Act by enacting Amending Act no. 44 of 1986 providing for substitution of words "Suppression of Immoral Traffic of Women and Girls" from the nomenclature of the said Act with the word "Prevention" to provide for prevention of trafficking and rehabilitation of victims by ensuring minimum standard for correctional treatment as also to make the Penal provisions more stringent. India having ratified U.N. convention on the right of child in 1992 prescribing a set of standards to be adhered by all State functionaries in securing the best interests of the child and for giving effect to the relevant constitutional provisions of Articles 39, 45 and 47 imposing primal responsibility on the State and its functionaries to ensure due care and protection to every child so that his basic needs during childhood is fulfilled and his childhood is not only protected but he is able to grow realizing his full potentiality, enacted the Juvenile

Justice (Care and Protection of Children) Act, 2000. Having enacted the aforesaid Act respondent no. 9 adopted National Charter for Children in February, 2004 underlining intent to secure for every child its inherent right to be a child and enjoy healthy, happy childhood to address the root causes that negate the healthy growth and development of children. Perusal of the National Charter for Children, 2003 indicates the commitment of the State to take affirmative measures by way of legislative, policy enactment to promote and safeguard the right of all children to live and grow with equity, dignity, security and freedom, especially those marginalized or disadvantaged so that all children have equal opportunities and that no custom, tradition, cultural or religious practice is allowed to violate or restrict or prevent children from enjoying their rights and childhood. Government of India, Ministry of Women and Child Development being conscious of its responsibilities to protect the childhood of every child, particularly vulnerable children of marginalized or disadvantaged groups rolled out Integrated Child Protection Scheme in the year 2009 for protecting the childhood of all the children including 40 % of India's vulnerable children whose parents on account of poverty are unable to protect their childhood. In 2013 Government of India once again reviewed the progress made in execution of Integrated Child Protection Scheme, 2009 drafted rights based National Policy for Children 2013 to address the continuing and emerging challenges in the situation of Children for filling up the gaps which were found in execution of the Scheme for providing due care and protection to children of the disadvantaged on the cardinal principle that unless rights, best interest of every child in difficult circumstances is protected their vulnerability reduced by undoing abuse in any form, neglect, exploitation, abandonment and separation from family, it may be difficult to protect the childhood of the vulnerable child.

24. In 2011 India ratified United Nations Palermo Protocol which provides for prevention, suppression and punishment of persons indulging in trafficking of human beings, especially women and children. Perusal of Protocol would indicate that the same widened the concept of trafficking of person by including all those who for the purpose of exploitation recruits, transports, harbours, transfers or receives a person or persons.

Aforesaid definition of trafficking of person was considered by Justice J.S. Verma Committee constituted for suggesting Amendment in the criminal law. In the light of the report of the Committee new Sections 370, 370-A was substituted in the Penal Code by Act 13 of 2013 whereunder trafficking of person or persons including minor for the purpose of exploitation by recruitment, transportation, harbouring, transfer, receipt is made punishable. Government of India taking note of the spate of high incidence of violence against women, under letter of the Executive Director, National Mission for Empowerment of Women, Ministry of Women and Child Development dated 05.06.2014, conceived establishment of One Stop Crisis Centre (OSCC)/ Nirbhaya Centre in every district of the country for providing medical, police, psycho-social support/ counselling, assistance, legal aid and shelter to the victims and asked the concerned authorities of the respective States to identify suitable land/ building for the purpose.

25. Having taken a bird's eye view of the context in which the present Public Interest Litigation has been filed and the prayer made, it is appropriate to consider the prayer made in the writ petition under four sub-headings, namely, Prevention, Raid & Rescue, Rehabilitation and finally Prosecution as it is well known that Prevention of the malady is always better than the cure.

A. Prevention

26. To prevent social evil of human trafficking in Bihar the State Government through its Department of Social Welfare has notified a State Plan of Action -ASTITVA providing for integrated approach by several of its line Departments, namely, Education, Rural Development, Social Welfare, Labour, Human Resources, Health, Police, District Administration etc. vide resolution bearing Memo No. 595 dated 31.12.2008, perusal whereof indicates that to combat the menace of human trafficking State, District, Village Level Anti Human Trafficking Body is to be constituted. From perusal of the pleadings filed by the parties, it appears that the State, District Level Anti Human Trafficking Body has already been constituted but till date no such body at the Village level has been constituted to prevent trafficking at grass root level. Accordingly, it is directed that in every village/ ward of Gram Panchayat/ Urban agglomeration including red light area where Anganwari Centre is already established Village/ Ward Level Anti Human Trafficking Body be constituted within a reasonable time not exceeding two months from the date of this judgment. Anti Human Trafficking Body so constituted may be the same Village/ Ward Level Child Protection Committee, which is required to be constituted at the village level in terms of the Integrated Child Protection Scheme, Chapter-2 Paragraph 3(i). Once Village/ Ward Level Anti Human Trafficking Body/Village/ Ward Level Child Protection Committee is constituted, it shall be the duty of the said Body/ Committee to collect all relevant data concerning the children aged between 0-18 years residing within its jurisdiction i.e. date of birth, gender, family's income, status of the child attending Anganwari/ school etc. and to draw the individual Child Care Plan for each child residing within its jurisdiction, as is required in terms of Integrated Child Protection Scheme Chapter 2 Paragraph 3(v) and to submit monthly report to the Block/ District Level Committee. The Block/ District Level Committee will analyze the report/data, take remedial action and submit report to the Social Welfare Directorate for further remedial action. The Directorate shall keep the report/data in public domain by placing the same on its website for annual social audit also by an independent agency. It shall also be the responsibility of the Body/ Committee to monitor that the child is regularly attending the Anganwari/ School. In case, child is not attending the Anganwari/ School for any reason, it shall be the duty of the Village/ Ward Level Committee through its Secretary to first ascertain the reason which persuaded the child not to attend Anganwari/ School and then to inform the same to the Block Level Child Protection Committee/ Child Welfare Committee and District Level Committee to take appropriate remedial measure. In case, acute poverty of the family is restraining the child from attending the School the Superior Committees i.e. Block Level Committee/ Child Welfare Committee through its Secretary and Chair Person will ensure linkage of the family with Social Security Schemes like MNREGA etc. and child is provided sponsorship, kinship care, foster care by linking the child to the Scheme like PARVARIS etc. The status of the child be reviewed by the Body/ Committee on regular basis. In case, child is to be given in adoption the same must be in accordance with law after obtaining due permission from the concerned Child Welfare Committee. In the event, data base including birth registration, vigil about the activities of every child is not maintained by the Village Level Committee, Child Welfare Committee concerned, Directorate and the Social Welfare Department shall take appropriate action and will ensure maintenance of data base and required vigil over the activities of every child and his guardian by not only the Village/ Ward Level Committee but also by the Child Welfare Committee as also the Directorate. Aforesaid arrangement in the opinion of this Court will go a long way to prevent trafficking of children, child marriage in the Village/ Gram Panchayat/ Urban Agglomeration. In order to provide better and longer educational facility to the girls Government should upgrade Kasturba Gandhi Balika Vidyalaya from Class-VIII

to XII as early as possible, in any case, within a reasonable time so that girl child of those who are marginalized or disadvantaged may have longer period of time to learn, study in a residential school. The District Magistrate of each district may also not grant licence for travelling theatre or Nautanki. It shall be the responsibility of District Magistrate, Superintendent of Police of each revenue, police district to maintain the list of Non-Government Organisation, social workers engaged, serving in connection with rescue, rehabilitation of trafficked victim for the needful.

B. Raid & Rescue :

27. (i) To eliminate the menace of trafficking for sexual purposes there should be regular raid/ search and rescue from brothel(s) as defined under Section 2(a) of the Act as also in other premises wherever women, children are in distress by the Special Police Officers appointed under Section 13 of the Act and duly trained so that while conducting search they comply with the requirement of sub-section (2) of Section 15 of the Act and conduct search of the premises in presence of two or more respectable inhabitants of the area. One of whom should be a woman need not be a resident of the same area. During search Special Police Officer leading the search party should also observe the mandate of sub- section (6A) of Section 15 of the Act which require the raiding team to consist of at least two women police officers. In case, women or girl removed from the searched premises is required to be interrogated, interrogation must be made by a woman police officer. If no woman police officer is available, interrogation be done only in presence of a lady member of a recognized welfare institution/ organization. Special Police Officer leading the team to conduct search should also ensure production of the person removed under Section 15 or rescued under Section 16 within the time provided for production under Section 17 of the Act. Learned Magistrate/ Special Judge while conducting enquiry in terms of Section 17 of the Act before passing order for interim custody of the person rescued under Section 16 of the Act in favour of the parents, guardian, husband must satisfy himself to the hilt about the capacity or genuineness of the parents, guardian, husband to keep the rescued person by causing investigation to be made by a recognized welfare institution or organization or P.R.I. representatives.
- (ii) The rescued victim shall be placed in Reception/ One Stop Crisis/ Nirbhaya Centre and attended to by the Trauma Counsellor followed by her medial examination after placing the victim before C.W.C. in case, the victim is a child.
- (iii) The Government shall notify the Standard Operating Procedure (SOP) for safe rescue, care, protection and rehabilitation of trafficked victim within one month from the date of this judgment.
- (iv) It shall be the responsibility of the Director General of Police, Bihar and I.G. Weaker Section to draw annual calendar for training of the Special Police Officers and other police officers dealing with the offences of human trafficking, as provided under amended Sections 370, 370-A of the Penal Code on regular basis for ensuring better handling, registration, investigation of the trafficking cases to deter the traffickers from indulging in trafficking of human being. It shall be the responsibility of the Director, Bihar Judicial Academy to provide a slot for training of Judicial Magistrate/ Special Judge dealing with trafficking cases in its Annual Calendar so as to acquaint them with the nuances of the provisions of Sections 15, 16, 17, 17-A of the Act for better handling, disposal of the cases relating to trafficking.

C. Rehabilitation

28. In order to protect, provide vocational training to the trafficked victims Social Welfare Department should establish adequate number of Protective Homes, Corrective Institutions in each district of the State. To begin with the Department must establish one Protective Home, Corrective Institution and One Stop Crisis/ Nirbhaya Centre in each district as early as possible, in any case within a reasonable time. The Protective Home, Corrective Institution, One Stop Crisis/ Nirbhaya Centre must be managed by a person or authority who is licensed under sub-section (3) of Section 21 of the Act with the help of trained staff. It shall be the responsibility of the Welfare Department/ Directorate and the Licensing Authority to ensure that the person managing the Protective Home, Corrective Institution does not violate any of the terms of the licence. Rescue of the trafficked victim is meaningless if the victim is not provided protective care, vocational training to enable her to stand on her own feet and become economically self reliant. In absence of adequate vocational training the rescued victim is again likely to go back in the same black hole from where she has been rescued. Reference in this connection is made to the case of Raushni Khatoon, daughter of Md. Luna Master and victim of Mahila Police Station (Araria) Case No. 40/13 dated 03.12.2013. It shall be the responsibility of the Directorate of Social Welfare to ensure regular training of the Assistant Director and other care givers working in Protective Homes, Corrective Institutions and One Stop Crisis/ Nirbhaya Centre. The trafficked victims be issued identity card like B.P.L., AADHAR etc. which will immediately link her to the various social security schemes of the Government including housing scheme.

D. Prosecution

29. For successful prosecution of the trafficker, it is necessary that the cases registered under the Act are investigated by the Special Police Officer and also prosecuted before the Special Court constituted under Section 22-A of the Act within a time frame so as to ensure that the prosecution witnesses do not become hostile. From Paragraph 7 of the supplementary counter affidavit filed on behalf of respondent no. 2, it appears that Special Courts for trial of cases instituted alleging offences under the Act have already been notified. It shall be the responsibility of the Special Court concerned to take up trial of the cases alleging offences under the Act on priority basis so as to conclude the same within shortest possible time. **During investigation, trial trafficked victim be allowed the services of Para-Legal Volunteer as also panel lawyer to avoid any harassment, legal expenses by her and for ensuing such services to the victim District Legal Services Authority concerned be alerted about registration of the case no sooner the same is registered by the Police Station as also by the Special Court after receipt of the First Information Report by it.**
30. The writ petition is, accordingly, disposed of in terms of the observations/ directions above.
31. Before parting with this judgment, this Court will like to observe that the petitioners, State respondents, Union of India, respondent no. 9 extended their full cooperation in disposal of the present matter.

I agree.

Hon'ble Mr. Justice V.N. Sinha, J

Hon'ble Mr. Justice Prabhat Kumar Jha, J

(Prabhat Kumar Jha, J)



Initiative For Transportation ... Versus Mcd And Ors.

Delhi High Court

Initiative For Transportation ... vs Mcd And Ors.

Decided on 2 June, 2012

W.P. (C) 4572/2007

W.P.(C) 8580/2009 INITIATIVE FOR TRANSPORTATION AND DEVELOPMENT PROGRAMMES
.....Petitioner versus MCD AND ORS.Respondents CONT. CASE (C) 564/2010 MANUSHI
SANGATHAN Petitioner versus P.K. PANDA AND ORS.

.....Respondents Appearance: Ms. Indira Unninayar with Ms. Kirat Randhawa, Advocate for
petitioners in WP (C) 4572/07 and Cont. Case (C) 564/2010.

Mr. Nazmi Waziri, Standing Counsel for GNCTD with Ms. Neha Kapoor, Advocate.

Ms. Madhu Tewatia, Advocate for MCD with Ms. Sidhi Arora, Advocate.

Ms. Geetanjali Mohan, Advocate for Railways with Ms. Mansi Gautam, Advocate.

W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 1 Mr. Sanjeev Ralli with
Mr. Sandeep Anand, Advocates for respondents/Chandni Chowk Vyapar Mandal.

Ms. Pooja Bahuguna, for Ms. Sangeeta Chandra, Standing Counsel for DDA.

Ms. Reeta Kaul and Sh. Sandeep Khatri, Advocates, for Resp. Nos. 4 and 5 in W.P. (C)
4572/2007.

Mr. Shashi Bhushan, President, All Delhi Cycle Rickshaw Operator Union.

**CORAM: HON'BLE MR. JUSTICE S. RAVINDRA BHAT HON'BLE DR. JUSTICE S.
MURALIDHAR HON'BLE MR. JUSTICE S.RAVINDRA BHAT (OPEN COURT) % C.M.
APPL. 626/2012, 2724/2012, 2801/2012, 3663/2012 and 793/2012 Left Slip Road**

1. At a special sitting today, the Court was shown several presentations. One of these included a presentation by M/s. Pradeep Sachdeva and Associates, the Architects commissioned by the MCD. This presentation was about the road segregation on the S.P. Mukherjee Marg for the purpose of pilot project for implementation of the directions contained in this Courts judgment dated 10.02.2010. The Court is informed that this presentation was also made before the UTTIPEC which has approved it in principle. According to the proposal, the free-left slip road turning on to the S.P. Mukherjee Marg would no longer exist. Instead a separate lane has been created in the main carriageway to cater to the left-turning motorized vehicle (MV) traffic. The proposal also envisions a multi-utility zone (MUZ) which is to act as a buffer between non-motorized vehicle (NMV, a term which W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 2 refers to cycle rickshaws, trolleys, thelas, etc. also variously called "cycle rickshaws") (NMV) lane and the main carriageway for motorized vehicles.

The MUZ would be used for parking of rickshaws, emergency vehicles, PCRs and also for the purpose of hawking.

2. Mr. Nazmi Waziri, learned counsel on behalf of the NCT of Delhi and the Delhi Police submitted on instructions from the DCP (Traffic) present in court that the above proposal was acceptable and that suitable steps to implement the same would be taken at the earliest. We also direct all concerned agencies to cooperate and ensure that the road segregation of the S.P.Mukherjee Marg with the additional MV lane as proposed by M/s. Pradeep Sachdeva and Associates is implemented within six weeks from today. Just after the above was dictated in Court, Mr.Waziri informed the Court that there was a rethink by the DCP (Traffic) and that even though earlier the proposal to do away with the free left slip road had been agreed to by the Govt. of NCT of Delhi, they were now opposed to the idea and wished to have a free left slip road. The concerned DCP Traffic is of the opinion that such a free slip road is necessary and that the Delhi Police is not comfortable with the idea of a buffer zone.

3. We notice in this regard that the UTTIPEC formulated Street Design Guidelines adopted by it in November 2009, which is the guiding norm for town-planning and design of various streets in the Govt. of NCT of Delhi. These guidelines inter alia state:

"Slip roads on Delhi roads are meant for the "signal free" movement of traffic, and to spare the left turning traffic from having to wait at traffic lights for taking a turn.

W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 3 While such car-oriented design features has not really helped reduce congestion on city roads, this design feature make "crossing the street safely" for pedestrians, cyclists, aged and physically challenged people an impossible task.

Making street-crossing unsafe for these road users further discourages walking and use of public transport, and therefore induces people to use private vehicles.

Therefore, from a pedestrian and cyclist safety standpoint, Slip roads are undesirable."

4. We are of the considered opinion that the UTTIPEC guidelines having been shown and discussed, and accepted in principle previously, should be acted upon. We also notice that the Govt. of NCT of Delhi is committed to the UTTIPEC guidelines and has agreed to implement the same. No reservation of the kind being voiced now, is on record, in any of the previous UTTIPEC meetings, including those chaired by the Lieutenant Governor. We accordingly direct all the authorities and agencies, including the Delhi Police, to cooperate and ensure that the proposal suggested and shown in Court today by M/s. Pradeep Sachdeva and Associates are implemented within the shortest possible time and in any event within six weeks from today.

Entry of buses into the Old Delhi railway station

5. Pursuant to the notice issued by this Court, the Northern Railways is present and is represented by Ms. Geetanjali Mohan, learned counsel. She stated that according to the agreed plan, buses were permitted entry into the W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 4 Old Delhi railway Station on 26th May 2012 but that due to demonstrations and resistance by taxi pliers, however, implementation of the plan could not take place. During the hearing, Mr. Waziri, learned counsel for the Govt. of NCT of Delhi, Ms. Madhu Tewatia, learned counsel for the MCD and Ms. Indira Unnayar, learned counsel for the petitioner emphasized that there was considerable traffic congestion and chaos outside the Old Delhi railway station on account of the buses having to wait and being denied entry and the passengers who alight and walk along the street which in turn clogs the streets. It was submitted that the bus

passengers are left in the lurch because they would have to travel a considerable distance from the alighting point to the station with heavy loads of luggage. Other passengers who travel in private vehicles, taxis or other private modes of transport do not face a similar hardship. Mr. Waziri submitted that if buses are allowed entry as they were earlier, a far greater number of passengers would be able to reach the station easily and thus avoid the traffic chaos which prevails in the area. Ms. Mohan, on the other hand, submitted that the situation which existed 22 years ago does not prevail now since there has been a 10-fold increase in the footfalls in the railway station. It was submitted that the taxi pliers, auto rickshaw and cycle rickshaw pliers have serious reservations to such proposal.

6. We are of the opinion that the experiment of allowing entry of buses into the Old Delhi railway station should be viewed as an essential component of the pilot project and tried on an experimental basis for 15 days to begin with. This is vital for gathering data. Also it is important to ensure equitable access to the railway station to all passengers whether approaching in a bus or other forms of transport. A few who travel through private modes W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 5 of transport cannot be privileged over the rest. The Court accordingly directs the Govt. of NCT of Delhi, the Delhi Police and the Northern Railways to coordinate and ensure smooth functioning of the plan whereby DTC and other buses in the cluster system that are permitted to operate on DTC routes are allowed entry into the Old Delhi railway station. While collecting data, the concerned agency may take into consideration all the relevant parameters, including the average time spent by each bus, the number of passengers alighting from the buses or going into buses, after leaving the Railway Station and such like information which would be necessary for an assessment of the pilot project. While working out the plan, it is open to the Delhi Police and the other concerned agencies including the DTC to suggest a waiting period for the buses. Temporary sites for passengers to board the buses at the station may also be earmarked. Ms. Tewatia, learned counsel for the MCD stated that the Dangal Maidan, i.e. the ground opposite the station, has been vacated and has by an Office Order been earmarked for the exclusive use by buses with effect from 3rd May 2012. In view of this development, the Delhi Police and other concerned agencies tasked with the duty of implementing the UTTIPEC proposals and the directions of the Court shall make optimal use of the said open space in the Dangal Maidan for bus parking and to facilitate use of the vehicles by the passengers, who have to cross the road or who alight in order to get into the station from the opposite end of the road.
7. DRM (Railways), Delhi Division will for the above purpose, convene a meeting of the concerned officials of the Govt. of NCT of Delhi, the MCD, the DTC and the Delhi Police in the first instance on 6th June, 2012 and ensure that steps are taken to implement the plan within the time frame W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 6 indicated hereinabove.

Registration of cycle rickshaws

8. After hearing all the parties, the Court is of the opinion that the MCD should with utmost expedition start registering cycle rickshaws plying in the city. For this purpose, the form proposed by the MCD on the record (at page 1184 of the paperbook shall be utilized with certain modifications, suggested hereafter. The form which will be titled "Application for Registration of NMV" will be made available free of charge and also placed on the internet so that it can be downloaded and printed. Also, sufficient number of copies shall be made available by the MCD at its Citizen Service Bureau (CSB) counters registration counters. The MCD should make adequate arrangements

for the digital photographs and the recording of index fingerprint of the applicants as is done in the case of applicants for MV licences. Proof of residence should not be insisted upon, having regard to the economic strata of the applicants and also the fact that most of them may not possess any proof of residence. The MCD shall also not insist upon the proof of purchase of cycle rickshaw, having regard to the fact that in many cases, these are assembled and receipts would be hard to come by. Insistence on document is irrelevant. Ms. Tewatia, learned counsel for the MCD has assured that the registration certificate in respect of the cycle rickshaw would be issued within two days of the duly filled form being submitted.

Licence for cycle rickshaw pliers

9. So far as the application by the cycle rickshaw plier for licence, the form suggested by the MCD at page 1182 of the pleadings shall form the W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 7 basis. However, as in the case of the application for registration of NMVs, furnishing of proof of residence shall not be insisted upon and the form shall be provided free of charge. Information regarding experience of driving a cycle rickshaw, knowledge of the traffic rules and about any disease that the applicant is suffering from are irrelevant and should not be insisted upon. Here too, the MCD assures the Court that license would be issued within two days of the application being launched. As far as the insistence by the MCD of the disclosure as to whether an applicant has been convicted for any offence is concerned, the Court notices that this is based on a previous understanding of the Bye-laws which were framed in 1960. The Court is of the opinion that there is some inherent bias against those who apply for cycle rickshaw registration or licence. The information that is sought from those who apply for MV licences in terms of Rule 14 of the Motor Vehicles Rules is about previous conviction under the Motor Vehicles Act 1988 but not generally about all convictions. In these circumstances, calling for these particulars from an applicant for a cycle rickshaw licence is not relevant and should not be insisted upon.

Fees and Parking charges

10. MCD shall take a decision for fixing one-time registration fee for registration of the NMV. The registration shall remain valid for a period of five years. As regards the fee for licence, it shall be collected on three-yearly basis or for longer duration as may be decided by the MCD. However, it shall be ensured that the licence fee is commensurate with the nature of the vehicle and the economic strata of the applicants.
11. One major area of concern for cycle rickshaw owners and pliers is W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 8 complete absence of parking areas. Ms.Tewatia stated on instructions that certain areas for this purpose have been earmarked in each zone. However, these are to be formally notified and permitted to be used for parking of NMVs. The MCD is directed to take immediate and expeditious steps to designate the NMV parking areas and announce the rules for their use.
12. Apart from the above, the Court is further of the opinion that the MCD may collect one-time parking charges at the time of grant of NMV registration so as to or reduce the scope of harassment of the NMV owners and/or pliers.

Redrawing of the forms

13. The form of the application for registration of NMVs as well as the form for application for licence shall be redrawn on the above basis and placed before the court by the MCD on the next date. The inputs provided and the forms suggested by the Petitioner may also be taken into consideration by the MCD for this purpose. The forms will

indicate what the fees to be collected for registration, licence and parking. They will contain instructions to the applicants to facilitate quick processing of the applications. The forms will be rolled out after approval by the Court.

CONT. CASE (C) 564/2010

14. This Court has considered the submissions on behalf of the petitioners and the MCD. The petitioners have also filed two reports dated 2nd May and 24th May 2012. Ms. Tewatia referred to a Circular dated 25th April 2012 and submitted that instructions have been issued by the MCD to ensure that no W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 9 cycle rickshaw owner or plier is harassed in any manner and that after 1st May 2012 no NMV has been seized or impounded as is being alleged.
15. On the other hand Ms. Unninar, learned counsel for the writ petitioners, highlighted the systematic harassment of the cycle rickshaw owners and pliers. The video clippings produced by the Petitioners and played in the Court prima facie reveal that there is a prevalent practice of illegal seizures by MCD officials of NMVs/rickshaws, their storage in illegal yards, extraction of money from the pliers as passing fee etc. 16. Video clips pertaining to an incident which occurred on 28th April 2012 involving one Mr. Dhanik Lal were also played in the Court. Mr. Dhanik Lal is stated to have lost 90 of his 120 rickshaws to illegal seizures/confiscations by the MCD officials. The allegation pertaining to the incident was that one of the cycle rickshaws of Mr. Dhanik Lal was illegally confiscated by two MCD employees, Arvind and Devender and in relation to that incident Mr.Dhanik Lal had initially filed a complaint with Police Station (P.S.) Rohini South, alleging harassment by the said two MCD employees. Later the MCD is alleged to have filed a complaint with P.S. Keshavpuram alleging that Mr. Dhanik Lal and two of the members of the Petitioner organisation had stolen a rickshaw from MCDs yard. This led to their being picked up by the police. A video clip was played in Court which showed the intervention by Ms.Madhu Kishwar with the SHO at P.S. Keshavpuram to get them released. Ms.Kishwar informed the Court that a few days later policemen from P.S. Keshavpuram prevailed upon Mr. Dhanik Lal and that on 4th May 2012 he withdrew his complaint. She alleged that Mr. Dhanik Lal had gone missing ever since.
17. This Court directed Mr. Pawan Varma the learned Standing Counsel W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 10 for the Govt. of NCT of Delhi to make enquiries. He obtained the relevant file from the concerned P.S. SHO, PS Rohini South - Sh. Jai Prakash - who is also present. It was submitted that Mr. Dhanik Lal is indeed in Delhi. Mr.Varma assured that on the basis of the facts revealed in Court, an FIR would be registered as it prima facie appeared to disclose a cognizable offence. In these circumstances, the Govt. of NCT of Delhi is directed to take suitable action immediately and investigate the matter. During the course of investigation, the statements of all necessary witnesses, including Mr. Dhanik Lal and members of the petitioner organisation, who was present at that time, shall be recorded. The video clips shown in the Court shall also be handed-over to the Delhi Police for investigation. After completion of investigation, the police shall take necessary action and file the report before the concerned Magistrate in accordance with law.

Inquiry into complaints of NMV pliers

18. As far as the allegations of widespread and systematic illegal activities of some sections of the MCD is concerned, this Court is of the opinion that the same cannot be left at that and that some enquiry is necessary. Since these complaints have arisen in the

course of contempt proceedings filed by the writ petitioners seeking implementation of the judgment which had declared illegal the confiscation and impounding of cycle rickshaws, they assume seriousness.

19. To enquire into these allegations by NMV owners and/or pliers, the Court appoints Mr. Bharat Bhushan, a retired Additional District Judge as Enquiry Officer (EO). The District Judge-in-charge, Saket Courts is hereby requested to make available to the EO any appropriate space in the Saket W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 11 District Courts Complex to facilitate the enquiry. The scope of the enquiry will be to examine the veracity of the complaints made by the NMV owner/pliers of harassment and violation of the Courts judgment and orders, identify and fix responsibility on the concerned officials of the MCD, the Delhi Police and any other agency involved, and to suggest measures to bring about effective enforcement of the Courts directions issued from time to time.
20. It is clarified that the incident involving Mr.Dhanik Lal, including the complaint made by him to the P.S.Rohini South and the complaint against him and the members of the Petitioner organisation in the Keshavpuram P.S. will not form part of the enquiry by the EO as that would be investigated separately by the police.
21. A complete set of the contempt petition paperbook including the pleadings shall be provided to the EO by the Registry within two weeks. The EO shall examine the complaints by the other NMV owners/pliers some of whom have already filed affidavits in these proceedings. The EO shall have public notices issued, at the cost of the MCD, about the enquiry proceedings and grant two weeks time for the filing of further complaints/ affidavits by NMV owners/pliers and a further period of two weeks for replies thereto by the concerned agencies. The EO shall be free to record the statements of all the relevant witnesses and take on record the necessary documents. The MCD, Delhi Police and other agencies and the Petitioner organisations shall extend their full cooperation to the EO in the enquiry. The EO shall be free to inspect any sites, take photographs and record videos of places and depositions of persons on oath as deemed necessary.
22. The remuneration payable to the Enquiry Officer shall be W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 12 Rs.2,00,000/- to be shared equally by the Govt. of NCT of Delhi, the MCD and the Delhi Police. 50% of the fee shall be paid to the EO within four weeks and the balance on the conclusion of the enquiry. The MCD and the Delhi Police shall arrange for the transport for the EO. While minimal infrastructural support in terms of staff and facilities shall be provided by the District Judge, Saket, the Delhi Police and the MCD will share equally the expense of the secretarial and other staff as may be engaged by the EO. In case any clarification is required in this regard, the EO and the parties are at liberty to apply to the Court. The EO shall devise his own procedure and furnish a report within a period of four months from today.

Directions to the DLSA

23. This Court is further of the opinion that there is a need to put in place an effective legal redressal mechanism for the NMV owners/pliers who may face harassment. The Court has had the benefit of the suggestions of Ms.Asha Menon, Secretary Delhi Legal Services Authority (DLSA) to whom notice was issued on the previous date. She informs the Court that the **DLSA has trained para legal volunteers whose services could be utilized in conjunction with the panel lawyers of the DLSA. The para legals can be contacted through the Samajik Suvudha Kendras (SSK) - a community**

based programme of the Govt. of NCT of Delhi - which has a wide network of centres in the NCT of Delhi. The DLSA will issue suitable instructions to the para legal volunteers at the SSK centres to extend assistance to an NMV owner/plier who has a complaint to register with the police. The para legal attached to an SSK will contact the panel lawyer of the DLSA or the nearest District Legal Services Committee and assist in the owner/plier lodging his W.P. (C)4572/07, W.P.(C)8580/09 & CONT. CASE (C) 564/10 Page 13 complaint with the police and help him follow up the complaint. If there is inaction by the police, or it is otherwise felt necessary, legal assistance will be provided to the NMV owner/plier to institute proceedings under Sections 156(3) or 200 Cr.PC. The Petitioner organisations will coordinate with the DLSA in giving adequate publicity to the above scheme of legal assistance among the NMV owners/pliers.

24. List on 27th July 2012 at 3 pm.
25. Order dasti to the parties under the signatures of the Court Master. A certified copy of this order be delivered forthwith to Mr. Bharat Bhushan, retired ADJ, the District Judge-in-charge, Saket Courts Complex.

Hon'ble Mr. Justice S. RAVINDRA BHAT (JUDGE)

Hon'ble Mr. Justice S. MURALIDHAR (JUDGE)

JUNE 2, 2012

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Baisil Attipety @ Basil.A.G

Versus

The State Of Kerala

Kerala High Court

Baisil Attipety @ Basil.A.G vs The State Of Kerala

Decided on 20 October, 2011

**PRESENT: THE HON'BLE ACTING CHIEF JUSTICE MRS.MANJULA CHELLUR
& THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WP(C).No. 29711 of 2011 (S)

PETITIONER(S):

BASIL ATTIPETY @ BASIL.A.G, ATTIPETY HOUSE,NARAYAMBALAM.P.O,COCHIN:ERNAKULAM DISTRICT,KERALA:682509. BY ADV. SRI.A.G.BASIL

RESPONDENT(S):

1. THE STATE OF KERALA,REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,GOVERNMENT OF KERALA GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM PIN:695001.
2. UNION OF INDIA REPRESENTED BY SECRETARY TO GOVERNMENT OF INDIA,MINISTRY OF FINANCE DEPARTMENT,NORTH BLOCK,NEW DELHI-110 001.
3. DEPARTMENT OF LOCAL SELF GOVERNMENT, REPRESENTED BY ITS SECRETARY TO GOVERNMENT GOVERNMENT OF KERALA,THIRUVANANTHAPURAM.
4. DEPARTMNT OF FINANCE,REPRESENTED BY ITS SECRETARY TO GOVERNMENT,GOVERNMENT OF KERALA THIRUVANANTHAPURAM.
5. DEPARTMENT OF LAW,REPRESENTED BY ITS SECRETARY TO GOVERNMENT,GOVERNMENT OF KERALA THIRUVANANTHAPURAM.
6. BAR COUNCIL OF KERALA,REPRESENTED BY ITS SECRETARY,HIGH COURT CAMPUS,COCHIN:682031.
7. KERALA LEGAL SERVICE AUTHORITY (KELSA), REPRESENTED BY ITS SECRETARY,NIYAMA SAHAYA BHAVAN HIGH COURT COMPOUND,COCHIN:682039.
8. THE SECRETARY,KERALA HIGH COURT LEGAL SERVICE COMMITTEE,HIGH COURT BUILDING COCHIN:682031.
9. KERALA WOMEN'S COMMISSION,REPRESENTED BY ITS SECRETARY,PATTOM PALACE,THIRUVANANTHAPURAM PIN-695004.
10. KERALA HUMAN RIGHTS COMMISSION, REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM PIN-695001.

BY SRI.P.PARAMESWARAN NAIR,ASG OF INDIA

BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-08-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 29711 of 2011 (S)

APPENDIX

PETITIONERS' EXHIBITS

- EXT-P1: TRUE COPY OF THE LEGAL SERVICE AUTHORITY ACT 1987.
- EXT-P2: GOVERNMENT TRUE COPY OF RELEVANT PAGE SHOWN IN KERALA DIARY.
- EXT-P3: THE MAP OF KERALA SHOWN IN THE GOVERNMENT OF KERALA DAIRY.
- EXT-P4: TRUE COPY OF THE DETAILS OF 978 GRAMA PANCHAYATH.
- EXT-P5: TRUE COPY OF THE DETAILS OF THE 14 DEPUTY DIRECTORS OF PANCHAYATH AND 14 ASSISTANT DIRECTORS.
- EXT-P6: TRUE COPY OF THE DETAILS OF THE DISTRICT LEGAL AUTHORITIES AND TALUK LEGAL AUTHORITIES SHOWN IN KERALA LEGAL SERVICE AUTHORITIES (KELSA) ANNUAL BULLETIN 2009.
- EXT-P7: TRUE COPY OF BEFORE PREFERRED THE REPRESENTATION DATED 20.10.2011 THE THE 1ST RESPONDENT BY PETITIONER.
- EXT-P8: TRUE COPY OF THE DETAILS OF NUMBER OF ADVOCATES ENROLLED SHOWN IN PAGE NO.493 OF THE BOOK SUPPLIED BY THE BAR COUNCIL OF KERALA ON THE ADVOCATE ACT.
- EXT-P9: TRUE COPY OF THE FRONT PAGES OF THE BOOK STHREEYUM NIYAMAVUM AND NIYAMA PADOM.
- EXT-P10: TRUE COPY OF THE NOTIFICATION PUBLISHED BY THE LEGAL SERVICE COMMITTEE OF HIGH COURT.

RESPONDENTS' EXHIBITS

Manjula Chellur, Ag. CJ., & A.M. Shaffique, J.

.....
W.P. (C) No. 29711 of 2011 (S)
.....

Dated: 22-08-2012

JUDGMENT

Manjula Chellur, Ag. CJ., Heard learned counsel for petitioner regarding admission.

2. The present petition is filed in the nature of public interest litigation seeking the following reliefs:-
- i) to issue a writ of mandamus or any other appropriate writ, order or direction directing the 1st respondent to take immediate steps to constitute a Legal Service Authority Committee in the Grama Panchayath level also under the provisions of Legal Service Authority Act.
 - ii) to issue a writ of mandamus or any other appropriate writ, order or direction directing the 1st respondent to provide financial assistance to the Legal Service

Aid Committee to be constituted in the Grama Panchayath level in 978 Grama Panchayaths in Kerala.

- iii) to issue a writ of mandamus or any other appropriate writ, order or direction directing the 2nd respondent Union of India to provide all financial assistance and other infrastructural facilities for the functioning of Legal Service Aid Committee to be constituted in all the Grama Panchayaths in the entire State of Kerala of 978 Grama Panchayaths.
 - iv) to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents 3 to 6 to provide all aids and assistance to the panchayath Level Legal Service Committee in the entire state of Kerala in 978 Grama Panchayaths.
 - v) to declare the service of Legal Service Authority's service to a good and simple name to be attracted by the people of Kerala for the access of accepting service from the Legal Service Authority.
 - vi) to issue a writ of mandamus or any other appropriate writ, order or direction directing the 1st and 2nd respondent to complete the constitution of the Legal Service Aid Committee in the Grama Panchayath in 978 Panchayaths in a time bound manner as may be fixed by this Hon'ble Court.
 - vii) Issue such any other or direction/relief that this Hon'ble Court may deem fit and proper in the interest of justice and the mandate of the Constitution of India.
3. The actual relief sought in the above Writ Petition as stated above are formation of Legal Service Aid Committee at grama Panchayath level and give financial assistance to them so as to make the people at the grass- route level to get the benefit of the schemes available under Legal Services Authorities Act.
 4. The Legal Services Authority has its committee members at every level i.e. State Level District Level and Taluk Level. Each of these Committees is headed by the senior most judicial officer of respective place. All the activities of Legal Services Authority, right from taluk level to national level are done under the supervision of judicial officer. The execution of day-to-day activities is also done by a member from the judiciary who is known as Member Secretary. The patron-in- chief of Legal Services Authority at the national level is the senior most Judge of the Apex Court who has his committee members from different parts of the country including two senior Judges of High Court apart from academicians and social workers. Similarly, at the State Level such committees are formed by the Executive Chairman of the Legal Service Authority under the guidance and leadership of Chief Patron of the particular State. The entire system works as provided in the Act. It is open to any NGO or any organisation as such for that matter to seek assistance from the legal Service Authority provided such project come within the parameters either awareness or legal aid as such.
 5. As one of the action plans of National Legal Services Authority is constitution of legal aid clinics which are established at different places **with the assistance of para legal volunteers, every Legal Service Authority of the State has trained para legal volunteers who would be manning these legal aid clinics and they would attend to simple matters when public approach them. If it needs legal assistance, they would refer them to the Taluk Legal Service Authority or the District Legal Service Authority depending upon the nature of legal assistance sought by the applicant.**
 6. This is how the system works catering to the needs of the general public. If any Panchayath is interested to have such assistance, they can always request the Legal

Service Authority to have a legal aid clinic sitting at the Panchayath Office twice or thrice in a week and **they will be manned by para legal volunteers. This is uniformly adopted in every State of the Country. In that view of the matter, there is no necessity to create a parallel machinery to do the same work as already done by the Legal Service Authority.**

7. Therefore, we are of the opinion, none of the reliefs sought could be granted including the financial assistance to committees at the Panchayath level. Panchayath members already have their respective duties and functions as envisaged under Panchayath Act. They can seek the assistance of legal services authority to enlighten them on their duties and function and how best they could efficiently discharge their duties and functions. As a matter of fact, such awareness programmes are conducted for the newly elected Panchayath Members in every State. Therefore, we are of the opinion, none of the relief sought in the above Writ Petition could be granted in favour of the petitioner. Accordingly, petition is dismissed.

Sd/-Manjula Chellur, Acting Chief Justice.
Sd/-A.M. Shaffique, Judge.

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Court On Its Own Motion Versus The State Of Jharkhand And Others

Jharkhand High Court

Court On Its Own Motion vs The State Of Jharkhand And Others

Decided on 13 September, 2016

CORAM:- HON'BLE MR. JUSTICE APARESH KUMAR SINGH

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(P.L.) NO.5256 of 2016

The National Daily " The Hindu" in its Kolkata edition on Monday 12.9.2016 has published a report with a caption " Dalit woman gives birth near highway" , "Doctors in nearby hospital allegedly refused to treat her".This incidence as reported has happened in Latehar District of the State near National Highway No.33. A Scheduled Caste woman is reported to have given birth to a child by the side of the road barely 500 meters from the District Hospital where allegedly the Doctors on duty refused to go to the spot and treat her. The incidence took place on Thursday night when Sona Mani Devi (25) along with her three minor children walked 18 Km from Heshla village to the district Headquarters in Latehar town to get Aadhaar cards for her children. By the time she reached Latehar, it was too late to complete the process. She was told to come on Friday. Since she had no money to avail any transport to return home, she took shelter in a nearby tea stall. The owner of the stall allowed her to stay there for the night and was not aware that she was pregnant. The lady went into labour in the early hours of Friday urging locals to take her to a hospital. The local people informed about the woman's condition to the Latehar Sadar Hospital but the Doctors on duty refused to go to the spot. Soon after, Ms. Devi gave birth to a baby. It is reported that Superintendent of Police, Latehar, Mr. Anup Birthare after being informed by the locals about the incidence, has instructed the local police station to send an ambulance and admit Ms.Devi to the hospital. It is also reported that the District administration has taken the matter very seriously and the Deputy Commissioner has issued show cause to the concerned doctors and the Chief Medical Officer of the Hospital. The photograph of the woman along with her minor children lying by the side of the road is also published. (the copy of the newspaper report is being kept as a part of the record.) The incidence as reported can be said to be a gross case of human right violation apart from a serious case of infringement of the right to life and proper medical care guaranteed under Article 21 of the Constitution of India. (See Pt. Parmanand Katara Vrs. Union of India reported in 1989 (4) SCC 286) The state has under the National Rural Health Mission also framed a scheme to extend maternity and child care benefits to such expecting woman and their newly born child. Under the Legal Services Authority Act, 1987, National Legal Services Authority (N.A.L.S.A.) has also launched Flagship scheme which also tends to provide for protection and enforcement of Tribal right through NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015. Its aim is access to justice to the Tribal people in all its connotation, access to right, benefit, legal aid and other services etc. so that assurance of the Constitution of India towards justice, socio-economic and political is meaningfully experienced by the Tribal population in the

country. NALSA has taken serious note of the lack of health care, human resources in tribal areas and the fact that despite infrastructure and health care institutions created in the form of Health Sub-Centers, Primary Health Centers, they often remain dysfunctional. It is further compounded by inadequate monitoring, poor quality of reporting and accountability. The barriers of language, poor transport, low literacy and unfriendly behavior of the staffs often lead to a lower utilization of the health care centers. **The other flagship scheme i.e. NALSA(Effective Implementation of Poverty Alleviation) Scheme, 2015 also seeks to achieve the objectives to ensure access to basic right and benefits to socio-economically weaker sections of the Society by organizing awareness programmes and by providing assistance through Legal Services Officers and Para Legal Volunteers to ensure that the benefits of such poverty alleviation schemes are extended to the intended beneficiaries in collaboration with concerned district authorities.** It also intends to provide legal assistance to access such poverty alleviation scheme through legal aid clinics. There is a complaint redressal mechanism provided under the aforesaid scheme under which the designated authorities and the District authorities are under obligation to enquire into the matter and pursue the same with the concerned department or even take appropriate legal proceeding.

