



ORIGINAL RESEARCH PAPER

Law

LEGAL AID IN INDIA

KEY WORDS:

Dr. R. M. Dave

HOD Department of Human Rights & I.H.L Saurashtra University – Rajkot

Litigation or grievance redressal process in India is time consuming and expensive, compared to the average income of the common people of our country, Poverty, Social and economical backwardness and illiteracy are some of the contributing factors which deny justice to the common man.

However Article 39-A of the Indian Constitution, mandates the State to provide free legal aid by making suitable legislation or schemes to ensure opportunities for securing justice to the economically, socially and educationally disabled persons. Accordingly, the Legal Services Authorities Act, 1987 was enacted to constitute Legal Services Authorities to provide free and competent legal services to the weaker sections of the society.

The expression 'Legal Services' includes rendering advices and legal issues and also rendering services in conducting cases or other legal proceedings. The Act authorizes to constitute Lok Adalats to determine and to arrive at a compromise or settlement of litigation between the parties, either already pending or initiated as a fresh one. Such Lok Adalats are presided over by serving or retired Judicial Officers and such other persons, as may be decided by appropriate authorities or committees.

A Court may refer a pending litigation to the concerned Lok Adalat, if one of the parties to the litigation makes an application or all the parties jointly make an application.

The Court may make such referrals if it is satisfied that there are chances of such settlement or the matter is an appropriate one to be taken cognizance of by the Lok Adalat. The Lok Adalat can dispose of the matter by arriving at a compromise or settlement between the parties. But if no settlement is arrived at, then the Lok Adalat may return the case to the Court from which the case was referred.

In fresh matter, if the dispute is not settled at the Lok Adalat, it shall advise the parties to seek remedy in a Court of Law. Every award of the Lok Adalat shall be final and binding on the parties to the dispute and has the equal force of a decree of a Civil Court or an order of the Court which referred the case to the Lok Adalat.

The Act also provides for constitution of Permanent Lok Adalats for exercising jurisdiction in respect of one or more public utility services, like transport services for carriage of passengers or goods by air, road or water, postal, telegraph or telephone services; supply of power, light or water to the public; services in hospitals and dispensaries; insurance service, public conservancy and sanitation services etc.

Permanent Lok Adalat:

The State Legal Service Authority established the Permanent Lok Adalat headed by a Chairman, who is or has been a Principal District Judge or Additional District Judge or has held Judicial Officer higher in rank than that of a District Judge. It also consists of two other members having adequate experience in public utility services. Permanent Lok Adalat has the power to resolve a dispute before it on merits or by settlement and an award by it shall be final and binding on all parties thereto.

Criteria for Legal Service

The idea underlying a legal aid is that no person should on account of poverty or for lack of means, suffer an injustice for the redress of which a remedy is provided by the Court of law or by administrative tribunals. Legal Aid, under the act is a system of assisting those whom cannot afford to pay legal advice, Assistance and representation. It includes the rendering of any service in the conduct of a case or legal proceeding before any Court, Authority or a Tribunal and giving advice on a legal matter. Legal aid may be given to and eligible person in any or of the following means.

What are the Legal Services?

Legal services include the rendering of any service in the conduct of a case or legal proceeding before any Court/Authority/Tribunal and the giving of advice on a legal matter. The following types of legal assistance are provided:

- (a) Providing lawyers at State expense;
- (b) Paying Court Fees on behalf of the eligible person;
- (c) Bearing expenses regarding preparation of documents;
- (d) Paying expenses for Summoning of witnesses and
- (e) Paying for other incidental expenses connected with litigation.

Broadly, legal aid is to be provided in all such matters where the person is eligible or when a direction from any Court has been issued in that regard.

Who are entitled to free legal services under the Act?

The following persons are entitled to free legal services under the Act;

- (a) A member of a Schedule Caste or Schedule Tribe;
- (b) A victim in trafficking in human beings or 'beggar' as referred to in Article 23rd of the Indian Constitution;
- (c) a woman or child;
- (d) a mentally ill or otherwise a disabled person;
- (e) a victim of mass disaster, ethical violation, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) an industrial workman; or
- (g) in custody, including that of protective home, juvenile home, psychiatric hospital, psychiatric nursing home;
- (h) having an annual income less than Rs. 50,000/- or such other higher amount as prescribed by the State Government if the case is before a court other than the Supreme Court, and less than Rs. 40,000/- or such other higher amount as prescribed by the Central government if the case is before the Supreme Court.

In addition to the legal services, the Legal Services Authorities are talking up the endeavors for dispensing basic legal education and legal literacy to the different classes of the society like students, women etc. By holding legal literacy camps, anti-ragging campaigns at different places to aware and enlighten the public of their legal rights from time to time.

Whom to approach for Free Legal Services?

1. The National Legal Services Authority (NALSA)

There is a National Legal Services Authority at the highest level as a Central Authority. The Chief Justice of India is the Patron-in-Chief of the NALSA (National Legal Services Authority). It has an Executive Chairman who is or was a Judge of the Supreme Court and such other members with a Member Secretary.

2. The State Legal Services Authority

There are State Legal Services Authorities in each State with the Chief Justice of High Court as the Patron-in-Chief and a serving or retired Judge of the High Court as the Executive Chairman. The State Authority has a Member Secretary, who is a Principal District Judge of State Higher Judicial Service and such other members nominated by the State Government in consultation with the Chief Justice of the High Court. In the State of Gujarat there is Gujarat State Legal Services Authority at Ahmedabad.

3. The District Legal Services Authority

In every district, there is a District Legal Services Authority headed by the District Judge as its Chairman. There are other members in the District Authority nominated by the Government in consultation with the Chief Justice of the High Court.

4. The Taluk Legal Services Committee

In addition to these, there are Legal Services Committees in the Supreme Court and High Courts. There are Taluk Legal Services Committee in every Taluk (sub Division of the Districts) to render legal services to eligible persons and to conduct Lok Adalats to determine and settle the cases under their respective jurisdictions.

An eligible person can approach the Legal Services Authorities and Legal Services Committees of the respective jurisdiction to get legal services of Advocate panel to conduct their cases or to avail legal advice under the law. Person can also approach to the Member Secretary of the State Legal Services Authority to get free legal services.

CONCLUSION

The ultimate objective in the above mention non-litigative preventive legal aid is to find friendly and just settlement without resorting to expensive and time consuming litigation. Domestic disputes especially are capable of being settled outside the Court. A timely intervention by the Legal Services Authority can also rescue the poor and the victimized from police high handedness, revenue officials or sometimes even civic or co-operative societies.

Preventive Legal Aid strategies of the above nature have to be adopted carefully and in context of the particular goal to be achieved. Ultimately the objective is very clear that non-litigative aid should be put in the forefront of any scheme of the legal-aid.

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