

**Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik
Sahayata Tatha Vidhik Salah Adhiniyam, 1976**

26 of 1976

[22 April 1976]

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**Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik
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An Act to provide judicial in the form of legal aid and legal advice to the weaker sections of the people with a view to bringing the system of justice within their reach and thereby making the legal process a surer means to social and economic justice and for matters ancillary thereto. Be it enacted by the Madhya Pradesh Legislature in the Twenty-seventh Year of the Republic of India as follows :-- 1 Received the assent of the Governor on the 22nd April, 1976, assent first published in the "Madhya Pradesh Gazette" (Extraordinary), dated the 22nd April, 1976.

CHAPTER 1
PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called
- (2) It extends to whole of Madhya Pradesh.
- (3) It shall come into force on such date as the State Government may by notification, appoint and different dates may be appointed for different areas.

2. Definitions :-

In this Act, unless the context otherwise requires,--

- (a) "aided person" means a person to whom--
 - (i) legal aid is provided; or
 - (ii) legal advice is given;in accordance with the provisions of this Act;
- (b) "Board" means the Madhya Pradesh Legal Aid and Legal Advice Board constituted under Section 3;
- (c) "committee" means the District Legal Aid and Legal Advice Committee or the 1[Tahsil Legal Aid and Legal Advice Committee or the Gram Legal Aid and Legal Advice Committee] as the case may be;
- (d) "family" includes :--
 - (i) the wife or husband, as the case may be, of a person whether residing with that person or not but does not include a wife or husband, as the case may be, separated from that person by a decree or order of a Competent Court;
 - (ii) son or daughter or step-son or step-daughter of a person and wholly dependent on him, but does not include a child or step-child of whose custody that person has been deprived of by or under any law for the time being in force;
 - (iii) any other person related whether by blood or marriage to a

person or to that persons wife or husband as the case may be and wholly dependent on that person;

(e) "landless agricultural labourer" means a person who does not hold any agricultural land and whose principal means of livelihood is manual labour on agricultural land;

(f) "legal advice" includes advice given and assistance rendered in accordance with the provisions of this Act for avoidance of vacations and unnecessary litigation in any form;

(g) "legal aid" means the legal aid specified in Section 36;

(h) "legal practitioner" shall have the meaning assigned to that expression in the Advocates Act, 1961 (25 of 1961);

(i) "legal proceeding" means civil, criminal or revenue action from its inception to its final disposal in a Court of law and includes preparatory steps for institution of such action;

(j) "rural artisan" means a person who does not hold any agricultural land and--

(i) whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary thereto in rural area; or

(ii) who normally earns his livelihood by practising a craft either by his own labour or by the labour of the member of his family in rural area;

(k) "Scheduled Caste" means a member of any caste, race or tribe or part of or group within a caste, race or tribe, specified as Schedule Caste with respect to the State of Madhya Pradesh under Article 341 of the Constitution of India;

(l) "Scheduled Tribe" means a member of any tribe, tribal community or part of or group within a tribe or tribal community specified as such with respect to the State of Madhya Pradesh under Article 342 of the Constitution of India.

1 Substituted by M.P. Act No. 51 of 1976.

CHAPTER 2

ESTABLISHMENT AND CONSTITUTION OF BOARD AND CONSTITUTION OF COMMITTEES

3. Establishment Of Board :-

(1) With effect from such date as the State Government may, by notification appoint there shall be established for the purposes of this Act, a Board to be called the Madhya Pradesh Legal Aid and Legal Advice Board.

(2) The Board shall be a body corporate by the name aforesaid,

having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at Bhopal and the Board may, with the previous approval of the State Government, establish offices at such other places as it may deem fit.

4. Constitution Of Board :-

(1) The Board shall consist of the following members, namely :--

A -- Ex-officio members

(i) Minister having the charge of law, Madhya Pradesh;

1[(i-a) State Minister for Law, if any;

(i-b) Executive Chairman;]

2[(i-c) Honorary Deputy Chairman];

(ii) Advocate General, Madhya Pradesh;

(iii) Secretary to Government of Madhya Pradesh Law and Legislative Affairs Department;

(iv) Secretary to the Government of Madhya Pradesh, Finance Department;

(v) The Registrar, High Court of Madhya Pradesh;

(vi) Chairman, Madhya Pradesh State Bar Council;

(vii) Director, Harijan and Tribal Welfare, Madhya Pradesh;

(viii) Labour Commissioner, Madhya Pradesh;

B -- Members nominated by the State Government

(ix) two members of Parliament representing the State;

(x) three members of the State Legislative Assembly nominated in consultation with the Speaker;

(xi) three representatives of High Court Bar Association one each from Jabalpur, Indore and Gwalior;

(xii) three prominent social workers in the State;

(xiii) 3[four] representatives of voluntary legal aid organisations;

(xiv) one eminent legal aid expert;

(xv) two members of the district legal aid and legal advice committees;

(xvi) one woman representing social organisations;

(xvii) one representative each of the Scheduled Castes and Scheduled Tribes;

(xviii) one representative each of organised and unorganised labour;

(xix) one Professor in the faculty of law from a University;

(xx) one law student from Universities in the State;

4[(xxi) two other persons not covered by any of the aforesaid clauses as the State Government may think fit to nominate for the purposes of efficient discharge of functions imposed on the Board under this Act.]

