



## FREE LEGAL AID – A BOON TO IMPECUNIOUS

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### Abstract

The Central Government of India passed the Legal Services Authorities Act, 1987 in accordance with Article 39-A of the Indian Constitution. On November 9, 1995, the Legal Services Authority Act of 1987 went into effect, following the passage of the Amendment Act of 1994, which made a number of changes to the original Act. The Act grants legal assistance to those who are disadvantaged economically, socially, and physically. The Legal Assistance Committee oversaw the legal assistance programme, which was established by Justice P.N. Bhagawati in 1971. Justice R.N. Mishra formed the National Legal Services Authority on December 5, 1995, which greatly aided in the passage of the Act. There are several levels of legal assistance, including options for impoverished, illiterate, and physically challenged people who are unable to access the courts because they don't know the law or can't afford it. Any person who is eligible for legal help under Section 12 of the Act may get that assistance. The day the law became effective, November 9, 2009, was designated as National Legal Service Day (NLSD). According to the Act, legal assistance must be given by the State, District, and Taluka Legal Service Authorities/Commissions established across the nation to recommit to ensuring equality of opportunity and fairness to all people. The NLSD offers a variety of legal aid services. The Act seeks to inform the public about the law, provide free legal aid, and establish Lok Adalats to ensure that no one would be denied access to justice due to a disability or financial considerations. The country's system for administering justice has been revolutionised by the establishment of Lok Adalats. The nation's courts still have a sizable number of open cases. The administration has already taken several steps to lower the number of open cases. The strategy was successful in giving plaintiffs another venue in addition to offering an additional forum for conciliation agreements.

### Introduction-

According to Article 39A of the Indian Constitution, the State must ensure that the functioning of the legal system promotes justice based on equal opportunity and, in particular, must provide free legal aid through appropriate legislation or programmes or in any other way to ensure that no citizen is denied the opportunity to secure justice due to their financial situation or another type of disability. The State is required by Articles 14 and 22(1) to guarantee equality before the law and a legal system that advances justice based on equal opportunity for everyone. Legal aid works to ensure that the Constitution's promise is upheld in text and spirit and that

the weaker, poorer, and more oppressed segments of society have access to equal justice.<sup>1</sup> The introduction of Lok Adalats opened a new chapter in the country's justice system and was successful in giving litigants an additional platform for the peaceful resolution of their issues. To provide legal assistance programmes across the nation with a statutory foundation and a standardised structure, the Legal Services Authorities Act was passed in 1987. After the Amendment Act of 1994 introduced some revisions, this Act was eventually put into effect on November 9th, 1995. The Act's enforcement was significantly aided by Hon. Mr Justice R.N. Mishra, who was India's Chief Justice at the time.

**Key Words-** Legal Aid, NALSA, SALSA, Lok Adalat

**Services covered by the Legal Services Authority Act-**

The Act offers the general public a variety of legal services, including:

**Free legal education-**

This Act is primarily designed to inform the public about the policies and plans put forth by governmental bodies. Some legal principles are taught to people through the Legal Service Authority. The general public can obtain help from legal aid institutions that are close to their homes or places of employment thanks to the government's organising of legal camps and legal aid centres. The legal advisors and centres can assist in resolving common people's complaints as well.

**Free Legal Aid Counsel-**

A person might seek the help of a free legal aid attorney if they need to defend or submit a case in court but do not have the money to pay an attorney. According to the Act, free legal aid counsel is provided, and the Council is in charge of helping those in need to seek justice. By adopting and implementing this theory, the Indian Courts should be relieved of the responsibility of case adjudication. On March 14, 1982, Gujarat hosted its first Lok Adalat, which was successful in resolving numerous problems involving workplace conflicts, family disputes, and bank recoveries.

The principal mechanism used by the legal services authority to resolve disputes is Lok Adalats. There is a significant case backlog in our Indian courts, and it takes a very long time to settle conflicts under judicial control.

