

**THE LEGAL SERVICES AUTHORITIES
ACT, 1987**

**As Amended by Legal Services Authorities
(Amendment Act, 2002)**

**THE H.P. STATE LEGAL SERVICES AUTHORITY
RULES, 1995**

**THE H.P. STATE LEGAL SERVICES AUTHORITY
REGULATIONS, 1996**

THE H.P. LEGAL AID COUNSEL SCHEME, 2003

THE H.P. LOK ADALAT SCHEME, 2005

THE H.P. LEGAL LITERACY CAMP SCHEME, 2005



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THE LEGAL SERVICES AUTHORITIES ACT, 1987
(Act No. 39 of 1987)
(11th October, 1987)

An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows :—

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement:

- (1) This Act may be called the legal Services Authorities Act, 1987.
- (2) It extends to the whole of India, except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act and for different States, and any reference to commencement in any provision of this Act in relation to any State shall be construed as a reference to the commencement of that provision in that State.

2. Definitions :—(1) In this Act, unless the context otherwise requires,—

- (a) "case" includes a suit or any proceeding before a court;
- (aa) "Central Authority" means the National Legal Services Authority constituted under section 3;
- (aaa) "court" means a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions;
- (b) "District Authority" means a District Legal Services Authority constituted under section 9;
- (bb) "High Court Legal Services Committee" means a High Court Legal Services Committee constituted under section 8A;
- (c) "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;
- (d) "Lok Adalat" means a Lok Adalat organised under Chapter VI;

- (e) "notification" means a notification published in the Official Gazette;
- (f) "prescribed" means prescribed by rules made under this Act;
- (ff) "regulations" means regulations made under this Act;
- (g) "scheme" means any scheme framed by the Central Authority, a State Authority or a District Authority, for the purpose of giving effect to any of the provisions of this Act;
- (h) "State Authority" means a State Legal Services Authority constituted under section 6;
- (i) "State Government" includes the administrator of a Union territory appointed by the President under Article 239 of the Constitution;
- (j) "Supreme Court Legal Services Committee" means the Supreme Court Legal Services Committee constituted under section 3A;
- (k) "Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under section 11A.

(2) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or provision is not in force, be construed as a

reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

CHAPTER-II
THE NATIONAL LEGAL SERVICES AUTHORITY

3. Constitution of the National Legal Services Authority

(1) The Central Government shall constitute a body to be called the National Legal Services Authority to exercise the powers and perform the functions conferred on, or assigned to, the Central Authority under this Act.

(2) The Central Authority shall consist of—

- (a) the Chief Justice of India who shall be the Patron-in-Chief;
- (b) a serving or retired Judge of the Supreme Court to be nominated by the President, in consultation with the Chief Justice of India who, shall be the Executive Chairman; and
- (c) such number of other members, possessing such experience and qualifications, as may be prescribed by the Central Government, to be nominated by that Government in consultation with the Chief Justice of India.

(3) The Central Government shall, in consultation with the Chief Justice of India, appoint a person to be the Member-

Secretary of the Central Authority, possessing such experience and qualifications as may be prescribed by that Government, to exercise such powers and perform such duties under the Executive Chairman of the Central Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.

(4) The terms of office and other conditions relating thereto, of members and the Member-Secretary of the Central Authority shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(5) The Central Authority may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the Central Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(7) The administrative expenses of the Central Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the Central Authority, shall be defrayed out of the Consolidated Fund of India.

(8) All orders and decisions of the Central Authority shall be authenticated by the Member-Secretary or any other officer of the Central Authority duly authorised by the Executive Chairman of that Authority.

(9) No act or proceeding of the Central Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Central Authority.

3 A. Supreme Court Legal Services Committee :

(1) The Central Authority shall constitute a committee to be called the Supreme Court Legal Services Committee for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the Central Authority.

(2) The Committee shall consist of—

- (a) a sitting Judge of the Supreme Court who shall be the Chairman; and
- (b) such number of other members possessing such experience and qualifications as may be prescribed by the Central Government, to be nominated by the Chief Justice of India.

(3) The Chief Justice of India shall appoint a person to be the Secretary to the Committee, possessing such experience and qualifications as may be prescribed by the Central Government.

(4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the Central Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India.

4. Functions of the Central Authority :

The Central Authority shall perform all or any of the following functions, namely :

- (a) lay down policies and principles for making legal services available under the provisions of this Act;
- (b) frame the most effective and economical schemes for the purpose of making legal services available under the provisions of this Act;
- (c) utilise the funds at its disposal and make appropriate allocations of funds to the State Authorities and District Authorities;
- (d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society

and for this purpose, give training to social workers in legal skills;

- (e) organise legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement of disputes through Lok Adalats;
- (f) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;
- (g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
- (h) to do all things necessary for the purpose of ensuring commitment to the fundamental duties of citizens under Part IV-A of the Constitution;
- (i) monitor and evaluate implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act;
- (j) provide grants-in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amounts placed at its disposal for the implementation of legal services schemes under the provisions of this Act;
- (k) develop, in consultation with the Bar Council of India, programmes for clinical legal education and

promote guidance and supervise the establishment and working of legal services clinics in universities, law colleges and other institutions;

- (l) take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educated weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;
- (m) make special efforts to enlist the support of voluntary social welfare institutions working at the grass-root level, particularly among the Scheduled Castes and the Scheduled Tribes, women and rural and urban labour; and
- (n) coordinate and monitor the functioning of State Authorities, District Authorities, Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and voluntary social service institutions and other legal services organisations and give general directions for the proper implementation of the legal services programmes.

5. Central Authority to work in coordination with other agencies :

In the discharge of its function under this Act, the Central Authority shall, wherever appropriate, act in

coordination with other governmental and non-governmental agencies, universities and others engaged in the work of promoting the cause of legal services to the poor.

CHAPTER-III
STATE LEGAL SERVICES AUTHORITY

6. Constitution of State Legal Services Authority :

(1) Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

(2) A State Authority shall consist of—

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) such number of other members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service, not lower in rank than that

of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority :

Provided that a person functioning as Secretary of a State Legal Aid and Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

(4) The terms of office and other conditions relating thereby, of members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the State

Authority shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorised by the Executive Chairman of the State Authority.

(9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the State Authority.

7. Functions of the State Authority :

(1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the State Authority shall perform all or any of the following functions, namely :—

- (a) give legal service to persons who satisfy the criteria laid down under this Act;
- (b) conduct Lok Adalats; including Lok Adalats for High Court cases;
- (c) undertake preventive and strategic legal aid programmes; and
- (d) perform such other functions as the State Authority may, in consultation with the Central Authority, fix by regulations.

8. State Authority to act in coordination with other agencies, etc., and be subject to directions given by Central Authority :

In the discharge of its functions the State Authority shall appropriately act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing.

8A. High Court Legal Services Committee :

(1) The State Authority shall constitute a Committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.

(2) The Committee shall consist of—

- (a) a sitting Judge of the High Court who shall be the Chairman; and
- (b) such number of other members possessing such experience and qualifications as may be determined by regulations made by the State Authority;

to be nominated by the Chief Justice of the High Court.

(3) The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government.

(4) The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the State Authority.

(5) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

9. District Legal Services Authority :

(1) The State Government shall, in consultation with the Chief Justice of the High Court, constitute a body to be called the District Legal Services Authority for every district in the State to exercise the powers and perform the functions conferred on, or assigned to, the District Authority under this Act.

(2) A District Authority shall consist of—

- (a) the District Judge who shall be its Chairman;
and

(b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation, with the Chief Justice of the High Court.

(3) The State Authority shall, in consultation with the Chairman of the District Authority, appoint a person belonging to the State Judicial Service not lower in rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.

(4) The terms of office and other conditions relating thereto, of members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority in consultation with the Chief Justice of the High Court.

(5) The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(6) The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the Consolidated Fund of the State.

(8) All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorised by the Chairman of that Authority.

(9) No act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the District Authority.

10. Functions of District Authority :

(1) It shall be the duty of every District Authority to 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.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the District Authority may perform all or any of the following functions, namely :—

- (a) coordinate the activities of the Taluk Legal Services Committee and other legal services in the District;
- (b) organise Lok Adalats within the District; and

- (c) perform such other functions as the State Authority may fix by regulations.

11. District Authority to act in coordination with other agencies and the subject to directions given by the Central Authority, etc.:

In the discharge of its functions under this Act, the District Authority shall, wherever appropriate, act in coordination with other governmental and non-governmental institutions, universities and others engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority or the State Authority may give to it in writing.

11A. Taluk Legal Services Committee :

(1) The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each taluk or mandal or for group of taluks or mandals.

(2) The Committee shall consist of—

- (a) the senior most Judicial officer operating within the jurisdiction of the Committee who shall be the ex-officio Chairman; and
- (b) such number of other members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

(3) The Committee may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

(4) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

11B. Functions of Taluk Legal Services Committee :

The Taluk Legal Services Committee may perform all or any of the following functions, namely :—

- (a) coordinate the activities of legal services in the taluka;
- (b) organise Lok Adalats within the taluk; and
- (c) perform such other functions as the District Authority may assign to it.

**CHAPTER-IV
ENTITLEMENT TO LEGAL SERVICES**

12. Criteria for giving Legal Services :

Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is—

- (a) a member of a Scheduled Caste or Scheduled Tribe;
- (b) a victim of trafficking in human beings or beggar as referred to in article 23 of the Constitution;
- (c) a woman or a child;
- (d) a person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (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 (104 of 1956) or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 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(14 of 1987); or
- (h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central

Government, if the case is before the Supreme Court.

13. Entitlement to legal services :

(1) Persons who satisfy all or any of the criteria specified in section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has a *prime facie* case to prosecute or to defend.

(2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.

**CHAPTER-V
FINANCE, ACCOUNTS AND AUDIT**

14. Grants by the Central Government :

The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Central Authority, by way of grants, such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

15. National Legal Aid Fund :

(1) The Central Authority shall establish a fund to be called the National Legal Aid Fund and there shall be credited thereto—

- (a) all sums of money given as grants by the Central Government under section 14;

- (b) any grants or donations that may be made to the Central Authority by any other person for the purposes of this Act;
 - (c) any amount received by the Central Authority under the orders of any court or from any other source.
- (2) The National Legal Aid Fund shall be applied for meeting—
- (a) the cost of legal services provided under this Act including grants made to State Authorities;
 - (b) the cost of legal services provided by the Supreme Court Legal Services Committee;
 - (c) any other expenses which are required to be met by the Central Authority.

