

The M.P. Scheduled Castes (Legal Aid) Rules, 1963

MADHYA PRADESH

India

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Rule THE-M-P-SCHEDULED-CASTES-LEGAL-AID-RULES-1963 of 1963

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The M.P. Scheduled Castes (Legal Aid) Rules, 1963 Published vide Notification No. 2244-25 (Gen) IK; M.P. Gazette, Part 4 (Ga), dated 19-6-1963 at page 373 The State Government hereby, in supersession of all the rules on the subject in force in the integrating units of Madhya Pradesh, Madhya Bharat, Vindhya Pradesh and Bhopal make the following rules for providing legal aid to the indigent members of the Scheduled Castes, namely :-

1. Short title and extent.

(1) These rules may be called the Madhya Pradesh Scheduled Castes (Legal Aid) Rules, 1963. (2) They extend to the whole of Madhya Pradesh.

2. Definitions.

- In these rules, unless the context otherwise requires, -(a) "Aided person" means a member of the Scheduled Castes to whom legal aid is granted under these rules; (b) "Indigent person" means a member of a Scheduled Caste who holds land assessed to land revenue or rent not exceeding forty rupees in the aggregate, and who has no other source of income, or whose gross annual income, from whatever source derived does not exceed in the aggregate the sum of twelve hundred rupees: Explanation :- For the purposes of this clause, the subject matter of the dispute in respect of which legal aid is sought shall not be taken into consideration. (c) "Legal Aid" means the aid given by the State to an indigent member of the Scheduled Castes in all or any of the forms as specified in Rule 3 of these rules; (d) "Legal Practitioner" means any person entitled to practise in any of the Courts of Madhya Pradesh under the law for the time being in force relating to Legal Practitioners; (e) "Scheduled Castes" means the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950, in relation to the State of Madhya Pradesh.

3. Form of legal aid.

- Legal aid may be given under these rules in the form of:-(a)Payment by Government of the Court-fees, process fees, expenses of witnesses and all other charges payable or incurred in connection with proceedings in any Court; or(b)Representation at the cost of Government by a Legal Practitioner provided by a Collector or the Court concerned under these rules in proceedings in which the aided person has a right to be so represented; or(c)Advice and assistance with a view to take steps to assert or dispute a claim of Civil nature.

4. Legal aid when admissible.

- Legal aid may be granted under these rules to an indigent person :-(i)(a)In respect of civil proceedings or revenue proceedings commenced or intended to be commenced in any Court in the district;(b)for obtaining advice with a view to assert, defend or dispute a claim of civil nature;(c)if the Collector is satisfied that the applicant has reasonable grounds to proceed in the matter in respect of which he seeks such aid;(ii)In respect of criminal proceedings in which the accused denies to have committed any offence and the Collector is satisfied that it is a fit case which should be defended :Provided that legal aid shall not be granted if the matter in respect of which it is sought arises between the members of the Scheduled Castes inter se or if in the opinion of the Collector it would be unreasonable in the particular circumstance of the case to grant it:Provided further that in a proceeding between the members of the Scheduled Castes inter se legal aid may be granted to an indigent person who is a widow, minor or a person subject to physical or mental disability due to old age or otherwise.

5. Procedure for granting legal aid.

(1)Any person entitled to legal aid may apply orally or in writing to the Collector or the Court concerned for such aid. The applicant if he applies in writing shall State in his application, the matter in respect of, and the form in which, legal aid is required by him. Such application shall ordinarily be accompanied by a certificate in Form A appended to these rules issued by a member of the Parliament or a member of the State Legislative Assembly or of a Gazetted Officer of the State Government. The Court may entertain such application at any time during the pendency of the proceedings.(2)Where an application is made to the Court, the Court shall forward the same to the Collector or, if made in writing or the substance of the same recorded by it, if made orally, together with the certificate, if any, filed therewith.(3)The Collector, to whom the application is made under sub-rule (1) or has been forwarded under sub-rule (2) shall, after making such summary enquiry as he deems fit, make an order sanctioning grant of the legal aid to the applicant, if he is satisfied that the applicant is entitled to such legal aid under these rules :Provided that if a certificate in Form A is produced, no enquiry shall be necessary as regards applicant's financial condition.(4)The Collector shall specify in the order the forms of the aid granted and the conditions, if any, as to the share of the costs and expenses of the legal proceedings, which the applicant should, regard being had to the attachable property other than the subject matter of the dispute held by him, be required to defray.(5)Notwithstanding anything contained in this rule, persons who are allowed to sue or appeal in forma pauperis, may be given legal aid without the production of any certificate except in such

cases where the Court considers the suit or appeal to be frivolous or vexatious.

