

Delhi Legal Services Authority Regulations, 2002

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER-II 3. Vesting of the Executive Authority

CHAPTER-III STATE AUTHORITY

4. Other Functions of the State Authority

CHAPTER-IV CONDUCT OF BUSINESS

5. Meetings
6. Minutes of the Meeting
7. Decisions by way of resolutions
8. Expenditure for the meeting

CHAPTER-V

9. Panel of Advocates
10. Disqualification of Legal Practitioners
11. The duties of the Legal Practitioner

CHAPTER-VI

LEGAL AID

12. Criteria for giving Legal Services
13. Modes of Legal Aid
14. Legal aid not to be given in certain cases
15. Application for legal aid or advice
16. Duty of Aided Person

CHAPTER-VII

LOK ADALAT

17. Procedure for organising Lok Adalat
18. Notice to the parties concerned

CHAPTER-VIII

MISCELLANEOUS

19. Travelling allowance and daily allowance for journeys in connection with Lok Adalats and Legal Aid programmes of the State Authority :
20. Expenditure from the State Legal Aid Fund

CHAPTER I

PRELIMINARY

1. Short title and commencement

These regulations may be called the Delhi Legal Services Authority Regulations, 2002 and shall come into force with effect from the date of their publication in the Official Gazette.

2. Definitions

- (a) 'Act' means the Legal Services Authorities Act, 1987 (39 of 1987).
- (b) 'State Authority' means the Delhi Legal Services Authority,
- (c) 'High Court Committee' means the High Court Legal Services Committee constituted under Section 8A of the Act.
- (d) 'District Authority' means the District Legal Services Authority constituted under Section 9 of the Act.
- (e) 'Rules' means the Delhi Legal Services Authority Rules, 1996.
- (f) 'Aided person' means a person to whom legal service is provided in accordance with the provisions of the Act, rules and these regulations.
- (g) 'Chairman' means the Chairman of the High Court Legal Services Committee or Chairman of the District Authority as the case may be.
- (h) 'Chief Justice' means the Chief Justice of the High Court of Delhi.
- (i) 'Executive Chairman' means the Executive Chairman of the Delhi Legal Services Authority constituted under Section 6 of the Act.
- (j) 'Legal Practitioner' shall have meaning as assigned to the expression in the Advocates Act, 1961.
- (k) 'Legal service' includes rendering of any services in the conduct of any case or other legal proceedings before any court or any other authority or tribunal and giving of advice on any legal matter.

(l) 'Lok Adalat' means the Lok Adalat organised under Chapters VI or VI A of the Act.

(m) 'Member' means a member of the State Authority, High Court Legal Services Committee, District Legal Services Authority as the case may be.

(n) 'Member Secretary' means the Member Secretary of the Delhi Legal Services Authority.

(o) 'Nominated Member' means a member nominated to the State Authority, High Court Committee, the District Authority as the case may be.

(p) 'Patron-in-Chief' means the Patron-in-Chief of the Delhi Legal Services Authority.

(q) 'Secretary' means the Secretary of the High Court Legal Services Committee, or District Authority as the case may be.

(r) 'Section' means the section of the Act.

(s) All other words and expressions used in these regulations but not defined shall have the meaning respectively as assigned to them in the Act and the rules framed thereunder.

CHAPTER II

3. Vesting of the Executive Authority

(1) The Executive Authority of the State Authority shall vest in the Executive Chairman and may be exercised through the Member Secretary who shall act under the control of the executive Chairman :Provided that in respect of any matter concerning the affairs of the State Authority, Patron-in-Chief may render such advice as he may deem it necessary.

(2) The Executive Authority of the District Authority shall vest in its Chairman and may be exercised through its Secretary who shall act under the control of the Chairman. Provided the Executive Chairman may give such advice, as he may deem necessary in respect of any matter concerning the affairs of the District Authority.

CHAPTER III

STATE AUTHORITY

4. Other Functions of the State Authority

In addition to the functions to be performed by the State Authority as laid down by Section 7(1) and 7(2) (a)(b)(c) of the Act, the State Authority may also perform the following functions:

(1) The State Authority may conduct legal literacy camps in different parts of the State with a view to transmitting knowledge about the legal aid schemes conducted in the State or with a view to spreading consciousness about the legal rights and duties of citizens with special reference to the tribal and rural populations, women, children, disabled, handicapped and the weaker sections of the society.

