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WP-36687-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 18th OF DECEMBER, 2025

WRIT PETITION No. 36687 of 2025

RAMKRISHNA SONI AND OTHERS

Versus

UNION OF INDIA AND OTHERS

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Appearance:

Shri Siddhant Jain - Advocate for petitioners.

Smt. Sunita Sood Gupta - Advocate for respondent No.1/UOI.

Shri Harjas Singh Chhabra - Advocate for respondents No. 2 and

5.
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ORDER

Per. Justice Vishal Dhagat

Petitioners had filed petition under Article 226 of the Constitution of India taking exception to order dated 06.08.2025 contained in Annexure P/4 passed by respondent No.3.

2. Counsel appearing for petitioners submitted that petitioners are contractual employees working under Modified Scheme 2022 of Legal Aid Defense Counsel System. Petitioners No. 1, 3 and 5 are working on post of Deputy Chief Legal Aid Defense Counsel, petitioners No. 2 and 4 are working on post of Chief Legal Aid Defense Counsel and petitioner 6 is working on post of Assistant Chief Legal Aid Defense Counsel. Petitioners were appointed on their respective posts by offer of contractual engagement on monthly retrainership basis under Modified



Legal Aid Defense Counsel Scheme, 2022 in their respective districts vide letter dated 12.08.2024. During retainership, petitioners shall be paid consolidate retainership fees/honorarium. Period of contract is initially for two years, extendable further as per need and subject to Scheme, as may be modified without notice. Contract can be terminated by giving one month's notice or one month's retainership fees in view of notice by either of the parties. If performance of a candidate is unsatisfactory, which is detrimental to interest of Legal Service Authority, then contractual engagement can be terminated as per Scheme. District Judge, Anuppur has issued a letter showing that work of petitioners was satisfactory. Counsel appearing for petitioners also took Court through Modified Scheme of 2022 of Legal Aid Defense Counsel System prepared by National Legal Services Authority, New Delhi. As per said Scheme, Legal Services Authority provides legal services to accused convicts, who are in custody and coming within eligibility criteria mentioned in Section 12 of Legal Services Authorities Act, 1987. Legal services are being provided at pre-arrest remand, trial and appellate stage in criminal matters. Legal Aid Defense Counsels (hereinafter referred as 'LADC') under Modified Scheme involve full time engagement of Lawyers with support system. Selection on posts of Chief Legal Aid Defense Counsel, Deputy Chief Legal Aid Defense Counsel and Assistant Legal Aid Defense Counsel is to be made after due publicity and public notice. Applications were invited and competitive selection process was adopted for selection. LADC according to Scheme were engaged on contractual basis in each district initially for period of two years with stipulation of extension on yearly basis on satisfactory performance. Performance of LADC is to be assessed in every six months by SLSA in consultation with DLSA. Selections were made by Selection Committee under chairmanship of Principal District and Sessions Judge-cum-Chairman, DLSA. As per National Legal Services Authority (Free and Competent Legal Services)



Regulations, 2010, selections made by Chairman DLSA shall be subject to final approval by Executive Chairman, SLSA. Qualifications for aforesaid posts were also prescribed in the Scheme. Petitioners continued to function on their respective posts after their selection on contractual basis.

3. On 06.08.2025, Member Secretary, by order of Executive Chairman of SLSA, issued letter to Principal District and Sessions Judge-cum-Chairman, DLSA. They were informed regarding implementation of Standard Operating Procedure (SOP) for selection of Legal Aid Defense Counsels under Legal Aid Defense Counsel Modified Scheme, 2022. Standard Operating Procedure is said to have been framed in line with Legal Aid Defense Counsel Modified Scheme, 2022. As per SOP issued, all existing Legal Aid Defense Counsels were required to participate in a selection process under the SOP after expiry of their current term and there shall be no provision for automatic renewal or re-engagement. Process of fresh selection must be initiated at least three months prior to expiry of existing contract to ensure continuity of legal aid services. Vacancies arising in future shall also be filled strictly in accordance with SOP. Qualifications and selection criteria was also mentioned in SOP.

