

# Himachal Pradesh State Legal Services Authority Rules, 1995

HIMACHAL PRADESH

India

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### Rule

### HIMACHAL-PRADESH-STATE-LEGAL-SERVICES-AUTHORITY-RULES of 1995

- Published on 31 October 1995
- Commenced on 31 October 1995
- [This is the version of this document from 31 October 1995.]
- [Note: The original publication document is not available and this content could not be verified.]

Himachal Pradesh State Legal Services Authority Rules, 1995Published vide Notification No. LLR-A(3)-1/95, 31st October, 1995Last Updated 9th October, 2019No. LLR-A(3)-1/95. - In exercise of the powers conferred by section 28 of the Legal Services Authorities Act, 1987 (No. 39 of 1987) and in consultation with the Chief Justice of High Court of Himachal Pradesh, the Governor of Himachal Pradesh is pleased to make the following rules, namely :-

#### 1. Short title and commencement.

(1)These rules may be called the Himachal Pradesh State Legal Services Authority Rules, 1995.(2)These shall come into force on such date as the State Government may, by notification published in the Official Gazette, appoint.

#### 2. Definitions.

- In these rules, unless the context otherwise requires,-(a)"Act" means the Legal Services Authorities Act, 1987 (Act No. 39 of 1987);(b)"Chief Justice" means the Chief Justice of the High Court of Himachal Pradesh;(c)"Chairman" means the Executive Chairman of the State Authority, or, as the case may be, the Chairman of the High Court Legal Services Committee, or, as the case may be, the Chairman of the District Authority, or, as the case may be, the Chairman of the Taluk Legal Services Committee;(d)"District Authority" means the District Legal Services Authority constituted under section 9 of the Act;(e)"High Court Legal Services Committee" means a High Court Legal Services Committee constituted under section 8-A of the Act;(f)(i)"Secretary" means the Member-Secretary of the State Legal Services Authority constituted under Section 6 of the Act, or, as the case may be, the Secretary of the High Court Legal Services Committee constituted under Section 8-A of the Act,

or, as the case may be, the Secretary of the District Legal Services Authority constituted under Section 9 of the Act;(ii)"Secretary in the Department" means Head of concerned Administrative Department of the Government by whatever designation he may be called.(g)"State Authority" means the State Legal Services Authority constituted under Section 6 of the Act;(h)"Taluk Legal Services Committee" means a Taluk Legal Services Committee constituted under Section 11-A of the Act;(i)"Taluk" means a Sub-Division in a District;(j)all other words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Act.

### **3. Number, experience and qualifications of members of the State Authority.**

(1)The State Authority shall, including its Patron-in-Chief and the Executive Chairman, have not more than fifteen members.(2)The following shall be ex-officio members of the State Authority :- (i)the Advocate General of the State;(ii)the Secretary in the Department of Finance;(iii)the Secretary in the Department of Law;(iv)the Chairman of the Bar Council of Himachal Pradesh;(v)the Director General of Police of the State;(vi)the Secretary in the Welfare Department.(vii)two Chairman of the District Authority, as may be nominated by the State Government, in consultation with the Chief Justice of the High Court.(3)The State Government may nominate, in consultation with the Chief Justice of the High Court, other member at least one of whom shall be a women and at least one shall be from Scheduled Caste or Scheduled Tribe Category possessing the experience and qualification specified in Sub Rule (4).(4)A person shall not be qualified for nomination as a member of the State Authority, unless he is-(a)an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Backwards classes, Women, Children, rural and urban labour; or(b)an eminent person in the field of law or education; or(c)a person of repute who is specially interested in the implementation of the Legal Services Schemes, or(d)An eminent person in the medical profession or eminent professor of Sociology, Psychology or any other discipline.

