

Andhra Pradesh Municipalities (Appointment of Standing Counsels, Payment of Fees and Travelling Allowances and Procedure for Filing of Appeal in Civil Cases) Rules, 1968

ANDHRA PRADESH

India

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Rule

**ANDHRA-PRADESH-MUNICIPALITIES-APPOINTMENT-OF-STANDING-
of 1968**

- Published on 24 February 1966
- Commenced on 24 February 1966
- [This is the version of this document from 24 February 1966.]
- [Note: The original publication document is not available and this content could not be verified.]

Andhra Pradesh Municipalities (Appointment of Standing Counsels, Payment of Fees and Travelling Allowances and Procedure for Filing of Appeal in Civil Cases) Rules, 1968In exercise of the powers conferred by Sub-section (1) of Section 326 of the Andhra Pradesh Municipalities Act, 1965 (Act 6 of 1965), the Governor of Andhra Pradesh hereby makes the following rules for the appointment of standing counsels, payment of fees, etc., and procedure for filing of appeals in civil cases, the same having been published at pages 63-65 of the Rules Supplement of part I of the Andhra Pradesh Gazette, dated 24th February, 1966, as required under clauses (a) and (b) of Sub-section (1) of Section 327 of the said Act.

1.

These rules may be called the Andhra Pradesh Municipalities (Appointment of standing Counsels, payment of Fees and travelling Allowance and Procedure for Filling of Appeals in Civil Cases) Rules, 1968. Appointment of Standing Counsel

2.

(1)A municipal council may appoint a standing counsel on a fixed remuneration per month as retaining fee for a term not exceeding three years at a time for giving legal advice and for rendering services out of court in connection with the legal affairs of the municipality and for attending civil and criminal cases where the engagement of a counsel is necessary. The council may appoint him for a second time if his work has been found satisfactory without calling for applications as laid down in Sub-rule (3).(2)The approval of the Director of Municipal Administration shall be obtained for the rate of retaining for proposed to be paid to the standing counsel.(3)When a standing counsel is to be appointed the Commissioner of the municipal council shall invite applications from the members of the local bar of not less than 7 years standing by sending a notice in this behalf of the President of Local Bar Association; and the council shall appoint its standing counsel from among the applicants. In the absence of qualified and suitable candidates for such appointment, the Municipal Council may in like manner invite applications for a second time and appoint its standing counsel.Explanation. - The expression "Local Bar" shall in respect of any municipality which is not a seat of Civil Court mean the bar at the place which is a seat of the civil court having jurisdiction over the municipal town concerned.Provided that such sanction shall be necessary where a counsel is engaged to appear at a station different from that where the standing counsel usually practises, and the expenditure incurred is less than what it would have been if the standing counsel had been engaged.Provided further that where the courts do not fix the fee in respect of cases outstanding on the date on which the outgoing standing counsel ceases to function, the municipal council shall apportion the fee between outgoing and incoming counsel as per principles laid down in G.O.Ms.No.1589, Home, (Courts), dated 13th May 1953 as amended from time to time. In case of any doubt, the council may refer the matter to the Government whose decision shall be final.

3.

Where a municipal council has appointed a standing counsel it shall have an agreement executed by him in the form specified in the Annexure. provided that if any modification is considered necessary in any of the clauses of the said agreement, such modification shall be made with the approval of the Director of Municipal Administration.

4.

No person who has been appointed by a municipal council as its standing counsel {x x x x} shall be retained in its service after he has attained the age of 60 years, or if he accepts employment as legal practitioner against the municipal council. Payment of Fees to the Counsel

5.

A Municipal Council may pay less to a counsel without outside sanction in accordance with the following scales,(i)in civil cases the regulation fee; and(ii)in criminal cases:- A fee to be fixed with reference to the amount and difficulty involved in the work entrusted, subject to a maximum as

detailed below:-

Duration and nature of work	Maximum fees allowable
(1)	(2) Rs.
(a) For work of over 3 hours in the court which is situated within the municipal limits.	25 per day
(b) For appearing in a court outside the municipal limits irrespective of the fact whether time taken is 3 hours or not.	25 per day
(c) For work of less than 3 hours in the court situated within municipal limits	15 per day
(d) For attending to more than one case on the same day in a court outside the municipal limits.	35 per day
(e) For attending to more than one case on the same day in the same court within the municipal limits.	30 per day

6. A municipal council may with the approval of the Director of Municipal Administration pay up to Rs.100 to any Advocate other than the Standing Counsel.

