Courts

No. 1066/VII-Nyay-2-2006-732-86
Dated Lucknow, September 14, 2006

In exercise of the powers conferred in Section 21 of the Family Courts Act, 1984 (Act no. 66 of 1984) and all enabling provisions in that behalf, the Hon'ble Chief Justice and Judges hereby make and prescribe the following Rules for the Family Courts in the State of U.P.

THE UTTAR PRADESH FAMILY COURTS (COURT) RULES, 2006

CHAPTER-I

PRELIMINARY

Short title commencement and application

1. (i) These Rules may be called the Family Courts (Court) Rules, 2006

(ii) These Rules shall come into force on such date as the High Court may publish by Notification in the Official Gazette in this behalf.

(iii) These Rules shall apply to the Family Courts established in the State of U.P. under Section 3 of the Family Courts Act, 1984.

CHAPTER-II

Definitions

2. In these Rules unless the context otherwise requires;

(a) "Act" means the Family Courts Act, 1984.

(b) "Centre" means a Counselling Centre and includes office the Organization/Institution which the Councellor represents.

(c) "Court" means the Family Courts, establishment under Section 33 of the Act.

(d) "High Court" means the High Court of Judicature at Allahabad.

(e) "Petition" shall include an application under Chapter IX of the Code of Criminal Procedure, 1973 unless the subject matter or context requires otherwise.

(f) "Principal Counsellor" means the Principal Counsellor appointed by the High Court and when such Counsellor is not appointed it shall includes the Counsellor/or Counsellors as the case may be.

CHAPTER-III

Sitting of the Court

3. Working hours place of sitting;

(i) The Officer of the Court shall be open daily except on holidays for transaction of office work between 10.00 A.M. to 5.00 P.M.

(ii) The Judges of the Court Shall ordinarily sit in the Court between 10.30 A.M. to 4.30 P.M. on all working days of the Court, with recess between 1.30 P.M. to 2.00 P.M.

(iii) A Court may hold sitting on holidays, and outside normal working hours if the Judge considers it necessary to do so in the circumstances of the case with prior notice to the parties and to do such other person or persons as the Judge may be consider necessary.

(iv) The Court shall hold its sittings at the place where it is located or at such place as the High Court may specify from time to time by an order in that regard.

(v) The Court shall hold its sitting in open or in a camera as determined by it in each case, but shall not hold the proceedings in camera if either party so desire.

(vi) No Act of the Court shall be invalid, by reasons of holding or continuing its sitting at any place of its choice, or any holiday or outside normal working hours when such sitting is informed to the parties in advance.

CHAPTER-IV

Institution of Proceedings

4. All proceedings instituted before the Court will be by way of a petition in Form No. 1 which shall be duly verified by the petitioner. In respect of application under Chapter IX of the Code of Criminal Procedure, the provisions of the Code of Criminal Procedure will apply.

5. All applications under Chapter IX of the Code of Criminal Procedure shall be by way of an application as per Form No. appended to these Rules which shall be duly verified by the petitioner. The Prayer for interim relief shall not be made separately. It shall be included in the application. The application may be in any permissible language.

6. The petition may filed before the Court as permitted under any law which also includes provisions contained in the following laws;

(i) Chapter IX of the Criminal Procedure Code 1973 (2 of 1974)

(ii) Hindu Marriage Act, 1955 (25 of 1955)

(iii) Maintenance under Hindu Adoptions and Maintenance Act, 1956 (78 of 1956)

(iv) Guardianship of the persons or custody of or access to any minor under the Hindu Minority and Guardianship Act, 1956 (32 of 1956)

(v) Dowry Prohibition Act, 1961 (28 of 1961) for an order for injunction in circumstances arising out of marital relationship.

(vi) Hindu Marriage (Validation of Proceedings) Act, 1960 (19 of 1960)

(vii) Personal law applicable to Muslims including :–

(a) Muslim Personal (Shariat) Application Act, 1937 (26 of 1937)

(b) Dissolution of Muslim Marriage Act, 1939 (8 of 1939)

(c) Muslim Women (Protection of Rights on Divorce) Act, 1986 (25 of 1986)

(viii) Parsi Marriage and Divorce Act, 1936 (3 of 1936) which can be instituted or taken out before the Parsi District Matrimonial Courts constituted under Section 18 and 20 of the said Act.

(iv) Indian Christian Marriage Act, 1872 (15 of 1872)

(x) Indian Divorce Act, 1945

(xi) Special Marriage Act, 1954 (43 of 1954)

(xii) Child Marriage Restraint Act, 1929 (19 of 1929)

(xiii) Anand Marriage Act, 1909 (7 of 1909)

(xiv) Arya Marriage Validation Act, 1937 (19 of 1937)

(xv) Foreign Marriage Act, 1969 (33 of 1969)

(xvi) Suits or proceedings relating to part B States Marriages Validating Act, 1952 (1 of 1952)

(xvii) Guardians and Wards Act, 1890 (8 of 1890)

7. A petition shall be filed with two copies signed by the parties, along with as many copies to be sent to the respondents. One copy of such petition shall be forwarded by the designated officers of the Court to the Principal Counsellor forthwith. Photograph of the parties shall be affixed on the first two copies of the petition and the reply/written statement filed by the respondent.

CHAPTER-V

Service of Summons

8. The name of address of the party or of the representative appearing for the party, shall be stated in every notice, summons, witness summons, application, warrant and every process of the Court issued at the instance of such party or representative.

9. All notices, summons, rules, orders warrants and other mandatory process shall be in a Form no. 3 sealed with the seal of the Court and shall be signed by the designated Officers of the Court. A copy of the petition and exhibits annexed thereto shall be sent, along with the notice.

10. All notices, summons shall be returnable in three weeks after the sate of filing of the petition, if respondent resides within local limits of the court, and five weeks after the date of filing of the petition, if respondent resides outside the said limits.

11. The notice, summons shall be served in the manner prescribed in the Code of Civil Procedure, 1908 save and accept in proceedings under Chapter IX of the Code of Criminal Procedure, where the provisions of that Code will apply.

12. In addition to the normal process of service by the Court, the applicant will at liberty to serve upon the respondent, the notices, summons of the court, along with copy of the respondent, the notices, summons of the court , along with copy of the petition and exhibits, either through person or through a recognizable mode of service, including registered post, speed post, fax and e-mail and shall file affidavit of service upon the respondent.

13. Application for substituted service of notice, summons where the respondent has refused to accept the summons shall be made to the court, supported by an affidavit. The court may direct service by an advertisement in daily newspaper, having wide circulation in the localty in which the respondent is last known to have actually and voluntarly resided, carried on business or personally worked for gain. The court shall maintain a list of widely circulated newspapers and shall mention the name of the newspaper for substituted service in the order, fixing time for appearance of the respodent as the case may require. The applicant shall file affidavit annexing the copy of the newspaper in which the sumumon was published one week before the date fixed for hearin in such summon.

14. Any respondent who asks for copy of the petition, in writing, on the ground that he has not received the copy of the petition or that the he has not received complete copy, shall be furnished by the applicant the complete copy with all annexures to the respondent.

15. In case after normal service against a woman defendant no one appears and the proceeding are about to be taken exparte, the Court may consider an additional service once again.

CHAPTER-VI

16. On the returnable date of the summons, the petition shall be placed for direction before a Judge of the Court to whom this work may be assigned by the Principal Jude of the Court. Proceedings in Court

17. When giving direction, the Judge shall, in consultation with Principal Counsellor or such other counsellor who may be present in Court, direct the parties to attend a specified counsellor for the purpose of counselling.

18. Such Counsellor shall be chosen bearing in mind the convenience of the parties, their special requirements and the area in which the unit to which that counsellor is attached is located.

19. The powers, functions and duties of the Counsellor and the protection granted to them in discharging of the duties, shall be as prescribed in the U.P. Family Courts Rules, 1995.

20. On the proceedings before the counsellor shall end on the counsellor shall file a memorandom setting out the outcome of the proceedings before him. The Court may thereafter call a meeting of the parties to fix a date of hearing of the petition Intimation of such meeting shall be given to the parties by registered post or personally.

21. At the meeting so fixed, the Court shall fix a date of hearing after corsponing both the parties.

22. The Court shall also ascertain from the parties the approximate time to be taken by each party before the Court for the hearing of the matter.

23. In the event of any party remaining absent at the meeting called by the Court, the Court shall fix such date of hearing as he may deem fix. The Court shall fix a date at least four weeks after the date of the meeting.

24. On the date so fixed by the Court the petition shall be placed on the board of the Court for hearing and final disposal. The time allotted to the parties shall also be indicated on the board.

25. The court shall not ordinarily alter the date when the date has been fixed in the presence of both the sides.

26. The petition so fixed shall not be adjourned by the Court unless there are exceptional circumstances justifying such adjournment and unless they are such as could not have been foreseen when the date of hearing was fixed before the Court. The Court shall record its reasons for adjourning a matter.

27. The Court may permit the parties to be represented by a lawyer in Court. Such permission may be granted if the case involves complicated questions of law or if the Court is of the view that the party in person will not be in a position to conduct his or her case adquately or for any other reason. The reasons for granting permission shall be recorded in the order. Permission so granted may be revoked by the Court at any stage of the proceedings if the Court considers it just and necessary.

28. Any application for representation by a lawyer in court shall be made by such party to the court after notice to be other side, not less than one week prior to the date fixed for hearing of the petition. The case shall not be adjourned on this ground.

29. The court appoint or seek assistance of legal expert as Amicus Curiae on purely legal issue in accordance with Rule 24 of the U.P. Family Courts Rules, 1995.

30. The Court may record only the substance of what the witness deposes in his examination by Court, and cross examination by respondent if the court so permits, and shall prepare only a memorandum of substance of what the witness deposes as prescribed under Section 15 of the Family Court Act, 1984. The memorandum shall be read and explained to the witness, signed by witness and the Presiding Officer of the Court and shall form part of the record. The Court may in the matter of interim relief take evidence on affidavit, if any, which shall also form part of the record of the court.

31. That Court shall furnish to the parties to the proceedings before it a copy of the judgment, certified to be a true copy, free of Post.

32. An interim application may be made even while the matter is pending before the Counsellor. The Court may ask the Counsellor to submit an interim report for the purposes of deciding the interim application. The U.P. Family Courts Rules, 1995 relating to report to be submitted by the Counsellor shall *muttatis mutandis* apply to interim report also.

33. On a request made by any party, the evidence before the Court may be tape-recorded at the expenses of such party. In the event of appeal or revision before the High Court a party may apply to the Court for transcription of the tape-recorded evidence which shall be supplied to the party concerned on payment of prescribed fee.

CHAPTER-VII

Settlement

34. Every Family Court shall maintains separate lists of :

(a) institutions and organizations engaged in social welfare together with names and address of representatives of such institutions or organizations;

(b) person professionally engaged in promoting the welfare of the family with their address;

(c) persons working in the field of social welfare with their addresses.

The family Court may call for report as regards efforts made or to be made by the institution, organization or persons referred to in Section 5 of the Act :

Provided that where efforts for amicable settlement are continuing or are deferred, the family Court may require the institution, organization or person to submit before it an interim report.

