

Rajiv Gandhi Adhivakta Prashikshan Yojna
(Rajiv Gandhi Advocate's Training Scheme)

Whereas the preamble to the Constitution of India assures "justice, social, economic and political", and

Whereas the Article 39-A of the Constitution mandates that the State shall provide free legal aid *by suitable legislation or schemes or in any other way* to ensure that opportunities for securing justice are not denied to any citizen *by reason of economic or other disabilities*, and

Whereas in order to enable the State to afford free legal aid and guarantee speedy trial, a vast number of persons trained in law are essential; and

Whereas the explosion in population, the vast changes brought about by scientific, technological and other developments, and the all-round enlarged field of human activity reflected in modern society, and the consequent increase in litigation in courts and other forums demand that the service of competent persons with expertise in law is required in many stages and at different forums or levels and should be made available and

Whereas the Supreme Court in the case of *State of Maharashtra v. Manubhai Pragaji Vashi*, (1995) 5 SCC 730 has observed that the need for a *continuing and well-organised legal education*, is absolutely essential reckoning the new trends in the world order, to meet the ever-growing challenges

Whereas it becomes necessary to encourage and motivate young and talented and meritorious law graduates at grass root level to continue and adhere to legal profession.

Ministry of Law and Justice, Government of India hereby makes a scheme/plan namely, "**Rajiv Gandhi Adhivakta Prashikshan Yojna**".

Need of Scheme-

Constitution of India, which we the people of India on 26th November, 1949 enacted, adopted and gave ourselves, reflects the quest and aspiration of the mankind for justice when its preamble speaks of justice in all its form; Social, Economic and Political. Article 39A which was inserted by way of 42nd Amendment to the Constitution recognizes equal justice and free legal aid. It imposes a duty on the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity and in particular State shall provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Access to Justice is recognized as a fundamental right. An effective justice delivery system requires that (i) justice be made available at the door step of people and (ii) we should have talented, dedicated and qualified legal professionals who serve at the grass root level. So far as providing justice at the doorstep is concern, we have court at the district and taluka levels. Now, we also have 'Gram Nyayalaya' at village and intermediate level. There is no dearth of talented and dedicated law graduates at grass root level but there is no motivation and encouragement for them to come forward and stay in legal profession at district, Taluka and village level. Result is, despite their ability most of these young lawyers are not getting proper opportunity and exposure in the profession. At the end, they become brief less lawyer. Further, there is a need to give proper professional training so that they may become good lawyer and compete with solicitor of high profile law firm. Training would also help them in updating their lawyering skill and knowledge.

In order to ensure motivation and encouragement to young talented lawyers and to give them professional training, it is necessary for the Central Government to formulate a programme/scheme/plan.

Object-

Main object of the plan is to give motivation and encouragement to young lawyers who are practicing in Magistrate and Munsif Courts, by providing proper professional training for a period of Two months so that they may serve the need of law professional at grass root level. This will encourage them to stay in the profession at the grass root level and it will also help in elimination of their frustration. Nation would also get benefit of their services in the field of providing justice to all. In short object of the plan are: To motivate and encourage young talented meritorious lawyers to remain in practice at Bar at grass root level, and for that purpose -impart them professional training

Salient feature of the scheme/plan-

- (1) Each year, from each State, not more than Ten, depending upon the population of the State, practicing young advocates, shall be selected for imparting professional training.
- (2) While selecting candidates, preference shall be given to those candidates who belong to Scheduled castes, Scheduled Tribes, other backward classes, women and physically handicapped.
- (3) **Inviting Application-** Each year, at the beginning, application from desired candidates shall be invited. Wide publicity of the scheme and invitation of application shall be given. Application shall be called in prescribed format. Applications shall be scrutinized to verify the eligibility conditions.
- (4) **Eligibility for selection-** At the time of selection, candidate should fulfill following conditions-

- (i) He/She should have been enrolled as an Advocate and should have been engaged in actual practicing in a Magistrate and Munsif Court.
- (ii) He/she should not be above the age of 30 years;
- (iii) His/her monthly income should not be more than Rs 6000/- per month;
- (iv) He/She should in the opinion of selection committee be meritorious and talented advocate; and
- (v) He/She should also be ready and willing to make available his/her services for legal aid programme under the District Legal Aid Authority.

5. Scrutiny of applications and further course of action

Application of all eligible candidates shall be placed before the selection committee. The selection Committee may devise mechanism for selection of suitable candidates. However, the selection committee while recommending candidates shall take into following points:

- (a) Educational qualification including percentage of marks obtained;
- (b) Monthly income of candidate,
- (c) Personal details like age, category (Viz General, SC, ST, Women, OBC, Physical handicap)
- (d) Performance in personal interaction/counseling.
- (e) District/Taluka where candidate is practicing.