- (i) in each case for work done in examining records and for services rendered out of court provided that no suit or case is instituted or defence entered in continuation of such examination or of such services and where such suit or case is instituted or defence entered, the total fees payable to the counsel for the work done in examining the records, for services rendered out of court and for work in court shall not exceed Rs.100 or the fee payable under rule 5, whichever is higher; and (ii) in each case which the subject matter of the claim does not admit of valuation.

7.

Nothing in rules 5 and 6 shall be deemed to restrict the amount payable in special cases, but when the limits fixed in the said rules are proposed to be exceeded, the prior sanction of the Director of Municipal Administration shall be obtained.

8.

The provisions of Rules 5 to 7 shall apply also in respect of payment of fees by the Commissioner {x x x} of municipalities, in cases in which they obtained legal advice and assistance from the counsel

9.

Where the Government and a municipal council are both parties in a civil case in which the correctness of the survey of lands vested in the municipal council is in question and the interest of

both are identical the municipal council shall engage on its behalf only the counsel appointed by the Collector on behalf of the Government. In such cases, the fee payable to the counsel shall be borne by the Government and the municipal council in equal proportion.

10.

In civil cases other than those mentioned in Rule 9 where the Government and a municipal council are both parties and their pleadings are similar, the Municipal council shall engaged on its behalf only the counsel appointed by the Collector on behalf of the Government. In such cases, the fee payable to the counsel and any expenses incurred after the proceedings on behalf of the Government and the municipal council became joint and in furtherance of such joint proceedings, shall be borne by the Government and the municipal council in equal shares.

11.

In case where the Government and the municipal council are both parties and payment of costs to the decree holders in ordered by a Court the expenditure shall be borne by the Government and the Municipal Council in the ratio to be fixed by the Government. Procedure for filing of appeals in civil cases

12.

Whenever a municipal council proposes to file an appeal against the decision of a civil court, the municipal council shall,(i)where the Government are not a party, or where they are a party and their interests are not adverse to those of the municipal council, obtained the opinion of (a) the Government Pleader of the district, if the appeal is to a mufassal court, and (b) of the Government Pleader, Hyderabad if the appeal is to the High Court or to the Supreme Court;(ii)where the Government are a party and their interest are adverse to those of the municipal, council obtain the opinion of any pleader other than the Government Pleader of the district or the Government Pleader, Hyderabad besides the opinion of standing counsel as to whether they are sufficient grounds for filing the appeals and its shall not file appeal unless so advised by the Government Pleader, or other Pleader, as the case may be.

13.

A Municipal Council may pay fees to the Government Pleader or other pleader as the case may be upto Rs.100 in each case for the opinion referred to in Rule 12 and may, in special cases, with the previous sanction of the Director of Municipal Administration pay a higher fee. If the Government Pleader or other pleader is entrusted with the filing and conduct of the appeal in court, the total fee payable to him for the opinion and for the filing and conduct of the appeal shall not exceed Rs. 100 or the regulation fee, whichever is higher, except with the previous sanction of the Director of Municipal Administration.

14.

(1)A Municipal Council may, without outside sanction, pay the travelling allowance to counsel for to and for journey made by them to conduct cases in court on behalf of the councils at rates not exceeding the following:- (a) a single second class fare for journeys by railway; (b) actual fare paid for journey by public transport; and (c) twenty-five paise per kilometre for journeys by road to places not connected with railway or public transport. (2) No daily allowance shall be paid by municipal councils in respect of such journeys without the sanction of the competent authority mentioned in Rule 15 below.

15. The previous sanction of the Director of Municipal Administration shall be obtained whenever a municipal council proposes to pay.

(a) travelling allowance to a counsel in excess of the amount admissible at the rate specified in Rule 14 above; or (b) any daily allowance to him.

16.