CHAPTER-VIII

Execution of Orders

35. The provisions of Code of Civil Procedure for execution of orders passed in all matters except the orders passed on petition under Chapter IX of Code of Criminal Procedure shall apply. The provisions of execution of orders in Code of Criminal Procedure shall apply to orders passed under Chapter IX of the Code of Criminal Procedure.

36. An order passed under Chapter IX of the Code of Criminal Procedure for maintenance allowance may be executed by the Court by attachment of salary as provided in section 60 and order 21 of the Code of Civil Procedure in addition to the mode of recovery provided in sub-section (3) of section 125 of the said Code.

37. An application under Section 125/126 under Chapter VII of the Code of Criminal Procedure may be filed at the place where the wife, minor child, parent, as the case may be resides.

38. The pendency of an application for interim maintenance under Section 125 or 126 as the case may be under Chapter IX of the Code of Criminal Procedure shall not be a ground to stay or susped the main proceedings under Section 125 or 126 of the Code.

39. In the pending execution proceeding for recovery of any defaulted amount the Family Courts shall not register a new case. An application for recovery of defaulted amount of maintenance in the pending execution case shall be sufficient for recovering the amount.

CHAPTER-IX

Guardianship

40. All petitions for guardianship other than application over which the High Court has jurisdiction shall be filed before the Family Court.

41. Every petition for guardianship when it is by a person other than the natural parent or natural guardian of the said child shall be accompained by a Home Study Report of the person asking for such guardianship and his/her spouse, if any, prepared by an approved family welfare agency or a suitably trained social worker. A list of such agencies and/or persons shall be prepared by the Principal Judge and Principal Counsellor in consultation with the High Court.

42. When a Petition for guardianship is filed by a foreigner or a non-resident Indian, the court may accept a Home Study Report prepared by a recognized family welfare agency of the country where they reside.

43. Every petition for guardian shall be accompained by–

(i) Two recommendations from respectable members of the community.

(ii) A salary Certificate or statement relating to annual income the petitioner and his financial position.

(iii) A Health Certificate of the petitioner and his/her spouse signed by a medical practitioner as also medical report regarding sterility of petition and/or spouse.

(iv) A Health Certificate of the child proposed to be taken in Guardianship signed by a medical practitioner and countersigned by the petitioner.

(v) A child Study Report of the child proposed to the taken in guardianship together with photograph of the child. Such report shall be in Form No. 3 prescribed in the appendix when the child is institutionalized or Court committed. The report shall be countersigned by the petitioner.

(vi) A declaration from the proposed guardian and his/her spouse if any, expressing their willingness to take the child in guardianship.

44. When a petitioner applying for guardianship is a foreigner or a non-resident Indian, the petition will also be accompained by–

(i) Permission from the country where the petitioner resides for the child to enter the country.

(ii) An undertaking by a recognized family welfare agency of the country concerned to supervise the child in the Home of the petitioner until the child is legally adopted.

45. In granting a petition of a foreigner or a non-resident Indian for guardianship, the Court shall satisfy itself that the child can be legally adopted under the law of the country where he/she resides.

46. The Court may direct a foreign or non-resident Indian petitioner to give a bond for such amount as it may think proper for the return of the child to India in the case of any difficulty.

47. While granting a petition for guardianship, the Court may pass such orders as it may deem proper for the financial security of the minor.

48. When the child proposed to be given in guardianship is an abandoned child the Court may satisfy itself that the consent of the natural mother was taken at the time of abandonment of the child or at any time thereafter to the child's being given in guardianship to another person. The name of the natural mother or natural father as also the consent letter from natural parent shall be treated as confidential. Consent letter shall be kept in court in sealed cover.

49. When the child being placed in guardianship is an abandoned child from an institution for abandoned children, the institution shall file an affidavit setting out the circumstances under which the child was abandoned. The affidavit shall also set out whether the institution is agreeable to the child being given in guardianship to the petitioner.

50. The Court, in its discretion may not entertain a petition for guardianship by a foreigner or a non-resident Indian unless the Court is satisfied that adequate attempts for at least three months or such other period as the Court deem fit have first been made to place the child in an Indian Home. For this purpose the Court may ask the petitioner to obtain a no objections letter from a Voluntry Co-ordinating Agency or any other similar organization working for the placement of children in Indian Homes.

51. When the proposed grardian is related to the child, the Court may dispense with any of the above provisions.

52. A guardianship order shall be in the Form No. 4 prescribed in the appendix with such modifications as may be required in each case. A photograph of the child signed by an authorized officer of the Court shall be attached to the order.

53. A copy of every guardianship order appointing a foreigner or a non-resident Indian as guardian shall be forwarded to the Ministry of Social Welfare, Government of India and Social Welfare and Cultural Affairs Department, Government of Uttar Pradesh, Lucknow.

54. The Court shall have the power to waive the requirements of any of the above rules relating to petitions for guardianship in a suitable case.

55. In case of a child placed in guardianship, the Court may, at any time direct a counsellor attached to the Court to supervise the placement of the child and submit a Report or Reports thereon to the Court in such manner as the Court may deem fit.

CHAPTER X

56. The High Court may authorize and empower Judge of the Court or if, there be more Judges than one in a Court the Principal Judge of such Court to appoint so many and such other ministerial officer as may be necessary for the administration of justice and due execution of all power and authorities exercisable by a Court : Miscellanous

Provided that the appointments of officers and ministerial staff shall be subject to any rules or restriction as may be prescribed or imposed under the Act.

57. The proceedings before the court shall be heard and disposed of as expeditiously as possible, preferably within 3 months, and in achieving this objective the rules or procedure may not rigidly be adhered to.

58. Every Principal Judge; and Judge of the Court shall be under administrative and disciplinary control of the District Judge and overall control of the High Court.

59. For carrying on the purpose of the Act and for ensuring the uniformaity of practice to be observed by Courts and for expeditious disposal, the High Court may from time to time, supervise and inspect the Courts and issue directions/circulars etc. to the Courts.

60. No Judge shall hear or decide any case to which he is party or in which he/she is personally interested.

61. The Courts may use such forms and containing such partiulars as may be approved by the High Court.

62. the High Court may require Courts to maintain such registers and records and containing such particulars as may be approved by the High Court.

63. A proceeding before the Court shall not become invalid by reason only of non compliance with any of the procedural requirements prescribed in these Rules.

By order,
RAM HARI VIJAI TRIPATHI,
Pramukh Sachiv.

FORM No. 1

In the Family Court at.....

PETITION NO.----------

Between

Mrs/Mr _____

W/o or S/o _____

Age _____

Occupation _____

Present Address _____

Permanent address/residence _____

Petitioner's

AND

Mrs/Mr _____

W/o or S/o _____

Age _____

Occupation _____

Present Address _____

Permanent address/residence _____

Respondent

Petition under section.....For.....

The above named Petitioner respectfully submits as under:-

1. That the Petitioner and respondent are legally married _____ and _____. Their marriage was solemnized on _____ at _____ according to _____ customs. After the marriage both the Petitioner and respondent had been living/lived together as husban and wife at _____. Out of the wedlock the couple was blessed with the child aged _____ named _____ and another child aged _____ named _____.

2. The Petitioner submits that (give the grievance of the Petitioner against the respondent with full particulars).

3. This petition is not presented in collusion with the respondent and there is no unnecessary or improper delay in institution of these proceedings.

4. The Petitioner has no means of livelihood for her/his maintenance/limited resources, which are not sufficient for her/his livelihood and for child/children, living with her/ him and thus prays for interim maintenance of Rs. ....., for which the Petitioner called upon the respondent to provided such maintenance but no amount has been received by the respondent.

5. Cause of action for the Petition arose on (date) when the mariage of the Petitioner with the respondent was performed. It also arose on several occasions when the respondent behaved and committed _____.

6. The Petitioner and the respondent both last lived together at _____ or where the marriage took place or where the respondent at the time of presentation of the Petition resides which is within the territorial jurisdiction of this Hon'ble Court.

IndiaCode

PRAYER

7. The Petitioner therefore prays that this Court may be pleased to pass an order directing _____

Place:

Date :

Petitioner

Verification

I, _____ daughter/son of _____ aged _____ resident of _____ do hereby declare that the above facts stated in the Petition are true and correct to the best of my knowledge, information and belief. Hence.

Verified on this the _____ day of month _____

Petitioner

IndiaCode

FORM No. 2

In the Family Court at.....

PETITION NO.----------

Between

Mrs/Mr _____

W/o or S/o _____

Age _____

Occupation_____

Present Address_____

Permanent address/residence_____

Petitioner's

AND

Mrs/Mr _____

W/o or S/o_____

Age_____

Occupation_____

Present Address_____

Permanent Address/residence_____

Respondent

Petitioner for maintenance under section 125 of Criminal Procedure Code

The above named Petitioner respectfully submit as under:–

1. That the Petitioner and respondent are legally married _____ and _____. Their marriage was solemnized on _____ at _____ according to _____ customs. After the marriage both the Petitioner and respondent had been living/lived together as husband and wife at _____ (or where the marriage took place or where the respondent resides). Out of the wedlock the couple was blessed with the child aged _____ named _____ and another child aged _____ named _____.

2. The Petitioner submits that (give the grievance of the Petitioner against the respondent with full particulars).

a. .....

b. .....

3. Petitioner has no resources/limited resources to maintain herself and her minor children. She is presently depended upon her parents, who have their own expenses and may not be in a position to support the Petitioner for long period.

4. That the Petitioner on _____ called upon the respondent to provide money for maintenance for herself and her minor children but as yet no amount towards maintenance has been received from the respondent.

5. That the respondent is a person with means and has the following property, monthly income etc.

a. .....

b. .....

c. .....

6. In the circumstances stated above there is no alternative for the Petitioner and her minor children but to approach this Court for maintenance.

7. That during the pendency of the Petition the Petitioner with no resource/limited resource to maintain her/him and minor child/children may be provided with interim maintenance.

PRAYER

The Petitioner therefore prays that this Court may be pleased to pass an order directing the respondent to pay _____ towards maintenance of the Petitioner and Rs. _____ towards maintenance of the minor child/children.

Place:

Date:

Petitioner

IndiaCode

FORM No. 3

In the Family Court at.....

Petition No. ..... of 200

.....

Petitioner

Versus

.....

Respondent

To

Whereas, the above named Petitioner has instituted a Petition against you, as set out in the Petition (Annex the Petition).

You are hereby required to file in this Court as appearance in person or a Vakalatnama with the permission of the Court, within three weeks from the service of this summons upon you,

And whereas, the suit will be placed for directions on the board of the Judge on the ..... day of 200

You are hereby summond to appear before the judge to answer the Petitioner's claim on the said ..... day of ..... 200 at 11.00 O' Clock in the forenoon; and

Take notice that on the day before mentioned after hearing parties who appear directions will be given by the Judge as to the date of hearing before a counselor of the Family Court and other matters concerning the Petition; and

Take further notice that if you fail your apperance in person or a Vakalatnama as directed above, or if you fail to appear before the Judge on the day before mentioned the Petition may be ordered to be set down on Board on the same day or any subsequent day as "undefended" and you will be liable to have a decree or order passed against you.

