

ANNEXURE-I

CIVIL PROCEDURE ALTERNATIVE DISPUTE RESOLUTION AND MEDIATION RULES, 2003¹

These Rules are the final Rules framed by the Committee and Chairman, Law Commission of India, Headed by Former Judge of Supreme Court Mr. Justice M. Jagannadha Rao ²

Part –I Alternative Dispute Resolution Rules

Rule 1: Title : These Rules in Part I shall be called the 'Civil Procedure – Alternative Dispute Resolution Rules 2003'.

Rule 2: Procedure for directing parties to opt for alternative modes of settlement:

[a] The Court shall, after recording admissions and denials at the first hearing of the Suit under Rule 1 of Order X, and where it appears to the Court that there exist elements of settlement which may be acceptable to the parties, formulate the terms of settlement and give them to the parties for their observations under sub-section [1] of Section 89 and the parties shall submit to the Court their responses within thirty days of the first hearing.

[b] At the next hearing, which shall be not later than thirty days of the receipt of responses, the Court may re-formulate the terms of a possible settlement and shall direct the parties to opt for one of the modes of settlement of disputes outside the Court as specified in clauses [a] to [d] of sub-section [1] of Section 89 read with Rule 1A of Order X in the manner stated hereunder:

Provided that the Court, in the exercise of such power, shall not refer any dispute to arbitration or to judicial settlement by a person or institution without the written consent of all the parties to the suit.

Rule 3: Persons authorized to take decision for the Union of India, State Governments and others:

[1] For the purpose of Rule 2, the Union of India or the Government of a State or Union Territory, all local authorities, all Public Sector Undertakings, all statutory corporations and all public authorities shall nominate a person or persons or group of persons who are authorized to take final decision as to the mode of Alternative Dispute Resolution in which it proposes to opt in the event of direction by the Court under Section 89 and such nomination shall be communicated to the High Court within the period of three months from the date of commencement of these Rules and the High Court shall notify all the subordinate Courts in this behalf as soon as such nomination is received from such Government or authorities.

¹ See, Salem Advocate Bar Assn. Vs Union of India, A.I.R. 2005, SC, p- 3353 at 3370

² In exercise of the rule making power under Part X of the Code of Civil Procedure, 1908 [5 of 1908] and clause [d] of sub-section [2] of Section 89 of the said Code, the High Court of.....is hereby issuing the following Rules :

[2] Where such person or person or group of person have not been nominated as aforesaid, such party as referred to in clause [1] shall, if it is a defendant file, along with or before the filing of the written statement, a memo into the Court, nominating a person or persons or group of persons who is or are authorized to take final decision as to the mode of alternative dispute resolution, which the party prefers to adopt in the event of the Court directing the party to opt for one or other mode of Alternative dispute Resolution.

Rule 4 : Court to give guidance to parties while giving direction to opt :

[a] Before directing the parties to exercise option under clause [b] of Rule 2, the Court shall give such guidance as it deems fit to the parties, by drawing their attention to the relevant factors which parties will have to take into account, before they exercise their option as to the particular mode of settlement, namely :

[i] that it will be to the advantage of the parties, so far as time and expense are concerned, to opt for one or other of these modes of settlement referred to in section 89 rather than seek a trial on the disputes arising in the suit :

[ii] that, where there is no relationship between the parties which requires to be preserved, it may be in the interest of the parties to seek reference of the matter of arbitration as envisaged in clause [a] of sub-section [1] of section 89.

[iii] that, where there is a relationship between the parties which requires to be preserved, it may be in the interest of parties to seek reference of the matter to conciliation or mediation, as envisaged in clause [b] or [d] of sub-section [1] of section 89.

Explanation : Disputes arising in matrimonial, maintenance and child custody matter shall, among other, be treated as cases where a relationship between the parties has to be preserved.

[iv] that, where parties are interested in final settlement which may lead to a compromise, it will be in the interests of the parties to seek reference of the matter to Lok Adalat or to judicial settlement as envisaged in clause [c] of sub-section [1] of section 89.

[v] the difference between the different modes of settlement, namely, arbitration, conciliation, mediation and judicial settlement as explained below :

Settlement by 'Arbitration' means the process by which an arbitrator appointed by parties or by the Court, as the case may be, adjudicates the disputes between the parties to the suit and passes an award by the application of the provisions of the Arbitration and Conciliation Act, 1996 [26 of 1996] , insofar as they refer to arbitration.

Settlement by 'Conciliation' means the process by which a conciliator who is appointed by parties or by the Court, as the case may be , conciliates the disputes between the parties to the suit by the application of provisions of the Arbitration and Conciliation Act, 1996 [26 of 1996] insofar as they relate to conciliation, and in particular, in exercise of his powers under section 67 and 73 of that Act, by making proposals for settlement of the dispute and formulating or re-formulating the terms of a possible settlement and has greater role than Mediator.

Settlement by 'Mediation' means the process by which a Mediator appointed by parties or by the Court, as the case may be, mediates the dispute between the parties to the suit by the application of the provisions of Mediation Rules, 2003 in part –II, and in particular, by facilitating discussion between parties directly or by communicating with each other through the Mediator, by assisting parties in identifying issues, reducing misunderstandings, clarifying priorities,

exploring areas of compromise, generating options in an attempt to solve the dispute and emphasizing that it is the parties own responsibility for making decision which affect them.

Settlement in Lok Adalat means settlement by Lok Adalat as contemplated by the Legal Services Authority Act, 1987.

'Judicial settlement' means a final settlement by way of compromise entered into before a suitable institution or person to which the Court has referred the dispute and which institution or person are deemed to be the Lok Adalats under the provisions of the Legal Services Authority Act,, 1987[39 of 1987] and where after such reference, the provisions of the said Act apply as if the dispute was referred to a Lok Adalat under the provisions of that Act.

Rule 5: Procedure for reference by the Court to the different modes of settlement:

[a] Where all parties to the suit decide to exercise their option and to agree for settlement by arbitration, they shall apply to the Court, within thirty days of the direction of the Court under clause [b] of Rule 2 and the Court shall, within thirty days of the said application, refer the matter to arbitration and thereafter the provisions of the Arbitration and Conciliation Act, 1996 [26 of 1996] which are applicable after the stage of making of the reference to arbitration under the Act, shall apply as if the proceedings were referred for settlement by way of arbitration under the provisions of that Act :

[b] Where all the parties to the suit decide to exercise their option and to agree for settlement by the Lok Adalat or where one of the parties applies for reference to Lok Adalat, the procedure envisaged under the Legal Services Act,1987 and in particular by section 20 of that Act, shall apply.

[c] Where all the parties to the suit decide to exercise their option and to agree for judicial settlement, they shall apply to the Court within thirty days of the direction under clause [b] of Rule 2 and then the Court shall, within thirty days of the application, refer the mater to a suitable institution or person and such institution or person shall be deemed to b a Lok Adalat and thereafter the provisions of the Legal Services Authority Act, 1987 [39 of 1987] which are applicable after the stage of making of the reference to Lok Adalat under that Act, shall apply as if the proceedings were referred for settlement under the provisions of that Act.

[d] Where none of the parties are willing to agree to opt or agree to refer the dispute to arbitration, or Lok Adalat, or to judicial settlement, within thirty days of the direction of the Court under clause [b] of Rule 2, they shall consider if they could agree for reference to conciliation or mediation, within the same period.