5[(2) The State Government shall appoint a Secretary to the Board from amongst the members of the Madhya Pradesh Higher Judicial Service, who shall be a member secretary thereof.]

1[(2-A) The Executive Chairman shall be appointed by the State Government.]

(3) The Chief Justice of the High Court of Madhya Pradesh shall be the Chief Patron of the Board and the Minister having the charge of Law, Madhya Pradesh, shall be the Chairman thereof.

1[(3-A) (i) If there is a State Minister for Law, he shall be the Vice-Chairman of the Board.

(ii) In the event of occurrence of any vacancy in the office of the Chairman of the Board by reason of his death, resignation or removal or otherwise, the Vice-Chairman shall act as Chairman until the date on which the Minister in charge of Law is appointed.

(iii) When the Chairman of the Board is unable to discharge his functions owing to absence, illness or any other cause the Vice-Chairman of the Board shall discharge his functions until the date on which the Chairman resumes his duties.

(3-B) (i) There shall be the Executive Chairman of the Board.

(ii) Any person who is, or has been or is qualified to be a Judge of a High Court shall be eligible for being appointed as Executive Chairman of the Board.

(iii) The Executive Chairman shall be a whole-time salaried officer of the Board and his emoluments and other terms and conditions of service shall be such as may be prescribed :

(iv) The Executive Chairman of the Board shall exercise such powers and perform such functions conferred or imposed on the Chairman of the Board by or under this Act as the Chairman may by an order in writing delegate or entrust to him.]

2[(3-C) (i) The State Government may by an order appoint an Honorary Deputy Chairman of the Board.

(ii) The Honorary Chairman shall exercise such powers and perform such functions conferred or imposed on the Chairman of the Board by or under

this Act as the Chairman may by an order in writing delegate or entrust to him.]

(4) The members under clause (xv) of sub-section (1) shall be

nominated for a period of two years 6[XXX]

1. Inserted by M.P. Act No. 26 of 1986.

2 Inserted by M.P. Act No. 16 of 1991.

3 Substituted by M.P. Act No. 51 of 1976.

4 Inserted by M.P. Act No. 51 of 1976.

5 Substituted by M.P. Act No. 8 of 1990.

6 Omitted by M.P. Act No. 51 of 1976.

5. Legal Aid And Legal Advice Committees At District, Tahsil And Gram Level To Assist The Board :-

1[2[(1) The State Government may constitute,--

(a) District Legal Aid and Legal Advice Committee for each district, and

(b) Tahsil Legal Aid and Legal Advice Committee for each tahsil, to assist the Board to exercise the powers and perform the functions conferred or imposed upon the Board by or under this Act.

(1-a) Notwithstanding anything contained in the Madhya Pradesh Panchayat Adhiniyam, 1981 (No. 35 of 1981) each Gram Panchayat constituted there under shall be the Gram Legal Aid and Legal Advice Committee for assisting the Board to exercise the powers and perform the functions conferred or imposed upon the Board by or under this Act. The Secretary of the Gram Panchayat shall be ex-officio Secretary of such Gram Legal Aid and Legal Advice Committee and the Sarpanch of the Gram Panchayat shall be the Chairman of the Gram Legal Aid and Legal Advice Committee.]

(2) A District Legal Aid and Legal Advice Committee shall exercise the powers and perform the functions conferred or imposed upon it by or under this Act. A District Legal Aid and Legal Advice Committee, a Tahsil Legal Aid and Legal Advice Committee and a Gram Legal Aid and Legal Advice Committee shall also exercise such powers and perform such functions of the Board within the district or tahsil or a village or group of villages, as the case may be, as the Board may, by general or special order, specify.

(3) A District Legal Aid and Legal Advice Committee, a Tahsil Legal Aid and Legal Advice Committee and a Gram Legal Aid and Legal Advice Committee shall, in the exercise of powers and discharge of functions specified under sub-section (2), be subject to the general superintendence and control of the Board.

1 Substituted by M.P. Act No. 51 of 1976.

2 Substituted by M.P. Act No. 26 of 1986.

6. Constitution Of District Legal Aid And Legal Advice

Committee :-

(1) A District Legal Aid and Legal Advice Committee shall consist of the following members, namely :--

A -- Ex-officio Members

(i) The Collector;

(ii) The Chief Judicial Magistrate;

(iii) The President District Bar Association;

(iv) the Government Pleader and if there is no Government Pleader, the senior most additional Government Pleader;

(v) the District Panchayat and Social Welfare Officer;

(vi) the Assistant Labour Commissioner having jurisdiction over the district;

(vii) Deputy Director, Tribal and Harijan Welfare, and if there is no Deputy Director, District Organizer, Tribal and Harijan Welfare and there be no Deputy Director and District Organizer, then District Tribal Welfare Assistant having jurisdiction over the district;

B -- Members nominated by the State Government

(viii) one member representing the district in Madhya Pradesh Legislative Assembly to be nominated by the State Government in consultation with the Speaker.

