

The Orissa Gazette



SUPPLEMENT PUBLISHED BY AUTHORITY

No. 24 CUTTACK, FRIDAY, JULY 22 2011/ASADHA 31, 1933

No. 24452—PCR-22/2011-SSD.

GOVERNMENT OF ORISSA

S.T. & S.C. DEVELOPMENT DEPARTMENT

RESOLUTION

The 14th July 2011

SUBJECT—Establishment of Legal Aid Cell in Block/Taluk, Subdivision and District Headquarters Scheme for providing legal aid advice to the S.C. & S.T. Communities.

The S.C. & S.T. Communities constitute a major segment of the marginalized section of the Society. The S.C. & S.T. Communities are entitled to avail free legal services under Section 12 of the Legal Services Authorities Act, 1987. Due to lack of awareness many people from the S.C. & S.T. Communities are not able to avail the benefits. To provide the process of legal services to the most disadvantaged section has engaged the attention of Govt. Such matter was discussed in a meeting held in the residence of the then Acting Chief Justice on the 3rd February 2010, which was also discussed in the State Level High Power Vigilance & Monitoring Committee held on the 26th May 2010 under the Chairmanship of the Hon'ble Chief Minister, Orissa.

After careful consideration, with this aforesaid objective in view, Government have been pleased to set up Special Legal Aid Cells at the Block/Taluk, Subdivision and District level to evolve a mechanism to provide free legal service consultancy to S.C. & S.T. people.

1. Modalities of implementation :

1.1. The Legal Aid Cell will function with two Nos. of legal Retainers for each T.S.P. Blocks. The Block/Taluk Legal Aid Cell will be located within the premises of Block Office in view of the large number of people coming to the Block Office for different works.

1.2. The Legal Aid Cell shall remain open with deployment of two Retainers on every Government working days throughout the office hours.

1.3. In each Block one Data Entry Operator would be provided who among other works will assist the Retainers in the discharge of their duties.

1.4. Subject to success in the 118 T.D. Blocks, the Legal Aid Cell will be rolled out for implementation in other Blocks, Subdivisional and District Headquarters in succeeding years.

2. Funding :

The Scheme is proposed to be implemented in 118 T.S.P. Blocks in the first phase as a Centrally Sponsored Project. The funding of this Scheme will be borne by State Government & Central Government on 50 : 50 basis.

3. Function of the Legal Aid Cell and duties of the Retainers :

3.1. The Cell is intended to function as a First Aid Centre in the field of Legal Services to the Members of S.C. & S.T.

3.2. The Retainers deployed in the Cell shall act as a bridge between the legal aid applicants and the Legal Services Authorities or Committees constituted under the Legal Services Authorities Act, 1987.

3.3. The Retainers in the Cell, along with advisory services shall render services like drafting notices, sending replies to lawyers notices, drafting applications, complaint petitions, reports, etc.

3.4. In case of court based legal services, such Retainers shall after consideration of the applications, forward the same to the nearby District Legal Services Authority or T.L.S.C. for provision of necessary Legal Aid/Service to the applicant and keep constant watch over those till their disposal. In case of other type of legal services, the Retainers may themselves provide such legal services to the applicants without any charges being imposed on them.

3.5. In case of civil disputes having sanction of law or the disputes having the prospect of settlement on conciliation basis, the Retainers may resort to conciliation process between the rival sides and explore all the possibilities of resolution of the dispute by mutual settlement. The Retainer will act as mediators.

3.6. In pending cases involving the Members of S.C. & ST. Communities, the Retainers shall make endeavor to collect information about the status of those cases and take steps in accordance with law for their expeditious disposal. They shall also furnish necessary information regarding the status of the pending cases to the concerned applicant/parties.

3.7. The Retainer shall furnish information every month or whenever necessitated, regarding the functioning of the Cell, to the Legal Services Authorities or Committees concerned under whose immediate control the Legal Aid Cells shall be functioning.