16. State Legal Aid Fund :

- (1) A State Authority shall establish a fund to be called the State Legal Aid Fund and there shall be credited thereto—
- (a) all sums of money paid to it or any grants made by the Central Authority for the purposes of this Act;
 - (b) any grants or donations that may be made to the State Authority by the State Government or by any person for the purposes of this Act;

- (c) any other amount received by the State Authority under the orders of any court or from any other source.
- (2) A State Legal Aid Fund shall be applied for meeting—
 - (a) the cost of functions referred to in section 7;
 - (b) the cost of legal services provided by the High Court Legal Services Committee;
 - (c) any other expenses which are required to be met by the State Authority.

17. District Legal Aid Fund :

- (1) Every District Authority shall establish a fund to be called the District Legal Aid Fund and there shall be credited thereto—
 - (a) all sums of money paid or any grants made by the State Authority to the District Authority for the purposes of this 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 this Act;
 - (c) any other amount received by the District Authority under the orders of any court or from any other source.

(2) A District Legal Aid Fund shall be applied for meeting—

- (a) the cost of functions referred to in section 10 and 11B;
- (b) any other expenses which are required to be met by the District Authority.

18. Accounts and audit :

(1) The Central Authority, State Authority or the District Authority (hereinafter referred to in this section as 'the Authority'), as the case may be, shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet in such form and in such manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authorities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority concerned to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the auditing of the accounts of an Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts

and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authorities under this Act.

(4) The accounts of the Authorities, as certified by the Comptroller and Auditor-General of India or any other audit report thereon, shall be forwarded annually by the Authorities to the Central Government or the State Governments, as the case may be.

(5) The Central Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before each House of Parliament.

(6) The State Government shall cause the accounts and the audit report received by it under sub-section (4) to be laid, as soon as may be after they are received, before the State Legislature.

CHAPTER-VI LOK ADALATS

19. Organisation of Lok Adalats :

(1) Every State Authority or District Authority or the Supreme Court Legal Services Committee or every High Court Legal Services Committee or, as the case may be, Taluk Legal Services Committee may organise Lok Adalats at such intervals and places and for exercising such jurisdiction and for such areas as it thinks fit.

(2) Every Lok Adalat organised for an area shall consist of such number of—

- (a) serving or retired judicial officers; and
- (b) other persons,

of the area as may be specified by the State Authority or the District Authority or the Supreme Court Legal Services Committee or the High Court Legal Services Committee, or as the case may be, the Taluk Legal Services Committee, organising such Lok Adalat.

(3) The experience and qualification of other persons referred to in clause (b) of sub-section (2) for Lok Adalats organised by the Supreme Court Legal Services Committee shall be such as may be prescribed by the Central Government in consultation with the Chief Justice of India.

(4) The experience and qualification of other persons referred to in clause (b) of sub-section (2) for Lok Adalats other than referred to in sub-section (3) shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) A Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of—

- (i) any case pending before; or
- (ii) any matter which is falling within the jurisdiction of, and is not brought before,

any court for which the Lok Adalat is organised:

Provided that the Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offence not compoundable under any law.

20. Cognizance of cases by Lok Adalats :

(1) Where in any case referred to in clause (i) of sub-section (5) of section 19,—

- (i) (a) the parties thereof agree; or
- (b) one of the parties thereof makes an application to the court;

for referring the case to the Lok Adalat for settlement and if such court is *prima facie* satisfied that there are chances of such settlement; or

- (ii) the court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat;

the court shall refer the case to the Lok Adalat:

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(2) Notwithstanding anything contained in any other law for the time being in force, the Authority or Committee

organising the Lok Adalat under sub-section (1) of section 19 may, on receipt of an application from any one of the parties to any matter referred to in clause (ii) of sub-section (5) of section 19 that such matter needs to be determined by a Lok Adalat, refer such matter to the Lok Adalat, for determination :

Provided that no case shall be referred to the Lok Adalat under sub-clause (b) of clause (i) or clause (ii) by such court except after giving a reasonable opportunity of being heard to the parties.

(3) Where any case is referred to a Lok Adalat under sub-section (1) or where a reference has been made to it under sub-section (2), the Lok Adalat shall proceed to dispose of the case or matter and arrive at a compromise or settlement between the parties.

(4) Every Lok Adalat shall, while determining any reference before it under this Act, act with utmost expedition to arrive at a compromise or settlement between the parties and shall be guided by the principles of justice, equity, fair play and other legal principles.

(5) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, the record of the case shall be returned by it to the court, from which the reference has been received under sub-section (1) for disposal in accordance with law.

(6) Where no award is made by the Lok Adalat on the ground that no compromise or settlement could be arrived at between the parties, in a matter referred to in sub-section (2),

that Lok Adalat shall advise the parties to seek remedy in a court.

(7) Where the record of the case is returned under sub-section (5) to the court, such court shall proceed to deal with such case from the stage which was reached before such reference under sub-section (1).

21. Award of Lok Adalat :

(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870. (7 of 1870).

(2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute, and no appeal shall lie to any court against the award.

22. Powers of Lok Adalat or Permanent Lok Adalat:

(1) The Lok Adalat or Permanent Lok Adalat shall, for the purposes of holding any determination under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely :—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;

- (b) the discovery and production of any document;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record or document or copy of such record or document from any court or office; and
- (e) such other matters as may be prescribed.

(2) Without prejudice to the generality of the powers contained in sub-section (1), every Lok Adalat or Permanent Lok Adalat shall have the requisite powers to specify its own procedure for the determination of any dispute coming before it.

(3) All proceedings before a Lok Adalat or Permanent Lok Adalat shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860) and every Lok Adalat or Permanent Lok Adalat shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

CHAPTER-VI A PRE-LITIGATION CONCILIATION AND SETTLEMENT

22A. Definitions:

In this Chapter and for the purposes of sections 22 and 23, unless the context otherwise requires,—

(a) "Permanent Lok Adalat" means a Permanent Lok Adalat established under sub-section (1) of Section 22B;

- (b) "public utility service" means any—
- (i) transport service for the carriage of passengers or goods by air, road or water; or
 - (ii) postal, telegraph or telephone service; or
 - (iii) supply of power, light or water to the public by any establishment; or
 - (iv) system of public conservancy or sanitation; or
 - (v) service in hospital or dispensary; or
 - (vi) insurance service,

and includes any service which the Central Government or the State Government, as the case may be, may, in the public interest, by notification, declare to be a public utility service for the purposes of this Chapter.

22B. Establishment of Permanent Lok Adalats :

(1) Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent Lok Adalats at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification.

(2) Every Permanent Lok Adalat established for an area notified under sub-section (1) shall consist of—

- (a) a person who is, or has been, a district judge or additional district judge or has held judicial office higher in rank than that of a district judge, shall be the Chairman of the Permanent Lok Adalat; and
- (b) Two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority or, as the case may be, the State Authority, establishing such Permanent Lok Adalat and the other terms and conditions of the appointment of the Chairman and other persons referred to in clause (b) shall be prescribed by the Central Government.

22C. Cognizance of cases by Permanent Lok Adalat :

(1) Any party to a dispute may, before the dispute is brought before any court, make an application to the Permanent Lok Adalat for the settlement of dispute:

Provided that the Permanent Lok Adalat shall not have jurisdiction in respect of any matter relating to an offence not compoundable under any law :

Provided further that the Permanent Lok Adalat shall also not have jurisdiction in the matter where the value of the property in dispute exceeds twenty five lakh rupees:

Provided also that the Central Government, may, by notification, increase the limit of ten lakh rupees specified in the second proviso in consultation with the Central Authority.

(2) After an application is made under sub-section (1) to the Permanent Lok Adalat, no party to that application shall invoke jurisdiction of any court in the same dispute.

(3) Where an application is made to Permanent Lok Adalat under sub-section (1), it—

- (a) shall direct each party to the application to file before it a written statement, stating therein the facts and nature of dispute under the application points or issues in such dispute and grounds relied in support of, or in opposition to, such points or issues, as the case may be, and such party may supplement such statement with any document and other evidence which such party deems appropriate in proof of such facts and grounds and shall send a copy of such statement together with a copy of such document and other evidence, if any, to each of the parties to the application;
- (b) may require any party to the application to file additional statement before it at any stage of the conciliation proceedings;
- (c) shall communicate any document or statement received by it from any party to the application to the other party, to enable such other party to present reply thereto.

(4) When statement, additional statement and reply, if any, have been filed under sub-section (3), to the satisfaction of the Permanent Lok Adalat, it shall conduct conciliation proceedings between the parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute.

(5) The Permanent Lok Adalat shall, during conduct of conciliation proceedings under sub-section (4), assist the parties in their attempt to reach an amicable settlement of the dispute in an independent and impartial manner.

(6) It shall be the duty of every party to the application to cooperate in good faith with the Permanent Lok Adalat in conciliation of the dispute relating to the application and to comply with the direction of the Permanent Lok Adalat to produce evidence and other related documents before it.

(7) When a Permanent Lok Adalat, in the aforesaid conciliation proceedings, is of opinion that there exist elements of settlement in such proceedings which may be acceptable to the parties, it may formulate the terms of a possible settlement of the dispute and give to the parties concerned for their observations and in case the parties reach at an agreement on the settlement of the dispute, they shall sign the settlement agreement and the Permanent Lok Adalat shall pass an award in terms thereof and furnish a copy of the same to each of the parties concerned.

(8) Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute.

22D. Procedure of Permanent Lok Adalat :

The Permanent Lok Adalat shall, while conducting conciliation proceedings or deciding a dispute on merit under this Act, be guided by the principles of natural justice, objectivity, fair play, equity and other principles of justice, and shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) and the Indian Evidence Act, 1872 (1 of 1872).

22E. Award of Permanent Lok Adalat to be final :

(1) Every award of the Permanent Lok Adalat under this Act made either on merit or in terms of a settlement agreement shall be final and binding on all the parties thereto and on persons claiming under them.

(2) Every award of the Permanent Lok Adalat under this Act shall be deemed to be a decree of a civil court.

(3) The award made by the Permanent Lok Adalat under this Act shall be by a majority of the persons constituting the Permanent Lok Adalat.

(4) Every award made by the Permanent Lok Adalat under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding.

(5) The Permanent Lok Adalat may transmit any award made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

CHAPTER-VII
MISCELLANEOUS

23. Members and staff of Authorities, Committees and Lok Adalats to be public servants :

The members including Member-Secretary or, as the case may be, Secretary of the Central Authority, the State Authorities, the District Authorities, the District Authorities, the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees and officers and other employees of such Authorities, Committees and the members of the Lok Adalats or the persons constituting Permanent Lok Adalats shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

24. Protection of action taken in good faith :

No suit, prosecution or other legal proceeding shall lie against—

- (a) the Central Government or the State Government;
- (b) the Patron-in-Chief, Executive Chairman, Members or Member-Secretary or officers or other employees of the Central Authority;
- (c) Patron-in-Chief, Executive Chairman, Members, Member-Secretary or officers or other employees of the State Authority;

- (d) Chairman, Secretary, Members or officers or other employees of the Supreme Court Legal Services Committee, High Court Legal Services Committees, Taluk Legal Services Committees or the District Authority; or
- (e) Any other person authorised by any of the Patron-in-Chief, Executive Chairman, Chairman, Members, Member-Secretary referred to in sub-clauses (b) to (d),

for anything which is in good faith done or intended to be done under the provisions of this Act or any rule or regulation made thereunder.

