

# The Maharashtra State Legal Aid and Advice Board Rules, 1981

MAHARASHTRA

India

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### Rule

### THE-MAHARASHTRA-STATE-LEGAL-AID-AND-ADVICE-BOARD-RULES of 1981

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The Maharashtra State Legal Aid and Advice Board Rules, 1981Published vide Notification No. LAB. 1379/(238)-14, 5th December, 1981The following Rules and Regulations of the Maharashtra State Legal Aid and Advice Board are hereby [published] [These rules were first published vide Notification No. M.G.G., part 1, Central Section, dated 5th December, 1981.] for general information:-Rules under the Maharashtra State Legal Aid and Advice Scheme, 1979No. LAB. 1379/(238)-XIV, 5th December, 1981. - In pursuance of the powers conferred by sub-paragraph (2) of paragraph 16 of Government Resolution, Law and Judiciary Department, No. LAB. 1080/(208)-XIV, dated the 30th October 1980, the Maharashtra State Legal Aid and Advice Board, with the approval of the State Government, hereby makes the following rules for the purpose of establishing and operating the legal services programme in the State of Maharashtra and for implementation of the Maharashtra State Legal Aid and Advice Scheme, 1979, namely:-

### 1. Short title and commencement.

(1)These rules may be called Maharashtra State Legal Aid and Advice Board Rules, 1981.(2)[ They shall come into force from the date of publication of these rules in the Maharashtra Government Gazette.] [M.G.G., part 1, Central Section, dated 5th December, 1981.]

### 2. Definitions.

- In these rules, unless the context requires otherwise, words and expressions used in these rules shall have the meanings respectively assigned to them in the Maharashtra State Legal Aid and Advice Scheme, 1979.

### **3. Meetings of the Committee.**

(1)The Secretary or the Joint Secretary may or when so directed convene a meeting of the Committee at the place, date and time to be fixed in consultation with the Chairman of the Committee.(2)Any three members of the Committee may send their requisition addressed to the Secretary of the Committee for convening a meeting of the Committee for consideration of the subjects or matters specified in the requisition.(3)On receipt of the requisition, the Secretary shall in consultation with the Chairman, convene a meeting of the Committee for consideration of the subjects or matters specified in the requisition provided that in case the meeting of the Committee is going to be held within a month from the date of receipt of the requisition then the subjects or matters mentioned in the requisition shall be included for consideration in the Agenda of such meeting.(4)Any member of the Committee desiring consideration on any matter or subject at any meeting of the Committee, may intimate in writing such subjects or matters to the Secretary or Joint Secretary. If such intimation is received before notice for the meeting is issued, it shall be included in the Agenda of the meeting. If, however, such intimation is not received before the issue of the notice of the meeting then the subject or matter mentioned in the notice may be considered at the meeting with the permission of Chairman presiding at the meeting.(5)The notice of the meeting shall give at least 7 days intimation to the Members and in urgent cases it may give only three days intimation. But any informality or irregularity in despatching notice to any Member of the Committee or non-receipt of notice by any member of the Committee shall not invalidate the proceedings of the meeting.

### **4. Agenda for the meeting.**

- The Agenda for the meeting shall be sent to the Members of the Committee along with the notice of the meeting.

### **5. Who shall preside at the meeting.**

- The Chairman of the Committee or in his absence the Vice-Chairman shall preside at the meeting of the Committee provided that in the absence of the Chairman and the Vice-Chairman a person chosen by the Members present from amongst themselves, shall preside at the meeting.

### **6. Minutes of the meeting.**

(1)The draft minutes of the meeting shall be drawn up by the Secretary or the Joint Secretary in consultation with the Chairman or the Vice-Chairman or any other person presiding at the meeting and after approval they shall be sent to the Members of the Committee as soon as possible and in any case not later than the date of despatch of the notice of the next meeting of the Committee.(2)The minutes shall contain a record of the decision taken and resolutions passed at the meeting and the discussions at the meeting shall not ordinarily form part of the minutes unless the Chairman so directs.(3)The draft minutes of the meeting shall be read over at the next meeting of the Committee and any suggestions which may be made by any member of the Committee or

corrections in the draft minutes shall be considered at such meeting.

## **7. Secretary's report.**

- The Secretary or the Joint Secretary shall report to the Committee at the commencement of the proceedings of the meeting in respect of the action taken in pursuant to the decisions arrived at or directions given in the previous meetings of the Committee.

## **8. Membership.**

(a) A person appointed as a Member of the Committee by reason of any office held by him, shall cease to be a Member of the Committee as soon as he ceases to hold such office. (b) Immediately on ceasing to hold such office he shall give necessary intimation to the Committee in this behalf. (c) On receipt of such intimation the Secretary of the Committee shall ascertain the name and address of the new incumbent in the office and obtain formal orders appointing such person as Ex-Officio Member of the Committee. (d) A Member of the Committee desiring to resign his office may tender his resignation in writing under his hand addressed to the Chairman. The resignation shall be placed before the next meeting of the Committee and the decision of the Committee shall be communicated to the Member who has tendered such resignation. (e) If any non-official member referred to at Clauses 4, 5, 6 and 7 of the Scheme, fails, without sufficient cause, to attend 3 consecutive meetings of the Committee or ceases to represent the interest for which he has been nominated, his case shall be placed before the meeting of the Committee for consideration and the Committee after issuing notice to him and inviting his written representation and after considering such written representation, if any, decide whether he has ceased to be a Member of the Committee. (f) A Member of the Committee who has duly received a notice of the meeting but is unable to attend, may send a letter to the Chairman explaining the reasons for his inability to attend. Such letter shall be placed at the meeting of the Committee and the Committee may condone the absence of the Member for sufficient cause.