### **4. Powers and functions of the Member-Secretary of the State Authority.**

- The powers and functions of the Member-Secretary of the State Authority, inter-alia, shall be-(a)to give free legal services to the eligible and weaker sections;(b)to work out modalities of the Legal Services Schemes and programmes approved by the State Authority and ensure their effective monitoring and implementation;(c)to exercise the powers in respect of administrative, House keeping, Finance and budget matters as Head of the Department in the State Government;(d)to manage the properties, records and funds of the State Authority;(e)to maintain true and proper accounts of the State Authority including checking and auditing in respect thereof periodically;(f)to prepare annual income and expenditure account and balance-sheet of the said Authority;(g)to liaise with the Social Action Groups and District and Taluk Legal Services Authorities;(h)to maintain, up-to-date and complete statistical information including progress made in the implementation of various Legal Services Programmes from time to time;(i)to process proposals for financial assistance and issue Utilization Certificates thereof;(j)to organise various Legal Services Programmes as approved by the State Authority and convene Meetings/Seminars and Workshops connected with Legal Services Programmes and preparation of reports and follow-up action thereon;(k)to produce video/documentary films, publicity material, literature and publications to

inform general public about the various aspects of the legal Services Programmes;(l)to lay stress on the resolution of Rural Disputes and to take extra measures to draw schemes for effective and meaningful legal services for settling Rural Disputes at the door steps of the rural people;(m)to perform such of the functions as are assigned to him under the schemes formulated under Section 4 (b) of the Act;(n)to perform such other functions as may be expedient for efficient functioning of the State Authority;(o)to encourage and promote conciliation and settlement in legal proceedings;(p)to prepare a panel of social workers for para legal services including marriage counseling approved by the State Authority for taking all kinds of legal aid services and pay them honorarium and travelling allowances; and(q)to call for such record from any officer or Authority as may be necessary and to procure the presence of any person including any inmate of a jail.

## **5. Terms of office and other conditions of appointment of members and Member-Secretary of the State Authority.**

(1)The term of office of the members of the State Authority nominated under sub-rule (3) of rule 3 by the State Government shall be two years and shall be eligible for re-nomination. (2) A member of the State Authority nominated under sub-rule (3) of rule 3 may be removed by the State Government, in consultation with the Chief Justice, if-(a)he fails, without sufficient cause, to attend three consecutive meetings of the State Authority or five meetings held within the space of two years; or(b)has been adjudged as insolvent; or(c)has been convicted of an offence, which in the opinion of the State Government involves moral turpitude; or(d)has become physically or mentally incapable of acting as a member; or(e)has so abused his position as to render his continuance in the State Authority prejudicial to the public interest.(3)Notwithstanding anything contained in sub-rule (2), no members shall be removed from the State Authority on the ground specified in clause (d) of that sub-rule unless the Chief Justice, on a reference being made to him in this behalf by the State Government, has, on an enquiry held by him in accordance with such procedure as he may specify in this behalf, recommended that the member ought, on such grounds, to be removed.(4)A member may, by writing under his hand, addressed to the Chairman, resign from the State Authority and such resignation shall take effect from the date on which it is accepted by the State Government in consultation with the Chief Justice, or on the expiry of 30 days from the date of tendering resignation, whichever is earlier.(5)If any member nominated under sub-rule (3) of rule 3 ceases to be member of the State Authority for any reason, the vacancy shall be filled up in the same manner as the original nomination and the person so nominated shall continue to be a member for the remaining term of the member in whose place he is nominated.(6)Subject to the provisions of sub-rule (7), all members nominated under sub-rule (3) of rule 3 shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and shall be paid by the State Authority in accordance with the Himachal Pradesh Government instructions contained in Finance Regulation Department Office memorandum No. Fin.-(c)-8(7)-2/88, dated 24-2-1995, as amended from time to time.(7)If the nominated member is a Government employee, he shall be entitled to draw the travelling allowance and daily allowance at the rates to which he is entitled to under the service rules applicable to him and shall draw from the department, in which he is employed and not from the State Authority.(8)The Member-Secretary of the State Authority shall be the whole time employee and shall hold office for a term not exceeding five years.(9)In all matters like age of retirement, pay and

allowances, benefits and entitlements and disciplinary matters, the Member-Secretary shall be governed by the rules, as are applicable to the members of the State Higher Judicial Services and he shall be on deputation to the State Authority.

