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DISTRICT LEGAL SERVICES AUTHORITIES (TRANSACTION OF BUSINESS AND OTHER PROVISIONS) REGULATIONS, 1997

DISTRICT LEGAL SERVICES AUTHORITIES (TRANSACTION OF BUSINESS AND OTHER PROVISIONS) REGULATIONS, 1997[1]

In exercise of the powers conferred by Section 29-A of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987) the Uttar Pradesh State Legal Services Authority hereby makes the following regulations :

CHAPTER I

PRELIMINARY

1. Short title and commencement—(1) These regulations may be called as District Legal Services Authorities (Transaction of Business and other Provisions) Regulations, 1997.

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

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2. Definitions—In these regulations, unless the context otherwise requires—

(a) "Act" means the Legal Services Authorities Act, 1987;

(b) "Aided person" means a person to whom legal aid, legal advice or legal services has been provided in any form;

(c) "Central Authority" means the National Legal Services Authority constituted under Section 3;

(d) "Chairman" means the Chairman of the District Authority;

(e) "District Authority" means District Legal Services Authority of the District constituted under Section 9;

(f) "Legal Service" includes the rendering of any service in the conduct of any case or other legal proceeding before any Court or other authority or Tribunal and the giving of advice on any legal matter;

(g) "Lok Adalat" means a Lok Adalat organized under Chapter VI of the Act;

(h) "Member" means a Member of the District Authority;

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1. Vide noti. no- 40/SLSA-104-97, dated 11th september, 1997

(i) "Rules" means the Uttar Pradesh State Legal Services Authority Rules, 1996;

(j) "Secretary" means the Secretary of the District Authority;

(k) "Section" means a section of the Act;

(l) "State authority" means the Uttar Pradesh State Legal Services Authority constituted under Section 6.

CHAPTER II

FUNCTION, MEETINGS AND FUND OF THE AUTHORITY

3. Functions of the district authority—(1) The District Authority perform the following functions, namely:

(a) Organise Lok Adalats within the district, including at Tehsil level for all categories of cases which are capable of settlement at Lok Adalat;

(b) Provide legal aid, legal advice, legal literacy and other legal services in any matter to be filed of defended in any civil, criminal under any law for the time being in force to exercise judicial or quasi-judicial functions at the district level;

(c) Organise Legal Literacy camps, more particularly in the areas predominantly inhabited by the Scheduled Castes and Scheduled Tribes and other weaker section of the society;

(d) Carry out and coordinate conciliation work directly or through organizations of individuals engaged in the service of the poor and weaker sections of the society, in particular, woman, children, Members of Scheduled Castes and Scheduled Tribes;

(e) Carry out legal aid, legal advice, legal literacy and other legal services programs and schemes with the object of affording equal opportunities in the field of law to the weaker sections of the society in accordance with directions of the Central Authority and State Authority;

(f) Act in coordination with other governmental and non-governmental organization, universities and other organization,

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and individuals engaged in the work of promotion of legal services to the poor and other weaker sections of the society;

(g) Give effect to the policies and programs of the Central Authority and the State Authority;

(2) The District Authority shall perform such of the functions of the State Authority in the district as may be delegated to it, from time to time, by the State Authority;

[1][3-A. **Terms of office of Members—**(1) The terms of office of Members nominated under clause (b) of sub-section (2) of Section 9 shall be two years and such Members shall be eligible for renomination.

(2) A Member nominated under clause (b) of sub-section (2) of Section 9 may be removed by the Government if in the opinion of the Government it is not desirable to continue him as Member.

(3) If any vacancy occurs due to death or otherwise in the office of Member of the District Authority, it shall be filled in the manner provided for in the Act and rules made there under for the residue of the term of his predecessor.]

[2][3-B. **Honorarium to Chairman/District Judge, District Legal Services Authorities—**The Chairman shall act and discharge his duties and perform his function as Chairman in addition to his duties and work as Judicial Officer and for that purposes he shall be paid honorarium at the rate of Rs. 1.000 per month as has been determined in consultation with the Chief Justice of the Allahabad High Court.]

4. Secretary of the District Authority--- (1) The Secretary shall be appointed by the State Authority in consultation with the Chairman from amongst the officers specified in sub-section (3) of Section 9.

(2) The Secretary shall be the principal officer of the District Authority.

He shall :

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1. inserted by noti. no-826/SLSA-190-96 dated 7th april, 1998

2. inserted by noti. no-206/SLSA-190-96 dated 25th september 1996

(a) be responsible for carrying out the programmes of Lok Adalats Legal Aid, Legal Advice and Legal Literacy and all day today work conducted therewith;

(b) exercise such powers, perform such functions and discharge such duties as may be assigned to him by the Chairman;

(c) be the custodian of all assets, accounts, records and funds of the District Authority and shall ensure proper maintenance and upkeep of the records of the District Authority;

(d) maintain or cause to be maintained true and proper accounts of the receipts and disbursements of the funds of the District Authority in accordance with the provisions of Section 18;

[1][(3) The Secretary shall act and discharge his duties and perform his function as Secretary in addition to his duties and work as Judicial Officer and for that purposes he shall be paid honorarium of Rs. 750 per month as has been determined in consultation with the Chief Justice of Allahabad High Court.]

