

BAR COUNCIL OF INDIA LEGAL AID RULES

CONTENTS

CHAPTER 1 :- 1

1. 1
2. Definitions

CHAPTER 2 :- 2

3. Constitution and Functions of the Bar Council of India Legal Aid Committee
4. Functions
5. Meetings
6. Functions of the Secretary

CHAPTER 3 :- 3

7. Funds

CHAPTER 4 :- 4

8. Persons Entitled to have Legal Aid and Advice
9. 9
10. Applications for Legal Aid and Advice
11. 11
12. 12
13. 13
14. 14

CHAPTER 5 :- 5

15. 15
16. 16
17. 17
18. 18
19. Miscellaneous
20. Relationship Between Advocate and Client
21. Secrecy
22. Appeal
23. Association of Law Students with Legal Aid Scheme
24. Extension of Legal Aid Programmes to Districts and Ichsil
25. Framing of Necessary Rules and Regulations

BAR COUNCIL OF INDIA LEGAL AID RULES

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CHAPTER 1

1

1. 1 :-

(a) These Rules shall be called Bar Council of India Legal Aid Rules, 1983.

(b) These Rules shall come into force in whole or in part as may be decided by the Bar Council of India and in accordance with the notification that may be made and published by the Bar Council of India in the Gazette of India and with effect from such date or dates as may be specified in such notification.

2. Definitions :-

In these Rules unless the context otherwise requires :

(a) "Act" means the Advocate Act, 1961.

{b) "Advocate" means an Advocate who is enrolled as such by any State Bar Council under the provisions of the Act and whose name is maintained on the Roll of any State Bai Council.

(c) "Aided Person" means a person to whom Legal Aid or Advice has been sanctioned, and who is receiving or has received Legal Aid or advice.

(d) "The Council" means the Bar Council of India.

(e) "Court" includes all courts and tribunal's and other forums before which legal practitioners are entitled to appear, act and plead.

(f) "State Bar Council" means any State BarCouncil constituted under the Act.

{g) ' 'Legal Aid" shall consist of representation by a Legal Practitioner and all such assistance as is usually given by them.

(h) "Legal Advice" includes oral or written advice on the liberty, right, title and interest of a peison in any proceeding requiring judicial decision.

(i) "Financial Year" means the period from 1st April of one year to 31st March of the next succeeding year.

(j) "Person entitled to l-egal Aid" means a person applying for legal

aid in the prescribed form and manner for prosecuting, defending or continuing to prosecute or defend a case in any Court in India and whose financial means and position, in the opinion of the Legal Aid or any Sub-Committee appointed for the purpose, is insufficient for the said purpose or a person who is entitled to have legal advice under the provisions of these Rules.

{k) "Prescribed year" means the period from 1st April of one year to 31st March of the next succeeding year.

CHAPTER 2

2

3. Constitution and Functions of the Bar Council of India Legal Aid Committee :-

(a) The Council shall constitute a Legal Aid Committee consisting of 9 members from amongst its members.

(b) The Chairman of the Council shall be the Ex-officio Chairman of the Legal Aid Committee.

(c) The Members of the Legal Aid committee shall elect one of its Members as Vice-Chairman and the Secretary of the Bar Council of India shall be the Secretary of the Committee.

(d) Term of office of the Legal Aid Committee shall be two years from the date of first meeting of such Committee. Five of them shall form the quorum Members of the aforesaid Committee shall continue to hold office until the first meeting of the succeeding Committee.

(e) Each member of the Committee shall have one vote and in case of difference of opinion among the members the opinion of the majority shall prevail. In case of equality of votes on any question, the Chairman or the member presiding shall in addition have the right to exercise a casting vote.

(f) The Legal Aid Committee shall function, notwithstanding any vacancy in its body and notwithstanding any defect in the election or continuance of any of its members, and no act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies in the body or any defect in the election or continuance of any of its members.

4. Functions :-

The functions of the Legal Aid Committee shall be as follows:

(a) To formulate policies for implementing the legal aid and advice to be given to the person eligible under these Rules and to see that the policies formulated or prescribed are properly implemented by the State Bar Council Legal Aid Committees and District and Tehsil Legal Aid bodies, and also to exercise effective supervision and control over these bodies.

