



NATIONAL LEGAL SERVICES AUTHORITY'S REGULATIONS AND IMPORTANT SCHEMES

AND

**General Guidelines for the State Legal Services Authorities, District
Legal Services Authorities and Taluk Legal Services Committees.**

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1. Lack of infrastructure

Under Sections 6(7) & 9(7) of Legal Services Authorities Act, 1987, administrative expenses of the State and District Legal Services Authorities have to be defrayed out of the consolidated fund of India or from the

consolidated fund of the State respectively. Under Section 11-A(5), administrative expenses of the Taluk Legal Services Committee have to be defrayed out of the District Legal Aid Fund by the District Authority. Therefore, whenever infrastructural requirements are to be made, the State Legal Services Authority and District Legal Services Authority shall incorporate such requirements in their budget proposals.

The budget proposals of the District Legal Services Authorities under the head 'administrative expenses' are to be included in the budget of the State Legal Services Authorities who shall consolidate the requirements of all DLSAs and send a wholesome budget to the State Government. When such Budget proposals are to be submitted to the State Government proper explanation has to be given for the proposals under each head, especially for the amount required for meeting the infrastructural requirements so as to enable the budget wing of the State Finance Ministry to analyse the requirements and include it in the Demand for Grants to the Legislature.

Much prior to the preparation of the State Budget, the Member-Secretary shall have meetings with the Finance Secretary of the State to impress upon the financial requirements of the State Legal Services Authority. The Budget proposals shall not be made in a speculative manner or by way of a guess work, but shall be realistic and based on the actual necessities.

The requirement of office space for the District Legal Services Authority can be met while constructing the District ADR Centre in each District making use of the funds of the 13th Finance Commission. While planning for the building for the District ADR Centre, the District Legal Services Authorities can find some space in the proposed building.

In the case of Taluk Legal Services Committees, a specific proposal has to be made in the Budget proposals for constructions/renting of building.

2. Shortage of Staff at Taluk Level.

Under Section 11 A(3) the number of officers and employees to be appointed in Taluk Legal Services Committee has to be in accordance with the rules framed by the State Government under the Legal Services Authorities Act. This is a statutory responsibility enjoined on the State Governments [See Section 28(2)(I)]. However, many State Governments have not framed the rules for fixing the number of officers and staff in the Taluk Legal Services Committees.

The State Legal Services Authority has to take up the matter with the State Government and suggest to the State Government to claim the additional financial burden involved from the Central Government under Article 258(3) of the Constitution of India or by making appropriate claims before the Finance Commission for increasing the allocation of funds.

3. Training curriculum and manual to be prepared with the help of Judicial Academies.

Training of the staff and the functionaries of the District Legal Services Authorities and Taluk Legal Services Committees is very important. The staff appointed in the District Legal Services Authorities and Taluk Legal Services Committees shall be carefully selected and trained to provide legal services, not in a perfunctory or lackadaisical manner. Sensitization of the staff and panel lawyers has to be done in accordance with the training curriculum and training manual prepared by the State Legal Services Authorities with the assistance of State Judicial Academies. Copies of the manuals prepared by the SLSAs shall be sent to the National Legal Services Authority. Training classes shall be organized at least once in every six months at the district level with the assistance of the State Judicial Academy.

4. Appointment of whole-time Secretaries for the District Legal Services Authorities.

Section 9(3) of the Act deals with appointment of the Secretary of the District Legal Services Authority. The term of 'appointment' appearing in Section 9(3) indicates that it is a full time job. District Judge is the Chairman of the District Legal Services Authority in his ex-officio capacity. The District Judge may not be able to devote his/her full attention to the legal services activities. A look at the terms of office and other conditions relating to the Secretary prescribed by the regulations made by the State Authorities will show that the job of Secretary demands full time engagement for the legal services activities in the District. The Secretary of the District Legal Services Authorities will have to perform a significant role in the legal services activities. S/he is responsible for organizing Lok Adalats, legal literacy camps and the other functions to be performed by the DLSA in accordance with the Schemes made by the National Authority and also to comply with the directions of the State Legal Services Authority. Therefore, it cannot be gainsaid that the Secretaries of the DLSAs have to be full-time officers.

15 State Governments have so far sanctioned the posts of whole-time Secretaries in the DLSAs. The remaining State Governments have to be

impressed upon the need for creating such posts. High-level meetings by the Patron-in-Chief and the Executive Chairman with the Chief Minister, Law Minister can yield results in the matter of creation of full-time post of the Secretaries in the DLSAs.

The Secretary of the District Legal Services Authority under Section 9(3) is not a "Member-Secretary". Their designation is '**Secretary of the District Legal Services Authority**'. Similarly the Secretary to the High Court Legal Services Committee (HCLSC) cannot be designated as 'Member-Secretary'. Their proper designation is '**Secretary to the HCLSC**'.

The State Governments should be impressed upon that they cannot take the plea lack of financial resources as a pretext for not providing full time Secretaries for the DLSAs. Article 258 (3) of the Constitution of India enables the States to claim for any extra costs of administration in connection with the implementation of the Central Laws like Legal Services Authorities Act, 1987. The States can also approach the Finance Commission for allocation of more funds for meeting the requirements the Legal Services Authorities Act, 1987.