The nature of incidence reflects an indeed sad state of affairs where the fruits of progress and development still do not seem to have reached the most needy, under-privileged and downtrodden sections of the Society. It reflects a terrible sense of apathy at various levels. The photograph shows number of onlookers standing around the hapless woman lying with her minor children undergoing labour. One would have expected anyone of the onlookers to extend a helping hand with a sense of humanism and at least take her to the nearest hospital for emergency aid and care. Taking serious note of the incidence, I take suo motu cognizance of the matter in public interest in exercise of the powers conferred under Article 226 of the Constitution of India. Let the concerned Departments and its Officers submit a report on the incidence and also ascertain the accountability of the concerned persons. They should also indicate the steps taken to ameliorate the pain and suffering of the affected lady and her minor children including the newly born infant. Accordingly, let the following parties be impleaded as Respondents in the instant P.I.L.

1. The State of Jharkhand through its Chief Secretary
2. The Principal Secretary, Department of Social Welfare, Women and Child Development, Govt. of Jharkhand
3. The Principal Secretary, Health, Medical Education and Family Welfare, Govt. of Jharkhand
4. The Principal Secretary, Department of Welfare, Government of Jharkhand
5. The Deputy Commissioner, Latehar
6. The Superintendent of Police, Latehar
7. The Civil Surgeon cum Chief Medical Officer, Latehar. Let all possible medical, financial and other necessary assistance including fooding and lodging be also extended to the Lady and her minor children by the District authorities, Latehar, if not already done within the next 24 hours, as permissible in law. As an interim measure, let a compensation be paid to the affected lady, Ms. Sona Mani Devi of a sum of Rs.50,000/- within 24 hours. A report showing compliance of the same be also sent to the learned Registrar General of this Court by 4.30 in the afternoon on 14.9.2016. The District & Sessions Judge, Latehar cum Chairman, District Legal Services Authority, Latehar is also directed to furnish a report in the matter before the next date. Further the Deputy

Commissioner, Latehar shall also submits its report in this regard to the Court and as to the compliance of the directions issued by the next date.

Let the matter be placed before the appropriate Division Bench on 15th September, 2016 with permission of Hon'ble the Chief Justice. Learned Registrar General of this Court is directed to communicate the order to all concerned so that necessary compliances be furnished before the next date of hearing.

Let a copy of this order along with enclosed paper report be furnished to the Office of Advocate General tomorrow i.e. 14.9.2016 by the Registry. Let the name of learned Advocate General appear in the cause list also.

Hon'ble Mr. Justice Aparesh Kumar Singh, J.

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The Court On Its Own Motion Versus The Union Of India Through Its ...

Jharkhand High Court

The Court On Its Own Motion vs The Union Of India Through Its ...

Decided on 27 July, 2015

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(PIL) No. 3503 of 2014.

The Court On Its Own Motion Petitioner

-Versus-

Union of India & Others Respondents

With

W.P. (PIL) No.2470 of 2015

The Court On Its Own MotionPetitioner

Versus

The State of Jharkhand, through Chief Secretary & Ors....Respondents.

**CORAM: HON'BLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE
HON'BLE MR. JUSTICE P.P. BHATT**

For the Petitioners : Mr. Delip Jerath, Advocate For the State : Mr. Ajit Kumar, Addl. Advocate General For the Forest Deptt. : Mr. A. Allam, Sr. Advocate For the Intervenors : Mrs. Shobha Jha,

Advocate, Mr. Saurabh Shekhar, Advocate

18/ Dated: 27th July, 2015 Per Virender Singh, C.J.

Suo motu cognizance was taken vide order dated 14 th July, 2014 and vide order dated 9 th June, 2015 as it was noticed that thousands of trees are being cut fearlessly for road construction without proper application of mind in contravention of the Hon'ble Apex Court's Guidelines issued in this regard. The circulars issued by the Ministry of Environment, Government of India, were also not followed before undertaking the exercise of cutting/removal of the trees while widening the roads.

2. Why the State is named and known as 'Jharkhand'? 'Jhar' means Trees/Forest and 'Khand' means 'Land/Bhoomi', which contains plateau region also. Jharkhand means, a portion of land which is full of forest and trees. The State of Jharkhand is also known as "Vananchal". The State has been named as 'Jharkhand' considering its forest coverage. The State is known for its natural resources and forest is one of the important organs of the State, which cannot be allowed to be forgotten by the concerned State authorities as well as public at large.

3. The indispensable need to protect and conserve Trees/forest areas, by planting more and more trees on every nook and corner in the State, for healthier atmosphere and maintenance of ecological balance for sustainable development and growth also gets emphasized by the important extracts of quotations from the renowned Book naming 'ignited minds', in its chapter titling "Building A New State", written by our former President & eminent Scientist, Shri Dr. A.P.J. Abdul Kalam, are worth mentioning, with special respect to State of Jharkhand, which in turns to be one of the greatest bestower-States of the country, is quoted hereinbelow :

"If I were to look over the whole world to find out the country most richly endowed with all the wealth, power and beauty that nature can bestow - in some parts a very paradise on earth- I should point to India"

F. Max Muller.

"To ease the tension I told the young gathering, 'Friends, when I was travelling from Ranchi to here, I admired God's great gift to the State. Under the ground and above it, you have minerals in abundance. The rich soil of the Jharkhand plains can give bountiful crops. When I was flying over the lovely forests and the valley and hills the thought of the wealth they hold in terms of forest and herbal products was very reassuring. On the ground I saw a fully operational steel plant. Now what I see in front of me and what the new state is famous for is its industrious people. So this state has all the wealth needed. It is a land waiting for a transformation to occur. I see in the future, villages that will be provided with urban facilities and are self-contained in respect of education, health and occupation. Today's incident will help define my remaining life's mission. I forgot my inconvenience during the landing after seeing the state's wealth. How can you use this core competence to become a developed state? For that you have to work in the mission mode.

At the time these children would be entering adult life and taking up careers, they could be part of a national endeavour to becoming a knowledge society. Their contribution to the state itself could be tremendous. That should be their goal; to make Jharkhand great.

On the flight back to Delhi, I wondered how Jharkhand could best be helped. What was needed were a few major missions to transform the state and a time-frame. The state and the Centre would need to make an integrated effort. Would it be possible?"

4. After formation of the State on 15th November, 2000, some steps have been taken for overall development of the State, but unfortunately in the last fourteen years, an average life of the government remained hardly one-and-a-half year or maximum upto two to three years and for want of stable government, neither proper policy was framed nor any systematic development, which was expected after the formation of the new State has been done.

The State cannot and should not be allowed to develop in a haphazard manner.

A quotation, given below, is worth-mentioning here, in the context:

You can't change the past but you can certainly change the future, It's Upon you what you Want !

5. For any development, first of all, a clear vision is required and accordingly development plan is required to be prepared. Development should take place in a planned manner. It should be sustainable development where the ecological balance is required to be maintained.

6. The city of Ranchi acquired the status of capital of the newly created State of Jharkhand in the year 2000. Ever since, there has been a significant increase in the population and correspondingly there is an increase in the vehicular traffic. This Court has also from time to time asked the State Government to take effective steps for streamlining the traffic system in the capital city of Ranchi. As a result, amongst the other steps, projects for widening of the roads are required to be undertaken. Ranchi, being capital city of Jharkhand State, is required to be developed in such a way that it can bear the load of a developed capital city. The basic infrastructure, such as, roads, underground drainage, sewerage treatment plant, water supply and consistent /continuous electric supply should have been made available to the citizens of the capital city of Ranchi as well as other towns of the State.

7. We have noticed that the present government is making its sincere endeavour with clear vision for overall development of the State in a planned manner with required pace.

The master-plan of the capital city is coming very soon as it has been reported in the newspaper, and therefore, it is necessary to strike a balance between the environment and development. It is expected from the concerned State authorities that due care will be taken by urban planner for systematic development whereby ecological balance can be maintained in the capital city of Ranchi and other major and small towns of the State.

8. Good road-network is an essential component of any developed state, but while preparing plan for road-network, due care is also required to be taken to save the trees, which are likely to be affected on account of development of road network. The execution of these road widening projects, drainage projects and other developmental schemes has invariably necessitated felling of trees that were planted hundreds of years ago. Whenever these trees are felled, there is concern expressed by citizens about the likely adverse impact on the weather and environment of the city. Therefore, the concerned authorities shall take all necessary steps to minimize cutting of trees and endeavour should be made that instead of cutting the trees, effort should be made to remove and re-plant the said trees to some other places. The technological advancement has provided such machines and tools through which trees can be removed and re-planted to some other places.

9. We have been apprised by the learned Advocate General and Additional Advocate General appearing for the State government that the State of Jharkhand is going to undertake project of road development to the tune of more than Rupees One Thousand Crores. We appreciate the endeavour made by the state government to provide good road network in the State which is very essential for the development, but at the same point of time, the officials of the concerned department, i.e. forest department and road construction department and urban development department shall make their sincere efforts/endeavours to save the trees. The road-line/ network should be developed in such a manner that the removal of trees can be minimized. In a city area, where large number of trees are likely to be affected while widening of the road, sincere efforts should be made by the concerned authorities to find out other alternative such as to make such road either one-way or parallel road in nearby area should be developed if need be by acquiring some of the properties or by removing encroachment if any for smooth sailing of traffic. If such possibilities in some of the area are not possible, then in that case, bare minimum trees, which are essential to be removed, are required to be removed with the help of hi-tech machines so that it can be re-planted at a suitable place.

Therefore, we direct the state authorities to procure sufficient number of such machines while spending more than thousand crores for road development to save the trees. It is expected from the concerned State authorities that instead of cutting the trees, necessary steps will be taken with the help of such machines to remove and re-plant the said trees at an appropriate/suitable place.

10. The Hon'ble Apex Court, while considering a similar question in case of T.N. Godavarman Thirumulkpad vs Union of India and Ors, reported in (2013) 11 SCC 466 directed the National Highways Authority of India to plant twice number of trees for every tree cut by them and also directed to maintain those trees for five years or deposit amount for maintenance of those trees. After taking suo motu cognizance by this Court, counter affidavits have been filed by the concerned department to show that necessary steps have been taken for plantation of trees in view of the direction issued by the Hon'ble Supreme Court. But the ground realities are not satisfactory and the concerned State authorities are required to take further appropriate steps for plantation of sufficient number of trees in an area which has been affected on account of road development.
11. The concept of should be encouraged and implemented with great zeal. The state government shall take necessary steps to see that tree plantation programme is undertaken in a very extensive manner and for that purpose, plantation should be made in following manner:
 - i) Road-side plantation on all the national highways located/situated in the state;
 - ii) State Highways road-side plantation on all the state highways;
 - iii) Road-side plantation on city/town roads;
 - iv) Road-side plantation on village roads;
 - v) Tree plantation should be made in all government office premises;
 - vi) Tree plantation should be made in all school premises of the state;
 - vii) Tree plantation should be made in all public/ charitable institutions with the following logo:
 - viii) Tree plantation should be made in the campus of Non-Governmental Organizations;
 - ix) Tree plantation should be made in all the court complexes of the state;
 - x) Green belts are required to be developed in each and every town/city;
 - xi) Parks and gardens are also required to be developed in all the cities /towns of the state with the following logo :
 - xii) Extensive tree plantation should be done at the site of new High Court Complex, New site of Vidhansabha and at the proposed site of New Sachivalaya Complex;
 - xiii) More number of trees should be planted in and around the complex of Government Hospitals, Primary Health Centres (PHCs) etc.;
 - xiv) Tree plantation should be made in the Recreation Centres in the City/town;
 - xv) Tree plantation should be made extensively in Army Cantonment area;
 - xvi) Tree plantation should also be made in and around village/gram panchayats as well as community centres (samudayik bhawan), Anganwadi, Pragma Kendra, etc.;

- xvii) Tree plantation should be made in all government /semi government institutions at block level also;
- xviii) Likewise tree plantation should also be made at the district headquarters;
- xix) Extensive plantation should be made in mining areas;
- xx) For the purpose of developing and maintaining saplings, the Nurseries be developed in all the districts of State of Jharkhand; and xxi) Bio-diversity Park/ Botanical Park, as it has been developed at the ring road Ranchi, be also developed in the other parts of the State.
- xxii) As a part of Awareness Campaign for saving and protecting the trees, the concerned department may also place some Hordings containing SLOGANS with Pictures, some of which are as depicted in the order itself, at the conspicuous places in the city of Ranchi and other towns of the State.

12. For the purpose of taking extensive tree plantation programme, the concerned department of the State Government shall organize appropriate programmes to sensitize their officers and organize awareness campaign /programme to make public aware. The corporate sector be also involved and given certain responsibilities for such programmes as a part of corporate - social responsibilities.

The concerned department may also involve non- governmental organizations (NGOs) for the purpose of tree plantation programmes and for development of nature-park, such as N.C.C. Cadets & N.S.S. Volunteers, Rama Krishna Mission and such other reputed non- governmental organizations working in the field of environmental protection. The school teachers, students and **para-legal volunteers of the Jharkhand State Legal Services Authorities (JHALSA) may also be involved in such campaigns.**

13. As a part of awareness campaign, hoarding containing Pictures and Slogans for environment protection should be installed and displayed. The authorities concerned shall visit the cantonment area at Dipatoli and shall take ideas for installation of such Sign- Boards containing SLOGANS with Pictures to make the people aware regarding importance of trees and environment protection, which may turn out to be useful in Awareness Drive. Few Samples of the SLOGANS, which may be useful in Awareness Drive, are displayed hereinbelow :
14. The places be identified in Municipal Corporation towns area, Municipality area, Nagar Panchayat area, Taluka/Block Panchayat area, Village Panchayat area and at certain Notified Areas in the State of Jharkhand for the purpose of carrying out plantation in a systematic manner as well as for creating awareness and sensitization of officials working with the concerned department and also for identification of places for putting Sign -Boards as indicated above. The necessary Committees be formed at State level, District level, Block level and Village level for effective implementation of the directions/observations made by this Court as also the Guidelines issued by the Hon'ble Apex Court in the case of T.N.Godavarman Thirumulkpad vr Union of India and Ors. (Supra) and the Resolution /Circular issued by Government of India from time to time in this regard.
15. The respondent -State authorities are directed to take necessary steps for plantation of the trees in the afore-narrated manner and procurement of required machines for re-plantation of the trees. It is also expected from the state government that the judgment delivered by the Hon'ble Apex Court and the guidelines issued by the Ministry of Forest and Environment from time to time in this regard are also followed strictly. The State Government is directed to resolve that henceforth all proposals for

cutting /removal of trees received in the office of the D.F.O., Ranchi, and other D.F.O.'s of the State shall not be sanctioned in a mechanical manner. All such proposals before being approved by the competent authority, shall be referred to and scrutinized by the High Powered Committee, consisting of -i) Chief Conservator of Forests, Ranchi; ii) Superintendent Engineer, RCD, Ranchi; iii) CEO, RMC, Ranchi; iv) Vice Chairman, RRDA; v) Representative of the Requisitioning Dept., and vi) D.F.O., Ranchi, East.

The terms of the reference of this committee shall be as follows:

- i) To scrutinize the project in detail and see if it is indispensable to execute the project or not.
- ii) To scrutinize and examine whether an alternative site or alignment is feasible that can minimize the number of trees that are proposed to be felled.
- iii) Suggests the site and number of compensatory trees that must be planted by the requisitioning department.

The committee must hold its meeting within a week of the receipt of the proposal. As far as feasible, the site must be inspected by the committee before formulating its opinion on the issue. The competent authority i.e. DFO, Ranchi East, shall act on the recommendations of the said committee. The permission granted by the DFO shall be reviewed by the High Powered Committee as mentioned hereinabove.

16. In addition to the environmental issue as discussed hereinabove, learned amicus curiae, Mr. Delip Jerath, also submits that for the purpose of road development, the encroachment made on the side of the existing roads are also required to be removed, so that roads can be widened in a proper way. The service lane/ sub lane is also required to be developed in parallel to the road so that passerby and small vehicle can make use of such service lane. While making such development, a road development plan can be prepared in such a way that trees can be maintained/saved in between the main road and the service lane/sub lane so that the natural beauty of the said road can also be maintained at the same point of time. It can also provide shadow to passerby. It is also pointed out by the learned amicus curiae that in the city of Ranchi on certain roads side by side the drainage/ footpath are created by the road construction department on both sides of the roads, and it has been covered by putting a slab on it and thereby footpath is being created, but necessary provisions for periodical cleaning of such 'nalas' have not been made. Moreover, the 'jalis' are also required to be placed at a certain distance of such raised footpath so that there may not be any water-logging during monsoon on the road. Mr. Jerath, learned Amicus Curiae further contended that even the foothpaths are required to be made strictly in accordance with the specifications of Indian Road Congress.
17. The State authorities shall also take necessary steps so as to avoid water logging where such footpaths are also required to be constructed in consonance with the specifications of Indian Road Congress wherever it is feasible.
18. Before parting with the order, we, hereby, make it very clear that there is no stay against construction/widening of roads, but due care be taken to save the trees and while developing/widening the road, if any tree is required to be removed then in that case it shall be removed through the hi-tech machines in such a manner that the same can be re-planted at a suitable /appropriate place.
19. The concerned State authorities shall submit the Progress Report/steps taken, as per the aforesaid directions and observations made, on or before the next date.

20. We appreciate the assistance rendered by learned counsel Mr. Delip Jerath, appearing on behalf of the petitioner, Mr. Ajit Kumar, learned Addl. Advocate General, appearing for the State, Mr. A. Allam, Sr. Advocate appearing on behalf of the Forest Department, Mrs. Shobha Jha, and Mr. Saurabh Shekhar, learned counsels appearing on behalf of the intervenors as well as the learned members of the committee constituted for better appreciation in the matter concerning public interest at large.
21. List again on 4th September, 2015.
22. Copy of the order shall be provided to the learned counsel for both the sides under the signature and seal of the Court Master.
23. A copy of the order shall also be provided to the Member- Secretary of Jharkhand State Legal Services Authority (JHALSA) for placing it before the Hon'ble Executive Chairperson for His Lordship's perusal and necessary action as recorded in paragraph-12 hereinabove.

(Hon'ble Mr. Justice Virender Singh, C.J.)

(Hon'ble Mr. Justice P.P. Bhatt, J.)

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Dr Bhim Prabhakar Versus Human Resource Development

Jharkhand High Court

Dr Bhim Prabhakar vs Human Resource Development

Decided on 28 April, 2015

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(PIL) No. 6103 of 2013

***Dr. Bhim Prabhakar, son of Sri Tapeswar Singh, Resident of New Madhukam, P.O.-
Hehal, P.S.-Sukhdeonagar, District- Ranchi. --- --- --- Petitioner***

Versus

***1. The State of Jharkhand, 2. Secretary, Department of Human Resources Development
Department, Govt. of Jharkhand, at Project Building, Dhurwa, P.O.-Dhurwa, P.S.-
Jagarnathpur, Ranchi, 3. Director, Primary School Education, Govt. of Jharkhand, at
Project Building, Dhurwa, P.O.-Dhurwa, P.S.-Jagarnathpur, Ranchi --- --- Respondents***

with

W.P.(C) No. 3638 of 2011

***Sushil Kumar Tiwari, son of Surendra Tiwari, resident of village-Karua Kalan, P.O.-
Dumaria, P.S. & District-Garhwa, Jharkhand --- --- --- petitioner***

Versus

***1. The State of Jharkhand through the Secretary, Secondary Education, Human
Resources Development Department, Govt. of Jharkhand, Project Building, Dhurwa,
P.O.-Dhurwa, P.S.-Jagarnathpur, Ranchi, 2. Director, Secondary Education, Human
Resources Development Department Govt. of Jharkhand, Project Building, Dhurwa,
P.O.-Dhurwa, P.S.-Jagarnathpur, Ranchi, 3. Jharkhand Academic Council through its
Chairman / Secretary, Bargawan, P.O. & P.S.-Namkum, Ranchi --- --- Respondents***

CORAM: HON'BLE MR. JUSTICE VIRENDER SINGH, CHIEF JUSTICE

HON'BLE MR. JUSTICE P.P. BHATT

For the Petitioner : Mr. Binod Singh, Advocate in WP(PIL)6103/13 & Mr. Shree Krishna Pandey, Advocate in W.P.(C) 3638/11

For the Resp-State : Mr. Rajesh Kumar, GA & Mr. Vikash Kumar, JC to A.A.G.

07/Dated : 28th April, 2015

Per Virender Singh, C.J.:

1. So far as the distribution of text books to the students from Class-I to VIII studying in Government schools is concerned, Mr. Rajesh Kumar, learned Government Advocate has drawn the attention of the Court to supplementary counter affidavit filed by the Secretary, Human Resource Development Department (Government of Jharkhand) wherein it is stated that not only the State is distributing the text books to all the

students from Class-I to VIII standard, who are studying in Government schools, the Government has also launched a drive namely 'Vidyalaya Chale, Chalayen Abhiyan', so that more and more children are brought to the school. According to the affidavit, the Government schools have kept text books in the book bank also, so that the children can avail the books from those banks. This process of distribution of the text books is likely to be complete within a month's time.

2. We appreciate the initiative taken by the State of Jharkhand in this regard, especially with regard to launching of the drive namely 'Vidyalaya Chale, Chalayen Abhiyan'. However, on a specific query put to Mr. Rajesh Kumar as to whether any N.G.O. or for that matter any other Government/Semi-Government Agency has been involved in the aforesaid drive, he stated that certain contractual employments have been made for the purpose of motivating the parents as well as the children, more particularly in tribal areas to come to the schools. He states that these contractual employees are known as "Shiksha Mitra".

3. We are of the view that **Jharkhand State Legal Services Authority can also play a very important role in it and services of paralegal volunteers, appointed in various village legal and supports centers, can be utilized for that purpose.**

4. So far as appointment of teachers is concerned, Mr. Rajesh Kumar has drawn the attention of the Court to para-X and XI of the affidavit filed by the Secretary, HRD Department (Government of Jharkhand) wherein it is stated that against the advertised 12999 vacant posts of teachers, 6807 candidates were selected by the appointing authorities. However, in all only 4552 selected persons have joined till 28.02.2015

It is further stated that against the advertised 4353 vacant posts of Urdu teachers, in all 893 candidates were selected by the appointing authorities, out of which only 487 selected candidates have joined till 28.02.2015. The number of TET passed candidates for the post of Urdu teachers is only 813. Mr. Rajesh Kumar wants to state that the situation is not like that the State is not showing any sincerity in filling up the posts of teachers and it is non-availability of the teachers, which is creating lot of problems. However, the State is going for the second phase of the appointment of teachers very shortly.

5. Mr. Rajesh Kumar states that one fact, which has not been incorporated in the affidavit filed by the Secretary, HRD Department (Government of Jharkhand) is with regard to the appointment of teachers in upgraded middle schools, for which the merit list has already been prepared and the counseling process will be over very shortly.

6. Mr. Rajesh Kumar further states that so far as the total 7926 posts of Graduate Trained Teachers in middle schools are concerned, the earlier procedure was that 50% of the Graduate Trained Teachers posts are to be filled up by direct appointment and 50% by promotion amongst the working teachers in the primary school, but very recently another dimension has been given to the procedure by reserving 50% seats for female. This reservation would be horizontally for the women. Out of that 50% horizontally reserved seats, 5% seats are reserved for women teachers, who are divorcee/widow ones and in this regard, a notification No. 2102 dated 22.10.2014 has already been released.

7. This certainly appears to be a good step taken by the State with regard to women empowerment and we appreciate it, but at the same time, expect that this process should be complete without any waste of time.

8. Mr. Rajesh Kumar states that so far as secondary and higher secondary schools (Classes VIII-X and XI-XII) are concerned, Common Draft Appointment and Service Rules for all the categories of Government High Schools are under process and are likely to be finalized very shortly and after the said Rules are notified, the entire selection process will be complete without any waste of time and all the vacancies will be sent to Jharkhand Staff Selection Commission for completing the process of selection which would include physical teachers vacancy also.
9. After taking note of all, what has stated herein above, we defer consideration of the instant petition for at least two months.
10. List again on 07.07.2015.
11. Copy of the order shall not only be provided to learned counsel for both the sides under the seal and signature of the Court Master, it shall also be communicated to the Member Secretary, JHALSA for placing it before Hon'ble the Executive Chairperson of JHALSA for his lordship's perusal and any further action, if required at the end of JHALSA.

(Hon'ble Mr. Justice Virender Singh, C.J.)

(Hon'ble Mr. Justice P.P. Bhatt, J.)



Lussa Pahan Versus The State Of Jharkhand

Jharkhand High Court

Lussa Pahan vs The State Of Jharkhand

Decided on 27 November, 2014

IN THE HIGH COURT OF JHARKHAND AT RANCHI

I.A. No. 3544 of 2014

In

Cr. Appeal (DB) No. 482 of 2014

With

I.A. No. 3632 of 2014

In

Cr. Appeal (DB) No. 487 of 2014

With

I.A. No. 4049 of 2014

In

Cr. Appeal (DB) No. 490 of 2014

With

I.A. No. 3679 of 2014

In

Cr. Appeal (DB) No. 496 of 2014

With

I.A. No. 3904 of 2014

In

Cr. Appeal (DB) No. 499 of 2014

With

I.A. No. 3684 of 2014

In

Cr. Appeal (DB) No. 504 of 2014

With

I.A. No. 3905 of 2014

In

Cr. Appeal (DB) No. 505 of 2014

With

I.A. No. 5892 of 2014

In

Cr. Appeal (DB) No. 536 of 2014

With

I.A. No. 3929 of 2014

In

Cr. Appeal (DB) No. 544 of 2014

With

I.A. No. 4039 of 2014
In
Cr. Appeal (DB) No. 554 of 2014
With
I.A. No. 4041 of 2014
In
Cr. Appeal (DB) No. 556 of 2014
With
I.A. No. 4108 of 2014
In
Cr. Appeal (DB) No. 562 of 2014
With
I.A. No. 5464 of 2014
In
Cr. Appeal (DB) No. 728 of 2014

Rajan BouriAppellant in Cr. Appeal (DB) No. 482/2014 Dilip Soren Appellant in Cr. Appeal (DB) No. 487/2014 Ahmad Ansari @ LalaAppellant in Cr. Appeal (DB) No. 490/2014 Sufal Hembrom @ Matal HembromAppellant in Cr. Appeal (DB) No. 496/2014 Prakash BhuiyanAppellant in Cr. Appeal (DB) No. 499/2014 Bandhan Tirky @ Baudhna Tirky &Anr Appellants in Cr. Appeal (DB) No. 504/2014 Lussa Pahan Appellant in Cr. Appeal (DB) No. 505/2014 Soren Murmu @ Saran Murmu Appellant in Cr. Appeal (DB) No. 536/2014 Mahadeo Yadav Appellant in Cr. Appeal (DB) No. 544/2014 Ahmad Ansari @ Lala Appellant in Cr. Appeal (DB) No. 554/2014 Shankar RaiAppellant in Cr. Appeal (DB) No. 556/2014 Md. Shakil & Anr.Appellants in Cr. Appeal (DB) No. 562/2014 Togo Samad Appellant in Cr. Appeal (DB) No. 728/2014 Versus The State of Jharkhand .Respondents in all the cases

**Coram: HON'BLE MR. JUSTICE D.N. PATEL
HON'BLE MR JUSTICE RONGON MUKHOPADHYAY**

For the Appellants : M/s. Bhola Nath Rajak, Durga C Mishra, Ajit Kumar, Rajiv Anand, Amresh Kumar, Anjani Kumar, C. Prabha, Arun Kumar, Bhola Nath Rajak, Rajesh Kumar Mahtha, Rajiv Anand, Sanjay Kumar Pandey, Jai Shankar Tripathy, Advocates in seriatum

For the State : APPS.

02/Dated: 27th November, 2014

Per D.N. Patel, J

1. In the aforesaid interlocutory applications preferred in criminal appeals, it appears that there is a long delay in preferring the criminal appeals. In some cases, it is more than 5 years, 6 years or 7 years. This cannot be tolerated at any cost.
2. It appears that the State Authorities are turning a deaf ear to the orders passed by this Hon'ble Court giving enough adequate and sufficient guidance and they are as under:-
 - (a) Order dated 6th March, 2013 in I.A. No. 1105 of 2013 in Cr. Appeal (DB) No. 1088 of 2012, especially paragraphs 3, 4, 5 & 6 thereof

(b) Order dated 10th February, 2014 in Cr. Appeal (DB) No. 465 of 2013 especially Paragraph Nos. 8, 9, 10 and 11 thereof, still there are several other orders, in which we have given directions to the Superintendents of Jail in the State of Jharkhand that they are in Loco Parentis to the position. After reasonable time of the limitation period to prefer an appeal after conviction, it is the duty of the Superintendent of concerned Jail to inform either the District Legal Services Authority or Jharkhand State Legal Services Authority or at least Legal Aid Clinic, which are opened in each and every districts of State of Jharkhand. More than one dozen orders have been passed reiterating this aspect of the matter but it appears that lethargic approach of the Superintendents as yet remained as it was and in the aforesaid applications, the following is the delay:-

SL No.	I.A. No.	Delay	Jail
	In Cr. Appeal (DB) No. 490 of 2014		
	In Cr. Appeal (DB) No. 496 of 2014		
	In Cr. Appeal (DB) No. 544 of 2014		
	in Cr. Appeal (DB) No. 554 of 2014		
	In Cr. Appeal (DB) No. 487 of 2014		
	in Cr. Appeal No. 482 of 2014		
	in Cr. Appeal (DB) No. 499 of 2014		
	in Cr. Appeal (DB) No.504 of 2014		
	in Cr. Appeal (DB) No. 505 of 2014		
	in Cr. Appeal (DB) No. 536 of 2014		
	in Cr. Appeal (DB) No. 556 of 2014		

in
Cr. Appeal (DB)
No. 562 of 2014

in
Cr. Appeal (DB)
No. 728 of 2014

3. We have also passed several orders in which we have given Email addresses of the District Legal Services Authority of all 22 districts of the State so that from jail at least Email can be sent, after reasonable period from completion of the limitation, to prefer an appeal to the District Legal Services Authority and immediately the appeal can be preferred by providing legal aid. This direction has not been followed by the Superintendent of aforesaid jails.
4. The Superintendent of the concerned Jails should never wait for
 - (a) Certified copy of the judgment of the trial court in Sessions Trial.
 - (b) Copies of the evidences led before the Sessions Court or before the trial court.
 - (c) Any application to be preferred by the convict to the Superintendent.
5. The only thing to be done by the Superintendent of Jail in the State of Jharkhand is to waive the limitation period to prefer an appeal after conviction and once that reasonable period after the limitation to prefer appeal is over, it shall be the duty of the Superintendent of Jail in the State of Jharkhand to inform either
 - (a) Jharkhand State Legal Services Authority 'or'
 - (b) District Legal Services Authority 'or'
 - (c) Legal Aid Clinic, which is opened in each and every Jails of the State of Jharkhand or Registrar General of the High Court of Jharkhand.
6. This direction has also been given in our previous order but it appears that the Superintendents of Jail are not performing their duties, which we have pointed out in our earlier order and therefore there is a delay of several months and years as stated herein above. Therefore, it is now high time to initiate departmental actions against them.
7. We, therefore, direct
 - (a) the Secretary (Home)
 - (b) I.G. (Prison)
 - (c) or such other high ranking authority of the State to initiate departmental actions against the erring Superintendents of Jails because of whose lethargic approach, the aforesaid delay has been caused.
8. In our order dated 4th July, 2013 in I.A. No. 974 of 2013 in Criminal Appeal (DB) No. 104 of 2013, we have given enough guidance to the Superintendents of Central Jails and para 4 thereof reads as under:-

"4. To avoid this delay, we hereby direct :

 - (a) All the Superintendents of the Central Jails as well as Heads of other Jails of the State of Jharkhand shall intimate to the Jharkhand State Legal Service Authorities for the demand of legal aid of any convict/under-trial prisoner by

email address of Jharkhand State Legal Services Authority. The email address of Jharkhand State Legal Services Authority is as jhalsaranchi@gmail.com

- (b) We also direct all the Superintendents of Central Jail as well Heads of other Jails of the State of Jharkhand that no sooner did they receive any demand from the convict/under-trial prisoner for getting legal aid for preferring any bail application, Writ petition, criminal appeal, Criminal Miscellaneous Petition or such other proceedings to be filed in any competent Court of State of Jharkhand, they shall immediately intimate to the Jharkhand High Court Legal Services Committee whose email address is hclsc_ranchi@yahoo.com
- (c) We also direct all the Superintendents of Central Jails and Heads of other Jails of the State of Jharkhand to intimate the demand of legal aid by any convict/under-trial prisoner to the District Legal Services Authorities, whose email addresses are :

Sl.No.	District	Email Address
1	Bokaro	dlsabokaro@gmail.com
2	Chaibasa	dlsachaibasa@gmail.com
3	Chatra	dlsachatra@gmail.com
4	Deoghar	deoghardlsa@gmail.com
5	Dhanbad	dlsa.dhanbad@gmail.com
6	Dumka	dlsadumka@gmail.com
7	Garhwa	dlsagarhwa@gmail.com
8	Giridih	dlsagiridih@gmail.com
9	Godda	dlsagodda@gmail.com
10	Gumla	dlsagml38@gmail.com
11	Hazaribagh	dlsahazaribagh@gmail.com
12	Jamshedpur	jamshedpurdlsa@gmail.com
13	Jamtara	dlsajamtara@gmail.com
14	Koderma	dlsakoderma@gmail.com
15	Latehar	dlsalatehar@gmail.com
16	Lohardagga	dlsalohardaga@gmail.com
17	Pakur	pakurdlsa@gmail.com
18	Palamau	dlsapalamu123@gmail.com
19	Ranchi	dlsaranchi@gmail.com
20	Sahibganj	dlsasahibganj@gmail.com
21	Saraikella	dlsasaraikellakharswan@gmail.com
22	Simdega	dlsasimdega@gmail.com

- (d) Secretaries of District Legal Services Authorities shall get their email verified on day to day basis either by themselves or through legal retainer or through **para-legal volunteers** appointed at Legal Services Authorities.
- (e) It shall be duty of the Secretaries, District Legal Services Authorities as well as Jharkhand State Legal Services Authorities at Ranchi to bring to the notice of the concerned authority to provide legal aid either through lawyer or otherwise to the convict or under trial-prisoner so that they may institute proper proceedings

before the proper forum and quickly justice may be done to the convict or under trial prisoner.

- (f) Registry is directed to intimate this order to the Secretary, Jharkhand State Legal Services Authority as well as to all the Superintendents of Central Jails and Heads of other Jails of the State of Jharkhand as well as to the Secretaries of the District Legal Services Authorities within the State of Jharkhand as well as to the Secretary of the Home Department, State of Jharkhand and I.G. (Prison), State of Jharkhand.

9. Copy of this order will be sent to :

- (i) Secretary, Department of Home, Govt. of Jharkhand, Ranchi
- (ii) Inspector General (Prison), Govt. of Jharkhand, Ranchi
- (iii) Registrar General, High Court of Jharkhand, Ranchi
- (iv) Judicial Commissioner, Ranchi
- (v) Principal District Judges of all the Districts
- (vi) Secretary, Jharkhand Legal Services Authority, Ranchi
- (vii) Secretary, High Court Legal Services Committee, Ranchi
- (viii) Secretaries of all the District Legal Services Authorities
- (ix) Superintendents of all the Jails of the State of Jharkhand

10. We also direct the Registrar General of this Court to supply a copy of this order as well as the copy of the order dated 4th July, 2013, passed in I.A. No. 974 of 2013 in Cr. Appeal (DB) No. 104 of 2013, order dated 6th March, 2013, passed in I.A. No. 1105 of 2013 in Cr. Appeal (DB) No. 1088 of 2012 and order dated 10th February, 2014 passed in Cr. Appeal (DB) No. 465 of 2013, to the Chief Secretary, Government of Jharkhand, Ranchi and Director General of Police, Government of Jharkhand, Ranchi.

11. Counsel for the State is seeking time to file reply of the Superintendents of the aforesaid Jails and also the affidavit of either Secretary of Home Department or of I.G. Prison that what action they are contemplating to be initiated against Superintendents of the Jails, at whose behest this delay has been occurred.

12. These matters are adjourned to be listed on 17th December, 2014.

13. Let two copies of the order be given to learned APP.

(Hon'ble Mr. Justice D.N. Patel, J.)

(Hon'ble Mr. Justice Rongon Mukhopadhyay, J)



National Domestic Workers Welfare Versus State Of Jharkhand & Ors

Jharkhand High Court

National Domestic Workers Welf vs State Of Jharkhand & Ors

Decided on 20 November, 2014

W.P. (PIL) No. 7032 of 2012

***All India Progressive Women Association, Jharkhand Chapter Petitioner
Versus***

The Union of India and others Respondents

WITH

W.P. (PIL) No. 2810 of 2012

***National Domestic Workers Welfare Trust Petitioner
Versus***

The State of Jharkhand and others Respondents

**CORAM: HON'BLE MR. JUSTICE D. N. PATEL
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY**

For the Petitioners: M/s. Anup Kumar Agrawal, Ahmed Raza, Jawed Rabbani, Md. Asghar

For the Respondents: M/s. R.S. Mazumdar (AG), Rajiv Sinha (ASGI), Rohit Sinha, Rajesh Kumar (GP-V), Suchita Pandey

07/Dated: 20th November, 2014

Per D.N. Patel, J

1) These Public Interest Litigations have been preferred with the following prayers: -

W.P. (PIL) No.7032 of 2012

a) For a writ or mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to strict implement the guarantees under the National Rural Health Mission (NRHM), Janani Surakshan Yojna (JSY), National Maternity Benefit Scheme (NMBS), Integrated Child Development Scheme (ICDS) Schemes, specially, to ensure adequate facilities are set up in order to deliver NRHM service guarantees, including but limited to emergency obstetrical care, access to safe abortion services, m timely and adequate referral system, and access to a functioning blood bank.

AND

b) For an order mandating development and implementation of a time bound Plan of Action for implementation of NRHM services as established under the MoUs.

AND

- c) For an order directing an audit and quality control review of all health facilities be done in Godda District by a third party commission including representatives from civil society appointed by the Court. Further to make publicity available the findings of the Audit and the Action Taken on these findings.

AND

- d) For an order directing the establishment of an efficient and transparent mechanism to review and monitor the implementation and delivery of NRHM services, in particular the expenditure of Government. Data collected during the process of review must take into consideration factors such as, inter alia, conditions of health infrastructure, quality of care provided, and use of ambulance service.

AND

- e) Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to establish a system of free transportation between facilities.

AND

- f) For an order directing Respondent to immediately ensure the appointment of a sufficient number of Doctors, health professionals and support staff that are available 24 hours and 7 days at each level - Primary Health Centres (PHC), Community Health Centers (CHC), Sub Health Centre (SHC) and District Hospitals (DH) - of health institutions in Godda District.

AND

- g) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to establish a qualified committee to conduct and publish maternal death audits.

AND

- h) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to collect data and implement nationally and internationally recognized policies regarding malaria and pregnancy.

AND

- i) For an order directing Respondents develop and implement training modules for health professionals & community members on the risk associated with contracting malaria during pregnancy and the types of preventive and treatable measures available.

AND

- j) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to implement a centralized, accountable referral system which must provide patient with the minimum information at time of referral: (1) name of referral facility, (2) contact information of referral facility including staff member name, address, and phone number, (3) reason for referral, (4) diagnosis and treatment to be sought at referral facility, (5) contact information of referring hospital in case of questions or concerns, (6) copies of all medical records and discharge slip(s), and (7) free transport of BPL patients.

AND

- k) For a writ or mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to develop and implement a Grievance Redressal Mechanism to enable persons to report and if necessary, file health complaints with an Independent Commission/State Health Minister charged with overseeing the NRHM. Grievance mechanism must include a 24-hour emergency hotline, be accessible to persons living in rural areas, and compel the state agency to respond within a specified, time-sensitive period.

AND

- l) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to provide compensation to the victims and/or their families.

W.P. (PIL) No.2810 of 2012

- (a) For issuance of an appropriate writ(s)/ order(s)/ direction(s) directing and commanding upon the respondents authority for the strict implementation and enforcement of "The Unorganised Workers Social Security Act, 2008" in the State of Jharkhand.
- (b) For issuance of an appropriate writ(s)/ order(s)/ direction(s) directing and commanding upon the respondents authority to frame the mandatory rules under the Unorganised Workers' Social Security Act, 2008.

