

Punjab State Grant of Free Legal Service to the Poor Rules, 1990

PUNJAB

India

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Rule

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Punjab State Grant of Free Legal Service to the Poor Rules, 1990Published vide Punjab Government Notification No. G.S.R. 56/Constitution/Article 39-A/90, dated 6th December, 1990No. G.S.R. 56/Constitution/Article 39-A/90. - Whereas it is considered necessary to provide free legal service to the poor and weaker sections of the Society in the State of Punjab with a view to bringing the system of justice within their reach and to ensure that opportunities of securing justice are not denied to any citizen by reason of economic and other disabilities;Now, therefore, the President of India, is pleased to make the following rules for providing free legal service to the poor and weaker sections of the society, namely:-

Chapter I

Preliminary

1. Short title and commencement.

(1)These rules may be called the Punjab State Grant of Free Legal Service to the Poor Rules, 1990.(2)These rules shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a)"aided person" means a person to whom legal service is provided in accordance with the provisions of these rules;(b)"Board" means the Punjab State Legal Service Board constituted under rule 3 of these rules;(c)"Committee" means the

State Level Legal Service Committee or the District Level Legal Service Committee or the Sub-Division Level Legal Service Committee as the case may be, constituted under Rule 11.(d)"eligible person" means a person eligible for legal service under these rules;(e)"legal practitioner" shall have the meaning assigned to that expression in the Advocates Act, 1961;(f)"legal proceedings" means civil, criminal, revenue or any other proceedings arising under any law for the time being in force from the inception to final disposal in a Court of law and includes preparatory steps for institution of such proceedings and also includes quasi judicial and administrative proceedings before any tribunal or authority establishment under any law;(g)"legal service" includes the rendering of any service in the conduct of any case or other legal proceedings before any Court or other authority or tribunal and the giving of advice on any legal matter; and(h)"State Government" means the Government of the State of Punjab in the Department of Legal and Legislative Affairs.

Chapter II

Constitution, powers and functions of the Board

3. Constitution of the Board.

(1)The State Government shall constitute a Board to be called the Punjab State Legal Service Board to exercise the powers and perform the functions conferred on it under these rules.(2)The Board shall consist of the following members, namely :-(A)Ex-officio members, -(i)The Chief Minister of Punjab;(ii)Judge of the Punjab and Haryana High Court to be nominated by Chief Justice of that High Court;(iii)the Minister-in-charge of the Department of Legal and Legislative Affairs, Punjab;(iv)the Secretary to Government of Punjab, Department of Home Affairs and Justice;(v)the Secretary to Government of Punjab, Department of Finance;(vi)the Legal Remembrancer and Secretary to Government, Punjab, Department of Legal and Legislative Affairs;(vii)one member out of the following persons nominated by the State Government by rotation in the order given below, namely :-(a)the Head of the Law Department, Panjab University, Chandigarh;(b)the Head of the Law Department, Punjabi University, Patiala; and(c)the Head of the Law Department, Guru Nanak Dev University, Amritsar;(viii)the Advocate General, Punjab;(ix)the President of the Bar Association of the Punjab and Haryana High Court; and(B)Nominated Members, -(x)two members of the Bar Association of the Punjab and Haryana High Court to be nominated by the Chief Justice of the High Court;(xi)one Member of Parliament belonging to the State of Punjab and two Members of the State Legislative Assembly to be nominated by the State Government;(xii)two social workers of whom one shall be a woman to be nominated by the State Government;(xiii)The Director, Legal Services, Punjab who shall be the ex-officio Secretary.(3)The Chief Minister of Punjab, and a Judge of the Punjab and Haryana High Court nominated as a member by the Chief Justice shall, respectively, be the Chairman and the Executive Chairman of the Board and the Minister-Incharge of the Department of Legal and Legislative Affairs and the Director Legal Service, Punjab, shall, respectively, be its Vice-Chairman and Member Secretary.(4)Notwithstanding anything contained in sub-rule (2) or sub-rule (3), during the operation of Proclamation issued under clause (1) of Article 356 of the Constitution of India in the State of Punjab, the Governor of Punjab, shall be the Chairman of the Board and the Advisor Incharge of the Department of Legal and Legislative Affairs

shall be its Vice-Chairman.

4. Term of office of Member of the Board.

(1)The term of office of a member of the Board, other than an ex officio member, shall be two years.(2)If any member shall without sufficient cause to attend three consecutive meetings of the Board, he shall cease to be a member of the Board.(3)If any person ceases to be member of the Board for any reason, the resultant vacancy shall be filled up in the same manner by which the original appointment was made and the person so appointed will continue to be a member of the Board for the duration of the term of office of the member in whose place he is appointed.