(2) The State Authority may itself file Public Interest Litigation or may finance Public Interest Litigation before appropriate Courts in the State if it is satisfied that such litigations are for the general benefit of a large body or class of persons who cannot by themselves take recourse to law due to penury, illiteracy or other similar reasons.

(3) The State Authority may conduct Legal Aid Clinics in different parts of the State itself or in collaboration with law Colleges, Universities and other social service organizations.

(4) The State Authority may also establish or direct the District Authority to establish counselling centres at various places in the State with a view to providing permanent or quasipermanent infrastructure for resolving legal disputes between the parties, whether they may be pending in courts or may be in offing. For establishing such

centres it will be open to the State Authority/or the District Authority to take active assistance/support of such social service organisations that have zeal for legal aid work.

(5) The State Authority may call for periodical reports, returns and other informations as it thinks fit from the High Court Legal Services Committee, District Authority and review the cases where legal services are refused by the High Court Legal Services Committee/District Authority.

CHAPTER IV CONDUCT OF BUSINESS

5. Meetings

(1) The Member Secretary, with the prior approval of the Executive Chairman shall convene meeting of the State Authority at least once in three months and as frequently as the business may warrant, at the place, date and time specified by the Patron-in-Chief or by the Executive Chairman.

(2) The meeting of the State Authority shall be presided over by the Patron-in-Chief or Executive Chairman or in his absence by any Member chosen by the Members present and the quorum of the meeting of the State Authority shall be nine and no quorum shall be necessary for adjourned meeting.

(3) The majority of votes of the Members present shall decide all the subject matters of the agenda in the meeting and in case of equal number of votes, the person presiding shall have a second or casting vote.

(4) Any 10 Members of the Authority may give a requisition in writing addressed to the Member Secretary for convening a meeting of the State Authority for consideration of the subjects or matters specified therein. On receipt of such requisition, the Member Secretary shall after obtaining the orders of the Executive Chairman, convene a

meeting of the Authority within 15 days from the date of receipt of such requisition to consider the subjects or matters specified in the requisition.

(5) Any Member of the State Authority desiring consideration of any subject or matter at any meeting of the State Authority, may intimate in writing such subject or matter to the Member Secretary. If such intimation is received before issue of the notice of the meeting, the subject or matter shall, if so directed by the Patron-in-Chief, be included in the Agenda of the meeting. If such intimation is received after issue of the notice, the subject or matter may be considered at the meeting with the permission of the person presiding at the meeting.

(6) The Member Secretary of the State Authority shall prepare the Agenda of the meeting of the State Authority and the Executive Chairman shall finally approve the Agenda in consultation with the Patron-in-Chief of the State Authority. The Member Secretary shall give the notice of every meeting of the State Authority in writing to the Members at least 7 clear days before the date of the meeting. However, in urgent matters, the notice of only 3 days may be given.

(7) The Agenda of the meeting shall be sent to the Members alongwith the notice.

6. Minutes of the Meeting

The Member Secretary shall prepare the minutes of the proceedings of every meeting as soon as possible after the meeting and after obtaining the approval of the Executive Chairman; he shall circulate the minutes to the members. The minutes shall be confirmed and signed by the Executive Chairman, unless any Member who was present at the meeting to which the minutes relate to has objected to the minutes as having been incorrectly or incompletely recorded and has communicated his objections in writing to the Member Secretary within three days of the receipt of the minutes as having been incorrectly or incompletely recorded within three days of the receipt of the minutes by him or her. Any objections received shall be considered by the Executive Chairman who may make such modifications in the minutes as are

thought proper and the modified minutes shall then be confirmed and signed by the Executive Chairman.