5. Publicity of Legal Services.

Production of video/documentary films, publicity material, literature, publications to inform general public about the various aspects of the legal services programmes etc., from part of the functions of the Member-Secretary. The legal services of the legal services institutions will not reach the people who require such services, unless the people know about the different legal services programmes available. Publicity is, therefore, the handmaid of the Legal Services Authorities. However, endeavor shall be made for minimizing the expenditure. The legal services functionaries may seek the help of journalists in press conferences for spreading the news relating to legal services. Press releases and participation in the media programmes can also be resorted to. Participation by the functionaries of the legal services institutions in the interviews, live-discussions and in the popular programmes touching on the legal services activities in electronic media will go a long way in reaching out to the people who live far away from the urban localities in which the legal services institutions are situated.

It is advisable to seek the permission of the Executive Chairman of the State Legal Services Authority before participating in the pre-planned programmes of the media including radio and television. The objective of such participation shall only be for propagating the legal services activities, not for any individual publicity.

6. Credit for the work done by the judicial officers in legal services matters including Lok Adalat.

Under the Legal Services Authorities Act, the responsibility for conducting the legal services activities including Lok Adalat is entrusted to the judiciary. It is the statutory responsibility of the judicial officers assigned with the duty of legal services to perform such duties. True, a judicial officer is busy with his/her Court works for which they have to meet certain targets fixed by the High Courts. Some judicial officers often lament that they do not find time to perform the legal services duties assigned to them on account of the pressure of work demanded of them from the High Court. However, the question whether due credits are to be given to the judicial officers who perform the work under the Legal Services Authorities Act is a matter to be decided by the respective High Courts.

7. Certificate of merit for the work done by the Judicial Officers in legal services matters.

The State Legal Services Authority shall encourage the work done by the judicial officers in connection with the legal services matters. Due recognition shall be given to the judicial officers who make outstanding and remarkable performances by giving certificates of merit and the same may, if approved by the Executive Chairman, be reported to the High Court, with a request to make appropriate entries in the confidential reports of the judicial officers concerned.

8. Organising Regular Lok Adalats.

Organising Lok Adalat is one of the important functions of the Legal Services Authorities and Committees. The National Legal Services Authority has framed Lok Adalat Regulations, 2009 for providing guidance on the manner in which Lok Adalats have to be organised. In some States, holding of Lok Adalats on regular basis has been avoided on account of the lack of sufficient number of cases pending in the Courts. It has to be remembered that the statutory function of the State Legal Services Authorities, District Legal Services Authorities and Taluk Legal Services Committees to organize Lok Adalats cannot be abdicated on account of the fact that the pendency of the cases in the courts is low. Lok Adalats are organized not only for the pending cases but also for matters at the pre-litigative stage.

Adequate publicity should be made by the State and District Legal Services Authorities for encouraging all concerned to bring the matters in pre-litigation

stage also for settlement in the Lok Adalats. This is a strategic approach to prevent the disputes maturing into litigation in the courts. It has to be noted that not only the disputes but '**matters**' which require compromise or settlement also can be referred to the Lok Adalat. Therefore, Lok Adalats for pre-litigation petitions shall be a regular feature in the District and Taluk level legal services institutions at such intervals and places as they think fit. Complaints and grievances of citizens against the Government Departments, Government Officials, Revenue Officials, Public and Private Companies, Financial Institutions etc also can be taken up in the Lok Adalat as pre-litigation matters paving way to expeditious and inexpensive settlement of those matters without allowing them to mature into litigations in the regular courts. Involvement of lawyers in bringing pre-litigation disputes for settlement also should be encouraged for instilling confidence amongst the lawyers that the ADR system will not diminish of their professional prospects.

9. Lack of Co-operation from government officials/insurance companies.

This is a problem felt all over the country. Primarily this has to be viewed as lack of sensitization on the part of the government officials. Some government officials are too bureaucratic, insensitive to the poor and marginalized people and consider that legal services activities and 'access to justice' are the concerns of the judiciary. However, the government officials need to be sensitized that 'access to justice' and legal aid is a part of the constitutional mandate envisaged in Article 39-A of the Constitution of India.

In most States, the government officials like District Collector, Senior Revenue Officials and Senior Police Officers are Members of the Legal Services Authorities and Taluk Committees. It has been the experience that these officials do not attend the meetings of the DLSAs and TLSCs. Sometimes they send only their representatives in the meetings. This tendency has to be curbed by taking up the matter with their superior authorities. The matter has to be tackled at the High Court level in the meetings of the State Legal Services Authority or by special interactions between the Executive Chairman and the top most officials of the State administration.

Yet another problem faced by the Legal Services Authorities is the absence of government officials when they are arrayed as parties in the Lok Adalat proceedings. This, again, can be solved by taking up the matter with the higher officials of the government officials concerned impressing upon them the need for resolution of disputes by avoiding the costly and time consuming process of

litigation in regular Courts. The State Authorities have to take up this matter with the Chief Secretary, requesting to send officials vested with necessary decision making powers to attend Lok Adalat proceedings.

Non-appearance of insurance officials in the Lok Adalat has to be taken up with the Regional Manager of the Insurance Company. The Regional Manager may be asked to depute, senior officers who have plenary powers, to the Mega Lok Adalats where disputes relating to insurance companies are taken up so that some flexibility in the upper limits for which the branch officials are authorized can be waived or relaxed. For this purpose, it is always advisable that the SLSA/DLSA convene a meeting of the Zonal/Regional Officers of the Insurance Companies much prior to the dates on which the Lok Adalats are organized.