5. Powers and functions of the Board.

(1)The Board shall be overall incharge for the administration and supervision of the legal service programmes in the State of Punjab 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, the Government of India or any other authority or agency;(b)lay down policies and give general or special directions to the various Committees for proper administration and implementation of the legal service programmes and for proper and adequate discharge of their duties and functions;(c)organise Lok Adalats to secure that the operation of the legal system promotes justice on the basis of equal opportunity;(d)hold and conduct seminars, workshops, para-legal literacy camps and conferences for creating awareness of the importance of legal service programmes in the public; and(e)perform such other duties and discharge such other functions as may be necessary for effectively implementing the legal service programmes of the State Government.(2)The Executive Chairman of the Board shall have the power of general superintendence, direction, control and management of the affairs and business of the Board and he may exercise all other powers and do all acts and things which may be exercised or done by the Board.

6. Honoraria and other Allowances.

(1)No Member of the Board shall be entitled to any remuneration.(2)The members of the Board nominated out of the Members of Parliament and the Members of the State Legislature shall be paid travelling allowance and daily allowance as may be admissible to them in their capacity as Members of Parliament or as Members of the State Legislature, as the case may be.(3)The ex-officio members shall be entitled to travelling allowance and daily allowance according to the rules applicable to them and shall draw the same from their own departments and members other than the members referred to in sub-rule (2) of the Board shall be paid these allowances as are admissible to Class I Officers of the Government of the State of Punjab under the normal rules.

7. Funds of the Board.

(1)The State Government shall place at the disposal of the Board from time to time, the necessary

funds for implementation of the legal service programmes.(2)The Board shall out of the funds placed at its disposal -(i)made available necessary finances to the various Committees in such manner and to such extent as it thinks reasonable;(ii)incur expenditure for organising Lok Adalats; and(iii)any other expenses which are required to be made by the Board.(3)The Board shall maintain true and proper accounts of the receipts and disbursements of all its funds and the account of the Board shall be audited in such manner as the State Government may determine from time to time.

8. Headquarters of the Board.

- The office of the Board shall be located at Chandigarh or at any other place as the State Government may specify from time to time and the State Government shall provide to the Board suitable office accommodation and adequate staff for carrying out the functions of the Board.

Chapter III

Director Legal Service and his Powers and Functions

9. Director of Legal Service.

- There shall be a Director of Legal Service appointed by the State Government who shall be a member of the Punjab Superior Judicial Service or an Officer of the State Government not below the rank of the Joint Secretary to Government of Punjab.

10. Powers and Functions of the Director of Legal Service.

(1)The Director of Legal Service Punjab shall be overall incharge of the administration of the Legal Service Programmes in the State of Punjab.(2)The Director of Legal Service, Punjab shall be responsible for Co- ordinating all legal service programmes to be carried out in the State of Punjab and for that purpose shall be guided by the directions issued by the State Government and the Board.(3)The Director of Legal Service shall be provided by the State Government with suitable office accommodation and adequate staff for carrying out his functions under these rules.

Chapter IV

Constitution, Powers and Functions of the Legal Service Committees

11. State Legal Service Committee and District and Sub-Divisional Level Legal Service Committees.

- For the purpose of administering and implementing the legal service programmes in the State of Punjab, the State Government shall constitute a Committee to be called the Punjab State Level Legal Service Committee (hereinafter referred to as the State Level Committee) and the District Level

Legal Service Committees (hereinafter referred to as the District Level Committees) and the Sub-Divisional Level Legal Service Committees (hereinafter referred to as the Sub-Divisional Level Committees).

12. Composition of the State Level Committees.

(1) The State Level Legal Service Committee shall consist of the following members, namely :-

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|-------|--|-------------------|
| (i) | the Executive Chairman of the Board shall be the Chairman of the Committee; | ex-officio |
| (ii) | the Secretary to Government of Punjab, Department of Home Affairs and Justice | Member |
| (iii) | the Legal Remembrancer and Secretary to Government, Punjab, Department, of Legal and Legislative Affairs | Member |
| (iv) | the Director of Legal Service, Punjab | Member-Secretary. |

13. Composition of District Legal Committees.

- The District Level Committee for each of the District shall consist of the following members namely :-