[d] [i] where all the parties opt and agree for conciliation, they shall apply to the Court, within thirty days of the direction under clause [b] of Rule 2 and the Court shall, within thirty days of the application refer the matter to conciliation and thereafter the provisions of the Arbitration and Conciliation Act, 1996 [26of 1996] which are applicable after the stage of making of the reference to conciliation under that Act, shall apply, as if the proceedings were referred for settlement by way of conciliation under the provisions of that Act.

[ii] Where all the parties opt and agree for mediation, they shall apply to the Court within thirty days of the direction under clause [b] of Rule 2 and the Court shall, within thirty days of the application, refer the mater to mediation and then the Mediation rules, 2003 in Part II shall apply.

[f] Where under clause [d], all the parties are not able to opt and agree for conciliation or mediation, one or more parties may apply to the Court within thirty days of the direction under clause [b] of Rule 2, seeking settlement through

conciliation or mediation, as the case may be, and in that event, the Court shall, within a further period of thirty days issue notice to the other parties to respond to the application, and

[i] In case all the parties agree for conciliation, the Court shall refer the matter to conciliation and thereafter, the provisions of the Arbitration and conciliation Act, 1996 which are applicable after the stage of making of the reference to conciliation under that Act, shall apply.

[ii] In case all the parties agree for mediation, the Court shall refer the matter to mediation in accordance with the Civil Procedure –Mediation Rules, 2003 in Part II shall apply.

[iii] in case all the parties do not agree and where it appears; to the Court that there exist elements of a settlement which may be acceptable to the parties and that there is a relationship between the parties which has to be preserved, the Court shall refer the matter to conciliation or mediation , as the case may be, . In case the provisions of the Arbitration and Conciliation Act, 1996 which are applicable after the stage of making of the reference to Conciliation under that Act shall and in case the dispute is referred to mediation, the provisions of the civil Procedure –Mediation Rules, 2003 shall apply.

[g] [i] Where none of the parties apply for reference either to arbitration, or Lok Adalat, or judicial settlement, or for conciliation or mediation, within thirty days of the direction under clause [b] of Rule 2, the Court shall, within a further period of thirty days, issue notices to the parties or their representative fixing the matter for hearing on the question of making a reference either to conciliation or mediation.

[ii] After hearing the parties or their representatives on the day so fixed the Court shall, if there exist elements of a settlement which may be acceptable to the parties and there is a relationship between the parties which has to be preserved, refer the matter to conciliation or mediation. In case the dispute is referred to conciliation, the provisions of the Arbitration and conciliation Act, 1996 which are applicable after the stage of making of the reference to Conciliation under that Act shall and in case the dispute is referred to mediation, the provisions of the Civil Procedure-Mediation Rules, 2003, shall apply.

[h] [i] No next friend or guardian for the suit shall, without the leave of the Court , expressly recorded in the proceedings of the Court, opt for any one of the modes of alternative dispute resolution nor shall enter into any settlement on behalf of a minor or person under disability with reference to the suit in which he acts as mere friend or guardian.

[ii] Where an application is made to Court for leave to enter into a settlement initiated into in the alternative dispute resolution proceedings on behalf of a minor or other person under disability and such minor or other person under disability is represented by counsel or pleader, the counsel or pleader shall file a certificate along with the said application to the effect that the settlement is, in his opinion, for the benefit of the minor or other person under disability. The decree of the Court based on the settlement to which the minor or other person under disability is a party, shall refer to the sanction of the Court thereto and shall set out the terms of the settlement.

Rule 6: Referral to the Court and appearance before the Court upon failure of attempts to settle disputes by conciliation or judicial settlement or mediation :

[1] Where a suit has been referred for settlement for conciliation, mediation or judicial settlement and has not been settled or where it s felt that it would not be proper in the interests of justice to proceed further with the matter,

the suit shall be referred back again to the Court with a direction to the parties to appear before the Court on a specific date.

[2] Upon the reference of the matter back to the Court under sub-rule [1] or under sub-section [5] of section 20 of the Legal Services Authority Act, 1987, the Court shall proceed with the suit in accordance with law.

Rule 7: Training in alternative methods of resolution of disputes, and preparation of manual :

[a] The High Court shall take steps to have training courses conducted in places where the High Court and the District Courts or Courts of equal status are located, by requesting bodies recognized by the High Court or the Universities imparting legal education or retired Faculty Members or other person who, according to the High Court are well versed in techniques of alternative methods of resolution of dispute, to conduct training courses for lawyers and judicial officers.

[b] [i] The High Court shall nominate a committee of judges faculty members including retired person belonging to the above categories, senior members of the Bar, other members of the Bar specially qualified in the techniques of alternative dispute resolution, for the purpose referred to in clause [a] and for the purpose of preparing a detailed manual of procedure for alternative dispute resolution to be used by the Court in the state as well as by the arbitrators, or authority or person in the case of judicial settlement or conciliators or Mediators.

[ii] The said manual shall describe the various methods of alternative dispute resolution, the manner in which any one of the said methods is to be opted for, the suitability of any particular method for any particular type of dispute and shall specifically deal either the role of the above persons in disputes which are commercial or domestic in nature or which relate to matrimonial, maintenance and child custody matters.

[c] The High Court and the district Courts shall periodically conduct seminars and workshops on the subject of alternative dispute resolution procedures throughout the State or States over which the High Court has jurisdiction with a view to bring awareness of such procedures and to impart training to lawyers and judicial officer.

[d] Persons who have experience in the matter of alternative dispute resolution procedure, and in particular in regard to conciliation and mediation, shall be given preference in the matter of empanelment for purposes of conciliation or mediation.

Rule 8: Applicability to other proceedings:

The provisions of these Rules may be applied to proceedings before the Court, including Family Courts constituted under the Family Courts Act [66 of 1984], while dealing with matrimonial maintenance and child custody disputes, where ever necessary, in addition to the rules framed under the Family Courts Act [66 of 1984].

PART II

CIVIL PROCEDURE MEDIATION RULES

Rule 1: Title : These Rules in part II shall be called the civil Procedure Mediation Rules, 2003.

Rile 2: Appointment of Mediator :

[a] Parties to a suit may all agree on the name of the sole Mediator for mediating between them.

[b] Where, there are two sets of parties and are unable to agree on a sole Mediator, each set of parties shall nominate a Mediator.

[c] Where parties agree on a sole Mediator under clause [a] or where parties nominate more than one Mediator under clause [b], the Mediator need not necessarily be from the panel of Mediators referred to in Rule 3 nor bear the qualifications referred to in Rule 4 but should not be a person who suffers from the disqualification referred to in Rule 5.

[d] Where there are more than two sets of parties having diverse interests, each set shall nominate a person on its behalf and the said nominees shall select the sole Mediator and failing unanimity in that behalf, the Court shall appoint a sole Mediator.

Rule 3 : Panel of Mediators :

[a] The High Court shall, for the purpose of appointing Mediators between parties in suits filed on its original side, prepare a panel of Mediators and publish the same on its Notice board, within thirty days of the coming into force of these Rules, with copy to the Bar Association attached to the original side of the High Court.