AND

- (c) For issuance of an appropriate writ(s)/ order(s)/ direction(s) directing and commanding upon the respondent authorities for the constitution of State Social Security Board in the State of Jharkhand.
- 2) We have heard Mr. Anup Kumar Agrawal, learned counsel, and we appreciate the services rendered by him. Nicely the matter has been argued out by this counsel and he has brought to our notice several aspects of the matter. As for example, the Labour Laws which are enacted by the Parliament and the State Legislature, namely, the Industrial Disputes Act, the Workmen's Compensation Act, the Factories Act, etc are applicable to very limited number of workers/employees as defined under the Acts and as per one survey report, only 3% of the labourers are covered under those enacted legislatives. 97% of the workers are beyond the purview of these Labour Laws and, therefore, the Unorganised Workers Social Security Act, 2008 has been enacted by the Parliament which covers most of the left-out workers. It has also been pointed out by the counsel for the petitioners that under the said Act, especially under Section 3 thereof, various schemes have to be formulated and under Section 6 thereof as well as Rules under Section 14 of the Act have also been enacted after filing of these Public Interest Litigations and, therefore, all these credit goes to these petitioners. No Board was constituted in the State of Jharkhand before these writ petitions were filed.
- 3) We have passed several orders in both these Public Interest Litigations. We have also given directions to the Board as envisaged under Section 6 of the Act. Now, the Board has been constituted.
- 4) Further, we have passed detailed orders on 7th August, 2013, 27th August, 2013, 11th September, 2013, 12th November, 2013 and 29th April, 2014 in W.P. (PIL) No.2810 of 2012. By virtue of these orders, several schemes which have been floated by the Central Government like Indira Gandhi National Old Aged Pension Schemes, National

Family Benefit Schemes, Aam Admi Bima Yojna Schemes, Rashtriya Swasthya Bima Yojna Scheme, etc, which have now been implemented by the State of Jharkhand very effectively. The concerned Departments connected with those schemes are;

- (a) The Labour, Employment and Training Department;
 - (b) Industries Department,
 - (c) The Health, Medical Education & Family Welfare Department;
 - (d) Animal Husbandry and Fisheries Department.
- 5) There is also one scheme, namely, Janshree Bima Yojna, which is to be implemented by the Life Insurance Corporation of India Limited. In our detailed order dated 12th November, 2013, we have narrated all the schemes and the eligibility for getting the benefits under the schemes, etc.
- 6) All the aforesaid Departments are now implementing these schemes very effectively. The rank & file of the State of Jharkhand are in dire need of accurate implementation of the schemes under the Act, 2008. Money is being given by the Central Government on reimbursement basis upon proper presentation of "utilization certificate".
- 7) Time & again, this Court **has given enough guidelines for the implementation of these schemes through the Para Legal Volunteers (PLVs) and Jharkhand State Legal Services Authority.** The officers of Labour Employment and Training Department were extremely helpful to this Court for better understanding of these schemes. Jharkhand State Legal Services Authority have been provided enough and adequate materials by these Departments and necessary pamphlets have also been prepared by the Jharkhand State Legal Services Authority with the help of officers of Labour, Employment & Training Department. As enough directions have been given, we see no reason to monitor implementation of the Act by these two Public Interest Litigations. The petitioners, namely, All India Progressive Women Association, Jharkhand Chapter, through Secretary of Jharkhand Chapter and National Domestic Workers Welfare Trust, have painstakingly assisted Court in these Public Interest Litigation because the schemes which are meant for workers are now reaching to "the last man in the queue".
- 8) One Interlocutory Application has been preferred for modification of the order dated 29th April, 2014 passed in W.P. (PIL) No.2810 of 2012, especially paragraph 9 thereof. We have heard the counsel for both sides and now we are satisfied that very effectively the Labour, Employment and Training Department is executing the schemes floated under the Act, 2008 and, therefore, we delete paragraph 9 from our order dated 29th April, 2014 passed in W.P. (PIL) No. 2810 of 2012. The observations made in paragraph 9 of the order dated 29th April, 2014 passed in W.P. (PIL) No. 2810 of 2012 are hereby deleted. This order will be treated as part & parcel of the order passed on 29th April, 2014 in W.P. (PIL) No. 2810 of 2012.
- 9) We, therefore, direct;
- (a) The State and especially the officers of four departments and the Life Insurance Corporation to implement the schemes envisaged under the Act, 2008 especially under Section 3 thereof.
 - (b) **We also direct the State of Jharkhand to utilize the services of Para Legal Volunteers available in the State of Jharkhand through Jharkhand State Legal Services Authority to create awareness amongst the public at large of the State of Jharkhand, to get benefits under the aforesaid schemes.**

- (c) We also direct the State to assist the Jharkhand State Legal Services Authority in publishing in adequate number of necessary pamphlets/booklets for the schemes so that through the District Legal Services Authorities, these pamphlets/booklets may be distributed in the Jharkhand so as to make public at large, aware about their rights.
- (d) We also direct the State to put necessary hoardings, signboards with lights/without lights to give necessary advertisements through print and electronic media and also through LED Electronics Boards. The State will also use community radio for the aforesaid purpose.
- (e) We also direct the Jharkhand State Legal Services Authority to prepare the necessary summary, pamphlets, hoardings, signboards, LED Electronics Display Boards at conspicuous places like,
- (i) Railways Station;
 - (ii) Bus Stands;
 - (iii) Public places of the offices like offices of Deputy Commissioners, etc;
 - (iv) Civil Courts premises in the districts;
 - (v) All public hospitals;
 - (vi) At different block offices of the State of Jharkhand;
 - (vii) Offices at Panchayet levels;
 - (viii) Primary Health Centres;
 - (ix) Community Health Centres.
- (f) We further direct the State that necessary Utilization Certificate shall be sent to the concerned Department of the Central Government for reimbursement of the money, of which the expenditure will be made by the State for the effective implementation of the schemes floated by the Central Government under Section 3 of the Act, 2008.
- (g) We further direct the Central Government that upon receipt of the necessary papers from the State of Jharkhand including Utilization Certificate, etc, the money will be reimbursed to the State of Jharkhand at the earliest.
- 10) In view of the aforesaid directions and also keeping in mind the earlier directions and orders passed by this Court in both these Public Interest Litigations, we see no reason to further monitor these Public Interest Litigations for effective implementation of the schemes floated under the Act, 2008 and hence, these Public Interest Litigations are hereby disposed of. In view of the disposal of these Public Interest Litigations, any other pending interlocutory application is/are also disposed of.
- 11) Copy of this order will be given to the counsel for both sides.

(Hon'ble Mr. Justice D. N. Patel, J)

(Hon'ble Mr. Justice Rongon Mukhopadhyay, J)



Court On Its Own Motion Versus State Of Jharkhand & Ors

Jharkhand High Court

Court On Its Own Motion vs State Of Jharkhand & Ors

Decided on 6 January, 2014

W.P.(PIL) No. 5497 of 2011

**CORAM: HON'BLE THE CHIEF JUSTICE.
HON'BLE MR. JUSTICE APARESH KUMAR SINGH.**

For the Petitioner: Mr. Delip Jerath, A.C For the State: Mr. R. Mukhopadhyay, S.C. II

Taking notice of several news items in the Newspapers indicating that in the city of Ranchi there is a steep rise in the girls teasing in the Schools, Colleges and Universities, by order dated 14.9.2011 this Court directed the Registry to register this matter as "Public Interest Litigation.

2. By order dated 14.09.2011 and subsequent orders passed by this Court on 22.09.2011 and 17.7.2013, this Court has issued various directions to ensure safety and security measures for the young girls and women in general.
3. Learned Amicus Curiae submitted that in spite of the various directions issued by this Court, the menace of eve teasing has not been reduced and are increasing and prayed for issuance of appropriate directions.
4. We have heard learned Amicus Curiae and also learned counsel appearing for the State.
5. In this context, learned Counsel for the State has drawn our attention to a judgment rendered by Hon'ble Supreme Court in the case of Deputy Inspector General of Police & Another Vs. S. Samuthiram reported in (2013) 1 SCC 598. Expressing concern over the pernicious practice of eve-teasing and after referring to the Tamil Nadu Prohibition of Eve-Teasing Act, 1998, the Hon'ble Supreme Court in paragraph 34 issued various directions to curb eve-teasing. The relevant paragraphs of judgment of the Hon'ble Supreme Court, which are paragraphs 29 to 34 reads as under:

29. We may, in the facts and circumstances of this case, wish to add some aspects which are also of considerable public importance. We notice that there is no uniform law in this country to curb eve-teasing effectively in or within the precinct of educational institutions, places of worships, bus-stands, metro stations, railway stations, cinema theaters, parks beaches, places of festival, public service vehicles or any other similar place. Eve-teasing generally occurs in public places which, with a little effort, can be effectively curbed. Consequences of not curbing such a menace are, needless to say, at times disastrous. There are many instances where girls of young age are being harassed, which sometimes may lead to serious psychological problems and even committing suicide. Every citizen in this country has the right to live with dignity and honour which is a fundamental right guaranteed under Article 21 of the Constitution

of India. Sexual harassment like eve-teasing of women amounts to violation of rights guaranteed under Articles 14,15 as well. We notice that in the absence of effective legislation to contain eve-teasing, normally, complaints are registered under Section 295 or Section 509 IPC.

30. Section 294 IPC says that:

"294. Obscene acts and songs.- Whoever, to the annoyance of others-

- (a) does any obscene act in any public, or
- (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

It is for the prosecution to prove that the accused committed any obscene act or the accused sang, recited or uttered any obscene song; ballad or words and this was done in or near a public place, it was of obscene nature and that it this was done in or near a public place, it was of obscene nature and that it had accused annoyance to others. Normally, it is very difficult to establish those facts and, seldom, complaints are being filed and criminal cases will take years and years and often people get away with no punishment and filing complaint and to undergo a criminal trial itself is an agony for the complainant, over and above the extreme physical or mental agony already suffered.

31. Section 509 IPC say:

"509. word, gesture or act intended to insult the modesty of a woman. -- Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both." The burden is on the prosecution to prove that the accused had uttered the words or made the sound or gesture and that such word, sound or gesture was intended by the accused to be heard or seen by some woman.

Normally, it is difficult to establish this and, seldom, a woman files a complaints and often the wrongdoers and left unpunished even if the complaint is filed since there is no effective mechanism to monitor and follow up such acts. The necessity of a proper legislation to curb eve-teasing is of extreme importance, even the Tamil Nadu legislation has no teeth.

32. Eve-teasing today has become a pernicious, horrid and disgusting practice. The Indian Journal of Criminology and Criminalistics (January-June 1995 Edn.) has categorised eve-teasing into five heads viz.:

- (1) verbal eve-teasing;
- (2) physical eve-teasing;
- (3) psychological harassment;
- (4) sexual harassment; and (5) harassment through some objects.

33. In Vishaka v. State of Rajasthan this Court has laid down certain guidelines on sexual harassment. In Rupan deol Bajaj v. Kanwar Pal Singh Gill this Court had explained the meaning of "modesty" in relation to women. More and more girl students, women, etc. Go to educational institutions, work places, etc. and their protection is of extreme importance to a civilised and cultured society. The experience of women and girl

children in overcrowded buses, metros, trains, etc. are horrendous and a painful ordeal.

34. Parliament is currently considering the Protection of Woman against Sexual Harassment at Workplace Bill, 2010, which is intended to protect female workers in most workplaces. Provisions of that Bill are not sufficient to curb eve-teasing. Before undertaking suitable legislation to curb eve-teasing, it is necessary to take at least some urgent measures so that it can be curtailed to some extent. In public interest, we are therefore inclined to give the following directions:

34.1. All the State Governments and Union Territories are directed to depute plain clothed female police officers in the precincts of bus-stands and stops, railway stations, metro stations, cinema theaters, shopping malls, parks, beaches, public service vehicles, places of worship, etc. so as to monitor and supervise incidents of eve-teasing.

34.2. There will be a further direction to the State Government and Union Territories to install CCTV cameras in strategic positions which itself would be a deterrent and if detected, the offender could be caught.

34.3. Persons in charge of the educational institutions, places of worship, cinema theaters, railway stations, bus-stands have to take steps as they deem fit to prevent eve-teasing, within their precincts and, on a complaint being made, they must pass on the information to the nearest police station or the Women's Help Center. 34.4. Where any incident of eve-teasing is committed in a public service vehicle either by the passengers or the persons in charge of the vehicle, the crew of such vehicle shall, on a complaint made by the aggrieved person, take such vehicle to the nearest police station and give information to the police. Failure to do so should lead to cancellation of the permit to ply.

34.5. The State Governments and Union Territories are directed to establish Women Helpline in various cities and towns, so as to curb eve-teasing within three months.

34.6. Suitable boards cautioning such act of eve-teasing be exhibited in all public places including precincts of educational institutions, bus-stands, railway stations, cinema theaters, parks, benches, public service vehicles, places of worship, etc. 34.7. Responsibility is also on the passers-by and on noticing such incident, they should also report the same to the nearest police station or to Women Helpline to save the victims from such crimes.

34.8. The State Governments and Union Territories of India would take adequate and effecting measures by issuing suitable instructions to the authorities concerned including the District Collectors and the District Superintendent of Police so as to take effective and proper measures to curb such incidents of eve-teasing.

6. Since the Hon'ble Supreme Court has already issued the directions, we direct the State of Jharkhand to strictly enforce the directions as enumerated by the Hon'ble Supreme Court, in the above case in its letter and spirit.
7. Pursuant to the discussions and the observations made by this Court from time to time during the pendency of this case, the following instructions are finally recorded for its implementation by all concerned in its letter and spirit:
 - (a) The Chief Secretary of State of Jharkhand is directed to circulate the directions as contained in the orders passed by this Court and in particular order dated 22.09.2011 and 17.07.2013 to all concerned including the Home Secretary of

the State and all the Deputy Commissioners of the District in order to effectively control the incident of eve-teasing in maintaining Law and Order.

- (b) In the light of ever increasing incidents of Eve-teasing and other offences against women, there is a need of stringent measures and strict laws for speedy disposal of reported cases. It would be in order if the State of Jharkhand enacts a legislation in tune with the Tamil Nadu Prohibition of Eve-teasing Act, 1998 and Delhi Prohibition of Eve-teasing Act, 1998.
- (c) The Director General of police of the State of Jharkhand shall take effective measures to alert all the Superintendents of Police of the District to address the menace of Eve-teasing by taking suitable measures such as by deploying women constable particularly near educational institutions, girls hostel, working women hostel, market or places, bus stand, railway station, cinema theater, public service vehicles, trains, places of worship etc.
- (d) The Registrar General of High court of Jharkhand is directed to issue instructions to the Member Secretary of Jharkhand State Legal Services Authority (JHALSA) to communicate order of this Court in hand to all the Chairman, Vice Chairmen, Secretaries, Members of the District Legal Services Authority/Sub Divisional Legal Services Committee to take effective ways and means to decimate the menace of Eve-teasing by adopting appropriate and befitting measures, inter alia, such as:
- (i) **To create legal awareness among all the stake holders including Police officials, Para Legal Volunteers, women, general public** etc. with the latest amended provisions of the Indian Penal Code related to offences of voyeurism, stalking etc. by introducing new Sections 354A to 354D of the Indian Penal Code vide Criminal Law (Amendment) Act, 2013 w.e.f. 03.02.2013.
- (ii) **To sensitize Para Legal Volunteers to help the victims by facilitating the victims to take legal actions against the culprit.**
- (iii) To coordinate with the State Women Commission, State Human Right Commission and Department of Social Welfare, Women and Child Development of the **State of Jharkhand to open effective Women's Help Center involving Para Legal Volunteers for taking immediate legal action against the wrong doers/ culprits of Eve-teasing.**
- (iv) To publish pamphlets, brochures, booklets, hoardings and other desired activities at all vulnerable places informing about the steps to be taken by the victim girls/women to save themselves from the torture of Eve-teasing such as contact number of the police by mobile/telephone, number of women's help center, **telephone/ contact number of Para Legal Volunteers of the area etc.**
- (v) To use Electronic and Print Media and means for spreading awareness and accessibility among the general masses.
- (e) The Registrar General of the High Court of Jharkhand is further directed to send the copy of this order to State Women Commission and the State Human Rights Commission of State of Jharkhand with a request to coordinate with the Jharkhand Legal Services Authority in order to curb the social evil of Eve-teasing and other offences against women effectively.

(f) The Department of Social Welfare, Women and Children of State of Jharkhand is also directed to take all effective measures in order to implement the directives of this court to check the menace of Eveteasing and other offences against women and to coordinate with the Jharkhand State Legal Services Authority for taking strong steps in this regard. In the light of the aforesaid pronouncement, the Registrar General of High Court of Jharkhand is directed to send the copy of this order to all concerned. Copy of this order be given to Amicus Curiae and also to the counsel for the State.

(Hon'ble Mrs. Justice R. Banumathi, C.J.)

(Hon'ble Mr. Justice Aparesh Kumar Singh, J)

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National Domestic Workers Welfare Versus State Of Jharkhand & Ors

Jharkhand High Court

National Domestic Workers Welf vs State Of Jharkhand & Ors

Decided on 12 November, 2013

W.P.(PIL) No. 2810 of 2012

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMITAV K. GUPTA**

For the Petitioner : M/s. Anup Kumar Agrawal, Advocate Robit Thakur, Advocate

For the Respondents–State : Mr. Rajesh Kumar, G.P.–V

For the Union of India : Mr. Md. Mokhtar Khan, A.S.G.I.

12/Dated: 12 November, 2013

Per D.N. Patel, A.C.J.:

1. Learned counsel appearing for the petitioner has submitted that despite several schemes being floated by the Central Government and despite a sizable amount is being given by the Central Government and despite the readiness of the Central Government to provide substantial financial assistance for implementation of ten schemes under the Unorganized Workers Social Security Act, 2008 (for the sake of brevity, hereinafter referred to as 'the Act, 2008') the State Government of Jharkhand has not yet implemented the schemes fully. Even the Board to be constituted under the Act, 2008, was not constituted and now by the order of this Court in this Public Interest Litigation, the Board has been constituted, but, still not a single meeting has been convened by the said Board. The money or the budget allocated by the Union of India for the State of Jharkhand, is to be unutilized for those ten schemes. There are several schemes out of these ten, which are being hundred per cent financially assisted by the Central government whereas in other schemes, it is partially financed by the Central Government. The State is unable to exploit the benefits of the schemes to its fullest extent, which are meant for the welfare of the downtrodden classes of the State of Jharkhand and also for those who are financially poor.
2. This Court has passed various orders in this writ petition and upon the direction of this Court, vide order dated 7.8.2013, 27.8.2013 and vide order dated 11.9.2013, now, the Board has been constituted as envisaged under Section 6 of Act, 2008, and now the Rules have also been drafted by the State of Jharkhand under The Act, 2008. These Rules have also been approved by the State Government. Thus, this is a Public Interest Litigation in its true sense and in its true spirit.
3. Yesterday, this matter was taken up for hearing and was adjourned for today. We have called Shir Vishnu Kumar, S/o Dr. R.S. Gupta, Principal Secretary, Labour, Employment and Training Department, government of Jharkhand, who is present in the Court today.

He has pointed out that there are ten schemes floated by the Central Government under the Act, 2008. Out of these ten schemes, the State has taken steps for implementation of nine schemes. He has narrated in details about the schemes and has submitted that there are various schemes in which substantial finance is being provided by the Central Government and in few schemes, hundred per cent finance is being provided by the Central Government, like National Family Benefit Schemes, etc. It is also submitted by the aforesaid officer to this Court that it is true that still more beneficiaries should take the advantage of these schemes, and perhaps, the beneficiaries, who are within the State of Jharkhand, are not aware about these schemes. A sizable amount of fund has already been lapsed because these schemes have been floated from the year 2007 onwards and still even as per the aforesaid officer, they are unable to give the benefit to the beneficiaries of the State of Jharkhand to its fullest extent.

4. Having heard the counsel for both the sides and looking to the provisions of the Act, 2008, and the Rules, 2013 and the Schemes floated by the Central Government, it appears that :
- i) The following are the Schemes being floated by the Central Government under the Unorganized Workers' Social Security Act, 2008 (the Act, 2008). The name of the schemes, the eligibility criteria and the number of beneficiaries found out by the State of Jharkhand are referred as under :

Schemes for Unorganized Workers under Unorganized Workers Social Security Act, 2008, Eligibility Criterion and Number of Beneficiaries

No.	Name of Schemes	Eligibility Criteria	Number of Beneficiaries
LABOUR EMPLOYMENT & TRAINING DEPARTMENT			
1.	Indira Gandhi National Old Age Pension Scheme	The age of the applicant (male or female) shall be 60 year or higher (excluding BPL widows and BPL persons with severe and multiple disabilities in the age group of 60-79 yrs.	5.70 Lakhs
2.	National Family Benefit Scheme	<ol style="list-style-type: none"> 1. The 'primary breadwinner' will be the member of the household -male or female – whose earning contribute substantially to the total household income. 2. The death of such a primary breadwinner should have accrued while he or she is in the age group of 18 to 59 years i.e. more than 18 years of age and less than 60 years of age. 3. The bereaved household qualifies as one below the poverty line according to the criterion prescribed by the government of India. 4. The central assistance under the scheme will be Rs.20,000/- in the case of death of the primary breadwinner. 	1712

No.	Name of Schemes	Eligibility Criteria	Number of Beneficiaries
3.	Aam Admi Bima Yojna	<ol style="list-style-type: none"> 1. The member should be aged between 18 years completed and 59 year nearer birthday. 2. The member should normally be the head of the family or an earning member of the below poverty line family (BPL) or marginally above the poverty line under the identified vocational group/ rural landless household. 	67000
4.	Rashtriya Swasthya Bima Yojna	<p>BPL Family /People</p> <ul style="list-style-type: none"> • Rickshaw Driver/Puller • Rag Pickers • Mine Workers • Sanitation Workers • Auto Rickshaw Drivers and Taxi Drivers • Beedi Workers • Street Vendors • Building and Construction Workers • MGNREGA Beneficiaries • Domestic Workers 	18.14 Lakhs

No.	Name of Schemes	Eligibility Criteria	Number of Beneficiaries
INDUSTRIES DEPARTMENT			
5.	<p>Handloom Weaver's Comprehensive Welfare Scheme</p> <p>Health Insurance Scheme</p> <p>Mahatma Gandhi Bunkar Bima Yojana</p>	<ul style="list-style-type: none"> • All Handloom weavers whether male or female are eligible to be covered under the health insurance scheme • The ancillary handloom workers i.e. those who are engaged in warping, winding, dyeing, printing, fishing, sizing, Jhala making and Jacquard cutting are also eligible to be covered • The handloom weavers/ ancillary handloom worker i.e. the beneficiary shall only be from the census list or from those already enrolled under HIS during the period Oct., 2009 to Oct., 2010. • The weaver should be earning at least 50 % of his income from handloom weaving • All weavers whether male or female between 18 to 59 years of age including minorities, women weavers and weavers belonging to NER. • Weavers belonging to the state handloom Development Corporations/ Apex/ Primary handloom weavers' cooperative society. Wherever outside the cooperative can also be covered under the scheme on a certificate from the state directorate of handlooms that they are fulfilling the eligibility criteria. 	----
6.	Handloom Artisan's Comprehensive Welfare Scheme		

No.	Name of Schemes	Eligibility Criteria	Number of Beneficiaries
HEALTH, MEDICAL EDUCATION AND FAMILY WELFARE DEPARTMENT			
7.	Janani Suraksha Yojana	<ul style="list-style-type: none"> • No Age Restriction • The Benefit of the Scheme are extended to all pregnant women in LPS status respective of the birth orders • No need for any marriage or BPL certification provided women delivers in government or accredited private health institutions. But for the benefit under home deliveries under yojna following criterion were fixed in LPS and HPS states: • BPL Pregnant women • Aged 19 years and above, preferring to deliver at home is entitled to cash assistance of Rs.500/- per delivery • Assistance would be available only up to 2 live births. 	----
ANIMAL HUSBANDRY AND FISHERIES DEPARTMENT			
8.	National Scheme for Welfare of Fisherman and Training and Extension Development of Model Fishermen Villages Group Accident Insurance for Active Fishermen Grant-in-Aid to FISHCOPPED Saving Cum Relief Training and Extension	<ul style="list-style-type: none"> • Beneficiary should be an active fisher identified by state government • Preference should be given to fishers below poverty line and to landless fishers • Fishers owning land or Kutcha structure may also be considered for allotment of houses under the scheme. 	----

No.	Name of Schemes	Eligibility Criteria	Number of Beneficiaries
LIFE INSURANCE CORPORATION OF INDIA			
9.	Janshree Beema Yojna	<ul style="list-style-type: none"> • Person between age 18 years and 59 years • The group will be identified and notified by LIC, at present 44 vocational occupational groups are identified • Minimum membership should be 25 under both rural poor and urban poor. • The member should normally be the Head of the family. 	----

It is pertinent to mention here that the aforesaid schemes of Government of India for unorganized workers under the Unorganized Workers Social Security Act, 2008, are exclusively meant for the most disadvantaged sections of the society to ensure 'economic justice' and to translate the vision of "Justice" as set out in the preamble to the constitution of India into reality. But it appears that the case in hand is clear example of lack of sensitiveness of the concerned to reach out to the beneficiaries. The concerned persons must know, we live in a country where Rule of law is the foundation of our democratic system. The existence of common man are governed by statutory laws and social welfare schemes and executive orders, almost nothing is out side the purview of law. Entire human activities including health, food, education, registration of birth and death etc. are governed by various laws, schemes etc. In the backdrop, a denial of the rights conferred through different laws or any deprivation of beneficial schemes becomes integrally connected with the issues of "Legal Awareness" for which the concerned department of State Government and Legal Services Authority of State are under obligation to implement the schemes and to create the awareness about the schemes respectively. Indeed it is shocking that 5 years are lapsed since the commencement of the beneficial Act, namely, Unorganized Workers Social Security Act, 2008, enacted for the poor, ignorant and illiterate unorganized workers including sr. citizens, members of BPL, Rickshaw Pullers, Sanitation Workers, Auto rickshaw drivers, street vendors, Building and Construction workers, Rag Pickers, Domestic Workers etc. but the State is unable to utilize the benefit of schemes to its full extent. It is a matter of great concern that the very purpose of Act is defeated due to its nonimplementation, therefore, we direct the Chief Secretary of the State Government to look into the matter in person and ask the Principal Secretary of the Department of Labour, Employment and Training, Government of Jharkhand to take intensive measures as per the guidelines issued hereinafter:

- ii) In fact, there are ten schemes floated by the Central Government under the Act, 2008. The State is taking steps in the nine aforesaid schemes. The name of the scheme no.10 is "Pension to Master Craft Persons". No details have been given by the State Government in their affidavits filed by the State. Not a single beneficiary has been found out by the State of Jharkhand for the scheme no.10. The officer, who is present in the Court, is saying that we have never tried to find out any beneficiary.
- iii) From the argument of the counsels from both the sides including the arguments of the Assistant Solicitor General of India, the counsel for Union of India, it appears that there is no proper awareness in the public at large within the State of Jharkhand for availing the benefits of the aforesaid ten schemes. If the awareness is further analyzed, it appears that there is lack of proper attempt by the State of Jharkhand for proper advertisement in Print and Electronic Media.

This is inevitably required because the State is unable to exploit the schemes as referred hereinabove properly in an effective manner so that more number of beneficiaries can avail the benefits of these schemes. Even as per the opinion given by the aforesaid high ranking officer of the State, who is present in the Court, the help of the Print and Electronic Media may be taken by the aforesaid officers accordingly we direct the Chief Secretary of the State that properly these ten schemes with summary and with the criteria of the eligibility and the benefits under the Schemes may be highlighted in the Print media and Electronic media in more than one languages.

- iv) It further appears that it is not possible every time to give advertisement, and therefore, there is one more option available with the State for distribution of the Pamphlets, which are to be printed by the State in the local languages. These pamphlets ought to have been distributed in the districts, at block level and village level. The governmental hierarchy and machineries should have been properly utilized by the administrators of the State so that the aforesaid ten schemes floated under the Act, 2008, may be made known to the public at large in the State of Jharkhand. When we asked to the lawyers, who are appearing on the side of the respondents that whether they are knowing about the schemes or not and their answer is that they are not aware about these schemes. Thus, even literate persons are not knowing about these schemes, and therefore, it is high time for the State Government to give proper and wide publication of these type of schemes.
- v) Hoardings of these schemes may also be put at proper conspicuous places, like Railway Station, Bus Depot, Hospitals, Government offices, Collectorate, Block offices, Civil Courts etc. There may be some other Acts also under which there may be other schemes like Housing schemes, Supply of water, Sewerage (under Jawaharlal Nehru National Urban Renewal Mission) etc. These schemes may also be published properly as stated hereinabove in Print and Electronic media, by pamphlets by hoardings of proper size at proper places and in local languages.
- vi) We also direct the Chief Secretary, Government of Jharkhand as well as Principal Secretary, Department of Labour, Employment and Training, Government of Jharkhand to take assistance of Jharkhand State Legal Services Authority (hereinafter referred to as the JHALSA) as well as the District Legal Services Authority and the infrastructure thereof. We hope that the concerned departments of Government of Jharkhand, namely, Department of Labour, Employment and Training, must be aware of the fact that District Legal Services Authority (hereinafter referred to as DLSA) are functioning in 22 districts (except Khunti and Ramgarh) of Jharkhand in a full fledged manner with a wholtime Secretary to the rank of Civil Judge (Sr.Division) and its Chairman and Vice Chairman are exofficio Principal District Judge and Deputy Commissioner of the respective district. **It's main objects are to create "awareness" and to ensure "access" in lawful and legal manner. In the State of Jharkhand, JHALSA have trained so far more than 3300 para legal volunteers, who are being given training by this Court. As a matter of fact 'Para Legal Volunteers' (hereinafter referred to as PLVs) have been trained by JHALSA under the scheme of National Legal Services Authority, New Delhi, with a view to transmit knowledge about the legal services schemes including new laws, statutes, social welfare schemes like Unorganized Workers Social Security**

Act, 2008, amongst poor and downtrodden. **PLVs created by JHALSA are on the job at grass root level in Panchayats/ Villages/ Basti/ Tolas/ Mohallas** level under the guidance of District Legal Services Authorities in the State of Jharkhand. **The most important job of PLVs to spread consciousness about the new welfare schemes of the Government to common citizens with special reference to the tribal and rural populations, women, children, disabled, handicapped and weaker sections of society. The scheme of the para legal volunteers is being properly implemented by the JHALSA** and there are several legal aid clinics in every district, in every jail and at several police stations, at which, these **para legal volunteers are regularly visiting, the duty as with which, the para legal volunteers are wedded with, is to impart the primary knowledge about the laws, the rights of the public at large including of senior citizens, widows, children and convicts or under trial prisoners.** This huge man power can be directly utilized by the State, who are available in every district of the State and working under JHALSA/ DLSAs. **There are more than one hundred para legal volunteers per district. With their help, if the pamphlets are to be distributed, they can perform these duties in an effective manner. If these para legal volunteers are to be sent to the villages, they are ready to go because they are working with concerned DLSA under JHALSA. The State may take assistance of these PLVs. They will assist the State officers in finding out the beneficiaries within the State of Jharkhand.** The JHALSA and the District Legal Services Authorities and Taluka (Subdivisional) Legal Services Committees are ready to cooperate the State Government officers. It is a dream project floated by the Central Government under the Unorganized workers Social Security Act, 2008, that justice must go at the door steps of the beneficiaries under the principle of **“access to justice for all”.** **The para legal volunteers working with good infrastructure, are available in every district.** We, therefore, direct the Chief Secretary, Government of Jharkhand as well as Principal Secretary, Department of Labour, Employment and Training, Government of Jharkhand and other Secretaries, who are also connected with these type of implementation of Welfare schemes to have joint meeting with the Executive Chairman of JHALSA assisted by Member Secretary, JHALSA, 'Nyay Sadan', Doranda, Ranchi immediately so that if any pamphlets are to be printed out, full assistance shall be provided by the JHALSA to the concerned department of State and that too in a different variety of languages. **The JHALSA will also provide proper man power of 3300 persons who are known as para legal volunteers and fully trained for these purposes.**

- vii) The JHALSA will also provide proper vehicles for the distribution in 'Mela' or at 'Festival Places' and at 'Haat Bazar' and also provide assistance of the legal retainers, who are available in every district at village level.
- viii) The JHALSA can also provide the places at which these beneficiaries can be brought (normally at building of District Legal Services Authority) and their applications may be drafted in a proper format and it will be given to the proper governmental officers so that the governmental officers may not have to go or may not have to move from village to village and similarly, the beneficiaries also may not have to move from one office to another. The District Legal Services Authorities buildings are available in every district where other activities under the aegis of Hon'ble Supreme Court is already going on such as 'legal awareness camps, Lok Adalat, Mediation, Conciliation Activities' etc.

- ix) We also direct the Chief Secretary, Government of Jharkhand as well as Principal Secretary, Department of Labour, Employment and Training, Government of Jharkhand and other Secretaries, who are also concerned and under obligation with the implementation of these type of schemes to make available JHALSA and the District Legal Services Authorities about the schemes, and their criteria and benefits so that in all types of welfare schemes so that the pamphlets can be prepared by JHALSA in the different languages and distributed properly among general masses to create awareness.
- x) We also direct the Chief Secretary, Government of Jharkhand as well as Principal Secretary, Department of Labour, Employment and Training, Government of Jharkhand and other Secretaries, who are also connected with these type of implementation of the schemes that a Board which has been constituted under Section 6 of the Act of 2008, the constitution of which may also be advertised properly so that the weaker sections of the society may know the constitution of the Board and about their members and the office address with proper communication telephone numbers so that they may apply for taking the benefits under the Schemes, if they are eligible.
- xi) We also direct the Chief Secretary, Government of Jharkhand as well as Principal Secretary, Department of Labour, Employment and Training, Government of Jharkhand and other Secretaries, who are also connected with these type of implementation of the schemes that some high ranking officers may be appointed for them and they shall hold periodical meetings atleast once in a month with the Chairman of District Legal Services Authority, Dy. Commissioner of the concerned district, Superintendent of Police of the concerned district and such other officers so that the aforesaid schemes and the other schemes which are referred hereinabove can be implemented in its true spirit and letter.
- xii) We also direct the Chief Secretary, Government of Jharkhand as well as Principal Secretary, Department of Labour, Employment and Training, Government of Jharkhand and other Secretaries, who are also connected with these type of implementation of the schemes to inform the JHALSA and District Legal Services Authorities, if any new scheme is being introduced of either the Central Government or of the State Government so that these two authorities namely JHALSA and the District Legal Services Authorities **can also assist through the para legal volunteers for the publicity, awareness and implementation of the schemes.**
- xiii) Looking to the several activities being conducted by the JHALSA as well as by the District Legal Services Authorities across the entire State and also looking to the burden of work and keeping in mind the efficiency of young advocate of the petitioner, we, hereby, request the counsel Shri Anup Kumar Agarwal who is appearing for the petitioner to assist the JHALSA for preparing the pamphlets in any one language either in Hindi or in English as per his choice so that it can be translated in local languages immediately by the JHALSA and it can be distributed at the earliest. We appreciate the assistance rendered by the counsel for the petitioner. The expenditure incurred by the counsel for the petitioner for preparing these pamphlets will be reimbursed by the JHALSA.
- xiv) We also request the Board constituted under Section 6 of the Act, 2008, to take effective steps for implementation of the aforesaid schemes in the light of the aforesaid observations.

5. Registry is directed to send the copy of this order to -:
- a) The Chief Secretary of the State of Jharkhand;
 - b) Member Secretary, Jharkhand State Legal Services Authority (JHALSA), "Nyay Sadan", Doranda, Ranchi,
 - c) Chairmen and Member Secretaries, District Legal Services Authorities of all the districts of State of Jharkhand,
 - d) Secretary of the Board constituted under Section 6 of the Act, 2008
 - e) Principal Secretary, Department of Labour, Employment & Training, Government of Jharkhand.
6. The matter is adjourned on 16 th December, 2013 , and the State is hereby directed to file on affidavit through Principal Secretary, Labour, Employment & Training, Government of Jharkhand, as to what steps have been taken by the State for proper and effective implementation of the aforesaid schemes for the welfare of the public at large in view of aforesaid directives.

(Hon'ble Mr. Justice D.N. Patel, A.C.J.)

(Hon'ble Mr. Justice Amitav K. Gupta, J.)



SUCCESS STORY

Name of PLV : Suman Thakur

(DLSA, RANCHI)

I. Legal aid to women victims of crime		
Nature of Crime	Type of Legal Services /Aid Provided	Nos. of Legal Services/Aid Provided
Rape Victim	Provided Legal Assistance in rehabilitation of Rape Victim Girl. Assisted the Legal Aid panel lawyer in getting the girl admitted in "Kishori Niketan, Bijupara, Ranchi".	01
Victim of witch practices	Five women were killed in village - Kanjila toli of Mandar, Ranchi. Free of cost legal counsel provided and victim compensation awarded to five persons of the affected family.	05
So many other assistance provided to women victims of crime		

II. Legal Awareness Camps/Services		
Nature of Legal Service	Type of Legal Services /Aid Provided	Nos. of Legal Services/Aid Provided
Trafficking	Re-united with family	10
Un organized labour	Registration done	500
Juvenile	Rehabilitation done / vocational training provided	27
Tribal People	Assistance in getting land lease	10
BPL Categories	BPL Categories people provided government pension (Widow, Old Age) etc.	700
Acid Attack Victim	Reported incident of acid attack	01

III. Legal Literacy Club and Classes		
Nature of Service	Type of Legal Services /Aid Provided	No. of children beneficiaries
Legal Literacy Classes	Organised legal literacy classes in Kasturba Gandhi Balika Vidyalaya, Sosai Ashram, Mandar, Ranchi. Conducted classes on subject legal topics like filling of FIR Child Marriage, Right to Education and other child friendly schemes.	2000

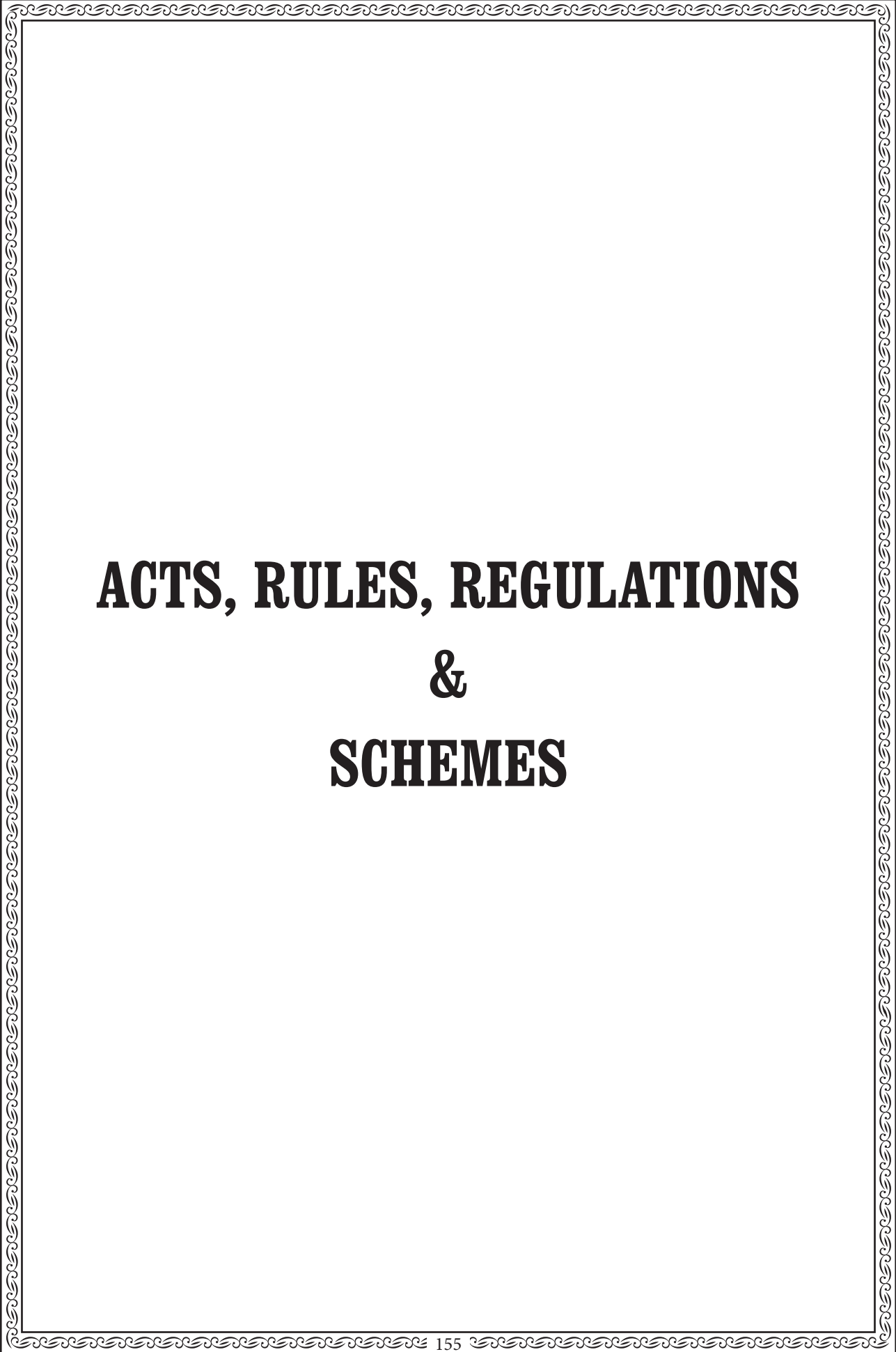
IV. Un Organized Labour		
Nature of Service	Type of Legal Services /Aid Provided	No. of Un organized laboureres beneficiaries
Un Organized Labour	Helped the Labourers both male and female belonging to BPL Categories in getting the benefits of labour department schemes.	50
Providing Schemes for Labours	Provide assistance in getting benefits of Cycle Sahayta Yojana.	50

V. Education of Girls		
Nature of Service	Type of Legal Services /Aid Provided	No. of Girl Child benefited
Education of Girls	Assisted in the admission of Girls in Kasturba Gandhi Balika Vidyalaya, Sosai, Mandar, Ranchi. Girls are now receiving free of cost education because of her efforts.	05

VI. Poverty Alleviation		
Nature of Service	Type of Legal Services /Aid Provided	No. of Unemployed Women benefited
Providing reliefs of families below poverty line	Providing assistance in getting reliefs to BPL families under Mukhyamanti Kanayadan Yojana.	10

VII. Women Empowerment Through Skill Development		
Nature of Service	Type of Legal Services /Aid Provided	No. of Unemployed Women benefited
Skill Development Programme	Unemployed poor women received vocational training under Jharkhand Bhawan awam Anya Swanirman Karmakar Kalyan Board Act 1996. The women receiving vocational training of stitching and draping and are earning their livelihood due to the efforts of PLV Suman Thakur.	135

VIII. Senior Citizen		
Nature of Service	Type of Legal Services /Aid Provided	No. of Pensioner benefited
Providing reliefs to senior citizens	Providing assistance in getting pensions to senior citizens/widow senior citizens in their bank accounts under the old age pension scheme and widow pension scheme of government.	10

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**ACTS, RULES, REGULATIONS
&
SCHEMES**

THE LEGAL SERVICES AUTHORITIES ACT, 1987

(Act No. 39 OF 1987)

[11th October 1987]

An Act to constitute legal services authorities to provide free and competent legal Service to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows: -

CHAPTER I PRELIMINARY

1. Short title, extent and commencement. —

- (1) This Act may be called the Legal Services Authorities Act, 1987.
- (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; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

2. Definitions. — (1) In this Act, unless the context otherwise requires, -

- ¹[(a) “Case” includes a suit or any proceeding before a court;
- (aa) “Central Authority” means the National Legal Services Authority constituted under section 3;
- (b) “District Authority” means a District Legal Services Authority constituted under section 9;
- ²[(bb) “High Court-Legal Services Committee” means a High Court Legal Services Committee constituted under section 8A;]
- (c) “Legal service” includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter;
- (d) “Lok Adalat” means a Lok Adalat organised under Chapter VI;
- (e) “Notification” means a notification published in the Official Gazette;
- (f) “Prescribed” means prescribed by rules made under this Act;
- ³[(ff) “Regulations” means regulations made under this Act;]

1 Substituted by Act 59 of 1994, S.2, for Cl.(a) (w.e.f. 29-10-1994).

2 Inserted by Act 59 of 1994, S.2, (w.e.f. 29-10-1994).

3 Inserted by Act 59 of 1994, S.3, for S.3 (w.e.f. 29-10-1994).

- (g) "Scheme" means any scheme framed by the Central Authority, a State Authority or a District Authority for the purpose of giving effect to any of the provisions of this Act;
- (h) "State Authority" means a State Legal Services Authority constituted under section 6;
- (i) "State Government" includes the administrator of a Union Territory appointed by the President under Article 239 of the Constitution.
- ³(j) "Supreme Court Legal Services Committee" means the Supreme Court Legal Services Committee constituted under section 3A;
- (k) "Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under section 11A.]