The selection committee after selection, shall forward names of select candidates to the Ministry of Law and Justice.

6. Selection Committee-

For the purpose of selection of suitable candidates for professional training, a selection committee in respect of each High Court shall be constituted. The selection committee shall consist of following:

- (i) A Judge of the High Court nominated by the Chief Justice of that High Court- Chairman
- (ii) Additional/Assistant Solicitor General of India attached with that High Court
- (iii) Chairman State Bar Council
- (iv) Advocate General of the State

7. Training

After the selection, select candidates shall be provided professional training of Two months. Training would have TWO components-

- (i) Training imparted in a National Law School- One month
- (ii) Training under a Senior/leading Advocate - One month

8. Training imparted in National Law School- Duration- One month

Professional training to select candidates shall be given by a National Law School/University nominated by the Central Government. During the training, select candidates shall be provided free lodging and boarding facility. The Central Government shall provide necessary facilities and made available requisite funds for the purpose of training, lodging and boarding of candidates.

9. Curriculum for training in National Law School -

Professional training shall be given on following subject/topic-

- (i) How to promote effective Alternative Dispute Resolution (ADR) mechanism for settlement of disputes?; What are the advantages of ADR system?
- (ii) Plea- bargaining- its scope and importance and how to take advantage of it?

- (iii) How to use Information Technology and communication in court proceedings? Advantages of these tools in court proceedings.
- (iv) Art of cross- examination.
- (v) How to present the case and argument before the Court?
- (vi) Provisions contained in "*Hague Convention on the Service abroad of Judicial & Extra Judicial Documents in Civil and Commercial Matters*"--Mechanism of service of summons and other judicial documents issued by Indian court to persons residing in foreign territory and vice versa.
- (vii) Effect and advantages of having Mutual Legal Assistance Treaty in civil and commercial matter; and in criminal matter, Extradition Treaty and treaty on transfer of convicted persons, with foreign countries.
- (viii) Intellectual Property laws including 'Competition law' - Their use, importance and relevance in modern day business.
- (ix) Cyber laws- How to deal with cyber crimes and related issues
- (x) Specific legislations useful in day to day life viz. the Domestic Violence Act, 2005, The Protection of Child Rights Act, 2005, The Dowry Prohibition Act, 1963, Gram Nayalaya Act, 2009 etc.

Training on aforesaid topic would help these candidates in improving their skill, knowledge and understanding of law. Period of training would be 1 months. Training would be imparted by Law teachers and Professors and for certain point's help of advocates/judges may also be taken by Law school.

10. Training under a senior/ Leading Advocate - Duration -One month

After the successful training in the Law School, each candidate shall be placed under the supervision of a senior advocate/Leading Advocate practicing in the District where the said candidate practice. At a time not more than three candidates shall be placed under a senior advocate/ leading advocate.

Senior/ leading Advocate shall guide the candidate in all kind of practical aspects, take him court, and seek his assistance in discharging his professional duties.

This kind training under the supervision of Senior Advocate/Leading Advocate would help these candidates in improving their practical skills. Duration of the training shall be one month.

11. Necessary money for the scheme-

For the purpose of meeting the expenditure of the scheme, Central Government shall provide necessary amount in the Budget of Ministry of Law & Justice (Department of Legal Affairs). The monies shall be used for the purpose of-

- a. expenditure in providing training through law school;
- b. expenditure for providing lodging and boarding facilities to the select candidates during the professional training at Law School.;
- c. necessary administrative expenses for administering the scheme.

12. Monitoring of Scheme

The Law Secretary shall nominate an officer not below the rank of Joint Secretary to monitor the scheme and submit a report after completion of each training session.

13. Central Committee

For the purpose of administering the scheme, a committee at the National level shall be constituted. The National Committee shall consist of following:

- (a) Union Minister for Law & Justice- Chairman

- (b) Chairman Bar Council of India
- (c) A vice Chancellor/Director of a National Law University to be nominated by the Law Minister
- (d) Union Law Secretary- Member Secretary

14. Guidelines- Central Government shall frame guidelines for:

- (i) Manner and form in which the application shall be invited;
- (ii) Fixing the maximum number of candidates to be selected in a year for each State and Union Territory;
- (iii) Empanelment of senior Advocate/Leading Advocate under whom candidates will be placed for training.

15. Review- Central Government shall time to time review the progress/success of the scheme and make necessary changes.