

Himachal Pradesh Public Services Guarantee Act, 2011

(As Assented To By The Governor On 21st September, 2011)

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An act to provide for the delivery of services to the people of the State of Himachal Pradesh within the stipulated time limit and for the matters connected therewith or incidental thereto.

Himachal Pradesh Public Services Guarantee Act, 2011

(As Assented To By The Governor On 21st September, 2011)

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-second Year of the Republic of India as follows:—

1. Short title, extent and commencement.—

(1) This Act may be called the Himachal Pradesh Public Services Guarantee Act, 2011.

(2) It shall extend to the whole of the State of Himachal Pradesh.

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

## 2. Definitions.—

In this Act, unless the context otherwise requires,—

- (a) "designated officer" means an officer notified as such for providing the services under section 3;
- (b) "eligible person" means person who is eligible for the notified services;
- (c) "first appellate authority" means an officer who is notified as such under section 3;
- (d) "notification" means a notification published in the Official Gazette ;
- (e) "Official Gazette" means the Rajpatra, Himachal Pradesh;
- (f) "prescribed" means prescribed by the rules made under this Act ;
- (g) "right to service" means right to obtain the service within the stipulated time limit under section 4;
- (h) "service" or "public service" means any service notified under section 3;
- (i) "second appellate authority" means the State Information Commission notified as such under section 3 ;
- (j) "State Government" means the Government of Himachal Pradesh;
- (k) "stipulated time limit" means maximum time to provide the service by the designated officer or to decide the appeal by the appellate authorities as notified under section 3 ; and
- (l) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15 of the Right to Information Act, 2005. (22 of 2005).

## 3. Notification of services, designated officers, first appellate authority, second appellate authority and stipulated time limits by the State Government.—

The State Government may, from time to time, notify the services, designated officers, first appellate authority, second appellate authority and stipulated time limits for the purpose of this Act.

## 4. Right to obtain service within stipulated time limit.—

The designated officer shall provide the service notified under section 3 to the person eligible to obtain the service, within the stipulated time limit.

## 5. Providing services in stipulated time limit.—

(1) Stipulated time limit shall start from the date of receipt of application for notified service by the designated officer or the person subordinate to him authorized to receive such applications and such application shall be duly acknowledged by him.

(2) The designated officer on receipt of an application under sub-section (1) shall,

within the stipulated time limit, either provide service or reject the application and in case of rejection of application, shall record the reasons in writing and intimate to the applicant.

(3) Where a request has been rejected under sub-section (2), the designated officer, shall communicate to the person making the request,—

(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.

(4) If the designated officer does not comply with sub-section (1), then the applicant aggrieved from such non-compliance may appeal to the first appellate authority.

#### 6. Appeal.—

(1) Any person, whose application is rejected under sub-section (2) of section 5 or who is not provided the service within the stipulated time limit, may file an appeal to the first appellate authority within thirty days from the date of rejection of application or the expiry of the stipulated time limit, as the case may be :

Provided that the first appellate authority may admit the appeal after the expiry of the period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The first appellate authority may order the designated officer to provide the service within the specified period or may reject the appeal.

(3) An appeal under sub-section (1) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total period of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(4) If the designated officer does not comply with the order of providing the service under sub-section (2), then the applicant aggrieved from such non-compliance may file a second appeal to the second appellate authority.

#### 7. Powers and functions of second appellate authority.—

(1) A second appeal against the decision under sub- section (2) of section 6 shall lie within sixty days from the date of decision to the second appellate authority:

Provided that the second appellate authority may admit the appeal after the expiry of the period of sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The second appellate authority may order the designated officer to provide the service within such period as he may specify or may reject the appeal:

Provided that in addition to order to provide service, he may impose penalty under section 8.

(3) The first appellate authority and the second appellate authority shall, while

conducting proceedings 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. (5 of 1908).

(4) In any appeal proceedings, the onus to prove that denial of a request was justified shall be on the designated officer, who denied the request or failed to provide the services within stipulated time limit.

#### 8. Penalty.—

(1) Where the second appellate authority is of the opinion that the designated officer has failed to provide service or has caused delay in providing such service without sufficient and reasonable cause, then he may impose a lump sum penalty which shall not be less than one thousand rupees but not more than five thousand rupees:

Provided that the designated officer shall be given a reasonable opportunity of being heard before any order of penalty is passed against him.

(2) The second appellate authority may order to give any amount as compensation to the appellant from out of the penalty imposed under this section, but the amount of such compensation shall not exceed the amount of penalty imposed:

Provided that any penalty imposed under this section on the designated officer for delay in providing the service or refusal to provide service shall be borne by such officer in personal capacity but not as a functionary of the State Government unless the second appellate authority directs otherwise:

Provided further that the second appellate authority may, after hearing the designated officer, apportion the amount of penalty amongst designated officer and any other officer(s) as may be found to have contributed to such denial or delay in providing the service.

(3) If the second appellate authority is satisfied that the designated officer has failed to discharge the duties under this Act, without sufficient and reasonable cause, then it may also recommend to the appointing or disciplinary authority of the designated officer that disciplinary action under the applicable service rules be also initiated against such officer.

#### 9. Protection of action taken in good faith.—

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

#### 10. Bar of jurisdiction.—

Save as otherwise expressly provided in this Act, every order made by designated officer, first appellate authority or second appellate authority shall not be called in question by any court or before any officer or authority.

#### 11. Power to make rules.—

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

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the State Legislative Assembly, while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session, in which it is so laid or successive sessions aforesaid, the Legislative Assembly agrees in making any modification in the rule or agrees that the rule should not be made, the rule shall thereafter have effect 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.

12. 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:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.