

M.P. Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Niyam, 1977

MADHYA PRADESH

India

M.P. Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Niyam, 1977

Rule

M-P-SAMAJ-KE-KAMJOR-VARGON-KE-LIYE-VIDHIK-SAHAYATA-TATHA-VIDHIK-SALAH-NIYAM-1977

- Published on 17 March 1977
- Commenced on 17 March 1977
- [This is the version of this document from 17 March 1977.]
- [Note: The original publication document is not available and this content could not be verified.]

M.P. Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Niyam, 1977Published vide Notification No. 12281-F-16-8-76-21-B,dated 17-3-1977, M.P. Gazette, Part 4 (Ga), dated 20-5-1977 at page 72In exercise of the powers conferred by sub-section (1) and clauses (g), (h), (i), (1) and (m) of sub-section (2) of Section 46 of the Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Adhiniyam, 1976 (No. 26 of 1976), the State Government hereby makes the following rules, namely :-

1.

In these rules, unless the context otherwise requires :-(a)"Act" means the Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Adhiniyam, 1976 (No. 26 of 1976);(b)"District Committee" means the district legal aid and Legal Advice Committee constituted in each district under Section 5;(c)"Form" means a form appended to these rules;(d)"Revenue Officer" means a Revenue Officer not below the rank of Naib Tahsildar;(e)"Section" means a section of the Act.

2.

Application for legal assistance or legal advice under sub-section (1) of Section 38 shall contain particulars of the applicant and his legal problem with an endorsement from one of the following persons to the effect that the applicant satisfies the eligibility test laid down in Section 33, namely :-(a)Member of Parliament;(b)Member of Legislative Assembly;(c)Member of the Board or a

Committee;(d)Any Gazetted Officer of the State;(e)Revenue Officer;(f)Sarpanch of Gram Panchayat;(g)An office bearer of an institution established or constituted with the object of welfare and uplift of the members of Scheduled Castes and Scheduled Tribes and registered under the Madhya Pradesh Society Registrikaran Adhiniyam, 1973 (No. 44 of 1973).

3.

Where a person desiring legal assistance or legal advice is unable to write an application for the purpose himself, a certificate from one of the persons specified in Rule 2 certifying the eligibility of the person concerned for legal assistance or legal advice under Section 33 and stating the legal problem wherefore legal assistance or legal advice is required shall be sufficient for giving legal assistance or legal advice as the case may be, by the District Committee :Provided that an oral request made by such person for giving legal assistance or legal advice may be entertained by the District Committee if the District Committee is satisfied that such person fulfills eligibility test under Section 33.

4.

On receipt of the application under Rule 2 or a certificate or oral request under Rule 3, as the case may be, the matter may be entrusted to one of the panel legal practitioners for legal assistance or legal advice, as the case may be.

5.

(1)The Panel Legal Practitioner to whom the matter has been entrusted under Rule 4 shall elicit the nature of the legal assistance and legal advice required in the matter and thereafter proceed to arrange for the required legal assistance or legal advice or both, as the case may be, in the manner hereinafter provided.(2)If the nature of the problem is such that it requires-(i)an application on plain paper to be written;(ii)a form of application to be filled in;(iii)a reply to be given to a notice for repayment of loan;(iv)an affidavit to be filled in;(v)a document to be prepared;(vi)a surety bond to be prepared for any of the following purposes, namely(a)loans from Government, Credit Co-operative Societies, Banks;(b)taccavi;(c)fertilisers;(d)pumps;(e)electricity connection;(f)discharge of loan from private money lender;(g)return of pledged articles;(h)professional licence;(i)scholarship;the Panel Legal Practitioner shall explain to the person concerned wherefrom the required form of application or affidavit should be obtained and assist him to write an application, fill up the form of application, prepare a reply to the notice or prepare affidavit or document, or surety bond, as the case may be.(3)If the nature of the problem is such that the person concerned requires legal advice on matters of:-(i)boundary dispute of land;(ii)forcible dispossession of land;(iii)Nistar rights;(iv)private money lending;(v)trespass including cattle trespass;(vi)partition disputes;(vii)adoption;(viii)rights arising out of accidental death;(ix)payment of wages;(x)eviction;(xi)social exploitation;(xii)mutation disputes;(xiii)rights of women;(xiv)child marriage;(xv)dowry; or(xvi)kidnaping,the Panel Legal Practitioner shall give necessary advice to the person concerned.(4)The Panel Legal Practitioner shall make an endorsement on the application on plain paper or in a prescribed form, affidavit, document or

