

Assam Right To Public Services Act, 2012

9 of 2012

[27 April 2012]

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AN ACT to provide for the delivery of notified public services to the people of the State of Assam within the stipulated time limit and for matters connected therewith and incidental thereto.

Whereas it is expedient to provide for the delivery of notified public services to the people of the State of Assam within the stipulated time limit and for matter concerned therewith or in incidental thereto;

It is hereby enacted in the Sixty-third Year of the Republic of India as follows:

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Right to Public Services Act, 2012.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Application :-

This Act shall apply to Government Servants, but shall not apply to,

(i) persons appointed on casual or daily rates basis;

(ii) persons employed on contract except when the contract provides otherwise;

(iii) persons whose terms and conditions of services are expressly provided in the Constitution.

3. Definitions :-

In this Act, unless the context otherwise requires,

(a) "Appellate Authority" means an authority including one belonging to the local self government who is notified as such under section 4, who shall be empowered to impose cost on the Government Servant defaulting or delaying the delivery of services in accordance with this Act;

(b) "application" means a written request by an eligible person to provide notified services under this Act;

(c) "Designated Public Servant" means an authority including one

belonging to the local self government and organizations, fully or partially funded by the State Government, notified as such for providing the service under section 4;

(d) "eligible person" means a citizen who is eligible for obtaining the notified service;"

(e) "prescribed" means prescribed by the rules made under this Act;

(f) "Reviewing Authority" means an authority including one belonging to the local self government who is notified as such under section 4;

(g) "Government Servant" means a person appointed substantively to any civil service or post in connection with the affairs of the State Government including person working on deputation basis; and person appointed in a local body which is owned, controlled or substantially financed by the State Government;

(h) "Right to Public Service" means right to obtain the notified service under this Act from time to time within the stipulated time limit as described under section 5;

(i) "notified service" means any service notified by the State Government under section 4;

(j) "State Government" means the Government of Assam;

(k) "stipulated time limit" means maximum time to provide the service by the Designated Public Servant or to decide the appeal by the Appellate Authority and Reviewing Authority as notified under section 4;

(l) "notification" means a notification published in the Official

Gazette;

(m) "rules" means rules made by the State Government under this Act;

(n) "Year" means the calendar year commencing on the 1st day of January of the Year and ending on the 31st day of December.

4. Notification of services, Designated Public Servant, Appellate Authority, Reviewing Authority, User Charge and stipulated Time Limits :-

The State Government may, from time to time, notify the services including provisions for fast track service delivery ("Tatkal Sewa"), Designated Public Servants, Appellate Authorities, Reviewing Authorities, User Charge, Stipulated Time Limits, and the area of the State to which this Act shall apply.

5. Right of citizens to obtain time bound delivery of services :-

Every eligible person shall have the right to obtain the services in accordance with this Act within the time bound period as notified under section 4.

6. Liability of Government Servant to deliver services within the stipulated period :-

(1) The Designated Public Servant shall provide the notified services under section 4 to the eligible person within the stipulated time limit.

(2) The Designated Public Servant may seek the assistance of any other officer or employee connected with the delivery of that particular notified service as he may consider necessary for the proper discharge of his duties under sub-section (1).

(3) Any officer or employee, whose assistance has been sought

under sub-section (2), shall render all assistance to the Designated Public Servant seeking his assistance and for any contravention of the provision of this Act, such other officer or employee, whose assistance has been sought, shall be treated a Designated Public Servant under this Act for such contravention.

7. Providing notified services within stipulated time limit :-

(1) The stipulated time limit shall start from the date when the application for obtaining a required notified service is submitted to the Designated Public Servant or to a person sub-ordinate to him authorized to receive the application. Such application shall be duly acknowledged.

(2) The Designated Public Servant on receipt of an application under sub-section (1) shall, within the stipulated time limit, provide the notified service or reject the application and in case of rejection of application, he shall record the reasons in writing and communicate to the person making the application,-

(i) the reasons for such rejection;

(ii) the period within which an appeal against such rejection may be preferred; and

(iii) the particulars of the Appellate Authority.

