

## **Maharashtra State Legal Services Authority Rules, 1998**

**[13 January 1998]**

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### **Maharashtra State Legal Services Authority Rules, 1998**

**[13 January 1998]**

<sup>1</sup>[Noti. Lab. 1895/359 (642) XXII, dt .13.01.1998 - In exercise of the powers conferred by Sec. 28 of the Legal Services Authorities Act, 1987 (39 of 1987), and of all other powers enabling it in this behalf, the Government of Maharashtra, hereby in consultation with the Chief Justice of Bombay High Court, makes the following rules, namely:-

#### **1. Short title and commencement :-**

- (1) These rules may be called the Maharashtra State Legal Services Authority Rules, 1998.
- (2) They shall come into force on the 14th day of January, 1998.

#### **2. Definitions :-**

In these rules, unless the context otherwise requires.-

- (a) "Act" means the Legal Services Authorities Act, 1987 (39 of 1987);
- (b) "Chief Justice" means the Chief Justice of Bombay High Court;
- <sup>2</sup>[(c) "District Authority" means the District Legal Services Authority constituted under Sec. 9 of the Act. \*[ ]
- (d) "Government" means the Government of Maharashtra;
- (e) "High Court Legal Services Committee" means the High Court Legal Services Committee constituted for the principal seat of the Bombay High Court at Mumbai and its Benches at present functioning at Nagpur and Aurangabad and Benches that may be formed at any other place within the State of Maharashtra;
- (f) "Schedule" means Schedule appended to these rules;
- (g) All other terms and expressions used under these rules but not defined

shall have the meanings respectively assigned to them in the Act.

1. Published in the Official Gaz., Govt. of Maharashtra, Part IV-AA,

dt. 13.01.1998.

2. Clause (c) Substituted by the Maharashtra State Legal Services Authority (First Amendment) Rules, 2006 (w.e.f. 29.9.2006).

\* The word "and includes the District Brihan Mumbai Legal Services Authority and District Brihan Mumbai Suburban Legal Services Authority" omitted by Notification No.LAB 2005/269/(C.R.21)D-22, Law & Judiciary (w.e.f. 15.09.2006).

**3. Number, experience and qualifications of other Members of the State Authority under Cl. (c) of sub-section (2) of Sec. 6- :-**

(1) Apart from the Chief Justice and the Executive Chairman, the following shall be ex-officio members

of the-State Authority:-

- (i) The Minister for Law and Judiciary;
- (ii) The Advocate-General of Maharashtra;
- (iii) The Chief Secretary to Government;
- (iv) The Secretary to Government in the Law and Judiciary Department;
- (v) The Secretary to Government in the Finance Department;
- (vi) The Director-General of Police, Maharashtra State;
- (vii) Member-Secretary of the State Authority appointed under sub-section (3)

of Sec. 6 of the Act.

Provided that, the officer presently functioning as the Secretary of the

Maharashtra State Legal Aid and Advice Board shall be the Member-Secretary

of the State Authority for a period of not exceeding five years as provided under

the proviso to sub-section (3) of Sec. 6 of the Act.

(2) The Government may nominate, in consultation with the Chief Justice,

other members not exceeding ten in number of whom at least half shall be women, possessing the experience and qualifications prescribed

in sub-rule (3) of this rule.

(3) A person shall not be qualified for nomination as member of the

State

Authority unless in the opinion of Government he is-

- (a) an eminent Social Worker who is engaged in upliftment of the weaker sections of the society including Scheduled Castes, Scheduled Tribes, women, children, 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 Services Schemes.