surety bond, as the case may be, written, filled in or prepared by him to the effect that necessary enquiries have been made from the sources concerned and that the applicant is entitled to the benefit or relief sought for or possesses the right claimed, as the case may be, and he shall also put his signature and affix the seal of the committee.(5)If, during the process of the work being done by the Panel Legal Practitioner, under sub-rules (1), (2), (3) and (4) or otherwise, he finds that it is a case wherein any question of law is involved, he shall examine whether there is a prima facie case in favour of the applicant or not.(6)For examination of the question as required by sub-rule (5), the Panel Legal Practitioner shall collect such information as may be necessary from the applicant or otherwise.(7)If after proper scrutiny of the facts as narrated by the applicant or gathered by the Panel Legal Practitioner otherwise, the Panel Legal Practitioner finds that there is :-(i)no prima facie case in favour of the applicant, he shall explain the position to the applicant;(ii)a prima facie case in favour of the applicant, he shall endeavour to settle the dispute by bringing about reconciliation between the rival parties.(8)In order to settle the dispute under clause (ii) of sub-rule (7), the Panel Legal Practitioner may, bring the rival parties to the dispute together at a time and place convenient to both.(9)If, as a result of such endeavour settlement takes place the Panel Legal Practitioner shall, if found necessary prepare necessary document for execution by the parties.

6.

An application for legal aid under sub-section (1) of Section 39 shall be made in Form III and be accompanied by a certificate in Form II in support of eligibility of the applicant under Section 33.

7.

An application received under Rule 6 shall be entered in the register in Form I.

8.

(1)If the application under Rule 6 is not accompanied by a certificate in Form II, the District Committee shall cause such investigation to be made as it may consider necessary to ascertain the eligibility of the applicant under Section 33.(2)The District Committee on being satisfied that the applicant is eligible for legal aid in accordance with Section 33 and is not a non-co-operating party within the meaning of sub-section (2) of Section 38 shall refer the matter to one of the Panel Legal Practitioners to ascertain :-(i)whether there is a prima facie case; and(ii)whether the claim is reasonable and for want of legal aid, the claimant is likely to suffer in securing his legal right;(iii)whether the applicant is eligible for defence at the expense of the State under sub-section (1) of Section 304 of the Code of Criminal Procedure, 1973 (No. 2 of 1974).(3)The District Committee shall cause a report to be prepared which shall contain information on the following points, namely :-(i)whether the applicant fulfills the requirements of eligibility laid down in Section 33 and the category under which he falls;(ii)whether the applicant had applied for legal advice and if so, whether he had acted according to legal advice;(iii)whether during the course of the legal advice the applicant cooperated with District Committee in its re-conciliatory effort and that the failure was not attributable to him.(4)The report prepared under sub-rule (3) shall, along with other documents produced by the applicant and the findings of the Panel Legal Practitioner be placed before the

District Committee for decision.

9.

The order sanctioning the grant of legal aid shall be in Form IV.

10.

(1) For the purposes of sub-section (1) of Section 40, the District Committee shall, every year by 31st of October, prepare a list of Legal Practitioners practising in the district in the following manner, namely :-(i) the District Committee shall by notice invite applications by such date, which shall not be later than 1st October, as it may fix in this behalf, from the Legal Practitioner practising in the district and possessing the qualifications prescribed in sub-rule (2); (ii) every application under clause (i) shall contain the willingness of the applicant to serve as a Panel Legal Practitioner, if required so to do, on payment of remuneration at the rates specified in Rule 15 and shall also be accompanied by the document in support of his eligibility under sub-rule (2); (iii) The applications received under clause (i), by the date fixed therein, shall be scrutinized by the District Committee with a view to ascertain whether the applicants are eligible under sub-rule (2) or not and after such scrutiny the District Committee shall prepare a final list of the applicants eligible under the said sub-rule. (2) A person shall not be qualified for inclusion of his name in the list unless he :-(i) is a citizen of India; (ii) has, for at least years been an Advocate; or (iii) has an experience of at least 2 years as an Advocate and Judicial Officer taken together; (iv) is a person devoted to the judicare of the weaker sections of the people.

