

THE JAMMU AND KASHMIR LEGAL SERVICES AUTHORITIES ACT, 1997
(Act No. XXXIII of 1997)

Received the assent of the Governor on 8th of October, 1997 and published in the Government Gazette dated 8th October, 1997.

An Act to constitute legal services authorities to provide free and competent legal services to the weaker sections of the society to ensure that opportunity for securing justice are not denied to any citizen by reason of economic or other disabilities and to organize Lok Adalts to secure that the operation of the legal system promotes Justice on a basis of Legal opportunity.

Be it enacted by the Jammu and Kashmir in the Forty-eight Year of the Republic of India as follows :-

CHAPTER 1

PRELIMINARY

1. Short Title, extent and Commencement

- (1) This Act may be called as the Jammu and Kashmir Legal Services Authorities Act, 1997.
- (2) It extends to the whole of Jammu and Kashmir.
- (3) It shall come into force on such date as the Government may, by notification in the Government Gazette appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions

In this Act, unless the context otherwise requires,-

- (a) "Case" includes a suit or any proceedings before a Court;
- (b) "Court" means a civil ,criminal or revenue court and includes a tribunal or any other authority constituted under any law for the time being in force , to exercise judicial or quasi-judicial functions;
- (c) "Legal Service" includes the rendering of any service in the conduct of any case or other legal proceedings before any court or any authority or tribunal and the giving of advice on any legal matter;
- (d) "High Court Legal Services Committee" means the High Court Legal Services Committee constituted under section 6;
- (e) "legal service" includes the rendering of any service in the conduct of any case or other legal proceedings before any Court or other authority or tribunal and giving of advice on any legal matter;

- (f) “Lok Adalat” means a Lok Adalat constituted under section V;
- (g) “ Notification” means a notification published in the Government Gazette;
- (h) “Prescribed” means prescribed by rules made under this Act;
- (i) “Regulations” means regulations made under this Act;
- (j) “Scheme” means any scheme framed by the State Authority or a District Authority for the purpose of giving effect to any provisions of this Act;
- (k) “State Authority” means the State Legal Services Authority constituted under section 3;
- (l) “Tehsil Legal Service Committee” means a Tehsil Legal Service Committee constituted under section 10.

CHAPTER II

STATE LEGAL SERVICES AUTHORITY

3. Constitution of State Legal Services Authority

- (1) The Government shall constitute a body to be called the State Legal Services Authority to exercise the powers and performs the functions conferred on, or assigned to the State Authority under this Act.
- (2) The State Authority shall consist of –
 - (a) the Chief Justice of the High Court who shall be the Patron-in-Chief;
 - (b) a serving or retired Judge of the High Court to be nominated by the Governor, in consultation with the Chief Justice of the High Court ,who shall be the executive Chairman; and
 - (c) such number of other members, possessing such experience and qualifications as may be prescribed by the Government ,to be nominated by the Government in consultation with the Chief Justice of the High Court.
- (3) Commissioner/Secretary to Government Law Department shall be the ex-officio Member-Secretary of the State Legal Services Authority.
- (4) The State Authority may appoint such number of officers and other employees as may be prescribed by the Government, in consultation with the Chief Justice of the High Court , for the efficient discharge of its functions under this Act.
- (5) The officers and other employees of the State Authority shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Government in consultation with the Chief Justice of the High Court.

- (6) The administrative expenses of the State Authority, including the salaries, allowances and pensions payable to the Member-Secretary officers and other employees of the State Authority shall be defrayed out of the Consolidate Fund of the State.
- (7) All orders and decisions of the State Authority shall be authenticated by the Member-Secretary or any other officer of the State Authority duly authorized by the Executive chairman of the State Authority.
- (8) No Act or proceedings of a State Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the State Authority.