Witness ..... Principal Judge ..... aforesaid, this ..... day of 200

.....

Sealer Designated Officer

The ..... day of 200

Petitioner/Advocate for the Petitioner

Address

FORM No. 4

In the Family Court at.....

Petition No. ..... of 200

In the matter of the Guardians and Wards Act, 1890

AND

In the matter of the appointment of Guardian of the Person of a male/female minor ..... as inmate of ..... Petitioner

UPON READING the Petition of ..... the Petitioner therein dated ..... for the appointment of the Petitioner as the legal guardian of male/female minor ..... born on ..... and to adopt the said minor as his son/daughter according to the Laws of ..... and upon hearing ..... in support of said Petition and upon ..... agreeing to comply with the guidelines contained in the Judgement of the Supreme Court of India in Writ Petition (CRL) No. 1171 of 1982 (Laxmi Kand Pandey vs. Union Bank of India) AIR 1984, Supreme court P. 469 and upon reading the Affidavit of ..... consenting to the appointment of the Petitioner as the legal guardian of the said minor and upon considering the representation made by ..... and upon hearing ..... the representation made by ..... and upon hearing ..... the representative of the said ..... and upon the Petitioner ..... hereby giving an Undertaking to this Honourable Court to produce the said minor whenever required and further undertaking to communicate the address of the said minor to the authorities of ..... by ..... of ever year and further undertaking to take proper care, look after educate and to bring up the said minor as if she/he was a child of the Petitioner and further undertaking to treat the said minor on an equal footing with his natural and/or adopted children, if any, in all matters of maintenance, education and succession and before taking the said minor out of India the Petitioner further undertaking to execute a Bond either, personally or through his duly constituted attorney in India in favour of the Designated Officer of this Honourable Court in the sum of Rs. ..... to repatriate the said minor to India by air should it become necessary for any reason to do so and further undertaking to adopt the said minor ..... Within a period of two years after the arrival of the said minor to his home according to the Laws of ..... and further undertaking to submit to this Honourable Court every three months for the first two years and every six months for the next three years progress report of the said child (alongwith his/her recent photograph) made or verified as correct by the Organization which made the Home Study Report herein regarding the said minor's moral and material progress and her adjustment in the Petitioner's family with the information of the date of arrival of the said minor, from India to the Petitioner's Home and the true copy of the Adoption Order with the copies of the said reports to ..... the said and further ..... the agency who has submitted the same study report of the Petitioner agreeing that in case of disruption of the Petitioner's family before adoption the said Agency shall take care of the minor and find a suitable alternative placement for it with the approval of the institution whose inmate the minor is and report such alternative placement to the Honourable Court and also to the ....., I do order that the notice under section 11 of the Guardians and Wards Act, 1890 be and the same is hereby dispensed with and I do further order that the petitioner.....be and he is hereby appointed guardian without security and without remuneration of the said minor ..... born on ..... whose latest photograph duly certified as such ..... and countersigned by an Officer of this Honourable Court is

attached hereto and marked as Exhibit 'A' and now in the custody and care of the authorities of the said ..... and I do further order that after executing the Bond as aforesaid the Petitioner ..... be and he is hereby granted leave to remove the said minor from the jurisdiction of this Honourable Court and to take him/her away to .....or wherever he may desire and for that purpose make an application to the passport authorities or any other authorities to take away the said minor out of the Jurisdiction of this Honourable Court and I do hereby lastly order that the Petitioner herein do pay a sum of Rs. ..... to the said ..... towards their costs of the Petition.

.....Date.....this..... day of.....200

(Delete whatever is not applicant)

Judge

Advocate for the Petitioner

EXHIBIT "A"

Certified latest photograph of male/female minor ..... born on .....

.....

Designated Officer

Family Court

IndiaCode

FORM NO. 5

CHILD STUDY FORM

Information of the child to be placed in Guardianship

Name of the Child

Photo of the Child

Passport Size

Name of the Institution

Address

PART-I

1. Name of the child .....
2. Reference No. as per General Register of the Institution .....
3. Present Age .....
4. Sex .....
5. Religion (If known) .....
6. Date of Birth (If available) .....
7. Place of Birth (If available) .....

PART-II

1. Petition No. .....
2. Name of the petitioner .....
3. Complete address of the Petitioner .....

*PART-III (Legal Data)

1. Name of the Committing Court .....
2. Age of the Child at the time of commitment .....
3. Date of order of commitment .....
4. Period of commitment .....
5. Final date of release .....
6. Section of the ..... Act .....
7. Date of admission to your Institution Please enclose a copy of the Court Commitment Warrent. .....

Please enclose a copy of the report of the Probation Officer which he/she has submitted to the Juvenile Court at the time of commitment of the child.

Part III to be filled in for Court Committed Children only.

IndiaCode

PART-IV (Social Data)

1. How the child came to your Institution:–

(a) Admitted directly .....

(b) Vacancy was reserved and then get committed .....

(c) Transfer from any other institution and if so which one .....

(d) Any other source .....

2. Circumstances under which the child came to the original institution .....

3. Reasons for seeking protection in the institution .....

4. Information about the relatives .....

5. In case if they are alive, have they agreed to give away the child in adoption/guardianship and if so whether written consent has been obtained .....

6. Whether the relatives have established any contacts with the child after his/her admission to your institution .....

7. If the child is purely destitute, give factors which will show that– .....

8. Any other information on which you would like to add .....

PART-V (Behaviours Observations)

1. How long the child is with you in your institution? .....

2. Attitude towards other inmates .....

3. Relationship towards relatives, staff and other adults .....

4. Intelligence (if and where possible I. Q. Report should be enclosed) .....

5. General Personality and description of the child .....

6. Play activity and any specific talent .....

7. Observer's impressions about the child .....

8. Please indicate how the parent plan of rehabilitation will be useful to the child taking into consideration the child's needs and temperament .....

9. If the child is school-going give a detailed report about his/her standard, attendance, general interest in studies progress effects, if any. .....

IndiaCode

10. Any other information .....

PART-VI

Physical and Medical report form enclosed .....

PART-VII

1. Have you reviewed the Home Study report of the adoptive parents/guardians and do you feel the placement of this child with this family is suitable? .....

2. Have the adoptive parents seen the details of child whom they wish to bring up and have they approved of the child after knowing the general conditions physical or mental defects, etc. If so, please give a copy of the certificate wherein the adoptive parents/guardians have given their consent in writing that they have examined the Child Study Report and accept the proposed child .....

PART-VIII

I, ...Shri/Shrimati ..... Superintendent ..... hereby certify that the information given in this form about the child is correct.

I also enclose herewith the certificate/attested copies of the following documents:–

(1) Copy of the Court Warrent.

(2) Copy of the report of the probation Officer.

(3) Consent of the Parents to give away the child.

(4) Consent of the adoptive parents to accept the child.

Place :

.....

Signature

Date:

.....

Name

Designation

.....

Designated Officer

Note:–Date of Departure of the child from the country, should be conveyed to the Director of Child Welfare and consulting agency for the purpose of follow up.

पी०एस०यू०पी०–ए०पी० 3035 राजपत्र–(5426)–2006–597+150–(कम्प्यूटर/आफसेट)।

IndiaCode

रजि० नं० एल० डब्लू० /एस० पी० 561
लाइसेन्स नं० डब्लू० पी०-41
लाइसेन्स टू पोस्ट एट कन्सेशनल रेट

सरकारी गजट, उत्तर प्रदेश

उत्तर प्रदेशीय सरकार द्वारा प्रकाशित

असाधारण

विधायी परिशिष्ट

भाग-4, खण्ड (क)
(सामान्य परिनियम नियम)
लखनऊ, मंगलवार, 4 अप्रैल, 1995
चैत्र 14, 1916 शक सम्वत्

उत्तर प्रदेश सरकार

न्याय (अधीनस्थ न्यायालय)अनुभाग -2

संख्या 288/सात-न्याय-2-94
लखनऊ, दिनांक 4 अप्रैल, 1995

अधिसूचना

प्रकीर्ण

स० प० नि०-70

कुटुम्ब न्यायालय अधिनियम, 1984 (अधिनियम संख्या 66 सन् 1984) की धारा 23 के अधीन शक्ति का प्रयोग करके, राज्यपाल उच्च न्यायालय से परामर्श करने के पश्चात् निम्नलिखित नियमावली बनाते हैं :-

उत्तर प्रदेश कुटुम्ब न्यायालय नियमावली, 1995

अध्याय-एक

प्रारम्भिक

1-(1) यह नियमावली उत्तर प्रदेश कुटुम्ब न्यायालय नियमावली, 1995 कही जायेगी। — संक्षिप्त नाम

(2) यह सरकारी गजट में प्रकाशित होने के दिनांक से प्रवृत्त होगी। — और प्रारम्भ

2-(1) इस नियमावली में, जब तक कि संदर्भ में अन्यथा अपेक्षित न हो :- — परिभाषायें

(क) "अधिनियम" का तात्पर्य कुटुम्ब न्यायालय अधिनियम, 1984 (अधिनियम संख्या-66 सन् 1984) से है;

(ख) "नियुक्ति प्राधिकारी" का तात्पर्य किसी न्यायाधीश के पद के संबंध में राज्यपाल और कुटुम्ब न्याय के किसी अधिकारी या कर्मचारी के सम्बन्ध में न्यायाधीश या जहां एक से अधिक न्यायाधीश हैं वहां न्यायाधीश से है;

(ग) "भारत का नागरिक" का तात्पर्य ऐसे व्यक्ति से है, जो संविधान के भाग दो के अधीन भारत का नागरिक के रूप समझा जाय;

(घ) "आयोग" का तात्पर्य उत्तर प्रदेश लोक सेवा आयोग से है;

(ङ) "राज्यपाल" का तात्पर्य उत्तर प्रदेश के राज्यपाल से है;

(च) "सरकार" का तात्पर्य उत्तर प्रदेश के राज्य सरकार से है;

(छ) "उच्च न्यायालय" का तात्पर्य उच्च न्यायालय, इलाहाबाद से है;

(ज) "पद" का तात्पर्य न्यायाधीश के पद से है;

(झ) "धारा" का तात्पर्य अधिनियम की धारा से है।

(2) इस नियमावली में प्रयुक्त किन्तु अपरिभाषित और अधिनियम में परिभाषित शब्दों और पदों के वही अर्थ होंगे जो अधिनियम में उनके लिए दिये गये हैं।

अध्याय–दो

भाग–एक

न्यायाधीशों की नियुक्ति और सेवा के निबन्धन और शर्तें

[धारा 4 (6) और 23 (2) (क)]

नियुक्ति का स्रोत

3—न्यायाधीश की नियुक्ति निम्नलिखित किसी स्रोत से उच्च न्यायालय की सहमति से की जा सकती है :–

(क) उन व्यक्तियों में से जिन्होंने भारत में कोई न्यायिक पद कम से कम सात वर्ष के लिये धारण किया हो, प्रतिनियुक्ति द्वारा; या

