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UNION TERRITORY OF DADRA & NAGAR HAVELI

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS

NOTIFICATION

No.Adm/Dmn/12-95/438

Dated 06/03/1998.

In exercise of the powers conferred by section 28 of the Legal Services Authorities Act, 1987 (No.39 of 1987), as amended by the Legal Services Authorities (Amendment) Act, 1994 (No.59 of 1994), the Administrator of the Union Territory of Dadra and Nagar Haveli in consultation with the Chief Justice of the High Court of Judicature at Bombay, makes the following rules, namely :-

1. Short title and commencement -

- (1) These rules may be called the Dadra and Nagar Haveli State Legal Services Authority Rules, 1998.
- (2) They shall come into force on the date of their publication in the Official Gazette of Dadra and Nagar Haveli.

2. Definitions - In these rules unless the context otherwise requires;

- (a) "Act" means the Legal Services Authorities Act, 1987 (No. 39 of 1987) as amended by Legal Services Authorities Act, 1994 (No. 59 of 1994);
- (b) "aided person" means a person to whom legal service is provided in accordance with the provisions of these rules;
- (c) "Chairman" means the Executive Chairman of the State Authority;
- (d) "eligible person" means a person who is eligible for legal services under these rules;
- (e) "High Court" means the High Court of Judicature at Bombay;
- (f) "legal practitioner" shall have the same meaning as assigned to this expression in the Advocates Act, 1961;
- (g) "legal proceedings" means civil, criminal, revenue or any other proceedings arising under any law for the time being in force from its inception to final disposal in a court of law and includes preparatory steps for institution of such proceedings and also includes quasi-judicial and administrative proceedings before any tribunal or authority established under any law;
- (h) "member" means the member of the State Authority;
- (i) "Secretary" means the Member Secretary of the State Legal Services Authority constituted under Section 6 of the Act;
- (j) "State Authority" means the State Legal services Authority constituted under section 6 of the Act for the Union Territory;
- (k) "Union Territory" means the Union Territory of Dadra and Nagar Haveli;
- (l) "State Government" means the Administrator of the Union Territory appointed by the President under Article 239 of the Constitution;
- (m) "Administrator" means the Administrator of the Union Territory of Dadra and Nagar haveli;
- (n) All other words and expressions used in these Rules but not defined shall have the meaning respectively assigned to them in the Act.

3. The number, experience and qualifications of other members of the State Authority - Besides the chief Justice of High Court as its Patron-in-Chief and a serving or retired Judge of the High Court nominated by the Administrator in consultation with the Chief Justice of High Court as its Executive Chairman, the State Authority shall consist of the following members namely -

- (1) The State Authority shall have not more than twentyfive members.

EX-OFFICIO MEMBERS

- (2) The following shall be ex-officio members of the State Authority -

- (1) The Development Commissioner, Union Territory of Daman & Diu and Dadra & Nagar Haveli.
- (2) The Finance Secretary, Union Territory of Daman & Diu and Dadra & Nagar Haveli.
- (3) The Inspector General of Police/Asstt. Inspector General of Police, Daman & Diu and Dadra & Nagar Haveli.
- (4) The Collector, Daman.
- (5) The Collector, Diu.
- (6) The Collector, Silvassa.
- (7) Civil Judge (Sr. Division), Daman & Diu.
- (8) Civil Judge (Sr. Division), Silvassa.
- (9) The Law Secretary, Union Territory of Daman & Diu and Dadra & Nagar Haveli.
- (10) Government Pleader and Public Prosecutor, Daman & Diu.
- (11) The president, Bar Association, Daman.
- (12) The president, Bar Association, Diu.
- (13) The president, Bar Association, Silvassa.
- (14) The Child Development Project Officer, Daman.
- (15) The Child Development Project Officer, Diu.
- (16) The Child Development Project Officer, Silvassa.
- (17) Member Secretary - to be appointed by the Administrator in consultation with the Chief Justice of the High Court who shall be an officer not below the rank of a District Judge.

