

The Orissa Assignment of Pleaders to Indigent Persons Rules, 1981

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The Orissa Assignment of Pleaders to Indigent Persons Rules, 1981Published vide Notification No. 671, 12-3/80, Orissa Gazette, Part 3A No. 39 of 1981, dated the 10th September, 1981Notification No. 671, XII-3/80, dated the 10th September, 1981- In exercise of the powers conferred by Sub-rule (2) of Rule 9-A of Order XXXIII of the Code of Civil Procedure, 1908 (5 of 1908), the High Court of Orissa with the previous approval of the State Government do hereby make the following rules for assignment of pleaders to unrepresented indigent persons in Courts subordinate to the High Court of Orissa and for regulating the appointment of such pleaders, namely :

1. Short title, extent and commencement.

(1)These rules may be called the Orissa Assignment of Pleaders to Indigent Persons Rules, 1981.(2)They shall extend to the whole of the State of Orissa.(3)They shall come into force at once.

2. Definitions.

- In these rules, unless the context otherwise requires.-(a)"Code" means the Code-of Civil Procedure, 1908 (5 of 1908);(b)"Court" means a Civil Court of original or appellate jurisdiction;(c)"Indigent person" means a person whose application to sue as such has been allowed under Sub-rule (3) of Rule 7 of Order XXXIII of the Code;(d)The word "pleader" shall have the same meaning as assigned to it under Clause (15) of Section 2 of the Code.

3. Preparation of a panel of Pleaders for appointment as pleader for indigent persons.

(1)The District Judge shall prepare a panel of pleaders with their consent for every station in his judgeship, keeping in view the need of such station, for appointment of pleaders for indigent persons. Such panel shall remain in force until it is revised by the District Judge.(2)A person shall be eligible to be included in the panel only if he has been for not less than five years an advocate or a pleader practising as such.(3)Any pleader in the panel may tender his resignation in writing to the District Judge.(4)Any vacancy in the panel caused by resignation or otherwise may be filled up by the District Judge.(5)If any pleader included in the panel, neglects in his work or refuses to accept an engagement without any reasonable cause, his name shall be struck off from the panel by the District Judge.

4. Mode of assignment of a pleader to an indigent person.

(1)If any Court finds that an indigent person is, at any stage of the suit, not represented by any pleader, it may, if the circumstances of the case so require, assign him one of the pleaders included in the panel prepared under Rule 3.(2)For the purpose of assigning a pleader, the Court may take into consideration the choice, if any, of the indigent person to engage any pleader, out of the panel.(3)A Court shall not, so long as a pleader out of the panel is available, assign any other pleader to the indigent person without prior approval of the District Judge.

5. Facilities to be provided to the pleader assigned to the indigent person.

(1)The pleader assigned to an indigent person shall be permitted to enter appearance on behalf of the indigent person by presenting a memorandum of appearance.(2)The pleader so assigned and appearing shall, on application, be permitted to inspect the records of the case and obtain all necessary information relating to the suit free of cost.

6. Payment of fees and allowance to the pleader.

(1)The fees of a pleader assigned to an indigent person in a case shall be as follows :(a)a consolidated fee of thirty-two rupees for perusal of records and for drafting of pleadings;(b)thirty-two rupees per day where in any day the hearing of the suit takes more than three hours and sixteen rupees where it takes less than three hours;(c)consolidated fees ranging from fifty rupees to two hundred rupees tot interlocutory matters and steps taken to be fixed by the Court concerned having regard to the number of days the pleader has been required to appear in the Court and the nature and volume of work done.(2)The daily fees of the pleader assigned to an indigent person, when employed outside his usual headquarters, shall be double the daily fees prescribed in Clause (b) of Sub-rule (1).(3)The pleader assigned to the indigent person shall be entitled to travelling allowance as admissible to a Class I officer under the Orissa Travelling Allowance Rules.

7. Cancellation of the appointment of the pleader.

(1)The appointment of the pleader for the indigent person shall stand terminated when-(a)the pleader either withdraws from the case in writing with the permission of the Court or dies; or(b)the

Court, as per provisions contained in Rule 9 of Order XXXIII of the Code dispaupers the indigent person; or(c)the indigent person dies; or(d)the suit of the indigent person is disposed of by decree, dismissal or otherwise :Provided that the Court may, for reasons to be recorded in writing, at any stage of the suit, terminate the appointment of the pleader and proceed to assign another pleader to the indigent person.(2)When the appointment of a pleader is terminated under the proviso to Sub-Rule (1) the fees payable to the outgoing pleader and the pleader to be engaged shall be apportioned by the Court concerned.

8. Duties of the Pleader.

- It shall be the duty of the pleader for an indigent person-(i)to diligently prosecute or defend the case of the indigent person;(ii)to take all steps necessary for the fair conduct or defence of the case subject to payment of charges which the indigent person is required to pay under different provisions of the Code; and(iii)to maintain a true and correct account of the payments made by the indigent person to him in defraying the expenses for taking various steps for the conduct or defence of the suit.

9. Applicability to an indigent defendant pleading a set-off -or making a counter-claim.

- These rules shall apply, mutatis mutandis, to a defendant who may be allowed to plead a set off or a counter claim as an indigent person in accordance with Rule 17 of Order XXXIII of the Code.

10.

(1)The District Judge shall be the Controlling Officer for the payment and audit of all fees due to pleaders engaged to represent indigent persons in Courts subordinate to the High Court and all such fees shall be payable by the State Government.(2)The pleaders shall submit their bills to the concerned Court within fifteen days of the disposal of the suit. The Court, on receipt of the bills, shall get them checked with reference to the diary maintained by the pleader as prescribed in Rule 12 and after counter-signature, forward the same to the District Judge for sanctioning the payment.(3)Travelling allowance, as provided in Sub-rule (3) of Rule 6, shall be payable on completion of the journey and shall be paid in the manner prescribed for payment of fees under Sub-rule (2).(4)The fees payable to the outgoing pleader as apportioned by the Court concerned under Sub-rule (2) of Rule 7 shall become due from the date of termination of his appointment and shall be paid ordinarily within one month from such date in the manner prescribed for payment of fees under Sub-rule (2).

11. Realisation of costs awarded.

(1)In the event the indigent person succeeds and the Court awards costs, he shall deposit the amount of pleader's fees awarded as costs in his favour to the credit -of the Government of Orissa within one month from the date of its realization from the opposite party, under the head "Order

65-Other Administrative Service-A-Administration of Justice-(S)-Other receipts", and that in case of default in making such deposit within the time stated above, the amount shall be recovered from him as an arrear of public demand under the provisions of the Orissa Public Demands Recovery Act, 1962.(2)On receipt of intimation from the District Judge, the Collector shall take action for recovery of the pleader's fees awarded as cost as arrear of land revenue payable to him and when realised shall deposit the amount under the head mentioned in Sub-rule (1).

12. Maintenance of diary by the Pleader.

- A Pleader assigned to an indigent person, in any Court subordinate to the High Court at the expense of the State, at the conclusion of each day of hearing in the case prepare and submit for counter-signature by the Presiding Officer of the Court, a diary containing the following details fully set out ;

	Number and year of Date the case and the name of the Court	Name and address of the party represented	Duration of hearing	Work done	Signature of the Presiding Officer	Remarks
1	2	3	4	5	6	7

13.

Any indigent person who is in receipt of legal aid under these rules shall be precluded from receiving legal aid under any other rules made by the State Government providing for legal aid to the poor.