## **9. Travelling Allowance to Members of the Committee.**

(1) A member of the Committee residing at the Head-quarter of the Committee may be reimbursed in respect of the actual expenditure incurred by him in travelling for the purpose of attending the meeting of Committee, but such claim shall not exceed Rs. 15. (2) No Member of a Committee shall be entitled to travelling or daily allowance in respect of any journey undertaken by him other than journey for the purpose of attending the meeting, unless such journey has been undertaken under the authority or in pursuance of the instructions of the Chairman.

## **9A. Travelling Allowances and Daily Allowances to Members of Cells.**

(1) The Member of any cell of District Legal Aid and Advice Committee, not being a member of District or Taluka Legal Aid and Advice Committee, shall be paid travelling and daily allowances as are admissible to Grade I Officials of the State Government to Members of Cell for District

Committee. The Members of Cell for Taluka Committee shall be paid Travelling Allowance and Daily Allowance as are admissible to Grade I officials of the State Government.(2)The member of any Cell of Taluka Legal Aid and Advice Committee, not being a member of the District or Taluka Legal Aid and Advice Committee, shall be paid Travelling Allowance and Daily Allowance as are admissible to Grade II officials of the State Government.

## **10. Conciliation Cell.**

(1)Every Committee shall constitute a Conciliation Cell as soon as it commences its work in connection with the legal aid scheme and services programme. The conciliation Cell shall consist of two members of the Committee and seven other members in case of District Committee and three other members in case of Taluka Legal Aid Committee. Out of which one shall be from the Cell of Scheduled Castes and Scheduled Tribes and one from women Cell. Outside Members who are appointed on the conciliation Cell shall be respectable Members of the community and they shall be selected after having regard to the confidence which they are likely to command from the public and their willingness to offer their services for work of conciliation. Preference may be given in selecting members of the Conciliation Cell to retired persons who have served in judicial or administrative positions as also respectable social workers. The Committee in selecting persons to serve on the Conciliation Cell shall have due regard to the consideration whether the persons selected shall be in a position to achieve the object of bringing about the conciliation of claims and disputes in a proper and satisfactory manner.(2)The Conciliation Cell shall be divided into panels of two each and any claim or dispute which is referred for conciliation may be entrusted by the Member Secretary to any such panel after taking into consideration the nature of the claim or dispute.(3)Where either party to the claim or dispute is a woman, the panel of the Conciliation Cell entrusted with the conciliation of the claim or dispute shall comprise at least of one woman and preferably a Member of the Cell for women.(4)Where either party to the claim or dispute is a Member of the Scheduled Castes or Scheduled Tribes, the panel of the Conciliation Cell to which the claim or dispute is entrusted for conciliation shall comprise at least of one person who is a member of the Scheduled Castes or Scheduled Tribes and preferably a Member of the Cell for Scheduled Castes and Scheduled Tribes.(5)The panel of the Conciliation Cell to which a claim or dispute is entrusted for conciliation shall issue a letter of request to the opposite party informing him about the claim or dispute and fixing a place and time at which both parties may remain present for the purpose of conciliation.(6)Panel of the Conciliation Cell shall hear both parties at the time and place appointed by it and try to bring about conciliation of the claim or dispute.(7)If a settlement is brought about between the parties, the panel of the Conciliation Cell shall reduce it to writing which shall be signed by both the parties after explaining the contents of the settlement to both of them. An endorsement to the effect shall be made at the end of the settlement that it has been explained to both the parties and that they have voluntarily agreed to do.(8)If in the opinion of the Panel of the Conciliation Cell, the settlement proposed by the opposite party is reasonable but the party seeking legal aid does not accept it, the panel shall make a report to that effect to the Committee.(9)Where a settlement is reached between the parties and the report to that effect is made by the panel of the Conciliation Cell, the Committee may in appropriate cases take necessary steps for the purpose of securing a decree or order of the Court in terms of the settlement.

## **11. Reference to Conciliation Cell by the Courts.**

(1) On receipt of report from the panel of the Conciliation Cell, the Committee shall decide whether Applicant shall be provided with legal aid and if the Committee decides against giving legal aid it shall do so only after hearing the Applicant. (2) The aforesaid procedure shall also be followed where a reference is made to the Conciliation Cell by the Court or authority before which any legal proceeding is pending under paragraph 3 of clause 9 of the Scheme. The panel of the Conciliation Cell shall in such a case try to bring about a settlement within a period of one month from the date of receipt of reference and make a report to the Court or authority whether a settlement is arrived at or not. If a settlement is not arrived at within the period of one month the matter shall go back to the Court or the authority for disposal according to law.

## **12. Cell for Women.**

(1) Every Committee shall as soon as it commences its work in connection with the Legal Aid Scheme and Legal Services Programme constitute a Cell for Women comprising of [not more than eleven Members. The members] [These words were substituted for the original by G.N., L. & J.D., No. LAB. 2085/(2)-XIV, dated 4th April, 1985, clause 2(i).] shall be selected by the Committee ordinarily from amongst persons who are actively connected with social service organisations engaged in the field of service to women and children in the area within the jurisdiction of the Committee and in selecting such persons, the Committee shall give preference to women who have experience in the cause of women's welfare and are likely to command the confidence of the women. (2) [The Committee shall appoint the Chairman of the Cell.] [Sub-rule (2) was substituted for the original by G.N., L. & J.D., No. LAB. 2085/(2)-XIV, dated 4th April, 1985, clause 2(ii).] (3) The Cell for women shall act as liaison between the Committee and the women residing within the area of the Committee and try to ascertain the problems and difficulties which the women may be facing and bring such problems to the notice of the Committee and take all such steps and make all such recommendations as may be necessary for the purpose of resolving the problems and grievances of women by resort to the legal process. (4) The Cell shall also look after the interests of women residing within the area of the Committee and protect and further their interests and ensure that the benefits of the legal programme reach them. (5) The Cell shall also as and when required by the Committee or even otherwise when expedient undertake, socio legal service and shall research into the conditions of women and make recommendations for legal reform to the Board through the Committee. (6) The Cell in particular try to protect the interests of women whose husbands or breadwinners are injured or killed in accidents arising from the use of motor vehicles and take whatever steps are necessary for the purpose of securing compensation to them. The Cell shall from the Police Stations and the Hospitals within the area of the Committee, collect data in respect of the accidents registered and find out the dependents of the person injured or killed and help them to file the necessary applications for compensation and by providing legal aid. (7) The Cell shall act in co-operation and co-ordination with other voluntary organisations and institutions engaged in the welfare of women.

