Chapter

2

Legal Aid and its Programme
Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability. Articles 14 and 22(1) also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on a basis of equal opportunity to all. Legal aid strives to ensure that constitutional pledge is fulfilled in its letter and spirit and equal justice is made available to the poor, downtrodden and weaker sections of the society.

Sec. 304, Criminal Procedure Code: The Constitutional duty to provide legal aid arises from the time the accused is produced before the Magistrate for the first time and continues whenever he is produced for remand.

Since 1952, the Govt. of India also started addressing to the question of legal aid for the poor in various conferences of Law Ministers and Law Commissions. In 1960, some guidelines were drawn by the Govt. for legal aid schemes. In different states legal aid schemes were floated through Legal Aid Boards, Societies and Law Departments. In 1980, a Committee at the national level was constituted to oversee and supervise legal aid programmes throughout the country under the Chairmanship of Hon. Mr. Justice P.N. Bhagwati then a Judge of the Supreme Court of India. This Committee came to be known as CILAS (Committee for Implementing Legal Aid Schemes) and started monitoring legal aid.
activities throughout the country. The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the litigants for conciliatory settlement of their disputes. In 1987 Legal Services Authorities Act was enacted to give a statutory base to legal aid programmes throughout the country on a uniform pattern. This Act was finally enforced on 9th of November 1995 after certain amendments were introduced therein by the Amendment Act of 1994.

**Constitution of State Legal Services Authority:**

A State Authority shall consist of-

(a) the Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) such number of other Members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority.
A person functioning as Secretary of a State Legal Aid & Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the State Authority shall be defrayed out of the Consolidated Fund of the State.

**High Court Legal Services Committee:**
The State Authority shall constitute a Committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.
The Committee shall consist of -
a) a sitting Judge of the High Court who shall be the Chairman; and
b) such number of other Members possessing such experience and qualifications as may be determined by regulations made by the State Authority, to be nominated by the Chief Justice of the High Court.

**Functions of the State Authority:**
It shall be the duty of the State Authority to given effect to the policy and directions of the Central Authority.
The State Authority shall perform all or any of the following functions, namely:-
a) give legal service to persons who satisfy the criteria laid down under this Act.
b) Conduct Lok Adalats, including Lok Adalats for High Court cases; c) undertake preventive and strategic legal aid programmes; and d) perform such other functions as the State Authority may, in consultation with the Central Authority, fix by regulations.

**Constitution of the District Legal Services Authority:**

A District Authority shall consist of:-

a) the District Judge who shall be its Chairman; and

b) such number of other Members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the Consolidated Fund of the State.

**Functions of District Authority:**

The District Authority may perform all or any of the following functions, namely:-

a. co-ordinate the activities of the Taluk Legal Services Committee and other legal services in the District;

b. organise Lok Adalats within the Districts; and
c. perform such other functions as the State Authority may fix by regulations.
Constitution of the Taluk Legal Services Committee:

The Committee shall consist of -

a. the senior Civil Judge operating within the jurisdiction of the Committee who shall be the ex-officio Chairman; and

b. such number of other Members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

Functions of Taluk Legal Services Committee:

The Taluk Legal Services Committee may perform all or any of the following functions, namely:-

a. co-ordinate the activities of legal services in the taluk;

b. organise Lok Adalats within the taluk; and

c. perform such other functions as the District Authority may assign to it.

Certain salient features of the Act are enumerated below:-

Section 2 Definitions.-

(1) (c) 'legal service' includes the rendering of any service in the conduct any case or other legal proceeding before any court or other Authority or tribunal and the giving of advice on any legal matter;

(d) 'Lok Adalat' means a Lok Adalat organised under Chapter VI;

(g) 'scheme' means any scheme framed by the Central Authority, a State Authority or a District Authority for the purpose of giving effect to any of the provisions of this Act;

(h) 'State Authority' means a State Legal Services Authority constituted under Section 6;
(2) Any reference in this Act to any other enactment or any provision thereof shall, in relation to an area in which such enactment or provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

Section 19.
1. Central, State, District and Taluk Legal Services Authority has been created who are responsible for organizing Lok Adalats at such intervals and place.

2. Conciliators for Lok Adalat comprise the following: -
   a. A sitting or retired judicial officer.
   b. other persons of repute as may be prescribed by the State Government in consultation with the Chief Justice of High Court.

Section 20: Reference of Cases
Cases can be referred for consideration of Lok Adalat as under:-
1. By consent of both the parties to the disputes.
2. One of the parties makes an application for reference.
3. Where the Court is satisfied that the matter is an appropriate one to be taken cognizance of by the Lok Adalat.
4. Compromise settlement shall be guided by the principles of justice, equity, fair play and other legal principles.
5. Where no compromise has been arrived at through conciliation, the matter shall be returned to the concerned court for disposal in accordance with Law.

Section 21
after the agreement is arrived by the consent of the parties; award is passed by the conciliators. The matter need not be referred to the concerned Court for consent decree.
The Act provisions envisages as under:

1. Every award of Lok Adalat shall be deemed as decree of Civil Court.
2. Every award made by the Lok Adalat shall be final and binding on all the parties to the dispute.
3. No appeal shall lie from the award of the Lok Adalat.

Section 22

Every proceedings of the Lok Adalat shall be deemed to be judicial proceedings for the purpose of:-

1. Summoning of Witnesses.
2. Discovery of documents.
3. Reception of evidences.
4. Requisitioning of Public record.

According to section 2(1) (a) of the Act, legal aid can be provided to a person for a 'case' which includes a suit or any proceeding before a court. Section 2(1) (a) defines the 'court' as a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions. As per section 2(1)(c) 'legal service' includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter.

2] State Level Programme-

1. LOK ADALAT SCHEME ,1997

BHOPAL, THE 3RD JANUARY, 1998

F.No. 38 & Estt.—SLSA 97. In exercise of the powers conferred by clause (g) of Section 2 read with Clauses (g) of Section 2 read with
Clauses (a) and (b) of sub-section (2) of Section 7 of the Legal Services Authorities Act, 1987 (No.39 of 1987), the State Authority hereby makes the following scheme namely-

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This Scheme may be called the Lok Adalat Scheme, 1997.

**Definitions:** In these Rules, unless the context otherwise requires –

(a) Act" means the Legal Services Authorities Act, 1987 (No.39 of 1987);
(b) "Chairman" means the Executive Chairman of the State Authority, or, as the case may be, the Chairman of the District Authority, or, as the case may be, the Chairman of the Taluk Legal Services Committee;

(c) "District Authority" means the District Legal Service Authority constituted under Section 9 of the Act;

(d) "High Court Legal Services Committee" means a High Court Legal Services Committee constituted under Section 8-A of the Act or the Sub-Committee of the High Court Legal Services Committee constituted under Regulation 5(f) of the Madhya Pradesh Legal Services Authority Regulations, 1997;

(e) "Patron-in-Chief" means the Chief Justice of the Madhya Pradesh High Court;

(f) "State Authority" means the State Legal Services Authority constituted under section 6 of the Act.

(g) "Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under Section 11-A of the Act;

(h) Words and expressions used in this scheme but not defined shall have the meaning respectively assigned to them in the Act.

3. Procedure for organising Lok Adalat :-

(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall convene and organise Lok Adalats at regular intervals;
Provided that the Secretary of the High Court Legal Services Committee of the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall convene a Lok Adalat as soon as sufficient number of cases referred to it under section 20 of the Act of otherwise are available for being taken up.

(2) Intimation to the State Authority:-

(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be shall inform the State Authority about the proposal to organise the Lok Adalat well before the date on which the Lok Adalat is proposed to be organised and furnish the following information to the State Authority-

(i) The place and the date at which the Lok Adalat is proposed to be organised;

(ii) Categories and subject wise nature of cases, vise pending cases or prelitigation disputes, or both, proposed to be placed before the Lok Adalat;

(iii) Number of cases proposed to be brought before the Lok Adalat;

(iv) Any other information relevant to the convening and organising of the Lok Adalat.

