Research Report

on

Right to Free Legal aid and Legal Aid Functionaries under the Legal Services Authority Act, 1987.

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Table of Content

STATEMENT:

The right to free legal aid is one of the basic fundamental rights that have been guaranteed to every citizen under the constitution of India. But this right has come into existence and implementation only by the virtue of judicial decisions in various cases. The principle of free legal aid has been laid down in accordance with the principle of natural justice that perpetuates that nobody should be condemned unheard.

Going by the theory of Veil of Ignorance, by John Rawls, the law must be made in such a manner that it takes care of the poorest of the poor persons. The law making authority must always assume a veil in front of them, such that if they are on the other side of the veil, and they do not know their position, as to whether they are the weaker or the stronger section of the society, in such a situation they would make laws concerning the poorer and the weaker section of the society. In this line of concern, the constitution makers of India were aware of cultural and the economic diversity of the country and to promote equality, they put Article 39A into the Constitution, so that the grievances of the poor, needy are not suppressed by the more powerful sections of the society.

The right of legal representation is being provided to every accused who is unable to engage a lawyer or unable to secure competent legal services on account of reasons such poverty, indigence, or incommunicado situations. This article has been considered as an essential expression of 'reasonable, fair and just', procedure for an accused of an offence, which is held to be implicit in the form of guarantee under article 21 of the Constitution of India.

The courts in India have actively taken part in making this right available to all the eligible persons. Earlier, court took quite a restrictive approach, as far as the interpretation of the statutory provisions was concerned, as it was only considered as a privilege given to the accused and it was further, his duty only to ask for a lawyer if he needed one. And the only task in this scenario that the judge was assigned was to make sure that the person got such an opportunity.

HYPOTHESIS

The principle of Legal aid is a part of the Directive Principles of State Policy. And overtime, it has become a mandatory provision to be followed by the Courts, rather than just being a directive. And this has become a mandatory provision through Judicial Decisions and Legislations; a paradigm shift in the concept of legal services, the reaching out to the people to facilitate "access to justice" to all in the most practical manner.

But the system is still lacking somewhere as the implementation of the law is not as proper as it should be, as there are many people who are unable to have access to justice by the reasons of social obligations (like women in rural areas are reluctant to go against their relatives in cases of domestic violence and dowry), lack of interest of the lawyer, poverty, lack of awareness, lack of proper implementation of law on part of the lower judiciary and state authorities.

Right of Free Legal Aid

Sr. No.	Case	Facts	Decision
1.	**Hussainara Khatoon v. Home Secretary, State of Bihar [(1980) 1 SCC 98]**	This petition was a result of an alarmingly large number of men and women, children being put behind the bars for years awaiting trial in courts of law. It was brought to the notice of Supreme Court that most of the under trials have already under gone the punishment much more than what they would have got, had they been convicted without any delay. The people being caught were charged with trivial offences, which even if proved, would not warrant punishment for more than a few months, perhaps a year or two, and yet they remained in jail, deprived of their freedom, for periods ranging from three to ten years without even as much as their trial having commenced.	Immediate release of these under trials was ordered as many of them were kept in jail without trial or even without a charge. The court held that the state could not be permitted to deny the constitutional right of speedy trial to the accused on the ground that the State has no adequate financial resources to incur the necessary expenditure needed for improving the administrative and judicial apparatus with a view to improving speedy trial.
2.	**Khatri v. State of Bihar II [(1981) 1 SCC 635]**	Several petitions were filed under Article 32 for the enforcement of fundamental rights under Article 21 on the allegation that they were blinded by the police while they were in its custody. The question arose whether the Court could order production of certain reports submitted by the CID to the State government and some correspondence between the government and certain officials.	The SC emphasized that the state governments cannot avoid their constitutional obligation to provide free legal service to the poor accused by pleading financial or administrative inability. A trial held without offering legal aid to an indigent accused at state cost will be vitiated and conviction will be set aside. Providing free legal service to the poor and the needy is an essential element to any reasonable, fair and just procedure. The provision of legal aid is fundamental to

			ensuring access to courts The accused can also claim free legal aid at the appellate stage. The Court took the view that the right to free legal aid would be illusory for the indigent accused unless the trial judge informs him of such a right.
3.	**Sheela Barse v. Union of India [(1986) 3 SCC 596]**	Sheela Barse was a journalist and activist for prisoners rights – informed the Supreme Court saying that of the 15 women prisoners that she interviewed Bombay Central Jail, five admitted that they had been assaulted in police lockup. The Court admitted a writ petition. The College of Social Work submitting a detailed report which, in addition to admitting that excesses against women were taking place, pointed out that the arrangements for providing legal assistance to prisoners were inadequate.	Failure to provide legal assistance to poor and impoverished persons violates constitutional guarantees. Article 39-A [Directive Principle of State Policy] casts a duty on the State to secure the operation of a legal system that promotes justice on the basis of equal opportunity. The right to legal aid is also a fundamental right under articles 14 [Equality before Law] and 21 [Right to Life and Personal Liberty]. Directions: 1. Female suspects must be kept in separate lock-ups under the supervision of female constables. 2. Interrogation of females must be carried out in the presence of female policepersons. 3. A person arrested without a warrant must be immediately informed about the grounds of arrest and the right to obtain bail. 4. As soon as an arrest is made, the police should obtain from the arrested person, the name of a relative or friend whom

			s/he would like to be informed about the arrest. The relative or friend must then be informed by the police. 5. The police must inform the nearest Legal Aid Committee as soon as an arrest is made and the person is taken to the lock-up. 21 6. The Legal Aid Committee should take immediate steps to provide legal assistance to the arrested person at State cost, provided such person is willing to accept legal assistance. 7. The magistrate before whom an arrested person is produced shall inquire from the arrested person whether she has any complaints against torture and maltreatment in police custody. The magistrate shall also inform such person of her/his right to be medically examined
4.	**Indira Gandhi v. Raj Naraian** **[AIR 1977 SC 69]**	In the general parliamentary elections held in 1971, the appellant won the elections over her nearest rival- Mr. Ram Narain. Mr. Ram Narain was sponsored by the Samyukta Socialist Party, that filed an election petition under S. 80 r/w S. 100 of the Representation of People's Act, 1951 to challenge the election of the successful candidate. A learned single judge in Allahabad High Court upheld the challenge on two grounds rejecting the other grounds of challenge. The learned judge also granted an absolute stay for 20 days. The appellant moved to the Supreme Court challenging the decision against her, by the High Court.	The Court held: "Rule of Law is basic structure of constitution of India. Every individual is guaranteed the rights given to him under the constitution. No one so condemn unheard. Equality of justice should be given to everyone. There ought to be a violation to the fundamental right or prerogatives, or privileges, only then remedy goes to Court of Law. But also at the stage when he first is produced before the magistrate. In absence of legal aid, trial is

