



GOVERNMENT OF MEGHALAYA

MEGHALAYA STATE LEGAL SERVICES AUTHORITY RULES

FOR THE YEAR 1998

PART – I
GOVERNMENT OF MEGHALAYA
LAW (B) DEPARTMENT
ORDERS BY THE GOVERNOR

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NOTIFICATION

The 27th April 1998

No. LJ(B) 8/98/91 – In exercise of the powers conferred by section 28 of the Legal Services Authorities Act, 1998 (No. 39 of 1987), as amended by the Legal Services Authorities (Amendment) Act 1994 (No. 59 of 1994), the Government of the State of Meghalaya, in consultation with the Chief Justice of the Gauhati High Court, hereby makes the following rules, namely:-

1. **Short title and commencement** – (1) These rules may be called “The Meghalaya State legal Services Authority Rules, 1998”.

(2) They shall come into force on such as the State Government may by notification in the official Gazette appoint.
2. **Definitions** – (1) In these rules unless the context otherwise required –
 - (a) “Act” means the Legal Services Authorities Act, 1987 (No. 39 of 1987) as amended by the Legal Services Authorities Act, 1994 (No. 59 of 1994);
 - (b) “Chief Justice” means the Chief Justice of the Gauhati High Court;
 - (c) “District Authority” means the District Legal Services Authority constituted under section 9;
 - (d) “High Court Legal Services Committee” means a High Court Legal Services Committee constituted under Section 8A;
 - (e) “Nominated member” means a member of the State Authority nominated under sub-rule (3) of rule 3;
 - (f) “Secretary” means the Member Secretary of the State Legal Services Authority constituted under section 6 of the Act or as the case may be, the Secretary of the High Court Legal Services Committee constituted under section 8A of the Act or as the case may be, the Secretary of the District Legal Services Authority constituted under section of the Act;
 - (g) “Section” means a section of the Act;

(h) “State Authority” means the Meghalaya State Legal Services Authority constituted under sub-section (1) of section 6; and

(i) “State Government” means the Government of the State of Meghalaya.

3. Member and qualifications of members of the State Authority:

(1) The State Authority shall have not more than fifteen members.

(2) The following shall be ex-officio members of the State Authority:-

- i) The Advocate General;
- ii) The Secretary in the Department of Finance;
- iii) The Secretary in the Department of Law;
- iv) The Inspector General of Police;
- v) Three Secretaries, one each, of the Khasi Hills Autonomous District Council, the Garo Hills Autonomous District and the Jaintia Hills Autonomous District Council.

(3) The State Government may, in consultation with the Chief Justice nominate by name three other members from amongst persons of whom at least one is a woman who are eminent in the field of law, social work or implementation of legal services schemes.

4. Powers and functions of the Secretary:- The powers and functions of the Secretary in connection with the State Authority shall, *inter alis* be –

- (a) To give free legal services to the eligible and weaker sections;
- (b) To work out modalities and organise programme and take follow-up action for effective implementation of legal services schemes approved by the State Authority;
- (c) To monitor and maintain statistical information and to prepare reports on the progress of various legal services programmes from time to time;
- (d) To liaise with the social action groups and District Legal Services Authorities;
- (e) To produce publicity material, literature and publication concerning the various aspects of the legal services programmes;
- (f) To lay stress on the resolution of rural litigation and rural disputes and evolve schemes for their resolution;
- (g) To exercise the powers in respect of administrative, finance and budget matters;
- (h) To manage the properties and funds and to maintain or cause to be maintained proper accounts;
- (i) To prepare annual income and expenditure statement;
- (j) To act as the Drawing and Disbursing officer and to operate the State Legal Aid Fund. And
- (k) To perform such other functions as may be expedient for efficient functioning of the State Authority and for implementation of the Legal services schemes.