Thus, Lok Adalat was viewed as an alternative dispute resolution (ADR) method that was trustworthy, effective, and amiable in resolving disagreements. The legal services authorities may establish Lok Adalats in whatever numbers and places they see fit to exercise their legal authority where they see fit.<sup>2</sup> The Lok Adalat bench is made up of both lawyers and non-lawyers in order to have a better knowledge of the controversy and persuade both parties to come to a mutually acceptable compromise.

**Objectives of Legal Services Authority Act-**

Free legal assistance and equal justice are guaranteed to all citizens under Article 39A of the Indian Constitution by appropriate laws, programmes, or other measures, ensuring that no citizen is denied access to justice due to economic disadvantage or in any other way. As a result of this constitutional need, the Legal Services Authorities Act, of 1987 was passed with the main goal of providing free and competent legal services to the country's weaker segments of society.

**Organisational Structure under the Legal Services Authority Act-**

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<sup>1</sup> Chitkara, M. G.. Lok Adalat and the Poor: A Socio-constitutional Study. India, Ashish Publishing House, 1993.

<sup>2</sup> Chand, Hemant K.. Lok Adalat in India: Genesis, Law, Practice and Prospects. India, Satyam Law International, 2016.

The National Legal Services Authority (NALSA) was established as the supreme body for regulating the legal aid provisions as a result of the Legal Services Act. The State Legal Services Authority (SALSA), which is further delegated to a variety of organisations, is in charge of carrying out the NALSA's powers at the state level. NALSA is regarded as an alliance between the state, social action groups, people, and nonprofit organisations that are active at all levels, from the local to the state.

#### **NALSA-**

NALSA was created in response to Section 4 of the Act to offer free legal assistance to all people of the nation. The government created the organisation. The Chief Justice of India serves as its chief patron. A former or active judge of India's Supreme Court serves as the organization's executive chairman. The chief justice of India is consulted before the president chooses the nominees. The central authority establishes a Supreme Court Legal Services Council advisory council. Making sure that justice is administered equitably to all citizens, regardless of their economic circumstances or other conditions, is a key goal of the NALSA. +

The following are the **primary duties of NALSA**:

- i. The organisation advocates for legal aid in underprivileged communities such as slums, rural areas, and labour colonies through legal aid camps. It has a significant impact on educating the public about the needs and rights of those who reside in these places.
- ii. The authority also creates Lok Adalats to resolve conflicts between these persons.
- iii. The primary focus of this organisation is, among other things, offering legal assistance through clinics at universities, law schools, etc.
- iv. These organisations use all three of the aforementioned dispute resolution techniques: arbitration, mediation, and conciliation. The organisation gives grants to organisations that serve underserved communities from across the nation with social services at the community level.
- v. Research initiatives are also carried out to enhance access to justice for low-income people. It ensures that citizens fulfil the fundamental obligations with which they have been charged.
- vi. They frequently assess the success of the steps taken to address legal aid issues at predetermined intervals as part of the proper implementation of the schemes and programmes to ensure that the right tasks are being carried out.
- vii. The body assures that legal services could be made available to the general people through the policy and system they established. The organisation can offer the most affordable and efficient legal services thanks to these programmes.
- viii. This body deals with financial matters, and the money it allocates goes to the appropriate district and state legal services bodies.

#### **State Legal Services Authority (SLSA)-**

There is a legal service body in every state that offers individuals who cannot afford it, free legal counsel. The Act's Section 6 applies to this. They offer legal help programmes that are both proactive and strategic. The authorities regularly hold Lok Adalat sessions to help its clients. Implementing the policies and programmes as instructed by NALSA is one of their key responsibilities. The Chief Justice of each High Court acts as a patrons-in-chief. An executive chairman who is a judge in retirement or active service is in charge of these organisations. Typically, the state government creates a high court legal service committee. An active High Court judge serves as the chairman of this body. There is a legal service body in every state that offers individuals who cannot afford it, free legal counsel. The Act's Section 6 applies to this. They offer legal help programmes that are both proactive and strategic. The authorities regularly hold Lok Adalat sessions to help its clients.<sup>3</sup> Implementing the policies and programmes as

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<sup>3</sup> Muralidhar, S. Law, Poverty, and Legal Aid: Access to Criminal Justice. India, LexisNexis Butterworth, 2004.