### **13. Cell for Scheduled Castes and Scheduled Tribes.**

(1) Every committee shall as soon as it starts its work in connection with the legal aid services and Scheme and legal aid programme, constitute a Cell for Scheduled Castes and Scheduled Tribes, Vimukta Jatis and Nomadic Tribes. (2) This cell shall consist of not more than five members of whom two shall be members of the Committee being as far as possible representatives of Scheduled Castes and Scheduled Tribes and the other three shall be outsiders. The other three members shall be selected from amongst persons who are engaged in active social service amongst members of the Scheduled Castes or Scheduled Tribes or Vimukta Jatis or have familiarity with problems relating to Scheduled Castes or Scheduled Tribes or Vimukta Jatis or Nomadic Tribes. Even while selecting three members from outside, preference may be given to members of the Scheduled Castes and Scheduled Tribes. The Committee shall however take care to see that the persons selected are competent to look after the interests of Scheduled Castes, Scheduled Tribes, Vimukta Jatis and Nomadic Tribes. (3) The provisions of sub-rules (2) to (7) (both inclusive) of rule 12 shall mutatis mutandis apply to the Cell for Scheduled Castes and Scheduled Tribes.

### **14. Cell for Industrial and Agricultural Workers.**

(1) Every Committee shall as soon as it starts its work in connection with the legal aid scheme and legal services programmes constitute a Cell for industrial and agricultural workers. (2) The Cell shall consist of the Members of the Committee representing industrial and agricultural workers and in addition there shall be at least three representatives of industrial, agricultural or both workers. (3) The Cell shall look after the interests of the industrial and agricultural workers within the area of the Committee and protect and further their interests and ensure that the benefit of the legal aid programme reach them. The Cell shall in particular protect the interests of unorganised workers and ensure that the benefits of the social welfare legislation in respect of giving minimum wages and other social security benefits reach them. (4) The Cell shall ascertain the problems and difficulties which the industrial and agricultural workers may be facing and bring them to the notice of the Committee and make all such recommendations for the purpose of resolving their problems and grievances by resort to the legal process. (5) The Cell shall also carry out socio legal survey and researches into the conditions of industrial and agricultural workers and verify how far legislation enacted for their benefit has been implemented and enforced and if not, what are the causes and make recommendations for legal reforms to the Board through the Committee. (6) The provisions in sub-rules (2) to (7) (both inclusive) of rule 12 shall mutatis mutandis apply, to the Cell for industrial and agricultural workers.

### **15. Authority to incur expenditure.**

(1) The amount of money, if any, received by the Committee shall be credited to the receipt head "065-Other Administrative Services-A-Administration of Justice-(c)-Other Receipts (iii) Miscellaneous Receipts." (2) The funds allotted to the Committee by the Board, under clause 17 of the Scheme, shall be utilised for meeting the expenses in connection with the implementation of the legal services programme. (3) All bills of expenditure to be incurred by the Committee on the items specified in sub clause (3) of clause 17 of the Scheme shall be passed by the Member Secretary of the

Committee for payment and no payment of any bill shall be made unless it has been passed by the Member-Secretary.(4)All such expenditure incurred by the Member-Secretary shall be placed before the Committee for its approval. Expenditure on other items like (1) purchase of furniture, stationery (2) publicity etc., shall be made by the Member-Secretary as per the instructions issued from time to time by the Board.

## **16. Accounts.**

(1)The accounts of the receipts and expenditure incurred by the Committee shall be maintained in accordance with the procedure laid down in relevant rules of the Bombay Financial Rules, 1959 and the Maharashtra Treasury Rules, 1968 as amended from time to time.(2)It shall be the duty of the Member-Secretary of the Committee to maintain the accounts of the amounts received and expenditure incurred by the Committee in Form A appended to these rules and to send quarterly returns to the Board on 1st day of April, July, October and January of every year.(3)It shall also be the duty of the Member-Secretary of the Committee to maintain a separate account of travelling allowance and daily allowance paid to the members of the Committee under clause 16 of the Scheme.(4)Every committee shall maintain a separate account of honorarium paid to legal practitioner in each case in a separate Register in Form B, appended to these rules.(5)The Committee shall maintain a separate account of the amounts realised by the Committee by way of reimbursement as provided in sub-clause (2) of clause 31 of the Scheme.

## **17. Funds of the Committee.**

(1)Any amount which may be received by or on behalf of the Committee shall be in the custody of the Member-Secretary of the Committee who shall be held responsible for the same.(2)The Member-Secretary of the committee shall keep full and true accounts of all the money's received and amounts expended from the funds of the Committee.(3)For the purpose of keeping the accounts the following registers shall be maintained:-(1)Cash Register,(2)One ledger,(3)One day book,(4)One receipt book and such other registers as may be prescribed from time to time.(4)The Member-Secretary shall make available to the Advocate on the panel entrusted with a case such amount or amounts as may be required from time to time against an acknowledgement of receipt.(5)The Advocate on the panel entrusted with a case shall keep separate account of the amount received by him from the Committee in respect of each case entrusted to him. He shall submit every six months or earlier if called upon to do so by the Committee, a statement of account showing the amounts received and the expenditure incurred by him in respect of the case entrusted to him. He shall also be liable to submit vouchers supporting the expenditure as and when required to do so.(6)A separate account shall be kept in respect of each client or applicant in the form of ledger entries by the Advocate on the Panel.(7)The Advocate on the panel who has accepted the case referred to by the Committee shall submit periodical accounts of the amount received and expended supported by vouchers.

