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NOTIFICATION

No.LJD.202/83/359, the 21st March, 1989. The Mizoram Legal Aid & Advice Scheme, 1986.

(The Mizoram Legal Aid Advice Scheme, 1986 was approved by the Administrator Mizoram on 7.3.86.)

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THE MIZORAM LEGAL AID AND ADVICE SCHEME 1986.

Whereas Article 39 A of the Constitution of India requires that the State shall amongst other things, provide free legal aid by suitable legislation or schemes to ensure that opportunities for securing justice are not denied to any citizen by reasons of economic or other disabilities ;

And, whereas, the Government of Mizoram have decided to establish a programme for providing free legal services to the weaker sections of the community ;

Now, therefore, for effective implementation of the free legal services in the Union territory of Mizoram and for purposes connected therewith, the Government of Mizoram hereby make the following scheme, viz -

THE MIZORAM LEGAL AID AND ADVICE SCHEME, 1986.

Short title and commencement. 1. (1) This scheme shall be called the Mizoram Legal Aid and Advice Scheme, 1986.

(2) They shall come into force from the date of their publication in the Government Gazette

Definitions 2. (1) this scheme unless the context otherwise requires-

(a) "Advisory Board" means the Advisory Board Constituted under clause 6;

(b) "Aided Person" means a person to whom legal aid is provided or legal advice is given in accordance with the provisions of this Scheme ;

(c) "Board" means the Mizoram Legal Aid and Advice Board constituted under clause 3;

(d) "Court" means all Civil and Criminal Courts and tribunals. Whether original or appellate and the courts constituted under Sixth Schedule to the Constitution or under any local or special law but does not include any Foreign Court as defined in Sec. 2 (5) of the Code of Civil Procedure, 1908, or any Court Martial as defined in Sec. 3(vii) of the Army Act, 1950.

(e) "District Committee" means the District Legal Aid and Advice Committee constituted under clause 5,

- (f) "Form" means a form appended to this Scheme ;
- (g) "Government" means the Government of Mizoram,
- (h) "Legal advice" means oral or written legal advice as the case may be;
- (i) "Legal aid" means aid or assistance provided under this scheme and includes legal advice;
- (j) "Legal proceedings" means any proceedings in any Court or tribunal constituted under any law and include preparatory steps connected with such proceedings;
- (k) "Penal Lawyer" means Advocates and Lawyers approved by the Government of Mizoram from time to time;
- (l) "Schemes" means the scheme for providing-legal-aid to the indigent or needy litigants under this scheme;

Constitutions of the Board

3. (1) There shall be a Board to be known as the Mizoram Legal Aid and Advice Board for the whole of the Union Territory of Mizoram.
- (2) The Headquarters of the Board shall be at Aizawl or at such place as the Government may from time to time determine.
- (3) The Board shall consist of the following : persons as members, namely :-
- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| (a) Minister-in-charge, Law and Judiciary | : President |
| (b) A Judge of the Gauhati High Court as may be nominated by the Chief Justice: | Vice President |
| (c) A sitting or a retired judge of the High Court to be nominated by the State Govt. with the concurrence of the Chairman CILAS as also in consultation with the Chief Justice of the High Court. | : Executive Chairmen |
| (d) Three Members of the Mizoram Legislative Assembly to be nominated by the Government (in consultation with the Speaker, Mizoram Legislative Assembly) | : Members. |
| (e) Chief Secretary | : Member |
| (f) Secretary, Home Department | : Member |
| (g) Secretary, Finance Department | : Member |

- (h) Inspector General of Police Mizoram : Member
- (i) Secretary, Law Department. : Member Secretary
- (j) President, Aizawl Bar Association : Member
- (k) One Lady to be nominated by the Government from a Welfare Organisation : Member

(4) The President of the Board shall appoint a District Judge or Deputy Secretary of the Law Department as Member Secretary for the implementation of the Scheme and the rules, who shall also be responsible for arranging sitting of the Mizoram Legal Aid and Advice Board.

