

THE JAMMU AND KASHMIR STATE LEGAL SERVICES
AUTHORITY (LOK ADALATS) REGULATIONS, 2010.

1. *Short title and commencement.*—(1) These Regulations may be called the Jammu and Kashmir State Legal Services Authority (Lok Adalats) Regulations, 2010.

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

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

- (a) “Act” means the Jammu and Kashmir Legal Services Authorities Act, 1997 (Act No. XXXIII of 1997) ;
- (b) “Lok Adalats” means Lok Adalats to be organized under section 18 of the Act ;
- (c) All other words and expressions used but not defined in these Regulations and defined in the Jammu and Kashmir State Legal Services Authorities Act, 1997 or the Jammu and Kashmir Legal Services Authority Rules, 1998 shall have the meanings respectively assigned to them in the said Act or rules.

3. *Procedure for organizing Lok Adalats.*— (1) Lok Adalats may be organized by the State Authority or District Authorities or High Court Legal Services Committee or as the case may be, the Tehsil Legal Services Committee at regular intervals and such Lok Adalats shall be organized for a definite geographical area as the aforesaid Authorities or Committees think fit :

Provided that, Special Lok Adalats shall be organized for all Matrimonial cases at regular intervals.

(2) The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Tehsil Legal Services Committee may associate the members of the legal profession, college students, social organizations,

charitable and philanthropic institutions and other similar organizations for organizing the Lok Adalats.

4. *Intimation of the State Authority.*— The Secretary of the High Court Legal Services Committee or District Authority or Chairman of the Tehsil Legal Services Committee, as the case may be, shall inform the State Authority about the proposal to organise the Lok Adalat, well before the date on which the Lok Adalat is proposed to be organized, and furnish the following information to the State Authority, namely :—

- (i) the place and the date on which the Lok Adalat is proposed to be organized ;
- (ii) whether any of the organizations as referred to in sub-regulation (2) of regulation 3 above have agreed to associate themselves with Lok Adalat ;
- (iii) categories and nature of cases, viz. pending cases or prelitigation disputes, proposed to be placed before the Lok Adalat ;
- (iv) number of cases proposed to be brought before the Lok Adalat in each category ;
- (v) any other information relevant to the convening and organizing of the Lok Adalat.

5. *Notice to parties concerned.*--The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Tehsil Legal Services Committee convening and organizing the Lok Adalat shall inform every party concerned whose case is referred to the Adalat, well in time so as to afford him an opportunity to prepare himself for the Lok Adalat :

Provided that such notice may be dispensed with, if the Court while referring the case to the Lok Adalat fixes or informs the date and time of the Lok Adalat in the presence of the parties or their advocates :

Provided further that if a party is not willing to refer their case to Lok Adalat, the case may be considered on its merits by the Court concerned.

6. *Composition of Lok Adalat*—

(a) *At State Authority Level.*—The Member-Secretary organizing the Lok Adalat shall constitute benches of the Lok Adalats, each bench comprising of one or two sitting or retired Judges of the High Court or serving or retired Judicial Officers and anyone of the following—

- (i) a member from the legal profession ; and
- (ii) a social worker of repute who is engaged in the upliftment of the weaker sections of the people, including the Scheduled Castes, the Scheduled Tribes, women, children, rural and urban labour and interested in the implementation of legal services schemes or programmes.

(b) *At High Court Level.*—The Secretary of the High Court Legal Services Committee organizing the Lok Adalat shall constitute benches of the Lok Adalats, each bench comprising of one or two sitting or retired Judges of the High Court or serving or retired Judicial Officers and anyone of the following—

- (i) a member from the legal profession ;
- (ii) a social worker belonging to the category as mentioned in item (ii) of sub-para (a) above.

(c) *At District Level.*—The Secretary of the District Authority organizing the Lok Adalat shall constitute benches of the Lok Adalats, each bench comprising of one or two sitting or retired Judicial Officers and any one or both of the following—

- (i) a member from the legal profession ;
- (ii) a social worker belonging to the category as mentioned in item (ii) of sub-para (a) above or a person engaged in para- legal activities of the area, preferably a woman.