C -- Members nominated by the Collector.

(ix) two members of the District Bar Association;

(x) two members of the Local Authorities in the district;

(xi) one member of the teaching staff of the law college in the district, if any;

(xii) one representative of the students in the district;

(xiii) one woman preferably a lawyer practising in the district;

1[x x x]

2[(xiv) one representative of labour;

(xv) one member of the Scheduled Caste;

(xvi) one member of the Scheduled Tribe;

(xvii) two other persons not covered by any of the aforesaid clauses as the Collector may think fit to nominate for the purpose of efficient discharge of functions imposed on the District Legal Aid and Legal Advice Committee by or under this Act.

(2) The Collector shall appoint a Secretary to the District Legal Aid and Legal Advice Committee who shall be a Member Secretary of the Committee.

(3) The District Judge shall be Patron of the said committee and the Collector shall be the Chairman thereof.

1 Omitted by M.P. Act No. 51 of 1976.

2 Inserted by M.P. Act No. 51 of 1976.

7. Constitution Of Tahsil Legal Aid And Legal Advice Committee :-

(1) A Tahsil Legal Aid and Legal Advice Committee shall consist of the following members, namely:--

A -- Ex-officio members

(i) All members of the Madhya Pradesh Legislative Assembly returned from the constituencies which wholly or partly fall within the tahsil;

(ii) Sub-Divisional Officer (Revenue) and if there is no Sub-Divisional Officer, the Tahsildar;

(iii) President, Tahsil Bar Association;

(iv) Presidents of--

(i) all Municipal Committees in the tahsil, and

(ii) all Janapad Panchayats in the tahsil whether falling wholly or partly therein.

B -- Members nominated by the Collector

(v) Two representatives, one each of Scheduled Castes and Scheduled Tribes;

(vi) One woman preferably a lawyer practising in the tahsil;

(vii) One representative of labour.

1[(viii) Two other persons not covered by any of the aforesaid clauses as the Collector may think fit to nominate for the purpose of efficient discharge of functions imposed on the Tahsil Legal Aid and Legal Advice Committee by or under this Act.

(2) The Collector shall appoint a Secretary to the Tahsil Legal Aid and Legal Advice Committee who shall be a Member Secretary thereof.

(3) The senior most Judicial Officer posted in the tahsil shall be the patron of the said committee and the member referred to in clause (ii) of sub-section (1) shall be the Chairman thereof.

1 Inserted by M.P. Act No. 51 of 1976.

7A. Omitted :-

1[XXX]

1 Omitted by M.P. Act No. 26 of 1986.

8. Executive Committee Of The Board :-

(1) There shall be an Executive Committee of the Board consisting of--

- (i) Chairman of the Board;
 - 1[(i-a) Vice Chairman of the Board, if any;
 - (i-b) Executive Chairman of the Board.]
 - 2[(i- c) Honorary Deputy Chairman.]
 - (ii) Advocate General, Madhya Pradesh;
 - (iii) Secretary to the Government of Madhya Pradesh Law and Legislative Affairs Department;
 - (iv) Secretary to the Government of Madhya Pradesh, Finance Department;
 - (v) Eminent legal aid expert nominated under clause (xiv) of sub-section (1) of Section 4;
 - (vi) Registrar, High Court of Madhya Pradesh;
 - (vii) Chairman, Madhya Pradesh State Bar Council;
 - (viii) Secretary of the Board.
- (2) The Chairman of the Board shall be the Chairman of the Executive Committee.
- (3) Subject to the general control of the Board, the general superintendence, direction and management of the affairs of the Board shall vest in the executive committee which shall exercise all such powers and do all such acts and things as may be exercised or done by the Board under this Act and Rules made thereunder.
- 1 Inserted by M.P. Act No. 26 of 1986.
- 2 Inserted by M.P. Act No. 16 of 1991.

9. Functional Committees :-

- (1) The Board or a District Legal Aid and Legal Advice Committee may constitute as many Functional Committees as it may deem fit to render assistance to the Board or the Committee, as the case may be, in the exercise of the powers and discharge of functions conferred or imposed upon the Board or the Committee by or under this Act.
- (2) A Functional Committee shall, for the conduct of its business, follow such procedure as may be provided by regulations.

