

THE KERALA RIGHT TO PUBLIC SERVICE BILL, 2024

A

Bill

to provide for delivery of public service to eligible persons within the stipulated time limit and for matters connected therewith and incidental thereto;

Preamble: WHEREAS it is expedient to provide for delivery of public service to eligible persons in the State within the stipulated time limit, including accountability of public servants in case of default and for matters connected therewith and incidental thereto.

Be it enacted in the Seventy-fifth Year of the Republic of India, as follows:-

1. **Short title, extent and commencement.**-(1) This Act may be called the Kerala Right to Public Service Act, 2024.
(2) It extends to whole of the State of Kerala.
(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.
2. **Definitions.**- In this Act unless the context otherwise requires,-
 - (a) "Act" means the Kerala Right to Public Service Act, 2024;
 - (b) "Authority" means the Revisional Authority constituted under section 17;
 - (c) "Days" means working days of the public authority concerned;
 - (d)"Department" means the department of the Government concerned ;
 - (e)" Designated Officer" means an officer designated under Section 4 of the Act;

(f) “Electronic mode” means any method , process or application to deliver any service electronically including, but not limited to Government to Government, Government to citizen or Government to business transactions, data interchange and other digital supply transactions whether conducted by e-mail, mobile services, cloud computing, document management, voice or data transmission or otherwise;

(g) “Electronic service delivery” means the delivery of public service through electronic mode;

(h) “Eligible Person” means a person eligible for obtaining a public service notified under the Act and also a person duly authorised in writing by such eligible person;

(i) “First Appellate Authority” means an officer notified under section 4;

(j) “Government” means Government of Kerala;

(k) “Head of the Department” includes the Secretary to Government, Director, Commissioner, Registrar or any other officer in charge of a Governmental Institution;

(l) “Prescribed” means prescribed by the rules made under the Act;

(m)“ Public Authority” means the authority or body or Local Self Government Institution established or constituted,-

- (i) by or under the Constitution;**
- (ii) by any law made by Parliament;**
- (iii) by any law made by State Legislature;**
- (iv) by notification issued or order made by the Government and includes any body owned, controlled or substantially financed directly or indirectly by the funds provided by the Government; and**
- (v) any other body which is required to render public service as may be notified by the Government from time to time .**

(n) “Public Service” means public services rendered by the Government and includes the services notified under Section 4 of the Act by the Department concerned, whether delivered electronically or otherwise;

(o) “State” means the State of Kerala;

(p) “Second Appellate Authority” means the District Collector of the district concerned; and

(q) “Stipulated time limit” means the time limit within which the designated officer is required to provide the service as specified under section 4 of the Act.

3. Right to Public Service.- Subject to the provisions of the Act, every eligible person shall have the right to obtain the services notified under section 4 of the Act within the stipulated time limit.
4. Notification of public service, stipulated time limit, designated officer etc .- (1) Every Head of the Department shall, by notification in the Official Gazette, from time to time, specify any service to be a public service and also specify the stipulated time limit within which such services shall be provided to the eligible person, the designated officer and the first appellate authority for the purpose of the Act.

(2) For providing public service specified under sub-section (1), the Government may, by notification, designate different officers for different public services at Village, Taluk, District, Department or at any other appropriate level, who shall be responsible for providing each of such service to the eligible person.
5. Providing public service within the stipulated time limit.- (1) The designated officer shall provide public service to the eligible person within the stipulated time limit as may be specified in the notification issued under sub-section (1) of Section 4.

(2) The stipulated time limit shall start from the date when an application, complete in all respects, for a public service is submitted to the designated officer or the subordinate officer authorized to receive such application, in such manner as may be prescribed.

(3) Every designated officer shall maintain detailed records of public service applied for and delivered or rejected, as the case may be, in the format, preferably in electronic format, as may be prescribed.

(4) All applications received by the designated officer shall be duly acknowledged by putting date of receipt of application. In the case of application submitted online, an automatic acknowledgement shall be generated.

(5) On receipt of an application, the designated officer shall process the same in the manner as may be prescribed and either provide the public service or reject the application within the stipulated time limit:

Provided that in the case of rejection of the application, the designated officer shall record the reasons thereof and intimate the same to the applicant.

6. **Electronic Service Delivery.**- (1) All public authorities shall subject to the legal, technical and financial feasibility, deliver all public services by electronic mode within a period, as may be notified by the Government, from the date of commencement of this Act, except such services.-

(i) which cannot be delivered electronically;

(ii) which can be delivered electronically but the Government declares that such services need not be delivered electronically for the reasons to be specified.

(2) Every public authority shall publish within six months from the date of commencement of the Act, the list of public services to be delivered by electronic mode and review and update the list every year.

(3) The public authority while reviewing the list under sub-section (2), by notification, omit or add any public service in such list:

Provided that any omission in the list shall be subject to the approval of the Government.

(4) The Government may, from time to time, notify the electronic governance standards, in such manner as may be prescribed, not inconsistent with the electronic governance standards fixed by the Central Government.