(d) *At Tehsil Level.*—The Chairman of the Tehsil Legal Services Committee organizing the Lok Adalat shall constitute benches of the Lok

Adalat, each bench comprising of one or two sitting or retired Judicial Officers and anyone or both of the following–

- (i) a member from the legal profession ;
- (ii) a social worker belonging to the category as mentioned in item (ii) of sub-para (a) above or a person engaged in para-legal activities of the area, preferably a woman.

7. *Allotment of cases to Lok Adalats.*–(I) The Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or Chairman of the Tehsil Legal Services Committee, as the case may be, shall assign specific cases to each bench of the Lok Adalat.

(2) The Member-Secretary, the Secretary of the High Court Legal Services Committee or the District Authority or Chairman of the Tehsil Legal Services Committee as the case may be, may prepare a cause list for each bench of the Lok Adalat and intimate the same to all concerned at least two days before the date of holding of the Lok Adalat.

(3) Every bench of the Lok Adalat shall make sincere efforts to bring about a conciliated settlement in every case put before it without bringing about any kind of coercion, threat, undue influence, allurements or misrepresentation.

8. *Holding of Lok Adalats.*–Lok Adalats may be organized at such time and place and on such days, including holidays as the State Authority, the High Court Legal Services Committee, the District Authority or the Tehsil Legal Services Committee, as the case may be, organizing the Lok Adalat deems appropriate.

9. *Jurisdiction of Lok Adalats.*–Lok Adalats shall have the power only to help the parties to arrive at a compromise or settlement between the parties to a dispute and, while so doing, it shall not issue any direction or order in respect of such dispute between the parties.

10. *Reference of cases and matters.*–(1) Lok Adalat shall get jurisdiction to deal with a case only when a Court of competent jurisdiction orders the case to be referred in the manner prescribed in section 19 of the Act or under section 89 of the Code of Civil Procedure, Samvat 1977.

(2) A mechanical reference of pending cases to Lok Adalat shall be avoided and the referring Court shall, prima facie satisfy itself that

there are chances of settlement of the case through Lok Adalat and the case is appropriate to be referred to Lok Adalat :

Provided that matters relating to divorce and criminal cases which are not compoundable under the Code of Criminal Procedure, Samvat 1989 shall not be referred to Lok Adalat.

(3) In a pending case where only one of the parties had made application to the Court for referring the case to Lok Adalat, or where the Court *suo motto* is satisfied that the case is appropriate to take cognizance by Lok Adalat, the case shall not be referred to the Lok Adalat except after giving a reasonable opportunity of being heard to the parties.

11. *Summoning of records and responsibility for its safe custody.*—

(1) The Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or, as the case may be, the Chairman of the Tehsil Legal Services Committee may call for the judicial records of pending cases which are referred to the Lok Adalat under section 19 of the Act from the Courts concerned.

(2) The officer duly authorized by the Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Tehsil Legal Services Committee, as the case may be, shall be responsible for the safe custody of records from receiving of the same from Court till they are returned.

(3) The judicial records shall be returned within ten days of the Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of proceedings :

Provided that wherever it is appropriate, the Court concerned from where the records are called may permit the records to be retained beyond the period of ten days.

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

12. *Pre-litigation matters.*—(1) In a pre-litigation matter it may be ensured that the Court for which a Lok Adalat is organized has territorial jurisdiction to adjudicate in the matter.

(2) Before referring a pre-litigation matter to Lok Adalat the Authority concerned or Committee, as the case may be, shall give a reasonable hearing to the parties concerned :

Provided that the version of each party shall be obtained by the Authority concerned or, as the case may be, the Committee for placing it before the Lok Adalat.

(3) An award based on settlement between the parties can be challenged only on violation of procedure prescribed in section 19 of the Act by filing a petition under sections 103 and 104 of Constitution of J&K.

13. *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 50 to 59 of J&K Arbitration and Conciliation Act, 1997 (Act No. XXXV of 1997).

(2) Members of Lok Adalat shall not pressurize or coerce any of the parties, to compromise or settle cases of 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 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 by the 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 .

14. *Administrative assistance.*—Administrative assistance for facilitating Lok Adalat proceedings may be arranged by suitable institutions or persons engaged in providing legal services.

15. *Formulating compromise or settlements.*—The Lok Adalat may, at any stage of the proceedings, make proposal for a settlement of the dispute and such proposal need not be accompanied by a statement of the reasons therefor.