Executive Committee of the Board. 4. The Board may appoint an Executive Committee consisting of members for day to day functions and may delegate such powers as it may deem necessary from time to time.

Constitution of District Committee. 5. There shall be District Legal Aid and Advice Committee for each of Aizawl, Lunglei and Chhimitpui District consisting of the following persons as members, namely:-

(a) For Aizawl District

- (i) District Judge : President
- (ii) Additional Deputy Commissioner : Member Secy
- (iii) President, District Council Court Aizawl. : Member
- (iv) One member of the Aizawl Bar Association to be nominated by that Bar. : Member

(b) FOR LUNGLEI DISTRICT

- (i) Deputy Commissioner, : President
- (ii) Additional Deputy Commissioner : Member Secretary
- (iii) Judicial Officer, Subordinate District Council Court, Lunglei : Member
- (iv) One Advocate to be nominated by the Deputy Commissioner : Member

(c) FOR CHHIMTUITUI DISTRICT

- (i) Deputy Commissioner : President
- (ii) Addl. Dy. Commissioner : Member Secretary
- (iii) One Judicial Officer from each District Council of Chakma, Lakher and Pawi : President
- (iv) One Advocate to be nominated by Deputy Commissioner. : Member

Advisory Board 6. There shall be an Advisory Board consisting of the following persons, namely;

- a) Chief Minister : Chairman
- b) Chairman, Committee for implementing Legal Aid Scheme : Member
- c) Chief Justice or a Judge of Gauhati High Court as may be nominated by the Chief Justice : Member
- d) Minister-in-charge-Law : Member convener
- e) Executive Chairman of the State Legal Aid Advice Board Member to guide and advise Mizoram legal Aid and Advice Board in formulating schemes/projects/programmes to be taken up by the Board for effective and speedy implementation and providing aid to needy poor people.

Terms of office of the Members, of the Legal Aid and Advice Board.

7. 1) Except in the case of Ex-officio members the term of office of all other members of the Board and of the District Committee shall be three years;

Provided that a person appointed as member by virtue of his holding a particular Office shall cease to be such member if he cease to hold that Office.

2) If any nominated member fails without sufficient cause, to attend three consecutive meetings or ceases to represent the interest for which he, she has been nominated, shall cease to be a member.

3) The Government of Mizoram shall have the power to curtail the term of any nominated member at any time, if it finds that such member is not taking sufficient interest in the activities of the Board/Committee.

4) If any member ceases to be a member of the Board/Committee for any reason, the vacancy shall be filled up in the same manner as the original appointment and the person nominated will continue to be a member for the duration of the term of Office of the member in whose place he is nominated.

Powers and Functions of the Board.

8. (1) Subject to the general control of the Government, the Board shall take steps to establish legal aid programme for providing free legal aid and advice to people in the Union Territory of Mizoram.

(2) The Board shall be in overall charge of the administration and implementation of the legal services programme in the Union Territory and shall, in particular exercise the following powers and perform the following functions, namely:—

- (a) to direct various District Committees for arranging through District authorities for making necessary budget provisions each year to meet the expenditure towards the legal aid.
- (b) control, regulate and supervise the working of the various committees,
- (c) lay down policies and give general or special directions to the various Committee for the proper administration and implementation of the legal aid service programme and for proper and adequate discharge of their duties and functions.
- (d) call for and receive from various Committees from time to time such reports, returns and information as may be considered necessary in regard to the administration and implementation of the scheme,
- (e) prepare, consolidate and submit to the Government every year a general report regarding the administration and working of the legal service programme during the previous financial year.
- (f) encourage and promote conciliation and settlement in legal proceedings.
- (g) promote legal literacy and create awareness amongst the weaker sections of the community in regard to the rights benefits and privileges conferred upon them by social welfare legislation and other enactments.
- (h) enlighten the people in rural areas about agrarian and other reforms and facilities made available to them by the Central Government or the Government of Mizoram from time to time and render legal service where necessary,
- (i) arrange for publicity of important legislation concerning weaker section of the society including those dealing with social & economic reform,
- (j) render assistance to the members of the weaker sections of the society in complying with necessary legal requirements in order to secure the benefits under the various schemes sponsored by the Central Government or various schemes sponsored by the Government of Mizoram for the welfare of the public in general, or of any section thereof,
- (k) organise legal aid camps Lok Adalats for the purposes of reaching legal service to the weaker sections of the community in rural areas and in slums,

