

MAHARASHTRA STATE LEGAL SERVICES AUTHORITY REGULATIONS, 1998

Noti. Lab. 1895/359 (642)-XXII, dt. 30.03.1998¹— In exercise of the powers conferred under the provisions of Sec. 29-A of the Legal Services Authorities Act, 1987 (39 of 1987) and in consultation with the Hon'ble The Chief Justice of Bombay High Court, the State Government hereby makes the following Regulations.

Chapter I PRELIMINARY

1. Short title and commencement: —

- (1) These regulations may be called Maharashtra State Legal Services Authority Regulations, 1998.
- (2) They shall come into force on the 30th day of March 1998.

2. Definitions: —

- (1) In these regulations, unless the context otherwise requires—
 - (a) "Act" means, the Legal Services Authorities Act, 1987 (No.39 of 1987);
 - (b) "Chairman" means the Executive Chairman of the State Authority, or as the case may be, the Chairman of the High Court Legal Services Committee or the Chairman of the Sub-Committee, as the case may be, the Chairman of the District Legal Services Authority, or the Chairman of Taluka Committee;
 - (c) "District Authority" means the District Legal Services Authority constituted under Sec. 9 of the Legal Services Authorities Act;
 - (d) "High Court Committee" means the Bombay High Court Legal Services Committee at Mumbai and Sub-Committees at its benches at present functioning at Nagpur and Aurangabad and its benches that may be formed at any other place within the State of Maharashtra;
 - (e) "Legal Practitioner" shall have the meaning assigned to that expression in the Advocates Act, 1961;
 - (f) "Member" means a member of the State Authority, the High Court Committee, the Sub-Committee, the District Authority or the Taluka Committee as the case may be;
 - (g) "Nominated Member " means a member nominated to the State Authority, the High Court Committee, the Sub-Committee, the District Authority or the Taluka Committee as the case may be;
 - (h) "Patron-in-Chief" means the Patron-in-Chief of the State Legal Services Authority i.e. the Chief Justice or the Acting Chief Justice of the High Court of Bombay, as the case may be;
 - (l) "Rules " means the Maharashtra State Legal Services Authority Rules, 1998;

1. Published in the Maharashtra Gazette, Ext., Pt. 4-A, dt. 20.04.1998.

- (j) "State Authority" means, the Maharashtra State Legal Services Authority;
 - (k) "Taluka Committee" means the Taluka Legal Services Committee constituted under Sec. 11-A of the Legal Services Authorities Act;
- (2) All other words and expressions used in these Regulations but not defined shall have the meaning respectively assigned to them in the Act and the Rules framed there under.

Chapter II

EXECUTIVE AUTHORITY

3. Meeting of the Executive Authority:—

- (1) The executive authority of the State Authority shall vest in the Executive Chairman and may be exercised by the Member-Secretary who shall act under the control of the Executive Chairman.
- (2) The executive authority of the District Authority shall vest in its Chairman and it may be exercised by its Secretary who shall act under the control of the Chairman.
- (3) The executive authority of the Taluka Committee shall vest in its Chairman and may be exercised either by himself or through such other officer who is chosen for the purpose.

Chapter III

STATE AUTHORITY

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

- (i) The State Authority may conduct legal literacy camps in different parts of the State to bring awareness about the legal aid schemes conducted in the State and with a view to make them aware of their Legal rights and duties with special reference to the tribal and rural population, women, children, disabled, handicapped and the weaker sections of the society.
- (ii) The State Authority may conduct legal aid clinics in different parts of the State in collaboration with Law Colleges, Universities and other social service organisations.
- (iii) The State Authority may also establish or direct the District Authority to establish standing conciliation Committees at various centres in the State with a view to providing permanent or quasi-permanent infrastructures for resolving legal disputes between the parties, whether they may be pending in Courts or may be in the offing. For conducting such committees it will be open to the State Authority to take active assistance/support of such social service organisations that have zeal for legal aid work.
- (iv) The State Authority may review the cases where legal services are refused by the District Authority on application and the decision of the State Authority shall be final.