16. *Communication between Lok Adalat and parties.*—A Lok Adalat may invite the parties to meet it or may communicate with it orally or in writing and it may meet or communicate with the parties together or with each of them separately. The factual information concerning the dispute received from a party may be disclosed to the other party in order that the other party may have the opportunity to present any explanation :

Provided that the Lok Adalat shall not disclose any information, if one of the party desires to keep it confidential.

(2) Each party may on its own initiative or at the invitation of the Lok Adalat, submit suggestions for settlement of the dispute.

(3) When it appears to the Lok Adalat that there exists elements of a settlement which may be acceptable to the parties, the terms of a possible settlement may be formulated by the Lok Adalat and given

to the parties for their observations and modifications, if any, suggested by the parties can be taken into consideration and terms of a possible settlement may be reformulated by the Lok Adalat.

(4) If the parties reach a compromise or settlement of the dispute, the Lok Adalat may draw up or assist the parties in drawing up the terms of such compromise or settlement.

17. *Award.*—(1) Drawing up of the award is merely an administrative act by incorporating the terms of settlement or compromise agreed by the 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 Urdu 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 (maintained as provided under Regulation 22) 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) Members 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 Tehsil Legal Services Committees free of cost and the official seal of the authority concerned or Committee shall be affixed on all awards.

18. *Confidentiality.*—(1) The members of the Lok Adalat and the parties shall keep confidential all matters relating to the proceedings in the Lok Adalat and the members of the Lok Adalat shall not be compelled to disclose the matters which took place in the Lok Adalat proceedings before any Court of law, except where such disclosure is necessary for purposes of implementation and enforcement of the award.

(2) The views expressed and discussions made by the parties during the proceedings of Lok Adalat in respect of the possible settlement of a dispute and the proposals made by the members of Lok Adalat or admission made by any party or the conduct of the parties in the course of the proceeding before Lok Adalat shall not be brought in evidence or made use of in other Court or arbitral proceedings.

(3) Members of the Lok Adalat shall not record the statement of any of the parties or record any conduct of the parties or express any conduct of the parties or express any opinion in such a manner

as it would prejudice such party in any other proceedings before a Court of Arbitrator.

(4) If any member of the Lok Adalat violates the confidentiality and the ethical concerns which are akin to any other judicial proceedings, such member shall be removed from the panel of members of Lok Adalat.

19. *Failure of Lok Adalat proceedings.*—If a pre-litigation matter is not settled in the Lok Adalat, the parties may be advised to resort to other Alternative Dispute Resolution (ADR) techniques or to approach a Court of law and in appropriate cases they may be advised about the availability of legal aid.

20. *Compilation of results.*—At the conclusion of session of the Lok Adalat, the officer designated by the Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Tehsil Legal Services Committee, as the case may be, shall compile the results for submission to the State Authority in the proforma given in Appendix-II.

21. *Maintenance of panel of names of Lok Adalat members.*—The Member-Secretary or Secretary of the High Court Legal Services Committee or District Authority or, as the case may be, the Chairman of the Tehsil Legal Services Committee shall maintain a panel of names of retired Judicial Officers, advocates and social workers to work in Lok Adalats.

22. *Procedure for maintaining record of cases referred under section 19 of the Act, or otherwise.*—(1) The officer designated by the Member-Secretary, the Secretary of the High Court Legal Services Committee, the District Authority or the Chairman of the Tehsil Legal Services Committee, as the case may be, shall maintain a permanent register wherein all the cases and pre-litigation matters received by him by way of reference to the Lok Adalat shall be entered giving particulars of,—

- (i) date of receipt ;
- (ii) nature of the case or pre-litigation matter ;
- (iii) other particulars, if any ;

- (iv) date of compromise or settlement and the manner in which the case or matter was finally disposed of ; and
- (v) date of return of the case file.

(2) A copy of the award, if passed, duly certified in manner stated in regulation 17 shall be kept in the office of the Authority or Committee, as the case may be, as a permanent record.

(3) Record other than the original of the awards pre-litigation Lok Adalats may be destroyed after a period of three years from the date of disposal of the matter by Lok Adalat.

23. *Appearance of lawyers and the procedure to be followed in the cases before Lok Adalat.*—The appearance of lawyers on behalf of the parties at the Lok Adalat shall not be barred and an effort shall be made to encourage the parties to be present personally. The lawyers may be advised to avoid wearing their robes and bands during the proceedings before the Lok Adalat.