- (l) arrange for holding Village Council/District Councils meetings in different areas for the purpose of bringing about voluntary settlement of disputes,
- (m) Prepare a cadre of social workers for para-legal services ;
- (n) Help the various Committees to set up legal service centres within their respective jurisdiction.
- (o) Encourage Law faculties of Universities or such establishments to set up legal aid clinics for giving free legal service to the weaker sections of the Community and to help them in running such projects,
- p) hold and conduct seminars, conferences and campaigns for promotion of the legal Services programme in all its aspects including creation of public awareness and participate in all activities connected with the same,
- q) Undertake and promote research, experiment and innovation in the areas of law affecting the poor with the object of removing the injustices from which the poor suffer, bringing about fundamental institutional changes and effectuating reforms in the law with a view to making it serve the interest of the weaker sections of the community.
- r) Submit recommendations to the Government of Mizoram regarding improvements in practice and procedure of the courts so as to reduce the costs and delays in litigation,
- s) Suggest and recommend to the Government of Mizoram such measures of law reforms as it considers necessary for the purpose of improving the socio-economic conditions of the weaker sections of the community and making social welfare legislation effective for them and draw the attention of the administrative bodies or authorities to their grievances and press for redress of such grievances.
- t) Undertake socio-legal survey and reasearch into the life condition of the weaker sections of the community with a view to ascertaining their problems and difficulties and determining how far and to what extent social legislations has been able to achieve the object and purpose for which it was enacted and to utilise social workers and student force for the purpose,
- u) Appoint expert committees for the purpose of assessment and evaluation of the legal services programme undertaken by the Board and various District Committees,
- v) Carry on such other activities as are incidental and conducive to the objects of the legal services programme; and

w) Perform such other duties and discharge such other functions, for the purpose of effectively implementing the legal services programme, as the Government of Mizoram or the Chairman of the Committee for Implementing Legal Aid Schemes may direct.

x) To prepare, amend, revise and maintain panels of legal practitioners for conducting cases of aided persons in consultation with the District Committees,

y) Such other specific points as may be referred to the Board from time to time by the Government.

Powers and functions of the District Committees.

9. (1) Each District Committee shall implement the legal aid programme within its respective jurisdiction in accordance with the provisions of this Scheme and the directions which may from time to time be given by the Board.

(2) The District Committee shall arrange to make provisions for free legal aid in any legal proceeding before a Court including a District Council Courts, Subordinate District Council Court and any other Court.

(3) The District Committee shall—

- (a) Receive and consider the applications for legal aid ;
- (b) Appoint panel Lawyers for conducting cases.
- (c) Maintain records and submit necessary returns and statistics to the Board.
- (d) To encourage, promote and arrange conciliation and settlement locally in Civil cases against Government/ Govt. bodies and in Criminal cases in consonance with Sec. 520 of the Cr.P.C,
- (e) To prepare, compile and submit legal aid schemes with financial implications to the Board from time to time.

Meeting and quoram of the Board or District Committees.

10. (1) The Board and the District Committees shall meet at least once in two months or as often as required on such date, time and place as the Secretary may, in consultation with the President of the Board or, as the case may be, the President/ Chairman of the Committee, decide.

(2) The quorum for a Board meeting shall be five and that for a District committee meeting three.

(3) All questions at a meeting shall as far as possible be decided by the majority of the members present and voting.

Duties and func- 11. The Secretary of the Board or, as the case may be, of the
tions of the Sec- District Committees shall-
retary of the
Board and the (a) exercise a general control over the office of the Board or of
District Com- the District Committee;
mittees.

(b) supervise the maintenance of the proceedings of the Board or
the District Committee.

(c) maintain or cause to be maintained the accounts of the Board
or the District Committee in proper form.

