

LAW AND JUDICIARY DEPARTMENT

Mantralaya, Bombay 400 032, dated the 10th January 1989.

No. LAB. 5137/(161)-XIV.—The following Maharashtra State Relief Through Authorities Rules, 1989 made by the Maharashtra State Legal Aid and Advice Board, are hereby published for general information :—

NOTIFICATION**MAHARASHTRA STATE LEGAL AID AND ADVICE BOARD****LAW AND JUDICIARY DEPARTMENT**

Mantralaya, Bmbay 400 032, dated 10th January 1989

MAHARASHTRA STATE LEGAL AID AND ADVICE SCHEME, 1979.

No. LAB. 5187/(161)-XIV.—Whereas, in pursuance of article 39A of the Constitution of India, the Government of Maharashtra has framed the Maharashtra State Legal Aid and Advice Scheme, 1979 for the purpose of providing free legal services to the weaker sections on the community in the State;

2. And whereas, under the Government Resolution, Law and Judiciary Department, No. LAB. 1080/(208)-XIV, dated the 30th October 1980, the Government of Maharashtra has constituted a Board called “the Maharashtra State Legal Aid and Advice Board” for the purposes of setting up, administering and implementing the said Legal Aid Scheme in the State;

3. And Whereas, according to sub-clauses (j) and (s) of clause (2) of paragraph 4 of the said Resolution, it is the duty of the said Board to render assistance to the members of the weaker sections of the society in complying with necessary legal requirements in order to secure the benefits under the various schemes sponsored by the Central or the State Government for the welfare of the public in general or of any section thereof and to suggest measures for making social welfare legislation effectively for the weaker sections of the community and to draw the attention of the administrative bodies or authorities to their grievances and press for redress of such grievances;

4. And Whereas, the question of setting up of a special programme in respect of relief through authorities was under consideration of the said Board for some time past;

5. Now, therefore, in pursuance of the provisions of sub-clauses (j) and (s) of clause (2) of paragraph 4 read with sub-paragraph (2) of paragraph 16 of the Government Resolution, Law and Judiciary Department, No. LAB. 1080/(208)-XIV, dated the 30th October 1980, the Maharashtra State Legal Aid and Advice Board with the previous approval of the State Government and in supersession of all the previous orders issued in this behalf, hereby makes the following rules for the purposes of establishing and operating the

legal services programmes in the State, as follows, namely :—

CHAPTER I

PRELIMINARY

*1. *Short title and commencement.*—(1) These rules may be called the Maharashtra State Relief Through Authorities Rules, 1989.

(2) They shall come into force from the date of publication of these Rules in the *Official Gazette*.

2. (1) *Definitions.*—In these Rule, unless the context requires otherwise,—

(a) “ Authority ” means an administrative authority or quasi-judicial authority including the authorities functioning under the various Acts ;

(b) “ Board ” means the Maharashtra State Legal Aid and Advice Board ;

(c) “ Clinic ” means a Legal Aid Clinic established by the Board under the Maharashtra State Legal Aid Clinic Rules, 1986 in the law colleges or law faculties of Universities in the State ;

(d) “ Committee ” means the Greater Bombay Legal Aid and Advice Committee, the Nagpur Legal Aid and Advice Committee, or the Aurangabad Legal Aid and Advice Committee or the District Legal Aid and Advice Committee or, as the case may be, the Taluka Legal Aid and Advice Committee constituted in accordance with the Maharashtra State Legal Aid and Advice Scheme, 1979, and also includes sub-Committees and Legal Aid Centres constituted under sub-clause (4) of clause 12 of the said Scheme ;

(e) “ Counselling Centres ” means the Counselling Centres established under the Maharashtra State Counselling Centre Rules, 1986 ;

(f) “ Legal Aid Scheme ” means the Maharashtra State Legal Aid and Advice Scheme, 1979 ;

(g) “ Member-Secretary ” means the Member-Secretary of the Committee and includes Secretary of the sub-Committee or Legal Aid Centre constituted under sub-clause (4) of clause 12 of the Legal Aid Scheme and Member-Secretary of the Clinic constituted under the Maharashtra State Legal Aid Clinic Rules, 1986 ;

(h) “ Office bearers ” means the Chairman, Vice-Chairman, Member-Secretary and the Joint Secretary of the Committee or the Chairman, Director and the Member-secretary of the Clinic ;

(i) “ Social Worker ” means a person having background of social work and interested in the Legal Aid work ;

*These rules were first published in the *Maharashtra Government Gazette*, Part I-Central Section, dated the on page No.

