



**ACCESSING JUSTICE TO CONVICTS IN PRISONS THROUGH
LEGAL SERVICES: A CAMPAIGN**

NATIONAL LEGAL SERVICES AUTHORITY

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ACCESSING JUSTICE TO CONVICTS IN PRISONS THROUGH LEGAL SERVICES:- A CAMPAIGN

1. Introduction:

Access to Justice is a pre-requisite for equal justice to all. The Legal Services Authorities Act, 1987 spells out the paradigm for achieving Access to Justice by providing free legal services to the disadvantaged and the marginalised. Recognizing prisoners as disadvantaged, the Legal Services Act mandates to provide legal services to them.

Across the nation, the Legal Services Authorities are working to provide legal services to the prisoners. In the structural framework, about 1158 Legal Services Clinics are operational in jails, catering to the legal needs of prisoners. Panel Advocates visit the said clinics twice/thrice in a week to provide legal services in the form of legal advice, drafting applications, apprising inmates about the status of their cases/appeals etc. PLVs are mostly the convicts capable of understanding the legal needs of prisoners and assisting Panel Advocates in providing legal services to the prisoners.

Convicts form about 33 % of the prison population in India. As a matter of right they are entitled to free legal services to get their appeals filed within stipulated times. The literacy rate of the convicts

is very low. They are not aware of the legal processes, and are mostly in a state of ignorance vis-à-vis their legal rights.

The following issues of convicts need redressal :-

- Lack of legal information and awareness about the right to appeal and its processes, and availability of free legal aid.
- Difficulties in engaging lawyers.
- Lack of information about the status of their appeals/SLPs/bail applications.
- Lack of interaction with the lawyers representing them before Supreme Court and High Courts.
- Lack of knowledge and information of Parole, Furlough, Remission etc. and its processes.

The functionaries of District Legal Services Authorities regularly visit jails for providing legal services. However, carrying out a pan India campaign with a targeted approach to address the issues mentioned above would definitely enhance legal services being provided to convicts. The same would also help in identifying the convicts who have not filed appeals/SLPs but want to file it and also convicts who are not aware of the status of their appeals/SLPs/bail applications. It would also help in addressing other legal needs of the convicts such as filing of applications for parole, furlough etc.

2. Objectives:

- To secure appellate rights of the convicts.
- Ensuring that incarceration does not go beyond the period of their imprisonment or after remission.
- To secure parole, furlough and remission rights of the convicts.

3. Operational Framework:

The operational framework of the campaign consists of two parts. Part I and part II are interrelated. In fact, part II is the next essential step after the completion of part I. The operational framework is suggestive in nature, and may be tailored in view of the local conditions.

PART -I

Preparation for delivering legal services

The first part consists of a series of steps which are preparatory in nature, and are requisites for translating into action the activities envisaged under Part II of the Campaign. The steps are as follows:

3.1 Formation of teams: District Legal Services Authorities shall constitute team(s) of panel advocates. The team may also have a female panel advocate. Team shall be apprised about the objectives of the campaign and the

activities to be carried out under the campaign. PLVs, willing law students of the nearest law colleges may also be associated with the team members.

3.2 Data of Convicts:- Data of convicts is requisite for strategizing and implementing the various activities under the present campaign relating to appellate rights of the convicts. The team(s) under the supervision and guidance of District Legal Services Authority shall collect the data of each of the convicts. The collection of data may be made from the following:-

- (i) Jail Authorities
- (ii) Courts
- (iii) High Court Legal Services Committees and
- (iv) Supreme Court Legal Services Committee.

Data with regard to the points, which could not be collected from the aforesaid sources may be collected by doing interaction with the convicts.

In the first part of the campaign, the team shall obtain information about the status of appeals of the convicts filed in Sessions Court/High Courts/Supreme Court of

India. As aforesaid, the convicts whose appeals/SLPs have been filed are mostly not aware about the status of their appeal and the next date of hearing, if any. Their appeal status also can be updated by using the Case Information System.

