

MEDIATION SCHEMES

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1. SCHEME
FOR
COURT ANNEXED MEDIATION ORGANIZING COMMITTEE

1. The "Court Annexed Mediation Organizing Committee" consisting of Senior most Judicial Officer and ten Advocate Trained Mediators at station will have to be constituted. In case, sufficient number of Advocate Trained Mediators are not available, the Advocate-Mediators having 15 years of standing practice be considered.
2. The Senior most Judicial Officer at Station shall be the Chairman of Organizing Committee.
3. The Senior most Judicial Officer in consultation with the President of Local Bar Association and Trained Mediators constitute a Organizing Committee at each Mediation Centre.
4. As far as possible, 50% of the Committee Members be female members.
5. The Organizing Committee should assist the Court Annexed Mediation Monitoring Committee for effective and efficient functioning of mediation activities within the jurisdiction of concerned Committee.
6. Each organizing Committee Member should monitor the Mediation activities of particular court and also progress of cases referred for mediation.
7. The District Judge should allocate the Court to the organizing Committee members which they have to monitor.
8. The organizing Committee should scrutinize and identify the categories of matters which are pending in particular Court, whether those matters are fit for references and report the same to the Concerned Mediation Monitoring Committee.
9. The organizing committee should meet eight days prior to meeting of Mediation Monitoring Committee meeting and submit court wise

report regarding mediation activities to the concerned Mediation Centre.

10. The Committee may utilize Mediation Centre for conducting their monthly meetings with permission of Co-ordinator of concerned Mediation Centre.
11. The Committee should perform such other functions as may be assigned by the concerned Mediation Monitoring Committee for smooth administration of Mediation Centre.

STRUCTURE
OF
MEDIATION ORGANIZING COMMITTEE AT DISTRICT LEVEL

1. Senior Most Judicial Officer (other than D.J.) - Chairman
2. Shri _____ Trained Advocate Mediator - Member
3. Shri _____ Trained Advocate Mediator - Member
4. Shri. _____ Trained Advocate Mediator - Member
5. Shri. _____ Trained Advocate Mediator - Member
6. Smt. _____ Trained Advocate Mediator - Member
7. Smt. _____ Trained Advocate Mediator - Member
8. Smt. _____ Trained Advocate Mediator - Member
9. Smt. _____ Trained Advocate Mediator - Member
10. Smt. _____ Trained Advocate Mediator - Member

2.SELECTING ADVOCATES FOR MEDIATORS TRAINING SCHEMES

1. In High Court, Hon'ble Main Mediation Monitoring committee shall select the Advocate who are desirous to undergo Mediator Training.
2. In District, the "Mediators' Scrutiny Committee" consisting of District & Sessions Judge, President of District Bar Association, *representative of Bar Council of M.P. nominated by Chairman Bar Council, Senior Lady Advocate* & two other members from concerned Bar Association interested in Mediation activities be constituted at each District Mediation Centres.
3. The Principal District Judge shall be the Chairman of the said Committee.
4. As far as possible, 50% of the Committee Members to be female.
5. Applications received from Advocates who are desirous to undergo Mediators' Training shall be placed before the Committee for scrutiny.
6. The Committee should ensure that the names of Advocates who are fulfilling the eligibility criteria to act as Mediator as per rule 5 of Civil Procedure Mediation Rules 2006 be considered.
7. The Committee should call Advocates and ascertain their interest in the subject and explain them the importance and benefits of said training and recommend the name of Advocates only who are willing to undergo for 40 hours Intensive Mediators Training. Moreover, the Advocates who are of high caliber competence and integrity and of good repute in Bar as well in society only be recommended.
8. The Committee while doing scrutiny, should ensure that the services of the Advocates whose names are to be recommended for training be useful for mediation activities/Mediation Centre in future
9. The Committee should verify, scrutinize and short list the names of trainees for training programme and than, only forward the said list to the *Main* Mediation Monitoring Committee.
10. In case of difference of opinion regarding any name of Advocate, the opinion of District Judge shall be final.
11. After scrutiny, the Committee should forward the names of the Advocates to be considered for Mediators' Training as required by the Main Mediation Monitoring Committee alongwith their note/remarks for recommending the names of Advocate under the signature of the Chairman of Mediators' Scrutiny Committee.

