

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 4

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Legal Service Authority: The Legislative Significance

UJJWAL RAY RAJBANGSHI¹ AND DR. VIJAY SRIVASTAVA²

ABSTRACT

Denial of access to justice to the economically disadvantaged persons was a matter of serious concern not only for the administrators of law and justice but also for legislators and the executives. The matter was therefore referred to the Law Commission to suggest measures which may ensure access to justice for every member of the society and no one is deprived of this right by reason of paucity of funds or economic resources. Article 39A – “The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”

Keywords: “Legal Service Authority, Legal Aid, Social and Economic, Article 39A etc.

I. INTRODUCTION

India being a welfare State wedded to rule of law, all the three organs of the Government namely, the Executive, Legislature, and Judiciary are regulated by the principle of equality and justice in the field of administration. Therefore, denial of access to justice to the economically disadvantaged persons was a matter of serious concern not only for the administrators of law and justice but also for legislators and the executives. The matter was therefore referred to the Law Commission to suggest measures which may ensure access to justice for every member of the society and no one is deprived of this right by reason of paucity of funds or economic resources.³

The Law Commission of India, in its 14th Report of 1958 recommended that the poor and indigent persons should have the right to be represented by a counsel at the State expenses. Thereafter, the Commission in its 41st Report of 1969 recommended that the right of the indigent accused to be represented at the State-cost must be statutorily recognised and such

¹ Author is a Student at Law College Dehradun, India.

² Author is an Associate Professor at Law College Dehradun, India

³ Dr. N.V. Paranjape (ed.), *Public Interest Litigation, Legal Aid & Services, Lok Adalats & Para-Legal Services*, p. 362, (Central Law Agency, Allahabad, Fourth Edition).

right should be particularly available in trials for serious offences before the Session Court.⁴

The Government and the Parliamentarians of the country also realised that the failure of law and justice for common man, particularly, the economically disadvantaged persons is basically due to indifferent attitude of litigation and afford to engage competent counsels. It was therefore, decided to ensure that equal opportunity for access to justice is provided to all irrespective of their economic status. It is in this background that Article 39A was incorporated as one of the Directive Principles, which provide as follows:-

Article 39A – “The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”⁵

Thereafter, the Government, by resolution dated the 26th September, 1980 appointed a Committee to draw a broad-based legal aid and services programme under the Chairmanship of Justice PN Bhagawati so that it may be implemented uniformly throughout the country. It was on the basis of model legal aid scheme proposed by this Committee for implementing Legal Aid Schemes (CILAS) that several legal aid schemes and legal aid boards were set up for implementation of the legal aid and advice programme in different parts of the country. But in the absence of any statutory recognition of this scheme, it lacked uniformity and suffered from many deficiencies. It was therefore, decided to constitute statutory legal aid authorities at the National, State, and District level. Consequently, an Act called the Legal Services Authorities Act, 1987 was passed for constituting legal services authorities at different levels for providing free legal services to the weaker sections of the society and monitoring of legal aid programmes.⁶

The Legal Services Authorities Bill was tabled in the Parliament on 24th August, 1987 with a view to give statutory recognition to legal services and Lok Adalats functioning in different states at that time and had proved their utility as effective institutions for dispensation of speedy justice. The objective of the Bill was to take justice to the door steps of the common men and provide them relief from the arduous and cumbersome procedure of the Court. The draft Bill was taken up for deliberation in the conference of the Chief Justices of the States and it was felt that it suffered from certain defects. Therefore, the heads of the Legal Aid Committees of all the States met together under the chairmanship of Hon’ble Chief Justice RS Pathak to

⁴ *Ibid.*

⁵ *Id.* at p. 363.

⁶ *Ibid.*

remove the deficiencies and redraft the Bill. However, the Bill so drafted remained pending before the Parliament until 1994 for various reasons and eventually it was passed by the Parliament and became an Act which came into force on 9th November, 1995. The Act provides for setting up of the Legal Services Authority at the Centre and the State Legal Services Authority in every State. It also provides for the setting up of Lok Adalats as statutory bodies to ensure that the operation of the legal system promotes justice on the basis of equal opportunity for all the citizens irrespective of their economic or financial status. Besides, it also makes provision for preventive legal aid services such as Lok Adalats, legal literacy and training of para-legal services.⁷

