

## \*The Orissa State Legal Aid and Advice Scheme, 1981

**No. 8012-L.**-The Orissa Legal Aid and Advice Scheme, 1981 as recommended by the State Level Committee constituted in Law Department Resolution No. 4615-L. dated the 9th March, 1981 and approved by the Government is hereby published for general information.

### PART-I

#### Preliminary

**1. Short title and commencement** - (1) This Scheme may be called the Orissa State Legal Aid and Advice Scheme, 1981.

(2) It shall come into force on such date as the Board may, by notification in the *Official Gazette*, appoint.

**2. Definitions**-In this Scheme unless the context otherwise requires-

- (a) "aided person" means a person to whom legal aid is provided or legal advice is given in accordance with the provisions of this Scheme;
- (b) "Board" means the Orissa State Legal Aid and Advice Board;
- (c) "Committee" means the High Court, District, Sub-division or Tahsil Legal Aid and Advice Committee constituted in accordance with this Scheme;
- (d) "Court" includes any Tribunal or Authority in the State;
- (e) "Form" means a Form appended to this Scheme;
- (f) "High Court" means the High Court of Orissa;
- (g) "legal advice" means any oral or written legal advice as the nature of the case may require;
- (h) "legal aid" means legal aid in any or all of the modes provided in Clause 22 of this scheme;
- (i) "legal practitioner" shall have the meaning assigned to that expression in the Advocates Act, 1961;
- (j) "legal proceeding" means any proceeding in any Court, including any preparatory steps in connection with such proceeding.

### PART-II

#### Constitution, powers and functions of Committees

**3. Committees**-For the purpose of administering and implementing the legal aid programme in the State, the Board shall constitute the following Committees, namely :

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\*. Published *vide* Law Deptt Notfn. No. 8012-L./5.5.1981.

- (1) The High Court Legal Aid and Advice Committee for the High Court, and for other Courts as may be specified by the Government from time to time in this behalf in relation to the provisions of legal services at the High Court or such other Courts.
- (2) The District Legal Aid and Advice Committee, for every district in relation to the provision of legal services at the Headquarters of the district, and for supervision of legal services in the district.
- (3) The Sub-division Legal Aid and Advice Committee for every Sub-division (except Sub-divisions whose Headquarters are located at the Headquarters of the district) in relation, to provisions of Legal Services at the Headquarters of Sub-division and for supervision of legal services in the Sub-division.
- (4) The Tahasil Legal Aid Advice Committee for every Tahasil (except, Tahasil whose Headquarters are located at the Headquarters of the Sub-division) in relation to provision of Legal Services in the Tahasil.

#### 4. Composition of High Court Legal Aid and Advice Committee-

(1) The High Court Legal Aid and Advice Committee shall consist of the following members, namely :

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|--|-----|---------------|
| (1) Executive Chairman of the Board  | ... | Chairman      |
| (2) The Advocate-General, Orissa   | ... | Vice-Chairman |
| (3) Three representatives of the Orissa High Court Bar Association   | ... | Member        |
| (4) One person representing Scheduled Castes and Scheduled Tribes, to be nominated by the State Government | ... | Member        |
| (5) One person representing Women to be nominated by the State Government                                  | ... | Member        |
| (6) One person engaged in Social Work to be nominated by the State Government                              | ... | Member        |
| (7) Revenue Divisional Commissioner, Central Division  | ... | Member        |

(2) The Member-Secretary of the Board shall act as Member-Secretary of the Committee.

#### 5. Composition of District Legal Aid and Advice Committee-

(1) The District Legal Aid and Advice Committee for each district shall consist of the following members, namely :

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|-------------------------------------|-----|---------------|
| (1) District Judge                  | ... | Chairman      |
| (2) The Collector                   | ... | Vice-Chairman |
| (3) The District Government Pleader | ... | Member        |

- |   |     |          |
|---|-----|----------|
| (4) Public Prosecutor of the District   | ... | Member   |
| (5) Two representatives of the District Bar Association   | ... | Member   |
| (6) One person representing Women, to be nominated by the State Government                                | ... | Member   |
| (7) One person representing Scheduled Castes and Scheduled Tribes to be nominated by the State Government | ... | Member   |
| (8) One person engaged in Social Work to be nominated by the State Government                             | ... | Member : |

Provided that in the absence of the Collector, he can be represented by Additional District Magistrate nominated by him. He however will function as a member.

(2) The Registrar of the Civil Court shall act as Member-Secretary of the District Committee.

#### 6. Composition of Sub-division Legal Aid and Advice Committee-

(1) The Sub-division Legal Aid and Advice Committee shall consist of the following members, namely :

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|--|-----|---------------|
| (1) The Senior most Judicial Officer at the Sub-division Headquarters                                      | ... | Chairman      |
| (2) Sub-divisional Officer   | ... | Vice-Chairman |
| (3) President of the Sub-divisional Bar Association  | ... | Member        |
| (4) One State Counsel to be nominated by the State Government  | ... | Member        |
| (5) One person representing Women, to be nominated by the State Government                                 | ... | Member        |
| (6) One person representing Scheduled Castes and Scheduled Tribes, to be nominated by the State Government | ... | Member        |
| (7) One person engaged in Social Work to be nominated by the State Government                              | ... | Member.       |

(2) A Judicial Magistrate in the Sub-division to be nominated by the State Government shall be the Member-Secretary of the Subdivision Committee.

