

**IN THE SUPREME COURT OF INDIA**

**CRLMP NO. 7862/2017**

IN THE MATTER OF:

**SHANKAR MAHTO .....**

**Petitioner**

Vs.

**STATE OF BIHAR .....**

**Respondent(s)**

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Place: New Delhi

Date: 15.01.2019

(Alok Agarwal)  
Member Secretary  
National Legal Services Authority  
12/11, Jam Nagar House,  
Shahjahan Road, New Delhi-110011

**IN THE SUPREME COURT OF INDIA**

CRLMP No. 7862 of 2017

IN THE MATTER OF: Shankar Mahto vs State of Bihar.

**REPORT ON BEHALF OF NALSA and LD. AMICUS CURIAE  
PURSUANT TO THE DIRECTIONS DATED 24.10.2017 PASSED BY  
THIS HON'BLE COURT****MOST RESPECTFULLY SHOWETH:**

1. In the present case, this Hon'ble court made the following order on  
**24.10.2017 :**

*“ Having heard Ms.Vibha Datta Makhija, Learned Amicus Curiae at length today and having perused the suggestions submitted by learned Amicus Curiae we consider it is appropriate to have views of the National Legal Services Authority (NALSA) for laying down step by step procedure for ensuring intimation of an adverse order/judgment to the accused; seeking whether he intends to file an appeal; informing the accused of his right to legal aid, and taking steps to ensure that an appeal is filed. It is also necessary to ensure a monitoring mechanism for following whether due intimation and clarification is being done.”*

2. After several rounds of discussions, initially, a report dated 16.04.2018 spelling out the suggestive framework of timely filing of appeals of convicts was submitted to this Hon'ble Court.

3. Vide an order dated 24.04.2018, NALSA was permitted to publish the aforesaid scheme on its website to seek suggestions from various stakeholders.
4. Accordingly, suggestions were invited, and thereafter, suggestions have been received from some of the State Legal Services Authorities and some of the High Courts. In view of the suggestions received, and in view of some further developments, the draft recommendations submitted on 16.04.2018 have to be modified.
5. The modified framework namely '**MODULE FOR TIMELY FILING OF APPEALS/SLPs OF CONVICTS IN PRISONS THROUGH LEGAL SERVICES INSTITUTIONS**' is attached herewith as **Annexure-A ( Page Nos. 4-28 )**.
6. Other suggestions pertaining to the desirability of use of technology in timely filing of Appeals/SLPs are at **Annexure-B ( Page Nos. 29-33)**.
7. It is prayed that the following directions may be issued by this Hon'ble Court:
  - (a) The Module (**Annexure-A, Page Nos. 4-28** ) be adopted and implemented by all High Courts, District Courts, Jail Authorities and Legal Services Authorities within 2 months of receiving the same, and be followed meticulously by all concerned stakeholders.

- (b) The other suggestions in **Annexure-B (Page Nos. 29-33)** pertaining to the use of technology for facilitating timely filing of Appeals/SLPs may kindly be considered and necessary directions may be passed.
- (c) The digitization of records as referred to in Para 5.3 in the Module may be made mandatory prospectively, and the said procedure may be required to be included in Rules of respective High Courts. The directions may be given to High Courts, Union of India and State Governments to provide adequate funds, infrastructure and staff to undertake this task. As such, this Hon'ble Court may kindly direct respective High Courts, Union of India and State Governments to assess the requirements to achieve this task within a short time frame, and thereafter to ensure that the said facilities are made available within a given time frame.
- (d) The High Courts, State Governments, and Union of India shall ensure the implementation of this Module by providing sufficient funds, staff and infrastructure for its implementation.

Submitted please.

(Alok Agarwal)  
Member Secretary,  
National Legal Services Authority

Place: New Delhi  
Date: 15.01.2019



## **MODULE**

**FOR**

# **TIMELY FILING OF APPEALS/SLPs OF CONVICTS IN PRISONS THROUGH LEGAL SERVICES INSTITUTIONS**

**NATIONAL LEGAL SERVICES AUTHORITY**

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## **MODULE FOR TIMELY FILING OF APPEALS/SLPs OF CONVICTS IN PRISONS THROUGH LEGAL SERVICES INSTITUTIONS**

### **1. Background & Rationale**

Convicts in prisons constitute about 33% of the prison population<sup>1</sup>. Convicts while in prisons have limited access to outside world, and it becomes imperative to ensure that their limited access and other factors such as lack of awareness about right to appeal and lack of ability to engage lawyers do not act as barriers to access to justice.

Many of the convicts in the Magisterial and Sessions Courts who fall within the parameters of Section 389 (3) of the Code of Criminal Procedure, 1908 are released on bail pending filing of their appeals. The other convicts are sent to prisons to undergo the sentence. For the purpose of filing of appeals, some of such convicts engage private lawyers while others go for free legal aid which is provided to them by District Legal Services Authorities (DLSA), State Legal Services Authorities (SLSA), High Court Legal Services Committees (HCLSC) and Supreme Court Legal Services Committee (SCLSC), as the case may be.

In many instances, it is noticed that filing of appeals of jail inmates gets delayed for various reasons such as lack of awareness about right to appeal and availability of free legal services, difficulties in obtaining copies of trial court records and difficulties in getting the record translated in English for the purpose of filing of appeals in the High Courts and Supreme Court.