10. Member To Hold Office During The Pleasure Of Nominating Or Appointing Authority :-

- (1) All the members of the Board or Committee other than ex-officio members shall hold office during the pleasure of the authority nominating or appointing them as such members.
- (2) Whenever any person is nominated or appointed as a member of the Board or the Committee by virtue of the post or office held

by him, he shall forthwith cease to be a member of the Board or the Committee, as the case may be, if he ceases to hold such post or office.

11. Disqualifications For Membership Etc. :-

(1) A person shall be disqualified for being nominated or appointed as, or for being, a member of the Board or a Committee--

(a) if he is less than twenty-one years of age; or

(b) if he is of unsound mind and stands so declared by a Competent Court; or

(c) if he is an undischarged insolvent; or

(d) if he has been sentenced by a Criminal Court for an offence involving moral turpitude, such sentence not having been reversed; or

(e) if he has on any previous occasion been removed from the Office of Member of the Board or Committee or of a Local Authority or has been removed by order of a Competent Court from any position of trust either for mis-management or corruption.

(2) If any question arises, as to whether a member of the Board or a Committee has become subject to any of the disqualifications mentioned in sub-section (1), the question shall be referred for the decision to the State Government and its decision thereon shall be final.

12. Resignation And Acceptance :-

(1) A nominated or appointed member of the Board may, at any time, resign his office by submitting his resignation signed and addressed to the Chairman of the Board.

(2) A nominated or appointed member of the committee may, at any time, resign his office, by submitting his resignation signed and addressed to the Chairman of the Committee.

(3) No resignation submitted under sub-section (1) or sub-section (2) shall take effect until it is accepted by the Chairman of the Board or the Committee, as the case may be.

13. Filling Of Vacancies :-

Any vacancy of the member occurring under Section 12 shall be filled as early as practicable in the manner laid down in Section 4, 6 or 7, as the case may be.

14. Validity Of Proceedings :-

No act or proceeding of the Board or a Committee shall be invalid merely by reason of--

- (a) any vacancy therein or defect in the constitution thereof; or
- (b) any defect in the nomination of a person acting as a member thereto; or
- (c) any irregularity in its procedure not affecting the merit of the case.

15. Salary Of Executive Chairman And Secretary Of Board Or Committee :-

1[(1) The Secretary of the Board, the Secretary of the District Legal Aid and Legal Advice Committee and the Secretary of the Tahsil Legal Aid and Legal Advice Committee shall receive such monthly salary and such monthly allowances as the State Government may, from time to time, determine.

(2) Subject to the provisions of sub-section (1), the conditions of service of a person appointed as Secretary, who holds a lien on a post under the Government shall be such as may be laid down by the Government and in other case they shall be such as may be proved by regulations.

(3) The expenditure towards salary and allowances and other charges of 1[Executive Chairman, Secretary of the Board], District Legal Aid and Legal Advice Committee and Tahsil Legal Aid and Legal Advice Committee shall be a charge on the fund of the Board.

1. Substituted by M.P. Act No. 26 of 1986.

16. Officers And Servants Of Board :-

1[The Board may, with the previous approval of the State Government, create as many posts of officers and servants as may be necessary, and may appoint such number of officers and servants as it considers necessary for the efficient discharge of its functions under this Act or the Rules made thereunder.

1 Substituted by M.P. Act No. 8 of 1990.

17. Recruitment And Conditions Of Service Of Officers And Servants :-

(1) The Board may, with the previous approval of the State Government, make regulations for the determination of the remuneration and other conditions of service of its officers and

servants.

(2) The State Government shall make rules for the recruitment of the officers and servants of the Board :

Provided that till such rules are made by the State Government the rules applicable to the recruitment to service under the State Government shall mutatis mutandis apply to the Board.

18. Allowances To Members Of Board Etc. :-

The members of the Board, the Executive Committee or a Functional Committee may be paid such allowances for attending to the work of the Board, the Executive Committee, a Committee or a Functional Committee as the case may be, as may be provided by regulations.

CHAPTER 3

CONDUCT OF BUSINESS OF BOARD AND COMMITTEE

19. Procedure At Meeting :-

Subject to the provisions of this Act, the procedure at a meeting of the Board, the Executive Committee or a Committee shall be such as the Board may, by regulations, determine.

20. Meeting Of Board Etc. :-

(1) The Board or the Committee shall meet for the transaction of its business from time to time, at such place and time as the Chairman thereof may, determine.

(2) Notice of every meeting specifying the time and place thereof and the business to be transacted thereat shall be dispatched to every member of the Board or a Committee, as the case may be, and exhibited at the office of the Board or the Committee, as the case may be, seven clear days before the meeting.

(3) 1[(i) At every meeting of the Board, the Chairman thereof, and in his absence the Vice-Chairman, if any, shall preside over the meeting of the Board, and in the absence of both, members present shall choose one from amongst the members to preside over the meeting.