II. THE REASON BEHIND THE ACT

The statement of objects and reasons for the enactment of the Legal Services Authority Act, 1987 read as follows:-

“Article 39A of the Constitution of India provides that State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”

The Act provides for the setting up of statutory legal services authorities at the national, state and district levels so as to provide effective monitoring of legal aid programmes. It also provides for the composition of such authorities and for their funding by means of grants from the Central Government and the State Government. Power has also been conferred on the National Legal Services Authority and the State Committees to supervise the effective implementation of legal aid schemes. Prior to the enactment of the Legal Services Authorities Act, Lok Adalats were functioning as a voluntary and conciliatory agency without any statutory recognition for its decisions. Despite that, they proved very useful for providing speedy justice. Therefore, in view of their growing popularity, there was demand for providing them statutory backing. Realising that such statutory support will not only reduce the work load of regular courts, it would also help justice reaching the door steps of common men. The Act provides that the Lok Adalats would follow the principles of Justice equity and good conscience in their proceedings and settle cases with the mutual consent of the parties. The decision of Lok Adalat shall be called ‘award’ which will be enforceable like a decree passed by the court. For the settlement of dispute the lok adalats will have the same powers as are conferred to a civil court

⁷ *Ibid* and *Id.* at p. 364.

under the CPC, 1908. However, there is no provision for appeal against the ‘award’ made by the Lok Adalat. The proceeding of lok adalat shall be treated as judicial proceeding for the purpose of sections 197, 219 and 228 of the Indian Penal Code. Similarly, it will be treated as a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.⁸

The word ‘legal service’ is defined in Section 2(c) of the Legal Service Authority Act, 1987, which means and includes the rendering of any service in the conduct of any case or other legal proceeding before a court or other authority or tribunal and the giving of advice on any legal matter, legal services are provided to weaker section of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise Lok Adalats to ensure that the operation of the legal system promotes justice on a basis of equal opportunity. Section 12 of the Act provides the criteria of giving free and competent legal services. Section 2 of the Legal Service Authority Act recognises legal aid as a constitutional right as enshrined in Articles 21 and 39A of the Constitution of India. The term ‘legal service’ as defined in Section 2 (1) (c) of the Legal Service Authority Act includes the rendering of any service in the conduct of any case or other legal proceeding before any Court or other authority or tribunal and for giving an advise on any legal matter.⁹

As defined in Section 2 (1) (aa) of the Legal Service Authorities Act, 1987, there will be a Central Authority known as the National Legal Services Authority under Section 3 of the Act. The Authority will provide free and competent legal services to the weaker section of the society. The Central Authority for implementing Legal Aid Schemes as CILAS, which is headed by a senior Judge of the Supreme Court of India.¹⁰

Section 3 of the Legal Service Authority Act provides that the Central Government shall constitute a Central Authority called the National Legal Services Authority consisting of twelve members which shall be nominated by the Central Government in consultation with Chief Justice of India.¹¹

As the Chapter II of the Legal services authorities act, 1987 shall deal with ‘The National Legal Services Authority’. As provided in Section 3 (2), the composition of the National Legal Services Authority also called as Central Authority, shall be as follows:-¹²

⁸ *Id.* at p. 364 – 365.

⁹ *Ibid* and *Id.* at p. 366.

¹⁰ *Id.* at p. 367.

¹¹ *Id* at p. 368.

¹² *Ibid.*

- (a) The Chief Justice of India, who shall be Patron-in- Chief.
- (b) A serving or retired Judge of the Supreme Court, who shall be the executive Chairman.
- (c) Such number of the other members, possessing such experience and qualifications as may be prescribed by the Central Government, to be nominated by the Government in consultation with the Chief Justice of India.

Rule 3 of the National Services Authority Rules further provides that the following shall be the ex-officio members of the Central Authority:-¹³

- (i) Secretary, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, Government of India or any his nominee.
- (ii) Secretary, Department of Expenditure in Ministry of Finance, Government of India or any of his nominee; and
- (iii) Two chairmen of the State Legal Services Authorities, as may be nominated by the Central Government in consultation with the Chief Justice of India.

A person shall not be qualified for nomination as a member of the Central Authority unless he is:-¹⁴

- (a) An eminent person in the field of law;
- (b) A person of repute who is specially interested in the implementation of the Legal Services Schemes
- (c) An eminent social worker who is engaged in the upliftment of the weaker sections of the people, including Scheduled Castes, Scheduled Tribes, women, children, rural and urban labour.

