

**THE JAMMU AND KASHMIR STATE LEGAL SERVICES
AUTHORITY (FREE AND COMPETENT LEGAL SERVICES)
REGULATIONS, 2010**

NOTIFICATION

Srinagar, the 28th May, 2019

No- 0/J&K/SLSA *In exercise of the powers conferred by section 27 of the Jammu and Kashmir State Legal Services Authorities Act, 1997 (Act XXXIII of 1997, the J&K State Legal Services Authority hereby makes the following regulations, further to amend the State Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 namely: -*

1. Short title, extent and commencement. – (1) These regulations may be called the J&K State Legal Services Authority (Free and Competent Legal Services) Amendment Regulations, 2019.

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

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

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

For Regulation 2 clause(e) the following clauses(ea) and (eb) shall be added:-

¹(ea) “**Monitoring and Mentoring Committee**” means the Committees set up under regulation 10;

(eb) “**Panel Lawyer**” means a legal practitioner empanelled as a Panel lawyer under regulation 8;

For Regulation 2 clause (g) the following shall be substituted:-

(g) “**Para-Legal Volunteer**” means a para-legal volunteer trained ²under the ‘National Legal Services Authority Scheme for Para Legal Volunteers’ and empanelled by a Legal Services Institution;

For Regulation 2 clause (g) the following clause (ga) shall be inserted :-

³(ga) “**Retainer Lawyer**” means a Panel Lawyer designated as the Retainer Lawyer under sub- regulation (9) of regulation 8;

For Regulation 2 the following clause (j) shall be added :-

(a) ⁴“**State regulation**” means regulation made by the State Authority under the Act.

3. For Regulation 4 in clause (1) the following shall be inserted :-

After the words “**manned by**” the words ⁵“**a Retainer Lawyer on rotational basis and**” shall be inserted

For Regulation 4 in clause (1) the following shall be added :-

⁶Provided that persons with the qualification of Masters degree in Social Work or Diploma or Masters' degree in psychiatry or psychology from any recognised institute or university may also be called to the front office as and when necessary.

Sub Regulation 4(2) shall be omitted.

⁷(2) *****

For Regulation 4 clause (3) and (4) following shall be substituted:-

⁸(3) The Para-Legal Volunteers in the front office shall render services such as issuing of simple notices, drafting of applications and petitions, providing basic information on the course of action to be taken in a situation and to act as an intermediary between the persons in need of legal services and the legal services institutions to enable such persons to gain access to justice.

⁹(4) The Para-Legal Volunteers or the panel lawyer or the retainer lawyer, as the case may be, in the front office may obtain secretarial assistance from the staff of the Legal Services Institutions.

Sub Regulation 4(5) shall be omitted.

¹⁰(5) *****

4. **In the Principal Regulation, for Regulation 5, for clause (1)(2) & (3) the following Regulation shall be substituted namely:-**

¹¹**5. Proof of entitlement of free legal services. -(1)** A self-certificate of the applicant, along with self-attested copy of relevant documents or certificates, if any, that he falls under the categories of persons entitled to free legal services under Section 12 of the Act shall ordinarily be sufficient.

¹²(2) *****

¹³(3) *****

5. **In the Principal Regulation, for Regulation 7, the following Regulation shall be substituted namely:-**

¹⁴**7. Scrutiny and evaluation of the application for free legal services.- (1)** The application for legal services, for eligibility of the applicant and existence of a prima facie case to prosecute or to defend, shall be scrutinised by the Member-Secretary or Secretary, as the case may be, or any officer, deputed by him:

Provided that a defendant in a civil case and an accused or a convict in a criminal case shall be deemed to have prima facie case to defend or to file an appeal against his conviction and sentence:

Provided further that in case, there is some difficulty to determine the prima facie case to prosecute, the Member-Secretary or Secretary may for this purpose, seek opinion from a panel lawyer having more than seven years standing at the Bar:

Provided further that in case of the Supreme Court Legal Services Committee, the Secretary shall seek opinion from an Advocate having more than fifteen years standing at the Bar.