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### **Legal Aid under Legal Services Authority Act, 1987-**

#### **The Historical Perspective-**

The idea of legal aid dates back to 1851 when legislation was created in France to offer individuals in need of it legal assistance. As part of its coordinated efforts to provide legal services to the disadvantaged, England and Wales sponsored the provision of legal advice to the poor and needy as early as 1944.

The Lord Chancellor, Viscount Simon, formed the Rushcliffe Committee to examine the current resources available to provide legal assistance to the underprivileged and to recommend any actions that seem necessary to ensure that their needs are satisfied

Justice P.N. Bhagwati established the Legal Aid Committee in 1971 to strengthen the legal aid programme. According to him, the purpose of the legal aid system is to make the mission of enforcing justice freely accessible to those who can do so. The impoverished and the illiterate will be able to access the courts, which will enable them to receive justice more quickly.

Legal help should be available to those who are poor and ignorant. To qualify for legal aid, a person does not need to be a litigant. The Indian Constitution's Article 39-A states that it is the responsibility of the State to ensure that the legal system runs on an equitable basis. In addition, the State is required under Articles 14 and 22(1) to maintain equality before the law and a judicial system that supports justice from the perspective of equal opportunity. Legal aid seeks to ensure that the letter and spirit of the law are upheld and that the most vulnerable, underprivileged and oppressed members of society are treated fairly.<sup>4</sup>

According to the Act, the task of planning every Lok-Adalat in India has been given to the Supreme Court Legal Services Committee, the High Court Legal Services Committee, the State Legal Services Authority, the District Legal Services Authority, and the Taluka Legal Services Committee.

According to Section 12 of the Act, the following people are qualified for free legal assistance:

#### **Who can apply for Legal Aid-?**

- a victim of human trafficking or beggars as defined in Article 23 of the Constitution;
- a member of a Scheduled Caste or Scheduled Tribe;
- a woman or a child;
- an individual with a disability as defined in Section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;
- an individual experiencing unjustified need due to, for example, being the victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake, or industrial disaster; or
- an industrial worker; or
- in custody, including custody in a protective home as defined by Section 2(g) of the Immoral Traffic (Prevention) Act, 1956, in a juvenile home as defined by Section 2(j) of the Juvenile Justice Act, 1986, or in a mental health facility as defined by Section 2(g) of the Mental Health Act, 1987; or
- if the case is before a court other than the Supreme Court, receiving an annual income of less than Rs. 9,000 or any other higher amount that may be prescribed by the State Government, and

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<sup>4</sup> The Global Clinical Movement: Educating Lawyers for Social Justice. United Kingdom, Oxford University Press, 2010.

less than Rs. 12,000 or any other higher amount that may be prescribed by the Central Government, if the case is before the Supreme Court.

#### **Lok Adalat under Legal Services Authority Act of 1987-**

The creation of Lok Adalats is outlined in Section 19 of the Act. Lok Adalats must be held by legal service authorities at all levels, including those in the federal, state, and local districts. Lok Adalats function as an alternative method of resolving conflicts. Their goal is to resolve cases that are open or that the courts have not yet heard. It comprises judicial officers or a designated individual who falls within the state, federal, or local government's purview. The award is given by conciliators by Section 21 of the Act after the resolution of disagreements between the parties and the parties consent. The award carries the same weight in law as a court ruling.<sup>5</sup>

#### **Dimensions of Lok Adalat-**

Unlike the Supreme Court, Lok Adalat has a very broad jurisdiction that covers the majority of matters that are currently before it as well as any new cases that will be brought shortly. Cases involving offences that are not subject to any legal sanctions are outside the scope of the Lok Adalat's purview. The Lok Sabha never refers such issues to committees without first providing the opposing party with a fair chance to be heard. Any case that is sent to the Lok Adalat is resolved after it makes an effort to negotiate a resolution that would be acceptable to all parties. When a Lok Adalat renders a decision on a case that is brought before it, it uses all available means to reach a compromise or settlement.