25. Act to have overriding effect :

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

26. Power to remove difficulties :

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

27. Power of the Central Government to make rules:

(1) The Central Government, in consultation with the Chief Justice of India may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the number, experience and qualifications of other members of the Central Authority under clause (c) of sub-section (2) of section 3;
- (b) the experience and qualifications of the Member-Secretary of the Central Authority and his powers and functions under sub-section (3) of section 3;
- (c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the Central Authority under sub-section (4) of section 3;
- (d) the number of officers and other employees of the Central Authority under sub-section (5) of section 3;
- (e) the conditions of service and the salary and allowances of officers and other employees of the Central Authority under sub-section (6) of section 3;

- (f) the number, experience and qualifications of members of the Supreme Court Legal Services Committee under clause (b) of sub-section (2) of section 3A;
- (g) the experience and qualifications of Secretary of the Supreme Court Legal Services Committee under sub-section (3) of section 3A;
- (h) the number of officers and other employees of the Supreme Court Legal Services Committee under sub-section (5) of section 3A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;
- (i) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before the Supreme Court;
- (j) the manner in which the accounts of the Central Authority, the State Authority or the District Authority shall be maintained under section 18;
- (k) the experience and qualifications of other persons of the Lok Adalats organised by the Supreme Court Legal Services Committee specified in sub-section (3) of section 19;
- (l) other matters under clause (e) of sub-section (1) of section 22;
- (la) the other terms and conditions of appointment of Chairman and other persons under sub-section (2) of Section 22B.

(m) any other matter which is to be, or may be prescribed.

28. Power of State Government to make rules :

(1) The State Government in consultation with the Chief Justice of the High Court may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the number, experience and qualifications of other members of the State Authority under clause (c) of sub-section (2) of section 6;
- (b) the powers and functions of the Member-Secretary of the State Authority under sub-section (3) of section 6;
- (c) the terms of office and other conditions relating thereto, of members and Member-Secretary of the State Authority under sub-section (4) of section 6;
- (d) the number of officers and other employees of the State Authority under sub-section (5) of section 6;
- (e) the conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-section (6) of section 6;

- (f) the experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section (3) of section 8A;
- (g) the number of officers and other employees of the High Court Legal Services Committee under sub-section (5) of section 8A and the conditions of service and the salary and allowances payable to them under sub-section (6) of that section;
- (h) the number, experience and qualifications of members of the District Authority under clause (b) of sub-section (2) of section 9;
- (i) the number of officers and other employees of the District Authority under sub-section (5) of section 9;
- (j) the conditions of service and the salary and allowances of the officers and other employees of the District Authority under sub-section (6) of section 9;
- (k) the number, experience and qualifications of members of the Taluk Legal Services Committee under clause (b) of sub-section (2) of section 11A;
- (l) the number of officers and other employees of the Taluk Legal Services Committee under sub-section (3) of section 11A;
- (m) the conditions of service and the salary and allowances of officers and other employees of the

Taluk Legal Services Committee under sub-section (4) of section 11A;

- (n) the upper limit of annual income of a person entitling him to legal services under clause (h) of section 12, if the case is before a court, other than the Supreme Court;
- (o) the experience and qualifications of other persons of the Lok Adalats other than referred to in sub-section (4) of section 19;
- (p) any other matter which is to be, or may be, prescribed.

29. Power of Central Authority to make regulations :

(1) The Central Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (a) the powers and functions of the Supreme Court Legal Services Committee under sub-section (1) of section 3A;
- (b) the terms of office and other conditions relating thereto, of the members and Secretary of the

Supreme Court Legal Services Committee under sub-section (4) of section 3A.

29A. Power of State Authority to make regulations :

(1) The State Authority may, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generally of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (a) the other functions to be performed by the State Authority under clause (d) of sub-section (2) of section 7;
- (b) the powers and functions of the High Court Legal Services Committee under sub-section (1) of section 8A;
- (c) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A;
- (d) the terms of office and other conditions relating thereto, of the members and Secretary of the High Court Legal Services Committee under sub-section (4) of section 8A;

- (e) the terms of office and other conditions relating thereto, of the members and Secretary of the District Authority under sub-section (4) of section 9.
- (f) the number, experience and qualifications of members of the High Court Legal Services Committee under clause (b) of sub-section (2) of section 8A.
- (g) other functions to be performed by the District Authority under clause (c) of sub-section (2) of section 10;
- (h) the terms of office and other conditions relating thereto, of members and Secretary of the Taluk Legal Services Committee under sub-section (3) of section 11A.

30. Laying of rules and regulations :

(1) Every rule made under this Act by the Central Government and every regulation made by the Central Authority thereunder shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such

modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(2) Every rule made under this Act by a State Government and every regulation made by a State Authority thereunder shall be laid, as soon as may be after it is made, before the State Legislature.

**THE HIMACHAL PRADESH LEGAL SERVICES
AUTHORITY RULES, 1995**
(31st October, 1995)

No. LLR-A(3)-1/95.—In exercise of the powers conferred by section 28 of the Legal Services Authorities Act, 1987 (No. 39 of 1987) and in consultation with the Chief Justice of High Court of Himachal Pradesh, the Governor of Himachal Pradesh is pleased to make the following rules, namely :—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh State Legal Services Authority Rules, 1995.

(2) These shall come into force on such date as the State Government may, by notification published in the Official Gazette, appoint.

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

- (a) "Act" means the Legal Services Authorities Act, 1987 (Act No. 39 of 1987);
- (b) "Chief Justice" means the Chief Justice of the High Court of Himachal Pradesh;
- (c) "Chairman" means the Executive Chairman of the State Authority, or, as the case may be, the Chairman of the High Court Legal Services Committee, or, as the case may be, the Chairman of the District Authority, or, as the case may be, the Chairman of the Taluk Legal Services Committee;

- (d) "District Authority" means the District Legal Services Authority constituted under section 9 of the Act;
- (e) "High Court Legal Services Committee" means a High Court Legal Services Committee constituted under section 8-A of the Act;
- (f) (i) "Secretary" means the Member-Secretary of the State Legal Services Authority constituted under Section 6 of the Act, or, as the case may be, the Secretary of the High Court Legal Services Committee constituted under Section 8-A of the Act, or, as the case may be, the Secretary of the District Legal Services Authority constituted under Section 9 of the Act;

(ii) "Secretary in the Department" means Head of concerned Administrative Department of the Government by whatever designation he may be called.
- (g) "State Authority" means the State Legal Services Authority constituted under Section 6 of the Act;
- (h) "Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under Section 11-A of the Act;
- (i) "Taluk" means a Sub-Division in a District;
- (j) all other words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Act.

3. Number, experience and qualifications of members of the State Authority.—(1) The State Authority shall, including its Patron-in-Chief and the Executive Chairman, have not more than fifteen members.

(2) The following shall be *ex-officio* members of the State Authority :—

- (i) the Advocate General of the State;
- (ii) the Secretary in the Department of Finance;
- (iii) the Secretary in the Department of Law;
- (iv) the Chairman of the Bar Council of Himachal Pradesh;
- (v) the Director General of Police of the State;
- (vi) the Secretary in the Welfare Department.
- (vii) two Chairman of the District Authority, as may be nominated by the State Government, in consultation with the Chief Justice of the High Court.

(3) The State Government may nominate, in consultation with the Chief Justice of the High Court, other member at least one of whom shall be a woman and at least one shall be from Scheduled Caste or Scheduled Tribe Category possessing the experience and qualification specified in Sub Rule (4).

(4) A person shall not be qualified for nomination as a member of the State Authority, unless he is—

- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Backwards classes, Women, Children, rural and urban labour; or
- (b) an eminent person in the field of law or education; or
- (c) a person of repute who is specially interested in the implementation of the Legal Services Schemes, or
- (d) An eminent person in the medical profession or eminent professor of Sociology, Psychology or any other discipline.

4. Powers and functions of the Member-Secretary of the State Authority.—The powers and functions of the Member-Secretary of the State Authority, *inter-alia*, shall be—

- (a) to give free legal services to the eligible and weaker sections;
- (b) to work out modalities of the Legal Services Schemes and programmes approved by the State Authority and ensure their effective monitoring and implementation;
- (c) to exercise the powers in respect of administrative, House keeping, Finance and budget matters as Head of the Department in the State Government;
- (d) to manage the properties, records and funds of the State Authority;

- (e) to maintain true and proper accounts of the State Authority including checking and auditing in respect thereof periodically;
- (f) to prepare annual income and expenditure account and balance-sheet of the said Authority;
- (g) to liaise with the Social Action Groups and District and Taluk Legal Services Authorities;
- (h) to maintain, up-to-date and complete statistical information including progress made in the implementation of various Legal Services Programmes from time to time;
- (i) to process proposals for financial assistance and issue Utilization Certificates thereof;
- (j) to organise various Legal Services Programmes as approved by the State Authority and convene Meetings/Seminars and Workshops connected with Legal Services Programmes and preparation of reports and follow-up action thereon;
- (k) to produce video/documentary films, publicity material, literature and publications to inform general public about the various aspects of the legal Services Programmes;
- (l) to lay stress on the resolution of Rural Disputes and to take extra measures to draw schemes for effective and meaningful legal services for settling Rural Disputes at the door steps of the rural people;

- (m) to perform such of the functions as are assigned to him under the schemes formulated under Section 4 (b) of the Act;
- (n) to perform such other functions as may be expedient for efficient functioning of the State Authority;
- (o) to encourage and promote conciliation and settlement in legal proceedings;
- (p) to prepare a panel of social workers for para legal services including marriage counseling approved by the State Authority for taking all kinds of legal aid services and pay them honorarium and travelling allowances; and
- (q) to call for such record from any officer or Authority as may be necessary and to procure the presence of any person including any inmate of a jail.

5. Terms of office and other conditions of appointment of members and Member-Secretary of the State Authority.—(1) The term of office of the members of the State Authority nominated under sub-rule (3) of rule 3 by the State Government shall be two years and shall be eligible for re-nomination.

(2) A member of the State Authority nominated under sub-rule (3) of rule 3 may be removed by the State Government, in consultation with the Chief Justice, if—

- (a) he fails, without sufficient cause, to attend three consecutive meetings of the State Authority or five meetings held within the space of two years; or
- (b) has been adjudged as insolvent; or
- (c) has been convicted of an offence, which in the opinion of the State Government involves moral turpitude; or
- (d) has become physically or mentally incapable of acting as a member; or
- (e) has so abused his position as to render his continuance in the State Authority prejudicial to the public interest.

