

# **Delhi State Legal Services Authority**

**Patiala House Courts, New Delhi**



## **STANDARD OPERATING PROTOCOL** **FOR** **‘MONITORING COMMITTEES’**

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**1. 'Monitoring Committees' at the Level of High Court, DSLSA & DLSA's**

In exercise of powers conferred by Section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance to Regulation 10 to 16 of National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010, notified vide Notification No. L/61/10/ NALSA dated 9<sup>th</sup> September, 2010, keeping in view the nature, institution and pendency of litigation in different Courts, Tribunals and other Quasi Judicial Authorities in Delhi, the Monitoring Committees are required to be established in the High Court, Central Office of DSLSA and the 11 District Legal Services Authorities for close monitoring of court based legal services rendered and the progress of cases in legal aid matters.

The term "Court" is defined by Section 2(aaa) of the Legal Services Authorities Act, 1987, to mean and include 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;

The Constitution and Working of Monitoring Committees will be as follows:-

**2. Constitution of Monitoring Committee at the level of High Court Legal Services Committee**

The Monitoring Committee at the level of the High Court shall be constituted by the Hon'ble Chairman, Delhi High Court Legal Services Committee and shall consist of :

- (i) The Secretary of the High Court Legal Services Committee;
- (ii) A senior designated advocate practicing in the High Court of Delhi;
- (iii) A senior Ex-Panel lawyer of legal aid having not less than 20 years of experience practicing in the High Court of Delhi who may be nominated by the Hon'ble Chairman of DHCLSC.

**2.1 Constitution of the Monitoring Committee for DSLSA:-** The Monitoring Committee for the State Legal Services (DSLSA) shall be constituted by Hon'ble Executive Chairman of the State Legal Services Authority and shall consist of:-

- (i) Member Secretary, DSLSA;
- (ii) Officer on Special Duty (OSD), DSLSA;
- (iii) A Legal Practitioner having more than 15 years experience of practice in the High Court or any Tribunal or quasi judicial Authority to be nominated by the Hon'ble Executive Chairman, DSLSA.

Provided that if the Hon'ble Executive Chairman is satisfied that there is no person of any of the categories mentioned above, he may constitute the Monitoring Committee with such other persons as he may deem proper.

**2.2 The Monitoring Committee for the District Legal Services Authorities:-**

The Monitoring Committee for the Districts Legal Services Authority shall be constituted by the Chairman of the District Legal Services Authority and shall consist of:-

- (i) A senior most member of the Higher Judicial Services posted in the district concerned as its Chairman;
- (ii) Secretary of District Legal Services Authority;
- (iii) A Legal Practitioner having more than 15 years experience at the local bar to be nominated in consultation with the Secretary of the Local Bar Association.

Provided that if the Chairman is satisfied that there is no person of any of the categories mentioned above, he may constitute the Monitoring Committee with such other persons, as he may deem proper. Further, if the senior most Member of the Higher Judicial Services posted in a District concerned is found to be already over burdened with Judicial and/or Administrative work or is not

able to perform due to any other reason, any other officer of Higher Judicial Services posted in the District concerned may be nominated by the Chairman.

**3. Appointment of Ombudsman/Monitoring Consultant in the High Court and other Courts**

- 3.1** In order to ensure effective monitoring and for the aid and advice of Members of the Monitoring Committee at the level of the High Court, the Hon'ble Chairman, Delhi High Court Legal Services Committee may engage the services of a Retired High Court Judge or a District & Sessions Judge or Senior designated Advocate or a retired Senior Law Officer with the Central Government or the Government of NCT of Delhi to act as an Ombudsman/Monitoring Consultant.
- 3.2** In order to ensure effective monitoring and for the aid and advice of Members of the Monitoring Committee, the Hon'ble Executive Chairman, State Legal Services Authority may engage the services of a Retired High Court Judge or Retired District & Sessions Judge or Retired Addl. District & Sessions Judge or a Retired Chief Public Prosecutor or Public Prosecutor to work as an Ombudsman/ Monitoring Consultant.
- 3.3** In order to ensure effective monitoring and for the aid and advice of the Monitoring Committee, the Chairman, District Legal Services Authority may engage the services of a Retired District & Sessions Judge or Retired Addl. District & Sessions Judge or a Retired Chief Public Prosecutor or Public Prosecutor to act as an Ombudsman/ Monitoring Consultant.
- 3.4** The Ombudsman/Monitoring Consultant shall function on any working day in a week which sitting shall be scheduled by the Member Secretary, DSLSA or Secretary, DHCLSC or Secretary, DLSAs, as the case may be, from 10:00 a.m. to 5:00 p.m. However, in exceptional circumstances such as heavy workload and

other genuine reasons, the sittings of Ombudsman / Monitoring Consultant may be twice a week.

- 3.5** The Ombudsman/Monitoring Consultant shall be paid honorarium as per the norms for the payment for presiding over Lok Adalats applicable from time to time or as may be decided by the Hon'ble Executive Chairman, DSLSA or the Hon'ble Chairman, Delhi High Court Legal Services Committee.

**4. Functions/Duties of Ombudsman/Monitoring Consultant**

The Ombudsman/Monitoring Consultant shall be responsible to perform following duties:-

- (i) To monitor the progress and performance of all the cases dealt by legal services advocates or retainers in the High Court and Districts or deputed by DLSA in Jails, CWC's, JJB's, Police Stations and also Legal Services Advocates with any Tribunal or Quasi Judicial Authority constituted under any law.
- (ii) To advice the legal aid advocates/retainers on factual and legal issues involved in cases or their functioning, as and when requested.
- (iii) To submit his report to the Monitoring Committee about the performance of legal aid advocates/retainers.
- (iv) To give the feedback to the Monitoring Committee about the progress and difficulties (if any) in the legal aid cases/functions.
- (v) To perform any other function pertaining to legal aid as assigned by Chairman of the Monitoring Committee or Member Secretary. DSLSA/Secretary, DHCLSC/DLSAs from time to time.
- (vi) To have interaction with the Legal Aid beneficiaries as and when required.