5. **Term of Office of a nominated member** – A nominated member shall hold office for a term of two years from the date of his nomination and may be eligible for re-nomination.
- Provided that a nominated member may, by writing to the State Government, resign his office earlier.
6. **Termination of membership and filling up of the vacancy** – (1) The State Government may in consultation with the Chief justice, terminate the membership of a nominated member if it is not considered desirable that he continues as such member.
- (2) Where the membership of a nominated member is terminated another person shall in the same manner be nominated in his place and such person shall hold office for the remaining term of the member in whose place he is nominated.
7. **Travelling allowance** – (1) For performing journeys in connection with the work of the State Authority a nominated member shall be entitled to travelling and daily allowances at rates admissible to Grade I officers of the State Government.
- (2) If a nominated member is an employee of the government or of any Board, corporation or authority he shall be entitled to draw travelling and daily allowances either from his parent department or from the State Authority.
8. **Conditions of service of the Secretary** – A person on his appointment as Secretary of the State Authority shall be treated to be on deputation to that Authority for a period of five years and for the purposes of pay and allowances, retirement, disciplinary matters and other conditions of Service he shall be governed by rules of the State Government as may be applicable to him.
9. **Qualification for appointment as Secretary of the High Court Legal Services Committee** – A person for appointment as Secretary of the High Court Legal Services Committee shall be an officer of the High Court not below the rank of Deputy Registrar.
10. **Number and qualification of members of the District Authority** – (1) A District Authority shall have not more than eight members.
- (2) The following shall be ex-officio members of a District Authority:-
- i) One Additional District Magistrate of the district.
 - ii) One Superintendent of Police of the District.
 - iii) The Chief Judicial Magistrate or in district where there is no such Magistrate, the Judge or in his absence, the judicial officer of the District Council court having jurisdiction over the district; and
 - iv) The State Government Pleader.

(3) The State Government may in consultation with the Chief Justice, nominate by name two other persons, one of whom is a woman, who are known in the field of law, social work or implementation of legal services schemes.

11. Posts and Officers and Employees of the State Authority, the High Court Legal Services Committee and the District Authorities and their conditions of service: -

(1) For rendering secretarial and other assistance, the State Authority, the High Court Legal Services Committee and the District Authorities shall have such number posts and of officers and other employees as the state Government may in consultation with the Chief Justice from time to time decide.

(2) The scales of pay and other allowances of the officers and other employees referred to in sub-rule (1) shall be at par with those applicable to State Government or High Court officers and employees as the cases may be holding equivalent posts as the State Government may in consultation with the Chief Justice decide.

(3) For the purposes of retirement and service benefits and for disciplinary matters and other conditions of service, the officers and other employees referred to in sub-rule (1) shall be governed by rules and orders of the State Government applicable to persons holding equivalent posts.

12. Annual income for entitlement to legal services:- A citizen of India whose annual income from all sources does not exceed Rupees fifteen thousand (Rs. 25,000/- amended by LJ(B) 8/98/244 Dt 26-10-04) only or such higher amount as may be notified by the State Government from time to time shall be entitled to legal services:

Provided that legal services may be granted in the following cases if it satisfied that it is –

- (a) A case of great public importance; or
- (b) A test case, the decision of which is likely to effect cases of numerous other persons; of
- (c) A special case which otherwise deserving of legal services.

13. INELIGIBILITY:- No legal services shall be given in the following cases, namely:-

- (a) Proceedings in which action for defamation is wholly or partly involved;
- (b) Proceedings relating to any election or matters incidental thereto; and
- (c) Where a person seeking legal services –
 - i) Is accused of economic offences or offences against laws such as those relating to protection of civil rights, commission of atrocities on Scheduled Castes and Scheduled Tribe and to food adulteration.
 - ii) Is concerned with the proceedings only in a representative or official capacity; or
 - iii) Is concerned with the proceedings jointly with some other person or persons whose interest is identical with his and any of such persons is adequately represented in the proceedings; or

- iv) Is a formal party to the proceedings not materially concerned in the outcome of the proceedings and his interest is not likely to be prejudice if representation is not made.

14. WITHDRAWAL OF LEGAL AID:- Legal services shall not be granted and if granted, shall be withdrawn –

- (a) If it is found that the person furnishes any false statement in his application, conceals facts or knowingly makes false statement concerning his case, or
- (b) If the person's conduct or demeanor during the course of his receiving legal services is not satisfactory.
- (c) If the person does not co-operate with the State Authority, the High Court Legal Services committee or the District Committee or the Authorities thereof;
- (d) In the event of death of the person, except in case of civil proceedings where the right or liability survives; or
- (e) If the grounds of the case are or turn out to be frivolous or fictitious or
- (f) If having regard to all circumstances, the person has no prime facie case or it is otherwise not reasonable to grant it.

15. PROCEDURE FOR THE FILING APPLICATION – (1) Any person desiring legal services shall make an application to the member Secretary or the Secretary of the State Authority, the High Court Legal Services Committee or, as the case may be of the District Committee concerned in form 'A'.

- (2) In case of illiterate or handicapped persons the Secretaries referred to in sub-rule (1) shall render all necessary assistance in completing the form.

16. DISPOSAL OF APPLICATIONS :- (1) On receipt of an application the same shall be scrutinised and if it is in order, considered as early as possible for grant or otherwise of legal services to the person concerned.

- (2) Wherever necessary, further information materials or documents may be called for from the applicant or an enquiry may be made or caused to be made before a decision taken.