(d) attend to correspondences and sign papers emanating from the
Board or the District Committee and

(e) perform such function as may be necessary in connection with
the affairs of the Board or of the District Committee.

Official set-up 12. (1) A cell may be created in the Law and Judicial Depart-
of the Board ment consisting of one Upper Division Asstt. cum Accountant, one
and the Com- Lower Division Assistant, one Stenographer/typist and one peon on
mittee. deputation to assist the Board in its day to day functioning.

(2) Each District Legal Aid and Advice Committee may be pro-
vided with one Lower Division Assistant, one steno, typist and one
peon. These staff will be borne on the establishment of the res-
pective Dist. Judge.

Honorarium 13. (1) The members of the Board/Committee shall not be enti-
tled to any remuneration.

(2) The members of the Committee who are nominated from a-
mongst the members of the Parliament/State Legislature shall be
paid travelling and daily allowances expenses as may be admissi-
ble to them in their capacity as Members of the Parliament/Mem-
bers of the Mizoram Legislature.

(3) The Ex-Officio members shall be entitled to travelling and
daily allowances according to the rules applicable to them. The
non-official members shall be paid travelling and daily allowances
as admissible to Grade-I officers of the Government of Mizoram
under normal rules.

Nature of Le- 14. (2) Legal aid may be provided in one or more or in all of
gal Aid the following modes :-

(a) Fees payable to a lawyer appointed out of the approved panel
at the prevailing rate, including his TA/DA as admissible.

(b) process-fees, Court-fees and Travelling expense etc. of witnesses whom such indigent persons may like to examine in connection with any legal proceeding as the concerned courts may allow :

(c) any other legal expenses that may be incurred with indispensable scientific investigations or examinations as the concerned courts will allow :

(d) Legal advice or opinion and drafting of legal papers in those cases where the concerned Committee will think fit and proper.

Explanation :- The expenditure for all the aforesaid items which may be required to be spent shall be reasonably ascertained by the concerned Committee and forward these to the Board for approval.

Provided however, that the District Committee may keep such provisions for providing aid in the nature of interim relief in cases of emergency or where the suit or appeal is going to be time-barred.

Provided further that Grant of legal aid is subject to the condition that the aided person agrees to repay the cost, charges and expenses incurred in giving him the legal aid, in the event the court passes a decree or order awarding costs or other monetary benefits to him.

Funds

15. (1) The District authorities shall make necessary budget provisions each year under their respective budgets for the expenditures towards legal aid.

(2) All expenses of the Mizoram Board and the District Committee will be regular Government expenditure.

(3) In utilising the funds the Board and District Committees shall observe the directions issued by the Government.

(4) The Board may also receive grants from the Central Government or the Committee for Implementing Legal Aid schemes or donations, whether cash or kind, from any other source. The grants shall be credited to the Government receipt.

Maintenance of Account.

16. (1) The Board and the District Committees shall maintain proper registers relating to the consideration and grant of legal aid and shall submit quarterly reports to the Government.

(2) The Board and the Committees shall maintain correct, accurate and proper accounts of all receipts and disbursements and shall submit timely returns to the Government as per normal rules. All such accounts shall be audited in the usual manner as is done in cases of other Government accounts. The accounts of the Board

and of the District Committees shall be subject to audit by the Director of Accounts & Treasuries, Mizoram and the report thereon submitted to the Government in the Law Department.

3) The Secretary of Board/District Committee shall be the Drawing and Disbursing officer and the accounts of the Board shall be operated jointly by him in the manner as may be authorised by the Board/District Committee.

Eligibility.

17. Subject to the provisions hereinafter contained legal aid may be granted to persons whose total annual income from all sources does not exceed Rupees six thousand. Provided that the limitation as to income shall not be applicable in case of SC, ST, Nomadic Tribe, Vimukta jatis, women and children.

Special case.

18. Notwithstanding the provisions contained in this scheme legal aid may be granted in the following cases if the Board is satisfied that it is :—

- a) a case of great public importance, or
- b) a test case, the decision of which is likely to affect numerous other persons, or
- c) a special case which is otherwise deserving of legal aid.