4. Notice of the parties concerned:-

(2) The Secretary of the High Court Legal Services Committee or the District Authority or the chairman of the Taluk Legal Services
Committee, as the case may be, convening and organising the Lok Adalat shall inform every litigant, whose case is referred to the Lok Adalat, well in time so as to afford him, an opportunity to prepare himself for the Lok Adalat.

**Explaination:** - In pending matters, notice to the Counsel may be treated as information to litigant.

5. **Composition of the Lok Adalat :-**

(1) **At High Court level** : The Secretary of the High Court Legal Services Committee Organising the Lok Adalat shall with the approval of the Chief Justice constitute Benches of the Lok Adalats, each bench comprising two or three of the following –

(i) A sitting or retired judge of the High Court;

(ii) A member of the legal profession; and

(iii) Any other eminent person in the field of law or a social worker.

(2) **At District Level** : The Secretary of the District Authority organising the Lok Adalat shall with the approval of the chairman constitute Benches of the Lok Adalats each Bench comprising two or three of the following:-

(i) A sitting or retired Judicial Officer;

(ii) A member of the legal profession; and

(iii) Any other eminent person in the field of law or a social worker.
(3) **At Taluk Level**: The Chairman of the Taluk Legal Services Committee organising the Lok Adalat shall constitute Benches of the Lok Adalat, each Bench comprising two or three of the following:-

(i) A sitting or retired Judicial Officer;

(ii) A member of the legal profession; and

(iii) A social worker or Para legal of the area.

6. **Summoning of Records and the responsibility for its safe custody:**

(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, may call for judicial records of those pending cases which are referred to the Lok Adalat under Section 20 of the Act from the concerned Courts.

(2) If any matter is referred to the Lok Adalat at the prelitigation state, the version of each party shall be obtained by the Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be to be placed before the Lok Adalat.

(3) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be shall be responsible for the safe custody of the records from the time he receives them from the court till they are returned.
(4) Each Judicial authority to co-operate in transmission of the Court records.

(5) The Judicial records shall be returned immediately after holding the Lok Adalat irrespective of whether or not the case is settled by the Lok Adalat with an endorsement about the result of the proceedings.

7. Functioning of the Lok Adalat:

(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall assign cases to the benches of the Lok Adalat after obtaining orders from the Chairman, as the case may be.

(2) Every Bench of the Lok Adalat shall make sincere efforts to bring about a conciliatory settlement in every case put before it without any duress threat or undue influence, allurement or misrepresentation.

(3) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, may prepare a cause list for each bench of the Lok Adalat and the same shall be duly notified to all concerned.

8. Holding of Lok Adalat:

(1) A Lok Adalat may be organised at such time and place, on closed Saturdays, Sundays and holidays as the State Authority, District
Authority, Taluk Legal Services Committee, as the case may be, organising the Lok Adalat deems appropriate.

(2) The High Court Legal Services Committee may organise Lok Adalats at such time and place, as it deems fit or as may be separately prescribed.

9. Procedure for effecting compromise or settlement at Lok Adalat:-

(1) Every Award or order of the Lok Adalat shall be signed by the panel constituting the Lok Adalat.

(2) The original award or order shall form part of the judicial records and a copy of the award or order shall be given to each of the parties duly certified to be true by the Bench of Lok Adalat.

10. Award/Order to be categorical and lucid:-

(1) Every Award or order of the Lok Adalat shall be categorical and lucid and shall be written in the language used in the local courts.

(2) The parties to the dispute shall be required to affix their signatures or, as the case may be, thumb impression on the award or order of the Lok Adalat.

11. Compilation of results:-

At conclusion of session of the Lok Adalat, the Secretary of the High Court Legal Services Committee or the District Authority or the chairman of the Taluk Legal Service Committee, as the case may be, shall compile the results in the Annexed proforma for submission to the State Authority.
12. Remunerations to officers & staff of the Lok Adalat :-

(1) Every member of the Bench of Lok Adalat shall be entitled to conveyance allowance, as may be fixed by the Patron-in-Chief.

(2) The Presiding Officer of the Lok Adalats held at Taluk and District Levels shall also be entitled to honorarium at the rate as may be fixed by the Patron-in-chief.

(3) The Presiding Officer for the Lok Adalats held at High Court Level shall also be entitled to honorarium at such rates as may be fixed by the Patron-in-Chief.

(4) The staff of the Lok Adalats held at High Court, District and Tehsil levels shall also be entitled to remuneration at such rates as may be fixed by the Patron-in-Chief.

(5) The Judicial Officer and Staff of the Lok Adalats organized at Taluk/Tehsil and District levels after Court hours, shall also be entitled to Honorarium/Remuneration at such rates as may be fixed by the Patron-in-Chief.

13. Procedure for maintaining record of cases referred under section 20 of the Act or otherwise:-

(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services Committee, as the case may be, shall maintain a Register wherein all the cases received by him by way of reference to the Lok Adalat shall be entered giving particulars of the –
(i) Date of receipt;

(ii) Category and subjectwise nature of the case;

(iii) Such other particulars as may be deemed necessary; and

(iv) Date of Settlement and return of the case file;

(2) When the case is finally disposed of by the Lok Adalat, an appropriate entry will be made in the register.

14. Budget:--

(1) The High Court Legal Services Committee and the District Authority shall submit the Budget proposals to the State Authority on financial year basis in respect of the Lok Adalat Scheme.

(2) The Taluk legal Services Committee shall submit the Budget proposals to the District Authority of financial year basis in respect of the Lok Adalat Scheme.

(3) The expenditure for Lok Adalat Scheme shall constitute 'Plan' expenditure and may be made out of the grants received by the High Court Legal Services Committee and the District Authority and the Taluk Legal Services Committee, as the case may be.

15. Maintenance of Accounts:--

(1) The Chairman of the High Court Legal Services Committee or the District Authority or the Taluk Legal Service Committee, as the case may be, shall exercise complete and full control over the expenditure to be incurred on the Lok Adalats.
(2) The Secretary of the High Court Legal Services Committee or the District Authority, as the case may be, shall render true and proper accounts to the state Authority every quarter.

(3) The Chairman of the Taluk Legal Services Committee shall render true and proper accounts to the District Authority every month.

16. Funding:

On a request received from the High Court Legal Services Committee or the District Authority or the Taluk Legal Services Committee, as the case may be, the State Legal Service Authority may release special grants for convening and holding of Lok Adalats, if considered necessary.

PROFORMA

For Disposal of cases in Lok Adalat

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<th>S.No</th>
<th>Name</th>
<th>Date of holding</th>
<th>No. of cases Disposed</th>
<th>Place of Lok Adalat</th>
<th>Civil Claims</th>
<th>Criminal</th>
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(1) The Secretary of the High Court Legal Services Committee or the District Authority or the Chairman of the Taluk Legal Services
Committee, as the case may be, shall provide all assistance as may be necessary to the Lok Adalats.

(2) Lok Adalats shall be held in a non ceremonial manner.

**INSTRUCTION TO ORGANISE PERMANENT AND CONTINOUS LOK ADALAT UNDER LOK ADALAT SCHEME,1997**

INTRODUCTION:-F.No-38 Est. SLSA 99-In exercise of the powers conferred by clause (g) Section 2 read with clause (a) & (b) of sub-section (2 ) of Section 7 of the Legal Services authority has framed Lok adalat Scheme 1997 which has already been published in the Madhya Pradesh Rajpatra Part 4(c) dated 9th January 1998, the State authority hereby issues the following instructions to organise Permanent and Continuous Lok adalat under this Scheme namely :-

**LEGAL AID – CONSTITUTION AND OTHER LAWS**

The Legal Aid is not a matter of charity but it can be claimed as a matter of Right. In Constitution of India, there was no express provision dealing with the concept of Legal Aid. A new Article 39 (A) was inserted in the Constitution of India by 42nd Amendment Act, 1976, this way a significant step in the direction of Constitutionalisation of Legal Aid. The relevant provisions in the Code of Criminal Procedure and the Code of Civil Procedure have also amended for securing equal and social Justice in criminal as well as civil cases.

