

# Jharkhand Family Courts Rules, 2018

JHARKHAND

India

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### Rule JHARKHAND-FAMILY-COURTS-RULES-2018 of 2018

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Jharkhand Family Courts Rules, 2018 Published vide Notification No. 13/Variya Niyma.-01/2017 Ka 8381, dated 12.11.2018 No.13/Variya Niyma. - 01/2017 Ka 8381, dated 12.11.2018. - In exercise of the powers conferred by Section 23 read with Sections 4, 5, 6 and 12 of the Family Courts Act, 1984 (Central Act No. 66 of 1984), The State Government in consultation with the High Court of Jharkhand, Ranchi makes the following Rules :-

#### 1. Short title, extent and commencement.

- (i) These Rules may be called "The Jharkhand Family Courts Rules, 2018". (ii) It shall extend to the whole of the State of Jharkhand. (iii) It shall come into force on the date of its publication in the Official Gazette.

#### 2. Definition.

- In these Rules unless the context otherwise requires: (a) "Act" means the Family Courts Act, 1984; (b) "Citizen of India" means such person, who is or is deemed to be a Citizen of India under part-II of the Constitution of India; (c) "Governor" means the Governor of Jharkhand; (d) "Government" means the Government of Jharkhand; (e) "High Court" means the High Court of Jharkhand, Ranchi; (f) "Post" means the Post of Judge; (g) "Section" means the Section of the Family Courts Act, 1984; (h) Words and expressions used but not defined in these Rules shall have the same meanings which may have been assigned to them in the Family Courts Act, 1984.

#### 3. Appointment of Judges.

- Appointment of a judge shall be made: - (a) by deputation of member of the Jharkhand Superior Judicial Service or of a person who has held the office of a member of a Tribunal for 7 (Seven) years; (b) by appointment of a retired person referred to in clause (a); or (c) by appointment of a person eligible under clauses (b) and (c) of sub-Section (3) of Section-4 of the Act by adopting the

process for appointment of a District Judge under Jharkhand Superior Judicial Service (Recruitment, Appointment & Conditions of Service) Rules, 2001.

#### **4. Salary, Allowances and other terms and conditions of Judges.**

(1)The terms and conditions of service of a Judge appointed by deputation under clause (a) of Rule 3 shall:- (a) If such Judge belongs to the Jharkhand Superior Judicial Service be regulated by the Rules applicable to the members of the service, and (b) If such Judge belongs to a service other than the Jharkhand Superior Judicial Service, be regulated by the Rules applicable to the members of that service. Provided that the pay and allowances of such Judge shall be same as are applicable to an officer on deputation under the provisions of the Jharkhand Service Rules and his service conditions shall not be varied to his disadvantage after appointment. (2)The terms and conditions of service of a Judge appointed under clause (c) of Rule 3 shall be the same as are applicable to a member of the Jharkhand Superior Judicial Service and shall be paid such pay and allowances as admissible to a member of that service. (3)No person shall be appointed as Judge before he has attained the age of 35 (Thirty Five) years and no person shall continue after he has attained the age of 62 (Sixty Two) years. (4)If any person re-appointed as judge was in service under the Central or State Government, he shall, on completion of age of Superannuation applicable in his Parent Department, stand retired from the Service. Provided that the State Government may, with concurrence of the High Court, re-appoint him on the post for a period not exceeding two years but not beyond the age of 62 (Sixty Two) years. On his re-appointment, he shall get the Salary and Allowances as may be admissible to a retired Government Servant on his appointment as per provisions of Jharkhand Service Rules. (5)Any member of the Jharkhand Superior Judicial Service who has reached the age of superannuation shall be eligible for appointment as a Judge of the Family Courts for a period not exceeding two years but not beyond the age of 62 (Sixty Two) years, by the State Government with the concurrence of the High Court. On his appointment he shall get salary and allowances as are admissible to a retired Government Servant as per Law. (6)The pension of a person appointed otherwise than from members of Jharkhand Superior Judicial Services or other Services, shall be governed by the Contributory Pension Rules or any other Pension Rule made by the State Government from time to time. (7)The State Government only on the recommendation of the High Court may transfer any Judge from one Family Court to another Family Court in the State. (8)The Judge of Family Court shall work under administrative control and superintendence of the High Court. (9)The dress of a Judge of Family Court shall be similar to that of Principal District and Sessions Judge. (10)The Court buildings of Family Court and its office shall be maintained by the BCD/PWD and supervised by the Registrar/Judge-in-Charge of the Civil Court of that District. (11)(i)The allotment of fund on all heads including heads of fees and honorarium to be paid to experts, counsellors or amicus curiae shall be made available to the Principal Judge of the Family Court and the accounts of receipts and expenditure shall be maintained as per prevailing Rules and practices by the Registrar or the Judge-in-Charge of the judgeship separately. (ii)The Registrar or the Judge-in-Charge of the concerned Civil Court shall be the Drawing and Disbursing officer in respect of the officers and employees of the concerned Family Courts. (iii)In case a Family Court is established in addition to the one already existing at the headquarters of the Judgeship, the officer posted at the outlying station and authorized to act as the Registrar or Judge-in-charge there, shall also act as such for all purposes in respect of the Family Court. (iv)In case the post of Principal