10. Matrimonial matters in Lok Adalat.

National Legal Services Authority (Lok Adalat) Regulations 2009 make it clear that a matter or case seeking the relief of divorce shall not be taken up for settlement in the Lok Adalat. Other matters or cases of civil nature like maintenance, custody of the child, violence within the meaning of Protection of Women from Domestic Violence Act, 2005 etc., can be taken up in the Lok Adalat. However, suggestions have come from some of the State Authorities that if a petition seeking divorce with mutual consent is taken up in the Lok Adalats, either pending before the Family Court or at a pre-litigative stage, if the Lok Adalat passes an Award granting divorce, the period the couples have to wait for a decree for divorce is granted could be shortened.

Dissolution of marriage is a serious matter in which a conscious application of the mind by the judge is required. The Legislature has fixed a waiting period of six months with a view to avoid hasty and impulsive prayers for divorce from the couples. The policy of law is to preserve and protect the harmonious and peaceful life of married couples in a family atmosphere. Though the rate of divorce is very high in the modern times, Lok Adalat shall not act as a forum for passing an award of divorce which produces irreversible consequences in the lives of married couples.

11. Legal Services Authorities in the UTs and the Award of the TFC for improvement of the justice delivery system.

Since the Finance Commission deals with allocation of funds to the States of the Union of India, Union Territories which are under the direct control of the

Central Government are not the beneficiaries of its allocations. With the objective of improving the justice delivery system in the country, TFC has set apart Rs.5000/- Crore under various heads including legal aid, lok adalat, construction of ADR Centers and for some other matters like setting up of judicial academies, evening and morning courts and preserving the heritage Court buildings.

The only alternative to the UTs to avail of the aforesaid facilities given to the States is to approach the Central Government to allocate more funds for improving the justice delivery system in tune with the allocations made by the TFC to the States. The National Legal Services Authority shall take up the matter with the Government of India to meet the requirements of the UTs for improving justice delivery system and for providing funds for setting up District ADR Centers, training the mediators, organizing Lok Adalats and also for providing legal services to the disadvantaged people.

12. Power of Permanent Lok Adalats to determine a matter under Section 22 C(8) even if parties do not agree to a settlement.

It is often doubted whether the Permanent Lok Adalat (PLA) for public utility services has the jurisdiction to decide the dispute under Section 22 C(8) of Legal Services Authorities Act, 1987 if the parties do not agree to settle the dispute during the conciliation proceedings under Section 22 C(7) of the Act.

Chapter VI-A was inserted in the Legal Services Authorities Act, 1987 with the specific objective of pre-litigative, expeditious and conclusive settlement of the disputes arising in the public utility services, [as defined in Section 22 A(b)]. The Legislative intention is to discourage such disputes going to the regular Courts and to avoid the delay and expenditure in the decision making process relating to disputes in the public utility services. Moreover, if the public utility services are bogged down in innumerable litigations, it would hamper the efficiency of the public utility services.

It is relevant to note the important provision in Section 22 C(2) which reads as follows:

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

This would make it clear that after an application is made to the PLA none of the parties to the application can abandon the proceedings initiated in the PLA nor can they opt for litigation in the regular Courts of law. The proceedings

which take place in the PLA are initially in the nature of conciliation governed by the provisions of the Arbitration and Conciliation Act, 1996. If the conciliation fails, the Permanent Lok Adalat gets the power under Section 22 C(8) to decide the dispute unless the dispute does not relate to any offence.

13. Overlapping of Powers conferred upon the Legal Services Authorities under Section 22 B with those of the Consumer Forum.

Doubt(s) have been raised regarding the overlapping of powers of the Permanent Lok Adalat (PLA) for public utility services established under Section 22 B of the Act with the powers of the Consumer Redressal Forum. It has to be borne in mind that the PLA established under Section 22 B is a pre-litigation conciliation and settlement measure for the disputes arising in the public utility services included in Section 22A(b) of the Act. It is an alternative dispute resolution procedure for settlement of the disputes relating to public utility services. On the contrary, the Consumer Redressal Forum adjudicates a dispute relating to 'deficiency in services' as per the Consumer Protection Act, 1986. Strictly speaking, there is no overlapping of powers between PLA for public utility services and the Consumer Redressal Forum. A party to the dispute can opt either of the two fora. The proceedings in PLA under Section 22 B are conciliatory in nature whereas in Consumer Forum it is adversarial. Only when the conciliation in the PLA fails, the PLA decides the disputes.

14. Selection of Advocates for the Legal Aid Panels.

Selection of Advocates for legal services has to be done in accordance with the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010. Care shall be taken to select panel lawyers on the basis of their proclivity for giving legal services to the poor and disadvantaged. There is a widespread allegation that legal aid lawyers are not performing their duty to the client and in the court in the same way as they attend to the cases of their paid clients. This creates distress and disillusionment amongst the seekers of free legal services.