(Sd.) G. H. TANTRAY, IAS,

Member-Secretary,
SLSA.

BEFORE THE LOK ADALAT

Held at _____

[Organised by _____ Authority/ _____ Committee under section 18 of the J&K State Legal Services Authority Act, 1997.]

Petitioner/Plaintiff/Complainant :

Defendant/Respondent :

No. of proceedings of the _____ Court/Authority/Committee.

Present :

Name of Judicial Officer/ :

Retired Judicial Officer : (1)

Name of Members (2)

AWARD

The dispute between the parties having been referred for determination to the Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement :

The parties are informed that the Court fee, if any, paid by any of them shall be refunded.

Petitioner/Plaintiff/Complainant Defendant/Respondent

Judicial Officer Member Member

Date :

(Seal of the Authority/Committee)

PROFORMA**Disposal of cases in Lok Adalat**

Place :

Date :

Nature of cases disposed of

Sl.No.	Case No.	Name of Parties	Civil	Claims	Criminal
Total					

THE J&K STATE LEGAL SERVICES AUTHORITY
(Free and Competent Legal Services) Regulations, 2010.

1. *Short title, extent and commencement.*—(1) These regulations may be called the J&K State Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.

(2) They shall be applicable to High Court Legal Services Committee, District Legal Services Authorities and Tehsil Legal Services Committees in the State.

(3) They shall come into force from the date of their publication in the Government Gazette.

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

- (a) “Act” means the Jammu and Kashmir Legal Services Authorities Act, 1997 (XXXIII of 1997) ;
- (b) “Form” means a Form annexed to these regulations ;
- (c) “Front office” means a room in the Legal Services Institution where legal services are made available ;
- (d) “legal practitioner” shall have the meaning assigned to it in clause (i) of section 2 of the Advocates Act, 1961 ;
- (e) “Legal Services Institution” means the High Court Legal Services Committee, District Legal Services Authority or the Tehsil Legal Services Committee, as the case may be ;
- (f) “Member-Secretary” means the Member-Secretary of the State Legal Services Authority ;
- (g) “Paralegal Volunteer” means a paralegal volunteer trained as such by a Legal Services Institution ;
- (h) “Secretary” means the Secretary of the Legal Services Institution ;
- (i) “section” means the section of the Act.

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

3. *Application for legal services.*—(1) An application for legal services may be presented preferably in Form-I, in the local language or English.

(2) The applicant may furnish a summary of his grievances for which he seeks legal services, in a separate sheet along with the application.

(3) An application, though not in Form-I, may also be entertained, if reasonably explains the facts to enable the applicant to seek legal services.

(4) If the applicant is illiterate or unable to give the application on his or her own, the Legal Services Institutions may make arrangement for helping the applicant to fill up the application form and to prepare a note of his or her grievances.

(5) Oral requests for legal services may also be entertained in the same manner as an application under sub-regulations (1) and (2).

(6) An applicant advised by the paralegal volunteers, legal aid clubs, legal aid clinics and voluntary social service institutions shall also be considered for free legal services.

(7) Requests received through e-mails and interactive on-line facility also may be considered for free legal services after verification of the identity of the applicant and on ensuring that he or she owns the authorship of the grievances.

4. *Legal Services Institution to have a front office.*—(1) All Legal Services Institutions shall have a front office to be manned by one or more para legal volunteers available during office hours.

(2) In the case of court based legal services, panel lawyer shall after consideration of the application, forward the same to the Committee set under regulation 7 and for other types of legal services, the panel lawyer in the front office to provide such legal services.

(3) The panel lawyer in the front office shall render services like drafting notices, sending replies to lawyers' notices and drafting applications, petitions etc.

(4) The panel lawyer in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.

(5) In case of urgent matters, the panel lawyer in the front office may in consultation with the Member-Secretary or Secretary of the Legal Services Institutions provide legal assistance of appropriate nature :

Provided that the Committee set up under regulation 7 may consider and approve the action taken by the panel lawyer in the front office.

5. *Proof of entitlement of free legal services.*—(1) An affidavit of the applicant that he falls under the categories of persons entitled to free legal services under section 12 shall ordinarily be sufficient.