[b] [i] The Courts of the Principal District and Sessions Judge in each District or the Courts of the Principal Judge of the City Civil Court or Courts of equal status shall, for the purposes of appointing Mediators to mediate between parties in suits file on their original side, prepare; a panel of Mediators, within a period of sixty days of the commencement of these Rules, after obtaining the approval of the High Court to the names including in the panel, and shall publish the same on their respective Notice Board.

[ii] Copies of the said panel referred to in clause [i] shall be forwarded to all the Court of equivalent jurisdiction or Courts subordinate to the Courts referred to in sub-clause [i] and to the Bar Associations attached to each of the Courts.

[c] The consent of the person whose names are included in the panel shall be obtained before empanelling them.

[d] The panel of names shall contain a detailed Annexure giving details of the qualifications of the Mediators and their professional or technical experience in different fields.

Rule 4: Qualifications of person to be empanelled under Rule 3:

The following persona shall be treated as qualified and eligible for being enlisted in the panel of Mediators under rule 3, namely:

- [a] [i] Retired Judges of the Supreme Court of India ;
- [ii] Retired Judges of the High Court:
- [iii] Retired District and Sessions Judges or retired Judges of the City Civil Court or Courts of equivalent status.

[b] Legal practitioners with at least fifteen years' standing at the Bar at the level of the Supreme Court or the High Court ; or the district Court or Court of equivalent status.

[c] Experts or other professionals with at least fifteen years' standing; or retired senior bureaucrats or retired senior executives.

[d] Institutions which are themselves experts in mediation and have been recognized as such by the High Court, provided the names of its members are approved by the High Court initially or whenever there is change in membership.

Rule 5 : Disqualifications of Persons :

The following persons shall be deemed to be disqualified for being empanelled as Mediators :

- [i] Any person who has been adjudged as insolvent or is declared of unsound mind; or
- [ii] Any person against whom criminal charges involving moral turpitude are framed by a criminal Court and are pending; or
- [iii] Any person who has been convicted by a criminal Court for any offence involving moral turpitude;
- [iv] Any person against whom disciplinary proceedings or charges relating to moral turpitude have been initiated by the appropriate disciplinary authority which are pending or have resulted in a punishment;
- [v] Any person who is interested or connected with the subject-matter of dispute or is related to any one of the parties or to those who represent them, unless such objection is waived by all the parties in writing;
- [vi] Any legal practitioner who has or is appearing for any of the parties in the suit or in any other suit or proceedings;
- [vii] Such other categories of person as may be notified by the High Court.

Rule 6 : Venue for conducting Mediation :

The Mediator shall conduct the Mediation at one or other of the following places:

- {i} Venue of the Lok adalat or permanent Lok Adalat.
- [ii] Any place identified by the district judge within the Court precincts for the purpose of conducting mediation.
- [iii] Any place identified by the Bar Association or State Bar Council for the purpose of mediation, within the premises of the Bar Association or State Bar Council, as the case may be.
- [iv] Any other place as may be agreed upon by the parties subject to the approval of the Court.

Rule 7 : Preference :

The Court shall, while nominating any person from the panel of Mediators referred to in Rule 3, consider his suitability for resolving the particular class of dispute involved in the suit and shall give preference to those who have proven record of successful mediation or who have special qualification or experience in mediation.

Rule 8: Duty of Mediator to disclose certain facts :

- [a] When a person is approached in connection with his possible appointment as a Mediator, the person shall disclose in writing to the parties, any circumstances likely to give rise to a justifiable doubt as to his independence or impartiality.
- [b] Every Mediator shall, from the time of his appointment and through out the continuance of the mediation proceedings, without delay, disclose to the parties in writing, about the existence of any of the circumstances referred to in clause [a].

Rule 9 : Cancellation of appointment :

Upon information furnished by the Mediator under Rule 8 or upon any other information received from the parties or other persons if the Court, in which the suit is filed, is satisfied, after conducting such inquiry as it deems fit, and after giving a hearing to the Mediator, that the said information has raised a justifiable doubt as to the Mediator's independence or impartiality, it shall cancel the appointment by a reasoned order and replace him by another Mediator.

Rule 10: Removal or deletion from panel :

A person whose name is placed in the panel referred to in Rule 3 may be removed or his name be deleted from the said panel, by the Court which empanelled him, if :

- {i} He resigns or withdraws his name from the panel for any reason;
- {ii} He is declared insolvent or is declared of unsound mind;
- [iii] He is person against whom criminal charges involving moral turpitude are framed by a Criminal Court and are pending ;
- [iv] He is a person who has been convicted by a criminal Court for any offence involving moral turpitude;
- [v] He is a person against whom disciplinary proceedings on charges relating to moral turpitude have been initiated by appropriate disciplinary authority which are pending or have resulted in a punishment.
- [vi] He exhibits or displays conduct, during the continuance of the mediation proceedings, which is unbecoming of a Mediator;
- [vii] The Court which empanelled, upon receipt of information, if it is satisfied, after conducting such inquiry as it deem fit, is of the view, that it is not possible or desirable to continue the name of that person in the panel;

Provided that, before removing or deleting his name, under clauses [vi] and [vii], the Court shall hear the Mediator whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.

Rule 11: Procedure of mediation:

[a] The parties may agree on the procedure to be followed by the Mediator in the conduct of the mediation proceedings.

[b] Where the parties do not agree on any particular procedure to be followed by the Mediator, the Mediator shall follow the procedure hereinafter mentioned, namely:

[i] He shall fix, in consultation with the parties, a time schedule, the dates and the time of each mediation session, where all parties have to be present;

[ii] He shall hold the mediation conference in accordance with the provisions of Rule 6;

[iii] He may conduct joint or separate meetings with the parties;

[iv] Each party shall, ten days before a session, provide to the Mediator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the Mediator to understand the issue; such memoranda shall also be mutually exchanged between the parties.

[v] Each party shall furnish to the Mediator, copies of pleadings or documents or such other information as may be required by him in connection with the issues to be resolved.

Provided that where the Mediator is of the opinion that he should look into any original documents, the Court may permit him to look into the original document before such officer of the Court and on such date or time as the Court may fix.

[vi] Each party shall furnish to the Mediator such other information as may be required by him in connection with the issues to be resolved.

[c] Where there is more than one Mediator, the Mediator nominated by each party shall first confer with the party that nominated him and shall thereafter interact with the other Mediators, with a view to resolving the dispute.

Rule 12 : Mediator not bound by Evidence Act, 1987 or Code of Civil Procedure, 1908.

The Mediator shall not be bound by the Code of Civil Procedure, 1908 or the Evidence Act, 1872, but shall be guided by principles of fairness and justice, have regard to the rights and obligations of the parties, usages of trade, if any, and the nature of the dispute.

Rule 13 : Non-attendance of parties at sessions or meetings on due dates :

[a] The parties shall be present personally or may be represented by their counsel or power of attorney holders at the meeting or sessions notified by the Mediator.

[b] If a party fails to attend a session or a meeting notified by the Mediator, other parties or the Mediator can apply to the Court in which the suit is filed, to issue appropriate directions to that party to attend before the Mediator and if the Court finds that a party is absenting himself before the Mediator without sufficient reasons, the Court may take action against the said party by imposition of costs.

[c] The parties not resident in India, may be represented by their Counsel or Power of Attorney holders at the sessions or meetings.