After selecting panel lawyers, training has to be given to them at the district level with the assistance of the State Judicial Academies. The training is for sensitising the panel lawyers about the nature of legal services expected of them, the hardship and the feeling of insecurity experienced by the disadvantaged and weaker sections of the society for access to justice. It is important to sensitize the panel lawyers that free legal services is not a charity

but is the constitutional right of the citizens. The panel lawyers have to be made fully conscious of the fact that they cannot expect returns from the seekers of legal aid in the form of the regular rates of fees. The panel lawyers shall assuage the feeling of insecurity of the seekers of legal aid especially when the opposite side is represented by a highly paid lawyer.

As per the NALSA (Free and Competent Legal Services) Regulations 2010, retainer lawyers are to be selected from amongst panel lawyers. The retainer lawyers shall be made aware of their responsibility to make available their services round-the-clock, when called for by the legal services institutions, in cases of urgency. The retainer lawyers are paid a fixed honorarium at the rate mentioned in the aforesaid Regulations, over and above the fee prescribed by the State Legal Services Authority for the cases they handle.

It is not practicable to fix a uniform rate of fees for the legal aid lawyers for the entire nation. Therefore, the State Legal Services Authorities may take steps for periodical revision of the fees payable to panel lawyers.

Training programme for panel lawyers and retainer lawyers should be conducted at frequent intervals for creating awareness on the new developments in law.

15. Assigning cases to the Panel Lawyers and Retainer Lawyers.

While allocating cases to the panel lawyers and retainer lawyers a mechanical roster system may sometimes be counter-productive. While some lawyers may have proficiency in civil cases some others may be experienced in criminal cases only. Some lawyers may be having specialized knowledge in environmental matters, consumer protection of matters etc. If the panel lawyer has no experience in civil matters, it would be disastrous to entrust such lawyer with a civil case. While assigning lawyers for the legal aid applicants care should be taken to provide a lawyer with a sufficient experience, depending on the nature of the case. Therefore, it is necessary to sub-divide the panel lawyers into different groups, based on their areas of specialization.

It is advisable to maintain a **register of panel lawyers** indicating, against the name of each panelist, the area of specialization, the number of years of experience in each branch of law etc.

16. Choice of Advocate by the applicant for legal services.

Under the present system of providing Court based legal services through panel lawyers and retainer lawyers, it is not practicable to give an option to the

applicant for legal services to choose a lawyer from panel. Nevertheless, if any particular preference is expressed by an applicant stating sufficient reasons, a lawyer of his choice from amongst the panel may be assigned to the applicant, subject to the discretion of the Chairman of the legal services institution.

17. Periodical evaluation of panel lawyers' performance.

Regulation 10 of National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 envisages setting up of a Monitoring Committee. The State Legal Services Authority shall ensure that such Monitoring Committees are set up in all District Legal Services Authorities and Taluk Legal Services Committees to evaluate the progress of the legal aided case and to record the result (success or failure) of the case.

The report of the Monitoring Committee shall be a guiding factor for evaluating the panel lawyers' performance. The District Legal Services Authority and Taluk Legal Services Committee may maintain a Register of legal aided cases (on the lines of a Suit Register in a civil court) to record the progress of the cases in which legal aid has been given. Success or failure of the cases in which legal aid is given may be noted in a separate column in the Register. Details of appeal/revision and the result of such proceedings also may be recorded in the register.

18. Legal Services for the Victims of Disaster.

National Legal Services Authority has framed a comprehensive Scheme (see NALSA's website) for providing legal services to the victims of disasters through the District Legal Services Authorities. The Scheme provides for strategic intervention by the Legal Services Authorities for ensuring immediate help to the victims, co-ordinating the activities of different government departments and NGOs for bringing relief measures, enabling the victims to get the benefits of the different beneficial measures and amounts of solatium announced by the Government, restoration of lost records like title deeds, identity cards, certificates, passport etc., and for providing assistance to the victims in restoring their lost livelihood. The State Legal Services Authorities are expected to establish Core groups in all districts under the control of the District Legal Services Authorities to spring into action in the event of disasters - whether manmade or natural - much before the disasters strike. The NALSA Scheme for Legal Services to Disaster Victims has been effectively put to use during the cloud-burst occurred in Leh (J&K), earthquake in Sikkim and flash-floods occurred in the river Kosi in Bihar and during the flood occurred in several districts of Orissa in 2011.

19. Implementation of the Schemes of National Legal Services Authority by the State Legal Services Authorities.

National Legal Services Authority is empowered to frame the most effective and economical Schemes for the purpose of making legal services available under the Legal Services Authorities Act, 1987. Such Schemes are framed after elaborate discussions in the Central Authority, taking into account of the diverse situations prevailing in the different parts of India. The NALSA Schemes are circulated amongst all State Legal Services Authorities and District Legal Services Authorities and amongst the other legal services institutions.

The State Legal Services Authorities and the District Legal Services Authorities are primarily responsible for implementing such Schemes. However, in some cases the State Authorities and District Authorities may find it difficult to put the Schemes into practice in their areas on account of the demographical, geographical, financial or other reasons. The State Legal Services Authorities can feel free to inform the NALSA about the difficulties in implementation in any particular Scheme or any portion of it in the State or in any particular local area. NALSA, in such cases may allow the State Authority to implement such Schemes in the best practicable manner in such States/areas.