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<sup>1</sup> NCRB-Prison Statistics India, 2015

In order to overcome these difficulties, NALSA has recently taken various steps such as

- (i) Amendment in NALSA's Free and Competent Regulations, 2010 has done away with the requirement of processing the matter for grant of legal aid through Scrutiny and Evaluation Committees. It is now provided that for the purpose of filing of an appeal, any convict in a criminal case shall be deemed to have a prima facie case in his favour for availing free legal services. This enables the concerned legal services institutions to assign the matter to a panel lawyer without any delay. The amendments (Annexure I) have been notified and published on 25.10.2017;
- (ii) The structure and the operational framework of the existing Monitoring Committees has been amended (Annexure I) and strengthened for them to work in an effective manner as Monitoring and Mentoring Committees. These Committees shall guide the panel lawyers and monitor timely filing of appeals by them.
- (iii) Jail Legal Services Clinics are being strengthened so that these clinics identify the convicts requiring legal aid to file appeals and inform them about the status of their appeals;
- (iv) Front Offices of Legal Services Institutions are being upgraded to maintain data on daily basis about the legal aided cases including appeals;
- (v) Periodical campaigns have been devised and are being carried out on pan India basis in prisons for creating awareness amongst inmates, identifying the convicts



requiring free legal aid and expeditiously processing their cases.

In a campaign started in the month of May, 2018, in a one to one interaction with 14788 women prisoners all over the country, 623 women convicts were identified who required assistance for filing appeals and their cases were processed. In another campaign carried out across the country in the months of October and November, 2018 exclusively focusing on convicts in prisons, process for filing appeals through Legal Services Institutions has been started in case of 808 convicts whose appeals have to be filed in the Sessions Courts, 2505 in the High Courts and 1333 in Supreme Court.

In *Shankar Mahto Versus State of Bihar*<sup>2</sup>, the Hon'ble Supreme Court of India vide order dated 24.10.2017 asked the Ld. *amicus curiae* to seek views of NALSA on the following:

- (a) step by step procedure for ensuring intimation of an adverse order/judgement to the accused;
- (b) Eliciting whether he intends to file an appeal;
- (c) Informing the accused of his right to legal aid;
- (d) Taking steps to ensure that an appeal is filed. The Hon'ble Supreme Court of India also observed about the need to put in place monitoring mechanisms.

Hence, the following module is proposed for timely filing of appeals by Legal Services Authorities in case of convicts lodged in prisons:

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<sup>2</sup> CRLMP No. 7862/2017

## 2. Objectives:

- (i) To make convicts aware of their right to file an appeal.
- (ii) To make convicts aware about the availability of free legal services.
- (iii) To curb delay in collection of copies of documents pertaining to trial record.
- (iv) To improve practices for timely transmission of documents between Legal Services Authorities at all levels.
- (v) To put monitoring mechanisms in place to ensure timely filing of legal aided appeals of convicts.
- (vi) To make convicts aware about the status of their appeals.

## 3. Major reasons for delay or non-filing of Appeals by Convicts: Primarily, the following reasons are responsible.

### 3.1 Lack of awareness amongst convicts

- a) **Convicts unaware of Right to prefer appeal:** - Convicts are not aware about their right to file appeal against the Judgment of conviction and an order on sentence before the Higher Court.
- b) **Convicts are not aware of availability of free legal services:** - There is no uniform mechanism to ensure that the convicts get information about availability of free legal services to file appeal after passing of the judgment of conviction and order on sentence.

### 3.2 Non Availability of Trial Court Record.

- a) Copies of trial court record including charge sheet, prosecution/defence evidence, statement of accused, exhibited documents apart from judgment of conviction and order on sentence are usually not available with the convict

either in hard copy or in digitized form, when he goes to prison.

- b) There is a lack of adequate mechanism for transmission of the trial court records to the higher courts and the jail authorities in digitized form. Practice that is being adopted now is of applying for certified copy of the entire file for supplying the same to the convict, as it takes several days, at times weeks to obtain them and arrange for its supply to convict in Jail.
- c) Lack of adequate facilities for translation of the trial court records for filing of appeal in the High Courts and Supreme Court, where the documents in the trial court file are in a language other than English.
- d) Frequent shifting of a Convict from one Jail to the other.
- e) Lack of mechanism in the prisons to keep track of each Convict as to whether he/she has filed the Appeal or not, as well as status of the appeal.
- f) Refusal of convicts to prefer an appeal apprehending enhancement of sentence awarded by the Trial Court or the fact that the awarded sentence is on the verge of completion.
- g) Delay at the end of DLSAs, SLSAs, HCLSCs and SCLSC in assignment of appeals to panel lawyers.
- h) Delay by panel lawyers in drafting and filing the appeal(s).

#### **4. Duty Holders in timely filing of appeals by convicts lodged in jails**

- a. Trial Court including Sessions as well as Magisterial Courts
- b. District Legal Services Authorities
- c. High Court Legal Services Committees

- d. Supreme Court Legal Services Committee;
- e. Jail Authorities

The following recommendations are made which would be applicable to all the above duty-holders for ensuring timely filing of appeals.

## **Operational Framework**

### **5. STEPS TO BE TAKEN BY THE TRIAL COURT (SESSIONS/MAGISTERIAL COURTS).**

#### **5.1 Providing copy of record to the convict**

- a. All Trial Courts shall scrupulously comply with the mandate of Section 363 Cr.P.C to furnish a copy of the judgment to the convict free of cost and a copy translated in the language known to the convict, if applied for.
- b. All Trial Courts shall ensure that instead of one set of attested copy of judgment and order on sentence, convict shall be supplied **three sets** of the same so that he/she can carry one set with him/her to the jail for preparation of an appeal and can give another copy to his/her family members. The third copy should be sent to the Superintendent of Jail directly by the Court. In case of foreign nationals, another copy should be sent to the Embassy / Consulate through State Home Department.

#### **5.2 Informing about right to appeal**

- (a) All trial courts should inform the convict that the judgment of conviction and order of sentence are appealable.