			vitiated."
5.	**Sukh Das v. Union Territory of Arunachal Pradesh [1986 AIR 991, 1986 SCR (1) 590]**	The appellant has been charged for allegedly having threatened an assistant engineer of CPWD for cancelling his transfer orders. The appellant remain unrepresented by a lawyer on the account of poverty, as a result of which there was no cross examination of the prosecution witnesses. The appellant preferred an appeal in High Court, which got vitiated. But the HC upheld the conviction.	The Supreme Court set aside conviction against the appellant and also quashed the order of dismissal of the appellant by the Additional Deputy Commissioner. The supreme court upheld the right of free legal assistance to the accused as the fundamental right of the accused under article 21 of constitution. The supreme court stated that it would be mockery of free legal aid if it were left to a poor ignorant to ask for free legal aid. And in that case, it would merely become a paper promise, and its purpose would fail. An accused being unrepresented in the court proceedings is totally in violation of his fundamental rights.
6.	**M. H. Hoskot v. State of Maharashtra [1978 AIR 1548, 1979 SCR (1) 192]**	The petitioner was convicted for an offence under IPC, by the Sessions Court. High court dismissed his appeal. Petitioner underwent the full period of imprisonment and filed an SLP along with a petition for condonation of delay contending that he had not received the certified copy of the judgment through the jail authorities. Even though the jail authority had received it, it was never delivered to him and because of this, he lost his right to appeal.	If a prisoner sentenced to imprisonment is virtually unable to exercise his constitutional and statutory right of appeal inclusive of special leave to the Supreme Court for want of legal assistance, there is implicit in the Court under Article 142 read with Articles 21 and 39-A of the Constitution, the power to assign counsel for such imprisoned individual for doing complete justice. It was the state's responsibility to provide free legal services to

			the prisoner who is indigent and disabled in securing legal services, where it is required for justice.
7.	**Bodhisattwa Gautam v. Subhra Chakraborty [(1996) 1 SCC 490]**	The accused not only induced the complainant and cohabited with her, giving her a false assurance of marriage but also fraudulently got certain marriage ceremony performed knowing fully well that the marriage was void. The accused even committed the offence of miscarriage by compelling the complainant to undergo abortion twice against her free will. The way the accused exploited the complainant and abandoned her is nothing but an act of grave cruelty as the same has caused serious injury and danger to the complainant's health both mentally and physically, as such, the accused above named has committed Criminal offences like causing miscarriage, cheating, Cohabitation caused by a man deceitfully inducing a belief of lawful marriage, Marriage ceremony fraudulently gone through without lawful marriage, cruelty under the IPC.	Fundamental rights can be enforced even against private bodies and individuals. It is not necessary, for the exercise of the Supreme Court's jurisdiction under Art 32, that the person who is the victim of the violation of his or her fundamental right should personally approach the court. The court can itself take charge of the matter and proceed *suo motu* or on a petition of any public-spirited individual. Rape is a crime against basic human rights and is also violative of the victim's most cherished fundamental right, namely, the right to life. *Delhi Domestic Working Women's Forum v Union of India* (1995) 1 SCC 14 (Ind SC) recognizing a rape victim's right to compensation by providing that it shall be awarded by the court on conviction of the offender, subject to the formation of a Criminal Injuries Compensation scheme by the Central Government. On the basis of the principles set out in that case, the court's jurisdiction to award interim compensation shall be treated as part of their overall jurisdiction to try rape offences

			and this power should be included in the above scheme. The Supreme Court has, in any event, the inherent jurisdiction to pass any order it considers fit and proper in the interests of justice or in order to do complete justice between the parties.
8.	**Ajmal Kasab v. State of Maharashtra [(2012) 9 SCC 1]**	Some of the major charges against him were: conspiracy to wage war against the Government of India; collecting arms with the intention of waging war against the Government of India; waging and abetting the waging of war against the Government of India; commission of terrorist acts; criminal conspiracy to commit murder; criminal conspiracy, common intention and abetment to commit murder; committing murder of a number of persons; attempt to murder with common intention; criminal conspiracy and abetment; abduction for murder; robbery/dacoity with an attempt to cause death or grievous hurt; and causing explosions punishable under the Explosive Substance Act, 1908.	It was held that it is the duty and obligation of the magistrate before whom a person accused of committing a cognizable offence is first produced to make him fully aware that it is his right to consult and be defended by a legal practitioner and, in case he has no means to engage a lawyer of his choice, one would be provided legal aid at the expense of the State. There is an absolute obligation on the court to provide the accused with legal assistance, unless he himself clearly refuses to such facility, in a clear and unambiguous manner. The Court also directed all the magistrates in the country to faithfully discharge the aforesaid duty and obligation and further make it clear that any failure to fully discharge the duty would amount to dereliction in duty and would make the concerned magistrate liable to departmental proceedings.
9.	**Rajoo @**	Appeal filed by all the convicted	It was held by the Supreme

	Ramakant v. State Of M.P [(2012) 8 SCC 553]	persons, before the High Court for the offence of gang rape of G. The high court vide an order set aside the conviction of five convicts but upheld that of two. Now, only one of the convicts has appealed against this conviction.	Court that all poor accused must be given free legal assistance, irrespective of the severity of the crime attributed to them, at every stage of the three-tier justice delivery system and could not be restricted to the trial stage only. Neither the Constitution nor the Legal Services Authorities Act makes any distinction between a trial and an appeal for the purposes of providing free legal aid to an accused or a person in custody. This makes it abundantly clear that legal services shall be provided to an eligible person at all stages of the proceedings, trial as well as appellate. It is also important to note that in view of the constitutional mandate of Article 39-A, legal services or legal aid is provided to an eligible person free of cost.
10.	**State of Haryana v. Darshana Devi [AIR 1972 SC 855]**	The respondent is a widow, who is claiming for compensation from the Haryana State Transport bus, for killing her husband. The High Court held that the exemptive provisions of Order XXXIII o f CPC would apply to the Accident Claims Tribunals (having trappings of a civil court).	The court dismissed the SLP, and held that the state must make rules for exemption from court fee in the cases for compensation, where the automobile accidents are the cause. The court held that it was the public duty of the state to obey the rule of law and make rules to give effect to the provisions for legal aid to the poor, as given under CPC.
11.	**Mohd. Hussain @ Julfikar Ali**	The petitioner is an illiterate foreign national and is unable to engage a	In this case, the accused was denied legal assistance at the

	v. **The State (Govt. of NCT) Delhi** **[(2012) 9 SCC 408]**	counsel to defend himself. He is tried, convicted and sentenced to death by the Additional Sessions Judge, Delhi, but without being represented. This was also upheld by the High Court.	time of trial. It is the duty of the courts to ensure that the accused I dealt with justly and fairly by keeping in the view the principles of criminal justice system. The involved herein is of such a nature that the denial of such right amounts to the denial of due process of law. The absence of proper and fair trial is a violation of fundamental principles of judicial procedure.
12.	**Kara Aphasia** **v.** **State of Bihar**	The petitioners were boys who have been in jail for over 8 years now. It is also alleged that they were kept in leg iron and forced to work outside the jails.	The accused must also provided legal representation by fairly competent lawyers at the state's cost, as it is the fundamental right of the person involved in criminal cases, as per article 21.

CASES ON THE WORKING OF LEGAL AID FUNCTIONARIES UNDER THE LEGAL SERVICES AUTHORITY ACT, 1987.

Sr. No.	Case	Facts	Decision
13.	**Sampurna Behrua v. Union of India [(2011) 9 SCC 801]**	The Constitution of India lays the responsibility on the State to ensure that all the needs of children are met and that their basic human rights are fully protected. Other rights guaranteed by the Constitution, such as right to live with dignity, the right to fair trial and to free and compulsory primary education for children below the age of 14 are also violated due to the non-implementation of the said Act. The petition outlines a detailed study in twelve states of India that is Punjab, Bihar, Orissa, Madhya Pradesh, Uttar Pradesh, Rajasthan, West Bengal, Maharashtra, Manipur, Gujarat, Karnataka, and Uttaranchal. Also there were complaints that in many districts Child Welfare Committees were not operational or functional and even Juvenile Justice Boards had not been constituted in the manner provided in the Act. The petition has been filed seeking issue of appropriate directions to the Central Government as also to the Chief Secretaries and Director Generals of Police and other authorities of the respondent	The court has requested the State Legal Services Authorities to coordinate with the respective Child Welfare Department of the States to ensure that the Juvenile Justice Boards and Child Welfare Committees are established and are functional with the required facilities. Some recommendations were also put forth in order to ensure that the rights of juvenile offenders are not violated, and to rehabilitate the offenders. They are: 1.That Police and government officials ensure the implementation of the JJ Act in the respondent states 2.Officials who fail to implement the Act should face due punishment 3.Mandatory institutions be set up, within the specified time frame 4.To provide basic amenities in the homes to child offenders 5. Respondent States to involve reputed NGOs in the implementation of the orders.