(ख) किसी व्यक्ति की जिसने भारत में कोई न्यायिक पद कम से कम सात वर्ष के लिये धारण किया हो, अधिवर्षिता पर सेवा निवृत्ति के पश्चात् पुनः नियोजन द्वारा; या

(ग) धारा 4 की उपधारा (3) और (4) के अधीन नियुक्ति के लिये पात्र व्यक्तियों में से सीधी भर्ती द्वारा।

आरक्षण

4—सीधी भर्ती में अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य श्रेणियों के व्यक्तियों के लिए आरक्षण उत्तर प्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछड़े वर्गों के लिए आरक्षण) अधिनियम, 1994 उत्तर प्रदेश अधिनियम संख्या 4 सन् 1994) के उपबन्धों के अनुसार किया जायगा।

परामर्श और अन्य औपचारिकताएं

5—किसी पद पर नियुक्ति के लिए किसी अभ्यर्थी की धारा 4 की उपधारा (3) के खण्ड (क) और (ख) के अधीन दी गयी कोई अर्हता या खण्ड (ग) के अधीन केन्द्र सरकार द्वारा यथा विहित अन्य अर्हतायें अवश्य होनी चाहिए। परन्तु, धारा 4 की उपधारा (4) के अधीन उपबन्धों को सम्यक् रूप से ध्यान में रखते हुए, किया जायगा।

अभ्यर्थिता

6—पद पर नियुक्ति के लिये यह आवश्यक है कि अभ्यर्थी :–

(क) भारत का नागरिक हो; या

(ख) निम्नलिखित शरणार्थी हो, जो भारत में स्थायी निवास के अभिप्राय से 1 जनवरी, 1962 के पूर्व भारत आया हो; या

(ग) भारतीय उद्भव का ऐसा व्यक्ति हो जिसने भारत में स्थायी निवास के अभिप्राय से पाकिस्तान या किसी पूर्वी अफ्रीकी देश केन्या, युगांडा और यूनाइटेड रिपब्लिक आफ तन्जानिया (पूर्ववर्ती टांगानिका और जंजीबार) से प्रव्रजन किया हो;

परन्तु यह कि उपर्युक्त खण्ड (ख) या (ग) के अभ्यर्थी को ऐसा व्यक्ति होना चाहिये जिसके पक्ष में राज्य सरकार द्वारा पात्रता का प्रमाण–पत्र जारी किया गया हो;

परन्तु यह और कि खण्ड (ख) के अभ्यर्थी ने पुलिस उप महानिरीक्षक, आन्तरिक सुरक्षा, उत्तर प्रदेश द्वारा दिया गया पात्रता का प्रमाण–पत्र प्राप्त कर लिया हो।

आयु

—पद पर सीधी भर्ती के लिए यह आवश्यक है कि अभ्यर्थी ने भर्ती के वर्ष की जिसमें रिक्तियां विज्ञापित की जाय, पहली जुलाई को 45 वर्ष की वर्ष की आयु प्राप्त कर ली हो और 50 वर्ष की आयु प्राप्त न की हो।

परन्तु यह कि आरक्षण का दावा करने वाले अनुसूचित जातियों या अनुसूचित जनजातियों के अभ्यर्थी उच्चतर आयु सीमा में पांच वर्ष के शिथिलीकरण के लिए हकदार होगा।

चरित्र

8—पद पर सीधी भर्ती के लिए अभ्यर्थी का चरित्र ऐसा होना चाहिए कि सरकारी सेवा में सेवायोजन के लिए वह किसी प्रकार से उपयुक्त हो सके। नियुक्ति प्राधिकारी इस संबंध में अपना समाधान कर लेगा।

टिप्पणी :—संघ सरकार या किसी राज्य सरकार या किसी स्थानीय प्राधिकारी द्वारा या संघ सरकार या किसी राज्य सरकार के स्वामित्वाधीन या नियंत्रणाधीन किसी निगम या निकाय द्वारा पदच्युत व्यक्ति पद पर नियुक्ति के लिए पात्र नहीं होंगे। नैतिक अधमता के किसी अपराध के लिए दोषसिद्ध व्यक्ति भी पात्र नहीं होंगे।

वैवाहिक प्रास्थिति

9—पद पर नियुक्ति के लिए ऐसा पुरुष अभ्यर्थी पात्र न होगा जिसकी एक से अधिक पत्नियां जीवित हों या ऐसी महिला अभ्यर्थी पात्र न होगी जिसने ऐसे पुरुष से विवाह किया हो, जिसकी पहले से एक पत्नी जीवित हो।

चिकित्सीय उपयुक्तता

10—किसी अभ्यर्थी को पद पर नियुक्त नहीं किया जायगा जब तक कि मानसिक और शारीरिक दृष्टि से उसका स्वास्थ्य अच्छा न हो और वह किसी ऐसे शारीरिक दोष से मुक्त हो जिससे अपने कर्तव्यों का दक्षतापूर्वक पालन करने में बाधा पड़ने की सम्भावना हो। किसी अभ्यर्थी को नियुक्ति के लिए अन्तिम रूप से अनुमोदित किये जाने के पूर्व उससे यह अपेक्षा की जायेगी कि वह चिकित्सा परिषद् द्वारा की गयी किसी परीक्षा को उत्तीर्ण कर ले।

भाग—तीन

सीधी भर्ती द्वारा नियुक्ति की प्रक्रिया

रिक्तियों का अवधारण

11—नियुक्ति प्राधिकारी वर्ष के दौरान सीधी भर्ती द्वारा भरी जाने वाली रिक्तियों की संख्या और नियम 4 के अधीन अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य श्रेणियों के अभ्यर्थियों के लिए आरक्षित की जाने वाली रिक्तियों की संख्या भी अवधारित करेगा और उसकी सूचना आयोग को देगा।

प्रतियोगिता परीक्षा

12—परीक्षा ऐसे समय पर और ऐसे दिनांकों को संचालित की जा सकती है जैसा आयोग द्वारा अधिसूचित किया जाय और उसमें निम्नलिखित सम्मिलित होंगे :—

(क) ऐसे विधिक और सहबद्ध विषयों की जिसमें प्रक्रिया सम्मिलित है जैसी कि नियम 13 के अधीन विहित पाठ्य विवरण में सम्मिलित हो, लिखित परीक्षा, और

(ख) अभ्यर्थियों की सर्वतोमुखी वृत्ति और उनके व्यक्तित्व पता और सामान्य उपयुक्तता के निर्धारण का साक्षात्कार।

पाठ्य विवरण

13—प्रतियोगिता परीक्षा के संबंधित पाठ्य विवरण और नियमावली ऐसी होगी जैसी कि आयोग के परामर्श से उच्च न्यायालय द्वारा विहित की जाय।

फीस

14—सीधी भर्ती के लिए अभ्यर्थी आयोग को और चिकित्सा परिषद् के अध्यक्ष को, ऐसी फीस जैसी सरकार द्वारा समय-समय पर अवधारित की जाय, भुगतान करेगा।

प्रतियोगिता परीक्षा के आधार पर सीधी भर्ती की प्रक्रिया

15—(1) प्रतियोगिता परीक्षा में बैठने की अनुमति के लिये आवेदन-पत्र आयोग द्वारा विज्ञापन में उनके द्वारा अधिसूचित प्रपत्र में आमंत्रित किये जायेंगे।

(2) किसी अभ्यर्थी को परीक्षा में सम्मिलित नहीं किया जायगा जब तक उसके पास आयोग द्वारा जारी प्रवेश प्रमाण-पत्र न हो।

(3) लिखित परीक्षा का परिणाम प्राप्त होने और सारणीबद्ध कर लिये जाने के पश्चात् आयोग, नियम 4 के अधीन अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य श्रेणियों के अभ्यर्थियों का समुचित प्रतिनिधित्व सुनिश्चित करने की आवश्यकता को ध्यान में रखते हुए उतनी संख्या में अभ्यर्थियों को जो लिखित परीक्षा का परिणाम प्राप्त होने पर इस संबंध में आयोग द्वारा नियत स्तर तक पहुंच सके हों। साक्षात्कार में प्रत्येक अभ्यर्थी को दिये गये अंक लिखित परीक्षा में उसके द्वारा प्राप्त अंकों में जोड़ दिये जायेंगे।

(4) आयोग उन अभ्यर्थियों की जो पद पर भर्ती के लिये परीक्षा में बैठे हों, जैसा कि प्रत्येक अभ्यर्थी को अन्तिम रूप से दिये गये कुल अंकों के योग से प्रकट हो, उनकी प्रवीणता क्रम में एक सूची तैयार करेगा और उसे नियुक्ति प्राधिकारी को अग्रसारित कर देगा। यदि योग में दो या अधिक अभ्यर्थी बराबर-बराबर अंक प्राप्त करें तो आयोग लिखित परीक्षा में अधिक अंक प्राप्त करने वाले अभ्यर्थी को अधिमान देगा।

भाग–चार

नियुक्ति और पदावधि

नियुक्ति

16—नियम 8 के उपबन्धों के अधीन रहते हुए, राज्यपाल नियम 15 के उप नियम (4) के अधीन आयोग द्वारा तैयार की गयी सूची के प्राप्त होने पर उच्च न्यायालय से परामर्श करेगा, उच्च न्यायालय की दृष्टि पर विचार करने के पश्चात् ऐसी सूची में जो योग्यता क्रम में सबसे ऊपर हों, उनमें से नियुक्ति के लिए अभ्यर्थियों का चयन करेगा, परन्तु यह कि उसका समाधान हो गया हो कि वे अन्य प्रकार से सम्यक् रूप से अर्ह हैं।

पदावधि

17—सीधी भर्ती के मामले में अधिवर्षिता की अधिकतम आयु 62 वर्ष होगी। प्रतिनियुक्ति पर न्यायाधीश अपना पदभार ग्रहण करने के दिनांक से तीन वर्ष की अवधि के लिये, जब तक उच्च न्यायालय की सहमति से सरकार द्वारा अवधि बढ़ायी न जाय, किन्तु 62 वर्ष की आयु प्राप्त करने के दिनांक के पश्चात् नहीं, पद धारण करेगा।

18—किसी वर्ष में सीधी भर्ती किये गये किसी न्यायाधीश की ज्येष्ठता नियम 15 के उपनियम (4) के अधीन दी गयी योग्यता सूची के अनुसार अवधारित की जायेगी।

भाग–पांच

वेतन

वेतन और अन्य भत्ते

19—किसी न्यायाधीश को अनुमन्य वेतन और भत्ते ऐसे होंगे जैसे समय-समय पर उच्च न्यायालय के परामर्श से सरकार द्वारा अवधारित किये जायें।

भाग–छः

प्रकीर्ण

पक्ष समर्थन

20—किसी पद पर लागू नियमों के अधीन अपेक्षित सिफारिशों से भिन्न किन्हीं सिफारिशों पर, चाहे लिखित हों या मौखिक, विचार नहीं किया जायेगा। किसी अभ्यर्थी की ओर से अपनी अभ्यर्थिता के लिए प्रत्यक्ष या अप्रत्यक्ष रूप से समर्थन प्राप्त करने का कोई प्रयास उसे नियुक्ति के लिये अनर्ह कर देगा।