Rule 14 : Administrative assistance :

In order to facilitate the conduct of mediation proceedings, the parties, or the Mediator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

Rule 15: Offer of settlement by parties:

[a] Any party to the suit may, 'without prejudice', offer a settlement to the other party at any stage of the proceedings, with notice to the Mediator.

[b] Any party to the suit may make a, 'with prejudice' offer to the other party at any stage of the proceedings, with notice to the Mediator.

Rule 16 : Role of Mediator :

The Mediator shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which affect them; he shall not impose any terms of settlement on the parties.

Rule 17 : Parties alone responsible for taking decision .

The parties must understand that the Mediator only facilitates in arriving at a decision to resolve disputes and that he will not and cannot impose any settlement nor does the Mediator give any warranty that the mediation will result in a settlement. The Mediator shall not impose any decision on then parties.

Rule 18 : Time limit for completion of mediation .

On the expiry of sixty days from the date fixed for the first appearance of the parties before the Mediator, the mediation shall stand terminated, unless the Court, which referred the matter either suo motu, or upon request by the Mediator or any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of thirty days.

Rule 19 : Parties to act in good faith :

While no one can be compelled to commit to settle his case in advance of mediation, all parties shall commit to participate in the proceedings in good faith with the intention to settle the dispute, if possible.

Rule 20 : Confidentiality, disclosure and inadmissibility of information :

[1] When a Mediator receives confidential information concerning the dispute from any party, he shall disclose the substance of that information to the other party, if permitted in writing by the first party.

[2] When a party gives information to the Mediator subject to a specific condition that it be kept confidential, the Mediator shall not disclose that information to the other party, nor shall the Mediator voluntarily divulge any information regarding the documents or what is conveyed to him orally as to what transpired during the mediation.

[3] Receipt or perusal, or perpetration of records, reports or other documents by the Mediator, or receipt of information orally by the Mediator while serving in that capacity, shall be confidential and the Mediator shall not be compelled to divulge information regarding the documents nor in regard to the oral information nor as to what transpired during the mediation.

[4] Parties shall maintain confidentiality in respect of events that transpired during mediation and shall not rely on or introduce the said information in any other proceedings as to :

- [a] Views expressed by a party in the course of the mediation proceedings;
- [b] Documents obtained during the mediation which were expressly required to be treated as confidential or other notes, drafts or information given by parties or Mediators;
- [c] Proposals made or view expressed by the Mediator;
- [d] Admission made by a party in the course of mediation proceedings;
- [e] The fact that a party had or had not indicated willingness to accept a proposal.

[5] There shall be no stenographic or audio or video recording of the mediation proceedings.

Rule 21 : Privacy.

Mediation sessions and meeting are private; only the concerned parties or their counsel or power of attorney holders can attend. Other persons may attend only with the permission of the parties or with the consent of the Mediator.

Rule 22 : Immunity :

No Mediator shall be held liable for anything bona fide done or omitted to be done by him during the mediation proceedings for civil criminal action nor shall he be summoned by any party to the suit to appear in a Court of law to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.

Rule 23 : Communication between Mediator and the Court :

[a] In order to preserve the confidence of parties in the Court and the neutrality of the Mediator, there should be no communication between the Mediator and the Court, except as stated in clauses [b] and [c] of this Rule.

[b] If any communication between the Mediator and the Court is necessary, it shall be in writing and copies of the same shall be given to the parties or their Counsel or Power of Attorney.

[c] Communication between the Mediator and the Court shall be limited to communication by the Mediator:

- [i] With the Court about the failure of party to attend;
- [ii] With the Court with the consent of the parties;
- [iii] Regarding his assessment that the case is not suited for settlement through mediation.
- [iv] that the parties have settled the dispute or disputes.

Rule 24 : Settlement Agreement .

[1] Where an agreement is reached between the parties in regard to all the issues in the suit or some of the issues, the same shall be reduced to writing and signed by the parties or their power of attorney holder. If any counsel have represented the parties, they shall attest the signature of their respective clients.

[2] The agreement of the parties so signed and attested shall be submitted to the Mediator who shall, with a covering letter signed by him, forward the same to the Court in which the suit is pending.

[3] Where no agreement is arrived at between the parties, before the time limit stated in rule 18 or where, the Mediator is of the view that no settlement is possible, he shall report the same to the said Court in writing.

Rule 25: Court to fix a date for recording settlement and passing decree.

[1] Within seven days of the receipt of any settlement, the Court shall issue notice to the parties fixing a day for recording the settlement, such date not being beyond a further period of fourteen days from the date of receipt of settlement, and the Court shall record the settlement, if it is not collusive.

[2] The Court shall then pass a decree in accordance with the settlement so recorded, if the settlement disposes of all the issues in the suit.

[3] If the settlement disposes of only certain issues arising in the suit, the Court shall record the settlement on the date fixed for recording the settlement and

- [i] If the issues are severable from other issues and if a decree could be passed to the extent of the settlement covered by those issues, the Court may pass a decree straightway in accordance with the settlement on those issues without waiting for a decision of the Court on the other issues which are not settled.
- [ii] If the issues are not severable, the Court shall wait for a decision of the Court on the other issues which are not settled.

Rule 26 : Fee of Mediator and costs .

[1] At the time of referring the disputes to mediation, the Court shall, after consulting the Mediator and the parties, fix the fee of the Mediator.

[2] As far as possible a consolidated sum may be fixed rather than for each session or meeting.

[3] Where there are two Mediators as in clause [b] or Rule 2, the Court shall fix the fee payable to the Mediators which shall be shared equally by the two sets of parties.

[4] The expense of the mediation including the fee of the Mediator, costs of administrative assistance, and other ancillary expenses concerned, shall be borne equally by the various contesting parties or as may be otherwise directed by the Court.

[5] Each party shall bear the costs for production of witnesses on his side including experts, or for production of documents.

[6] the Mediator may, before the commencement of mediation, direct the parties to deposit equal sums, tentatively, to the extent of 40% of the probable costs of the mediation, as referred to in clauses [1], [3] and [4]. The remaining 60% shall be deposited with the Mediator, after the conclusion of mediation. For the amount of cost paid to the Mediator, he shall issue the necessary receipts and a statement of account shall be filed, by the Mediator in the Court.

[7] The expenses of mediation including fee, if not paid by the parties, the Court shall, on the application of the Mediator or parties, direct the concerned parties to pay, and if they do not pay, the Court shall recover the said amounts as if there was a decree for the said amount.

[8] Where a party is entitled to legal aid under Section 12 of the Legal Services Authority Act, 1987, the amount of fee payable to the Mediator and costs shall be paid by the concerned Legal Services Authority under that Act.

Rule 27 : Ethics to be followed by Mediator. The Mediator shall:

- [1] follow and observe these Rules strictly and with due diligence;
- [2] not carry on any activity or conduct which could reasonably be considered as conduct unbecoming of a Mediator;
- [3] uphold the integrity and fairness of the mediation process;
- [4] ensure that the parties involved in the mediation and fairly informed and have an adequate understanding of the procedural aspects of the process;
- [5] satisfy himself/herself that he/she is qualified to undertake and complete the assignment in a professional manner;
- [6] disclose any interest or relationship likely to affect impartiality or which might seek an appearance of partiality or bias;
- [7] avoid, while communicating with the parties, any impropriety or appearance of Impropriety;
- [8] be faithful to the relationship of trust and confidentiality imposed in the office of Mediator;
- [9] conduct all proceedings related to the resolutions of a dispute, in accordance with the applicable law;
- [10] recognize that mediation is based on principles of self determination by the parties and that mediation process relies upon the ability of parties to reach a voluntary, undisclosed agreement;
- [11] maintain the reasonable expectations of the parties as to confidentiality;
- [12] refrain from promises or guarantees of results.