		States to implement the Juvenile Justice (Care and Protection of Children) Act, 2000 in its true letter and spirit. The petition also highlights the provisions of the Act which have not been implemented despite number of years having elapsed in the process.	
14	**National Legal Services Authority v. Union of India (2014) 5 SCC 438**	The petition had been filed in the Supreme Court of India seeking the recognition of the rights of Transgenders in the light of the traumatic experiences faced by the members of the TG community.	**DIRECTIONS AND DECLARATIONS:** 1.Hijras, Eunuchs, apart from binary gender, be treated as "third gender" for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by the Parliament and the State Legislature. 2.Transgender persons' right to decide their self-identified gender is also upheld and the Centre and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender. 3.Centre and the State Governments directed to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments. 4.Centre and State Governments should also take

			steps for framing various social welfare schemes for their betterment. 5.Centre and State Governments should take steps to create public awareness so that TGs will feel that they are also part and parcel of the social life and be not treated as untouchables. Centre and the State Governments should also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.
15.	**Sugreev alias Jagdish and Ors. v. Smt. Sushila Bai and Ors. [AIR 2003 Raj 149]**	The application filed by the plaintiff respondent under Order 33, Rule 1 of Civil Procedure Code, 1908 came to be allowed and was permitted to file the suit as an indigent person. Against this order, the revision was filed.	It was held that the Respondent was permitted to sue as indigent person and it meant that it was only deferment of payment of Court fees. She has to make payment of Court fees at latter stag. She has to pay Court fees to Government irrespective of her success or failure in litigation where she has not been granted free legal services. Matter of payment of Court fees in sum and substance was matter between litigant and State. This revision petition is not only wholly misconceived, misplaced but an abuse of the process of the Court also. Thus, the Revision was dismissed.

16.	**Kalaben Kalabhai Desai v. Alabhai Karamshibhai Desai, AIR 2000 Guj 232 (233): (2000) 4 Cur CC 419.**	The revision application under Section 115 of C.P.C. filed by the wife against the order of the learned Civil Court, Mahesana. Under the order, the learned trial Court awarded the interim maintenance to the wife petitioner and her minor son, towards the litigation expenses, certain amount has been has been awarded. This is challenged.	It is unfortunate that the programme of free legal services is not 51 successful to the extent to what it should have been because of the noncooperative attitude of the members of the Bar. The judicial officers are also equally responsible for the non-availability of these benefits to this class of litigants. In each case where a woman or child is a party, it is equally a duty of the judicial officer concerned to let them know that they are entitled for free legal aid.
16.	**Pyla Bangarraju v. Pyla Venkata Ramakrisha and Anr. [2010 (5) ALD728]**	Petitioner seeks to quash the certificate for court fee exemption issued by the Chairman, Mandal Legal Services Committee, Kakinada, in favour of the respondent. The respondent has filed a pauper to permit him to sue as an indigent person, to declare gift deed as void and not valid and to grant permanent injunction.	Since the respondent herein, is a member of the scheduled caste, therefore, he was entitled to the benefit of free legal services and also the court fee exemption.
17.	**Supreme Court Legal Aid Committee v. Union Of India & Ors. [(1998)5 SCC 762]**	It appears that while the provisions of the Act except Chapter III have been extended to all the States vide Notification dated November 9, 1995, the provisions of Chapter III have not been extended to a number of States and Union Territories for the reason that for the purpose of extending the provisions of Chapter III, it is necessary that the concerned State Government/Union Territory Administration should	It was directed that in the States/ Union Territories where the High Court Legal Services Committee has not been constituted either because of the absence of the regulations or even though the regulations have been made such committee has not been constituted, the concerned State

		have framed the relevant rules under Section 28 of the Act. It has been stated that since rules have not been framed in certain States/Union Territories, provisions of Chapter III have not been extended there.	Government/ Union Territory Administration shall frame the regulations and constitute the High Court Legal Service Committee within a period of two months. There are many States and UTs where inspite of the rules having been framed, steps have not been taken to constitute the various committees as given by the Act. It was also directed that the States/ Union Territories in which the various committees have not been constituted in accordance with the rules, had to constitute the various committees under the Act within a period of two months.
18.	**LAXMI V. UNION OF INDIA (Supreme Court) [(2014) 4 SCC 427]**	Laxmi, whose face and other body parts were disfigured in the acid attack, had a PIL in 2006. A minor then, Laxmi was attacked with acid by three men in New Delhi, as she had refused to marry one of them. She had filed a PIL seeking for the framing of a new law, or amendment to the existing criminal laws, for dealing with the offence, besides asking for compensation. She had also pleaded for a total ban on sale	In this case, the court directed that the acid attack victims shall be paid compensation of at least Rs. 3 Lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident to facilitate immediate medical attention

		of acid, citing increasing number of incidents of such attacks on women across the country. A direction was given to the Home Secretary, Ministry of Home Affairs associating the Secretary, Ministry of Chemical & Fertilizers to convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories, inter alia, to discuss the following aspects: • Enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories • Measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims, • Compensation payable to acid victims by the State/or creation of some separate fund for payment of compensation to the acid attack victims.	and expenses in this regard. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the directions that have been issued in the judgement. Various other important orders have also been passed by the Court directing the authorities formed at various levels to carry out a specific task. One of them is the order issued by the Supreme Court on April 10, 2015, for the enactment and publicity of the Victim Compensation Scheme in concerned states so as to provide relief and rehabilitation to the victims.
19.	**Ankush Shivaji Gaikwad** **v.** **State of**	The appellants were walking past the field when there was a scuffle between the deceased and the accused persons in the course. On account of the injury	Looking at S. 357 in this perspective it appears that the provision confers a power coupled with a duty on the Courts to apply its mind to the

	Maharashtra **AIR 2013 SC 2454 (Supreme Court)**	inflicted upon him, the deceased fell to the ground. All the three accused persons ran away from the spot. The deceased was rushed to the hospital. But, the deceased eventually succumbed to his injuries. According to the doctor, the death was caused by the injury to the head. Appraisal of the evidence adduced by the prosecution led the trial Court to hold the appellant and his co-accused guilty for the offence of murder. A criminal appeal was preferred before the High Court of Bombay.	question of awarding compensation in every criminal case. The power to award compensation was intended to re-assure the victim that he or she is not forgotten in the criminal justice system. The occasion to consider the question of award of compensation would logically arise only after the Court records a conviction of the accused. Capacity of the accused to pay which constitutes an important aspect of any order under S. 357, Cr.P.C. would involve a certain enquiry albeit summary unless of course the facts as emerging in the course of the trial are so clear that the Court considers it unnecessary to do so.
20.	**Suresh &Anr vs State Of Haryana(Supreme Court) [(2015) 2 SCC 227]**	On 18th December, 2000, the deceased and his son deceased had been kidnapped and ransom was demanded for their release. Since, the family could not fulfil the demand and offer to pay rupees ten lacs was not accepted by the kidnappers. The police was not informed on account of the fear. The disclosure statement of one person brought this fact to light that the two persons had been killed. After the required investigation, the accused were sent up for trial. The trial Court convicted and sentenced the	Appeal dismissed. Interim compensation of rupees ten lakhs was ordered to be paid to the family, by the Haryana State Legal Services Authority within one month. If the funds are not available for the purpose with the said authority, the State of Haryana will make such funds available within one month and the Legal Services Authority will disburse the compensation within one month thereafter. The object and purpose of the provision is to enable the