6. Agreement by aided persons.

- Upon the grant of legal aid under these rules the aided person shall execute an agreement in Form 'B' appended to these rules creating a charge in favour of the Governor of Madhya Pradesh on all the property, money and costs which he may recover under any decree or order made in the proceedings in connection with which such aid is granted to him and agreeing to the recovery as an arrear of land revenue or the cost of the legal aid granted to him from the property money or costs, recoverable by him as aforesaid or otherwise.

7. Provision of Legal Practitioner to aided person.

(1) A panel of Legal Practitioners of the District, who are willing to appear, plead and act for and advise an aided person shall be prepared annually by the District and Sessions Judge and sent to the Collector. (2) Every Legal Practitioner borne on the panel shall give an understanding in writing to abide by these rules. (3) Where legal aid is granted under these rules, the Collector shall, after consulting the aided person, appoint a Legal Practitioner, whose name is borne on the panel, to represent the aided person in the proceedings in respect of which such aid is granted or to give advice and assistance as may have been specified. (4) The Legal Practitioner so appointed shall report to the Collector progress of the proceedings from time to time.

8. Remuneration of Legal Practitioner.

- The Legal Practitioner appointed under sub-rule (3) of Rule 7 shall be entitled to receive from the Collector :- (a) for representing the aided person in any Civil Court the fee admissible under the rules relating to the fees of Advocates and Pleaders prescribed by the High Court of Madhya Pradesh subject to a minimum fee of ten rupees; (b) for representing the aided person in any criminal case, a fee of twenty rupees per day, if the work lasts for more than three hours and a fee of ten rupees per day, if the work lasts for less than three hours; (c) in all other cases and for advice tendered otherwise than in a pending litigation, such fees and charges as the Collector may sanction in accordance with any general or special orders of the State Government : Provided that :- (i) if the Presiding Officer does not attend Court on any day and the Legal Practitioner has previous information on this fact, he shall be paid no fee for that day; and (ii) if the case is adjourned either for the absence of the Presiding Officer or for want of time or absence of witnesses or on request of either party or for any other similar cause and the Legal Practitioner has no previous intimation on this point he shall be paid fee of five rupees.

9. Mode of payment of remuneration to Legal Practitioner.

(1) The Legal Practitioner appointed to appear for the aided person shall incur all expenses incidental to the case or proceedings and include them in his bill of fees. (2) Every such bill of fees and other expenses incurred shall be submitted by the Legal Practitioner appointed in the case to

the Collector.(3)The Order authorising such Legal Practitioner to appear in the case, together with a receipt for the fees and a certificate from the Court concerned as to the dates for which the fees are claimed shall be sent along with the bill. In civil cases, a copy of the Court decree shall also be sent.(4)The Collector may in order to determine whether the amount claimed in the bill is correct and proper, call for such other information or documents as he may consider necessary from the Legal Practitioner appointed in this case.(5)If the Collector is satisfied that the bill is in order, he shall countersign it and return it to the Legal Practitioner concerned who shall present it at the Treasury for payment.[(5-A) The Collector may, however, sanction advance to the Pleaders to the extent of 50% of the probable cost and expenses of the legal proceedings in any particular case.] [Inserted by Notification No. 7251-2987-XXV (Gen.)-M-64, dated 16-10-1964.](6)The amount of every such bill shall be debitable to the provisions made for the purpose by the Tribal Welfare Department under suitable head.(7)Funds shall be placed at disposal of the Collectors for the above purposes by the Tribal Welfare Department.

10. Legal Practitioner not to receive any fee from the party.

- The Legal Practitioner to whom fee is due or paid under these rules shall not be entitled to, nor shall he receive, any fee from the aided person.

11. Delegation of power.

- The Collector may delegate his powers under these rules, except the powers under Rule 8 to any Revenue Officer not below the rank of Deputy Collector.