Preferably, this information may form part of the order on sentence in all cases of conviction. Suggested template for providing of information.

*“Judgement in this case and the order on sentence passed today are appealable to \_\_\_\_\_ Court, and the Convict may file an appeal within \_\_\_\_\_ days.*

(b) In addition, a pamphlet in English as well as in vernacular spelling out information about the availability of free legal aid to file appeal should be attached to attested copies of the judgment and order supplied to the accused and to the jail authorities.

1. *Free Legal Services for filing appeal in the Court are available to the following categories of persons:*

- *Women and children;*
- *Members of SC/ST;*
- *Industrial Workmen;*
- *Victims of mass disaster, violence, flood, drought, earthquake, industrial disaster;*
- *Persons with Disability;*
- *Persons in Custody;*
- *Persons whose annual income does not exceed Rs. One lakh or as notified by the Central / State Government;*
- *Victims of Trafficking in Human beings or begar.*

2. *Free legal services include the rendering of any services in the conduct of any case or legal proceedings before any court. It includes representation by a counsel, providing of legal advice, drafting of notices and pleading.*

3. *Free Legal Services can be availed by contacting the Jail Legal Services Clinic, office of District Legal Services Authorities, High*

*Court Legal Services Committee/Supreme  
Court Legal Services Committee.*

- (c) Similar pamphlet should be attached to the judgement passed in appeal by the High Court/Appellate Court. The pamphlets at the District and High Court level should be made available by the respective Legal Services Institutions.

### **5.3 Digitization of the Sessions Trial Court Record**

- a. Post-conviction, Sessions Courts shall ensure that the entire trial file is digitized/scanned along with preparation of proper prescribed Book-mark index within 15 days of pronouncement of order on sentence.
- b. The High Courts shall put in place the necessary framework for converting the trial court record after conviction by the Sessions Courts into digital format and for storing the same in archives or in suitable hardware like CDs, DVDs etc. The scanning work can either be done by the record room of the concerned district Court by arranging in-house scanner or by outsourcing this process to a third party contractor as is being done by District Judiciary in NCT of Delhi.
- c. In case of convicts who have to be lodged in jail on pronouncement of such sentence by the Session Courts, a copy of the entire record in CDs/DVDs should be sent to the Jail Superintendent, which should remain available to the Jail inmates. Other convicts who might have been released on bail under Section 389 (3) of Cr.P.C may be given such copy on demand on CDs/DVDs/Pen Drive etc. on payment of nominal fee and such terms as the High Court may fix.

## **6. STEPS TO BE TAKEN BY JAIL AUTHORITIES**

### **6.1 Informing Convict in Jail of right to appeal**

- (a) The Jail Authorities of each Jail shall apprise all the convicts immediately upon their entering into the Jail about their right to file an appeal as well as availability of free legal aid in each Jail. The Jail Authorities shall also ensure data entry of all the convicts in relevant registers maintained in the jail accurately. The entries should be preceded with an interaction with each convict.

### **6.2 Not changing jails of convicts**

- (a) The DG, Prisons shall ensure that Convicts are not transferred frequently, at least not till their Appeal is filed, unless the situation otherwise warrants.

### **6.3 Ensuring production of convicts before legal aid**

- (a) Jail Authorities of each jail shall ensure that all the convicts are produced before the Legal Services Clinic maintained in each Jail for interaction with legal services functionaries.
- (b) Convicts shall be produced before the legal services functionaries at least once in two weeks till such time the appeal is filed and appeal number is received by the prison authorities
- (c) Jail Authorities shall facilitate video conferencing of the convicts with HCLSCs and SCLSC panel lawyers.

#### **6.4 Coordination with Legal Services Authorities.**

Jail Authorities shall effectively coordinate with Legal Services Institutions for effective functioning of Jail Legal Services Clinics and expeditious filing of appeal. Jail authorities shall provide "view only" access to correctly maintained data with regard to all jail inmates to the Legal Services Clinics.

#### **6.5 Follow up of convicts opting for private lawyers for filing appeal.**

It is desirable that the jail authorities intimate and follow up with the inmates wanting to prefer their appeals through private lawyers with regard to their right to appeal and the time frame for filing appeals.

### **7. STEPS TO BE TAKEN BY LEGAL SERVICES INSTITUTIONS.**

#### **7.1 Awareness**

- (a) The State/District Legal Services Authorities shall periodically conduct awareness programmes / camps in the jails, inter alia, to inform the convicts about the right to appeal and the availability of free legal services.
- (b) The State / District Legal Services Authorities shall affix at conspicuous places boards displaying information about the availability of free legal services and other relevant information such as contact details of the concerned Legal Services Institutions in court complexes and also in jails.



- (c) Sustained Campaigns may be undertaken by the Legal Services Authorities for creation of awareness, identification of convicts who require free legal aid and for filing of their appeals within time.

**7.2 Jail Legal Services Clinics**

District Legal Services Authorities shall upgrade their Jail Legal Services Clinic to make information available to convicts relating to filing of their appeals including the name of the lawyer and date of hearing. Jail Legal Services Clinic shall identify the prisoners who require legal aid for filing of appeals in the Sessions Courts, High Courts and the Supreme Court and furnish the details thereof to the concerned Legal Services Institutions.

**7.3 Panel lawyers to maintain complete trial file**

In cases where legal aid is provided during trial, Panel Lawyer shall maintain complete file including copy of charge, prosecution/defence evidence; statement of accused, and other additional relevant documents filed during the trial and shall submit the same to DLSA after conclusion of the trial.