(ii) At every meeting of the District Legal Aid and Legal Advice Committee, the member nominated under clause (viii) of sub-section (1) of Section 6 shall preside, and in his absence, the Chairman of the said Committee shall preside and in absence of both, the members present shall choose one from among

themselves to be the Chairman of the meeting;

(iii) At every meeting of the Tahsil Legal Aid and Legal Advice Committee, one of the members specified in clause (i) of sub-section (1) of Section 7 as may be chosen by the members present shall preside and in their absence, the Chairman of the said committee shall preside and in the absence of all of them the members present shall choose one from among themselves to be the Chairman of the meeting.

(4) All questions brought before a meeting of the Board or a Committee shall be decided by a majority of the members present and voting. The Presiding Authority, unless it refrains from voting, shall give its vote before declaring the number of votes for or against the question.

1 Substituted by M.P. Act No. 26 of 1986.

21. Minutes :-

(1) Minutes shall be kept of the names of the members present and of the proceedings at each meeting of the Board or a Committee. The minutes shall at all reasonable times be open to inspection free of charge by any member of the Board or a Committee as the case may be.

(2) The minutes shall be in Hindi written in Devnagari script.

22. Quorum :-

(1) The quorum for a meeting of the Board or a Committee shall be one-third of the members constituting the Board or the Committee for the time being.

(2) If at a meeting of the Board or a Committee the quorum is not present, the Presiding Authority shall adjourn the meeting to such time on the following day or some future date as it may fix. The business which could not be considered at the meeting so postponed for want of quorum shall be brought before and disposed of at the meeting so fixed or at any subsequent adjourned meeting whether there is quorum present or not provided that not less than three members are present.

22A. Functions Of The Secretary Of The Board And Committee :-

1[The Secretary of the Board and of the Committee shall--

2[(a) subject to the general control of the Chairman and to the extent to which powers are delegated to Executive Chairman of the Board in writing by the

Chairman, the Executive Chairman shall watch over the financial and executive administration of the Board or the Committee and perform such duties and exercise such powers of the Board or the Committee as the Board or the Committee, as the case may be, may delegate to him.

(b) give effect to the decision taken in accordance with the provisions of this Act and the rules made thereunder by the Board or Committee and submit periodical reports, if the Board or Committee so directs, regarding the progress made in respect thereto.]]

1 Inserted by M.P. Act No. 51 of 1976.

2 Substituted by M.P. Act No. 26 of 1986.

CHAPTER 4

FUNCTIONS OF BOARD AND COMMITTEE

23. Functions Of Board :-

The functions of the Board shall be--

(a) to supervise, direct and control--

(i) the work of the committees; and

(ii) the operation and administration of the legal aid and legal advice; throughout the State;

(b) to sanction expenditure for the administration of legal aid and legal advice;

(c) to allocate funds for legal aid and legal advice to the committees;

(d) to take proceedings for the recovery of costs awarded to aided persons;

(e) to call for periodical reports from the committees;

(f) to submit recommendation to the State Government regarding the administration of legal aid and legal advice and improvements in the practice and procedure of the Courts so as to reduce the costs and delays in litigation;

(g) to give general or special directions to the committees or functional committees for the proper discharge of their duties and functions;

(h) to submit to the State Government an annual report of its work;

(i) to screen cases, for extending legal aid to be filed before or pending before the High Court and the Supreme Court;

(j) irrespective of means test to permit legal aid or legal advice :--

(i) in matters of great public importance, or

(ii) in a test case, or

(iii) in such special cases which the Board considers to be deserving of legal aid or legal advice;

(k) render assistance to the members of the weaker sections of the people to assert, defend or dispute a claim in legal proceeding;

- (l) to render assistance to the members of the weaker sections of the people in complying with various legal requirements in order to secure the benefits under various schemes sponsored by or on behalf of the Central or State Government for the welfare of general public or any section thereof;
- (m) encourage conciliation in legal proceeding;
- (n) to educate members of the weaker sections of the people in particular about the civil rights and the rights made available to them under various enactments;
- (o) to enlighten the people in rural areas about agrarian reforms and facilities made available to them by the State Government from time to time and to render legal assistance where necessary;
- (p) to arrange for publicity of important legislation having bearing on labour, woman, agriculturists, weaker sections of the people bonded labour, rural indebtedness and social reforms;
- (q) to sponsor voluntary organisations consisting of enlightened lawyers and law students and to encourage them to render free legal assistance to the weaker sections of the people;
- (r) to sponsor legal advice clinics;
- (s) to undertake and encourage research work in fields of legislation affecting weaker sections of the people;
- (t) to carry on such other activities as are incidental and conducive to the objects of this Act;
- (u) to discharge such other duties and to perform such other functions for the purpose of carrying out the objects of this Act as the State Government may direct.