**A. Legal Aid and the Constitution:**

The Constitution is the Supreme Law of our Land. It is made by the people and for the people. It is one for the exclusive benefit of
Government, Lawyers, Politicians and Officials. It also exists for the Welfare of the common man and the poor. Legal Aid in India has comprehensive constitutional status and ambit. Its jurisprudential roots, socio-economic character and perspective amplitude are evident from the circumstances that "WE PEOPLE OF INDIA" who are by and large poor and backward, are at once the architects and beneficiaries of new order.

The PREAMBLE to the Constitution of India speaks of Justice, social economic and political and of equality of status and opportunity. Article 13 provides that State shall not deny to the any person equality before the Law or the equal protection of Law. Article 21 declares that no person shall be deprived of his life or personal liberty except according to procedure established by law. Article 22 (1) provides that no person who is arrested shall be detained in custody without being informed of the grounds for such arrest nor shall be denied the right to consult and be defended by a legal practitioner of his choice. Article 38 provides that, State shall strive to promote the welfare of the people by securing and protecting as effectively as it may be a social order I which Justice. Social, Economic and Political, shall in form all the institutions of National life. Article 39 (A) lays down that the State shall secure that the operation of the Legal System promotes Justice, on the basis of equal opportunity, and shall, in particular provide free Legal Aid by suitable Legislation or schemes or in any other away, ensure that opportunities for securing Justice are not denied to any citizen by reason of economic and other disabilities.

In all the above mentioned Articles the Indian Constitution visualizes and attempts to provide equal Justice in society. The equal and
impartial treatment before Court becomes a cornerstone of the society envisioned by the Directive Principles of State Policy.

Under entry 3 in the State List and entry 11 in the Concurrent List, Legislative measure regarding Legal Aid may be taken by State Governments and the Centre Government. The scheme of Legal Aid may also be framed as a part of economic and social planning under entry 29 of the Concurrent List.

Article 14 of the Constitution of India guarantees to any person equality before Law and equal protection of the law, Mr. M.C. Setalvad, who was the first Chairman of the Law Commission of India observed:

"Article 14 of the Constitution provides that the State shall not deny to any person equality before the Law or the equal protection of the Laws. Equality in the administration of Justice can thus be said to form the basis of our Constitution. The essential need for Legal Aid can be based on yet another imperative consideration. No true democracy can endure without the system of administration of Justice of which the poorest are able to take advantage. It would not be an exaggeration to ask that the very existence of free Government depends upon making the machinery of Justice available to the humblest of its citizens."

The right to an indigent accused arises from the moment he is first produced before a Magistrate. In the absence of Legislation, implementing Article 39-A, an accused cannot compel the State to supply him layer, at the cost of State, through a Writ Petition. The remedy of an indigent accused lies in an application to Sessions Court under Section
304(1) Code of Criminal Procedure, 1973. When a Lawyer is thus engaged by the Court for indigent accused it becomes the duty of the State to pay remuneration to counsel not as charity but as may be equitability fixed by Court. The State must provide reasonable facility to such counsel for conducting the appeal as a condition of a 'reasonable, fair and Justice' procedure which is postulated in Article 21 of the Constitution of India. Thus the Article 39-A may be used as an aid to the interpretation of Article 21.

B. Legal Aid and Code of Criminal Procedure:

The punitive arm of the legal order is Criminal Law. It affects the life and liberty of human being. Therefore, special attention is to be given at the time of administration of Criminal Law. Justice V.R. Krishna Iyer rightly mentioned that to sensitize the criminal process to the wavelength of the poor is the strategy. The legal process; without Legal Aid to the poor may be, a guarantee of anarchy and not of order. To hands and feet, we need are efficient means and method to carry out Justice in every case in the shortest possible time and the lowest possible cost. What hurts most is the Criminal process.

In India there was no specific provision in the Criminal Procedure Code, 1878 for the appointment of a Pleader for the poor accused. Although, original pro. Code 1973, Section 340 of that Code provided that the accused may be represented by a Pleader it did not give him any right to Legal Aid at the expense of the State. Assistance of counsel at the expenses of the State was provided by rules and administrative orders issued by the States. Some High Courts have issued circulars, orders and Criminal Rules of Practice in this regard. In order to
provide Legal Aid to poor accused as a matter of right statutory provision was needed. The Law Commission made three recommendations as regards Legal Aid in Criminal Cases.

Initially representation by a Lawyer should be made available at Government expenses to accused persons without means in all cases tried by a Court of Session. Secondly representation by a Lawyer should be made available at Government expenses to appellant without me and under the Code. Thirdly, representation by a Lawyer should be made available at Government expenses to an accused person without means at the time of the final hearing of Jail appeal which has been admitted.

The Law Commission of India strongly recommended that the right of the accused to representation at the Government expense should be placed on statutory footing in relation to trials for serious offences, and as a first step in this direction, the Commission proposed that such a right should be available in all trials before the Court of Session. Section 304 of the Cr. P.C. 1974 gives effect to the recommendation of the Law Commission by conferring on the accused the right of Legal Aid at the expenses of Government I cases trial by Court of Session and empowering the State Government to extend this facility in other cases.

But in Mothi Bhai Vs State of Rajasthan, the Supreme Court held that the wide ambit of the right to counsel written in the Constitution, is apparent from Article 22(1) which obligations intimation, of the ground of arrest to every arrested person and allows him right to counsel for advice and defiance. But the Court never cast positive duty on the State to provide counsel at its expenses. The dictum laid down in Tara Singh case, Janardhan Reddy case etc., has since been rendered nugatory by Section
304 of new Code of Criminal Procedure. This newly added provision has brought our Law in the vicinity of the Poor Prisoners Defense Act of England and VI Amendment of the Constitution of U.S.A. it provides as follows:

1. Where in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall against Pleader for his defiance at the expense of the State.

2. The High Court may with the previous approval of the State Government, make rules providing for:

   a. The modes of selecting pleaders for defiance under sub-section

   b. The facilities to be allowed to such pleader by the Court, and

3. The fee payable to such pleaders by the Government and generally for carrying out the purpose of sub-section

4. The State Government may be notification, direct that as from such data as may be specified in the notification, the provision of sub-section (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Sessions.

Therefore, now when an accused is produced or appears before a Court, the Court should inform the accused that he has a right to represented by a Lawyer. If the accused cannot afford a counsel for him then the Court
will have to provide him a Lawyer for his defiance. The accused is entitled to free Legal Aid and advice for filing and arguing appeals including special leave to appeal.

The mandate of providing free Legal Aid extents to the stages when the accused is first produced before the Magistrate and also when remanded for time. The right of accused to be defended by a legal practitioner does not extend to have a Lawyer or his choice to defend him at the expenses of State. But the counsel engaged at State’s cost should possess sufficient experience and should be appointed sufficiently before the recommencement of trial. Raw and inexperienced juniors should not be appointed to defend the accused in Court of Sessions. But when accuse wants to argue his own case; no one can be appointed against him will. In Criminal Cases a party at his direction may represented by a non-Advocate. A private person has no right to argue the case of other without poor permission of the Court. It is open to Court to grant or withhold permission may withdraw it if the representative proved himself to be reprehensible. The antecedents, the relationship, the reason for requisitioning the service of the private person and variety of other circumstances must be gathered before grant or refusal of the permission. It is not necessary for a legal practitioner in defending an accused to file Vakalatnama. The memorandum of appearance is enough. The remedy of free Legal Aid, if any lies by way of making an application before the learned Additional Sessions Judge, under sub-Section (1) of Section 304 of the Code of Criminal Procedure, 1973 and not by way of Petition. The right to be defended by a counsel is absolute and cannot be taken away by any statue irrespective of the object and intention of the Statute.
If a criminal trial is held after the Court hour and the opportunity to avail of legal assistance is not given the whole trial is vitiated and there is a complete failure of Justice. A Magistrate has jurisdiction to try an offence anywhere in his jurisdiction. In such trial also an opportunity should be given to the accused to engage a Lawyer of his choice and for that purpose the Court should postpone the case, because it is common knowledge that Lawyers are not available at the roadside.