अन्य विषयों का विनियमन

21—ऐसे विषयों के सम्बन्ध में जो विनिर्दिष्ट रूप से इस नियमावली या विशेष आदेशों के अंतर्गत न आते हों, पद पर नियुक्त राज्य के कार्यकलापों के संबंध में सेवारत सरकारी सेवकों पर सामान्यतया लागू नियमों, विनियमों और आदेशों द्वारा नियंत्रित होंगे।

अध्याय–तीन

कुटुम्ब न्यायालय के अधिकारियों और अन्य कर्मचारियों की सेवा के निबंधन और शर्तें

[धारा 6 (2) और 23 (2) (ख)]

अधिकारियों और अन्य कर्मचारियों की नियुक्ति

22—(1) न्यायाधीश और जहां किसी क्षेत्र के लिये एक से अधिक न्यायाधीश हों वहां प्रधान न्यायाधीश अपने न्यायालय के लिए और अन्य कुटुम्ब न्यायालय के लिए यदि कोई हो, अपनी अधिकारिता के क्षेत्र के लिए ऐसे अन्य अधिकारियों और ऐसी श्रेणी के कर्मचारियों का जैसा कि अधिनियम की धारा 6 की उपधारा (1) के अधीन समय-समय पर अवधारित किया जाय, नियुक्त करेगा।

(2) जब तक कि कुटुम्ब न्यायालय के अधिकारियों और अन्य कर्मचारियों की सेवा के निबन्धन और शर्तें विहित न की जायं, उनकी अर्हतायें भर्ती की प्रक्रिया, वेतन और सेवा की अन्य शर्तें वही होंगी जैसी कि उच्च न्यायालय के अधीनस्थ उत्तर प्रदेश में सिविल न्यायालयों में उसी श्रेणी के कर्मचारियों की हैं और उससे सम्बन्धित राज्य यथावश्यक परिवर्तन सहित लागू होंगे।

अध्याय–चार

कुटुम्ब न्यायालयों को अभिलेखों का परिषण

[धारा 8 और 23 (1)]

अभिलेखों का परिषण

25—(1) जैसे ही किसी क्षेत्र के लिये किसी कुटुम्ब न्यायालय की स्थापना की जाती है तो उस क्षेत्र में अधिकारिता रखने वाला जिला और सेशन न्यायाधीश धारा 8 में निर्दिष्ट प्रकृतिक के सभी वादों और कार्यवाहियों के अभिलेखों को, जो उनके अधिकारिता के अधीन न्यायालय के समक्ष लंबित हों, एकत्रित करवायेगा और कुटुम्ब न्यायालय को परिषित करवेगा।

(2) मामले के अभिलेखों को उचित रूप से पंक्तिबद्ध किया जायगा और समस्त पत्रादि को सम्यक् रूप से सूचीबद्ध किया जायगा।

(3) प्रत्येक ऐसे अभिलेखों की विशिष्टियां प्रपत्र "क" में एक विवरण में प्रविष्ट की जायेंगी जिसे दो प्रतियों में तैयार किया जायगा। विवरण की प्रथम प्रति अभिलेखों के साथ कुटुम्ब न्यायालय को भेजी जायगी और दूसरी प्रति जिला और सेशन न्यायाधीश अपने पास रख लेगा।

अध्याय–पांच

समाज कल्याण अभिकरणों और कल्याण विशेषज्ञ, नामिका अधिवक्ता आदि का संगम

धारा 13

24—यदि कुटुम्ब न्यायालय न्याय के हित में यह आवश्यक समझता है, यह पूर्णतया विधिक विवाधक पर नामिका अधिवक्ता के रूप में विधिक विशेषज्ञ की सहायता मांग सकता है। उस प्रयोजन के लिए, कुटुम्ब न्यायालय विधिक विशेषज्ञों की एक सूची तैयार करेगा जो इसकी सहायता करने के लिए नामिका अधिवक्ता और विधिक विशेषज्ञ के रूप में इच्छुक हों उनको जिला न्यायाधीश के न्यायालय में प्रचलित फीस और व्यय को माप मान के रूप में सरकार के राजस्व से फीस और व्यय का भुगतान किया जायेगा।

परामर्श केन्द्र धारा 6 और 23

25—(1) प्रत्येक कुटुम्ब न्यायालय से एक परामर्श केन्द्र संलग्न होगा जिसमें इतने परामर्शदाता होंगे जैसा कि समय-समय पर उच्च न्यायालय के परामर्श से सरकार द्वारा अवधारित किया जाय। यदि किसी कुटुम्ब न्यायालय के लिये एक से अधिक परामर्शदाता नियुक्त किये जाते हैं तो उनमें एक को मुख्य परामर्शदाता नियुक्त किया जा सकता है।

(2) किसी परामर्श केन्द्र को विभिन्न इकाइयों में विभाजित किया जा सकता है और उन्हें कुटुम्ब न्यायालय के परिसर में और या ऐसे अन्य स्थानों पर जैसा उच्च न्यायालय निदेश दे, अवस्थित किया जा सकता है।

परामर्शदाता धारा 6 (1) और 23 (1)

26—(1) किसी परामर्श केन्द्र से सम्बद्ध मुख्य और अन्य परामर्शदाता उच्च न्यायालय के सिफारिश पर सरकार द्वारा नियुक्त किये जायेंगे और उन्हें ऐसे पारिश्रमिक और व्ययों का भुगतान सरकार से राजस्व से किया जायेगा जैसा समय-समय पर सरकार द्वारा अवधारित किया जाय।

(2) उच्च न्यायालय, किसी व्यक्ति को परामर्शदाता के रूप में नियुक्त करने के लिए सिफारिश करने के पूर्व परिवार और बाल कल्याण में वृत्तिक रूप से अर्ह विशेषज्ञों अधिमानतः जो सामाजिक विज्ञान या सामाजिक कार्य की मान्यता प्राप्त संस्थाओं में कार्यरत हों, से परामर्श कर सकता है।

(3) ऐसे व्यक्ति को जो सामाजिक कार्य में स्नातकोत्तर उपाधि के साथ कुटुम्ब परामर्श में कम से कम दो वर्ष का अनुभव रखते हों, परामर्शदाता के रूप में नियुक्ति में अधिमान दिया जायगा।

परामर्शदाता के कृत्य धारा 6 (1) और 23 (2) (ब)

27—(1) कोई परामर्शदाता, जिसे कोई याचिका सौंपी गयी हो, पक्षकारों के बीच विवाद की विषय वस्तु या उसके किसी भाग के निपटारे के सम्बन्ध में पक्षकारों को सहायता और सलाह देगा। परामर्शदाता पक्षकारों की सुलह पर पहुंचने के लिए सहायता भी करेगा।

(2) पक्षकारों के सलाह देने के लिए नियुक्त परामर्शदाता मिलने का समय और दिनांक नियत करेगा और पक्षकार परामर्शदाता के समक्ष इस प्रकार नियत दिनांक को और समय पर उपस्थित होने के लिए बाध्य होंगे।

(3) यदि कोई पक्षकार इस प्रकार नियत दिनांक और समय पर परामर्शदाता के समक्ष उपस्थित होने में असफल रहता है तो परामर्शदाता दूसरा दिनांक और समय नियत कर सकता है और अनुपस्थित पक्ष को तदनुसार रजिस्ट्रीकृत डाक द्वारा सूचित कर सकता है और यदि उक्त पक्षकार स्थगित दिनांक को परामर्शदाता के समक्ष उपस्थित नहीं होता है, तो परामर्शदाता, कुटुम्ब न्यायालय को यह कथन करते हुए रिपोर्ट कर सकता है कि एक या दोनों पक्षकार परामर्शदाता के समक्ष उपस्थित होने में असफल रहे हैं जिस पर कुटुम्ब न्यायालय अपनी किन्हीं अन्य शक्तियों पर प्रतिकूल प्रभाव डाले बिना व्यतिक्रमी पक्षकार के विरुद्ध कार्यवाही करने के लिए मामले को अग्रसर कर सकता है।

(4) कोई परामर्शदाता अपने कृत्यों के निर्वहन में किसी भी पक्षकार के घर जाने का और पक्षकारों के रिश्तेदारों, मित्रों और परिचितों या उनमें से किसी का साक्षात्कार लेने का हकदार होगा:

प्रतिबन्ध यह है कि जहां महिला उस परिसर की जो उसकी दखल में है, एक मात्र अधिभोगी है, तो पुरुष परामर्शदाता द्वारा सदैव कुटुम्ब न्यायालय द्वारा सम्यक् रूप से अनुमोदित किसी महिला के साथ जायेगा।

(5) परामर्शदाता अपने कृत्यों के निर्वहन में किसी पक्षकार के नियोजक से ऐसी सूचनायें, जैसी वह आवश्यक समझे, मांग सकता है।

(6) परामर्शदाता किसी पक्षकार को किसी अन्य क्षेत्र जैसे आयुर्विज्ञान या मनोविकृति विज्ञान के विशेषज्ञ को निर्दिष्ट कर सकता है।

विशेषज्ञों का पैनल धारा 12 और 23 (2) (ग)

28—न्यायाधीश, यथास्थिति, मुख्य परामर्शदाता या परामर्शदाता से परामर्श करके चिकित्सा और अन्य विशेषज्ञों का एक पैनल तैयार करेगा और विशेषज्ञ सरकार के राजस्व से ऐसी फीस और व्ययों का हकदार होगा जैसा कि न्यायालय के न्यायाधीश द्वारा न्यायालय के समक्ष साक्ष्य या राय देने वाले विशेषज्ञ की पास्थिति, सुविज्ञता और वृत्तिक हानि आदि को ध्यान रखते हुए अवधारित की जाय।

संस्थाओं आदि की सूची धारा 5 और 23 (1)

29—(1) न्यायाधीश, यथास्थिति, मुख्य परामर्शदाता या परामर्शदाता से परामर्श करके परिवार कल्याण के क्षेत्र में या किसी अन्य क्षेत्र में कार्य कर रही संस्थाओं संगठनों या अभिकरणों की एक ऐसी सूची भी तैयार करेगा, जैसी कि वह अपने और पक्षकारों द्वारा ऐसी किसी संस्था, संगठन या अभिकरण की सहायता प्राप्त करने में समर्थ होने के लिए उचित समझे।

(2) संस्थायें, संगठन और अभिकरण उनके द्वारा की गई सेवाओं के लिए ऐसे पारिश्रमिक के हकदार होंगे जैसा कि सरकार द्वारा समय-समय पर आदेश द्वारा इस निमित्त अधिसूचित किया जाय।

सूचना की गोपनीयता धारा 23 (2)

30—(1) परामर्शदाता द्वारा एकत्र की गई सूचना, परामर्शदाता के समक्ष दिया गया कोई कथन या परामर्शदाता द्वारा तैयार की गई कोई टिप्पणी या रिपोर्ट गोपनीय समझी जायगी और परामर्शदाता को सिवाय दोनों पक्षकारों की सम्मति के किसी न्यायालय में सूचना, कथन, टिप्पणी या रिपोर्ट प्रकट करने के लिए नहीं कहा जायगा।