## **6. Officers and other employees of the State Authority.**

- The State Authority shall have the power to make the appointments of the officers and other employees of the Authority, for the efficient performance of its functions under the Act, subject to the creation of such posts by the State Government.

### **6A. The experience and qualification of Administrative Officer of the Himachal Pradesh State Legal Services Authority.**

- A Person shall not be eligible for appointment to the post of Administrative Officer of the Himachal Pradesh State Legal Services Authority unless he is a member of Himachal Pradesh Judicial Services.

## **7. Special provisions for Patron-in-Chief, the Executive Chairman and Chairman High Court Legal Services Committee.**

(1)The Patron-in-Chief, the Executive Chairman and the Chairman High Court Legal Services Committee being a sitting Judge of the High Court shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and paid by the State Authority in accordance with the provisions of the High Court Judges (Travelling Allowance) Rules, 1959, as amended from time to time.(2)The Executive Chairman of the State Authority, in case he is a retired Judge of the High Court, shall be provided with a staff car and a staff car driver by the State Authority and the expenditure on account of pay and allowance of the staff car driver as well as maintenance and repairs of the cars shall be borne by the said Authority.

## **8. Conditions of Service of Executive Chairman in a case of retired Judge.**

- Where the Executive Chairman is a retired Judge of the High Court-(i)his terms and conditions of service shall be such as are specified in Government of India, Ministry of Finance Department of Expenditure O. M. No. 19048/7/80-E, IV, dated the 8th October, 1987 or such other relevant order of the State Government as may be applicable to the retired Judges of the High Court appointed on commissions/committees.(ii)he shall be entitled to sumptuary allowance @ of rupees 500/- per month to be paid by the State Authority.(iii)he shall be permitted to subscribe to the Contributory Provident Fund of the State.

## **9. Conditions of service and salary and allowances of officers and other employees of the State Authority.**

(1)The officers and other employees of the State Authority shall in all matters, like age of retirement, pay, allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent posts. (2) The officers and other employees of the State Authority shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

## **10. Experience and qualifications of the Secretary of the High Court Legal Services Committee.**

- A person shall not be qualified for appointment as Secretary of the High Court Legal Services Committee unless he is an officer of the High Court not below the rank of Additional Registrar of the High Court.

## **11. Conditions of service and salary and allowance of officers and other employees of the High Court Legal Services Committee.**

(1)The High Court Legal Services Committee shall have the power to make appointments of officers and employees of the Committee for the efficient performance of its functions under the Act subject to the creation of such posts by the State Government.(2)The officers and other employees of the High Court Legal Services Committee shall in all matters, like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent post.(3)The officers and other employees of the High Court Legal Services Committee shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

## **12. Number, experience and qualifications of members of the District Authority.**

(1)The District Authority shall have not more than nine members.(2)The following shall be ex-officio members of the District Authority :-(i)District Magistrate and in his absence Additional Deputy Commissioner/Additional District Magistrate;(ii)Superintendent of Police and in his absence Additional Superintendent of Police/Deputy Superintendent of Police (Headquarters).(iii)Chief Judicial Magistrate;(iv)President, District Bar Association; and(v)District Attorney.(3)The State Government may nominate, in consultation with Chief Justice of the High Court, other members from amongst those possessing the qualifications and experience prescribed in sub-rule (4) of this rule, for a period of two years and they shall be eligible for re-nomination.(4)A person shall not be qualified for nomination as a member of the District Authority unless he is :-(a)an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Backward Classes, Women, Children, rural and urban labour;(b)an eminent person in the field of law of education; or(c)a person of repute who is specially interested in

the implementation of the Legal Services Schemes; or(d)an eminent person in the medical profession or eminent Professor of Sociology, Psychology or any other discipline.(5)Subject to sub-rule (6) all members nominated under sub-rule (3) of this rule shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the District Authority and shall be paid by the District Authority in accordance with the Himachal Pradesh Government instructions contained in the Finance (Reg.) Department Officer Memo No. Fin. (C)-B (7)-2/88, dated 24-5-1995, as amended from time to time.(6)If the nominated member is a Government employee, he shall be entitled to draw travelling allowance and daily allowance at the rates to which he is entitled to under the service rules applicable to him and shall draw it from the department in which he is employed and not from the District Authority.