C. Legal Aid and Code of Civil Procedure:-
So far as Civil Courts are concerned in most of States there were no statutory facilities, for the grant of Legal Aid other than those provided under Order XXXIII and XLIV of the Civil Procedure Code.
The object of Order XXXIII is to enable persons who are too poor to pay Court fee to institute a suit without payment of it. Neither party evades the payment of Court fee nor should genuine cause of litigant fail for want of funds. This order has been enacted to save triple purpose-
1. To protect the bonfire claims of indigent persons,
2. To safeguard the interest of revenue, and
3. To protect the Defendants right not to be harassed.
The Defendant has also right to content application to sue as indigent the Law Commission in its 14th report recommended to replace the work “Pauper” by the word “Poor Persons” or assisted persons.
*http://legalaidinindia.weebly.com/chapter-ii.html

1. National Level –
Legal Aid is a movement that envisages that the poor have easy access to courts and other government agencies. It implies that the decisions rendered are fair and just taking account of the rights and disabilities of
parties. The focus of legal aid is on distributive justice, effective implementation of welfare benefits and elimination of social structural discrimination against the poor. It was taking these mandatory provisions of The Constitution of India in mind that the Parliament passed The Legal Services Authorities Act, 1987.

This Act, as amended with effect from 12.6.2002, now provides for decision even on merits, by the Presiding Officers of the Permanent Lok Adalats constituted by the State Legal Services Authority, of those matters which relate to “public utility services”, which have been duly defined in the Act.

Today we find that the law of supply and demand operates in all its naked fury in the legal profession. There is practically no limit of the fees that a lawyer may charge his client. This directly leads to inequality in the quality of legal representation as between the rich and the poor. Not only would there be inequality in the competence of legal representation which would be available to the rich by reason of their superior financial resources *1

LEGAL AID reasoned in the Act— “The Court has been approached by an organization deeply engaged in rendering social and judicial services for securing justice and equal opportunity to the needy. They have approached the Court for mandamising the State to carry out the objectives and obligation of Article 39-A of the Constitution of India as well as the mandate of the Act, introduced with tall claims. The Court held that the petitioner are entitled to ask the High Court to issue directions sought for in the writ petition for proper implementation of the provisions of the Act and to carry out the purposes of the Act in true
sense and spirit and not to scuttle it by resort to any pretences and/or treat the constitutional directives as an empty slogan.”

With the object of providing free legal aid, the Government of India had, by a resolution dated 26th September, 1980 appointed a Committee known as “Committee for Implementing Legal Aid Schemes” (CILAS) under the chairmanship of Chief. Justice P.N. Bhagwati to monitor and implement legal aid programs on a uniform basis in all the States and Union Territories. ‘CILAS’ evolved a model scheme for legal aid programs applicable throughout the country by which several legal aid and advice Boards were set up in the States and Union Territories.

Legal aid is an essential part of the Administration of Justice. “Access to Justice for all” is the motto of the Authority. The goal is to secure justice to the weaker sections of the society, particularly to the poor, downtrodden, socially backward, women, children, handicapped etc. but steps are needed to be taken to ensure that nobody is deprived of an opportunity to seek justice merely for want of funds or lack of knowledge.

The National Legal Services Authority is a statutory body which has been set up for implementing and monitoring legal aid programs in the country. The Supreme Court Legal Services Committee has also been constituted under the Act. In every High Court also, The High Court Legal Services Committees are being established to provide free legal aid to the eligible persons in legal matters coming before the High Courts. The Legal Services Authorities Act, 1987 also provides for constitution of the State Legal Services Committees, High Court Legal Services

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Committees, District Legal Services Committees and Taluk Legal Services Committees.

According to Section 2(1) (a) of the Act, legal aid can be provided to a person for a 'case' which includes a suit or any proceeding before a court. Section 2(1) (a) defines the 'court' as a civil, criminal or revenue court and includes any tribunal or any other authority constituted under any law for the time being in force, to exercise judicial or quasi-judicial functions. As per Section 2(1)(c) 'legal service' includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter.

Legal Services Authorities after examining the eligibility criteria of an applicant and the existence of a prima facie case in his favour provide him counsel at State expense, pay the required Court Fee in the matter and bear all incidental expenses in connection with the case. The person to whom legal aid is provided is not called upon to spend anything on the litigation once it is supported by a Legal Services Authority.

Under The Legal Services Authorities Act, 1987 every citizen whose annual income does not exceed Rs 9,000 is eligible for free legal aid in cases before subordinate courts and high courts. In cases before the Supreme Court, the limit is Rs 12,000. This limit can be increased by the state governments. Limitation as to the income does not apply in the case of persons belonging to the scheduled castes, scheduled tribes, women, children, handicapped, etc.

The constitution of the Committee for the Implementation of Legal Aid Schemes (CILAS) in 1980 was a major step in institutionalizing legal aid. The Legal Services Authorities Act, 1987, displaced the ‘CILAS’ and
introduced a hierarchy of judicial and administrative agencies. The 'LSAA' began to be enforced only eight years later, under the directions of the Supreme Court. It led to the constitution of the National Legal Services Authority (NALSA) at the Centre and a State Legal Services Authority in the States to give effect to its directions [Law, Poverty and Legal Aid – Access to Criminal Justice – S. Muralidhar; Lexis Nexis]

**Supreme Court Legal Services Committee:**

The Supreme Court Legal Services Committee has been enacted under the Legal Services Authorities Act, 1987 for the effective rendering of justice in the apex court. If a person belongs to the poor section of the society having annual income of less than Rs. 18,000/- or belongs to Scheduled Caste or Scheduled Tribe, a victim of natural calamity, is a woman or a child or a mentally ill or otherwise disabled person or an industrial workman, or is in custody including custody in protective home, he/she is entitled to get free legal aid from the Supreme Court Legal Aid Committee. The aid so granted by the Committee includes cost of preparation of the matter and all applications connected therewith, in addition to providing an Advocate for preparing and arguing the case. Any person desirous of availing legal service through the Committee has to make an application to the Secretary and hand over all necessary documents concerning his case to it. The Committee after ascertaining the eligibility of the person provides necessary legal aid to him/her.

Persons belonging to middle income group i.e. with income above Rs. 18000/- but under Rs. 120000/- per annum are eligible to get legal aid from the Supreme Court Middle Income Group Society, on nominal payments. *2
WOMEN AND CHILD PROTECTION UNIT - National Legal Services Authority has launched the National Legal Literacy Mission and beneficiary led implementation programme of Legal Literacy Mission, such as Right of Women, Right of Children, Right of Mentally Challenged and Right of Workers. For implementation of the Legal Literacy Mission objectives with adequate seriousness and speed and for consideration of Women and Child related grievances and for providing speedy Justice to them,” *3

2. STATE LEVEL- FOR HIGH COURT

Procedure for organising permanent and continuous lok Adalat

(1) For high Court there shall be a column in the Computer Sheet namely whether party would like to refer the matter to the Lok Adalat;

(2) In daily cause list there should be a classification of those cases regarding which any proposal of settlement through Lok Adalat has been made by any party or a counsel;

(3) Such cases which are included in daily cause list shall be listed before the appropriate Bench of the High Court & the counsel representation the party can give their consent for this purpose. Thereafter, Registry will issue S.P.C. to party concerned and the matter will be referred to Lok Adalat;

(4) If there is a prayer for any interim relief in any matter in which any of the Lok Adalat, such matter shall be listed before the appropriate Bench of the High Court for consideration of interim relief and Thereafter, the matter may be referred to Lok Adalat;
(5) In pending cases if there is a proposal for settlement or after hearing both the parties if the Bench of High Court feels that there are chances of amicable settlement between any parties then such matter can be referred to Lok Adalat;

(6) (1) A continuous Lok Adalat may be organised in the High Court at any of the following days :- (i) Any Saturday (working or non working) or Sunday;

(ii) Any working week day after Court hours;

(2) The High Court Legal Services Committee shall endeavour to hold as many Lok Adalats as possible in a month ,to achieve the ultimate goal of having a continuous daily Lok Adalat.