STRUCTURE
OF
MEDIATORS' SCRUTINY COMMITTEE

- | | | |
|---|---|---------------|
| 1. The District & Session Judge | - | Chairman |
| 2. The President, Local Bar Association | _ | Member |
| 3. <i>The Representative of Bar Council of M.P.</i> | _ | <i>Member</i> |
| 4. One Senior Lady Advocate | - | Member |
| 5. Smt. _____, Advocate | _ | Member |
| 6. Shri _____, Advocate | _ | Member |

3.Guidelines for “Mediators’ Training Scheme” for Advocates

1. Primary Training

Primary Training for three days be given to 10 to 15 Advocates from different Districts during weekend i.e. on Friday, Saturday and Sunday for atleast six to seven hours per day.

2. Advance Training

There shall be Advance Mediation Training for advocates who completed primary training. On completion of primary training, said Advocate Mediators should get associated with the trained mediators in the mediation process in minimum 10 cases. They shall be then called for Advance Training.

The period of Advance training should be for three days during weekends i.e. on Friday, Saturday and Sunday for atleast six to seven hours per day.

3. Refresher’s Training

There shall be Refresher Training for advocates who have completed Advance Training. On completion of Advance Training and on having mediated atleast ten cases as a Mediator, the Refresher’s Training be given to said Advocate Mediators.

The Refresher Training should be atleast for a period of two days.

4. Places of Training

The Mediators’ Training should be organized at three places in M.P. on every weekend on the above days only. It may be either Primary, Advance or Refreshers Training. This schedule of training be organized region-wise.

5. The aforesaid training programmes should be organized by the District Judge and Co-ordinator of the concerned District Mediation Monitoring Committee in the District where the training is to be organized. Said schedule of training shall be conducted under the supervision of Main Mediation Monitoring Committee, High Court, Jabalpur (or concerned High Court Mediation Monitoring sub committee).
6. The aforesaid Training is to be organized preferably in District Court Premises/Hall. Otherwise, the said training should be organized in a suitable Hall of Government organization.
7. The above training is to be conducted by the Mediators nominated by the Mediation Monitoring Committee, Main Mediation Centre, High Court, of M.P, Jabalpur.
8. The participants in the above training programme shall be the Advocates from different Districts and the number of participants per batch be limited to 20/25 Advocates.
9. The District Judge in consultation with the President of concerned District Bar Association shall forward the names of the proposed participants for the aforesaid Mediators' Training Schedule to the Main Mediation Monitoring Committee. While proposing the names of the Advocates, it is necessary to consider that only those who are interested in mediation activities and willing to act as a Mediator shall only, be nominated. Main Mediation Monitoring Committee will finalize the proposed names.

10. The honorarium payable to the Trainers and expenses for stay, travel, food of the Trainers and Trainees will be borne by the Main Mediation Monitoring Committee from the funds allocated under 13th Finance Commission.

11. The stay arrangements of the trainers/participants shall be preferably made in Government Guest House. In case of non-availability of Government Guest House, then accommodation be made in Hotels having reasonable charges.

12. All expenses for organizing the training programmes will be borne by the Main Mediation Monitoring Committee from the funds allocated under 13th Finance Commission which will be provided by the M.P. State Legal Services Authority to the concerned DLSA from the grants received under 13th Finance Commission.

4. SCHEME FOR 'MEDIATION JUDGE'

The Hon'ble The Chief Justice, High Court of Madhya Pradesh, has been pleased to formulate a 'Scheme of Judge Mediation for Tehsil and District Courts levels which shall function on the following guidelines: -

- (i) To begin with at every Mediation Centre, at least one working Judicial Officer shall be posted who is a trained Mediation Judge (out of the available Judges in the District who have already undergone the 40 hours Intensive Training Programme).
- (ii) The said Judicial Officer be designated/known as 'Mediation Judge'.
- (iii) The Judges working in the concerned District may refer the matters for mediation to such Mediation Judge.
- (iv) The Mediation Judge should conduct mediation sessions of the referred matters for mediation as Mediator on every court working Saturday. On such working Saturdays, the Mediation Judge must give preference to the mediation work than the regular judicial work.
- (v) In case, if there are insufficient number of cases for mediation work to remain engaged for the whole working Saturday, he should devote his remaining working hours for regular judicial work.
- (vi) If the Mediation Judge is posted at Tehsil place, and if his services for mediation work are required on any court working Saturday at the District places, in such event, the Principal District Judge may pass orders in that behalf.