The matters in which legal aid applications along with the documents have been already submitted to the HCLSC, it be inquired from HCLSC as to whether the appeals, in the said matters, have been filed or not.

Each HCLSC shall also forward to the concerned DLSA, a list of the legal aided cases received from the district in which the counsel have been marked. It shall also provide information about the status of appeal i.e. as to whether the same has been filed or not. Name of the counsel alongwith his telephone number, email ID be supplied to the office of DLSA. The SLSAs shall give the phone numbers, emails of the Secretary DLSAs to the Secretary, High Court Legal Services Committee.

The Supreme Court Legal Services Committees shall provide the data with regard to the SLPs/appeals to the

respective SLSAs alongwith the names of the advocates etc. Still if any data with regard to SLP/appeal of a convict remains then DLSAs shall obtain data about the status of the SLP/appeal from the Supreme Court Legal Services Committee qua convicts whose cases have been already sent to the SCLSC. The name of a advocate to whom case has been marked by the Supreme Court Legal Services Committee alongwith the status of SLP/statutory appeal be also got confirmed from the SCLSC. The particulars with regard to the address, phone number and email id of Supreme Court Legal Services Committee are as follows:-

Secretary,
Supreme Court Legal Services Committee
109, Lawyers Chambers,
Post Office Wing, Supreme Court Compound
New Delhi 110 001
Contact No:- 011-23388313
Email address: sclsc@nic.in

Any other information with regard to the legal aided matters before Supreme Court be also sought from the Supreme Court Legal Services Committee.

After collecting the data, the following categorisation of convicts amongst other things, may emerge vis a' vis their appellate rights.

- Convicts who are not willing to file appeals/SLPs.
- Convicts who have already filed appeals/SLPs through private lawyers.
- Convicts who have not at all filed appeals/SLPs but want to file appeal/SLPs through Legal Services Institutions.
- Convicts who have sought legal aid for filing appeals/SLPs but their appeals/SLPs have not been filed due to lack of documents or other reasons.
- Convicts whose appeals/SLPs have been filed through legal services authorities but they are not aware about the name of their lawyers and the status of their appeals.
- Convicts who have moved bail applications through LSIs but are not aware about the status of applications.
- Convicts who want to get their matter processed for parole/furlough/remission etc. but are not aware of the processes, and require drafting of applications for it.

After collection of the data, the status of the SLPs/appeals will be known which in turn will help teams to

inform convicts about the same. The said data be maintained at the Jail Legal Services Clinics. Efforts shall also be made to note the sentence already undergone and the remaining part of the sentence of each of the convicts as it will help in identifying the convicts who are in incarceration beyond the period of imprisonment or after remission. This data may be sought from jail authorities.

During interaction convict should be informed about his/her right to appeal and availability of free legal aid.

The suggestive format for collecting data of each of the convicts is given in **Annexure 'A'**.

- 3.3 Awareness about availability of free legal services:** During the interaction, some convicts may express that they are not ready to file appeals/SLPs. Sometimes difficulties in engaging with lawyers and the legal process alienate the inmates from using the law and availing their rights. Such convicts be made aware about the availability of free legal services. They be also apprised about the process of appeal/SLPs. They be also made aware that DLSAs would assist them in collecting documents in case they want to file appeal/SLPs. It may happen that after

getting informed of all this and other aspects during interaction, they may opt for filing an appeal/SLPs.