## **18. Submission of statement of final accounts by the panel advocates.**

(1) On completion of the case entrusted to him by the Committee, the Advocate on the Panel shall submit a final statement of accounts showing the amounts received and the expenditure incurred by him in respect of the case and in case there is any balance of the amounts remaining with him he shall refund the same to the Member-Secretary of the Committee. (2) The amount received shall be kept separately for each case both by the Committee as well as by the Advocate on the Panel to whom the case is referred. (3) The Member-Secretary shall submit to the Board on behalf of the Committee, a budget showing the estimated ensuing income and expenditure of the Committee for the financial year. Such budget shall be submitted by the Member Secretary on or before the 15th January of each year. (4) If any additional funds are required by the Committee for the purpose of carrying on its activities, a requisition for the same shall be forwarded to the Board by the Member-Secretary and such requisition shall be placed before the Executive Committee for scrutiny and sanction.

## **19. Application for Legal Aid or Advice.**

(1) An application for legal aid or advice may be made in the prescribed form or otherwise containing all the essential particulars indicated in the Form. The application shall be supported by an affidavit on the point of his annual income. (2) An application for aid may be presented by the applicant in person or by any person duly authorised by him on his behalf. The application shall be received as far as possible in the office of the Member-Secretary or office of the Committee for legal aid and advice. (3) An application for relief in respect of the matters arising in Taluka area shall be addressed as far as possible to the Taluka Legal Aid Committee, provided an application for aid and advice where relief is sought before an authority or court having office at the District headquarters or seeking advice of senior member of the legal profession it may be made to the District Legal Aid Committee. (4) An application for relief by way of aid or advice within the limits of city and Taluka of Nagpur or pertaining to High Court bench at Nagpur may be made to the legal aid and advice committee, Nagpur. (4A) [ An application for relief by way of aid or ad vice within the limits of city and Taluka of Aurangabad or pertaining to High Court bench at Aurangabad may be made to the Legal Aid and Advice Committee, Aurangabad.] [Sub-rule (4A) was inserted by G.N., L. & J.D., No. LAB.-1086/(65 A)-XIV, dated 10th July, 1986, rule 2.] (5) An application for advice or relief by a person seeking aid or advice in which relief may be given in the High Court or any other Court or authority in Greater Bombay may be made to legal aid and advice committee for Greater Bombay. (6) An application for aid or advice may be received by any member of the legal aid and advice committee in the area who shall forward it to the Member-Secretary of the appropriate Committee. (7) An application for legal aid may be received any where in the state by any member of the Maharashtra State Legal Aid and Advice Board and he shall forward the same to the proper legal aid and advice committee. (8) Wherever an application is presented or received for legal aid and advice the persons receiving the application shall make an endorsement on the application of the date of receipt, name and address of the person presenting the application and the place where the application is presented. (9) If the application is received by a member of the committee who is a lawyer or Member-Secretary or the person receiving the application shall scrutinize it and ascertain from the applicant further facts or information necessary to be stated and required as per prescribed



Form.(10)The statement in the application as to the annual income of the applicant may be verified by the person receiving the application by asking necessary information at the time of receipt of the application. If sufficient information is given to satisfy the persons receiving the application about the eligibility of the person making the application on the basis of annual income, the applicant shall be asked to be present before the Advocate on the panel to whom the application may be referred on a date and time and address to be intimated to the applicant.(11)Written acknowledgement of receipt of application shall be given to the person making the application if the application is received in the office of the committee or by the Member-Secretary. If an application is received by person other than the person authorised to receive the application, the Member Secretary shall arrange to send a written acknowledgement of the receipt of the application to the applicant in due course intimating him the date and time where the applicant is required to be present for further inquiry.(12)If the person receiving the application is of the opinion that some further information or documents or inquiries is required to be furnished by the applicant or on his behalf, then an endorsement to that effect shall be made in the application and the person presenting the application shall be informed accordingly.(13)As far as possible the application shall be made in duplicate in prescribed Form.(14)Any person eligible to receive legal aid and advice but unable to present an application in writing seeks aid and advice of the committee may be assisted in having his application prepared in the office of the Committee on the basis of instructions and information to be furnished by the applicant.

## **20. Process in the application.**

(1)As soon as the application is received in the office of the Member-Secretary it shall be given a Serial No. and entered in the register of application in Form D.(2)All the information required to be recorded in brief on the basis of the information given by the applicant shall be entered by the person whose duty it is to enter the application in the register of applications.(3)The Member Secretary may refer the application to the said Advocate on the panel according to the nature of the case.(4)If relief is sought by way of advice only, an endorsement to that effect shall be made while forwarding the application to the Advocate on the Panel, who shall submit his opinion in writing to the Member Secretary, within two weeks as far as possible, having due regard to the question of limitation involved.(5)The Advocate on the panel shall interview the applicant or a person appearing on his behalf, to obtain necessary and further information and instructions whether oral or documentary on the date fixed for appearance of the applicant. If the Advocate on the panel is unable to meet the applicant on the date fixed, the applicant may be informed in writing as far as possible in advance of further date on which meeting may be fixed at the convenience of the Advocate on the panel.(6)As far as possible the Advocate on the panel may give the opinion on the basis of the instructions and documents furnished or produced by or on behalf of the applicant within a period of two weeks, as far as possible having due regard to the question of limitation inferred from the receipt of the reference of the applicant to the Advocate on the panel.