- (2) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER II THE NATIONAL LEGAL SERVICES AUTHORITY

⁴[3. Constitution of the National Legal Services Authority —

- (1) The Central Government shall constitute a body to be called the National Legal Services Authority to exercise the powers and perform the functions conferred on, or assigned to, the Central Authority under this Act.
- (2) The Central Authority shall consist of-
 - (a) The Chief Justice of India who shall be the Patron-in-Chief,
 - (b) A serving or retired Judge of the Supreme Court to be nominated by the President, in consultation with the Chief Justice of India, who shall be the Executive Chairman; and
 - (c) Such number of other members, possessing such experience and qualifications, as may prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.
- (3) The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member-Secretary of the Central Authority, possessing such experience and qualifications as may be prescribed by that Government, to exercise such powers and perform such duties under the Executive Chairman of the Central Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.
- (4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the Central Authority shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.
- (5) The Central Authority may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions under this Act.

⁴ Substituted by Act 59 of 1994, S.3, for S.3, (w.e.f. 29-10-1994).

- (6) The officers and other employees of the Central Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.
- (7) The administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the Central Authority, shall be defrayed out of the Consolidated Fund of India.
- (8) All orders and decisions of the Central Authority shall be authenticated by the Member-Secretary or any other officer of the Central Authority duly authorised by the Executive Chairman of that Authority.
- (9) No act or proceeding of the Central Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Central Authority.

3A. Supreme Court Legal Services Committee —

- (1) The Central Authority shall constitute a committee to be called the Supreme Court Legal Services Committee for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the Central Authority.
- (2) The Committee shall consist of-
 - (a) A sitting Judge of the Supreme Court who shall be the Chairman; and
 - (b) Such number of other members possessing such experience and qualifications as may be prescribed by the Central Government, to be nominated by the Chief Justice of India.
- (3) The Chief Justice of India shall appoint a person to be the Secretary to the Committee, possessing such experience and qualifications as may be prescribed by the Central Government.
- (4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the Central Authority.
- (5) The Committee may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions.
- (6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.

4. Functions of the Central Authority —

The Central Authority shall ⁵[***] perform all or any of the following functions, namely :-

- (a) lay down policies and principles for making legal services available under the provisions, of this Act;

* As on 30-07-2004.

5 The words "subject to the general directions of the Central Government", omitted by Act 59 of 1994, S.4, (w.e.f. 29-10-1994).

- (b) frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;
- (c) utilise the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;
- (d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;
- (e) organise legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats;
- (f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;
- (g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
- (h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IV-A of the Constitution;
- (i) monitor and evaluate implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act;
- ⁶(j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of legal services schemes under the provisions of this Act;]
- (k) develop, in consultation with the Bar Council of India, programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in universities, law colleges and other institutions;
- (l) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;
- (m) make special efforts to enlist the support of voluntary social welfare institutions, working at the grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and
- (n) co-ordinate and monitor the functioning of ⁷[State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions] and other legal services organisations and give general directions for the proper implementation of the legal services programmes.

5. Central Authority to work in coordination with other agencies — In the discharge of its functions under this Act, the Central Authority shall, wherever appropriate, act in co-ordination with other governmental and nongovernmental agencies, universities and others engaged in the work of promoting the cause of legal services to the poor.

⁶ Substituted by Act 59 of 1994, S.5, for S.6, (w.e.f. 29-10-1994).

⁷ Substituted by Act 59 of 1994, S.4, for "State and District Authorities and other voluntary social institutions," (w.e.f. 29-10-1994).

CHAPTER III STATE LEGAL SERVICES AUTHORITY

⁸[6. Constitution of State Legal Services Authority —

- (1)** Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.
- (2)** A State Authority shall consist of-
 - (a)** the Chief Justice of the High Court who shall be the Patron-in-Chief;
 - (b)** a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and
 - (c)** such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (3)** The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority:

Provided that a person functioning as Secretary of a State Legal Aid and Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.
- (4)** The terms of office and other conditions relating thereto, of members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (5)** The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.
- (6)** The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (7)** The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the State Authority shall be defrayed out of the Consolidated Fund of the State.
- (8)** All orders and decisions of the State Authority shall be authenticated by the Member Secretary or any other officer of the State Authority duly authorised by the Executive Chairman of the State Authority.

⁸ Substituted by Act 59 of 1994, S.5, for S.6 (w.e.f. 29-10-1994).

- (9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the State Authority.]

7. Functions of the State Authority —

- (1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.
- (2) Without prejudice to the generality of the functions referred to in subsection (1), the State Authority shall perform all or any of the following functions, namely : -
- (a) give legal service to persons who satisfy the criteria laid down under this Act;
 - (b) conduct ⁹[Lok Adalats including Lok Adalats for High Court cases];
 - (c) undertake preventive and strategic legal aid programmes; and
 - (d) perform such other functions as the State Authority may, in consultation with the ¹⁰[Central Authority,] fix by regulations.

¹¹8. State Authority to act in coordination with other agencies etc., and be subject to directions given by Central Authority — In the discharge of its functions the State Authority shall appropriately act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor

8-A. High Court Legal Services Committee —

- (1) The State Authority shall constitute a Committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.
- (2) The Committee shall consist of-
- (a) A sitting Judge of the High Court who shall be the Chairman; and
 - (b) Such number of other members possessing such experience and qualification as may be determined by regulations made by the State Authority, to be nominated by the Chief Justice of the High Court.
- (3) The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government.
- (4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the State Authority.
- (5) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.
- (6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service

⁹ Substituted by Act 59 of 1994, S.6, for "Lok Adalats" (w.e.f. 29-10-1994).

¹⁰ Substituted by Act 59 of 1994, S.6, for Central Government" (w.e.f. 29-10-1994).

¹¹ Substituted by Act 59 of 1994, S.7, for former Ss.8 and 9 (w.e.f. 29-10-1994).and shall also be guided by such directions as the Central Authority may give to it in writing.

as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

9. District Legal Services Authority —

- (1) The State Government shall, in consultation with the Chief Justice of the High Court, constitute a body to be called the District Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to, the District Authority under this Act.
- (2) A District Authority shall consist of-
 - (a) The District Judge who shall be its Chairman; and
 - (b) Such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.
- (3) The State Authority shall, in consultation with the Chairman of the District Authority, appoint a person belonging to the State Judicial Service not lower in rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.
- (4) The terms of office and other conditions relating thereto, of members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority in consultation with the Chief Justice of the High Court.
- (5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justices of the High Court for the efficient discharge of its functions.
- (6) The officers and their employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of services as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the Consolidated Fund of the State.
- (8) All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorised by the Chairman of that Authority.
- (9) No act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the Constitution of, the District Authority.]

10. Functions of District Authority —

- (1) It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.

(2) Without prejudice to the generality of the functions referred to in subsection (1), the District Authority may perform all or any of the following functions, namely: -

¹²[(a) Co-ordinate the activities of the Taluk Legal Services Committee and other Legal Services in the District];

(b) Organise Lok Adalats within the District; and

(c) Perform such other functions as the State Authority may ¹³[***] fix by regulations.

11. District Authority to act in coordination with other agencies and be subject to directions given by the Central Authority, etc — In the discharge of its functions under this Act, the District Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental institutions, universities çshall also be guided by such directions as the Central Authority or the State Authority may give to it in writing.

¹⁴[**11-A. Taluk Legal Services Committee** —

(1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.

(2) The Committee shall consist of-

(a) The ¹⁵[Senior-most Judicial Officer] operating within the jurisdiction of the Committee who shall be the ex-officio Chairman; and

(b) Such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be

(3) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

11-B. Functions of Taluk Legal Services Committee — The Taluk Legal Services Committee may perform all or any of the following functions, namely: -

(a) Coordinate the activities of legal services in the taluk

(b) Organise Lok Adalats within the taluk; and

(c) Perform such other functions as the District Authority may assign to it.

CHAPTER IV

12 Substituted by Act 59 of 1994, S.8, for Cl. (a) (w.e.f. 29-10-1994).

13 The words "in consultation with the State Government," omitted by Act 59 of 1994, S.8 (w.e.f. 29-10-1994).

14 Inserted by Act 59 of 1994, S.9 (w.e.f. 29-10-1994).

15 Substituted by Act 37 of 2002, S.2, for "Senior Civil Judge" (w.e.f. 29-10-1994), nominated by that Government in consultation with the Chief Justice of the High Court.

ENTITLEMENT TO LEGAL SERVICES

12. Criteria for giving legal services — Every person who has to file or defend a case shall be entitled to legal services under this Act if that person, is-

- (a) A member of a Scheduled Caste or Scheduled Tribe;
- (b) A victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution;
- (c) A women or a child;
- ¹⁶[(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 (1 of 1996);]
- (e) A person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) An industrial workman; or
- (g) In custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956), or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987 (14 of 1987); or
- ¹⁷[(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.]

13. Entitlement to Legal Services —

- (1) Persons who satisfy all or any of the criteria specified in section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has a prima facie case to prosecute or to defend.
- (2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

CHAPTER V FINANCE, ACCOUNTS AND AUDIT

14. Grants by the Central Government — The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Central Authority, by way of grants, such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

15. National Legal Aid Fund. -

- (1) The Central Authority shall establish a fund to be called the National Legal Aid Fund and there shall be credited thereto-

¹⁶ Substituted by Act 59 of 1994, S.10 for Cl.(h) (w.e.f. 29-10-1994).

¹⁷ Substituted by Act 59 of 1994, S.10 for Cl.(h) (w.e.f. 29-10-1994).

- (a) All sums of money given as grants by the Central Government under section 14;
 - (b) Any grants or donations that may be made to the Central Authority by any other person for the purposes of this Act;
 - (c) Any amount received by the Central Authority under the orders of any court or from any other source.
- (2) The National Legal Aid Fund shall be applied for meeting-
- (a) the cost of legal services provided under this Act including grants made to State Authorities;
 - ¹⁸[(b) the cost of legal services provided by the Supreme Court Legal Services Committee;
 - (c) any other expenses which are required to be met by the Central Authority.]

16. State Legal Aid Fund —

- (1) A State Authority shall establish a fund to be called the State Legal Aid Fund and there shall be credited thereto-
- (a) all sums of money paid to it or any grants made by the Central Authority for the purposes of this Act;
 - (b) any grants or donations that may be made to the State Authority by the State Government or by any person for the purposes of this Act;
 - (c) any other amount received by the State Authority under the orders of any Court or from any other source.
- (2) A State Legal Aid Fund shall be applied for meeting-
- (a) the cost of functions referred to in section 7;
 - ¹⁹[(b) the cost of legal services provided by the High Court Legal Services Committees;
 - (c) any other expenses which are required to be met by the State Authority.]

17. District Legal Aid Fund —

- (1) Every District Authority shall establish a fund to be called the District Legal Aid Fund and there shall be credited thereto-
- (a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this Act;
 - ²⁰(b) any grants or donations that may be made to the District Authority by any person, with the prior approval of the State Authority, for the purposes of this Act.]
 - (c) Any other amount received by the District Authority under the orders of any court or from any other source.
- (2) A District Legal Aid Fund shall be applied for meeting-
- (a) The cost of functions referred to in section 10 ²¹[and 11 B];

¹⁸ Substituted by Act 1 of 1996, S.74 for Cl.(d) (w.e.f. 7-2-1996).

¹⁹ Substituted by Act 59 of 1994, S.12 for Cl.(b) (w.e.f. 29-10-1994).

²⁰ Substituted by Act 59 of 1994, S.13 for Cl.(b) (w.e.f. 29-10-1994).

²¹ Inserted by Act 59 of 1994, S.13 for Cl.(h) (w.e.f. 29-10-1994).

(b) Any other expenses which are required to be met by the District Authority.

18. Accounts and audit —

- (1) The Central Authority, State Authority or the District Authority (hereinafter referred to in this section as 'the Authority'), as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- (2) The accounts of the Authorities shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.
- (3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and Authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.
- (4) The accounts of the Authorities, 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 by the Authorities to the Central Government or the State Governments as the case may be.
- ²²[(5) The Central Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before each House of Parliament.
- (6) The State Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before the State Legislature.]

**CHAPTER VI
LOK ADALATS**

²³[19. Organisation of Lok Adalats —

- (1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.
- (2) Every Lok Adalat organised for an area shall consist of such number of-
 - (a) Serving or retired judicial officers; and
 - (b) Other persons, of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.

²² Inserted by Act 59 of 1994, S.14 (w.e.f. 29-10-1994).

²³ Substituted by Act 59 of 1994, S.15 for Ss. 19 and 20 (w.e.f. 29-10-1994).

- (3) The experience and qualifications of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.
- (4) The experience and qualifications of other persons referred to in clause (b) of subsection (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.
- (5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of
- (i) Any case pending before; or
 - (ii) Any matter, which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. Cognisance of cases by Lok Adalats —

- (1) Where in any case referred to in clause (i) of sub-section (5) of section 19; -
- (i) (a) the parties thereof agree; or
 - (b) one of the parties thereof makes an application to the court, for referring the case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or
 - (ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat, the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under subclause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

- (2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination:
- Provided that no matter shall be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the other party.
- (3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.
- (4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

- (5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.
- (6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2), that Lok Adalat shall advise the parties to seek remedy in a court.
- (7) Where the record of the case is returned under sub-section (5) to the Court, such court shall proceed to deal with such case from the stage, which was reached before such reference under sub-section (1)].

21. Award of Lok Adalat —

- ²⁴[(1) Every award of the Lok Adalat shall be deemed to be a decree of a Civil Court or, as the case may be, an order of any other Court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870 (7 of 1870).]
- (2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of 25[Lok Adalats or Permanent Lok Adalats.]

- (1) The ²⁵[Lok Adalat or Permanent Lok Adalat] shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely —
- (a) The summoning and enforcing the attendance of any witness and examining him on oath;
 - (b) The discovery and production of any document;
 - (c) The reception of evidence on affidavits;
 - (d) The requisitioning of any public record or document or copy of such record or document from any court or office; and
 - (e) Such other matters as may be prescribed.
- (2) Without prejudice to the generality of the powers contained in sub-section (1), every [Lok Adalat or Permanent Lok Adalat] shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.
- (3) All proceedings before a 25[Lok Adalat or Permanent Lok Adalat] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860) and every [Lok Adalat or Permanent Lok Adalat] shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

²⁴ Substituted by Act 59 of 1994, S.16 for Sub-S. (1) (w.e.f. 29-10-1994).

²⁵ Substituted by Act 37 of 2002, S.2 for "Lok Adalat" (w.e.f. 11-06-2002).

²⁶[CHAPTER VI-A]
PRE-LITIGATION CONCILATION AND SETTLEMENT

22A. Definitions — In this Chapter and for the purposes of sections 22 and 23, unless the context otherwise requires, -

- (a) “Permanent Lok Adalat” means a Permanent Lok Adalat established under subsection (1) of section 22B;
- (b) “public utility service” means any –
 - (i) transport service for the carriage of passengers or goods by air, road or water; or
 - (ii) postal, telegraph or telephone service; or
 - (iii) supply of power, light or water to the public by any establishment; or
 - (iv) system of public conservancy or sanitation; or
 - (v) service in hospital or dispensary; or
 - (vi) insurance service, and includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

22B. Establishment of Permanent Lok Adalats —

- (1) Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.
- (2) Every Permanent Lok Adalat established for an areas notified under subsection (1) shall consist of –
 - (a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and
 - (b) two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, appointed by the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be such as may be prescribed by the Central Government.

22C. Cognisance of cases by Permanent Lok Adalat —

- (1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law:

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds ten lakh rupees:

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

- (2) After an application in made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.
- (3) Where an application is made to a Permanent Lok Adalat under subsection(1), it –
 - (a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application, points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;
 - (b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;
 - (c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.
- (4) When statement, additional statement and reply, if any, have been filed under sub-section(3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.
- (5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.
- (6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.
- (7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exists elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.
- (8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

22D. Procedure of Permanent Lok Adalat —

The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872).

22E. Award of Permanent Lok Adalat to be final —

- (1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.
- (2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a Civil Court.
- (3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.
- (4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.
- (5) The Permanent Lok Adalat may transmit any award made by it to a Civil Court having local jurisdiction and such Civil Court shall execute the order as if it were a decree made by that court.

**CHAPTER VII
MISCELLANEOUS**

²⁷[23. Members and staff of Authorities Committees and Lok Adalats to be public servants —

The members including Member-Secretary or, as the case may be, Secretary of the Central Authority, the State Authorities, the District Authorities, the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and officers and other employees of such Authorities, Committees and ²⁸[the members of the Lok Adalats or the persons constituting Permanent Lok Adalat] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

24. Protection of action taken in good faith — No suit, prosecution or other legal proceeding shall lie against-

- (a) The Central Government or the State Government;
- (b) The Patron-in-Chief, Executive Chairman, members, Member-Secretary or officers or other employees of the Central Authority;
- (c) Patron-in-Chief, Executive Chairman, member, Member-Secretary or officers or other employees of the State Authority;
- (d) Chairman, Secretary, members or officers or other employees of the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees or the District Authority; or

²⁷ Substituted by Act 59 of 1994, S.17 for former Ss.23 and 24 (w.e.f. 29-10-1994).

²⁸ Substituted by Act 37 of 2002, S.5 for "Members of the Lok Adalat" (w.e.f. 11-06-2002).

- (e) Any other person authorised by any of the Patron-in-Chief, Executive Chairman, Chairman, member, Member-Secretary referred to in subclauses (b) to (d), for anything which is in good faith done or intended to be done under the provisions of this Act or any rule or regulation made there under.]

25. Act to have overriding effect —

The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

26. Power to remove difficulties —

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

²⁹[27. Power of Central Government to make rules —

- (1) The Central Government in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -
- (a) the number, experience and qualifications of other members of the Central Authority under clause (c) of sub-section (2) of section 3;
 - (b) the experience and qualifications of the Member-Secretary of the Central Authority and his powers and functions under sub-section (3) of section 3;
 - (c) the terms of office and other conditions relating thereto, of members and Member Secretary of the Central Authority under sub-section (4) of section 3;
 - (d) the number of officers and other employees of the Central Authority under subsection (5) of section 3;
 - (e) the conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section (6) of section 3;
 - (f) the number, experience and qualifications of members of the Supreme Court Legal Services Committee under clause (b) of subsection (2) of section 3A
 - (g) the experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section (3) of section 3A.
 - (h) the number of officers and other employees of the Supreme Court Legal Services Committee under sub-section (5) of section 3A and the

²⁹ Substituted by Act 59 of 1994, S.18 for former Ss.27, 28 and 29 (w.e.f. 29-10-1994).

conditions of service and the salary and allowances payable to them under sub-section (6) of that section;

- (i) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before the Supreme Court;
- (j) the manner in which the accounts of the Central Authority, the State Authority or the District Authority shall be maintained under section 18;
- (k) the experience and qualifications of other persons of the Lok Adalats organised by the Supreme Court Legal Services Committee specified in sub-section (3) of section 19;
- (l) other matters under clause (e) of sub-section (1) of section 22;
- ³⁰[(la) the other terms and conditions of appointment of the Chairman and other persons under sub-section (2) of Section 22B;]
- (m) any other matter which is to be, or may be, prescribed.

28. Power of State Government to make rules —

- (1) The State Government in consultation with the Chief Justice of the High Court may, by notification, make rules to carry 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 number, experience and qualifications of other members of the State Authority under clause (c) of sub-section (2) of section 6;
 - (b) The powers and functions of the Member-Secretary of the State Authority under sub-section (3) of section 6;
 - (c) The terms of office and other conditions relating thereto, of members and Member Secretary of the State Authority under sub-section (4) of section 6;
 - (d) The number of officers and other employees of the State Authority under subsection (5) of section 6;
 - (e) The conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-section (6) of section 6;
 - (f) The experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section (3) of section 8A;
 - (g) The number of officers and other employees of the High Court Legal Services Committee under sub-section (5) of section 8A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;
 - (h) The number, experience and qualifications of members of the District Authority under clause (b) of sub-section (2) of section 9;
 - (i) The number of officers and other employees of the District Authority under subsection (5) of section 9;
 - (j) The conditions of service and the salary and allowances of the officers and other employees of the District Authority under sub-section (6) of section 9;

30 Inserted by Act 37 of 2002, S.6 (w.e.f. 11-06-2002).

- (k) The number, experience and qualifications of members of the Taluk Legal Services Committee under clause (b) of sub-section (2) of section 11A;
- (l) The number of officers and other employees of the Taluk Legal Services Committee under sub-section (3) of section 11A;
- (m) The conditions of service and the salary and allowances of officers and other employees of the Taluk Legal Services Committee under sub-section (4) of section 11A;
- (n) The upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before a court, other than the Supreme Court;
- (o) The experience and qualifications of other persons of the Lok Adalats other than referred to in sub-section (4) of section 19;
- (p) Any other matter which is to be, or may be, prescribed.

29. Power of Central Authority to make regulations —

- (1) The Central Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: -
 - (a) The powers and functions of the Supreme Court Legal Services Committee under sub-section (1) of section 3A;
 - (b) The terms of office and other conditions relating thereto, of the members and Secretary of the Supreme Court Legal Services Committee under sub-section (4) of section 3A.

29A. Power of State Authority to make regulations —

- (1) The State Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: -
 - (a) The other functions to be performed by the State Authority under clause (d) of subsection (2) of section 7;
 - (b) The powers and functions of the High Court Legal Services Committee under subsection (1) of section 8A;
 - (c) The number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
 - (d) The terms of office and other conditions relating thereto, of the members and Secretary of the High Court Legal Services Committee under sub-section (4) of section 8A;

- (e) The terms of office and other conditions relating thereto, of the members and Secretary of the District Authority under sub-section (4) of section 9;
- (f) The number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
- (g) Other functions to be performed by the District Authority under clause (c) of subsection (2) of section 10;
- (h) The terms of office and other conditions relating thereto, of members and Secretary of the Taluk Legal Services Committee under subsection (3) of section 11A.]

30. Laying of rules and regulations —

- (1) Every rule made under this Act by the Central Government and every regulation made by the Central Authority thereunder 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 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.
- (2) Every rule made under this Act by a State Government and every regulation made by a State Authority thereunder shall be laid, as soon as may be after it is made, before the State Legislature.



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, allurements 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 prelitigation 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>.]

Appendix - I

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, if 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					

□□□

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;
 - (ea) {Inserted by amendment notification dated 31.07.2012} “Panel Lawyer means a legal practitioner empanelled as a Panel Lawyer under regulation 8;
 - (f) “Para-Legal Volunteer” means a para-legal volunteer trained as such by a Legal Services Institution;
 - (fa) {Inserted by amendment notification dated 31.07.2012} “Retainer Lawyer” means a Panel Lawyer designated as the Retainer Lawyer under sub-regulation (6) of regulation 8;
 - (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" - omitted vide Amendment Notification dt. 31.07.12) one or more para-legal volunteers available during office hours.

Proviso: {Inserted vide Amendment Notification dt. 31.07.12)} - "(1) 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."}

(2) {Substituted vide Amendment Notification dt. 31.07.12} - "(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."

(3) {Substituted vide Amendment Notification dt. 31.07.12} - "(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.";

(4) {Substituted vide Amendment Notification dt. 31.07.12} - "(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."

(5) {Substituted vide Amendment Notification dt. 31.07.12} - "(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."

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) {Substituted vide Amendment Notification dt. 31.07.12} - "(1) The Panel Lawyer or, as the case may be, the retainer 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 apply where both the parties have availed legal aid."

- (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 halfyearly 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. :
-
- (ii) Legal aid application number and date on which legal aid was given. :
-
- (iii) Name of the legal aid applicant. :
-
- (iv) Nature of case (civil, criminal, constitutional law etc.). :
-
- (v) Name and roll number of the lawyer assigned to the applicant. :
-
- (vi) Name of the Court in which the case is to be filed / defended. :
-

(vii) The date of engaging the panel lawyer. :
.....

(viii) Whether any monetary assistance like, court fee, advocate
commission fee, copying charges etc. has been given in advance? :
.....

(ix) Whether the case requires any interim orders
or appointment of commission? :
.....

(x) Approximate expenditure for producing records,
summoning of witnesses etc. :
.....

(xi) The expected time for conclusion of the proceedings in the Court. :
.....

MEMBER-SECRETARY / SECRETARY

Dated:

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

NOTIFICATION

New Delhi, the 10th August, 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 (he 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 prelitigation 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.]



NALSA (LEGAL SERVICES TO SENIOR CITIZENS) SCHEME, 2016

1. BACKGROUND

- 1.1 The Senior Citizens constitute a class in themselves.¹ They are a reservoir of experience and knowledge, yet in many cases they are marginalized and almost wished away by the younger sections of the society as a burden on the society. The senior citizens do not constitute a homogenous group, the differences being based on the age gap amongst the senior citizens themselves, level of physical and mental alertness, their ability to work and suchlike.
- 1.2 Over the years, with advancement in science, there has been a substantial increase in life expectancy. As mentioned in the National Policy on Senior Citizens, 2011, “the demographic profile depicts that in the years 2000-2050, the overall population in India will grow by 55% whereas population of people in their 60 years and above will increase by 326% and those in the age group of 80+ by 700%- the fastest growing group.” 1/8th of the world’s elderly population lives in India. In real terms the population of elderly persons has increased from nearly 2 crores in 1951 to 7.2 crores in 2001 to 10.38 crores in 2011. Thus about 8% of the population is above 60 years. The highest percentage of people aged above 60 years is found in Kerala with the elderly constituting 12.55% of the population of the state. The number of females is larger in the category of 60+ age group with the number of females being 5,27,77,168 to 5,10,71,872 males as per the Census of 2011.
- 1.3 Senior citizens face a myriad of challenges- social, physical, mental and economic which are unique to them. The economic problems could be on account of loss of employment with a consequent loss of income and economic insecurity. Physical problems include health and medical problems. Social problems could be lack of familial support and social maladjustment. Security is another major issue for the older persons. The problem is made more acute with the break-up of the joint family system and more and more elderly persons being left to fend for themselves. There is migration of productive members of the family from the rural to urban areas. As such the women and the older persons in rural areas face greater problems.
- 1.4 There is also evidence of systematic and continuous abuse of the elderly i.e. infliction of physical, emotional or psychological harm on the older persons. Half of the elderly population reportedly experience abuse besides disrespect and neglect. According to the report of the National Crime Records Bureau (NCRB), a total of 8,973 cases were registered as crimes against senior citizens from January 2014 to October, 2014. As such every society and State recognizes certain rights of the senior citizens, distinct from the rest of the society.
- 1.5 The issue of ageing has been raised at the United Nations from time to time since 1948. The World Assembly on Ageing was held in Vienna in 1982 where an International Plan of Action on Ageing was adopted with the objective to

¹ Note: For the purposes of this Scheme, the persons above the age of 60 years are referred to as 'senior citizens' and the terms 'older persons', 'elder persons' are used synonymously.

strengthen the ability of individual countries to deal effectively with the ageing in their population, keeping in mind the special concerns and needs of the elderly. In 1991, the UN General Assembly adopted certain principles aimed at independence, participation, care, self-fulfilment and dignity of the older persons. 1st October has been declared as the International Day for the Elderly, now known as the International Day of the Older Persons.

2. CONSTITUTIONAL GUARANTEES

- 2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of the senior citizens. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 46 also imposes a positive obligation on the State to promote with special care the economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation. Articles 41 and 46 are included in the Directive Principles of State Policy which are not enforceable in any court of law, nevertheless, they impose positive obligations on the State and are fundamental in the governance of the country.
- 2.2 Entry 9 in the State List and entries 20, 23 and 24 of the Concurrent List in the Seventh Schedule to the Constitution relate to old age pension, social security and social insurance and economic and social planning. Entry 24 in the Concurrent List specifically deals with the 'Welfare of labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits.' Thus, there are several constitutional entries relating to old age.

3. LEGISLATIVE FRAMEWORK

- 3.1 Most of the legislation as exists relates to making provision for maintenance for the parents and does not refer to senior citizens specifically. Hindu Law has recognized the obligation of the sons to maintain the parents, who were not able to maintain themselves since ancient times. Under the Hindu Adoption and Maintenance Act, 1956 aged or infirm parents are entitled to maintenance from son and daughter provided the parents are unable to maintain himself/herself out of his/her own earnings or other property. The Muslim Personal Law places an obligation on children in easy circumstances to maintain their parents, even if the latter are able to earn something for themselves. A person is also bound to maintain his paternal and maternal grandfathers and grandmothers, if they are poor and not otherwise, to the extent as he is bound to maintain his poor father.
- 3.2 Sections 125 to 128, Code of Criminal Procedure, 1973 enable the father or mother, who is unable to maintain himself or herself to claim maintenance from his/her major son/daughter, if they neglect or refuse to maintain the parents. This is a secular law and applies across all religions. If the person against whom the order has been passed fails to pay the amount of maintenance without any sufficient reason, execution proceedings can be filed and the court may even issue a warrant imposing fines for the breach of the order and the person may be imprisoned. Similarly, the mother may file a petition against her son under

the Protection of Women from Domestic Violence Act, 2005 if she is subjected to domestic violence and claim various reliefs provided under the Act.

3.3 Considering the need to protect the rights of senior citizens and to further the constitutional objectives, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 was enacted. Under this Act, an application for maintenance can be made by (a) 'Parent', i.e., father or mother whether biological, adoptive or step father or step mother; and (b) 'Senior Citizen', i.e. a person who has attained the age of 60 years or above. The application for maintenance can be made by (a) parent or grand-parent, against one or more of his/her children, i.e., son, daughter, grandson and grand daughter, not being a minor; and (b) childless senior citizen, against his/her relative, i.e. legal heir, not being a minor, who is in possession of or would inherit his property after his death. The Act provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance and for the constitution of Appellate Tribunal for each district to hear the appeal against the order of the Tribunal. Importantly, under the Act, the right to receive maintenance is enforceable against transferee of property of the parent/senior citizen, if the transferee has notice of the right, or if the transfer is gratuitous though the same is not enforceable against the transferee for consideration and without notice of right. The Tribunal may even declare transfer of property by a senior citizen as void at the option of the transferor where a senior citizen has transferred the property by way of gift or otherwise, subject to the condition that the transferee shall provide the transferor with basic amenities and basic physical needs, and such transferee refuses or fails to provide such amenities and physical needs.

3.4 Another important feature of the Act is that abandoning of senior citizen by anyone having care or protection of such senior citizen is an offence punishable for a maximum period of 3 months or fine upto Rs.5000/- or with both. This is a very important provision for protecting the life and property of senior citizens and to prevent their being abandoned at places from where they could not be found. The Act also provides:

- for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means.
- that the State Government has to ensure that the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens; separate queues are arranged for senior citizens and that facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens.

4. GOVERNMENTAL SCHEMES FOR SENIOR CITIZENS

4.1 Different Ministries under the Central Government have come up with different Schemes for senior citizens. The National Policy on Senior Citizens focusses on mainstreaming senior citizens, especially older women, promoting the concept of 'ageing in place' or ageing in own home, housing, income security and homecare services, old age pension and access to healthcare insurance schemes and other programmes and services to facilitate and sustain dignity in old age. The Schemes for Senior Citizens include:

- i) Integrated Programme for Older Persons under which financial assistance upto 90% of the project cost is provided to NGOs for establishing and

maintaining Old Age Homes, Day Care Centres, Mobile Medicare Units and to provide non institutional services to older persons.

- ii) Rebate in income tax, deduction in respect of medical insurance premium upto Rs.30,000/- under section 80D of Income Tax Act, 1961, deduction under section 80D for treatment of specified ailment is Rs.60,000/- for senior citizens, separate counters for senior citizens at the time of filing the income tax returns and on the spot assessment facility.
- iii) 'Senior Citizens Saving Scheme' under which the citizens of 60 years and above can deposit Rs. 1000/- or its multiples in post offices doing savings bank work which carries an interest of 9% per annum and the maturity period of the deposit is five years, extendable by another three years. For senior citizens i.e. those having the age of 65 years and above, higher rates of interest on saving schemes are available.
- iv) Under the Indira Gandhi National Old Age Pension Scheme, central assistance is given towards pension at the rate of Rs.200/- per month to persons above 60 years and at the rate of Rs.500/- per month to senior citizens of 80 years and above belonging to a household below the poverty line and the same is expected to be supplemented by at least an equal contribution by the States.
- v) Discount on basic fare for domestic flights in economy class and priority in boarding the flights.
- vi) Concession for senior citizens in all classes and trains, priority for lower berths, separate counters for senior citizens for purchase/ booking or cancellation of tickets, wheel chairs for use of senior citizens are available at all junctions, District Headquarters and other important stations.
- vii) Reservation of two seats in the front rows of buses of State Road Transport Undertakings for senior citizens and even fare concession.
- viii) Separate queues for older persons in hospitals for registration and clinical examination and concessions to senior citizens in treatment of diseases like kidney problem, cardiac problem, diabetes and eye problem.
- ix) Under the Antyodaya Scheme, the Below Poverty Line families which include older persons are provided food grains i.e. 35 kgs per family per month at concessional rates. The persons above 60 years from the BPL category were given priority for identification.
- x) Under the Annapoorna Scheme being implemented by the States/ UT Administration, 10 kgs of food grains per beneficiary per month are provided free of cost to those senior citizens who remain uncovered under the old age pension scheme.
- xi) Priority in issuance of ration to ration card holders who are over 60 years of age in Fair Price Shops.
- xii) Priority in giving telephone connections by the Ministry of Telecommunications and priority to faults/ complaints of senior citizens by registering them under senior citizens category with a VIP Flag which is a priority category.

- 4.2 Priority is also given to cases of senior citizens in the courts with a view to expeditious disposal. Under the Right to Information Act, 2005 second appeals filed by senior citizens are taken on a high priority basis.
- 4.3 Several States have come out with their own Schemes and Programmes for the benefit of the senior citizens especially to provide security to senior citizens.
- 4.4 Despite the existence of various legal provisions and Schemes for senior citizens, their benefits have reached very few senior citizens. Often the senior citizens are unaware of their entitlements and/ or they are in too destitute a condition to be able to access the said benefits. They are not only deprived of their properties but also subjected to all forms of abuse ripping them off their dignity as well. For the widows who are senior citizens or for the retired senior citizens, it often becomes a herculean task to get their pension and other benefits. The laws and the Schemes lay down the entitlements of the senior citizens and if the senior citizens have any difficulty in availing their entitlements under the laws and the Schemes, it is felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Schemes and the legal provisions to the senior citizens.
- 4.5 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the Legal Services Authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further Section 4(1) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. Likewise, under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes.

5. NAME OF THE SCHEME

- 5.1 The Scheme shall be called “NALSA (Legal Services to Senior Citizens) Scheme, 2016”. In this Scheme, the persons above the age of 60 years would be regarded as senior citizens.
- 5.2 The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for **Para Legal Volunteers** (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To outline the basic rights and benefits that should be accorded to senior citizens;
- 2) To strengthen legal aid and representation at the national, state, district and taluka levels for senior citizens who are entitled under Section 12 of the Legal Services Authorities Act, 1987² in availing the benefits of the various legal provisions which exist;
- 3) To ensure access to various Governmental Schemes and programmes to the senior citizens;
- 4) To ensure that the authorities and institutions such as the Tribunals and the Appellate Tribunals under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, old age homes for senior citizens have been established;
- 5) To create and spread awareness about the rights and entitlements of the senior citizens under the various laws and Governmental Schemes and programmes through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers, students and legal services clinics;
- 6) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel, non-governmental organizations by organizing training, orientation and sensitization programmes; and
- 7) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the senior citizens live a life of dignity and enjoy all the benefits and facilities which are due to them.

7. PLAN OF ACTION

7.1 Establishment of Tribunals, Appellate Tribunals etc.

As a precursor to the senior citizens being able to enforce their rights, it is essential that the institutions contemplated under the law for providing relief to them are set up.

- a) Section 7 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance. Section 15 of the Act also provides for the constitution of an Appellate Tribunal for each district to hear appeals against the orders of the Tribunal. The SLSAs and the DLSAs shall take up the issue of constitution of Tribunals and Appellate Tribunals as per the mandate of the Act on an urgent basis with the State Government.
- b) Section 19 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 provides for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means,

² Note: For the purposes of grant of legal aid, the eligibility criteria is laid down in Section 12 of the Legal Services Authorities Act, 1987. All women including those who are senior citizens would be entitled to legal aid under Section 12 of the Act and all those who fall in any of the categories enumerated in Section 12 including senior citizens would be entitled to legal aid. However, other services such as assistance in availing benefits under Governmental schemes, legal awareness may be provided across the spectrum to all senior citizens.

as determined by the State Government, from time to time to maintain themselves. The SLSAs and DLSAs will take up with the State Government, the matter of establishment of sufficient number of Old Age Homes for Indigent Senior Citizens. The SLSAs and DLSAs may also explore the possibility of setting up of Old Age Homes for Senior Citizens under Corporate Social Responsibility.

- c) SLSAs should carry out regular visits to the old age homes to ensure that the senior citizens have adequate facilities and that they are treated with dignity.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at every Tribunal and Appellate Tribunal established under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and also in old age homes.
- b) While at present there is a bar to lawyers appearing before the said Tribunals, it shall be ensured that trained para-legal volunteers are available in the Legal Services Clinics to assist the senior citizens in making applications and carrying out other procedural requirements.
- c) Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.
- d) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.
- e) The SLSAs and DLSAs shall encourage the students in Legal Services Clinics set up in colleges and universities to visit old age homes and provide legal services to senior citizens in the community.
- f) The Legal Services Clinics shall also facilitate the widows and senior citizens in getting pensionary benefits and other entitlements.

7.3 Legal Representation

- a) All senior citizens who are entitled to legal aid under Section 12 of the Legal Services Authorities Act, 1987 shall be provided legal aid on a priority basis.
- b) It is essential that the Legal Services Institutions are accessible in terms of physical infrastructure for the senior citizens, otherwise access to justice would become meaningless for them. Accordingly, steps should be taken by Legal Services Institutions to ensure accessibility such as having the front office on the ground floor.
- c) SLSAs shall ensure that the senior citizens do not have to face any kind of discomfort in procedural wrangles.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least three panel lawyers as Legal Services Officers for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme and for this purpose they shall draw upon PLVs who are trained to attend to the problems of senior

citizens. Efforts should also be made to identify and train PLVs from amongst the senior citizens, both men and women.

- f) The PLVs shall act as the interface between the senior citizens in the community who are unable to access the Legal Services Institutions and the Legal Services Institutions. Where it is not possible for the senior citizens to reach the Legal Services Institutions on account of their conditions, the Legal Services Institutions shall reach out to them through panel lawyers and PLVs.
- g) SLSAs shall provide training to panel lawyers to enable them to sensitively deal with cases of senior citizens. The SLSAs shall ensure that the legal services provided to senior citizens are of the highest quality so that meaningful and effective legal services can be provided to them.

7.4 Identification of issues affecting senior citizens

- a) SLSAs and DLSAs shall make an endeavour to identify the core issues which affect the senior citizens in a particular area and deal with them accordingly. While some issues may be common across geographical barriers, there may be some issues which are unique to some areas such as in some areas, the senior citizens being on their own may be a major issue as their families may have migrated to cities or other countries. Certain health problems may be more acute in a particular area.
- b) SLSAs and DLSAs shall then seek solutions to the issues that arise on regional basis and use their resources to implement the solutions, including through coordination with the concerned governmental agencies.
- c) SLSAs, DLSAs should facilitate the setting up of self-help groups of senior citizens to encourage community support and to reduce a sense of dependency on the part of the senior citizens.

7.5 Database

- a) All SLSAs shall have database of all the existing Central or State Schemes, policies, regulations, policy directives concerning senior citizens and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness about the rights of senior citizens.
- b) SLSAs and DLSAs shall publish information booklets in regional languages explaining in simple terms:
 - 1) provisions of law such as on maintenance, Wills, social welfare schemes;
 - 2) details about access to remedies; and
 - 3) contact details of helpline numbers available across the state. Such information booklets may be distributed to senior citizens and used during awareness programmes.
- c) DLSAs shall also maintain a database of hospitals, medical centres and other facilities which may be available for senior citizens in their area.

- d) The information maintained by DLSAs shall be circulated to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.
- e) SLSAs/ DLSAs shall also upload the data collected on their website.
- f) DLSAs shall prepare a database of senior citizens in their area so that PLVs may be deputed for their assistance as and when necessary. Such database may also be shared with law enforcement agencies to address the security concerns of senior citizens. This would also enable the DLSAs to provide immediate assistance to persons in distress by coordinating with the concerned departments such as health or police departments.

7.6 Implementation of various Schemes

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes to the senior citizens and government functionaries.
- b) SLSAs shall ensure that such information is prominently displayed in old age homes, hospitals and other places which are frequented by senior citizens.
- c) Various States have special schemes for security of senior citizens such as registration of senior citizens with the concerned police stations. SLSAs may liaise with the law enforcement authorities to address the security concerns of senior citizens and to enhance the interface between the police and the senior citizens such as through increased patrolling, maintaining regular contact with senior citizens once every week or every fortnight. SLSAs, DLSAs may depute PLVs to assist in the registration of senior citizens with the police stations, in getting servant and tenant verifications done and such other matters which concern the security of the senior citizens.
- d) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- e) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of senior citizens to ensure that the benefits of the various schemes that exist for senior citizens reach the senior citizens.