#### 7. Composition of Tahasil Legal Aid and Advice Committee-

(1) The Tahasil Legal Aid and Advice Committee shall consist of the following members, namely :

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|--|-----|---------------|
| (1) Senior Most Judicial Officer at the Tahasil Headquarters | ... | Chairman      |
| (2) Tahasildar   | ... | Vice-Chairman |

- |   |     |         |
|---|-----|---------|
| (3) Two Legal Practitioners, preferably of the Tahasil to be nominated by the State Government, in consultation with the Chairman | ... | Members |
| (4) One person representing Women, to be nominated by the State Government  | ... | Member  |
| (5) One person representing Scheduled Castes and Scheduled Tribes, to be nominated by the State Government                        | ... | Member  |
| (6) One person engaged in Social Work to be nominated by the State Government   | ... | Member  |

Provided that in the absence of a Judicial Officer at the Tahasil Headquarters the Tahasildar may function as the Chairman.

(2) A Revenue Officer nominated by State Government shall act as Member-Secretary of the Committee.

**8. Term of Office of Members of Committees, etc.**-(1) The term of Office of a Member of the Committee, other than *ex-officio* Members, shall be two years.

(2) Whenever any person is nominated as a Member of the Committee by virtue of the post or office held by him, he shall forthwith cease to be a Member of the Committee if he ceases to hold such post or office.

(3) A non-official Member of the Committee may at any time resign his office by submitting his resignation signed and addressed to the Chairman of the Committee. No such resignation shall take effect until it is accepted by the Chairman of the Committee.

(4) Any vacancy in the Office of a Member of a Committee shall be filled up as early as may be practicable, in the same manner as the original appointment and the person so nominated shall continue to be a member for the duration of the term of Office of the Member in whose place he is nominated. Constitution of any Committee shall not be deemed to be illegal on account of any vacancy in the Office of any member thereof.

(5) On the expiry of the term of Office of a Member, other than *ex-officio* Member, he shall be eligible for re-nomination.

**9. Cell for Conciliation**-(1) Every Committee shall have a Conciliation Cell consisting of such number of members of the Committee and other respectable members of the community, as the Committee may appoint. The Committee, while selecting non-members on such Cell shall have due regard to the fact whether such persons enjoy the confidence of the community and will be able to discharge the functions of bringing about conciliation in a proper and satisfactory manner.

(2) Whenever any person seeking legal aid approaches the Committee and the Committee is of the opinion that he is deserving of legal aid, it shall refer the matter to the Conciliation Cell and the Conciliation

Cell shall issue notice to the opposite party and try to bring about a conciliation between the parties. If a settlement is considered reasonable by the Conciliation Cell and the person seeking legal aid refuses to accept it, then he shall not be entitled to legal aid.

(3) The Court or Authority before which any legal proceeding is pending may, if it so thinks fit, refer the dispute, the subject-matter of the legal proceeding, to the relevant Conciliation Cell for the purpose of bringing about a settlement between the parties. If the Conciliation Cell is unable to bring about a settlement within a period of two months from the date of reference of the dispute to it, the matter shall go back to the Court or the authority for disposal according to law.

**10. Cell for Women-**(1) Every Committee shall have a Cell for Women consisting of such number of members of the Committee and such other persons who are engaged in Social Work within the area of the Committee, as the Committee may appoint. The Committee while selecting non-members on the Cell shall have due regard to the fact whether such persons are social service minded and have experience of working for the welfare of women and are otherwise capable of looking after the interests of women. The Committee shall, as far as possible, try to give preference to women in selecting persons on this Cell.

(2) The Cell shall act as liason between the Committee and the women residing within the area of the Committee and try to ascertain the problems and difficulties which the women may be facing and bring them to the notice of the Committee and take all such steps and make all such recommendations as may be necessary for the purpose of resolving the problems and grievances of women by resort to the legal process. The Cell may also undertake socio-legal surveys and researches into the conditions of women and make recommendations for legal reform to the Board through the Committee.

(3) The Cell shall also look after the interests of women residing within the area of the Committee and protect and further their interests and ensure that the benefit of the legal aid programme reaches them.

**11. Cell for Scheduled Castes and Scheduled Tribes-**(1) Every Committee shall have a Cell for Scheduled Castes and Scheduled Tribes, consisting of such number of members of the Committee and such other persons who are engaged in social work within the area of the Committee as the Committee may appoint. The Committee while selecting non-members on the Cell shall have due regard to the fact whether such persons are social service minded and have experience of working for the welfare of Scheduled Castes and Scheduled Tribes, or are otherwise capable of looking after the interests of persons belonging to Scheduled Castes and Scheduled Tribes. The Committee shall, as far as possible, try to give preference to persons belonging to Scheduled Castes and Scheduled Tribes, in selecting persons on this Cell.

(2) The Cell shall act as liaison between the Committee and the members of the Scheduled Castes and Scheduled Tribes, residing within the area of the Committee and try to ascertain the problems and difficulties which the persons belonging to Scheduled Castes and Scheduled Tribes, are facing and bring them to the notice of the Committee and take all such steps and make all such recommendations as may be necessary for the purpose of resolving the problems and grievances of members of Scheduled Castes and Scheduled Tribes, by report to the legal process. The Cell may also undertake socio-legal surveys and researches into the conditions of persons belonging to Scheduled Castes and Scheduled Tribes, and make recommendations for legal reform to the Board through the Committee.

(3) The Cell shall also look after the interest of persons belonging to Scheduled Castes and Scheduled Tribes residing within the area of the Committee and protect and further their interests and ensure that the benefit of the legal aid programme reaches them.