20. Jail Visits

The Secretary of the District Legal Services Authority by himself or along with the Chairman of the District Legal Services Authority shall make regular visits to the jails within the district. The purpose of the visits shall be to identify the following: (a) under-trial prisoners languishing for want to legal aid; (b) identify whether any convicts are undergoing imprisonment in the jail who were juveniles on the date of occurrence of the case charged against them; (c) to identify whether any non-criminal mentally ill persons are detained in the prisons; (d) to identify whether any juveniles are detailed in the prisons; (e) to identify whether compliance of the order of the Supreme Court in *R.D.Upadhyay v. State of A.P.* (2007) 15 SCC 337; AIR 2006 SC 1946 in relation to the care of the children below the age of six years living with their mothers in the prisons [Hon'ble Supreme Court in this case has assigned a permanent duty on the Legal Services Authorities to conduct periodic inspections of all jails and to report compliance of the directions of the Court]; (f) any other matters specially brought to the attention of the District Legal Services Authority by any Court or by way of a complaint from other sources.

Appropriate remedial action by way of legal aid, shall be given to the persons detained in the jails either by way of providing lawyers or by writing to the

superior authorities of the jail. Serious matters may be brought to the notice of the High Court by way of a report submitted to the Patron-in-Chief.

21. Plea Bargaining and use of ADR techniques for under-trial prisoners.

The provisions of Plea Bargaining introduced in Chapter XXI-A Code of Criminal Procedure Code, 1973 and organizing Lok Adalat for compoundable criminal matters shall be resorted to by the District Legal Services Authority. The report of the cases settled by invoking these provisions shall be sent to the State Legal Services Authority which shall consolidate the same and send reports to the National Legal Services Authority. The number of under-trials to whom legal aid has been given also shall be reported to the National Legal Services Authority every month, through its web-based monitoring system.

22. Establishment of Jail and Juvenile Lok Adalats.

Lok Adalats for settlement of compoundable criminal cases shall be held in the jails where under-trial prisoners are lodged and also in the observation homes where children in conflict with law are housed. District Authority/Taluk Legal Services Committees shall arrange to send the officers, para-legal volunteers, panel lawyers etc to visit the jails, Observation Homes in the district and to collect the details and case numbers relating to the under-trial prisoners and under-trial juveniles. After collecting details of the cases relating to the compoundable offences, the District Authority/Taluk Legal Services Committee shall liaise with the Presiding Officer of the Court/JJB concerned and get such cases referred to the Lok Adalat. Lok Adalats for such cases shall be organized, as far as practicable in the Jails/Observation Homes itself. The District Legal Services Authority shall ensure that the Taluk Legal Services Committees collect information from the Jails/JJBs within their jurisdiction as aforesaid and that Lok Adalats are organized as frequently as possible.

23. Legal Aid to victims of crime including juvenile/child victims.

At present much of the legal aid in criminal cases is focused on the accused persons. In our criminal jurisprudence, victims of crime do not get sufficient attention. Victims of crime face the court proceedings only as witnesses. Sometimes they figure in when the court awards compensation under Section 357 Code of Criminal Procedure, 1973. Section 357 A has been newly introduced in the Code of Criminal Procedure for awarding compensation to the victims.

The victims of crime are often traumatized physically and mentally. In grave crimes, they require assistance in rehabilitation and also in the proceedings in the court. Victims require legal aid by providing a lawyer to assist them for giving the best possible evidence before the Court. Under Section 301(2) Code of Criminal Procedure, such lawyer has to act under the directions of the public prosecutor. However, while appointing lawyers to the victims of crime, it has to be ascertained whether such victim is entitled to get free legal aid under Section 12 of the Legal Services Authorities Act. Specific instructions shall be given to the lawyer so engaged that he shall act under the directions of the public prosecutor. Such lawyer shall also be instructed to seek permission of the Court to submit written arguments after the evidence is closed in the case.

The legal services institutions may, in appropriate cases, make efforts to rehabilitate the victims of the crime, if eligible under Section 12 of the Act, in a suitable rehabilitation center run by the Social Welfare Department of the State Governments, local-self Government bodies or by the NGOs.

In relation to the child victims, assistance of the nearest Child Welfare Committee may be made available. In appropriate cases, assistance of State or National Commission for Protection of Child Rights may be availed of.

One of the important responsibilities cast on the State and District Legal Services Authorities is determination of the quantum of compensation to be awarded to a victim of crime under Section 257 A Code of Criminal Procedure 1973. Many of the State Governments have not so far framed the Scheme for providing funds for the purpose of compensation to the victims of crime or his dependence. However, the National Legal Services Authority has issued directions to all State Legal Services Authorities vide letter No. L/6/2011-NALSA/ dated 05.07.2011 to take steps to provide interim relief to such victims under the provisions of 357-A(6) Cr.P.C. notwithstanding the absence of any Scheme prepared by the State Government. In the States where such Scheme has been put in place by the Government, State or District Legal Services Authority as the case may be, may start the process of Awarding compensation as per the provisions 357-A(5) Cr.P.C.

24. Legal Aid to women, children and transgenders.

Women, children and transgender are vulnerable groups. The legal services institutions at all levels shall give special attention to the problems of women, children and transgenders. Special efforts shall be made to provide legal assistance to the victims of domestic violence and sexual abuses. Attempts may be made to declare areas/localities 'domestic violence free' by taking up

the disputes relating to domestic problems in the pre-litigation ADR processes. Para-Legal Volunteers may be engaged to conduct surveys in the locality to find out the families in which women are subjected to domestic violence. Assistance of psychologists, psychiatrists, social-scientists and respectable individuals of locality and NGOs may be made use of. The *Dove Mission* (Domestic Violence Eradication Mission) and *Kutty Mission* undertaken by the Kothamangalam Taluk Legal Services Committee under the guidance of the Kerala State Legal Services Authority can be replicated in other parts of the country also. National Legal Services Authority has issued guidelines for the aforesaid *Dove Mission and Kutty Mission Project*.

