महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, एप्रिल २०, १९९८/चैत्र ३०, शके १९२०

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत

भाग चार-अ

महाराष्ट्र शासनाने केंद्रीय अधिनियमान्वये तयार केलेले (भाग एक, एक-अ आणि एक-ब यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश,

LAW AND JUDICIARY DEPARTMENT

Mantralaya, Mumbai 400 032, dated 30th March 1998

LEGAL SERVICES AUTHORITIES ACT, 1987

No. LAB. 1895/359 (642)-XXII.—In exercise of the powers conferred under the provisions of section 29A of the Legal Services Authorities Act, 1987 and in consultation with the Hon'ble The Chief Justice of Bombay High Court, the State Government hereby makes the following Regulations.

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) These Regulations may be called Maharashtra State Legal Services Authority Regulations, 1998.

(2) They shall come into force on the 30th day of March 1998.

2. *Definitions.*—(1) In these Regulations, unless the context otherwise requires :—

(*a*) "Act" means, the Legal Services Authorities Act, 1987 (No. 39 of 1987);

(*b*) " Chairman " means the Executive Chairman of the State Authority, or as the case may be, the Chairman of the High Court Legal Services Committee or the Chairman of the Sub-Committee, as the case may be, the Chairman of the District Legal Services Authority, or the Chairman of Taluka Committee;

(*c*) " District Authority " means the District Legal Services Authority constituted under section 9 of the Legal Services Authorities Act;

(*d*) " High Court Committee " means the Bombay High Court Legal Services Committee at Mumbai and Sub-Committees at its benches at present functioning at Nagpur and Aurangabad and its benches that may be formed at any other place within the State of Maharashtra;

(*e*) " Legal Practitioner" shall have the meaning assigned to that expression in the Advocates Act, 1961;

(*f*) " Member " means a member of the State Authority, the High Court Committee, the Sub-Committee, the District Authority or the Taluka Committee as the case may be;

(*g*) " Nominated Member " means a member nominated to the State Authority, the High Court Committee, the Sub-Committee, the District Authority or the Taluka Committee as the case may be;

(*h*) " Patron-in-Chief " means the Patron-in-Chief of the State Legal Services Authority i.e. the Chief Justice or the Acting Chief Justice of the High Court of Bombay, as the case may be;

(*i*) " Rules" means the Maharashtra State Legal Services Authority Rules, 1998;

(*j*) " State Authority " means the Maharashtra State Legal Services Authority;

(*k*) " Taluka Committee " means the Taluka Legal Services Committee constituted under section 11-A of the Legal Services Authorities Act;

(2) All other words and expressions used in these Regulations but not defined shall have the meaning respectively assigned to them in the Act and the Rules framed thereunder.

CHAPTER II

EXECUTIVE AUTHORITY

3. *Meeting of the Executive Authority.*— (1) The executive authority of the State Authority shall vest in the Executive Chairman and may be exercised by the Member-Secretary who shall act under the control of the Executive Chairman.

(2) The executive authority of the District Authority shall vest in its Chairman and it may be exercised by its Secretary who shall act under the control of the Chairman.

(3) The executive authority of the Taluka Committee shall vest in its Chairman and may be exercised either by himself or through such other officer who is chosen for the purpose.

CHAPTER III

State Authority

4. *Functions of the State Authority under section 7 (1) and 7 (2) of the Act.*— In addition to the functions to be performed by the State Authority as laid down by section 7 (*1*) and 7 (*2*) of the Act, the State Authority may also perform the following additional functions :—

(*i*) The State Authority may conduct legal literacy camps in different parts of the State to bring awareness about the legal aid schemes conducted in the State and with a view to make them aware of their legal rights and duties with special reference to the tribal and rural population, women, children, disabled, handicapped and the weaker sections of the society.

(*ii*) The State Authority may conduct legal aid clinics in different parts of the State in collaboration with Law Colleges, Universities and other social service organisations.

(*iii*) The State Authority may also establish or direct the District Authority to establish standing conciliation Committees at various centres in the State with a view to providing permanent or quasi-permanent infrastructures for resolving legal disputes between the parties, whether they may be pending in courts or may be in the offing. For conducting such Committees it will be open to the State Authority to take active assistance/support of such social service organisations that have zeal for legal aid work.

(*iv*) The State Authority may review the cases where legal services are refused by the District Authority on application and the decision of the State Authority shall be final.

CHAPTER IV

High Court Legal Services Committee

Constitution of the High Court Legal Services Committee at Mumbai and its Sub-Committees at its Benches; their Powers and Functions.

5. *Duties and functions of the High Court Legal Services Committee as per section 8-A (i) of the Act.*—The High Court Legal Services Committee and the Sub-Committees shall perform all or any of the following functions, namely :—

(*i*) To give free legal service to persons who may have to file or defend litigations pending in the High Court and who satisfy the eligibility criteria laid down for the purpose of receiving free legal aid under the Act.