Judge, Family court is lying vacant, the State Government in consultation with the High Court may authorise the Principal District Judge of the judgship to act as the Principal Judge to discharge all the functions of the Principal Judge of the Family Court.(12)The Family Court shall observe holidays and vacation as declared by the High Court for Civil Courts.(13)A Staff Car shall be provided to each Judge of Family Courts (Principal and Additional Judge, Family Court) with 120 litres of Petrol per month, or actual consumption of petrol whichever is less. An amount equal to the amount sanctioned for maintenance of the Staff Car of Civil Court shall be provided to the Family Courts.(14)Every Judge of Family Court shall be provided Telephone at his residence and in the Chamber in Court premises as per Rule applicable to a Principal District Judge.

## **5. Filling of Application.**

(1)The filling of all applications except those governed by sub-rule (2) shall be governed by the Jharkhand Civil Court Rules framed by the High Court of Jharkhand at Ranchi in so far as they may be applicable to suits or proceedings under the above Rules.Provided that contents of all applications filled under these Rules shall be verified by the applicant by appending a certificate that the same are true to the applicant's knowledge and belief .(2)The Service of notices and summons issued by the Family Courts shall be served through Nazarat of Civil Court as per relevant Rules laid down by the High Court and in the manner as laid down by order V of the Code of Civil Procedure, 1908 and also by electronic mode.

## **6. Association of Social Welfare agencies.**

(1)Every Principal Judge of the Family Court shall for the association with it, in consultation with the High Court and the State Government, maintain in respect of its area a register or registers and record therein the name of :-(i)Institutions and organisations engaged in Social Welfare in family, matrimonial and allied matters and the representatives thereof;(ii)Persons professionally engaged in promoting the welfare of families; and(iii)Persons working in the field of social welfare.(2)Subject of sub-rule (1), the Principal Judge of the Family Court may record such names after obtaining the written consent of the institution, organisation or person, as the case may be, on its own motion or its/his application.

## **7. Counselling Centre.**

(1)There shall be attached to the Family Court, a counselling centre to be known as the Family Court Counselling Centre.(2)The Counselling Centre shall be located in the Family Court Premises or at such other place as the High Court may direct.

## **8. Empanelment of Counsellors.**

- The Counsellors shall be appointed by the State Government from the Panel of Counsellors prepared by Principal Judge of the Family Court and approved by the High Court.

## **9. Qualification for Counsellor.**

(1) Any person having a degree of a recognised University preferably with Social Science or Psychology as one of the subjects, and minimum experience of two years in Social Work, Child Psychiatry or Family Counselling shall be eligible for empanelment as counsellor. Provided that the minimum academic qualifications may be relaxed in exceptional circumstances. Provided further that preference may be given to women having the requisite qualification. Provided also that person shall not be eligible for empanelment for the post of Counsellor unless he has attained the age of 35 (Thirty Five) years. (2) A candidate who-(a) has been a Judge; or (b) has experience of Counselling in family matters and other requisite qualifications being equal, shall be given preference over other candidate(s) in the matter of empanelment.

## **10. Number of Counsellors.**

(1) The number and categories of Counsellors in each Counselling Centre shall be such as may be determined by the State Government in consultation with the High Court from time to time. (2) Where more than one Counsellors are appointed in Counselling Centre, one of them may be designated as Principal Counsellor by the State Government.

