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Amendment to the Jammu and Kashmir High Court Rules, 1999

Notification No. 1615 of 2019, dated 06.03.2019, High Court of Jammu And Kashmir At Jammu

Subject: Amendment to the Jammu and Kashmir High Court Rules, 1999.

In exercise of the powers conferred by the Constitution of Jammu and Kashmir read with all other powers enabling in this behalf, the High Court of Jammu and Kashmir with the previous approval of the Governor hereby makes the following amendment/insertions to the Jammu and Kashmir High Court Rules, 1999.

This amendment shall come into force from the date it is published in the Government Gazette.

Amendment to Rule 44:

Sub-para of Rule 44 is substituted to read as under:

"The appeal shall be registered and listed for preliminary hearing alongwith the application for condonation of delay."

Amendment to Rule 67:

"In Sub-rule (1) of Rule 67 of the Rules, the words, "and separately in each appeal, petition reference or as the case may be" be substituted by the words "year wise".

Chapter XXV is inserted to the J&K High Court Rules, 1999, to read as under:-

CHAPTER XXV

Rules Governing Filing of Suits, Appeals, Petitions or Applications Before The High Court By Persons Residing In Any Remote Area In The State of Jammu And Kashmir

I. Applicability of this Chapter

This chapter is applicable to remote areas. Areas mentioned in the *Schedule "A"* to this chapter are declared as remote areas. The High Court may at any time, add to or delete any area, from the Schedule.

II. Presentation of petitions, appeals, complaints, applications etc.

1. Jurisdictions in remote areas where no Court is available

- i.* A party residing in a remote area, desirous of filing a case before the High Court may file the same before the nearest Approved Centre operated by the Government of India/State Government approved by the High Court or the nearest post office established by the Department of Post, Ministry of Communications, Government of India, in collaboration with the Jammu and Kashmir Legal Services Authority, High Court of Jammu and Kashmir.
- ii.* The expression 'post office' wheresoever appears in these rules shall mean and include 'branch post office' and 'sub-post office' as defined by the Department of Post, Ministry of Communications, Government of India.
- iii.* The case may be filed in the proformas annexed as **Schedule "B"** to this chapter or in any other format conveying the facts giving rise to the case, the issues/questions raised and the prayer sought by the party. If the party is relying on documents which are in its possession, then a list of these documents and to the extent possible, copies thereof shall be enclosed. A list of documents which are not in the possession of the party but are relied upon by it shall be enclosed.
- iv.* A Para Legal Volunteer/Panel Lawyer duly appointed by any Legal Service Institution attached to the concerned Approved Centre/JKSLSA/District State Legal Services Authority (DSLISA) may assist the party in drafting/filing of the case at the designated Approved Centre.

2. Filing of cases before the Approved Centre/Post Office

- i.* In case of filing before the Approved Centre, the Incharge of the Approved Centre shall maintain the entire record of filing of the cases before the designated Approved Centre, both in soft form as well as in Registers specially maintained for the purpose.
- ii.* In the event of filing of the case before the post office, the Post Master concerned shall maintain the entire record of filing of the cases both in soft form as well as in registers specially maintained for the purpose.
- iii.* Upon presentation of a case, the Incharge of the Approved Centre/ Post Master concerned shall scan the petition/appeals/complaint, application and documents, whereafter he shall transmit the same immediately through e-mail to the High Court where the print out of the same shall be taken and the case shall be registered accordingly.
- iv.* The original record of the case shall be retained by the Approved Centre and the same shall be transmitted to the High Court, as soon as possible, by any

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available means of transport.