(3) The Lok Adalats organised by the High Court Legal Services Committee shall consist of two members as follows:- (i) A sitting or a retired High Court Judge.

(ii) A member of Legal profession or an eminent person in the field of law or a Social Worker

(4) The Secretary, High Court Legal Services Committee shall be responsible for organising the Lok Adalat at the Main Seat and the Registrar of the respective Benches will be responsible for organising the Lok Adalat for the respective Bench. The members of the respective Lok Adalats shall be nominated by the Chairman of the Co-Chairman of the High Court Legal Services Committee.

**District Level Authorities**-
1. (a) At every District headquarter at least one Additional District Judge & also a Civil Judge, Class I should be nominated to hold Lok Adalat on a permanent basis. Such Lok Adalat shall hold its sitting on non-working Saturday are Sunday or on such other day as may be specified by the Chief Justice of the High Court, as the case may be.

"Provided that any Vrahad Lok Adalat can be organized on a Sunday with the prior concurrence of the Executive Chairman ".

"Provided further that Lok Adalat can also be organized after Court hours on such day as may be specified by the Chief justice of the High Court.

(b) Each Bench of the Lok Adalat at District level is constituted comprising two or three of the following: - 
(i) Serving Judicial Officer.  
(ii) Any eminent person in the field of Law or a social worker.  
(iii) A member of Legal Profession.

Such Bench or Bencher of Lok Adalat shall be assisted by Class III and Class IV staff members of the court of concerning Presiding Officer

At district head quarter, Secretary of the district Authority with the prior approval of the Chairman shall constitute Bench or Benches of the Lok Adalat.

2. (i) A party desirous of his dispute to be decided by amicable settlement before instituting the case in Court, shall file its case before Secretary of the concerned Committee. No Court fees shall be paid on such suit or petition.
(ii) After presentation of the suit it will be registered as a case for conciliation.

(iii) After registration of the case, if opposite party is not present, then notice shall be issued to opposite party/parties directing it/them to appear before the Bench Lok Adalat, but no coercive processes shall be issued to compel the appearance of the parties. To ensure the service of notices, the same may be issued by registered post at the expenses of the District Authority/Taluka Committee as the case may be.

3. If any of such parties is not represented by a counsel, the Bench of Lok Adalat shall provide the assistance of the Legal Aid Officer to such party/parties to prepare and submit their case before the Bench of Lok Adalat and assist them and also the Bench of Lok Adalat in arriving at compromise between the parties.

4. The Bench of Lok Adalat arrive at a amicable settlement between the parties within a reasonable time as far as possible within 3 months, from the date of appearance of opposite party.-

(i) The Bench of Lok Adalat shall pass such Legal order or award on the basis of the settlement arrived at between the parties, as it may deem proper in the ends of justice.

(ii) The Bench shall have no right to record any evidence. But after perusing the pleadings, documents and other material available on the recorded between the parties

(iii) After making al possible efforts by the parties and the bench, if the dispute could not be settled amicable, the bench shall advise the
party/petitioner to seek his remedy in the competent court of law having jurisdiction.

Any order/award passed by Lok Adalat in prelitigation and pending cases, its execution application shall be presented to the court having jurisdiction in the matter.

*****

LEGAL LITERACY CAMP, SCHEME 1999 JABALPUR, 30 AUGUST 1999

F.No-38 Estt. SLSA 99-In exercise of the powers conferred by clause (g) Section 2 read with clause (c) & (d) of sub-section (2 ) of Section 7 of the Legal Services authority Act 1987(No 39 of 1987).,the State authority hereby frame following Lok adalat Scheme namely :-

<table>
<thead>
<tr>
<th>Definition</th>
<th>Objects of area</th>
<th>Identification of &quot;Saksharata Dal&quot;</th>
<th>Constitution of Saksharata Dal for District Legal Services Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitution of &quot;Saksharata Dal for Tehsil Legal Services Authority&quot;</td>
<td>Place &amp; date of organisation of Vidhik Saksharata Shiver</td>
<td>Constitution of Saksharata Dal for High Court Legal Services Committee</td>
<td>Organization of the Shiver</td>
</tr>
</tbody>
</table>
1. Short title- This Scheme may be called the Legal Literacy Camp, Scheme, 1999.

In this scheme, unless the context otherwise requires-

Legal Aid means, providing lawyers to those who are unable to pay fees for the Legal Services, Legal Aid means not only Legal representation in court cases but also include legal advice, counseling, arbitration and conciliation, creation of legal awareness about their rights duties and obligations etc. in the other word to ensure protection of legal and constitutional rights of the under privileged the poor, the neglected and the indigent, its objects is to make it impossible for any men, women or child to be denied the equal protection of laws simply because he or she is poor or indigent person.

Our constitution promises equal justice to all citizens. The promise of equal justice in our democratic society requires us to dedicate ourselves to the great task of converting that promise in to reality because millions of our citizens claim redress against injustice in one form or another. One of the fundamentals of a true democracy that its citizens should be educated in their legal rights and that they should also be entitled to legal assistance in the assertion or defiance of their rights.

Therefore, the emergence of legal literacy should essentially be seen in the ongoing process of socialization of laws and legal process Legal literacy implies basic awareness regarding laws and legal process for
common man as an aid to equipping the person for a meaningful participation in the process of development.

3. Objects

The objectives of the State Legal Services Authority regarding legal literacy camp are as follows:-

(i) To formulate guidelines for contents of legal literacy materials.

(ii) To consider the use of visuals in legal literacy materials with a view to supporting or illustrating the legal concepts or legal processes;

(iii) To undertake preparation of sample materials on legal literacy;

(iv) To review the existing materials on legal literacy;

(v) To organise the Legal Literacy Camps known as "Vidhik Saksharata Shivir" in rural areas as well as in urban slums;

(vi) To provide the information about all schemes launched by State Government as well as Central Government and all statutory laws rules etc. to the weaker section of the society including scheduled tribes, scheduled castes, backward class, agriculturists and labourers, which are made for protection of their interests.

4. Identification of area

The High Court Legal Service Committee, District Legal Services Authority Tehsil Legal Services Committee shall choose the rural area as well as urban areas for organising the Legal Literacy Camps in its district.
5. Constitution of "Saksharata Dal"

Subject to the approval of the Executive Chairman High Court Legal Services Authority the High Court Legal Services Committee, District Legal Services Authority; Tehsil Legal Services Committee shall constitute the literacy team known as "Saksharata Dal" for each area.

6. Constitution of Saksharata Dal for High Court Legal Services Committee

The "Sakasharata Dal" shall consist of the following Ex-officio Members:–

- Chairman H.C.L.S.C.
- Secretary, H.C.L.S.C
- President, High Court Bar Association
- Director/Joint Director Publicity
- District Legal Aid Officer

Chairman
Secretary
Member
Member
Co-ordinator

(1) The Chairman of the High Court Legal Services Committee in consultation with the Chief Justice of the M.P. High Court shall nominate other not more than 7 members from those persons who possess the following experience and qualifications which shall include at least one member each from Scheduled Castes, Scheduled Tribes.
Other Backward Classes Women, Law Student, Law Teacher and Disabled Persons:-

(a) an eminent social worker who is engaged in the upliftment of the weaker section of the people including Scheduled Castes, Scheduled Tribes, Other Backward Classes, Women, Children, minority, Rural and Urban labour; or

(b) An eminent person in the field of law; or

(c) a person of repute who is specially interested in the implementation of the legal awareness scheme; or

(d) A person who is involved or was involved to educational field; or

(e) Law students who are involved in the scheme envisaged by the Act. Rules and Regulations there under.