Chapter IV
HIGH COURT LEGAL SERVICES COMMITTEE

**Constitution of the High Court Legal Services Committee
at Mumbai and its sub-committees at its Benches; their
powers and functions**

- 5. Duties and functions of the High Court Legal Services Committee as per Sec. 8-A(1) of the Act:**— The High Court Legal Services Committee and the Sub-Committees shall perform all or any of the following functions, namely:—
- (i) To give free legal service to persons who may have to file or defend litigations pending in the High Court and who satisfy the eligibility criteria laid down for the purpose of receiving free legal aid under the Act.
 - (ii) To organise Lok Adalats for settlement of cases pending in the High Court under the supervision of the State Authority.
- 6. Constitution of the High Court Legal Services Committee at Mumbai and its sub-committees at Nagpur and Aurangabad, their powers and functions as per Sec. 8-A of the Act:**— The State Authority shall constitute a High Court Committee and its sub-committees, consisting of a sitting Judge of the High Court who shall be nominated by Patron-in-Chief as Chairman and the following other members also to be nominated by Patron-in-Chief:—
- (i) The Presidents of Bombay Bar Association, Advocates Association of Western India, Incorporated Law Society at Mumbai, Presidents of High Court Bar Association, Nagpur, Vidharbha Labour Practitioners Association, Nagpur and President of High Court Bar Association, Aurangabad.
 - (ii) One Member out of Bar Association of Bombay and one member of the Sub-Committee from Bar Association of Nagpur and Aurangabad respectively, having at least 10 years of standing at the Bar.
 - (iii) An eminent social worker engaged in welfare of the weaker sections of the society including, . Scheduled Castes, Scheduled Tribes or Members of other Backward Classes.
 - (iv) An eminent person in the field of Law.
 - (v) A person of repute and standing who is specifically interested in the implementation of the Legal Services Schemes.
- 7. Term of Office of the Members and Secretary of the High Court Legal Services Committee and its sub-committees:**— (i) The term of office of the Secretary and the Members of the High Court Committee and its Sub-Committees shall be of *[three] year.
- (ii) All the Members of the Committees except the Secretary shall function in the honorary capacity.
 - (iii) If any member including the Chairman ceases to be the member of the High Court Committee and/or the Sub-Committees for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be the member or the Chairman, as the case may be, for the remaining term of the member or the Chairman in whose place he is nominated.

* Substituted vide Notification No.LAB 2005/270 (Pra.Kra. 22)/KA.22, Law and Judiciary (w.e.f.. 31.08.2006).

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

Chapter V

DISTRICT AUTHORITY

- 8. The conditions relating to the terms of office of the Members and the Secretary of the District Authority, under Sec.9(4) of the Act:—**The term of office of the Members of the District Authority:—
- (i) The term of office of the Members and the Secretary of the District Authority shall be for a period of *[three] year.
 - (ii) If any member of the District Authority ceases to be the member for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be the member for the remaining term of the member, in whose place he is nominated.
 - (iii) A member of the District Authority may resign his office by writing under his hand addressed to the State Authority through the Executive Chairman of the State Authority and forwarded through the Chairman of the District Authority. The resignation shall take effect from the date on which it is accepted.
- 9. Additional functions of the District Authority:—** In addition to the functions assigned by the provisions of the Act and the Rules, the District Authority shall perform the following functions subject to the general superintendence and control of the State Authority:—
- (i) To perform such other functions as the State Authority may fix by Regulations from time to time and shall also be guided by such directions as Central Authority or the State Authority, may give, in writing from time to time.
 - (ii) To conduct legal literacy camps in different areas of the District, especially in rural and tribal areas, with a view to bring awareness about the legal aid schemes, conducted in the State and also with a view to make them aware of their legal rights and duties with special reference to tribal and rural population and/or women/or children/or disabled/or handicapped and the weaker sections of the society.
 - (iii) To conduct legal aid clinics in different parts of the District in collaboration with Law Colleges, Universities and other social services organisations;
 - (iv) To direct, supervise and guide the working of the Taluka Committees in the District;
 - (v) To call for, from the Taluka Committees in the District such periodical reports, returns, and other information as it may think fit or as are required by the State Authority;
 - (vi) To prepare, consolidate and submit such reports, returns and such

information, in respect of District Authorities, as the State Authority may call for;

- (vii) To receive applications for Legal Services and ensure that every application is promptly processed and disposed of;
- (viii) To consider the cases brought before it for legal service, including pre-litigation matters and decide as to what extent legal services can be made available to the applicant;
- (ix) To pursue the parties to appear and make efforts to bring about a just settlement between them and if necessary also refuse the legal services, if in its opinion the conciliation has failed due to any fault on the part of the applicant;
- (x) To encourage and promote conciliation and settlement in all legal proceedings including pre-litigations;
- (xi) To take proceedings for recovery of costs awarded to a person to whom legal services were rendered;
- (xii) To review the cases on application where legal services are refused by the Taluka Committees.

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

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

²[10-A. Fund Accounts of State Authority :—

- (1) An account shall be opened in any of the nationalized banks by the State Authority as “State Legal Aid Fund”.
- (2) “State Legal Aid Fund” account shall be operated by the Member Secretary of the State Authority under the supervision of Executive Chairman.

³[10-B. Fund Account of District Authority :—

- (1) An account shall be opened in any of the nationalized banks by the District Authority as “District Legal Aid Fund”.
- (2) District Legal Aid Fund account shall be operated by Member Secretary of the District Authority, under the supervision of the Chairman of the District Authority as per directions of the State Authority.