Rules 28 : Transitory provisions .

Until a panel of arbitrators is prepared by the High Court and the district Court, the Courts referred to in rule 3, may nominate a Mediator of their choice if the Mediator belongs to the various classes of persons referred to in Rule 4 and is duly qualified and is not disqualified, taking into account the suitability of the Mediator for resolving the particular dispute.

ANNEXURE-II

THE HIMACHAL PRADESH STATE LEGAL SERVICES AUTHORITY REGULATIONS, 1996¹

NOTIFICATION No.9/LSA/REGULATION/98, DATED THE 15TH MAY, 1996 – The Himachal Pradesh State Legal Services Authority, in exercise of the powers conferred on it under Sec. 29-A of the Legal Services Authorities Act, 1987 (Act No.39 of 1987), hereby makes the following regulations to give effect to the provisions of the aforesaid Act

CHAPTER I

PRELIMINARY

1. Short title and commencement:-

(1) These regulations may be called the Himachal Pradesh State Legal Services Authority Regulations, 1996.\

(2) These shall come into force at once.

2. Definitions –

(1) In these regulations, unless the context otherwise requires–

(a) “Act” means the Legal Services Authorities Act, 1987 (39 of 1987).

(b) “Committee” means the High Court of Legal Services Committee.

(c) “High Court” means the High Court of Himachal Pradesh.

(d) “Rules” means the Himachal Pradesh State Legal Services Authority Rules, framed under the Act.

(2) All other words and expressions used in these regulations, but not defined, shall have the same meanings as are assigned to them in the Act or the rules framed, thereunder.

CHAPTER II

HIGH COURT LEGAL SERVICES COMMITTEE

3. Number experiences and qualifications of members of the High Court Legal Services Committee –

(1) The High Court Legal Services Committee shall, including Chairman have not more than seven Members.

(2) The following shall be ex-officio Members of the High Court Legal Services Committee:-

(i) a sitting Judge of the High Court, (to be nominated by the Chief Justice of the High Court) Chairman

(ii) the Advocate-General, Himachal Pradesh Member

(iii) the President, Himachal Pradesh High Court Bar

(iv) Association Member

(3) The Chief Justice of the High Court may nominate other Members (not exceeding four) from amongst those possessing the experience and qualifications prescribed in sub-regulation (3) of this Regulation.

¹ Published in H.P. Rajpatra (Extra.), dated 17th May, 1996. P.2345.

(4) A person shall not be qualified for nomination as a Member of the High Court Legal Services Committee unless he is -

- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Schedules Castes, Schedule Tribes, Women, Children, Rural and Urban Labour; or
- (b) an eminent person in the field of law or public administration; or a person of repute who is specially interested in the implementations of the Legal Service Schemes.

4. TERM OF OFFICE AND OTHER CONDITIONS OF APPOINTMENT OF THE HIGH COURT LEGAL SERVICES COMMITTEE –

(1) The term of office of the members of the High Court Legal Services Committee nominated under sub-regulation (3) of Regulation 3 by the State Authority shall be two years and they shall be eligible for a re-nomination.

(2) A member of the High Court Legal Services Committee under sub-regulation (3) of Regulation 3 may be removed by the Chief Justice of the High Court, if –

- (a) he fails, without sufficient cause, to attend three consecutive meeting of the High Court Legal Services Committee.
- (b) has been adjudged as insolvent; or
- (c) has been convicted of an offence, which in the opinion of the State Authority involves moral turpitude; or
- (d) has become physically or mentally incapable of acting as a member; or
- (e) has so abused his position as to render his continuance in the High Court Legal Services Committee prejudicial to the public interest:

Provided that, no Member shall be removed from the High Court Legal Services Committee, without affording him reasonable opportunity of being heard.

(3) A Member may, by writing under his hand addressed to the Chairman resign from the High Court Legal Services Committee and such resignation shall take effect from the date on which it is accepted by the State Authority or on the expiry of 30 days from the date of tendering resignation, whichever is earlier

(4) If any member nominated under sub-regulation (3) of Regulation 3 ceases to be Member of the High Court Legal Services Committee for any reasons, 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.

(5) Subject to the provisions of the sub-regulation (6) all Members nominated under sub-regulation (3) of Regulation 3 shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the High Court Legal Services Committee in accordance with the ;Himachal Pradesh Government instruction contained in Finance Regulation Department Office Memorandum No. Fin-[c]-B(7)-2/88, dated 24-5-1995, as amended from time to time.

(6) If a Member is a Government employee, he shall be entitled to draw the travelling allowance and daily allowance at the rates to which he is entitled to under the Service Rules applicable to him and shall draw from the department, in which he is employed and not from the High Court Legal Services Committee.

(7) The Secretary of the High Court Legal Services Committee shall be the part time officer of the High Court Services Committee a

shall be paid honorarium for the performance of the functions as such, at such rates as may be fixed from time to time, by the State Authority in consultation with the State Government .

5. Function of High Court Legal Services Committee –

(1) It shall be the duty of the High Court Legal Services Committee to give effect to the policy and directions of the State Authority.

(2) Without prejudice to the generality of the functions referred to in sub-regulation (1), the High Court Legal Services Committee shall, for the High Court, perform all or any of the following functions, namely:-

- (a) provide legal services to persons who satisfy the criteria laid down under the Act and the Rules thereunder;
- (b) conduct Lok Adalats for High Court cases; and
- (c) encourage the settlement of disputes by way of negotiations, arbitration and conciliation.

6. Functions of the Secretary:-

(1) The Secretary shall be custodian of all assets, accounts, records and funds placed at the disposal of the Committee and shall work under the supervision and direction of the Chairman of the Committee.

(2) The Secretary shall maintain or cause to be maintained true and proper accounts of the receipts and disbursement of the funds of the Committee.

(3) The Secretary shall convene meeting of the Committee with the previous approval of the Chairman and shall also attend meetings and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

7. Meetings of the Committee –

(1) The Committee shall ordinarily meet once a month on such date and at such place as the Secretary may, in consultation with the Chairman decide.

(2) The Chairman, and in the absence of the Chairman a person chosen by the Members present from amongst themselves shall preside at the meeting of the Committee.

(3) The procedure at any meeting of the Committee shall be such as the Committee may determine.

(4) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Secretary and such minutes shall be open to inspection at all reasonable times by the Members of the Committee. A copy of the minutes shall, as soon as may be after the meeting, be forwarded to the State Authority.

(5) The quorum for the meeting shall be four including the Charmin or the Member presiding over the meeting.

(6) All questions at the meeting of the Committee shall be decided by a majority of the members present and voting and in cases of a tie the person presiding shall have a second or casting vote.

8. Funds, accounts and audit of the Committee –

(1) The Funds of the Committee shall consist of such amounts as may be allocated and granted to it by the State Authority as also such amounts as may be received by the Committee from time to time either by way of donations or by way of costs, charges and expenses recovered from the legal aided persons or the opposite party or otherwise.

(2) The funds of the Committee shall be maintained in a Scheduled Bank.