(2) A decision on application for legal services shall be taken immediately, but not more than seven days from the date of receipt of the application.

(3) 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.

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

(5) Any person aggrieved by the decision or order of the Member-Secretary or the Secretary, as the case may be, he may prefer appeal to the Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.

(6) In case the Member-Secretary or Secretary of the Legal Services Institution decides to provide legal services through a panel lawyer, the choice of the panel lawyer, if expressed by the applicant, may be considered.

6. **In Regulation 8 Sub Regulation (2) after the words "Presidents of the Bar Associations" the words "Monitoring and Mentoring Committee set up under regulation 10" shall be inserted and also in sub regulation 8(2) the following shall be added.**

"Provided that the Executive Chairman or Chairman of the Legal Services Institution may also suo moto empanel any legal practitioner";

For Regulation 8 of clause (6) the following Sub clause (6a) & (6b) shall be added:-

(6a) There may be representation of the Scheduled Castes, the Scheduled Tribes, women and differently abled lawyers in the panel.

(6b) The Member-Secretary or Secretary, as the case may be, may assign a case to a panel lawyer of a subject matter other than for which he has been empanelled.

In the Principal Regulation, for Regulation 8 Clause (8) Sub Clause (a) to (c) and Clause 9 Sub Clause (a) to (c) the following Regulation shall be substituted namely:-

8(8) The strength of Retainer lawyers shall not exceed, -

- (a) fifteen in the High Court Legal Services Committee;
- (b) ten in the District Legal Authority;
- (c) five in the Tehsil Legal Services Committee.

8(9) The honorarium payable to Retainer lawyer shall not be less than, -

- (a) Rs.10,000/- rupees ten thousand per month in the case of State Legal Services Authority or High Court Legal Services Committee;
- (b) Rs.7500/- rupees Seven thousand five hundred per month in the case of District Legal Services Authority and Armed Forces Tribunal.
- (c) Rs.5000/- rupees Five thousand per month in the case of the Tehsil Legal Services Committee:

In the Principal Regulation, for Regulation 8 Clause (11) the following Regulation shall be substituted namely:-

“8(11)The panel prepared under sub-regulation (2) for the period of three years shall also be reviewed and updated periodically by the Executive Chairman or the Chairman, as the case may be, keeping in view the performance of the panel lawyers”.

In the Principal Regulation, for Regulation 8 after Clause (15) Clause (16) shall be added namely:-

8(16) (i) The panel lawyers shall undergo training periodically as per modules prepared by the National Legal Services Authority and the State Legal Services Authority.

(ii) The participation in the training programme shall be a relevant consideration for the retention or continuation of panel lawyers.

7. **In the Principal Regulation, for Regulation 9 the following Regulation shall be substituted namely:-**

9. Legal services by way of legal advice, consultation, drafting and conveyancing. - (1) The Executive Chairman or Chairman of the Legal Services Institution may maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the law universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.

(2) The Executive Chairman or Chairman of the Legal Services Institution, as the case may be, may maintain a separate panel of retired senior bureaucrats, senior executives, retired police officials, doctors, engineers, psychiatrists, marriage counsellors, chartered accountants, educationists and other experts of the specialised field for legal services and honorarium payable to them shall be decided by the Executive Chairman of State Legal Services Authority or the Chairman of the Supreme Court Legal Committee, as the case may be.

(3) The Member-Secretary may send a request to Senior Advocates to volunteer their pro bono professional services for rendering advice as and when required.”.

8. **In the Principal Regulation, for Regulation 10 the following Regulation shall be substituted namely:-**

10. Monitoring and Mentoring Committee. –

(1) Every Legal Services Institution shall set up a Monitoring and Mentoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in the legal aided matters and to guide and advise the panel lawyers.