- (vii) If there is sufficient mediation work on working Saturdays at Tehsil place for the Mediation Judge, in that case, he should be allowed to do mediation work at Tehsil Place only.
- (viii) If there are more than one working Judicial officers who are trained Mediation Judges in a District or Tehsil Court, as the case may be, in that case the Principal District Judge may fix the roster of those Mediation Judges to do mediation work on any other court working day "in addition to" the working Saturdays keeping in mind the volume of mediation work of the Court.
- [(ix) The Judicial Officer who has discharged his duties as Mediation Judge, will be given weightage of one day for the disposal purpose for each day, if he is required to work as Mediation Judge for the whole day.
- (ix-a) The Mediation Judge will get disposal norms of 1.5 Unit for failed mediation and 3 Unit for successful mediation work on case to case basis.
- (x) It is clarified that only because the Mediation Judge is available in a District or Tehsil place, it does not mean that every matter for mediation should be referred to the Mediation Judge. The Referral Judges are free to refer the matters for mediation to the empanelled Advocate or other mediators, if the parties so desire and are willing to bear the mediation expenses. In other words, if the parties are unwilling to appoint their own mediator or empanelled mediator on payment basis, the Referral Judges may refer such cases to the Mediation Judge (s) of the District.

The Co-ordinator must ensure that as far as possible not more than 15 matters are assigned to any one Mediator at a given point of time. Further, as far as possible, the mediation work be distributed amongst the Mediators in the concerned District or Tehsil equally.

- (xi) The Mediation Judge should not hear the matters, which are assigned to his Court, in which he has acted as a Mediation Judge. Besides, whenever he wants to refer the matter pending in his Court for mediation, he should refer the matter for mediation to any other empanelled Mediator/ Mediation Judge.
- (xii) The Mediation Judge should not accept any kind of fees/consideration from the parties for mediation work.
- (xiii) In District or Tehsil place where no Mediation Judge is available, the Referral Judge should refer the mediation work to the empanelled mediators.
- (xiv) The record of day to day working in respect of matters received for Mediation, matters taken up for mediation, time spent on each matter should be maintained.
- (xv) The Mediation Judge should forward the detail monthly report along with statistical data to the Co-ordinator, District Mediation Monitoring Committee, who in turn will ensure that the consolidated statement is forward to the Main Mediation Centre, High Court of M.P and concerned High Court Mediation Monitoring sub Committee.

5. SCHEME FOR IDENTIFICATION OF CASES FOR MEDIATION REFERENCE

- 1 Initially Panel of 15 Mediators amongst the empanelled Mediators of the High Court be constituted to identify cases which are fit for Mediation reference having some element of settlement. (h)
- 2 The above said panel be finalised by the Main Mediation Monitoring Committee on recommendation made by High court Mediation Monitoring Sub Committee.
- 3 The work of identifying suitable cases by the nominated Mediator must be done in the *Board Departments/ Sections* at the place where sitting arrangements are made available by the concerned *Departments/ Sections*.
- 4 The Registrar (Judicial) to assign not more than 10 cases at a time to the Mediator for examination and shall provide supporting staff working in concerned *Department/section*. That staff should keep cases ready for examination well in advance.
- 5 Each Mediator should identify at least 10 cases per month from pending/admitted matters in the High Court, which are not likely to reach for hearing at least for one year.
- 6 On examination of cases Mediator should submit the list of identified cases to the Co-ordinator High Court Mediation Centre.
7. On receipt of list of identified cases, the Co-ordinator shall call the parties to the office and verify if the parties are willing to for mediation process or not?
8. If parties are ready for mediation, the co-ordinator shall ensure that the parties agree on the name of same mediator who has identified the case.