(2) The words and expressions used in the rules, but not defined, shall have the meanings assigned to them in the Maharashtra State Legal Aid and Advice Scheme, 1979.

CHAPTER II

LEGAL AID AND ASSISTANCE

3. *Matters in which assistance is admissible.*—(1) In addition to the proceedings specified in clause 20 of the Legal Aid Scheme, every Committee shall also extend assistance to the weaker sections of the community in the following matters :—

(i) applications seeking redress before administrative forums;

(ii) applications seeking redress before the various authorities exercising functions of administrative or quasi-judicial nature under the various statutes;

(iii) applications needing documentations;

(iv) applications of persons seeking examination of their problems for presenting in the proper form before the authorities with such documentation as would be necessary.

(2) Every Committee shall make efforts to avoid future litigation in the Courts and Tribunals by extending assistance in respect of applications specified in sub-rule (1) above.

Explanation.—The Legal Aid Programme shall not be limited to assisting people to institute or defend proceedings in Courts alone. It shall also be a socio-economic programme.

4. *Assistance before various forums.*—Assistance shall be rendered to the poor in seeking redress before the various authorities exercising functions of administrative or quasi-judicial nature under the various statutes.

Explanation.—A large number of applications are generally received for assignment of land, for the issue of extracts from the mutation registers and other applications for relief under various orders of Government conferring special rights on the weaker sections of the society. These are problems mostly dealt with by the administrative authorities, but the poor are not able to successfully present their cases and secure redress. Their inability to present their claims properly may be the cause in many situations for the long delay in the processing of applications by administrative authorities. Therefore, the Committees shall help to the poor through the panel lawyers in this regard by examining these problems and helping the poor to present their cases before the proper forums and with the correct documentation.

CHAPTER III

PROCEDURE FOR RECEIVING APPLICATIONS

5. *Method of receiving applications.*—(1) Applications for relief through authorities may reach the Committees from the applicants in person or by post.

(2) The applications may also be received by the following bodies or Authorities :—

- (i) Legal Aid Clinic functioning in the area;
- (ii) various Government Departments and Offices;
- (iii) local authorities, public corporations, etc.

(3) These bodies or authorities may transmit such applications to the concerned committee for necessary action. Applications may also be received from the persons during the Legal Aid Camps and other Legal Literacy or Legal Services Programmes arranged by the Committees or Clinics.

(4) Applications may also be received from the other Committees.

6. *Referring applications by authorities.*—If the administrative authorities or quasi-judicial authorities feel that the petitions submitted to them directly by the indigent persons require any documentation or any written or oral legal opinion, they may themselves refer such petitions to the concerned Committees stating the requirements.

CHAPTER IV

PROCESSING OF APPLICATIONS

7. *Registration of applications.*—Every application received under rules 5 and 6 shall be registered in the registers of the Committees and duly acknowledged wherever possible and processed according to the provisions of the Legal Aid Scheme.

8. *Scrutiny of applications.*—(1) The applications for relief through authorities shall be entrusted to the panel lawyers for immediate scrutiny and examination :

Provided that, if the Counselling Centre Rules are made applicable to any Committee, such Committee may process the applications under those rules.

(2) Every Committee shall ensure and guarantee every applicant coming to the Committee that his application will be scrutinized by a lawyer individually.

(3) If the Counselling Centre Rules are not applicable to a Committee and the said Committee feels that the presence of the applicant is needed for the purpose of examination of the applicant, the said applicant may be called in the office of the Committee on the fixed date and time for that purpose.

Explanation.—The applicant seeking relief may generally be poor and illiterate and may not be able to stay away from his work and come to the office of the Committee very often. Therefore, the applicants may sparingly be called for examination and once they are called, their problems shall be examined on that day itself so as to save their time and avoidable expenses.

(4) Where an application is by a group of persons representing a common grievance, the feasibility of deputing a lawyer or a team of lawyers to visit the place after prior intimation, for the purpose of examination of the parties and collecting details may also be considered by the Committees.

(5) The procedure for processing the applications received either from individual applicant or from the group of applicants shall be the same.

9. *Prohibition to transfer applications.*—No application received by the Committee shall mechanically be transferred to other authorities in the routine manner for taking necessary action.