(b) To arrange Legal Aid workshops for Lawyers and to arrange training programme for Lawyers, para-legal workers and law students, periodically.

(c) To prepare legal aid literature for the purpose of spreading legal consciousness among the poorest sections of the community in different local languages and to arrange for reaching those to the people in the slums, villages and other appropriate places.

(d) To arrange for their protection in all cases of aggression either in hands of Govt. or that of individuals individually or collectively.

(e) To arrange for prosecutions and/or defence in respect of public interest litigations affecting large number of persons.

(f) To take appropriate legal and/or other effective measures to locate and assist bonded labourers.

(g) To arrange for prosecution or defence in all cases of aggressions made or injustice done and/or committed to women both in legal and social forums.

(h) To take all other necessary steps to make the legal aid to the poorer sections of the people effective and meaningful and to see that the same are made available to them at the appropriate time so that they gain confidence in respect of the legal aid programme.

5. Meetings :-

All meetings of the Legal Aid Committee shall be called by the Secretary of the Committee giving at least ten clear day's notice and in case of necessity emergency meeting may be convened at shorter notice according to the necessity on the direction by the Chairman of the Committee.

6. Functions of the Secretary :-

The Secretary of the Committee shall convene all meetings of the Committees according to the directions of the Chairman of the Committee, and shall take all appropriate steps to implement the decisions of the Committee according to the directions of the

Chairman.

CHAPTER 3

3

7. Funds :-

Funds of the Bar Council of India Legal Aid Committee shall comprise:

(a) Funds provided by the Council in its budget annually and credited to the Legal Aid Funds as may be provided by the Bar Council of India, in terms of Section.6(2)(and) of the Advocates Act, 1961, and credited to the fund to be known as "Bar Council of India Legal Aid Fund".

{b) Funds provided annually by the Bar Council of India Trust in its annual budget and credited to the Legal Aid Fund.

(c) Grants that may be provided by the Govt. of India and/or by the Central Govt. Legal Aid Implementation Committee.

(d) Grants that might be paid by different State Govts. and also by the State Bar Councils.

(e) Financial assistance, grants donations, gifts or benefactions received from corporations, bodies, individuals, charitable institutions) Bar Associations, and other bodies, for the purpose of Legal Aid.

(f) Amounts received by the Legal Aid Committee from any other source whatsoever by way of fees, costs, decretal dues or otherwise on the applications or in connection with Legal aided cases.

(g) All sums recovered from the persons receiving legal aid or on their behalf or from their opponents or from the Court by virtue of any decree or order or agreement or otherwise.

{h) Any amount received by way of interest from investments if any.

CHAPTER 4

4

8. Persons Entitled to have Legal Aid and Advice :-

(a) Legal Aid may be given to a person applying for Legal Aid in the form and manner prescribed for the purpose or asserting, denying or disputing a claim or a charge or a right to any movable or immovable property or for instituting or defending a suit, legal

proceedings, civil or criminal rights or any appeal or revision arising therefrom or from any interlocutory orders in such cases, within the jurisdiction of the State Bar Council, and whose financial means and position is, in the opinion of a Legal Aid Committee or the Sub-committee thereof, absolutely insufficient to defray the expenses of the litigation or part thereof or to meet, bear and pay the costs or engaging an advocate, solicitor, pleader or legal practitioner, as the case may be. He must state in his applications that he has not applied to or obtained from any other Legal Aid Committee or any other Authority, Legal Aid in respect of the same cause of action. He shall also state in his application as to whether he applied previously and whether such application was refused by any such Committee or Authority.

(b) An application for Legal Aid may be refused if the applicant or his or her spouse or children has or have approximate annual income, exceeding Rs. 6.000/- per annum and if it appears to the appropriate Legal Aid Committee or the Sub-Committee thereof that the applicant concerned can afford to proceed without legal aid and if it appears to such Committee or sub-committee that have regard to the circumstances of the case, it is not a fit and proper case for legal aid or it is, in its opinion, unreasonable to render legal aid.

(c) In granting necessary advice the Legal Aid Committee {sic} in the opinion of the Legal Aid Committee or appropriate Sub-Committee thereof he or she has a prima facie case in his or her favour and has reasonable grounds for instituting, prosecuting or defending or being a party to a suit, legal proceeding, civil or criminal, establishing or defending his constitutional and/or fundamental rights, appeal or revision arising therefrom.