4. Counsel appearing for petitioners submitted that in other States such as Rajasthan and Uttar Pradesh, period of Legal Aid Defense Counsels was extended. It is submitted that SOP, which was framed by SLSA, is contradictory to Modified Scheme, 2022 prepared by NLSA. It is submitted that SLSA is required to follow Modified Scheme of NLSA and does not have any authority or jurisdiction to modify the Scheme. Petitioners are working under Modified Scheme of 2022, therefore, contractual appointment of petitioners was under Modified Scheme of 2022. Contractual appointment on retainership basis cannot be changed or modified by SLSA. It is also submitted that Modified Scheme of 2022 does not give any authority to SLSA to make any Scheme contrary to the



Modified Scheme of 2022 of NLSA. It is submitted that State Authority has to implement the Policy of Central Authority as mentioned in Section 7 of Legal Services Authorities Act, 1987. Decision for implementation of Standard Operating Procedure is without jurisdiction and authority. Letter issued by SLSA dated 06.08.2025 be quashed. Consequentially selection procedure undertaken for appointment on contractual basis for Legal Aid Defense Counsels may also be quashed. It is prayed that petitioners be permitted to continue on their respective posts, if their working is found to be satisfactory by Reviewing Authority and Approving Authority.

5. Counsel appearing for respondents No. 2 to 5 submitted that petitioners participated in selection process for appointment as LADC based on SOP dated 06.08.2025. Once they have consciously and willingly participated in selection procedure in accordance with SOP dated 06.08.2025, they cannot be permitted to take a u-turn and challenge the SOP framed by SLSA. It is submitted that Legal Services Authorities Act, 1987 is litigants centric, for persons who are marginalized. Justice cannot be denied to such persons due to their economic or other disability. It is submitted that Modified Scheme framed by NLSA only provides basic framework for appointment to post of LADC. It is to the wisdom of State Legal Services Authority to mold the Scheme based on requirement and need subject to approval of Executive Chairman, SLSA. SOP was formulated to provide best legal service to accused/convict. It is submitted that SLSA would be in a better position to ascertain best possible selection process, which it wishes to undertake, sticking to Modified Scheme of 2022. It is submitted that Modified Scheme of 2022 was suggestive scheme. Fine details and changes can be made in said Scheme by SLSA. SOP prepared by SLSA only supplements NLSA Modified Scheme of 2022. It is submitted that SOP was issued as SLSA wants best possible LADC to defend accused/convict. It is submitted that stoppage of extension and



initiating fresh process after every two years would lead to enhancing pool of consideration and to find best possible talent, which would increase quality of legal service given to persons belonging to marginalized and weaker sections. It is submitted that SOP is not detrimental to existing LADC, as it categorically gives them additional marks for their previous engagement, thus, putting them on a higher pedestal to other candidates. It is submitted that Section 7 of the Act of 1987 is misread. Section 7 only talks about functions of State Authority. Sub-section (1) confers duty on State Authority to give effect to policy and directions of NLSA. It is submitted that in accordance with Section 7, sub-section(2)(d), if State Authority shall perform any other function which it fixes by regulation, then same can be done in consultation with Central Authority. Section 7 is not applicable in the present case. Authority is only acting in furtherance of policy of the Central Authority. In view of same, no case is made out for interference and petition be dismissed.

6. Respondent No.1 formally adopted the arguments of respondents No.2 to 5.

7. Heard the counsel appearing for petitioners and respondents.

8. Sections 7 and 8 of Legal Aid Service Authorities Act, 1987 are reproduced as under :

"7. Functions of the State Authority—

(1) It shall be the duty of the State Authority to give effect to the policy and directions of the Central Authority.

(2) Without prejudice to the generality of the functions referred to in sub-section (1), the State Authority shall perform all or any of the following functions, namely:—

(a) give legal service to persons who satisfy the criteria laid down under this Act;

(b) conduct Lok Adalats; including Lok Adalats for High Court cases;



(c) undertake preventive and strategic legal aid programmes; and

(d) perform such other functions as the State Authority may, in consultation with the Central Authority, fix by regulations.

8. State Authority to act in coordination with other agencies etc., and be subject to directions given by Central Authority.— In the discharge of its functions the State Authority shall appropriately act in coordination with other governmental agencies, non-governmental voluntary social service institutions, universities and other bodies engaged in the work of promoting the cause of legal services to the poor and shall also be guided by such directions as the Central Authority may give to it in writing."