**12. Duties, powers and functions of Committees-**(1) It shall be the duty of the Committee to set up, administer and implement the legal services programme within the area for which it is constituted, and for this purpose to take all such steps as may be necessary and in accordance with the provisions of this scheme and the directions which may from time to time be issued by the Board.

(2) Without prejudice to the generality of the foregoing provisions, the Committee shall exercise the following powers and perform the following functions, namely :

- (a) to receive and investigate applications for legal aid and advice;
- (b) to provide for giving of legal advice;
- (c) to maintain panels of legal practitioners and others for giving legal aid or advice;
- (d) to decide all questions as to the grant of, or withdrawal of legal aid;
- (e) to arrange to make payment of honorarium to legal practitioners on the panel for legal aid or advice provided by them and generally to provide for other costs, charges and expenses of legal aid from the grants placed at the disposal of the Committee;
- (f) to take proceedings for recovery of costs, charges and expenses recoverable under Sub-clause (2) of Clause 31 and to ensure that the same are credit to Government;
- (g) to provide for other legal service to the weaker sections of the community within its area;
- (h) to submit recommendations and suggest improvements in the working of the legal service programme;

- (i) to prepare, consolidate and submit such returns, reports and statistical information in regard to the legal service programme within its area, as the Board may call for;
- (j) irrespective of the means test, to initiate proceedings or grant aid-
  - (i) in cases of great public importance; or
  - (ii) in a test case, the decision of which is likely to effect cases of numerous other persons belonging to the weaker section of the community; or
  - (iii) in a special case, which for reasons to be recorded in writing, is considered otherwise deserving of legal aid.

(3) The District Legal Aid and Advice Committee shall, in addition to the aforesaid powers and functions-

- (a) supervise, guide and direct the working of the Sub-division and Tahasil Legal Aid and Advice Committee within the district ; and
- (b) call for from the Sub-division and Tahasil Legal Aid and Advice Committees in the district, such periodical reports, returns and other statistics or information as it may think fit or as are required to be submitted by the Board.

(4) Every Committee may constitute Sub-committees for the more convenient transaction of its business.

(5) Subject to the general superintendence and control of the Board, every Committee shall exercise the powers and perform the functions conferred or imposed upon it by or under this Scheme.

**13. Functions of Chairman of Committee-**(1) The Chairman of a Committee shall be in overall charge of the administration and implementation of the Legal Aid Programme within the area for which the Committee is constituted :

Provided that the Chairman shall not directly concern himself with any question as to the grant or withdrawal of legal aid to any person.

(2) In the absence of the Chairman, the Vice-Chairman shall perform the functions of the Chairman.

**14. Functions of the Member-Secretary-**(1) The Member-Secretary shall be the principal officer of the Committee and shall be the custodian of all assets, amounts, records and funds placed at the disposal of the Committee.

(2) The Member-Secretary shall maintain true and proper accounts of the receipts and disbursement of the funds of the committee.

(3) The Member-Secretary shall convene meetings of the Committee with the previous approval of the Chairman and shall also attend meetings and shall be responsible for maintaining a record of the minutes of the proceedings of the meetings.

(4) The Member-Secretary, if the Committee so decides may be, assisted by a Legal Practitioner from amongst the panel on payment of such allowance as the Committee may decide from time to time.

**15. Meetings of the Committee-**(1) Every Committee shall ordinarily meet once a month on such date, and at such place, as the Member-Secretary may, in consultation with the Chairman, decide.

(2) The Chairman, and in the absence of the Chairman, the Vice-Chairman, shall preside at the meetings of the Committee and in the absence of both, a person chosen by the members present from amongst themselves shall preside at the meeting of the Committee.

(3) The procedure at any such meeting shall be such as the Committee may determine.

(4) The minutes of the proceedings of each meeting shall be truly and faithfully maintained by the Member-Secretary and such minutes shall be open to inspection at all reasonable times by the Members of the Committee. A copy of the minutes shall, as soon as may be after the meeting, be forwarded to the Board, and in the case of a meeting of the Sub-division and Tahasil Legal Aid and Advice Committee, a copy of the minutes shall also be forwarded to the District Legal Aid and Advice Committee.

(5) The quorum for the meeting of the High Court Legal Aid and Advice Committee shall be four including the Chairman, and that of the District and Sub-division and Tahasil Legal Aid and Advice Committee shall be four including the Chairman

(6) All questions at the meeting of the Committee shall be decided by the majority of the Members present and voting and in case of a tie, the person presiding shall have a second or casting vote.

**16. Travelling and daily allowances to Members of Committees-**(1) No Member of any Committee shall be entitled to any remuneration for any work connected with the functions of the Committees.

(2) The Member of the Committee who is nominated from amongst the Members of the State Legislature shall be paid travelling and daily allowances as may be admissible to him as Member of State Legislature.

(3) The *ex-officio* Members of the Committee shall be entitled to travelling and daily allowances according to the rules applicable to them.

(4) The non-official members of the Committee, shall be entitled to travelling and daily allowances as admissible to Grade-I Officers of the State Government under the normal rules.

**17. Funds of Committees-**(1) The Board shall from time to time allocate funds to each Committee out of the amounts placed at its disposal by the State Government or from any other source for the purpose of enabling the Committee to carry out its functions under the Scheme.