The provision relating to qualifications and experience necessary for being appointed as Member-Secretary of the Central Authority are as follows:-¹⁵

- (i) An officer of the Indian Legal Service who has held a post not below the rank of Additional Secretary to the Government of India; or
- (ii) A member of the State Higher Judicial Service who has held the post of the District Judge at least three years; or
- (iii) An officer of other organised Central Services who has held a post of Joint Secretary

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Id* at p. 369.

to the Government of India or an equivalent post for a minimum period of three years; or

- (iv) An officer of the organised State Services who has held a post equivalent to the Joint Secretary to the Government of India for a period of not less than five years.

The Function of the Central Authority (National Legal Services Authority) as enumerated in Section 4 of the Legal Services Authorities Act, 1987. They are as follows:-¹⁶

- (a) Formation of policies and principles to make legal services available under the provisions of this Act;
- (b) Framing of schemes which are most economical and effective for making legal services available under the Act;
- (c) Utilisation of funds at its disposal and make appropriate allocation of funds to State Authorities and District Authorities;
- (d) To initiate steps required with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society by way of social justice litigation and for this purpose, give training to social workers in legal skills;
- (e) Organising legal aid camps, especially in rural areas, slums or labour colonies with the dual purpose of educating the weaker sections of the society as to their rights as well as encouraging the settlement disputes through lok adalats;
- (f) Encouraging the settlement of disputes by ADR methods such as negotiations, conciliation and arbitration;
- (g) Undertake and promote research in the field of legal services with special reference to the need for such services among the poor;
- (h) Initiating necessary measures to ensure compliance of fundamental duties specified in Part IV-A of the Constitution of India by all the citizens;
- (i) Allocation of funds and grant-in-aid for specific legal service schemes to various voluntary social service organisations and the State as well as District Authorities.
- (j) Develop and promote clinical legal education programmes and provide guidance and supervise the working of legal services clinics established in Universities, Law Colleges and other Institutions;

¹⁶ *Id* at p.371 & 372.

- (k) Monitoring and evaluation of the legal aid schemes and programmes at periodical intervals and provide for their independent evaluation in whole or in parts by funds provided under the Act;
- (l) Propagation of legal literacy and legal awareness among the public and in particular, to educate weaker sections of the society about the rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures;
- (m) Make special efforts to muster the support of voluntary social welfare institutions working at the grass-root level particularly, among the Scheduled Castes and Schedules Tribes, women, children, and rural and urban labour;
- (n) The Central Authority has to co-ordinate and monitor the functioning of the State Legal Services Authorities, District Legal Services Authorities, Supreme Court Legal Services Committees, High Court Legal Services Committee, Taluka Legal Services Committees and voluntary social service institutions and other Legal Services Organisations and give general directions for the proper implementation of the legal services programmes.

Section 5 of the Legal Services Authorities Act provides that in the discharge of functions under the Act, the Central Authority shall, whenever appropriate, act in co-ordination with other governmental and non-governmental agencies, universities and other organisations engaged in the work of promoting the cause of legal services to the poor.

III. SUPREME COURT LEGAL SERVICES COMMITTEE

Section 3A of the Legal Services Authorities Act, 1987, provides that the Central Authority shall constitute a committee called the Supreme Court Legal Services Committee for the purpose of exercising such powers and performing such functions as may be determined by the regulations made by the Central Authority. The Supreme Court Legal Services Committee shall consist of a sitting Judge of the Supreme Court who shall be the chairman; and such number of other members possessing such experience and qualifications as may be prescribed by the Central Government, to be nominated by the Chief Justice of India. The Chief Justice of India shall appoint a person to be the Secretary to the Committee, possessing such experience and qualifications as may be prescribed by the Central Government.¹⁷

The terms of office and other conditions relating thereto, of the members and secretary of the

¹⁷ *Id* at p. 373.