(3) For the purpose of meeting the incidental minor charges such as court fee, stamps and expenditure necessary for obtaining copies of documents etc., a permanent advocate of rupees two thousand shall be placed at the disposal of the Secretary of the Committee.

(4) All expenditure on legal aid and advice, provision of other legal services as also expenditure necessary for carrying out the various functions of the Committee, shall be met out of the funds of the committee, Secretary shall operate the bank accounts of the Committee in accordance with the directions of the Chairman.

(5) The Committee shall cause to be kept and maintain true and correct accounts of all receipts and disbursements and furnish quarterly returns to the State Authority. The accounts of the Committee shall be audited by the State Government Local Audit Department least once a year and any expenditure incurred in connection with such audit shall be paid by the Committee.

CHAPTER III

DISTRICT LEGAL SERVICES AUTHORITIES AND TALUKA LEGAL SERVICES COMMITTEES

9. Secretary, District Legal Services Authority –

(1) The Secretary of the District Legal Services Authority appointed, under sub-section (3) of Sec. 9 of the Act, exercise and perform the duties of the Secretary of the District Legal Services Authority in addition to the duties to be discharged by him as a Judicial Officer and for the discharge of his additional duties he may be paid an honorarium as may be fixed from time to time by the State authority in consultation with the State Government.

(2) The Secretary shall be the principal officer of the District Authority and shall be custodian of all assets, accounts, records and funds placed at the disposal of the District Authority.

(3) The Secretary shall maintain or cause to be maintained true and proper accounts of the receipts and disbursement of the funds of the District Authority.

(4) The Secretary shall convene meetings of the District Authority with the previous approval of the Chairman and shall also attend meetings, and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

10. MEETINGS OF THE DISTRICT AUTHORITY –

(1) The District Authority shall ordinarily meet once a month on such date, at such place, as the Secretary may, in consultation with the Chairman, decide.

(2) The Chairman, and in the absence of the Chairman, a person chosen by the Members present amongst themselves shall preside at the meeting of the District Authority.

(3) The procedure at any meeting of the District Authority shall be such as the District Authority may determine.

(4) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Secretary and such minutes shall be open to Inspection at all reasonable times by the Members of the District Authority. A

copy of the minutes shall, as soon as may be, after the meeting, be forwarded to the Chairman of the District Authority.

(5) All quorum for the meeting shall be three including the Chairman or the member presiding over the meeting.

(6) All questions at the meeting of the District Authority shall be decided by a majority of the Members present and voting and in case of a tie, the person presiding shall have a second or casting vote.

11. Funds of the District Authority –

(1) The funds of the District Authority established under Sec.17 of the Act shall be maintained in a schedule Bank.

(2) For the purpose of meeting the incidental minor charges such as court fee, stamps and expenditure necessary for obtaining copies of documents etc. a permanent advance of rupees two thousand shall be placed at the disposal of the Secretary of the District Authority.

(3) All expenditure on legal aid and advice, provisions of other legal services as also expenditure necessary for carrying out the various functions of the District Authority, shall be met out of the funds of the District Authority and in accordance with such rules as may be made by the District Authority with the prior approval of the State Authority. The Secretary shall operate the bank accounts of the District authority.

(4) The District Authority shall cause to be kept and maintained true and correct accounts of all receipts and disbursements and furnish quarterly return to the State Authority. Such accounts shall be audited in accordance with the provisions of Sec. 18 of the Act.

12. Secretary of the Taluka Legal Services Committee –

(1) The Office Superintendent of the office or the person performing the functions of the Chairman of the Taluka Legal Services Committee or in case if there is no such Superintendent some other officer/official working under the Chairman and appointed by him, shall act, exercise and perform the duties of the Secretary of the Taluk Legal services Committee. He shall be a part time officer and for the discharge of the additional duties shall be paid an honorarium as may be fixed from time to time by the State Authority, in consultation with the State Government.

(2) The Secretary shall be the custodian of all assets, accounts, records and funds placed at the disposal of the Taluka Committee.

(3) The Secretary shall maintain or cause to be maintained true and proper accounts of the receipts and disbursement of the funds of the Taluka Committee.

(4) The Secretary shall, with the previous approval of the Chairman, convene meetings of the Taluka Committee and shall also attend meetings and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

13. Meetings of the Taluka Committee –

(1) The Taluka Committee shall ordinarily meet once a month on such date, at such place, as the Chairman may decide.

(2) The Chairman, and in the absence of the Chairman, a person chosen by the members present from amongst themselves shall preside at the meeting of the Taluka Committee.

(3) The procedure at any meeting of the Taluka Legal Service Committee shall be such as the Taluka Committee may determine.

(4) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Secretary and such minutes shall be open to inspection at all reasonable times by the Members of Taluka Committee. A copy of the minutes shall, as soon as may be, after the meeting, be forwarded to the District Authority as well as State Authority.

(5) The quorum of the meeting shall be three including the Chairman or the member presiding over the meeting.

(6) All questions at the meeting of the Taluka Committee shall be decided by the majority of the Members present and voting and in case of tie, the person presiding shall have a second or casting vote.

14. Funds, accounts and audit of the Taluka Legal Services Committee

(1) The Funds of the Taluka Committee shall consist of such amount as may be allocated and granted to it by the State Authority as also such amounts as may be received by the Committee from time to time either by way of costs, charges and expenses recovered from the legal aided persons or the opposite party or otherwise.

(2) The Funds of the Taluka Committee shall be maintained in a Scheduled Bank.

(3) For the purpose of meeting the incidental minor charges such as Court fee, stamps and expenditure necessary for obtaining copies of documents etc., a permanent advance of rupees two thousand shall be placed at the disposal of the Secretary of the Committee.

(4) All expenditure on legal aid and advice, provisions of other legal services as also expenditure necessary for carrying out the various functions of the Taluka Committee shall be met out of the funds of the Taluka Committee. The Secretary shall operate the bank accounts of the committee in accordance with the directions of the Chairman.

(5) The Taluka Committee shall cause to be kept and maintain true and correct accounts of all receipts and disbursements and furnish quarterly returns to the state Authority. The accounts of the Taluka Committee shall be audited by the State Government Local Audit Department at least once a year and any expenditure incurred in connection with such audit shall be paid by the Taluka Committee.

CHATER IV

LEGAL AID

15. Criteria for giving legal services.

Every person who has to file or defend a case 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 beggar as referred to in Art. 23 of the Constitution ;
- (c) a woman or a child ;
- (d) a mentally ill or otherwise person;
- (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 Cl.[f] of Section 2 of the Juvenile Justice Act, 1986, or in a psychiatric nursing home within the meaning of Cl[g] of Section 2 of the Mental Health Act, 1987; or
- (h) in receipt of annual income less than rupees fifteen thousand or other higher amount as may be fixed under rule 17 of the Himachal Pradesh Legal Services Authority Rules, 1995;
Provided that the legal services Committee authority 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 cases of numerous other person belonging to the weaker sections of the community; or
- iii) In any case, which for reasons to be recorded in writing is considered by the Chairman to be deserving of legal aid even where the means test is not satisfied.

16. 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 proceedings;
- (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.

17. 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) defamations; 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

terms 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 Chairman may in appropriate cases 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 proceeding only in official capacity; or
 - (b) if a formal party to the proceedings, not materially concerned in the outcome of the proceedings and his interests are not likely to be prejudiced on account of the absence of proper representation.