7. Decisions by way of resolutions

All decisions of the State Authority shall be by way of resolutions passed in the meeting and in the event of any dissension the decision of the Patron-in-Chief or the Executive Chairman shall be final:

8. Expenditure for the meeting

(a) The Member Secretary is authorized to spend an amount not exceeding Rs. 1500/- (One thousand and five hundred rupees only) for the meeting of the State Authority from out of the State Legal Aid Fund.

(b) The Member Secretary may sanction an amount not exceeding Rs. 1,000/- (Rupees One Thousand only) for each meeting of the High Court Committee on the requisition of the Secretary of the Committee.

(c) The Member Secretary may sanction an amount not exceeding Rs. 500/- (Rs. Five Hundred Only) for each meeting of the District Authority on the requisition of the Secretary of the Committee.

CHAPTER V

9. Panel of Advocates

(1) The State Authority shall prepare a panel of advocates to prosecute the cases on behalf of the aided persons under these Regulations.

(2) (a) The Legal Practitioner appearing in the High Court shall be paid as per fee Schedule.

(b) The Legal Practitioner appearing in the matters arising out the cases referred to by the District Authority shall be paid as per fee Schedule.

(c) The Legal Practitioners representing the cases referred to by the respective Authorities and Committee or Forum shall be paid as per fee Schedule or as may be fixed by the Executive Chairman.

(3) The advocates on the panel shall continue at the pleasure of the Executive Chairman.

10. Disqualification of Legal Practitioners

(1) No legal practitioner on the panel shall charge or collect any remuneration from an aided person in any form whatsoever.

(2) The name of a legal practitioner who contravenes the Scheme of the Act, Rules and this Regulations shall be removed from the panel and he shall also be liable to be prosecuted as per law for professional misconduct.

11. The duties of the Legal Practitioner

The Legal practitioner conducting a case on behalf of an aided person shall as soon as the case is decided, apply for copies of judgments and decree, if any, and immediately on receipt of the copies, submit them to the State Authority or District Authority which appointed them to conduct such case together with detailed comments thereon. The District Authority shall take steps to recover costs, if any, awarded by the court to the aided person and consider the feasibility of filing an appeal or revision if,

(i) the case has been decided against the aided person;

(ii) the case is prima facie fit for appeal; and

(iii) the aided person has applied for legal service for filing the appeal or revision as the case may be.

CHAPTER VI

LEGAL AID

12. Criteria for giving Legal Services

Every person who has to file or defend a case shall be entitled to legal services if that person is:-

(a) a member of a Scheduled Caste or Scheduled Tribes;

(b) a victim of trafficking in human beings or begar as referred to in Art. 23 of the Constitution;

(c) a woman or a child;

(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;

(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 Cl.(g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a juvenile home within the meaning of clause (j) of the Juvenile Justices Act, 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; or

(h) in receipt of annual income less than Rupees Twenty Five Thousand or other higher amount as may be fixed under Rule 17 of the Delhi Legal Services Authority Rules, 1996.

Provided that the Legal Services Authority or Committee may grant legal aid :

(i) In a case of great public importance; or

(ii) In a test case, the decision of which is likely to affect weaker sections of the community; or

(iii) In any case, which for reasons to be recorded in writing is considered by the Executive Chairman or the Chairman to be deserving of legal aid even where the means test is not satisfied.

13. Modes of Legal Aid

Legal aid may be given in all or any one or more of the following modes, namely:-

(a) payment of court fees, process fees and all other charges payable or incurred in connection with any legal proceeding;

(b) representation by a legal practitioner in legal proceedings;

(c) obtaining and supply of certified copies of orders and other documents in legal proceedings;

(d) preparation of appeal, paper book including printing and translation of documents in legal proceedings.

14. Legal aid not to be given in certain cases

Legal Aid shall not be given in the following cases, namely :-

(1) Proceedings wholly or partly in respect of :-

(a) Defamation; or

(b) Malicious prosecution;

(c) A person charged with contempt of court proceedings;

(2) Proceedings relating to any election;

(3) Proceedings incidental to any proceedings referred to in items (1) and (2);

(4) Proceedings in respect of offences where the fine imposed is not more than Rs. 50/-

(5) Proceedings in respect of economic offences and offences against social laws, such as the Protection of Civil Rights Act, 1955 and the Immoral Traffic (Prevention) Act, 1956. Provided that the Executive Chairman may in appropriate case grant legal aid even in such proceedings for reasons to be recorded in writing.

