

Legal Aid

History and Object

Jammu and Kashmir State Legal Service Authorities Act was enacted in the year 1997, whereas the Rules and Regulations there under were framed in the year 1998. Consequent upon coming into force of this Act, the activities of Jammu and Kashmir State Legal Aid and Advice Board were taken over by the State Legal Service Authority. Earlier, free legal aid was being provided to eligible persons in terms of the provisions of the J&K State Legal Aid and Advice Board Rules 1987. In 1997, SLSA Act was passed in order to constitute Legal Services Authorities to provide free and competent legal services to the weaker section of the society to ensure their opportunity for securing justice are not deprived to any citizen by reason of economic or other disabilities, and to organize Lok Adalats to secure the operation of the Legal system, promote justice on the basis of equal opportunity. Legal Service Authority/ Committees- Their Constitution and Function

1. State Legal Service Authority

In terms of S.3 of SLSA Act, State Legal Services Authority has been created, with Hon'ble the Chief Justice M. M. Kumar as its present Patron-in-Chief. Hon'ble Mr. Justice Mohammad Yaqoob Mir, J&K High Court is presently the Executive Chairman of the Authority, whereas Sh. G. H. Tantray, Secretary Deptt. of Law, Govt of J&K is the ex-officio Member Secretary of the Authority. Besides this, Presidents of Bar Associations Jammu/Srinagar, Advocate General, Secretaries to Home, Finance and Information Departments of Govt of J&K are the ex-officio members of the State Authority. The State Legal Services Authority besides being the Supervisory Authority over the District / Tehsil Legal Services Authorities/ Committees is obliged to lay down policies for making legal service available, make allocation of funds to other Authorities/ Committees, organise legal aid camps, encourage settlement of disputes by mediation and conciliation, conduct/organise Lok Adalats and related activities.

2. High Court Legal Service Committee

The State Legal Service Authority (SLSA) has constituted the High Court Legal Service Committee (HCLSC) in exercise of its power under S.6 of the Act. Hon'ble Mr. Justice Mohammad Yaqoob Mir is the Chairman of the committee whereas Sh. Ravinder Nath Watal Distt. and Sessions Judge is the Secretary of the Committee. Members of the Committee have been nominated and the Secretary to the Committee has been appointed by Hon'ble the Chief Justice. The main function of the HCLSC is to provide legal services to the eligible persons, to conduct lok adalats for cases pending before Hon'ble High Court and to encourage the settlement of disputes by way of negotiation, arbitration and conciliation. HCLSC is also duty bound to execute all those schemes and to launch all those programmes as are framed by the National Legal Services Authority (NALSA) and State Legal Services Authority (SLSA).

3. District Legal Service Authorities

Fourteen District Legal Service Authorities (DLSA) have been constituted in the State of Jammu and Kashmir by the Government under S.7 of the Act. Each District Authority consists of the District Judge concerned as its chairman with Deputy Commissioner, Additional District and Sessions Judge, Senior Superintendent of Police, Chief Judicial Magistrate and Presidents of concerned Bar Associations as its members. Assistant Commissioner (AC) of the concerned District acts as the Member Secretary of the District Authority. District Authority besides organising Lok Adalats within the district, has to perform such functions as are assigned to it by the State Legal Services Authority.

4. Tehsil Legal Service Committee

There are 59 Tehsil Legal Service Committees functioning in the state at present that have been created & constituted by State Authority in terms of S.10 of the Act. Each Tehsil Committee comprises the Senior Subordinate Judge of the concerned Tehsil as its chairman and Sub Divisional Magistrate, Dy Superintendent of police, Tehsildar, Block Development Officer, Panchayat officer and President Tehsil Bar Association as its ex-officio members. The Naib Tehsildar of the concerned Tehsil acts as the Member Secretary of the Tehsil Committee. Tehsil Legal Services Committee has to coordinate the activities of legal services in the Tehsil, organise lok adalats within the Tehsil and perform such other functions as the District Legal Service Authority (DLSA) assigns to it.

Who can be the Beneficiaries of free Legal Services?

The following categories of persons are entitled to free legal service in terms of S.12 of the SLSA Act

- (i) A member of a Scheduled Caste or Scheduled Tribe;*
- (ii) A victim of trafficking in human being or beggar as referred to in article 23 of the Constitution;*
- (iii) A Woman or Child;*
- (iv) A mentally ill or otherwise disabled person;*
- (v) A person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake/or industrial disaster; or*
- (vi) An industrial workman;*
- (vii) In custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987; or*
- (viii) A person whose yearly income is less than Rs . 25,000/- if the case is before a court other than Supreme Court and less than Rs 50,000/- if the case is before the Supreme Court;*

Modes of Providing Legal Services

Following are the modes of providing the free legal services :-

- (i) By payment of court fee, process fee, expenses of witnesses, preparation of the paper book, lawyers fee and all other charges payable or incurred in connection with any legal proceeding;*
- (ii) Through representation by a legal practitioner in legal proceedings;*
- (iii) By supplying certified copies of judgement, orders, notes or evidence and other documents in legal proceedings*
- (iv) By drafting , Copying, Printing of legal documents;*
- (v) By giving legal advice on any legal matter;*
- (vi) Through meditation centres or family counseling Centres;*

Lok Adalats-Mechanism and procedure

All the authorities and the Committees constituted under the provisions of the SLSA Act are obliged to organise lok adalats in order to provide a forum for the litigating people to settle their cases amicably. Even those disputes that are yet to be instituted in any court can be settled in a lok adalat A case can reach a Lok Adalat for settlement under the following circumstances:

- (i) if the parties to the dispute agree; or*
- (ii) one of the parties to the dispute makes an application to the Court for referring the Case to the Lok Adalat for settlement and if such court is prima facie satisfied that there are chances of such settlement; or*
- (iii) If the court is satisfied that the matter as an appropriate one, to be taken cognizance of by the Lok Adalat. Award of the Lok Adalat is deemed to be a decree of a Civil Court and is final as no appeal or revision is provided therefor. Even the Court fee paid is eligible to be refunded. To provide sanctity to this mechanism constitution of the Benches of the Lok Adalats been taken care of by the SLSA Act, and persons of repute, knowledge and integrity have to be the members of the Lok Adalat.*