		appellants for kidnapping and murder and concealing evidence in conspiracy and by common intention. The decision was affirmed by the High Court. The court had asked the learned counsel for the parties to make their submissions as to applicability of S. 357 A of the Code of Criminal Procedure providing for compensation by the State to the victims of the crime.	Court to direct the State to pay compensation to the victim where the compensation under S.357 was not adequate or where the case ended in acquittal or discharge and the victim was required to be rehabilitated. Under this provision, even if the accused is not tried but the victim needs to be rehabilitated, the victim may request the State or District Legal Services Authority to award him/her compensation.
21.	**SUO MOTO WRIT PETITION (Supreme Court) [AIR 201 SC 2815, (2014) 4 SCC 786]**	The Supreme Court, based on the news item published in the Business and Financial News dated 23.01.2014 relating to the gang-rape of a 20 year old woman of Subalpur Village, in the State of West Bengal on the orders of community panchayat as punishment for having relationship with a man from a different community, by an order, took *suo moto* action and directed the District Judge in the area to inspect the place of occurrence and submit a report to the Supreme Court within a period of one week from that date. On perusal of the report, it was found out that there was no information in the report as to the steps taken by the police against the persons concerned, directed the Chief Secretary, West Bengal to submit a	The court opined that the victim should be given a compensation of at least Rs. 5 lakhs for rehabilitation by the State. Respondent No. 1 (State of West Bengal through Chief Secretary) was directed to make a payment of Rs. 5 lakhs, in addition to the already sanctioned amount of Rs. 50,000, within one month. It was also clarified that according to Section 357B, the compensation payable by the State Government under Section 357A shall be in addition to the payment of fine to the victim under Section 326A or Section 376D of the IPC.

		detailed report in this regard within a period of two weeks. Amicus curiae was thereafter appointed, to assist the court in this matter. The main issue being that earlier, Section 357 ruled the field which was not mandatory in nature and only the offender can be directed to pay compensation to the victim under this Section. But, under the new Section 357A, the onus is put on the District Legal Service Authority or State Legal Service Authority to determine the quantum of compensation in each case.	

ROLE OF VOLUNTARY AND SOCIAL ORGANISATIONS IN MAKING FREE LEGAL AID SERVICES AVAILABLE

22.	**Center For Legal Research And Anr.** **v.** **State Of Kerala (Supreme Court)** **AIR 1986 SC 1322, 1986 (1) SCALE 907, (1986) 2 SCC 706, 1986 (2) UJ 445 SC**	Before the Legal Services Authorities Act, 1987, came into force, there was no statutory body for implementation of the policy of providing legal aid to the needy as envisaged in Article 39A. This duty was carried out by non-governmental and voluntary organisations apart from the Kerala State Legal Aid and Advice Board, a body constituted by the Government by executive orders. At the time, various voluntary and non-governmental organisations	The assistance of voluntary agencies and social action groups must therefore be taken by the State for the purpose of operating the legal aid programme in its widest and most comprehensive sense, and this is an obligation which flows directly from Article 39Aof the Constitution. Further that, these voluntary organisation or social action group shall not be under the control or direction or supervision of the State Government or the State

		engaged in providing legal aid to the needy were not supported by the Government. Moreover, by a letter, the Secretary to the Government, Law Department, Government of Kerala directed the District Collectors in the State to not render any assistance to voluntary organisations to conduct legal aid camps other than the Kerala State Legal Aid and Advice Board. Thus, some voluntary organisations approached the Supreme Court of India challenging the stand of the Government.	Legal Aid and Advice Board as these programmes should be totally free from any Government control. The State Government was also directed to extend its cooperation and support to the given categories of voluntary organisations and social action groups, in running the legal aid programme and organising legal aid camps and lok adalats or nitimelas.
23.	**Forum for Social Justice** **v.** **State of Kerala & Another** **(High Court of Kerala)** **ILR 2009(4)Kerala456, 2009(3)KLJ538, 2009(4)KLT176**	In Pursuance of the guidelines and directions as given in the case of Center For Legal Research And Anr. vs State Of Kerala, the Government of Kerala framed guidelines regarding Governmental co-operation in respect of the legal aid activities of private organisations. The petitioner is one such private organisation engaged in the various legal aid programmes. They approached the Government for recognition as a voluntary organisation for rendering legal aid Pursuant thereto, the Government granted them recognition and extended support for conducting Legal Aid Clinics, and Neethimelas. While matters stood thus, the	Appeal dismissed. It is in the best interest of the legal aid programmes in the State that every facet of the same is controlled by the National Legal Services Authority at the national level and the State Legal Services Authority at the state level. In fact that only has been recognised by the impugned orders. Going by the scheme of the Act, the power of recognising voluntary and non-governmental organisations, for rendering legal services in the State, has been conferred on the authorities under the Act, which as far as State of Kerala is concerned is the

		parliament enacted the Legal Services Authorities Act, 1987, creating statutory bodies for the purpose of providing legal aid service to weaker sections of the society, as per which a National Legal Services Authority was constituted as an apex body under whom various State Legal Services Authorities were to function. The state authority (KELSA) constituted under the Legal Services Authorities Act, 1987, is also a respondent. When the KELSA was constituted, the Government decided to cancel the accreditation granted by them to various voluntary organizations in the matter of rendering legal aid services. The petitioner, a voluntary organization took up the matter with the Government, pursuant to which, the Government passed an order dated, wherein the Government held that on the advent of the Legal Services Authorities Act, 1987, the Government ceased to be the authority to give accreditation to voluntary organisations like the petitioner. The petitioner again approached the Government for reconsideration of the matter, which was also rejected by the Government.	KELSA. It is also in the fitness of things, since if two parallel authorities function for the same purpose, that would create confusion in the implementation of the provisions of the Act and would result in the legal said programmes itself ineffective.

24.	**Safai Karamchari Andolan and Ors.** **v.** **Union of India (UOI) and Ors.** [**2014 (2) GLT (SC) 79, 2014 (3) KarLJ 529]**	The Public Interest Litigation has been filed with respect to the inhuman practice of manually removing night soil which involves removal of human excrements from dry toilets with bare hands, brooms or metal scrappers; carrying excrements and baskets to dumping sites for disposal which is being carried out by manual scavengers. And they are considered as untouchables by other mainstream castes and are thrown into a vortex of severe social and economic exploitation. The Safai Karamchari Andolan along with six other civil society organizations as well as seven individuals belonging to the community of manual scavengers filed the present writ petition on the ground that the continuation of the practice of manual scavenging as well as of dry latrines is illegal and unconstitutional since it violates the fundamental rights guaranteed under Article 14, 17, 21 and 23 of the Constitution of India and the 1993 Act. The main issue is whether the petitioners must be granted the reliefs sought for, on the account of the practice of manual scavenging and dry latrines being illegal and unconstitutional or not?	Relief granted. The Court directed all the State Governments and the Union Territories to fully implement the "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013"and take appropriate action for non-implementation as well as violation of its provisions. Inasmuch as the Act 2013 occupies the entire field, the court also realized the need of further monitoring that would be required by itself. The court reiterated that the duty was cast on all the States and the Union Territories to fully implement and to take action against the violators. Henceforth, persons aggrieved are permitted to approach the authorities concerned at the first instance and thereafter the High Court having jurisdiction.