## **21. Advocate's appearance.**

(1)Where the applicant is already a party to a proceedings before the Court or authority and seeks aid or advice in such proceedings, the Advocate on the panel to whom the application is referred

shall enter appearance before the authority on behalf of the applicant.(2)Where a case is pending before Court or authority and the Advocate on the panel enters appearance on behalf of the applicant, the Advocate, may after studying the papers and the record in the Court give opinion as to the advisability or otherwise of contesting the case on behalf of the applicant.(3)As far as possible the Advocate on the panel appearing for party to a proceedings before a Court or authority may not seek adjournment of the matter except for good and sufficient reason and shall not as far as possible consent to an adjournment.(4)If more than three adjournments are granted by the Court or authority in spite of the opposition of the Advocate for the applicant and which in the opinion of the Advocate may not have been granted, the matter shall be brought to the notice of the Committee as early as possible.

## **22. Advance of funds to Advocate.**

(1)If it is decided to commence a proceeding on behalf of the applicant before a court or authority, the Advocate in-charge shall draw up the estimate of expenses to be incurred for prosecution of the claims. On receipt of the estimate of expenses, the Member-Secretary shall make available the necessary funds after securing the sanction from the Chairman. However necessary funds may be made available for urgent expenses by the Member-Secretary without prior sanction from the Chairman if it is not possible to secure such a sanction in view of the urgency of the matter. In that case a matter will be reported to Chairman later on as early as possible.(2)The applicant who is held eligible for legal aid and advice shall comply with the instructions received from the Advocate on the panel to whom his case is referred or the Member-Secretary or Chairman. Failure to comply with the instructions may result in withdrawal of the aid by the Committee.

## **23. Special Cases for Legal Aid.**

(1)Where it is considered desirable to give aid or advice in case of an applicant who is not eligible on the ground of annual income, the matter shall be brought before the next meeting of the Committee and decision to aid and advice should be taken by the Committee after considering all the circumstances, provided that this clause shall not apply where the applicant seeking aid is a Member of Scheduled Caste, Scheduled Tribe, Vimukta Jatis, Nomadic Tribes, Navbuddhas, women or children in respect of a domestic dispute.(2)In respect of aid and advice sought by a person belonging to Scheduled Caste, Scheduled Tribe, Vimukta Jatis, Nomadic Tribes, Navbuddhas, women or children, application shall be processed and dealt with in the same manner as application by the person eligible on the ground of annual income being upto Rs. [6,000] [These letters and figures were substituted for the letters and figures 'Rs 5,000' by G.N., L. & J.D., No. LAB. 1084/(153)-XIV, dated 17th July, 1984, clause 11(i).] only.

## **24. Conciliation.**

(1)Where the applicant for legal aid and advice is already a party to a proceeding in any Court or authority, the panel Advocate to whom the case is entrusted may after taking proper instructions submit the papers to the Conciliation Cell to consider whether the matter could be amicably settled by conciliation.(2)The panel advocates appearing for the applicant in a proceeding in any Court or

authority may make an application in the Court or before the authority intimating that an attempt is being made for conciliation of dispute and may secure some time for effecting conciliation.(3)The Conciliation Cell on receipt of papers may follow the same procedure for attempting settlement of a dispute which is pending for adjudication in Court and may make a report to the Committee and the Advocate on the panel of the result of the conciliation.(4)If the Conciliation Cell is unable to secure settlement to the dispute in respect of matter which is before Court concerned, the panel advocate shall intimate that fact to the Court concerned.

## **25. Procedure for receipt and disposal of applications for legal aid and advice.**

(1)Any person eligible for legal aid and advice may make an application for such legal aid and advice in the prescribed Form. If the application is not in the prescribed form or omits to give necessary details or information, it shall be the duty of the member of the Committee receiving the application to get the necessary information from the applicant or to assist the applicant in giving all the information necessary in consonance to the prescribed Form.(2)The application for legal aid or advice shall be in writing and signed by the applicant. An application may be made for providing legal aid and advice to some other person in whom the applicant is interested if such a person is unable or incapacitated from making the application.(3)The application shall ordinarily be presented in the office of the Committee or at other centre during the office hours and on days prescribed for receipt of application. However any member of the Committee or any other organisation interested in the programme of free legal aid and advice may receive such an application and forward it to the Member-Secretary of the Committee.(4)On receipt of application from the applicant, the person receiving the application may after obtaining any further information or details considered necessary may process the application.(5)An application for legal aid and advice, if not in the prescribed Form, shall contain all the necessary details and information to enable the committee to decide the nature of aid and advice to be given to the applicant.

## **26. Scrutiny of applications.**

(1)As soon as an application is received it shall be entered in the register of applications and the number shall be endorsed on the application. The applicant shall be given receipt of acknowledgement and the date or time when the applicant may appear or meet the Advocate to whom the case is referred shall be intimated to the applicant. An endorsement to that effect shall be made on the application about the applicant having been so informed.(2)If any document is required to be produced by the applicant or any documents are necessary for inspection or scrutiny to enable the Advocate on the panel to form opinion, the applicant may be asked to produce the document if he has in his possession that document or applicant may be asked to obtain copies. If the applicant is not in a position to obtain any document or produce the documents and the same are essential for consideration of the case of the applicant for aid or advice, the Advocate on the panel shall requisition necessary funds for obtaining such document or copies, to the Secretary of the Committee in the prescribed Form indicating the approximate cost for obtaining such documents. In every case where advice or opinion cannot be arrived at without consulting documents which are not in possession of the applicant, the Advocate on the panel may take

inspection of the relevant records for processing that matter without waiting for obtaining the copies of the documents, expenses for inspection of the records, in such cases, shall be provided by the Member-Secretary of the Committee on requisition by the Advocate on the panel.