National Legal Services Authority in the National Plan of Action 2011-12 has already given details as to how legal services are to be provided to children. Legal Services Authorities may follow the pattern of the types of legal services broadly mentioned in the NALSA's Plan of Action 2011-12.

Transgender Community has been given special attention by NALSA on account of their vulnerable situation in the society. The problems faced by Transgender Community are not only the problem of the individual members of that community but are social problems too. Transgenders are citizens of India born with all kinds of fundamental rights guaranteed by the Constitution of India and are also entitled to the rights envisaged in the Universal Declaration of Human Rights. The problem of transgenders is mainly concerned with their confused gender which is against the accepted norms of the society in general. The hardships they face in the society are violative of their fundamental rights. Legal assistance may be given to them as a socially vulnerable group, though they do not belong to the eligible categories in Section 12 of the Legal Services Authorities Act.

25. Eradication of local superstitions such as witchcraft, black-magic.

In some northern States, due to illiteracy and superstition, people practice black-magic and believe that witches are responsible for the maladies occurring in the locality. Old, hapless and forlorn women are targeted as witches and the people in the locality are mobilized to launch a concerted attack on such women. Although Bihar, Jharkhand have enacted laws with stringent provisions like Anti Witch Hunting Act, 1999, the practice of harassing old women as witches is still prevailing unchecked. Quite often, these women are attributed with the evil powers. Such allegations are made by some persons with the ulterior objective of snatching away the properties, houses etc. of the so called 'Witches' after driving away or killing them. Mass education against

superstition is required for protecting the lives of the targeted women. Only through adequate and strategic interventions by the Legal Services Authorities this problem can be eradicated.

Similarly, the practices like *devadasi* system in the southern States of the country results in trafficking of girl children and young women ultimately forcing them to prostitution. Legal Services Authorities shall come forward with interventional strategies to curb these inhuman practices. Legal literacy camps shall be organized in the areas where such pernicious practices are prevailing.

26. Ensure the establishment of the different Homes under the Juvenile Justice (Care and Protection of Children) Act, 2000 [JJ Act].

By the order dated 19.08.2011 in *Sampurna Behrua v. Union of India & Ors.* W.P.(C) No.473 of 2005, Hon'ble Supreme Court has directed:

“As considerable co-ordination is required, the Executive Chairmen and Member Secretaries of the State Legal Services Authorities may arrange for periodic supervision and visits to ascertain the functioning of the Children's Homes, Observation Homes etc.”

The direction so given to the Hon'ble Executive Chairman and Member-Secretary of the State Legal Services Authorities has to be carried out by the Member-Secretary of the State Authority as well as by the subordinate legal services institutions. A Juvenile/Child being a very important part of the human resources of the country, care shall be taken to ensure that the different Homes set up under the JJ Act are functioning effectively in accordance with the detailed provisions in the rules framed under the JJ Act. For this purpose, the questionnaire sent by the NALSA to the District Legal Services Authorities to collect information on the functioning of these Homes (for submitting before the Hon'ble Supreme Court of India in *Sampurna Behrua's case*) can be used as an effective tool to keep a watch on the functioning of the different Homes under the JJ Act. Faulty functioning of any of the Homes shall be brought to the notice of the Executive Chairman of the State Legal Services Authority immediately who may take up the matter with the administrative authorities or may bring to the notice of the Patron-in-Chief to be dealt with on the judicial side for remedial action.

27. Abolition of Child Labour

Child Labour is a socio-economic problem. Children are forced to work for earning their livelihood or for supporting their family income lose opportunity to get formal education from the schools as guaranteed under Article 21A of the Constitution of India. The provisions in the Child Labour Prohibition and Regulation Act, 1986; Bonded Labour System (Abolition) Act, 1976; Right to Children Free and Compulsory Education Act, 2009; may be judiciously made use of for preventing the spread of child labour. Care should be taken that when a child is suddenly withdrawn from the labour in which he was engaged, attempts may be made to take steps for rehabilitation measures including the provisions of monetary support to the family of such children under the different beneficial schemes of the Government. The Legal Services Authorities may consult the Social Welfare Officer of the District to find out alternative sources for the livelihood of the families of such children.

28. Rehabilitation of Juveniles.

Juveniles who require care and protection and those who are in conflict with law require rehabilitation after they undergo the procedure prescribed in the Juvenile Justice (Care and Protection of Children) Act, 2000. Quite often, rehabilitation of children who have crossed the age of juvenility, especially those in conflict with law, becomes a difficult problem. In addition to the special homes mentioned in the JJ Act, the State Legal Services Authorities may, in appropriate cases, seek the assistance of the voluntary organizations or NGOs or foster care to provide rehabilitation of such juveniles. The place for rehabilitation should be carefully selected where the children will get facility to learn skills for self-development and get trained for an avocation/livelihood.