(3) Notwithstanding anything contained in sub-rule (2), no members shall be removed from the State Authority on the ground specified in clause (d) of that sub-rule unless the Chief Justice, on a reference being made to him in this behalf by the State Government, has, on an enquiry held by him in accordance with such procedure as he may specify in this behalf, recommended that the member ought, on such grounds, to be removed.

(4) A member may, by writing under his hand, addressed to the Chairman, resign from the State Authority and such resignation shall take effect from the date on which it is accepted by the State Government in consultation with the Chief Justice, or on the expiry of 30 days from the date of tendering resignation, whichever is earlier.

(5) If any member nominated under sub-rule (3) of rule 3 ceases to be member of the State Authority for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the member in whose place he is nominated.

(6) Subject to the provisions of sub-rule (7), all members nominated under sub-rule (3) of rule 3 shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and shall be paid by the State Authority in accordance with the Himachal Pradesh Government instructions contained in Finance Regulation Department Office memorandum No. Fin.-(c)-8(7)-2/88, dated 24-2-1995, as amended from time to time.

(7) If the nominated member is a Government employee, he shall be entitled to draw the travelling allowance and daily allowance at the rates to which he is entitled to under the service rules applicable to him and shall draw from the department, in which he is employed and not from the State Authority.

(8) The Member-Secretary of the State Authority shall be the whole time employee and shall hold office for a term not exceeding five years.

(9) In all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, the Member-Secretary shall be governed by the rules, as are applicable to the members of the State Higher Judicial Services and he shall be on deputation to the State Authority.

6. Officers and other employees of the State Authority.—The State Authority shall have the power to make the appointments of the officers and other employees of the Authority, for the efficient performance of its functions under the Act, subject to the creation of such posts by the State Government.

6.A The experience and qualification of Additional Secretary of the Himachal Pradesh State Legal Services Authority.—A Person shall not be eligible for appointment to the post of Additional Secretary of the Himachal Pradesh State Legal Services Authority unless he is a member of Himachal Pradesh Judicial Services.

7. Special provisions for Patron-in-Chief, the Executive Chairman and Chairman High Court Legal Services Committee.—(1) The Patron-in-Chief, the Executive Chairman and the Chairman High Court Legal Services Committee being a sitting Judge of the High Court shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and paid by the State Authority in accordance with the provisions of the High Court Judges (Travelling Allowance) Rules, 1959, as amended from time to time.

(2) The Executive Chairman of the State Authority, in case he is a retired Judge of the High Court, shall be provided with a staff car and a staff car driver by the State Authority and the expenditure on account of pay and allowance of the staff car driver as well as maintenance and repairs of the cars shall be borne by the said Authority.

8. Conditions of Service of Executive Chairman in a case of retired Judge.—Where the Executive Chairman is a retired Judge of the High Court—

- (i) his terms and conditions of service shall be such as are specified in Government of India, Ministry of Finance Department of Expenditure O. M. No. 19048/7/80-E, IV, dated the 8th October, 1987 or such other relevant order of the State Government as may be applicable to the retired Judges of the High Court appointed on commissions/committees.
- (ii) he shall be entitled to sumptuary allowance @ of rupees 500/- per month to be paid by the State Authority.
- (iii) he shall be permitted to subscribe to the Contributory Provident Fund of the State.

9. Conditions of service and salary and allowances of officers and other employees of the State Authority.—(1) The officers and other employees of the State Authority shall in all matters, like age of retirement, pay, allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent posts.

(2) The officers and other employees of the State Authority shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

10. Experience and qualifications of the Secretary of the High Court Legal Services Committee.—A person shall

not be qualified for appointment as Secretary of the High Court Legal Services Committee unless he is member of Himachal Pradesh Judicial Service not below the rank of Senior Civil Judge.

11. Conditions of service and salary and allowance of officers and other employees of the High Court Legal Services Committee.—(1) The High Court Legal Services Committee shall have the power to make appointments of officers and employees of the Committee for the efficient performance of its functions under the Act subject to the creation of such posts by the State Government.

(2) The officers and other employees of the High Court Legal Services Committee shall in all matters, like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent post.

(3) The officers and other employees of the High Court Legal Services Committee shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

12. Number, experience and qualifications of members of the District Authority.—(1) The District Authority shall have not more than nine members.

(2) The following shall be *ex-officio* members of the District Authority :—

- (i) District Magistrate and in his absence Additional Deputy Commissioner/Additional District Magistrate;
- (ii) Superintendent of Police and in his absence Additional Superintendent of Police/Deputy Superintendent of Police (Headquarters).
- (iii) Chief Judicial Magistrate;
- (iv) President, District Bar Association; and
- (v) District Attorney.

(3) The State Government may nominate, in consultation with Chief Justice of the High Court, other members from amongst those possessing the qualifications and experience prescribed in sub-rule (4) of this rule, for a period of two years and they shall be eligible for re-nomination.

(4) A person shall not be qualified for nomination as a member of the District Authority unless he is :—

- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Backward Classes, Women, Children, rural and urban labour;
- (b) an eminent person in the field of law of education;
or
- (c) a person of repute who is specially interested in the implementation of the Legal Services Schemes; or

(d) an eminent person in the medical profession or eminent Professor of Sociology, Psychology or any other discipline.

(5) Subject to sub-rule (6) all members nominated under sub-rule (3) of this rule shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the District Authority and shall be paid by the District Authority in accordance with the Himachal Pradesh Government instructions contained in the Finance (Reg.) Department Officer Memo No. Fin. (C)-B (7)-2/88, dated 24-5-1995, as amended from time to time.

(6) If the nominated member is a Government employee, he shall be entitled to draw travelling allowance and daily allowance at the rates to which he is entitled to under the service rules applicable to him and shall draw it from the department in which he is employed and not from the District Authority.

13. Officers and other employees of the District Authority.—(1) The District Authority shall have the power to make appointment of officers and other employees for the efficient performance of its functions under the Act, subject to the creation of such posts by the State Government.

(2) The officers and other employees of the District Authority shall in all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent posts.

(3) The officers and other employees of the District Authority shall be entitled to such other facilities, allowances

and benefits as may be notified by the State Government from time to time.

14. Experience and qualifications of members of the Taluk Legal Services Committee.—(1) The Taluk Legal Services Committee shall have not more than six members.

(2) The following shall be ex-officio members of the Taluk Legal Services Committee :—

- (i) Sub-Divisional Officer (Civil);
- (ii) Sub-Divisional Police Officer;
- (iii) President, Taluk Bar Association.

(3) The State Government may nominate, in consultation with the Chief Justice of the High Court, other members from amongst those possessing the qualifications and experience prescribed in sub-rule (4) of this rule, for a period of two years and they shall be eligible for re-nomination.

(4) A person shall not be qualified for nomination as a member of the Taluk Legal Services Committee unless he is :—

- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Backward Classes, Women, Children, rural and urban labour;; or
- (b) an eminent person in the field of law or education;
or

- (c) a person of repute who is specially interested in the implementation of the Legal Services Schemes; or
- (d) an eminent person in the medical profession or eminent Professor of Sociology, Psychology or any other discipline.

(5) Subject to sub-rule (6), all members nominated under sub-rule (3) of this rule shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of Taluk Legal Services Committee and shall be paid by the Taluk Committee in accordance with the Himachal Pradesh Government instructions contained in the Finance (Regulation) Department Office Memorandum No. Fin. (C)-B(7)-2/88, dated 24-5-1995, as amended from time to time.

(6) if the nominated member is a Government employee, he shall be entitled to draw travelling allowance and daily allowance at the rates to which he is entitled under the service rules applicable to him and shall draw it from the department in which he is employees and not from the Taluk Committee.

15. Removal of members of District/Taluk Legal Services Committee(s).—A nominated member of the District/Taluk Legal Services Committee may be removed by the State Government in consultation with the Chief justice under the same circumstances and conditions, *mutatis mutandis*, as are applicable in the case of a member of the State Authority under sub-rules (2), (3), (4) and (5) of rule 5.

16. Officers and other employees of the Taluk Legal Services Committee.—(1) The Taluk Legal Services Committee shall have power to make appointments of officers and other employees for the efficient performance of its functions under the Act, subject to the creation of such posts by the State Government.

(2) The officers and other employees of the Taluk Legal Services Committee shall in all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent posts.

(3) The officers and other employees of the Taluk Legal Services Committee shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

17. Eligibility for Legal Services in Courts other than Supreme Court.—Any citizen of India whose annual income from all sources does not exceed Rs. 3,00,000/- (rupees three lakh) shall be entitled to legal services under clause (h) of section 12 of the Act.

18. Experience and qualifications of persons other than serving or retired Judicial Officer on Bench of the Lok Adalats.—A person shall not be qualified to be included in the Bench of Lok Adalat, unless he is—

- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Women, Children, rural and urban labour; or

- (b) a lawyer of standing or teacher; or
- (c) a person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes.

19. Transfer of assets of Legal Aid Board.—(1) Upon the constitution of the State Legal Services Authority :—

- (i) the Himachal Pradesh State Legal Aid Board shall stand dissolved;
- (ii) all property, movable or immovable, belonging to the said Board shall vest in the State Legal Services Authority and shall be applied by the authority to the objects and purposes of the Legal Services Act, 1987 and the rules framed thereunder;
- (iii) all the debts and liabilities of the Board shall be transferred to the State Legal Services Authority and shall thereafter be discharged and satisfied by it out of the aforesaid property.

(2) Upon the constitution of Legal Services Authorities/ Committees at High Court, District and Taluk level, all properties and assets of the Legal Aid Committees constituted under the repealed rules shall stand transferred and vested in the corresponding Legal Services Authorities/Committees constituted under these rules.

20. Transitory Provisions.—(1) Notwithstanding anything contained in these rules, the existing Legal Aid Board

and committees constituted under the Himachal Pradesh State Legal Aid to the Poor Rules, 1980 and deemed to be continued under rule 21 of the Himachal Pradesh Legal Aid Rules, 1984 shall continue to function till the State Legal Services Authority, the High Court Legal Services Committee, the District Legal Services Authorities and the Taluk Legal Services Committees are constituted under these rules.

(2) Anything done or any action taken (including applications admitted or legal aid granted) by the Himachal Pradesh State Legal Aid Board or any of the Legal Aid committees, immediately before the commencement of these rules in the exercise or purported exercise of its powers and authority conferred by or under the rules repealed under sub-rule (1) of rule 22 shall be deemed to have been validly done or taken as if the provisions of these rules, had been in force at all material times and, accordingly, anything done or any action taken by the said Himachal Pradesh Legal Aid Board or any of the Legal Aid Committees shall be deemed to have been done or taken by the State Legal Services Authority, or as the case may be, by the corresponding Legal Services Authority/Committee.

