

ASSAM LEGAL AID RULES, 1987*

Preamble.

Whereas Article 39-A of the Constitution of India provides that the State shall secure that the operation of the legal system promotes justice, on a 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 any citizen by reason of his economic or other disabilities;

And whereas the State Government has decided to promote justice by providing free legal aid to the poorer sections of the people;

Now, therefore, in pursuance of the principles laid down in Article 39-A of the Constitution of India the Governor of Assam is pleased to make the following rules, namely:

1. Short title, extent and commencement.

- (1) These rules shall be called the Assam Legal Aid Rules, 1987.

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| <p>*Published in the Assam Gazette, Extraordinary, dated 8-5-1987, at pp.291-306, vide Notification No.LGL15/87, dated 10.4.1987</p> |
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- (2) These rules shall extend to the whole of Assam.
- (3) These rules shall be deemed to have come into force with effect from the 26th day of January, 1979, the date on which the Assam Legal Aid Rules, 1978, came into force.

2. **Definitions.**

In these rules, unless the context otherwise requires-

- (a) **'Board'** means the Assam State Legal Aid Board constituted under R.3.
- (b) **'Eligible persons'** means a person who is eligible for legal aid and advice in accordance with the provisions of these rules.
- (c) **'Legal aid'** means professional and financial assistance in defending or protecting the interests of an eligible person in any dispute before any Court of Law, Tribunal or similar other authority and shall include any programme of legal advice at the pre-litigation stage by rendering correct and honest advice, as may be laid down from time to time, with a view to exploring the possibilities of avoiding court litigation.

- (d) **'Dispute'** means any dispute in respect of any rights, claims of any eligible person in any of the matters covered by the Acts mentioned in the Schedule appended to these rules.
- (e) **"Committee"** means the committee constituted under R.9.

3. Constitution of the Assam State Legal and Advice Aid Board.

There shall be established a Board to be called the "Assam Legal Aid and Advice Board" with the members from different categories of persons, namely:

- (1) Minister, Legislative, Judicial, Chairman (*Ex-Officio*)
etc.
- (2) One High Court Judge Vice-Chairman
nominated by the Chief
Justice of the Gauhati High
Court.
- (3) Advocate-General Member (*Ex-officio*)
- (4) Secretary, Legislative Member (*Ex-officio*)-
Secretary

- (5) Chairman, Bar Council, Member (Ex-officio)
Assam
- (6) Four Advocates to be nominated by Members
the Government.
- (7) One M.P. to be nominated by the Member
Government.
- (8) One M.L.A. to be nominated by the Member
Government.
- (9) One representative of Scheduled Member
Castes to nominated by the
Government.
- (10) One representative of the Scheduled Member
(Plains) to be nominated by the
Government.
- (11) One representative of Industrial Member
Labour to be nominated by the
Government.
- (12) One representative of Agriculture Member
Labour to be nominated by the
Government.

(13) One Lady Social Worker to be Member
nominated by the Government.

(14) One Educationist Member

4. Powers and functions of the Board.

The Board shall have power, subject to the provisions of these rules and previous approval of the State Government-

- (1) to determine the scope and extent of legal aid to be given;
- (2) to determine the conditions of eligibility for obtaining any legal aid;
- (3) to constitute the Sub-Divisional Legal Aid committees including Committees for Head-Quarter Sub-Division;
- (4) to exercise control and supervision over the functions of the Sub-Divisional Committees;
- (5) to determine the rate of fees payable to the panel of Advocates engaged for the eligible persons;

Provided that the rate of fees shall in no case be higher than the rate of fees prescribed by the State Government for the panel of Government Advocates of both the lower courts and the High Court.

- (6) to issue directions to the Sub-Divisional Legal Aid Committees for proper implementation of the Legal Aid programmes/schemes as the Board may from time to time adopt.
- (7) to allot funds to the various Committees;
- (8) to make arrangement for propagating aims and objects of the legal aid through publicity of cinema slides, films etc.;
- (9) to promote legal literacy and create awareness amongst weaker sections of the people in regard to the rights, benefits and privileges conferred upon them by social welfare legislation and other enactments;
- (10) to organise legal aid camps for the purpose of rendering legal aid services to the weaker sections of the people in rural areas and in slums;
- (11) to recommend appropriate legislative measures to make the properties of the poor and economically weaker litigants unattachable and non-saleable in execution of the judgment, decree or order of any Court of Law with specific suggestion about the implementation of the same;