(2) The affidavit may be signed before a Judge, Magistrate, Notary Public, Advocate, Member of Parliament, Member of either house of State Legislature, elected representative of local bodies, Gazetted Officer, teacher of any school or college of Central Government or State Government, as the case may be.

(3) The affidavit may be prepared on plain paper and it shall bear the seal of the person attesting it.

6. *Consequences of false or untrue details furnished by the applicant.*—The applicant shall be informed that if free legal services is obtained by furnishing incorrect or false information or in a fraudulent manner, the legal services shall be stopped forthwith and that the expenses incurred by the Legal Services Institutions shall be recoverable from him or her along with a penalty of equal amount.

7. *Scrutiny and evaluation of the application for free legal services.*—(1) There shall be a Committee to scrutinise and evaluate the application for legal services, to be constituted by the Legal Services Institution at the level of Tehsil, District, High Court or State as the case may be.

(2) The Committee shall be constituted by the Executive Chairman or Chairman of the Legal Services Institution and shall consist of—

- (i) the Member-Secretary or Secretary of the Legal Services Institution as its Chairman and two members out of whom one may be a Judicial Officer preferably having working experience in the Legal Services Institution; and
- (ii) a legal professional having at least fifteen years' standing at the Bar or Government Advocate or Public Prosecutor or Additional Public Prosecutor, as the case may be.

(3) The tenure of the members of the Committee shall ordinarily be two years which may be further extended for a maximum period of one year and the Member-Secretary or Secretary of the Legal Services Institution shall, however, continue as the ex officio Chairman of the Committee.

(4) The Committee shall scrutinise and evaluate the application and decide whether the applicant is entitled to the legal services or not within a period of eight weeks from the date of receipt of the application.

(5) If the applicant is not covered under the categories mentioned in section 12, he or she shall be advised to seek assistance from any other body or person rendering free legal services either voluntarily or under any other scheme.

(6) The Legal Services Institution shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services.

(7) Any person aggrieved by the decision or order of the Committee may prefer appeal to the Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.

8. *Selection of legal practitioners as panel lawyers.*—(1) Every Legal Services Institution shall invite applications from legal practitioners for their empanelment as panel lawyers and such applications shall be accompanied with proof of the professional experience with special reference to the type of cases which the applicant-legal practitioners may prefer to be entrusted with.

(2) The applications received under sub-regulation (1) shall be scrutinised and selection of the panel lawyers shall be made by the Executive Chairman or Chairman of the Legal Services Institution in consultation with the Advocate General (for the High Court), Public Prosecutor or Additional Public Prosecutor (for the District and Tehsil Level) and the respective Presidents of the Bar Associations as the case may be.

(3) No legal Practitioner having less than three years' experience at the Bar shall be empaneled.

(4) While preparing the panel of lawyers the competence, integrity, suitability and experience of such lawyers shall be taken into account.

(5) The Executive Chairman or Chairman of the Legal Services Institution may maintain separate panels for dealing with different types of cases like, Civil, Criminal, Constitutional Law, Environmental Law, Labour Laws, Matrimonial Disputes etc.

(6) The Chairman of the Legal Services Institution may, with the prior approval of the Executive Chairman State Legal Services Authority, prepare a list of legal practitioners from among the panel lawyers to be designated as Retainers.

(7) The Retainer lawyers shall be selected for a period fixed by the Executive Chairman on rotation basis or by any other method specified by the Executive Chairman.

(8) Subject to availability of grants/funds, the strength of Retainer lawyers shall not exceed—

- (a) 10 in the High Court Legal Services Committee (with five for each wing) ;

- (b) 05 in the District Legal Services Authority ; and
 - (c) 02 in the Tehsil Legal Services Committee.
- (9) The honorarium payable to retainer lawyer shall be—
- (a) Rs. 5000/- per month in the case of High Court Legal Services Committee;
 - (b) Rs. 3000/- per month in the case of District Legal Services Authority ;
 - (c) Rs. 3000/- per month in the case of the Tehsil Legal Services Committee:

Provided that the honorarium specified in this sub-regulation is in addition to the honorarium or fees payable by the Legal Services Institution for each case entrusted

- (ii) clause 10 of regulation 8 shall be substituted by the following :—

‘The panel lawyers designated as retainers shall devote their time exclusively for legal aid work and shall be always available to deal with legal aid cases. They can deal with other cases also and take up briefs in which there is no conflict of interest subject to the assurance by them that priority will be given to the legal aid matters. They shall always keep themselves available whenever called in the Front Offices and the Legal Aid Clinics in any matter which requires court based legal services. The paralegal volunteers shall be engaged to man the Front Offices and the Legal Aid Clinics and the penal lawyers may obtain assistance from these paralegal volunteers, wherever necessary.’