- v. On the hard copy of the appeal/petition/plaint, signature or thumb impressions, as the case may be, shall be affixed on every page by the party in the presence of the Incharge of the Approved Centre/Postmaster, who shall countersign and date the same on the last page after endorsing the name of the person presenting it and the time of its receipt.
- vi. The appeal/petition/plaint, shall then be placed in a sealed cover by the postmaster, who shall obtain the signatures of the party, and the PLV (if present) on the sealed cover, and shall also countersign and date the same. The endorsement of the postmaster shall be treated as proof of authenticity of the document enclosed.
- vii. Where the appeal/petition/plaint is physically transmitted to the High Court, the postmaster shall levy the charges of a registered letter from the sender. The record of movement of the article from the post office to the High Court shall be kept, as in the case of any other registered article. This shall, however, be without prejudice to the maintenance of a Register in the prescribed format of appeal/petition/plaint received by the post office for onward conveyance to the High Court.
- viii. If no scanner is available at the Approved Centre/Post Office, then till such time the same is made available, the filing shall only be accepted in duplicate, duly signed, and one such copy shall be retained by the Approved Centre/Post Office in its records for a period of one year.
- ix. The Postmaster/Incharge of the Approved Centre shall not be held liable for any inadvertent or unintended error committed in the course of discharge of his duties prescribed under these rules.

3. Service charges payable to the Approved Centre/Post Office

The litigant shall be liable to pay a sum of Rs. 30 to the Approved Centre/ Post Office as service charges. However, in the case of persons eligible for free legal services in terms of S.12 of J&K Legal Services Authority Act, 1997, the charges shall be paid by High Court Legal Services Committee.

4. Appointment of lawyers and legal aid

A person belonging to a remote area may engage any counsel of his/her choice. In case he/she desires so, the Jammu Kashmir State Legal Services Authority (JKSLSA)/concerned District State Legal Services Authority (DSLISA)/Jammu Kashmir High Court Legal Services Committee/Approved Centre shall provide legal

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service to such person. Authorisation of the person conducting the case shall be appended.

5. Proceedings of litigants from remote areas

- i. So far as conduct of proceedings is concerned, wheresoever possible, the proceedings may be facilitated and conducted through the electronic mode using video conferencing facilities between the High Court and the Approved Centre/Post Office.
- ii. The summons/notice and other processes that may be issued by the High Court shall be transmitted by the High Court to the concerned Approved Centre/Post Office having jurisdiction over the area in which the notice resides, wherefrom the same shall be delivered either to the process serving agency of the Court located in the area or to the nearest police post/station for arrangement of service.
- iii. Summons/notices and other processes issued through registered post by the High Court shall be sent to the post office having jurisdiction over the area in which the noticee resides. The same shall be delivered by the post office upon the addressee and a report shall be prepared in the same manner as in case of any other registered delivery.
- iv. The same mode as prescribed for receiving the filing may be adopted for transmitting the service report back to the High Court.
- v. Wherever possible, the proceedings may be conducted through Video Conferencing.
- vi. A desk to be known as Court Service Centre shall be earmarked in the High Court for the purpose of receiving cases from the Approved Centre/Post Office.
- vii. A dedicated e-mail ID shall be created for High Court for the purpose and separate record shall be maintained to track the record of the cases heard thorough Video Conferencing.

III. Jurisdictions in remote area where a Court is available

In case a party in a remote area is desirous of filing a appeal/petition/plaint/ application in High Court, he may file the same in the following manner:

- i. A party residing in a remote area, who is desirous of filling of case/appeal/petition/application before the High Court may file the same before the Court of lowest jurisdiction located near his/her residence.