(2) उपनियम (1) में निर्दिष्ट सूचना, कथन, टिप्पणी और रिपोर्ट को परामर्शदाता द्वारा बन्द आवरण में रखा जायेगा और वे कुटुम्ब न्यायालय के समक्ष साक्ष्य का भाग नहीं बनेगी फिर भी उसका उपयोग, न्यायाधीश की अनुमति से, उन शर्तों पर कि पक्षकारों की पहचान प्रकट नहीं की जायेगी, अनुसंधान या शिक्षा के प्रयोजनों के लिए किया जा सकेगा। फिर भी न्यायालय सूचना, कथन, टिप्पणी, रिपोर्टों आदि का अध्ययन कर सकता है।

परामर्शदाता साक्ष्य का नहीं दिया जाना धारा 23 (1)

31—किसी परामर्शदाता से किसी न्यायालय में नियम 30 के उपनियम (1) में निर्दिष्ट सूचना, कथन, टिप्पणी या रिपोर्टों के विषय में साक्ष्य देने की अपेक्षा नहीं की जायगी:

प्रतिबन्ध यह है कि,—(एक) परामर्शदाता कुटुम्ब न्यायालय को पक्षकारों के पर्यावरण, उनके व्यक्तित्वों और उनका उनके बच्चों के साथ संबंधों के सम्बन्ध में अभिरक्षा के प्रश्न या किसी बच्चे के विवाह की संरक्षकता का विनिश्चय करने में इसकी सहायता के रूप में सम्बन्धित रिपोर्ट प्रस्तुत कर सकता है।

(दो) परामर्शदाता, कुटुम्ब न्यायालय को पक्षकारों में से किसी एक पक्षकार को रख-रखाव की धनराशि या निर्वाह व्यय स्वीकृत किये जाने का विनिश्चय करने में उसकी सहायता करने के लिए किसी पक्षकार या पक्षकारों के पर्यावरण, आय या जीवन स्तर के संबंध में एक रिपोर्ट भी प्रस्तुत कर सकता है।

(2) कोई कुटुम्ब न्यायालय किसी ऐसे विषय पर, जिस पर वह न्याय निर्णयन कर रहा हो, या उसके किसी भाग पर सहायता करने के लिए परामर्शदाता से किसी अन्य विषय पर भी रिपोर्ट प्रस्तुत करने की अपेक्षा कर सकता है।

(3) उपनियम (1) और (2) के अधीन प्रस्तुत की गई रिपोर्ट की एक प्रति किसी पक्ष को उसके द्वारा अनुरोध किये जाने पर आपूर्त की जा सकती है।

(4) पक्षकार रिपोर्ट पर निवेदन करने के हकदार होंगे।

32—परामर्शदाता उसके समक्ष कार्यवाहियों के परिणाम को सूचित करते हुए कुटुम्ब न्यायालय को एक संक्षिप्त ज्ञापन प्रस्तुत करेगा। ज्ञापन का प्रस्तुत करना (धारा 23)

33—यदि पक्षकारों में विवाद या उसके किसी भाग से संबंधित कोई समझौता परामर्शदाता के समक्ष हो जाता है तो ऐसा समझौता लेखबद्ध किया जायेगा और पक्षकारों द्वारा हस्ताक्षरित किया जायगा और परामर्शदाता द्वारा प्रतिहस्ताक्षरित किया जायगा, और कुटुम्ब न्यायालय उसके निबन्धनों के अधीन किसी डिक्री या आदेश को, यदि वह समझौते के निबन्धनों को अन्तःकरण के विरुद्ध या विधि विरुद्ध या लोक नीति के प्रतिकूल नहीं समझता है, सुनायेगा। परामर्शदाता के समक्ष विषादा (धारा 23)

34—(1) परामर्शदाता किसी पक्षकार की अभिरक्षा में बच्चों के रखे जाने या पर्यवेक्षण करने का हकदार होगा और इस प्रयोजन के लिए वह उस गृह का जहां बच्चा निवास करता है, आकस्मिक निरीक्षण कर सकता है, और यदि बच्चे की अभिरक्षा से संबंधित प्रबन्ध में कोई परिवर्तन अपेक्षित है, तो वह कुटुम्ब न्यायालय को रिपोर्ट करेगा: बच्चों का पर्यवेक्षण या अभिरक्षा (धारा 33 (1)]

प्रतिबन्ध यह है कि जहां किसी परिसर की जिसकी महिला अध्यासी हो, और एक मात्र दखलकार है, तो किसी पुरुष परामर्शदाता द्वारा सदैव कुटुम्ब न्यायालय द्वारा सम्यक् रूप से अनुमोदित महिला के साथ ही निरीक्षण किया जायगा।

(2) उपनियम (1) के अधीन किसी रिपोर्ट के प्राप्त होने पर कुटुम्ब न्यायालय पक्षकारों को नोटिस देने के पश्चात् बच्चे की अभिरक्षा के सम्बन्ध में ऐसा आदेश जैसा वह उचित समझे, पारित कर सकता है।

35—चाहे मामला कुटुम्ब न्यायालय में लम्बित ही क्यों न हो, परामर्शदाता पुनः मेल मिलाप हुए युगलों का पर्यवेक्षण, मार्ग दर्शन और सहायता करने का हकदार होगा। युगल के पश्चात् पर्यवेक्षण [धारा 23 (1)]

36—जब तक कोई प्रतिकूल नियम न हो, कुटुम्ब न्यायालय उच्च न्यायालय के अधीक्षण के अधीन कार्य करेगा। उच्च न्यायालय का अधीक्षण.

आज्ञा से,
इकरामुल बारी,
प्रमुख सचिव।

In pursuance of the Provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of Notification no. 288/VII—Nyaya-2-732/86/ dated April 4, 1995.

No.288/VII-Nyaya-2-732/86

Dated. Lucknow, April 4, 1995

In exercise of the powers under Section 23 of the Family Courts Act, 1984 (Act no. 66 of 1984), the Governor, after consultation with the High Court, is pleased to make the following rules:-

THE UTTAR PRADESH FAMILY COURTS RULES, 1995

CHAPTER-I

PRELIMINARY

Short title and commencement

1. (i) These rules may be called the Uttar Pradesh Family Courts Rules, 1995;

(ii) They shall come into force with effect from the date of their publication in the *Official Gazette*.

Definitions

2. (i) In these rules, unless the context otherwise requires--

(a) 'Act' means the Family Courts Act, 1984 (Act no.66 of 1984);

(b) 'Appointing authority' means the Governor in relation to the post of a Judge and the Judge or where there are more than one Judge, the Principal Judge, in relation to an officer or employee of the Family Court;

(c) 'Citizen of India' means a person who is or is deemed to be a citizen of India under Part II of the Constitution;

(d) 'Commission' means the Uttar pradesh Public Service Commission;

(e) 'Governor' means the Governor of Uttar Pradesh;

(f) 'Government' means the State Government of Uttar Pradesh;

(g) 'High Court' means the High Court of Judicature at Allahabad;

(h) 'Post' means the post of a Judge;

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

(ii) Words and expressions used but not defined in these rules and defined in the Act shall have the meanings assigned to them in the Act.

CHAPTER-II

PART-I

APPOINTMENT AND TERMS AND CONDITIONS OF SERVICE OF JUDGE

[Section 4 (6) and 23 (2) (a)]

Source of appointment

3. The appointment of a Judge may, with the concurrence of the High Court, be made from any of the following sources:-

(a) By deputation from amongst persons having held for atleast sevan years a judicial office in India; or

(b) By re-employment after retirement or superannuation of a person who has for atleast seven years held a Judicial Office in India; or

(c) By direct recruitment from amongst persons eligible for appointment under sub-sections (3) and (4) of Section 4.

4. Reservation for the candidates belonging to Scheduled Castes, Scheduled Tribes and other categories in direct recruitment shall be in accordance with the provisions of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1994 (U.P. Act no. 4 of 1994). Reservation

5. A candidate for appointment to a post must possess any of the qualifications provided under clauses (a) and (b) or such other qualifications as may be prescribed by the Central Government under clause (c) of sub-section (3) of Section 4. Selection shall be made having due regard to the provisions under sub-section (4) of Section 4. Eligibility and other qualifications

6. A candidate for appointment to the post must be- Nationality

(a) a citizen of India; or

(b) a Tibetan refugee who came over to India before January 1, 1962 with the intention of permanently settling in India; or

(c) a person of Indian origin who has migrated from Pakistan, or any of the East African countries of Kenya, Uganda and the United Republic of Tanzania (formerly Tanganyika and Zanzibar) with the intention of permanently settling in India;

Provided that a candidate belonging to category (b) or (c) above must be a person in whose favour a certificate of eligibility has been issued by the State Government:

Provided further that a candidate belonging to category (b) has also obtained a certificate of eligibility granted by the Deputy Inspector-General of Police, Intelligence Branch, Uttar Pradesh.

7. A candidate for direct recruitment to the post must have attained the age of 45 years and must not have attained the age of 50 years on the first day of July in the year in which the vacancies are advertised. Age

Provided that candidates belonging to Scheduled Castes and Scheduled Tribes claiming reservation shall be entitled for five years of relaxation in higher side of the age limit.

8. The character of a candidate for direct recruitment to the post must be such as to render him suitable in all respects for employment in Government service. The appointing authority shall satisfy itself on this point. Character

NOTE:—

Persons dismissed by the Union Government or a State Government or by a Local Authority or a Corporation or Body owned or controlled by the Union Government or a State Government shall be ineligible for appointment to the post. Persons convicted of an offence involving moral turpitude shall also be ineligible.

9. A male candidate who has more than one wife living or a female candidate who has married a man already having a wife living shall not be eligible for appointment to the post. Marital status

10. No candidate by direct recruitment shall be appointed to the post unless he be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of his duties. Before a candidate is finally approved for appointment he shall be required to pass an examination by a Medical Board. Medical Fitness

PART–III

PROCEDURE FOR APPOINTMENT BY DIRECT RECRUITMENT

Determination of vacancies

11. The appointing authority shall determine and intimate to the Commission the number of vacancies to be filled by direct recruitment during the course of the year as also the number of vancancies to be reserved for candidates belonging to Scheduled Castes, Scheduled Tribes and other categories under Rule 4.

Competitive examination

12. The examination may be conducted at such time and on such dates as may be notified by the Commission and shall consist of–

(a) Written examination of such legal and allied subjects including procedure, as may be included in the syllabus prescribed under rule 13 and

(b) An interview to assess the all round career of the candidates and their personality, address and general suitability.

Syllabus

13. The syllabus and the rules relating to the competitive examination shall be such as may be prescribed by the High Court in consultation with the Commission.

Fee

14. Candidate for direct recruitment shall pay to the Commission and to the President of the Medical Board such fees as may from time to time be specified by the Government.

Procedure for direct recruitment on the basis of competitive examination

15. (1) Application for permission to sit at the competitive examination shall be invited by the Commission in the form notified by them in the advertisement.

(2) No candidate shall be admitted to the examination unless he holds a certificate of admission issued by the Commission.