**5. Functions of Monitoring Committee**

- (i) Whenever legal services are provided to an applicant, the Member Secretary or Secretary of legal aid institution shall send the details in form 'A' to the Monitoring Committee at the earliest. In the alternative, online database may also be accessed by the Committee.
- (ii) The Legal Services Authority shall provide adequate staff and infrastructure to the Monitoring Committee and its functionaries to maintain the records of day to day progress of the legal aid cases.
- (iii) The Legal Services Authority may request the Presiding Officers of the Court/other authorities or the Registry of the High Court, as the case may be, to have access to registers maintained by them for ascertaining the progress of the cases.
- (iv) The Monitoring Committee shall maintain a register for legal aided cases for recording the day-to-day postings, progress of the cases 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. However, the system of maintaining a register shall be adhered until such time online mechanism is put in place.
- (v) The Monitoring Committee shall keep a watch on the day-to-day proceedings in the courts by calling for reports from the panel lawyers/retainers, within such time as may be determined by the Committee.
- (vi) If the progress of the case is not satisfactory, the Monitoring Committee or the Ombudsman/Monitoring Consultant may advise the legal aid advocates to take measure as may be necessary.

- (vii) The office of Member Secretary, DSLSA/Secretary, DHCLSC or Secretary, DLSAs shall issue necessary instructions to panel advocates as well as to their office to prepare advance schedule of appointments with necessary details of queries/ questions and necessary paper books for the consideration and advice of Ombudsman/Monitoring Consultant.

## **6. Disciplinary Proceedings**

It is provided in the Chapter V, clause 7 of the Delhi Legal Services Authority Regulations, 2002 passed in exercise of the powers conferred by Section 29 A of the Legal Services Authority Act, 1987 (Act 39 of 1987) and in consultation with Hon'ble the Chief Justice, High Court of Delhi, and approved in the meeting of the Authority dated 27.08.2002 that:-

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

**6.1** When an information /complaint is received by District & Sessions Judge (Chairman DLSA), Secretary, DLSA, Monitoring Committee, Ombudsman/Monitoring Consultant from any Court or Legal Aid Beneficiary or any other Authority or Litigant, the records in respect of misconduct of panel advocate/retainer of legal aid within the ambit of Clause 7 of Chapter V, the same shall be dealt with in the following manner:-

- (i) The information/complaint shall be examined by the Secretary, DLSA;
- (ii) Secretary, DSLSA/DLSA shall call for comments of the Legal Services Advocate within a reasonable time.



- (iii) Secretary, DSLSA/DLSA shall submit his report before the Chairman, Monitoring Committee;
- (iv) The Monitoring Committee after making such inquiries (if any) will take an appropriate decision on the said complaint;
- (v) In case of DHCLSC, if any panel advocate/legal retainer is found guilty of misconduct as defined in Clause 7 of Chapter V of the Delhi Legal Services Authority Regulations, 2002, the report with appropriate recommendation shall be forwarded by the Monitoring Committee to the Hon'ble Chairman, Delhi High Court Legal Services Committee for consideration who shall pass appropriate directions on the same.
- (vi) In case of DSLSA, if any panel advocate/legal retainer is found guilty of misconduct as defined in Clause 7 of Chapter V of the Delhi Legal Services Authority Regulations, 2002, the report with appropriate recommendation shall be forwarded by the Monitoring Committee to the Member Secretary who shall place the same for consideration before Hon'ble the Executive Chairman, DSLSA for appropriate action.
- (vii) The Member Secretary, DSLSA will examine the recommendations of Chairman, DLSA and the record of the Monitoring Committee and after giving opportunity of hearing to the panel advocate/legal retainer concerned, and shall pass appropriate directions or propose the appropriate action against the panel advocate/retainer concerned for the consideration of the Executive Chairman, DSLSA.
- (viii) Subject to the approval of Executive Chairman, DSLSA, necessary action shall be initiated against the panel advocate/legal retainer concerned for his removal from the panel or prosecution as per law for the professional misconduct.

**7. Monitoring Committee to submit bi-monthly reports**

- (i) 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.
- (ii) 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.
- (iii) 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.

**8. Financial assistance**

- (i) If a case for which legal aid has been granted requires additional expenditure like payment of court fee or the fee payable to the court appointed commissions, for summoning witnesses or documents or 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.
- (ii) In the case of appeal or revision the Legal Services Institution may bear the expenses for obtaining certified copies of the judgments and other record of the cases.

**9. Payment of fee to the panel lawyers**

- (i) Panel lawyers shall be paid fee in accordance with the Schedule of fee, as approved under the State regulations.

- (ii) 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.
- (iii) As soon as the report of completion of the proceedings is received from the panel lawyer, the Legal Services Institution shall, without any unreasonable delay, pay the fees and expenses payable to panel lawyer.

**10. Special engagement of senior advocates in appropriate cases**

- (i) If the Monitoring Committee or Hon'ble Executive Chairman or Hon'ble Chairman of the DHCLSC or the Member Secretary, DSLSA is of the opinion that services of a 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.
- (ii) Notwithstanding anything contained in the State regulations, the Hon'ble Executive Chairman or Chairmen of the Legal Services Institution may decide the honorarium/fee that may be paid to the 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 and / or involving important question of law.

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