(*ii*) To organise Lok Adalats for settlement of cases pending in the High Court under the supervision of the State Authority.

6. *Constitution of the High Court Legal Services Committee at Mumbai and its sub-committees at Nagpur and Aurangabad, their powers and functions as per section 8-A of the Act.*— The State Authority shall constitute a High Court Committee and its sub-committes, consisting of a sitting Judge of the High Court who shall be nominated by Patron-in-Chief as Chairman and the following other members also to be nominated by Patron-in-Chief :—

(*i*) The Presidents of Bombay Bar Association, Advocates Association of Western India, Incorporated Law Society at Mumbai, Presidents of High Court Bar Association , Nagpur, Vidharbha Labour Practitioners' Association, Nagpur, and President of High Court Bar Association, Aurangabad.

(*ii*) One Member out of Bar Association of Bombay and one member of the Sub-Committee from Bar Association of Nagpur and Aurangabad respectively, having at least 10 years of standing at the Bar.

(*iii*) An eminent social worker engaged in welfare of the weaker sections of the society including Scheduled Caste, Scheduled Tribe or Member of Other Backward Classes.

(*iv*) An eminent person in the field of Law.

(*v*) A person of repute and standing who is specifically interested in the implementation of the Legal Services Schemes.

7. *Term of office of the members and Secretary of the High Court Legal Services Committee and its sub-committees.*—(*i*) The term of Office of the Secretary and the Members of the High Court Committee and its Sub-Committees shall be of one year.

(*ii*) All the Members of the Committees except the Secretary shall function in the honorary capacity.

(*iii*) If any member including the Chairman ceases to be the member of the High Court Committee and/or the Sub-Committees for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be the member or the Chairman, as the case may be, for the remaining term of the member or the Chairman in whose place he is nominated.

(*iv*) A member of the High Court Legal Services Committee and/or its Sub-Committees may resign his office by writing under his hand addressed to the Patron-in-Chief and forwarded by the Chairman of the High Court Committee and its Sub-Committees. The resignation shall take effect from the date on which it is accepted.

CHAPTER V

DIRTRICT AUTHORITY

8. *The conditions relating to the terms of Office of the Members and the Secretary of the Committee, under Section 9 (4) of the Act.*—The term of Office of the Members of the District Authority :—

(*i*) The term of Office of the Members and the Secretary of the District Authority shall be for a period of one year.

(*ii*) If any member of the District Authority ceases to be the member for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be the member for the remaining term of the member, in whose place he is nominated.

(*iii*) A member of the District Authority may resign his office by writing under his hand addressed to the State Authority through the Executive Chairman of the State Authority and forwarded through the Chairman of the District Authority. The resignation shall take effect from the date on which it is accepted.

9. *Additional functions of the District Authority.*—In addition to the functions assigned by the provisions of the Act and the Rules, the District Authority shall perform the following functios subject to the general superintendence and control of the State Authority:—

(*i*) To perform such other functions as the State Authority may fix by Regulations from time to time and shall also be guided by such directions as Central Authority or the State Authority, may give, in writing from time to time;

(*ii*) To conduct legal literacy camps in different areas of the District, especially in rural and tribal areas, with a view to bring awareness about the legal aid schemes, conducted in the State and also with a view to make them aware of their legal rights and duties with special reference to tribal and rural population and/or women/or children/or disabled/or handicapped and the weaker sections of the society;

(*iii*) To conduct legal aid clinics in different parts of the District in collaboration with Law Colleges, Universities and other social service organisations;

(*iv*) To direct, supervise and guide the working of the Taluka Committees in the District;

(*v*) To call for, from the Taluka Committees in the District such periodical reports, returns and other information as it may think fit or as are required by the State Authority;

(*vi*) To prepare, consolidate and submit such reports, returns and such information, in respect of District Authorities, as the State Authority may call for;

(*vii*) To receive applications for Legal Services and ensure that every application is promptly processed and disposed of;

(*viii*) To consider the cases brought before it for legal Service, including prelitigation matters and decide as to what extend legal Services can be made available to the applicant;

(*ix*) To pursue the parties to appear and make efforts to bring about a just settlement between them and if necessary also refuse the legal services, if in its opinion the conciliation has failed due to any fault on the part of the applicant;

(*x*) To encourage and promote conciliation and settlement in all legal proceedings including prelitigations;

(*xi*) To take proceedings for recovery of costs awarded to a person to whom legal services were rendered;

(*xii*) To review the cases on application where legal services are refused by the Taluka Committees.

