



LEGAL SERVICES AUTHORITY ACT, 1987

PRESENTATION BY

**RAJASTHAN STATE LEGAL
SERVICES AUTHORITY**

OUTLINE

1. Introduction
2. Provisions of the Legal Services Authority Act
3. Recent Scenario



INTRODUCTION TO LEGAL SERVICES AUTHORITY ACT

- “Legal Aid scheme was first introduced by Justice P.N. Bhagwati under the Legal Aid Committee formed in 1971.
- Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular.
- Article 14 and 22(1) also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all.



SUPREME COURT ON LEGAL AID

The linkage between Article 21 of Constitution of India and the right to free legal aid was forged in the decision of Hussainara Khatoon v. State of Bihar (AIR 1979 SC 1369).

The Court declared that “there can be no doubt that speedy trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21.”



CREATION OF NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

- The first Member Secretary of the authority joined in December, 1997 and by January, 1998 the other officers and staff were also appointed. By February, 1998, the office of National Legal Services Authority became properly functional for the first time.
- In October, 1998, His Lordship Hon'ble Dr. Justice A.S. Anand assumed the office of the Chief Justice of India and thus became the Patron-in-Chief of National Legal Services Authority. His Lordship Hon'ble Mr. Justice S.P. Bharucha, the senior-most Judge of the Supreme Court of India assumed the office of the Executive Chairman, National Legal Services Authority.



PROVISIONS OF LEGAL SERVICES AUTHORITY ACT

Section 2(1)

According to section 2(1)(a) of the Act, legal aid can be provided to a person for a 'case' which includes a suit or any proceeding before a court.

Section 2(1)(aaa) defines the 'court' as a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions.

As per section 2(1)(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.

Legal Services Authorities after examining the eligibility criteria of an applicant and the existence of a prima facie case in his favour provide him counsel at State expense, pay the required Court Fee in the matter and bear all incidental expenses in connection with the case.

The person to whom legal aid is provided is not called upon to spend anything on the litigation once it is supported by a Legal Services Authority.



CRITERIA FOR PROVIDING LEGAL AID

Section 12 of the Legal Services Authorities Act, 1987 prescribes the criteria for giving legal services to the eligible persons. Section 12 of the Act reads as under:-

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 woman or a child;
- d) a mentally ill or otherwise disabled person;
- e) a person under circumstances of undeserved want.
- f) an industrial workman; or
- g) in custody, including custody in a protective.
- h) in receipt of annual income less than Rs. 1.5 lakh.



HIERARCHY OF BODIES CREATED UNDER THE ACT:-

A nationwide network has been envisaged under the Act for providing legal aid and assistance. National Legal Services Authority is the apex body constituted to lay down policies and principles.

In every State a State Legal Services Authority is constituted to give effect to the policies and directions of the Central Authority (NALSA).

District Legal Services Authority is constituted in every District to implement Legal Aid Programmes and Schemes in the District.

Taluka Legal Services Committees are also constituted for each of the Taluka or Mandal or for group of Taluka or Mandals to coordinate the activities of legal services .



SECTION 19:- ORGANIZATION OF LOK ADALAT

1. Central, State, District and Taluka Legal Services Authority has been created who are responsible for organizing Lok Adalats at such intervals and place.
2. Conciliators for Lok Adalat comprise the following:-
 - A. A sitting or retired judicial officer.
 - B. Other persons of repute as may be prescribed by the State Government in consultation with the Chief Justice of High Court.



SECTION 20: REFERENCE OF CASES

Cases can be referred for considered of Lok Adalat as under:-

1. By consent of both the parties to the disputes.
2. One of the parties makes an application for reference.
3. Where the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat.
4. Compromise settlement shall be guided by the principles of justice, equity, fair play and other legal principles.
5. Where no compromise has been arrived at through conciliation, the matter shall be returned to the concerned court for disposal in accordance with law.



SECTION 21 :- AWARD OF LOK ADALAT

After the agreement is arrived by the consent of the parties, award is passed by the conciliators. The matter need not be referred to the concerned Court for consent decree. The Act provisions envisages as under:-

1. Every award of Lok Adalat shall be deemed as decree of Civil Court.
2. Every award made by the Lok Adalat shall be final and binding on all the parties to the dispute.
3. No appeal shall lie from the award of the Lok Adalat.



SECTION 22:- POWERS OF LOK ADALATS

Every proceedings of the Lok Adalat shall be deemed to be judicial proceedings for the purpose of:-

1. Summoning of Witnesses
2. Discovery of documents
3. Reception of evidences
4. Requisitioning of Public record



CASES SUITABLE FOR LOK ADALAT

- Motor accident cases.
- Damage cases.
- Family disputes.
- Unpaid loan's cases.
- Land related cases.
- Some civil and criminal cases.
- Cases related to unpaid bills.



JURISDICTION OF LOK ADALAT

- 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 organized.
- The Lok Adalat can compromise and settle even criminal cases, which are compoundable under the relevant laws.



LOK ADALATS FOR PENDING CASES:-

- Any party to a dispute can file an application in Lok Adalats.
- Lok Adalats does not have a jurisdiction where the value of property exceeds Rs. 10 Lakhs.
- Once the case in Lok Adalat is filed the same can't be filed in any other court.
- In a Lok Adalat, if a compromise is reached, an award is made and is binding on the parties. It is enforced as a decree of a civil court. An important aspect is that the award is final and cannot be appealed, not even under Article 226 because it is a judgment by consent.



ADVANTAGES OF LOK ADALAT:-

- Justice at no cost.
- Speedy Justice and saving from the lengthy court procedures.
- Solving problems of backlog of cases.
- Maintenance of cordial relations.



THE LEGAL SERVICES AUTHORITIES (AMENDMENT) ACT, 2002

The major drawback in the existing scheme of organization of the Lok Adalats under Chapter VI of the said Act is that the system of Lok Adalats is mainly based on compromise or settlement between the parties.

This causes unnecessary delay in the dispensation of justice.

Further, the cases which arise in relation to public utility services need to be settled urgently so that people get justice without delay even at pre-litigation stage and thus most of the petty cases which ought not to go in the regular courts would be settled at the pre-litigation stage itself which would result in reducing the workload.



SALIENT FEATURES OF THE AMENDMENT ARE AS FOLLOWS.

1. To provide for the establishment of Permanent Lok Adalats. The Permanent Lok Adalat shall exercise jurisdiction (Section 22B).
2. The pecuniary jurisdiction of the Permanent Lok Adalat shall be up to rupees one crore.
3. It also provides that before the dispute is brought before any court, any party to the dispute may make an application to the Permanent Lok Adalat for settlement of the dispute; (Section 22C)
4. Every award made by the Permanent Lok Adalat shall be final and binding on all the parties thereto and shall be by a majority of the persons constituting the Permanent Lok Adalat (Section 22E)



CHALLENGES FOR LEGAL SERVICES AUTHORITY ACT:-

- Access to Justice
- Reaching out
- Legal Aid Clinics in Village
- Free & Competent Legal Service
- Children's rights, A neglected field.



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