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- ii. Upon receipt of the case/appeal/revision/application etc., the presiding officer of the Court of lowest jurisdiction shall scrutinize the case and append its report thereon.
- iii. A separate room to be known as Court Service Centre shall be earmarked in each Court of lowest jurisdiction located in a remote area for the purpose of receiving cases pertaining to the High Court. All the pleadings to be filed by the parties in such cases shall also be received in the said room and a separate register shall be maintained for entering the particulars of these cases.
- iv. Upon receipt of the cases, the record shall be scanned and the same shall be transmitted to the High Court, where a print out of the same shall be taken and registered in the concerned register. The original record shall be retained by the Court of lowest jurisdiction where the case has been received and as soon as possible, the physical file shall be transmitted to the High Court by any available mode of transport.
- v. Wherever possible, the hearing of cases may be conducted through video conferencing by linking the Court of lowest jurisdiction to the High Court.
- vi. The summons/other processes may be transmitted from the High Court to the Court of lowest jurisdiction, wherefrom the case is received for arrangement of service and the report regarding these summons/processes shall be sent via the same mode.
- vii. A dedicated e-mail ID may be created for the High Court and the Court of lowest jurisdiction located in a remote area for the purpose of this facility and record shall be maintained for tracking the record of the cases heard through video conferencing.

IV. Limitation

The date of presentation of case before the Approved Centre/Post Office/Court of lowest jurisdiction, as the case may be, shall be treated as the date of institution of the case for the purposes of computation of limitation.

V. Court fee on cases filed from remote area before the Approved Centre/Post office

The Approved Centre/Post Office/Court Service Centre may accept the cases without affixation of requisite Court fee, provided the cases are accompanied by an application for exemption from payment of Court fee. The application shall be in the format given in **Schedule "C"** appended hereinbelow.

VI. Procedure for filing of defence/response/counter-claim/application etc. by applicants/petitioners

The provisions contained hereinbefore in this Chapter shall apply mutatis mutandis to the procedure for filing of defence/response/counter-claim/application etc. by the

defendants/respondents/applicants/petitioners residing in the remote areas.

VII. Case Information System

Case status and all other updation in the cases shall be uploaded by the High Court on the website as well as in the Case Information Software of the nearing Court. The parties shall be entitled to have access to the said updation from a nearby court or through Approved Centre/Post office as well as through SMS. Information regarding case status, orders and judgements shall be provided to the inhabitants of the remote areas by the Courts or by the Approved Centres/Entities/post offices as the case may be free of cost.

VIII. Superintendence and Control Of Approved Centre and Post Offices

The functioning of Approved Centre and Post Offices pertaining to filing of cases and maintenance of record in relation thereto shall be supervised by the presiding officer of the Court of lowest jurisdiction, the District Judge concerned or the Secretary, District Legal Services Authority.

However, the administrative control over the Approved Centre and Post Office staff, shall remain with the Approved Centre operated by the Government of India/State Government approved by the High Court and the Department of Posts, Ministry of Communications, Govt., of India, respectively.

IX. Cause List

All the cases pertaining to the remote areas and filed under this chapter shall be distinctively and separately shown in the daily cause-list of the High Court and priority shall be given to listing of such matters. Weekly reports pertaining to the progress of these cases shall be compiled by the Registrar Judicial of the concerned wing of the High Court.

Schedule-'A'

Tabulated statement pertaining to remote areas of the State of J&K

S. No.	Name of District	Description of inaccessible areas	Nearest Court
(1)	(2)	(3)	(4)
1.	Kishtwar	(i) Marwah & Warwan	Munsiff Kishtwar
		(ii) Padder/Gulabgarh	Munsiff Kishtwar
2.	Reasi	Gulabgarh belt	Munsiff Mahore
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3.	Kathua	(i) Barmota, Doulka & Roulka	Munsiff Bani
		(ii) Bhandar, Sandroon & Sandhi	Munsiff Bani
		(iii) Dhaggar, Dhaman & Bhakoga	Munsiff Bani
		(iv) Koti & Banjal	Munsiff Bani
4.	Poonch	(i) Marah	Addl. Spl. Mobile Magistrate, Surankote.
		(ii) Dogrian & Poshana	Addl. Spl. Mobile Magistrate, Surankote.
5.	Ganderbal	Kangan Belt	Munsiff Kangan
6.	Ramban	(i) Shagan	Munsiff Banihal
		(ii) Mahoo	
		(iii) Mangat	
		(iv) Trigam	
		(i) Dhanmasta	Munsiff Ukhral
		(ii) Neel Bohardar	
		(iii) Pogal	
		(iv) Bingara	
7.	Baramulla	(i) Upper Uri Belt	Sub-Judge Uri
		(ii) Upper Rafiabab Belt (Dangiwacha)	Munsiff Dangiwacha
8.	Leh	Seryul Nyoma	Spl. Mobile Magistrate, Leh
		Turtak	Munsiff Nobra
		Panamik	Munsiff Nobra
		Lingshed & Skurbuchan	Munsiff Khalbti
9.	Kargil	Testa, Cha, Itcha, Rarumonay,	Munsiff Zanskar
		Shunshaday, Kargiak & Ralakung	