(2) For the purpose of meeting the incidental charges such as Court-fee stamps and expenditure necessary for obtaining copies of documents from Court, a permanent advance of the amount specified below shall be placed at the disposal of the Member-Secretary of the Committee, namely :

- |     |  |           |
|-----|--|-----------|
| (a) | The Member-Secretary of the High Court<br>Legal Aid and Advice Committee | Rs. 2,000 |
| (b) | The Member-Secretary of a District<br>Legal Aid and Advice Committee     | Rs. 1,000 |
| (c) | The Member-Secretary of a Sub-division<br>Legal Aid and Advice Committee | Rs. 500   |
| (d) | The Member-Secretary of a Tahasil<br>Legal Aid and Advice Committee      | Rs. 250   |

(3) All expenditure on Legal Aid or Legal Advice, travelling and other allowances, accommodation and staff of the Committee and provision of other legal services as also expenditure necessary for carrying out the various functions of the Committee under the Scheme, shall be made out of the funds provided by the Board, and in accordance with such rules as may be made by the Board. The Member-Secretary shall operate the account of the Committee in accordance with the directions of the Committee.

(4) The Committee shall cause to be kept and maintained true and correct accounts of all receipts and disbursements, and furnish quarterly returns to the Board, and in the case of the Subdivision and Tahasil Legal Aid and Advice Committees such quarterly returns shall also be furnished to the District Legal Aid and Advice Committee.

(5) The accounts of every Committee shall be audited at such intervals and by such auditors as the State Government may direct. A copy of the Audit report shall be forwarded to the Board.

**18. Staff, office accommodation, etc.**-The State Government may make the necessary arrangements for staff, office accommodation and other facilities as are necessary for the proper discharge of the functions of the Committees under this Scheme.

### PART-III

#### Legal Aid and Advice

**19. Eligibility for Legal-Aid and Advice**-Legal Aid or Advice may be given to all persons who are *bona fide* residents of the State of Orissa and whose total annual income from all sources, whether in cash or in kind or partly in cash and partly in kind does not exceed [Rs.12,000 ]:

1. Substituted *vide* Orissa Gazette Ext. No. 1435/16.11.1990 -Notfn. No. 3784-L.A.A.B./16.11.1990.

Provided that, the limitation as to annual income shall not apply to Scheduled Castes, Scheduled Tribes, women and children :

Provided further that the Committee may grant Legal Aid -

- (i) in cases of great public importance; or
- (ii) in a test case, the decision of which is likely to affect cases of numerous other persons belonging to the weaker sections of the Community; or
- (iii) in a special case, which for reasons to be recorded in writing, is considered otherwise deserving of Legal Aid even where the means test is not satisfied.

**20. Proceedings in which Legal Aid is admissible-**Subject to the provisions of Clauses 19 and 23 and Sub-clause (5) of Clause 25, the Committee shall give Legal Advice as also Legal Aid in all proceedings in any Court.

**21. Matters on which Legal Advice admissible-**Legal Advice may be given in all matters and such advice shall be aimed at-

- (a) amicable settlement of the dispute by bringing, about conciliation between the parties to the dispute;
- (b) rendering assistance in complying with various legal requirements in order to secure the benefits under various schemes sponsored by or on behalf of the Central or State Government or any other public authority for the welfare of the general public or any section thereof.

**22. Modes of Legal-Aid-**Legal-Aid may be given in all of any one or more of the following modes, namely :

- (a) payment of Court-fees, process fees, expenses of witnesses and all other charges payable or incurred in connection with any legal proceedings;
- (b) representation by a legal practitioner in legal proceedings;
- (c) supply of certified copies of judgments, orders, notes of evidence and other documents in legal proceedings;
- (d) preparation of Appeal Paper Book, including printing and translation of documents, in legal proceedings; and
- (e) drafting of legal documents.

**23. Legal Aid not to be given in certain cases -**Legal Aid shall not be given in the following cases, namely :

- (1) Proceedings wholly or partly in respect of-
  - (a) defamation; or
  - (b) malicious prosecution;
- (2) Proceedings relating to any election;

- (3) Proceedings incidental to any proceedings referred to items (1) and (2);
- (4) Proceedings in respect of offences punishable with fine only;
- (5) Proceedings in respect of economic offences and offences against social laws, such as the Protection of Civil Rights Act, 1955, and the Suppression of Immoral Traffic in Women and Girls Act, 1956;
- (6) Where a person seeking Legal Aid-
  - (a) is concerned with the proceedings only in a representative or official capacity ; or
  - (b) is concerned with the proceedings jointly with some other person or persons whose interests are indetical with his and such person or any of such persons is adequately represented in the proceedings ; or
  - (c) is a formal party to the proceedings, not materially concerned in the out-come of proceedings and his interests are not likely to be prejudiced on account of the absence of proper representations.

#### PART-IV

#### Procedure

**24. Form of application for Legal Aid or Advice-**(1) Any person desiring Legal Aid or Advice may make an application in Form 'A', addressed to the Member-Secretary of the Committee concerned. But if the applicant is illiterate or not in a position to fill in the particulars required in the application, the Member-Secretary shall gather the necessary particulars from the applicant and fill up the application form on his behalf and after reading it out and explaining it to him, obtain his signature or thumb mark on it.

(2) The Committee shall maintain a register of applications wherein all applications for Legal Aid and Advice shall be entered and registered.