9. Section 7 lays down functions of State Authority i.e. to give effect to policy and directions of Central Authority. Section 7 creates scope within which State Authority has to work i.e. to give effect to policies and directions of Central Authority. Section 8 further lays down that SLSA shall be guided by directions as Central Authority may give to it in writing. Section 8 makes it clear that SLSA is to discharge functions under guidance and directions of NLSA.

10. Clause 4 of Legal Aid Defense Counsel System Modified Scheme, 2022, lays down selection procedure. As per said selection procedure, LADC shall be engaged on contract basis in each district for period of two years with stipulation of extension on yearly basis on satisfactory performance. Mechanism for extension is also provided. After selection and approval by Executive Chairman, engagement contract is executed between Secretary, DLSA and candidates so engaged. Terms of contract shall be binding on appointing authority and the candidate.

11. Counsel appearing for respondents submitted that Modified Scheme is only suggestive. We do not find said argument to be correct.



Only eligibility criteria is mentioned to be suggestive. Nothing is stated in Clause 4 of Modified Scheme of 2022 that selection procedure is suggestive. It has not been mentioned in Clause 4 that term of engagement is suggestive and SLSA may change the same. Neither in Clause 6, which is regarding termination of services, is suggestive scheme, but for all purposes substant scheme. Entitlement of Leave and role of SLSA and DLSA is also laid down in Modified Scheme. As per Clause 9, it is SLSA and DLSA who has to provide office space, infrastructure and office supplies. Human resource i.e. Legal Aid Defense Counsel is to be engaged by SLSA. SLSA and DLSA is also required to do periodical evaluation of legal services delivered by LADC. They are also required to conduct training and refresher courses, provide Bare Acts, Books, Commentaries, Legal Aid Softwares etc. As per Clause 10 Law Schools can also be engaged with LADC for meaningful exposure to practical aspects of criminal laws. As per Clause 11, Monitoring and Evaluation is with Secretary, DLSA. Minutes of meetings shall be sent to SLSA. Quarterly review meetings of LADC office and Secretary, DLSA is to be done and minutes is to be sent to NLSA. Monitoring shall be continuous process and at the end of six months, performance of every human resource shall be evaluated by DLSA under guidance of Executive Chairman, SLSA. Financial outlay is also provided.

12. Entire Modified Scheme 2022 does not give any power or authority to SLSA to devise its own selection procedure after completion of selection under Modified Scheme of 2022. Sections 7 and 8 also lay down that SLSA is to work under NLSA and has to give effect to scheme and directions issued by NLSA. Leverage is provided to SLSA, if Legal Aid Defense Counsels are not working properly. They have power to terminate them and they can review the working of Legal Aid Defense Counsels and have power to terminate them. After termination, fresh selection is to be mad in accordance with Modified Scheme of



2022 framed by NLSA. Modified Scheme, 2022 does not give any jurisdiction or authority to SLISA to devise its new Scheme for appointment of Legal Aid Defense Counsel contrary to Scheme framed by it. As per Scheme of NLSA, contract period of retainership is for two years which is to be reviewed taking into account work done by candidate. There is procedure provided for fresh selection or for extension of contractual period. Petitioners were appointed as per Modified Scheme of 2022 and contract has also been entered between petitioners and respondents. Said contract is binding on both the parties. Respondents cannot be permitted to take a u-turn and change the terms of contract unilaterally on their own.

13. In view of aforesaid, it is found that new SOP framed by SLISA dated 06.08.2025 is contrary to the Scheme of NLSA. Modified Scheme does not provide for fresh selection after completion of two years of retainership but provides for extension on basis of evaluation of work of LADC. Contract cannot be modified by introducing SOP. In view of above, SOP dated 06.08.2025 is quashed. Legal Aid Defense Counsels, who are appointed as per the Modified Scheme of 2022, shall continue to work on their posts of appointment on contractual basis. Work done by them shall be reviewed in accordance with Modified Scheme of 2022 and if their work is found unsatisfactory, then DLISA and SLISA can take action in accordance with Modified Scheme of 2022.

14. Accordingly, writ petition is **allowed and disposed off**.

(VISHAL DHAGAT)
JUDGE

(ANURADHA SHUKLA)
JUDGE