## **11. Function of Counsellor.**

(1)(i) The Counsellor entrusted with any petition, shall assist the Court and advise the parties for settling their dispute(s), and he will do his best for reconciliation between the parties, (ii) The Counsellor may visit the house of any of the parties and may interview their relatives, friend, acquainted persons or employees in connection with settlement of disputes between them, (iii) No male Counsellor shall visit the house of a lone female in connection with his duties without obtaining prior permission of the Family Court and must be accompanied by a Female Counsellor or female staff, (iv) Every information collected by the Counsellors, every statement made before the Counsellors and every note or report prepared by the Counsellors, shall be confidential and shall not to be disclosed to any person, except with the previous consent of both the parties to the suit or proceedings followed by the leave of the Family Court, (v) No Counsellor shall give evidence in any Court in respect of such information, statement, notes or report prepared by him, (vi) In any suit or proceeding, if required by the Family Court, the Counsellor may submit a report to it, in respect of environment of house, relationship of spouses and their children, income and standard of living of the concerned family, (vii) The Counsellor shall not accept any fee or expenses from any of the parties, nor shall he act or plead on behalf of any of the parties. He shall only assist the Family Court in settling or deciding the dispute in a peaceful and amicable manner, (viii) The Counsellor shall submit his report regarding his efforts of reconciliation made for peaceful and amicable settlement of disputes between parties. The report shall be objective without blaming any of parties to the suit or other proceeding, in case of failure of reconciliation. A copy of such report shall be given to the party on its request. Any party shall have right to make its submission on such report, (ix) The Counsellor may advise, guide and assist the reconciled parties even after peaceful settlement arrived in between them, (2) In performing his functions under sub-rule (1) the Counsellor shall be guided by such general or special directions as may be given by the Family Court from time to time.

## **12. Payment of honorarium/fee to Counsellors.**

(1)The honorarium or fee per case admissible to persons employed as counsellors shall be such as is payable to the Mediators in the State of Jharkhand as per Jharkhand State Legal Services Authority (JHALSA) Regulation.

## **13. Terms and Conditions of service of Officers and Employees.**

(1)Such number and categories of officers and employees shall be provided to a Family Court, which are admissible to a court of that level,(2)The appointment of officers and employees of Family Courts shall generally be made by appointment or by deputation from District Civil Court,(3)The salary, allowances and others terms and conditions of service of the officers and employees of the Family Court shall be similar to the Officers and Employees working in the Civil Court.

## **14. Medical expert.**

- (i) The Family court may secure services of Medical expert or any other expert in order to discharge its duty effectively.(ii)Such medical expert or other expert shall be paid a consolidated sum of Rs. 500/- per day for the purpose of giving his expert opinion/evidence in Family Court. Medical experts or other experts who are not local shall be paid a sum of Rs. 1000/- per day and shall also be paid Travelling Allowance at the rate admissible to official or non-official witnesses, as the case may be, for appearing before the Sessions Judge, preferably on the same day or in any case within a month. The aforesaid fees shall be revisable from time to time and at least after five years.

## **15. Assistance of medical experts and welfare experts.**

(1)Where the Family Court decides to secure the services of any expert or other person referred to in Section 12 of the Act, the Courts shall indicate the exact point or points on which and the manner in which the service required is to be rendered.(2)The expert or other person referred to in sub-rule (1), shall render the service and submit its report within such time as may be indicated in the order of the Family Court or within such extended time as may be given by the Court.(3)The Family Court shall permit the parties to file objections against such report.(4)The Court shall consider such report in deciding the dispute but shall not be bound to accept the report.

## **16. Travelling and other expenses payable to medical and other experts including Counsellors.**

- Where in the opinion of the Family Court, the assistance of an expert or other person referred to in Section 12 of the Act is necessary, but the party seeking such assistance does not have means to pay his fees and travelling and other expenses, it may, suo motu or on application of the party, direct the payment of such fees and expenses, out of the revenue of the State as specified below:-

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| (a) | If the expert is a Government servant.     | Travelling expenses at the rate as admissible to him in the service of the State Government. |
| (b) | If the expert is not a Government servant. | Travelling expenses at the rate as admissible to Class-I Officer of the State.               |

### **17. Independent legal representation of a minor.**

- The Family Court may empanel a lawyer to represent independently, any minor, affected by litigation before the Court. The Court may give suitable directions regarding fees to be paid to such lawyer.

### **18. Amicus Curiae.**

- (i) The Judge of Family court, in appropriate cases may appoint any advocate, having experience of not less than 7 (Seven) years, as Amicus Curiae for assisting the Court. (ii) The Amicus Curiae shall be entitled to such fee as is payable to Legal Services Panel Lawyers as per JHALSA Regulation.

### **19. Termination of empanelment of Counsellor.**

- A Counsellor may be terminated from the panel of Councillors at any time before the expiry of his term on the recommendation of the Principal Judge of the Family Court.