

## CHAPTER-IV

### LEGAL AID

**15. Criteria for giving legal services.**—Every person who has to file or defend a case shall be entitled to legal services if that person is :—

- (a) a member of a Scheduled Caste or Scheduled Tribes;
- (b) a victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitutions;
- (c) a women or a child;
- (d) a mentally ill or otherwise disabled person;
- (e) a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) an industrial workman; or
- (g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956, or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 or in a psychiatric nursing home within the meaning of clause (g), of section 2 of the Mental Health Act, 1987; or
- (gg) **“Transgender people and Senior citizens who attain the age of 60 years” and above whose**

**annual income is less than two lakh rupees per annum. (added vide this Authority Notification No. 9-LSA/Regulation/96, dated 18.5.2011)**

- (h) in receipt of annual income less than rupees one lakh (amended vide Notification No. LLR-A(3)-2/2005, dated 9.8.2010 issued by the L.R.-cum-Secretary Law, Govt. of H.P.) or other higher amount as may be fixed under rule 17 of the Himachal Pradesh Legal Services Authority Rules, 1995;

Provided that the Legal Services Committee or authority may grant legal aid—

- (i) in a case of great public importance; or
- (ii) in a test case, the decision of which is likely to affect cases of numerous other persons belonging to the weaker sections of the community; or
- (iii) in any case, which for reasons to be recorded in writing, is considered by the Chairman to be deserving of legal aid even where the means test is not satisfied.

**16. Modes of legal aid.**—Legal aid may be given in all or any one or more of the following modes, namely:

- (a) payment of court-fees, process fees and all other charges payable or incurred in connection with any legal proceedings;
- (b) representation by a legal practitioner in legal proceedings;

- (c) obtaining and supply of certified copies of orders and other documents in legal proceedings;
- (d) preparation of appeal, paper book including printing and translation of documents, in legal proceedings;

### NOTIFICATION

The H. P. State Legal Services Authority in exercise of the powers conferred on it under section 29-A of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987) hereby makes the partial modification of this Authority Notification No. 9-LSA/Regulations/96 dated 15-5-1996 **by deleting/omitting the Regulations No. 17** of the Himachal Pradesh State Legal Services Authority Regulations, 1996.

By order,

**(P. D. Goel),**  
*Member Secretary,*  
*H.P. State Legal Services Authority,*  
*Shimla-171009.*

**18. Application for legal aid or advice.—**(1) Any person desiring legal aid or advice may make an application addressed to the Secretary of the Authority/Committee. But if the applicant is illiterate or not in a position to fill in the particulars required in the application, the Secretary or any other officer of the Committee or any legal practitioner whose name appears on the panel of Legal aid lawyer of the Authority/Committee, as the case may be, shall gather the necessary particulars from the applicant and prepare the application on his behalf and after reading it out and explaining it to him, obtain his signature or thumb mark on it.

(2) The Authority/Committee shall maintain a register of applications wherein all applications for legal aid and advice shall be entered and registered and the action taken on such applications shall be noted against the entry relating to each such application.

**19. Disposal of applications.**—(1) On receipt of an application for legal aid or advice, in the case of High Court Committee or District Authority, the Secretary and in the case of Taluka Committee, the Chairman of the Taluka Committee shall scrutinise the application for the purpose of deciding whether the applicant is deserving of legal aid in accordance with the provisions of these Regulations and for the purpose of arriving at such decision, he may require the applicant to submit further information as may be necessary and also discuss the matter personally with the applicant and in doing so he shall have regard to the fact that the applicant belongs to a weaker section of the Community and is required to be assisted even in the matter of obtaining legal aid. The application shall be processed as early as possible and preferably within one week.

(2) The Legal Services Authority/Committee to which application is made shall consider the application and decide desirability of granting application and its decision to give or refuse legal aid shall be final.

(3) Where it is decided not to give legal aid to an applicant, the reasons for not doing so shall be entered in the Register of applications maintained by the Authority/Committee and information in writing to that effect shall be communicated to the applicant.