5. Transaction of business of the District Authority---(1) The District Authority shall meet once in every three months provided that the Chairman may convene a meeting of the District Authority whenever any business is to be transacted.

(2) Annual general meeting of the District Authority shall be convened ordinarily in the month of April every year or in such other month as may be directed by the Chairman.

(3) A meeting of the District Authority, shall be presided over by the Chairman.

(4) The quorum for a meeting shall be seven Members including the Chairman.

(5) For every meeting of the District Authority, atleast two weeks notice shall be given to the Members to attend the meeting; however, and emergent meeting may be convened by the Secretary in accordance with the directions of the Chairman on a short notice.

(6) The District Authority shall regulate its own procedure.

1- Re established by noti. no-206/SLSA-190-96 dated 25th september 1996

(7) One or more persons who are engaged or interested in the upliftment of the weaker section of the society who are considered suitable by the Chairman, may be invited for any meeting in order to seek their views, co-operation and help such person shall, have no right to vote at such meeting.

(8) (a) All policy and other important matters shall be brought before the District Authority for consideration and decision;

(b) Any specific matter or matters as may be desired or required by the District Authority, generally or otherwise, to be placed before it, shall be placed before the District Authority for its consideration and decision;

(c) In respect of emergent matters, the Chairman may exercise the powers and perform the functions and discharge the duties of the district Authority. All such matters shall, however, be placed before the District Authority for its information and approval.

(9) All decisions at the meetings shall be taken by the majority of the Members present and voting and in case of tie, the person presiding over the meeting shall have a second or casting vote.

(10) It shall be duty of the Secretary to duly record or cause to be recorded the minutes of every meeting in the register to be maintained for the purpose.

(11) A copy of the proceedings of every meeting shall be sent to the State Authority as soon as may be after the meeting.

(12) The non-official Members shall be entitled to payment of travelling allowance and daily allowance in respect of the journeys performed in connection with the work of the District Authority at the rates admissible to a group 'A' officer of the State Government.

6. Funds/Accounts and Audit of the District Authority---(1) The District Legal Aid Fund shall consist of the following, namely :

(a) all sums of money paid or any grants made by the State Authority to the district Authority for the purposes of the Act;

(b) any grants or donations that may be made to the District Authority by any person with the prior approval of the State Authority, for the purposes of the Act;

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(c) any other amount received by the District Authority under the orders of any Court or from any other source.

(2) The District Legal Aid Fund shall be applied for meeting the cost of the function referred to in sub-section (2) of Section 17.

(3) The accounts and other relevant records and statement of the District Authority shall be maintained properly in such form and in such manner as may be prescribed under Section 18 and until so prescribed it shall be done as may be directed by the State Authority.

CHAPTER III

LEGAL SERVICES

7.Criteria for giving Legal Services—(1) Legal Aid, Legal Advice or other Legal Service may be provided by the District Authority in matters before any civil, criminal or revenue Court within the district or any authority constituted under any law to exercise judicial or quasi-judicial functions at the district level.

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(2) A person shall be entitled to Legal Aid, Legal Advice or other Legal Services if that person is :

(a) a Member of a Scheduled Castes and scheduled Tribes;

(b) a victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution of India;

(c) a woman or a child;

(d) a mentally ill or otherwise disabled persons;

(e) a person under circumstances of undeserved want, such as being a victim of a mass disaster ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or

(f) An industrial workman; or

(g) in custody, including custody in a protective home within the meaning of clause (g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956 or in a Juvenile Home within the meaning of clause (1) of Section 2 of the Juvenile Justice Act, 1986, or in a Psychiatric Hospital or Psychiatric Nursing Home

within the meaning of clause (g) of Section 2 of the Mental Health Act, 1987; or

(h) in receipt of annual income from all sources up to rupees twelve thousand or higher amount as may be fixed, from time to time, under Rule 16 of the Rules.

8. Refusal to provide Legal Aid, Legal Advice or Legal Services--- (1) Legal Aid, Legal Advice or to other Legal Services may be refused :

(a) to a person in a case of contempt of Court;

(b) to a person in proceeding relating to any election;

(c) in proceedings under Immoral Traffic (Prevention) Act,1956 except to a victim of trafficking in human beings;

(d) in proceeding under the Protection of Civil Right Act, 1955 except to a person who is subjected to any disability under this Act;

(e) to a person accused of an offence committed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(2) Legal Services may also be refused in respect of a case of defamation or malicious prosecution where the Secretary is satisfied that it is a suitable case for such refusal in the totality of facts;

Provided that reasons for refusing legal services shall be recorded in writing and order of the Chairman shall be obtained before the legal services are refused under these regulations.