**25. Disposal of applications-**(1) On receipt of an application under Clause 24, the Member-Secretary or a Lawyer on the panel of Legal Practitioners, who is assigned, the particular duty, by the Member-Secretary, shall scrutinise the application for the purpose of deciding whether the applicant is deserving of Legal Aid in accordance with the provisions of this Scheme and for the purpose of arriving at such decision, he may require the applicant to supply further information as may be necessary and also discuss the matter personally with the applicant and in doing so he shall have regard to the fact that the applicant belongs to a weaker section of the community and is required to be assisted even in the matter of obtaining Legal Aid. The application shall be processed as early as possible and preferably within fifteen days.

(2) The decision of the Member-Secretary or the Lawyer on the Panel of Legal Practitioners, who scrutinises the application as provided

in Sub-clause (1) above, to give Legal Aid shall be final. If the Member-Secretary or the Lawyer concerned is of the opinion that the applicant is not deserving of legal aid, he shall place the matter before the Committee, whose decision shall be final.

(3) Where it is decided not to give Legal Aid to an applicant, the reasons for not doing so shall be entered in the Register of Applications maintained by the Committee and information in writing to that effect shall be communicated to the applicant.

(4) Before giving actual Legal Aid; the matter shall be referred by the Member-Secretary to the Conciliation Cell for the purpose of bringing about settlement between the parties. If for any reason not connected with the intransigence or obduracy of the applicant, the settlement cannot be arrived at, the Conciliation Cell shall make a failure report to the Member-Secretary and the Member-Secretary shall have regard to the nature of the case, the experience of the lawyer and also the willingness and capacity of the lawyer to handle the matter and as far as possible the case may be assigned to the lawyer on the panel by rotation.

(5) No application for Legal Aid or advice shall be granted, or continued after the Legal Aid is granted, if the Committee is satisfied that -

- (a) the applicant has knowingly made false statement or furnished false information as regards his means or place of residence; or
- (b) in a proceeding, other than the one relating to criminal prosecution there is no *prima facie* case to institute, or as the case may be, to defend the proceeding; or
- (c) the application is frivolous or fictitious; or
- (d) the applicant is not entitled to the same under Clause 23 or any other provision of this Scheme; or
- (e) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

**26. Certificate of eligibility-**(1) Where an application for Legal Aid or Advice is allowed, the Member-Secretary of the Committee shall issue a Certificate of Eligibility to the applicant entitling him to Legal Aid or Advice in respect of the proceeding concerned. The certificate shall be in Form 'B'.

(2) The Certificate of Eligibility shall entitle the aided person to claim legal aid or advice as may be specified in the certificate.

(3) The Certificate of Eligibility shall stand cancelled if the Legal Aid is withdrawn and the Lawyer to whom the case of the applicant is assigned as also the Court before which the case is pending shall be informed accordingly, in writing.

**27. Panels for Legal Aid and Advice-**(1) Every Committee shall form such number of Panels of Legal Practitioners as it may consider necessary.

(2) Every such Panel shall be constituted for a period of two years from the date of its constitution.

(3) Appointment of a legal practitioner for Legal Aid or advice under this Scheme shall be made from the Panel of Legal Practitioners constituted by the Committee.

(4) Every person included in the Panel shall be required to communicate in writing to the Chairman of the Committee concerned, his willingness to serve on the Panel.

(5) Any person on the Panel may tender his resignation in writing to the Chairman of the Committee.

(6) Any vacancy in the Panel caused by resignation or otherwise, may be filled up by the Committee, as soon as possible.

(7) If any person after having agreed to serve on a Panel, neglects or refuses to discharge his duties properly, the Committee may delete his name from the Panel after giving him opportunity to be heard.

(8) If any person after having agreed to serve on a Panel, neglects or without sufficient cause refuses to accept an assignment, or is otherwise guilty of misconduct or is guilty of breach of any of the provisions of this Scheme, he shall be liable to be removed from the Panel, after he has been given an opportunity of being heard.

(9) Save as otherwise directed by the Committee, a Legal Practitioner who ceases to be on the Panel, whether on account of resignation or otherwise, shall as soon as practicable, after he so ceases to be on the Panel, deliver up all the papers pertaining to cases entrusted to him to the Member-Secretary of the Committee.

**28. Duties of Panel Members-**(1) Where the Committee has extended legal aid or advice, then-

(a) Where it is a case of Legal Advice, the Legal Practitioner shall hear the aided person or any other person representing him, examine the papers and documents relating to the case and tender in writing his opinion on the merits and advice thereon; and

(b) Where it is a case of Legal Aid, the Legal Practitioner shall represent the aided person and act and plead for him in the legal proceeding. However the legal practitioner, who had tendered Legal Advice shall not represent the aided person to act and plead for him in the legal proceedings.

(2) (a) Where action is taken by a Legal Practitioner under Sub-clause (a) of Clause (1), he shall give his opinion and advice to the aided Person and also send a copy of the same to the Member-Secretary of the Committee.

(b) Where action is taken by a Legal Practitioner under Sub-clause (b) of Clause (1), he shall forthwith make a report to the Member-Secretary of the Committee, on the action taken by him and also make

monthly reports to the Member-Secretary in regard to the progress of the legal proceeding. The Legal Practitioner shall act in accordance with such instructions as may be given to him, from time to time by the Committee.

**29. Information to be kept confidential-**Any information furnished or instructions given to the Committee of any Legal Practitioner by any aided person in respect of his case shall be kept confidential by the Committee, or as the case may be, by the Legal Practitioner and shall be used only in the due performance of the function of providing Legal Aid or advice to the aided person, but with the consent in writing of the aided person, it may also be used for any other purpose. No such information shall, however, be used against the interest of the aided person, unless required by law.

