

**GUJARAT STATE LEGAL SERVICES AUTHORITY**  
**STANDARD OPERATING PROCEDURE (SOP)**  
**FOR SETTLEMENT OF PRE-LITIGATION MATRIMONIAL AND MARITAL**  
**DISPUTES/CASES**

In the contemporary era, disputes pertaining to institution of marriage in all the communities is rising rapidly. Due to non-intervention by independent, neutral, abled and trained conciliator/mediator, many disputes convert into impasse. The adjudication by the courts of this disputes can also not redress the grievances of the parties and other family members associated with the parties particularly the children. It is in this context that a system / mechanism or institution is needed, whereby the matrimonial or family disputes at pre-litigation stage gets reconcile are established. Pre-litigation Lok Adalat can be an effective tool or mechanism to identify the disputes into matrimonial matters and resolve them at earliest stage. For executing this project i.e. establishing pre-litigation Lok Adalat on permanent basis for matrimonial matters at all the district headquarters in the State, the detailed SOP requires to be chalked out. The idea of pre-litigation Lok Adalat for the matrimonial disputes in State of Uttar Pradesh has been successful and the UP SLSA has prepared the SOP for establishing the said system and taking the same as a guidance, the SOP for settlement of pre-litigation matrimonial disputes / cases is prepared herewith.

**1. Publicity**

- The Secretary, District Legal Services Authority will include this topic "Sensitization of Family Court Matters" in awareness camps to make aware the general public about the organization of Special Lok Adalats for the settlement of matrimonial/marital disputes at the pre-litigation stage and make it a part of the awareness campaign.
- Settlement of matrimonial/marital disputes at Pre-Litigation stage will be included in the Annual Action Plan.
- For proper publicity, all the DLSAs have been directed to publish a large number of banners/posters/pamphlets/stickers/flyers and ensure to get them pasted/affixed/distributed in District Courts, Collectorate, Tehsils (Taluka), Gram Panchayats, Bus Stands, Railway Stations, Post Office,

Hospitals, Police Stations, Public Suvidha Kendras and other conspicuous places. The phone numbers of the Secretaries & Para Legal Volunteers of the concerned District Legal Services Authority will also be mentioned on the aforesaid publicity material.

- Flax Boards displaying "Settlement of Matrimonial Disputes at Pre-Litigation Stage" will also be installed outside the office of District Legal Services Authority.
- To make aware the local public about importance and benefits of Pre-Litigation in Special Lok Adalats, cooperation of District Administration such as S.D.Ms. Tehsildar (Mamlatdar), Lekhpal (Talati) and Gram Panchayats must be required.
- For wide publicity of these Lok Adalats, services of Asha workers and Anganbadi workers should be utilized. Awareness programmes should also be organized with the help of Gram Pradhans, Block Development Officer etc.
- Advertisements should also be telecasted on TV, radio and social media at the local level for the propagation of such special Lok Adalats.
- Advertisements should also be published in the National/local Newspapers in English/Gujarati languages prior to three days of the organization of Lok Adalat that along with the disposal of regular cases in the National Lok Adalat, the settlement of matrimonial disputes in the said Lok Adalat at the pre-litigation level will also be taken up through mediation and conciliation.
- The PLVs should be especially trained for the promotion of the campaign "to dispose of the matrimonial disputes at pre-litigation stage". The trained PLVs will after receiving the application from the applicants, they would submit the same to the respective DLSA's office.
- Police Stations, especially Mahila Police Station, should be directed that all the marital cases that come before the respective Mahila Police Stations for

registering an FIR, should be sent for Pre-Litigation Mediation at first instance. Posters and Hoardings to this effect should also be placed in the police stations.

- This point should be discussed in the meeting of the Monitoring Cell and after establishing coordination with the police department, it should be ensured that before registering the FIR for marital disputes, they should be sent for pre-litigation.
- If any case related to marital dispute comes even on Tehsil (Taluka) Divas, then it should also be sent for pre-litigation mediation. For this purpose, a counter/stall should be set up for the Para Legal Volunteers to sit on Tehsil (Taluka) Divas and after receiving the applications related to the matrimonial disputes, the Para Legal Volunteers should submit and get it registered with the District Legal Services Authority.
- Complaint boxes should be set up in public places like Block Development Office, Tehsil (Taluka) and Police Stations etc. The complaints should be collected from the complaint boxes by the Para Legal Volunteers and they should be submitted and registered with the District Legal Services Authority.
- Publicity should also be given in the Annual Plan of Action prepared by the State Authority for settlement of Pre-litigation matrimonial disputes on the basis of mediation & conciliation at pre-litigation stage.