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|-----|---|-----------------------------|
| (1) | the District and Sessions Judge | .. Ex-officio chairman |
| (2) | the Deputy Commissioner or his nominee | .. Member |
| (3) | the senior-most Additional District and Sessions Judge | .. Ex-officio Vice-Chairman |
| (4) | the President of the District Bar Association | .. Member |
| (5) | two members of the District Bar Association to be nominated by the District and Sessions Judge in consultation with the Deputy Commissioner | .. Members |
| (6) | one member representing women to be nominated by the State Government | .. Member |
| (7) | three representatives of the social organisations (of which one shall be a woman) to be nominated by the State Government. | .. Members |
| (8) | one member representing Scheduled Castes or Backward Classes to be nominated by the State Government | .. Member |
| (9) | The District Attorney | .. Member |
- (2) Member Secretary of the District Legal Committee shall be an officer of the rank of an Additional District and Sessions Judge or any other officer of the Government as may be appointed by the State Government.

14. Composition of Sub-Divisional Level Legal Committees.

- The Sub-Divisional Level Legal Service Committee for each of the Sub-Division shall consist of the following members, namely :

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|--|---------------------|
| (1) The Additional Senior Sub-Judge or Senior-most Sub-Judge as the case may be | .. Chairman |
| (2) The Sub-Divisional Magistrate | .. Co-Chairman |
| (3) The Tehsildar | .. Member |
| (4) Senior-most Block Development and Panchayat Officer | .. Member |
| (5) One member of the Sub-Divisional Bar Association to be nominated by the District and Sessions Judge in consultation with the Deputy Commissioner | .. Member |
| (6) Two members of social organisations to be nominated by the Deputy Commissioner | .. Members |
| (7) One member representing Scheduled Castes or Backward Classes, to be nominated by the Deputy Commissioner | .. Member |
| (8) Senior-most Assistant District Attorney Legal Aid posted at Sub-Divisional Level Headquarters | .. Member-Secretary |

15. Term of office, Member of Committees.

(1) The tenure of the office of nominated members of the Committees shall be two years : Provided that if any member fails without sufficient cause to attend three consecutive meetings of the Committee, he shall cease to be such member and the decision of the Chairman on the question whether he has ceased to be such a member or not, shall be final.

16. Powers, duties and functions of the State Level Committee.

- The following powers and functions shall be exercised and performed by the State Level Committee, namely :-(a) to receive and investigate applications for legal service to eligible persons with regard to the legal proceedings in the Punjab and Haryana High Court; (b) to maintain panels of legal practitioners to render legal service in the Punjab and Haryana High Court; (c) to decide all questions as to the grant of or withdrawal of the legal service; (d) to arrange payment of honorarium to legal practitioners on the panel for legal service rendered by them and generally provide for other costs, charges and expenses of legal service from the funds placed at the disposal of the Committee; (e) to prepare, consolidate and submit such returns, reports and statistical information in regard to the legal service programmes within its area of jurisdiction as the Board may call for; (f) to submit recommendations and suggest improvement in working of the legal service; (g) to supervise, review, guide and direct the working of the District Level Committees and Sub-Divisional Level Committees; and (h) to call from the District Level Committees and Sub-Divisional Level Committees such periodical returns, reports and other statistics or information as it may think fit or as are required to be submitted to the Board.

17. Powers, duties and functions of the District Level Committees and Sub-Divisional Level Committees.

- The following powers and functions shall be exercised and performed by the District Level Committees and Sub-Divisional Level Committees, namely :-(a)to receive and investigate applications for legal service to eligible persons with regard to the legal proceedings in the Courts at District or Sub-Divisional headquarters, as the case may be;(b)to maintain panels of legal practitioners to render legal service within their respective jurisdiction;(c)to arrange the payment of honorarium to legal practitioners on the panel for legal service provided by them and generally to provide for other costs, charges and expenses of legal service from funds placed at the disposal of the Committees;(d)to take steps for recovery of costs, charges and other expenses recoverable under the relevant rules and to ensure that the same are credited to the Government;(e)to prepare, consolidate and submit such returns, reports and statistical information in regard to the legal service programmes within its area of jurisdiction as the State Level Committee may call for; and(f)to submit recommendations and suggest improvements in the working of legal service.

18. Meetings of the Committee.

- Every Committee shall ordinarily meet once in a month on such date and at such places as the Member-Secretary may in consultation with the Chairman decide.

19. Travelling and Daily Allowances to Members of Committees.

(1)No member of a Committee shall be entitled to any remuneration for any work connected with the functions of the Committees.(2)A member of the Committee who is nominated from amongst the Members of Parliament or the Members of the State Legislative Assembly, as the case may be, shall be paid travelling and daily allowances as may be admissible to him as such member and the non-official members of the District Level Committee and Sub-Divisional Level Committee shall be paid travelling and daily allowances as are admissible to Class I officers of the State Government.