(d) An applicant may also be refused legal aid unless he gives an undertaking to the effect that he will take all necessary and reasonable steps in time in connection with the proceeding for which legal aid in his favour is to be granted and that on successful completion of the litigation in his favour for the grant of legal aid to him he will reimburse the Legal Aid Committee concerned of all the expenses incurred in his favour or if the Legal Aid Committee, for reasons to be recorded, finds that the Legal Aid granted to him may be withdrawn.

9. 9 :-

(a) Persons having annual income between Rs. 6000 to Rs. 12)000 may be entitled to have legal advice in respect of their cases, from an Advocate on the panel of Advocates prepared for the purpose.

(b) In filing his application for legal advice he must furnish all particulars about his income, and the details of his case, including details of case or cases pending either filed by him or against him.

(c) In granting necessary advice the Legal Aid Committee concerned may be entitled to realise minimum costs necessary for preparing, typing etc. of necessary papers.

(d) If an applicant wants to have written opinion on a particular point or on a question of law involved in his case he will be entitled to have such opinion only on payment of the prescribed fee.

10. Applications for Legal Aid and Advice :-

(a) All applications for Legal Aid and Advice shall be made to the Legal Aid Committee or Sub-Committee or Centre as the case may be and contain such particulars as may be specified in the manner prescribed. All proceedings for legal aid shall be presented or filed during such hours as may be notified by such Committees and to the person or authority appointed in this behalf.

(b) All such applications for Legal Aid or Advice shall be scrutinised by the Legal Aid Committee or Sub-Committee or Centre as the case may be in accordance with the regulations made therefor by the State Legal Aid Boards before training such or other regulation shall obtain opinion of the District Legal Aid Committee and shall place before State Legal Aid Board for consideration and sanction.

(c) All regulations framed and any rule sought to be amended shall be sent to the Bar Council of India Legal Aid Committee for approval and on such approval being accorded the rule or regulations as the case may be shall become effective within the areas served by the State Legal Aid Board in question.

11. 11 :-

The District Legal Aid Committee, the Legal Aid Sub-Committee or the Legal Aid Centre, as the case may be, each shall set up at least one Bureau for consideration of matters requiring grant of Legal Advice to the persons sanctioned by the Committee or such Sub-Committee appointed for the purpose and it will be its duty to give either oral or written advice in respect of matters placed before the

Committee, as expeditiously as possible.

12. 12 :-

It shall be the the duty of Legal Aid Committee, Legal Aid Sub-Committee or the Legal Aid Centre to make necessary enquiries in respect of matters set out in the application for grant of legal aid or advice, to scrutinise all papers received and to make suitable recommendations as expeditiously as possible in such manner as may be prescribed and to place the same before the District Legal Aid Committee concerned for its consideration and sanction. Intimation about decisions regarding the grant or refusal of Legal Aid or Advice shall be given to the applicant in writing and in case the aid or advice is proposed to be granted, intimation shall also be given to the advocate selected from the panel of advocates maintained by the Committee and all necessary papers and documents shall be sent to the said Advocate without - delay, with necessary instructions.

13. 13 :-

The District Legal Aid Committee, the Legal Aid Sub-Committee and the Legal Aid Centre, wherever it is set up, shall maintain proper registers and appropriate records showing the applications received and orders passed thereon and also maintain proper records of documents received in connection with each case seeking Legal Aid. It shall be the duty of such Committees to maintain proper register of cases) for which Legal Aid and Advice are granted, and progress and result of such cases, and to submit quarterly reports to the State Legal Aid Board.

14. 14 :-

The Legal Aid Committee at all levels shall maintain proper accounts of income and expenditures and maintain proper vouchers for all expenses incurred. All sums received by them shall be deposited in appropriate accounts with scheduled banks and payments shall ordinarily be made by cheques, and bank accounts must tally with the bank accounts maintained.