(4) No application for legal aid or advice shall be allowed, if the Authority/Committee is satisfied that:—

- (a) the applicant has knowingly made false statement or furnished false information as regards his means or place of residence; or
- (b) in a proceeding, other than the one relating to criminal prosecution, there is no *prima facie* case to institute, or as the case may be, to defend the proceeding; or
- (c) the application is frivolous or fictitious; or
- (d) the applicant is not entitled to the same under regulation 17 or any other provision of these regulations; or
- (e) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

**20. Certificate of Eligibility.**—(1) Where an application for legal aid or advice is allowed, the Secretary of the Authority/Committee shall issue a Certificate of Eligibility to the applicant entitling him to legal aid or advice in respect of the proceeding concerned.

(2) The Certificate of Eligibility shall stand cancelled if the legal aid is withdrawn and the lawyer to whom the case of the applicant is assigned as also the court before which the case is pending shall be informed accordingly in writing.

**21. Honorarium payable to Legal Practitioner on the Panel.**—(1) Subject to the approval of the State Authority, the Legal Services Authority/Legal Service Committee shall prepare a panel of legal practitioners who are prepared to represent or prosecute the cases on be

half of the legal aided persons under these regulations. The legal practitioners on the panel shall be paid honorarium as set out in the Schedule:

## **H.P. STATE LEGAL SERVICES AUTHORITY, SHIMLA-9**

### **NOTIFICATION**

*Shimla-9, the 11th October, 2004*

**No. 9-LSA-Regulations/96.**—In exercise of the powers conferred under section 29A of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), the H. P. State Legal Services Authority hereby makes the following regulations further to amend the H. P. State Legal Services Authority Regulations, 1996 notified vide this Authority Notification No. 9/LSA/Regulation/96, dated 15th May, 1996, published in Rajpatra, Himachal Pradesh (Extra-ordinary), dated 17th May, 1996, namely:—

**1. Short title and commencement.**— (i) These Regulations may be called the H. P. State Legal Services Authority Regulations (Third amendment), 2004.

(ii) They shall come into force from the date of publication in Rajpatra, Himachal Pradesh.

**2. Amendment of Regulation 21(1).**—In Regulation 21(1) of the H. P. State Legal Services Authority Regulations, 1996 after the first sentence, the following sentence shall be added:—

"The Panel shall remain in force for a period of two years from the date of preparation."

By order,

**(V. K. Sharma)**  
Member Secretary

Provided that where the matter is disposed of in less than five effective hearings, the fee payable shall be 1/3 of the fee prescribed in the Schedule.

**STATE LEGAL SERVICES AUTHORITY, SHIMLA-9**

**NOTIFICATION**

*Shimla-9 the 11th October, 2004*

**No. 9-LSA-Regulations/96.**—In exercise of the powers conferred under section 29A of the Legal Services Authorities Act, 1987 (Act No. 39 of 1987), the H. P. State Legal Services Authority hereby makes the following regulations further to amend the H. P. State Legal Services Authority Regulations, 1996 notified vide this Authority Notification No. 9/LSA/Regulation/96, dated 15th May, 1996, published in Rajpatra, Himachal Pradesh (Extra-ordinary), dated 17th May, 1996, namely:—

**1. Short title and commencement.**— (i) These Regulations may be called the H. P. State Legal Services Authority Regulations (Third amendment), 2004.

(ii) They shall come into force from the date of publication in Rajpatra, Himachal Pradesh.

**2. Amendment in proviso to Regulation 21(1).—**In Regulation 21(1) of the H. P. State Legal Services Authority Regulations, 1996 the figure "1/3" shall be substituted by figure "1/2".

By order,

**(V. K. Sharma)**  
Member Secretary.

(2) No legal practitioner to whom any case is assigned either for legal advice or for legal aid shall receive any fee or remuneration whether in cash or any kind or in other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.

(3) The Legal practitioner on the Panel, who has completed his assignment, shall submit a statement showing the honorarium due to him in connection with the legal proceeding conducted by him on behalf of the legally aided person, to the Secretary of the Authority/Committee who shall, with the approval of the Chairman and after due scrutiny and counter-signature, place the same before the Authority/Committee for sanction and on such sanction being given by the Authority/Committee the amount shall be paid by the Secretary to the legal practitioner. It will, however, be open to the legal practitioner to waive the honorarium in whole or part.

**22. Duty of aided person.—**(1) Every aided person or his representative shall attend the office of the Authority/Committee as and when required by the Authority/Committee or by the legal practitioner rendering legal aid to him and shall furnish full and true information and shall make full disclosure to the legal practitioner concerned and shall attend the Court, as and when required, at his own expense.