(11) The panel prepared under sub-regulation (2) shall be reconstituted after a period of three years but the cases already entrusted to any panel lawyer shall not be withdrawn from him due to reconstitution of the panel.

‘Substituted by Notification No. 03 dated 18-11-2011.

(12) The Legal Services Institution shall be at liberty to withdraw any case from a retainer during any stage of the proceedings.

(13) If a panel lawyer is desirous of withdrawing from a case he shall state the reasons thereof to the Member-Secretary or the Secretary and the latter may permit the panel lawyer to do so.

(14) The panel lawyer shall not ask for or receive any fee, remuneration or any valuable consideration in any manner, from the person to whom he had rendered legal services under these regulations.

(15) If the panel lawyer engaged is not performing satisfactorily or has acted contrary to the object and spirit of the Act and these regulations, the Legal Services Institution shall take appropriate steps including withdrawal of the case from such lawyer and his removal from the panel.

9. *Legal services by way of legal advice, consultation, drafting and conveyancing.*— The Executive Chairman or Chairman of the Legal Services Institution shall maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.

(2) The services of the legal aid clinics in the rural areas and in the law colleges and universities shall also be made use of.

10. *Monitoring Committee.*—(1) Every Legal Services Institution shall set up a Monitoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in legal aided matters.

(2) The Monitoring Committee at the level of High Court shall consist of—

- (i) the Chairman of the High Court Legal Services Committee ;
- (ii) the Secretary of the Legal Services Institution ;

- (iii) a senior Advocate to be nominated by the Patron-in-Chief of the Legal Services Institution.

(3) The Monitoring Committee for the District or Tehsil Legal Services Institution shall be constituted by the Executive Chairman of the State Legal Services Authority and shall consist of—

- (i) the senior most member of the Higher Judicial Services posted in the District concerned, as its Chairman ;
- (ii) the Secretary of the Legal Services Institution ;
- (iii) a legal practitioner having more than fifteen years' experience at the local Bar to be nominated in consultation with the President of the Local Bar Association :

Provided that if the Executive Chairman is satisfied that there is no person of any of the categories mentioned in this sub-regulation, he may constitute the Monitoring Committee with such other persons as he may deem proper.

11. **Functions of the Monitoring Committee.**— (1) Whenever legal services are provided to an applicant, the Secretary shall send the details in Form-II to the Monitoring Committee at the earliest.

(2) The staff of the Legal Services Institution shall provide assistance and infrastructure to the Monitoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.

(3) The Legal Services Institution may request the Presiding Officer of the Court to have access to the registers maintained by the court for ascertaining the progress of the cases.

(4) The Monitoring Committee shall maintain a register for legal aided cases for recording the day-to-day postings, progress of the case and the end result (success or failure) in respect of cases for which legal aid is allowed and the said register shall be scrutinised by the Chairman of the Committee every month.

(5) The Monitoring Committee shall keep a watch of the day-to-

day proceedings of the court by calling for reports from the panel lawyers, within such time as may be determined by the Committee.

(6) If the progress of the case is not satisfactory, the Committee may advise the Legal Services Institution to take appropriate steps.

12. **Monitoring Committee to submit bimonthly** reports.—(1) The Monitoring Committee shall submit bimonthly reports containing its independent assessment on the progress of each and every legal aid case and the performance of the panel lawyer or Retainer lawyer, to the Executive Chairman or Chairman of the Legal Services Institution.

(2) After evaluating the reports by the Committee, the Executive Chairman or Chairman of the Legal Services Institution shall decide the course of action to be taken in each case.

(3) It shall be the duty of the Member-Secretary or Secretary of the Legal Services Institution to place the reports of the Monitoring Committee before the Executive Chairman or Chairman of the Legal Services Institution and to obtain orders.

13. **Financial assistance**.—(1) If a case for which legal aid has been granted requires additional expenditure like payment of court fee, the fee payable to the court appointed commissions, for summoning witnesses or documents, expenses for obtaining certified copies etc., the Legal Services Institution may take urgent steps for disbursement of the requisite amount on the advice of the panel lawyer or Monitoring Committee.