7.7 Awareness

- a) SLSAs shall draw up yearly programme for creating awareness on the rights of senior citizens and should endeavour to create a culture which is sensitive to the rights and needs of senior citizens.
- b) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the senior citizens and that it is the moral

duty of children to take care of senior citizens and not to leave them in a destitute condition in their old age.

- c) The Legal Services Institutions should explain the need to treat the senior citizens with dignity.
- d) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the entitlements of the senior citizens under various laws and government schemes.
- e) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for senior citizens to facilitate access to their entitlements.
- f) Special awareness drives may be undertaken in old age homes or other places frequented by senior citizens and PLVs and students may be encouraged to actively participate in such programmes.
- g) While organising awareness programmes, the DLSAs and Taluka Legal Services Committees may also coordinate with the relevant health department to organise special health or check-up camps for senior citizens such as general health camps, eye check-up camps etc. or with the police to have a special registration drive of senior citizens.
- h) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, private TV channels, hoardings, organising cultural programmes and setting up stalls at religious fairs, festivals.
- i) SLSAs should engage with senior citizens and actively avail of their services in carrying out awareness programmes on various issues as the senior citizens may have greater credibility and appeal in an area.

7.8 Training and Orientation Programmes

SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of senior citizens and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel and NGOs.

7.9 Observance of the International Day for the Older Persons

All Legal Services Institutions shall observe 1st October of every year as the International Day for the Older Persons and organize awareness programmes on that day for creating awareness of the rights and entitlements of senior citizens.



NALSA (LEGAL SERVICES TO VICTIMS OF ACID ATTACKS) SCHEME, 2016

1. BACKGROUND

1.1 Acid attacks are the most pernicious form of violence that is resorted to and is mostly gender specific. While acid attacks are reported in many parts of the world, the incidents of acid attacks in India have been on the rise. As per the data maintained by National Crime Records Bureau, the number of incidents of acid attacks reported in 2011 were 83, 85 in 2012 and 66 in 2013 though according to the Acid Survivors Foundation India (ASFI), at least 106 such attacks were reported in 2012, 122 in 2013 and 309 in 2014 and according to the activists, the figure rose to 500 in 2015. However, according to the National Crime Records Bureau, 222 cases of acid attacks were reported in 2015. The figures may vary but the number of acid attacks have been on the rise. There are also many unreported cases of acid attacks, especially in the rural areas and some such incidents may even result in the death of the victims. Many incidents are not reported due to fear of backlash from the perpetrators.

1.2 The incidents of acid attacks in India show that they are generally against the women. Quite often they are a result of a rejection of the marriage proposal or sexual advances. Conflicts related to dowry can also result in acid attacks. The acid attacks are also resorted to as a means of taking revenge or due to family or land disputes or over inheritance and other property issues. Occasionally, acid attacks may occur due to social or political or religious beliefs. The Justice Verma Committee constituted by the Central Government in 2013 in the aftermath of the Nirbhaya case to suggest reforms in the criminal justice system dealt with the issue of acid attacks and observed:

“We understand that a most heinous form of attack on women, which is commonplace in several Asian and African countries is the throwing of acid on women for a multitude of reasons, including alleged adultery, turning down advances from men, and also as a form of domestic violence. Acids and other corrosive substances are thrown on women or administered to them, thereby causing death or physical and psychological damage with unfathomable consequences. The 226th Report of the Law Commission of India, which dealt particularly with this offence stated:

“Though acid attack is a crime which can be committed against any man or woman, it has a specific gender dimension in India. Most of the reported acid attacks have been committed on women, particularly young women for spurning suitors, for rejecting proposals of marriage, for denying dowry etc. The attacker cannot bear the fact that he has been rejected and seeks to destroy the body of the woman who has dared to stand up to him.”

5. In a certain sense, the aggressor is conscious that self-worth and self-esteem of a woman often lies in her face, which is a part of her personality.

The dismemberment of the face or the body is not merely an offence against the human body but will cause permanent psychological damage to the victim. What happens when there is permanent physical and psychological damage to a victim, is a critical question and law makers have to be aware that offences are not simply based on the principle of what might be called offence against the body, i.e., damage of the body, but they must take into account the consequences on the right to live with dignity which survives the crime. This is an important consideration both in the fields of criminology and also in the field of sociology.”

The factors which lead to acid attacks were thus discussed in both the Justice Verma Committee Report and in the 226•Report of the Law Commission as also the effects of acid attacks. Apart from lifelong bodily disfigurement and physical challenges often requiring life-long treatment, the psychological challenges are greater and deeply affect the victims apart from affecting the employability of the victims. It is also seen that there are limited medical facilities available in the country for acid victims with the number of specialised burn hospitals being limited and it becomes a herculean task for the victim to get admitted in a hospital, much less to get treatment which may often span from a few months to several years. The treatment may also involves huge costs for the victims and their families. The rehabilitation of the victims also becomes an important issue.

2. CONSTITUTIONAL GUARANTEES

- 2.1 The Constitution of India guarantees the right to life and liberty of every individual under Article 21. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of all including victims of acid attacks. Article 41 of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

3. LEGISLATIVE FRAMEWORK

- 3.1 In the absence of any specific provisions to deal with incidents of acid attacks, such cases were generally dealt with under Section 326 of the IPC and other provisions. However, the Justice Verma Committee recommended that acid attacks be defined as an offence in the IPC and observed:

“9. The gender specificity and discriminatory nature of this offence does not allow us to ignore this offence as yet another crime against women. We recommend that acid attacks be specifically defined as an offence in the IPC, and that the victim be compensated by the accused. However in relation to crimes against women, the Central and State governments must contribute substantial corpus to frame a compensation fund. We note that the existing Criminal Law (Amendment) Bill, 2012, does include a definition of acid attack.”

Thus a recommendation was made not duly for the inclusion of a specific offence in respect of acid attacks but also for providing compensation to the victims of acid attacks.

- 3.2 By virtue of Criminal law (Amendment Act), 2013, Sections 326A and 326B were inserted in the Indian Penal Code providing for punishment to anyone who causes permanent or partial damage or deformity to, or burns or maims

or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt or who throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person. "Acid" was defined to include any substance which has acidic or corrosive character or burning nature that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

- 3.3 The issue of acid attacks also came up before the Supreme Court and in its order dated 18.7.2013 in *Laxmi v. Union of India*, W.P. (Crl.) No. 129/2006, the Supreme Court directed that over the counter sale of acid would be completely prohibited unless the seller maintained a log/ register recording the sale of acid which would contain the details of the person(s) to whom acid(s) is/ are sold and the quantity sold. Further the acid would be sold only after the buyer had shown a photo ID issued by the Government which also had the address of the person and the reason/ purpose for procuring acid was specified. It was also directed to no acid shall be sold to any person who was below 18 years of age. Directions were also issued for educational institutions, research laboratories, hospitals, Government Departments and departments of Public Sector Undertakings who were required to keep and store acid. In the final order dated 10.4.2015, it was reiterated that an appropriate notification banning the sale of acid across the counter should be issued within three months from the date of the order. Further the Supreme Court in *Parivartan Kendra and Anr. V. Union of India* and Ors. WP (Civil) No.867 of 2013 decided on 7.12.2015 directed that stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid.
- 3.4 Regarding proper treatment, after care and rehabilitation of the victims of acid attack, a direction was issued by the order dated 10.4.2015 to the State Governments/ Union Territories to take up the matter with all the private hospitals to the effect that private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries. It was also observed that action may be taken against hospital/ clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973. A direction was also issued that the hospital, where the victim of an acid attack was first treated should give a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.
- 3.5 Taking note of the fact that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments, the Supreme Court in its order dated 18.7.2013 directed that the acid attack victims shall be paid compensation of at least Rs.3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost, out of which a sum of Rs. 1 lakh would be paid to the victim within 15 days of the occurrence of such incident (or being

brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. While disposing off the said writ petition on 10.4.2015, it was directed that the Member Secretary of the State Legal Services Authority take up the issue with the State Government so that the orders passed by the Court were complied with and a minimum of Rs.3,00,000/- was made available to each victim of acid attack. The Member Secretaries of the State Legal Services Authorities were also directed to give wide and adequate publicity in the State/ Union Territory to the Victim Compensation Scheme so that each acid attack victim could take the benefit of the Victim Compensation Scheme. It was also directed that in case of any compensation claim made by any acid attack victim, the matter would be taken up by the District Legal Services Authority, which would include the District Judge and such other co-opted persons who the District Judge felt would be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee and the said body would function as the Criminal Injuries Compensation Board for all purposes. The matter also came up before the Supreme Court in Parivartan Kendra and Anr. V. Union of India and Ors. WP (Civil) No.867 of 2013 decided on 7.12.2015 where it was observed that the State and Union Territory concerned can give even more amount of compensation than Rs.3,00,000/- as was directed in Laxmi's case. An important direction given in this case was that all the States and Union Territories should consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.

- 3.6 It is thus seen that acid attacks by themselves have been recognised as offences under the Indian Penal Code for which punishment is prescribed. Besides Section 357A Cr.P.C. provides for a Scheme being drawn up by the State Government in coordination with the Central Government for providing funds for the purpose of compensation to the victim and such Schemes have been drawn up in most States and Union Territories which also provide for compensation to victims of acid attacks. The Central Government has issued the Central Victim Compensation Fund Guidelines with an objective to support and supplement the Victim Compensation Schemes of the States and Union Territories. A corpus of Rs.200 crores has been fixed for the purpose. One of the admissible activities under the Central Victim Compensation Fund is "to promote special financial assistance upto Rs.5 lakhs to the victims of acid attack to meet treatment expenses over and above the compensation paid by the State/ Union Territory." However there is need for greater awareness about the availability of compensation for victims of acid attacks. Despite specific directions to hospitals to provide treatment to victims of acid attacks, it is still not easy for them to get proper treatment. Over the counter sale of acid still remains rampant. It is thus felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the Victim Compensation Scheme to the victims of acid attacks and to the medical and other facilities.**

4. ROLE OF LEGAL SERVICES INSTITUTIONS

- 4.1 The Preamble of the Legal Services Authorities Act, 1987 emphasises that the legal services authorities are concerned with the weaker sections of the society

and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason or economic or other disabilities. Under Section 4(b) of the Legal Services Authorities Act, 1987, the “Central Authority” i.e. the National Legal Services Authority has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. Further under Section 4(1) enjoins the “Central Authority” to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other under Section 7(c) it is the function of the State Authority i.e. the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus the Act itself casts a duty upon the Legal Services Authorities to spread legal awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic programmes. Besides, under Section 12 of the Act, all women are entitled to legal services as also 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.

5. NAME OF THE SCHEME

- 5.1 The Scheme shall be called “NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016”.
- 5.2 The terms PLVs, Legal Services Clinics and Panel Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for **Para Legal Volunteers** (Revised).

6. OBJECTIVES OF THE SCHEME

The main objectives of the Scheme are as follows:

- 1) To strengthen legal aid and representation at the national, state, district and taluka levels for victims of acid attacks in availing the benefits of the various legal provisions and schemes for compensation which exist;
- 2) To enable the victims of acid attacks to get access to medical facilities and enactments as well as administrative programmes and measures. Likewise, rehabilitative services;
- 3) To create and spread awareness about the entitlements of the victims of acid attacks through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers and legal services clinics;
- 4) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel, non-governmental organizations by organizing training, orientation and sensitization programmes; and
- 5) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the victims of acid attacks are appropriately rehabilitated in the society and live a life of dignity.

7. PLAN OF ACTION

7.1 Legal Representation

- a) All victims of acid attacks and where the acid attack results in death, the heirs of victims of acid attacks shall be provided legal aid on a priority basis in order to enable them to get the benefit of the Victim Compensation Scheme.
- b) SLSAs and DLSAs shall ensure that the victims of acid attacks do not have to face any kind of delay in procedural wrangles and the interim compensation is awarded at the earliest.
- c) Support persons and legal representation shall be provided to victims of acid attacks during the recording of their statement under section 164 Cr.P.C., giving evidence etc.
- d) Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least one panel lawyer as Legal Services Officer for the purpose of this Scheme.
- e) The District Legal Services Authorities shall also depute sufficient number of PLVs for the implementation of this Scheme.
- f) The PLVs shall act as the interface between the victims of acid attacks and the Legal Services Institutions. All out endeavour shall be made to reach out to the acid attack victims.

7.2 Legal Services Clinics

- a) SLSAs shall set up Legal Services Clinics at hospitals having specialized facilities for treatment of burns where victims of acid attacks may be referred for treatment. The PLVs and panel lawyers deputed to such Legal Services Clinics shall be in regular touch with the victims of acid attacks and their relatives and ensure all possible help to them in securing appropriate medical help and treatment.
- b) The PLVs shall provide assistance and support to the families of victims of acid attacks and where possible counselling for them may be arranged so as to bring them out of trauma occasioned by the incident of acid attack.
- c) The PLVs shall also assist the victims of acid attack in obtaining from the hospital where the victim was first treated a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as directed by the Supreme Court in the order dated 10.4.2015.
- d) The PLVs shall ensure that the victims of acid attacks are able to avail of various rehabilitative services that may be available for them.
- e) The Legal Services Clinics shall ensure that action is taken against hospitals which deny treatment to victims of acid attacks on superficial grounds.

- f) Opening of the Legal Services Clinics shall be communicated to all the Government bodies and departments including the police, NGOs.
- g) The Legal Services Clinics so established shall be governed by the National Legal Services Authority (Legal Services Clinics) Regulations, 2011 in respect of their functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.

7.3 Co-ordination with the Government Departments

- a) The SLSAs shall coordinate with the States and Union Territories to amend the respective Victim Compensation Schemes to bring the same in line with the directions issued by the Supreme Court.
- b) The SLSAs shall remain in touch with the concerned governmental agencies to ensure that adequate funds are always available for disbursement as compensation to victims of acid attacks.
- c) The SLSAs shall take up the matter with the concerned States and Union Territories for taking appropriate steps with regard to inclusion of the names of the victims of acid attacks under the disability list and thereafter to ensure that they get the benefit of all the schemes which are available for persons with disability.

7.4 Database

- a) All SLSAs shall have database of the existing Central or State Schemes, policies, regulations, policy directives concerning victims of acid attacks and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness.
- b) All SLSAs shall have database of the hospital where specialized facilities for treatment of burn victims are available.
- c) The lists prepared shall be circulated annually to all the District Legal Services Authorities which shall further circulate the same to the Taluka Legal Services Committees, village panchayats, legal services clinics and PLVs.
- d) SLSA shall also upload the list on their website.

7.5 Implementation of various Schemes

- a) SLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes that exist for the victims of acid attacks.
- b) Legal services to be provided would include informing the beneficiaries about the different government schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the schemes; offering to send para-legal volunteers with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- c) SLSAs shall develop effective coordination and interface with all the governmental bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of victims of acid attacks

to ensure that the benefits of the various schemes especially schemes for rehabilitation reach them.

7.6 Awareness

- a) The Legal Services Institutions shall organize awareness programmes to sensitize people to the needs of the victims of acid attacks so that the community provides support to them which is essential for their rehabilitation.
- b) SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the Victim Compensation Scheme and the entitlements under the same and various laws and government schemes.
- c) SLSAs, DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for victims of acid attacks to facilitate access to their entitlements.
- d) SLSAs, DLSAs and Taluka Legal Services Committees shall organize awareness drives to highlight that over the counter sale of acids stands prohibited. The PLVs may inform the concerned department or DLSAs if they come across any incidents of sale of acids so that appropriate action can be taken immediately.
- e) All possible methods of spreading awareness should be used such as Doordarshan, All India Radio, distribution of pamphlets, leaflets.

7.7 Training and Orientation Programmes

- a) SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of victims of acid attacks and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel, medical officers and NGOs.
- b) SLSAs shall, in coordination with the State Judicial Academies, plan and conduct training/ sensitization programmes for Judicial Officers with a view to ensuring quick and adequate award of compensation, including interim compensation, and a fair and dignified treatment of the victims of acid attacks during trial of cases.



NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

BACKGROUND

Under Section 4 (b) of the Legal Services Authorities Act, 1987, the “Central Authority”, i.e. the National Legal Services Authority, has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

There can be no doubt that victims of commercial sexual exploitation, whether trafficked or voluntary sex workers are by far a highly marginalized group. Their rights are forgotten; their conditions of life and living are not anybody’s concern; what happens to them and their children interest no- one. Yet they are all entitled to benefits of the various schemes of the government by the mere fact of who they are. By their much marginalized existence they are entitled to all benefits that accrue to them as are available to other marginalized sections of the society.

Victims of trafficking for commercial sexual exploitation face a great deal of trauma not just following such trafficking but also after their rescue. They need to be protected against the traffickers who would want them to come back or not pursue their case. There are also livelihood issues and if a viable alternative is not given, chances of being re-trafficked are high.

In the case filed by PRAJWALA, being Writ Petition (C) No.56 of 2004 the NALSA has given a report in the Supreme Court to take the following actions in respect of victims of trafficking for commercial Sexual Exploitation and sex workers:

“The role of the legal services authorities as set out in the preliminary report is reiterated as follows:

- (a) Provide legal assistance to the victims of trafficking and sexual exploitation at the time of rescue and thereafter during trial.
- (b) Facilitate the accessing of the District Legal Services Authorities(DLSAs) for award of victim compensation under Section 357A Cr.P.C
- (c) To monitor and act as social auditors of the existing facilities available for rehabilitation of rescued victims of sexual exploitation and trafficking.
- (d) DLSAs can spread awareness in the community through the panel lawyers and para-legal volunteers about the issues of trafficking particularly in vulnerable areas and among vulnerable groups.
- (e) The DLSAs can act as converging nodes to ensure that the government schemes meant for the marginalized actually reach them as such access to the government support does have a positive impact in preventing trafficking and falling prey to traffickers.

- (f) Initiate steps to sensitize the corporate world to support rehabilitation measures for trafficked victims including skill building and employment under the head of CSR.
- (g) SLSAs can also assist in the training and sensitization of stakeholders, like police, lawyers including legal services lawyers, prosecutors, government servants and the judiciary.
- (h) SLSAs may also collaborate with the local educational institutions and civil society organisations and NGOs working in this field.”

The NALSA believes that it is necessary to draw up a scheme to give a framework for the legal services authorities at different levels to put into action the undertaking given to the Supreme Court. To that end the present Scheme has been drawn up. It is expected that the Legal Services Authorities at all levels would be able to render legal services effectively to these vulnerable people by following the present scheme.

NAME OF THE SCHEME

The Scheme shall be called “NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015”.

The objective of the Scheme is to provide legal services to address the concerns of victims of trafficking including women of all age groups and at every stage: i.e. prevention, rescue and rehabilitation.

The thrust of the scheme is to provide economic and social pathways for these marginalised groups so that they are socially included and thus get all social protections available to an ordinary citizen. The interventions of the legal services authorities should be to ensure the protection of the dignity of the victims which is as much their fundamental right to a life as of any other citizen.

In order that the already marginalised voluntary sex workers are not excluded from the assistance of the legal services authorities, they are also considered victims of commercial sexual exploitation, apart from those children and adults who are trafficked for the purpose.

STRATEGY FOR LEGAL SERVICES TO THE VICTIMS

The strategy of the legal services must be guided by a 360 degree approach. Thus, children, young adults of whatever sex, adolescent girls, young women and older women should all be included in the action plan. The legal services authorities must also develop an action plan for prevention, rescue and rehabilitation and not merely for one of these aspects. Further the legal services authorities must document each case and carry out a follow up at least for three years so that reintegration of the victim into the society is complete.

Enabling trafficked women to get their entitlements by completing all due diligence processes

The action plan must be to use the existing welfare schemes of the Government, both Central as well as the State, with a life-cycle approach to strengthen social security, social development and welfare in order to cover prevention of trafficking and rehabilitation of the victims. DLSA can request NGOs/CBOs to use tools such as micro planning and surveys to ascertain the demand for schemes and thereafter set up Help Desks across the district to facilitate registration for the schemes. Simultaneously the victims/community members could be motivated and educated about how to apply for schemes they wish to enroll or register for.

The DLSA, with the support of the concerned department could facilitate the applicant to fulfil the procedures stipulated under each scheme and comply with all the due diligence processes. This would include enabling the applicant to get the supportive documents that are required to be furnished in order to establish eligibility for the benefits under a scheme, such as getting proof of residence, age certificate, nativity certificate, income certificate, etc. Once all the due diligence is over and the scheme sanctioned, DLSA should provide support to the community till the scheme gets delivered or the benefit reaches the beneficiary.

THE AVAILABLE SCHEMES

1. ICDS or Childcare development ---0-6 years, pregnant women and lactating mothers (as care givers)
2. Food security or ration cards
3. Social security or Pension for the elderly women
4. Educational schemes including midday meal, bridge schools, residential schools of Sarva Shiksha Abhiyan, Sabala; scholarships for the primary, secondary and higher education from Social Welfare Department for adolescents and specifically girls
5. Livelihood - Skill Development, Financial Inclusion, Micro Enterprise - from SC/ST/BC/Minority and Women's Development Corporation and CSR funds from government and public sector undertakings
6. Housing or Subsidy for Construction and Land Pattas from Urban Development, Housing Corporation
7. Universal entitlements-Jan Dhan, Aadhar, Voter Card, SHG membership
8. Legal aid Schemes-Legal Literacy, **Para Legal Volunteers**, Legal services clinics to ensure free legal aid and protection

ROLE OF LSAS

The most important role of the SLSAs/DLSAs is to maintain convergence oversight. While the administrative convergence for all the schemes no doubt will be under the District Collector, the protection convergence will have to be overseen by the SLSAs and the DLSAs. To converge social and legal protection for marginalized women SLSAs and DLSAs will provide the oversight on the process of convergence by bringing together the administrative convergence provided by the District Collector and those generated by the structures or community organizations that are facilitating the process on the ground and are rooted in the community and its realities and have played significant roles in preventing HIV, trafficking and violence against women and girls. In this background, the role of the SLSAs/DLSAs would be in:

Bridging the Gap-between all departments and trafficked women, women in sex work and those vulnerable to trafficking and extreme violence

Enhancing Engagement-Scheme Education Drive Organized by DLSA bringing together Community organizations and its members and government- department-district and sub-district administration

Facilitating Participation and Ownership-Led by DLSA in collaboration with community organizations through community meetings and camps

Sensitization-Enabling all departments and institutions to learn about dynamics of community, remove misconceptions

Strengthening Accountability-Through an MIS capturing all processes from identifying entitlement holder to scheme delivery.

Forging Partnerships-At the more micro level the collaborations will be with Community Organizations and NGOs working with sex workers and victims of trafficking and sexual exploitation. They will facilitate the process of reaching out to the many hidden members of the community and shape the process of community mobilization.

At the meso level, the partnership should be with and between district administrative mechanisms such as Department of Women and Child Development (especially Child Protection/Welfare Committees and Anti Human Trafficking Units) and the DLSA. This will highlight initiatives at the ground level with the community or beneficiaries.

The third level of partnership will be at the macro level with the Department of Women and Child which implements many schemes for victims of trafficking and also runs shelter homes for those rescued; Ministry of Home Affairs, Ministry of Social Justice and Empowerment and Rural Livelihood Mission which also has the mandate of prevention of human trafficking and will be vital partner to strengthen protection and safety nets to the beneficiaries.

ACTION PLAN

The first step that the DLSA should take is to reach out to the Non Governmental Organisations and Community Based Organisations (CBOs) working in the field. To do this, the SLSAs must contact the UNICEF or UNODC. State Agencies such as Department of Women and Child, Rural Livelihood Missions. They must also seek the assistance of the National Aids Control Organisation (NACO) and the State and District Aids Control Societies (SACS & DACS). Thus the SLSAs/DLSAs would be able to obtain information about trafficking as well as sex workers.

The second step would be to catalyse inter departmental convergence both at the State and further down to the district level so that an all inclusive and comprehensive response from all concerned departments and stakeholders emerges and essential inter-sectoral linkages, processes and mechanisms get established.

Trafficking : As regards trafficking, from the Anti Human Trafficking units in the State and with the help of the NGOs/CBOs, the DLSA should map out the vulnerable areas and the vulnerable populations within its jurisdiction. Then preventive strategies can be put into motion. These would be spreading information about schemes and connecting the vulnerable people to such schemes so that they benefit from them. This would also include spreading awareness about the law and about the dangers posed by prospective traffickers. The children and adolescent children could be made aware of the dangers of strangers befriending them and the parents cautioned about the falsity of promises made to them of better education for their children in cities. Young adults could similarly be warned about false promises of jobs and better lives.

The SLSAs/DLSAs should create a team of panel lawyers and social workers to spread awareness about the welfare schemes of the government. The PLVs should be used to ensure that all the due diligence processes including eligibility documents and proofs are collected to enable the vulnerable communities to access the various schemes. The DLSA should use their PLVs and their offices wherever necessary to interact with the Administrative heads such as the District Collector or Chief Secretary to ensure the final realisation of the scheme.

The PLVs attached to or assigned to a police station in compliance of the orders of the Supreme Court of India to handle cases of missing children should be given special training by the SLSAs /DLSAs to sensitise them on children's issues as well as trafficking issues, so

that they are responsive. These PLVs must inform the SLSAs/DLSAs whenever such a case of trafficking is reported or arrest of a sex worker occurs at the police station.

Sex Workers: One method of understanding community needs is to organise meetings between the Member Secretary SLSA or Full Time Secretary DLSA and the community leaders where the community leaders can explain the difficulties they face in accessing social entitlements especially the social security schemes such as widow and old age pension schemes even though they fall under eligible category.

The other method is to organize public hearings where community members would “depose”, or in other words relate their experience with governance at all levels. The “jury” should be made up of DLSA Chairperson and /or Full time secretary, other judicial officers wherever possible, high government functionaries such as DC, Principal Secretaries or Chief Secretaries, Police Officers and Protection Officers. The SLSAs/DLSAs should also involve senior advocates and panel lawyers in such programmes.

After the deposition the Member Secretary/Secretary as the case maybe or the panel advocate should explain to the community about the legal services available in the Legal Services Authority and encourage them to file complaints and seek free legal aid whenever their rights are infringed or they have a legal problem such inheritance etc. The Legal Services Authority can enable the target groups to redress the violence and harassment they face in their day to day life. In cases of violence from partners or husbands, the DLSA along with Protection Officers can provide legal aid and counselling services.

The DLSAs can accredit **Para legal volunteers** drawn from the community and train them as per the NALSA module. These PLVs can then act as the front line workers of the Authority as far as the community is concerned. The effort must be to ensure “saturation coverage” by having representation from all the blocks of the district and ultimately the entire State.

Once again, the DLSAs should assess the need for schemes in the community and facilitate the access of the community to the various welfare schemes of the government in the manner as mentioned hereinbefore.

Prevention: While ensuring the implementation of government welfare schemes, the SLSAs/DLSAs should pay attention to the structure already available under the Integrated Child Protection Scheme, particularly the setting up of the Village Level Child Protection Committees (VLCPC). These Committees are made up of Panchayat members, school teachers, students and parents from the community. Special awareness programmes should be organized for the VLCPC to keep a watch on the children in the village. The teachers should be sensitized to keep a watch for children missing from school and report them, so that further enquiries about their well being are promptly made.

A similar awareness and sensitization programme should be organized for the Anganwadi and Health workers for younger children and adolescent girls. Again, the SLSAs/DLSAs must ensure that children remaining absent are followed up and reported immediately.

PLVs drawn from the VLCPCs and Anganwadi as well as teachers should be trained with special emphasis on the issues of trafficking and sexual exploitation. The work of these PLVs must be closely monitored. At the same time these PLVs must be given effective mentors and support so that any incident reported is given full and complete attention by the SLSA/DLSA concerned.

Student Legal Literacy Clubs should be encouraged to write about and talk and discuss about trafficking issues. These clubs could play the role of peer educators about the dangers of growing up and how to keep oneself safe.

The SLSAs/DLSAs should strengthen groups who are working to prevent child marriages and empowerment of women. Many times, child and forced marriages are a prelude to trafficking for sexual exploitation. Apart from spreading awareness student groups should be formed in vulnerable areas and communities to report on child marriages and initiate preventive action.

While dealing with women already in sex work, the SLSAs/DLSAs should focus on the livelihood alternatives to help these women come out of the profession and prevent their children entering it. Women could be encouraged to save money and channelize the money into entrepreneurship which would ensure their social recognition and assimilation. The SLSAs/ DLSAs should help the women to protect themselves from domestic violence and provide legal assistance to follow up court cases. They should help these women access all government schemes as mentioned above.

Strategies of prevention and protection of victims of trafficking implemented by the Rural Livelihood Missions should also be understood and explored so as to replicate some of the successful methods and establish collaborative efforts.

Rescue and Rehabilitation : The protocol for the One Stop Crisis Centre would no doubt be available for the rescued victims of trafficking. Apart from ensuring compliance of the directions of the Supreme Court in Prajwala's case, the SLSAs/DLSAs must also follow up with the rehabilitation of the victim chiefly through access to government schemes to provide a stable alternate livelihood for the victims. The DLSAs should ensure that panel lawyers and PLVs help the victims to get their FIR registered and are present during remand proceedings to oppose bail etc. The Panel lawyers should obtain court orders for protection of witnesses wherever necessary and to counsel the victims before deposition and be present during trial including recording of the statement of the victim. The panel lawyers and PLVs should also help the victim to apply to the DLSAs for release of compensation under the Victims Compensation Scheme and also to access other welfare schemes of the Govt. meant for the rehabilitation of such victims.

Management Information Systems : The SLSAs and DLSAs will have to develop a sound MIS so that every activity under this scheme is recorded, followed up and assessed. Similarly, the assistance of the PLVs and the Panel lawyers given to the victims will have to be recorded and monitored closely by the Secretary DLSA. Where the DLSA has facilitated the rehabilitation, there must be a tracking of the person for at least three years so that the rehabilitation is complete and there is no danger of re-trafficking.

Transgender: The provisions of this scheme will be applicable to all Transgender as well.



NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015

1. BACKGROUND

1.1 One of the major characteristics of the Indian economy is the contribution of a vast majority of labour employed in the unorganised sector. The economic survey of India (2007-2008) and National Sample Survey unorganized sector (2009-2010) have estimated the employment in this sector at about 93-94% of the total workforce. Its contribution to the GOP is estimated to be more than 50%.

1.2 Majority of unorganised workers (about 52 per cent) are employed in agriculture. Other major categories include construction workers, workers in small enterprises, workers employed through contractors even in large enterprises, artisans/ craftsman, home based workers, workers depending upon forest produce, fisheries, self-employed workers like rickshaw pullers, auto drivers, coolies etc.

1.3 The distinguishing feature of the unorganised sector is non applicability of most of the labour laws and other regulations providing for decent working conditions, job security and social security to the workers. The unorganised workers lack collective bargaining power and are therefore susceptible to excessive exploitation. They work under poor working conditions and receive far lower wages/remuneration as compared to the organised sector, even for comparable jobs. Most of the employment in this sector is seasonal and the workers therefore have no job guarantee. This also leads to large scale migration of workers from one place to another leading to un-stability of work and residence which further often leads to discontinuity of the education of their children. In cities, they live in slums without proper housing and sanitation. Health care and maternity benefits which are statutorily available in the organised sector are not available for them. The legislations providing for social securities for old-age, health-care and assistance in the event of death, marriage and accidents etc., like the Workmen's Compensation Act, 1923; Employees State Insurance Act, 1948; Maternity Benefits Act, 1961; Industrial Disputes Act, 1974; Payment of Gratuity Act, 1972; Employee Provident Fund and Miscellaneous Provisions Act, 1952 etc., do not apply to them. The combined effect of the above factors is that many of them are generally, forced to lead an undignified and servile life.

1.4 Existing Legal Frame Work

Although there are a large number of categories of employment in the unorganized sector, legislation providing for working conditions etc., have been enacted only in respect of few categories like:-

- Dock Workers (Regulation of Employment) Act, 1948;
- Beedi and Cigar Workers (Condition of Employment) Act, 1966;
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

- Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984;
- Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
- Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

1.5 In order to provide for social security to all categories of unorganised workers, the Central Government has also enacted an umbrella legislation by the name of Unorganised Workers Social Security Act, 2008. Various social security schemes have been/are required to be floated for the benefit of the workers under the Building and Construction Workers Act, 1996 and Unorganised Workers Social Security Act, 2008.

2. SCHEME FOR PROVIDING LEGAL SERVICES.

2.1 The enactment of the few statues as mentioned herein above does not appear to have made any appreciable difference to the lives of the workers inter-alia, for the following reasons:-

- a) The Social Security Act, 2008 does not statutorily provide any mechanism to implement the schemes and there appears to be no sanction against a refusal of the concerned authorities to extend the benefits of the schemes to eligible workers.
- b) Very few States have constituted the Social Security Boards and have framed rules as envisaged under Section 14 of the Act. The result is that in many states, no welfare schemes are being administered and even where the schemes are in place, there is no effective monitoring. Similarly, all the states have not yet established the Building and other Construction Workers Welfare Boards as mandated under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and consequently, no security schemes have been floated for these workers.
- c) Although cess is being collected by many states under Building and Other Construction Workers Welfare Cess Act 1996, utilisation of cess amount for the benefit of the workers is abysmally low. This may be due to very low registration of workers and or non extension of benefits even to the registered workers.
- d) The schemes and the benefits available thereunder are not being sufficiently publicised. Workers in the unorganized sector being generally uneducated and not unionised are mostly unaware of the schemes.
- e) Workers Facilitation Centres as envisaged under section 19 of the Social Security Act 2008 have not been set up by any State.
- f) There is no responsibility of the employer /contractor to get their workers registered under any of the schemes. It is for the workers to apply for the same and they are unable to do so due to lack of awareness and complexity of the procedure.
- g) Separate registration is required for each scheme which makes it difficult for workers to avail benefits under all the schemes available to them in case of need.

h) The registration under the scheme is generally non- portable and therefore, workers in most of the categories being migrant workers are unable to avail the benefits and are therefore reluctant to register themselves under the scheme.

2.2 The Legal Services Institutions can play an important role in bridging the gap between the implementing authorities and target beneficiaries. With this object in view, the National Legal Services Authority had adopted the Scheme i.e. National Legal Services Authority (Legal Services to the Workers in the Unorganised Sector) Scheme, 2010 in the meeting of the Central Authority of NALSA held on 08.12.2010.

2.3 However, the magnitude of the problem and the fact that the benefits of the legislations are still elusive to the needy workers even after several years of their enactment has given rise to the need for more focused attention to this sector. The present revised scheme is meant to achieve this purpose.

The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for **Para Legal Volunteers** (Revised) and Module for the Orientation - Induction - Refresher Courses for PLV Training.

3. NAME OF THE SCHEME

The Scheme shall be called “NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme,2015”.

4. OBJECTIVES

1. To institutionalize essential legal services to all unorganized workers.
2. To get the gaps in legislation/implementation plugged through coordination with government authorities and by initiating public interest litigation.
3. To mobilize the machinery of the State Government and the District Administration to identify and register all unorganized workers in all categories and to extend the benefits of all government schemes, as applicable to them.
4. To spread awareness among the employers regarding the statutory provisions and the need for providing decent working conditions, living wages and social security to the workers.
5. To disseminate information among the workers regarding their entitlements under the existing legislations and schemes.
6. To provide counselling and assistance to all categories of unorganized workers for their registration with the concerned authorities under the schemes available for their category.
7. To assist the workers in availing the benefits of the scheme for which they are registered as per their need/entitlements.

5. GUIDING PRINCIPLES

The following principles shall be borne in mind by all Legal Service Institutions while implementing the scheme for the unorganized workers:-

- 5.1 The Preamble of the Constitution of India assures equality of status and opportunity to all citizens and to promote among them fraternity, assuring the dignity of the individual. Article 42, mandates that the State shall make provision for securing just and humane conditions of work and for maternity relief. By virtue of Article 43, the State is obliged to secure to all workers, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure, social and cultural opportunities.
- 5.2 The Preamble promise of upholding the dignity of the individual cannot be fulfilled unless the dignity of labour is ensured.
- 5.3 The unorganized sector is one of the marginalized sections of the society and they, as citizen of the country, are equally entitled to the right to work, just and humane conditions of work, living wages, maternity relief and a decent standard of life. It is the statutory mandate of the Legal Services Authorities to facilitate realization of this Constitutional assurance. The Legal Services Authorities have to act as watchdogs against administrative inaction.
- 5.4 The welfare measures initiated by the Government in the form of legislations or schemes etc. require the intended beneficiaries or the victims to mobilize the system for realization of their rights/ entitlements. The workers in the unorganized sector belonging as they do, to the deprived and vulnerable sections of the society do not possess the capacity to mobilize the system. It is the job of the Legal Services Authorities to provide them support in getting justice to their doorsteps.
- 5.5 The large number of categories of the unorganized workers, large population in each category and their vast geographical spread necessitates a project approach to the issue of providing legal services to them. An institutionalized setup, committed work force and sustained efforts for a considerable period of time are required to be able to make them capable of realizing their constitutional rights.

PLAN OF ACTION

6. Setting up of Special Cells

- 6.1 In order to provide effective legal services to the workers in this sector, each State Legal Services Authorities (SLSAs) shall constitute a special cell focusing exclusively on these services. The cell shall be manned by one panel lawyer specialising in Labour Laws, one counsellor/consultant having requisite qualification/ experience in relevant field, wherever feasible, representative of an NGO doing demonstrably good work in the area and such number of **Para Legal Volunteers**, as the SLSA may prescribe .
- 6.2 The functions of the special cell shall be:
 - i) to organize and conduct Legal Awareness/Literacy programmes, training programmes and seminars for unorganized workers;
 - ii) to co-ordinate with government authorities in relation with registration and extension of the benefits of the schemes to the unorganized workers;
 - iii) to facilitate and provide assistance in filing, processing and furnishing application form for registration and in availing benefits of the schemes to the unorganized workers;

- iv) to provide legal assistance and legal aid to the unorganized workers in respect of any claim or defence before any court or other authority;
- v) any other function that the State Authority may prescribe for them.

6.3 The special cell shall work under the guidance of the Member Secretary or any other officer of the Authority, as nominated by the State Authority, and shall file periodic reports of the progress of its assigned duties with him.

6.4 The members of the cell shall be paid honorarium for each of the duties at such rates, as may be fixed by the State Authority.

7 Identification of Unorganized Workers

7.1 The first job for the Legal Services Institutions is to identify the categories and population of unorganised workers operating in their respective areas, by seeking the data available with the Labour Department, Social Welfare Department of the State and if necessary, conducting surveys either themselves or in collaboration with law students and NGOs operating in the area.

7.2 In the process of identification, special efforts should also be made to identify any child labour or bonded labour and in case any workers in the said prohibited categories are found, the Legal Services Authorities shall inform the concerned authorities and facilitate their rescue, release and rehabilitation, as provided under the Bonded Labour System (Abolition) Act 1976, The Child Labour (Prohibition and Regulation) Act 1986 and Juvenile Justice Act 2000.

7.3 The State Authority may fix timelines for identification of all categories depending upon the area, population and other relevant factors in each state.

8 Conditions of work and minimum wages

The State and District Legal Service Authorities shall, in collaboration with the State and District Administration and local NGOs, assess the need of statutory regulation of conditions of work and minimum wages etc., for the categories of Unorganized Workers particularly, of Domestic Workers and if found necessary, the State Legal Services Authority shall take the requisite steps to get the same notified.

9 Setting up of State Social Security Board and Building & Other Construction Workers Welfare Boards

Wherever the Social Security Board and Building & Other Construction Workers Welfare Boards have yet not been set up, the State Legal Services Authorities shall coordinate with the State Government and, if necessary, institute, with the approval of the Hon'ble Executive Chairman, SLSA, Public Interest Litigation in the respective High Courts for getting these boards set up, as soon as possible.

10 Utilisation of Cess

State Legal Services Authorities shall coordinate with the Building and Constructions Workers Welfare Boards to ensure that the cess collected by them does not keep lying in fixed deposits and is actually utilised for the benefit of the needy workers as per the schemes available. The State Authorities shall seek relevant information from the boards, encourage the workers to apply for the benefits and then, coordinate with the boards to provide the said benefits.

In case of denial of due benefits to any worker, legal remedies can be prosecuted on his behalf by the State Legal Services Authority through the Special Cell for Unorganized Workers.

11 Government Schemes under the statues

Legal Services Authorities shall move the State Governments to notify the schemes relevant to the category of unorganised sector operating in the States. This also, if necessary, can be achieved through institution of Public Interest Cases, with the approval of the Hon'ble Executive Chairman.

12 Legal Awareness

12.1 After identification of the unorganised workers in each category, legal awareness programmes may be organised about the different schemes and social security measures available for such categories. The special cells for unorganized workers shall organize legal literacy camps for this purpose preferably, at their place of work itself or at community centres etc.

12.2 All State Legal Services Authorities shall publish booklets/ pamphlets containing the details of the available schemes, their eligibility criteria and procedure for registration for obtaining the benefits as per the requirements of the workers. Copies of the booklets/pamphlets shall be kept available in all Front Offices, Legal Services Clinics and the place of sitting of the Special Cell and shall be distributed in the legal awareness/literacy programmes.

12.3 Information regarding the above said details should also be disseminated through Doordarshan, All India Radio and Community Radio.

12.4 The Labour and Social Welfare Departments of the State should be requested to display the telephone numbers and helpline numbers of the Legal Services Institutions and the members of the Special Cell.

13 Specialised Training for PLVs

State Legal Services Authorities shall conduct specialized training programs for the paralegal volunteers focusing on the needs of the particular categories of Unorganised Workers as are operating in that area and the benefits which they can avail from the government schemes. PLVs should be trained inter-alia to educate the workers, help them identify the benefits they should seek and to liaise with the authorities for making the said benefits available to the needy workers.

14 Workers Facilitation Centres

State Legal Services Authorities shall coordinate with the Labour Departments of the State for setting up of worker's facilitation centres as envisaged under Section 9 of the 2008 Act. They may also set up legal services clinics manned by specially trained PLVs/NGOs, to be attached to such centres.

15 Decent Working Conditions

Some of the Statutes like the Building and Other Construction Workers (Conditions of Service) Act and Beedi and Cigar Workers Conditions of Employment Act have provisions to regulate the minimum working conditions for all workers employed in the said sectors. Even in other sectors where the statutory provisions are not available, the requirement of having proper wages and humane work conditions cannot be over emphasized.