**30. Honorarium payable to Legal Practitioners on the Panel-**

(1) The legal practitioners on the Panel shall be paid following honorarium, namely:

(a) In all cases before Courts and Tribunals except before the High Court, the honorarium shall be as follows :

1. Suits	Rs. 300
Probate proceedings	Rs. 300
Drafting of plaint	Rs. 50
Drafting of written statement	Rs. 50
2. Original proceedings before Criminal and Revenue Courts	Rs. 250
3. Appeals from original decree ...	Rs. 250
4. Appeal from orders ...	Rs. 150
5. Criminal appeals and revisions against orders of conviction ...	Rs. 260
6. Other revisions ...	Rs. 150
7. Other proceedings ...	Rs. 160

(b) In all cases before the High Court, the honorarium shall be as follows:

1. First Appeal ...	Rs. 350
2. Second Appeal up to admission ...	Rs. 100
Hearing ...	Rs. 200
3. Misc. Appeal up to admission ...	Rs. 75
Hearing ...	Rs. 150
4. Civil Revision up to admission ...	Rs. 100
Hearing ...	Rs. 100

1. Substituted *vide* Orissa Gazette Ext. No. 1435/15-11-1990-Notfn. No. 3784-L.A.A.B./16.11.1990.

5.	O. J. C. up to admission	...	Rs. 100
	Hearing	...	Rs. 200
6.	Criminal Appeals and Government Appeal	...	Rs. 300
7.	Criminal Revision up to admission	...	Rs. 100
	Hearing	...	Rs. 100
8.	Proceeding under Section 482 of the Code of Criminal Procedure, 1973 up to admission	...	Rs. 100
	Hearing	...	Rs. 100]

(c) In all cases for Legal Advice Rupees 30 per case.

(2) No Legal Practitioner to whom any case is assigned either for legal advice or for Legal Aid shall receive any fee or remuneration whether in cash or in kind or any other advantage monetary or otherwise, from the aided person or from any other person on his behalf.

(3) The Legal Practitioner on the panel, who has completed his assignment, shall submit a statement showing the honorarium due to him in connection with the legal proceeding conducted by him on behalf of the legally aided person, to the Member-Secretary, of the Committee, who shall after due scrutiny and counter-signature, place the same before the Committee for sanction and on such sanction being given by the Committee, the amount shall be paid by the Member-Secretary to the Legal Practitioner. It shall, however, be open to the legal practitioner to waive the honorarium wholly or partially.

**31. Duties of aided person-**(1) A person seeking legal aid of advice shall comply with any requisition or direction that may be made upon him by the Committee or any of its Members from the date the application for legal aid or advice is made till the completion or cessation of Legal Aid or cancellation of the Certificate of Eligibility.

(2) Every such person shall execute an agreement in Form 'C' agreeing in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit or advantage, to repay by way of reimbursement to the Committee all costs, charges and expenses incurred by the Committee in giving him legal aid. For facilitating such reimbursement he shall execute an irrevocable Power of Attorney in Form 'D' authorising the Member-Secretary of the Committee to do all such acts and things as may be necessary for recovery or realisation of the amount decreed or ordered to be paid to him. The costs, charges and expenses which may be recovered by the Committee as aforesaid shall be credited to the State Government.

(3) Every aided person or his representative shall attend the office of the Committee as and when required by the Committee or by the legal practitioner rendering legal aid to him and shall furnish full and true information and shall make full disclosure to the legal practitioner

concerned and shall attend the Court, as and when required, at his own expenses.

**32. Cancellation of Certificate of Eligibility**-The Committee may either on its own motion or otherwise cancel the Certificate of Eligibility granted under Clause 26 in the following circumstances, namely:

- (a) in the event of it being found that the Certificate of Eligibility was obtained by misrepresentation or fraud;
- (b) in the event of any material change in the circumstances of the aided person;
- (c) in the event of any misconduct, misdemeanor or negligence on the part of the aided person in the course of receiving legal aid;
- (d) in the event of the aided person not co-operating with the Committee or with the legal practitioner assigned by the Committee;
- (e) in the event of the aided person engaging a legal practitioner other than the one assigned by the Committee;
- (f) in the event of death of the aided person, except in the case of civil proceedings where the right or liability survives;
- (g) in the event of externment under any law for the time being in force, of the aided person, from the area or place of his residence or business :

Provided that, no such Certificate of Eligibility shall be cancelled without giving due notice thereof to the aided person or to his legal representatives in the event of his death, to show cause as to why the certificate should not be cancelled.

**33. Power to give directions**-The board may, from time to time, issue directions to the Committees to carry out the purposes of this Scheme and the Committees shall be bound to carry out such directions.

#### FORM 'A'

[See Clause 24]

#### Form of application for Legal Aid or Advice

To

The Member-Secretary.....Committee

Sir,

I.....aged about..... son/  
daughter/wife/widow of.....at present residing at .....beg  
to apply for legal aid/advice under the following circumstances, namely:

1. I am employed/not employed-

- (a) Nature of employment/occupation/trade/business.....
- (b) Whether employed in the Army, Navy or Air Force or Police Force, or retired therefrom.....
- (c) Since what time.....