## **27. Opinion of the Advocate.**

(1)The Advocate on the panel to whom a case is referred shall, after obtaining the necessary instructions draw up his opinion regarding the merits of the case and if he is of the view that the applicant is deserving legal aid the matter shall be referred to the Conciliation Cell and the applicant shall be intimated accordingly.(2)On receipt of the report of the Advocate, the Committee may decide whether the applicant shall be given further aid or advice. In case the Committee comes to the conclusion that the attitude of the applicant is obdurate or intransigent the Committee may decline to give aid and advice.

## **28. Legal Advice.**

(1)If the applicant has sought the help of the Committee only for legal advice where no proceedings are pending or contemplated, the same procedure as provided in clauses 26 and 27 of the rules, shall be followed.(2)If only advice is sought, the Advocate to whom the case is referred for giving opinion may be paid such fees not exceeding Rs. 25 as honorarium for the services rendered by the Advocate.(3)The Chairman of the advisory panel may mark the case for scrutiny of the opinion of the Advocate to the Senior advocate on the panel of advocates and request him to indicate his views regarding the opinion or advice given by the Advocate on the panel.(4)The applicant may be informed about the final legal advice that will be drawn up in the light of the opinion of the senior Advocate and the Advocate on the panel in appropriate cases.

## **29. Grant or refusal of Legal Aid.**

(1)As soon as the Advocate on the panel to whom the application is referred for advice and opinion, has recorded his opinion the papers shall be placed before the Member-Secretary of the Committee. Ordinarily the Member-Secretary shall take action for processing and implementation of the aid and advice to the applicant.(2)If in the opinion of the Member-Secretary of the Committee the applicant is not eligible for aid or Member-Secretary is of the opinion that the applicant shall not be given aid or advice or for any other sufficient reason the matter shall be placed before the next meeting of the Committee for decision.

## **30. Withdrawal of Legal Aid.**

- If after the legal aid has been granted to an applicant, it is found at any stage of the proceeding before the Court that any of the circumstances set out in clause 32 of the Scheme exist or has transpired which merit cancellation of the Certificate of Eligibility, the Committee may either on its own motion or otherwise cancel the Certificate of Eligibility after giving due opportunity to the applicant or his legal representative to show cause and on such cancellation of the Certificate of

Eligibility no further legal aid shall be granted to the applicant or his legal representative and the advocate on the panel to whom the case is entrusted will withdraw his appearance before the Court.

### **31. Recovery of cost and expenses etc.**

(1) In any case before the Court in which the applicant who has been given aid is granted any cost or expenses as a result of the decision, the Advocate appearing for the applicant shall obtain a certified copy of the order granting cost to the applicant. (2) The Advocate on the panel appearing for the applicant shall take steps to recover the amount of cost and expenses payable to the applicant by filing an application before the proper authority for recovery of such cost and expenses. (3) The amount of cost and expenses recovered as a result of execution of order for costs shall be credited with the Secretary of the Committee by Advocate on the panel appearing for the applicant. (4) It shall be the duty of the Member-Secretary to ensure in every case that the amount of cost and expenses ordered to be paid to the applicant is recovered and credited to the [State Government.] [These words were substituted for the words 'account of the Committee' by G.N., L. & J.D., No. LAB. 1086/(65 A)-XIV, dated 10th July, 1984, rule 3(1).] (5) [In every case before the Court in which legal aid is granted to a person by a Committee the Advocate on the panel appearing for the aided person shall invariably insist upon the Court to award the cost and expenses in favour of such aided person.] [Sub-rule (5) was added by G.N., L. & J.D., No. LAB. 1086/(65 A)-XIV, dated 10th July, 1984, rule 3(2).]

### **32. Panel of Legal Practitioners.**

(1) The Committee shall constitute a panel of lawyers who volunteer to advice, act or appear and represent on behalf of applicant for legal aid and advice. The panel shall be constituted from the applications received from members of the Bar or other Legal Practitioners or other persons qualified to tender advice and represent applicants for legal aid and advice. (2) As far as possible, legal practitioners having not less than five years experience may be invited to volunteer their services for inclusion in the panel of Advocates, provided an applicant volunteering for inclusion on the panel shall not be rejected on the ground of want of experience for five years at the Bar or in practice, if the Committee is of the opinion that he is otherwise quite competent to render the necessary service. (3) The Committee shall prepare a register of Advocates who have volunteered to be included in the panel of advocates and who are accepted to be included in such panel. (4) The names of the Advocates shall be entered in the panel in order of applications received from members of the legal profession and person qualified to be included in the panel.

### **33. Panel of Senior Advisers.**

(1) There may be maintained by every Committee a panel of legal advisers comprising of senior legal practitioners, retired judicial officers, retired judges, retired public servants and others qualified to give legal advice. (i) Requests may be made to persons qualified to be included in the panel of advisers for their consent to be included in the panel. (ii) A list of such advisers shall be maintained serially in a Register in connection with the work of legal aid and advice undertaken by every Committee. (2) Whenever it is considered necessary by members of the panel of advocates to whom

the case is referred for such advice or other aid such Advocates may approach one of the members on the panel of advisers for advice and guidance in respect of the case entrusted to the Advocate on the panel.(i)Whenever advice is sought from member of the panel of advisers, the member of the panel of advisers concerned shall send for the applicant and will also be provided with all the papers in connection with matter on which advice is sought.(ii)The member on the panel of advocates seeking advice may draw up a statement of the case to enable the member on the panel of advisers to consider the matter in all respects and give advice.(iii)The Advocate on the panel seeking advice shall record his opinion and queries which may be submitted to the member of the panel of advisers from whom advice is to be obtained.(3)If a question arises whether aid or advice should be continued to the applicant and if so, in what form the advice tendered by member of the panel of advisers shall be taken into account in deciding the application.(4)A member volunteering to be on the panel of advisers is not ordinarily eligible to any remuneration.