(2) In the case of appeal or revision the Legal Services Institution may bear the expenses for obtaining certified copies of the judgement and case records.

14. **Payment of fee to the panel lawyers**.—(1) Panel lawyers shall be paid fee in accordance with the Schedule of fee as approved under the regulations.

(2) The State Legal Services Authority shall effect periodic revision of the honorarium to be paid to panel lawyers for the different types of services rendered by them in legal aid cases.

(3) As soon as the report of completion of the proceedings is received from the panel lawyer, the Legal Services Institution shall, without any delay, pay the fees and expenses payable to panel lawyer.

15. *Special engagement of senior Advocates in appropriate cases.*—(1) If the Monitoring Committee or Executive Chairman or Chairman of the Legal Services Institution is of the opinion that services of senior Advocate, though not included in the approved panel of lawyers, has to be provided in any particular case, the Legal Services Institution may engage such senior Advocate.

(2) Notwithstanding anything contained in the regulations, the Executive Chairman of the State Legal Services Authority may decide the honorarium for such senior Advocate :

Provided that special engagement of senior Advocates shall be only in cases of great public importance and for defending cases of very serious nature, affecting the life and liberty of the applicant.

16. *Evaluation of the legal aid cases by State Legal Services Authority.*—(1) The High Court Legal Services Committee and the State Legal Services Authority shall submit copies of the bimonthly reports of their Monitoring Committee to Patron-in-Chief.

(2) The District Legal Services Authorities and Tehsil Legal Services Committees shall submit copies of the bimonthly reports of their Monitoring Committee to the Executive Chairman of the State Legal Services Authority.

(3) The State Authority shall send consolidated half yearly reports of the Monitoring Committees, indicating the success or failure of each of the legal aided cases, to the Central Authority.

(4) In appropriate cases, the Executive Chairman of the State Legal Services Authority may nominate and authorise the members of its State Authority to supervise, monitor or advice the Legal Services Institution for effective and successful implementation of these regulations.

By order.

(Sd.) G. H. TANTRAY, IAS,
Member-Secretary.

FORM-I

STATE LEGAL SERVICES AUTHORITY
(FREE AND COMPETENT LEGAL SERVICES)
REGULATIONS, 2010.

(See regulation 3)

The Form of application for Legal Services

Registration No.

1. Name : _____
2. Permanent address : _____
3. Contact address with
phone no., if any : _____
4. Whether the applicant
belongs to the category
of persons mentioned in
section 12 of the Act : _____
5. Monthly income
of the applicant : _____
6. Whether affidavit/proof has
been produced in support of
income/eligibility u/s.12
of the Act : _____
7. Nature of legal aid or
advise required : _____
8. A brief statement of the case,
if court based legal services is
required : _____

Signature of the applicant

Place:

Date:

FORM II

STATE LEGAL SERVICES AUTHORITY
(FREE AND COMPETENT LEGAL SERVICES)
REGULATION, 2010.

(See regulation 11)

**Information furnished to the Monitoring Committee about the
legal services provided**

- (i) Name of the Legal Services Institution : _____
- (ii) Legal aid application number and date on which legal aid was given : _____
- (iii) Name of the legal aid applicant : _____
- (iv) Nature of case (Civil, Criminal, Constitutional Law etc.) : _____
- (v) Name and roll number of the lawyer assigned to the applicant
- (vi) Name of the Court in which the case is to be filed/defended:
- (vii) The date of engaging the panel lawyer :
- (viii) Whether any monetary assistance like, court fee, Advocate commission

fee, copying charges etc.
has been given
in advance : _____

(ix) Whether the case
requires any interim
orders or appointment
of commission ? : _____

(x) Approximate expenditure
for producing records,
summoning of
witnesses etc. : _____

(xi) The expected time for
conclusion of the proceedings
in the court : _____

Member-Secretary/Secretary

Dated :

**THE J&K STATE LEGAL SERVICES AUTHORITY
(FREE AND COMPETENT LEGAL SERVICES)
REGULATIONS, 2010**

**THE JAMMU AND KASHMIR STATE LEGAL
SERVICES AUTHORITY (LOK ADALATS)
REGULATIONS, 2010**