Committee shall as may be prescribed by regulations made by the Central Authority. Sub-section 5 of Section 3A further provides that the Committee may appoint such number of officers and other employees as may be prescribed by the Central Government, in consultation with the Chief Justice of India, for the efficient discharge of its functions. They shall be entitled to such salary and allowances and shall be subject to such other conditions of service as may be prescribed by the Central Government in consultation with the Chief Justice of India. Pursuant to the provision contained in section 3A, the Supreme Court Legal Services Committee was constituted for the first time Vide Notification No. S.O. 5 (E) dated 1st January 1996 under the chairmanship of Justice A.S. Anand, Judge of the Supreme Court with nine other members out of which four were *ex-officio* members and five others were practising advocates.¹⁸

The Powers and functions of the Supreme Court Legal Services Committee have been prescribed by the Committee's Rules of 1996. The powers and functions are:-¹⁹

- (a) To administer and implement the legal services programme in so far as it relates to the Supreme Court of India and for this purpose take all such steps as may be necessary, and to act in accordance with the directions issued by the Central Authority from time to time;
- (b) To receive and scrutinise application for legal services and to decide all questions as to the grant of or withdrawal of legal service;
- (c) To maintain panels of advocates on record and of senior advocates in the Supreme Court for giving the legal service;
- (d) To decide all matters relating to payment of honorarium, costs, charges and expenses of legal services to the advocates on record and to senior advocates of the Supreme Court;
- (e) To prepare and submit returns, report and statistical information in regard to the legal services programme to the Central Authority.

In exercise of the powers conferred under Section 27 of the Legal Services Authorities Act, 1987, the Supreme Court Legal Services Committee Rules, 2000, have been framed which came into force with effect from July 3, 2000. These rules provide for scrutinizing the applications received for grant of free legal services from the parties whose cases are pending before the Supreme Court and appointing advocate for rendering free Legal Services to them.

¹⁸ *Ibid.*

¹⁹ *Ibid* and *Id.* at p.374.

The preparation of panel of advocates, determination of the amount of honorarium payable to them and submission of the report of the Committee's activities to the Central Legal Services Authority are some of the other functions which the Supreme Court Legal Services Committee is supposed to perform under this Rules.

IV. HIGH COURT LEGAL SERVICES COMMITTEE

Section 8A of the Legal Service Authorities Act, 1987, provides that the State Authority shall constitute a committee to be called the High Court Legal Services Committee for every High Court, for the purpose of exercising such powers and performing such functions as may be determined by regulations made by the State Authority.

The High Court Legal Services Committee shall consist of –²⁰

- (a) A sitting Judge of the High Court who shall be chairman;
- (b) Such number of other members possessing such experience and qualifications as may be determined by regulations made by the State Authority, to be nominated by the Chief Justice of the concerned High Court.

The Chief Justice of the High Court shall appoint a Secretary to the Committee possessing such experience and qualifications as may be prescribed by the State Government. The terms of office and other conditions relating thereto, of the members and Secretary of the Committee shall be such as may be determined by regulations made by the State Authority. Sub-section (5) of Section 8A further empowers the Committee to appoint such number of officers and other employees as may be prescribed by the State Government in consultation with the Chief Justice of the High Court for the efficient discharge of its functions. They shall be entitled to such salary and allowances by the State Government in consultation with the Chief Justice of the High Court. Various States have made their own regulations relating to the organisation, powers and functions of their High Court Legal Services Committee.

The main functions of the High Court Legal Services Committee may be stated as follows:-²¹

- (a) To implement the policies, programmes and scheme of legal advice and legal services as may be formulated by the State Authority under the Legal Services Authorities Act, 1987.
- (b) To provide free legal aid, legal advice and legal services to persons who are eligible for the purpose under the Act or Rules framed there under;

²⁰ *Id* at p. 387

²¹ *Ibid.*

- (c) To organise Lok Adalats for cases pending before the High Court;
- (d) To encourage settlement of cases by negotiations, conciliation, and arbitration.

The Committee shall ordinarily hold its meeting once in every three months on schedule and at such be fixed by the secretary with the prior approval of the chairman. The decisions in the meeting shall be taken by majority of vote. In case of equality of votes, the chairman shall have right to exercise his casting vote. The minutes of the meeting shall be prepared by the secretary and circulated to the members concerned. For every meeting of the Committee, at least two weeks' shall be given to the members. However, an emergent meeting may be convened by the secretary, in accordance with the directions of the Chairman, on short notice.²²

Every High Court Legal Services Committee shall maintain a fund to be called the High Court Legal Services Committee Fund which shall consist of –²³

- (a) All sums of money paid or any grants made by the State Authority to the Committee for the purpose of the Legal Services Authorities Act;
- (b) Any grants or donations that may be made to the Committee by any person, under intimation to the State Authority for the purposes of the Act;
- (c) Any other amount received by the Committee under the orders of the Court or from any other source.