(2) Term of office and other conditions of appointment of the Saksharata Dal of High Court Legal Service Committee.-

(i) **Term**- The term of office of the members of the High Court Legal Saksharata Dal shall be for two years and they shall be eligible for re-nomination for one more term.

(ii) **Removal**.- A member of the High Court Legal Saksharata Dal may be removed by the Chairman of the High Court Legal Services Committee with the consultation of the Chief Justice, if :-

(a) He fails without sufficient cause, to attend three consecutive meetings of the High Court Legal Saksharata Dal Committee;
(b) Has been adjudged as an insolvent; or

(c) Has been convicted of an offence which in the opinion of the Chairman involves moral turpitude; or

(d) Has become physically or mentally incapable of acting as a member; or

(e) has so abused his position as to render his continuance in the High Court Legal Saksharata Dal is prejudicial to the public interest:

Provided that, no such member shall be removed from the High Court Legal Saksharata Dal without providing reasonable opportunity of being heard.

(iii) Resignation- A member may be writing under his own hand addressed to the Chairman resign from the High Court Legal Saksharata Dal and such resignation shall come into effect from the date on which it is accepted by the Chairman of the High Court Legal Services Committee or on the expiry of 30 days from the date of tendering resignation, whichever is earlier.

(iv) Vacancy- If any member nominated under the High Court Legal Saksharata Dal for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall be a member for the remaining term of the member in whose place he is so nominated.

(v) Allowances- Subject to the provisions all members nominated shall be entitled for travelling allowance and daily allowance in respect of journeys performed in connection with the Meeting/Camp held by the
High Court Legal Saksharata Dal and shall be paid at such rates as may be admissible to a Class one Officer while travelling on official duty or as may be specified by the High Court Legal Services Committee. If a member is a Government employee, he shall be entitled to draw the travelling allowance and daily allowance at the rate to which he is entitled under the Service Rules applicable to him and shall draw from the department in which he is employed.

(vi) **Secretary**- The Secretary of the High Court Legal Services Committee or the person nominated by the Chairman of the High Court Legal Saksharata Dal shall be the Secretary of the High Court Legal Saksharata Dal.

(3) **Functions of High Court Legal Saksharata Dal.**-

(i) It shall be the duty of the High Court Legal Saksharata Dal to give effect to the policy and directions of the State Authority with regard to Legal awareness.

(ii) Without prejudice to the generality of the functions of the High Court, the High Court Legal Saksharata Dal shall perform all or any of the following functions, namely:-

(a) Hold Legal Literacy Camps to promote legal awareness in the society especially to illiterate and the weaker sections of the society.

(b) publish/distribute pamphlets, booklets and other news letters for legal awareness.

(c) Establish and control Para Legal Clinic to promote legal awareness.
(d) To arrange seminars and the workshops to that effect.

(e) Take appropriate measures for spreading legal literacy and legal awareness amongst the people in particular to educate weaker section of the society about their rights, benefits and privileges guaranteed by the Constitution and by social welfare legislations and other enactments as well as administrative programmes and measures etc.

(f) To take special efforts to collect the support of Voluntary Social Welfare Institutions working at the grass roof level. Particularly among the Scheduled Castes and the Scheduled Tribes other Backward Classes. Women and Rural and Urban Labour segment.

(g) To produce video/documentary films, publicity material, literature and publications to inform general public about the various aspects of the Legal Services Programmes.

7. Constitution of Saksharata Dal for District Legal Services Authority

(1) The Saksharata Dal shall consist of the following Ex-officio Members:

- The District Judge of the concerned District. Chairman
- President District Bar Association. Member
- Chief Judicial Magistrate in the district where the
hadquarter of District Judge and Chief Judicial Magistrate is not the same the senior most Additional Chief Judicial Magistrate at District Judge Headquarter.

Deputy Director, Panchayat & Social Justice

Public Relation Officer

District Legal Aid Officer

The Chairman of District Legal Services Authority may, in consultation with the Executive Chairman, State Legal Services Authority nominate other not more than 7 Members from those persons who possess the same experience and qualifications as prescribed for the members of Saksharata Dal of the High Court which shall include at least one member each from Scheduled Castes, Scheduled Tribes, Other Backward Class, Women, Law Students, Law Teachers and Disabled person.

(2) Term of the office and other conditions of appointment of the District Saksharata Dal and function of Saksharata Dal shall be the same as prescribed for the Saksharata Dal of the High Court Legal Services Committee.

8. Constitution of Saksharata Dal for Tehsil Legal Service Committee
(1) The Saksharata Dal shall consist of the following Ex-officio Members:

| Senior Most Judicial Officer | Chairman |
| Sub-Divisional Officer (Revenue) | Secretary |
| President Tehsil Bar Association | Member |
| Adhyaksha, Janpad Panchayat | Member |
| District Legal Aid Officer | Co-ordinator |

(2) The Chairman of the District Legal Services Authority may, in consultation with the Executive Chairman, State Legal Services Authority nominate other (not more than 7 members) from those persons who possess the same experience and qualification as prescribed for the Members of the Saksharata Dal of the District Legal Service Authority which shall include at least one member each from Scheduled Castes, Scheduled Tribes, Other Backward Classes, Women, Law Student, Law Teacher (if available) and disabled person.

(3) Term of the office and other conditions of appointment of Tehsil Saksharata Dal and functions of the Saksharata Dal shall be the same as prescribed for the Saksharata Dal of the District Legal Services Authority.
9. **Place and Date of organisation of Vidhik Saksharata Shivir**

For organising the Vidhik Saksharata Shivir in any area the place of Shivir shall be selected by the High Court Legal Services Committee, District Legal Services Authority, Tahsil Legal Services Committee as the case may be which shall mainly be a public place, Date of organising the Shivir shall be fixed by the High Court Legal Services Committee, District Legal Services Authority, Tahsil Legal Services Committee as the case may be and priority shall be given to the local market day of the area.

10. **Organization of the Shivir**

(1) About one hundred persons, who are residents of that area should be invited for getting the legal knowledge/ information of schemes in a Legal Camp.

(2) The media may be requested to render necessary assistance for publicity the safe Legal Services Authority will take up this matter with the local centers.

(3) The coordinator of the Saksharata Dal (District Legal Aid Officer) shall arrange all the appropriate Ayojan before one week of such Shivir i.e. by Cinema Slide, Pamphlets, Posters, through local newspapers, etc. publicity may also be done by beating of drums in every village in the guidance of Revenue Officer.

(4) Chief Justice/Patron-in-Chief, Executive Chairman, State Legal Services Authority, Chairman, High Court Legal Services Committee, Member-Secretary, State Legal Service Authority, Secretary, High Court Legal Services Committee, Chairman District Legal Services
Authority, Chairman, Tehsil Legal Services Committee all local officer/workers of the different department of the State Government/Central Government who are related with the welfare schemes may be invited in Shivir to deliver lectures and discuss the following contents of Legal Literacy:-

<table>
<thead>
<tr>
<th>(a) Constitution</th>
<th>Preamble, fundamental constitutional remedies.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) Family Law</td>
<td>Marriage, Divorce and Separation, main-faineance inheritance and succession, Dowry related law etc.</td>
</tr>
<tr>
<td>(c) Civil Laws</td>
<td>Property rights, stay, specific performance, Damages, Compensation for the Accident law of negligence or nuisance etc.</td>
</tr>
<tr>
<td>(d) Criminal Law</td>
<td>General.</td>
</tr>
<tr>
<td>(e) Welfare Legislation</td>
<td>Bonded labour (abolition) consumer protection, Adulteration (Food and Drugs) Environment Protection etc.</td>
</tr>
</tbody>
</table>
(f) Procedural Justice
How to get justice, jurisdiction of Courts right to sue, arrest and bail, search and seizure, right to legal aid etc.

(g) Law relating to the persons with disabilities.
How to get equal opportunities protection of right and full participation.