18. Application for legal aid or advice ____

(1) Any person desiring legal aid or advice may make an application addressed to the Secretary of the Authority/ Committee. But if the applicant is illiterate or not in a position to fill in the particulars required in the application, the Secretary or any other officer of the Committee or any legal practitioner, whose name appears on the panel of Legal Aid Lawyer of the Authority/ 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 signature or thumb mark on it.

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

19. Disposal of applications.____

(1) On receipt of an application for legal aid or advice, in the case of High court committee or District Authority, the Secretary and in case of the Taluka Committee, the Chairman of the Taluka Committee shall scrutinize the application for the purpose of deciding whether the applicant is deserving of legal aid in accordance with the provisions of these Regulations and for the purpose of arriving at such decision, he may require the applicant to submit further information as may be necessary and also discuss the matter personally with the applicant and in doing so he shall have regard to the fact that the applicant belongs to a weaker section of the community and is required to be assisted even in the matter of obtaining legal aid. The application shall be processed as early as possible and preferably within one week.

(2) The Legal Services Authority /Committee, to which application is made shall consider the application and decide desirability of granting application and its decision to give or refuse legal aid shall be final.

(3) Where it is decided not to give legal aid to an applicant, the reasons for not doing so shall be entered in the register of applications maintained by the Authority / Committee and information in writing to that effect shall be communicated to the applicant.

(4) No application for legal aid and advice shall be allowed, if the Authority / Committee is satisfied that :---

- (a) the applicant has knowingly add false statement or furnished false information as regards his means or palace of residence; or
- (b) in a proceedings other than the one relating to criminal prosecution, there is not prima facie case to institute, or the case may be, to defend the proceedings; or
- (c) the application is frivolous or fictitious ; or
- (d) the applicant is not entitled to the same under Regulation 17 or nay other provisions of these regulations; or
- (e) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

20. Certificate of eligibility .

(1) Where an application for legal aid or advice is allowed, the Secretary of the Authority / Committee shall issue a Certificate of Eligibility to the applicant entitling him to legal aid or advice in respect of the proceeding concerned.

(2) The Certificate of Eligibility shall stand cancelled if the legal aid is withdrawn and the lawyer to whom the case of the applicant is assigned as also the Court before which the case is pending shall be informed accordingly in writing.

21. Honorarium payable to legal practitioner on the panel.—

(1) Subject to the approval of the State Authority, the Legal Services / Authority/ Legal Services Committee shall prepared a panel of legal Practitioners who are prepared to represent or prosecute the cases on behalf of the legal aided persons under these regulation. The legal practitioners on the Panel shall be paid honorarium as set out in the Schedule.

Provided that where the matter is disposed of in less than five effective hearings, the fee payable shall be 1/3 of the fee prescribed in the Schedule.

(2) No legal practitioner to whom any case is assigned either for legal advice or for legal aid shall receive any fee or remuneration whether in cash or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.

(3) The legal practitioner on the Panel, who has completed his assignment, shall submit a statement showing the honorarium due to him connection with the legal proceeding conducted by him on behalf of the legally aided person to the Secretary of the Authority / Committee who shall, with the approval of the Chairman and after due scrutiny and counter-signature, place the same before the Authority / Committee for sanction and on such sanction being given by the Authority /Committee the amount shall be paid by the Secretary to the legal practitioner. It will, however, be open to the legal practitioner to waive the honorarium in whole or part.

22. 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 disclosure to the legal practitioner concerned and shall attend the Court as and when required, at his own expenses.

23. Cancellation of certificate of eligibility. __

(1) The Authority /Committee may either on its own motion or otherwise cancel the Certificate of Eligibility granted under Regulation 20 in the following circumstances, namely :--

- (a) in the event of being found that the aided person was possessed of sufficient means or the Certificate of Eligibility was obtained by misrepresentation or fraud ;
- (b) in the event of any material change in the circumstances of aided person;
- (c) in the even of any misconduct, misdemeanour or negligence on the part of the aided person in the course of receiving legal aid;
- (d) in the event of the aided person not co-operating with the Committee or with the Legal Practitioner assigned by the Committee / Authority;
- (e) in the event of the aided person engaging a legal practitioner other than the one assigned by the Committee / Authority;
- (f) in the event of death of the aided person, except in the case of civil proceedings where the right of liability survives;
- (g) a report has been received from the advocate assigned to the legally aided person that the legally aided person is not co-operating with the advocate assigned to him or is guilty of misconduct towards the advocate and such report has been verified by the Chairman of the Legal Services committee / Authority.

Provided that no such Certificate of eligibility shall be cancelled without giving due notice thereof to the aided person or to his legal representatives in the event of his death, to show cause as to why the Certificate should not be cancelled.

(2) Where the Certificate of Eligibility is cancelled on the grounds set out in Cl. (a) above the Authority/Committee shall discontinue legal aid allowed and shall be entitled to recover from the aided person the amount of legal aid granted to him.

24. Proceedings by the Chairman in most urgent cases._

Notwithstanding anything to the contrary contained in these regulations, in case the government of any committee/Authority is of the opinion that such a situation has arisen wherein immediate action is required to be taken or there is no possibility of immediate convening the meeting of the Committee/ Authority, then he may, in anticipation of the approval of the Committee / Authority concerned, take such action as he may deem fit, and thereafter he shall, as soon as possible send a report his action so taken to the Committee/ Authority concerned.

SCHEDULE

Advocate engaged out of the panel as prepared for prosecuting/defending /protecting legal interest of the person granted free legal aid shall be entitled to the fee other than the High Court as under :

1. Rs. 850 per case in any court at Sub-Divisional level, such as the Court of Senior Sub-Judge, Chief Judicial Magistrate, Sub-Judge, Judicial Magistrate, Court of Assistant commissioner, 1st Grade, Sub-Divisional collector Sub-Divisional Magistrate, Tehsildar/.
2. Rs. 1,250 per case at the District level, such as the Court of the district Judge, Sessions Judge, Additional district Judge, Additional Sessions Judge, District Collector, Divisional Commissioner, District consumer Forum established under the consumer Protection Act, 1986 and Labour and industrial Tribunal set up under the Industrial Disputes Act, 1947.
3. I Rs. 3,000 maximum payable after disposal of the case at the High court Level including the State Consumer Forum established under the consumer Protection Act, 1986 and the court of Financial Commissioner Revenue [Appeals].
II Fee payable to a panel lawyer under these regulations shall be made in two installments as under :-
 - (i) ½ of the fee, on engagement of the lawyer, payable, after first hearing of the case.
 - (ii) Remaining fee, payable after the final decision of the case.

ANNEXURE-III

QUESTIONNAIRE

"Mechanism of Alternative Dispute Resolution System in India – An Empirical Study in the State of Himachal Pradesh".

[Please tick [4] the relevant column unless specifically required to write.]