9. If parties do not agree for mediation or on the name of mediator, then the Co-ordinator shall place the note before the concerned Court for referral order.
10. After referral order, the Co-ordinator shall consider the nature of case, area and specialisation of Mediator and appoint appropriate Mediator in that particular matter. As far as possible, Mediator who has examined the case may be appointed as a Mediator in that matter.
11. On appointment of Mediator the Co-ordinator shall issue letters to the concerned parties and their Advocates.
12. To have control and smooth functioning of said scheme and also considering paucity of space in Board Department the maximum number of Mediators visiting the Board Department on a day, shall not exceed two.
13. The Co-ordinator / Registrar (Judicial) shall prepare a Calendar for each month indicating the dates on which particular Mediators would visit the *Departments/ Sections*.

6. Scheme for Felicitation of Judge/Advocate Mediators
and Referral Judges

1. The object of Scheme for Felicitation is to appreciate Judges and Advocates who have performed best in mediation activities during the year. Also to encourage the other Judicial Officers and Advocates to perform well in mediation.
2. The Main Mediation Monitoring Committee, High Court of M.P. at Jabalpur to analyze the annual performance of Judicial Officers and Mediators.
3. The Judicial Officers who makes maximum references in a year and whose maximum referral cases end up in settlements be felicitated in the Conferences.
4. The trained Judge Mediator who settles maximum number of cases out of cases referred to him in a year be felicitated in the Conferences.
5. The trained Advocate Mediator who settles maximum number of cases referred to him be felicitated in the Conferences.

7. Mediation Clinic Scheme

1. At every District Court Mediation Centre, there should be a Mediation Clinic to cater to the prospective litigants visiting the office of Legal Services Authority for legal assistance.
2. Mediation Clinic should be located in the premises of ADR Centre/DLSA office. The office expenses of the Mediation Clinic will be borne from the funds of Legal Services Authority earmarked for legal awareness and settlement of pre-litigation disputes.
3. The Mediation Clinic shall strictly observe that matters referred by Court for mediation will not be processed in the Mediation Clinic. Those cases must be processed only by the Court Annexed Mediation Centre.
4. The Principal District Judge and Co-ordinator of concerned District Mediation Monitoring Committee shall monitor the work of Mediation Clinic.
5. Principal District Judge should depute one clerk from District Court establishment to look after all the clerical work of Mediation Clinic. The said clerk must work at District Mediation Centre and Mediation Clinic on full time basis.
6. Schedule of visits of Mediator(s) on the panel of District Mediation Centre must be prepared by the Co-ordinator in consultation with the concerned empanelled Mediator who is willing to remain in attendance in the Mediation Clinic during the court working hours to attend to the prospective litigant visiting the Mediation Clinic. The number of Mediators must be commensurate with the average

inflow of cases in the Mediation Clinic on a given day. However, at any given point of time, during the working hours of the Mediation Clinic, there must be at least one Mediator in attendance.

7. Records/Registers of Mediation Clinic be maintained separately, in the prescribed format appended hereto.
8. Mediators shall deal with any matters (pre-litigation or pending matters not referred by the Court for mediation) in Mediation Clinic.
9. In case of Court pending matters, if litigants approach Mediation Clinic on their own and the Mediator is of the opinion that the case is fit for mediation, he should advice the party/parties to request the concerned Court to refer their case for mediation. A separate register must be maintained in respect of Court pending matters in Form No.1 appended hereto.
10. In case of pre-litigation matters, the person desirous of taking assistance of the Mediation Clinic must submit information in writing in Form No.2 appended hereto. A separate register of pre-litigation matters must be maintained in Form No.3 appended hereto.
11. On registration of the case under respective category, the Co-ordinator, as far as possible, on the same day, must assign it to the Mediator in attendance and if that is not possible, must record reasons therefor in the register and assign the case to the Mediator in attendance on the following working day or on such other day convenient to the party and fix the date, time and venue and inform the party accordingly. If the request is received through post, the

Co-ordinator shall issue notice to the parties not later than three days from the receipt of such request informing the party about the date, time and venue when his meeting with the Mediator in the Mediation Clinic is arranged.