9. Modes of providing Legal Services---Legal Services may be given in any one or more of the following modes, namely :

(a) Towards payment of Court-fee, Process-fee and other charges payable or incurred in connection with any legal proceedings;

(b) Through engagement of a legal practitioner;

(c) For obtaining and supply of certified copies of judgment, order and other documents in legal proceedings :

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Provided that payment of Court-fee, Process-fee and other expenses shall be allowed to the extent as per the general orders of the State Authority.

10. Application for Legal Services---(1) Any person requiring legal aid, legal advice or legal services may make an application addressed to the Secretary.

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

11. Disposal of Applications—(1) On receipt of an applications for legal aid, legal advice or legal services the Secretary shall scrutinise the application to satisfy himself that the same is in order as regards eligibility and other requirements of the rules and regulations and, wherever warranted, the applicant may be required to submit further information as may be necessary.

(2) The Secretary shall consider the application and pass necessary order for granting or refusing to provide legal aid, legal advice or other legal services :

Provided that where it proposed to disallow the application, reasons for so doing shall be duly recorded in the register of application maintained for the purpose.

Provided further that the order of the Chairman shall be obtained before a person is denied legal aid, legal advice or legal services.

(3) No application for legal aid, legal advice or legal services shall be allowed, if the Secretary is satisfied that :

(a) The applicant has knowingly made false statement or furnished false information as regards his means or in respect of any other material fact; or

(b) There is no *prima facie* case to institute or as the case may be, to defend the proceedings; or

(c) The application is frivolous or vexatious;

(d) The applicant is not entitled to the same under these regulations; or

(e) Having regard to all the relevant facts and circumstances of the case, it is otherwise not expedient and reasonable to grant it :

Provided that order of the Chairman shall be obtained before an application is disallowed under any of the aforesaid clauses.

12. Duty of aided person---Every aided person or his representative shall attend the office of the District Authority as and when required by the Secretary or by the Advocate concerned and shall provide and furnish such particulars or information as may be considered necessary and shall make full disclosure of the particular or information so required. He shall attend the Court or proceedings at his own expense.

13. Certificate of eligibility---(1)Where an application for legal aid, legal advice or legal services is allowed, a certificate of eligibility will be issued in favour of the applicant entitling him to legal aid, legal advice or legal services in respect of a proceeding.

(2) The certificate of eligibility shall stand cancelled if the legal aid, legal advice or legal services is withdrawn. In every such case the advocate to whom the case of the person concerned is assigned, as also the Court or judicial or quasi-judicial authority, before which the case is pending, shall be informed accordingly in writing.

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14. Cancellation of certificate of eligibility---(1) The District Authority may, either on its own motion or otherwise, cancel the certificate of eligibility granted under Regulation 13 in the following circumstances, namely :

(a) in the event of being found that the certificate of eligibility was obtained by the aided person by misrepresentation of fraud;

(b) in the event of any material change in the circumstances of the aided person;

(c) in the event of any misconduct, misdemeanor or negligence on the part of the aided person in the course of proceedings;

(d) in the event of the aided person not co-operating with the District Authority or with the advocate provided by the District Authority;

(e) in the event of the aided person engaging an advocate at his own expense who in the opinion of the Secretary can suitably look after the matter.

(f) In the event of the death of aided person, however, in the case of civil proceedings where the right or liability survives; legal services may be continued where the legal representative is also eligible for such aid.

(2) No certificate of eligibility shall be cancelled under clause (1) without affording an opportunity to the aided person or to his legal representative in the event of his death to show cause as to why the certificate should not be cancelled.

(3) Where the certificate of eligibility of aided person is cancelled under sub-regulation (1), legal aid, legal advice or to legal services shall be discontinued and the amount already given for such legal aid, legal advice or legal service may be recovered in full or part as may be decided by the Secretary with the approval of the Chairman.

15. Fee or honorarium payable to Legal Practitioners on the Panel—(1) A panel of suitable advocates who are agreeable to conduct the case or proceedings on behalf of the persons in whose favour a certificate of eligibility has been issued shall be prepared by the District Authority. Ordinarily the panel so prepared shall be valid for two years. A copy of the panel so prepared shall be sent to the State Authority for information, advice and direction if any. Such advocates shall be paid fee or honorarium at such rates as may be determined, from time to time, by the State Authority. Until so determined the rates of fee or honorarium fixed for the purpose under relevant State Government orders shall continue.

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

(3) A legal practitioner on the panel, who has completed his assignment, shall submit a statement showing the fee or honorarium due to him in connection with the legal proceedings conducted by him on behalf of the aided person to the Secretary who shall, after due scrutiny and approval of the Chairman, sanction the amount to be paid to the advocate concerned.

(4) An advocate may provide legal aid, legal advice or legal services without charging any fee or honorarium.

(5) The Chairman may, in suitable cases, appoint any advocate, not on panel, to file or defend case.