State Legal Services Authorities may launch campaigns, in collaboration with law students and suitable NGOs to ensure that the employers provide decent conditions of work to the unorganised sector workers, abiding by all the statutory provisions laid down for this purpose.

16 Seminars for Employers

State Legal Service Authority and the Special Cell for unorganized sector shall organize seminars/colloquia for making employers aware of their statutory duties and the need to fulfill the genuine requirements of the workers.

17 Rehabilitation Schemes

Certain statutes provide for rehabilitation of workers like in Section 13 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. State Legal Services Authorities shall coordinate with the concerned State authorities either themselves or through coordinating with NGOs to frame rehabilitation schemes for the erstwhile manual scavengers as per the provisions of the said Acts.

18 Legal Assistance and Legal Representation

The special cell for Unorganized Workers shall provide counselling, legal assistance and legal aid by way of legal representation before any court or other authority, as required, to all Unorganized Workers.



NALSA (Child Friendly legal Services to Children and their Protection) Scheme, 2015

1. INTRODUCTION AND BACKGROUND

“It cannot be questioned that children are amongst the most vulnerable sections in any society. They represent almost one-third of the world’s population, and unless they are provided with proper opportunities, the opportunity of making them grow into responsible citizens of tomorrow will slip out of the hands of the present generation.....” The said observation made in *Salil Bali Vs.: Union of India (UOI) and Anr*, 2013VII AD (S.C.) by Supreme Court goes on to show that it is our obligation to the young generation to open up all opportunities including the legal services for every child to unfold its personality and rise to its full stature, physical, mental, moral and spiritual.

2. INTERNATIONAL COMMITMENTS

2.1 While adopting the declaration of the Rights of the Child on 20th November, 1959, the General assembly of the United Nations laid down ten principles designed to enable children, irrespective of race, colour, sex, language, religion or origin, to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.

2.2 The United Nations standard minimum rules for the administration of Juvenile Justice(“The Beijing Rules,” 1985) call on States to ensure that throughout the proceedings the Juvenile shall have the right to be represented by a Legal Advisor or to apply for free legal aid where there is provision for such aid in the country.

2.3 The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive, internationally binding agreement on the rights of children, adopted by the UN General Assembly in 1989. The purpose of the UNCRC is to outline the basic human rights that should be afforded to children. There are four broad classifications of these rights. These four categories cover all civil, political, social, economic and cultural rights of every child which are as follows:-

- (a) Survival rights: include the child’s right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services
- (b) Development rights: include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
- (c) Protection rights: ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for

children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.

- (d) Participation rights: encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their abilities develop, children are to have increasing opportunities to participate in the activities of their society, in preparation for responsible adulthood.

3. CONSTITUTIONAL ASSURANCES

3.1 The framers of our Constitution were well aware of the fact that the development of the nation can be achieved by the development of the children of the nation & it is necessary to protect the children from exploitation as well. The Indian constitution accords rights to children as citizens of the country, and in keeping with their special status the State has even enacted special laws. The Constitution, promulgated in 1950, encompasses most rights included in the UN Convention on the Rights of the Child as Fundamental Rights and Directive Principles of State Policy.

3.2 It is the constitutional right of every citizen under Article 22 of Constitution of India to be defended by a legal practitioner of his choice. One of the fundamental principles to be followed in the administration of Juvenile Justice is ensuring Legal services at the State expenses. It is a mandatory duty of Legal Services Authority that free legal aid service be made available to every Juvenile.

The following are the provisions of the Indian Constitution relating to children:

- (a) Article 14 provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- (b) Article 15(3) provides that nothing in this Article shall prevent the State from making any special provision for women and children.
- (c) Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- (d) Article 21A provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
- (e) Article 23(1) provides that traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (f) Article 24 provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
- (g) Article 29(2) provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- (h) Article 39(e) provides that the state shall, in particular, direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens

are not forced by economic necessity to enter avocations unsuited to their age or strength.

- (I) Article 39(f) provides that the state shall, in particular, direct its policy towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.
- (j) Article 45 provides that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.
- (k) Article 47 provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.
- (I) Article 51A (k) provides that it shall be the duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

4. OTHER LEGISLATIONS

Apart from the Constitution there are a number of legislations which deals with children. The following are some of them:

- (a) The Guardian and Wards Act 1890

This Act deals with the qualifications, appointment & removal of guardians of children by the courts & is applicable to all children irrespective of their religion.

- (b) The Child Labour (Prohibition And Regulation) Act 1986

This Act came into force to prohibit the engagement of children in certain employments and to improve the conditions of work of children in certain other employments. Under the act "Child" means a person who has not completed his fourteenth year of age. The Act is intended to ban the employment of children i.e., those who have not completed their 14 years in specified occupations and processes.

- (c) The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994

This Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic or chromosomal abnormalities or certain congenital malformation or sex-linked disorders & for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide.

- (d) JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

This Act deals with the law relating to juveniles in conflict with law & children in need of care & protection, by providing for proper care, protection & treatment by catering to their development needs & by adopting a child-friendly approach in the adjudication & disposition of matters in the best interest of children & for their ultimate rehabilitation through various institutions established under the Act.

(e) THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

This Act provides for the constitution of a National Commission and State Commissions for Protection of Child Rights and Children's Courts for providing speedy trial of offences against children or of violation of child rights and for matters connected therewith or incidental thereto.

(f) THE PROHIBITION OF CHILD MARRIAGE ACT, 2006

This Act restrains the solemnization of child marriages by laying down the minimum age for both boys & girls. According to Section 2(a) of the Prohibition of Child Marriage Act, 2006, a "child" means a person who, if a male, has not completed twenty-one years of age, and if female, has not completed eighteen years of age.

(g) THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

Article 21A of the Constitution, provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. Parliament has made the law contemplated by Article 21A by enacting the Right of Children to Free and Compulsory Education Act, 2009. This Act provides for free and compulsory education to all children of the age of six to fourteen years.

(h) THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

5. ENTITLEMENT TO LEGAL SERVICES

5.1 Children are the beneficiaries of legal services under the Legal Services Authorities Act, 1987. The Act was enacted to constitute legal services authorities for providing free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

5.2 Under section 12(c) of Legal Services Authorities Act, 1987 a child who has to file or defend a case is entitled to legal services. Therefore, it is the duty of various State Legal Service Institutions to provide free legal aid to juvenile in conflict with law and work towards speedy disposal of cases.

5.3 In this background, the Scheme has been drawn up 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 children.

6. NAME OF THE SCHEME

This Scheme shall be called "NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015".

7. DEFINITIONS

In this scheme unless the context otherwise requires,

a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987).

- b) "JJ Act" means The Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000).
- c) "JJ rules" means Juvenile Justice (Care and Protection of Children) Rules, 2007.
- d) "Legal Service" has the same meaning as defined under section 2(c) of Legal Services Authorities Act 1987.
- e) Legal Services Clinic means a clinic as defined under regulation 2(c) of National legal Services Authority (Legal Services Clinics) Regulations 2011.
- f) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.
- g) Panel Lawyer means the panel lawyer selected under Regulation 8 of the National Legal Services Authority (Free and Competent Legal Services) Regulations 2010.
- h) **Para Legal Volunteers** means a Para Legal Volunteer defined and trained under the NALSA Scheme for **Para Legal Volunteers** (Revised) and Module for the Orientation - Induction - Refresher Courses for PLV Training and engaged as such by a legal services institution.
- i) All other words and expressions used but not defined in this Scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities Rules, 1995 or National Legal Services (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

8. OBJECTIVE

- 8.1 In Delhi, 16-year-old 'X' is accused of stealing a cell phone. In Mumbai, 12-year-old 'Y' is the victim of sexual abuse. In Calcutta, 10-year-old 'Z's parents are fighting over his custody. In Chennai, 13-year-old 'S' was rescued from a factory who found to be trafficked. Everyday children such as these come in contact with the justice system, where formal and informal justice providers make decisions that have the potential to influence the future course of their lives. What rights do these children have when they come in contact with the law? Are they entitled to any type of legal assistance? If so, how might those services best be made available and actually reach children in crisis or in need? How can legal services be made "child-friendly" given logistical and financial limitations? And how does the concept of child-friendly justice play out in informal justice systems? The purpose of this Scheme is to suggest a conceptual and practical framework for addressing these questions, with the ultimate goal to provide children with meaningful, effective, affordable, and age-appropriate legal assistance "on the ground."
- 8.2 The main objectives of the Scheme are:-
- i) To outline the basic rights and benefits that should be afforded to children.
 - ii) To ensure legal representation to the children in need of care and protection and children in conflict with law at all levels;
 - iii) To strengthen legal services, institutional care, counselling and support services at the national, state, district and Taluka levels;

- iv) To create an environment in the juvenile justice system, in which children are valued, encouraged and affirmed and have their rights respected and are treated as individuals.
- v) To enhance capacities at all levels, of all functionaries including, PLVs, Panel Lawyers, counsellors , service providers, NGOs, local bodies, police, judiciary and other concerned departments of State Governments, to undertake responsibilities for providing child friendly legal services;
- vi) To ensure that mandatory authorities and institutions, like JJBs, CWCs, other welfare committees, observation and shelter homes, psychiatric hospital or psychiatric nursing home, commissions, boards, office of probation officers etc. under various child friendly legislations have been set up;
- vii) To have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection;
- viii) To organise awareness programmes to educate public at large including all stakeholders i.e. PLVs, Panel Lawyers, member of JJBs and CWCs, welfare officers, counsellors, probation officers, police , public prosecutor, judicial officers, care takers of various homes, educational and medical institutions etc., on child rights and their protection on available child protection services, schemes and structures at all levels;
- ix) To undertake and organise training, orientation and sensitization programs, for senior police officers, SJPU, JWOs, panel lawyers, PLVs, member of JJBs and CWCs, welfare officers, counsellors, probation officers, public prosecutor, judicial officers, care takers of various homes for their skill enhancement and for creating a sense of responsibility amongst them;
- x) To organize seminars, colloquia, workshops and conferences relating to law and schemes on child rights and allied fields.
- xi) To develop effective coordination and interface with all Govt. Bodies or functionaries, Institutions, Authorities, NGOs and other Organisations concerning or entrusted with the responsibilities relating to child rights;
- xii) To Undertake research and documentation to study the various schemes, laws etc. to find out the gaps and then to make suggestions to the appropriate authorities;

9. THE KEY PRINCIPLES THAT SHOULD BE KEPT IN MIND BY LEGAL SERVICES INSTITUTIONS AT ALL LEVELS ARE:-

- 9.1 Best interests of the child:- Every child has the right to have his or her best interests given primary consideration while providing legal services to the children in need of care and protection and child in conflict with law.
- 9.2 Welfare of the child:- The welfare of children must always come first, regardless of all other considerations. Early intervention and support should be available to promote the welfare of the child.
- 9.3 Right to dignity:- Every child has the right to be treated with dignity and compassion and its worth is to be respected and protected.

- 9.4 Right to equality and no discrimination:- A child shall be treated without discrimination of any kind, irrespective of the child's cast, race, religion, beliefs, age, family status, culture, language, ethnicity, disabilities if any or place of birth.
- 9.5 Principle of right to be heard- Every child has right to be informed, right to be heard and to express views and concerns freely .
- 9.6 Principle of right to safety- Every child has right to safety at all stages and he or she shall not be subjected to any harm, abuse or neglect etc.
- 9.7 Principle of confidentiality- The privacy of a child shall be protected by legal services institutions at all levels.

10. PLAN OF ACTION

10.1 Constitution of boards,committees,commissions, etc.

- (a) Under section 4 of JJ Act the State Government has been authorized to constitute Juvenile Justice Board in every district. SLSAs shall ensure that Juvenile Justice Board is established in each district separate from the regular court and where no such board has been set up, SLSA will take up the matter on urgent basis with State Government so that JJB is established in every district.
- (b) Section 29 JJ Act allows the State Government to form Child Welfare Committees in relation to child in need of care in every district. Such committees will consist of a Chairperson and four other members appointed by the State government including one woman. SLSAs shall ensure that Child Welfare Committees are established in each district and where no such committee has been set up, SLSA will take up the matter on urgent basis with State Government so that committee is established in every district.
- (c) JJ Act contemplates constitution of Special Juvenile Police Unit (SJPU) to deal with Juvenile in conflict with law. In every police station at least one police officer specially instructed and trained is required to be designated as Juvenile/Child Welfare officer to deal with the Juvenile. (section 63, JJ Act and rule 11 of JJ Rules). SLSAs shall ensure that such Special Juvenile Police Unit has been established.
- (d) SLSAs shall ensure that list of designated Juvenile Welfare Officers and members of SJPU's with contact details be prominently displayed in every police station in the state.
- (e) Under section 62A of JJ Act, every state government shall constitute a child protection unit for the state and for every district to take up the matters relating to children in need of care and protection. SLSAs shall ensure that such child protection Unit has been established.
- (f) Under section 17 of Commission for Protection of Child Rights Act 2005, State is under obligation to constitute State Commissions. SLSAs shall ensure that such commission u/s 17 of Commission for Protection of Child Rights Act 2005 has been constituted and working effectively. (Re. Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India (UOI) and Ors. (2014)2SCC180).
- (g) Under section 16 of The Prohibition Of Child Marriage Act, 2006, the State Government is authorised to appoint for the whole State, or such

part thereof as may be, an officer or officers to be known as the Child Marriage Prohibition Officer to prevent child marriage and to deal the matters connected thereto. SLSA shall take up the matter with state for appointment of the Child Marriage Prohibition Officer, wherever they have not been appointed.

10.2 Observation and Shelter Homes

- (a) Juvenile in conflict with law are kept in a home and not in jail or lockup. There are two categories of homes for juveniles in conflict with law, namely observation homes and special homes. Juvenile is kept in the Observation Home pending inquiry against him by the Board and such home are to be established and maintained by the State Government in every district or group of districts (section 8 of JJ Act r/w rule 16(1) of JJ Rules).
- (b) Similarly, special homes are to be set up in every district or group of district separately for boys and girls to house juveniles, if found guilty on conclusion of inquiry (section 9 of JJ Act r/w rule 16(1) of JJ Rules).
- (c) Under section 34 of JJ Act, State Governments have been empowered to establish and maintain either by themselves or in association with voluntary organizations, children homes in every district or a group of districts for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation
- (d) SLSAs shall keep the updated record of as to how many institutions i.e. children homes, shelter homes and observation homes, either run by the State Governments or by Voluntary Organisations for Children in need care and protection or children in conflict with law are there in the state.
- (e) All such homes or institutions run by the State Governments or by Voluntary Organisations for Children in need care and protection have to be registered under the provisions of Section 34 of JJ Act, read with Rule 71 of the said Act.
- (f) Any unregistered institutions for children in need of care and protection are there then they have to be shut down or taken over by the State Governments. (Re. Exploitation of Children in Orphanages in the State of TamilNadu Vs. Union of India (UOI) and Ors.(2014)2 SCC 180). In this regard SLSAs shall take up the matter with the state Government so that needful could be done in respect of unregistered institutions.
- (g) SLSAs shall ensure that there are observation homes, shelter homes and child care homes in sufficient numbers registered with the government to house the juvenile in conflict with law and child in need of care and protection.
- (h) Each SLSA shall constitute a committee namely "Observation and Children Home Committee" for every district in the state comprising of District Secretary as chairperson, one panel lawyer and probation officer as members. The committee so constituted shall formulate a calendar of its visit to each of home situated in the district at least once in a month.
- (i) Broadly the functions of the committee would be to see that observation homes, special homes and children homes are child friendly and it should

not look like a jail or lockup and should have a good quality of care and facilities. It should have sanitation and hygiene, clothing and bedding, meals and diet, medical and mental health care, tie up with local primary health centre, maintaining the health record etc. if anything deficient is noted by the committee then SLSA will take up the matter with concerned authorities for necessary action at their end and shall follow up the matter.

10.3 Legal Services Clinics

- (a) SLSAs shall set up Legal Services Clinic at every Juvenile Justice Board and Child Welfare Committee in each district in the state.
- (b) Opening of Legal Services Clinic shall be communicated to all Government bodies, department including Police, NGOs along with relevant contact numbers and addresses of the clinics.
- (c) PLV's shall be deputed in such clinics.
- (d) SLSAs shall display the contact number and the other information of the clinic in its all offices at state, district and Taluka service level.
- (e) The legal services clinics so established shall be governed by the National Legal Services Authority (Legal aid clinics) regulation 2011 in respect of their functioning, infrastructural facilities, maintenance of record and register, visit of panel lawyers, deputing of PLVs and control over such clinic.
- (f) All DLSAs shall set up legal literacy club in each of the schools in the District under the control of DLSA with co-ordination with the principals.

10.4 Legal Representations.

Statutory provisions

- (a) Under section 12(1)(c) of the Act every child who has to file or defend a case is entitled to free legal services.
- (b) The Board is to ensure free legal aid to all juvenile through State Legal Aid Services Authority or recognized voluntary legal services organisations or the University legal services clinics. [Rule 3.1 (d) (iii) r/w 14(2) of JJ Rules].
- (c) The Legal Officer in the District Child Protection Unit and the State Legal Aid Services Authority shall extend free legal services to all the Juveniles. [Rule 14(3) of JJ Rules].
- (d) Under section 40 of Protection of Children from Sexual Offences Act, 2005, the Legal Services Authority shall provide a lawyer to the family or the guardian of the child, if they are unable to afford a legal counsel.

Role of SLSAs

- (a) To meet the requirement of law, SLSAs shall constitute a separate panel of trained and committed advocates to represent child /Juvenile before every forum i.e JJBs, CWCs etc., so that meaningful and effective legal services could be provided at the ground level.
- (b) SLSAs shall ensure that legal services provided to child or Juvenile is of high quality and that it is effective which requires competent and dedicated panel lawyers at JJB and CWC's.

- (c) SLSAs shall supervise and monitor the working of Panel lawyers and have mechanism of surprise check.
- (d) The remuneration to the panel lawyer may be released on the basis of work done report countersigned by the JJB or CWCs wherever the panel lawyer is deputed.
- (e) SLSA shall ensure an effective coordination between legal officer, panel lawyer and Legal Services clinic established at JJBs and CWCs so that every child is legally represented and provided free legal aid and other necessary support.

10.5 Training and orientation programme

- (a) All SLSAs shall strictly adhere to various guidelines already issued by NALSA for training the designated juvenile child welfare officers attached to every police station and the members of the special juvenile police unit and also for legal services in juvenile justice institutions in connection with the compliance of the order dated 12.10.2011 and 19.08.2011 of Hon'ble supreme court of India in Sampurna Behrui v. Union of India & Ors. in Writ Petition (C) No.473/2005).
- (b) Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/ Child Welfare Officers is issued. Such Standing Order shall be based on the JJ Act, JJ Rules I the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgement of the Hon'ble Supreme Court in Sheela Barse V. Union of India (1986 SCALE (2) 230): (1987) 3 SC 50. State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.
- (c) In order to be effective, the concepts and potential of legal service to serve children must be communicated effectively. This requires that Legal Service Providers, whether they are lawyers, PLVs, Police Officer or Judicial Officers require effective training in how to communicate with children.
- (d) Children legal service providers, judicial officer, panel lawyers, police officers, JJB's, CWCs whether or not formally trained with the law, should receive on-going training in the areas of relevance to the rights of the children.
- (e) To the extent possible, training in substantive legal concepts and applicable laws, regulations and rules as well as skills training in advocacy should be problem based and interactive.
- (f) Law relating to Juveniles is comprised of constitutional provisions, legislations, schemes, reports, international convention, rules. The challenge is how to convey this information in meaningful way to those who are working on the ground on behalf of the children. Therefore, the training material for such functionaries should contain all important information which is necessary for solving the problem of children.

10.6 Legal Awareness

- (a) All SLSAs shall publish booklets/pamphlets/legal service manual containing the details of the available schemes pertaining to the child rights. Copies of booklets/pamphlets/ legal service manual shall be kept available in all front offices, legal services clinics, JJBs, CVCs, police stations etc.
- (b) Information regarding the above details should also be disseminated through Doordarshan, All India Radio and Community Radio.
- (c) All SLSAs shall spread awareness amongst the public about children rights and their protection in collaboration with educational institutions, State Commission for Protection of Child Rights , NGOsetc.
- (d) Essay competitions, street play competitions, poster making competitions, painting competitions and even debate are other means of spreading awareness of child rights amongst school and college students.
- (e) PLVs may be asked to create an effective outreach campaign through the distribution of posters using child appropriate messaging.
- (f) In addition to informing individual children about their right to legal assistance, it is also important to engage in outreach to communities and public and private agencies as a way of building support for legal empowerment and an effective working relationship with Legal Service providers.
- (g) Many children in need of legal service live in remote rural areas.As a result, the children often find it impossible to physically access legal services where they live. To overcome this barrier, SLSAs may take some initiative including mobile clinic and one Stop Centre programmes offering a range of legal services to the children at the same location.
- (h) DLSAs can take the services of PLVs deputed at each police station, in compliance of the direction in Bachpan Bachao Aandolan vs Union of India, for conducting initial interviews and investigations, to provide counselling and to work as a link between the children and his or her family.
- (i) Each SLSA shall take up the matter with the State Government so that child rights could be included in the school curriculum of all schools to enable children to know their rights.
- (j) SLSAs shall spread awareness about the newly added provisions of section 357 A CrPC and any Victim Compensation Scheme of the State so that immediate compensation is released to the children.
- (k) Each SLSA shall develop directory on legal services which must be available ready with all key stake holders.
- (l) Each SLSA shall organize intensive legal awareness campaigns at all levels about children's right to education as well as fundamental duties of parents to send their children to schools.
- (m) There is a need for creating awareness about the availability of non-institutional services such as adoption, sponsorship and foster care for children.
- (n) SLSAs shall endeavour the accreditation of NGOs having sound credentials and involved in matters of children who are in need of care and protection.

- (o) To initiate awareness programme that enable community mobilisation and outreach to change social norms perception and attitudes and to educate the villagers and communities about the harm caused to children on account of child marriages especially on their health and personality and also on their future productivity.
- (p) To have greater social community engagements through PLVs to prevent young girls from being coerced into early marriage
- (q) Each SLSA shall take up necessary step to solve the problem of Child Labour by working in villages with the help of PLVs to sensitize families about the long term benefits of education and to make them aware that child labour is not acceptable.
- (r) There should be awareness programme at all levels for the effective prohibition of all forms of labour for children upto 14 years of age and to effectively address the issues of trafficking of children.
- (s) Each SLSA should work together with the State Government for strengthening existing framework so that the promise of free and equality education to children between the age of 6 and 14 can be implemented across the State.
- (t) Vulnerability to trafficking for Child Labour or destitution increases during disasters and natural calamities. Therefore, the core group constituted by the SLSAs under the NALSA scheme i.e “A Scheme For Legal Services To Disaster Victims Through Legal Services Authorities”, must ensure that all measures are taken to protect the rights of these children and for their welfare.
- (u) SLSAs must draw an action plan so that the problem of Child Labour is systematically eliminated from the society.
- (v) To eliminate the menace of child labour and to effectuate the mandate of the Constitution, Supreme Court had given a large number of mandatory directions in M.C. Mehta v. State of Tamil Nadu reported as (1996) 6 SCC 756. One of the important directions was to direct an employer to pay a compensation of Rs. 20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986 . The appropriate Government was also directed to contribute a grant deposit of Rs. 5,000/- for each such child employed in a hazardous job. The said sum of Rs. 25,000/- was to be deposited in a fund to be known as Child Labour Rehabilitation-cum- Welfare Fund and the income from such corpus was to be used for rehabilitation of the rescued child.

A LSAs orinate with police, labour department and other authorities concerned for compliance of the aforesaid directions and follow up the matter.

11. DATABASE

All SLSAs shall have database of all the existing central or state schemes, policies, regulations, SOPs, police directives, conventions, rules, declarations, comments, and reports etc. available for child welfare and protection so that same may be used as and when required for legal awareness and for providing legal services to the Juveniles.



NALSA (legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015

BACKGROUND

Persons with disabilities, especially those suffering from mental illness and other barriers like mental retardation are usually not those who catch the attention of the authorities that be. They are sidelined and are viewed only from the prism of the paternalistic “social welfare” which looks upon them merely as persons who are in need of special protection by the State and the society. India is 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 that 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 us to ensure effective access to justice for persons with disabilities on an equal basis with others.

Under Section 12 of the Legal Services Authorities Act, 1987, persons who are disabled as defined in clause (i) of Section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and those in a psychiatric hospital or in a psychiatric nursing home within the meaning of clause (q) of Section 2 of the Mental Health Act, 1987 are entitled to legal services. Hence NALSA had drawn up a scheme to provide effective legal services to the mentally ill and mentally disabled, in 2010, in terms of its mandate under S.4 (b) of the Legal Services Authorities Act, 1987.

Though the Scheme was first launched in 2010, from the reports received from all the States on its implementation, it appears that there is a need to review the scheme to strengthen the services rendered by the State Legal Services Authorities/Legal Services Institutions to these marginalised people to enable them to access justice. There is imperative need for a proactive outreach to these people. So far, the SLSAs/DLSAs seem to be concerned only with matters reaching them. Even then, there remains much to be done in court related activities.

It is in this background, that this new Scheme for Legal Services to the Mentally Ill and Mentally Disabled persons has been drawn up as “NALSA (Legal Services to the Mentally Ill and Mentally Disabled Persons) Scheme, 2015”.

OBJECTIVES

This Scheme includes fresh guidelines to 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 render legal services to the mentally ill and persons with mental disabilities. The objective is to ensure that the mentally ill or mentally disabled are not stigmatized and they are dealt with as individuals who are to be helped to enforce all rights they are entitled to and as assured to them by law.

The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent

Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for **Para Legal Volunteers** (Revised) and Module for the Orientation - Induction - Refresher Courses for PLV Training.

PART-I: PRINCIPLES

While dealing with Mentally Ill or Mentally Disabled Persons, the Legal Services Institutions must keep in mind the following factors:-

- (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 disabled persons are not mentally ill persons – Mentally disabled persons are suffering from mental disabilities due to developmental disorders. Mental Retardation (MR) is of permanent nature and is not curable. So also Autism and Cerebral Palsy. 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 disabled persons are (i) PWD Act, 1995 and; (ii) National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 .
- (3) Mentally ill and Mentally disabled persons are entitled to all human rights and fundamental freedoms – While dealing with mentally ill and mentally disabled 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 these persons.
- (4) Respect for the inherent dignity of mentally ill & mentally disabled persons – The legal services institutions shall promote respect for the inherent dignity, individual autonomy including independence of mentally ill & mentally disabled persons.
- (5) Non-discrimination – The legal services institutions shall not discriminate mentally ill & mentally disabled persons merely because of his/her state of mental health. Rather, they are to be dealt with greater sensitivity and care.
- (6) Reasonable Accommodation – The legal services institutions shall make provisions including reasonable accommodation to ensure that persons with mental illness or mental disabilities have equal access to any scheme, programme, facility or service offered.
- (7) 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 are deprived of treatment either due to lack of information or due to illegal confinement because of superstition or lack of means or stigma. Therefore the legal services institutions shall ensure that such persons are able to access treatment facilities available in the psychiatric hospitals or psychiatric nursing homes by invoking the provisions in chapter IV of the Mental Health Act, 1987.
- (8) Informed consent for treatment – Legal services institutions shall ensure that when a person is subjected to treatment for mental illness, his/her informed consent is obtained. If any person is incapable of giving such consent, the informed consent of his/her relatives or friend and in their absence, the satisfaction of the court under Part II Chapter V of Mental Health Act, 1987 shall be ensured.
- (9) Prevention of exploitation and abuse of mentally disabled persons – Mentally disabled persons, particularly female mentally disabled, are one of the vulnerable groups

most likely to be exploited. Therefore, the legal services institutions shall come to the assistance of mentally disabled persons in preventing their exploitation including sexual abuse and also for taking legal action against the abusers and exploiters.

- (10) Mentally disabled persons and, by and large, mentally ill persons, cannot fruitfully utilize information, because of their mentally challenged situation. Hence, they cannot be imparted with optimum legal literacy to empower them to access justice. Therefore, legal service institutions should assess and audit their eligibilities and needs, in terms of the laws, on collective as well as individual basis, and such requirements shall be addressed by extending legal services.

PART-II

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS IN PSYCHIATRIC HOMES, HOSPITALS AND OTHER SIMILAR FACILITIES AND IN JAILS.

The Mentally Ill and Mentally disabled persons used to be kept in jails under the head of “non-criminal lunatics”. Through directions of the Hon’ble Supreme Court of India in Sheela Barse Vs. Union of India and others (Criminal Petition No.237/1989) the Supreme Court deprecated this practice and declared that the admission of the non-criminal mentally ill persons in the jails was illegal and unconstitutional. The Supreme Court further directed that henceforth only Judicial Magistrates and no Executive Magistrate shall send a person who is mentally ill to places of safe custody for treatment. The Judicial Magistrates are also obligated to first seek the advice of a professional or psychiatrist before doing so. The Judicial Magistrates are also required to, as per the directions of the Supreme Court of India to send quarterly reports to the High Court setting out the number of cases sought to be screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon.

The Supreme Court of India transferred the records of the case to each High Court requesting the High Courts to register the records so received as a Public Interest Litigation treating the High Court Legal Services Committee as the Petitioner, to assist the High Court in the matter of monitoring compliance of the orders and directions of the Supreme Court of India and the orders of the High Court which may be passed from time to time.

In order to comply with the directions of the Supreme Court of India, the following actions need to be taken:

At Jails:

- The SLSAs will have to first ensure that the Public Interest Litigation is registered in the High Court and an Hon’ble Judge is designated to deal with the matter, as directed by the Supreme Court of India.
- The SLSAs will carry out inspection of all jails with the assistance of the State Mental Health Authority (SMHA) or any other team constituted by the High Court or under the directions of the High Court to ascertain whether there are any mentally ill and mentally disabled persons in the jails and if there are, to immediately seek appropriate directions from the High Court with regard to their shifting out and their treatment.
- The SLSAs will in coordination with the SMHA constitute a team of psychiatrists/psychologists /counsellors to visit the jails and assess the state of mental health of the inmates in jail. Depending on the need assessment by the team, SLSAs will initiate corrective measures necessary to facilitate the treatment of the jail inmate by psychologists or psychiatrists.
- In compliance of the orders of the Supreme Court of India, the Judicial Magistrates should also send quarterly reports to the High Court setting out the number of cases

screened and sent to places of safe custody and the action taken by the Judicial Magistrates thereon. Intimation regarding every such reporting shall be given by the Judicial Magistrate to the SLSA, which, in turn, shall ensure that the said quarterly report gains prompt attention of the designate Hon'ble Judge and shall seek such directions and orders as may be found necessary; either general in nature, or as regards any particular individual or issue. SLSA shall, in the event of any such direction or order being issued, notify the DLSA/ TLSC concerned to aid and monitor its compliance, and shall also bring to the notice of the designate Hon'ble Judge any non-compliance or deficiency in compliance of any such direction or order.

At psychiatric hospitals, homes and facilities:

- The SLSAs should request the High Court for the constitution under Section 37 of the Act a Board of Visitors for all psychiatric hospitals, homes and similar facilities, whether government run or privately run in the State, in which the Member Secretary/ Full Time Secretary, SLSAs/DLSAs should also be a Member. The Board of Visitors should regularly visit these to assess the living conditions of the inmates in these facilities, homes or hospitals.
- The SLSAs/ Board of Visitors should review the persons in these hospitals, homes and facilities to ascertain whether there are any cured persons staying there whose families appear reluctant to take them back or are themselves not able to contact their families. Whenever the SLSAs/DLSAs or Board of Visitors find such inmates the SLSAs/ DLSAs must take all steps to facilitate restoration, including providing legal representation in court to seek orders for restoration of the cured person with the family.
- Legal services institutions shall during their visits to the psychiatric hospitals or homes or facilities ascertain through interaction with inmates , doctors and staff 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 homes or facilities.
- SLSAs/DLSAs should setup Legal Services Clinics at the psychiatric hospitals, homes and facilities in order to provide legal assistance wherever required to the Mentally Ill/ mentally disabled persons and their families to address legal issues concerning the mentally ill and mentally disabled persons.
- Such a legal clinic should be manned by **Para Legal Volunteers** and Panel Lawyers who are sensitive to such issues and persons.
- It would be quite appropriate to train the doctors, nurses and other para medical staff/ administrative staff at the mental health facilities as **Para Legal Volunteers** so that the best legal services can be provided keeping in mind the welfare of the mentally ill/ mentally disabled persons.
- The Clinic should also help in ensuring that the homes meant for the mentally ill and mentally disabled persons have all facilities, including for learning appropriate skills for independent and/or assisted living and earning. The legal services institutions may approach the Government, and if necessary the High Court for appropriate directions, to ensure the availability of such facilities.
- The Legal Services Institutions should also connect the mentally disabled persons with the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities so that benefits provided under the "National

Trust For Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999” are assured to these persons and their families.

- Legal Services Institutions should involve through the PLVs the para medical staff/ administrative staff and doctors at the mental health facilities to identify the relatives and homes of those patients in relation to whom such facts are not available on record and take appropriate steps through the different legal services institutions to reach to the relatives of the patients to facilitate re-union of the patients with the near and dear ones.
- Patients, who are housed in mental health centres, homes and facilities, away from their domicile and home, must be considered for providing legal assistance to ensure their transit to mental health centres, homes and facilities nearer to their native place. This can be done with the involvement of SLSAs and DLSAs.

LEGAL SERVICES TO THE MENTALLY ILL AND MENTALLY DISABLED PERSONS WHO ARE WANDERING, HOMELESS AND DESTITUTES

Under the Mental Health Act, 1987, Section 23, the officer in charge of a police station can take or cause to be taken into protection a wandering mentally ill person or a dangerous mentally ill person within the limits of his station and produce such person before the Magistrate under Section 24 for passing reception orders authorizing the detention of the said person as an inpatient in a psychiatric hospital or psychiatric nursing home for purposes of treatment.

Similarly, under Section 25, a police officer or a private person who has reason to believe that a mentally ill person within the limits of his station is not under proper care and control or is ill-treated or neglected by relatives or other the persons having charge of such mentally ill person, can report the matter before the Magistrate. The Magistrate can pass an order of reception or even fine the person who is responsible for neglecting the mentally ill.

In the case of the homeless or destitute mentally disabled person, ordinarily the matter must be reported to the Local Level Committee through a registered organization as prescribed under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 and Rules and Regulations thereunder. It is the Local Level Committee which would pass appropriate directions for the care of the neglected or destitute mentally disabled person.

Action to be taken by legal services institutions

- The legal services institutions must draw up a panel of sensitive and sensitized legal services lawyers to represent the best interests of the mentally ill person at the time of the production of the person under Section 24 or Section 25 of the Mental Health Act, 1987 and assist the Magistrate while passing an order that would be in the welfare of the mentally ill person.
- The legal services institutions must assist the police through its PLVs assigned to the police stations to refer the mentally disabled persons, who are neglected, homeless or destitute to the Local Level Committee set up under Section 13 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999 so that orders such as the appointment of guardian, whether individual or institutional, for the care and rehabilitation of the mentally disabled person is ensured.
- Legal services institutions must devise sensitization programmes with the junction of mental health officials including doctors, police officials and judicial magistrates

dealing with inquisition proceedings to evolve locally conducive mode to ensure that wandering mentally ill persons are identified and dealt with securing their human rights by obtaining appropriate judicial orders as may be found necessary in each case.

LEGAL SERVICES TO MENTALLY ILL AND MENTALLY DISABLED PERSONS DURING COURT PROCEEDINGS

The two statutes governing the rights of the mentally ill persons and the mentally disabled persons are The Mental Health Act 1987 and the National Trust for the Welfare of Persons with Autism, Cerebral Palsy Mental Retardation and Multiple Disabilities Act, 1999. Both entail a hearing before the passing of appropriate orders by the Magistrate or the Local Level Committee as the case may be. It is important that the legal services institutions participate in them through the PLVs or the Panel lawyers.

- It shall be the duty of the legal services institutions to depute its retainer/panel lawyer to the court where an application for reception orders has been moved or is under consideration under Section 19, 20, 22, 24, 25, 26, 27 or 28 of the Mental Health Act, 1987.
- The legal services institutions may request the Magistrates who deal with such applications to give notice to the legal services institutions in all cases, for protecting the interest of the mentally ill persons in relation to whom the application for reception or discharge order is being made.
- The retainer/panel 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/discharge order has been made warrants such an order from the court.
- 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 courts 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.
- The legal services institutions should through the PLVs/panel/retainer lawyers help the cured voluntary patients for moving requests for discharge under Section 18 or by an involuntary patient under Section 19.
- The legal services institutions should through the clinics or as part of the Board of Visitors always keep track of admissions under Section 19 (1) of the Act so that detention beyond the period of the first ninety days is only on the orders of the court.
- The legal services institutions shall also keep track of cases under Section 20 of the Act, so that no cured patient is allowed to remain in the psychiatric hospital, home or facility by default. They must move applications for discharge as soon as the patient is cured.
- The legal services institutions shall also keep track of cases under Section 23 read with Section 25 of the Act, in relation to wandering or destitute mentally ill persons, so that

the requirements under Section 28 of the Act, of a ten day review by the Magistrate of the need to keep a person under observation is strictly complied with and no person is detained longer than needed for the issuance of the certificate of mental illness under Section 24 (2) (a) of the Act.

- The legal services institutions through their legal services clinics and PLVs and panel/retainer lawyers should keep track of discharge of patients and wherever necessary should aid and assist the patient to move the application for discharge to the medical officer in charge or to the court which had passed the reception orders.
- The legal services clinics and PLVs and panel/retainer lawyers should also render assistance to inpatients to obtain leave of absence as provided under Section 45 and Section 46 of the Act. They should also assist the filing of appeals as provided for under Section 49 of the Act.
- The legal services institutions shall also participate in inquisition proceedings under Section 50 of the Act to protect the interests of the mentally ill person. A request must be made to the District Judge to issue notice to the legal services institution whenever an application under Section 50 comes before it.
- 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 the Mental Health Act, the legal services institutions 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 or with the Collector of the appropriate District in terms of Clause (d) of Sub-section (1) of section 50 of that Act. Legal Services institutions must extend legal aid to the mentally ill persons involved in such matters by providing effective assistance as may be appropriate and requested for by the Collector concerned to aid and assist in preparing and processing such proceedings.
- The legal services institutions should follow up every case where a guardian of the person is appointed under Section 53 and/or the manager of the property has been appointed under Section 54 or an order of maintenance has been passed under Section 71 and Section 79 of the Act and take every step to protect the interests of the mentally ill person.
- The legal services institutions should render all help to pursue appeals as provided under Section 76 of the Act.
- The legal services institutions should through the legal services clinics and PLVs and through visits including as Member of the Board of Visitors that there are no transgression of the human rights of the inmates and whenever such transgressions are noticed, shall bring it to the notice of the High Court.
- As the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999, is a comprehensive Act to provide for the care of the mentally disabled, including assistance in care to parents of the mentally disabled and also for arranging the care and finances of the mentally disabled after the death of the parents through appointment of guardians, it is important that legal services institutions inform the public of the Act and further help them to benefit from

it. The PLVs and the legal services clinics should come to the assistance of the mentally disabled and their families in the matter of appointment of guardians.

- Legal services institutions shall come to the help of mentally ill and the mentally disabled in protecting their rights of inheritance, owning properties and enjoying financial rights. The persons with mental illness or mental disability have rights with others to inherit property, both movable as well as immovable, and also have a right to control their financial affairs and have access to bank loans, mortgages and other forms of financial credit, which can be accessed by them personally or through a support person who has no interest in conflict to the person with mental illness or mental disability. Legal services institutions should render all legal help in realizing this.
- Legal services institutions shall assist the mentally disabled for obtaining all benefits under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The legal services institutions shall find out the different beneficial schemes for the mentally disabled and their families. The legal services institutions shall assist the mentally disabled and their families to avail the benefits under such schemes.

AWARENESS AND SENSITISATION PROGRAMME

- The legal services institutions shall organize awareness programmes especially in rural areas, to educate people that mental illness is curable and there is no stigma attached to mental illness or mental disabilities.
- The legal services institutions should explain the need for equal treatment of mentally ill with other persons in the society. 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 and mental disabilities.
- The legal services lawyer in such camps may educate the public and families on the property and other legal rights and the other provisions of law relating to the mentally ill and mentally disabled persons.
- The State Legal Services Authority/District Legal Services Authority may organize training programmes in association with the Judicial Academy to sensitize the judicial officers about the socio-legal problems faced by the mentally ill and mentally disabled 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.

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



NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015

1) Background

Under Section 4 (I) of the Legal Services Authorities Act, 1987, the National Legal Services Authority envisaged as the Central Authority under the Act, is obligated to “take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures”. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Very often intended beneficiaries of poverty alleviation and social security measures are unable to access the benefits due to severe lack of capabilities, social structures, economic marginalisation and exploitation, social values, cultural norms, discrimination etc. In this context, the role of legal services authorities must be a proactive one where measures designed to alleviate poverty must be brought to the attention of the intended beneficiaries. Further, legal services authorities are very well suited to facilitating access to such poverty alleviation measures due to their last mile presence. Therefore this scheme lays down a mechanism for identification of poverty alleviation and social security measures, a framework for facilitating access to such measures by intended beneficiaries and a model for effective review of these processes. In designing this scheme, the concern that there could be local variations and requirements have been particularly considered and sufficient flexibility has been built in for local legal aid authorities to adapt this national scheme according to their needs.

This scheme is built on the foundation that poverty is a multi- dimensional experience and is not limited to issues of income. Multi- dimensional poverty include issues like health (including mental health), housing, nutrition, employment, pension, maternal care, child mortality, access to water, education, sanitation, subsidies and basic services, social exclusion, discrimination etc. Further, in identifying the specific schemes for implementation at the state and district level, legal services authorities are expected to be cognisant of the fact various vulnerable and marginalised groups experience poverty in myriad and unique ways.

2) Name of the Scheme

This Scheme shall be called “NALSA (Effective Implementation of Poverty Alleviation Schemes) Scheme, 2015”.

3) Definitions

1) “Act” means the Legal Services Authorities Act, 1987.