3.4 Collection of Documents:- The DLSA concerned with the assistance of the team shall help in collecting documents required for filing appeals in the courts of Sessions/High Courts and the SLPs/ statutory appeals in the Supreme Court. The following points may be noted in this regard:-

- ✓ The documents required for SLP /statutory appeals etc. in the Hon'ble Supreme Court are as follows:-

Special Leave Petition(Criminal)

1. Certified copy of High Court Judgment
2. High Court Paper book
3. Copy of FIR
4. Copy of Evidences
5. Trial Court judgement
6. Reasons for delay, if any in approaching the Hon'ble Supreme Court.
7. Certificate of imprisonment
8. Application for legal services
9. Affidavit for legal services
10. Vakalatnama
11. English translation of the documents, which are in vernacular.
12. Affidavit in support of SLP

Statutory Appeals

1. Certified copy of the judgment passed by Forum
2. Paper book of the case filed in Forum
3. Reasons for Delay, if any, in approaching for legal aid.
4. Application for legal services
5. Affidavit for legal services
6. Vakalatanama
7. English translation of the documents, which are in vernacular.
8. Affidavit in support of appeal

Transfer petition(Civil /Criminal)

1. Summons received from Trial Court
2. Copy of petition filed by the opposite party before trial court
3. Reasons for transfer
4. Application for legal services
5. Affidavit for legal services
6. Vakalatnama
7. English translation of the documents, which are in vernacular.
8. Affidavit in support of Transfer petition

Review Petition

1. Copy of complete set of SLP paper book.
2. No objection certificate from the advocate on Record who filed the SLP, if, SLP not filed through SCLSC.
3. Affidavit for legal services
4. English translation of the documents, which are in vernacular.
5. Affidavit in support of Transfer petition
6. Affidavit
7. Application for legal services
8. Reasons for delay

Curative Petition (Criminal) (matter relating to life sentence/death Sentence only)

1. Copy of complete set of SLP paper book
2. Certified copy of order passed by the Hon'ble Supreme Court in SLP/Appeal
3. Certified copy of the order passed by the Hon'ble Supreme Court in Review Petition.
4. Complete copy of the Review petition.
5. Affidavit for legal services
6. Vakalatnama
7. English translation of the documents, which are in vernacular .
8. Affidavit
9. Application for legal services
10. Reasons for delay.

- ✓ During collection of documents coordination be made with High Court Legal Services Committee and the Supreme Court Legal Services Committee. The same

will help in identifying the documents which are still required to be submitted qua the Legal Aid applications already submitted alongwith some documents. The documents which are generally required for filing an appeal before the High Court through legal aid are: (i) legal aid application(ii) custody certificate (iii) vakalatnama (iv) certified copy of the judgement and sentence. Apart from this, a lawyer, for drafting appeal, also requires a copy of the report u/s 173 CrPC. Copies of depositions, copies of exhibits .

- ✓ Legal aid applications of convicts who are willing to file appeals through the Legal Services Authorities be drafted. Documents relating to their cases be collected during the First Part of the campaign.

3.5 Translation of documents and other formalities:-

In the meeting of the Central Authority of National Legal Services Authority held on 29th November, 2014, the following resolution was passed:-

11. Resolved further that NALSA would advise SLSAs that all matters that are required to be filed before the Supreme Court be processed and prepared by the High Court Legal Services Committees, including translation of documents and that SLSAs transfer adequate funds to High Court Legal Services Committees for preparation and translation of

documents before dispatch to the Supreme Court Legal Services Committee for filing.

The High Court Legal Services Committees shall complete the preparation and the translation of the documents concerning the legal aid applications of the convicts pertaining to filing of SLPs/ Statutory appeals in Supreme Court and forward the same to the Supreme Court Legal Services Committee.

PART II

Delivery of Legal Services

- 4.1 Appeals in Sessions Courts:** Appeals of convicts, requiring free legal services, to be filed in Sessions Court be filed. It be ensured that appeals are filed within the stipulated time by the panel lawyers. The convicts be apprised about the filing of their appeals and the date of hearings. In appropriate cases, bail applications be also filed. Inmates be also informed about the name of advocates representing them.

4.2 Appeals in High Courts:- The appeals of convicts, requiring free legal services, which are to be filed in the High Court be sent to the High court Legal Services Committee (HCLSC) along with all the documents such as application for legal aid, Vakalatnama, Custody certificate, certified copy of the judgment and sentence, copy of report under Section 173 Cr. PC, copies of all depositions and exhibits etc. The Secretary DLSA, under the guidance of SLSA shall coordinate with the Secretary of the High Court Legal Services Committee (HCLSC) for timely filing of appeals.