**4. Powers and functions of the Member-Secretary of the State Authority under sub-section (3) of Sec. 6 :-**

Subject to the general supervision of the State

Authority and the Executive Chairman, the powers and functions of the

Member-Secretary of the State Authority, shall be as follows, namely:-

- (a) to arrange for free legal services to the eligible and weaker sections;
- (b) to work out modalities of the Legal Services Schemes and programmes approved by the State Authority and ensure their effective monitoring and implementation;
- (c) to exercise the powers in respect of Administration, House-keeping, Finance and Budget matters as Head of Department in the State Government;
- (d) to manage the properties, records and funds of the State Authority;
- (e) to arrange for maintenance of true and proper accounts of the State Authority including checking and auditing in respect thereof periodically;
- (f) to prepare Annual Income and Expenditure Account and Balance Sheet of the State Authority;
- (g) to liaison with the Social Action Groups and District and Taluka Legal Services Authorities;
- (h) to maintain up-to-date and complete statistical information including progress made in the implementation of various Legal Services Programmes from time to time;
- (i) to process proposals for financial assistance and issue utilisation

Certificates thereof;

(j) to organise various Legal Services Programmes, as approved by the State

Authority and convene meetings, seminars and workshops connected

with Legal Services Programmes and preparation of Reports and follow-up action thereon;

(k) to arrange for production of video or documentary films, publicity

material, literature and publications to inform general public about the

various aspects of the Legal Services Programmes;

(l) to lay stress on the resolution of rural disputes and to take extra measures to draw schemes for effective and meaningful legal services

for setting rural disputes at the door-steps of the rural people;

(m) to perform such of the functions as are assigned to him under the Schemes

formulated under Cl. (b) of Sec. 4 of the Act; and

(n) to perform such other functions as may be expedient for efficient

functioning of the State Authority.

**5. Terms of office and other conditions relating thereto, of members and Member-Secretary of the State Authority under sub-section (4) of Sec.6 :-**

(1) The term of office of the members of the State Authority nominated

under sub-rule (2) of Rule 3 by the Government shall ordinarily be for a period of three years and they shall be eligible for re-nomination.

A member whose terms has expired, shall, however, continue in office

till new member is appointed in his place.

(2) A member of the State Authority nominated under sub-rule (2) of Rule

3 may resign by letter addressed to the Chief Justice. He may also be

removed by the Government if in its opinion he is not taking sufficient

interest in the activities of the State Authority.

(3) If a member nominated under sub-rule (2) of Rule 3 ceases to be a member of the State Authority for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the member in whose place he is nominated.

(4) If a member is a sitting or retired Judge of the Supreme Court or the High Court he will be entitled to travelling allowance and daily allowance according to the rules applicable to the sitting Judges of the Court concerned. The members who are other functionaries such as sitting members of Legislative Assembly and Government servants shall be entitled to the travelling allowance and daily allowance according to the rules applicable to them.

(5) If the nominated member is a Government employee, he shall be entitled to only one set of travelling and daily allowance, either from his parent Department or as the case may be from the State Authority.

(6) In all matters like age of retirement, pay and allowances, benefits and entitlement, and disciplinary matters, the Member-Secretary shall be governed by the Government Rules applicable to him.

## **6. Number of officers and other employees of the State Authority under subsection (5) of Section 6 :-**

The State Authority shall have such number of officers and other employees as specified in the Schedule.

## **7. Conditions of service and the salary and allowances of officers and other employees of the State Authority under sub-sec. (6) of Sec. 6 :-**

(1) The officers and other employees of the State Authority shall be entitled

to draw pay and allowances in the scale of pay at par with the Government officers and employees holding equivalent posts.

(2) In all matters like age of retirement, pay and allowances, benefit and

entitlements and disciplinary matters, the officers and other employees

of the State Authority shall be governed by the Government Rules as

are applicable to persons holding equivalent posts.

(3) The officers and other employees of the State Authority shall be entitled to such other facilities, allowances and benefits as may be notified

by the Government from time to time.

**8. Experience and qualifications of Secretary of the High Court Legal Services Committee under sub-section (3) of Sec. 8-A :-**

(1) A person shall not be qualified for appointment as Secretary of the

High Court Legal Services Committee unless he is an officer of the High

Court not below the rank of an Additional Registrar.

(2) The State Authority shall as provided under sub-section (1) of Sec. 8-

A of the Act, appoint separate High Court Legal Services Committee for each of its Benches already functioning at Mumbai, Nagpur and Aurangabad and for other Benches that may be established at any other

places within the limits of Maharashtra State.