11.

Functions and duties of a Panel Legal Practitioner shall be :-(i) to tender legal assistance and legal advice under Rule 5; (ii) to prepare necessary documents under Rule 5; (iii) to prepare report under Rule 8; (iv) to do all things necessary in connection with a legal proceeding; (v) to appear, act and plead on behalf of the aided person in a legal proceeding in a Court of law; (vi) to submit report about the progress of the legal proceeding every three months to the District Committee; (vii) to obtain certified copy of judgement, decree or final order in all cases in which he appears for the aided person; (viii) to submit report regarding advisability of filing appeal, revision or other proceeding in cases in which the Court passes any judgement, decree or order against the aided person within fifteen days from the date of such judgement, decree or order accompanied by a certified copy of such judgement, decree or order and in cases where appeal or revision is recommended, also with proposed memorandum of appeal or revision, as the case may be; (ix) to do all ancillary acts necessary for proper conduct of the proceeding.

12.

[(1) A Panel of Legal Practitioner shall be entitled to remuneration for the legal work done, functions performed and duties discharged by him in connection with legal aid proceeding at the following

rates, namely :-] [Substituted by Notification No. F-17 (E)-75-92-21-B (II), dated 8-12-1993.]

(a) In the Court of
any Magistrate-

(i)	In a criminal case	Rs. 200/- (Rupees Two hundred) per case
(ii)	for a bail application where no charge-sheet has been filed	Rs. 50/- (Rupees fifty) only.

(b) Before a Court of
Sessions-

(i)	in any other criminal case other than a case falling under Section 304 of the Code of Criminal Procedure, 1973 (No. 2 of 1974).	Rs. 300/- (Rupees Three hundred) per case
(ii)	for a bail application otherwise than in a pending sessions case.	Rs. 50/- (Rupees fifty) only.

(c) In a civil case
At the rates of fees admissible to Advocates or Pleaders, as the case may be, as per rules made by the High Court of Madhya Pradesh in that behalf.

(d) In a revenue case
before any Revenue Court,
other than Board of Revenue.
Rs. 200/- (Rupees Two hundred) per case

(e) In any case
before Board of Revenue Madhya Pradesh
Rs. 300/- (Rupees Three hundred) per case

(f) In any case before
the High Court other than one provided in item (c).
Rs. 500/- (Rupees five hundred) per case.]

[(1-a) * * *] [Omitted by Notification No. F-17 (E)-75-92-21-B (II), dated 8-12-1993][(1-b) * * *]

[Omitted by Notification No. F-17 (E)-75-92-21-B (II), dated 8-12-1993](2) The Panel Legal Practitioner appointed to appear for the aided person shall incur all expenses incidental to the case

of proceeding and include them in the bill of fees.(3)Every such bill of fees and other expenditure incurred shall be submitted by the Penal Legal Practitioner to the District Committee.(4)If the bill is in order, payment shall be made accordingly.(5)The District Committee may, in order to determine whether the amount claimed in the bill is correct and proper call for such other information and documents as it may consider necessary.

13.

(1)With a view to seek help of Legal Practitioners desirous of rendering help without any fee, the District Committee shall prepare a list of such Legal Practitioners in the district every year in the month of October in the following manner, namely :-(i)the District Committee shall, by notice invite applications by such date as it may fix, in this behalf, from the persons possessing the qualifications prescribed under sub-rule (2) of Rule 9;(ii)every application under clause (i) shall contain the number of legal proceedings in which the applicant is desirous of rendering help in a year as a Legal Practitioner, if required so to do, without payment of any fee and shall also be accompanied by the document in support of his eligibility under sub-rule (2) of Rule 10;(iii)the applications received under clause (i) shall be scrutinised by the District Committee with a view to ascertain the eligibility of the applicants under sub-rule (2) of Rule 10 and after such scrutiny the District Committee shall prepare final list of the applicants eligible under the said sub-rule.(2)The District Committee may, if it so consider of desirable, utilise the services of a Legal Practitioner, out of the list prepared under clause (ii) of sub-rule (1), in any legal proceeding for performance of functions and duties of a Penal Legal Practitioner prescribed under Rule 11 without payment of any fee therefor.