Chapter V

Eligibility for Legal Service

20. Eligibility for legal service.

- Legal service may be provided to all persons who are bona fide residents of the State of Punjab and whose total annual income from all sources does not exceed rupees twelve thousands per annum :Provided that the limitation as to annual income shall not apply in cases where one of the parties belongs to Scheduled Castes or Backward Classes or is a woman or a person under the age of eighteen years :Provided further that the Committee may grant legal service to any person irrespective of income -(i)in cases of great importance;(ii)in a test case, the decision of which is likely to effect cases of numerous other persons belonging to the poor and weaker sections of the

society; or(iii)in a special case, which for reasons to be recorded in writings is considered otherwise deserving of legal service where the means test is not satisfied.

21. Matters on which legal service is admissible.

- Legal service may be provided in all matters where such service shall be aimed at, -(a)amicable settlement of the dispute by bringing about conciliation between the parties to the dispute; and(b)rendering assistance in complying with various legal requirements in order to secure the benefits under various schemes sponsored by or on behalf of the Central Government or the Government of Punjab or any other Public authority or for the welfare of the general public or any section thereof.

22. Modes of providing legal service.

- Legal service may be given in all or any one or more of the following modes, namely :-(a)by payment of Court fee, process fee, expenses of witnesses, preparation of the paper book, lawyers' fee and all other charges payable or incurred in connection with any legal proceedings;(b)by representation by a legal practitioner in legal proceedings;(c)by supplying certified copies of judgments, orders, notes or evidence and other documents in legal proceedings;(d)by preparation of appeal paper book, including printing, typing and translation of documents in legal proceedings; and(e)by drafting of legal documents.

23. Legal Service not to be provided in certain cases.

- Legal service shall not be provided in the following cases, namely :-(i)proceedings wholly or partly in respect of :-(a)defamation; or(b)malicious prosecution;(ii)proceedings relating to any election;(iii)proceedings incidental to any proceedings referred to in clauses (i) and (ii); and(iv)proceedings in respect of an offence punishable with fine only.

Chapter VI

Procedure for providing free legal service

24. Application for legal service.

(1)Any person desiring to seek legal service may make an application, addressed to the Member-Secretary of the Committee concerned.(2)The Member-Secretary of the Committee shall maintain register of applications wherein all applications for legal service received under sub- rule (1) shall be entered.

25. Disposal of applications.

(1) On receipt of an application under Rule 24, the Member-Secretary of the Committee shall scrutinise the application for the purpose of deciding whether the applicant is entitled to get legal service in accordance with the provisions of these rules, and for the purpose of arriving at such decision, he may require the applicant to supply further information as may be necessary and if necessary give personal hearing to the applicant and in doing so the Member-Secretary shall have regard to the fact that the applicant is a poor person or belongs to a weaker section of the society and deserves to be assisted even in the matter of obtaining legal service. The application shall be processed as early as possible and preferably within fifteen days of its receipt. (2) The decision of the Member-Secretary of the Committee to provide legal service shall be final, subject to the confirmation by the Committee : Provided that if the Member-Secretary is of the opinion that the applicant is not deserving of legal service, he shall place the matter before the Committee whose decision shall be final. (3) Where it is decided not to provide legal service to an applicant, the reasons for doing so shall be entered in the register of applications maintained by the Committee and information in writing to the effect shall be communicated to the applicant. (4) No legal service shall be granted, or continued after the legal service is granted, if the Committee is satisfied that - (a) the applicant has knowingly made false statement or furnished false information as regards his means or place of residence; or (b) in proceedings other than the one relating to criminal prosecution, there is no prima facie case to institute, or as the case may be, to defend the proceedings; or (c) the application is frivolous and fictitious; or (d) the applicant is not entitled to the same under Rule 21 or any other provisions of the rule; or (e) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