25.	**Occupational Health and Safety Association v. Union of India (UOI) and Ors. [(2014) 3 SCC 547, AIR 2014 SC 1469]**	The National Commission for Safai Karamcharis - a statutory body, set up under the National Commission for Safai Karamcharis Act, 1993, in its 3rd and 4th Reports (combined) submitted to the Parliament, noted that the 1993 Act was not being implemented effectively and further noted that the estimated number of dry latrines in the country is 96 Lakhs and the estimated number of manual scavengers identified is 5, 77,228. Also, the manual scavengers were being employed in the army, public sector undertakings, Indian Railways etc. Though a lot of legislation for pollution control and environment conservation are in place, are in place, but there is a lack of proper health delivery system, evaluation of occupational health status of workers, their safety and protection cause serious occupational health hazards. The petition highlighted the serious diseases. The workers working in thermal plants had been suffering from over a period of years.	High Courts in whose jurisdiction these power plants are situate, must examine whether CFTPPs are complying with safety standards and the rules and Regulations relating to the health of the employees working in various CFTPPs throughout the country and whether there is adequate and effective health delivery system in place and whether there is any evaluation of occupational health status of the workers. The High Court should also examine whether any effective medical treatment is meted out to them.
26.	**(2009) ALJ 338 (345): 2009AIHC 3159 (DB)**		The legal services authority act provides for complete dispute resolution mechanism and settlement through the instruments like Lok Adalats and Permanent Lok Adalats. Disputes

			cannot be referred to private legal aid societies and non – governmental organizations.

FEES TO THE LAWYERS PROVIDING FREE LEGAL SERVICES AS PER THE PROVISIONS OF THE ACT

27.	**T. Suthendraraja and another v. State Of Tamil Nadu and Others 1995 CriLJ 1496 (Madras High Court)**	An unfortunate episode of non-reconciliation between the defence lawyers engaged as State Brief Counsel and the State, on the quantum of fees payable to those counsel, in the Rajiv Gandhi Assassination case. Advocates appointed as State Briefs in the above case by this Court to defend the accused noted against them have represented to this Court that the fee fixed in the said Rule is inadequate and requested to address the Governments for enhancement of the fees on the following grounds as a special case. While the defending lawyers, after acceptance of their appointments as State Brief Counsel, have demanded payment of fees on par with prosecuting counsel the State has chosen to point out the rules	The counsels were ordered to be entitled to a daily fee of Rs. 750/-, for an effective hearing. As far as the past remuneration is concerned, it shall be paid without delay on furnishing of relevant bills certified by the Designated Judge. The court also observed that the Legal Aid to Poor Accused Rules 1976 need drastic changes.

		fixing the fee at Rs. 50/- per diem or such lesser fee as may be fixed in the discretion of the Court in the case of work lasting less than a full day, subject to a maximum of Rs. 300/- for the whole case for each pleader, while contending that it has no obligation to pay more. The main issue was whether there must be an enhancement in the amount of fees payable to the lawyers in this case?	
28.	**Akhil Bandhu Saha v. The State Of West Bengal & Ors.**	It has been claimed by the petitioner that as a result of the protracted proceedings by and between him and the bank, his resources have been drained to such an extent that he is in acute financial distress and has no means to travel to New Delhi to contact the advocate thereat (who has been requested by an advocate practising in this Court, to defend the petitioner, pro bono) and to explain to him his side of the story so that the said SLP filed by the bank is dismissed. It is further claimed that the petitioner has been running from pillar to post to secure funds for his travel to New Delhi to defend the said SLP but all such attempts have proved abortive. It is in such circumstances that the petitioner has claimed an order on the Secretary to the Government of	Rendition of free legal aid cannot be confined only to engagement of an empanelled advocate, paying his fees and shouldering the costs of the proceedings and certified copies of the orders passed in such proceedings. If legal aid has to be real in the true sense of the term, the narrow and restrictive approach has to be shunned and a wide and liberal approach adopted to translate the Constitutional promise to action. If indeed such restricted meaning is to be attributed to the words 'legal service', the object with which the LSA Act was introduced may not be fulfilled and in such an eventuality, the LSA Act would largely remain a document of limited use.

		West Bengal, as noted above.	The classes of aided persons who could be legally entitled to travel fare and accommodation charge may not be capable of exhaustive enumeration.

LOK ADALATS AND PERMANENT LOK ADALATS

Sr. No.	Case Name	Facts	Decision
29.	**State of Punjab v. Jalour Singh and others [AIR 2008 SC 1209, (2008) 2 SCC 660]**	The accident took place on March 4, 1997. Amarjit Kaur, aged about 32 years, died in the accident. Her husband and minor son claimed compensation. The Tribunal granted compensation. Thereafter, the High Court Lok Adalat took up the appeal on 3.8.2001. The parties were not present. Their counsel was present. After hearing them the Lok Adalat passed the following order. The Lok Adalat had increased the amount of compensation to the family of the deceased and ordered the respondents to pay the said compensation within 2 months of the date of the order. The appellants, therefore,	The appeal was allowed. The Lok Adalat exercised a power/jurisdiction not vested in it. On the other hand, the High Court twice refused to exercise the jurisdiction vested in it, thereby denying justice and driving the appellants to this Court If any party wants to challenge an award based on settlement, it can be done only by filing a petition under Article 226 and/or Article 227 of the Constitution, that too on very limited grounds. But where no compromise or settlement is signed by the parties and the order of the Lok Adalat does not refer to any settlement, but directs the respondent to either make payment if it agrees to the order, or approach the High Court for disposal of appeal on merits, if it does not agree, is not

		filed a petition under Article 227 of the Constitution (Civil Revision Petition) challenging the order of the Lok Adalat. The said petition was rejected by another single Judge of the High Court by an order holding that it is not maintainable. The high Court stated that nothing has been pointed out showing that such a petition under Article 227 of the Constitution is maintainable. Apart from the fact that the Lok Adalat has granted time for filing the objections and the objections have been dismissed, the meager increase in the amount of compensation does not warrant any interference.	an award of the Lok Adalat. The question of challenging such an order in a petition under Article 227 does not arise. As already noticed, in such a situation, the High Court ought to have heard and disposed of the appeal on merits.
30.	**BAR Council of India v. Union of India [(2012) 8 SCC 243, AIR 2012 SC 3246]**	Bar Council of India by means of this writ petition under Article 32 of the Constitution of India has raised challenge to the vires of Sections 22-A, 22-B, 22-C, 22-D and 22-E of the Legal Services Authorities Act, 1987 as inserted by the (Amendment) Act, 2002. The challenge is principally on the ground that Sections 22-A, 22-B, 22-C, 22-D and 22-E are	The appeal was dismissed. The court found no merit in the submission of the petitioner that the service provider may pre-empt the consideration of a dispute by a court or a forum under special statute by approaching the Permanent Lok Adalat established under Chapter VI-A of the 1987 Act and, thus, depriving the user or consumer of such public utility service of an opportunity to have the dispute adjudicated by a civil court or a forum created under special

		arbitrary per se; violative of Article 14 of the Constitution of India and are contrary to the rule of law as they deny fair, unbiased and even-handed justice to all. Whether Section 22-A, 22-B, 22-C, 22-D and 22-E introduced into the Act by the Amendment Act of 2002 are contrary to the Rule of Law?	statute. By not making applicable the Code of Civil Procedure and the statutory provisions of the Indian Evidence Act, there is no compromise on the quality of determination of dispute since the Permanent Lok Adalat has to be objective, decide the dispute with fairness and follow the principles of natural justice. Sense of justice and equity continue to guide the Permanent Lok Adalat while conducting conciliation proceedings or when the conciliation proceedings fail, in deciding a dispute on merit. With respect to the fact that there is no right to appeal, the court held that it does not render the impugned provisions unconstitutional. In the first place, having regard to the nature of dispute upto a specific pecuniary limit relating to public utility service and resolution of such dispute by the procedure provided in Section 22-C(1) to 22-C(8), it is important that such dispute is brought to an end at the earliest and is not prolonged unnecessarily. If at all a Party to the dispute has a grievance against the award, High Court can always be approached under its supervisory and extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