2. My monthly income is.....
3. (a) My residential premises are rented in my name or jointly or they are owned by me alone or jointly.....  
(b) The rent thereof or the value thereof.....
4. I, have agricultural lands at .....bearing survey No.....  
..... paying assessment of Rs.....per  
annum..... (state, if owned or taken on rent)-  
(a) Income thereof is.....  
(b) Value of produce thereof is.....
5. My other sources of income, are.....(give particulars)
6. My other assets/properties/effects and their value.....
7. I have/have not disposed of any of my properties/assets and effects within a period of six months prior to the date of this application by way of sale, gift, mortgage of otherwise.....
8. The number of members of my family are .....and their relationship with me is as under :
9. The number of dependent members in my family are .....and their relationship with me is as under :
10. The income, if any, of other members of my family residing with me is as under :
11. The nature of legal aid or advice required is in respect of ..... (State the nature of dispute, claim or right and state the documents in support thereof. State also separately the origin of dispute, claim or right or other relevant particulars thereof.)
12. The proof in support of my aforesaid claim/right/dispute/defence is as under :
13. I have/have not applied for legal aid or advice previously. If yes, state the content or substance thereof or the result thereof.....(if any advice has been received please disclose the same.)
14. I am willing to furnish such further information as may be required for the purpose of enabling you to consider this application fully.....
15. I am/am not in a position to pay Court cost and costs of miscellaneous proceedings.....(The applicant may also state the amount which he is prepared, to pay by way of costs and miscellaneous costs or a proportion or part thereof).
16. I shall reimburse the State Government all cost, charges and expenses incurred by the Committee in giving me legal aid, if the Court passes a decree or order in my favour awarding costs to me or their monetary benefits or advantage or if I cease to be entitled to legal aid under this Scheme.....

17. The above statements are true to the best of my knowledge and belief.

Date.....

Place.....

Signature of applicant

**FORM 'B'**

**[See Clause 26]**

The High Court ..... District/Sub-division/Tahasil/Legal Aid and Advice Committee.....

**Certificate of Eligibility**

This is to certify that with reference to application, dated the .....20..... Shri/Shrimati ..... residing at..... is entitled to receive legal aid or advice in respect of legal proceeding, particulars whereof are given below :

Name of Court/Tribunal/Authority :

Number and description of the legal proceeding :

Name and address of opponent :

Extent of aid to be given :

Other relevant particulars :

Place.....

Date.....

Chairman (Member-Secretary) High Court,.....District, Sub-division, Tahasil, Legal Aid and Advice Committee

**FORM 'C'**

**[See Clause 3 (2)]**

**Form of agreement to be executed by an applicant for grant of Legal Aid**

This agreement made the ..... day of ..... between son/wife/daughter of ..... aged ..... years, residing at..... (hereinafter referred to as "the applicant") of the one part and the Governor of Orissa exercising the executive power of the Government of the State of Orissa (hereinafter referred as "the Government") of the other part ;

Whereas, in pursuance of Article 39-A of the Constitution of India the Government of Orissa has constituted a Board called "The Orissa State Legal Aid and Advice Board" (hereinafter referred to as "the Board") to take steps to provide legal aid to the weaker sections of the community in the State of Orissa;

And whereas, the Government have for the purpose framed a scheme called the Orissa State Legal Aid and Advice Scheme, 1981, (hereinafter referred to as "the said Scheme") ;

And whereas, the applicant has under the said Scheme applied on the .....20....for legal aid in connection with\* .....(hereinafter referred to as "the said proceeding") which the Government has agreed to grant under the said Scheme through the\*\* ..... Committee (hereinafter referred to as "the Committee") ;

And whereas, under the provisions of the said Scheme, the applicant has under certain circumstances mentioned therein to repay to the Committee for and on behalf of the Government as and by way of reimbursement the amount of costs, charges and expenses incurred in connection with the said proceeding by the Government through the Board/the Committee for and on behalf of the applicant as and by way of legal aid under the said Scheme and the applicant is required to execute an agreement for the purpose in the prescribed form being in fact these presents.

NOW THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED AND DECLARED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS :

1. In consideration of the applicant being granted legal aid as aforesaid under the said Scheme in connection with the said proceeding the applicant doth hereby covenant and agree as follows :

- (i) In the event of the applicant succeeding in the said proceeding and the Court passing any decree or order awarding costs in favour of the applicant or the Court passing any decree or order for payment to the applicant of any amount whatsoever the applicant shall repay to the Committee for and on behalf of the Government as and by way of reimbursement, all costs, charges and expenses incurred by the Government through the Committee for and on behalf of the applicant in connection with the said proceeding as and by way of legal aid under the said Scheme.
- (ii) The Committee for and on behalf of the Government may take such action or proceedings as it thinks fit for executing any decree or order passed by the Court in the said proceeding in favour of the applicant and recovering the amount decreed or ordered in the said Proceeding to be paid to the applicant and appropriate therefrom the amount of costs, charges and expenses incurred in connection with the said Proceeding by the Government through the Committee for and on behalf of the applicant as and by way of legal aid under the said Scheme and the applicant doth hereby authorise the Committee to do so. The applicant shall render to the Committee all such assistance as may be required by it for the purpose.

\*. Fill in the particulars of the proceeding for which legal aid has been applied for.

\*\* Mention the full name of the Committee granting the legal aid.

(iii) If the applicant fails to repay to the Committee for and on behalf of the Government the amount as aforesaid or any part thereof the same shall be deemed to be arrears of land revenue and the Government and/or Committee for and on behalf of Government may without prejudice to any other rights and remedies of the Committee and the Government recover the same from the applicant as arrears of land revenue.