- (2) **The Monitoring and Mentoring Committee at the level of the High Court shall**

consist of, -

- (i) a sitting or retired Judge of the High Court or a Senior Advocate as may be nominated by the Chairman, High Court Legal Services Committee;
- (ii) Secretary, High Court Legal Services Committee.

(3) The Monitoring and Mentoring Committee at the State or District Legal Services Authority shall consist of, -

- (i) Member-Secretary or Secretary of the Legal Services Institution, as the case may be;
- (ii) one serving judicial officer from the State Higher Judicial Service;
- (iii) one retired judicial officer or one Advocate of fifteen years' standing or more.

(4) The Monitoring and Mentoring Committee at the Tehsil Legal Services Committee shall consist of, -

- (i) Chairman of the Tehsil Legal Services Committee;
- (ii) one retired judicial officer; or
- (iii) one advocate of 10 years standing or more.

- (5) The members of the Monitoring and Mentoring Committee shall render their services on the days as may be required and fixed by the Executive Chairman or Chairman of the Legal Services Institution and the members except serving Judicial Officers shall be paid the honorarium as fixed by the Executive Chairman.

9. In the Principal Regulation, for Regulation 11 the following Regulation shall be substituted namely:-

¹⁷11. Procedure of the Monitoring and Mentoring Committee. - (1) Whenever court based legal aid is provided to an applicant, the Member-Secretary or Secretary as the case may be, shall send the details in Form II to the Monitoring and Mentoring Committee at the earliest.

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

(3) The Monitoring and Mentoring Committee shall assist the Legal Services Institution in organising training programmes for panel lawyers from time to time to enhance the skill of the panel lawyers.

(4) The Monitoring and Mentoring Committee shall mentor the panel lawyers and guide them in providing quality legal serv

(5) The Monitoring and Mentoring Committee shall maintain a register for legal aided cases for monitoring the day-to-day 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 scrutinized every month by the Member-Secretary or Secretary or the Chairman, as the case may be.

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

(7) The Monitoring and Mentoring Committee shall keep a watch on the progress of the case by calling for reports from the panel lawyers within such time as may be determined by the Committee.

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

(9) The Committees shall meet at least once in a fortnight.

(10) The Monitoring and Mentoring Committee may meet as and when the meeting is convened by the Member-Secretary or the Secretary as the case may be.

10. In the principal regulations, in regulation 12, for the words "Monitoring Committee" occurring at both the places, the words "Monitoring and Mentoring Committee" shall be substituted.

11. In the principal regulations, in regulation 13, for the words "Monitoring Committee" occurring at both the places, the words "Monitoring and Mentoring Committee" shall be substituted.

12. In the principal regulations, in regulation 15, for the words "Monitoring Committee", the words "Monitoring and Mentoring Committee" shall be substituted.

13. In the principal regulations, in regulation 16, for the words "Monitoring Committee", the words "Monitoring and Mentoring Committee" shall be substituted.

14. In Form II of the principal regulations, in the heading, for the words "Monitoring Committee" the words "Monitoring and Mentoring Committee" shall be substituted.

Sd/-

(M. A. Chowdhary)

Member Secretary

No:SLSA/LS/2010/10/2160-69

Dated: 28.05.2019

Copy to the:-

1. Advocate General J&K Srinagar for information.
2. Principal Secretary to Hon'ble Patron in Chief J&K State Legal Services Authority for information to her Lordship.
3. Registrar General J&K High Court Srinagar for information.
4. Secretary to Government Law Department for information.
5. Chairmen District Legal Services Authorities for information.
6. Secretary to Hon'ble Executive Chairman J&K State Legal Services Authority for information to His Lordship.
7. Secretaries District Legal Services Authorities;
8. Chairmen Tehsil Legal Services Committees;
.....for information.
9. Government press Srinagar for publication in the Government Gazettee.
10. Notification file / Concerned file.

Deputy Secretary

J&K State Legal Services Authority

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