## **2. Procedure for Receiving Application**

- Help Desk/KIOSK manned with the Para Legal Volunteers (PLVs) should be established in every Family Court premises or near to it, in which a register should be maintained by the Secretary, DLSA. In this register, the applications related to matrimonial disputes at the pre-litigation stage will be registered by the PLV and will get them received in the office of the District Legal Services Authority. The general public will also be informed about the benefits of pre-litigation, mediation and Lok Adalat through the Help Desk.

- Such applications should also be received in the District Legal Services Authority and Front Office.
- Private counseling centers and non-government voluntary organizations should be associated with this campaign and they should be made aware that if any matrimonial dispute comes before them, then refer it to the District Legal Services Authority for settlement at the pre- litigation level itself before doing any compliance.
- Boxes should be installed in Gram Panchayat buildings and legal aid clinics, in which people can post their applications to settle their matrimonial disputes in Special Lok Adalat. PLVs residing in that area, should be appointed to take out the applications regularly and send them to the office of the District Legal Services Authority.
- All the applications received through the above means should be registered with the District Legal Services Authority and the Secretary, District Legal Services Authority will prepare the list of all the applications.
- If any complaint has been received in the office of DLSAs or on toll-free number related to a matrimonial dispute, that application should be referred for Pre-Litigation mediation considering it as any application.

### **3. Service of notice**

- The service of notice will be ensured by the Secretary, District Legal Services Authority on the parties mentioned in the received applications. The service of notice will be done under the provisions mentioned in the Code of Civil Procedure, either through process server or registered post, police of the concerned police station, summon cell for other districts and e-mail, WhatsApp, courier and other means.
- The name of the Presiding Officer/Mediators of the Benches constituted and the date of pre-sittings should be mentioned in the notice issued to the parties.

- In the monthly meeting, the Principal Judge, Family Court after establishing the co-ordination with the District Magistrate and the Superintendent of Police will get appointed the Circle Level Police Officer as the Nodal Officer who will provide his co-operation to remove the obstacles in the service of the notice to the parties.
- For the notice on the parties, residing in other District or other State, the service of notice shall be done through the summons cell, instructions in this regard shall be issued to the In- Charge of the Summon Cell from the Chief Judicial Magistrate.
- It must be ensured that notices are duly served on the opposite party. For this, along with the assistance of Summons Cells, Para Legal Volunteers, help of local eminent persons can be utilized. The assistance of summons cell or special carrier can be taken for sending notice to other State and District. The help of plaintiff/applicant can also be taken to find out the correct address/summons on the opposite party.
- A separate register regarding summons/notices of pre-litigation matrimonial disputes should be maintained in the summons cell.

#### **4. Constitution of Benches for settlement of the Matrimonial disputes in Lok Adalat.**

- The Bench shall consist of two members, amongst them the Principal Family Judge or the Family Judge nominated by the Principal Family Judge of concerned district will act as the first member of the bench on rotational or permanent basis and a trained advocate mediator, nominated by Chairman, DLSA of concerned district, as another member of the Bench. Thus, with the joint coordination of the Principal Judge, Family Court and Chairman, DLSA of concerned district, the Bench shall be constituted.
- In the State of Gujarat, 25 districts out of 32 judicial districts are having Family Courts, therefore in those districts wherein Family Court is not established, the

Chairman, DLSA shall nominate a Senior Civil Judge (dealing with the matrimonial matters) as the member of the Bench.

- The manpower for establishing this project shall be arranged from the staff members available with concerned DLSA or District Court, as the case may be.
- Efforts will be made by the committee of two members to settle the matrimonial disputes on the basis of settlement through pre-sittings.
- Continuous meetings of such Benches will be held. The Benches will fix the date & time of the meeting according to their convenience. 01 or 02 such meetings should be held in a week, as per the requirement and work. At least one sitting shall be held during the month.
- All the applications received to the District Legal Services Authority will be presented before the Benches.
- The terms of the settlement will be written down, as decided by the Benches and the said agreement/compromise will be attested and kept. On the basis of such settlement, the award will be passed in the next Lok Adalat.
- The award passed by any Lok Adalat will have status that of decree passed by the Civil Court, as per the section 21 of the Legal Services Authorities Act, 1987, and shall have the binding effect on the parties and no appeal against it shall be maintainable in any court.
- According to Rule-12(3) of the National Legal Services Authority (Lok Adalat) Regulations, 2009, the award passed on the basis of settlement in pre-litigation cases for violation of the procedure described in section 20 of the Legal Services Authority Act, 1987, can be challenged only under Articles 226 and 227 of the Constitution.
- As per Rule 12(1) of the National Legal Services Authority (Lok Adalat) Regulations 2009, for disposal of pre-litigation cases in Lok Adalat the court

must have territorial jurisdiction and as per sub rule (2), the pre-litigation cases which have been referred to Lok Adalats, it should be ensured that the adequate opportunity has been given to the parties for hearing.