**7.4 Maintain a Panel of Translators**

HCLSCs shall maintain a panel of translators so that their services may be availed whenever required for translating the documents from vernacular to English for filing of appeals.

### 7.5 **Facility of Video-Conferencing**

SCLSC and all HCLSCs shall ensure availability of video - conferencing facility so as to facilitate interaction between panel lawyers and convicts.

### 7.6 **Engaging Legal Assistants / Consultants**

SCLSC and HCLSCs shall engage services of one or two Legal Assistants/Consultants for ensuring timely filing of appeals of the convicts who have preferred to avail free legal services. The Legal Assistants / Consultants may be paid honorarium out of the National or State Legal Aid Fund provided for legal services activities.

### 7.7 **Filing of appeals in Sessions Courts.**

- (a) Information about the convicts who require free legal aid for filing appeals in Sessions Courts be gathered on regular basis by DLSA from Jail Legal Services Clinic.
- (b) Legal Aid application of such convict be processed by DLSAs and along with the same, documents necessary for preparing and filing an appeal, such as vakalatnama, certified copies of judgment and sentence, copy of report under Section 173 Cr.P.C, copies of depositions, copy of charge. The entire exercise of collection of documents be completed within 10 days.
- (c) DLSA shall assign a panel lawyer for filing appeal without any delay and without going through any

process of scrutiny for the purpose of entitlement to free legal aid.

- (d) The panel lawyer after receiving the relevant documents, shall endeavor to have an interaction with the convict by personal visit to jail or through Jail visiting advocates or through video-conferencing.
- (e) The panel lawyer shall file the appeal in the Sessions Courts within 30 days of the date of sentence, and intimation in this regard be provided to DLSA. The Monitoring and Mentoring Committee of the DLSA shall ensure that the appeal is filed in time.
- (f) On filing of the appeal, the DLSA shall update its record in the front office as well as in the Jail Legal Services Clinic.

#### 7.8 **Filing of Appeals in High Court**

- (a) In cases where the appeal is to be filed in the High Court, the DLSA shall collect legal aid application along with the documents such as custody certificate, vakalatnama, certified copy of judgment and order on sentence. Copies of other documents such as report under Section 173 Cr.P.C., charge and depositions of witnesses and exhibited documents may be collected in digital form as referred to in para 5.3 (c). The collection of documents and transmission of the same to the High Court Legal Services Committee shall be completed within 15 days with intimation to SLSA.
- (b) The HCLSC shall on receipt of the same, appoint a panel lawyer for filing of the appeal, without any delay

and without going through any process of scrutiny for the purpose of entitlement to free legal aid.

- (c) The HCLSC shall take the services of translators from its panel for getting the documents in vernacular translated in English wherever required.
- (d) The panel lawyer after receiving the relevant documents, shall endeavor to have an interaction with the convict through video-conferencing.
- (e) The panel lawyer shall file the appeal in the High Court within 60 days of the date of sentence, and intimation in this regard be provided to HCLSC. The Monitoring and Mentoring Committee of the HCLSC shall ensure that the appeal is filed in time.
- (f) On filing of the appeal, the HCLSC shall update its record in the Front Office, and shall send intimation in this regard to respective DLSA who in turn shall update its records in the Jail Legal Services Clinic and intimate the convict also.
- (g) HCLSC shall maintain information about the progress of the appeal in its Front Office. On conclusion of the appeal, intimation by HCLSC shall be given to the concerned DLSA who in turn shall update the record in the Jail Legal Services Clinic and intimate the inmate also.

#### 7.9 **Filing of Appeals in Supreme Court**

- (a) High Court Legal Services Committees shall follow meticulously the resolution passed in the meeting of Central Authority of NALSA held on 29<sup>th</sup> November, 2014 which is reproduced as under:

*'NALSA would advise SLSAs that all matters that are required to be filed before the Supreme Court be processed and prepared by the High Court Legal Services Committees, including translation of documents and that SLSAs transfer adequate funds to High Court Legal Services Committees for preparation and translation of documents before dispatch to the Supreme Court Legal Services Committee for filing'.*

- (b) In terms of this resolution, HCLSC is duty bound to ensure that the trial court record of the conviction case is translated from vernacular to English language in a time bound manner i.e within a fortnight of receipt of hard copy or the digitized/scanned copy of the trial court record in legal aided cases for the purpose of drafting of appeals/SLPs.
- (c) High Court Legal Services Committee shall keep in view the following check-list for sending the paper-book / documents for filing of SLPs/Criminal Appeal in Supreme Court of India:

#### CHECK LIST / DOCUMENTS REQUIRED

- Certified copy of High Court Judgement
- High Court paper book
- Copy of FIR
- Copy of Evidences
- Trial Court judgement
- Reasons for delay, if any in approaching the Hon'ble Supreme Court.
- Certificate of imprisonment
- Application for legal services
- Affidavit for legal services
- Vakalatnama

- English translation of the documents, which are in vernacular.
  - Affidavit in support of SLP.
- (d) Any document required by HCLSC or SCLSC for preparing and filing of appeals/SLPs in the Supreme Court shall be provided by the concerned DLSA.
- (e) The entire paper book along with all the required documents be provided to the SCLSC by HCLSC within a span of 20 days from the date of passing of the judgment by the High Court in Second Appeal.
- (f) The SCLSC shall on receipt of the paper book and other documents, appoint a panel lawyer for filing of the appeal/SLP, without any delay and without going through any process of scrutiny for the purpose of entitlement to free legal aid.
- (g) The panel lawyer after receiving the relevant documents, shall endeavor to have an interaction with the convict through video-conferencing.
- (h) The panel lawyer shall file the appeal/SLP in the Supreme Court within 60/90 days, as applicable, from the date of sentence, and intimation in this regard be provided to SCLSC. The Monitoring and Mentoring Committee of the SCLSC shall ensure that the appeal is filed in time.
- (i) On filing of the appeal, the SCLSC shall update its record in the Front Office, and shall send intimation in this regard to respective SLSA who in turn shall get the record of the DLSA updated and ensure intimation to the convict also.