17. FORMS OF LEGAL AID :- (1) Grant of legal services under these rules shall be in one or more of the following, namely :-

- (a) Legal advice;
 - (b) Engagement of a lawyer for representing the case of the person concerned;
 - (c) Drafting of legal documents or translation of documents relevant to the proceedings.
- (2) Grant of legal services is subject to the condition that the aided person agrees to reply the cost, charges and expenses incurred in giving him the legal services in the event the court passes a decree or order awarding costs or other monestary benefits to him.

18. **APPOINTMENT OF LAWYER** :- (1) Where it is decided that legal services shall be provided to the applicant, a lawyer shall be appointed and all necessary steps shall be taken by the lawyer.
- (2) Where it is a case of legal advice the lawyer appointed under sub-rule (1) shall hear the person's case examine papers and documents and after forming his opinion thereon tender his legal advice in writing to that person and where it is a case other than legal advice, the lawyer shall take steps to prepare the necessary papers; represent the person and conduct the case in his behalf and shall keep the Member-Secretary or the Secretary of the High Court Legal Services Committee or the District Committee concerned as the case may be informed of the proceedings from time to time.
19. **Fees of Lawyers and Payment of** :- (1) In case of legal advice the lawyer when engaged by the Board may be paid such fees not exceeding rupees five hundred as the State Authority, the High Court Legal Services Committee or the District Committee concerned, as the case may be decide.
- (2) In case of legal services other than legal advice, the rates of fees shall be those as are payable to the Government Advocates in the High Court of the District Courts according as their appearance is in the High Court or in the District Court.
- (3) Notwithstanding the provisions for payment of fees under these rules it shall be given to the lawyer to waive the entire amount of fees payable to him or any part thereof.
20. **Bar to accept any other remuneration:** - No lawyer engaged in any case under these rules shall accept any fee or reward whether in cash or kind from the person provided with legal services.
21. **Duties of the person concerned:** - A person who is provided with legal services shall co-operate with the lawyer and shall comply with the directions that may be issued to him from time to time by the authorities under these rules.
22. **Amicable settlement:-** Notwithstanding the provisions contained in these rules for grant of legal services, it shall be the duty of the Authorities and the lawyer to attempt as far as may be practicable in the first instance to bring the parties to a dispute to an amicable settlement before providing any legal services to the applicant.
23. **Qualification and experience of persons for Benches of Lok Adalats:-** A Bench of any Lok Adalat when held shall consist of persons including women, professing interest in legal services programmes and such persons may be drawn from amongst –
- (a) Lawyers;
 - (b) Educationists or teachers whether serving or retired.
 - (c) Social workers;
 - (d) Officers of the Government, District Council or Public Sector undertakings;
 - (e) Village chiefs and elders;

- (f) Church and other religious leaders;
- (g) Prominent residents of the areas; and
- (h) Any person as the State Authority or the district Authority may consider it fit to nominate

24. **Interpretation:** - If any Dispute arises regarding the interpretation of any of the provisions of these rules, the decision of the State Government in the Law Department in consultation with the Chief Justice shall be final.

25. **Repeal and Savings:** - (1) The Meghalaya State Legal Aid Rules, 1982 are hereby repealed.

(2) Notwithstanding the repeal anything does not inconsistent with these rules shall be deemed to have been done under the provisions of these rules.

(L. JYRWA),
Secretary to the Government of Meghalaya,
Law Department.

FORM 'A'
APPLICATION FOR LEGAL SERVICES
[Rule 15 of the Meghalaya State legal Services Authority Rules, 1998]

To

The Meghalaya Secretary,
Meghalaya State Legal Authority,
SHILLONG.

The Secretary,
High Court Legal Services Committee,
SHILLONG.

The Secretary,
District Legal Services Authority,
..... District

Sir,

I have the honour to request that the Legal Services may kindly be provided to me so that proper steps can be taken on my behalf in the case the particulars and grounds of which are given below. Other particulars in respect of my application are as follows:-

1. Name
2. Age

3. Permanent Address
4. Present Address
5. Community (Scheduled Castes, Scheduled Tribes or Other Backward Class)
6. Occupation
7. Total annual income
8. Number of dependent family members
9. Nature of case/dispute and legal aid required (State the parties involved or likely to be involved nature of the case/dispute, the origin of the case/dispute, the claim or right sought to be established/granted and any other information or material relevant to the case/dispute).
10. Whether legal aid/legal services have been previously applied for granted. If so, give details.

I am not in a position to engage a lawyer and to pay court fees and other expenses in connection with the legal proceedings on account of indigent condition. I certify that the statement above is true to the best of my knowledge and belief.

I agree to repay the cost, charges and expenses that may be granted to me in case the court passes a decree or order awarding costs or other monetary benefits in my favour. For this purpose I do.