26. Panels for legal service.

(1) Every Committee shall prepare such number of panels of legal practitioners as it may consider necessary. (2) Every panel prepared under sub-rule (1) shall be continued for a period of two years from the date of its preparation. (3) Appointment of a legal practitioner to legal service under these rules shall be made as far as possible from the panel of legal practitioners prepared under sub-rule (1) by the committee : Provided that the Committee may appoint a legal practitioner not included in any panel in a case where it deems it necessary for imparting justice and may even appoint a legal practitioner of the choice of the applicant. (4) Every person included in the panel shall be required to communicate in writing to the Chairman of the Committee concerned, his willingness to serve on the panel. (5) Any vacancy in the panel caused by resignation or otherwise may be filled up by the Committee, as soon as possible. (6) If any person after having agreed to serve on a panel, neglects or refused to discharge the duties properly, the Committee may delete his name from the panel after giving him opportunity to be heard. (7) If any person after having agreed to serve on a panel, is guilty of misconduct or violates any of the provisions of these rules, he shall be liable to be removed from the panel. (8) Save as otherwise directed by the Committee, a legal practitioner who ceases to be on the panel whether on account of resignation or otherwise, shall as soon as practicable, after he so ceases to be on the panel, deliver all the papers pertaining to cases entrusted to him, to the Member-Secretary of the Committee.

27. Duties of Legal practitioner on the panel.

(1) Legal practitioners appointed for rendering legal service to the aided person under these rules :- (a) if the case is not concerning any legal proceedings, shall hear the aided person or any other person representing him, and examine the papers and documents relating to the case and shall give his advice in writing to the aided person and also send a copy of the advice so recorded to the Member-Secretary of the Committee; and (b) If the case relates to any legal proceedings, he shall represent the aided person and act and plead for him in the legal proceedings and shall forthwith make a report to the Member-Secretary of the Committee on the action taken by him and also make monthly report to the Member-Secretary in regard to the progress of the legal proceedings. (2) The legal practitioner so long as he remains on the panel shall act in accordance with such instructions as may be given to him from time to time, by the Committee concerned.

28. Honorarium payable to Legal Practitioner on the Panel.

(1) The legal practitioners brought on the panel in terms of the provisions of Rule 26 shall be paid by the Committee concerned such honorarium as may be determined from time to time by the Legal Remembrancer and Secretary to Government, Punjab, Department of Legal and Legislative Affairs, in respect of the legal proceedings conducted and advices tendered by them under these rules. (2) No legal practitioner to whom any case is assigned for legal service shall receive any fee or remuneration whether in cash or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf. (3) The legal practitioner shall be paid all expenses incurred by him in the case immediately after he has filed the case in the Court and his fees will be paid on the conclusion of the case, but where a case remains pending for more than one year, he shall be paid the fee keeping in view the number of appearances in the Court.

29. Duties of aided person.

(1) A person seeking legal service shall comply with any requisition or direction that may be made upon him by the Committee or any of its members from the date of application made for legal service till the completion or cessation of legal service or cancellation of eligibility. (2) Every aided person shall execute an agreement agreeing to the effect that in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit or advantage, to repay by way of reimbursement to the Committee all costs, charges and expenses incurred by the Committee in rendering him legal service and for facilitation of such reimbursement he shall also execute an irrevocable power of attorney authorising the Member-Secretary of the Committee to do all such acts and things as may be necessary for recovery or realisation of the amount decreed or ordered to be paid to him. (3) The costs, charges and expenses which may be recovered by the Committee under sub-rule (2) shall be credited to the State Government.

30. Preparation of Budget and Audit or Accounts.

(1) Proposal regarding annual budget under the rules shall be prepared by the State Level

Committee, District Level Committees and Sub-Divisional Level Committees and shall be placed before the Board for its approval and the Board shall in turn submit the proposal as approved by the State Government for obtaining its sanction.(2)The Member-Secretary of the Board or that of the State Level Committee or of the District Level Committees or the Sub-Divisional Level Committees as the case may be, shall operate the accounts of the Board or the Committee, as the case may be.(3)The Member-Secretary of the Board and each of the Committees shall also be responsible for the custody and management of the funds and properties of the Board or the concerned Committee and shall discharge such other functions and duties as the Board may assign to them.(4)The accounts of the State Level Committee and the District Level Committees and the Sub-Divisional Level Committees shall be audited in such manner as the Board may determine from time to time.

Chapter VII

Miscellaneous

31. Power to give directions.

- The State Government and the Board may, from time to time, issue directions to the Committees to carry out the provisions of these rule and the Committees shall be bound to carry out such directions.

32. Repeal and Savings.

- The Punjab State Grant of Free Legal Service and Advice to the Poor Rules, 1977 published with Government of Punjab, Home Department, Notification No. 97-M-9 JJ-77/7538, dated the 24th February, 1977, are hereby repealed :Provided that any action taken under the rules so repealed shall be deemed to have been taken under the corresponding provisions of these rules.

33. Interpretation.

- If any question arises as to the interpretation of these rules, the decision of the Secretary to Government of Punjab, Department of Legal and Legislative Affairs, shall be final.