- In Rule 17 of National Legal Services Authority (Lok Adalat) Regulations, 2009, it has been provided that award writing is an Administrative act in which the conditions of the mediation and conciliation agreement will be mentioned by the parties under the guidance of Lok Adalat Benches.
- Every award passed by the Lok Adalat Benches should be clearly mentioned in the regional language or in English, in which the names of the parties, the name of the court, the proposed date of application/suit, the register number and the date should be clearly stated.
- It should be ensured by the members of the Lok Adalat / Benches that the parties have signed the agreement after fully comprehending the terms of the treaty and it should also be ensured that:
  - (A) The terms of the treaty are reasonable, and it is neither against the law nor one sided.
  - (B) It should also be ensured that the parties have accepted the agreement voluntarily and that they have not been subjected to any kind of pressure, threat or undue influence.
- The members of the Bench should only sign that agreement which has been accepted by the parties before the Bench. The Bench should not accept or sign those agreement which has not been accepted by the parties before the Lok Adalat/Bench.
- Thus, in light of Section 20 and 21 of the Legal Services Authority Act, 1987 and Section 12 and 17 of the National Legal Services Authority (Lok Adalat) Regulation 2009, the award related with the settlement of matrimonial disputes at the pre-litigation level should be passed in the Lok Adalat by following the legal provisions.

## **5. Procedure for hearing of Applications by the Benches**

- The provisions mentioned in the Legal Services Authorities Act, 1987. The National Legal Services Authority (Lok Adalat) Act, 2009 and the Family Court Act, 1984 should be thoroughly studied and followed for hearing as far as possible by the Benches.
- The process of settlement by conciliation will be done in the presence of both the parties, by fixing the dates of sufficient number for pre- sittings by the Benches.
- Adequate time will be given to the parties in the process of conciliation by the Benches and no unnecessary pressure will be put on the parties to settle at the earliest.
- Persons who are not related with such matters or Advocate should not be present at the time of mediation, but with the consent of the parties, if the mediator or the bench thinks fit, they can allow the parents of the parties.

## **6. Necessary instructions regarding the decision/award to be passed by the Benches on the basis of conciliation agreement**

- No such conditions should be mentioned in the conciliation agreement which is impracticable and the implementation of which is doubtful to be followed in future.
- The decision should be passed only when the conditions mentioned in the conciliation are clear, reasonable and in accordance with the provisions of law.
- The terms & conditions agreed by both the parties should be mentioned in the conciliation agreement and it should also be clearly stated that the compromise should be made the part of award.



## **7. Evaluation of Mediation Work**

- The evaluation of mediation work should be done on monthly basis and it must be seen that in how many cases mediation have been successful or unsuccessful and it should also be evaluated after each National Lok Adalat, that how many cases were presented and in how many cases the settlement has been made between the parties
- By holding a monthly meeting with the mediators, their work should be evaluated, their problems should be resolved and the mediators should be made more sensitive towards the disposal of Pre-Litigation matrimonial matters. As far as possible, trained Psychologists and Sociologists should also be invited in the process of sensitizing the mediators in the monthly meeting so that the mediators can work more efficiently. The meeting should be jointly convened by the Principal Judge, Family Court and Secretary, District Legal Services Authority.

## **8. Maintenance and Protection of Records**

- The maintenance of records related to disputes/cases settled in Lok Adalat at the pre-litigation stage shall be kept in the office of the District Legal Services Authority as per the provisions mentioned in the National Legal Services Authority (Lok Adalat) Regulations, 2009. Rule-22 (2) of the Regulation provides that a copy of the award, if passed, duly certified in the manner stated in Regulation 17 shall be kept in the office of the Authority or Committee, as the case may be, as a permanent record. Rule-22 (3) of the Regulation provides that records other than the original of the awards of pre-litigation Lok Adalat may be destroyed after a period of 3 years from the date of the disposal of the matter by the Lok Adalat.

## **9. Honorarium & Expenditure:**

- The honorarium to be paid to the Mediator, who shall act as a Member of the Bench, shall be Rs. 1500/- per sitting. The presiding member who is judicial member shall have to act as pro-bono.
- Any administrative expenditure shall be incurred out of the Cost Fund available with the respective DLSA.
- Any other expenditure that may be required to incur shall be arranged from State Fund or Fund available with GSLSA.

