

A SCHEME FOR LEGAL SERVICES TO DISASTER VICTIMS THROUGH LEGAL SERVICES AUTHORITIES

1. Background

Sub clause (e) of Section 12 Legal Services Authorities Act, 1987 makes the victims of disasters who are under circumstances of undeserved want as a result of such disaster eligible for free legal services to file or defend a case. But in a disaster of catastrophic nature whether it is natural or manmade, the victims are often taken unawares and are subjected to face the grim situation of loss of life, becoming homeless, destruction of property or damage to or degradation of environment and subject to human sufferings and damage beyond the coping capacity of the community of the affected area.

Even though it is the duty of the Government and the Administration of the locality to come to the help of the victims of disasters, Legal Services Authorities by virtue of sub-clause (e) of Section 12 can play an effective role by coordinating the activities of the State Administration in the disaster management by way of strategic interventions in an integrated and sustainable manner, reducing the gravity of the crisis and to build a platform for early recovery and development. The Legal Services Authorities shall endeavour to help the victims and the administration for reducing risk and assisting them to adopt disaster mitigation policies and strategies, reducing the vulnerabilities of the geographical and social situation and strengthening their capacities for managing human made and natural disasters at all levels.

2. Name of the Scheme.

This Scheme shall be called the Scheme for Legal Services to the victims of disasters through Legal Services Authorities.

3. Objective

The objective of the scheme is to provide legal services to the victims of disaster - both manmade and natural - who are under circumstances of undeserved want being victims of mass disaster, ethnic violence, caste atrocities, flood, drought, earth-quake or industrial disasters.

The intervention of Legal Services Authorities should be for coordinating the integrated, strategic and sustainable development measures taken by the Government

and Disaster management Authorities for reducing the period of crises and for building a platform for early recovery and development. The thrust of the efforts for by the State Legal Services Authorities shall be for strengthening the capacity of the victims for managing the disaster at all levels and to coordinate with the Government departments and non-governmental organisations and also for providing legal aid to the victims.

4. Strategic Intervention by the State Legal Services Authorities.

The strategy for intervention by the Legal Services Authorities for helping the victims of disasters shall be on the following lines:

1. Ensuring immediate help by Governmental and Non-Governmental Agencies to the victims.
2. Coordinating the activities of different departments of the Government and the NGOs for bringing immediate relief.
3. Supervising the distribution of relief materials.
4. Supervising the construction of temporary shelter or transporting the victims to a safer place.
5. Supervising the reunion of families.
6. Supervising the health care and sanitation of the victims and preventing the spread of epidemics.
7. Supervising the needs of women and children.
8. Ensuring the availability of food, medicine and drinking water.
9. Supervising the reconstruction of damaged dwelling houses.
10. Supervising the restoration of cattle and chattel.
11. Legal Awareness Programmes in the relief camps on the legal rights of the victims.
12. Organising Legal Aid Clinics in the affected areas for assisting in reconstruction of valuable documents.
13. Assisting the victims to get the benefits of the promises and assurances announced by the Government and Ministers.
14. Assisting in the rehabilitation, care and future education of orphaned children.
15. Taking steps for appropriate debt relief measures for the victims.

16. Assisting in the rehabilitation of the old and disabled who lost their supporting families.
17. Assisting in the problems relating to Insurance Policies.
18. Arranging Bank Loans for restarting the lost business and avocations.
19. Arranging for phyciatrist's help / counselling to the victims who are subjected to physiological shock and depression on account of the disaster.

5. Machinery for Legal Services.

The State Legal Services Authorities shall establish a Core group in all districts under the control of the District Legal Services Authorities to spring into action in the event of a disaster, whether manmade or natural.

The Core group shall consist of a senior judicial officer, young lawyers including lady lawyers selected in consultation with the local bar association, Medical Doctors nominated by the local branch of the Indian Medical Association and the NGOs by accredited by the State Legal Services Authority. The Secretary of the District Legal Services Authority shall maintain a Register containing the Telephone numbers and the cell numbers of the members of the Core group.

STRATEGY FOR LEGAL AID TO THE VICTIMS

6. Ensuring immediate help by Governmental and Non-Governmental agencies to the victims.

The nodal agency for responding to a disaster shall be the State and District Disaster Management Authorities set up under the Disaster Management Act, 2006. The State Legal Services Authority should immediately alert the District Legal Services Authority concerned who in turn shall get in touch with the Disaster Management Authority of the State and District and gather the details of the steps taken by the latter.

- (a) The Core group set up the District Legal Services Authority shall immediately proceed to the area where the disaster has occurred and get involved in the work of relief.

- (b) The District Legal Services Authority and the Core team shall coordinate the activities of the relief operations by involving themselves and without causing any hindrance to the smooth flow of the relief operations.