CHAPTER 5

5

15. 15 :-

It shall be the duty of every advocate of at least five year standing to do at least six cases annually free of his professional charges. No such advocate shall be entitled to refuse to do such cases if so asked for by the Legal Aid Committees. Explanation.-'Doing a case'

will mean (1) drafting, filing and hearing of an injunction application, (2) drafting, filing and registration of plaint, (3) drafting and filing of written statement, (4) drafting, filing and admission of appeal, (5) drafting, filing and admission of a revision application, (6) arguing an appeal, (7) arguing a revision, and go on and each such act by an advocate will constitute 'doing a case'.
Mote.- In allotting the cases which are to be conducted by an advocate free of his professional charges the nature of practice, viz, whether a particular Advocate practices in criminal, civil, taxation or Constitutional Law matters shall be taken into account and the case that may be allotted to him shall ordinarily be at a place where he normally practises, and cases should be allotted to advocates by rotation according to the list which should be maintained in alphabetical order.

16. 16 :-

(a) An advocate who agrees to appear in Legal Aid cases and whose name is included in the panel of Advocates maintained by the State Legal Aid Boards and District Legal Aid Committee shall furnish his correct address and telephone number, if any, to such Legal Aid Committee and to the Legal Aid Sub-Committee, if any, and also to the parties for whom he appears in a particular case. It will be his duty to inform the Legal Aid Committee concerned his change of address and telephone number, if any.

(b) Appropriate Legal Aid Committees shall prepare two separate panels, one of Senior Advocates and the other with names of such Advocates who will both act and plead in appropriate cases which will be referred to them.

17. 17 :-

An advocate who undertakes to render Legal Aid with or without remuneration shall not be entitled to receive any fees from the person in whose favour Legal Aid is being granted or from any one on behalf of such person. He will, however, be entitled to receive such fees or honorarium as may be given to him by the concerned Legal Aid Committee according to the scale prescribed.

18. 18 :-

It shall be the duty of the advocate who will be in charge of a Legal Aid case or proceedings, to keep the person for whom he appears in such cases properly informed about the day-to-day proceedings, to maintain proper registers of such cases and to discharge his duty

properly. He shall also keep the Legal Aid Committee or the Sub-Committee as the case may be informed from time to time in such manner as may be prescribed about the progress of the case allotted to him. He will however, be entitled to receive incidental charges for writing letters and maintenance of registers etc. according to prescribed scale.

19. Miscellaneous :-

The Legal Aid that may be granted shall consist of representation by an Advocate, Pleader or Legal Practitioner a.n" of such assistance as is usually given by them to other litigants in respect of steps preliminary or incidental to any legal proceedings and also for instituting, prosecuting or defending any suit, proceedings, case, appeal or revision therefrom or, in respect of any interlocutory application or appeal or revision therefrom in any Court of Law or Tribunal or before any revenue or other Authority. Such aid may be full or partial or on the basis of contributions made by the persons for whom Legal Aid is granted as may be decided by the appropriate Legal Aid Committee.

20. Relationship Between Advocate and Client :-

The fact that the services of an advocate, pleader or legal practitioner are given by way of Legal Aid shall not affect the relationship or right of such advocate, pleader or legal practitioner between him and his client or any right or privilege arising from such relationship.

21. Secrecy :-

No information furnished for purposes of receiving Legal Aid to the Bar Council, Legal Aid Committee or any Sub-Committee or Legal Aid Centre or to any Officer or person on their behalf, in respect of the case of a person seeking Legal Aid shall be disclosed to any person or authority except for the purpose of due performance of the functions connected with the case or cases in question except with the consent of the person applying for or receiving Legal Aid.

22. Appeal :-

In case where applications for Legal Aid are refused or granting of further Legal Aid is withdrawn by the Legal Aid Committee and in similar other situations the person aggrieved may appeal, if the decision is of a Sub-Committee or of a Legal Aid Centre to the District Legal Aid Committee and if the decision is of the District Legal Aid Committee to the State Legal Aid Board, within 15 days from the date of the receipt of the communication of such order to

him and the District Legal Aid Committee or the State Legal Aid Board shall dispose of such appeals as expeditiously as possible after giving the person concerned a hearing, and the decision of the Appellate Body in that respect shall be final.

23. Association of Law Students with Legal Aid Scheme :-

It shall be within the jurisdiction of the State Legal Aid Board and also of the District Legal Aid Committee to consider whether the services of the final year law students should be associated profitably with the Legal Aid work and if so desired, they shall be entitled to formulate appropriate scheme for associating specified number of qualified students with this Legal Aid Scheme.