The Funds of the Committee shall be maintained in a Schedule Bank approved by the Committee and the Bank account shall be operated by the Secretary in accordance with the directions of the Chairman. All expenditure on legal aid, legal advice and legal services, as also the expenditure necessary for carrying out the various functions of the Committee shall be met out funds of the Committee. The accounts of the Committee shall be audited, at least once in a year as required by Section 18 of the Act and any expenditure incurred in connection with such audit shall be paid by the Committee.²⁴

V. STATE LEGAL SERVICES AUTHORITIES OF DIFFERENT STATES IN INDIA

In compliance with the provision contained in Section 6 of the Legal Services Authorities Act, 1987, different States have constituted State Authority and made Rules for the implementation of the legal aid services. The details of such State Authority with their location and head-quarter and date of enforcement are tabulated below in chronological order as per the date of

²² *Id* at p. 388.

²³ *Ibid.*

²⁴ *Ibid.*

formation:-²⁵

| <i>State/ Union Territory</i> | <i>Date of Formation</i> | <i>Head Quarter</i> |
|-------------------------------|--------------------------|------------------------|
| 1. Sikkim | 09.11.1995 | Gangtok |
| 2. Rajasthan | 20.11.1995 | Jaipur |
| 3. Andhra Pradesh | 28.11.1995 | Hyderabad |
| 4. Delhi (NCT) | 14.02.1996 | Delhi |
| 5. Punjab | 04.03.1996 | Chandigarh |
| 6. Haryana | 03.04.1996 | Chandigarh |
| 7. Orissa | 15.05.1996 | Cuttack |
| 8. West Bengal | 01.07.1996 | Kolkata |
| 9. Uttar Pradesh | 05.07.1996 | Lucknow |
| 10. Bihar | 24.09.1996 | Patna |
| 11. Karnataka | 06.03.1997 | Bangalore |
| 12. Tamil Nadu | 06.03.1997 | Chennai |
| 13. Goa | 31.03.1997 | Panaji |
| 14. Gujarat | 07.04.1997 | Ahmedabad |
| 15. Assam | 31.07.1997 | Guwahati |
| 16. Mizoram | 22.08.1997 | Aizawl |
| 17. Andaman-Nicobar (UT) | 22.08.1997 27.01.1998 | Port Blair Itanagar |
| 18. Arunachal Pradesh | 06.02.1998 | Thiruvananthapuram |
| 19. Kerala | 06.02.1998 | Mumbai |
| 20. Maharashtra | 10.02.1998 | Pondicherry |
| 21. Pondicherry (UT) | 12.02.1998 | Chandigarh |
| 22. Chandigarh (UT) | 01.04.1998 | Mumbai |
| 23. Dadra-Nagar Haveli | 01.04.1998 | Mumbai |

²⁵ *Supra* note 3 at p. 377.

| | | |
|--|------------|----------------|
| (UT) 24. Daman-Diu (UT) 25. Lakshadweep (UT) | 16.04.1998 | Kavarti Island |
|--|------------|----------------|

| <i>State/ Union Territory</i> | <i>Date of Formation</i> | <i>Head Quarter</i> |
|-------------------------------|--------------------------|---------------------|
| 26. Tripura | 23.04.1998 | Agartala |
| 27. Meghalaya | 04.05.1998 | Shillong |
| 28. Nagaland | 19.06.1998 | Kohima |

The Rules made by the State provide that the Member-Secretary shall be a whole time employee of the State Government. In all matters relating to age of retirement, salary, allowances and other benefits and entitlements as also disciplinary matters the Member-Secretary shall be governed by the rules as are applicable to the members of the concerned State Authority. The powers and functions of the Member-Secretary shall be as follows:-²⁶

- (a) To provide free legal services to the eligible persons and weaker sections of the society;
- (b) To work out modalities of the legal service schemes and programmes approved by the

²⁶ *Id* at p. 378.