(3) After the results of the written examination have been received and tabulated, the Commission shall, having regard to the need for securing due representation of the candidates belonging to the Scheduled Castes, Scheduled Tribes and other categories under Rule 4, summon for interview such number of candidates as on the result of the written examination have come up to the standard fixed by the Commission in this respect. The marks awarded to each candidate at the interview shall be added to the marks obtained by him in the written examination.

(4) The commission shall prepare and forward to the apointing authority a list of candidates who have taken examination for recruitment to the post in order of their proficiency as disclosed by the aggregate of marks finally awarded to each candidate. If two or more candidates obtain equal marks in the aggregate, the commission shall give preference to the candidates securing higher marks in written examination.

PART–IV

APPOINTMENT AND TERM OF OFFICE

Appointment

16. Subject to the provisions of Rule 9, the Governor shall on receipt of the list prepared by the Commission under sub-rule (4) of Rule 15, consult the High Court and shall, after taking into consideration the views of the High Court select candidates for appointment from amongst these who stand highest in order of merit in such list, provided that he is satisfied that they are duly qualified in other respects.

Term of office

17. The maximum age of superannuation in the case of direct recruit shall be 62 years. The judge on deputation shall hold office for a term of three years from the date on Which he enters upon the office unless extended by the Government with the concurrence of High Court but not beyond the date on which he attains the age of 62 years.

19. The seniority of a Judge recruited directly in any year shall be determined according to the merit list drawn up under sub-rule (4) of Rule 15. Seniority

PART–V

PAY

20. The salary and other allowances admissible to a Judge shall be such as may be determined by the Government in consultation with the High Court from time to time. Pay and other allowances

PART–VI

MISCELLANEOUS

20. No recommendation, either written or oral, other than these required under the rules applicable to the post will be taken into consideration. Any attempt on the part of a candidate to enlist support directly or indirectly for his candidature will disqualify him for appointment. Canvassing

21. In regard to the matters not specifically covered by these rules or by special orders, persons appointed to the post shall be governed by the rules, regulations and orders applicable generally to Government servants serving in connection with the affairs of the State. Regulation of other matters

CHAPTER–III

TERMS AND CONDITIONS OF SERVICE OF OFFICERS AND OTHER EMPLOYEES OF FAMILY COURTS [Section 6 (2) and 23 (2) (b)]

22. (1) The Judge and where there are more than one Judge for any area, the Principal Judge shall appoint for his Court and for other Family Courts, if any, for the area of his jurisdiction, such officers and such categories of employees as may be determined from time to time under sub-section (1) of Section 6 of the Act. Appointment of Officers and other employees

(2) Until the terms and conditions of service of officers and other employees of Family Courts are prescribed, their qualifications, procedure for recruitment, pay and other conditions of service shall be the same as that of the employees of similar category in the Civil Court in Uttar Pradesh Subordinate to the High Court and the rules relating thereto shall *mutatis mutandis*, apply.

CHAPTER–IV

TRANSMISSION OF RECORDS TO FAMILY COURTS

[Sections 8 and 23 (1)]

23. (1) As soon as a Family Court is established for an area, the District and Sessions Judge having Jurisdiction in that area shall cause the records of all suits and proceedings of the nature referred to in Section 8 pending before the Courts under his Jurisdiction collected and transmitted to the Family Court. Transmission of records

(2) The records of the case be properly stitched and all the papers shall be duly indexed.

(3) The particulars of every such records shall be entered in a statement in form 'A' which shall be prepared in duplicate. The first copy of the statement shall be sent to the Family Court alongwith the records and the dupticate copy shall be retained by the District and Sessions Judge.

CHAPTER–V

ASSOCIATION OF SOCIAL WELFARE AGENCIES MEDICAL AND WELFARE EXPERTS, AMICUS CURIAE ETC.

24. If the Family Court considers it necessary in the interest of justice it may seek the assistance of legal expert as amicus curiae on purely legal issue. For that purpose, the Family Court shall prepare a list of legal experts who are willing to assist it as amicus curiae and legal experts. They shall be paid fees and expenses out of the revenues of the Government as per the scale of fees and expenses prevalent in the Court of District Judge. Amicus Curiae (section 13)

Counselling centre [Sections 6 and 23]

25. (1) There shall be attached to every Family Court a Counselling Entry which shall have as many Counsellors as may be determined by the Government in consultation with the High Court from time to time. If more than one Counsellor is appointed for any Family Court, one of them may be appointed the Principal Counsellor.

(2) A counselling centre may be divided into different units and may be located in the Family Court premises and or in such other places as the High Court may direct.

Counsellors [Section 6 (1) and 23 (1)]

26. (1) Principal and other Counsellors attached to a Counselling centre shall be appointed by the Government on the recommendation of the High Court and shall be paid such remuneration and expenses out of the revenues of the Government as may be determined by the Government from time to time.

(2) The High Court may consult professionally qualified experts in Family and Child Welfare, pereferably working with recognised institutions of Social Science or Social Work, before recommending a persion for appointment as a Counsellor.

(3) Such persons who possess Master's degree in social work with minimum of two years experience in family counselling, will be given preference in appointment as counsellor.

Functions of counsellor [Section 6 (1) and 23 (2) (e)]

27. (1) A counsellor entrusted with a petition shall assist and advise the parties regarding the settlement of the subject matter of dispute between the parties or any part thereof. The Counsellor shall also help the parties in arriving at reconciliation.

(2) A counsellor appointed to advise the parites shall fix the time and date of appointment and the parties shall be bound to attend the Counsellor on the date and at the time so fixed.

(3) If a party fails to attend the Counsellor on the date and at the time so fixed, the Counsellor may fix another date and time and inform the absent party accordingly by registered post, and if the said party does not attend the Counsellor on the adjourned date, the Counsellor may make a report to the Family Court stating that one or both the parties have failed to attend the Counsellor, whereupon the Family Court may proceed with the matter without prejudice to its any other powers to take action against the defaulting party.

(4) A Counsellor in the discharge of his functions shall be entitled to pay visits to the house of any of the parties, and interview relatives, friends and acquaintance of parties or any of them:

Provided that where the lady is the sole occupant of the premises she occupies, the visit by a male Counsellor shall always be alongwith a lady duly approved by the Family Court.

(5) The Counsellor in the discharge of his functions may seek such informations as he may deem necessary from the employer of a party.

(6) The Counsellor may refer a party to an expert in any other area such as medicine or psychiatry.

Panel of Experts [Sections 12 and 23 (2) (e)]

28. The Judge shall prepare a panel of medical and other experts in consultation with the Principal Counsellor or Counsellor, as the case may be, and the experts shall be entitled to such fees and expenses out of the revenues of the Government as may be determined by the Judge of the Court having due regard to the status, expertise and the professional loss etc. of the expert giving evidence or opinion before the Court.

29. The Judge shall also prepare, in consultation with the Principal Counsellor or Counsellor as the case may be, a list of institutions, organisations or agencies working in the area of family welfare or in any other areas that he may deem fit in order to enable him or the parties to obtain the assistance of such as institution organisation or agency. List of institution etc. [(Section 5 and 23 (1)]

(2) The institutions, organisations and agencies shall, for the services rendered by them, be entitled to such remuneration as may be fixed by the Government from time to time by an order notified in this behalf.

30. (1) Information gathered by the Counsellor, any statement made before the Counsellor or any notes or report prepared by the Counsellor shall be treated as confidential and the Counsellor shall not be called upon to disclose the information, statements, notes or report to any court except with the consent of both the parties. Confidentiality of information [(Section 23 (1)]

(2) The information, statements, notes and report referred to in sub-rule (1) shall be kept in sealed covers by the Counsellor and will not form part of evidence before the Family Court. The same may, however, be used for the purposes of research or education with the permission of the Judge on condition that the identities of the parties shall not be disclosed. However the Court may persue the information, statements, notes, reports, etc.

31. A Counsellor shall not be required to give evidence in any court in respect of the information statements, notes or reports referred to in sub-rule (1) of Rule 30 : Counsellor not to give evidence [(section 23 (i)]

Provided that (i) the Counsellor may submit to the Family Court a report relating to the environment of the parties, their personalities and their relationship with their children in order to assist it in deciding the question of custody or guardianship of any child of the marriage.

(ii) the Counsellor may also submit to the Family Court report relating to the environment, income or standard of living of a party or parties in order to assist it in determining the amount of maintenance or alimony to be granted to one of the parties.

(2) A Family Court may also require the Counsellor to submit to it a report on any other subject inorder to assist it in adjudicating upon the matter before it or any part thereof.

(3) A copy of the report submitted under sub-rules (1) and (2) may be supplied to a party on a request being made by it.

(4) The parties shall be entitled to make their submissions on the report.

32. The Counsellor shall submit a brief memorandum to the Family Court informing the outcome of the proceedings before him. Submission of memorandum (section 23)

33. If the parties arrive at a settlement before the Counsellor relating to the dispute or any part thereof, such settlement shall be reduced to writing and shall be signed by the parties and countersigned by the Counsellor, and the Family Court shall pronounce a decree or order in terms thereof unless it considers the terms of the settlement unconscienable or unlawful or contrary to public policy. Settlement before Counsellor (section 23)

34. (1) The Counsellor shall be entitled to supervise the placement of children in the custoday of a party and for this purpose he may make surprise visits to the house where the child resides and shall make a report to the Family Cout if any alteration is required in the arrangement relating to the custoday of the child : Supervision of or custody of children [(section 23 (1)]

Provided that where the lady is the sole occupant of the premises, she occupies, then visits by a male Counsellor shall always by alongwith a lady duly approved by the Family Court.

(2) On receipt of a report under sub-rule (i), the Family Court may, after giving notice to the parties, pass such order as it may deem fit relating to custody of the child.

Supervision after reconciliation [Section 23 (1)]

35. The Counsellor shall be entitled to supervise, guide and assist the reconciled couples even if the matter is no longer pending in the Family Court.

Superintendence of High Court

36. Unless there is any Rule to the contrary, a Family Court shall function under the superintendence of the High Court.

IKRAMUL BARI,
Pramukh Sachiv.

मु० स० बु० पी०—(ः —373 राजपत्र (हिन्दी)-(466)—1995—1022—(कम्प्यूटर/आफसेट)।

IndiaCode

37

UTTAR PRADESH SHASAN

NYAYA ANUBAGHAG-2 (ADHINASTH NYAYALAYA)

In pursuance of the provisions of clause (3) of Article- 348 of Constitution of India, the Governor is pleased to order the publication of the following English translation of Notification number:- 98/VII-Nyaya-2-2002-732/86 dated:- July 11, 2002.

NOTIFICATION

MISCELLANEOUS

No:- 98/VII-Nyaya-2-2002-732/86

Dated:- Lucknow, July 11, 2002.

In exercise of the powers under section 23 of the Family Courts Act, 1984 (Act No. 66 of 1984), the Governor, after consultation with the High Court, is pleased to make the following rules with a view to amending the Uttar Pradesh Family Court Rules, 1995.

THE UTTAR PRADESH FAMILY COURTS (AMENDMENT) RULES, 2002

Short title and commencement

1-(1) These rules may be called the Uttar Pradesh Family Courts (Amendment) rules, 2002.

(2) They shall come into force with effect from the date of their publication in the Gazette.