31.	**PT THOMAS** **v.** **THOMAS JOB** **[(2005) 6 SCC 478, AIR 2005 SC 3575]**	Whether the award of lok adalat be equated as the decree of Civil court or not?	The award passed by the Lok Adalat is the decision of the court itself though arrived at by the simpler method of conciliation instead of the process of arguments in court. The effect is the same. The court referred to section 21 and 22 of the Legal Services Authority Act, 1987 that talk about the Award of Lok Adalats and Powers of Lok Adalats respectively. Further, the court has referred to Order 23 Rule 3 of Civil Procedure Code that provides for compromise of suit where it is proved to the satisfaction of the Court that a suit has been adjusted wholly in part by any lawful agreement or compromise, written and signed by the parties. The Court after satisfying itself about the settlement, it can convert the settlement into a judgment decree. The court also opined that the award of the Lok Adalat is fictionally deemed to be decrees of Court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. This includes the powers to extend time in appropriate cases.

32.	**Madhya Pradesh Legal Services Authority (MPSLSA) v. Prateek Jain and Another [(2014) 10 SCC 690]**	Madhya Pradesh State Legal Services Authority, the appellant herein, has filed the instant appeal challenging the propriety of orders of MP high Court. Essentially the lis was between respondent Nos. 1 and 2. Respondent No.1 had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'Act') against respondent No.2. Matter reached before the Additional Sessions Judge in the form of criminal appeal. During the pendency of the appeal, the matter was settled between the parties. On their application, the matter was referred to Mega Lok Adalat. However, the concerned Presiding Officer in the Lok Adalat did not give his imprimatur to the said settlement in the absence of deposit that is 15% of the cheque amount which is necessary under the guidelines issued by the Supreme Court in the judgement of Damodar S. Prabhu v. Sayed Babalal [(2010) 5 SCC 663]. The costs so imposed had to be deposited with the	It was concluded that the parties had already settled the matter and the purpose of going to the Lok Adalat was only to have a rubber stamp of the Lok Adalat in the form of its imprimatur thereto. Thus, no error was found in the judgment of the High Court. The Court answering the question held that even when a case is decided in Lok Adalat, the requirement of following the guidelines contained in Damodar S. Prabhu should normally not be dispensed with. Therefore, in those matters where the case has to be decided/ settled in the Lok Adalat, if the Court finds that it is a result of positive attitude of the parties, in such appropriate cases, the Court can always reduce the costs by imposing minimal costs or even waive the same. Normally, the costs as specified in the guidelines laid down in the judgment of Damodar S. Prabhu has to be imposed on the accused persons while permitting compounding. There can be departure therefrom in a particular case, for good reasons to be recorded in writing by the concerned Court. It is for this reason that the Court mentioned three objectives which were sought to be achieved by framing those guidelines, as taken note of above. It has been made abundantly clear that the concerned Court

		Legal Services Authority operating at the level of the Court before which compounding takes place, but was not deposited. Against the order of Additional Sessions Judge, a writ petition was filed by respondent No.2 but the same is also dismissed by the High Court, accepting the view taken by the Additional Sessions Judge. Whether these guidelines in the judgment of Damodar S. Prabhu are to be given a go by when a case is decided/ settled in the Lok Adalat.	would be at liberty to reduce the costs with regard to specific facts and circumstances of a case, while recording reasons in writing for such variance.
33.	**Abul Hassan and National Legal Services Authority v. Delhi Vidyut Board & Ors. [AIR 1999 DEL 88.]**	Whether there should be a permanent Lok Adalat to deal with the matters involving DVB, MCD, NDMC, DDA, GIC, MTNL and various departments of the Government.	The misgivings of DDA and MTNL in regard to the setting up of permanent Lok Adalats thus, were ignored and the court ordered for setting up of permanent Lok Adalat. It is also directed that these Lok Adalats shall meet at such intervals as may be dictated by the necessity to hold the same according to the workload. It was held that it would be in the interest of the citizens of India that permanent Lok Adalats are established and held continuously so that the purpose for which the Act was enacted could be achieved. Unless permanent and continuous Lok Adalats are set up, it may not be possible to reduce the

			pendency in courts. The need to establish permanent and continuous Lok Adalat and to resort to alternative dispute resolution mechanism cannot be overlooked. The Lok Adalat and alternative dispute resolution experiment must succeed otherwise the consequence for an overburdened court system would be disastrous.
34.	**All Guwahati Educated Unemployed Hawkers Association and etc.** **v.** **All Guwahati Municipal Corporation and Ors. etc. (High Court Of Gauhati)** **[2006 SCC OnLine Gau 18, AIR 2006 Gau 132]**	The Member-Secretary, Assam State Legal Services Authority in pursuance of the provisions of Section 22B(1) of the Act issued notices to the writ petitioners taking cognizance of various complaints received by him from different persons for adjudication of the disputes raised in accordance with the provisions of Chapter VIA of the Act. The orders passed in different cases have been challenged in all these writ petitions. Precisely, different Benches of this Court presided over by the learned Single Judges suspended the operation of the orders passed by the Member-Secretary pending disposal of the writ petitions. Whether the Member-	The powers of the state authority are totally administrative in nature. They have no nexus with the judicial powers vested in the Lok Adalats. Hence, neither the state authority, nor the central authority is authorized by the law, to nominate the member secretary to invoke and exercise the powers of permanent Lok Sabha in any place, within the territorial limits of that particular state.

		Secretary, Assam State Legal Services Authority is authorized under the provisions of the Legal Services Authorities Act, 1987, hereinafter referred to as the 'Act', to invoke and exercise the powers vested with a permanent Lok Adalat under the provisions of Chapter VIA of the Act?	
35.	**KN Govindam Kutty Menon v. CD Shaji [(2012) 2 SCC 51]**	This appeal raises an important question as to the interpretation of Section 21 of the Legal Services Authorities Act, 1987. The main question that was posed for consideration was that when a criminal case is filed under Section 138 of the Negotiable Instruments Act, 1881 referred to by the Magistrate Court to Lok Adalat is settled by the parties and an award is passed recording the settlement, can it be considered as a decree of a civil court and thus executable?	It was held that considering the clear and unambiguous language of Section 21 of the Legal Services Authority Act, 1987, every award passed by the Lok Adalats would be treated as the a decree of a Civil Court, and thus executable. And that there was no such specific distinction between the reference made by civil or a criminal court. Thus, even if a matter has been referred by a criminal court under Section 138 of the N.I. Act, the award passed by the Lok Adalat based on a compromise has to be treated as a decree capable of execution by a civil court.
36.	**State of Maharashtra v. Manubhai Pragji Vashi and others (1995) SCC 6, 730**	State of Maharashtra represented by the Education Department (appellant) filed SLP against the Judgment and Order of the High Court of Bombay. The prayer was	Held: The Supreme Court upheld the judgment and order of the High Court of Bombay. Article 21 read with Article 39A of the Constitution mandates or casts a duty on the State to afford grant-in-aid to recognised private law