(5) Essential literature, brochures, pamphlets, booklets etc. regarding schemes should be displayed/distributed in the Shivir with the assistance of concerning departments and other Legal Literacy material should also be displayed/distributed by the coordinator of the Shivir.

(6) Chairman/Members of the Saksharata Dal and all other respected invites will have discourse on various subjects as referred to above.

In addition to above, salient feature of the provision of Section 12 of Legal Services Authority Act, 1987 and relevant provisions of the regulations with regard to Legal Aid, Legal Services should be highlighted. It should be emphasized that, legal Services does not only include providing assistance to any deserving poor litigant in pending matter but it also includes Legal Services for any pretrial and post-trial matters. Further, the deserving persons shall also be legally assisted with regard to their problems relating to other Government agencies who are not giving required relief to such persons to which they are entitled, "Moot Courts" may also be held.
It these camps an attempt may be made to provide maximum Legal advice to the needy persons.

**EXTRACT OF RESOLUTION OF THE MEETING OF M.P.STATE LEGAL SERVICE AUTHORITIES**

Authorisation for appointment of Secretaries

1. It is resolved that the Chairman, District Authorities be hereby authorised to appoint the Secretaries of the District Legal Services Authorities from amongst Civil Judges Class-I/Class-II Posted at District Headquarters.

Authorization for drawl of salary & other allowances.

2. It is also resolved that the Chairman, District Authorities be authorised to draw the salary and other allowances of the officers and staff of the District Authorities after necessary budgetary allotment made to them well in advance with the approval of the Executive Chairman.

Guidelines for fee to Legal Services Advocate.

3. Guidelines of the Fee to pay to Legal Services Advocate issued by the State Authority:-

<table>
<thead>
<tr>
<th>For District Court</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sessions Trial</td>
<td>Rs. 1100/-</td>
</tr>
<tr>
<td>Other than Sessions trials</td>
<td>Rs. 550/-</td>
</tr>
<tr>
<td>Civil cases</td>
<td>Rs. 550/-</td>
</tr>
</tbody>
</table>
Typing and misc. charges  Rs. 150/-

In case the District Authority finds that the case is of higher valuation and is of the complicated nature and the lawyer should be paid more remuneration, then the Executive Chairman may sanction higher remuneration.

<table>
<thead>
<tr>
<th>For High Court</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal cases :</td>
<td></td>
</tr>
<tr>
<td>Cases to be heard by Division Bench</td>
<td>Rs. 1100/-</td>
</tr>
<tr>
<td>Cases to be heard by Single Bench</td>
<td>Rs. 550/-</td>
</tr>
<tr>
<td>Civil cases :</td>
<td>Rs. 550/-</td>
</tr>
<tr>
<td>Typing and Misc. Charges</td>
<td>Rs. 200/-</td>
</tr>
</tbody>
</table>

In case it is certified by the Chairman of the High Court Legal Services Committee that looking to the complicated questions of law involved in the case, the Advocate requires to be paid higher remuneration, and then the Executive Chairman may increase the remuneration reasonably.

**LITIGATION FREE VILLAGE SCHEME**

The philosophy of administration of Justice during British period had in the beginning a different history and magisterial function was authorised for being discharged by the native people as British were not aware of local language and local customary laws and also they had a lurking fear that the punishment of the member of the native population could lead
to agitation. However after the Courts reorganisation in the year 1861 the justice was administered at the higher level by the trained judges and the entire judicial system shaped differently and the peoples court entered into arena of lessening importance until it was eclipsed.

After Independence the constitutional scheme made justice in its true aspects social economic and political - the highest imperative of freedom Pt. Nehru about the judicial system said:

"We must realise that in 19th Century the system has passed away and no application to the person day needs, it has to give away and be scrapped as obsolescent material."

It infect, was a warning for becoming creative and developing activist approach to Endeavour to overhaul old methodology and to satisfy to constitution commitment for administration of Justice with participation of people in the process of equal justice and make each and every person living even at the grass root level involved and accountable in justice disbursement process. At present a realisation has to be developed for rationalising the judiciary to the tune of time accepting the reality otherwise the fast approaching state, where the heavy cases load may at any stage lead it to come to halt. The judicial system obligates to promote happiness by settling the dispute at the quickest but the obligation on account of heavy work load on the courts is meeting failure. The dawn of independence brought many golden things to the people of India including restructuring of judicial system so to make legal relief easily accessible to the indigent and backward class of people living in villages. About the present judicial system Mahatama Gandhi said.
"India lives in her villages and most of the countryside is smeared with poverty and social squalor. Today the poor and disadvantaged are cut off from the legal system - they are functional out laws not only because they are priced out of judicial system by a reason of its expansiveness and dilatoriness but also because of the nature of the legal and judicial system. They have distrust and suspicion of the law courts and the lawyers. For several reasons There is an air of excessive formalism in law courts which overawes them and sometimes scares them. They are completely mystified by the courts proceedings and this to a large extent alienates them from the legal and judicial process. The result is that it has failed to inspire confidence in the poor and they have little faith in its capacity to do justice"

Dr. Ambedkar said about economic disabilities and social inequality:

"We must begin by the acknowledging the fact that there is complete absence of two things in Indian society. One of these is equality. On the social plane. We have in India a society based on the principles of graded inequality which means elevation of some and degradation of others. On the economic plane. We have some. Who have immense wealth as against many who are living in abject poverty? On January 26, 1950, we are going to enter into a life of contradictions. In politics, we will have equality and in social and economic life we will have inequality - we must remove this contradiction or else who suffer from inequality will blow up the structure of political democracy. Which the Assembly has so laboriously built up"

At present a new legal system equipped with new technology, new judicature models, and new remedy so to make the people rights &
duties aware and respecter of law and law abiding creating atmosphere of happiness, is the necessity per the constitutional order.

It is rightly acknowledged that there can be a Kingdom without army but there cannot be a kingdom without courts of justice. Brennan in the case of winois Vs Allen cautioned the whole world in following words:-

"Nation cannot Endeavour if it falls short on the guarantee of liberty. Justice and equality embodied in our founding document. If that resolution cannot be reached by judicial trial in a court of law it will be reached elsewhere and by other means, and there will be grave danger that liberty equality, and the order essential to both will be lost".

The preamble of the constitution speaks for securing tike of justice. In order to accomplish the goal of imparting justice to all, the judicature has been made a paramount institution of national life and assigned a major role to work as an active member of the tenacity of the state instrumentalities. Article 38 accordingly obligates the court to be activist for the dynamic equal justice. The judicial process is thus constitutional fundamental and embraces the weak and the meek, the suppressed and the repressed who are the real consumers. That is why the Article 39-A brings out vividly. What is latent in article - 14? So far as the philosophy of equal justice is concerned the former Chief Justice of India Justice E.S.Vainkatramaiya once observed-

"The problem of delay and backlog was rightly to put the functioning of constitutional Govt. in disarray."

Lok Adalat, a voluntary institution which is outcome approach of activist judiciary and works on equitable principle rather then legal and
technical consideration and its basic purpose is not to impose the justice but the people are awakened to their own rights and duties, vise-/vise right and duties of others and on this principle the concept of litigation free village was developed which idea germinated for the first time, with effectiveness, with the efforts of M.P. State Legal Services Authority where it was realised that it isolated cases are got settled through Lok Adalats than it only adds to the figure chart of the cases settled through Lok Adalat, but gives no message to the society in regard to awareness of the people to their own rights, and duties vise-/vise the rights and duties of others to lead to the awareness for the village people and the village. For bringing about awareness to the quality of life and gaining happiness as it can correctly be said that India lives in villages and the villages are strong pillars of democracy. If villages thrive all will thrive.

