



U.P. STATE LEGAL SERVICES AUTHORITY

(Constituted under the Legal Services Authorities Act, 1987)

To

All the Chairperson/ District Judges,
District Legal Services Authorities,
Uttar Pradesh.

No: 324 /SLSA-LA-166/2019(AK/Ri)

Dated: Feb. 17, 2021.

Sub: In the Matter of Filing Jail Appeals.

Madam/ Sir,

I have been directed to bring to your kind notice, the pathetic state of affairs regarding non filing or inordinate delay in filing Jail Appeal by or on behalf of detained convicts primarily due to lack of means, legal knowledge or poverty etc.

I have been directed to request you to ensure and follow the under mentioned process in respect to filing of jail appeal within stipulated time forthwith and mandatorily:-

- 1- The Secretary, District Legal Services Authority shall visit the district jail every 15 days henceforth and prepare / get prepared a list of detained convicted persons, who have been unable to file appeals due to one or other reasons.
- 2- The details of the said cases shall be maintained at the level of District Legal Services Authority (hereinafter referred as DLSA) and information of the said inspection/visit along with this detail of convicts shall be mandatorily sent to the High Court Legal Services Committee, Allahabad or It's Sub-Committee at Lucknow (High Court Legal Services Committees) through Chairman, DLSA. The copy of said information shall also be sent to concerned CJM/ACJM, deputed to make Jail Inspection every month as per General Rule Criminal G.L. No. 38/ADMN(B), dated 09-12-1968 (Annexure-1).
- 3- The Chairman, DLSA is requested to reflect upon the said report of the Secretary, DLSA and the then existing status of the pendency of Jail Appeals in his quarterly inspection of the District Jail as District Judge with the District Magistrate and District Superintendent of Police in compliance of the provision of General Rule Criminal C.L. No. 82/VIII-9/Inspection Section, dated 12-09-1994 (Annexure no. 2). The copy of the said report be also sent to State Legal Services Authority.
- 4- The Secretary, DLSA is further directed to collect data of judgments of conviction, on merit, by criminal courts of concerned district and collate in co-ordination with the Jail Superintendent so as to monitor the status of

Jail Appeals filed on behalf of detained convicts. In the eventuality of delay occurring in filing Jail Appeals because of inability to file the same, prompt and effective legal assistance shall be provided to the convicts.

- 5- The Chairman and the Secretary, DLSA are also directed to ensure that the jail visiting Panel Lawyers empanelled with DLSA continuously monitor the implementation of the aforesaid directions. The compliance of the duties statutorily assigned to the Jail Superintendent shall also be ensured and delinquency, if any, be reported /reflected in the aforesaid reports.
- 6- It has also come to the notice that Jail Appeals as prepared by the advocates on panel at the district level are not generally accompanied with the required affidavit of the convict and the format of such appeals is not always proper. Further, more than often, the Hon'ble Court has to appoint an amicus curie in such Jail Appeals. The process takes a lot of time. The process devised is as under to plug the loop holes and ensure early filing and hearing of Jail Appeals.
 - 6.1. The Jail Superintendent under his statutory duty shall send the proposal/letter for Jail Appeal with requisite documents to the High Court Legal Services Committee, preferably by e-mail. The High Court Legal Services Committee shall in its discretion have a separate e-mail address for Jail Appeals or devise a mode to monitor Jail Appeals received on the existing e-mail.
 - 6.2. The High Court Legal Services Committee shall designate an advocate empanelled with it for preparing the appeal/affidavit and bail applications etc on required formats with promptitude and ensure receipt of papers by advocate through e-mail or otherwise. The Secretary of the said committee shall ensure the early preparation of said Jail Appeal in word format and transmit the so prepared Jail Appeal preferably by e-mail or otherwise, to the concerned Jail Superintendent who shall get the appeal, affidavit and other documents signed by the accused/detained convict and shall also get the affidavit verified in the jail itself. The State Legal Services Authority in co-ordination with the District Legal Services Authority shall ensure that the Oath Commissioner is made available to the Jail Superintendent for swearing the said affidavit in Jail itself through a institutionalized mechanism.
 - 6.3. The Jail Superintendent shall sent the completed appeal to the High Court Legal Services Committee. The Secretary of the said Committee to ensure the filing of said Jail Appeal through designated empanelled lawyer.
- 7- The Secretary, DLSA is to monitor and ensure that the aforesaid requisites for filing Jail Appeal is compiled within stipulated time at the earliest by the Jail Authorities.

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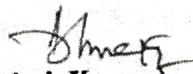
- 8- A copy of the final letter to be sent by the Jail Superintendent to the High Court Legal Services Committees for filing Jail Appeals be also sent to Secretary, DLSA mandatorily for updating the records of pending Jail Appeal/non filing of appeal by detained convicts.
- 9- The State Legal Services Authority shall monitor the factual situation of non filing of appeals by detained convicts.
- 10- It is advised that in case of non availability of copy of judgment or other requisite documents for filing Jail Appeal with the convict or jail authorities for any reason despite the copy of judgment having been given to convict under the provision of 363 Cr.P.C. (Annexure No.3). The Secretary, DLSA shall obtain a copy of aforesaid documents under the provision of Chapter 15, Rule 143(i) (c) and (d) of General Rules Criminal (Annexure No.4) as DLSA, an statutory authority, (Legal Services Authorities Act, 1987 is enacted by the Parliament) is an instrumentality of the State. Hence, a 'State' under article 12 of the Constitution. Therefore, Secretary, DLSA shall as such ensure the fulfillment of the documentary requirement of filing the Jail Appeal within stipulated time.

