

A Study on The Legal Services Authorities ACT, 1987

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Abstract

The Indian government established CILAS, or the "Committee for Implementing Legal Aid Schemes", on September 26, 1980. Prior to the passage of the "Legal Services Authorities Act" in 1987, this Committee, which was chaired by Justice P.N. Bhagwati, ensured that all legal assistance programs across the nation were uniformly supervised and executed. On November 9, 1995, the "Legal Services Authorities Act (LSA Act)" was put into action by the government of India, which was passed in 1987. In an effort to ensure that no person has financial or other barriers to justice, it aimed to establish Legal Services Authorities around the nation to provide low-income people access to competent and free legal assistance. The establishment of Lok Adalats as a substitute system to provide prompt and equitable justice for everyone was another primary goal. With its incorporation into "Part IV of the Constitution by the 42nd Amendment" of 1976, the LSA Act achieves the goals of Article 39A of the Constitution of India. Under Article 39A, the State is required to "secure that the operation of the legal system promotes justice, on the basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to anyone by reason of economic or other disabilities.

Keyword: Law, State, Legal, Services.

INTRODUCTION

In every state a State Legal Services Authority is constituted by the State Government to give effect to the policies and directions of the Central Authority (NALSA). A nationwide network has been envisaged under the LSA Act for providing legal aid and assistance. Under Section 3 of the LSA Act, the National Legal Services Authority (NALSA), also called the Central Authority under the LSA Act, is constituted by the Central Government. NALSA is the apex body which lays down policies, principles and schemes for legal services. It disburses funds and grants to State Legal Services Authorities for implementing legal aid schemes and programmes. The Chief Justice of India is the patron-in-Chief of NALSA, and a sitting or retired judge of the Supreme Court (usually the second senior-most judge of the Supreme Court) functions as the Executive Chairperson. The Supreme Court Legal Services Committee is constituted by NALSA and is headed by a sitting judge of the Supreme Court (usually the third senior-most judge of the Supreme Court of India) who is the Chairperson of this Committee.

In every state a State Legal Services Authority is constituted by the State Government to give effect to the policies and directions of the Central Authority (NALSA), to provide legal services to the people, and to conduct Lok Adalats. Each State Legal Services Authority is headed by the Chief Justice of the High Court who is its Patron-in-Chief. A serving or retired Judge of the High Court (usually the second senior-most judge of the High Court) is nominated as its Executive Chairperson. Each High Court has a High Court Legal Services Committee, constituted by the SLSA, which is headed by a sitting judge of the High Court (usually the third senior most judge of the High Court) who is the Chairperson of this Committee.

District Legal Services Authorities are constituted in every district to implement legal aid programmes and schemes in the district. The District Judge is its Chairperson. Taluk Legal Services Committees are also constituted for each of the Taluks or Mandals, or for group of Taluks or Mandals, to coordinate the activities of legal services and to organise Lok Adalats. Every Taluk Legal Services Committee is headed by a senior Civil Judge who is its Chairperson.

Section 8 of the LSA Act states that SLSAs should act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor.

As per NALSA's Quinquennial Vision Document of 2010, legal aid camps should be organized in the neighbourhood. District Legal Services Authorities are expected to run legal aid clinics in jails. These legal aid clinics are required to be managed by a panel of lawyers selected in consultation with the local Bar Association. Applications, appeals and petitions from prisoners are to be forwarded to the appropriate authorities and courts as expeditiously as possible. The panel lawyers should assist in matters relating to remission, parole, etc. They may take the services of sociologists and psychiatrists while providing legal aid to the prisoners.

A strong base of paralegals should be developed all over the country to act as a bridge between the people and Legal Services Authorities. They should help those in need "to approach the concerned authorities such as the Police and the District Administration by helping them write applications, filing forms and providing relevant information which may be necessary for asserting any right. The target group to be trained as paralegals would include people at the grass-root level such as anganwari workers, basic teachers, primary health workers, panchayat members, etc." Under NALSA's Project of Paralegal Volunteers (PLVs), the PLVs are expected to act as intermediaries between the common people and Legal Services institutions and thereby remove barriers of access to justice.