- (j) SCLSC shall maintain information about the progress of the appeal/SLP in its Front Office. On conclusion of the appeal, intimation by SCLSC shall be given to the concerned SLISA who shall get the record of the DLSA updated and ensure intimation to the inmate also.

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## TIMELINES

### **For Jail Legal Services Clinics**

- Will maintain updated data w.r.t. all the convicts.
- Jail Clinics shall interact fortnightly with convicts whose appeals have not been filed.
- DLSA shall gather data from the Jail Legal Services Clinics on weekly basis.

### **Filing of Appeals in Sessions Court**

- Collection of documents by DLSAs within 10 days.
- Filing of appeals within 30 days by Panel lawyers.
- Intimation to the inmates regarding filing of appeals within a week.

### **Filing of appeals in High Courts**

- Collection of documents by HCLSCs from DLSAs within 15 days.
- Complete all requirements including translation of documents, interaction with the convicts and filing of appeals by Panel Lawyers within 60 days.

### **Filing of appeals/SLPs in Supreme Courts**

- Entire paper book along with all the documents shall be provided by HCLSCs to the SCLSC within 20 days from the date of judgment.
- Filing of appeals/ SLPs by Panel Lawyers within 60/90 days, as applicable.

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- (5) मानीटरी और परामर्शदात्री समिति, मामले की दिन प्रतिदिन प्रगति को मानीटर करने के लिए विधिक सहायता प्राप्त मामलों का और ऐसे मामलों के संबंध में जिसके लिए विधिक सहायता अनुज्ञात की जाती है, अंतिम निर्णय (सफलता या असफलता) का एक रजिस्टर रखेगी तथा उक्त रजिस्टर की प्रत्येक मास, यथास्थिति, सदस्य-सचिव या सचिव या अध्यक्ष द्वारा संवीक्षा की जाएगी।
- (6) विधिक सेवा संस्था, न्यायालय के पीठासीन अधिकारी से, मामलों की प्रगति सुनिश्चित करने के लिए न्यायालय द्वारा अनुरक्षित रजिस्ट्रों तक पहुंच अनुज्ञात करने का अनुरोध करेगी।
- (7) मानीटरी और परामर्शदात्री समिति, ऐसे समय के भीतर, जो समिति द्वारा अवधारित किया जाए, पैनल वकीलों से रिपोर्ट मांगकर मामले की प्रगति पर निगरानी रखेगी।
- (8) यदि मामले की प्रगति संतोषप्रद नहीं है तो समिति, विधिक सेवा संस्था को समुचित कदम उठाने के लिए सलाह दे सकेगी।
- (9) समिति, दो सप्ताह में कम से कम एक बार बैठक करेगी।
- (10) मानीटरी और परामर्शदात्री समिति, यथास्थिति, सदस्य-सचिव या सचिव जब कभी भी बैठक बुलाएगा, बैठक करेगी।
10. मूल विनियमों के विनियम 12 में "मानीटरी समिति" शब्दों के स्थान पर, दोनों स्थानों पर, जहां वे आते हैं, "मानीटरी और परामर्शदात्री समिति" शब्द रखे जाएंगे।
11. मूल विनियमों के विनियम 13 में "मानीटरी समिति" शब्दों के स्थान पर "मानीटरी और परामर्शदात्री समिति" शब्द रखे जाएंगे।
12. मूल विनियमों के विनियम 15 में "मानीटरी समिति" शब्दों के स्थान पर "मानीटरी और परामर्शदात्री समिति" शब्द रखे जाएंगे।
13. मूल विनियमों के विनियम 16 में "मानीटरी समिति" शब्दों के स्थान पर "मानीटरी और परामर्शदात्री समिति" शब्द रखे जाएंगे।
14. मूल विनियमों के प्ररूप 2 के शीर्ष में "मानीटरी समिति" शब्दों के स्थान पर "मानीटरी और परामर्शदात्री समिति" शब्द रखे जाएंगे।

आलोक अग्रवाल, सदस्य-सचिव

[विज्ञापन-III/4/असा. /319/18]

टिप्पणः—मूल विनियम भारत के राजपत्र, असाधारण, भाग 3, खंड 4 अधिसूचना संख्या एल/61/10/नालसा तारीख 9 सितंबर, 2010 द्वारा प्रकाशित किए गए थे और अंतिम संशोधन अधिसूचना संख्या एल/61/10/नालसा तारीख 6 अगस्त, 2014 द्वारा किया गया था।

MINISTRY OF LAW AND JUSTICE

(DEPARTMENT OF JUSTICE)

(NATIONAL LEGAL SERVICES AUTHORITY)

NOTIFICATION

New Delhi, the 22nd October, 2018

**F. No. L/61/10/NALSA.**—In exercise of the powers conferred by section 29 of the Legal Services Authorities Act, 1987 (39 of 1987) and in pursuance of the provisions in section 4 of the Act to make available free and competent legal services to the persons entitled thereto under section 12 of the said Act, the Central Authority hereby makes the following regulations further to amend the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010, namely: -

1. **Short title and commencement.** - (1) These regulations may be called the National Legal Services Authority (Free and Competent Legal Services) Amendment Regulations, 2018.  
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 (hereinafter referred to as the principal regulations). in regulation 2, in sub-regulation (1), -