Ineligibility

19. No legal aid shall be given in the following cases, namely

- a) proceedings in which action for defamation is wholly or partly involved;
- b) proceedings relating to any election or matters incidental thereto;
- c) proceedings in respect of economic offences or offences against laws such as those effecting untouchability, Immoral traffic in women and girls, food adulteration and the like, and
- d) where a person seeking legal aid :—
 - (i) is concerned with the proceedings only in a representative or official capacity, or
 - (ii) is concerned with the proceedings jointly with some other person or persons whose interest is identical with his and any of such persons is adequately represented in the proceedings or
 - (iii) is a formal party to the proceedings not materially concerned in the outcome of the proceedings and his interest is not likely to be prejudiced if representation is not made.

20. Legal aid shall not be granted, and if granted, shall be withdrawn —

- a) if it is found that the applicant furnishes any false statement in his application, conceals facts or knowingly makes false statement concerning his case, or
- b) if the aided person's conduct or demeanor during the course of his receiving legal aid is not satisfactory.
- c) if the aided person does not co-operate with the Board or the District Committee.
- d) in the event of death of the aided person, except in case of civil proceedings where the right or liability survives, or
- e) if the grounds of the case are or turn out to be frivolous or fictitious; or
- f) if, having regard to all circumstances, the applicant has no prima facie case or it is otherwise not reasonable to grant it.

Procedure for filling application.

21. (1) Any person desiring legal aid shall make an application to the Secretary of the Board or, as the case may be, of the District Committee concerned in form 'A'.

Provided that where such person is involved in case or suits pending in more than one district, every application for legal aid and/or advice shall have to be filed before the Board through any of the concern Committees.

(2) In case of illiterate or handicapped persons the Secretary or the person to whom application is submitted shall render all necessary assistance in completing the form.

(3) In case an application for legal aid is filed before a court in course of trial, such court with its comments thereon shall forward the same to the concerned District Committee for the letters' consideration of the case for grant of legal aid as may be necessary.

Disposal of applications and appeals.

22. (1) On receipt of an application the Secretary shall scrutinise the same and, if it is in order, place it before the Board or, as the case may be, the District Committee (or such other Committee as have been authorised for the purpose) as early as possible for consideration for grant of legal aid specifying the extent and nature thereof.

(2) Wherever necessary, the Secretary may call for further information, materials or documents from the applicant or make or cause an enquiry to be made before placing the application before the Board or, as the case may be, the District Committee. The case may be, the District Committee concerned, and where it is a case of legal aid, other than legal advice, the Lawyer shall take steps to prepare the necessary papers, represent the aided

person and conduct the case in his behalf and shall keep the Board or, as the case may be, the District Committee concerned, informed of the proceedings from time to time as directed by the Board or, as the case may be, the District Committee.

(3) After such consideration the decision of the Board of the District Committee as the case may be whether to grant or not to grant legal aid shall be final.

Provided that in case the Board or the Committee as the case may be cannot meet for some reasons and the exigencies demand for immediate action, the concerned Secretary with the approval of President of the Board or the Committee as the case may be, may take necessary action as considered proper and sufficient. The action taken will be placed before Boards/Committee in the next meeting for ratification.

(4) An applicant may appeal to the Board against any decision of the District Committee refusing to grant legal aid to him.

Aid for cases before High Court. 24. The applications for legal aid and advice in respect of cases before Gauhati High Court may be made either to the District Committee or to the Board and if it is made to the District Committee it shall be forwarded with its recommendations to the Board and whose decision shall be final.

Aid for cases before Supreme Court. 24. The applications for legal aid and advice in cases before the Supreme Court, made to the District Committee or to the Board shall be forwarded immediately, to the Supreme Court Legal Aid Committee, functioning in the Supreme Court premises.

Appointment of Lawyer. 25. (1) Where it is decided that legal aid shall be provided to the applicant, a Panel Lawyer shall be appointed and all necessary steps, for providing free legal services shall be taken by him.

