

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 J&K STATE LEGAL SERVICES AUTHORITY
(LOK ADALATS) REGULATIONS, 2010**
