

The Maharashtra State legal Aid and Advice Board

MAHARASHTRA

India

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Rule

THE-MAHARASHTRA-STATE-LEGAL-AID-AND-ADVICE-BOARD of 1980

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The Maharashtra State legal Aid and Advice Board Published vide Notification No. LAB. 1080/(208)-14, dated 8th December, 1980 No. LAB. 1080/(208)-XIV. - The following Government Resolutions are published for general information :-

1. Preamble.

- Whereas, Article 39 A of the Constitution of India provides that the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide for free legal aid, to ensure that the opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities : And whereas, the State Government has decided to establish a programme for providing free legal service to the weaker section of the community; And whereas, under Government Resolution, Law and Judiciary Department, No. DFS- 1076/976(525)-X, dated the 14th February, 1977, Government had constituted a Legal Aid and Advice Board to be called "the Maharashtra State Legal Aid and Advice Board" to take steps to provide free legal aid to the weaker sections of the community in the State and for that purpose to formulate schemes for the constitution of Legal Aid Committee; And whereas, for the purpose of effective implementation of the legal service programme in the State and for certain other purposes the above Board was re-constituted under Government Resolution, Law and Judiciary Department No. LAB. 1078/689(127)-XIV, dated 12th April, 1979 as "the Maharashtra State Legal Aid and Advice Board"; And whereas, for the purpose of more effective implementation of the legal service programme in the State it is necessary further to reconstitute the said Board, which would be in charge of setting up, administering and implementing the legal aid programme in the State; Now, therefore, the Government of Maharashtra in supersession of the orders contained in Government Resolution, Law and Judiciary Department, No. LAB-1078/689(127)-XIV, dated the 12th April, 1979, hereby further re-constitutes the Legal Aid and Advice Board to be called "the

Maharashtra Legal Aid and Advice Board" (hereinafter referred to as "the Board").

2. Composition of the Board.

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

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| (1) | Minister for Law and Judiciary | President |
| (2) | A sitting Judge of the High Court, to be nominated by the Chief Justice | Vice-President. |
| (2A) [[Entry (2A) was inserted by G.R., L&J. D., No. LAB. 1086/(96), XIV, dated 24.7.86, clause 1(a).] | The Minister of State or Law and Judiciary. | Ex-officio Member.] |
| (3) | A retired Judge of the High Court, or retired District Judge, to be nominated by the State Government. | Executive Chairman |
| (4) | The Advocate-General, Maharashtra | [Ex-officio Member.] [These words were substituted for the word 'member', by G.R., L&J. D., No. LAB. 1086/(96), XIV, dated 24.7.86, clause 1(b).] |
| (5) | The Secretary to the Government of Maharashtra, Law and Judiciary Department. | [Ex-officio Member.] [These words were substituted for the 'member', by G.R., L&J. D., No. LAB. 1086/(96), XIV, dated 24.7.86, clause 1(c).] |
| (5A) [[These entries were inserted by G. R., L & J. D., L & J. D., No. LAB. 1086/(96)-XIV, dated 24.7.1986, clause 1(d).] | The Secretary to the Government of Maharashtra, Home Department. | Ex-officio Member. |
| (5B) | The Secretary to the Government of Maharashtra, Finance Department. | Ex-officio Member. |
| (5C) | The Secretary to the Government of Maharashtra, Social Welfare, Cultural Affairs, Sports and Tourism Department. | Ex-officio Member. |
| (5D) | The Secretary to the Government of Maharashtra, Rural Development | Ex-officio Member. |

- Department.
- (5E) The Secretary to the Government of Maharashtra, Education and Employment Department. Ex-officio Member.
- (5F) The Director General and Inspector General of Police, Maharashtra State, Bombay. Ex-officio Member.
- (5G) The Inspector General of Prisons and Director of Correctional Services, Maharashtra State, Pune. Ex-officio Member.]
- (6) One Member of Parliament, to be nominated by the State Government. Member.
- (7) One Member of the State Legislature, to be nominated by the State Government. Member.
- (8) Chairman of the Maharashtra State Bar Council [Ex-officio Member.] [These words were substituted for the word 'Member', by G. R., L & J. D., L & J. D., No. LAB. 1086/(96)-XIV, dated 24.7.1986, clause 1(e).]
- (9) One Member of the Maharashtra State Bar Council from the mofussil when the Chairman of the Maharashtra State Bar Council is from Bombay (vice-versa). Member.
- (10) Three representatives of the legal profession to be nominated by the State Government. Members.
- (11) One representative of women, to be nominated by the State Government. Member.
- (12) One representative of Scheduled Castes, to be nominated by the State Government. Member.
- (13) One representative of Scheduled Tribes, to be nominated by the State Government. Member.
- (14) One representative of Industrial Labour, to be nominated by the State Government. Member.
- (15) One representative of Agricultural Labour, to be nominated by the State Government. Member.
- (16) A Judicial Officer of the rank of District Judge or an officer, drawn from the cadre of Deputy Secretaries to Government [in Law and Judiciary Department] [These words were inserted by G. R., L & J. D., No. LAB. 1086/(96)-XV, dated 24.7.1986, clause