24. Functions Of District Legal Aid And Legal Advice Committee :-

The functions of the Legal Aid and Legal Advice Committee shall be--

- (a) to receive and investigate applications for legal aid;
- (b) to provide for legal advice;
- (c) to maintain panel of Legal Practitioners for giving legal aid or legal advice;
- (d) to decide all questions as to the grant or withdrawal of legal aid;
- (e) to make payment of fees to panel Legal Practitioners and generally to provide for costs of legal aid and legal advice out of the funds placed at his disposal by the Board and to take proceedings for recovery of costs awarded to the aided persons;

- (f) irrespective of means test to permit legal aid or legal advice--
 - (i) in matters of great public importance; or
 - (ii) in a test case; or
 - (iii) in such special cases which the district legal aid and legal advice committee considers to be deserving of legal aid and legal advice :
- Provided that no legal aid under this clause shall be granted save with prior approval of the Board;
- (g) to perform such other functions as the Board may entrust.

25. District Legal Aid And Legal Advice Committee To Have Discretion :-

The District Legal Aid and Legal Advice Committee shall normally have the discretion to judge the sufficiency or otherwise of the material before it for the grant of legal aid or legal advice.

26. Functions Of Tahsil Legal Aid And Legal Advice Committee :-

The Tahsil Legal Aid and Legal Advice Committee shall discharge such functions as may be entrusted to it by the Board.

26A. Functions Of Gram Legal Aid And Legal Advice Committee :-

1[The Gram Legal Aid and Legal Advice Committee shall discharge such functions as may be entrusted to it by that Board.]

1 Inserted by M.P. Act No. 51 of 1976.

CHAPTER 5

FUND OF THE BOARD

27. Constitution Of Fund Of Board :-

(1) The Board shall have and maintain its own fund, and all receipts of the Board shall be carried thereto and all payments by the Board shall be made therefrom.

(2) The Board may accept subventions, donations and gifts from the Central or State Government or a Local Authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(3) The fund of the Board shall be applied by it for meeting all administrative expenses of the Board and for carrying out the purposes of this Act.

(4) All moneys forming part of the fund of the Board shall be deposited in such manner as the State Government may by special or general order, direct.

(5) The account shall be operated upon by such officer jointly or individually as may be authorised by the Board.

28. Application Of Fund :-

The fund and other assets of the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

29. Budget :-

(1) The Board shall, by such date in each year as may be fixed by the State Government prepare and submit to the State Government the budget for the next financial year showing the estimated receipts and expenditure.

(2) The State Government may sanction the budget as submitted to it with or without modifications as it deems proper.

(3) The Board may submit a supplementary budget for sanction of the State Government in such form and by such date as may be prescribed.

30. Annual Report :-

(1) The Board shall prepare and forward to the State Government in such manner as may be prescribed an annual report within three months from the end of the financial year giving a complete account of its activities during the previous financial year.

(2) The report received by the State Government under sub-section (1) shall be laid on the table of the Madhya Pradesh Legislative Assembly as soon as may be after it is received by the State Government.

31. Accounts And Audit :-

(1) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of account.

(2) The Board shall cause its accounts to be audited annually by such person as the State Government may direct.

(3) As soon as the accounts of the Board have been audited the Board shall send a copy thereof together with a copy of the report

of the auditor and the comments of the Board thereon to the State Government.

(4) The Board shall comply with such directions as the State Government may think fit to issue after perusal of the report of the auditor and the comments of the Board thereon.

32. Other Statements And Returns :-

The Board shall also submit to the State Government such statistics, returns, particulars or statements at such time and in such form and manner as may be prescribed or as the State Government may, from time to time, direct.

CHAPTER 6

LEGAL AID AND LEGAL ADVICE

33. Persons Eligible For Legal Aid And Legal Advice :-

No person shall be eligible for legal aid and legal advice under this Act, unless--

1[(a) he is a landless agricultural labourer, a rural artisan, a member of Scheduled Castes, Scheduled Tribes, a member of backward classes, Women or a Child; or]

(b) he satisfies the following means test, that is to say,--

(i) the family of which he is a member has income of 1[One thousand rupees] or less per month; or

(ii) the family of which he is a member holds 2[two hectares of irrigated land or four hectares of unirrigated land] or landless than that and such family has no other source of income except agriculture on such land :

3[Provided that the Board or the Committee, as the case may be, may in suitable cases exempt any person from the provisions of this section.]

1 Substituted by M.P. Act No. 35 of 1995.

2 Substituted by M.P. Act No. 26 of 1986.

3 Inserted by M.P. Act No. 26 of 1986.

34. Legal Advice :-

Subject to the provisions of Sections 33 and 37, legal advice may be given in all matters in which a question of law is involved. The legal advice shall be aimed at--

(i) amicable settlement of disputes by securing co-operation of the parties to a dispute in such manner as may be prescribed;

(ii) rendering assistance in the matter provided in clause (1) of Section 23.

35. Legal Aid :-

Subject to the provisions of Sections 33 and 37, legal aid may be given in a legal proceeding if,--

(a) the following conditions are satisfied, that is to say--

(i) there is a prima facie case; and

(ii) the claim is reasonable and for want of legal aid claimant is likely to suffer in securing his legal right.