- 7. First Appeal.- (1) Any person, whose application has been rejected under sub-section (5) of Section 5 of the Act or who does not receive the public service within the stipulated time limit or where the public service received by him is deficient in any manner, may prefer an appeal to the First Appellate Authority, within a period of thirty days from the date of communication of rejection or expiry of the stipulated time limit or receipt of deficient service, as the case may be:**

Provided that the First Appellate Authority may admit an appeal filed after the expiry of 30 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The First Appellate Authority shall dispose of the appeal preferred under sub-section (1) within a period of thirty days from the date of presentation of the appeal.

(3) The First Appellate Authority may direct the designated officer to provide the public service or to rectify the deficiency in providing the public service to the eligible person within such period as it may specify but not more than the stipulated time limit or reject the appeal, for reasons recorded in writing:

Provided that before passing an order under sub-section (3), the First Appellate Authority shall afford an opportunity to both sides for being heard.

- 8. Second Appeal.- (1) Any person aggrieved by the order of the First Appellate Authority may prefer an appeal to the Second Appellate Authority within 30 days from the date of receipt of the order of the first appeal:**

Provided that the Second Appellate Authority may admit an appeal filed after the expiry of 30 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the second appeal in time.

(2) The Second Appellate Authority shall dispose of the appeal preferred under sub-section (1) within a period of thirty days from the date of presentation of the appeal.

(3) The Second Appellate Authority may direct the designated officer to provide the public service or to rectify the deficiency in providing the public service to the eligible person within such period as it may specify but not more than the stipulated time limit or reject the appeal, for reasons recorded in writing:

Provided that before passing an order under sub-section (3), the Appellate Authority shall afford an opportunity to both sides for being heard.

9. **Revision.**- (1) Any person aggrieved by an order of the Second Appellate Authority may file a revision before the Authority constituted under section 17 of the Act within a period of sixty days from the date of receipt of the said order:

Provided that the Authority may admit a revision filed after the expiry of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the revision in time.

(2) The decision of the Authority shall be final and binding on all parties.

10. **Powers vested with Appellate Authorities and Revisional Authority .-** (1) The Appellate Authorities and the Revisional Authority shall, for the purpose of its functions under the Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 45 of 1908) in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person;
- (b) discovery and production of any document;
- (c) receiving evidence on oath or on affidavits;
- (d) requisitioning of any public record;

- (e) issuing commission for the examination of witnesses;
- (f) reviewing its decisions, directions or orders; or
- (g) any other matters as may be prescribed.

(2) Take suo motu notice of failure to deliver public service in accordance with the Act and direct the designated officer to provide the public service or to rectify the deficiency in providing the public service to the eligible person within such period as it may specify but not more than the stipulated time limit.

11. Developing culture to deliver public service .- (1) The provisions of the Act shall be deemed to be part of the Service conditions of the designated officer, any person subordinate to him involved in the process of providing such services and the First Appellate Authority.

(2) Every public authority may take steps to reduce the demand from an eligible person to submit various certificates, documents, affidavits etc. for obtaining public service and shall endeavour to obtain such information and documents directly from the Departments or Public Authority concerned.

(3) All designated officers and First Appellate Authority shall undergo periodic training to enhance and ensure time bound delivery of public service, in the manner as may be prescribed.

12. Penalty for not providing public service.- (1) While deciding the appeal, if the First Appellate Authority is of the opinion that the designated officer or any other officer involved in the process of providing such service has failed to provide the public service to the eligible person within the stipulated time limit or has caused undue delay in providing the public service or has provided the public service which is deficient in any manner without sufficient and reasonable cause, the First Appellate Authority may, by notice, call upon the designated officer and the other officials involved in the process of providing public service to show cause, why further action should not be initiated against him.

(2) After having considered the cause if any shown by the designated officer or any other officer involved in the process of providing such

service, the First Appellate Authority comes to the conclusion that the designated officer or such other officer has acted in the manner as provided in sub-section (1), the First Appellate Authority shall impose a fine to the designated officer or such other officials, which may extend to rupees ten thousand but shall not be less than rupees thousand.

13. Penalty for not deciding the appeal within the stipulated time limit.- Where the Second Appellate Authority is of the opinion that the First Appellate Authority has failed to decide the appeal within the time limit stipulated in sub-section (2) of Section 7 or caused undue delay in disposing the appeal without sufficient or reasonable cause, it may impose a fine on the First Appellate Authority, which shall not be less than rupees two thousand but may extend to rupees fifteen thousand:

Provided that before imposing such fine, the Second Appellate Authority shall afford a reasonable opportunity to the First Appellate Authority for being heard.

14. Penalty for failure to notify or display public services, designated officer, stipulated time limit and Appellate Authorities.- The Authority may, after conducting such enquiry as it may deem fit, impose a fine which may extend to rupees ten thousand to the Head of the Department who fails to notify the details provided under section 4 of the Act and also to the Head of the Public Authority who fails to display the details as provided under section 20 of the Act without sufficient or reasonable cause:

Provided that before imposing such fine, the Authority shall afford a reasonable opportunity to the Head of the Department or the Head of the Public Authority for being heard.