- (3) The following other members to be nominated by the Administrator in consultation with the Chief Justice of the High Court (hereinafter referred to as the nominated member) namely -

- (i) Two eminent Social Welfare workers (of which one shall be women).
- (ii) a person of repute who is specially interested in the implementation of the Legal Service Scheme.

4. **Headquarters of the State Authority** - The Officer of the State Authority shall be located at Daman.
5. **Special Provisions for Patron-in-Chief, the Executive Chairman** - The Patron-in-Chief, the Executive Chairman being a sitting Judge of the High Court, shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and be paid by the State Authority in accordance with the provisions of the High Court Judges (Travelling Allowances) Rules, 1959 as amended from time to time.
6. **Conditions of Service of Executive Chairman in case of retired Judge** - Where the Executive Chairman is a retired Judge of the High Court, his terms and conditions of service shall be such as are specified in Government of India, Ministry of Finance, Department of Expenditure O.M. No. 19048-E IV, dated the 8th October, 1987 or such other relevant order of the State Government, as may be applicable to the retired Judge of the High court appointed on commissions or committees.
7. **The powers and functions of the Member Secretary of the State Authority appointed under sub-section (3) of section 6** - The powers and functions of the Member Secretary of the State Authority, inter-alia, shall be -
 - (a) to give free legal services to the eligible and weaker sections;
 - (b) to work out modalities of the Legal Services Schemes and programmes approved by the State Authority and ensure their effective monitoring and implementation;
 - (c) to exercise the powers in respect of Administrative, House-keeping, Finance and Budgeted matters as Head of the Department in the UT Administration;
 - (d) to manage the properties, records and funds of the State Authority;
 - (e) to maintain true and proper accounts of the State Authority including checki and auditing in respect thereof periodically;
 - (f) to prepare Annual Income and Expenditure Account and Balance-sheet of the said Authority;
 - (g) to maintain uptodate and complete statistical information including progress made in the implementation of various Legal Services Programme from time to time;
 - (h) to process proposals for financial assistance and issue utilisation certificate thereof;

- (i) to organise various Legal Services Programmes as approved by the State Authority and convene meetings/seminars and workshops connected with Legal Services Programmes and preparation of Reports and follow up action thereon;
 - (j) to produce video/documentary films, publicity material, literature and publications to inform general public about the various aspects of the Legal Services Programmes;
 - (k) to lay stress on the resolution of Rural Disputes and to take extra measures to draw schemes for effective and meaningful legal services for settling Rural Disputes at the door-steps of the rural people including organisation of Mediation Centres in the rural as well as urban areas;
 - (l) to perform such other functions as are necessary to give effect to the policy and directions of the Central Authority;
- and
- (m) to perform such other duties as may be expedient for efficient functioning of the State Authority or as may be assigned to him by the Executive Chairman.

8. 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 -

- (1) The members of the State Authority nominated under sub-rule (3) of rule 3 by the State Government shall continue for a term of two years and shall be eligible for renomination.
- (2) A member of the State Authority nominated under sub-rule (3) of rule 3 may be removed by the State Government if in the opinion of the State Government it is not desirable to continue him as a member, in consultation with the Chief Justice.
- (3) If any member nominated under sub-rule (3) of rule 3 ceases to be a member of the State Authority for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the member in whose place he is nominated;

(4)

All members nominated under sub-rule (3) of rule 3 shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and shall be paid by the State Authority in accordance with the rules as are applicable to the Group 'A' Officers, as amended from time to time.