(6) Where a person seeking legal aid :

(a) is concerned with the proceedings only in official capacity; or

(b) if a formal party to the proceedings, not materially concerned in the outcome in the proceedings and his interests are not likely to be prejudiced on account of the absence of proper representation.

15. Application for legal aid or advice

(1) Any Person desiring legal aid or advice may make an application addressed to the Member Secretary/Secretary of the Authority/Committee. If the applicant is illiterate or not in a position to fill in the particulars required in the application, the Member

Secretary or any other officer of the Committee or any legal practitioner, whose name appears on the panel of the Authority or Committee, as the case may be shall gather the necessary particulars from the applicant and prepare the application on his behalf and after reading it out and explaining it to him, obtain his signatures or thumb impression on it. The application shall be accompanied by an affidavit containing the brief facts of the case and where the applicant is a person as stipulated in Section 12(h) of the Act, not being one covered under any other clauses of that Section, the affidavit shall also state the details of the properties possessed by him and his income from all sources.

(2) The Authority/Committee shall maintain a register of the applications wherein all applications for legal aid and advice shall be entered and registered and the action taken on such application shall be noted against the entry relating to each of such application.

16. Duty of Aided Person

Every aided person or his representative shall attend the office of the Authority/Committee as and when required by the Authority/Committee or by the legal practitioner rendering legal aid to him and shall furnish full and true information and shall make full disclosures to the legal practitioner concerned and shall attend the court as and when required, at this own expenses.

CHAPTER VII

LOK ADALAT

17. Procedure for organising Lok Adalat

(1) The Secretary of the District Authority shall convene and organise Lok Adalats at regular intervals or on such dates, as may be directed by the State Authority;

Provided that in order to co-ordinate the holding of Lok Adalats, Member Secretary may, with the approval of the Executive Chairman prepare a quarterly roaster for holding Lok Adalats at different places.

(2) Intimation to the State Authority – The Secretary of the District Authority 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.

18. Notice to the parties concerned

(1) The State Authority or the Secretary of the District Authority, as the case may be, may call for the judicial record of those pending cases which are referred to the Lok Adalat under Section 20 of the Act from the concerned courts.

(2) Pre-litigation cases shall be obtained by the State Authority or the Secretary of the District Authority as the case may be, to be placed before the Lok Adalat.

(3) Each judicial authority shall co-operate in transmission of court records.

(4) The Judicial records shall be returned immediately after holding the Lok Adalat, irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of the proceedings.

CHAPTER VIII MISCELLANEOUS

19. Travelling allowance and daily allowance for journeys in connection with Lok Adalats and Legal Aid programmes of the State Authority :

(1) The ex-officio Members of the State Authority including the Patron-in-Chief and the Executive Chairman shall be entitled to draw their Travelling Allowance and Daily Allowance from the State Legal Aid Fund established under Section 16 of the Act for

performing the functions of the State Authority, at the rate applicable to them under the rules governing their conditions of service.

(2) The other persons, who are required by the State Authority to participate in the Lok Adalats or legal aid programmes of the State Authority, shall be entitled to the payment of Travelling Allowance and Daily Allowance from the State Legal Aid Fund in respect of journeys performed by them in connection therewith, at the rate applicable to them under the rules governing their conditions of service;

Provided that where no rule is applicable to any such persons, the participating person shall be entitled to Travelling Allowance and Daily Allowance at the rate applicable to the Class I Officers of the State Government.

(3) No Travelling Allowance and Daily Allowance shall be admissible under this rule to any Member or other person referred to in sub-rules (1) and (2) if he draws Travelling Allowance and Daily Allowance from any other source for performing the same journey.

20. Expenditure from the State Legal Aid Fund

(1) All expenditures from the State Legal Aid Fund shall require the approval of the state Authority.

(2) Where any expenditure is incurred without such approval to meet any urgent requirement, the Member-Secretary shall place the matter before the State Authority in its next meeting held immediately after the expenditure so incurred, for ratification.