21. Transfer of Services.—Every officer or other employee of the Himachal Pradesh State Legal Aid Board or its Committee, in the employment of the said Board/Committee, immediately before the commencement of these rules, shall on and from the date on which these rules come into force, become the officer or other employee of the State Legal Services Authority, in the case of State Legal Aid Board, and of the corresponding Legal Services Authority/Committee in the case of Legal Aid Committees; and shall hold his office or service therein for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and

privileges as he would have held the same and shall continue to do so unless and until his employment in the State Legal Services Authority or, as the case may be, in the corresponding Legal Services Authority/Committee is terminated and until his remuneration, terms and conditions are duly altered by the State Legal Services Authority and the Service rendered under the State Legal Aid Board/Legal Aid Committee shall be deemed to be the service rendered under the State Legal Services Authority or as the case may be, under the corresponding Legal Services Authority/Committee.

"21-A. Award of Lok Adalat.—(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case shall be refunded in the manner provided under the Court-fees Act, 1870.

- (2) Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute and no appeal shall lie to any court against the award.
- (3) The awards passed by the Lok Adalats in respect of pending cases shall be executable by the courts in which those matters were pending prior to the passing of the awards by the Lok Adalats. However, the awards passed by the Lok Adalats regarding matters at prelitigative stage shall be executable through the Court of District Judge of the District in which the Lok Adalat is held".

22. Repeal and Savings.—(1) Subject to the provisions of rules 20 and 21, the Himachal Pradesh Legal Aid Rules, 1984 are hereby repealed.

(2) Notwithstanding anything contained in sub-rule (1), anything done, or any action taken or orders or directions issued under the repealed rules, shall be deemed to have been done or taken or issued under these rules as if these rules were in force on the day on which such thing was done or action was taken or such order or direction was issued.

**THE H. P. STATE LEGAL SERVICES AUTHORITY
REGULATIONS, 1996**
(15th May, 1996)

No. 9/LSA/Regulation/96.—The Himachal Pradesh State Legal Services Authority, in exercise of the powers conferred on it under section 29-A of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), hereby makes the following regulations to give effect to the provisions of the aforesaid Act :—

CHAPTER-I

PRELIMINARY

1. Short title and commencement.—(1) These regulations may be called the Himachal Pradesh State Legal Services Authority Regulations, 1996.

(2) These shall come into force at once.

2. Definitions.—(1) In these regulations, unless the context otherwise requires,—

- (a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987);
- (b) "Committee" means the High Court Legal Services Committee;
- (c) "High Court" means the High Court of Himachal Pradesh;

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

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

CHAPTER-II

HIGH COURT LEGAL SERVICES COMMITTEE

3. Number, experience and qualification of members of the High Court Legal Services Committee.— (1) The High Court Legal Services Committee shall, including Chairman, have not more than seven members.

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

- (i) a sitting Judge of the High Court,
(to be nominated by the Chief
Justice of the High Court) . . . Chairman
- (ii) the Advocate General, Himachal Pradesh. . . Member
- (iii) the President, Himachal Pradesh High Court Bar Association. . . Member

(3) The Chief Justice of the High Court may nominated other members (not exceeding four) from amongst those possessing the experience and qualifications prescribed in sub-regulations (4) of this regulation.

(4) A person shall not be qualified for nomination as a member of the High Court Legal Services Committee, unless he is :—

- (a) an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Women, Children, rural and urban labour; or
- (b) an eminent person in the field of law or public administration; or
- (c) a person of repute who is specially interested in the implementation of the Legal Services Schemes.

4. Term of office and other conditions of appointment of the High Legal Services Committee.—

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

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

- (a) he fails, without sufficient cause, to attend three consecutive meetings of the High Court Legal Services Committee; or
- (b) has been adjudged as insolvent; or
- (c) has been convicted of an offence, which in the opinion of the State Authority involves moral turpitude; or

- (d) has become physically or mentally incapable of acting as a member; or
- (e) has so abused his position as to render his continuance in the High Court Legal Services Committee prejudicial to the public interest :

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

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

(4) If any member nominated under sub-regulation (3) of regulation 3 ceases to be member of the High Court Legal Services Committee for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the member in whose place he is nominated.

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

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

(7) The Secretary of the High Court Legal Services Committee shall be the part time officer of the High Court Legal Services Committee and he shall be paid honorarium for the performance of the functions as such, at such rates as may be fixed, from time to time, by the State Authority, in consultation with the State Government.

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

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

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

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

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

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

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

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

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

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

(5) The quorum for the meeting shall be four, including the Chairman or the member presiding over the meeting.

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

8. Funds, Accounts and Audit of the Committee.—

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

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

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

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

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

CHAPTER-III

DISTRICT LEGAL SERVICES AUTHORITIES AND TALUKA LEGAL SERVICES COMMITTEES

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

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

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

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

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

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

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

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

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

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

11. Funds of the District Authority.—(1) The funds of the District Authority established under section 17 of the Act, shall be maintained in a Scheduled Bank.

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

(3) All expenditure on legal aid and advice, provisions of other legal services as also expenditure necessary for carrying out the various functions of the District Authority, shall be met out of the funds of the District Authority. The Secretary shall operate the bank accounts of the District Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The Taluka Committee shall cause to be kept and maintain true and correct accounts of all receipts and disbursements and furnish quarterly returns to the State Authority. The accounts of the Taluka Committee shall be

audited by the Accountant General, Himachal Pradesh at least once a year and any expenditure incurred in connection with such audit shall be paid by the Taluka Committee.

CHAPTER-IV

LEGAL AID

15. Criteria for giving legal services.—Every person who has to file or defend a case shall be entitled to legal services if that person is :—

- (a) a member of a Scheduled Caste or Scheduled Tribes;
- (b) a victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitutions;
- (c) a women or a child;
- (d) a mentally ill or otherwise disabled person;
- (e) a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) an industrial workman; or
- (g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a juvenile home within the meaning of clause (j) of

section 2 of the Juvenile Justice Act, 1986 or in a psychiatric nursing home within the meaning of clause (g), of section 2 of the Mental Health Act, 1987; or

- (gg) Transgender people who attain the age of 60 years and above whose annual income is less than two lakh rupees per annum.
- (h) in receipt of annual income less than rupees three lakh or other higher amount as may be fixed under rule 17 of the Himachal Pradesh Legal Services Authority Rules, 1995;
- (i) HIV positive persons or AIDS patients.

Provided that the Legal Services Committee or authority may grant legal aid—

- (i) in a case of great public importance; or
- (ii) in a test case, the decision of which is likely to affect cases of numerous other persons belonging to the weaker sections of the community; or
- (iii) in any case, which for reasons to be recorded in writing, is considered by the Chairman to be deserving of legal aid even where the means test is not satisfied.

16. Modes of legal aid.—Legal aid may be given in all or any one or more of the following modes, namely :

- (a) payment of court-fees, process fees and all other charges payable or incurred in connection with any legal proceedings;
- (b) representation by a legal practitioner in legal proceedings;
- (c) obtaining and supply of certified copies of orders and other documents in legal proceedings;
- (d) preparation of appeal, paper book including printing and translation of documents, in legal proceedings;

17. Deleted vide Notification No.9-LSA/Regulations/96, dated 15.5.1996.

18. Application for legal aid or advice.—(1) Any person desiring legal aid or advice may make an application addressed to the Secretary of the Authority/Committee. But if the applicant is illiterate or not in a position to fill in the particulars required in the application, the Secretary or any other officer of the Committee or any legal practitioner whose name appears on the panel of Legal aid lawyer of the Authority/Committee, as the case may be, shall gather the necessary particulars from the applicant and prepare the application on his behalf and after reading it out and explaining it to him, obtain his signature or thumb mark on it.

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

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

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

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

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

- (a) the applicant has knowingly made false statement or furnished false information as regards his means or place of residence; or

- (b) in a proceeding, other than the one relating to criminal prosecution, there is no *prima facie* case to institute, or as the case may be, to defend the proceeding; or
- (c) the application is frivolous or fictitious; or
- (d) the applicant is not entitled to the same under regulation 17 or any other provision of these regulations; or
- (e) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

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

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

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

"The Panel shall remain in force for a period of two years from the date of preparation."

(2). Appointment of legal practitioner for Legal Services shall normally be made from the panel.

Provided that in exceptional case the Authority/Committee may appoint a legal practitioner of the choice of applicant in case the Authority/Committee of the opinion that it is a fit case, where having regard to nature of case, a practitioner outside the panel is required to be appointed. The Committee/Authority as far as possible will ascertain the view of the Presiding Officer concerned shall be added.

Provided that where the matter is disposed of in less than five effective hearings, the fee payable shall be 1/2 of the fee prescribed in the Schedule.

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

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

to the legal practitioner. It will, however, be open to the legal practitioner to waive the honorarium in whole or part.

22. Duty of aided person.—(1) Every aided person or his representative shall attend the office of the Authority/Committee as and when required by the Authority/Committee or by the legal practitioner rendering legal aid to him and shall furnish full and true information and shall make full disclosure to the legal practitioner concerned and shall attend the Court, as and when required, at his own expense.

23. Cancellation of Certificate of Eligibility.—The Authority/Committee may either on its own motion or otherwise cancel the Certificate of Eligibility granted under regulation 20 in the following circumstances, namely :—

- (a) in the event of being found that the aided person was possessed of sufficient means or the Certificate of Eligibility was obtained by misrepresentation or fraud;
- (b) in the event of any material change in the circumstances of the aided person;
- (c) in the event of any misconduct, misdemeanor or negligence on the part of the aided person in the course of receiving legal aid;
- (d) in the event of the aided person not co-operating with the Committee or with the legal Practitioner assigned by the Committee/Authority.

- (e) in the event of the aided person engaging a legal practitioner other than the one assigned by the Committee/Authority.
- (f) in the event of death of the aided person, except in the case of civil proceedings where the right of survives;
- (g) a report has been received from the advocate assigned to the legally aided person that the legally aided is not co-operating with the advocate assigned to him or is guilty of misconduct towards the advocate and such report has been verified by the Chairman of the Legal Services Committee/ Authority :

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

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

24. Proceedings by the Chairman in most urgent cases.—Notwithstanding anything to the contrary contained in these regulations, in case the Chairman of any Authority/Committee is of the opinion that such a situation has arisen wherein immediate action is required to be taken, or there is no possibility of immediate convening the meeting of the

Authority/Committee, then he may, in anticipation of the approval of the Authority/Committee concerned, take such action as he may deem fit, and thereafter he shall, as soon as possible sent a report of his action so taken to the Authority/Committee concerned.