14.

A supplementary budget, if any, under sub-section (3) of Section 29 in any financial year shall be prepared by the Board in Form V and shall be submitted to the State Government by the 15th December in that year.

15.

All money transactions to which an office bearer member, officer or servant of the Board in his official capacity is a party shall without any reservation be brought to account without delay and all sums realised by or on behalf of the Board shall be paid into the Bank to be credited to the fund of the Board.Note :- Receipts of interest earned in deposit in the Bank shall be shown in the cash book as items of receipts.

16.

Money pertaining to the fund of the Board, with the exceptions of authorised advances, shall not be kept apart from the general balance at the credit of the Board but shall at once be credited to the appropriate head of account.

17.

The Board may, for administrative convenience, maintain such registers as may be auxiliary to the account books to be maintained in accordance with these rules.

18.

The Accounts shall be maintained separately for each year.

19.

Heads of Account to be used in all accounts of the Board shall be as specified below :-List of Major, Minor and Detailed HeadsHead of RevenueA. Subventions.B. Donations.(1)from Central Government;(2)from State Government;(3)from Local Authorities;(4)from individuals;(5)from Bodies other than Local Authorities.C. Gifts.(1)from Central Government;(2)from State Government;(3)from Local Authorities;(4)from individuals;(5)from Bodies other than Local Authorities.D. Reimbursement, by aided persons, of expenses incurred in giving legal aid and legal advice.Heads of ExpenditureA. General Administration.General Administration and Office Establishment(a)Pay of Officers and Office Establishment.(b)Allowances.(c)Contingency.B. Legal Aid and Legal Advice.(1)Legal Aid.(a)(i)payment of Court-fees;(ii)process fees;(iii)expenses of witnesses;(iv)other charges payable or incurred in connection with legal proceeding;(b)representation by a Legal Practitioner in a legal proceeding;(c)supply of certified copies of judgments and orders in a legal proceeding;(d)preparation of appeal, paper books including printing and translation of documents in a legal proceeding;(e)expenditure on other modes of legal aid.(2)Legal Advice.C. Miscellaneous.

20.

A receipt shall be issued in Form VI for money received.

21.

A cash book shall be maintained in Form VII.

22.

All receipts and expenditure shall be entered in the cash book every day. The cash book shall be balanced at the close of every day, the balance being stated both in words and figures and signed by the Secretary. At the end of each month, the balance in the cash book and the Bank pass book plus the cash in hand in the office of the Board shall be proved.

23.

A salary bill shall be in Form VII. The bill shall be signed by the Secretary of the District Committee.

24.

Every employee of the Board shall give a receipt with date in the appropriate column of the form for the sum paid to him and shall in case of sum exceeding twenty rupees affix a receipt stamp before signing. The cost of such receipt stamp must be borne by the person who received the money and not by the Board.

25.

A monthly account and a quarterly abstract of the receipts and expenditure shall be drawn up in Forms IX and X respectively.

26.

(1)The annual account of the receipt and expenditure of the Board shall be made up to the last day of every financial year and shall be prepared in Form XI and shall be accompanied by a memorandum explaining the principle differences between the estimate and the actuals.(2)The District Committee shall, as soon as may be, after the end of the financial year, cause to be prepared the annual accounts referred to in sub-rule (1)

27. [[Added by Notification No. 17 (e)-326-78-XXI-B, dated 25-7-1979.]

The annual report under sub-section (1) of Section 30 shall be prepared by the Secretary of the Board under the directions of the Chairman laid before the Board.

28.