DUTIES OF PARALEGALS

- Educate people, especially those belonging to weaker sections of society, on "the right to live with human dignity"

- Make people aware of the nature of their disputes/issues/problems and inform them that they can approach the LSAs for resolution of disputes
- Inform the TLSC of "transgressions of law or acts of injustice in their area of operation"
- Assist the DLSA/TLSC in organizing legal awareness camps in their area of operation
- Give information on the legal services activities of the LSAs and assist people to utilize them

The National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010, spell out the processes for legal aid.

Application for Legal Aid

All LSAs shall have a front office to be managed by a panel lawyer and one or more paralegal volunteers available during office hours. Applicants seeking legal aid can present their grievances by email, orally, or in writing in the front office. An affidavit is sufficient proof that an applicant falls within the eligible categories under Section 12 of the LSA Act.

Matters involving litigation should be forwarded to the Monitoring Committee comprising of the Member Secretary or Secretary of the LSA and other legal practitioners who will decide within a period of eight weeks whether the applicant is entitled to legal services or not. In urgent matters, the panel lawyer in the front office can provide legal assistance as required, in consultation with the Member Secretary or Secretary of the particular Legal Services Authority.

Selection of Lawyers

LSAs should invite applications for empanelment of lawyers with at least three years of experience. While preparing the panel of lawyers the "competence, integrity, suitability and experience of such lawyers shall be taken into account." Separate panels should be maintained for dealing with different types of cases e.g. civil, criminal, constitutional, environmental, labour, matrimonial disputes. The panel lawyer shall not "ask for or receive any fee, remuneration or any valuable consideration in any manner, from the person to whom he had rendered legal services". This panel prepared should be re-constituted after a period of three years.

A list of legal practitioners from among the panel lawyers can be designated as retainers. The strength of retainer lawyers shall not exceed:

- (a) 20 in the Supreme Court Legal Services Committee
- (b) 15 in the High Court Legal Services Committee
- (c) 10 in the District Legal Services Authority
- (d) 5 in the Taluk Legal Services Committee

The honorarium payable to retainer lawyer shall be:

- (a) Rs. 10,000 per month in the case of Supreme Court Legal Services Committee
- (b) Rs. 7,500 per month in the case of High Court Legal Services Committee
- (c) Rs. 5,000 per month in the case of District Legal Services Authority
- (d) Rs. 3,000 per month in the case of Taluk Legal Services Committee

The honorarium specified above is in addition to the honorarium or fee payable by the LSA for each case entrusted to the retainer lawyer. The retainers are required to devote their time exclusively for legal aid work and shall be available full time to deal with legal aid cases and to manage the front office or consultation office in the respective LSA.

MONITORING AND EVALUATION

Monitoring Committees at state, district and taluk levels will monitor progress of litigation in legal aid cases. These committees will comprise of the Chairperson, Member Secretary (or Secretary) and a lawyer to be nominated by the Patron-in-Chief of the LSA.

The Monitoring Committee will maintain a register for legal aid cases to record the progress and end result. It should submit bi-monthly reports containing its independent assessment on the progress of each and every legal aid case and the performance of the panel lawyer or retainer lawyer, to the Executive Chairperson or Chairperson of the Legal Services Authority. The District Legal Services Authorities and Taluk Legal Services Committees should submit copies of the bi-monthly reports of their Monitoring Committees to the Executive Chairperson of the State Legal Services Authority. The State Legal Services Authorities shall also send consolidated half- yearly reports of the Monitoring Committees, indicating the success or failure of each of the legal aid cases, to the Central Authority (NALSA).

In pursuance of orders passed in the Sampurna Behrua case, NALSA issued Direction dated September 12, 2011

whereby the State Legal Services Authorities have been requested to establish Legal Aid Centre (s) attached to the Juvenile Justice Boards (s) in the State/Union Territory Capitals with immediate effect. For this purpose, the SLSA can direct the District Legal Services Authority of the Capital District to establish Legal Aid Centre (s) in the Juvenile Justice Board (s) working the capital city. The DLSA should prepare a list of young panel lawyers for such Legal Aid Centres. "The panel lawyers may be selected from young and competent lawyers, preferably women lawyers, who are willing to work the entire day in a child-friendly manner in compliance with the spirit and object of the Juvenile Justice (Care and Protection of Children) Act, 2000 and Juvenile Justice Rules, 2007". The same set of lawyers can be made available for legal aid in the Child Welfare Committees and in the different homes established under the Juvenile Justice Act. A monthly statistical report on the legal aid given to children shall be submitted to the State Legal Services Authority who shall include the same in the statistics sent to NALSA.