1(f).]to be nominated by the
State Government.

(2) While the office of the Executive Chairman is vacant for any reason, the Secretary to the Government of Maharashtra, Law and Judiciary Department, ex-officio, shall be the Executive Chairman of the Board.

3. Term of office of Members of the Board.

(1) The term of office of a Member of the Board, other than an ex-officio Member, shall be three years. (2) If any Member referred to at Serial Nos. (10), (11), (12), (13), (14) and (15), in clause 2 fails, without sufficient cause to attend three consecutive meeting of the Board or ceases to represent the interest for which he has been nominated, he shall cease to be a Member of the Board. (3) The State Government shall have the power, to curtail the term of any Member referred to at serial Nos. (10), (11), (12), (13), (14) and (15) in clause 2, at any time, if it finds that such Member is not taking sufficient interest in the activities of the Board. (4) If any Member ceases to be a Member of the Board for any reason, the vacancy shall be filled up in the same manner as the original appointment and the person nominated will continue to be a Member for the duration of the term of office of the Member in whose place he is nominated.

3A. [Executive Committee. [Clauses 3A and 3B were Inserted by G.R. L. & J. D., No. LAB. 1086/(96)-XIV, dated 24.7.1986, clause 2.]

- There shall be an Executive Committee of the Maharashtra State Legal Aid and Advice Board consisting of the following members

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|--|-------------------|
| (1) Vice-President of the Board | Chairman. |
| (2) Executive Chairman of the Board | Member. |
| (3) Secretary to the Government of Maharashtra, Law and
Judiciary Department, Mantralaya, Bombay. | Member |
| (4) Member-Secretary of the Board | Member-Secretary. |

3B. Powers and functions of the Executive Committee.

- Subject to the general control of the Board, the Executive Committee shall exercise the following powers and perform the following functions, namely :-(1) to allot funds to the various Committees from the amount placed at the disposal of the Board by the State Government; (2) to call for and receive from the various Committees, from time to time, such reports, returns and information, as may be considered necessary, in regard to the administration and implementation of the legal services programmes; (3) to prepare, consolidate and submit to the State Government a general report regarding the administration and working of the legal services programmes during the previous financial year; (4) to perform other duties and discharge other functions of the Board which are considered to be of immediate and urgent nature for the purpose of effectively implementing the legal aid scheme and the legal services programmes etc.]

4. Powers and functions of the Board.

(1) Subject to the general control of the State Government, it shall be the duty of the Board to take steps to establish a legal aid programme in the State for providing free legal services to the weaker sections of the community in the State. The State Board shall endeavour to arrange for provision of free legal services, including legal aid in any proceedings in any Court or before any public authority, subject to the provisions of any Scheme or rules framed by the Board. (2) The Board shall be in overall charge of the administration and implementation of the legal services programme in the State and shall in particular exercise the following powers and perform the following functions, namely :- (a) allot funds to the various Committees from out of the amount placed at its disposal by the State Government; (b) control, regulate and supervise the working of the various Committees; (c) lay down policies and give general or special directions to the various Committees for the proper administration and implementation of the legal service programme and for proper and adequate discharge of their duties and functions; (d) call for and receive from the various Committees from time to time such reports, returns and information as may be considered necessary in regard to the administration and implementation of the legal services programme; (e) prepare, consolidate and submit to the State Government by the first week of May every year a general report regarding the administration and working of the legal services programme during the previous financial year; (f) encourage and promote conciliation and settlement in legal proceedings; (g) promote legal literacy and create awareness amongst the weaker sections of the community in regard to the rights, benefits and privileges conferred upon them by social welfare legislation and other enactments; (h) enlighten the people in rural areas about agrarian reforms and facilities made available to them by the Central Government or the State Government from time to time and render legal services where necessary; (i) arrange for publicity of important legislation concerning women, bonded labour, industrial workers, agricultural labour, tenants, agriculturists, Scheduled Castes and Scheduled Tribes and other weaker sections of the community, as also legislation dealing with social and economic reforms; (j) render assistance to the members of the weaker sections of the society in complying with necessary legal requirements in order to secure the benefits under the various schemes sponsored by the Central or the State Government for the welfare of the public in general, or of any section thereof; (k) organise legal aid camps for the purpose of reaching legal services to the weaker sections of the community in rural areas and in slums; (l) arrange for holding Lok Nyayalayas in different areas for the purpose of bringing about voluntary settlement of disputes; (m) prepare a cadre of social workers for para-legal services; (n) help the various Committees to set up legal service centres within their respective jurisdictions; (o) encourage law colleges and law faculties of Universities to set up projects for giving free legal service to the weaker sections of the community and to help them in running such projects; (p) hold and conduct seminars, conferences and campaigns for promotion of the legal services programme in all its aspects, including creation of public awareness and participate in all activities connected with the same; (q) undertake and promote research, experiment and innovation in the areas of law affecting the poor with the object of removing the injustices from which the poor suffer, bringing about fundamental institutional changes and effectuating reforms in the law with a view to making it serve the interests of the weaker sections of the community; (r) submit recommendations to the State Government regarding improvements in practice and procedure of the Courts so as to reduce the costs and delays in litigation; (s) suggest and recommend to the State