3.8. Whenever necessity arises for engagement of a counsel for an applicant belonging to S.C. & S.T. Community in a court based litigation, the District Legal Services Authority or Taluk Legal Services Committee concerned may entrust the case either to the designated Retainer of the Legal Aid Cell or to any other Advocate out of the panel prepared exclusively for Legal Aid Cells.

3.9 The District Legal Services Authority or Taluk/Block Level Legal Services Committee, as the case may be, shall furnish a report to the Orissa State Legal Services Authority in the first week of every succeeding month regarding the performance of Retainers engaged in the Cell.

4. Process of selection :

4.1. There shall be a Selection-*cum*-Supervisory Committee under the Chairmanship of the Member-Secretary, Orissa State Legal Services Authority, with one Special Secretary/Additional Secretary of S.T. & S.C. Development Department as nominated by the Secretary of the said

Department and one Additional Secretary, Law, Government of Orissa as nominated by the Principal Secretary/ Secretary/Commissioner-cum-Secretary of the said Department as member for selection & recommendation for removal of Retainers on the ground of as indicated in Para 4.5. and to monitor and supervise the performance of the Retainers and function of the Legal Aid Cells from time to time.

4.2. A panel will be prepared by the Selection Board under the Chairmanship of the concerned District Legal Services Authority (DLSA) with the P. A., I.T.D.A. and the D.W.O. as nominated by the Collector as member of the Selection Board for this purpose. The panel of Advocates should consists of the Advocates double the number of Retainers required for the Legal Aid Cells covered by the concerned district. For example, if five numbers of Legai aid cells (i.e. 10 Retainers) are to be opened, the panel should consist of 20 number of Advocates and for each cell thus the panel would be four. The panel shall remain valid for two years.

4.3. The selection will be finally approved by the Government, S.T. & S.C. Development Department as recommended by the Selection Board taking into account the suggestion of the Member-Secretary, Orissa State Legal Services Authority.

4.4. The minimum experience of an Advocate to be empanelled shall be three years standing in the Bar. While preparing the panel care shall be taken to ensure that the Advocate is sincere in practice and has the ability to handle the citizens of S.T. & S.C. to deliver the goods and an aptitude for social service, especially in the service of the disadvantaged and backward communities. While one of the Retainers in each Block must belong to either S.C. or S.T. Community, the other should be from Unreserved category for maintaining a balance and also to deal with cases between member of S.C. & S.T. *inter se*.

4.5. Basing on the recommendation of the Selection-cum-Supervisory Committee, appointment of retainers shall be made by the Chairman, D.L.S.A. for a term of two year, but a Retainer can be removed from the panel and retainership by the Chairman, D.L.S.A. or Selection-cum-Supervisory Committee before completion of the term of two year if his performance is found to be not satisfactory and/ or he has acted contrary to the object and spirit of the Legal Services Authorities Act, 1987 or the Rules, Regulations thereunder or of the present scheme without serving any show cause notice on him. At the time of appointment the Retainer shall execute an undertaking before the Chairman of the concerned D.L.S.A. that he shall not ask for or receive any fee, remuneration or valuable consideration in any manner from the person to whom he has rendered legal services under the Scheme.

4.6. The Retainer shall devote his time exclusively for the legal work under the scheme and at least one Retainer shall always be available during official working days and hours to deal with the grievance petitions or cases of the members of S.C. & S.T. Communities in the Legal Aid Cell.

4.7. The honorarium payable to the Retainers in the scheme shall be @ Rs. 5000 per month or as may be decided by Government in S.T. & S.C. Development Department from time to time. In the event of engagement of the Retainer by the District Legal Services Authority for a case, the honorarium of that case will be over and above the honorarium payable to him.

4.8. Awareness generation :

The Retainer shall in liaison with concerned B.D.O. and Tahasildar and on approval of District Level Legal Aid Authority draw programme for holding camps for generating awareness among S.C. & S.T. to avail legal aid and its benefits. The School Legal Aid Clubs should also be covered under these programmes.

