

Frequently Asked Question on Legal Aid Services (Training Materials)

Question: What are Legal Services?

Answer: Legal Services includes providing Free Legal Aid to the weaker sections of the society, creating awareness of law of the land by spreading legal literacy and thereby making them enjoy their rights and facilities provided for them AND organizing Lok Adalats and through them amicably settling the disputes which are pending or which are yet to be filed, by way of compromise.

Question: What is free Legal Aid ?

Answer: When a person has to approach court of law in order to get / protect / enjoy his rights. OR - When a person has to defend his rights in a case which has been filed against him in a court of law. OR - When a person has to apply to an office for getting the facility provided by any law or if some one has submitted an application against him he has to defend himself. Providing him free legal advice and also an advocate is appointed at the cost of the Legal Services Authority to defend his right / to get him his right. The Authority also bears court fee, typing charges, verification of the copies is known as FREE LEGAL AID.

Question: Whether everybody is eligible to get Free Legal Aid from the Authority?

Answer: No. Although free legal advice is available to every body that is in need of the same free legal aid is provided only to the following category of people:

- A member of a SC or ST
- A Woman or a child
- A victim of trafficking in human beings or beggar
- A person under circumstances of undeserved want such as being victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake, or industrial disaster.

- An industrial workman
- A mentally ill or otherwise disabled person
- A person in judicial custody, including custody in a protective home or a juvenile home or a mental asylum
- Who are in a psychiatric hospital or psychiatric nursing home
- Any person whose annual income does not exceed Rs.50,000/- (This last requirement is called the MEANS TEST).

However, irrespective of the means test, legal aid may be granted

- a) in cases of great public importance; or
- b) in a special case, reasons for which are to be recorded in writing, considered otherwise deserving of legal aid or advice.

Question: Is Income Certificate / Caste Certificate always necessary to prove one's income?

Answer: When getting free legal aid is depending on the income of the person who is seeking the free legal aid should satisfy the legal services unit that he has a reasonably good chance of succeeding in his case (a prima facie case.) and then he / she has to give an affidavit regarding his / her annual income. So, income certificate is not necessary always. Similarly no certificate is necessary which evidences that you belong to SC or ST category but only an affidavit is enough.

Question: Whether only for particular type of cases legal aid is available?

Answer: There is no such bar. The person who is in need of legal aid from the Authority shall satisfy that he has a prima facie case in respect of which he wants to have legal aid from the Authority.

Question: At what levels one can get Free Legal Aid?

Answer: Free Legal aid is provided in respect of cases irrespective of the fact that whether the case is at lowest level court or Supreme Court of India. This means that legal aid is provided irrespective of the court / office in which that case is to be adjudged.

Question: What steps one should take in order to get free legal aid or free legal services?

Answer: If a person wants to have free legal advice he can approach the nearest

- Taluk Legal Services Committee which is in the premises of the Court in that Taluka Centre.
- District Legal Services Authority in the premises of the Court in that District Centre.
- In Bangalore either Bangalore (Urban) District Legal Services Authority OR High Court Legal Services Committee A person who needs free legal aid and satisfies the eligibility criteria in respect of the same shall approach the same bodies with an application along with an affidavit (wherever necessary) in respect of the caste / income.

Question: Who shall be heading these Committees / Authorities?

Answer:

- National Legal Services Authority has Chief Justice of India as its Chief Patron, a Supreme Court Judge (either Sitting or Retired) as its Executive
- Chairman and other Members.
- Orissa State Legal Services Authority has the Chief Justice of High Court of Orissa as its Chief Patron, a High Court Judge (Sitting Judge or Retired Judge) as its Executive Chairman.
- High Court Legal Services Committee has a High Court Sitting Judge as its Chairman.
- District Legal Services Authority has District Judge as its Chairman.
- Taluk Legal Services Committee has a Senior Judge as its Chairman.

Question: Is it true that approaching the Supreme Court of India for legal remedies is unaffordable to the layman?

Answer: No, this is not true. It is with a view to providing easy and inexpensive access to the Supreme Court and giving legal advice that the Supreme Court Legal Services Committee (SCLSC) has been constituted under the Legal Services Authorities Act, 1987.

Question: When can a person approach the SCLSC?

Answer: You can approach the SCLSC in two situations: You need to file or defend a case in the Supreme Court. This would include:

Appeals / Special Leave Petitions, Civil or Criminal, against an order of the High Court. Petition for violation or enforcement of your fundamental right. This includes: Habeas Corpus petitions where a close friend or relative is missing or illegally taken away and whose whereabouts you do not know; petitions challenging the legality of government action or inaction; petitions challenging the legality of a legislation or order of government that violates your fundamental right; Petition for transferring a case, civil or criminal, pending in one State to another State within India. You need LEGAL ADVICE regarding your problem.