- (5) If the nominated member is a government employee, he shall be entitled to only one set of travelling allowance and daily allowance either from his parent department, or as the case may be, from the State Authority.
 - (6) In all matters like age of retirement, pay and allowances, benefits and entitlement, and disciplinary matters, the Member Secretary shall be governed by the Government Rules applicable to him.
9. **The number of Officers and other employees of the State Authority under sub-section (5) of section 6 -** The State Authority shall have such number of officers and other employees for rendering secretarial assistance and for its day to day functions as may be notified by the State Government from time to time.
10. **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 -**
 - (1) The Officers and other employees of the State Authority shall be entitled to draw pay and allowances in the scale of pay at par with the State Government employees holding equivalent posts;
 - (2) In all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, the Officers and other employees of the State Authority shall be governed by the Rules as are applicable to persons holding equivalent posts in the Union Territory.
 - (3) The officers and other employees of the State Authority shall be entitled to such other facilities, allowances and benefits as may be notified by the Union Territory from time to time.
11. **The upper limit of annual income of a person entitling him to legal service under clause (h) of section 12, if the case is before a court other than Supreme Court -**
 - (1) In addition to the persons mentioned in clauses (a) to (g) of section 12 of the Act, a citizen of India whose annual income from all sources does not exceed Rs. 15,000/- (Rupees fifteen thousand only) or such higher amount as may be notified by the State Government from time to time, shall be entitled to legal services under clause (h) of section 12 of the Act.
 - (2) In case where the High Court or the Supreme Court provides legal service under any order, legal service should be deemed to have been provided by an Authority of a Committee in relaxation of all the conditions laid down in these rules.

12. Matters on which legal service is admissible - In addition to the cases covered under section 12 and 13 of the Act, legal service may also be provided in all matters where such service shall be aimed at :

- (a) Amicable settlement of the dispute by bringing about conciliation between the parties to the disputes; and
- (b) Rendering assistance for complying with various legal requirements in order to secure the benefits under various schemes sponsored by or on behalf of the Central Government or the Union Territory Administration or any other public authority or for the welfare of the general public or any section thereof.

13. Modes of providing legal service - Legal service may be given in all or any one or more of the following modes namely;

- (1) by payment of court fee, process fee, expenses of witnesses, preparation of the paper book, lawyers fee and all other charges payable or incurred in connection with any legal proceedings;
- (2) through representation by a legal practitioner in legal proceedings;
- (3) by supplying certified copies of judgements, orders, notes of evidence and other documents in legal proceedings;
- (4) by preparation of appeal paper book including printing, typing and translation of documents in legal proceedings;
- (5) by drafting of legal documents;
- (6) by giving legal advice on any legal matter;
- (7) through Mediation Centres of Family Counselling Centres; or
- (8) in any other manner as may be deemed fit and proper by legal Service Authority at appropriate level.

14. Procedure for providing free legal service -

- (1) A person desiring any legal service shall furnish an application in the form prescribed in the Schedule addressed to the Member Secretary of the State Authority.
- (2) The Member Secretary of the Authority shall maintain a register of applications wherein all applications for legal service received under sub-rule (1) shall be entered.

15. Disposal of application -

- (1) On receipt of an application-cum-affidavit, the Member Secretary of the Authority shall scrutinise the application for the purpose of deciding whether the applicant is entitled to get legal service in accordance with the provisions of these rules, and for the purpose of arriving at such a decision, he may if necessary and required, give personal hearing to the applicant but in doing so, the Member Secretary of the Authority shall have regard to the fact that the applicant is a poor person or belongs to a weaker section of the society and deserves to be assisted. The application shall be processed as early as possible and preferably within fifteen days of its receipt.
- (2) The decision of the Member Secretary of the Authority to provide legal service shall be subject to the confirmation by the concerned Authority.
- (3) Where it is decided not to provide any legal service to an applicant, the reasons for doing so shall be recorded on the application and in the register of applications maintained by the Authority and information in writing to that effect shall be communicated to the applicant.
- (4) No legal service shall be allowed to continue after the legal service is granted, if the authority is satisfied that;
 - (a) the applicant has knowingly made false statement or has furnished false information as regards his eligibility.
 - (b) in legal proceedings other than the one relating to criminal prosecution, there is no prima facie case to institute, or as the case may be, to defend the case;
 - (c) the application is frivolous and fictitious or the applicant is not entitled to the same under the provisions of these rules; or
 - (d) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

16. Panel for legal service -

- (1) Every Authority shall prepare such number of panels of legal practitioners as it may consider necessary.
- (2) Every panel prepared under sub-rule (1) shall remain in force till it is revised or modified by the Authority.
- (3) Appointment of a legal practitioner for legal service under these rules, shall be made as far as possible from the panel of legal practitioners prepared under sub-rule (1) by the Authority.