4.9. The Retainer shall pursue with police authority for redressal of grievance of the complaints received through Sanjog Help Line.

5. Scope of work/duties & responsibilities :

5.1. The Cell is intended to function as a First Aid Centre in the field of Legal Services to the Members of S.C. & S.T. The Retainers deployed in the Cell shall act as a bridge between the legal aid applicants and the Legal Services Authorities or Committees constituted under the Legal Services Authorities Act, 1987.

5.2. The Retainer shall be given space within the premises of the Block Office to hold the Legal Aid Clinic and shall be available during office hours to deal with the grievance petitions or cases of the members of S.C. & S.T. Communities in the Legal Aid Cell. They should guide them regarding provisions of the PCR Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the POA Rules, 1995, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, and other Acts/Rules pertaining to the development of the S.Cs. and S.Ts.

5.3. After finding out the problems and suggesting the legal recourse available to the members of S.C. & S.T. Community, the Retainers will also take step for liaisoning with District Legal Aid Services Authority to provide the assistance of a lawyer in case of litigation in either Revenue or Judicial Court. In case of court based legal services, such Retainers shall after consideration of the applications, forward the same to the nearby District Legal Services Authority or TLSC for provision of necessary Legal Aid/Service to the applicant. In case of other type of legal services, the Retainers may themselves provide such legal services to the applicants.

5.4. In case of civil disputes having sanction of law or the disputes having the prospect of settlement on conciliation basis, the Retainers may resort to conciliation process between the rival sides and explore the possibility of resolution of the dispute by mutual settlement.

5.5. In pending cases involving the members of S.C. & S.T. Communities, the Retainers shall make endeavour to collect information about the status of those cases and take steps under due process of Law for their expeditious disposal. They shall also furnish necessary information regarding the status of the pending cases to the concerned applicant/parties.

5.6. The Retainers shall in liaison with concerned B.D.O. and Tahasildar draw programme for holding camps for generating awareness among S.C./S.T. to avail Legal Aid and its benefits. The School Legal Aid Clubs should also be covered under these programmes.

5.7. The Retainer shall pursue with Police Authority for redressal of grievance of the complaints received through Sanjog Help Line.

6. Procedure for dealing with applications for free legal services in Legal Aid Cell.

6.1. Applications either in writing or oral may be presented by any member of S.C. & S.T. Communities seeking legal service. Any N.G.O., Social activists, Para-legal Volunteer, Institutions working for welfare of S.C. & S.T. Communities or any public spirited citizen may also make application on behalf of any member of S.C. or S.T. Communities seeking legal service. Legal Service includes Legal Aid in connection with any court related proceeding or pre-litigation dispute, legal consultation, advice or legal awareness/literacy.

6.2. In case of a literate applicant approaching the Legal Aid Cell, the Retainer manning the Legal Aid Cell, if so necessary, shall reduce the version of applicant into writing, and after reading over and explaining the contents of the application to the applicant the retainer shall obtain his thumb impression on the application and duly attest the same.

6.3. A register shall be maintained in the Legal Aid Cell by the Retainer(s) reflecting the details as to the date of application, name and age of the applicant, name of the father/husband of the applicant, whether belongs to S.C. & ST., his postal address and contact telephone number, if any, nature of grievance, number of case/litigations pending in any Court/Tribunal, name of the Court/Tribunal, nature of legal service applied for or required, nature of legal services rendered by the Retainer, signature/thumb impression of the applicant, name and signature of the Retainer(s) who attended the application, etc. Every application shall be assigned with a registration number.

7. Monitoring :

7.1. The Retainer shall furnish information every month or whenever necessitated, regarding the functioning of the Cell, to the Legal Services Authorities or Committees concerned under whose immediate control the Legal Aid Cells shall be functioning.