Amendment of rule 2

2- In the Uttar Pradesh Family Courts Rules, 1995, herein after referred to as the said rules, in rule-2, in sub-rule (I) for the existing clause (b) set out in column 1 below the clause as set out in column-2 shall be substituted namely:-

Column 1 Existing Clause	Column 2 Clause hereby substituted
"Appointing Authority", means the Governor in relation to the post of a Judge and the Judge or where there are more than	"Appointing Authority" means the Governor in relation to the post of a Judge and the Judge, or where there are more

one Judge, the Principal Judge, in relation to an officer or the employee of the Family Court.

than one Judge, the Principal Judge in relation to an officer of the Family Court, and the District Judge of the place where the Family Court is located in relation to other employees of the Family Court.

Amendment of rule 22

3- In the said rules, for rule 22 set out in column 1 below the rules as set out in Column-2 shall be substituted namely:-

Column 1 Existing Clause	Column 2 Rule as hereby substituted
22(1) The Judge and where there are more than one Judge for any area, the Principal Judge shall appoint for his court and for other Family Courts, if any, for the area of his jurisdiction, such officers and such categories of employees as may be determined from time to time under sub-section (1) of section 6 of the Act.	22(1) The Judge and where there are more than one Judge for any area, the Principal Judge shall appoint for his court and for other Family Courts, if any, for the area of his jurisdiction, such officers as may be determined from time to time under sub-section (1) of section 6 of the Act.
(2) Until the terms and conditions of service of officers and other employees of Family Courts are prescribed, their qualifications, procedure for recruitment, pay and other conditions of service shall be same as that of the employees of similar category in the Civil Court in Uttar Pradesh subordinate to the High Court and the rules relating thereto shall mutatis mutandis apply.	(2) Until the terms and conditions of service of officers of the Family Courts are prescribed, their qualifications, procedure for recruitment, pay and other conditions of service shall be the same as that of the officers of the similar category in Civil Courts subordinate to the High Court and the rules relating there to shall mutatis mutandis apply.

IndiaCode

Column I Existing Rules	Column 2 Rules as hereby substituted
Appointment of other employees	22-A (1) The establishment of Group 'C' and Group 'D' employees of the Family Court shall form part of establishment of the Judgeship of the District where the Family Court is located. (2) The District Judge shall appoint Group 'C' and Group 'D' employees against the vacancies as may be determined from time to time under sub-section (1) of section 6 of the Act and it shall added to the strength of the said Judgeship. (3) Any recruitment of Group 'C' and Group 'D' employees made by the District Judges in relation to the Family Court shall form part of the cadre of the employees of the Judgeship for all purposes and they shall be provided to the Family courts according to their requirement. (4) The procedure of recruitment, terms and condition of services of the Group 'C' and Group 'D' employees of the Family Court shall be the same as has been prescribed in the U.P. Subordinate Civil Courts Ministerial Establishment Rules, 1947; the Uttar Pradesh Rules

IndiaCode

40

for the Recruitment of Ministerial Staff of the Subordinate offices in Uttar Pradesh, 1950 and the U.P. Subordinate Civil Courts Inferior Establishment Rules, 1955, as the case may be.

22-B The Group 'C' and Group 'D' employees of the Family Courts appointed on Ad-hoc basis prior to August 7,1989 may be considered for regular appointment by the District Judge in accordance with the U.P. Regularisiation of Ad-hoc Appointments (on posts outside the purview of the Public Service Commission) Rules, 1989 read with High Court C.L. No. 69 / VII b 104 / Adm(D), Allahabad dated November 16, 1993.

By Order,

A.B.Shukla
Pramukh Sachiv

IndiaCode

Compliance of direction given by Hon'ble Supreme Court in L.K. Pandey v. Union of India (Writ Petition No. 1170 of 1982) pertaining to expeditious disposal by District/Family Courts of cases involving Inter-Country adoption.

C.L. No. 28/2009 Admin. (G-II) Dated May 21, 2009

The Central Adoption and Resources Authority (CARA), an autonomous body, of Ministry of Women and Child Development, Government of India has brought to the notice of Hon"ble Court vide D.O. Letter No. 16/1/2000-CARA dated 12.12.2008 that the direction of Hon"ble Supreme Court given in L.K. Pandey v. Union of India (W.P. No. 1170 of 1982) pertaining to expeditious disposal by District/Family Courts, of cases involving inter-country adoption, are not being followed which prescribes that the entire procedure should be completed by the Court expeditiously as far as possible within a period of two months from the date of filing of applications for the guardianship of child. The proceedings on the application for guardianship should be held in Court in camera and should be recorded confidentially. As soon as order is made on the application for guardianship, the entire proceedings including the papers and documents should be sealed.

Upon consideration of the above matter, the Hon"ble Court has desired that the Family Courts or the Court assigned to deal with such nature of cases under your administrative control should be thoroughly impressed to adhere to the directions given by the Hon"ble Apex Court in Lakshmi Kant Pandey v. Union of India; (1984) 2 SCC 244 by making sincere efforts to decide such cases within the time stipulated i.e. two months from the date of filing of the application.

While enclosing a copy of the judgment of Hon"ble Apex Court delivered in the above noted case alongwith copy of letter dated 12.12.2008 of Central Adoption Resource Authority, I am directed to request you to kindly impress upon the Judicial Officers presiding over the Family Courts or dealing with such matters working under your administrative control to ensure compliance of the above directions in right earnest.

Compliance of directions laid down in the judgment dated 7.5.1996 of Hon'ble the Supreme Court of India in civil appeal no. 7760-7761 of 1996 U.P. State Road Corporation and others vs. Trilok Chandra and others.

C.L.No.35 Admin (G), Dated 19 July,1996

Hon"ble the Supreme Court while deciding the matter of U.P.State Road Corporation vs.Trilok Chandra and others has issued directions that the said judgment may be circulated to all the court/Tribunals subordinate to Hon"ble High Court of judicature at Allahabad.

In compliance of the directions contained in the judgment a copy of order of Hon"ble the Supreme Court is being enclose for strict compliance.

I am, therefore to request you to communicate the directions of the Hon"ble Supreme Court to all the courts subordinate to Hon"ble the High court by circulating the copy of the judgment for strict compliance.

The guidelines with regard to the representation of the parties litigating before the family court through their counsel.

C.L.No./20 Dated: 9th June, 1998

Hon"ble court (Hon"ble Sri M.Katju and Hon"ble Sri.S.L. Saraf.JJ) in civil Misc. Writ Petition No.48736 of 1997, Prabhat Narain Tickoo Vs.Smt. Mamta Tickoo and others, has formulated, the guide lines with regard to the representation of the parties litigating before the family Court through their counsel.

I am desired to send the copy of the aforesaid judgment for information.

Enforcement of the provisions of Section 13 of Family Courts Act, 1984 and Rule 27 of the U.P. Family Courts (Court) Rules, 2006 providing for seeking permission to engage Advocate in appropriate cases.

C.L. No. 18/2009/ Admin. (G-I): Dated: April 29, 2009

The Hon"ble Court has noticed that the provisions as laid down in Section-13 of the Family Courts Act providing for a bar to engage a Legal Practitioner to appear before a Family Court in a suit or proceedings and has left it to the discretion of the Court to seek assistance of Legal Expert as Amicus Curiae if so required in the interest of Justice, are not being adhered to by the Courts and hence has desired that strict compliance be made of the provisions as provided in Section 13 of the Family Courts Act, 1984 and also in Rule-27 of the U.P. Family Courts (Court) Rules, 2006 which provides that the Court may permit the parties to be represented by a Lawyer if the case involves complicated questions of Law or considers that the party seeking the permission will not be in a position to conduct his/her case adequately or for any other reason and the reasons for granting such permission shall be recorded by the Court in its order. The permission so granted may also be revoked by the Court at any stage of the proceedings if the same is considered just and necessary.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding officers of the Family Courts working under your administrative control for strict compliance of the directions.

Help Desk to be provided in Family Court.

C.L. No. 19/2009 Admin. (G-I): Dated: 29.04.2009

In order to give effect to the U.P. Family Courts (Court) Rules, 2006, which have provided simplified procedure for making application in summery proceedings on just one form, upon consideration of the matter the Hon"ble Court has desired that a help desk be set up in each Judgeship to be manned by a senior clerk preferably a lady where there exists a family court to assist the parties approaching the court for providing necessary guidance in filling up the form and enlightening them to provide detailed information with regard to filing of cases, the manner and method of recording of evidence and the recovery of maintenance.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding officers of the Family Courts working under your administrative control for strict compliance of the directions.

Enforcement of provisions of Section 11 of Family Courts Act, 1984

C.L. No. 22/2009/Admin. 'G-I': Dated: May 2, 2009

The Hon"ble Court has noticed that the provisions as laid down in Section 11 of the Family Courts Act providing for holding in camera proceedings in every suit or proceedings to which the Act of 1984 applies if the family court so desires or either of the parties so desires, are not being observed by the Courts strictly. Now the Hon"ble Court upon consideration of the matter has desired that the Courts dealing with matters falling under Family Court Act must strictly follow the provisions as contained in section 11 of the Act.

Therefore, I am, directed to request you to kindly bring the contents of this Circular Letter to the knowledge of all the Presiding Officers of the Family Courts working under your administrative control for strict compliance of the same.

Recommendation made by the Inter Ministerial Committee constituted by Ministry of Overseas Indian Affairs, Government of India to curb the menace of the fraudulent overseas marriages and to determine legal action against such overseas Indian spouses.

C.L. No. 43/2009/Admin. 'G-II' Dated: Allahabad 2.9.2009

The Secretary, Ministry of Overseas Indian Affairs, Government of India has brought to the notice of Hon'ble Court on the issues relating to delivery of justice to the Indian women, who were married and thereafter deserted by their overseas husband to prevent such fraudulent marriages and to determine the possible legal action that could be taken against such overseas spouses.

Upon consideration of the matter, the Hon'ble Court is of the view that the situation, however, needs attention as it involves the right of the married women subjected to cruelty on demands of dowry, concealment of earlier/existing marriages, marriages of convenience; and deceit in marital affairs.

To overcome the problem and to determine possible legal action that could be taken against such Indian overseas spouses, the Hon'ble Court has desired that all such matters pending for maintenance before the Chief Judicial Magistrate and 1st Class Magistrates and the suits for restitution of conjugal rights, divorce and custody of children pending before the Civil Judges and Sessions Judges, wherever the family courts have not been set up, and all such cases, where the family courts are set up (in 12 districts in the State of Uttar Pradesh), should be put on Fast Track. Wherever the woman deserted by her overseas husband, is claiming maintenance, and is seeking some relief relating to her marriage including custody of children, the cases should be decided very expeditiously. All these cases should not be unnecessarily adjourned and that as far as possible these cases should be decided within a period of six months from the date they are instituted.

I am further directed to say that upon consideration of the matter the Hon'ble Court has desired that the District Judges concerned shall report back the data of such cases in every six month, so that the Court may suggests measures, if any unnecessary delay is being caused in such cases.

I am, therefore, directed to request you to kindly bring the above directions to the notice of all the Family Courts and all the Judicial Officers working under your administrative control for information and strict compliance.