LEGAL AWARENESS

Under Section 4(l) of the LSA Act the LSAs should spread legal awareness particularly among the weaker sections about their rights, entitlements and privileges.

NALSA's Quinquennial Vision Document of 2010 stresses the need for legal literacy and the importance of choosing good resource persons. "Lawyers with good communication and pedagogic skills may be identified in consultation with the local bar association." Orientation classes are recommended for the selected resource persons. The legal awareness sessions should be interactive. "Classes in the nature of public lectures may be avoided." Feedback from the participants in the legal awareness camps should be collected and evaluated. District Legal Services Authorities should select the topic for legal literacy camps on the basis of the needs of the local people.

Focus has also to be given to ensure that people are generally aware of the LSAs. The vision document says that "the functioning of each State Authority should be with the objective of making its name or acronym (e.g. NALSA, UP/MP SLSA etc.) a household-word in the State".

Lok Adalat

Section 19 of the LSA Act states that Central, State and District Level Legal Services Authorities and the Taluk Legal Services Committees will be responsible for organizing Lok Adalats to facilitate settling of disputes

through voluntary compromise between the parties. Section 20 of the Act refers to the conditions under which cases can be referred to Lok Adalats. Cases can be referred if one of the parties gives an application, or by consent of both the parties, and also if the court thinks that the case is appropriate for Lok Adalats. Under Section 20 (4), Lok Adalats should be guided by principles of justice, equity and fair play in their efforts to arrive at a compromise between the parties.

If no compromise is arrived at between the parties, the matter is returned to the concerned court. In case a compromise is reached, an award is passed. The consent of the concerned court need not then be obtained. No appeal can be made against this award: the decision is final and binding.

After the amendment in 2002, provision has been made under Section 22B to set up Permanent Lok Adalats for compulsory pre-litigative mechanism for conciliation and settlement of cases relating to public utility services. The Permanent Lok Adalats have a Chairperson and two other members. The Chairperson must be of the rank of District Judge or Additional District Judge or one who has held office higher in rank than that of District Judge. They deal with cases regarding public utility services like water, electricity, telephone, hospitals, etc. The pecuniary jurisdiction is Rs. 10 lacs, which may be increased by the Central Government from time to time. Where the parties are able to reach an agreement, an award is passed accordingly. In case parties fail to reach an agreement, the Permanent Lok Adalat decides the dispute on merit. The purpose of this amendment was to make Lok Adalats more effective. Earlier the position was that if cases were not resolved, they would be sent back to regular courts, or parties would be asked to seek remedy in a court of law. This used to cause unnecessary delay, thereby causing dissatisfaction amongst the parties. After the Amendment in 2002, Lok Adalats now have the power to decide cases on merit in case parties cannot come to a compromise.

NALSA's Quinquennial Vision Document of 2010 speaks of the following types of Lok Adalats:

- (a) Lok Adalats (pre-litigation disputes) This process of early settlement of disputes at the pre-litigative stage provides for greater scope for negotiation among the parties to settle their disputes at an early stage.
- (b) Permanent Lok Adalats for Public Utility Services Permanent Lok Adalat is a process to resolve all the disputes which arise between an individual and the

public utility services before the disputes are taken to the court. Such Lok Adalats are permanently available for everyone to approach for settling disputes.

- (c) Continuous Lok Adalats While Permanent Lok Adalats take care of only the disputes which arise at a pre-litigation stage, the Continuous Lok Adalats are meant to resolve all disputes of civil nature and compoundable criminal cases¹¹. In case there is no settlement of the dispute, the matter is sent back to the Court where normal trial proceedings are commenced.
- (d) Mobile Lok Adalats The poor and the marginalised sections of society living in rural or remote areas usually cannot approach the Legal Services Authorities. The LSAs can bring justice to their doorstep through mobile Lok Adalats.

The **National Legal Services Authority (Lok Adalats) Regulations, 2009**, states that the LSA organizing the Lok Adalat should inform every party concerned well in time so as to afford adequate opportunity for preparation. Members of Lok Adalats (who preside over the proceedings) should "make sincere efforts to bring about a conciliated settlement in every case put before it without bringing about any kind of coercion, threat, undue influence, allurements or misrepresentation. Members of the Lok Adalat shall not pressurize or coerce any of the parties to compromise/settle cases or matters either directly or indirectly." They should ensure that the parties fully understand the terms of settlement (if one is reached), and that the terms of settlement are not unreasonable, illegal or unfair.