29. Senior Citizens.

Legal services institutions shall pay special attention to the problems faced by senior citizens, especially of those who are abandoned by their children. In appropriate cases, assistance should be given to the senior citizens to invoke the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. In areas like Mathura, U.P., Varanasi, U.P., Haridwar, U.K., Puri, Orissa., the State Legal Services Authority shall, with the help of NGOs and PLVs conduct surveys on the lines of the surveys conducted by the Mathura District Legal Services Authority, U.P for ascertaining the living conditions of the widows and abandoned old people. Suitable legal services may be organized for such senior citizens.

30. Setting up of a Legal Services Work Force.

In addition to the Para-Legal Volunteers Scheme of NALSA, the State Legal Services Authorities may create voluntary Legal Services Work Force for the different localities. These work force may be selected from the people of different walks of life e.g: (a) retired teachers; (b) charitable organizations; (c) urban socialising clubs like Rotary Club and Lions Club; (d) religious groups who can propagate social justice not inconsistent with the secular nature of the legal services; (e) retired government servants; (f) media; (g) liaison organizations (for bringing about Corporate Social Responsibility), (h) Residents' Welfare Associations etc. The voluntary legal services work force so created can do specialized legal services e.g. retired government servants can come to the help of people in liaising with government offices for solving the problems of the applicants. Services of Rotary and Lions Clubs can be sought for, because they would only be too willing to give assistance to the poor and disadvantaged groups. Assistance of such clubs can be sought for procuring and distributing wheel-chairs, hearing aid, calipers etc., for the physically disabled persons and equipments like sewing machine, computers, tools of artisans for improving the life skills of the disadvantaged people. Due credit may be given to such clubs while co-operating with them for distributing the aforesaid such articles and at the same time making it an opportunity for reaching out to the people and for spreading awareness of the legal services available. The clubs may be associated with the organising of legal literacy camps and Lok Adalats in different localities.

31. The State Legal Services Authorities shall encourage Social Justice Litigation.

The State Legal Services Authorities shall, wherever necessary, encourage the Para-Legal Volunteers, Students' Legal Aid Clinic in the law colleges and other institutions to identify matters relating to environmental protection, consumer protection and matters concerning the weaker sections of the society and to submit reports to the Member-Secretary. The Member-Secretary in consultation with the Executive Chairman of the State Legal Services Authorities shall examine whether the matters so reported require a social action litigation.

Only matters of social importance shall be taken into consideration (e.g. the problems of the *Vrindavan* widows). It should be kept in mind that social justice litigation is not intended for ventilating the individual grievances. The problem identified should be of a considerable magnitude for which no effective steps

have been taken by the officials or by the government. Before initiating steps for a social justice litigation, the Legal Services Authority shall take care to exhaust the alternative remedies available, e.g. bringing the problems to the notice of the officials /head of the department concerned or to the government and wait for a reasonable period for remedying the situation. In other words, on noticing a problem, the State Legal Services Authority shall not immediately jump into the process of litigation. As far as practicable, the State Legal Services Authority may identify an individual or a small social group and provide them the necessary assistance for initiating a litigation before the Court. In cases of social problems of inter-state or national importance, the State Legal Services Authority may send the matter to the National Legal Services Authority for appropriate action.

32. Setting up of Legal Services Cadet Corps (LCC).

NALSA has already issued guidelines for setting up of legal literacy clubs in all Schools, making the children to involve in legal services and to propagate the legal services to children. The State Legal Services Authority may set up Legal Services Cadet Corps (LCC) in all Schools with the object of inculcating values in children, especially in relation to the fundamental duties of citizens under Part IV-A of the Constitution of India. Members of the School Legal Literacy Clubs may be enrolled as cadets in the Corps under the Captaincy of the teacher in-charge of the Legal Literacy Clubs. The Principal shall be the Lt. Colonel of the Corps. The smartest amongst the Cadets may be designated as the Senior Under Officer. Another Cadet may be identified as the Junior Under Officer.

The hierarchical structure of LCC:-

Supreme-Commander (Patron-in-Chief of NALSA) – Field Marshal (Executive Chairman, NALSA) – Commander-in-Chief (Patron-in-Chief of SLSA) –General Officer Commanding [GOC] (Executive Chairman, SLSA) – Brigadier (Chairman, DLSA) – Colonel (Chairman, TLSC) – Lt. Colonel (Principal) – Captain (Teacher-in-charge) – Senior Under Officer – Junior Under Officer – LCC Cadets.

During summer/winter vacations, (whichever is suitable to the District concerned), camps of the different units of LCC may be organized for a day or two at a convenient place under the guidance of the District Legal Services Authority. During the camp, mock legal services activities, Lok Adalats, children's court and other innovative programmes may be organized under the

control of a Captain. Competitions may be organized by in painting, drama and other artistic performances focusing on legal aid and legal services.

The report of the camp has to be submitted to the General Officer Commanding (Executive Chairman of the State Legal Services Authority) who in-turn may cause it to be placed before the Commander-in-Chief of LCC in the State (i.e. Patron-in-Chief of the SLSA). Suitable trophies and certificates may be given to the winners of the competitions and certificate of participation shall be given to the Cadets attending the camps. Camps may be organized regularly as an annual feature.