(1) Where the institution of a suit or appeal has become necessary and is advised by the counsel, the authorities concerned with the subject matter are competent to institute or file the suit or appeal. (2) In case where the Commissioner or council differs with the opinion of the counsel and refuse to proceed with further action as per the advice of the counsel, the commissioner shall immediately report the matter to the Government whose decision shall be final.

17.

No Municipal Council shall without the previous sanction of the Government incur any expenses in connection with any appeal against surcharge certificate issued by Auditor against the Chairperson or any member.

18.

Notwithstanding anything contained in these rules, the Government, shall have the power to appoint the Standing Counsels for the Municipalities in respect of the Civil Cases before the High Court, the Andhra Pradesh Administrative Tribunal and the Supreme Court, subject to the terms and conditions applicable for the appointment of the Government Pleaders. Annexure 1 Form of Agreement Agreement entered into this day 19..... between son of Advocate residing at (hereinafter called the standing counsel)) of the first part and the Municipal Council (hereinafter called the municipal council) of the other part. Whereas the municipal council appointed the party of the first part as its standing counsel in its proceedings dated on the terms set forth herein below. Now this agreement witnesseth that it was been agreed between the parties hereto as follows:- (1) the standing counsel shall be paid a fixed fee of Rs. per

month and shall in consideration thereof--(a)give studied, and written opinion on all the matters referred to him by the Commissioner of the Municipality (hereinafter called the Commissioner);(b)draft all agreement required by the Commissioner;(c)draft and issue lawyer's notices or reply to notices when so required by the Commissioner;(d)advise the council, [x x x] the Commissioner in matters in which his professional advice may be sought and be available for consultation for the purpose.(2)The standing counsel shall attend to all civil suits and proceedings, original or appellate, by or against the municipal council and he shall be paid the regulation fee payable under the Legal Practitioners Fees Rules.(3)The Commissioner shall give instructions regarding the filing of execution petitions to the standing counsel who shall then take necessary action in the matter with due promptitude.(4)The standing counsel shall not be entitled to any allowance by way of establishment charges, stationery, contingencies, etc. He may get papers typewritten by the typist employed in the municipal office.(5)The standing counsel shall also attend to civil or criminal cases in which his presence may be required by the Council , Executive Committee or the Commissioner and in such cases a reasonable fee will be fixed for each case by the municipal council in accordance with Rule 5.(6)In cases wherein the courts do not fix any fee at all in respect of the outstanding cases on which the period of agreement expires, the municipal council shall apportion between the out- going and the incoming standing counsels the fee or fees allowed by the court or the fee or fees fixed as per the principles laid in Government Order (Ms.) No.1589, Home (Courts), dated 13 May 1954 as subsequently amended from time to time. In case of any doubt the municipal council may refer to the Government whose decision shall be final in either case, the fee to both the in-coming and outgoing standing counsels shall not exceed the amount that would have been paid had only one standing counsel been engaged.(7)The municipal council shall be at liberty to employ and engage any other counsel along with or instead of the standing counsel.(8)The standing counsel shall not appear against the municipal council except with the previous permission of the council.(9)If from illness or other unavoidable cause, the standing counsel is unable to attend the court on any date when a case relating to the municipal council is being heard, he shall arrange for a competent substitute and the travelling allowance and fee payable to him will be paid to his substitute.(10)The standing counsel shall maintain regular and proper accounts for all moneys drawn or received by him or remitted by him on behalf of the municipal council. the accounts shall be maintained in such form and manner as may be specified by the Commissioner from time to time in this behalf and shall be produced whenever required by the Commissioner.(11)The standing counsel shall maintain suit registers in such form and manner as may be specified from time to time in this behalf showing the suit filed by or against the municipal council with particulars regarding the action taken thereon. The registers shall be produced whenever required by the Commissioner.(12)One calendar month's notice in writing shall be given by either party to the other in case it is desired to terminate this agreement.In witness whereof the standing counsel and the Chairperson municipality for and on behalf of the municipal council have hereunto set their hands and the seal of the municipal council has hereunto been affixed.Signed by the above named in the presence of(1)(2)Standing CounselSigned by the above named in the presence of(1)(2)Chairman, Municipality.The seal of the.....Municipal Council was affixed in the presence of(1)(2)