

The M.P. Family Court Rules, 2002

MADHYA PRADESH

India

The M.P. Family Court Rules, 2002

Rule THE-M-P-FAMILY-COURT-RULES-2002 of 2002

- Published on 20 June 2002
- Commenced on 20 June 2002
- [This is the version of this document from 20 June 2002.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Family Court Rules, 2002 Published vide Notification No. F-4-1-02-21-B(1), dated 20-6-2002, in the Madhya Pradesh Rajpatra (Asadharan) Notification No. F-4-1-02-XXI-B(1), dated 20-6-2002. - In exercise of the powers conferred by Section 23 of the Family Courts Act, 1984 (No. 66 of 1984) the State Government, in consultation with the High Court of Madhya Pradesh, hereby makes the following rules, namely :-

1. Short title and commencement.

(1) These rules may be called The Madhya Pradesh Family Court Rules, 2002. (2) They shall come into force with effect from the date of their publication in the "Madhya Pradesh Gazette."

2. Definitions.

- In these rules, unless the context otherwise requires, -(a) "Act" means the Family Courts Act, 1984 (No. 66 of 1984); (b) "Family Court" means the Court established under Section 3 of the Act; (c) "Government" means the Government of Madhya Pradesh; (d) "High Court" means the High Court of Madhya Pradesh; (e) "Judge" means the Judge appointed under sub-section (1) of Section 4 of the Act and includes a Principal Judge or Additional Principal Judge of the Family Court; (f) All other words and expressions not defined in these rules shall have the same meanings as assigned to them in the Act.

3. Service conditions of the Judge of Family Court.

(1) The term of the office of the Judge of Family Court shall be five years from the date he assumes office; or till he attains the age of sixty two years, subject to the prior approval of the High Court. (2) The Judge of the Family Court shall be under the administrative and disciplinary control of the High Court. (3) A Judge of a Family Court shall be entitled to pay and allowances including travelling allowance, dearness allowances as admissible to a District Judge, who is drawing

supertime pay scale :Provided that the pay and allowances of a Judge who is a member of the Madhya Pradesh Higher Judicial Service shall not be less than the presumptive pay and allowances as would have been admissible to him.(4)A serving member of the Madhya Pradesh Judicial Service appointed as a Judge or Principal Judge or Additional Principal Judge of a Court being superannuated on attaining the age of superannuation during his tenure as such judge shall receive pay and allowances which he last drawn minus pension, if any.(5)A retired member of the Madhya Pradesh Higher Judicial Service appointed as a Judge or Principal Judge or Additional Principal Judge of a Court shall receive the pay and allowances which he last drawn as a member of the said service minus pension, if any.(6)Any other person appointed as Judge or Principal Judge or Additional Principal Judge of a Court shall be entitled to such pay, allowance and other benefits as may be admissible to a member of the Madhya Pradesh Higher Judicial Service in the supertime scale of pay from time to time.

4. 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 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.

5. Counselling Centre.

(1)There shall be attached to the Family Court in each city 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.

6. Appointment of Counsellors.

- The Counsellors shall be appointed by the State Government from the Panel of Counsellors prepared by the Principal Judge of the Family Court and approved by the High Court :Provided that no Counsellor shall continue after he attains the age of 65 years.

7. Number of Counsellors.

(1)The number and categories of Counsellors in each Counselling Centre shall be such as may be determined by the 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 High Court.

8. 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 appointment as a 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 be eligible for appointment on the post of Counsellor unless he has attained the age of 35 years and is below 60 years of age. (2) A candidate who- (a) has been a Judge; or (b) has experience of Counselling in family matters shall, other things being equal, be given preference in the matter of appointment.

9. Payment of Honorarium/fee to Counsellors.

(1) The Honorarium or fee admissible to persons employed as counsellors shall be such as may be determined by the State Government from time to time. (2) The Counsellors shall be entitled to the payment of Honorarium or fee at the minimum rate of Rs. 75/- (Rupees Seventy five) per case per sitting for reconciliation. The number of sittings restricted for each case should be more than four. In any case, the total Honorarium or fee of counsellors shall not exceed Rs. 300/- (Rupees Three hundred) per day.

10. Function of Counsellor.

(1) The Counsellor, entrusted with any petition, shall- (i) attend the Court as and when required by the Judge of the Family Court; (ii) aid and advise the parties regarding settlement of the subject-matter of dispute of any other part thereof; (iii) help the parties in reconciliation; (iv) submit report or interim report, as the case may be fixed by the Court; (v) perform such other functions as may be assigned to him by the Family Court from time to time. (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.

11. Conditions or service of employees of a Family Court.

- The qualification, procedure for recruitment, pay and other conditions of service of the employees of a Family Court shall be the same as of the employees of similar category in the Courts under the control of District Judge and the rules relating thereto shall, mutatis mutandis, apply.

12. Assistance of medical experts, 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 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 the report in deciding the dispute but shall not be bound to accept anything contained therein.

13. Travelling and other expenses payable to medical and other experts.

- 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 needing 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 :-

	(1)	(2)
(a)	If the expert is 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 Government plus Rs. 500/- as fees per day.

14. Permission for representation by a lawyer.

- The Court may permit the parties to be represented by a lawyer in Court. Such permission may be granted if the case involves complicated question of law or fact and if the Court is of the view that the party in person is not in a position to conduct his or her case adequately or for any other reasons. The reason for granting permission shall be recorded in the order. Permission so granted may be revoked by the Court at any stage of the proceedings if the Court considers it just and necessary.

15. Time for making application.

- An application by a party for being represented by a lawyer in Court shall be made by such party to the Court after notice to the other side. Such an application shall be made not less than two weeks prior to the date fixed for hearing of the petition.

16. Application not to be entertained during the hearing.

- An application under Rule 15 shall not be entertained after the petition is placed for hearing on the daily board of the Court unless there are exceptional circumstances justifying such late application.

17. Independent legal representation of a minor.

- The Court may appoint 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 a lawyer.

18. Amicus Curiae.

(1)The Family Court shall maintain a panel of legal experts, including legal practitioners, willing to be appointed as amicus curiae.(2)Where it appears to the Family Court that the assistance of a legal expert as amicus curiae is necessary in the interest of justice, the Court may engage a legal expert from the said panel.(3)The amicus curiae, engaged under sub-rule (2), may be paid by the Family Court out of the revenues of the State, fee and expenses at the rates of Rupees five hundred per case or proceeding.

19. Termination of appointment of Counsellor.

- The appointment of a Counsellor may be terminated at any time before the expiry of his term on the recommendation of the Judge of the Family Court.