In may 1997 village Jhalone situate in Tah. Lekhandon Dist. Seoni was taken as the first village on the project of “Litigation free villages" as it was habituated by all class of people including Adivasis and minorities in abundance. Thinking was developed in the village people that the freedom from litigation would be a panacea for them against all ills and happiness would come bringing enthusiasm. Self reliance, cooperative way of with realism of coexistence. For proceeding on the path of development with voluntary realisation for their own rights and duties vise - a - vise the rights and duties of others would be necessary. It developed enthusiasm amongst the people of this village that the age old case of came to an end with good gesture by mutual agreement and village was declared litigation free village on and a shield was given on the Legal Service Day 9th Nov.2000 to village people by the Patron- in Chief Shri Bhawani Singh Ji along with a certificate of appreciation. The enthusiasm of this village did not remain confined within the
village but it speeded up all over the state and people started coming for setting disputes without going to Adalat and without going to even Lok Adalat at the stage of Pre Lok adalat.

For this project of “Litigation free village” 131 villages were selected out which at present 47 village have become litigation free and 28 are waiting their declaration and 56 are in the process.

The progress is encouraging and the project “Litigation free Village " is coming up as unique project leading to the idea for the concept of project of Litigation free industrial establishments.

**Constitution**

(1) Every State Government shall constitute a body to be called the Legal Services Authority for the State to exercise the powers and perform the functions conferred on, or assigned to, a State Authority under this Act.

(2) A State Authority shall consist of -

(a) The Chief Justice of the High Court who shall be the Patron-in-Chief;

(b) a serving or retired Judge of the High Court, to be nominated by the Governor, in consultation with the Chief Justice of the High Court, who shall be the Executive Chairman; and

(c) Such number of other Members, possessing such experience and qualifications as may be prescribed by the State Government,
(3) The State Government shall, in consultation with the Chief Justice of the High Court, appoint a person belonging to the State Higher Judicial Service not lower in rank than that of a District Judge, as the Member-Secretary of the State Authority, to exercise such powers and perform such duties under the Executive Chairman of the State Authority as may be prescribed by that Government or as may be assigned to him by the Executive Chairman of that Authority:

Provided that a person functioning as Secretary of a State Legal Aid & Advice Board immediately before the date of constitution of the State Authority may be appointed as Member-Secretary of that Authority, even if he is not qualified to be appointed as such under this sub-section, for a period not exceeding five years.

(4) The terms of office and other conditions relating thereto, of Members and the Member-Secretary of the State Authority shall be such as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(5) The State Authority may appoint such number of officers and other employees as may be prescribed by the State Government, in consultation with the Chief Justice of the High Court, for the efficient discharge of its functions under this Act.

(6) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other
conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

(7) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary, officers and other employees of the State Authority shall be defrayed out of the consolidated fund of the State.

(8) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorised by the Executive Chairman of the State Authority.

(9) No act or proceeding of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the State Authority.

**Functions**

(1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the State Authority shall perform all or any of the following functions, namely:-

(a) Give legal service to persons who satisfy the criteria laid down under this Act.

(b) Conduct Lok Adalats, including Lok Adalats for High Court cases;

(c) Undertake preventive and strategic legal aid programmes; and
(d) Perform such other functions as the State Authority may, in consultation with the Central Authority, fix by regulations.

**State Authority to act in co-ordination with other agencies etc., and be subject to directions given by Central Authority**

In the discharge of its functions the State Authority shall appropriately act in co-ordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing.

**3. District Level—**

**District Legal Serves Authority—**

The State Government shall in consultation with the Chief Justice of the High Court, constitute a body to be called the District Legal Services Authority for every District in the State to exercise the powers and perform the functions conferred on, or assigned to the District Authority under this Act.

**A District Authority shall consist of**

(a) the District Judge who shall be its Chairman; and

(b) Such number of other Members, possessing such experience and qualifications as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice.
of the High Court.

The State Authority shall, in consultation with the Chairman of the District Authority appoint a person belonging to the State Judicial Service not lower in rank than that of a Subordinate Judge or Civil Judge posted at the seat of the District Judiciary as Secretary of the District Authority to exercise such powers and perform such duties under the Chairman of that Committee as may be assigned to him by such Chairman.

The terms of office and other conditions relating thereto, of Members and Secretary of the District Authority shall be such as may be determined by regulations made by the State Authority in consultation with the Chief Justice of the High Court.

The District Authority may appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions.

The officers and other employees of the District Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

The administrative expenses of every District Authority, including the salaries, allowances and pensions payable to the Secretary, officers and other employees of the District Authority shall be defrayed out of the Consolidated Fund of the State.
All orders and decisions of the District Authority shall be authenticated by the Secretary or by any other officer of the District Authority duly authorised by the Chairman of that Authority.

No Act or proceeding of a District Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the District Authority.

**Functions of District Authority**

It shall be the duty of every District Authority to perform such of the functions of the State Authority in the District as may be delegated to it from time to time by the State Authority.

Without prejudice to the generality of the functions referred to in sub-section (1) the District Authority may perform all or any of the following functions, namely:-

(a) co-ordinate the activities of the Taluk Legal Services Committee and other legal services in the District;

(b) organise Lok Adalats within the Districts; and

(c) perform such other functions as the State Authority may fix by regulations

**Act in co-ordination** - District Authority to act in co-ordination with other agencies and be subject to directions given by the Central Authority, etc. - In the discharge of its functions under this Act, the District Authority shall, wherever appropriate, act in co-ordination with other governmental and non-governmental institutions, universities and others engaged in the work
of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority or the State Authority may give to it in writing.

**Lok Adalats:**

Lok Adalats are judicial bodies set up for the purpose of facilitating peaceful resolution of all matters, except criminal cases that are non-compoundable. Either one or both the parties to litigation can make an application to the court for transferring the case to a lok adalat. Where no compromise or settlement is made by the lok adalat, such a case is transferred to the court and that court deals with the litigation from the stage the lok adalat had reached.

Lok Adalats have proved to be an effective mechanism for resolution of disputes through conciliatory methods. Up to 31 December 1997, about 17633 Lok Adalats have been held in different parts of the country where about 68.86 lakh cases were settled. In about 349710 motor vehicles accident claims cases, compensation amounting to over 1,160.07 crore rupees were awarded. Under the Legal Services Authorities Act, Lok Adalat has been given the status of a Civil Court and every award made by Lok Adalat is final and binding on all parties and no appeal lies to any court against its award. Under Chapter VI-A of the Legal Services Authorities Act, 1987, there is the provision of Lok Adalats. Up to December 2004, over 2 lakh 52 thousand Lok Adalats have been organized which have settled over 1 crore 74 lakh cases. For more effective use of provisions of this act, the conference will deliberate on the feasibility of setting up permanent Lok Adalats in the states.
Tehsil Legal Services Authority- The State Authority may constitute a Committee, to be called the Taluk Legal Services Committee, for each Taluk or Mandal or for group of Taluks or Mandals,

The Committee shall consist of -

(a) the senior Civil Judge operating within the jurisdiction of the Committee who shall be the ex-officio Chairman; and

(b) Such number of other Members, possessing such experience and qualifications, as may be prescribed by the State Government, to be nominated by that Government in consultation with the Chief Justice of the High Court.

The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the State Government in consultation with the Chief Justice of the High Court.

The administrative expenses of the Committee shall be defrayed out of the District Legal Aid Fund by the District Authority.

Functions of Taluk Legal Services Committee

The Taluk Legal Services Committee may perform all or any of the following functions, namely:-

(a) co-ordinate the activities of legal services in the taluk;

(b) Organize Lok Adalats within the taluk; and

(c) Perform such other functions as the District Authority may
assign to it.

Criteria for giving Legal Services

Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is –

(a) a member of a Scheduled Caste or Scheduled Tribe;

(b) a victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution;

(c) a woman or a child;

(d) a person with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995

Entitlement to Legal Services

(1) Persons who satisfy all or any of the criteria specified in Section 12 shall be entitled to receive legal services provided that the concerned Authority is satisfied that such person has a prima-facie case to prosecute or to defend.

(2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned Authority has reason to disbelieve such affidavit.*4
References Chapter-2