The annual report shall, in general, contain a complete account of the activities of the Board during the previous financial year and in particular give information in regard to the following matters :- (a) number of cases in which legal advice was given; (b) number of cases in which legal advice was given to landless agricultural labourers; (c) number of cases, in which legal advice was given to rural artisans; (d) number of cases showing numbers separately in which legal advice was given to eligible members of Scheduled Tribes and Scheduled Castes; (e) number of cases other than those specified in clauses (b), (c) and (d) in which legal advice was given; (f) number of cases in which legal aid was given; (g) number of cases in which legal aid was given to landless agricultural labourers; (h) number of cases in which legal aid was given to rural artisans; (i) number of cases showing numbers separately in which legal aid was given to eligible members of Scheduled Tribes and Scheduled Castes; (j) number of cases other than those specified in clauses (g), (h) and (i), in which legal aid was given; (k) number of cases in which the Board permitted, irrespective of means test, legal aid and

legal advice, -(i) in matters of great public importance; (ii) in test cases; (iii) in such special cases which the Board considered to be deserving legal aid and legal advice; (l) brief description of cases falling under clause (j); (m) number of cases in which amicable settlement of disputes was arrived at by securing co-operation of parties of dispute; (n) nature of difficulties, if any, experience in bringing parties to dispute together for amicable settlement; (o) nature of cases in which legal advice or legal aid is sought in large number; (p) number of Panel Legal Practitioners in the State; (q) number of Legal Practitioners who have rendered help without any fee together with number of cases in which such help was rendered; (r) number of cases in which aided persons reimbursed expenses over legal aid and legal advice of their own accord; (s) number of cases in which expenses on legal advice and legal aid had to be recovered as arrears of land revenue; (t) brief report on Board's activities under clauses (n) to (s) of Section 23 with assessment of results; (u) impediments in the administration of the Act or those rules and concrete suggestions to remove such impediments; (v) (i) Grant in aid and income from other sources during last financial year; (ii) Expenditure incurred by the Board during last financial year; (iii) Balance amount with Board at the end of last financial year; (w) Amount allotted to the Board under Adivasi Pariyojna during last financial year; (x) Expenditure incurred on item (w) during last financial year.

29.

After the annual report is approved by the Board the same shall be forwarded to the State Government before the expiry of the period specified under sub-section (1) of Section 30.] Form I (See Rule 7) Register under Rule 7 of the Rules under the Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Adhinyam, 1976

Serial No.	Name and address of applicant	Name and address of opposite party	Nature of case : Civil/Criminal/Revenue		
(1)	(2)	(3)	(4)		
Facts in Brief	Order of District Committee regarding Legal Advice, Legal Aid given	Name of Panel Legal Practitioner to whom matter entrusted	Result of proceeding	Remarks	
(5)	(6)	(7)	(8)	(9)	

Form II (See Rule 6) Certificate of Eligibility Certified that Shri/Shrimati/Kumari son/wife/ daughter of Shri resident of village Tahsil..... District..... is-(a) a landless agricultural labourer; or (b) a rural artisan; or (c) a member of a family the income of which (family) is Rs. 200/- or less per month; or (d) a member of the family which holds one hectare of irrigated or two hectares of unirrigated land or less than that and such family has no other source of income except agriculture on such land. Dated..... Place..... Signature and Designation *Certificate given by Member of Parliament/Member of Legislative Assembly/Sarpanch of Gram Panchayat concerned/Gazetted Officer/Revenue Officer/member of board or Committee/any institution constituted with the object of welfare and uplift of harijans and tribals and registered under the Societies Registration Act. Form

III(See Rule 6)Application for Legal Aid under Section 39 (1) of the Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Adhiniyam, 1976-

1. (a) Name of the applicant

(b)Father's name(c)Place of Residence(d)Address

2. (a) Whether applicant had earlier sought legal advice from District Legal Aid and Legal Advice Committee.

(b)Whether the applicant has acted in accordance with such legal advice, if any(c)Brief account about manner in which the applicant has acted in accordance with such legal advice.

3. Mode of Legal aid required-

(a)Court-fee on plaint or Memo of appeal, or counter claim (Approximate amount),-(b)Process fee for serving the opposite party.(c)Expenses of witnesses.(d)Expenses of obtaining certified copies of judgements and orders and other relevant documents.(e)Preparation of paper books including printing and translation of documents.(f)Any other similar mode.