### **34. Panel of Assistants.**

(1)The Committee may constitute a panel of Assistants comprising of law students, members of the law faculty and other persons volunteering to give aid and advice even though such persons are not qualified to practice in the Court of Law or under the Advocate's Act, 1961.(2)A register of such members of panel of the Assistants shall be maintained by the Committee. A member of this panel may be requested to assist the applicant in collection of information, procurement, preparation of documents and assessing the credibility of witnesses or collecting such other information as may be necessary for preparing the case of the applicant or for prosecution of applicant's case or defence of applicant's case.(3)As far as possible second and third year students in law colleges and law faculties shall be encouraged to volunteer to be enlisted in the panel of Assistants and their services shall be utilised to help the applicant to prepare and prosecute his case.(4)The member of the panel of advocates to whom a case is referred may requisition the services of the members on the panel of Assistants for preparation and prosecution of the case on behalf of applicant.

### **35. Responsibility of Advocates and Assistants and Applicants in Legal Aid and Advice Programme.**

(1)The Advocate on the panel to whom a case is assigned or referred is expected to keep confidential instructions and facts regarding the applicant whose interests are entrusted to his care and custody. Similarly all persons associated in processing legal aid and advice assistance or applications are expected to regard as safe trust the information that may come to their notice or knowledge in respect of the applicant or his case. Further the Advocate on the panel shall see that the applicant executes all agreements in Form C of the Scheme as required under clause 31(2) of the Scheme.(2)Endeavour shall be made by every Advocate in each case when proceedings are before any public authority or court that Case is expeditiously disposed of to save cost and delays. Ordinarily the Advocate on the panel appearing for the applicant before a Court or authority shall not consent to adjournment of the proceedings unless for good and sufficient reason and unless adequate compensation is ordered by the Court or authority for the adjournment to be paid to the applicant. The compensation or cost awarded to the applicant for adjournment shall be credited to the State Government.(3)At the first meeting with the applicant, the Advocate on the panel to whom

his case is assigned shall ascertain in full details all the information and instructions necessary to understand and appreciate the problems or difficulties of the applicant in respect of the subject matter of the dispute or claim. The applicant shall be asked to produce all the documents, if any, relevant to the case in his possession. If the applicant is not in possession of documents or information and is unable to produce copies or documents within reasonable time, the members of the committee, members of the Conciliation Cell or other cell and other social workers who may be associated with the work of the Committee, shall be requested to render to the applicant to secure information regarding the facts and documents.(4)If an application is required to be made for securing copies of necessary documents, the advocate shall make application on behalf of the applicant for which funds shall be provided by the Member Secretary of the Committee.(5)In any case where the applicant is in a position to incur the expenses for procuring copies of documents or information, applicant may be assisted in securing the copies or documents at his own cost.(6)The Advocate on the panel having secured necessary information and instructions and documents shall study the case and draw up his opinion in writing in duplicate.(7)Where the case is referred to the Advocate on the panel only for advice, opinion shall be recorded in writing and explained to the applicant in a manner and language that may be understood by the applicant.(8)If the Advocate on the panel is of opinion that a proceeding shall be commenced or the applicant shall be defended in the matter already before the Court or authority, the Advocate may take necessary steps for drawing up claims to be filed or take any other necessary steps on behalf of the applicant.(9)If the Advocate on the panel is of opinion that considering all the facts and circumstances of the case, it shall be advantageous for the applicant that the matter is amicably settled, the advocate shall record such opinion giving full reason for this advice.(10)Where it is considered advisable that the matter shall be settled, a letter of request shall be issued to the opposite party to make it convenient to appear for a conference or discussion at the date and place to be indicated in the letter and request shall contain a brief statement of claim of the applicant. The letter of request shall be sent by registered post acknowledgement due.(11)If the opposite side on receipt of letter of request appears for discussion, the matter shall be discussed in the presence of parties with the assistance of such members of the Conciliation Cell as shall be available or interested in participation.(12)If it is found that the applicant shall be benefited by having the matter settled on certain terms, the applicant may be advised accordingly.(13)If on such advice being tendered in writing the applicant is unwilling or unable to have the matter settled, the fact should be got recorded as far as possible under the applicant's own handwriting and then the matter shall be referred to the Committee for decision as to giving further aid.(14)Where it is found that the matter cannot be amicably settled the Advocate shall take the necessary steps to prosecute or defend the claim, as the case may be, before the appropriate authority.

### **36. Consent by Advocates on Panel.**

(1)Any person volunteering to be included in the panel of Advocates shall communicate his consent to the Chairman of the Committee in the prescribed Form B-1.(2)If any difficulty arises in working out the brief referred to the member of the panel of Advocates or in discharge of his duties in connection with the case referred to the advocate, it may be referred to the Chairman of the Committee whose decision shall be final.(3)Any member of the panel of Advocates may withdraw his membership of the panel of Advocates by an application in writing addressed to the Committee.

The member shall cease to be the member of panel of Advocates from the date of acceptance of his withdrawal by the Committee.

### **37. Information to be kept confidential.**

- The member of the panel of Advocates to whom any papers are entrusted or any information given shall be bound to keep the information and the contents of the papers and documents confidential and shall not disclose its contents or instructions to any other person unless it is in the interest of applicant whose case is referred to such member.

### **38. Advocates not to accept any consideration from applicants.**

- If any complaint is received that a member of the panel of Advocates has demanded or accepted any consideration or monetary benefits from the applicant or from any other person on behalf of the applicant, such advocate shall cease to be a member on the panel of Advocates on a resolution to the effect being passed by the Committee. On receipt of any such complaint an opportunity shall be given to the member concerned and he shall be heard regarding the allegations made in the complaint. The decision of the Committee in this respect shall be final.