The High Court Legal Services Committee shall make an endeavour during the campaign period to file the appeals in the matters qua which legal aid applications have been received by it. In case, the appeals have not been filed due to deficiency of documents then, in such a scenario, it shall directly contact Secretary, DLSA who shall ensure the submission of requisite documents for filing appeals to the HCLSCs without any delay.

4.3 Appeals in Supreme Court Legal Services Committee:-

The High Court Legal Services Committees shall process the matters relating to filing of SLPs/ appeals pending with them for submission to the Supreme Court Legal Services

Committee. The District Legal Services Authorities shall submit the documents to the respective High Court Legal Services Committee alongwith the legal aid applications of the convicts who are identified during the campaign for filing SLPs/appeals in the Hon'ble Supreme Court. The Supreme Court Legal Services Committee shall also endeavour to process the matters for filing of SLPs /appeals in the Hon'ble Supreme Court of India.

4.4 Interaction through video conferencing:- In appropriate cases, interaction be facilitated between convicts and the panel lawyers representing the convicts in the High Courts. This can be done through Legal Assistance Establishments(LAE). Similarly, wherever required Supreme Court Legal Services Committee may be requested by SLSAs to facilitate interaction between the convicts and the lawyers representing convicts in the Supreme Court and the Convicts.

4.5 Drafting of applications for Parole/Furlough/Remission etc.:- Applications of the convicts in appropriate cases be drafted for availing benefit of Parole/Furlough/Remission etc. Apart from this, applications concerning other legal

needs be also drafted and submitted before the concerned authorities.

4.6 Taking up cases of the convicts incarcerated in prisons beyond the period of imprisonment:- During the campaign, if any case comes pertaining to any convict who is in the prison beyond the sentence of imprisonment or even after remission , then the matter be taken up with the jail authorities or the court concerned, as the case may be for the release of such convicts.

4.7 Making Convicts aware of the status of their appeals: During the campaign, the convicts be made aware of the status of their appeal before the respective High Courts and Supreme Court.

Follow-up Action:-

The follow up action of the activities done during the campaign period is important. In this regard, Jail Legal Services Clinics shall keep on updating the data, and the DLSA shall ensure that the activities undertaken during the campaign are not left halfway, particularly with regard to

the filing of appeals in the High Courts and Supreme Court of India.

Data of all the convicts including those who have availed free legal services be maintained at the Jail Legal Services Clinic. The status of their appeals, name of advocate and other relevant details be maintained so that Jail Legal Services Clinics work as One Stop Centre for the convicts as far as the appellate rights etc. are concerned.

Time lines:-

Part (I) of the campaign may be completed within a period of one month. Part (II) of the campaign shall be started after completion of part(I), and shall continue for a period of one month.

Expected Outcomes:-

- (1) Will make convicts aware about the right to appeal/SLP and free legal services.
- (2) Will help in actualization of the appellate rights of the convicts.
- (3) Will help in informing and updating convicts about the status of their appeals/SLPs .
- (4) Will facilitate convicts to apply for parole/furlough etc.
- (5) Will identify convict/prisoners incarcerated beyond the period of imprisonment or after remission.



Annexure-A

Data of convicts (Suggestive Proforma)

S.No.	Names of convicts	Age & Sex	Father Name	FIR No.	District & Police Station	Date of admission in jail	Convicted under Section(s)	Appeal/SLP status	Specify whether Private lawyer engaged or legal aided lawyer engaged	Name of Lawyer, contact no. and e-mail ID
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.

If appeal/SLP not filed, whether the convicts intends to file appeal/SLP	Whether convict would like to avail of legal services Yes/No	If yes, specify type of legal services required such as SLP/Appeal, etc.	Action taken	Remarks
12.	13.	14.	15.	16.