7. Coordinating different departments of the government and the NGOs for brining immediate relief.

The State Legal Services Authority at the apex level shall get in touch with the State Disaster Management Authority / Department to ensure that all the departments of the State Government including health, finance, social welfare and police are involved in the relief operations. The State Legal Services Authorities shall coordinate the implementation of the Plan of Action, if any, prepared by the Disaster Management Authorities.

- (a) The State and District Legal Services Authorities shall obtain a copy of the disaster management plan, if any, prepared by the State Disaster Management Authority / District Disaster Management Authority.
- (b) The State Legal Services Authority / District Legal Services Authority shall as far as practicable follow the aforesaid plan and, if necessary, make suggestions to the state administration or Disaster Management Authorities for improving the quality of relief operations.

8. Supervising the distribution of relief materials.

In the event of a disaster, the first and foremost step to be taken is to ensure that the victims are provided with adequate support to tide over their undeserved wants. This includes provision of food, safe drinking water and transferring the victims to safe shelters. The District Legal Services Authority in coordination with the Disaster Management Authority and State Government Departments, shall supervise effective and timely supply of relief materials to the victims of the disaster.

9. Supervising the construction of temporary shelters or transporting victims to safer place.

District Legal Services Authority and the Core team shall supervise construction of temporary shelters and transportation of victims to such shelters to other safer places. Any lapses can be reported to the government officer incharge to ensure that the lapses are remedied immediately.

10. Supervising the reunion of families.

A disaster may result in sudden disruption of the cohesive unit of families. Members of the family are likely to get separated on account of the disaster or by reason of the rescue operations or on account of medial emergencies. Separation can occur due to loss of life also.

The Core team shall visualise such probable traumatic situations in the families affected by the disaster and shall take necessary steps for consoling the victims and shall take earnest search for the missing members of the families.

11. Supervising the health care of the victims and preventing the spread of epidemics.

The District Legal Services Authority shall take prompt steps for coordinating with the District Medical Officer for ensuring that the victims of the disaster are given proper medical care. The injured victims shall be given prompt treatment.

- (a) When a large number of affected persons are congregated in relief camps, adequate sanitation has to be ensured. Steps shall be taken to ensure that the public health authorities are performing cleaning and sanitation of the camps on a regular basis.
- (b) The District Legal Services Authority shall ensure that adequate preventive measures are taken by the health authorities against outbreak of contagious and infectious diseases and water-borne diseases can occur in the relief camps.
- (c) Right to health being a concomitant to the Right to Life guaranteed under Article 21 of the Constitution of India, the disaster victims are entitled to adequate health facilities and the Legal Services Authorities are duty-bound to ensure the same through appropriate measures.

12. Supervising the needs of women and children.

Women and children are beneficiaries of free legal aid under Section 12 of Legal Services Authorities Act. They are the most vulnerable group amongst the victims of any disaster. Safety of women and children in the camps and their valuables like ornaments and personal belongings are to be protected. The District Legal Services

Authority shall ensure that the Police takes necessary steps for preventing theft and anti-social activities. Legal Services Authorities shall coordinate with the Police Officers to ensure the safety of women and children.

13. Ensuring the availability of food, drinking-water and medicine.

The need for food, safe drinking water and medicine are basic human needs and hence are attributes of the Right to life under Article 21 of the Constitution of India. Legal Services Authorities can therefore rightfully intervene and coordinate with the State Government, District Administration and Health Authorities to ensure the availability of food, safe drinking-water and medicine to the victims living in the shelters.

14. Supervising the reconstruction of damaged dwelling houses.

Housing is one of the important problems faced by the victims of disasters. Partial or total damage may occur to houses in disasters like earthquake, flood and communal riots. Assurances given by the Ministers and Government officials ex-gratia payment and funds for reconstruction of damaged houses of the victims may go unfulfilled or forgotten due to passage of time. Efforts shall be taken by the Legal Services Authorities to ensure that such promises are fulfilled and the promised funds or other relief measures are disbursed to the victims without delay.

15. Supervising the restoration of cattle and chattel.

Loss of cattle, chattel and household articles are concomitant with all mass disasters. Thieves, looters and anti-socials have a field day during riots and ethnic violence and also during the havocs like flood, drought, pestilence and earth-quake. The District Legal Services Authority in coordination with the Police or Armed Forces shall ensure that the valuables belonging to the victims are not looted or stolen houses. Similarly, steps shall be taken to protect livestocks and chattel also. The Legal Services Authorities shall coordinate with the animal-husbandry department of the government to save the livestock.