### **13. Officers and other employees of the District Authority.**

(1)The District Authority shall have the power to make appointment of officers and other employees for the efficient performance of its functions under the Act, subject to the creation of such posts by the State Government.(2)The officers and other employees of the District Authority shall in all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent posts.(3)The officers and other employees of the District Authority shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

### **14. Experience and qualifications of members of the Taluk Legal Services Committee.**

(1)The Taluk Legal Services Committee shall have not more than six members.(2)The following shall be ex-officio members of the Taluk Legal Services Committee :-(i)Sub-Divisional Officer (Civil);(ii)Sub-Divisional Police Officer;(iii)President, Taluk Bar Association.(3)The State Government may nominate, in consultation with the Chief Justice of the High Court, other members from amongst those possessing the qualifications and experience prescribed in sub-rule (4) of this rule, for a period of two years and they shall be eligible for re-nomination.(4)A person shall not be qualified for nomination as a member of the Taluk Legal Services Committee unless he is :-(a)an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Backward Classes, Women, Children, rural and urban labour;; or(b)an eminent person in the field of law or education; or(c)a person of repute who is specially interested in the implementation of the Legal Services Schemes; or(d)an eminent person in the medical profession or eminent Professor of Sociology, Psychology or any other discipline.(5)Subject to sub-rule (6), all members nominated under sub-rule (3) of this rule shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of Taluk Legal Services Committee and shall be paid by the Taluk Committee in accordance with the Himachal Pradesh Government instructions contained in the Finance (Regulation) Department Office Memorandum No. Fin. (C)-B(7)-2/88, dated 24-5-1995, as amended from time to time.(6)if the nominated member is a Government employee, he shall be entitled to draw travelling allowance and daily allowance at the rates to which he is entitled under

the service rules applicable to him and shall draw it from the department in which he is employees and not from the Taluk Committee.

### **15. Removal of members of District/Taluk Legal Services Committee(s).**

- A nominated member of the District/ Taluk Legal Services Committee may be removed by the State Government in consultation with the Chief justice under the same circumstances and conditions, mutatis mutandis, as are applicable in the case of a member of the State Authority under sub-rules (2), (3), (4) and (5) of rule 5.

### **16. Officers and other employees of the Taluk Legal Services Committee.**

(1)The Taluk Legal Services Committee shall have power to make appointments of officers and other employees for the efficient performance of its functions under the Act, subject to the creation of such posts by the State Government.(2)The officers and other employees of the Taluk Legal Services Committee shall in all matters like age of retirement, pay and allowances, benefits and entitlements and disciplinary matters, be governed by such rules, as are applicable to the employees of the State Government holding equivalent posts.(3)The officers and other employees of the Taluk Legal Services Committee shall be entitled to such other facilities, allowances and benefits as may be notified by the State Government from time to time.

### **17. Eligibility for Legal Services in Courts other than Supreme Court.**

- Any citizen of India whose annual income from all sources does not exceed [Rs. 3,00,000/- (Rupees Three lakh)] [Substituted 'Rs. 1,00,000/- (rupees one lakh)' by Notification No. LLR-A(3)-2/2005, dated 4.7.2019.] shall be entitled to legal services under clause (h) of section 12 of the Act.

### **18. Experience and qualifications of persons other than serving or retired Judicial Officer on Bench of the Lok Adalats.**

- A person shall not be qualified to be included in the Bench of Lok Adalat, unless he is-(a)an eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, Women, Children, rural and urban labour; or(b)a lawyer of standing or teacher; or(c)a person of repute who is specially interested in the implementation of the Legal Services Schemes and Programmes.