7.2. The District Legal Services Authority and Taluk Legal Services Committee, as the case may be, shall furnish a report to the Orissa State Legal Services Authority in the first week of every succeeding month regarding the performance of Retainers engaged in the Cell.

7.3. A Supervisory Committee will be constituted under the Chairmanship of Sub-Collector to review the performance of the Cell every month. A copy of review report will be intimated to District Level Legal Aid Society and State Level Authority.

7.4. The Register maintained in the Legal Aid Cell shall be made available for perusal or inspection by the Officers of the State Legal Services Authority, District Legal Services Authority, D.M., A.D.M., P.A./I.T.D.A., D.W.O. or any other officer duly authorized to inspect the same.

8. Supervision :

8.1. A Supervisory Committee will be constituted under the Chairmanship of Sub-Collector to review the performance of the Cell every month. A copy of review report will be intimated to District Level Legal Aid Society or State Level Authority.

8.2. A course curriculum should be prepared with expert to incorporate in the course of matriculation under approval of S. & M. Education Department and Board of Secondary Education, Orissa.

9. Audit :

9.1. The expenditure shall be audited by the internal audit of this Department and that of by the Accountant-General in each year.

9.2. The expenditure made and entered in separate register shall be presented to the audit by the office of the Legal Aid Cell at Block/Tahsil, Subdivision and District level.

10. Miscellaneous :

10.1. Location : The Block/Taluk level Legal Aid cell will be located in Block office. Concerned B.D.O. will be requested to spare a room in the Block office for this purpose. Similarly, the Subdivisional level legal aid cell will operate from the Sub-Collector's office. Sub-Collector will spare a room for the Cell.

10.2. A landline phone will be provided to the Cell with incoming call facility. The monthly ceiling of phone bill will be fixed and communicated to this Cell. The phone will be a phone-cum-fax to facilitate receipt of application over fax.

10.3. This Department will prepare document, text, hand note, etc., for organizing awareness camps in Oriya and in other tribal languages through SCSTRIT.

10.4. At the initial stage, one table, two chairs and one almirah will be provided to the Cell, which will be procured by the Collector on allotment of this Department. Initial amount of contingency for the maintenance of registers, records will be provided by the Department through Collector. For smooth management, each Legal Aid Clinics will be provided with a Computer and Laser printer. A contingency amount will also be provided for this purpose.

10.5. For each of the Legal Aid Clinics, a Data Entry Operator (D.E.O.-cum-Office Assistant) will be provided through the service provider. He will also work in welfare section of Block under the supervision of Welfare Extension Officer. He will receive an honorarium of Rs. 4,500 month and the statutory dues like Service charges, P.F. dues, etc. will be paid over and above this. Service charges of the Service Provider will not exceed 10% of the honorarium, i.e. Rs. 450 (Rupees Four hundred fifty) only.

10.6. At the initial stage, Endeavour will be made for sensitizing the newly appointed Retainers and Advocates for the Cell at the District level or regional level.

10.7. For the purpose of monitoring at the State level in the office of Orissa State Legal Services Authority, one computer with all related accessories and one Data Entry Operator on contractual basis will be provided by the State from this fund.

10.8. Depending on the success of the Legal Aid Clinic in the first year the scheme will be extended to other Block after a decision is taken on this account at an appropriate level. This Cell shall still be functioning on receipt of proportional funding from the Central Government.

11. This Resolution issues with the concurrence of the P. & C. Department and Finance Department, vide their UOR. No. 84-P11-P&C., dated the 21st August 2010, UOR No.128-SS11-F., dated the 18th April 2011 & UOR No. 970-L., dated the 28th May 2011 respectively.

ORDER—Ordered that the Resolution be published in the next issue of the *Orissa Gazette* for general information and copies communicated to all Departments of Government/Heads of Department/all Collectors.

By order of the Governor

SANTOSH SARANGI

Commissioner-cum-Secretary to Government