12. Savings.

- Notwithstanding anything contained in these rules it shall be competent for the State Government to issue, from time to time, directions or instructions with a view to implement the scheme for legal aid to the indigent members of the Scheduled Castes having regard to the special circumstances of any case.

Form A[See sub-rule (1) of Rule 5]CertificateThis is to certify that I am personally satisfied that Shri.....son of.....residing at.....in the tahsil.....of..... district, is a person who holds land assessed to land revenue or rent not exceeding rupees forty and has no other source of income or whose annual income does not exceed in the aggregate the sum of Rupees twelve hundred and that he is a member of the Scheduled Castes.

Signature of the Member of the Parliament/Member of the State Legislative Assembly/Gazetted Officer of the State Government.

Place.....Date.....Form B[See Rule 6]This Agreement is made this.....day of.....19.....between the Governor of Madhya Pradesh acting through the Collector(hereinafter called the "Governor" which expression shall include his successors in office) on the one part, and Shri.....son of.....resident of..... tahsil of..... district (hereinafter called the "Aided person" which expression shall, where the context so permits, include his heirs, executors, administrators and representatives) of the other part;Whereas upon the application of the aided person the(hereinafter called the "Collector") has by his order No..... dated..... made in pursuance of Rule 6 of the Madhya Pradesh Scheduled Castes (Legal Aid) Rules, 1963 (hereinafter referred to as "the Legal Aid Rules")

sanctioned the grant of legal aid to the aided person for the purpose of.....and to the extent and on conditions therein specified upon the further terms and conditions hereinafter appearing; Now, therefore, this agreement witnesses as follows:-In consideration of the legal aid for purpose recited above granted to the aided person by the Governor, the aided person hereby covenants with the Governor as follows :-(i)That he shall diligently prosecute the suit/proceeding in connection with which aid is granted and shall furnish all such information as may be required for that purpose by Legal Practitioner provided for him under sub-rule (3) of Rule 7 of the Legal Aid Rules.(ii)That he shall from time to time furnish to the Collector such information and reports as the Collector may require of him in respect of the progress of the suit proceeding in connection with which aid has been granted.(iii)That he shall not enter into a compromise of or withdraw from the suit/proceeding without the sanction of the Collector and shall abide by any conditions subject to which such sanction may be given by the Collector.(iv)That he shall, if a condition in that behalf has been imposed by the Collector, in the order aforesaid, duly defray the costs, charges and expenses which he has been required himself to defray.(v)That he shall pay into the Government Treasury out of any property, money or costs received or recovered by him under any decree or order passed in the suit/proceeding in connection with which aid has been granted to him the entire cost of the aid received by him as determined by the Collector, whose decision as regards the value of such aid shall be final and binding on him; and(vi)That he has not made, and shall not enter into any agreement for financing the suit/proceeding whether on a condition of giving any share in the fruits thereof or otherwise with any person.

2. For the consideration aforesaid the aided person hereby creates and declares a charge on all the property, money or costs which he may be entitled to recover under any decree or order which may be passed in his favour in the suit/proceedings in connection with which aid has been granted to him and agrees that the Governor may recover the cost of the aid received by him out of any money, property or costs which may be received or recovered by him in pursuance thereof.

3. The legal aid may at any time be withdrawn by the order of the Collector, if he is satisfied that the aided person has contravened or committed a breach of any of the conditions of this agreement or has failed without good cause to initiate or defend any proceedings in connection with which advice and assistance has been granted to him. Upon such withdrawal the cost of the aid received by the aided person shall be recoverable from him.

4. If the aided person contravenes or commits a breach of any of the conditions of this agreement, the Governor may, after giving the aided person a reasonable opportunity to show cause, impose upon him such penalty not exceeding Rs. 100 as he may deem fit.

5. Any sum recoverable from the aided person hereunder may, without prejudice to any other remedy, be recovered from him as an arrear of land revenue.

6. The Governor agrees to bear the stamp duty in respect of this instrument.

In witness whereof the parties hereto have signed this agreement on the dates and year, respectively, mentioned against their

signature. Witness-(i).....(ii).....Collector.....on
behalf of the

Governor. Dated..... Witness-(i).....(ii).....Aid
persons Dated.....