A - Personal information		
1	Name of the Respondent in Block Letters	
2	AGE: i. upto 30 years ii. 30-45 years iii. above 45 years	[] [] []
3	Qualification: i. Plus two ii. Graduation iii. Post Graduation iv. Ph.D	[] [] [] []
4	Sex : i. Male ii. Female	[] []
5	Marital Status: i. Married ii. Unmarried	[] []
6	Back Ground: i. Rural ii. Urban	[] []
7	Professional Qualification: i. Teaching - B.Ed. [], - M.Ed. []. ii. Legal – LL.B [], LL.M [], Ph.D []. iii. Engineering iv. MBBS v. Others	[] [] [] [] []
8	Profession/ Services/Occupation : i. Govt. Servant ii. Advocate iii. Judicial Services iv. Administrative services v. Police Services vi. Retired from Service vii. Others	[] [] [] [] [] [] []
9	Number of Years put in service: i. Up to 10 years ii. 10 – 20 years iii. 20-30 years iv. above 30 years	[] [] [] []
10	Participation in Social Activities : i. Associations/ confederation ii. Panchyat level iii. Block level iv. MLA v. MP	[] [] [] [] []

B- QUESTIONNAIRE		
1.	Do you have/had any Case/ litigation pending in the Court/(s): i. The Consumer Forum ii. The Tribunal iii. The Court of Sub Judge/CJM iv. The District & Sessions Court v. The High Court vi. The Supreme Court	[] [] [] [] [] []
2.	If [4] in any of col.1 , stage/ years of pendency: i. 1-3 years ii. 3-5 years iii. 5-10 years iv. more than 10 years	[] [] [] []
3.	If decided, time taken in final adjudication: i. 1-3 years ii. 3-5 years iii. 5-10 years iv. more than 10 years	[] [] [] []
4.	Maximum time taken to decide the case by : i. The Consumer Forum ii. The Court of Sub-Judge/CJM iii. The Tribunal - HAT/CAT iv. The District & Sessions Court v. The High Court vi. The Supreme Court	[] [] [] [] [] []
5.	Do you think that the existing system for adjudication of disputes in the Courts is adequate: i. Yes ii. No iii. No knowledge /No comment	[] [] []
6.	If Yes, your personal opinion and rating : i. Good ii. Better iii. Excellent	[] [] []
7.	If No, your opinion and reason : i. Dilatory ii. Cumbersome iii. Expensive	[] [] []
8.	Are you satisfied with the working of the Judiciary in disposal of cases: i. Yes ii. No iii. No knowledge /No comment	[] [] []
9.	Do you think that the Courts take more time in disposal of the cases: i. False ii. True iii. No knowledge /No comment	[] [] []

10.	Do you know that more than 2.5 crores cases are pending in different courts all over the country : i. False ii. True iii. No knowledge /No comment	[] [] []
11.	Do you think that Advocates are also responsible for delay in disposal of cases : i. False ii. True iii. No knowledge /No comment	[] [] []
12.	Do you think that Advocates knowingly obtain adjournment of the cases: i. False ii. True iii. No knowledge /No comment	[] [] []
13.	Do you think that the unpreparedness of advocates also causes delay in disposal of cases : i. False ii. True iii. No knowledge /No comment	[] [] []
14.	Do you think that the strikes by advocates also causes delay and pendency in the Court cases: i. False ii. True iii. No knowledge /No comment	[] [] []
15.	What is your opinion about the Strike by Advocates : i. Justified ii. Wrong and illegal iii. No knowledge / No comment	[] [] []
16.	Your personal opinion about the working of the Advocates: i. Satisfactory ii. Not Satisfactory iii. No knowledge /No comment	[] [] []
17.	Do you think that the Judges are also responsible for delayed decision : i. False ii. True iii. No knowledge /No comment	[] [] []
18.	Do you think that there is shortage of Judges in the Courts : i. False ii. True iii. No knowledge /No comment	[] [] []
19.	Do you think that the shortage of Judges is major factor causing pendency in the Courts : i. False ii. True iii. No knowledge /No comment	[] [] []
20.	Do you think that the absence of Judges while on leave also causes delay in disposal of cases : i. False ii. True iii. No knowledge /No comment	[] [] []

21.	Do you think that more Judges should be appointed to reduced the burden and pendency in the Courts: i. False ii. True and absolute necessity iii. No knowledge /No comment	[] [] []
22.	Your Personal opinion about the working of Judiciary in disposal of cases: i. Not Satisfactory ii. Satisfactory but Over burdened iii. No knowledge /No comment	[] [] []
23.	Do you think that the procedure of the Courts is more technical : i. False ii. True iii. No knowledge /No comment	[] [] []
24.	Do you think that the process and service of summons also causes delay in initiating the trial and final adjudication of the case : i. False ii. True iii. No knowledge /No comment	[] [] []
25.	Do you think that sometime Summon Servers knowingly avoid service of summons on the defendants : i. False ii. True and Major factor causing delay iii. No knowledge /No comment	[] [] []
26.	Do you think that there is also shortage of subordinate staff in the Judiciary: i. False ii. True iii. No knowledge /No comment	[] [] []
27.	Your personal opinion about the subordinate staff in relation to public dealings: i. Cooperative ,Satisfactory and Overburdened ii. Non-cooperative and unsatisfactory iii. No knowledge /No comment	[] [] []
28.	Do you think that the Clients are also responsible for causing delay: i. False ii. True and due to loathsome attitude of the client iii. No knowledge/No comment	[] [] []
29.	Do you think and suggest that the change in the mechanism for resolution of disputes is necessary: i. Yes ii. No iii. No knowledge/No comment	[] [] []
30.	Do you prefer Mechanism of Alternative Dispute Resolution System in India an efficient device for early disposal of cases: i. No ii. Yes, Absolute Necessity iii. No knowledge/No comment	[] [] []

31.	Are you aware of the following Alternative Methods for early disposal of cases viz, :											
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32.	Do you think and suggest that the Mechanism of Alternative Dispute Resolution System in India would be more successful for early disposal of cases:											
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40.	Do you think that the Administrative Tribunals dealing with Service matters should be abolished :											
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41.	Do you possess knowledge about the Arbitration and Conciliation Acts of 1940 and 1996. i. Yes ii. No Knowledge	<input type="checkbox"/> <input type="checkbox"/>
42.	Have you ever gone through the provisions of The Arbitration and Conciliation Acts. i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
43.	Have you ever got your cases settled through The Arbitration and Conciliation Acts: i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
44.	Do you consider the Arbitral Procedure fair, efficient and capable of meeting the modern needs for resolution of the disputes. i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
45.	Do you consider the Arbitration and Conciliation Act a most effective instrument for settlement of disputes outside the courts: i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
46.	Do you think fit that a settlement agreement reached by the parties as a result of conciliation proceedings should be final without any further scope of writ/petitions: i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
47.	Do you think it proper that a settlement agreement reached under the Arbitration and Conciliation Act should have the same status and effect as of a decree passed by the Judicial Officer in the Court: i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
48.	Do you think that the Mechanism of Alternative dispute Resolution System would help minimizing/ decreasing the work load in the civil and criminal Courts: i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
49.	Do you prefer a legal representative for settlement agreement under Arbitration, Conciliation and Negotiation adopted under ADR system: i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
50.	Do you suggest that there should be permanent Arbitral Tribunals and Lok Adalats all over the country in order to effectuate ADR system more efficiently : i. Yes ii. No	<input type="checkbox"/> <input type="checkbox"/>
51.	Any other method not covered under the above headings, which you suggest to be more effective, efficient, fair and capable of being adopted for resolution of disputes under ADR and outside the Courts :	
Dated the _____ PLACE :		Signature of the Respondent Address