4. Functions of the State Authority

The State Authority shall, subject to general directions of the Government, perform all or any of the following functions , namely :-

- (a) lay down policies and principles of making legal services available under the provisions of this Act;
- (b) frame the most effective and economical schemes for making legal services available under the provisions of this Act;
- (c) utilize the funds at its disposal and make appropriate allocation of funds to the District Authorities;
- (d) take necessary steps by way of social justice litigation with regard to consumer protection ,environment protection or any other matters of special concern to the weaker sections of the society and for this purpose, giving training to social workers in legal skills;
- (e) organize legal aids camps, especially in rural areas, slums or labor colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlements of disputes through Lok Adalat;
- (f) encourage the settlements of disputes through negotiations, arbitration and conciliation;
- (g) undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
- (h) monitor and evaluate implementation of the legal aid programmes at periodic intervals and provide for independent evaluation of programmes and schemes implemented in whole or in part by funds provided under this Act;
- (i) provide grants –in-aid for specific schemes to various voluntary social service institutions and the State and District Authorities, from out of the amount placed at its disposal for the implementation of legal services schemes under the provision of this Act;
- (j) develop, in consultation with the State Bar Council ,programmes for clinical legal education and promote guidance and supervise the establishment and working of legal services clinics in universities and other institutions;

- (k) take appropriate measures for spreading legal literacy and legal awareness amongst the people, and in particular to educate the weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;
- (l) make special efforts to enlist the supports of voluntary social welfare institutions working at the grass root level, particularly among the Scheduled Castes and Scheduled Tribeswomen and rural and Urban labor;
- (m) coordinate and monitoring the functions of the State Authority , High Court Legal Services Committee , District Authorities, Tehsil Legal Service Committee and other voluntary social welfare institutions and other legal services organizations and give directions for the proper implementations of the legal services programmes;
- (n) give legal services to persons who satisfy the criteria laid down under this Act;
- (o) conduct Lok Adalat; and
- (p) perform such other functions as the State Authority may fix by regulations.

5. High Court Legal Services Committee

- (1) The State Authority shall constitute a Committee to be called as the High Court Legal Services Committee for the High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.
- (2) The Committee shall consist of –
 - (a) a sitting Judge of the High Court who shall be the chairman ; and
 - (b) such number of other members possessing such experience and qualifications as may be determined by the regulations made by the State Authority , to be nominated by the Chief Justice of the High Court.
- (3) The Chief Justice of the High Court shall appoint a secretary to the committee possessing such experience and qualifications as may be prescribed by the Government.
- (4) The terms of office and other conditions relating thereto, of the Members and the Secretary of the Committee shall be such as may be determined by regulations made by the State Authority.
- (5) The Committee may appoint such number of officers and other employees as may be prescribed by the Government in Consultation with the Chief Justice of the High Court for the efficient discharge of its functions.
- (6) The officers and other employees of the Committee shall be entitled to such salary and allowances and shall be subject to such other conditions and services as may be prescribed by the Government in consultation with the Chief Justice of the High Court.

CHAPTER III

ENTITLEMENT TO LEGAL SERVICES

6. Criteria for giving legal Services

Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is –

- (a) a member of a Schedule Caste or Schedule Tribes;
- (b) a Victim of a trafficking in human Being or beggar as referred to in article 23 of the constitution;
- (c) a woman or a child;
- (d) a mentally ill or otherwise disabled person;
- (e) a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity . flood, drought , earthquake or industrial disaster; or
- (f) an industrial workman ; or
- (g) in custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic Prevention Act,1956 or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) section 2 of the Mental Health Act,1987; or
- (h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the Government, if the case is before a Court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Government, if the case is before Supreme Court.

CHAPTER IV

GRANTS

7. Grants by the Government

The Government shall after due appropriation made by law in this behalf, pay to the State Authority , by way of Grants , such sums of money as the Government may think fit for being utilized for the purpose of this Act.

8. State Legal Aid Fund

- (1) The State Authority shall establish a fund to be called as the State Legal Aid Fund and there shall be credited thereto, -

- (a) any grants or donations that may be made to the State Authority by the Government or by any purpose for the purpose of this Act;
- (b) all sums of money paid to it or any grant made by the Central Authority constituted under the Legal Services Authorities Act ,1987 (Central);
- (c) any other amount received by the State Authority under the orders of any Court or from any other source.

(2) The State Legal Aid Fund shall be applied for meeting,-

- (a) the cost of functions referred to in section4;
- (b) the Cost of legal Services provided by the High Court Legal Services Committees;
- (c) any other expenses which are required to be met by the State authority.

9. Act to have overriding effect

The provision of this Act shall have effect not withstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect be virtue of any law under this Act.

10. Laying of Rules and Regulations

Every rule made under this Act by Government and every regulation made by the State Authority thereunder shall be laid, as soon as may be, after it is made, before the State Legislature.