		that the benefit of pension-cum- gratuity scheme introduced by the Government for all teaching and non-teaching staff in colleges with faculties in specified fields should be made applicable to the staff of the non-Government Law Colleges too. The High Court held that the action of the Government is not extending the grants-in-aid, afforded to faculties like Arts, Science, Commerce, Engineering and Medicine to non-Government recognized law colleges is discriminatory.	colleges, similar to other faculties, which qualify for the receipt of the grant. The aforesaid duty cast on the State cannot be whittled down in any manner, either by pleading paucity of funds or otherwise. This position was made clear. Government was directed to extend the grant-in- aid scheme to all Government recognised private law colleges, on the same criteria as such grants were being given to other faculties also.
37.	**M.I. Ibrahim Kutty v. Indian Overseas Bank, Maruthanvode Branch [AIR 2005 Mad 335]**	The bank is the plaintiff here and the defendant had borrowed a certain sum of money on Demand Promissory Notes and Deed of Hypothecation. the Defendant had also executed a Simple Mortgage Deed in respect of the properties, by deposit of Title Deeds. The bank filed a suit against the defendant to claim that amount, which was referred to Lok Adalat. Both the Plaintiff Bank and the Defendant had agreed for a compromise	Section 20(5) says that, where Lok Adalat was not in position to arrive at compromise, it did not mean that whenever records were sent back to Court, it would lead to an inference that matter was unsettled. It was matter of reasonableness and experience that whether case was settled or not, case records had to be necessarily sent back to Courts concerned. However, suit was dismissed for default, same Subordinate Judges had referred to case to Lok Adalat. Sitting as Chairman of Legal Services Committee, same officer settled matter and had also signed in

		and the Award was passed. The Defendant has not acted as per the terms of the award, the Plaintiff Bank has filed Execution Petition. Subordinate Judge held that, every Award of Lok Adalat should be deemed to be Decree of Civil Court and executable and that subsequent dismissal of suit would not prevail against award of Lok Adalat	award. Again when suit came up before Court, same officer, had dismissed suit for default – probably, it wasn't brought to notice of Court that suit was settled in Lok Adalat. Thus, Subordinate Judge/Executing Court had rightly referred to Section 21 of Act in holding that award had become final and it could not be challenged. Petition was dismissed.
38.	**Chaluvadi Murali Krishna v. District Legal Service Authority, Prakasam District, Ongole [AIR 2013 AP 41]**	The award passed Lok Adalat was challenged on the ground that the Legal Services Authority is not competent to deal pre litigation case and it could not settle dispute, unless the case has been referred to, by the court.	The court held that under section 19(5)(ii) and S. 20(2), the lok adalats are competent enough to deal with the pre-litigation cases. Also, that these two provisions confer jurisdiction on the Lok Adalats even without the reference of the dispute by the court. Thus, the award so made by the Lok Adalat was held to be valid and proper.
39.	**Jatavath Sali v. Mandal Parishad Deelopment officer and another. [2006 (2) ALT 217]**	The revision petitioner is questioning the order made on the file of the Mandal Legal Services Committee, Miryalaguda, Nalgonda District, wherein the petition was closed as there was an essential question as regard to the identity of the a certain person and it was difficult to ascertain it before the Lok Adalat.	It was held that the legal services authority established under the legal services authority act exercises the quasi judicial functions where the disputed questions of the facts are involved in the case and the committee opines that these questions cannot be resolved by the Lok Adalats. In that case, it would be appropriate for the parties to invoke proper remedy instead of closing application of referring matter.

40.	**Sreedharan T. and Ors.** **Vs.** **Sub Inspector of Police and Anr.** **[2009 CriLJ 1249, ILR2009 (1) Kerala 111]**	Petitioners were indicted in non-bailable offences and approached the Hon'ble High Court for anticipatory bail. It was contended by them that they are innocent and they were falsely implicated. It was also pointed out they had approached the Hon'ble High Court earlier and the Court had referred the anticipatory bail application to the Lok Adalat. Petitioners did not prosecute the application and Adalat closed the petition as not pressed. The learned Single Judge examined whether the Court can refer an anticipatory bail application to Adalat, whether Lok Adalat can dispose of the bail application and whether a case involving a non-bailable offence can be referred to Adalat. It was held that court could refer an anticipatory bail application to the Adalat, that Lok Adalat cannot dispose of the anticipatory bail application and that case involving non-bailable offence can be referred to the Lok Adalat.	The various provisions contained in the Act make it clear that the Lok Adalat has no adjudicatory functions. It cannot pass any independent verdict/order/award arrived at by any decision-making process. It can only persuade the parties to the dispute, by any known methods of conciliation, mediation etc., and with utmost expedition, to arrive at a compromise or settlement and determine the case in accordance with the bilateral compromise or settlement arrived at them. In doing so, it shall be guided by the principles of justice, equity, fair play and other legal principles. What is expected of by the Lok Adalat is to incorporate the terms of settlement or compromise arrived at by the parties to the dispute, in the presence of both parties in the form of an Award and under their signature as well as the signature and seal of the judges of the Lok Adalat. It is, in effect, more or less, like a compromise decree. No decision can be taken by the lok Adalat unilaterally. But, many Lok Adalats are found to issue independent directions and orders, just as the courts do, after an independent, adjudicatory process. This is totally contrary to the scheme and scope of the Act and it is impermissible also.

41.	**State of Kerala and Anr. Vs. Ernakulam District Legal Service Authority and Ors. [AIR 2008 Ker 70, ILR 2008 (1) Kerala 119]**	The writ petition was filed by the state of Kerala challenging the direction issued in the award passed by the Lok Adalat, to refer a crime under investigation for an offence punishable under Section 397 IPC. The Lok Adalat had passed the award since the suit between the debtor and creditor had been settled in the Lok Adalath and since the crime registered had allegedly been committed during the course of recovery of a vehicle for the non-repayment of a loan, which was the subject-matter of the dispute in the suit. The learned Single Judge held that the offence under Section 397 is non-compoundable and hence the Lok Adalath cannot compromise or settle any case or matter relating to an offence not compoundable under law.	An offence punishable under Section 397 IPC is not compoundable under Section 320 of the Code of Criminal Procedure, 1973. In terms of the proviso to Section 19(5) of the Act, the Lok Adalath shall have no jurisdiction in respect of any case or matter regarding an offence not compoundable under any law meaning the Lok Adalath would have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of a case pending before; or any matter which is falling within the jurisdiction of, and is not before, any court for which the Lok Adalath is organised; it shall not have jurisdiction to determine or to arrive at a compromise or settlement regarding any case or matter relating to an offence not compoundable under law. Therefore, it is not permissible for the Lok Adalath to enter into any determination or to arrive at a compromise or settlement in relation to a case or matter regarding an offence punishable under Section 397 IPC, which is a non-compoundable one.
42.	**Dakshinanchal Vidyut Vitran Nigam Ltd. and Others V. M/s. Prakancha Metal Works Pvt. Ltd.**	Present Petition filed against order whereby Permanent Lok Adalat awarded compensation to the Respondent on account of illegal disconnection of	The provisions of Legal Services Authorities Act, 1987 are meant for different objective, i.e., for adjudication of dispute by settlement. The provisions of Act, 1987 are not exclusive but

	[2012 (9) ADJ 112, AIR 2012 All 176]	electricity supply at Respondent's premises. The permanent Lok Adalats would have the jurisdiction to entertain the claims for mental torture or harassment or not?	supplementary in nature. A reading of Sections 19 and 20 of Act, 1987 would show that a matter shall be referred to Lok Adalat on an application filed by one of the parties under Section 19(5)(ii) with the request that such matter needs be determined by Lok Adalat but only when an opportunity is granted to other side of being heard. In the present case, it is not the case of learned counsel for the petitioners that no such opportunity was granted or that when the opportunity under Section 20(1)(ii) was granted they raised an objection about lack of jurisdiction of Lok Adalat or for not referring the matter for determination by Lok Adalat. Once an opportunity of hearing was granted before referring the matter to Lok Adalat and thereafter the matter has been decided, the petitioners cannot be allowed to retract and contend that Lok Adalat has no jurisdiction.
43.	**Amod Prasad Ram V. The State of Jharkhand, Jharkhand State Legal Services Authority and District Legal Services Authority [2007(2)BLJR2006, [2007(3)JCR283(Jhr)]]**		A conjoint reading of Section 22 B and 22 D indicates that the Permanent Lok Adalats means the chairman and the two members and it is only on the filing of an application by the party to the dispute that the Permanent Lok Adalat will be conferred the jurisdiction to deal with the case.