- 2) "Central Authority" means the National Legal Services Authority constituted under Section 3 of the Act.
- 3) "Complainant Beneficiary" refers to any Scheme Beneficiary who files a complaint against any designated authority or officer who is identified as the designated authority or officer under any of the Poverty Alleviation Schemes.
- 4) "District Authority" means a District Legal Services Authority constituted under section 9 of the Act.
- 5) "Legal Services Officer" refers to any person who is designated as such for the purpose of this Scheme.
- 6) "Para-legal volunteers" refers to 'PLV' as defined and trained under the NALSA Scheme for **Para Legal Volunteers** (Revised) and Module for the Orientation-Induction-Refresher Courses for PLV Training.
- 7) "Poverty Alleviation Schemes" refer to any scheme/programme/ launched either by the Central Government, or the State Government, that is aimed at addressing any dimension of poverty. They also include social security measures.
- 8) "Scheme Beneficiaries" include:
 - a. Scheduled Castes or Scheduled Tribes;
 - b. all persons eligible for applying under the Poverty Alleviation, Schemes; and
 - c. other persons for whom special economic, social or political measures are taken including but not limited to children, women and transgenders.
- 9) "State Authority" means State Legal Services Authority constituted under Section 6 of the Act.
- 10) "Taluka Legal Services Committee" means a Taluka Legal Services Committee constituted under section 11-A of the Act.
- 11) The terms Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011.

4) Objectives of the Scheme

The main objectives of the Scheme are as follows:

- 1) To ensure access to basic rights and benefits afforded to socially or economically weaker sections of society;
- 2) To strengthen legal aid and support services at the national, state, district and taluka levels for persons belonging to socially or economically weaker sections in accessing Poverty Alleviation Schemes;
- 3) To spread awareness about the Poverty Alleviation Schemes through the members of the District Authority, Taluka Legal Services Authority, panel of lawyers, social workers, para-legal volunteers, and students in legal aid clinics;
- 4) To create a database of all the existing central or state schemes, policies, regulations, policy directives, conventions, rules, and reports available concerning Poverty Alleviation Schemes along with the latest funding information on these schemes;

- 5) To undertake and organise training and orientation programs, for panel lawyers, para-legal volunteers, officers under Poverty Alleviation Schemes, student volunteers in legal aid clinics for their skill enhancement and for developing a sense of deeper engagement amongst them for implementing this Scheme; and
- 6) To develop effective coordination and interface with all government bodies or functionaries, institutions, authorities, NGOs and other organisations concerning or entrusted with the responsibilities relating to welfare of socially/economically weaker sections of the society.

5) Identification of Poverty Alleviation Schemes

- 1) Every State Authority shall identify the existing and active Poverty Alleviation Schemes applicable in the state and circulate a list of the same every twelve months to all the District Legal Services Authorities in the state. The list shall include the following:
 - a. Poverty Alleviation Schemes applicable in that State along with the names of the specific districts in which they are applicable in that year;
 - b. The intended beneficiaries under each of the Poverty Alleviation Schemes;
 - c. The name of the designated authority or the designated officer to be approached to access each of the Poverty Alleviation Schemes, as identified under each of them;
 - d. The list of documents required to access each of the Poverty Alleviation Schemes, as identified under each of them;
 - e. The benefits under each of the Poverty Alleviation Schemes, as provided for in each of them;
 - f. The amount of funds allocated to each of the Poverty Alleviation Schemes by the Central Government, or the State Government, or both of them, as the case maybe, for the particular year;
- 2) The list prepared by every State Authority under sub-clause (1) shall be circulated annually to all the District Authorities. A copy shall also be sent to the Central Authority.
- 3) The State Authority shall also upload the list under sub-clause (1) on their web-site.
- 4) Every District Authority shall, on the receipt of the list prepared under sub-clause (1), within 7 days of receipt of the list, send a copy of the list to the following functionaries:
 - a. All Taluka Legal Services Committees in the district;
 - b. All the village panchayats in the district;
 - c. People working in legal services clinics, members of Panchayats, law students and other para-legal volunteers who volunteer to assist in the implementation of the Scheme.

6) Organisation of Awareness Programmes

- 1) The State Authorities in collaboration with concerned District Authorities shall take steps for conducting awareness programmes to generate awareness about various Poverty Alleviation Schemes available in that District. Steps shall also

be taken by Taluka Legal Services Committees to create awareness regarding the availability of legal services for accessing Poverty Alleviation Schemes, in Panchayat meetings, town hall meetings, Pulse Polio camps, festival gatherings or other village gatherings.

- 2) All State Authorities shall send a list of such programmes organised in their respective jurisdictions every six months to the Central Authority.

7) Legal Services Officers and Para-legal Volunteers

- 1) Every District Authority and Taluka Legal Services Authority shall designate at least three panel lawyers as Legal Services Officers for the purpose of this Scheme.
- 2) District Authorities shall constitute teams of PLVs under a Legal Services Officer to implement this Scheme and the Legal Services Officer will supervise and mentor the PLVs in his team to help the beneficiaries access the various schemes of the Govt.
- 3) District Authorities shall conduct specialised training programs for panel of lawyers, members working in legal services clinics, members of panchayats, law students and other para-legal volunteers to assist in the implementation of the Scheme, to sensitise them regarding the needs of persons belonging to socially and economically weaker sections and the benefits that they can avail through Poverty Alleviation Schemes.

8) Legal assistance for access to Poverty Alleviation Schemes

Legal assistance must be provided to all the Scheme Beneficiaries seeking access to Poverty Alleviation Schemes. Legal services to be provided by Legal Services Officers or volunteers under this Scheme includes, inter alia:

- 1) Informing the Scheme Beneficiaries about each of the Poverty Alleviation Schemes to which they are entitled, and the benefits thereunder
- 2) Assisting the Scheme Beneficiary in procuring the documents required for availing the benefits under any of the Poverty Alleviation Schemes
- 3) Informing the Scheme Beneficiary of the name and the address of the designated authority or the officer to be approached for registration under any of the Poverty Alleviation Schemes
- 4) Offering to send para-legal volunteers including from the legal services clinics with Scheme Beneficiaries to the office of the designated authority or the officer to be approached under any of the Poverty Alleviation Schemes
- 5) Informing the Scheme Beneficiary of her option to register a complaint with the Legal Services Officer or para-legal volunteer, about any designated authority or officer under any of the Poverty Alleviation Schemes who refuses to cooperate with a Scheme Beneficiary in providing her access to the benefits that she is entitled to under the Poverty Alleviation Scheme.
- 6) Maintaining a record of all the complaints received under sub clause (5).
- 7) Providing Scheme Beneficiaries with the contact number, if available, of the Legal Services Officer, and availability of the Legal Services Officer on call during working hours for such Scheme Beneficiaries to whom contact number is provided

9) Action by Legal Services Officers on complaints

- 1) On receiving complaints under sub-clause (5) of clause 8, each Legal Services Officer shall herself personally accompany the Complainant Beneficiary to the office of the designated authority or officer, and assist the Complainant Beneficiary in availing the benefit that she is entitled to under the Poverty Alleviation Scheme.
- 2) In case the designated authority or officer fails to register the Complainant Beneficiary in the Poverty Alleviation Scheme, the Legal Services Officer shall submit a complaint to the District Authority. The letter of complaint shall describe the conduct of the designated authority or officer who refused to register the Complainant Beneficiary under the Poverty Alleviation Scheme, and circumstances of such refusal and whether refusal was despite submission of all necessary documents.

10) Action by District Authority and State Authority on complaints

- 1) On receiving a complaint regarding the designated authority or officer, the District Authority shall seek a report from the concerned officer regarding the reasons for denying the benefits under the Poverty Alleviation Scheme to the Complainant Beneficiary. In the event that sufficient reason is not provided by the concerned officer for refusal to register the Complainant Beneficiary in the Poverty Alleviation Scheme or to provide benefits under the Poverty Alleviation Scheme, the District Authority shall immediately communicate to the superior officer in the department the details of the refusal to provide access to the Poverty Alleviation Scheme.
- 2) If the superior officer, in the opinion of the District Authority, also withholds the benefit under the Poverty Alleviation Scheme without sufficient cause, the District Authority shall then communicate the same to the State Authority.
- 3) On receiving such communication from the District Authority, the State Authority may choose to further pursue the matter with the concerned department or file appropriate legal proceedings to ensure that the Complainant Beneficiary receives the benefit under the Poverty Alleviation Scheme.
- 4) The District Authority, through para-legal volunteers or legal services clinics, shall provide regular updates to the Complainant Beneficiary about the status of the complaint.

11) Evaluation of the Scheme

- 1) Every Legal Services Officer shall follow-up with each Scheme Beneficiary who sought legal assistance under this Scheme and record:
 - a. if such person was able to register under the Poverty Alleviation Scheme sought to be registered under and whether such benefits were being received
 - b. any grievances experienced by the Scheme Beneficiaries in getting registered and availing benefits under the various Poverty Alleviation Schemes.
- 2) The District Authority shall compile the observations made under sub-clause (1) for all the Legal Services Officers working under the Scheme in the district, and shall send a copy of such observations in a compiled document to the State Authority every six months.

- 3) The State Authority shall consolidate the compiled documents received from all the District Authorities under sub-clause (2), and hold a meeting every 6 months to review the functioning and effectiveness of this Scheme. The minutes of such meeting shall be recorded and published as a public document.
- 4) If in the meeting under sub-clause (3), the State Authority finds a substantive or procedural defect in any of the Poverty Alleviation Schemes which makes seeking benefits under the scheme a problem for the Scheme Beneficiaries, such defect must be brought to the notice of the Central Government or the State Government, as the case may be for improving the specific Poverty Alleviation Scheme and/or its effective implementation.

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NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015

BACKGROUND

Although the Census of 2011 enumerates the total population of Scheduled Tribes at 10,42,81,034 persons, constituting 8.6 per cent of the population of the country, the tribal communities in India are enormously diverse and heterogeneous. There are wide ranging diversities among them in respect of languages spoken, size of population and mode of livelihood. As per the Census of India 2011, the number of individual groups notified as Scheduled Tribes is 705.

The North Eastern States are not a homogeneous block, because of the diversities amongst themselves. There are about 220 ethnic groups with equal number of language and dialects. These groups can be broadly categorised into three main groups of Tibeto-Burman, Man-Khmer and Indo-European.

Certain tribes have been characterised as Particularly Vulnerable Tribal Groups (PVTGs) (earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups. PVTGs, currently include 75 tribal groups, who have been identified as such on the basis of the following criteria: 1) forest-dependent livelihoods, 2) pre agricultural level of existence, 3) stagnant or declining population, 4) low literacy rates and 5) a subsistence-based economy. As per the 2001 census, these 75 PVTGs had a total population of 27,68,322. The majority of the PVTG population lives in the six States of Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh and Tamil Nadu. The PVTGs among the tribes need special attention due to their vulnerability.

Up till independence the tribal population lived in comparative isolation from the national scene and lived almost a self-sufficient life in the remote and rugged forested tracts. The interactions of the colonial administrative machinery with the tribes in India were largely of authoritarian and exploitative nature. They were largely interested to let them remain isolated and had no intention to integrate them with mainstream of national life.

After independence, the India Constitution adopted many provisions to provide tribal people with special status and Parliament through various protective legislations made conscious efforts to safe guard their interest. Planning Commission of India through its development initiative adopted Tribal SUB Plan (TSP) approach and under Panchayati Raj Institutions the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996 (PESA) was legislated.

Despite all these efforts made to improve the socio-economic conditions of tribes it is still a fact that the life situations of Scheduled Tribes (STs) have improved only marginally. The Human Development Index (HDI) of the STs is much lower than the rest of the population. The gap in the literacy rate is high. There are more ST families below the poverty line than those from other communities. Their percentage in government jobs is not in proportion to their population despite the provision of reservation. Their condition, thus, is far worse than that of the rest of the population and they have not been able to reach the envisaged level of development, where they could benefit from the opportunities offered by a fast expanding economy.

It was in this background that the NALSA felt the need to draw up a Scheme for the Tribal People. To facilitate this, a Committee was constituted to study the issue and come up with suggestions. The Committee submitted a comprehensive report to the Hon'ble Executive Chairman, NALSA on 9.8.2015 on the occasion of World Tribal Day. The present Scheme is based on the Report of the Committee.

The Scheme may be called "NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015".

OBJECTIVES

The Scheme is aimed at ensuring access to justice to the Tribal People in India. The access to justice would be facilitated in all its connotations, i.e. access to rights, benefits, legal aid, other legal services, etc., so that the assurance of the Constitution of justice social, economic and political, is meaningfully experienced by the tribal population in the country.

Several legal rights are guaranteed to the tribal people under:

- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006-(FRA)
- The Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989,
- The Right of children to Free and Compulsory Education Act, 2009,
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,
- Panchayats (Extension to Scheduled Areas) Act 1996- (PESA) and
- Fifth and Sixth Schedule of the Constitution of India.

These provisions are not implemented stringently, leading to violation of their legal rights. Such violations are one of the prime reasons for the marginalization of the tribal people.

This scheme is intended that these legal rights are not violated.

The terms PLVs, Legal Services Clinics, Front Office, Panel Lawyers and Retainer Lawyers will mean the same as defined under the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 and National Legal Services Authority (Legal Services Clinics) Regulations, 2011 and the NALSA Scheme for **Para Legal Volunteers** (Revised) and Module for the Orientation - Induction - Refresher Courses for PLV Training.

Part I : An overview of the issues of Tribal people

A. Vulnerability Issues

1. The lack of literacy amongst the tribal people is a crucial issue. As a consequence, the tribes remain unaware of their fundamental, legal and statutory rights. They also lack knowledge about the welfare schemes run by the government for their well-being, thereby resulting in lack of participation from their side.
2. Non implementation of the schemes introduced by the government to resolve the problems is another major concern. However, non implementation of programmes for tribal welfare is also due to lack of skilled work force in the tribal areas.
3. Numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the North East, leading to severe problems in accessing legal and administrative mechanisms and in the implementation of beneficial schemes.

4. In the recent years the state police and the paramilitary forces have been accused of grave human rights violations in the tribal areas including of alleged fake encounters and rape.
5. A number of tribal people are put in jails allegedly as Maoists. There have been cases of people staying in Jail for days, without their name in the charge-sheet. Bails are not granted as cases are serious such as waging war against India, sedition and so on.
6. The unfamiliar judicial processes make the tribal people dread the court, even if they are the ones who are suffering from lawlessness. They feel that the laws like Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 do not exist for the protection of tribal people.
7. Migrating tribes face difficulties in accessing the welfare schemes run by the government. Some are totally devoid of any access.
8. There are preconceived notions or assumptions regarding the 'primitivism' and 'backwardness' of the PVTGs. It is essential for government bodies to shed assumptions of tribal backwardness and savagery and devaluation of the culture and traditions of these communities.
9. Many PVTGs and Scheduled Tribes (STs) are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation.
10. All tribes in the list of PVTGs have not been granted ST status, thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Schedule and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.
11. For PVTGs, the implementation of FRA has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. No disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under the FRA are available.
12. The North Eastern States share a large area of international boundary with the neighbouring countries of Bhutan, China, Myanmar and Bangladesh which makes it a very fertile ground for cross border terrorism, drug smuggling, arms smuggling, infiltration, etc.
13. Another issue which is of serious concern is human trafficking. Tribal people from central India and Assam appear particularly prone to trafficking.
14. Another issue is that till recently there has been no division of executive and judiciary. The institutions set up under the Sixth Schedule apply customary laws which have their own issues as they are not codified.
15. Due to insurgency and law & order problems in the North East, there is absence of faith in the system. There has been a tendency of the public to take law into their hands, in what amounts to "mob justice" by dismantling/destroying houses of the suspected/ accused persons and ostracising the family which leads to serious social problems. Even doctors and hospitals have not been spared for their alleged negligence in treatment of patients.

16. In the remote areas and villages large numbers of tribal people still believe in “Witch hunting”.
17. Tribal people are not treated with dignity and so feel alienated. For instance, the Jarawas tribes in Andaman Islands are treated like animals by the tourists. They are teased and tormented as if they are monkeys/animals and fun derived from their angry responses. Similar experiences were earlier common in Bastar where cultural mores were never understood.

B. Land Related Problems

1. Forest and hills are the main source of tribal identity. It is in this context that the devastation of lives of tribal people caused by loss of access to forest and involuntary displacement from their land has to be understood. Dispossession takes place both directly by depriving tribal communities of their land, habitat, livelihood, political system, culture, values and identity and indirectly through denials of benefits of development and of their rights.
2. Under the Resettlement and Rehabilitation (R&R) programme, land is not replaced and there is meagre reconstitution of livelihoods. Almost all the R&R colonies lack proper public health facilities, protected drinking water, marketing, schools and transportation.
3. Dependence on forests for food in the form of shifting cultivation, fruits and flowers, small game, tubers for medicines, fodder, material for house building, raw material for traditional art and crafts income by selling firewood, leaf-plates, fruits etc is substantial. This loss, due to displacement is not compensated and also affects food security.
4. A major portion of land falls under forest areas. Most of the tribal people of the interior areas are staying on forest lands without having any right, title, interest on those lands and there are no such legal provisions for those homeless tribal people for protection and enforcement of their rights under “The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”.
5. Another major problem with tribal people is a result of development projects viz. construction of dams, Forest sanctuaries, mining operations, etc. These developments lead to an influx of non tribal people, seeking employment in these areas forcing the tribal people to migrate. Hence, the tribal people have not been able to reap the benefits of development projects.
6. Growing indebtedness contributes as one of the most important reasons for land alienation and displacement of tribal people. Tribal indebtedness (they are often tricked into accepting loans with exorbitant interests) often leads to situations of bonded labour.
7. Further, there have been violations of PESA which endow Gram Sabha “the power to prevent land alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawful alienated land of a Scheduled Tribe.” In case of acquisition of forest lands, it is mandatory to consult with Gram Sabha of the affected area and obtain their free consent. However, often Gram Sabhas are neither sent notices for consultation, nor are their consent signatures taken.
8. The compensation given to the tribal people under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013 is meagre and the living conditions that are provided on resettlement are very poor.

9. Another problem with tribal people is that instead of individual rights in the land, they believe in community rights and thus written proof of ownership are mostly not available in cases of litigation relating to land. The claims of tribal people in this respect are mostly based on oral evidences with consequential difficulties in establishing individual rights.

C. Legal Issues

The legal issues faced by the tribal people are as follows:

1. The recognition of rights of tribal people before their displacement from Protected Areas (PAs) is not being completed. Tribal people are evicted before verification and settlement of claims under the FRA. This has caused a decline in the economic status, as well as erosion in their customary forest practices.
2. Incorrect assumption by the Forest departments with regard to the FRA has led to violation of their legal rights. For instance, at some of the Forest Departments, it was believed, contrary to the provisions of section 4 (2) of the FRA that rights under FRA could not be claimed in Protected Areas (PAs) and that FRA is not applicable in Tiger Reserves.
3. Some problems that arise for tribal communities in claiming habitat rights include:
 - * lack of clarity over definition and interpretation of what is entailed in habitat rights;
 - * multiple interpretations of habitat, especially if the user rights of other, non- PVTG groups sharing the same territory are involved;
 - * if the traditional habitat boundaries of PVTGs overlap with wildlife habitats; and
 - * a lack of awareness among such communities about the terms in which to articulate such claims.
4. There has been little perceptible effort to create awareness among women regarding the process of claim making, verification and the rules relating to it provided under the FRA.
5. Claims filed by tribal people under the FRA are being rejected without assigning reasons, or based on wrong interpretation of the Other Traditional Forest Dwellers (OTFD) definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' (a lacuna which only requires the claim to be referred back to the lower-level body), or because the land is wrongly considered as 'not forest land', or because only forest offence receipts are considered as adequate evidence.
6. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated. There is a need for awareness amongst tribal people, so that they can protect their legal rights against such practices.
7. Section 3 (1) (m) of the FRA, regarding the rights of persons illegally displaced or evicted by development projects without proper compensation, has not been implemented at all.

8. Lack of effective consultations with Gram Sabha and recognition of their rights of ownership in farm produce.

D. Other legal issues

1. Criminal charges are filed, maliciously, against the tribal people, and in some cases non-tribal people, who protest against the acquisition of land and thereby against the establishment of developmental projects. It has been found that between 2005 and 2012, over 95 percent of the cases were found to be baseless and ended in acquittal.
2. Discrimination, violence and police brutality is experienced at regular intervals by the people belonging to the De-Notified Tribes because of the Habitual Offenders Act, 2000.
3. In Andaman and Nicobar, the 'Jarawa' tribe face incidents of sexual exploitation. Also, the people of the tribe were asked to give their blood samples for DNA testing without their informed consent.
4. A study for the Planning Commission revealed that 43.6 percent of the rehabilitated bonded labourers belong to Scheduled Tribes. This suggests that many tribal families are trapped in bondage. The main reason for bondage that is cited is indebtedness and food.

E. Issues related to education

The scenario of education in India regarding the tribal people has improved, but there are some problems which still persist. The issues relating to education are as follows:

1. There are a large number of schools which do not have minimum facilities.
2. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas, due to distances and poverty.
3. Teacher absenteeism is high.
4. There is poor level of student learning and high drop-out rate at class X. A possible explanation for this is the failure of tribal students to cope up.
5. There is a marked gender gap. There is a need for greater gender focus and social mobilization to encourage education of girls.
6. Once the tribal students manage to take admission, they are humiliated in various ways that they are demoralized. This leads to a high school dropout rate. Derogatory names being given to tribal students from the North East are well-known.
7. There are residential schools for tribal girls which are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls.
8. As nomadic tribes are always on the move, their children miss out on education provided by the government for free.
9. Most of the tribal communities in India have their own mother tongue. But in most of the States, official/regional languages are used for classroom teaching and these are not understood by the tribal children particularly at primary level of schooling.

10. There is a need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For instance, most of the district officials, being from outside do not understand the languages of the people like Gondi and Halbi. Even the teachers in schools do not understand these languages.
11. Tribal children are not at ease in structured class rooms due to their affinity to nature causing them to lose interest in formal education as is presently provided.
12. The main reason of illiteracy amongst tribal people is low involvement of parents and community in education of tribal children and inadequate quality schools in Tribal areas. The Tribal Community is mostly unaware about the benefits of education.

F. Health issues

The tribal population face several health issues:

1. The national health model is primarily designed for the non-tribal areas. It does not take into account the different belief system, different disease burden and healthcare needs as well as the difficulties in delivering health care in a geographically scattered, culturally different population surrounded by forests and other natural forces.
2. There is a lack of health care human resource that is willing, trained and equipped to work in tribal areas. Though buildings are built and health care institutions created in the form of health sub-centres, PHCs and CHCs, they often remain dysfunctional. This is further compounded by inadequate monitoring, poor quality of reporting, and accountability.
3. Factors such as unfriendly behaviour of the staff, language barrier, large distances, poor transport, low literacy and low health care seeking, lead to lower utilization of the existing health care institutions in tribal areas.
4. The absence of participation of ST people or their representatives in shaping policies, making plans or implementing services in the health sector often ends up targeting wrong priorities.
5. The tribal population is seriously affected by high consumption of alcohol and smoking, often resulting in addiction. Immediate and serious corrective policy measures to curb the same are necessary.
6. Child marriage among the different tribal communities is still prevalent as illiterate tribal people follow their old customs without understanding the laws of the land which results in poor health.
7. Tribal people seek treatment modes based upon their customary beliefs without resorting to any modern medicines even when they contract modern day illnesses leading to high mortality even in curable situations.
8. The Jarawas remain vulnerable to outside diseases to which they have little or no immunity. When the tourists enter their areas, they contract new diseases because of them. Their women and girls are also being sexually abused which result in many diseases for which the tribal people have no cure.
9. The immunisation programme of the governments has not reached the tribal areas.

10. Tribal populations are highly malnourished. PVTGs inhabit areas that are inaccessible by road, and therefore they cannot travel easily to Anganwadi centres, where food is prepared. Moreover, their hamlets are considered too small to open an Anganwadi centre. The result is that their children do not get the nourishment provided under the government schemes.
11. Rules have been framed to prohibit the killing of forest animals without giving an alternative to tribal people who traditionally hunt them for food, leading to loss of nutrient food to these communities.
12. The tribal areas face acute water problems including water pollution and tribal health suffers as a consequence.
13. A very pernicious effect of violence and killing, is the rise in mental disorder cases.
14. In areas of high literacy, as in the North East, lack of employment amongst skilled youth has resulted in mental depression and high suicidal tendencies.
15. Health issues arising out of drug use such as HIV AIDS and mental disorder is high in the North Eastern states located in close proximity to the “Golden Triangle”. Drugs such as Ketamine, pseudoephedrine, etc. are being smuggled into these regions with catastrophic effect on the families of drug users.

H. Livelihood

1. Due to absence of modern day skills and education, tribal people mainly depend on their traditional skills for livelihood, which is not profitable.
2. Although very few are landless, the land that tribal people possess is not very productive.
3. Due to language and cultural barriers, they lack modern skills of agriculture and agriculture based activities.
4. Further as a result of their living in difficult terrain and their aloofness from others they are not able to get adequate prices of their produce and products.
5. Inadequate transportation and communication facilities in their areas compounded by their reluctance in using such means also lead to failure to obtain good prices for their produce.
6. Adherence to traditional practices such as jhum cultivation for livelihood is an important reason that they live below poverty line.
7. When land is taken away from them for development work or they alienate their land, or they are denied access to forests for collecting forest produce, tribal people are left with no means of survival and are reduced to impoverishment and starvation.

Part II : Role of Legal Services Authorities

As is evident from the issues listed above, the State Legal Service Authorities have an important role to play in assisting tribal people in access to justice. The State Legal Services Authorities (SLSAs) will have to bridge the divide between the tribal communities and the Government and Judiciary. The SLSAs will have to ensure that Rule of law prevails. Restoring faith in the legal system, efficacy of rule of law is of prime importance amongst the tribal people. The SLSAs should explore activities in these areas.

The SLSAs should take the following initiatives:

A. Litigation related

1. They should constitute an exclusive panel of lawyers drawn from the tribal communities who should be paid good fees.
2. The Tribal people should be given suitable legal aid in litigation and in appropriate cases, senior lawyers should be engaged on their behalf even if on payment of special fee, so that the rights and interests of tribal people are protected.
3. The Judiciary operates in Hindi and English, leaving poor tribal people at the mercy of lawyers and judges from outside their community. They are the ones who need access to justice and should be supported by SLSAs.
4. Panel lawyers must sincerely represent the tribal people in the courts, explaining to them the process and the law so that distrust of the system is eliminated and there would be greater understanding of the processes of the court.
5. Panel lawyers must assist the tribal people in clarifying areas of confusion or overlapping of jurisdiction of the normal courts and the traditional village authority courts at the village level and help people in the smooth functioning of the justice system.
6. Panel lawyers must visit jails and set up legal services clinics in jails to tackle long term imprisonment without bail and also follow up cases where there are no charges made out so that there is early release from prison.
7. Panel lawyers should, with the help of **para legal volunteers**, facilitate the tribal people for getting compensation of their acquired land and assist them for rehabilitation.
8. The issues, requirements and legal needs as well as availability of educational and medical facilities in tribal areas must be identified with the assistance of PLVs and action for judicial redressal initiated in appropriate cases.
9. The full time Secretaries/judicial officers should interact with the persons of such area in order to identify their problems and needs and in order to assure them that they will be given suitable assistance and services for their genuine legal and other requirements and rights.
10. Where any tribal person is facing prosecution in a court of law, he should be identified and given proper legal aid and assistance by legal services authority from the inception of the proceedings against him, that is from the time of his interrogation.
11. The SLSAs must open legal services clinics wherever feasible to be visited by tribal lawyers.
12. The SLSAs must make use of the Multi Utility Vehicles to reach out to sparsely populated tribal areas not only for spreading awareness but also to extend prompt legal assistance to the tribal people who may have criminal, civil, revenue or forest rights issues.
13. The SLSAs must co-ordinate with government departments such as the forest department to settle habitat claims and compensation claims through the mobile lok adalats.

14. Legal assistance must be promptly given to the tribal people to approach the High Court under its writ jurisdiction both for civil as well as criminal matters. The High Court Legal Services Committees must empanel committed lawyers who are tribal people themselves or have a good understanding of tribal issues and are able to personally communicate with tribal people.
15. Social Justice Litigation with the approval of Hon'ble Executive Chairman, SLSA may be initiated whenever required.

B. Para legal volunteers (PLVs)

1. Each District Legal Services Authority, with the help of statistical and other Government department should identify the areas of the districts where there are tribal population and reach out to them through the **Para Legal Volunteers**.
2. In order to gain trust of the tribal communities, to know the problems of each such community and also to communicate with them effectively during awareness programmes it is necessary that **para legal volunteers** must be selected from amongst such tribal people.

The SLSAs should prepare exclusive panel of **para legal volunteers** (PLVs) from these communities under the direct mentorship and control of the Full Time Secretary of DLSAs.

3. Such PLVs should be properly trained in respect of their roles to reach out proactively to the tribal people and to become the 'go to person' for the tribal community he/she is assigned to serve.
4. The SLSAs through the PLVs should help the illiterate tribal people requiring legal assistance in filling up forms and filing applications for getting benefits of various schemes made by Government to do so for their getting such benefits.
5. Legal Services Authority could play a vital role in providing medical help with assistance of **Para Legal Volunteers** from amongst the tribal community. The needy persons may be identified with the help of **Para Legal Volunteers** and with assistance of the local Legal Services Authority, such tribal people may be facilitated in getting suitable medical assistance and medicines as well as benefits of medical schemes.
6. The PLVs must be the voice of the tribal people to communicate to the concerned authorities when there are issues relating the schools, absence of teachers, and harassment of tribal children etc as listed in Part 1 of this scheme.
7. The PLVs may be useful in the matters of human trafficking for identifying the victims of trafficking and taking suitable action for obtaining victim compensation and accessing various rehabilitation schemes.
8. The PLVs must assist the trafficked children when they are rescued and produced before the Child Welfare Committees (CWCs). They should help the CWCs in tracking out the families of the victims.
9. The PLVs must hand hold the victims when they have to testify in the Court.
10. The PLVs must be the bridge between the tribal people and the panel lawyers and must assist both the tribal person as well as the lawyer so that the case of the tribal is effectively understood and heard by the court.
11. The PLVs must also be the connect between the government departments and the tribal people to ensure that the food and rations meant for the tribal people

reach them even when they live in remote and sparsely populated areas in the State.

12. Documentary proof of land is mostly not available with tribal people.

The tribal people may, in such cases, need legal assistance for getting proper compensation and rehabilitation. PLVs should help the tribal people to collect all documents and other evidence so that displaced tribal people may be rehabilitated properly.

13. The PLVs must visit jails and interact with inmates to find out about their cases and report to the Full Time Secretary of the DLSA about them so that immediate follow up can be taken for their release on bail or expeditious hearing of their cases.

C. Awareness

1. Legal Awareness in Tribal area should be different than the ordinary mode of awareness programmes. Audio Visual Mode will be more useful in this respect. Awareness may be through organising cultural programmes such as dances, dramas etc. in which the involvement of tribal people must be ensured. Folk Songs and dances of such tribal people may be utilised for effectively conveying messages to them. The awareness programme in tribal area must be carefully carried out by persons having full knowledge of their problem and solutions.
2. There is requirement for spreading legal awareness amongst tribal people about forest laws and consequences of infringing the provisions of law.
3. The SLSAs should organise intensive legal awareness programme in tribal areas enlightening the Tribal community about the benefits of education, their rights and entitlements under various government schemes and benefits of modern technology which may be helpful in improving their occupational works.
4. The Tribal Community may be informed that education to their children may secure their future because such children may get jobs in public or private sector where reservation policy is applicable.
5. School legal literacy clubs should be started in tribal dominated areas to reach out to tribal children to encourage them to stay in school, while at the same time sensitising other students and teachers of the special needs of tribal children.
6. The SLSAs with the assistance of Govt. agencies and NGOs may organise training programmes by audio visual mode and also by showing them practical demonstrations of modern technology for gainful agricultural work.
7. Medical awareness programmes may be organised in tribal areas to teach them the benefits of safe drinking water, nutrition and care of pregnant women as well as immunisation programme with NGOs working in the field.
8. The SLSAs should take other initiatives like establishing a community radio in the villages to bridge linguistic divide.



NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015

1. Background:

- 1.1. The phenomenal rise in drug trafficking and drug abuse amongst the youth, children and adolescents has serious implications, adversely affecting national health and economy. Curbing it is the highest priority for the State as well as the society.
- 1.2. It is an open secret that drugs have spread their dreaded tentacles on innocent children, adolescents, youth and women. The horrible dimension, which this menace has acquired, can be gauged from the average age of initiation of drugs which is as low as nine-ten years. Recent empirical studies reveal that about 7 crore people in India are involved in substance abuse, out of whom about 17% are addicts.
- 1.3. The illicit cultivation of plants wherefrom the substances/drugs are derived is an area of major concern. Generally, people are unaware of the ill effects of such cultivation. In order to prevent illicit cultivation of substances, participation of Panchayati Raj Institutions and Local Bodies is necessarily required.
- 1.4. Although many agencies of the State as well as Non-Governmental Organizations are working in the field for eradication of drug trafficking and drug abuse, there is lack of coordination amongst them. Individual efforts of different functionaries and agencies have not achieved the desired results. Experience shows that the victims of drug abuse have no idea how to tackle the issues of treatment and rehabilitation.
- 1.5. Considering the fact that Legal Services Institutions can contribute a lot to curb this menace, a resolution was passed in the 13th All India Meet of State Legal Services Authorities held at Ranchi (Jharkhand), concluding that Drug Addiction and Drug Abuse should be a major area of concern for all Legal Services Institutions and a necessity was felt to examine the issue therein.

2. Existing Legal Provisions

- 2.1 The efforts to combat the menace of Narcotic Drugs and Trafficking started at the International level with Single Convention on Narcotic Drugs by the United Nations in March, 1961 and thereafter a protocol amending the resolution of this Convention was adopted in March, 1972. The United Nations Convention on Psychotropic Substances was held in 1971, followed by United Nations Convention against Illicit Trafficking in Narcotic Drugs & Psychotropic Substances, 1988. India is signatory to all such Conventions.
- 2.2 Article 47 of the Constitution of India mandates that State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.
- 2.3 The growing trend of illicit drug traffic and drug abuse, at the National level, has led to the passing of comprehensive legislations: (i) The Drugs and Cosmetics Act, 1940 and (ii) The Narcotic Drugs and Psychotropic Substances Act, 1985, for prohibition, control, regulation, cultivation, manufacture, sale transportation, consumption etc. of narcotic drugs and psychotropic substances. Despite tough laws, illicit drug trade, in an organized manner, is growing manifold.

- 2.4 It is in this background that it was felt by NALSA, that Legal Services Institutions have a significant role to play in supply and demand reduction and de-addiction and rehabilitation. A Committee was constituted for the purpose of understanding the dimensions of the problem and defining the role of the Legal Services Institutions to effectively address the problem. This Scheme has been framed on the deliberations of the Committee based on the inputs received at the Regional Conference on the 'Drug Menace in India - Overview, Challenges and Solutions' at Manali, Himachal Pradesh.

3. Name of the Scheme

The Scheme shall be called "NALSA (Legal Services to the Victims of Drug Abuse and Eradication of Drug Menace) Scheme, 2015". (hereinafter referred to as "the Scheme").

4. Definitions

In this scheme unless the context otherwise requires,

- a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987)
- b) "NDPS Act" means The Narcotic Drugs and Psychotropic Substances Act,1985 (Act no.61 of 1985)
- c) "Legal Service" means as defined under section 2(c) of Legal Services Authorities Act 1987.
- d) Legal Services Clinic means a clinic as defined under regulation 2 (c) of National Legal Services Authority (Legal Services Clinics) regulations 2011.
- e) Legal Services Institution means a State Legal Service Authority, Supreme Court Legal Services Committee, High Court Legal Services Committee, District Legal Service Authority or Taluk Legal Service committee, as the case may be.
- f) Panel Lawyer means the panel lawyer selected under regulation 8 of the National Legal Services Authority (free and competent legal services) regulations 2010.
- g) Para Legal Volunteer means a Para Legal Volunteer defined and trained under the NALSA Scheme for **Para Legal Volunteers** (Revised) and Module for the Orientation - Induction - Refresher Courses for PLV Training and trained as such by a legal services institution.
- h) All other words and expressions used but not defined in this scheme and defined in the Legal Services Authorities Act, 1987 (39 of 1987) or the National Legal Services Authorities rules,1995 or National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 shall have the same meaning respectively assigned to them in the said Act or Rules or Regulations.

5. The Objectives of the Scheme

- 5.1 To disseminate awareness amongst the general masses regarding the Legal Provisions, various Policies, Programmes and Schemes, in respect of Narcotic Drugs and Psychotropic Substances as well as to create awareness about the ill effects of drug abuse amongst the children in schools and colleges, street children, urban slum children, injective drug user(s), families, prisoners, workers in unorganized Sector, Chemists, drug peddlars, sex workers and general masses etc.
- 5.2 Organizing literacy camps for sensitizing the farmers who are carrying out permissible cultivation of various substances/source plants about the adverse health and life threatening effects of consumption of such drugs and substances.
- 5.3 To spread awareness amongst the parents, teachers and students about the ill effects of the substance abuse.
- 5.4 To sensitize the various stakeholders viz; Judiciary, Prosecution, Members of Bar, Police, Forensic Laboratories, De-addiction Centres, Corrective Homes, Rehabilitation Centres, School, College and University administration, Children

Homes, Old-age Homes, Nari Niketans, Schools for Special Children, Ministerial Staff of Courts, etc. about the drug menace and effective measures to curb it.

- 5.5 To mobilize the available infrastructure in identifying the victims of drug abuse, their treatment and post detoxification rehabilitation.
- 5.6 To tap the potential of the Panchayati Raj Institutions/Local Bodies at grass root level for intervention and prevention of drug abuse and destruction of illicit cultivation of plants used to derive the drugs/ substances.
- 5.7 To maintain effective coordination with the Drug De-Addiction Centres. and Rehabilitation Centres etc. for better facilities and respect for the rights of the victims and to intervene, if any, breach is noticed.
- 5.8 To coordinate the activities of various stakeholders working in the field.
- 5.9 To ensure essential legal services to the victims of drug trafficking and drug abuse.

Plan of Action

6. Establishment of Special Units

- 6.1 The State Legal Services Authority (hereinafter referred to as SLSA) shall, within one month of the communication of this scheme, establish Special Units in all the Talukas/Mandals/ Sub Divisions in the State, consisting of Judicial Officer(s), young lawyer(s) to be nominated by the Chairman, DLSA, Medical Officer(s) to be nominated by the Chief Medical Officer concerned, a Revenue/ Police/Forest Officer(s) nominated by the Chief Secretary, social worker, Para Legal volunteer and a representative of NGO(s) having done substantial work for eradication of drug menace or rehabilitation and de-addiction, and accredited with NALSA. The Special Units shall be headed by the Chairman of the Taluka/ Mandal/Sub Divisional Legal Services Committee (hereinafter referred to as TLSC), under the overall supervision of the Chairman, DLSA.
- 6.2 Such Special Units shall comprise of not more than ten members. The Secretary, DLSA shall be the Nodal Officer for the District. The Secretary, Taluka Legal Services Committee shall be Secretary of the Special Units.
- 6.3 After the constitution of the Special Units, the DLSAs shall conduct training programmes for members of the Special Units, as per module of NALSA.
- 6.4 The Special Units shall submit regular action taken reports to the SLSA through Chairman, DLSA, who will forward it along with his/ her comments.
- 6.5 The Special Units shall, in terms of the scheme, within 15 days of its constitution, prepare a Micro Level Programme to be carried out/performed in their respective areas for tackling, intervention & prevention of drug abuse.
- 6.6 Such programme(s) shall be forwarded by the Chairman of the DLSA to the Member Secretary of the SLSA, who, in turn, shall place the same for approval, before the Executive Chairman. The Executive Chairman SLSA, may accord sanction with or without amendments, within 15 days.
- 6.7 Apart from the functions assigned to them under the provisions of this scheme, the Special Units shall also perform any other function, which SLSA may assign from time to time.

7. Creation of Database

- (a) The SLSAs shall create a Database of all the existing Policies, Schemes, Regulations, Directives, Preventions, Rules, Declarations and Reports available for effective prevention, protection, rehabilitation, elimination of Narcotic Drugs and Psychotropic Substances and upload the same on its website and share the same with NALSA.

8. Implementation of various schemes.

- (a) The SLSAs shall take all steps to disseminate the information regarding policies, schemes, programmes to the general public and in particular, to the victims of Drug abuse, their families and the functionaries of De-addiction / Rehabilitation Centers
- (b) The Special Units shall display such information prominently in their offices and shall get suitable booklets/pamphlets/placards etc, printed, as approved by the SLISA.

9. Destruction of Illicit cultivation

The SLSAs shall coordinate with the State Governments for the destruction of illicit cultivation of cannabis and opium as well as any other plant used to derive Narcotic and Psychotropic Substances. The SLSAs may also urge the State Government to include such destruction as admissible work under MNREGA Scheme. This will pave the way for the destruction of illicit plants on a large scale besides, encouraging community involvement in the entire campaign.

10. Participation of local Bodies/Panchayati Raj Institutions at grassroot level

The participation of these institutions shall be in the following manner:-

- (a) Special Units shall coordinate with the Panchayati Raj Institutions to identify areas, where substances such as charas/ganja etc are being illegally cultivated. Reports so prepared by the Special Units shall be forwarded to the SLISA through the Chairman DLISA and with the approval of the Executive Chairman, SLISA, the matter shall be taken up with the concerned authorities for appropriate action.
- (b) The Special Units shall seek assistance of Panchayati Raj Institutions to identify the drug addicts and injective drug user(s) for making arrangements for their treatment and rehabilitation.
- (c) The Special Units shall also seek assistance of the Panchayati Raj Institutions for spreading awareness about ill effects of drugs in the rural areas.
- (d) The Special Units should as far as is possible associate the Mahila Mandals and Yuvak Mandals or other similar self help groups of the area in such campaigns

11. Awareness

11.1 Awareness in Schools/Colleges

The Special Units shall coordinate with Legal Literacy Clubs in schools and Legal Services Clinics in colleges to conduct awareness and sensitization programmes in the Schools and Colleges, to make students aware of the ill effects of drugs.