16. Legal Awareness Programmes in the relief camps on the legal rights of the victims.

Once the victims are relieved from the immediate shock and impact of the disaster, the Legal Services Authority may chose a convenient time and place near the relief

camps for imparting legal awareness to the victims. Women lawyers may be entrusted with the job of conducting informal legal awareness programme, mainly related to the rights of the disasters victims to avail of the relief measures from the authorities. The legal remedies available and the mode in which the benefits of the offers and schemes announced by the government are to be availed of also may be included as topics. Legal Awareness Programmes shall not be conducted in a ceremonial manner. Inaugural function and other formalities shall be totally avoided. The ambience of disaster and the mood of grief stricken victims should be fully taken in to account by the resource persons and the steps for legal awareness shall be taken in such a manner as to go along with the measures for consolation and redressal of the grievances of the victims. Visits by women lawyers to the camps and homes of the victim will be desirable.

17. Organising Legal Aid Clinics in the affected areas for assisting in the reconstruction of valuable documents.

It is likely that the victims of disaster have lost their valuable documents like titled deeds, ration cards, identity cards, school and college certificates, certificate of date and birth, passport, driving licence etc. The District Legal Services Authority shall organise legal aid clinics in the affected areas and assist the victims to get duplicate certificate and documents by taking up the matter with the authorities' concerned. Arrangements for issuing Death Certificates of the deceased victims also shall be made.

18. Taking care of the rehabilitation and the future care and education of the orphaned children.

Orphaned children are the living monuments of disasters. Loss of childhood, paternal affection are likely to haunt them for the rest of their lives. At times, the orphaned children may get affected with psychiatric problems also.

The Legal Services Authority shall seek the help of voluntary organisations large business houses and Corporates for the educational needs and accommodation of such children till they attain the age of maturity. In appropriate cases, the Legal Services Authority may assist such children to be taken care of under provisions of the Juvenile Justice (care and protection) Act.

19. Taking steps for appropriate debt relief measures for the victims.

Rehabilitation of disaster victims will be a gigantic challenge for any administration. The adequate funds should be made available to the victims who lost everything in their life for rebuilding their avocation, buying agricultural implements and other implements required for their avocations in which they were engaged prior to the disaster. Victims belonging to fisherman community may require huge amounts for buying nets, boats and outboard engines. Such measures of rehabilitation may require the assistance of government departments concerned. The State Legal Services Authority shall coordinate with Public Sector Banks, Social Welfare Department and other departments concerned for helping the victims to re-start their avocations. In appropriate cases, provisions in the laws relating to debt relief shall be invoked.

20. Rehabilitation of the old and disabled who lost their supporting families.

Persons with disabilities as defined in Clause (e) of Section 2 of Disabilities (Equal Opportunity) Protection of Rights and Full Participation Act, 1995 are entitled to free legal aid under Section 12 of the Legal Services Authorities Act. Senior citizens are entitled to certain benefits under the provisions of Maintenance and Welfare of Parents and Senior Citizen Act. The senior citizens and disabled persons who lost their support on account of disasters shall be identified and appropriate legal aid shall be given to them.

21. Problems relating to Insurance Policies.

The Legal Services Authorities shall take up the insurance claims of the disaster victims with the Insurance Companies for settlement of such claims. Negotiations may be undertaken with the Insurance Company officials for a settlement favourable to the victims. In appropriate cases the service of Insurance Ombudsman also may be availed of.

22. Arranging Bank Loans for restarting the lost business and avocations.

The victims who suffered substantial loss of their business and implements used in their avocations shall be helped by adopting proper restorative measures. For this

purpose, efforts shall be made to make available financial assistance of nationalised banks and other public sector financial institutions. The Legal Services Authorities shall persuade the officials of such financial institutions to raise to the occasion for helping the victims.

23. Arranging for the services psychologists / psychiatrists help for counselling the victims suffering from psychological shock and depression on account of the disaster.

Mental shock and the related psychiatric manifestations are usually seen associated with the traumatic effects of disasters on the victims and their family members. Sudden loss of human life and the horrifying experiences of the trauma of the disasters can result in mental shock and psychiatric problems not only to the victims but also to their family members. The District Legal Services Authority shall in coordination with the District Medical Officer make necessary arrangements for the services of psychiatrists and psychologists.

The District Authority shall ensure the presence of the members of the Core group at the relief camps everyday till the victims are rehabilitated.

24. District Legal Services Authority shall collect reports from the Core Group.

District Legal Services Authority shall collect daily reports from the Core group working at the location of the disaster. Copies of such reports shall be sent to the State Legal Services Authority. The State Legal Services Authority shall consolidate the reports and send a comprehensive report to the National Legal Services Authority and copies thereof shall also be sent to the District Management Authorities of the State and District. Copies of the report shall be placed before the Patron-in-Chief of the State Authorities and also in the meeting of the State Authority.

If any difficulty arises in giving effect to this Scheme, the State Legal Services Authority and District Legal Services Authority or the Core group may seek guidance from the Executive Chairman of the State Authority.

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