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

Chapter VI

12. Taluka Legal Services Committee, term of office and other conditions

2. Inserted vide LAB 2005/270 (Pra.Kra. 22)/KA.22, Law and Judiciary (w.e.f.. 31.08.2006).

relating thereto of members of the Taluka Committee:—

- (1) The term of office of the Members of the Taluka Committee shall be for a period of *[three] years.
- (2) If any member of the said Committee ceases to be such member for, any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be the member for the remaining term of the member in whose place he is nominated.
- (3) A member of the said Committee may, resign his office by writing under his hand addressed to the Executive Chairman of the State Authority and forwarded through the Chairman of the District Authority under the intimation to the Chairman of the Taluka Committee. Such resignation shall take effect from the date on which it is accepted by the Executive Chairman of the State Authority.

Chapter VII

CONDUCT OF BUSINESS

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

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

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

- 14. Minute of the meeting:—** The minutes of the proceedings of every meeting shall be prepared by the Secretary.

Chapter VIII

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

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

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

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

3. Inserted vide LAB 2005/270 (Pra.Kra. 22)/KA.22, Law and Judiciary (w.e.f.. 31.08.2006).

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

- (i) the case has been decided against the person; or
- (ii) the case is prima facie fit for taking such remedies; or
- (iii) the aided person has applied for legal services for taking recourse to such remedies:

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

18. Honorarium payable to legal practitioners on panel : -

- (1) Subject to the approval of the State Authority, the Legal Services Authority or Legal Services Committee shall prepare for a period of two years, a panel of legal practitioners who are willing 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 at the rates as set out in the Schedule.

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

- (2) 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 in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.
- (3) 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 or Committee who shall, with the approval of the Chairman and after due scrutiny and countersignature, place the same before the Authority or 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;
- (4) Notwithstanding anything contained in this regulation the court may, in any case in which no legal practitioner on the panel has been engaged, direct engagement of any other practitioner as it may deem appropriate and, in every such case.
 - (a) It shall be the duty of the legal practitioner so engaged to inform the fact of his engagement to the concerned Authority or Committee, and
 - (b) The provision of this regulation shall apply to such legal practitioner as they apply to a legal practitioner on the panel.”

3. After regulation 18 of the principal regulation, so added, the following Schedule shall be added, namely :-

SCHEDULE

[See Regulation 18(1)]

Details of fees paid to the Advocates on the Legal aid Panel

Schedule

1	For Civil and criminal cases	1) Rs. 300/- for acceptance (No limit of number of days on which case is on Board for acceptance). 2) Rs. 1800/- for final hearing (including Notice of Motion, CA, there is no limit of number of days for hearing of the case.
2	Only for legal advice	Rs. 200/- for legal advice in the cases coming under jurisdiction of High Court.
3.	Preparing draft	1) Rs. 450/- drafting petition, affidavit, affidavit-in-reply, etc. 2) Rs. 800/- drafting statement in Supreme Court cases.
4.	High Court (Original Side) Civil and Criminal cases	i) Long Cause Suit 1) Rs. 450/- drafting plaint 2) Rs. 450/- drafting written statement ii) Write Petition 1) Rs. 450/- drafting Writ Petition 2) Rs. 450/- drafting Affidavit
5.	Civil and Criminal Appeals in the High Court	1) Rs. 300/- finalizing draft of Appeals 2) Rs. 800/- Application for grant of permission to file Appeal in the Supreme Court
6.	High Court (Appellate Side) Civil / Criminal Writ Petition	1) Rs. 450/- drafting Petition, Affidavit, Affidavit-in-reply or any other statement. 2) Rs. 800/- drafting statement in Supreme Court cases
7.	High Court Civil and Criminal matters	1) Rs. 100/- drafting affidavit and Notice of Motion in reply. 2) Rs. 100/- drafting memorandum of Appeal or Revision Application 3) Rs. 100/- each for drafting other legal documents in the matter.
8.	Central and State administrative Tribunal	Rs. 300/- for acceptance (No limit of number of days on which case is on board for acceptance but maximum limit is Rs. 1800/-)
9.	City Civil and Sessions Court	Rs. 300/- for acceptance (No limit of number of days on which case is on board for acceptance but maximum limit is Rs. 1800/-)
10.	A) Chief Metropolitan Magistrate, Mumbai B) Small Causes Court, Mumbai, Pune and Nagpur	Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- for one matter (as per certificate issued by Presiding Officer of the Court). Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- for one matter (as per certificate issued by Presiding Officer of the Court)