- (i) for clause (ea), the following clauses shall be substituted, namely:-  
 '(ea) "Monitoring and Mentoring Committee" means the Committees set up under regulation 10;  
 (eb) "Panel Lawyer" means a legal practitioner empanelled as a Panel lawyer under regulation 8;'
- (ii) in clause (f), for the words "as such", the words "under the 'National Legal Services Authority Scheme for Para Legal Volunteers' and empanelled" shall be substituted.
- (iii) in clause (fa), for the bracket and figure "(6)", the bracket and figure "(9)" shall be substituted.
3. In the principal regulations, in regulation 4, -
- (i) in sub-regulation (1) after the words "manned by", the words "a Retainer Lawyer on rotational basis and" shall be inserted;
- (ii) sub-regulation (2) and sub-regulation (5) shall be omitted;
4. In the principal regulations, for regulation 5, the following regulation shall be substituted, namely:-
- "5. Proof of entitlement of free legal services.** - A self-certificate of the applicant, along with self-attested copy of relevant documents or certificates, if any, that he falls under the categories of persons entitled to free legal services under Section 12 of the Act shall ordinarily be sufficient."
5. In the principal regulations, for regulation 7, the following regulation shall be substituted, namely: -
- "7. Scrutiny and evaluation of the application for free legal services.**- (1) The application for legal services, for eligibility of the applicant and existence of a prima facie case to prosecute or to defend, shall be scrutinised by the Member-Secretary or Secretary, as the case may be, or any officer, deputed by him:
- Provided that a defendant in a civil case and an accused or a convict in a criminal case shall be deemed to have prima facie case to defend or to file an appeal against his conviction and sentence:
- Provided further that in case, there is some difficulty to determine the prima facie case to prosecute, the Member-Secretary or Secretary may for this purpose, seek opinion from a panel lawyer having more than seven years standing at the Bar:
- Provided further that in case of the Supreme Court Legal Services Committee, the Secretary shall seek opinion from an Advocate having more than fifteen years standing at the Bar.
- (2) A decision on application for legal services shall be taken immediately, but not more than seven days from the date of receipt of the application.
- (3) If the applicant is not covered under the categories mentioned in section 12, he or she shall be advised to seek assistance from any other body or person rendering free legal services either voluntarily or under any other scheme.
- (4) The Legal Services Institution shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services.
- (5) Any person aggrieved by the decision or order of the Member-Secretary or the Secretary, as the case may be, he may prefer appeal to the Executive Chairman or Chairman of the Legal Services Institution and the decision or order in appeal shall be final.
- (6) In case the Member-Secretary or Secretary of the Legal Services Institution decides to provide legal services through a panel lawyer, the choice of the panel lawyer, if expressed by the applicant, may be considered."
6. In the principal regulations, for regulation 8, the following regulation shall be substituted, namely: -
- "8. Selection of legal practitioners as panel lawyers.** - (1) Every Legal Services Institution shall invite applications from legal practitioners for their empanelment as panel lawyers and such applications shall be accompanied with proof of the professional experience with special reference to the type of cases which the applicant-legal practitioners may prefer to be entrusted with.
- (2) The applications received under sub-regulation (1) shall be scrutinised and selection of the panel lawyers shall be made by the Executive Chairman or Chairman of the Legal Services Institution in consultation with the Attorney General [for the Supreme Court], Advocate General [for the High Court], District Attorney or Government Pleader [for District and Taluka level] and the Monitoring and Mentoring Committee set up under regulation 10:
- Provided that the Executive Chairman or Chairman of the Legal Services Institution may also suo moto empanel any legal practitioner;
- (3) No legal practitioner having less than three years' experience at the Bar shall ordinarily be empanelled.

- (4) District Legal Services Authorities and Taluk Legal Services Committees shall get the panel approved from the Executive Chairman of the State Legal Services Authority.
- (5) The Executive Chairman or Chairman of the Legal Services Institution shall take into consideration the competency, integrity, suitability, and experience of lawyers for the empanelment.
- (6) There may be representation of the Scheduled Castes, the Scheduled Tribes, women and differently abled lawyers in the panel.
- (7) The Executive Chairman or Chairman of the Legal Services Institution may maintain separate panels for dealing with different types of cases like Civil, Criminal, Constitutional Law, Environmental Law, Labour Laws, Matrimonial disputes, Juvenile Justice, etc.
- (8) The Member-Secretary or Secretary, as the case may be, may assign a case to a panel lawyer of a subject matter other than for which he has been empanelled.
- (9) The Chairman of the Legal Services Institution may, in consultation with the Executive Chairman of the State Legal Services Authority or National Legal Services Authority, as the case may be, prepare a list of legal practitioners from among the panel lawyers to be designated as Retainers.
- (10) The Retainer lawyers shall be selected for a period fixed by the Executive Chairman on rotation basis or by any other method specified by the Executive Chairman.
- (11) The strength of Retainer lawyers shall not exceed, -
- twenty in the Supreme Court Legal Services Committee;
  - fifteen in the High Court Legal Services Committee;
  - ten in the District Legal Authority;
  - five in the Taluk Legal Services Committee.
- (12) The honorarium payable to Retainer lawyer shall not be less than, -
- rupees forty thousand per month in the case of Supreme Court Legal Services Committee;
  - rupees twenty five thousand per month in the case of State Legal Services Authority or High Court Legal Services Committee;
  - rupees fifteen thousand per month in the case of District Legal Services Authority;
  - rupees ten thousand per month in the case of the Taluk Legal Services Committee:

Provided that the honorarium specified in this sub-regulation is in addition to the honorarium or fee payable by the Legal Services Institution for each case entrusted to the Retainer lawyer.