After the Lok Adalat, if the parties cannot come to an agreement or compromise, no order is issued. The Court that created the reference will automatically receive a reference for the decision. The parties to the conflict are urged to look for legal resolution.

The Lok Adalat cannot be pressured into making concessions or reaching a settlement if the parameters suggested by the bench are unacceptable to the parties. Lok Adalat's orders are binding and place restrictions on the parties. A judge's order is a sufficient way to put an end to the legal actions that call for justice.

According to the Act, Lok Adalats have sufficient authority to administer justice without sacrificing the standard of their awards. The final order of the Lok Adalat is regarded as judicial because

In the 2005 case of *P.T. Thomas v. Thomas Job*, the Apex Court provided a detailed definition of Lok Adalat. The Court claims that Lok Adalat is an antiquated type of adjudicating system that once prevailed in India and that its legitimacy has never been contested even now. The phrase "People's Court" or "Lok Adalat" refers to a court that operates under Gandhian principles. It is crucial to the process of alternative dispute resolution. There is no court charge if the case is settled at Lok Adala, and if one has been paid, it will be reimbursed.

The parties can interact directly through their solicitors, which is much more convenient than conversing in a traditional courtroom, according to the case of *B.P. Moideen Sevamandir and others v. AM Kutty Hassan* (2008). Lok Adalats can balance the interests of both parties because they are dynamic, and they may make decisions that are agreeable to both.

#### **Roles of Lok Adalat-**

Lok Adalat serves the following purposes:-

- i. Members of Lok Adalat ought to be neutral and fair to all parties.
- ii. Court cases that are currently pending are handled by Lok Adalat.
- iii. The court fee paid to the court for the petition will be repaid in the event of a Lok Adalat settlement.
- iv. You are not required to pay a court fee while submitting a dispute to Lok Adalat.

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<sup>5</sup> Narayana, Pemmasani Sankara. *Law Relating to Lok Adalats: (Legal Services Authorities Act, 1987)*. India, Asia Law House, 2002.

**Lok Adalat varieties-**

There are several varieties of Lok Adalats:

**1. National level Lok Adalat**

At the Supreme Court level and the taluk level, the Lok Adalat held at the national level is periodically held around the nation, where thousands of issues are resolved. In this Adalat, a different subject is covered each month.

**2. Long-term Lok Adalat**

Section 22B of the Act governs the body. Permanent Lok Adalat has a required pre-litigation process for resolving disputes involving public utilities including transportation, telegraph, postal service, etc. The establishment of permanent Lok Adalats was ordered by the courts as a result of the case Abdul Hasan and National Legal Services Authority v. Delhi Vidyut Board and others (1999).

**3. Permanent Lok Adalats –**

They are responsible for quickly resolving problems with public utilities. If parties do not show up for the settlement or compromise, choosing the disagreement based on merit has an added benefit. By doing this, the possibility of a delay in the answer to the inquiry is eliminated. It is necessary to adhere to the natural justice principle rather than the established procedure for resolving disputes to save time.

To quickly and amicably resolve conflicts with public utility administrations, the Permanent Lok Adalat's formation is essential. The Permanent Lok Adalat's decisions taken by this Act are final and enforceable. It will never be allowed to be used as a defence in a lawsuit, application, or execution process. In a civil court, such actions are regarded as announcements. A civil court with adjacent jurisdiction will be informed of any awards made by the Permanent Lok Adalat, and that court will then carry out the order as if it were a decree issued by that particular court.

Permanent Lok Adalats and Lok Adalats share the same fundamental characteristics. But there have been some variations. The key distinction is that a Permanent Lok Adalat is set up to operate similarly to any other court or tribunal, whereas a Common Lok Adalat is required to meet irregularly.

The Lok Adalats were created by the Legal Services Authorities Act of 1987, but they weren't immediately made permanent. The Permanent Lok Adalat's creation was made possible by the Amendment Act of 2002.