10. *Decisions by Resolutions.*— All decisions of the State Authority, High Court Committee and its Sub-Committees, District Authority, or the Taluka Committee shall be by way of Resolution passed in the meeting and in the event of an equal division of votes, the decision of the Executive Chairman or the Chairman of the different other bodies as the case may be, shall be final :

Provided that in such matters as may be directed by the Executive Chairman or the Chairman of the different other bodies, as the case may be, the decision of the State Authority or of the High Court Committee, the District Authority or the Taluka Committee may be taken by circulation/resolution.

11. (*a*) Members other than *Ex-Officio* are entitled to travelling allowance and daily allowance for attending the meetings which shall not be less than payable to Class I Gazetted Officer.

(*b*) An account shall be opened in any of the nationalised banks by the State Authority and District Authority respectively as " State Legal Aid Fund " and " District Legal Aid Fund " respectively.

(*c*) " State Legal Aid Fund " account shall be operted jointly by Secretary of State Authority and the Secretary and Remembrancer of Legal Affairs to the Government in Law and Judiciary Department under the supervision of Patron-in-Chief.

(*d*) District Legal Aid Fund account shall be operated jointly by Chairman and Secretary of the District Authority; under the supervision of the State Authority.

CHAPTER VI

12. *Taluka Legal Services Committee, term of Office and other conditions relating thereto of Members of the Taluka Committee.*—(*i*) The term of Office of the Members of the Taluka Committee shall be for a period of one year.

(*ii*) If any member of the said Committee ceases to be such member for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be the member for the remaining term of the member in whose place he is nominated.

(*iii*) A member of the said Committee may, resign his Office by writing under his hand addressed to the Executive Chairman of the State Authority and forwarded though the Chairman of the District Authority under the intimation to the Chairman of the Taluka Committee. Such resignation shall take effect from the date on which it is accepted by the Executive Chairman of the State Authority.

CHAPTER VII

Conduct Of Business

13. *Meetings.*—The Secretary of the State Authority with the prior approval of the Executive Chairman of the State Authority shall arrange a meeting of the Authority once in a three months and as and when the business may warrant.

The Secretary of the High Court Committee and its Sub-Committes with prior approval of its Chairman, the Secretary of the District Authority, and the Chairman of the Taluka Committee, as the case may be, shall hold meetings of the respective bodies at least once in a month and as frequently as the business may be.

In the absence of the Executive Chairman of the State Authority or of the Chairman of the High Court Committee and the Sub-Committees, the District Authority or the Taluka Committee, as the case may be, one of the member nominated by all the other Members present at the meeting shall preside over the meeting of the respective bodies.

14. *Minute of the Meeting.*—The Minutes of the proceedings of every meeting shall be prepared by the Secretary.

CHAPTER VIII

15. *Filing of application for legal services.*—A person seeking legal services from the High Court Legal Services Committee or its Sub-Committees, District Authority or the Taluka Committee, as the case may be, shall send an application containing brief facts of the case to it.

16. *Scrutiny of applications.*—The applications shall be scrutinised and disposed of by the Secretary of the High Court Committee or its Sub-Committees or by the Secretary of District Authority or by the Chairman of the Taluka Committee, as the case may be, giving such directions and legal services as are thought necessary:

Provided that all orders passed by the Secretary of the High Court Committee or its Sub-Committees or the District Authority rejecting legal services shall be passed after obtaining order of the respective Chairman:

Provided futher that all orders of grant of Legal Services by the Secretary of the High Court Committee or its Sub-Committees or the District Authority shall be subject to control and modifications by the Chairman of the respective bodies.

17. *Duty of Legal Practitioners and futher action after the decision of a case by the Court.*—The legal practioners conducting a case on behalf of a person receiving the legal services shall, as soon as the case is decided, apply for a copy of judgment and decree if any, and immediately on receipt of the copies shall submit them to the body appointing him, together with his detailed comments. The Taluka Committee, the District Authority or the High Court Committee or its Sub-Committees as the case may be, shall take steps to recover the expenses of the legal services rendered from out of the costs, if any awarded by the Court to the person concerned and received by him. such bodies may also consider, whereever necessary, the feasibility of filing an appeal, revision or a Write Petition if—

(*i*) the case has been decided against the person; or

(*ii*) the case is *prima-facie* fit for taking such remedies; or

(*iii*) the aided person has applied for legal services for taking recourse to such remedies;

Provided that it will not be necessary to make a fresh enquiry as to eligibility under section 12 (*h*) of the Act, Wherever applicable, unless the Taluka Committee, the District Authority or the High Court Committee or its Sub-Committees, as the case may be, is of the opinion that a change of circumstances has taken place since the grant of legal services.

By order and in the name of the Governor of Maharashtra,

M. M. REGE,
Deputy Secretary to Government.

शासकीय मध्यवर्ती मुद्रणालय, मुंबई