State Authority and ensure their effective monitoring and implementation;

- (c) To exercise the powers in respect of administrative, financial and budgetary matters as Head of the Department of Legal Services in the State Government;
- (d) To manage the properties, records, and funds of the State Authority;
- (e) To maintain proper accounts of the State Authority including periodical checking and auditing thereof;
- (f) To prepare annual income and expenditure account and balance-sheet of the State Authority;
- (g) To liaise with the social action groups, non-governmental organisations, district authority or any other social or educational organisation and National Legal Services Authority;
- (h) To maintain up-to-date and complete statistical information including figures of pendency and disposal of cases seriously affecting weaker sections of society and progress made in the implementation of various legal services schemes and programmes from time to time;
- (i) To process proposals for financial assistance to weaker sections of the society, especially children, women and persons belonging to SC/ST and issue utilisation certificates thereof;
- (j) To organise various legal service programmes as approved by State Authority and convene meetings, seminars and workshops connected with legal services and preparation of reports and follow-up thereof;
- (k) To produce video or documentary films, publicity material, literature and publication etc., to appraise general public about the various aspect of the legal services programmes;
- (l) To lay stress on resolution of rural disputes and to initiate extra measures to draw schemes for effective and meaningful legal services for settling disputes at the door-steps of the rural people;
- (m) To perform such other function as may be assigned to him under the scheme formulated under Section 4(b) of the Legal Services Authority Act, 1987;
- (n) To perform such other functions as may be expedient for functioning of the State Authority or as may be expedient for efficient functioning of the State Authority or as

may be assigned to him by the Executive Chairman of the State Authority.

Entitlement of Legal Services: A person who desires to seek legal aid from the State Authority shall apply in the prescribed form. Such application shall be addressed to the Secretary of the State Authority and it must be duly signed by the applicant or bear his thumb impression in case the applicant is an illiterate person. The application for grant of legal aid should also be accompanied by an affidavit stating applicant's entitlement to seek legal aid. The applications for legal aid so received shall be entered into a register maintained for the purpose and they must be disposed of at the earliest and not later than a month in any case. In the case the application is rejected, the reasons therefore must be recorded in writing. Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is –²⁷

- (a) A member of the Scheduled Caste or Scheduled Tribes;
- (b) A victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution of India;
- (c) A woman or a child;
- (d) A mentally ill or otherwise disabled person;
- (e) A person under circumstances of undeserved want, such as being a victim of mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial;
- (f) In custody including custody in a Protective Home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act, 1956 or Section 2 of the Juvenile Justice (Care & Protection of Children) Act, 2000 or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of Section 2 of the Mental Health Act, 1987;
- (g) Whose annual income from all sources taken together is up-to twelve thousand rupees in case is pending before the Supreme Court or nine thousand rupees in case of litigation pending before any other court, as may be fixed, from time to time under the State Legal Services Rules.

According to Rule 12 as amended by the National Legal Services Authorities (Amendment) Act, 2000 a person whose aggregate annual income does not exceed 50,000 rupees may apply for legal aid in order to file a suit before the Supreme Court, where the concerned legal services authority is satisfied that the applicant has a prima facie case to file his case before the Apex

²⁷ *Id* at p. 379

Court. In case of other than the Supreme Court this pecuniary limit is Rs 25,000.

In the case of *Sugreeva v. Sushila Bai*,²⁸ where an application was filed by the economically poor litigant to use as an indigent person, it was the bounden duty of the court either to send the matter to the concerned legal aid authority under Order 33, Rule 18 of the Civil Procedure Code to grant free legal services. However, where despite the litigant having been made known of his/her legal right to get legal aid under the Legal Aid Service Authority Act, 1987 because he falls within the category enumerated under Section 12 of the Act, he/she declines or refuses to avail of the free legal aid of the advocate appointed for him/her, then in such a case the advocate concerned should mention and bring this fact to the notice of the court concerned in the form of formal declaration of his own or his litigant concerned, to be enclosed to the petition, suit, application, appeal etc; as the case may be. The Court, on the first opportunity to it will ascertain from the litigant concerned whether he/she was not desirous of availing of the free legal services.

VI. CONCLUSION

Here we discussed how the Law Commission of India take a great and bold step to effect the Legal Service Authority Act, 1987 to facilitate the all the sections of the peoples of the society. We discussed the main reason and objective behind the Act and the value and importance of the Act. We discussed the mechanism and function of the works Supreme Court and High Court Legal Services Committees. We also discussed the State Legal Services Authorities and their formation in different states of India. We also discussed various powers and functions of the State Authority

²⁸ AIR 2003 Raj 149.