- (a) The awareness and sensitization programmes could be conducted through various modes, such as;
 - i. Starting awareness campaign in the school/cluster of schools under the banner of "run against drug abuse" by associating the "Icons" of the area.
 - ii. Awareness camps
 - iii. Holding regular Parents-Teachers meetings.
 - v. Through Mass Literacy campaigns
 - v. Through Symposiums. Seminars, Debates etc.
 - vi. Organizing quiz and essay writing competitions about the ill effects of drug abuse
 - vii. Nukkad Nataks; Any other similar and innovative manner

viii. Any other similar and innovative manner

- (b) The teachers in the schools/colleges should also be involved in awareness/sensitization programmes.
- (c) Pamphlets/booklets prepared by the NALSA/SLSA should be distributed to the students in awareness/sensitization programmes.
- (d) Such pamphlets/booklets will also be distributed at all awareness camps and also help at front offices and legal services clinics
- (e) Inclusion of Chapter on Drug Abuse in School and College Curriculum - An endeavour for compulsorily getting a chapter on drug abuse included in the curriculum of Schools and Colleges, by taking up the matter with respective Education Boards and Universities

11.2 Awareness to the families of the victims of Drug Abuse

Children generally become victims of drug abuse in those families where the affectionate bond between children and parents is either loosened or obliterated or where parents or family members consume drugs /substances.

- (a) The Special Units should identify the families of victims of drug abuse and the parents who are habituated to either one or other forms of addiction and shall sensitize them to build parental bonds with their children. The focus will be on persuading the parents to interact with children, supervise their activities and to talk to the teachers about their children and their behaviour and that drug addiction can be cured.
- (b) Awareness must be raised to aid in the de-stigmatization of addiction as well as the mental illnesses arising out of it, in order for addiction to be recognised as any other health problem and treated at the earliest

11.3 Awareness amongst Street Children

- a) Large number of victims of drug abuse are the street children. They are the most neglected and vulnerable class, generally abandoned and left out by their families. Hence, there is a greater need to ensure their safety along with NGOs working with street children.
- (b) The Special Units shall identify the addicted street and urban slum children and make arrangement for admitting them to De-Addiction Centre(s) or Rehabilitation Centre(s), as the case may be.

11.4 Awareness amongst the victims of drug abuse

With the identification of the drug addicts, Special Units shall conduct regular sensitization programme(s) for them by associating Psychologists and Doctors. Role Models and the persons who have achieved success in the field of Sports, Cinema, Literature etc. may be associated in such programmes.

11.5 Awareness Programmes for sex workers

The Special Units shall organize strategic awareness programmes in the red-light areas, targeting the sex workers and their children about the ill effects of drug abuse.

11.6 Awareness Programmes in Jails.

The Legal Services Institutions shall organize periodical awareness and sensitization programmes for inmates of jails and jail staff about the ill-effects of the narcotic drugs.

11.7 Awareness amongst General Public

- a) The Special Units shall periodically organize Legal Literacy Camps on ND & PS Act in the areas where farmers are permitted to cultivate opium or

other such plants with special focus on spreading awareness about the ill effects of illegal sale or consumption of narcotic substances.

- (b) The general public shall be made aware of the fact that giving secret information to police about illegal possession, transportation, sale or cultivation etc. of drugs or prohibited and banned drugs is protected under law and their identity is kept secret.
- c) The Special Units shall also organize regular Legal Literacy Camps for transporters and taxi operators for educating them about the consequences and ill effects of drugs.
- d) The Legal Services Institutions Special Units shall display sign boards, hoardings etc. about the stringent provisions of the NDPS Act and ill effects of drug abuse at public places such as Bus Stands, Railway Stations, Airports, Public and Private Schools, Universities, Panchayat Bhawans, Courts, District Collectorates, SDM offices etc.
- (e) The Special Units shall organize awareness camps in Villages, Fairs and Festivals about the ill effects of the drug abuse.
- (f) The Special Units shall organize awareness camps in resettlement colonies, residential areas, market places by involving various organizations/ associations.
- (g) The SLSAs will endeavour to involve Postal Authorities, Courier Agencies, and Financial Institutions to sensitize their staff about the drugs being transported clandestinely through these agencies.

11.8. Awareness amongst Chemists and Peddlers

- (a) The Special Units shall sensitize the chemists and druggists about the ill effects of the drugs.
- (b) Chemists may be trained to watch out for children and youth who are buying prescription drugs on a regular basis and refuse to sell them such drugs.
- (c) The Drug Peddlers shall be identified and similar sensitization programmes shall also be conducted for them.
- (d) Police could also be sensitized to be involved in the prevention of addiction by keeping a watch on suspicious activities by street vendors, paan stalls etc.

11.9 Awareness through Electronic and Print Media.

SLSAs should organize regular Radio talks and Television programmes on harmful effects of drugs and means to curb the same.

Judicial Officers, Lawyers, Psychologists, Psychiatrists, Police Officers, Icons etc. shall be associated in these programmes.

12. Co-ordination with De-addiction / Rehabilitation Centres

- (a) The Special Units shall visit the Rehabilitation and De-addiction Centre(s) situated within their jurisdiction at least once in a month. The Special Units will draw up a list of rehabilitation and de addiction centres in the Taluk and will continuously update the information. It shall also forward the list to the SLSA along with details of who is running the same and their background
- (b) The Special Units will inspect the facilities at the rehabilitation/dea ddition centre(s) to assess the adequacy of the facilities
- (c) The Special Units shall inspect the record regarding visits of the counselor, psychologist and Doctors.

- (d) The Special Units will check the staff ratio to see that there is no shortage of staff and staff strength is commensurate to the number of victims at the drug rehabilitation centres.
- (e) Whenever the Special Units find inadequacy in staff, infrastructure or facilities, the Special Units will make appropriate recommendations in this regard to the DLSA, who, shall take up the matter with the concerned authorities and ensure that the deficiencies are removed.
- (f) In case, the Special Unit comes across any violation of human rights of victims, it shall promptly file a report with the Chairman, TLSC who shall look into the report and apply his mind before initiating legal proceedings. The TLSC will also grant legal assistance where such proceedings are to be initiated on behalf of the victim.
- (g) The Special units shall gather information from the rehabilitation centre(s) and shall send monthly report to the DLSA concerned, mentioning therein, the details of victims, activities undertaken and visits of Psychologist(s) and Doctor(s) and the corrective measures, if any, taken on the report of the Special Units.
- (h) The Special Units will arrange and organize periodical awareness camps for the victims. Cultural and other Socially Active Groups shall be associated in such awareness camps with an aim to bring the victims to the main stream of the society.

13. Training/Refresher Courses for Stakeholders

The SLSAs shall arrange and organise either by themselves or along with the State Judicial Academies, sensitization programmes, refresher courses, special trainings and conferences for Judicial Officers, Prosecutors, members of the bar, police officers and ministerial staff of the Courts.

14. Observance of International Day against Drug Abuse on 26th June

All legal Services Institutions with the help of Special Units shall organize awareness programmes on 26th June every year for observing "International Day against Drug Abuse and Illicit Trafficking" for creating awareness about drug abuse and its consequences.

15. Association of Reformed Drug Addicts.

The Special Units shall identify former drug addicts in their areas and associate them in the awareness camps to share their experiences.

16. Anti Drug Clubs

- (a) The School and College authorities shall be requested and involved by Special Units for opening Anti Drug Clubs in the School(s)/College(s) so that the students become role models and make their colleagues aware of ill effects of drugs.
- (b) The Special Units shall organize sensitization programmes through Anti Drug Clubs in School(s)/College(s). Legal Literacy Clubs and Legal Services Clinics should be used for this as mentioned earlier.

17. Involvement of Para Legal Volunteers

The Para-Legal Volunteers shall be imparted training about various Schemes, who in turn shall visit different areas and make aware and sensitize people about the ill-effects of the Narcotic Drugs and Psychotropic Substances.

18. Recognition of Good Work

At the end of every financial year, the SLSA should commend outstanding work done by the members of the best Special Units in the State.



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 bringing 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-borne 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 livestocks 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.



SUCCESS STORY

Name of PLV : Babli Kumari

(DLSA, RANCHI)

I. Legal aid to women victims of crime		
Nature of Crime	Type of Legal Services /Aid Provided	Nos. of Legal Services/ Aid Provided
Murder	Provided Legal Assistance in rehabilitation of dependants of Victims who were murdered in incident of Crime. Assisted the Assisted the victims in applying for Compensation.	04
Victim Rape	3 girls 2 minors were the Victim of Rape. In order to provide Rehabilitation to them Babli Kumari Assisted in Filing application under Victim Compensation Scheme.	05

A number of other assistance provided to victims of crime.

II. Providing relief through ADR Mechanism		
Nature of Legal Service	Type of Legal Services /Aid Provided	Nos. of Legal Services/ Aid Provided
Mediation & Counselling	Re-united Husband and Wife in Chanho Police Station. Babli Kumar, PLV made efforts for the reunion of the family. Husband Sunil Oraon, after conciliation sessions with PLV Babli Kumari, realized his mistake and signed a PR Bond and took his wife home.	02

III. Providing Legal Services/Aid to Physically Handicapped		
Nature of Service	Type of Legal Services /Aid Provided	No. of Differently Abled beneficiaries
Issuance of PH Cards	Many Physically Handicapped Persons of Chanho Area got legal aid and with assistance of Babli Kumari got their PH Card issued.	327

IV. Un Organized Labour		
Nature of Service	Type of Legal Services /Aid Provided	No. of Un organized laboureres beneficiaries
Un Organized Labour Registration	Helped the 140 Labourers belonging to BPL Categories both Male and Female for getting the benefits of labour department schemes.	140

V. Poverty Alleviation		
Nature of Service	Type of Legal Services /Aid Provided	No. of BPL Persons Benefited
Providing reliefs of families below poverty line	Persons from BPL Category got the assistance of Babli Kumari, PLV in the issuance of Ration Card and other government beneficial schemes.	50
Providing Relief to Victims of Famine	A dispute of 2009 wherein one Mahila Samuh's Aakal evan Shram Vitran License was in dispute got resolved by PLV Babli Kumar Rs. 20000.00 got distributed among beneficiaries with the assistance of Babli Kumar and B.S.O. Ranchi.	12

Guidelines Issued by National Legal Services Authority (NALSA)

for Legal Services in Juvenile Justice Institutions in connection with the compliance of the order dated 19.08.2011 of Hon'ble Supreme Court of India in Sampurna Behrua v. Union of India & Ors. W.P.No. (C) No. 473/2005 to establish legal aid centres attached to JJBs.

1. When a child is produced before Board by Police, Board should call the legal aid lawyer in front of it, should introduce juvenile / parents to the lawyer , juvenile and his/her family/parents should be made to understand that it is their right to have legal aid lawyer and that they need not pay any fees to anyone for this.
2. JJB should give time to legal aid lawyer to interact with juvenile and his/her parents before conducting hearing.
3. Juvenile Justice Board should mention in its order that legal aid lawyer has been assigned and name and presence of legal aid lawyers should be mentioned in the order.
4. Board should make sure that a child and his parents are given sufficient time to be familiar with legal aid counsel and get time to discuss about the case before hearing is done.
5. Juvenile Justice Board should make sure that not a single juvenile's case goes without having a legal aid counsel.
6. Juvenile Justice Board should issue a certificate of attendance to legal aid lawyers at the end of month and should also verify their work done reports.
7. In case of any lapse or misdeed on the part of legal aid lawyers, Board should intimate the State Legal Services Authority and should take corrective step.
8. Juvenile Justice Board and the legal Aid lawyers should work in a spirit of understanding, solidarity and coordination. It can bring a sea-change.
9. Legal Aid Lawyer should develop good understanding of Juvenile Justice Law and of juvenile delinquency by reading and participating in workshops/ trainings on Juvenile Justice.
10. Legal Aid Lawyer should maintain a diary at center in which dates of cases are regularly entered.
11. If a legal aid lawyer goes on leave or is not able to attend Board on any given day, he/she should ensure that cases are attended by fellow legal aid lawyer in his/her absence and that case is not neglected.
12. Legal Aid lawyer should not take legal aid work as a matter of charity and should deliver the best.
13. Legal Aid Lawyer should raise issues/ concerns/ problems in monthly meeting with District Legal Services Authority.
14. Legal Aid Lawyer should maintain file of each case and should make daily entry of proceeding.

15. Legal Aid lawyer should not wait for JJB to call him/her for taking up a case. There should be effort to take up cases on his/her own by way of approaching families who come to JJB.
16. Legal Aid Lawyer should inspire faith and confidence in children/their families who cases they take up and should make all possible efforts to get them all possible help.
17. Legal Aid lawyer should abide by the terms and conditions of empanelment on legal Aid Panel.
18. Legal Aid lawyer should tender his/her monthly work done report to JJB within one week of each month for verification and should submit it to concerned authority with attendance certificate for processing payments.
19. Legal Aid Lawyer must inform the client about the next date of hearing and should give his/her phone number to the client so that they could make call at the time of any need.

**Member-Secretary,
National Legal Services Authority.**



NATIONAL LEGAL SERVICES AUTHORITY (NALSA) GUIDELINES FOR TRAINING THE DESIGNATED JUVENILE / CHILD WELFARE OFFICERS

**ATTACHED TO EVERY POLICE STATION AND THE MEMBERS OF THE
SPECIAL JUVENILE POLICE UNIT ESTABLISHED UNDER SECTION 63 OF
THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT,
2000.**

(Prepared as per the Order dated 12.10.2011 of the Hon'ble Supreme Court of India in Sampurna Behrua v. Union of India and Others in Writ Petition (C) No.473/2005)

1. The primary responsibility for training the designated Juvenile / Child Welfare Officers attached to the Police Station and the Members of the Special Juvenile Unit shall be on the District Legal Services Authority. The State Legal Services Authority shall provide the required assistance, guidance and the direction to District Legal Services Authority and shall monitor and supervise the training programme, in a manner it may deem appropriate and practicable.

2. Role of State Legal Services Authority

The SLSA shall request the DLSAs to identify 2/3 lawyers having proclivity for ensuring the rights of children, as resource persons. They shall be sent for a state-level TOT (Training of Trainers) Programme to be organised by the State Legal Services Authority.

- a. Every State Legal Services Authority shall coordinate with the head of the concerned Police Department to ensure that a Standing Order outlining the roles, responsibilities and functions of Special Juvenile Police Units and Juvenile/ Child Welfare Officers is issued. A template of such Standing Order issued by Delhi Police is annexed as Annexure -1 for guidance. Such Standing Order shall be based on the Juvenile Justice (Care & Protection of Children) Act-2000 as amended in 2006, the Juvenile Justice (Care of Protection of children) Model Rules 2007 / the applicable Rules (If State Government has notified its own Juvenile Justice Rules) and the judgement of the Hon'ble Supreme Court in Sheela Barse V. Union of India (1986 SCALE (2) 230): (1987)3SC50: AIR 1987 SC 656. State Legal Services Authority shall render assistance in drafting and preparing such Standing Order. State Legal Services Authority shall also ensure that such Standing Order is translated into local language and is made available at all the Police Stations.
- b. Within a period of one month, the State Legal Services Authority shall take necessary steps for procuring and distributing books and films and for developing training material for the District Legal Services Authorities.
- c. The State Legal Services Authority shall undertake periodic review and appraisal of training programmes and will revise and upgrade such training programmes, as and when required.

- d. The State Legal Services Authority shall direct the District Legal Services Authorities to organise training programmes once in every six months for police officers, Juvenile/Child Welfare Officers and members of Special Juvenile Police Units.
- e. The State Legal Services Authority shall compile a set of Forms prescribed in the Juvenile Justice Rules, to be used by Police while dealing with matters related to children in need of care and protection and children in conflict with law and will send them to District Legal Services Authority for distribution to the trainee police officers. It may be advisable to have such Forms be translated into the local language.
- f. The State Legal Services Authority shall also compile a Directory which will contain names, addresses and telephone numbers of members of JJBs/CWCs, Observation Homes, Children's Homes, Special Juvenile Police Units and Juvenile Child Welfare Officers and such Directory shall be revised as and when changes take place. Such Directory shall be made available at all police stations and shall also be given to the participants.
- g. The State Legal Services Authorities shall ensure that a uniform curriculum is followed all across the state. A suggestive pattern of curriculum is annexed at Annexure-2. Police Department shall be consulted at the time of finalisation of such curriculum.

3. Role of District Legal Services Authority

- a. The District Legal Services Authority (DLSA) shall identify lawyers who have experience of practising in the area of Juvenile Justice and have the propensity to discern the juvenile jurisprudence and such identified lawyers shall be invited to act as resource persons in the training programmes. The DLSA shall also include specialists in child psychology and child psychiatry as resource persons.
- b. The Chairman, District Legal Services Authority, may seek guidance from the State Legal Services Authority in case of any difficulty.
- c. At the end of each training, certificate shall be issued by the District Legal Services Authority to each of the participants.
- d. The format of the certificate shall be prepared by the State Legal Services Authority and the same may be printed at the district level, if required.
- e. The certificate shall bear the signature of the Secretary and the Chairman of the District Legal Services Authority along with the seal of the District Legal Services Authority.
- f. The District Legal Services Authority shall conduct the training programmes routinely every year. Such training programmes may be of one day or more, as may be appropriate and practical. Refresher courses also may be conducted if some change in laws or rules takes place.

4. General Guidelines

- a. The District Probation Officer shall also be invited to such trainings in order to develop effective coordination and interface between the probation officers and the police.

- b. During the trainings, participants shall be given study material, Directory, required Forms and list of DOs and DONTs.
- c. Depending on the size of the District, training classes may be organised, limiting the number of trainees to a maximum of 20 in each session. This may be relaxed depending on the situation, subject to the discretion of the Chairman, DLSA.
- d. Subject to the special local requirements, if any, additional topics may be introduced in the Annexure-2 curriculum, in consultation with the State Legal Services Authority.
- e. The film “Ek Tha Bachpan” [CD copy of the film has been supplied by National Legal Services Authority to the State Legal Services Authority] shall be exhibited for the trainees. Other films made by the organisations like UNICEF on the rights of the child, problems of children, developmental needs of children etc also may be considered for exhibition in the training classes. However, the films and other audio-visual materials to be used in the training classes shall be approved by the State Legal Services Authority.
- f. The State Legal Services Authorities and District Legal Services Authorities shall comply with the time schedule specified by the Hon’ble Supreme Court (i.e. the training and orientation may be done in phases over a period of six months to one year in every State and Union Territory).
- g. The trainees shall be made aware of the circumstances in which children come into conflict with law and will be oriented to work on prevention of juvenile delinquency and should be trained as to how police can work towards reducing vulnerabilities faced by children.
- h. The trainees, particularly SHO and senior police officers, shall be specifically trained about non-disclosure of identity of children and about provisions relating to non-disqualification and will be specially instructed as to how to ensure that details of juveniles in conflict with law are not disclosed in any inquiry which may hamper the best interest of children and could result into disqualification.
- i. The trainees shall be trained on preventive strategies.
- j. Role-plays shall be a part of the training programme. The different conceivable situations wherein a child in conflict with law is exposed to may be communicated to the trainees through these role-plays.
- k. Stress experienced by the apprehended children in conflict with law may be brought in the form of problem-situations and the trainees may be encouraged to arrive at probable solutions under the guidance of a resource person experienced in children’s psychology.
- l. The trainees shall be given proper instructions on how to handle the juvenile victims of crime and the mode in which their statements are to be recorded and how they have to be given care and protection at the police stations. Trainees shall be made to understand that juveniles in conflict with law are not to be treated as “Criminals” but are to be seen as victims of circumstances and action shall be taken for their rehabilitation into the mainstream of society.
- m. The trainees should be trained well as to how to deal with organised criminals and gangs who misuse children for illegal activities.

- n. The trainers shall be given instructions not to let the children in conflict with law fall back in to criminal activities and to see that they do not re-establish contact with their peers/gangs.
- o. The police officers, who have already attended the training, may be exempted from participating in the training courses to be followed in other places where they are transferred.
- p. The trainees shall be trained about the semantics (words) which are prohibited to be used in the proceedings and documents related to children in need of care and protection and children in conflict with law.
- q. The Trainees shall be trained with specific emphasis on various legal provisions related to registration of FIR/ GD entry, apprehension, age investigation etc. in matters related to children.
- r. The trainees shall be informed that children in conflict with law, notwithstanding which penal law has been violated, shall be always produced before Juvenile Justice Board and not before any other Court in any circumstance; having regard to the specific provisions of the Juvenile Justice Act which is a special and beneficial law which even overrides other laws in certain instances.
- s. The trainees shall be made aware that in case of doubt regarding the age of a person in border line cases, benefit of doubt should be given and the person concerned should be treated as a “Juvenile”.
- t. The trainees shall be educated that sending a child to an Observation Home should always be the last resort and that efforts should be made to grant bail to juveniles in conflict with law from the Police Station itself in bailable and non-bailable offences.
- u. The trainees shall be informed that a police officer dealing with children is not allowed to wear police uniform, except at the time of apprehension in exceptional cases.
- v. The trainee police officers should be informed that children cannot be kept in jail or police lockup, cannot be handcuffed or put under fetters and should be produced before the Juvenile Justice Board within 24 hours of apprehension, excluding the time required for travel.
- w. The trainee police officers should be trained that as soon as a child is apprehended for coming into conflict with law, a police officer is required to hand over the child or juvenile to the designated Juvenile/Child Welfare Officer, who will inform the parents of such child or juvenile and will also inform the concerned probation officer immediately.
- x. It should be instilled in the trainee police officers that if because of any reason it is not possible for a Juvenile/Child Welfare Officer to produce the child or juvenile before JJB or CWC, such child or juvenile shall not be kept at a police station, but shall be kept only in children’s homes or observation homes, till the time he or she can be produced before the competent authority.
- y. The Trainee police officers should be informed about good practices which are followed by the Police in other parts of the country.



NATIONAL LEGAL SERVICES AUTHORITY STANDARD OPERATING PROCEDURE FOR REDRESSAL OF COMPLAINTS/PUBLIC GRIEVANCES

Every Authority/ Committee, whether at the national, state or district or taluka level receives various complaints from time to time. While the complaints are a means for the aggrieved to voice their grievances, they also tell us the reach of our programmes and our failures. It thus becomes essential that all the complaints are addressed expeditiously and effectively. In absence of any established mechanism to deal with the complaints or address public grievances, the approach to the same has remained ad-hoc and mired in delays. NALSA is also in receipt of OM dated 7th April, 2016 of the Ministry of Personnel, Public Grievances and Pension, Department of Administrative Reforms and Public Grievances as per which the Hon'ble Prime Minister had desired that all efforts should be made to reduce the time taken for redress of a grievance from the existing 2 months period to one month. Thus the need has been felt to lay down a mechanism to address the complaints and public grievances in a systematic manner.

Source of Complaints: Complaints may be:

- i) Received by NALSA directly from the public.
- ii) Received by NALSA from the office of the President of India, Prime Minister of India, Chief Justice of India and the Department of Justice, Ministry of Law and Justice, Government of India.
- iii) Received by the State/ District Authorities or Taluka Committees from the public directly.
- iv) Received by the State/ District Authorities or Taluka Committees from the various authorities including from the office of the Chief Justice of the respective state.
- v) Received by the State from NALSA.
- vi) District Authorities may further receive complaints forwarded by the State Authority or NALSA.
- vii) Taluka Committees may also similarly receive complaints forwarded by the State Authority or NALSA or District Authority.

Nature of Complaints: The complaints may include:

- i) Against a legal aid lawyer, where a legal aid lawyer has been assigned to a party at any level, including in respect of his working and conduct.
- ii) Against not being provided legal aid, where a party feels that he/ she is entitled to legal aid.
- iii) Against any public authority for inability to get any entitlement.
- iv) A general complaint involving a number of issues.
- v) A general airing of grievances by a person.

- vi) A person may simply be desirous of getting legal aid.
- vii) A person may be wanting any specific information.
- viii) Anonymous complaints.

Approach of the Authority/ Committee to the complaints/ public grievances

When a complaint is received by any Authority or Committee at any level, the approach should be towards problem solving rather than replying and disposing of the complaint. |Our orientation should not be towards somehow getting the complaint off our board and thereby showing disposal of the complaint at our end. Rather, we need to deal with the complaints/ public grievances pro-actively so that a party feels satisfied that he/ she has received appropriate response and knows what further course of action is available to it. The objective should be redressal and not mere disposal. Thus the following mechanism should be adopted at the different levels for addressing the complaints/ public grievances:

At the level of NALSA

- i) Since NALSA itself does not have a panel of lawyers and does not give legal aid and in fact acts through the State and District level Authorities, whenever a complaint is received against a legal aid lawyer or rejection of application for legal aid or seeking legal aid or even seeking any entitlement under any Scheme, the same shall be forwarded to the concerned State Legal Services Authority and where possible to the District Authority as well. Efforts shall be made to ensure that the same is done at the earliest.

Till the development of an online portal for dealing with complaints, the complaint shall be scanned and sent by e-mail as well as a hard copy shall be sent by post. However, the State or District Authority should not wait till the receipt of the hard copy and they should act on the basis of the soft copy itself.

While forwarding the complaints to the State/ District Authority, certain complaints may be identified by NALSA for monitoring and follow up.

- ii) While forwarding the complaint to the State/ District Authority, a copy of the forwarding letter should also be sent to the party concerned and/ or to the office/ Department through which the complaint has been received.
- iii) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to the office/ Department through which the complaint has been received, if received from any other office/ Department.
- iv) Anonymous complaints may also be filed.
- v) Where a general complaint is received, if the same is not forwarded to any Authority, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- vi) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

At the level of SLSA

- i) Whenever a complaint is received against a legal aid lawyer or seeking legal aid or even seeking any entitlement under any Scheme directly or is forwarded by NALSA, the same shall be forwarded by the concerned State Legal Services Authority to the District Authority/ Taluka Committee, except where the SLSA feels that the complaint

can be disposed of at its level. The same should be done at the earliest and in any case, not later than 5 working days of the receipt of the complaint, by whatever mode.

- ii) While forwarding the complaint to the District Authority/ Taluka Committee, a copy of the forwarding letter should also be sent to the party concerned and/or to the office/ Department through which the complaint has been received. Where the complaint was forwarded by NALSA to the SLSA, a copy of the forwarding letter is to be sent to NALSA as well.
- iii) The SLSA shall regularly follow up the progress made on the complaints with the concerned District Authority/ Taluka Committee and keep NALSA informed where the complaint has been forwarded by NALSA.
- iv) Where a complaint is received against rejection of application for legal aid, the same shall be examined by SLSA. A report may be called from the DLSA/ Committee concerned, where necessary. If the SLSA is of the view that the rejection of application for legal aid was proper, the party may be informed of the same accordingly and NALSA may also be informed if the application has been forwarded by NALSA. However, if the SLSA is of the view that the party is entitled to legal aid, it may pass appropriate orders, including appointing a legal aid lawyer from amongst the lawyers on the panel of the District Authority/ Taluka Committee. For the said purpose, the SLSA may give a personal hearing to the party, where deemed necessary.
- v) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to NALSA/office/ Department through which the complaint has been received, if received from any other office/ Department or NALSA.
- vi) Anonymous complaints may also be filed.
- vii) Where a general complaint is received, if the same is not forwarded to any Authority, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- viii) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

At the level of DLSA/Taluka Committee

- i) Whenever a complaint is received against a legal aid lawyer or seeking legal aid or even seeking any entitlement under any Scheme directly or is forwarded by NALSA/ SLSA, the same shall be taken up by the DLSA/ Committee without any loss of time.
 - a) If the complaint is against a legal aid lawyer, a report may be called from the lawyer concerned and if the DLSA/ Committee is not satisfied with the report of the lawyer, appropriate action may be taken.

Besides, the party may be contacted and the legal aid lawyer may be changed immediately.
 - b) If the application is merely for getting legal aid, appropriate steps may be taken as are taken in all cases for grant of legal aid.
 - c) If the application is for seeking any entitlement under any Scheme, the party may be informed of the recourses available and a PLV may be deputed to facilitate the party to get the entitlement.

In all such cases, if necessary, the party may be requested to visit the office and discuss the problem rather than notices for appearance being sent to them.

In order to get in touch with the parties and to save time, all possible modes should be used such as sending SMS to the party where the mobile number of the party is available, calling a party telephonically, sending a letter by speed post, using e-mail if e-mail id is available. Importantly, a PLV may even be sent to contact the party.

In all these cases, intimation should be sent to the SLSA/NALSA/ concerned department or office where the same had been forwarded by them.

- ii) Where a complaint is received against rejection of application for legal aid, the party shall be informed of the grounds of the same and that the party has the right to prefer an appeal against the order of the DLSA/ Committee and to whom the appeal can be made.
- iii) The complaints which do not have any merit in them may be filed. However, a reply shall be sent to the party concerned regarding the filing of the complaint and if the party has any other alternatives available with a copy to NALSA/SLSA/office/ Department through which the complaint has been received, if received from any other office/ Department or NALSA/SLSA.
- iv) Anonymous complaints may also be filed.
- v) Where a general complaint is received, the party may be informed that the issues raised have been noted and there is no ground to proceed further.
- vi) Where a party wants some specific information, the party may be directed to the authority/ person who would be best suited to provide the information.

For dealing with the complaints at all levels, it is reiterated that:

- Complaints/ public grievances should be addressed expeditiously.
- A pro-active and sensitive approach should be adopted.
- There should be regular follow up of complaints.
- Where NALSA forwards the applications to SLSAs or SLSAs forward the applications to DLSAs/ Committees, they should be apprised of the fate of the complaints.

Ultimately the purpose is that the public should feel that their complaints/ grievances are effectively addressed and without any delays.

GEETANJLI GOEL
DIRECTOR



NATIONAL LEGAL SERVICES AUTHORITY

Standard Operating Procedure for Representation of persons in custody

One of the core areas of activity of the Legal Services Institutions is providing legal aid. Under Section 12 of the Legal Services Authorities Act, 1987, all persons in custody are entitled to legal aid. However the system of providing representation to those in custody is not uniform across the country. The frequency of visits by jail visiting lawyers to the jails is also not standardised with lawyers visiting only once a month in some places while at others, they may visit twice a week. The jail visiting lawyers are often not clear what is expected of them to do. Clearly the system of interaction with the inmates in jails and their representation in courts needs to be strengthened.

In several districts across the country, the persons in custody are not produced before the courts for days together. This happens even at the stage where the charge sheet has still not been filed. There are many cases where the accused was produced before the court after arrest and was remanded to custody but thereafter was not produced on several dates meant for remand. The reasons given for the same are generally non availability of sufficient number of armoured vehicles and of personnel to produce the persons in custody before the courts and that at times the accused are required to be produced in other courts. This is contrary to the mandate of Code of Criminal Procedure and also violates the basic rights of the persons in custody as enshrined in the Constitution and enunciated by the Hon'ble Apex Court in several landmark cases and most importantly is an impediment to their liberty. Due to non-production of the persons in custody before the courts at regular intervals, the courts are unable to consider whether the persons in custody are facing any problems. Legal representation to them cannot also be ensured in such circumstances.

The persons in custody continue to languish in jails without bail applications being moved on their behalf. Even where bail orders have been granted, they continue to languish in jails as bail bonds are not furnished and the courts find it difficult to communicate with the persons in custody due to their non-production before the courts. Such cases need to be brought to the notice of the court. Further the persons in custody do not get timely information about the status of their cases and their rights. As such, there is an urgent need to bridge the gap between the accused persons and legal services to them.

Several initiatives have already been taken such as setting up of Legal Services Clinics in the Jails across the country, identifying and training PLVs who could communicate with the inmates in the prisons but much more needs to be done.

For this purpose, the District Legal Services Authorities should take the following steps:

- 1) Panel lawyers should be deputed as remand advocates in each of the Magisterial courts and also, in the Courts of Sessions where required.
- 2) Work of the Legal Service Clinics in the jails should be streamlined with clearly demarcated space for such clinics. Requisite infrastructure should be made available, if need be as per the Regulations in this regard for the efficient functioning of such clinics.
- 3) From amongst the panel lawyers, some lawyers should be earmarked as jail visiting lawyers. Visits to the jails must be made at least twice every week.

- 4) The possibility of taking the services of retired judicial officers as jail visiting lawyers may be explored and honorarium for them can be fixed by the Hon'ble Executive Chairmen of the SLSAs.
- 5) Sufficient number of PLVs, from amongst the convicts serving long sentences should be identified and they should be trained suitably, where not already done, so that they interact with the inmates, especially the new entrants and can bring to the notice of the jail visiting lawyers or the Secretary of the District Legal Services Authority, the cases requiring attention.
- 6) The PLVs should maintain the record mentioning the date a person was brought into the jail, the offence alleged against him, stage of case, next date of hearing and the name of the court.
- 7) The Jail visiting lawyers from the District Legal Services Authorities shall regularly interact with the inmates and especially the new inmates to find out if they are represented by any lawyer and if not, they should inform the inmate about their right to get a legal aid lawyer. They should also inform the District Secretary so that a legal aid lawyer can be appointed to represent the inmate in court.
- 8) The Jail visiting lawyers should prepare a brief summary of each interaction and send the same to the Secretary, District Legal Services Authority along with contact details of the family of the accused, if available so that the panel lawyer can coordinate with them.
- 9) The Secretary, District Legal Services Authority may take up a case brought to his notice which needs immediate attention with the District Judge or the Jail Inspecting Judge.
- 10) The Jail Superintendent should be called upon to send a list of inmates in jail every fortnight which should be reviewed by the Secretary of the District Legal Services Authority, who can take up the cases requiring attention with the concerned authorities.
- 11) The PLVs and the Jail visiting lawyers should also keep track of non-production of any inmate in the court as per the date given or of the cases where no next date is available and inform the Secretary, District Legal Services Authority.
- 12) If it comes to the notice of the District Secretary that for certain reasons, the persons in custody are not produced before the court on a particular day, he should bring the same to the notice of the concerned Chief Judicial Magistrate or the Chief Metropolitan Magistrate who may take appropriate action and for the time being may designate a Magistrate to go to the jails for doing the remand work for that day.
- 13) The matter of making available requisite armoured vehicles and personnel for taking the persons in custody to the courts for production should be taken up with the appropriate government.
- 14) The Jail visiting lawyers shall communicate to the Secretary, District Legal Services Authority whenever bail application has to be filed on behalf of an inmate or if subsequently, it comes to their notice that an undertrial is not being represented by a lawyer in the court, who shall issue appropriate directions for a lawyer to be appointed in the case. They should also bring to the notice of the Secretary, District Legal Services Authority cases where bail orders have been issued but bail bonds could not be furnished due to various reasons.

- 15) The Secretary, District Legal Services Authority shall place the cases of undertrial prisoners who are eligible under Section 436A Cr.P.C. before the Undertrial Review Committee of the District promptly.
- 16) The panel lawyer who is appointed to represent a person in custody in the court should interact with the person in custody to have a better understanding of the case in hand. The panel lawyer assigned a particular case shall inform the next date of hearing and the purpose of the same to the Secretary, District Legal Services Authority within 3 days of the date of hearing in the court.
- 17) The Legal Services Clinic in the jail shall coordinate with the Jail Superintendent and the panel lawyer through the Secretary, District Legal Services Authority to keep itself updated on the status of the legal aided cases of each inmate, including the next date of hearing and the purpose. The status of the case shall be recorded in the registers to be maintained by the Clinic and shall also be communicated to the concerned inmate and the Jail Superintendent.
- 18) Regular awareness camps should be organised in the jails to create awareness on legal issues and specifically on the rights of the persons in custody.
- 19) Suggestion/complaint box should be available in each Legal Service Clinic in the jail which should be opened once every week in the presence of the panel lawyer and the Jail Superintendent and the cases requiring attention should be brought to the notice of the Secretary, District Legal Services Authority.
- 20) Where possible, Video Conferencing may be used to enable communication with the jail inmates.

The Member Secretaries are requested to take up the above issue urgently.

It would be appropriate if the Member Secretaries of all the States get an inspection done of all the jails in their States to identify cases of persons who have not been produced in courts for several dates and thereafter to direct the Secretaries, District Legal Services Authorities to get applications moved in that regard in the concerned courts. Similar steps should be taken where bail applications have to be moved or for modification of bail conditions etc. The Member Secretaries should review the working of the legal service clinics in the jails on a regular basis.

All out efforts should be made to ensure that the persons in custody are effectively represented in the courts and to make them aware of their rights and availability of legal aid.

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Legal Awareness Padyatra undertaken by Trained Para Legal Volunteers of Jharkhand State Legal Services Authority (JHALSA), Ranchi

Sl. No.	Programme Title/District	Date	Place/Block	No. of Beneficiary
01.	Vidhik Jagrukta Padyatra, JAMTARA	19.08.2014	Civil court, Jamtara,	40,500 Approx Legal Advice Given, Applications Received, Referred to DLSA, etc
02.	Jamtara	19.08.2014	Karmmatand	
03.	Jamtara	19.08.2014	Narayanpur	
04.	Jamtara	20.08.2014	Nala	
05.	Jamtara	20.08.2014	Kundhit	
06.	Jamtara	20.08.2014	Fatehpur	
07.	Jamtara	21.08.2014	Jamtara	
08.	Vidhik Jagrukta Padyatra, GODDA	22.09.2014	Civil Court, Godda/ Godda Block	67,000 Approx Legal Advice Given, Applications Received, Referred to DLSA, etc
09.	Godda	22.09.2014	Sunderpahari	
10.	Godda	23.09.2014	Sundergangati	
11.	Godda	23.09.2014	Thakurgangati	
12.	Godda	23.09.2014	Mehrma	
13.	Godda	24.09.2014	Buarizor	
14.	Godda	24.09.2014	Mahgama	
15.	Godda	25.09.2014	Pathargama	
16.	Godda	25.09.2014	Poddeyahas	
17.	Vidhik Jagrukta Padyatra, SAHEBGUNJ	12.01.2015	Civil Court, Sahebgunj / Sahebgunj Blok	76,000 Approx Legal Advice Given, Applications Received, Referred to DLSA, etc
18.	Sahebgunj	12.01.2015	Mandro	
19.	Sahebgunj	13.01.2015	Boreo	
20.	Sahebgunj	13.01.2015	Sahebgunj	
21.	Sahebgunj	14.01.2015	Rajmahal	
22.	Sahebgunj	14.01.2015	Taljhari	
23.	Sahebgunj	15.01.2015	Patna	
24.	Sahebgunj	15.01.2015	Barharwa	
25.	Sahebgunj	16.01.2015	Udhwa	
26.	Sahebgunj	16.01.2015	Barhet	
27.	Vidhik Jagrukta Padyatra, DEOGHAR	09.02.2015	Civil Court, Deoghar / Deoghar Block	90,500 Approx Legal Advice Given, Applications Received, Referred to DLSA, etc
28.	Deoghar	09.02.2015	Devipur	
29.	Deoghar	10.02.2015	Mohanpur	
30.	Deoghar	10.02.2015	Sonaraitthadi	
31.	Deoghar	11.02.2015	Sarwan	
32.	Deoghar	11.02.2015	Sarath	
33.	Deoghar	12.02.2015	Palozori	
34.	Deoghar	12.02.2015	Karron	
35.	Deoghar	13.02.2015	Margomunda	
36.	Deoghar	13.02.2015	Madhupur	

Legal Awareness Cycleyatra undertaken by Trained Para Legal Volunteers of Jharkhand State Legal Services Authority (JHALSA), Ranchi

Sl. No.	Programme Title	Date	Place
01.	Cycle Yatra Flag Off	12-02-2013	Nyaya Sadan, Ranchi, Jharkhand
02.	Legal Literacy Camp	15-02-2013	Jhumaritilaiya, Jharkhand
03.	Legal Literacy Camp	18-02-2013	BSLSA, Patna, Bihar
04.	Legal Literacy Camp	20-02-2013	Arrah, Bihar
05.	Legal Literacy Camp	21-02-2013	Court Campus, Gazipur, Uttar Pradesh
06.	Legal Literacy Camp	28-02-2013	Lohia Park, Lukhnow, Uttar Pradesh
07.	Legal Literacy Camp	04-03-2013	Jasrana, Firojabad, Uttar Pradesh
08.	Legal Literacy Camp	04-03-2013	Civil court, Firojabad, Uttar Pradesh
09.	Legal Literacy Camp	06-03-2013	Civil court, Kasganj, Uttar Pradesh
10.	Legal Literacy Camp	08-03-2013	Badaun, Uttar Pradesh
11.	Legal Literacy Camp	08-03-2013	Civil Court, Ettah, Uttar Pradesh
12.	Legal Literacy Camp	10-03-2013	Bajraghat, Uttar Pradesh
13.	Legal Literacy Camp	10-03-2013	Kidhhor, Meeruth, Uttar Pradesh
14.	Legal Literacy Camp	11-03-2013	Partapur, Uttar Pradesh
15.	Legal Literacy Camp	13-03-2013	Baddot, Uttar Pradesh
16.	Legal Literacy Camp	14-03-2013	Civil Court, Gaziabad, Uttar Pradesh
17.	Closing Ceremony	18-03-2013	Jantar-Mantar, New Delhi

• Legal Awareness Padyatra and Cycleyatra are going on in Khunti and Ranchi since 4th March 2017

PLV AND LEGAL AID CLINIC

PLVs		Legal Aid Clinics	
No. of PLVs trained till date	: 1839	No. of Legal Services Clinics in the State of Jharkhand	: 413
No. of Empanelled PLVs	: 1199	No. of LAC at Law School/ Colleges	: 6
PLV (Male)	: 787	No. of LAC at Village and Subdivision	: 355
PLV (Female)	: 412	No. of LAC in Jail	: 27
No. of PLVs deputed in Legal Aid Clinics	: 355	No. of LAC in Community Centres/JJB/RINPAS	: 25
No. of PLVs deputed in Front	: 43	Total No. of Remand Advocates	: 160
No. of PLVs (Jail Inmates) in Jails	: 92	Total No. of Panel Advocates	: 1227
No. of PLV deputed in Police Stations	: 118	Total No. of Retainer Advocates	: 66
No. of PLV deputed in Old age Home	: 6	Trained trainer for Panel Lawyers	: 4
No. of PLV deputed in RINPAS	: 2	Trained Trainer for Mediator	: 13
No. of PLV deputed in Community Centre	: 42	Advocate Mediator	: 187
No. of PLV deputed at JJBs/CWCs	: 46	Judicial Officer Mediator	: 112
		Expert Mediators	: 20

• All the Para Legal Volunteers of JHALSA have been imparted Orientation Training, Induction Training and Advanced Training as per NALSA Scheme of PLVs.

PRESENT JHALSA BUILDING



PROPOSED NEW BUILDING OF JHALSA

Prepared & Published by

Jharkhand State Legal Services Authority (JHALSA)

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This PLV Manual Book is also available on official website of JHALSA "www.jhalsa.org"