CHAPTER-V

MEETINGS OF STATE AUTHORITY

25. Meetings of State Legal Services Authority (1) The State Authority shall ordinarily meet at least once in a year on such date and at such place as the Member Secretary may in approval with Patron-in-Chief and Executive Chairman decide.

(2) The meeting of the State Authority shall be presided over by the Patron-in-Chief or Executive Chairman.

(3) Any Member of the State Authority desiring consideration of any subject or matter at any meeting of the State Authority may intimate in writing such subject or matter to the Member Secretary and if such intimation is received before issue of the notice of the meeting, the subject or matter shall if so directed by the Patron-in-Chief, be included in the Agenda of the meeting. If such intimation is received after issue of the notice, the subject or matter may be considered at the meeting with the permission of the Chair.

(4) The Member Secretary of the State Authority shall prepare the Agenda of the meeting of the State Authority and the Executive Chairman shall finally approve the Agenda in consultation with the Patron-in-Chief of the State Authority. The Member Secretary shall give the notice of every meeting of the

State Authority in writing to the Members at least seven days before the date of the meeting. However, in urgent matters, short notice may be given.

(5) The agenda of the meeting shall be sent to the Members alongwith the notice by the Member Secretary.

26. Minutes of the Meeting:- (1) The Member Secretary shall prepare the minutes of the proceedings of every meeting as soon as possible after the meeting and on obtaining the approval of the Patron-in-Chief and Executive Chairman, shall circulate the minutes to the members.

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

(3) The quorum for the meeting shall be four, including the Patron-in-Chief or the Executive Chairman presiding over the meeting.

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

(5) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Secretary and such minutes shall be open to inspection at all reasonable times by the members of the Authority.

SCHEDULE (PART-I)

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

(1) High Court level

- (a) Drafting of substantive pleading such as Writ Petition, Counter Affidavit, Memo of Appeal, Revision, Reply, Rejoinder, Replication- ₹1,500/-.
- (b) Drafting of Miscellaneous applications such as stay, bail, direction, exemption etc.- ₹500/- per application subject to maximum of ₹1,000/ - for all applications.
- (b) Appearance- ₹1,000/- per effective hearing and ₹750/- for non-effective hearing subject to maximum of ₹10,000/- (per case).

(2) Tribunal/Other Forum

H.P. State Administrative Tribunal, H.P. State Consumer Disputes Redressal Commission & Financial Commissioner Revenue (Appeals)

- (a) Drafting of substantive pleading such as Appeal, Revision, Reply, Rejoinder, ₹800/-.
- (b) Appearance- ₹900/- per effective hearing and ₹700/- for non-effective hearing subject to maximum of ₹8,500/- (per case).

(3) District level

- (a) Drafting of substantive pleading such as Suit, Matrimonial Proceedings such as Divorce, Maintenance, Custody, Restitution etc., Succession, Probate, Memo of Appeal, Revision, Written Statement, Reply, Rejoinder, Replication etc.- ₹1,200/-.
- (b) Drafting of Miscellaneous applications such as stay, bail, direction, exemption etc. ₹400/- per application subject to maximum of ₹800/- for all applications.
- (c) Appearance– ₹800/- per effective hearing and ₹500/- for non-effective hearing subject to a maximum of **₹8,000/-** (per case).

(4) Sub Division level

- (a) Drafting of substantive pleading such as Suit, Matrimonial Proceedings, Maintenance, Custody, Restitution etc., Written Statement, Reply, Rejoinder, Replication, complaint etc. ₹1,200/-.
- (b) Drafting of Miscellaneous applications such as stay, bail, direction, exemption etc. ₹400/- per application subject to maximum of ₹800/- for all applications.
- (c) Appearance– ₹750/- per effective hearing and ₹500/- for non-effective hearing subject to a maximum of **₹7,500/-** (per case).

PART-II

Deleted vide Notification No. 9-LSA/Regulations/96, dated 29.3.2017.

**THE HIMACHAL PRADESH LEGAL AID COUNSEL
SCHEME, 2003**

(22nd September, 2003)

No. 47-L.A.C. Scheme/2003—In exercise of the powers conferred by clause (g) of section 2 read with section 12 (g) of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), the Himachal Pradesh State Legal Services Authority hereby makes the following scheme :

1. Short title.—This scheme may be called the "Himachal Pradesh Legal Aid Counsel Scheme, 2003".

2. Definition.—(1) In this scheme, unless the context otherwise requires;

- (a) "**Act**" means Legal Services Authorities Act, 1987 (Act No. 39 of 1987);
- (b) "**Authority**" means State Legal Services Authority constituted under section 6 of the Act and District Legal Services Authority constituted under section 9 of the Act;
- (c) "**Chairman**" means Chairman of the District Legal Services Authority or Sub Divisional Legal Services Committee, as the case may be.
- (d) "**Committee**" means Sub Divisional Legal Services Committee constituted under section 11-A of the Act;

- (e) **"Court"**—Court includes court of Chief Judicial Magistrate, Judicial Magistrate of first class, the Judicial Magistrate of the second class, and Executive Magistrate;
- (f) **"Custody"**—custody, includes custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956) or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 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 (14 of 1987);
- (g) **"Fee"** means legal aid counsel fee as fixed under the Himachal Pradesh Legal Aid Counsel Scheme, 2003 from time to time.
- (h) **"Legal Aid Counsel"** means an advocate enrolled under the Advocates Act, 1961 and appointed as "Legal Aid Counsel" under the Himachal Pradesh Legal Aid Counsel Scheme, 2003;

(2) All other words and expressions used in this scheme but not defined herein, shall have the same meaning as assigned to them in the Act and Rules.

3. Legal Aid and assistance.—A person in custody shall be entitled to legal aid and assistance during investigation of the cases in the matter of bail and remand.

Provided that such person(s) has not been provided or is not getting any legal aid from any other source or under any scheme/rules providing for grant of legal aid to the accused person at State expenses.

4. Authority to appoint legal aid counsel.— (i) The District Legal Services Authority, in consultation with State Legal Services Authority, shall prepare a panel of Legal Aid Counsel from amongst the advocates ordinarily practising within the local jurisdiction of the concerned Authority. The District Legal Services Authority shall appoint a Legal Aid Counsel for each court out of the panel prepared by it. One Counsel may be appointed to one or more courts depending on the quantum of work.

(ii) The panel shall remain in force for a period of two years from the date of preparation.

5. Displaying the name and addresses of the legal aid counsel.—District Legal Services Authority or Sub Divisional Legal Services Committee, as the case may be, shall display on a board the name of Legal Aid Counsel attached with the court concerned. The eligibility of a person to receive legal aid shall be also notified on such board.

6. Publicity of the scheme.—The scheme of Legal Aid Counsel shall be given wide publicity within the jurisdiction of the District Legal Services Authority or Sub Divisional Legal Services Committee, as the case may be. The notice in this behalf may be displayed conspicuously within the premises of Jails, Police Stations, and the courts.

7. Duties and Functions of Legal Aid Counsel: - The Legal Aid Counsel shall discharge the following duties:-

- (i) To remain present during remand hours at the time and place fixed by the Magistrate concerned.
- (ii) The Legal Aid Counsel shall render all the assistance to a person in custody, during investigation of the cases, in the matters of bail, remand and with regard to all other legal rights of an accused.
- (iii) To keep details of the case in which he or she has extended his/her legal services in Remand and Bail matters.
- (iv) To submit monthly details of the work to the Presiding Officer of the concerned court/Secretary, District Legal Services Authority.
- (v) To be devoted and dedicated towards his/her duties and legal services activities.
- (vi) While opposing Remand, Legal Aid Counsel for Bail and Remand are expected to be vigilant about the condition of the accused produced in the custody of the police. He/she should inquire if the accused was subjected to any ill-treatment and the same should be informed to the Magistrate and request be noted down in the remand order.
- (vii) The legislature has provided 24 hours after the arrest to the police to carry on preliminary investigation during the presence of the accused in custody. Invariably, when produced after 24 hours, remands are sought by the police without any prior investigation. Remands are usually sought and given to effect

recoveries under Section 27 of the Evidence Act. It is responsibility of Legal Aid Counsel for bail and remand to not give the police an opportunity to create evidence under the guise of section 27 of the Evidence Act. The Legal Aid Counsel for Bail and Remand should familiarize themselves with the provisions of Section 41A of Cr.PC.

(viii) Remand hours are fixed on Sundays and Court Holidays. The Legal Aid Counsel for Bail and Remand appointed in court working in the given holiday should therefore be present during production hours. The designated lawyers should inform the Magistrate/Reader when they leave court for the day and ensure that their contact details are available, so that they may be called if required later in the day.

(ix) When the accused is produced in front of the Magistrate after 24 hours, it is a crucial time to ensure that whether further detention is necessary or not. Remand should only to be given when detention is must.

(x) To ensure that remand orders should be speaking orders. It should be reasoned and should speak for itself.

(xi) It would be the duty of the Legal Aid Counsel for Bail and Remand so nominated to oppose remand, apply for bail and move miscellaneous applications as may be required.

(xii) The working of the Executive Magistrate court is different from the regular Judicial Magistrate court. It is the responsibility of the Legal Aid Counsel for Bail and Remand to inform the court about the responsibility of the Legal Aid Counsel for Bail and Remand. They should be present in the court regularly and

thus ensure that the scheme can reach out to people under preventive detention cases.

(xiii) Drafting bail applications should be taken very seriously. In the present scenario, set formats are used by the lawyers; just basic details are changed for each case. Bail applications are drafted very 'Casually'. Legal Aid Counsel for Bail and Remand are expected to draft each of their bail application and mention all the relevant facts and grounds in the application. Lawyers should be vigilant to move bail application after 60-90 days if the charge-sheet has not been filed. Legal Aid Counsel for Bail and Remand must read out the sections which have been alleged against the accused. He should also be able to satisfy the court with the help of legal provisions and judgments. The Practice of insisting on local sureties is not proper. If the client has sureties outside the state where the case is being tried, the lawyers should oppose insistence on local sureties.

(xiv) Compliance of Section 41A of Cr.PC should be checked. Whether the arrest was made after some amount of investigation and there was some apprehension that the crime was committed by the accused.

(xv) The practice of insisting on local sureties while granting bail should be discouraged.

(xvi) Apart from the above the Legal Aid Counsel for Bail and Remand should also check/ ensure that the following points are complied with while granting remand.

- (a) Efforts must be made by the Investigating Officer to complete the investigation within 24 hours as fixed by Section 57 of the Cr.PC.