- (12) to examine the nature and extent of reduction of Court fees in cases of eligible persons and make recommendation to the State Government;
- (13) to encourage Law College and law Faculty of the Universities to set up projects for giving free legal services to the weaker sections of the people and help them in running such projects;
- (14) to enlighten the people in the rural areas about the agrarian reforms and facilities made available to them by Central Government or the State Government from time to time and render legal aid service where necessary;
- (15) to hold and conduct seminars, conferences and campaigns for the promotion and propagation of the legal aid service programmes including creation of public awareness and participation in all activities connected with the same.
- (16) to seek and accept financial, professional and other forms of assistance for implementing these rules and to prescribe conditions for the same;
- (17) to suggest such other reliefs to be granted to such persons as may, in the opinion of the Board, appear to be reasonable;

(18) to examine the feasibility of any other measures of relief proposed by the Government and to make recommendations on the same.

5. Secretary of the Board.

Secretary to the Government of Assam, Legislative Department, shall be the Secretary of the Board.

6. Powers and functions of the Secretary.

(1) The Secretary shall be responsible for the custody and management of the properties and funds of the Board and for the maintenance of true and proper accounts of the Board.

(2) The accounts of the Board shall be audited in such manner as the State Government may determine.

(3) The Secretary shall discharge such other duties and functions of the Board, as the Chairman, the Vice-Chairman, as the case may be, may assign to him from time to time.

7. Term of the Board.

(1) The term of the Board shall be for a period of three years. Any person included in the Board to fill up any

vacancy shall be for the remaining period of the term of the Board.

- (2) In case of delay in reconstituting the Board by the State Government, the existing Board shall continue to function till a new-Board is reconstituted.
- (3) There shall be a meeting of the board, as far as possible, once in every month.
- (4) Seven members shall form the quorum of a meeting.
- (5) In any adjourned meeting no quorum shall be necessary to transact the business of the adjourned meeting.
- (6) While calling for a meeting Secretary shall give at least fifteen days' notice to the members:

Provided, however, that any meeting of the Board may be called at a short notice, if the Chairman so desires.

- (7) Any member of the Board may resign in writing addressed to the Secretary of the Board. If an office of membership falls vacant by way of resignation or otherwise, then the Secretary shall immediately bring the matter to the notice of the Chairman.

- (8) If any member fails, without any sufficient cause, to attend three consecutive meetings of the Board, he shall cease to be a member of the Board.
- (9) The Chairman of the Board shall preside over all the meetings of the Board. In absence of the Chairman, the Vice-Chairman shall preside over such meeting. In absence of both the Chairman and the Vice-Chairman, a senior member, preferably the advocate-General; shall preside over such meeting.

8. Constitution of Advisory Council.

- (1) There shall be constituted an Advisory Council to be called the Assam State Legal Aid Advisory council with the following members:
- (a) Chief Justice, Gauhati High Court -Chairman
 - (b) Minister, Legislative etc. -Vice Chairman
 - (c) Advocate General, Assam -Member
 - (d) Secretary, Legislative Deptt -Member-Secretary
 - (e) Chairman, Bar Council -Member

(f) President, High Court Bar -Member
Association

(g) A Social Worker -Member

(2) The Council shall advise the Board in the establishment, administration and implementation of the legal aid programmes in the State.

9. Constitution of Sub-Divisional Legal Aid committee.

(1) The Board shall constitute Committee for each Sub-Division including Sadar Sub-Division consisting of not less than 12 and not more than 15 members with Deputy Commissioner/Sub-Divisional Officer, as the case may be, as the Chairman and the District Judge or the Chief Judicial Magistrate or the Sub-Divisional Judicial Magistrate, as the case may be, as the Executive Chairman.

(2) The Chairman of the Committee shall appoint any one of his subordinate officers as the Secretary of the Committee.

(3) In constituting a Committee regard shall be had that one representative of each of the following section of people finds place in the Committee namely:

(a) Legal profession (Two);

- (b) Social Welfare Organisations;
- (c) Retired Judicial Officers;
- (d) Woman;
- (e) Scheduled Castes;
- (f) Scheduled Tribes;
- (g) Other Backward Classes;
- (h) Educational Institution.
- (i) Labour (Agricultural or Industrial).

10. Terms of the Sub-Divisional Legal Aid Committee.

- (1) (a) The term of the Committee shall be for a period of three years. Any person included in the Committee to fill up any vacancy shall be for the remaining period of the term of the Committee.
- (b) In case of delay in re-constituting the Committee by the State legal Aid Board, the existing Committee shall continue to function till a new committee is re-constituted.