Government such measures of law reforms as it considers necessary for the purpose of improving the socio-economic conditions of the weaker sections of the community and making social welfare legislation effective for them and draw the attention of the administrative bodies or authorities to their grievances and press for redress of such grievances;(t)undertake socio-legal survey and research into the life conditions of the weaker sections of the community with a view to ascertaining their problems and difficulties and determining how far and to what extent social legislation has been able to achieve the object and purpose for which it was enacted and to utilise social workers and the student force for the purpose;(u)appoint expert committees for the purpose of assessment and evaluation of the legal services programme undertaken by the Board and its various Committees;(v)carry on such other activities as are incidental and conducive to the objects of the legal services programme; and(w)perform such other duties and discharge such other functions, for the purpose of effectively implementing the legal services programme, as the State Government may direct.

5. Committees.

- The Board shall constitute Legal Aid Committees in the cities of Greater Bombay and Nagpur and at the district and taluka headquarters, in accordance with such scheme or schemes as may be framed by the Board in that behalf with the approval of the State Government. Where any Legal Aid Committee is constituted or any member thereof is appointed, by the Board, before the issuance of this Government Resolution, the Committee or the member, as the case may be, shall continue to function, until a new Committee or a new member, is constituted or appointed by the Board.

6. Advisory Council, etc.

(1)The State Government shall constitute an Advisory Council, of not more than six persons, for the purpose of advising and assisting the Board in the establishment, administration and implementation of the legal services programme in the State.(2)The Board shall have power to invite any person to attend and participate in its proceedings.

7. Honorarium to Executive Chairman.

- The Executive Chairman shall be paid a fixed honorarium of such amount not exceeding Rs. 1,500 per month in the case of a retired Judge of the High Court and not exceeding Rs. 1.000 per month in the case of a retired District Judge :Provided that, the amount of honorarium shall not exceed the difference between the amount of the salary last drawn by the Judge of the High Court, or as the case may be the District Judge, and the amount of pension and pension equivalent to death-cum-retirement gratuity admissible to him.

8. Honoraria.

- (1) The members of the Board, other than the Executive Chairman and the Member-Secretary, shall not be entitled to any remuneration.(2)The members of the Board who are nominated from amongst

the Members of Parliament and the State Legislature shall be paid travelling and daily allowances as may be admissible to them in their respective capacities as Members of Parliament or the State Legislature, as the case may be.(3)The ex-officio members, shall be entitled to travelling and daily allowances according to the rules applicable to them. The other members shall be paid travelling and daily allowances as admissible to Grade I Officers of the State Government under the normal rules.

9. Member-Secretary.

(1)The Board shall have a whole-time Member-Secretary, who shall be either a judicial officer of the rank of District Judge or an officer, drawn from the cadre of Deputy Secretaries to Government [in Law and Judiciary Department] [These words were inserted by G. R., L. & J. D., No. LAB. (96)-XIV, dated 24.7.1986, clause 3.], He shall be responsible for the custody and management of the properties and funds of the Board and for the maintenance of true and proper accounts of the Board and he shall get them audited and checked periodically.(2)The Member-Secretary shall discharge such other duties and functions as the Board may, from time to time, assign to him.