Question: Are there cases for which no legal aid or advice will be given?

Answer: Yes. Legal Aid will not be given for the following cases:

Proceedings wholly or partly in respect of

- a) defamation or
- b) malicious prosecution; or
- c) a person charged with contempt of court; and
- d) perjury

Proceedings relating to any election Proceedings incidental to any of the above proceedings Proceedings in respect of offences where the fine imposed is not more than Rs.50/- Proceedings in respect of economic offences and offences against social laws, such as the Protection of Civil Rights Act, 1955 and the Immoral Traffic (Prevention) Act, 1956 unless in such cases the aid is sought by the victim.

However, even in above cases, the Chairman of the SCLSC can, in an appropriate case, direct that legal aid be granted.

Proceedings where a person seeking legal aid or advice is concerned with the proceeding only in a representative or official capacity or If a formal party to the proceedings, not materially concerned in the outcome of the proceedings and his interests are not likely to be prejudiced on account of the absence of proper representation.

Question: What one should do to obtain legal aid or advice?

Answer: For legal aid, if you satisfy the first eligibility criteria. You need to take the following steps.

1. Make an application for legal aid to the SCLSC. The forms for these can be obtained in person or through post or e-mail from the SCLSC at the address indicated below or from any of the nearest Taluk / District / State / High Court Legal Services Committee.
2. You have to submit the completed application form to the SCLSC along with full documentation. For instance, if you seek to file an appeal against the order of a High Court, you are required to submit a copy (preferably certified) of the order of the High Court, copies of orders, if any, of the courts below the High Court, copies of all the papers filed in your case before the lower court and High Court, comments of the lawyer on the judgement. If these are in a language other than English, please try and send translated copies.

Question: What does the SCLSC do next?

Answer: The SCLSC has a panel of competent Advocates-on-Record with certain minimum number of years of experience who handle the work of screening papers and handling the cases in the Supreme Court. In addition, the SCLSC has a full time Legal Consultant-cum-Executive Lawyer who handles queries both in person as well as through post. The Legal Consultant also screens papers. Although the applicant cannot get a lawyer of his or her choice, the SCLSC ensures that only competent lawyers are entrusted with these cases. The papers will be screened in order to determine that the eligibility criteria are satisfied. Normally within fifteen days of the receipt of your papers, you will be informed of the decision of the SCLSC, in writing, either granting or refusing legal aid.

If a person is aggrieved by an order of refusal, he could appeal to the Chairman of the SCLSC .

Question: What happens after the grant of Legal Aid?

Answer: You will be sent an affidavit and vakalatnama by the SCLSC which will have to be signed by you and sent back to the SCLSC by post. The affidavit has to be attested by a notary or Commissioner of Oaths. You may need to pay not more than five rupees for this. However, if you in jail, the affidavit and the vakalatnama have to be countersigned by the Jail Superintendent. In addition he has to give a certificate of detention in the prescribed format, which will also be sent to you by the SCLSC. This has to be returned at the earliest to the SCLSC with the affidavit and vakalatnama. Meanwhile, your case will be assigned to an advocate on Record (AoR) on the panel of the SCLSC. The AoR will draft the petition and file it in the Supreme Court after the signed vakalatnama and the signed and attested affidavit (and the certificate if you are in jail) is received by the SCLSC. The AoR who is assigned the case will argue it on your behalf in the Supreme Court. In exceptional cases, if you make a request in this behalf and if the SCLSC feels it is justified, a senior advocate can be requested to appear on your behalf. No fees are required to be paid by you for this purpose. You will be informed by the SCLSC of the name of the AoR and you will receive intimation through post on the progress of your case, from time to time. You will also be sent copies of all the documents filed on your behalf and by the opposite parties and you will be intimated, from time to time, if there is any other information you are required to provide. You will be informed of the outcome of your case and given copies of the relevant orders passed by the court.

Question: Whether one has to incur expenses at any stage?

Answer: Barring the cost of getting the affidavit attested (and even this is not applicable if one is in jail) and postage for sending papers to the SCLSC, the legal aid grantee is not required to pay anything for any of the above services. They are absolutely free. The lawyers on the panel of the SCLSC are paid an honorarium of Rs.2,000/- per case by the SCLSC itself.

Question: For further details whom should be contacted?

Answer: The Secretary, Supreme Court Legal Services Committee, 109, Lawyer's Chambers, Supreme Court Compound, New Delhi - 110 001.

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Question: How Legal Literacy is spread? Whether NGOs can participate in the activities of the Legal Services Authority to spread legal literacy?