- (13) The panel prepared under sub-regulation (2) for the period of three years shall also be reviewed and updated periodically by the Executive Chairman or the Chairman, as the case may be, keeping in view the performance of the panel lawyers.
- (14) The Legal Services Institution shall be at liberty for withdrawing any case from a Retainer Panel Lawyer during any stage of the proceedings.
- (15) If a panel lawyer is desirous of withdrawing from a case he shall state the reasons thereof to the Member-Secretary or the Secretary, as the case may be, and the panel lawyer may be permitted to do so by an order.
- (16) The panel lawyers shall not ask for or receive any fee, remuneration or any valuable consideration in any manner, from the person to whom he has rendered legal services under these regulations.
- (17) If the panel lawyer engaged is not performing satisfactorily or has acted contrary to the object and spirit of the Act and these regulations, the Legal Services Institution shall take appropriate steps including withdrawal of the case from such lawyer and his removal from the panel.
- (18) The panel lawyers shall undergo training periodically as per modules prepared by the National Legal Services Authority and the State Legal Services Authority.
- (19) The participation in the training programme shall be a relevant consideration for the retention or continuation of panel lawyers.”.

7. In the principal regulations, for regulation 9, the following regulation shall be substituted, namely: -

“9. **Legal services by way of legal advice, consultation, drafting and conveyancing.** - (1) The Executive Chairman or Chairman of the Legal Services Institution may maintain a separate panel of senior lawyers, law firms, retired judicial officers, mediators, conciliators and law professors in the law universities or law colleges for providing legal advice and other legal services like drafting and conveyancing.

- (2) The Executive Chairman or Chairman of the Legal Services Institution, as the case may be, may maintain a separate panel of retired senior bureaucrats, senior executives, retired police officials, doctors, engineers, psychiatrists, marriage counsellors, chartered accountants, educationists and other experts of the specialised field for legal services and honorarium payable to them shall be decided by the Executive Chairman of State Legal Services Authority or the Chairman of the Supreme Court Legal Committee, as the case may be.
- (3) The Member-Secretary may send a request to Senior Advocates to volunteer their pro bono professional services for rendering advice as and when required.”.

8. In the principal regulations, for regulation 10, the following regulation shall be substituted, namely: -

“10. **Monitoring and Mentoring Committee.** - (1) Every Legal Services Institution shall set up a Monitoring and Mentoring Committee for close monitoring of the court based legal services rendered and the progress of the cases in the legal aided matters and to guide and advise the panel lawyers.

- (2) The Monitoring and Mentoring Committee at the level of the Supreme Court shall consist of, -
- (i) a sitting or retired judge of the Supreme Court or a Senior Advocate as may be nominated by the Chairman, Supreme Court Legal Services Committee;
  - (ii) Secretary, Supreme Court Legal Services Committee;
  - (iii) a renowned Academician or an Advocate-on-Record having ten years of practice to be nominated by the Chairman of the Supreme Court Legal Services Committee;
  - (iv) The Legal Service Counsel-cum-Consultant, Supreme Court Legal Services Committee.
- (3) The Monitoring and Mentoring Committee at the level of the High Court shall consist of, -
- (i) a sitting or retired Judge of the High Court or a Senior Advocate as may be nominated by the Chairman, High Court Legal Services Committee;
  - (ii) Secretary, High Court Legal Services Committee.
- (4) The Monitoring and Mentoring Committee at the State or District Legal Services Authority shall consist of, -
- (i) Member-Secretary or Secretary of the Legal Services Institution, as the case may be;
  - (ii) one serving judicial officer from the State Higher Judicial Service;
  - (iii) one retired judicial officer or one Advocate of fifteen years' standing or more.
- (5) The Monitoring and Mentoring Committee at the Taluk Legal Services Committee shall consist of, -
- (i) Chairman of the Taluk Legal Services Committee;
  - (ii) one retired judicial officer;
  - (iii) one advocate of 10 years standing or more.
- (6) The members of the Monitoring and Mentoring Committee shall render their services on the days as may be required and fixed by the Executive Chairman or Chairman of the Legal Services Institution and the members except serving Judicial Officers shall be paid the honorarium as fixed by the Executive Chairman.”.

9. In the principal regulations, for regulation 11, the following regulation shall be substituted, namely:-

“11. **Procedure of the Monitoring and Mentoring Committee.** - (1) Whenever court based legal aid is provided to an applicant, the Member-Secretary or Secretary as the case may be, shall send the details in Form II to the Monitoring and Mentoring Committee at the earliest.

(2) The Legal Services Institution shall provide adequate staff and infrastructure to the Monitoring and Mentoring Committee for maintaining the records of the day-to-day progress of the legal aided cases.

(3) The Monitoring and Mentoring Committee shall assist the Legal Services Institution in organising training programmes for panel lawyers from time to time to enhance the skill of the panel lawyers.

(4) The Monitoring and Mentoring Committee shall mentor the panel lawyers and guide them in providing quality legal services.

(5) The Monitoring and Mentoring Committee shall maintain a register for legal aided cases for monitoring the day-to-day progress of the case and the end result (success or failure) in respect of cases for which legal aid

is allowed and the said register shall be scrutinised every month by the Member-Secretary or Secretary or the Chairman, as the case may be.

(6) The Legal Services Institution may request the Presiding Officer of the court to allow access to the registers maintained by the court for ascertaining the progress of the cases.

(7) The Monitoring and Mentoring Committee shall keep a watch on the progress of the case by calling for reports from the panel lawyers within such time as may be determined by the Committee.

(8) If the progress of the case is not satisfactory, the Committee may advise the Legal Services Institution to take appropriate steps.

(9) The Committees shall meet at least once in a fortnight.