- (b) If such completion is not possible and there are grounds for believing that the accusation/information is well founded the officer must forthwith forward the accused to the nearest Judicial Magistrate with a copy of the relevant entries.
- (c) The Magistrate, who receives such information, may authorize the detention of the accused for a maximum period of 15 days to police custody.
- (d) If within the said period of 90 days or 60 days the final report is not filed, the accused has an indefeasible right to be released from custody.
- (e) Thereafter, he can be remanded to custody by the Magistrate only if he is not in a position to offer bail.
- (f) When the accused is so released under the proviso to Section 167(2) of the Cr.PC, it shall be deemed that such release is under Chapter 33 of the Cr.PC.
- (g) Such bail is also liable to be cancelled under Section 437(5) or Sec. 439(2) of the Cr.PC as the case may be.
- (h) If the final report was filed after 60 or 90 days as the case may and the accused has not availed such indefeasible right to be released on bail before the final report is filed, he cannot claim such right to be released on bail.

- (i) It is duty of Magistrate to inform accused his right of bail by default even in serious cases i.e. when charge sheet is not filed within prescribed period.
- (j) The period of detention if ordered by the Executive Magistrate is to be counted.
- (k) The word custody includes surveillance, restriction and not necessarily in hand.
- (l) The object of remand is to avoid possible abuse by police and to facilitate investigation and not to coerce the accused.
- (m) The Magistrate must ensure that the arrest is justified.
- (n) To ensure that in normal circumstances Magistrate must assist the production of accused before court while giving remand.
- (o) The object of remand is to enable the Magistrate to see if remand is necessary and to enable the accused to make representation and Magistrate has to pass a judicial order.
- (p) If during the course of custody, commission of different crime is brought to light, accused can be detained for different offence.
- (q) Should check the time of arrest as required under article 22 (2) of the Constitution of India to ensure that accused is produced within 24 hours.

- (r) If accused makes an allegation of torture, an inquiry has to be conducted and ask for medical examination of the accused, if required.
- (s) Total period of 60 days or 90 days has to be calculated according to law laid down in various judicial judgments.
- (t) To ensure that when accused is produced under Special Statute the court has jurisdiction to grant remand.
- (u) To ensure that it is duty of Court to provide legal aid to accused.

8. Fee payable to legal aid counsel.—

(i) For discharging his/her duties in the matters of legal aid, a Legal Aid Counsel shall be paid a consolidated fee of Rs. 5000/- per month at District level (District & Sessions Judge/ Addl. District & Sessions Judge/ Special Judge) and Rs. 3000/- per month in other Courts. The Legal Aid Counsel shall not receive any remuneration from accused in any form what so ever.

(ii) The payment of fee to a Legal Aid Counsel shall be made by the Chairman, District Legal Services Authority after obtaining a report from the court concerned regarding the satisfactory attendance of the counsel during remand hours.

9. Removal of Legal Aid Counsel.—The District Legal Services Authority, subject to the approval of the State Legal Services Authority shall be authorised to remove the name

of any advocate from the panel of Legal Aid Counsel in the event of any misbehavior, malpractice or non performance.

10. Relaxation of the Provision.—It shall be lawful for State Legal Services Authority to relax or modify any of the provisions of this scheme.

THE HIMACHAL PRADESH LOK ADALAT SCHEME, 2005
(12th January, 2005)

No. 12-LSA/L.A./97.—In exercise of the powers conferred by clause (b) of section 2 of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), the Himachal Pradesh State Legal Services Authority hereby makes the following scheme namely :—

1. Short title and commencement.— (i) This Scheme may be called the Himachal Pradesh Lok Adalat Scheme, 2005.

(ii) It shall come into force from the date of publication in Rajpatra, Himachal Pradesh.

2. Definitions.—(1) In this scheme, unless the context otherwise requires,—

- (a) "Act" means the Legal Services Authorities Act, 1987 (Act No. 39 of 1987);
- (b) "Chairman" means Executive Chairman of the State Authority or Chairman of the High Court Legal Services Committee or District Legal Services Authority or Sub Divisional (Taluk) Legal Services Committee, as the case may be;
- (c) "Lok Adalat" means a Lok Adalat organised under chapter VI of the Act;
- (d) "Patron-in-Chief" means the Chief Justice of the High Court of Himachal Pradesh;

- (e) "regulations" means the H.P. State Legal Services Authority Regulations, 1996;
- (f) "rules" means the H.P. State Legal Services Authority Rules, 1995;
- (g) "Secretary" means the Secretary of the High Court Legal Services Committee or District Legal Services Authority or Sub Divisional (Taluk) Legal Services Committee, as the case may be.

(2) All other words and expressions used in this scheme but not defined shall have the meanings respectively assigned to them in the Act, rules and regulations.

3. Procedure for organising Lok Adalat.—The Secretary or the Chairman, as the case may be, shall convene and organise Lok Adalats at regular intervals in the State of Himachal Pradesh at High Court, District and Sub Divisional (Taluk) levels :

Provided that the Secretary or the Chairman, as the case may be, shall convene a Lok Adalat as soon as sufficient number of cases referred to it under section 20 of the Act or otherwise are available for being taken up.

Provided further that, Special Lok Adalats shall be organized for all Family Courts at regular intervals.

4. Intimation to the State Authority.—The Secretary or the Chairman, as the case may be, shall submit to the State Authority an annual calendar of Lok Adalats well before the dates on which the Lok Adalats are proposed to be organised

and furnish the following information to the State Authority, namely :—

- (i) the place and the date at which the Lok Adalat is proposed to be organised;
- (ii) approximate number of cases proposed to be brought before the Lok Adalat;
- (iii) categories and nature of cases, such as pending cases or pre-litigation disputes or both, proposed to be placed before the Lok Adalat; and
- (iv) any other information relevant to the convening and organising of the Lok Adalat.

5. Notice to the parties concerned.—The Secretary or the Chairman, as the case may be, convening and organising the Lok Adalat shall inform accordingly every litigant or his counsel or a duly recognised agent, whose case is referred to the Lok Adalat, well in time so as to afford him, an opportunity to prepare himself for the Lok Adalat.

Explanation.—In pending matters, notice to the Counsel shall be treated as information to litigant.

6. Composition of the Lok Adalat.—(1) At the High Court Level, the Secretary of the High Court Legal Services Committee organising the Lok Adalat shall with the approval of the Chairman constitute Benches of the Lok Adalat and each Bench shall comprise of the following :—

- (i) a sitting or retired Judge of the High Court;

- (ii) a sitting or retired Judicial Officer of the rank of District Judge;
- (iv) any other person specified in rule 18;
- (v) The Chairman may in his discretion also associate as a member of bench an eminent persons in the field of medicine;

(2) At the District Level, the Secretary of the District Authority organising the Lok Adalat shall with the approval of the Chairman constitute Benches of the Lok Adalat and each Bench shall comprise of two or three of the following:—

- (i) a sitting or retired judicial officer;
- (ii) any other person specified in rule 18;
- (iii) The Chairman may in his discretion also associate as a member of bench an eminent persons in the field of medicine.

(3) At the Sub-Divisional (Taluk) Level, the Chairman of the Sub-Divisional (Taluk) Legal Services Committee organising the Lok Adalat shall constitute Benches of the Lok Adalat and each Bench shall comprise of two or three of the following:—

- (i) a sitting or retired judicial officer;
- (ii) any other person specified in rule 18;

- (iii) The Chairman may in his discretion also associate as a member of bench an eminent persons in the field of medicine.

7. Summoning of records and the responsibility for its safe Custody.—(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Sub-Divisional (Taluk) Legal Services Committee, as the case may be, may call for the judicial records of those pending cases, which are referred to the Lok Adalat under section 20 of the Act from the concerned Courts.

(2) If any matter is referred to the Lok Adalat at the pre-litigation stage, the version of each party shall be obtained by the Secretary or the Chairman, as the case may be, to be placed before the Lok Adalat.

(3) The Secretary or the Chairman, as the case may be, may appoint by a general or special order an official who shall be responsible for the safe custody of the records from the time he receives the same from the Court till the records are returned.

(4) Each judicial authority is expected to co-operate in transmission of the Court records.

(5) The judicial records shall be returned immediately after holding of the Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of the proceedings.

8. Functioning of the Lok Adalat.—(1) The Secretary or the Chairman of the High Court Legal Services Committee or District Authority or the Sub-Divisional (Taluk)

Committee, as the case may be, shall assign cases to the Bench of the Lok Adalat after obtaining order from the Chairman.

(2) The Secretary or the Chairman, as the case shall be, may prepare a cause list for each Bench of the Lok Adalat and the same shall be duly notified to all concerned.

(3) Every Bench of the Lok Adalat shall make sincere efforts and persuade the parties to bring about a conciliatory settlement in every case put before it.

8A. Procedure in Lok Adalats. - (1) Members of Lok Adalat have the role of statutory conciliators only and have no judicial role and they, *mutatis mutandis*, may follow the procedure laid down in sections 67 to 76 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Members of Lok Adalat shall not pressurise or coerce any of the parties, to compromise or settle cases or matters, either directly or indirectly.

(3) In a Lok Adalat the members shall discuss the subject matter with the parties for arriving at a just settlement or compromise and such members of the Lok Adalat shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute:

Provided that if it found necessary the assistance of an independent person or a trained mediator may also be availed of the by Lok Adalat.

(4) Members of Lok Adalat shall be guided by principles of natural justice, equity, fair play, objectivity, giving

consideration to, among other things, the rights and obligations of the parties, custom and usages and the circumstances surrounding the dispute.

(5) The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate taking into account the circumstances of the case, wishes of the parties including any request by a party to the Lok Adalat to hear oral statements, and the need for a speedy settlement of the dispute.

(6) The Lok Adalat shall not determine a reference, at its own instance, but shall determine only on the basis of a compromise or settlement between the parties by making an award in terms of the compromise or settlement arrived at: Provided that no Lok Adalat has the power to hear the parties to adjudicate their dispute as a regular court:

Provided further that the award of the Lok Adalat is neither a verdict nor an opinion arrived at by any decision making process.

9. Holding of Lok Adalat.—A Lok Adalat may be organised at such time and place and on such days, including Saturdays, as the State Authority, High Court Legal Services Committee, District Authority or Sub-Divisional (Taluk) Legal Services Committee as the case may be, organising the Lok Adalat deems appropriate.

10. Procedure for effecting compromise or settlement at Lok Adalat.—(1) Every Award of the Lok Adalat shall be signed by the Bench constituting the Lok Adalat.

(2) The original Award shall form part of the judicial records and a copy of the Award shall be given to the parties duly certified to be true by the concerned copying agency.

11. Award to be categorical and lucid.—(1) Drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by parties under the guidance and assistance from Lok Adalat.