(b) the party has acted in accordance with legal advice, if any, rendered under Section 34.

(2) Subject to the provisions of sub-section (1), the District Legal Aid and Legal Advice Committee may, either on its own motion or on the information received by it as to the need of legal aid or on an application from the person concerned under Section 30 give legal aid at any stage of any legal proceeding.

(3) Legal aid shall be admissible in such legal proceedings in a Court in which representation by a Legal Practitioner is not precluded.

36. Modes Of Legal Aid :-

The legal aid may be given under this Act in all or any of the following modes, namely :--

(a) payment of Court fees, process fees, expenses of witnesses and all other charges payable or incurred in connection with legal proceeding;

(b) representation by a Legal Practitioner in a legal proceeding;

(c) supply of certified copies of judgments and orders in a legal proceeding;

(d) preparation of appeal paper books including printing and translation of documents in a legal proceeding;

(e) any other mode as may be prescribed.

37. Bar Of Legal Aid Or Legal Advice :-

No legal aid or legal advice shall be granted or given in the following :--

(a) defamation;

(b) malicious prosecution;

(c) breach of promise of marriage;

- (d) inducement of one spouse to live or remain apart from the other;
- (e) election matters;
- (f) economic offences and offences against social laws such as prevention of dowry and restraining of child marriages;
- (g) matters incidental to any of those referred to above;
- (h) such other matters as may be prescribed.

38. Application For Legal Advice :-

- (1) Any person eligible for legal advice under Section 33 may, at any time, apply for legal advice to the District Legal Aid and Legal Advice Committee in such form as may be prescribed.
- (2) The District Legal Aid and Legal Advice Committee to which application is made under sub-section (1) shall, in the manner prescribed, endeavor to settle the dispute by bringing about reconciliation between the rival parties and if the reconciliatory efforts fail and failure is attributable to the non co-operation of any one party, to the dispute, the non co-operating party even if otherwise eligible for legal aid, shall not be entitled to legal aid in any legal proceeding in connection with that dispute.

39. Application Of Legal Aid :-

- (1) Any person eligible for legal aid under Section 33 may, at any stage of legal proceeding apply for legal aid to the District Legal Aid and Legal Advice Committee in such form as may be prescribed :
Provided that where application has been made under Section 38 for legal advice, no fresh application for legal aid shall be necessary, and the District Legal Aid and Legal Advice Committee shall, subject to the provisions of sub-section (2) of that section proceed to grant legal aid, as if the application under sub-section (1) of that section were an application for grant of legal aid.
- (2) The District Legal Aid and Legal Advice Committees to which application is made under sub-section (1) shall, subject to the provisions of this Act and the Rules made thereunder, make an order in such form as may be prescribed sanctioning the grant of legal aid to the applicant.
- (3) The District Legal Aid and Legal Advice Committees shall send a copy of the order giving legal aid to the aided person to the Court in which legal proceeding is to be instituted or it is pending for disposal.

39A. Emergency Powers Of The Legal Aid Officers And Chairman Of The Board Or Committees :-

1[2[Emergency powers of the Legal Aid Officers and Chairman of the Board or Committees]

(1) 2[If in the opinion of the Legal Aid Officer of the district or tahsil, as the case may be, or in the opinion of the Chairman of the Board or a Committee] any emergency has arisen which requires immediate action to be taken, the 2[Legal Aid Officer of the district or tahsil, as the case may be, or the Chairman] shall take such action as he deems necessary in anticipation of the approval of the Board or the Committee and shall at the earliest opportunity thereafter report his action to the Board or the Committee, as the case may be.

2[(2) On receipt of a report under sub-section (1) if the Board or the Committee, as the case may be, does not approve of the action taken by Legal Aid Officer of the district or tahsil, as the case may be, or the Chairman it shall refer the matter-

- (i) in case of action taken by the Chairman of the Board, to the State Government;
- (ii) in case of action taken by the Chairman of the District Legal Aid and Legal Advice Committee, to the Board;
- (iii) in case of action taken by the Chairman of the Tahsil Legal Aid and Legal Advice Committee, to the District Legal Aid and Legal Advice Committee;
- (iv) in case of action taken by the Chairman of the Gram Legal Aid and Legal Advice Committee, to the Tahsil Legal Aid and Legal Advice Committee;
- (v) in case of action taken by Legal Aid Officer of a District or Tahsil to the Secretary of the Board for placing the matter before the Board; whose decision thereon shall be final.

1 Inserted by M.P. Act No. 51 of 1976.

2 Substituted by M.P. Act No. 26 of 1986.

40. Provision Of Legal Practitioner :-

(1) The District Legal Aid and Legal Advice Committee shall every year by such date as may be prescribed prepare a list of legal practitioners practising in the district and possessing prescribed qualifications.

(2) The District Legal Aid and Legal Advice Committee shall submit the list so prepared alongwith its recommendations to the Board for its approval and Legal Practitioners so approved by the Board shall be panel Legal Practitioners for the purpose of entrustment of work under this Act during the currency of the list.