44.	**Anita Chauhan** **V.** **State of Haryana and Ors.** **[(2003)133PLR185**]	Petition by the petitioner for staying the operation of the order passed by the Lok Adalat. Lok Adalat the parties could not arrive at a compromise or settlement, and the matter was contested between the parties. And as no compromise or settlement could be arrived at between the parties. It was mandatory for the Lok Adalat to return the case to the Hon'ble High Court for proceeding further in the matter and deciding the same on merits. Reference in this connection may be made to the provisions of Section 20 (5) & (6) of the Legal Services Authorities Act, 1987. The petitioner contends that the Lok Adalat has no such power either under the provisions of the Constitution or of the 1987 Act.	The provisions under Section 22 c would only be attracted to the pre litigation conciliation and would have no application to the disputes which are already pending in the court and which have been referred to the Lok Adalat by the Court.

CONCLUSION

The major obstacle that lies in the development of India, as a country, is the irregular distribution of wealth. Today, 80% of the wealth in India is possessed by 20% of the population. And the remaining 80% of the populations remains disadvantaged as far as the enforcement of their rights is concerned. Since, the majority of population survives in dearth of monetary resources, they mostly are reluctant to approach the Court of Law for the enforcement of their rights. This is why the concept of free legal aid was like a basic necessity in India, to impart social justice to each and every individual, irrespective of any discrimination.

The judiciary in India has always played an active role when it came to the interpretation of provisions concerning free legal aid and the approach has always been the one that favored the weaker and the disadvantaged sections of the society. **Justice P. N. Bhagwati** and Justice **V. R. Krishna Iyer**, were the first judges to concede PILs in court. Filing a PIL is not as bulky as a standard lawful case; there have been occurrences when letters and telegrams tended to the court have been taken up as PILs and heard them.

This was developed by the judiciary in the way it is now, so that the needs of the poor did not remain unheard. Prior to the 1980s, just the distressed party could approach the courts for equity. After the crisis period the high court connected with the general population, formulating a methods for any individual of people in general (or a NGO) to approach the court looking for legitimate cure in situations where the general population interest was in question. This shows that the representation of people in the courts has been a prime concern of the judiciary so that the ideals and goals laid down in the preamble could actually be there in practice.

The legislature has also been active in this regard. Article 39A of the Constitution of India, was enacted so as to promote, protect and deliver social justice, by the way of law. The idea of Public Interest Litigation (PIL) was developed in the same line of the progression as in concern with the standards revered in Article 39A of the Constitution of India to secure and convey brief social equity with the help of law. The Legal Services Authority Act, 1987 was brought into force with the main aim of providing a proper set of laws providing for the establishment of the authorities

that would deal exclusively with rendering free legal assistance to the persons eligible under the act under Section 12.

But the authorities so formed, still face challenges which pose as obstacles in achieving the purpose for which the law has been enacted. Even though the higher judiciary in India has also been active, but some activity is also required on the part of subordinate Judiciary. The judges working at the district court need to work on the individualistic approach. As even today people are reluctant to approach courts. So this reluctance towards the legal process needs to be essentially removed from within the people and the judges need to develop a more individualistic approach rather than a collective one.

The problem also majorly lies in the implementation part of the act, where the Central and the State authorities need to be more active. Some of the ***problems and suggestions*** are:

- It has to be ensured by the courts that the subordinate rules and regulations so formed in under the Legal Services Authority Act, 1987 are duly implemented in all the States.
- Legal Awareness camps which the states generally fail to organize, must also be organized at regular intervals and an inspecting authority must also be appointed to oversee the working of the State authorities in this regard.
- The legal literacy material should also be properly and timely distribute to the participants. This should be framed in the simplest possible manner and with least amount of legal jargon so that it is easy to understand.
- The process of selection of the Panel Lawyers and Para Legal Volunteers often takes a lot of time to be completed. This practice of procrastination causing unnecessary delay needs to be dealt with.
- Preference should given to lawyers with experience on cases affecting persons provided in Section 12 of the LSA Act that is Members of Scheduled Castes/ Scheduled Tribes; persons with disabilities, women, children, persons under circumstances of undeserved want e.g. victims of a mass disaster/ ethnic violence/ caste atrocity/ flood/ industrial disaster; industrial workmen; persons in custody; economically vulnerable persons and victims of trafficking in human beings or begar.

- There is many a times, dissatisfaction among the panel advocates who are appointed under the act as the honorarium that they are supposed to receive as per the ***NALSA Regulations, 2010***, is very low. Thus, they are often uninterested in the work that they have to do. And the dues of the employees should also be timely paid, without any delay. Even though the authorities are not working in the dearth of funds, but the rules are framed in such a way that the members are only to be paid the remuneration which is very low.
- The panel advocates must also be given professional training on the laws concerning free legal aid and the procedures followed in the courts.
- Para legal volunteers are also to be appointed under the act. But the training of such volunteers is the main concern. There must be proper rules for the professional training and the *do's and don'ts* for them as they are supposed to bridge the gap between the community and the Legal Services Authorities.
- There is no feedback mechanism as such provided in the Act. But it is advisable that there should be one, so that the Legal Aid clients can share their experience, good or bad, as well as their suggestions, if any. This would make general public feel important as their suggestions would be taken into consideration for the better working of such institutions.
- The judges working at the subordinate courts are also under pressure to dispose more and more cases to reach the targets set for them by the High Courts. In this situation the often fail to realize that the parties may be unable to afford the legal services. So, such needs must be realized by the Courts. And the quality of justice must not be compromised with, in order to achieve the targets of the number of cases to be disposed. Certain amount of relaxation must be given to the judges also, so that they give their 100% to the task assigned to them.
- Also that a judicial member has to be appointed as the main head of the Legal Services Authority in a particular area and has to participate and supervise the working of such an institution. So, in this, the duties of this member as a judge and his work gets greatly jeopardized, as in addition to his judicial work, he now also has to do the administrative work.

- The authorities must be able to realize and recognize the needs of every area where the legal awareness camps are organized. And also the Lawyers and the Para Legals in such areas must be appointed taking into consideration the needs of the people. Those Lawyers and the Para Legals must be preferred who are specialized and have experience in the field of those particular laws which are more in demand in the area concerned.
- Also, the NGOs and other voluntary organizations need to play a greater role, as they can, in spreading awareness among general public, of such right and the relevant authorities. The voluntary organizations need to be encouraged and as per the act, the state authority is supposed to work in connection with the NGOs to spread the legal awareness. It is advisable that there is an authority or a committee appointed to see whether the state authorities are actually working with the NGOs or not and to advise both the organization to enhance their working patterns for a greater good.
- "The LSAs should be the natural referral point for institutions/ organizations dealing with the rights of the poor and the marginalised. NGOs working with these sections should be encouraged to approach the LSAs for legal aid."[1]
- The Monitoring mechanism of the Panel Lawyers and Para Legal Volunteers must be worked upon to enhance its working and results.

[1] http://www.undp.org/content/dam/india/docs/DG/needs-assessment-study-of-selected-legal-services-authorities.pdf - accessed on 27/11/2015 at 1:00 pm

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