



Access To Justice For All

Legal Aid in the Supreme Court

There is a general perception that approaching the Supreme Court of India for legal remedies is unaffordable to the lay person. This is not true. It is with a view to providing easy and inexpensive access to the Supreme Court and giving legal advice that the **Supreme Court Legal Services Committee (SCLSC)** has been constituted under the Legal Services Authorities Act, 1987 ('Act').

When can you approach the SCLSC?

You can approach the SCLSC in two situations:

- You need to **file or defend a case** in the Supreme Court. This would include:
 - Appeals/Special Leave Petitions, Civil or Criminal, against an order of the High Court.
 - Petition for violation or enforcement of your fundamental right. This includes:
 - Habeas Corpus petitions- where a close friend or relative is missing or illegally taken away and whose whereabouts you do not know
 - Petitions challenging the legality of government action or inaction
 - Petitions challenging the legality of a legislation or order of government that violates your fundamental right.
 - Petition for transferring a case, civil or criminal, pending in one State to another State within India.
- You need **legal advice** regarding your problem.

Are there cases for which no legal aid or advice will be given?

Yes, legal aid will **not** be given for the following cases:

- Proceedings wholly or partly in respect of -
 - defamation; or
 - malicious prosecution; or
 - a person charged with contempt of court; and
 - perjury

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- Proceedings relating to any election
- Proceedings incidental to any of the above proceedings
- Proceedings in respect of offences where the fine imposed is not more than Rs. 50
- Proceedings in respect of economic offences and offences against social laws, such as the Protection of Civil Rights Act, 1955 and the Immoral Traffic (Prevention) Act, 1956 unless in such cases the aid is sought by the victim.

[However, even in the above cases, the Chairman of the SCLSC can, in an appropriate case, direct that legal aid be granted]

- Proceedings where a person seeking legal aid or advice
 - is concerned with the proceedings only in a representative or official capacity; or
 - if a formal party to the proceedings, not materially concerned in the outcome of the proceedings and his interests are not likely to be prejudiced on account of the absence of proper representation.

Is there any eligibility criteria?

Yes, there is. These are spelt out under Ss. 12 and 13 of the Act. To be eligible for **free** legal aid for filing or defending a case in the Supreme Court, you have to satisfy **two** criteria.

First, you should belong to **any** of the following categories of persons:

- a member of a Scheduled Caste or Scheduled Tribe
- a victim of trafficking in human beings or *begar* as referred to in Article 23 of the Constitution
- a woman or a child
- a mentally ill or otherwise disabled person
- a person under circumstances of undeserved want such as being victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster
- an industrial workman
- in custody, including custody in a protective home [Nari Niketan] or a juvenile home or a mental asylum
- in receipt of annual income less than Rs.1,25,000. For this you are required to give an affidavit [This last requirement is called the *means test*].

However, irrespective of the means test, legal aid may be granted

- in cases of great public importance; or
- in a special case, reasons for which are to be recorded in writing, considered otherwise deserving of legal aid or advice.

Second, the SCLSC must be satisfied that you have a reasonably good chance of succeeding in your case [*prima facie case*]

For seeking **legal advice**, the Act does not prescribe any eligibility criteria.

What should you do to obtain legal aid or advice?

For legal aid, if you satisfy the first eligibility criteria, you need to take the following steps:

1. Make an application for legal aid to the SCLSC. The forms for these can be obtained in person or through post or e-mail from the SCLSC at the address indicated below or from any of the nearest Taluk/District/State/High Court Legal Services Committees.
2. You have to submit the completed application form to the SCLSC along with full documentation. For instance, if you seek to file an appeal against the order of a High Court, you are required to submit a copy [preferably certified] of the order of the High Court, copies of orders, if any, of the courts below the High Court, copies of all the papers filed in your case before the lower court and High Court, comments of the lawyer on the judgment. If these are in a language other than English, please try and send translated copies.

Please note that there is no fee or charge for obtaining the application form.

For obtaining legal advice, you can call at the office of the SCLSC on any working day between 10.30 a.m. and 5 p.m.. Or you could send in a query by post, for which you should receive a reply within **fifteen** days. If the query is sent by e-mail, you could expect a reply sooner. Again, **there are no charges for legal advice.**

What does the SCLSC do Next?

The SCLSC is headed by a Judge of the Supreme Court of India and has distinguished members nominated by the Chief Justice of India.

The SCLSC has a panel of competent **Advocates-on-Record** with certain minimum number of years of experience who handle the work of screening papers and handling the cases in the Supreme Court. In addition, the SCLSC has a full-time Legal Consultant-cum-Executive Lawyer who handles queries - both in person as well as through post. The Legal Consultant also screens papers. Although the applicant cannot get a lawyer of his or her choice, the SCLSC ensures that only competent lawyers are entrusted with these cases.

Your papers will be screened in order to determine that the eligibility criteria are satisfied. Normally, within **fifteen** days of the receipt of your papers, you will be informed of the decision of the SCLSC, in writing, either granting or refusing legal aid.

If you are aggrieved by an order of refusal, you could appeal to the Chairman of the SCLSC.

After you have been granted legal aid

- you will be sent an affidavit and vakalatnama by the SCLSC which will have to be signed by you and sent back to the SCLSC by post. The affidavit has to be attested by a notary or commissioner of oaths. You may need to pay **not more than five rupees** for this.
- However, if you are in jail, the affidavit and the vakalatnama have to be countersigned by the jail superintendent. In addition he has to give a certificate of detention in the prescribed format, which will also be sent to you by the SCLSC. This has to be returned at the earliest to the SCLSC with the affidavit and vakalatnama.
- Meanwhile, your case will be assigned to an advocate-on-record [AOR] on the panel of the SCLSC. The AOR will draft the petition and file it in the Supreme Court after the signed vakalatnama and the signed and attested affidavit [and the certificate if you are in jail] are received by the SCLSC.
- The AOR who is assigned the case will argue it on your behalf in the Supreme Court. In exceptional cases, if you make a request in this behalf and if the SCLSC feels it is justified, a senior advocate can be requested to appear on your behalf. No fees are required to be paid by you for this purpose.
- You will be informed by the SCLSC of the name of the AOR and you will receive intimation through post on the progress of your case from time to time.
- You will also be sent copies of all the documents filed on your behalf and by the opposite parties and you will be intimated from time to time if there is any other information you are required to provide.
- You will be informed of the outcome of your case and given copies of the relevant orders passed by the court.

Do you have to incur expenses at any stage?

Barring the cost of getting the affidavit attested [and even this is not applicable if you are in jail] and postage for sending papers to the SCLSC, you are not required to pay anything for any of the above services. **They are absolutely free.** The lawyers on the panel of the SCLSC are paid an honorarium of Rs. 2000 per case by the SCLSC itself.

If you have any queries, you may contact :

The Secretary

Supreme Court Legal Services Committee

109, Lawyers' Chambers

Supreme Court Compound,

New Delhi - 110 001.

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