You are, therefore, requested to comply the aforesaid directions in letter and spirit forthwith. The report of the aforesaid first visit of this month i.e. February, 2021 be sent to the High Court Legal Services Committee, Allahabad or it's Sub-Committee at Lucknow as the case may be and to this office by 27th February, 2021 positively.

With Regards.

Yours faithfully,

Encl: As above


(Ashok Kumar)
Member Secretary

Copy to:

- 1- The Secretary, High Court Legal Services Committee, High Court of Judicature at Allahabad for information and necessary action.
- 2- Secretary, High Court Legal Services Sub-Committee, High Court of Judicature at Allahabad, Lucknow Bench, Lucknow for information and necessary action.
- 3- The D.G. (Prison), Uttar Pradesh.
- 4- All the Jail Superintendents. Uttar Pradesh.

(Ashok Kumar)
Member Secretary

INSPECTION BY CHIEF JUDICIAL MAGISTRATES

(i) Of under trials in jail

C.L. NO. 38/ADMN. (B) DATED 9TH DECEMBER, 1968

The Chief Judicial Magistrate (Now Addl. Chief Judicial Magistrate vide C.L. No. 198/Admn. Dated 10.12.76) alone shall inspect the jail at least once in a month to ascertain the position of the under-trials and send a copy of his inspection note to the District Judge for necessary action in regard to his findings. He will be allowed half-day for this work.

(ii) Of courts and offices

C.L. NO. 1/ADMN. (B) DATED 3RD SEPTEMBER, 1974

The Chief Judicial Magistrates and Judicial Magistrates shall inspect their offices effectively in every branch once in every quarter as provided in rule 611 of General Rules (Civil), 1957.

The Chief Judicial Magistrates shall also make quarterly inspections of the courts and offices of the Judicial Magistrates including Munsif Magistrates (in so far as their criminal work is concerned) and Special Judicial Magistrates and submit their inspection note to their District Judges, such inspections will not ordinarily take more than a day for each court inspected by them.

C.L. NO. 198/ADMN. (A) DATED 10TH DECEMBER, 1976

The Court has been pleased to allocate the administrative work hitherto done by the Chief Judicial Magistrates as under:

Annexure - 2

C.L. No. 82/VIII-f-9/Inspection Section dated September 12, 1994

In continuation of earlier Court's General letter No. 38/Admn.'B' dated 9.12.1968 and Court's Circular Letter No. 196/Admn.'A' dated 10.12.1976 and C.L. No. 82/Vfflg-38 Admn. 'G'; dated 18.12.1981, I am directed to say that there should be quarterly visits to the jail in each Sessions Division and such periodical visits should be conducted by the District Judge, the District Magistrate and the Senior Superintendent of Police. The visit should be made by them personally. It may please be ensured that they be not permitted to depute any one else to the jail on their behalf at such joint inspection. The District Judge will keep in touch with the District Magistrate and Senior Superintendent of Police and start such joint visits to the jail as early as possible.

Annexure - 3

Section 363 in The Code of Criminal Procedure, 1973

3. Copy of judgement to be given to the accused and other persons.

(1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost: Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same

(3) The provisions of sub-section (2) shall apply in relation to an order under section 117 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

(5) Save as otherwise provided in sub-section (2), any person affected by a judgment or order passed by a Criminal Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or of any deposition or other part of the record: Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost.

(6) The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.

CHAPTER-XV :COPIES

142. Order necessary for copy.

Except as may be otherwise directed by any law for the time be necessary in force or by any rule having the force of law, a copy shall not made of any record or part thereof save under an order of the court upon a application made as hereinafter mentioned.

143. Copy to be sent to certain authorities.

Notwithstanding anything contained in these rules-

(i) the Presiding Officer of a court shall order a copy of proceeding in the Court to be made and delivered, upon receiving a were request to that effect from -

(a) the District Magistrate;

(b) the District Government Counsel or other le practitioner authorized in this behalf by the District Magistrate,

(c) any gazetted officer of Government of India who a such is interested in the proceeding;

(d) the Government or any High Court in India, a authority in India exercising jurisdiction similar to that of a High Court, any court subordinate to the High Court or any principal court in any other country:

Provided that if the opinion of such Presiding Officer there is any objection to compliance with the request he shall refer the matter for the orders of the High Court.

(c) the Public Prosecutor in respect of a case before Magistrate.

(ii) the Presiding Officer of a court shall order a copy of every judgment, in which a Government servant, soldier, reservist pensioner or a servant of a local authority has been convicted of an offence, to be sent to the head of the department, or office, regiment or other body to which the soldier or servant belongs, as the case may be. In the case reservist a copy of the order shall also be sent to the Adjutant-General in India. Similarly, in the case of a pensioner it shall also be sent to the officer responsible for the audit or payment of the pension to such pensioner.