Answer:

Legal Services Authority spreads legal literacy by:

- Organizing Legal Literacy Camps;
- organizing Workshops of Law;
- providing Law Literature to the public in the regional language at low cost by publishing books on various subjects of law written by experts in the field;
- creating awareness about the law of the land amongst general public by utilizing mass media like Radio, Television and the like.

Legal Services Authority welcomes all individuals and NGOs who are willing to involve themselves in the above mentioned activities of the Authority as it would go along way in achieving the aims and objectives of the Authority.

Question: What is Lok Adalat? Who acts as Conciliator in Lok Adalat?

Answer: A Court which has been organized by High Court Legal Services Committee or District Legal Services Authority or Taluk Legal Services Committee for the purpose of amicably settling a dispute between two parties by way of compromise is called LOK ADALAT.

In every Lok Adalat minimum two conciliators function. One of them is a sitting or retired judge and another or other conciliator / conciliators shall be an advocate or social worker or expert / experts in that particular field.

Question: What types of disputes are settled in the Lok Adalats?

Answer:

- Motor Vehicle accident cases where the injured or the dependents of the person died in the accident have applied for compensation.
- Land Acquisition cases where the applications have been made to the government claiming compensation.
- Cases for or against local bodies such as Town Municipality, Panchayat, Electricity Board and the like.
- Cases involving commercial banks
- Matrimonial or Maintenance cases
- Criminal cases which are compoundable as per law
- Cases pending in Labour Court
- Cases before Workmen Compensation Commissioner
- Cases pertaining to Consumers grievances

Generally it can be said that any cases pending in High Court or any other Court in the State and can be compromised as per law can be settled by Lok Adalat. Apart from this even disputes / cases which have not been brought on the records of the Court could be settled amicably by Lok Adalats.

Question: What are the special features of Lok Adalats?

Answer:

- You can get your dispute settled at the lowest possible cost and without delay. You need not pay the court fee.
- You need not appoint an advocate instead you can personally appear before Lok Adalat.
- The conciliators, one of whom is a judge, will guide you in order to settle the dispute amicably.
- You can compromise only when you are satisfied with the relief suggested by the conciliators.
- The same justice you get from the court in which your case is pending for adjudication you also get in Lok Adalat.

- Generally the judgement rendered in Lok Adalat is final and is not Appealable. It is binding on both the parties and has the same force as the judgement rendered by the Civil Court .
- By filing Execution Petition in the Civil Court you can get the judgement of Lok Adalat executed.
- If a case pending before the court is settled in Lok Adalat the court fees paid in that case is refunded partially or fully as per law.

Question: What powers Lok Adalat has?

Answer:

Lok Adalat can:

Take evidence.

Call for any Public Documents from any Public office or court.

Question: What is a Permanent Lok Adalat?

Answer: The Courts established by National Legal Services Authority or State Legal Services Authority for the purpose of speedy disposal of disputes pertaining to Public Utility Services and not yet recorded in any court of law, by way of compromise, is called Permanent Lok Adalats. National Legal Services Authority or any State Legal Services Authority can establish in any place of a State, in respect of any field in respect of any one or more Public Utility Service Permanent Lok Adalats.

Every Permanent Lok Adalat has a District Judge as the Chairman and two members who are having sufficient experience in Public Utility Services nominated by the State Government on the recommendations of Central / State Government.

Cases where the value of dispute is more than ten Lakh rupees are not decided by Permanent Lok Adalat. Similarly cases pertaining to Non-compoundable offence / offences are not taken up by Permanent Lok Adalat.

Question: How does the Permanent Lok Adalat function?

Answer: The Chairman and the Members of Permanent Lok Adalat guide the parties to the dispute to amicably resolve the dispute. If the parties to the dispute compromise the dispute is adjudicated as per the conditions of the compromise. If conciliation fails and if the dispute is not in respect of any offence after recording the evidence of both the parties. The Chairman and the members give unanimous or majority verdict. No court fee is

charged. As the procedure adopted here is very simple the disputes get adjudged quickly.

Question: What is the nature of the judgement of Permanent Lok Adalat ?

Answer: The judgement of the Permanent Lok Adalat is final and binding on both the parties.

- The judgement of the Permanent Lok Adalat is not appealable nor can it be called in question in any suit or Execution Proceedings.
- By filing Execution Petition in the Civil Court you can get the judgement of Permanent Lok Adalat executed.

Question: Name a few Public Utility Services?

Answer:

- Transportation Services (By air, road or sea; goods or passengers)
- Postal, telegraphic or Telephone Services
- Any body of service which supply Energy (Electricity) light or water to the public
- Public Sanitary System / Services
- Hospital or The services in a Hospital
- Insurance Services.