- (c) There shall be a meeting of the Committee, as far as possible, once in every month.
- (d) Five members shall form the quorum of a meeting.
- (e) In any adjourned meeting no quorum shall be necessary to transact the business of the adjourned meeting.
- (f) While calling for a meeting Secretary shall give at least 10 days' notice to the members:

Provided, however, that any meeting of the Committee may be called at short notice, if the Chairman so desires.

- (g) Any member of the committee may resign in writing addressed to the Secretary. If an office of membership falls vacant by way of resignation or otherwise, then the Secretary shall immediately bring the matter to the notice of the Chairman.
- (h) If any member fails, without any sufficient cause, to attend three consecutive meetings of the Committee, he shall cease to be a member.
- (i) The Chairman shall preside over the meetings of the Committee. In case of his inability to attend,

he may nominate any one of the members of the committee to preside over such meeting.

- (2) The State Legal Aid Board, before constituting/reconstituting any Sub-Divisional committee, shall call upon the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, to send a panel of names from the categories of persons as provided in Rule 9 (3) at least 3 months before the term of the existing Committees expire.

11. Powers and functions of the Sub-Divisional Legal Aid Committee.

Each Committee shall have powers subject to the directions and orders of the Board issued from time to time-

- (a) to constitute, with the previous approval of the Board, a panel of lawyers for rendering legal aid to the beneficiaries under these rules;
- (b) to distribute works amongst the panel of lawyers to represent eligible person or persons for aid under these rules;
- (c) to make selection of eligible persons for aid under these rules subject to availability of fund;

- (d) to constitute sub-committee for the purpose of exercising any one or more of its powers effectively;
- (e) to provide for mobile teams consisting of advocates for moving out from place to place and from time to time on prefixed dates so that the beneficiaries under these rules may take advantage of obtaining free legal aid and advice without incurring any expenditure on travel. Such visit may be arranged particularly on Sundays and holidays and the meetings or sessions should generally be held in Block development Office or Circle Office whichever is suitable. Any team visiting any local place may also co-opt one or more representatives of the local Panchayat at the time of dealing with the case of any person residing within the local limits of such Panchayat;
- (f) to organise legal aid camps for the purpose of rendering legal aid service to the weaker sections of the people in rural areas and slums.

12. Constitution of the High Court Legal Aid Committee and its functions.

- (1) The State Government shall constitute a Committee to be called the High court Legal Aid Committee for the Principal seat at Guwahati.

- (2) The Legal Aid Committee for the High Court shall be constituted with the following:
- (a) A Judge of the High Court to be nominated by the Chief Justice. Chairman
 - (b) Advocate-General, Assam Member
 - (c) President, High Court Bar Association Member
 - (d) Two Advocates to be nominated by the Chief Justice Member.
- (3) The term of the Committee shall be for a period of three years.
- (4) There shall be an Executive Secretary of the High Court Legal Aid Committee to be appointed by the State Government. The present Executive Secretary of the Board appointed under Rules, 1984 shall be the Executive Secretary of the High Court Legal Aid Committee.
- (5) The High Court Legal Aid Committee shall, with the approval of the Chief Justice of the High Court, prepare a panel of Advocates from the High Court Bar for rendering Legal Aid to the beneficiaries under these Rules.

- (6) The Advocates in the panel shall be engaged to provide legal aid to eligible persons selected by the High Court Legal Aid Committee to enable him to meet the expenses or part of the expenses of the proceedings pending, instituted or prepared to be instituted in the principal seat of the Guwahati High Court by way of payment of fees charged by the Advocates for their appearance.
- (7) The High Court Legal Aid Committee shall, with the approval of the Chief Justice, issue necessary direction to the judicial officers to render necessary help and assistance as and when asked for by the Committee or Law Collage, in Legal Aid Camp, Legal Aid Clinic, etc.

13. General conditions for panel of lawyers.

In including a person in any panel of lawyers, it shall be ensured that only person having sympathy for the beneficiaries under these rules is included in such panel. Advocates selected for panel should also undertake to conduct freely certain number of cases, as may be determined by the Board on behalf of the beneficiaries under the scheme.

14. Eligibility for legal aid.

In order to be eligible for free legal aid under the provisions of these rules, following conditions shall have to be fulfilled, namely:

- (1) that the annual income of the applicant for legal aid from all sources does not exceed Rs.15,000 in case of general applicant and Rs.20,000 in case of an applicant belonging to Scheduled Caste or Scheduled Tribe or other Backward Classes;
- (2) that before a case is taken to the Court or before any actual aid is given, there has been attempt where possible, for amicable settlement and the settlement was considered in the opinion of the committee advisable and the person concerned was agreeable to accept such settlement;
- (3) that the dispute or claim is prima facie reasonable and there is a chance of its being decided in favour of the person claiming aid;
- (4) that the person concerned has also made some contributions to accordance with such graded scale of income as may be determined from time to time by the Board with the previous approval of the State Government.