**4. Cellular Lok Adalat-**

Mobile Lok Adalat is a dispute resolution technique that moves from location to location. As of September 30, 2015, the nation had hosted over 15.14 lakh Lok Adalats, and more than 8.25 billion cases had been resolved.

**5. Super Lok Adalat**

An ad hoc body called the Mega Lok Adalat is established at the state level on a single day in all courts.

**6. Everyday Lok Adalat-** These Lok Adalats take place every day.**The Authority of Lok Adalats-**

The courts that organise Lok Adalats have jurisdiction over all cases heard by those courts within their jurisdiction, hence such cases are covered by those Lok Adalats. The Lok Adalats cannot adjudicate matters involving offences that are not compoundable by law, hence this jurisdiction does not apply in certain situations. Parties that agree that the matter should be brought to the Lok Adalat may present cases to the appropriate courts. In cases when one party asks the court to submit the case to the Lok Adalat and the court believes that there may be a chance of a compromise through the Act, the court may accept such cases.

**Limitations on Legal Services Authority Act -**

Along with creating the four-tiered Legal Services Authority, the government should also create a separate organisation to monitor how each of these tiers operates and actively try to foster coordination between the Taluka, District, State, and National Legal Services Authorities.

For them to strictly represent the interests of the independent monitoring body, the government should hire young solicitors who are not currently serving in any judicial positions. The Legal Services Authority establishes a network of institutional legal services at the Central, State, District, and Taluk levels, with various restrictions on its structure, membership, etc.

#### **Significant restrictions under Section 3 of the Legal Services Authority Act-**

Section 3 of the Act creates the National Legal Services Authority. However, the body's organisational chart reveals that each member is already overburdened with the tasks allotted to them for their principal function, necessitating a little revision to Section 3. The government should place a strong emphasis on hiring young solicitors who do not hold any other legal jobs as it expands the National Legal Services Authority so they may dedicate as much time as possible to the Act's goals.<sup>6</sup>

#### **Section 3-A-**

The chairperson of the Supreme Court Legal Services Committee must be a judge of the Supreme Court, as required under Section 3-A of the Act. The judge in this instance is currently overworked by his assigned daily litigation-related obligations. If such an overworked person is once more assigned the duties of the Supreme Court Legal Services Committee, it's possible that the office won't be able to deliver legal services as planned in the future. Therefore, it will be crucial to alter this clause if clause 3-A of the Act is to be applied correctly.

The Supreme Court Bar Association v. Union of India and Others (1988) decision established that the Chairman of the State Legal Services Authority should typically be a current judge and that retired judges should only be selected in exceptional circumstances.

#### **Conclusion-**

As is well known, equality is emphasised in the Indian constitution. A democracy upholds the equality of all people before the law. Each citizen has the right to equal access to the legal system and equal opportunity to get legal services, regardless of their socioeconomic standing, race, religion, gender, sex, or any other aspect of their social identity. Our government created the Legal Services Authorities Act in 1987 to meet these demands. The law assures that everyone has an equal chance to pursue justice. The Act has made sure that the individuals in charge of carrying out its requirements are competent. They have been given respect as members of the community and the guarantee that anything they do in good faith would be safeguarded. The provisions of this Act trump other Acts that provide for

Even if such disruption occurs regardless of its superseding impact, the national and state legislatures will be able to develop rules and guidelines for the effective implementation of these provisions. Such guidelines and principles must pass a rigorous approval process which eliminates any possibility of defiling, wrongdoing, or other forms of neglect

Lok Adalats have become an integral part of the Indian legal system, providing opportunities for the poor and discouraged to access justice. The organization has overcome all obstacles to lawful aid, although there are specific areas for improvement that could make it more effective. Although they are overcoming any barriers to access to justice, they should also provide genuine admittance to equity for aggrieved parties. There is more activity than was expected, which could make Lok Adalats a better mechanism to deal with cases that are on the rise.

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<sup>6</sup> Kumar, Anoop. *Legal Literacy: Cornerstone for A True Democracy*. Germany, GRIN Verlag, 2013.