8. Appeal :-

(1) Any person, whose application is rejected under subsection (2) of section 7 or who has not been provided the notified service within the stipulated time limit, may file an appeal to the Appellate Authority within thirty days from the date of rejection of application or the expiry of the stipulated time limit. Filing of such appeal shall be duly acknowledged by the Appellate Authority by providing the Appellant a signed receipt of the same:

Provided that the Appellate Authority may admit the appeal after the expiry of the period of thirty days but in no case beyond sixty days from the date of rejection of application or the expiry of the stipulated time limit for delivery of that particular notified service, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that in case of rejection of an application for a notified service for which any other law for the time being in force prescribes remedy, the applicant shall follow the process under such law for the time being in force.

(2) (a) The Appellate Authority may order the Designated Public Servant to provide the notified service within the stipulated time limit as specified in the notification under section 4 for that service or may reject the appeal and in case of rejection of the appeal, the Appellate Authority shall record the reasons of rejection in his order.

(b) Along with the order to provide the notified service, the Appellate Authority may impose penalty according to the provisions of section 9 of this Act.

(3) The Designated Public Servant or the Applicant aggrieved by any order of the Appellate Authority, may make a second appeal within thirty days from the date of that order to the Reviewing Authority, who shall dispose of the appeal according to the prescribed procedure:

Provided that the Reviewing Authority may entertain the second appeal after the expiry of thirty days but in no case beyond sixty days from the date of order of the Appellate Authority, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the Designated Public Servant does not comply with provisions of the order for providing the notified service under sub-section (2) of section 8, the applicant aggrieved by such non-compliance may submit an application to the Appellate Authority who shall dispose of the application as per provision of sub-section (2) of section 8:

Provided that the Designated Public Servant or the Applicant aggrieved by any order of the Appellate Authority, may make an appeal within thirty days from the date of that order to the Reviewing Authority, who shall dispose of the appeal according to the prescribed procedure.

(5) The Appellate Authority and Reviewing Authority shall, while deciding an appeal under this section, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

(a) requiring the production and inspection of documents;

(b) issuing summons for hearing to the Designated Public Servant and appellant; and

(c) any other matter which may be prescribed.

9. Penalty :-

(1) (a) Where the Appellate Authority is of the opinion that the Designated Public Servant has failed to provide the notified service without sufficient and reasonable cause, he may impose a lump-sum penalty at the rate specified from time to time as prescribed in the rules framed under this Act.

(b) Where the Appellate Authority is of the opinion that the Designated Public Servant has caused delay in providing the notified service without sufficient and reasonable cause, he may impose a penalty at the rate specified from time to time as prescribed in the rules framed under this Act for such delay on the Designated Public Servant:

Provided that the Designated Public Servant shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

(2) Where the Reviewing Authority is of the opinion that the Appellate Authority has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, he may impose a penalty on Appellate Authority at the rate specified from time to time as prescribed in the rules framed under this Act:

Provided that the Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

(3) The penalty as imposed under the above provisions of the Act shall be charged from the Designated Public Servant, Appellate Authority and concerned subordinate staff, as the case may be and in the proportion to be decided by the Appellate Authority or the Reviewing Authority, as the case may be, as prescribed in the rules framed under this Act from time to time.

(4) The penalty so imposed shall be in addition to that provided in any other Act, rules, regulations and notifications already existing.

10. Non-Compliance amounting to misconduct :-

Non-compliance of the orders of the Appellate Authority, unless pending in second appeal or modified by the Reviewing Authority, or of the orders of the Reviewing Authority shall amount to misconduct and make the concerned person liable for actions under related provisions, including those that have been laid down for disciplinary action.

11. Bar on jurisdiction of Civil Court :-

No Civil Court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal as specified under this Act.

12. Power of the State Government to send the applications to Appellate Authority directly :-

Notwithstanding any other provisions of this Act, the State

Government, if it receives an application alleging non-compliance of the provisions of this Act, may send the same directly to the Appellate Authority for taking further actions as per the provision of this Act.

13. Protection of action taken in good faith :-

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

14. Overriding effect of the Act :-

In relation to the notified services under this Act and its implementation, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

15. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in the session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made the rule shall thereafter have effects only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order, not inconsistent with the

provisions of this Act, remove the difficulty.