(2) When both parties sign or affix their thumb impression and the members of the Lok Adalat countersign it, it becomes an award. (see a specimen at Appendix-I) Every award of the Lok Adalat shall be categorical and lucid and shall be written in the language used in the local courts or in English. It shall also contain particulars of the case viz., case number, name of court and names of parties, date of receipt, register number assigned to the case in the permanent Register and date of settlement. Wherever the parties are represented by counsel, they should also be required to sign the settlement or award before the members of the Lok Adalat affix their signature.

(3) In cases referred to Lok Adalat from a court, it shall be mentioned in the award that the plaintiff or petitioner is entitled to refund of the court fees remitted.

(4) Where the parties are not accompanied or represented by counsel, the members of the Lok Adalat shall also verify the identity of parties, before recording the settlement.

(5) Member of the Lok Adalat shall ensure that the parties affix their signatures only after fully understanding the terms of settlement arrived at and recorded. The members of the

Lok Adalat shall also satisfy themselves about the following before affixing their signatures:

- (a) that the terms of settlement are not unreasonable or illegal or one-sided; and
- (b) that the parties have entered into the settlement voluntarily and not on account of any threat, coercion or undue influence.

(6) Members of the Lok Adalat should affix their signatures only in settlement reached before them and should avoid affixing signatures to settlement reached by the parties outside the Lok Adalat with the assistance of some third parties, to ensure that the Lok Adalats are not used by unscrupulous parties to commit fraud, forgery, etc.

(7) Lok Adalat shall not grant any bail or a divorce by mutual consent.

(8) The original award shall form part of the judicial records (in pre-litigation matter, the original award may be kept with the Legal Services Authority or committee, concerned) and a copy of the award shall be given to each of the parties duly certifying them to be true by the officer designated by the Member-Secretary or Secretary of the High Court Legal Services Committee or District Legal Services Authority or, as the case may be, the Chairman of Taluk Legal Services Committees free of cost and the official seal of the Authority concerned or Committee shall be affixed on all awards.

12. Compilation of results.—At the conclusion of session of the Lok Adalat, the Secretary shall compile the result for submission to the State Authority.

13. Remuneration to officers and staff of the Lok Adalat.—The Presiding Officer and members of the Lok Adalat shall be entitled to actual conveyance charges to and fro journey between their residence and the place of Lok Adalat and such honorarium as may be fixed by the State Authority from time to time.

14. Procedure for maintaining records of cases referred under section 20 of the Act or otherwise.—(1) The Secretary or the Chairman, as the case may be, shall maintain a Register wherein all the cases received by him by way of reference to the Lok Adalat shall be entered giving particulars of the—

- (i) date of the receipt;
- (ii) category and nature of the case.
- (iii) such other particulars as may be deemed necessary;
and
- (iv) date of settlement and return of the case file.

(2) When the case is finally disposed of by the Lok Adalat, an appropriate entry shall be made in the Register.

15. Budget.—(1) The High Court Legal Services Committee and the District Authority shall submit the Budget

proposals to the State Authority on financial year basis in respect of the Lok Adalat Scheme.

(2) The Sub Divisional (Taluk) Legal Services Committee shall submit the Budget proposal to the District Authority on financial year basis in respect of the Lok Adalat Scheme.

(3) The expenditure for Lok Adalat Scheme including Mediation shall constitute Plan expenditure and may be met out of the grants received by the High Court Legal Services Committee and the District Authority and the Sub Divisional (Taluk) Legal Services Committee, as the case may be.

16. Maintenance of Accounts.—(1) The Chairman of the Authority or the Committee, as the case may be, shall exercise complete and full control over the expenditure to be incurred on the Lok Adalats.

(2) The Secretary of the High Court Legal Services Committee or the District Authority, as the case may be, shall render true and proper accounts to the State Authority quarterly.

(3) The Chairman of the Sub Divisional (Taluk) Legal Services Committee shall render true and proper accounts to the District Authority every month.

17. Funding.—On a request received from the High Court Legal Services Committee or the District Authority or the Sub Divisional (Taluk) Legal Services Committee, as the case may be, the State Legal Services Authority may release special grants for convening and holding of Lok Adalats, if considered necessary.

18. Miscellaneous.—(1) The appearance of Lawyers on behalf of the parties at the Lok Adalat shall not be refused.

(2) No fee shall be payable by the parties in respect of matters or cases brought before or referred to a Lok Adalat.

(3) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Sub Divisional (Taluk) Legal Services Committee, as the case may be, shall provide all assistance as may be necessary to the Lok Adalat.

(4) Every Bench of the Lok Adalat may evolve its own procedure for conducting the proceedings before it and shall not be bound by either the Civil Procedure Code or the Evidence Act or the Code of Criminal Procedure subject, however, to the principles of natural justice.

**THE HIMACHAL PRADESH LEGAL LITERACY CAMP
SCHEME, 2005**
(12th January, 2005)

No. 85-LSA/LLC/97.—In exercise of the powers conferred under clause (g) of Section 2 read with clause (c) of sub section (2) of Section 7 of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), the Himachal Pradesh State Legal Services Authority hereby frames the following schemes, namely :—

1. Short title and commencement.—(i) This scheme may be called the Himachal Pradesh Legal Literacy Camp Scheme, 2005.

(ii) It shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

2. Introduction.—

"**Legal Aid**" means providing lawyers to those who are unable to pay fees for the Legal Services. Legal Aid means not only Legal representation in court cases but also includes legal advice, counselling, arbitration and conciliation, creation of legal awareness about their rights, duties and obligations etc. In other words to ensure protection of legal and constitutional rights of the underprivileged, the poor, the neglected and the indigent. Its objective is to make it impossible for any man, woman or child to be denied the equal protection of laws simply because he or she is poor or indigent person.

Our Constitution promises equal justice to all citizens. The promise of equal justice in our democratic society requires us to dedicate ourselves to the great task of converting that

promise into reality because millions of our citizens claim redress against injustice in one form or another. One of the fundamentals of a true democracy is that its citizen should be educated about their legal rights and that they should also be entitled to legal assistance in the assertion or defence of their rights.

Therefore, the emergence of legal literacy should essentially be seen in the ongoing process of socialisation of laws and legal process. Legal literacy implies basic awareness regarding laws and legal process for common man as an aid to equipping the person for meaningful participation in the process of development.

3. Objects.—The objectives of the Himachal Pradesh Legal Literacy Camp Scheme shall be as follows.—

- (i) to formulate guidelines for contents of legal literacy materials;
- (ii) to consider the use of visuals in legal literacy materials with a view to supporting or illustrating the legal concepts or legal processes;
- (iii) to undertake preparation of sample materials on legal literacy;
- (iv) to review the existing materials on legal literacy;
- (v) to organise Legal Literacy Camps known as "**Vidhik Saksharata Shivir**" in rural areas as well as in urban slums.
- (vi) to provide the information about all schemes launched by State Government as well as Central Government and all statutory laws, rules etc. to the

weaker sections of the society including scheduled tribes, scheduled castes, backward classes, agriculturists and labourers, which are made for protection of their interests.

4. Identification of area.—The Member Secretary with prior approval of the Executive Chairman of the State Legal Services Authority, Secretary with prior approval of the Chairman of the High Court Legal Services Committee, Secretary with prior approval of the Chairman of the District Legal Services Authority or Chairman of the Sub Divisional (Taluk) Legal Services Committee with prior approval of the Chairman of the District Legal Services Authority, as the case may be, shall identify rural and urban areas for organising Legal Literacy Camps from time to time as deemed fit and appropriate.

5. Place and Date of Organisation of Vidhik Saksharata Shivir.—For organising the Vidhik Saksharata Shivir in any area the place of Shivir shall be selected by the High Court Legal Services Committee, District Legal Services Authority, Sub Divisional (Taluk) Legal Services Committee as the case may be which shall mainly be a public place. Date of organising the Shivir shall be fixed by the High Court Legal Services Committee, District Legal Services Authority, Sub Divisional (Taluk) Legal Services Committee as the case may be.

6. Organisation of the Shivir.—

(1) About one hundred persons, who are residents of that area should be invited for getting the legal knowledge/information of schemes in a Legal Literacy Camp.

(2) The media may be requested to render necessary assistance for publicity to hold the shivir. The State Legal Services Authority will take up this matter with the local centres.

(3) The Chief Justice (Patron-in-Chief), Executive Chairman, State Legal Services Authority, Chairman, High Court Legal Services Committee, sitting or retired High Court Judges or sitting or retired Judicial Officers and all other functionaries of the State Legal Services Authority or High Court Legal Services Committee, District Legal Services Authority, Sub Divisional (Taluk) Legal Services Committee, as the case may be, as also officers of the different departments of the State Government or Central Government who are connected with the welfare schemes or an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Women, Children, rural and urban labour or a lawyer of standing or teacher or a person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes or members of the non-governmental organisations involved in upliftment of weaker sections of society may be invited in a Legal Literacy Camp to deliver lectures and disseminate information on the following subjects, namely :—

- (a) Constitutional Law Preamble, Fundamental Rights and Duties, Directive Principles of State Policy, Constitutional Remedies.
- (b) Family Law Marriage, Separation, Divorce, Maintenance, Inheritance and Succession, Dowry related laws, Adoption and Partition etc.

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| (c) Civil Laws | Property Rights, Stay Orders, Specific Performance, Damages, Compensation for Accidents, Law of Negligence and Nuisance etc. |
| (d) Criminal Law | General. |
| (e) Welfare Legislation | Bonded labour (abolition), Consumer Protection Laws, Prevention of Adulteration Laws (Food and Drugs) Environment Protection Laws, Panchayati Raj Act, 1994 etc. |
| (f) Procedural Justice | How to get justice, Jurisdiction of Courts, Right to Sue, Arrest and Bail, Search and Seizure, Right to Legal Aid etc. |
| (g) Law relating to Persons with disabilities | How to get Equal Opportunities, Protection of Rights and Full Participation. |

(4) Essential literature, brochures, pamphlets, booklets etc. regarding schemes should be displayed/distributed in the shivir with the assistance of concerned departments and other Legal Literacy material should also be displayed/distributed by the co-ordinator of the shivir and information shall also be disseminated in such shivir to the participants about their rights to get free legal aid and procedure for the same.

(5) In these camps an attempt may be made to provide maximum Legal advice to the needy persons.

7. Remuneration.—(1) The participants in Legal Literacy Camps shall be entitled actual bus fare to and fro the

place of their residence and the place of legal literacy camp in addition to light refreshment at such rates as may be fixed by the State Authority from time to time.

(2) The persons who are called in the Legal Literacy Camps as "Resource Persons" shall be entitled to actual conveyance charges but not exceeding the claims as admissible under T.A Rules of Himachal Pradesh Government, journey between their residence and the place of Legal Literacy Camp and honorarium as may be fixed by the State Authority from time to time.