Provided that the Executive Chairman may appoint a legal practitioner not included in the panel.

- (4) Every person included in the panel shall be required to communicate, in writing to the Member Secretary of the Authority his willingness to service on the panel.
- (5) If any person after having agreed to serve on the panel, neglects or does not discharge the duties properly, the Authority may delete his name from the panel and may also disassociate him forthwith from the legal service being provided by him.
- (6) If any person after having agreed to service on a panel, is guilty of misconduct or violates any of the provisions of these rules, he shall be liable to be removed from the panel besides any appropriate legal proceedings.
- (7) Save as otherwise directed by the Authority, a legal practitioner who ceased to be on the panel whether on account of resignation or otherwise, shall, as soon as practicable after he so ceases to be on the panel, deliver within seven days all the papers pertaining to cases entrusted to him to the Member Secretary of the Authority failing which he shall forfeit any claim to the legal fee or other dues, if any, besides appropriate civil or criminal legal action.

17. Duties of legal practitioners on the panel -

- (1) A legal practitioner appointed for rendering legal service to an aided person under these rules shall :
 - (a) if the case is not concerning any legal proceedings, hear the aided person or any other person representing him and examine the papers and documents relating to the case and shall give his advice, in writing, to the aided person and also send a copy of the advice so recorded to the Member Secretary of the Authority; and
 - (b) if the case relates to any legal proceedings to represent the aided person, act and plead for him in the legal proceedings and shall forthwith make a report to the Member Secretary of the Authority on the action taken by him and also make monthly report to them in regard to the progress of the legal proceedings besides a report, in writing, within two days of the final conclusion of proceedings to the Authority.
- (2) The legal practitioner, so long as he remains on the panel, shall act in accordance with such instructions, as may be given to him from time to time by the Authority.

18. Honorarium payable to legal practitioner on the panel -

- (1) The legal practitioners brought on the panel in terms of rule 16, shall be paid by the Authority such honorarium, as may be determined for each case by the State Authority and as fixed by the Government in respect of the legal proceedings conducted and advice tendered by them under these rules.
- (2) No legal practitioner to whom any case is assigned for legal service shall receive any fee or remuneration whether in case or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.
- (3) In case the final judgement or order is rendered by the Court against the aided person, the concerned legal practitioner shall also submit alongwith his fee bill, his opinion, in writing with reasons as to whether the case is fit for further appeal or revision, as the case may be, within seven days of the receipt of the certified copy of final judgement or order.

19. Duties of aided person -

- (1) A person seeking legal service shall comply with the requisition or direction that may be made upon him by the Authority from the date of application made for legal service till the completion or cessation of legal service or cancellation of the eligibility.
- (2) Every aided person shall execute an agreement agreeing to the effect that in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit or advantage (except an order or maintenance) to repay by way of reimbursement to the Authority the most of costs, charges and expenses of legal proceedings incurred by the Authority in rendering him legal service and to facilitate such reimbursement, he shall also execute an irrevocable power of attorney authorising the Member Secretary, as the case may be, to do all such acts and things, as may be necessary for recovery or realisation of the amount decreed or ordered to be paid to him.
- (3) The costs, charges and expenses which may be recovered by the Authority under sub-rule (2), shall be credited to the State Government.

20. Operation of Bank Account - The Member Secretary or the Authority shall operate the account of the Authority.

21. The experience and qualifications of other persons of the Lok Adalats other than referred to in sub-section (4) of section 19 - A person shall not be qualified to be included in the Bench of Lok Adalat unless he is :
- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Women, Children, rural and urban labour; or
 - (b) a retired Judicial officer or a lawyer or standing; or
 - (c) a person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes.

By order and in the name of the
Administrator of Dadra and Nagar Haveli.

Sd/-
Assistant Secretary
Law and Legislative Affairs
Department