**9. Number of officers and other employees of the High Court Legal Services Committee and the condition of service and the salary and allowance payable to them under sub-sections (5) and (6) of Sec. 8A :-**

(1) Each High Court Legal Services Committee shall have such number of

officers and other employees as specified in the Schedule.

(2) The officers and other employees of a High Court Legal Services Committee be entitled to draw pay and allowances in the scale at par

with the Government employees holding equivalent posts.

(3) In all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, the officers and other employees of a High Court Legal Services Committee shall be governed by the Government Rules as are applicable to persons holding equivalent posts.

(4) The officers and other employees of a High Court Legal Services Committee shall be entitled to such other facilities, allowances and benefits as may be notified by the Government from time to time.

(5) For a period of one year from the date, Chapter III of the Act is brought into force in the State of Maharashtra, it shall be lawful for the Government to provide each High Court Legal Services Committee with the additional strength of staff as indicate in the Schedule.

**10. Number, experience and qualifications of Members of the District Authority, under Cl. (b) of sub-section (2) of Sec. 9 :-**

(1) In all districts except District \*[ ] Mumbai and District \*[ ] Mumbai Suburban the following shall be ex officio members of the District Authority, apart from the District Judge namely:-

- (i) Collector;
- (ii) Commissioner of Police (if appointed in any district)
- (iii) Superintendent of Police;
- (iv) Chief judicial Magistrate ;
- (v) District Government Pleader ;
- (vi) Member-Secretary.

(2) The Government may nominate in consultation with the Chief Justice other members not exceeding six in number of whom at least half are women possessing qualifications and experience prescribed in sub-rule (3) of this rule.

(3) A person shall not be qualified for nomination as a member of the District Authority unless he is,-

(a) an eminent Social Worker who is engaged in the upliftment of the



weaker sections of the society, including Scheduled Castes, Scheduled Tribes, women, children and urban or rural labour; or

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

(c) a person of repute who is specially interested in implementation of the Legal Services Schemes.

(4) The Government shall, in consultation with the Chief Justice, constitute

the District \*[ ] Mumbai Legal Services Authority; and District \*[ ] Mumbai Suburban Legal Services Authority, consisting of the following, ex-officio members, namely:-

1. Substituted by the Maharashtra State Legal Services Authority (First Amendment) Rules, 2006

(w.e.f. 29.06.2006).

\* The word " Brihan" omitted by Notification No.LAB 2005/269/(C.R.21)D-22, Law & Judiciary (w.e.f. 15.09.2006).

(A) The District \*[ ] Mumbai Legal Services Authority-

(i) Principal Judge, City Civil Court;

(ii) Collector of Mumbai City;

(iii) Commissioner of Police, \*[ ] Mumbai;

(iv) Government Pleader, City Civil Court, Mumbai;

(v) Chief Metropolitan Magistrate, Mumbai.

(B) The District \*[ ] Mumbai Suburban Legal Services Authority-

(i) Principal Judge, Family Court, Mumbai;

(ii) Collector of Mumbai Suburban;

(iii) Commissioner of Police, \*[ ] Mumbai;

(iv) Additional /Assistant Government Pleader, City Civil Court, Mumbai

(v) Chief Judge, Small Causes Court, Mumbai.

(5) The Government may nominate in consultation with the Chief Justice

other members not exceeding six in number of whom at least half shall be

women, on the above Authorities, possessing the qualifications and experience prescribed in sub-rule (3) of this rule.

(6) Every High Court Legal Services Committee shall have power of general supervision over the District Authorities falling within their respective territorial jurisdiction.

**11. Number of officers and other employees of District Authority under subsection(5) of Sec. 9 :-**

(1) Subject to the proviso of sub-rule (4) of Rule 12 of these rules the District Authority shall have such number of officers and other employees as specified in the Schedule.

**12. Conditions of service and salary and allowances of officers and other employees of the District Authority under sub-section (6) of Sec.9 :-**

(1) The officers and other employees of the District Authority shall be entitled to draw pay and allowances at par with the State Government employees holding equivalent posts.