10. Staff of the Board.

- The staff which may be sanctioned to the Board will be on deputation with the Board and under its administrative control while on deputation.

11. Funds of the Board.

(1)The State Government shall, under appropriation duly made by law in this behalf, place at the disposal of the Board, from time to time, the necessary amounts for implementation of the legal aid programme.(2)The Board shall also be entitled to receive and accept donations and grants to its legal aid programme.(3)The costs, charges and expenses which may be recovered as a result of legally aided litigation and all other amounts received by it shall be credited to the State Government.(4)The Board shall out of the amount placed at its disposal by the State Government make available necessary finances to the various Committees in such manner and to such extent as it thinks reasonable.(5)The Board shall maintain true and proper account's of the receipts and disbursements of all amounts placed at its disposal by the State Government. [The accounts of the Board shall be audited annually by the Accountant General of Maharashtra.] [This portion was, substituted for the portion beginning with the words 'the accounts of the Board' and ending with the words 'may determine', by G. R., L. & J. D No. LAB 1086/(96)-XV, dated 24.7.1986, clause 4.]

12. Eligibility for free legal aid.

(1)Every citizen whose income from all sources does not exceed Rs. [6,000 per annum] [Substituted for the letters, figures and words 'Rs. 3,600 per annum', by G. R., L. & J. D. No. LAB 1086/(96)-XV, dated 24.7.1986, clause 5(a).] shall be eligible for free legal services.(2)[This limitation as to income shall not apply to the parties belonging to Scheduled Castes, Scheduled Tribes, Vimukta Jatis,

Nomadic Tribes, Nav Buddas, women and children] [This sub-clause was substituted for the original, by G. R., L. & J. D. No. LAB 1086/(96)-XV, dated 24.7.1986, clause 5(b).</p>].(3)The Board and the Committees constituted by it may suo motu or on application made in that behalf by the opposite party, withdraw the grant of free legal services to an aided person, if it is found that such person has adequate financial resources to meet the cost of such legal services.(4)Notwithstanding anything contained herein, the Board may itself initiate proceedings or grant aid,-(a)in cases of great public importance; or(b)in a test case the decision of which is likely to affect cases of numerous other persons belonging to weaker sections of the community; or(c)in a special case which, for reasons to be recorded in writing, is considered otherwise deserving of legal aid.

13. Headquarters of the Board.

- The office of the Board shall be located in Bombay and the State Government shall provide suitable office accommodation and adequate staff for carrying out the functions of the Board.

14. Decision by majority.

- All questions at any meeting of the Board shall be decided by majority of the members present and voting and in case of a tie, the person presiding shall have a second or casting vote.

15. Continuance of existing schemes.

- The existing Legal Assistance Schemes for Backward Classes and members of the armed forces of the Union and low income ex-servicemen which are in force and more favourable to them shall be continued.

16. Power to frame scheme and to make rules and regulations.

(1)It shall be competent for the Board, with the approval of the State Government, to frame necessary scheme, from time to time providing for the constitution of legal aid committees, prescribing the conditions under which such committees shall function, laying down the procedure and mode of selection of advocates, for providing legal services and the remuneration to be given to them and providing for all other matters which are necessary for effective exercise of its powers and performance of its duties under this Government Resolution.(2)It shall also be competent for the Board, with the approval of the State Government, to frame rules and regulations for the purpose of establishing and operating the legal services programme in the State and for regulating its own procedure.(3)The State Government may accord its approval to any scheme, rule or regulation or any amendment thereof made by the Board under this clause without any modification or subject to such modifications as it may consider proper or return such scheme, rule or regulation or the amendment thereof to the Board for modifying the same in such manner as the State Government may direct.(4)If it appears to the State Government that it is necessary or desirable for carrying out the purpose of this Resolution -(a)to make any scheme in respect of matters specified in clause (1) or

to amend any scheme made by the Board under that clause, or(b)to make any rule or regulation in respect of matters specified in clause (2), the State Government may call upon the Board to make such scheme, rule or regulation or amendment within such time as it may specify. If the Board fails to make such scheme, rule or regulation or amendment within the time as may be so specified, the State Government itself may such scheme, rule or regulation or amendment and the scheme, rule or regulation or amendment so made shall be deemed to have been made by the Board under clause (1) or as the case may be, clause (2).

17. Concurrence of Finance Department.

- This Government Resolution is issued with concurrence of the Finance Department vide its unofficial reference No. 227/SFD. dated the 5th October, 1979.