### **19. Transfer of assets of Legal Aid Board.**

(1)Upon the constitution of the State Legal Services Authority. - (i) the Himachal Pradesh State Legal Aid Board shall stand dissolved;(ii)all property, movable or immovable, belonging to the said Board shall vest in the State Legal Services Authority and shall be applied by the authority to the objects and purposes of the Legal Services Act, 1987 and the rules framed thereunder;(iii)all the

debts and liabilities of the Board shall be transferred to the State Legal Services Authority and shall thereafter be discharged and satisfied by it out of the aforesaid property. (2) Upon the constitution of Legal Services Authorities/ Committees at High Court, District and Taluk level, all properties and assets of the Legal Aid Committees constituted under the repealed rules shall stand transferred and vested in the corresponding Legal Services Authorities/Committees constituted under these rules.

## **20. Transitory Provisions.**

(1) Notwithstanding anything contained in these rules, the existing Legal Aid Board and committees constituted under the Himachal Pradesh State Legal Aid to the Poor Rules, 1980 and deemed to be continued under rule 21 of the Himachal Pradesh Legal Aid Rules, 1984 shall continue to function till the State Legal Services Authority, the High Court Legal Services Committee, the District Legal Services Authorities and the Taluk Legal Services Committees are constituted under these rules. (2) Anything done or any action taken (including applications admitted or legal aid granted) by the Himachal Pradesh State Legal Aid Board or any of the Legal Aid committees, immediately before the commencement of these rules in the exercise or purported exercise of its powers and authority conferred by or under the rules repealed under sub-rule (1) of rule 22 shall be deemed to have been validly done or taken as if the provisions of these rules, had been in force at all material times and, accordingly, anything done or any action taken by the said Himachal Pradesh Legal Aid Board or any of the Legal Aid Committees shall be deemed to have been done or taken by the State Legal Services Authority, or as the case may be, by the corresponding Legal Services Authority/Committee.

## **21. Transfer of Services.**

- Every officer or other employee of the Himachal Pradesh State Legal Aid Board or its Committee, in the employment of the said Board/Committee, immediately before the commencement of these rules, shall on and from the date on which these rules come into force, become the officer or other employee of the State Legal Services Authority, in the case of State Legal Aid Board, and of the corresponding Legal Services Authority/Committee in the case of Legal Aid Committees; and shall hold his office or service therein for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as he would have held the same and shall continue to do so unless and until his employment in the State Legal Services Authority or, as the case may be, in the corresponding Legal Services Authority/Committee is terminated and until his remuneration, terms and conditions are duly altered by the State Legal Services Authority and the Service rendered under the State Legal Aid Board/Legal Aid Committee shall be deemed to be the service rendered under the State Legal Services Authority or as the case may be, under the corresponding Legal Services Authority/Committee.

## **21A. Award of Lok Adalat.**

(1) Every award of the Lok Adalat shall be deemed to be a decree of a civil court or, as the case may be, an order of any other court and where a compromise or settlement has been arrived at, by a Lok Adalat in a case referred to it under sub-section (1) of section 20, the court-fee paid in such case



shall be refunded in the manner provided under the Court-fees Act, 1870.(2)Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute and no appeal shall lie to any court against the award. (3) The awards passed by the Lok Adalats in respect of pending cases shall be executable by the courts in which those matters were pending prior to the passing of the awards by the Lok Adalats. However, the awards passed by the Lok Adalats regarding matters at prelitigative stage shall be executable through the Court of District Judge of the District in which the Lok Adalat is held.

## **22. Repeal and Savings.**

(1)Subject to the provisions of rules 20 and 21, the Himachal Pradesh Legal Aid Rules, 1984 are hereby repealed.(2)Notwithstanding anything contained in sub-rule (1), anything done, or any action taken or orders or directions issued under the repealed rules, shall be deemed to have been done or taken or issued under these rules as if these rules were in force on the day on which such thing was done or action was taken or such order or direction was issued.