Legal Aid scheme was first introduced by Justice P.N. Bhagwati under the Legal Aid Committee formed in 1971. According to him, the legal aid means providing an arrangement in the society so that the missionary of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement of its given to them by law" the poor and illiterate should be able to approach the courts and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the courts. People who are low-income or uneducated should have access to legal help. Poor, uneducated people without access to courts are the focus of the definition of legal assistance. To qualify for legal assistance, one must not be a litigant. Every person on the road has access to legal representation.

To ensure that no citizen is denied opportunities to secure justice due to economic or other disabilities, the State shall

secure that the operation of the legal system promotes justice on a basis of equal opportunity, as provided for in Article 39A of the Indian Constitution. In particular, the State shall provide free legal aid through suitable legislation or schemes or any other means. Equal protection under the law and a fair judicial system that treats everyone fairly are also requirements of the State under Articles 14 and 22(1). Equal justice for the impoverished, oppressed, and vulnerable members of society is a fundamental goal of legal assistance, which aims to guarantee that the constitutional promise is upheld both literally and in principle.

It seems that the first legal aid legislation was created in France in 1851 to help the poor who could not afford legal representation. In 1944, Lord Chancellor Viscount Simon appointed the Rushcliffe Committee to investigate the current systems in England and Wales for providing free legal advice to low-income people and to propose measures that the government could take to better serve those in need. This began a long tradition of state-run initiatives to help the poor and vulnerable access legal representation. At several conferences of Law Ministers and Law Commissions, the Indian government has been discussing the issue of impoverished people's access to legal assistance since 1952. The government established certain standards for legal assistance programs in 1960.

Legal assistance Boards, Societies, and State Law Departments in several states proposed legal assistance programs. While serving as a judge on India's highest court, Hon. Mr. Justice P.N. Bhagwati established a national committee in 1980 to monitor and direct the country's many legal assistance schemes. After rebranding itself as the Committee for Implementing Legal Aid Schemes (CILAS), this group began keeping tabs on legal aid initiatives across the nation. From 1950 onwards, expert panels appointed to advise governments on inadequate legal assistance have reached a uniform conclusion: the formal legal system does not adequately address the needs of the poor. Public interest litigation (PIL) was envisioned in the 1977 report by the committee of Supreme Court Justices Krishna Iyer and P.N. Bhagwati as a powerful instrument for reforming institutions and laws, while simultaneously providing low-income people with easy access to the court system. Similar to other committee reports, theirs was disregarded. This helped to clarify why these two judges were so impatient in the period after the emergency with the institution's efforts to make it seem like it was listening to the people who had previously ignored it. Both judges were instrumental in establishing PIL jurisdiction.

A new chapter was opened to the justice dispensation system of this nation with the establishment of Lok Adalats, which provided litigants with an additional platform for amicable resolution of their issues. A national framework for legal assistance programs was established with the enactment of the Legal Services Authorities Act in 1987. After being amended by the Amendment Act of 1994, this Act was eventually executed on November 9, 1995. The Act's implementation was greatly aided by Hon. Mr. Justice R.N. Mishra, who was India's Chief Justice at the time.

CONCLUSION

National Legal Services Authority was constituted on 5th December, 1995. His Lordship Hon. Dr. Justice A.S. Anand, Judge, Supreme Court of India took over as the Executive Chairman of National Legal Services Authority on 17th July, 1997. Soon after assuming the office, His Lordship initiated steps for making the National Legal Services Authority functional. In December 1997, the authority's first Member Secretary was appointed. By January 1998, all of the other officials and personnel were also named. The National Legal Services Authority's office finally became fully operational in February 1998.

In October, 1998, His Lordship Hon. Dr. Justice A.S. Anand assumed the Office of the Chief Justice of India and thus became the Patron-in-Chief of National Legal Services Authority. His Lordship Hon. Mr. Justice S.P. Bharucha, the senior-most Judge of the Supreme Court of India assumed the office of the Executive Chairman, National Legal Services Authority.

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