12. On referring pre-litigation matter to the Mediator by the Co-ordinator, Mediator should follow the settled principles of mediation and conduct the mediation process and observe the Code of Conduct for Mediation specified in Mediation Rules, 2006.
13. On settlement of pre-litigation dispute, settlement be recorded in writing and signatures of the parties concerned be obtained thereon.
14. Mediator shall then report about settlement to the Co-ordinator and advise the parties to approach the Co-ordinator for further directions.
15. Copy of settlement be kept at Mediation Clinic.
16. On receipt of settlement report, Co-ordinator should call the parties and inform them the date on which their matter will be placed before pre-litigation Lok Adalat for recording compromise. The Co-ordinator shall then send the papers to the Secretary, DLSA for keeping the said matter before pre-litigating Lok Adalat on scheduled date.
17. The Lok Adalat may then record compromise between parties and pass appropriate award contemplated u/s. 21 of Legal Services Authorities Act, 1987 or according to National Legal Services Authority(Lok Adalat) Regulation 2009 by following procedure as per law.

18. In case of non-settlement of disputes before mediator, mediator should report about failure of Mediation to the Co-ordinator.
19. Co-ordinator should take endorsement of the same in the register maintained at Mediation clinic.

[This may be part of declaration in the application to be filled in by the party]

20. No Mediator shall be held liable for anything done bonafidely or omitted to be done during mediation process.
21. No Mediator shall be summoned by any party in a court of law to testify in regard to information received by him or action taken by him in respect of drafts or records prepared by him or perused by him during the mediation process.

APPENDIX

FORM - I

Sr.No. :-

Date :-

Case No. :-

Name of
Court :-

Name of
Parties
Approach to
Clinic :-

Name of
Mediator
In
Attendance :-

Remarks :-

FORM II

Name :-

Age :-

Address :-

Contact

No. :-

Nature

Of

Dispute :-

Name of

Adverse

Party :-

Date

Signature

Official Use

Name of Mediator

In attendance :-

Next date for attendance

Of Parties :-

Co-ordinator

FORM NO. III

Sr.No. :-

Date :-

Name of
Parties

Approach to

Clinic :-

Name of
Adverse

Party :-

Nature of

Dispute :-

Name of
Mediator

In

Attendance :-

Remarks :-

8. Guidelines for organization of Mediation Awareness Programme

Following points should be considered while organizing Mediation Awareness Programme for advocates, litigants and Government officials, etc.

1. At every Tahsil place there should be atleast three mediation awareness programmes in a year on the three dates mentioned in the planner.
2. Lawyers and litigants whose matters are fixed until next Awareness Programme be invited as participants for Awareness Programme.
3. In fresh matters, the information regarding the date of Mediation Awareness Programme be mentioned in the notice/summons in addition to the returnable date before the Court.
4. In pending matters, the Staff of the Court should inform the parties about the date, time and venue of the Mediation Awareness Programmes.
5. Mediation awareness programme should be organized in co-ordination with Local Bar Association .
6. As far as possible, Mediation Awareness Programme be held within the Court Premises.
7. Trained Mediator (either Judicial Officer or Advocate available in District) will be the Resource persons for Mediation Awareness programme.
8. In case, sufficient trained mediators are not available in District

then trained mediators from the neighboring District may be invited as Resource Person.

9. It should be borne in mind that expenses for per mediation awareness programme in any case should not exceed Rs.3000/- for the programme at Tahsil level and it should not exceed Rs.5000/- at District Level.(or limit prescribed by Main Mediation Monitoring Committee time to time in this regard.)
10. Requisite funds will be provided through District legal services Authorities to meet the expenses of mediation awareness programmes.
11. Mediation Awareness programmes should be organized and conducted as per the Module given in this book.
12. It is made clear that on the day of organizing awareness programme, if it is working Friday in that case, last court working hour of the day can be utilized for awareness programme and if it is working Saturday, in that case, second session of working hours can be utilize for awareness programme.
13. Wide publicity to Mediation Awareness Programmes be given. For the purpose of such publicity, the Co-ordinator so far as possible display the Notice regarding Awareness Programme at the Notice Board of the Court, Notice Board of Bar Association, Local Police Station, Tahsildar Office. The co-ordinator may avail facility of Local Cable TV network/Press Note in local newspaper for publicity of the Mediation Awareness Programme.