24. Extension of Legal Aid Programmes to Districts and Ichsils :-

Before introducing or extending the provisions of this Legal Aid Scheme to any revenue district or part thereof the State Bar Council shall take into consideration the resources it will be in a position to collect either in terms of money or in terms of free services of the Advocates and if and when the Bar Council is of the opinion that a District Legal Aid Committee will be in a position to take up at least 24 cases annually and will be able to render legal advice in similar number of cases annually, only in that event a District Legal Aid Committee in charge of one or more Revenue Districts shall be set up. The State Bar Council and also the Legal Aid Board shall endeavour to extend the Legal Aid Schemes up to the Taluk/Sub-Divisional Level on the basis of phased programmes and on being sure that scheme once extended to a particular District or part thereof will work properly and efficiently.

25. Framing of Necessary Rules and Regulations :-

(1) Bar Council of India Legal Aid Committees shall frame all necessary rules and regulations, including rules regarding :

(a) Constitution formation, reconstitution and/or selection of members of different Committees mentioned in these Rules.

{b) Filling up of vacancies in such Committees.

(c) Regarding elections of Chairman, Executive Chairman, Secretary, Treasurer and other office bearers wherever and whenever necessary.

{d) Providing for appointment of necessary staff and to fix salary,

allowances, honorarium in respect of such members of staff.

(e) Providing for grant of essential costs in maintaining and running the offices. Centres and bureaus by different Legal Aid Committees and bodies at all levels.

(f) Providing for fees or honorarium to be paid to Advocates and other lawyers doing legal aid cases.

(g) Providing for necessary forum for appeals against decisions of Legal Aid Bodies refusing to grant or deciding to grant legal aid or Advice as the case may be, in the limited form, and to prescribe period of limitation and speedy decision of such appeals.

(h) Providing for running the legal aid offices and for maintenance of discipline and prescribing duties in respect of staff.

(i) To frame all necessary rules, regulations to carry out the total Legal Aid Scheme and programmes for organising Training Camps, Workshops etc. wherever and whenever necessary.

(j) Prescribing necessary forums regarding application for grant of Legal Aid and all other matters connected therewith forums for preferring appeals, registers for maintaining records and accounts and all other forms that may be necessary to run the Legal Aid Schemes envisaged by these rules.

(2) In finalising such rules or in making any amendments thereof State Bar Council Legal Aid Committees shall be consulted and opinion) if any, expressed by such Committees shall be considered. Schedule of Fees of Honorarium to Advocates/Lawyers appearing in Legal Aid Cases (Until amended all fees/honorarium to Advocates/lawyers in the panel shall be paid in terms of schedule hereunder).

(1) An Advocate who is required to attend the office of the Legal Aid Committee after Court hours and the work of the Committee and 7.30 P.M. on working days, will be paid such as may be fixed by the Committee from time to time.

(2) An Advocate/lawyer whose name is on the junior panel drawn up by the State Bar (council Legal Aid Committee and who is assigned legal aid brief and who works as an Advocate on Record till the state of admission either in a suit, complaint, revision or appeal shall get Rs. 125 consolidated.

(3) If a junior advocate in the panel aforesaid works after the admission stage, and looks after the whole proceedings (suit, complaint, revision or appeal) and appears at the final hearing of the case, he will get Rs. 125 consolidated. But the Chairman of the State Bar Council Legal Aid Committee will be entitled to pay him upto Rs. 250 if in his opinion, quantum of work put in and the total period taken for the case mentioned hereinabove so requires he will be entitled to pay the Advocate concerned such amount, for reasons to be recorded in writing by him.

(4) An Advocate or Lawyer doing a legal aid case, namely, takes legal advice from the legal-aided person, draws up plaint or petition, files the same in court, he will get Rs. 51.