(10) The Monitoring and Mentoring Committee may meet as and when the meeting is convened by the Member-Secretary or the Secretary as the case may be.”

10. In the principal regulations, in regulation 12, for the words “Monitoring Committee” occurring at both the places, the words “Monitoring and Mentoring Committee” shall be substituted.
11. In the principal regulations, in regulation 13, for the words “Monitoring Committee, the words “Monitoring and Mentoring Committee” shall be substituted.
12. In the principal regulations, in regulation 15, for the words “Monitoring Committee, the words “Monitoring and Mentoring Committee” shall be substituted.
13. In the principal regulations, in regulation 16, for the words “Monitoring Committee, the words “Monitoring and Mentoring Committee” shall be substituted.
14. In Form II of the principal regulations, in the heading, for the words “Monitoring Committee, the words “Monitoring and Mentoring Committee” shall be substituted.

ALOK AGARWAL, Member-Secy.

[ADVT.-III/4/Exty./319/18]

**Note :** The principal regulations were published in the Gazette of India Extraordinary, Part-III, Section 4, *vide* notification No. L/61/10/NALSA dated the 9<sup>th</sup> September, 2010 and were last amended *vide* notification No. L/61/10/NALSA dated the 6<sup>th</sup> August, 2014.

### अधिसूचना

नई दिल्ली, 22 अक्टूबर, 2018

**फा सं एल/28/09/नालसा.**—केंद्रीय प्राधिकरण, विधिक सेवा प्राधिकरण अधिनियम, 1987 (1987 का 39) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राष्ट्रीय विधिक सेवा प्राधिकरण (लोक अदालत) विनियम, 2009 का और संशोधन करने के लिए निम्नलिखित विनियम बनाती है, अर्थात् :--

**1. संक्षिप्त नाम और प्रारंभ—**(1) इन विनियमों का संक्षिप्त नाम राष्ट्रीय विधिक सेवा प्राधिकरण (लोक अदालत) संशोधन विनियम, 2018 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

**2. राष्ट्रीय विधिक सेवा प्राधिकरण (लोक अदालत) विनियम, 2009 (जिसे इसमें इसके पश्चात् मूल विनियम कहा गया है) के विनियम 2 में--**

(i) खंड (ख) के पश्चात् निम्नलिखित खंड अंतःस्थापित किया जाएगा, अर्थात् :--

‘(खक) “मुकदमा पूर्व मामला” से पक्षकारों के बीच कोई ऐसा विवाद अभिप्रेत है, जो न्यायालय के समक्ष फाइल नहीं किया गया है;’।

Annexure-B



**Other Suggestions in the matter of  
Shankar Mahto Vs. State of Bihar  
(CRLMP No. 7862/2017)**

**NATIONAL LEGAL SERVICES AUTHORITY**

12/11 JAM NAGAR HOUSE, SHAHJAHAN ROAD, NEW DELHI

www.nalsa.gov.in e-mail: nalsa-dla@nic.in cont. 011-23382778, Helpline no. 15100

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## OTHER SUGGESTIONS

It is desirable to use technology for facilitating timely filing of appeals /SLPs. The following points in this regard are suggested:

### **1. e-custody Certificate**

The State Governments may be directed to switch over to e-custody certificates as has been done in some states like Haryana so that delay in collection and submission of custody certificates may be eliminated. It will ultimately help in timely filing of appeals.

### **2. Assessment of existing digital/online framework**

At present, the following digital/online framework is operational.

(a) Crime and Criminal Tracking Network System (CCTNS): - It is administratively controlled and designed by Ministry of Home Affairs, and being used by the police primarily for entering information with regard to particulars of FIRs and accused. It also contains the reports under Section 173 Cr.P.C.

(b) E Prison: - E prison portal is administratively controlled by Ministry of Home Affairs and is an important component of ICJS(Inter-Operable Criminal Justice System). It contains prisoner wise information regarding their date of entry into prison, relevant provisions of law under which they are charged/convicted and duration of their stay in prison.



(c) Case Information System (CIS): - CIS is being designed and looked after by E Committee of Hon'ble Supreme Court but is administratively part of Department of Justice, GOI. CIS 3.0, inter alia, contains information about all orders and judgments passed in each case.

At present, ICJS (Inter-Operable Criminal Justice System) is in the process of integrating the data of aforesaid separate pillars i.e. CCTNS, E Prison and CIS. The said integrated data can provide information contained separately in all the three systems, by using any one out of the FIR No., Prison ID No. (PID) and Case No. (CNR) as generated by CIS. ICJS has started providing the integrated data service in some of the States.

In view of the above, a study may be conducted to explore the feasibility of HCLSCs and SCLSC accessing the documents through ICJS.

### **3. Assessing the capacity of CIS 3.0 for uploading of other documents relating to trial record.**

Timely transmission of documents to HCLSC and SCLSC is one of the challenges for expeditious filing of appeals/SLPs in High Courts and Supreme Courts. CIS 3.0 is functional at levels from Taluk level to Supreme Court. It already contains information with regard to the cases at all levels including copies of orders and judgments. In the said scenario, a study to assess the feasibility of the CIS 3.0 for uploading of other documents such as copies of depositions, copy of charge, copies of exhibits etc., and accessing

and downloading from it by HCLSCs and SCLSC may be undertaken.

If this is found feasible, CIS which is operational in all Courts across the country, will have all the necessary case records and the other records pertaining to registration of the case, arrest and remand of the accused, his stay in prison and chargesheet etc. and it can be accessed through ICJS by all Courts and Legal services institutions. This will no longer require any physical movement of the records either in Hard copies or in digitized form thus, avoiding delay on this account.

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