(3) The panel Legal Practitioner shall perform such functions and discharge such duties in relation to legal aid and legal advice as may be prescribed.

(4) The panel Legal Practitioner shall be entitled to such remuneration for the functions performed and duties discharged by him as may be prescribed.

41. Aided Person To Reimburse The Expenses On Legal Aid And Legal Advice :-

If any legal proceeding to which an aided person is a party if the Court passes an order or a decree in favour of the aided person or awards compensation such aided person shall be liable to reimburse the District Legal Aid and Legal Advice Committee of all the expenses incurred by the said committee in giving legal aid and legal advice to him and on his failure to do so, the amount due from him, shall be recoverable in the same manner as an arrear of land revenue.

42. Legal Practitioner Not To Receive Any Fee From The Party :-

The Legal Practitioner to whom fee is due or paid under this Act shall not be entitled to nor shall he receive any fee from the aided person.

CHAPTER 7 **MISCELLANEOUS**

43. Protection Of Action Take In Good Faith :-

(1) No suit, prosecution or other legal proceeding shall lie against the Board or 1[Chairman or Vice-Chairman, if any], a member or Secretary thereof or of a committee or any officer or servant of the Board or any person acting on behalf of the Board for the purpose of this Act for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Board or the 1[Chairman or Vice-Chairman, if any], a member or Secretary thereof or of a committee or any officer or servant of the Board or any person acting on behalf of the Board for the purposes of this Act for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act..

1 Substituted by M.P. Act No. 26 of 1986.

44. Application Of Other Laws Not Barred :-

The provisions of this Act, shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

45. Power Of State Government To Give Direction :-

In discharge of functions under this Act, the Board shall be guided by such directions as the State Government may give in writing.

45A. Members Of The Board And Committee And Officers And Servants Of The Board To Be Public Servants :-

1[Every member of the Board and of the Committee and every officer and servant of the Board shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code, 1860 (XLV of 1860).

1 Inserted by M.P. Act No. 26 of 1986.

45B. Finality Of Decision :-

Every decision taken by the Board or Committees under the provisions of this Act in respect of legal aid and legal advice, or every decision of the Executive Committee of the Board or of the Functional Committees constituted under this Act shall be final and shall not be called in question in any Court of law.

46. Power To Make Rules :-

(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :--

(a) manner in which conciliation shall be encouraged in civil matters;

(b) (i) media of educating the members of the weaker sections of the people in the discharge of functions by the Board under clauses (n), (o) and (p) of Section 23;

(ii) the manner in which voluntary organizations shall be sponsored under clause (q) of Section 23 and constitution of such voluntary organisations;

(c) constitution of legal advice clinics;

(d) conduct of orientation courses for the training of the personnel of the legal aid and legal advice machinery;

(e) manner in which help of Legal Practitioner desirous of rendering help without any fee shall be sought;

(f) manner in which practice of appearance by amicus curiae may be evolved and encouraged :

1[(ff) the emolument and other terms and conditions of service of Executive Chairman under Section 4 (3-B) (iii).]

(g) the form in which and the date by which a supplementary budget shall be submitted under sub-section (3) of Section 29;

(h) the manner in which an annual report shall be prepared and forwarded to the State Government under sub-section (1) of Section 30;

- (i) the manner in which the Board shall cause to be maintained proper books of accounts and other books under sub-section (1) of Section 31;
- (j) the form and manner in which and the time by which the statistics, returns, particulars or statements shall be submitted under Section 32;
- (k) enumeration of other matters in which no legal aid or legal advice shall be granted or given under clause (h) of Section 37;
- (l) (i) the form in which an application shall be made under sub-section (1) of Section 38;
- (ii) the manner in which settlement shall be brought about under sub-section (2) of Section 38;
- (m) (i) the form in which an application shall be made under sub-section (1) of Section 39;
- (ii) the form in which the order sanctioning grant of legal aid shall be made under sub-section (2) of Section 39;
- (n) (i) the date by which a list of Legal Practitioners shall be prepared under sub-section (1) of Section 40;
- (ii) the functions and the duties which shall be performed and discharged by the panel of Legal Practitioner under sub-section (3) of Section 40;
- (iii) the remuneration to which panel Legal Practitioner shall be entitled under sub-section (4) of Section 40;
- 2[(o) the procedure for providing legal aid in the High Court and the Supreme Court;
- (p) any other matter which is to be or may be prescribed.
- (3) All rules made under this Act shall be laid on the table of the Legislative Assembly.

1. Inserted by M.P. Act No. 26 of 1986.

2 Inserted by M.P. Act No. 51 of 1976.

47. Power To Make Regulations :-

The Board may, with the previous sanction of the State Government make regulations not inconsistent with this Act or the Rules made there under to provide for all matters for which provision is required to be made under this Act by regulations.