4. Name and address of the parties to the dispute.....

5. Facts of the case in brief.....

6. Stage of legal proceeding.....

7. Place.....

8. Date.....

Signature/thumb impression of the applicant Form IV(See Rule 9)Office of the District Legal Aid and Legal Advice Committee Order under Section 39 of Madhya Pradesh Samaj Ke Kamjor Vargon Ke Liye Vidhik Sahayata Tatha Vidhik Salah Adhiniyam, 1976. The District Legal Aid and Legal Advice Committee..... has sanctioned the grant of legal aid to Shri.....s/o.....v. r/o.....in the following mdoes, namely :-(1)(2)in the matter of.....pending before or to be instituted in the Court of.....Secretary District Legal Aid and Legal Advice Committee Copy forwarded to :-(1)The Court of(2)Applicantfor information. Secretary District Legal Aid and Legal Advice Committee Form V(See Rule 14)Supplementary Budget Estimate for the year.....

Head of Expenditure	Sanctioned Grant	Actual Expenditure incurred upto	Estimated Expenditure for the remaining period of the
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			year
(1)	(2)	(3)	(4)
Total of Columns (3) and (4)	Supplementary grant required Column (5)	Reasons and full justification for the supplementary grant with facts and figures	
(5)	(6)	(7)	

Form VI(See Rule 20)Office of the Madhya Pradesh Legal Aid and Legal Advice BoardReceiptReceipt Book No.....Receipt

No.....Received from.....on account

of.....Rupees (in words).....Rs..... P.

.....Dated.....SignatureForm VII(See Rule 21)Cash BookMonth of.....

Receipts

Date	No. of Receipts where necessary	Particulars	Subventions	Donations
(1)	(2)	(3)	(4)	(5)

Gifts Reimbursement byAided Persons Total Remarks

(6)	(7)	(8)	(9)
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Payments

Date	Sub-vouchersnumbers	Particulars	GeneralAdministration
(1)	(2)	(3)	(4)

Legal Aid and LegalAdvice Miscellaneous Total Remarks

(5)	(6)	(7)	(8)
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Form VIII(See Rule 23)Salary Bill for the Month of.....

S.No.	Name ofIncumbent	Pay Allowances	Total of Columns(3) and (4)	Destructions
(1)	(2)	(3)	(4)	(5)
				(6)

Recoveries	Total of Columns(6) and (7)	Net payableColumns (5) and (8)	Remarks	Signatureof payee
(7)	(8)	(9)	(10)	(11)

Form IX(See Rule 25)Monthly Account for the month of.....

Head of Receipt	Total of currentmonth	Total to the endof last month	Total from lastApril to date
(1)	(2)	(3)	(4)

Sanctioned budgetestimate	Head of expenditure	Total for currentmonth
(5)	(6)	(7)

Total to the end oflast month	Total from last Aprilto date	Sanctioned budgetgrant
(8)	(9)	(10)

Total Receipt	Total Expenditure
Opening balance	Opening balance
Grand Total	Grand Total

.....

Secretary

Madhya Pradesh Legal Aidand Advice Board

Form X(See Rule 25)Quarterly abstract of accounts for the quarter ending.....

Head of Receipt as sanctioned in the budget	Budget estimate	Actualsreceived	Actuals of lastquarters
(1)	(2)	(3)	(4)

Total of Columns (3) and (4)	Remarks	Head of expenditure as sanctioned in thebudget	Budget estimate
(5)	(6)	(7)	(8)

Actual expenditure during the quarter	Actuals of last quarters	Total of Columns (9) and (10)	Remarks
(9)	(10)	(11)	(12)

Form XI(See Rule 26)Annual Accounts for the year ending.....

Head of Receipt	Opening	Estimate	Actuals	Difference between Actuals and Estimate
(1)	(2)	(3)	(4)	(5)

Head of expenditure	Closing balance	Estimate	Actuals	Difference between actuals and estimate
(6)	(7)	(8)	(9)	(10)