COMMENTS

In sub-R. (1) of R. 14, for the word and figure “Rs.10,000 and Rs.15,000” the word and figure “Rs.15,000 and Rs.20,000” were respectively substituted vide Notification No. LGL 11/90, dated the 11th October, 19... and published in the Assam Gazette, Extraordinary No. 193, dated the November, 1990 at pp. 1127-1128.

15. Form of application for legal aid/advice.

- (1) Any person desiring legal aid and advice may make an application in Form A addressed to the Secretary of the Committee concerned. But if the applicant is illiterate or not in a position to fill in the particulars required in the application form on his behalf, the secretary may, after reading it out and explaining it to him, obtain his signature or thumb impression on it.

- (2) The Committee shall maintain a register of applications wherein all applications for legal aid and advice shall be entered and registered.

16. Fund.

- (1) Every year the State Government shall allot in the budget such sums of money, as may appear necessary, for rendering legal aid under these rules.
- (2) Fund shall be placed at the disposal of the Secretary to the Government of Assam, legislative Department. All expenses to be borne by the authority of the committee shall be made from out of the fund under the authority of the Secretary to the Government of Assam, Legislative Department.
- (3) Payment of fees to the Advocates engaged for rendering legal aid to eligible persons under the provisions of these rules shall be made by the Secretary to the Government of Assam, Legislative Department in accordance with the same procedure as is applicable to the payment of fees to Government Pleader, Assistant Public prosecutors.
- (4) The Board may also provide for the acceptance of voluntary contributions for the implementation of these rules and any money received for such purpose shall be deposited into the Treasury in the head "065-Other Administrative Service-A-Administration of Justice and other Receipts."

17. Reports of activities.

Each Committee shall submit a report of its activities to the Board every three months or whenever so directed by the Board.

18. Power to make sub-rules.

The State Government may, from time to time, make sub-rules or regulations prescribing the procedure to be followed in meetings of the Board or Committees.

19. Power to amend the Schedule etc.

The State Government may, at any time by notification in the official Gazette, add to or amend the list of Acts in the Schedule appended to these rules.

20. Repeal and savings.

The Assam Legal Aid Rules, 1984 is hereby repealed.

Notwithstanding such repeal, any action taken, any order passed, and notification issued under the rules so repealed shall be deemed to have been taken, done and issued under the relevant provisions of these rules.

THE SCHEDULE

[See Rule 2 (d)]

Name of the Acts:

1. The Assam Rural Indebtedness Relief Act, 1975.
2. The Workmen's Compensation Act, 1923.
3. The Assam (Temporarily Settled Areas) Tenancy Act, 1971.
4. The Minimum Wages Act, 1948.
5. Matters relating to maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973.
6. Matters relating to divorce, judicial separation and maintenance under other laws relating to the same.
7. Matters relating to the appointment of guardians under the Guardians and Wards Act, 1890.
8. Matters relating to claims before the Motor Accident Claims Tribunals under the Motor Vehicles Act, 1939.

9. Matters relating to Legal Aid to indigent persons summoned to the Tribunals so that the enquiry does not become a source of great misery.
10. All mutation cases where poor people are involved.
11. All petty criminal cases where poor people are involved and where only fine is imposed.
12. All cases under S. 107 of the Criminal Procedure Code where poor people are involved.

FORM A

[See Rule 15]

Application Form for Legal Aid under the Assam Legal Aid Rules, 1987

1. Name of the applicant (in block capital)

2. Name of father/husband/wife

3. Address:
 - (a) Village

 - (b) Mouza

 - (c) Police station

 - (d) Sub-division/District.

4. Are you a citizen of India? If so, how?

5. Are you a member belonging to-
 - (a) Scheduled Caste

 - (b) Scheduled Tribe

(c) Other Backward Classes

6. Profession
7. Annual income from all sources
(Certificate from the local S.D.O./B.D.O./President, Anchalik Panchayat to be attached.)
8. *Brief description of the dispute
9. Other party to the dispute and his/her address
10. Purpose for which legal aid is sought
11. Name of the Court/Forum in which applicant's claim will be pleaded.
12. Verification

I Shri/Shrimati.....hereby declare that the information given above are true to my knowledge. I shall be liable under the Code of Civil/Code of Criminal Procedure if it is proved that I have supplied wrong information.

Signature/Thumb impression

Date

*N.B.-(Separate sheet shall be attached, if necessary).