### **39. Honorarium to Legal Practitioners.**

(1) A legal practitioner or other person to whom the application is referred for legal aid and advice shall obtain necessary instructions and record his opinion on the merits of the case in writing. (2) If the aid is sought only for the legal advice without need of any proceeding and no further action is necessary to be taken on behalf of the applicant the legal practitioner on the panel shall be paid a sum of Rs. 25 by way of honorarium for the advice rendered. (3) Whenever an application is referred to an Advocate on the panel and after obtaining opinion, it is considered desirable to take any steps for processing the application by filing an application in Court or before a public authority or defending the applicant, the Advocate on the panel shall do everything that is necessary and proper for prosecuting the claim on behalf of the applicant or defending the applicant before any Court or authority.

### **40. Release of funds for obtaining documents etc.**

(1) The Advocate on the panel shall be provided with necessary funds by the Member-Secretary of the Committee for obtaining the documents, copies of documents, information or for summoning witnesses and party and other expenses necessary for prosecution or defending the claim before a Court on behalf of the applicant. (2) The Advocate on the panel to whom the application is referred, shall maintain full and true accounts of amount received and the expenses incurred in processing the application on behalf of the applicant. Statement of the amounts received and expenses incurred shall be submitted by the Advocate on the panel to the Member-Secretary of the Committee as soon as the proceedings come to an end before the authority or Court in which the applicant was a party. (3) The Advocate on the panel who attends on behalf of the applicant shall be paid honorarium



on receipt of report from the Advocate after decisions of the proceedings.(4)A receipt shall be obtained for every payment made to the Advocate on the panel to whom the application is referred and no payment shall be made without a receipt. The expenses incurred by the Advocate on behalf of the applicant should be supported by proper vouchers which shall be submitted alongwith statement of receipts and expenditure referred to above.

#### **41. Additional honorarium for extraordinary work.**

- The Committee may in proper case decide to give additional honorarium if the proceedings are delayed for unduly long period involving extraordinary work in connection with the brief.

#### **42. Returns to be submitted by the Committee.**

(1)Every Committee shall submit to the Board every quarterly a report of the work done in connection with legal service programme, in Form C appended to these rules.The quarterly report may be sent as far as possible in the first week of January, April, July and October of each year.(2)The Committee shall at the end of every financial year submit to the Board an annual report on the working of the Committee. Such report shall also contain the following information, namely:-(a)the total number of applications received for legal aid;(b)total number of applications received for advice;(c)total number of applications referred to conciliation cell;(d)total number of applications settled by the conciliation cell;(e)number of applications in which legal aid was granted;(f)total number of applications for legal aid or advice rejected;(g)the classification of the applicants for legal aid or advice into Scheduled Castes, Scheduled Tribes, Women and others;(h)total amount received by way of reimbursement of cost;(i)total number of applications for legal aid or advice pending at the end of the year;(j)number of meetings held by the Committee.

#### **43. Maintenance of Records and Registers.**

- There shall be maintained by every Committee the following registers and records:-(1)Register of applications as prescribed in Form D appended to these rules.(2)Register of Advocates on the panel with names and addresses.(3)Register of panel of advisers with names and addresses.(4)Register of panel of assistants.(5)Register of cases in which aid is provided by the Committee.(6)Peon delivery book for letters and communications from the office of the Committee.(7)Inward and outward registers recording receipt of letters, papers, documents, and despatch of letters, papers and communications sent by or on behalf of the Committee as prescribed by Government.(8)Stock Register.Form A[See rule 16(2)]Quarterly return of Accounts of ..... Legal Aid and Advice Committee for the quarter ending on .....

Expenditure incurred on establishment etc. during the quarter	Expenditure on Court fees and documents	Expenditure on Honorarium to legal practitioner	Expenditure on Travelling Allowance and	Other Miscellaneous Expenditure on the implementation of the Scheme	Total expenditure	Receipts, if any, accrued to the Committee	Remarks

	to be obtained.	during the quarter	Daily Allowance of members of the Committee				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Form B[See rules 16(4)]Register of Honorarium paid to Panel of Legal Practitioners

Serial No.	Name of the panel Legal practitioner to whom the case is assigned, for aid and/or advice	Case No.	Amount of Honorarium claimed by Lawyer	Amount of Honorarium due	Date on which proposal was placed before the Committee	Amount of Honorarium sanctioned	Amount actually paid	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Form B-1[See rule 36(1)]To, The Chairman, Legal Aid and Advice Committee Sir, I am willing to serve on the Panel of Legal Practitioners constituted under clause 27 of the Maharashtra State Legal Aid and Advice Scheme, 1979 on the terms and conditions set out therein. Yours faithfully, Advocate Full Address

Form C(See rule 42)Quarterly returns of ..... Legal Aid and Advice Committee

No. of applications for legal aid / advice received during the quarter	No. of applications on which advice is given	No. of applications on which aid is given	No. of applications rejected	No. of applications pending	Classification of the aided persons SC/ ST/Women/ Others
(1)	(2)	(3)	(4)	(5)	(6)

No. of Advocates on the panel who have volunteered for legal advice or aid	No. of persons on the Advisory Panel	No. of persons on the Panel of Assistant	Name of persons on the different Cells of the Committee	Expenditure incurred	Whether amount to reimbursed to Government, stated details	Remarks
(7)	(8)	(9)	(10)	(11)	(12)	(13)

Form D(See rule 43)Form of Register

Serial No.	Date of receipt of application	Name and address of the applicant seeking	Whether applicant belongs to SC/ ST or is a woman or belongs	Subject matter of the application	Whether the applicant requires Aid or Advice	If advice is given to the applicant,
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		LegalAid/ Advice	to any other category			the natureof such Advice
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Action taken by the Committee on application		Name of Panel lawyer to whom application is entrusted for disposal	Progress of case filed in Court	Final result	The amount of cost and expenses, if any, reimbursed	Remarks
(8)		(9)	(10)	(11)	(12)	(13)

By order of the Board, Members-Secretary.