2. The Government will bear and pay the stamp duty on this agreement.

In witness whereof the applicant has hereto set his hand and the Governor of Orissa has caused .....to set his hand and affixed his Official Seal hereto for and on his behalf the day and year first hereinabove signed and delivered by.....

the within named Shri/Smt./Kumari

The applicant above-named in the presence of-

- 1.....
2.....

Signed, sealed and Delivered by Shri\*.....

\* Here enter the name and designation of the officer concerned who has been authorised to execute contract on behalf of the Governor of Orissa under Article 299 (1) of the Constitution of India.

.....for and on behalf of the Governor of Orissa in the presence of-

- 1.....
2.....

FORM 'D'

[See Clause 31 (2)]

Form of irrevocable Power of Attorney

TO ALL TO WHOM THESE PRESENTS SHALL COME

I.....son/wife/daughter of ..... aged ..... years, residing at..... SEND GREETING

Whereas in pursuance of Article 39-A of the Constitution of India the Government of Orissa have constituted a Board called "The Orissa State Legal Aid and Advice Board" (hereinafter referred to as "the said Board") to take steps to provide legal aid to the weaker sections of the community in the State of Orissa ;

And whereas the Government have for the purpose framed a scheme called the Orissa State Legal Aid and Advice Scheme, 1981 (hereinafter referred to as "the said Scheme") ;

And whereas I have under the said Scheme applied for legal aid in connection with\*..... (hereinafter referred to as "the said Proceeding") which the.....Board/Committee\*\*.....on behalf of the Government has agreed to grant under the said Scheme (hereinafter referred to as "the Committee"); And whereas under the provisions of the said Scheme, the applicant has under certain circumstances mentioned therein to repay to the Board for and on behalf of the Government as and by way of reimbursement the amount of costs, charges and expenses incurred in connection with such proceeding by the Government through the Committee for and on behalf of the applicant as and by way of Legal Aid under the said Scheme;

And whereas as required by the said Scheme by an agreement of even date but executed prior to the execution of these presents and made between myself (therein referred to as "the applicant") of the one part and the Governor of Orissa exercising the executive power of the Government of the State of Orissa, (therein and hereinafter referred to as "the Government") of the other part it has been agreed *inter alia* that the Committee for and on behalf of the Government may take such action or proceeding as it thinks fit and executing the decree or order passed by the Court in the said Proceeding in my favour and recovering the amount decreed or ordered in the said Proceeding to be paid to me and to appropriate therefrom the amount of costs, charges and expenses incurred in connection with the said Proceeding by the Government through the Committee for and on my behalf as and by way of legal aid under the said Scheme and I have thereby authorised the Committee to do so;

And whereas as per the provisions of the said Scheme the applicant to whom the Government has agreed to grant legal aid through the Committee has to execute an irrevocable Power of Attorney in favour of the Committee appointing ..... as his/her Attorney *inter alia* for enabling the Committee to take such action or proceedings as it thinks fit for executing the decree or order passed by the Court in my favour in the said Proceeding and for recovering the amount decreed or ordered in the said Proceeding to be paid to me as aforesaid-

NOW KNOW YE AND THESE PRESENTS WITNESS THAT I.....do hereby irrevocably nominate, constitute and appoint the Member-Secretary of the Committee (hereinafter referred to as "the Attorney") to be my true and lawful Attorney for me and on my behalf and in my name or in the name of the Attorney to do, execute and perform the following acts, deeds, matters and things, that is to say-

\*. Fill in the particulars of the proceeding for which legal aid has been applied for.

\*\* Mention the full name of the Committee.

(1) To ask, demand, recover and receive from the party who has been decreed or ordered in the said Proceeding to pay me the amount/ is specified therein and upon receipt thereof or any part thereof in my name or in the name of the Attorney, as the case may require, to make, sign, execute and deliver such receipts, releases or other discharges for the same respectively as the Attorney shall think fit or be advised.

(2) To commence, prosecute and enforce proceedings for realisation of the amount of any decree or order passed in the said Proceeding in my favour or whereunder any amount is decreed or ordered to be paid to me including applications for execution of the said decree or order and for the purpose to sign, declare and affirm all applications, petitions, affidavits that may be necessary and appoint Advocates on such terms and conditions including fees payable to them as the Attorney shall think fit and to sign Vakalatnama and necessary authority in their favour and from time to time to discharge them and to appoint or employ others in their place and stead.....

(3) To compromise, refer to arbitration, abandon or submit to, judgment in any such proceedings specified in Clause (2) above.

(4) To concur in doing any of the acts, deeds, matter and things hereinbefore mentioned in conjunction with any other person or persons interested in the premises :

IN GENERAL to do all other acts, deeds, matters and things whatsoever or about the recovery or realisation of the amount which has been decreed or ordered to be paid to me in the said Proceeding as amply and effectually to all intents and purposes as I could do in my own proper person if these presents had not been executed ;

AND I HEREBY RATIFY AND CONFIRM AND AGREE TO RATIFY AND CONFIRM whatsoever the Attorney shall do or purport to do by virtue of these presents;

AND I DECLARE that the power hereby created shall be irrevocable till the Committee for/and on behalf of the Government is repaid or realises the said amount of costs, charges and expenses incurred in connection with the said Proceeding by the Government through the Committee for and on my behalf as and by way of legal aid under the said Scheme.

IN WITNESS WHEREOF I..... have hereunto set my hand this ..... day of..... in the year Two thousand and .....

Signed and delivered by the ..... within named in ..... the presence of :

- (1)
- (2)

By order and in the name of the Governor of Orissa