Explanation.—The transferring of applications to the authorities without any detailed examination of the same may be considered very irregular. The applications which have been considered to be of purely administrative nature, on a very careful scrutiny, may disclose a legal problem. Furthermore, if such problems are examined as required by these rules and are sent to the appropriate authority with the recommendations of the Committees based on the opinion of the panel lawyer and with the requisite and proper documentation, it may give definite relief to the applicant. There may be no chance for the authorities to delay the case or to give the decision adverse to the applicant based on the wrong premises. Such decision or delay may necessitate the seeking of further remedies. When Committees transfer these applications to the authorities without any examination it would mean that the best services possible are not done to the applicant. The applicant's very object in coming to the Committee is to secure an examination of his problems and to present his case in the proper form before the authorities with such documentation as would be necessary. It would be no consolation to the poor applicant to be told that the matter has been transferred to the appropriate authorities. His faith in the Committee may be shattered if the papers are sent mechanically to the authorities.

CHAPTER V

RELIEF TO THE APPLICANTS

10. *Documentation.*—(1) Where, during the examination of the problem, it seems necessary to document the applicant's case, and if the applicant has no resources therefor, the Committee may secure the documents itself by incurring reasonable expenses for that purpose.

Explanation.—(i) There may be instances of applicants wanting to apply to the authorities for relief like old age pension, family pension or for *ex-gratia* pension under any scheme or for legal representation of a person dying while engaged in hazardous occupation etc. The poor and illiterate may not have resources or the know-how to secure the required pro forma.

(ii) Others may be unable to fulfil the formalities like attestation of applications or obtaining medical certificates regarding age or having to affix a copy of photograph to application. In all such cases, the Committees themselves shall secure for the person the necessary certificates, document the application and forward them by incurring reasonable expenses for these services.

11. *Obtaining documents.*—The Committee may take the assistance of their staff for obtaining documents etc. required for processing the applications.

12. *Action on the applications.*—(1) After examination and proper documentation, the panel lawyer shall be requested to draw up his recommendations in detail setting out the facts clearly and the provisions under which the applicant is entitled to be considered for relief and place it before the Chairman of the committee. After obtaining the approval of the chairman the Member-Secretary of the Committee may forward the application to the concerned authority for consideration and disposal.

(2) The communications relating to the applications shall invariably be sent to the head of the Department by name cover with a copy marked to the authority, who is required to process the same.

(3) The further stages of the matter shall be recorded in the Registers of the Committees and followed up periodically.

13. *Appearance by lawyers.*—(1) Where it is necessary, the Committee may depute a panel lawyer to meet the authority to ascertain the stage of the matter or to make further representations. In such cases, the lawyer shall meet the authorities for expediting the case of the applicant.

(2) For the purpose of proper disposal of a case, if the Committee considers it necessary to represent through an Advocate and plead the matter before the authority, it may depute a panel advocate to do so.

14. *Further remedies.*—(1) If, within a reasonable time, decision is not taken by the authority or the decision is adverse to the applicant, the further remedies open to the applicant shall be considered by the Committee :

Provided that, before taking any action in this matter, the recommendation of the concerned panel lawyer shall be taken into consideration.

15. *Relief through authorities during the Legal Aid Camps.*—(1) If applications for relief are received during the Legal Aid Camps., where the concerned authorities of Government are present, efforts may be made, wherever possible, to discuss with such authorities the merits of such applications at the camps themselves.

(2) If it transpires that in some cases the authorities are able to take decisions on the spot and pass orders and in such cases the decisions shall be recorded in the Registers of the Committee and the concerned applicants shall be informed accordingly.

(3) In any case, the applications shall not be passed on mechanically to authorities at the Camp on vague promise of future consideration. Such application shall be processed by the Committee under these rules.

CHAPTER VI

REMUNERATION

16. *Remuneration to the Advocates.*—(1) If an advocate has been deputed to any authority for presenting a case by arguments then he may be paid an honorarium of Rs. 40 in Greater Bombay and Thane and Rs. 25 in other Districts and taluka places per hearing.

(2) The honorarium to the Advocates for examining the cases shall be paid according to the provisions of the Counselling Centre Rules.

17. *Expenditure.*—The Committee may incur expenses for extending assistance under these rules from the funds placed at its disposal by the Board.

18. *Application of the provisions of Legal Aid Scheme and Rules.*—Except otherwise provided in these rules, the provisions of the Legal Aid Scheme and the Maharashtra State Legal Aid and Advice Rules, 1981 shall apply to the matters specified in these rules.

19. *Reports.*—Every Committee shall send to the Board every month separate report about the receipt and disposal of cases under these rules.

By order of the Board,

M. B. Pawar,
Member-Secretary.

By order and in the name of the Governor of Maharashtra,

S. S. DANI,
Secretary to Government.