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		Itchoo & Yuljuk	Munsiff Sankoo
10.	Kupwara	Teetwal	Munsiff Tangdhar
		Machil	Munsiff Kupwara
		Keran	Munsiff Kralpora
		Jungund	Munsiff Kupwara
		Badnambal	Munsiff Kralpora.
11.	Bandipora	Gurez and Tulail	Munsiff Gurez
		Aragam, Gujarpati, Chatti Bandi Chanapal, Groori Hajin Challiwan, Budiya.	Munsiff Bandipora
		Attawatu, Pawar, Tanghat, Wavan.	Munsiff Bandipora
		Chhandaji	Munsiff Bandipora

Schedule-'B'

(Template for Petition)

IN THE HON'BLE HIGH COURT OF J&K AT JAMMU/SRINAGAR

(name, parentage and residence of the petitioner(s)).

Petitioner(s)

Versus

(name, parentage and residence of the Respondent(s)).

Respondent(s)

IN THE MATTER OF: Petition under Section_____

MAY IT PLEASE YOUR LORDSHIP:

The petitioner(s) humbly submit(s) as under:

i) _____

(give concise material facts, on which the petitioner(s) relies for his claim)

ii) _____

(give precise facts constituting cause of action, when it arose to petitioner(s) and the grounds of claiming the relief)

iii) Relief

(mention the relief(s) the petitioner's claim(s))

iv) That affidavit in support of the petition is attached herewith.

Signature/thumb impression of the petitioner(s)

(Template for Affidavit in respect of Petition)

IN THE HON'BLE HIGH COURT OF J&K AT JAMMU/SRINAGAR.

I _____ Son of _____ Aged _____ Resident of _____ do hereby state an oath/solemn affirmation that I have read the petition/the petition has been read over and explained to me and that the contents of paras _____ to _____ of the petition are true to my personal knowledge and those of paras _____ to _____ are true upon legal advice received by me which I believe to be true.

I solemnly swear/affirm that this affidavit is true, no part of this is false and nothing has been concealed.

Deponent

Schedule-'C'

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(Template for application for making up deficiency in Court fee)

IN THE HON'BLE HIGH COURT OF J&K AT JAMMU/SRINAGAR.

Name _____

S/o, D/o _____ R/o _____

Petitioner(s)

Versus

Name _____

S/o, D/o _____

R/o _____

Respondent(s)

IN THE MATTER OF: Application for making up deficiency of Court fees.**MAY IT PLEASE YOUR HONOUR:-**

The above named petitioner(s) submit(s) as under:-

1. That the petitioner belongs to remote and inaccessible area of_____.
2. That due to non-availability of Court fee, at this moment of time, the petitioner is unable to pay the requisite Court fee in respect of the accompanying petition.
3. That the petitioner undertakes to make up the deficiency of Court fee as and when inaccessibility of the area ceases and petitioner(s) is in a position to reach the Hon'ble High Court.

It is, therefore, prayed that the accompanying petition may be entertained and the petitioner(s) may be permitted to makeup the deficiency of Court fee at the time when inaccessibility ceases and petitioner(s) is able to reach the Hon'ble High Court.

Petitioner(s)

[No. 58876-921/G.S., dated 06.03.2019]