(5) Senior Advocates whose names are included in the Senior Advocates' panel shall be expected to do the hearing at the fixed stages free of professional charges. In special cases, however, the Legal Aid Committee concerned shall be entitled to engage a Senior Advocate on payment of such minimum as may be decided upon by the Committee. Schemes recommended to the State Legal Aid Boards and District Legal Aid Committees for holding Aid and Advice Camps and Training Camps for Training Advocates, Senior Law Students and Para Legal Workers for Carrying out Legal Aid Programmes Apart from performing the important functions of doing legal aid Cases and Courts and Tribunals, and giving advice in Legal matters to the poor litigants, it should be the duty of the State Bar Council Legal Aid Committees and the District Legal Aid Committees to hold Legal Aid and Advice Camps and to organise Legal Aid Training Courses for Advocates and Legal Aid Workers either on their own and/or, when feasible, jointly at suitable places little away from the District, Sub-Divisional or other towns. Legal Aid Training Course Workshops for Advocates, Law Students and Para Legal Workers

(1) Legal Aid Training Courses shall be organised at least once in six months by the State Bar Council Legal Aid Committees and also by the District Legal Aid Committees, and whenever possible such courses should be organised jointly by the State Bar Council Legal Aid Committee and one or more District Legal Aid Committees at a suitable place either in or near the State Capitals or in near district towns where assistance of Senior Advocates, Lawyers and Judges will be easily available.

(2) Such courses should be of at least one week's duration and

suitable, cheap and, if possible, free food and accommodation for all participants to such courses shall have to be arranged and all necessary arrangements shall be made sufficiently ahead of holding and initiating such courses.

(3) Proper publicities for holding of such courses shall be given mentioning detailed particulars about the nature of the training courses, subjects to be discussed with dates and timings, names of Senior Advocates, Judges and teachers who will be delivering lectures, and will help in training the participants in such Courses, shall have to be specifically mentioned. Qualifications of participants to such training Courses should be specifically stated along with a statement regarding benefits each participant will be able to derive by attending such courses, and printed or at least cyclostyled materials containing all such and other necessary information shall be sent to all the District, Sub-Divisional and Tehsil Bar Associations) presiding officers of different Courts in the areas which are sought to be served by such training Courses, and also to the principals of Law Colleges, seeking their full co-operation.

(4) Some minimum possible charges, as may be decided) may be realised from the trainees attending such Courses for providing them proper detailed programmes, reading materials and other essential papers etc.

(5) All the necessary and connected law, and reference books should be made available to the trainees to enable them to learn and follow properly the lectures and discussions at each day's classes.

(6) Teaching programmes shall be arranged in such a way that the trainees may get time in between two or three lecture courses in a particular day, to have time to consult the appropriate law books and also to discuss with the lecturers or teachers to dispel doubts on any particular matter or points or to understand any particular issue involved.

(7) One or two days during Court hours trainees shall be taken to Courts to show them the Court procedures and materials, both Civil and Criminal, and in High Courts, constitutional and other connected matters. Before taking the trainees to a particular Court they must be-briefed, taking prior information from the Court or Courts concerned about the essential details of the cases, that will

be heard in such Courts at the time they will be taken there. Prior permission of the Courts concerned should be taken to accommodate the trainees in such Courts.

(8) Subject for such training Courses should be chosen keeping in view the Legal needs of the weaker sections of the people of the areas sought to be served, namely, Civil and Criminal Laws and procedures, pleadings, evidence, Land Laws, Municipal Laws, Family laws. Laws regarding marriage, divorce, anti-dowry laws governing interests of scheduled castes and tribes. Constitutional laws connected with the rights and obligations of citizens, etc.

(9) Only such Senior Lawyer, Teachers and Judges should be invited to deliver lectures and participate in the discussions whose knowledge of the subjects allotted to each of these are commonly known and whose views would be accepted with respect by the trainees.

(10) Training Camps and all works done and are connected with Legal Aid programme must be kept above all political influences and it must be assured and specifically stated from the beginning that it will have no connection whatsoever with politics.

(11) A regular volunteer team of lawyers committed to pursue the Legal Aid programme shall have to be organised from amongst the members of the Legal profession who will agree to work for the success of the Legal Aid Courses and programmes maintaining strict discipline.

(12) At the conclusion of such training courses appropriate certificates should be given to all trainees showing that they have attended the Training Courses organised by the State Bar Council Legal Aid Committee. A list of all such trainees with their appropriate addresses shall be maintained, and their services shall be utilised profitably for the success of the Legal Aid programmes in future.