(2) Where it is a case of legal advice the Lawyer appointed under sub-para (1) shall hear the person's case, examine papers, and documents and after forming his opinion thereon tender his legal advice in writing to that person with copy to the Board or, as

Bar-to accept any other remuneration. 26. No Lawyer engaged in any case under these Scheme shall accept any free or reward, whether in cash or kind, from the aided person.

Duties of aided person 27. An aided person shall co-operate with the Lawyer, the Board and the District Committee and shall comply with the directions they may issue to him from time to time.

- Amicable Settlement. 28. Notwithstanding the provisions contained in Scheme for grant of legal aid it shall be the duty of the Board and the District Committee to attempt as far as may be practicable, in the first instance, to bring the parties to a dispute to an amicable settlement, before providing any legal aid to the applicant.
- Power to frame schemes and to make rules and regulations. 29. (1) The Board, subject to the approval of the Government shall have the power to frame necessary schemes from time to time providing for the constitution of legal aid Committees, prescribing the conditions under which such committees, shall function, laying down the procedures and modes of selection of lawyers for providing legal service and the remuneration to be given to them, and providing for all other matters including the Grants-in-aid for the Board and Committee as will be deemed necessary for fullest implementation of the scheme through effective functioning of the Board and such Committees.
- (2) The Board shall also be competent subject to the general control and approval of the Government to frame rules and regulations for the purpose of establishing and operating the legal services programme in the Union Territory and regulating its own procedure.
- (3) The Government may accord its approval to any scheme rule or regulation or any amendment thereof made by the Board under this clause without any modification or subject to such modifications as it may consider proper or return such scheme, rule or regulation or the amendment thereof to the Board for modifying the same in the manner as the Government may direct.
- (4) If it appears to the Government that it is necessary or desirable for carrying out the object of this scheme :—
- (a) to frame any supplementary scheme in respect of the matter specified in sub-clause (1) or to amend any scheme made by the Board under that clause; or
- (b) to frame any rule or regulation in respect of matters specified in sub-clause (2);
- The Government may call upon the Board to make such scheme, rule or regulation or amendment within such time as it may specify. If the committee fails to make such scheme, rule or regulation or amendment within the time as may be specified, the Government itself may make such scheme, rule or regulation or amendment and the scheme rule or regulation or amendment so made shall be deemed to have been made by the Board under sub-clause (1) or as the case may be sub-clause (2).
- Interpretation. 30. If any dispute arises regarding the interpretation of any of the provision of this scheme the decision of the Government in the Law Department shall be final.

FORM 'A'

(SEE RULE 21 (1) OF THE MIZORAM LEGAL AID AND
ADVICE SCHEME, 1984)

To

The Secretary,
Mizoram Legal Aid and Advice Board, Aizawl
District Legal Aid and Advice Committee,
Aizawl/Lunglei/Saiha.

Sir,

I have the honour to request that the Board/District Committee may kindly grant me legal aid so that proper steps can be taken on my behalf in the case, particulars and grounds of which are given below. Other particulars in respect of my application are as follows :—

1. Name
2. Age
3. Permanent Address
4. Present Address
5. Community belonging to (Scheduled Castes, Scheduled Tribes or other Backward class)
6. Occupation
7. Total monthly income
8. Number of dependent family members
9. Nature of the case/dispute and legal aid required.

(State the parties involved or likely to be involved, nature of the case/dispute, the claim or right sought to be established/granted and any other information or material relevant to the case/dispute)

10. Whether legal aid has been previously applied for/granted if so, give details.

I agree to repay the cost, charges and expenses that may be granted to me in case the Court passes a decree or order awarding cost or other monetary benefits in my favour. For this purpose I do hereby authorise the Board the _____ District Committee on my behalf to recover the amount of cost or other monetary benefits which may be awarded to me in the above legal proceedings by the Courts and to appropriate either the whole or such part thereof as may be necessary to reimburse to the Board/ the _____ District Committee in respect of the cost, charges and expenses incurred in providing legal aid to me.

Yours faithfully,

Signature of the applicant

WITNESSES :

1. _____
2. _____