33. Regular use of the Regulations and Schemes of NALSA.

It has been noticed that most of the Regulations and Schemes framed by NALSA have not been brought to the notice of the legal services functionaries at different levels. A compilation of the Regulations and Schemes made by NALSA has been included in the first part of this handbook. While organising training for the functionaries of the District Legal Services Authorities, Taluk Legal Services Committees and also to the Judicial Officers generally, the State Legal Services Authorities with the assistance of the State Judicial Academies may incorporate the different regulations and schemes of NALSA to make the judicial officers aware of the Regulations and Schemes.

The regulations made by NALSA are subordinate legislation having statutory effect when they are notified in the official gazette. The Regulations, framed by the State Legal Services Authorities also have the statutory status. The Regulations made by the State Legal Services Authority, shall also be brought to notice of all judicial officers. The NALSA's Regulations, SLSA's Regulations and NALSAs Schemes shall be included in the training module for the panel lawyers, retainer lawyers and PLVs also. The amendments made in the Regulations from time to time shall be reported to the Judicial Academy and to the resource persons who handle the training classes.

34. Funds and Audit of Accounts.

Audit of accounts is the statutory responsibility of all legal services institutions. Apart from the allotments made by the National and State Legal Services Authorities, the Legal Services Authorities are empowered to receive money under the orders of any court and also by way of donations. It has to be noted that all sums of money received through any of the aforesaid sources shall be credited to the National Legal Aid Fund, State Legal aid Fund and District Legal Aid Fund respectively maintained by the institutions concerned.

There used to be doubts as to whether the funds allotted by the National Legal Services Authority have to be separately kept and audited. Under Section 16A of the Act, all sums of money paid to State Legal Services Authority or any grants made to it by the Central Authority for the purposes of the Act shall become a part of the State Legal Aid Fund. The District Authorities have to establish a fund called District Legal Aid Fund. In short, whatever money the State Legal Services Authority or District Legal Services Authority receives, such sums of money shall be credited into the State Legal Aid Fund/District Legal Aid Fund, as the case may be. Therefore, the accounts of the State and District Legal Services Authorities are to be maintained as accounts in respect of the State Legal Aid fund/District Legal Aid Fund as the case may be.

Nevertheless, in order to watch the flow of funds, it is advisable to maintain a separate register/ledger for the funds received from different sources e.g. (1) the funds received from the Central Authority or (2) funds received under the orders of any Court, (3) funds received by way of donations, (4) fund received from other sources. Such registers are maintained only for the purpose of easy reference and to keep a watch on the fund position from different sources and its flow.

It has to be borne in mind that Taluk Legal Services Committees have no fund of its own except the money for the expenses allotted to them by the District Legal Services Authority from out of the District Legal Aid fund. Taluk Legal Services Committees are not empowered to receive any money by way of donations or by court orders. Such sums of money can be received only by the District Legal Services Authorities and the State Legal Services Authorities.

High Court Legal Services Committee (HCLSC) also has no funds of its own. The cost of legal services provided by the HCLSC has to be met by the State Legal Services Authority [see s.16(2)(b)]. The HCLSC also is not authorised to receive any sums of money by way of donations or court orders, except when such powers are conferred on them in the regulations made by the State Authority (see. S.8-A).

The State and District Authorities are advised to conduct internal audits, subject to the volume of transactions, by a member of the staff who has expertise in accounts or by a Chartered Accountant. Such internal audit shall be conducted at frequent intervals e.g. once in a quarter or half-yearly. The internal audit will help the Member-Secretary/Secretary to keep a watch on the flow of funds and also to curb irregularities.

The State Authority may also send its Accounts Officer or other staff to inspect the accounts of the DLSAs periodically. The District Legal Services Authority in a similar manner shall cause the accounts of Taluk Legal Services Committees inspected frequently. It has to be remembered that allocations to the Taluk Legal Services Committees are defrayed out of the District Legal Aid Fund, the accounts of the Taluk Legal Services Committees get merged with the accounts of the District Legal Services Authorities concerned.

When the annual statement of accounts prepared either by the internal auditor or by a professional Accountant / Chartered Accountant is ready, the same shall be got approved in the meeting of the District/State Authority and copies of the same be forwarded to the State Government and also to the Accountant General of the State for conducting the statutory audit as prescribed in Section 18 of the Act. The Member-Secretary/Sectary of the SLSAs/DLSAs shall present the audit reports in the meeting of the State Authority/District Authority, as the case may be.

35. Funds sanctioned by the 13th Finance Commission (TFC).

The Department of Justice, Government of India has issued clear guidelines relating to the utilization of the amounts awarded by the 13th Finance Commission (TFC) for the different legal services activities including the setting up of ADR centers in every district. The guidelines very clearly state that the funds relating to legal aid, lok adalat, training of mediators and referral judges, construction of District ADR Centers are to be included in the Budget of the State Legal Services Authorities, to be dealt with by the SLSAs.

In some States the TFC Award for setting up of District ADR Centers have not been handed over to the State Legal Services Authorities. Department of Justice, Government of India has taken note of the fact that unless Rupees One Crore granted to each District for setting up of ADR is given in lump-sum, unlike payment in instalments for the other components of the TFC Awards, construction of ADR Centers will face the problems like of escalation of costs. The Member-Secretary, has to take immediate steps through the High Power Committee and shall ensure that the money for constructing of ADR Centers are received in lump-sum. Interaction with the Chief Secretary and Finance Secretary of the State will be useful to solve this problem.

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