(2) In all matters like age of retirement, pay and allowances, benefits and entitlement and disciplinary matters, the officers and other employees of the District Authority shall be governed by the State Government Rules as are applicable to persons holding equivalent posts.

(3) The officers and other employees of the District Authority shall be entitled to such other facilities, allowances and benefits as may be notified by the Government from time to time.

(4) The staff namely, clerks, peons, Safaikamgars and watchmen presently functioning on the District Committees and the Greater Bombay Legal Aid and Advice Committee shall be absorbed on the District Authority on the posts of clerk-cum-typists, peons, Safaikamgars and watchmen respectively on the condition that they would qualify for the said posts after absorption wherever required.

**13. Number, experience and qualification of members of the taluka legal services committee under Cl. (b) of sub-section (2) of Sec. 11-A :-**

(1) Apart from the Chairperson appointed under Cl. (a) of sub-

section (2) of

Sec. 11-A of the Act, the following shall be ex-officio members of Taluka

Legal Services Committee, namely:-

(i) Sub-Divisional Police Officer;

(ii) One of the Law Officers posted at the Taluka Headquarters, if any;

(iii) Block Development Officer

(2) The State Government may nominate in consultation with the Chief

Justice other members not exceeding four in number of whom at least

half shall be women, possessing the qualifications and experience prescribed in sub-rule (3) of this rule.

(3) A person shall not be qualified for nomination as a member of the

Taluka Legal Services Committee unless he is,-

(a) an eminent Social Worker who is engaged in the upliftment of weaker sections of the society including Scheduled Castes, Scheduled Tribes, women, children and rural 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 Services Scheme.

(4) The Chairman of the Taluka Legal Services Committee may appoint

either the Law Officer or the Block Development Officer as Secretary of

the Committee.

**14. Number of officers and other employees of the Taluka Legal Services Committee under sub-section (3) of Sec. 11-A :-**

The Taluka Legal Services

Committee shall have such number of officers and other employees as

specified in the Schedule.

**15. Conditions of service and the Salary and Allowances of Officers and other employees of the Taluka Legal Services Committee under subsection (4) of Sec. 11-A :-**

(1) The officers and other employees of the Taluka Legal Services Committee shall be entitled to draw pay and allowances at par with the State Government employees holding equivalent posts.

(2) In all matters like age of retirement, pay and allowances, benefits, entitlements and disciplinary matters, the officers and other employees of the Taluka Legal Services Committee shall be governed, by the State Government Rules as are applicable to persons holding equivalent posts.

(3) The officers and other employees of the Taluka Legal Services Committee shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

**16. Upperlimit of Annual Income of person for availing Legal Services under Cl. (h) of Sec. 12 :-**

Any citizen of India whose case is before a Court, other than the Supreme Court, and whose annual income from all sources does not exceed \*Rs.50,000 (Rupees fifty thousand) shall be entitled to legal services under Cl. (h) of Sec. 12 of the Act.

**17. Experience and qualifications of the other persons of Lok Adalats other than referred to in sub-section (4) of Sec. 19 :-**

A person shall not be qualified to be included in the Bench of Lok Adalat unless he is,-

(a) an eminent social worker who is engaged in the upliftment of the weaker

sections of the people, including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour; or

(b) a lawyer of standing repute; or

(c) a person of repute who is specially interested in the implementation of the Legal Services Scheme and Programmes.

**18. Saving :-**

The provisions of the Maharashtra Legal Aid and Advice Scheme, 1979, the Maharashtra State Legal Aid and Advice Board Rules, 1981 and the Maharashtra State Legal Aid and Advice Board Regulations, 1981 on any matter such as honoraria to be paid to the Pleaders, registers and other record to be maintained etc. which are not inconsistent with any provisions of the Act or these Rules or Regulations that may be framed under Sec.29-A by the State Authority shall remain in force mutates mutandis until different provisions is made under the Act, these Rules and Regulations as the case may be.