	C) All the Courts at District Headquarters	Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- for one matter (as per certificate issued by Presiding Officer of the Court)
11.	Motor Accident Claim Tribunal	Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- for one matter (as per certificate issued by Presiding Officer of the Court)
12.	Sessions Court at Taluka Headquarters	Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- for one matter (as per certificate issued by Presiding Officer of the Court)
13.	Family Court, various Tribunals and Forums except Metropolitan Magistrate, Small Causes Court and Sessions Courts at District Headquarters	Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- for one matter (as per certificate issued by Presiding Officer of the Court)
14.	Courts at Taluka Headquarters	Rs. 150/- for each effective hearing but maximum limit is Rs. 800/- Note : concerned Legal Aid Committee can sanction double fees if the advocate has taken special efforts in the matter.
15.	Only for legal advice	i) Rs. 150/- for the matter in District Court ii) Rs. 100/- for the matter in Taluka Court
16.	City Civil and Sessions Court	1) Rs. 300/- for each effective hearing but maximum limit is Rs. 1200/- 2) Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- (also applicable to Additional Sessions Court at Taluka Place).
17.	Sessions Court Matters / Appeals before other sessions court	Rs. 200/- for each effective hearing but maximum limit is Rs. 1200/- (also applicable to Additional Sessions Court at Taluka Place)
18.	For preparing draft in City Civil and Sessions court / other session court matters	1) Rs. 200/- for each matter for drafting application/ written statement (also applicable to Mofusil, City Civil and Sessions Court). 2) Rs. 100/- for drafting Affidavit and other Legal documents.
19.	Office of Metropolitan Magistrate, Mumbai	Rs. 200/- for each effective hearing but maximum limit is Rs. 12200/-.
20.	Courts at Taluka Places (excluding Talukas at Mumbai District headquarter)	Rs. 100/- for each effective hearing but maximum limit is Rs. 800/-.
21.	Courts at Taluka Places (excluding Talukas at Mumbai District headquarters)	For preparing Draft : Rs. 100/- drafting application / written statement. Rs. 50/- drafting affidavit and other documents.
22.	Counseling Centre [Maharashtra State Legal Aid and Advice Counseling Rules, 1996 (Rule 25)]	Rs. 100/- for each session in the counseling Centre at Mumbai. Rs. 50/- for each session in Mofusil.

For drafting documents		
23.	City Civil Court and Courts and Tribunals at District Headquarters	1) Rs. 200/- for finalizing plaint (including finalization of written statement in Criminal / Family matters). 2) Rs. 100/- drafting affidavit, Notice of Motion and other Legal documents.
24.	Courts at Taluka Headquarters and other courts in Taluka	1) Rs. 100/- drafting Plaint, written statement. 2) Rs. 50/- drafting affidavit and other legal documents.
25.	Drafting Applications in Mumbai and Mofusils and official documents	1) Rs. 100/- Advocate's fee in Mumbai. 2) Rs. 60/- in Mofusil. 3) Rs. 50/- drafting application in Mumbai and Mofusils and official documents.
26.	Maharashtra State Para Legal Training Court Rules, 1989	1) Rs. 60/- per day to Controller (Rule-32) 2) Rs. 100/- per day in Mumbai 3) Rs. 60/- per day in Mofusil (Rule 39) 4) Rs. 50/- per day to participants (Rule-31) 5) Rs. 50/- expenses limit (Rule-41)
27.	Maharashtra State Legal Aid Camps Rules, 1989	1) Rs. 100/- per day in Mumbai (Rule-33) 2) Rs. 60/- in Mofusil.
28.	Maharashtra State Legal Literacy Rules, 1989	1) Rs. 60/- per day to organisers (Rule 37) 2) Rs. 100/- per day in Mumbai 3) Rs. 60/- per day at other places (Rules 41) 4) As above (Rule 64) 5) Rs. 60/- Remuneration to Advocates (Rules 71) 6) Rs. 60/- Main Speaker (Rule 81) 7) Rs. 60/- Main Speaker (Rule 87)
29.	Maharashtra State Relief through Authorities Rules, 1989	1) Rs. 100/- Advocate's fees (in Mumbai) 2) Rs. 60/- in Mofusil 3) Rs. 50/- drafting applications in Mumbai and Mofusils and official documents.
30.	Maharashtra State Legal Aid Centre Rules, 1989	Rs. 100/- per session to counsellors in Mumbai and Rs. 60/- at other places.
31.	Maharashtra State Justice at Home Rules, 1989	Rs. 30/- per day allowance to administrative assistance (Rule 14)
32.	Daily Allowance on tour to District Regional Officers	Rs. 40/- when District Regional Officer is on tour.
33.	Maharashtra State Legal Aid Clinic Rules, 1989	
34.	Maharashtra State Lok Nyayalaya Rules, 1989	

By order and in the name of
Maharashtra State Legal Services Authority

Member Secretary