15. Recommendation of Disciplinary Action .- Where the Authority or the Second Appellate Authority is of the opinion that the designated officer or the First Appellate Authority has failed to comply with the orders of the Authority or Second Appellate Authority or there is repeated or willful failure in complying with the provisions of the Act, the Authority or the Second Appellate Authority may recommend

disciplinary action against the designated officer or the First Appellate Authority, as the case may be, under the provisions of the service rules applicable to him in addition to the penalty imposed under section 12 or 13, considering the same as misconduct.

16. Recovery of penalty and payment of compensation.- (1) The penalty imposed on the designated officer or any other official involved in the process of providing public service under the Act shall be recovered from the salary, other remunerations or other assets of such officer.

(2) The Appellate Authority or the Revisional Authority may, by order, give such amount as compensation to the eligible person out of the amount of penalty imposed and realised under the Act, as may be specified in the order.

17. Constitution of the Authority.- (1) The Government shall, by notification in the Official Gazette constitute an Authority under this Act to exercise the powers conferred on and to perform the functions assigned to it under the Act.

(2) The Authority shall consist of the following members, namely:-

- (a) the Secretary, Law Department, Government of Kerala – *ex-officio*, who shall be the Chairperson of the Authority;
- (b) the Secretary , Personal & Administrative Reforms Department, Government of Kerala – *ex-officio*; and
- (c) the Secretary , General Administration Department, Government of Kerala - *ex-officio* ;

(3) The Authority shall meet at such time and place as may be decided by the Chairperson of the Authority.

(4) The Authority shall meet at least once in three months and the quorum for the meeting shall be two.

(5) Every matter to be decided by the Authority shall be considered and disposed of at the meetings of the Authority in accordance with the decision of the majority of the members present.

(6) No act or proceedings of the Authority shall be challenged or invalidated merely on the ground of defect in the constitution of the Authority.

(7) The Authority may, with prior approval of the Government, designate such officers and staff as it deems necessary for the discharge of its functions under the Act.

18. **Powers and Functions of the Authority-** (1) The Authority shall have powers to regulate its own procedure.

(2) The Authority shall serve a copy of its order to the parties concerned immediately after disposing the revision and publish the same on its website.

(3) The Authority shall monitor the implementation of the provisions of the Act on a regular basis.

(4) Without prejudice to the provisions contained in the Act, the functions of the Authority shall, amongst other things, include the following, namely:-

- (a) entertain and dispose of revision filed under section 9;
- (b) take suo motu notice of failure to deliver public service in accordance with the Act and refer such cases for taking decision to the first or second appellate authority or pass such orders ,as may be appropriate;
- (c) carry out inspections of the offices of public authorities entrusted with the delivery of public service and the offices of the first and second appellate authorities;
- (d) recommend additional services to be notified under section 4 and also suggest modifications in the notifications already issued for better implementation;
- (e) Authority, where ever it deems fit, shall have the power to recommend departmental inquiry against any designated officer or First Appellate Authority , who

have repeatedly failed in due discharge of functions cast upon them under the provisions of the Act;

(f) Monitoring the publication of services to be delivered and adherence to the time schedule, manner of delivery and quality of such services notified under section 4 of the Act;

(g) advice for redressal of the public grievances with regard to the non availability of public service in electronic mode and any deficiency in electronic service delivery;

(h) recommend changes in the procedure for delivery of public service so as to make the delivery more transparent, efficient and citizen friendly:

Provided that before making such recommendation, the Authority shall consult the Department concerned;

(i) the Authority may seek feedback or response from the eligible person about their experience in availing the services from the public authority and review the same;

(j) conduct inspection at the office of the public authorities and to verify whether the services be provided within the time stipulated in the notification, and if any delay is noticed, recommend disciplinary action against such officers to the appointing authorities considering as misconduct;

(k) conduct public awareness programs for effective implementation of the provisions of the Act and also to improve the delivery of public services by the public authority under the Act; and

(l) performing any other functions as may be prescribed.

19. **Public Authorities are bound to give effect to the orders of the Authority.**- All Public Authorities shall be bound to give effect to the orders and directions of the Authority in enforcing its decisions and orders.
20. **Display of public services, stipulated time limit, designated officer and Appellate Authorities** .- The details of the designated officers, public services, the stipulated time limit thereof and the details of the Appellate Authorities shall be displayed locally on the notice board in every Public Authority and also on the website of the Public Authority concerned for information to the public.
21. **Monitoring and Reporting.**—(1) Every Public Authority shall, after the end of each calendar year, prepare a consolidated report regarding the details of the delivery of public services under the Act during the previous year to the Department concerned .
- (2) Every Department shall, in relation to the public authorities within their jurisdiction, consolidate and provide such information to the Authority for preparing the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.
- (3) The Authority shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of the Act during the previous calendar year and forward a copy thereof to the Government.
- (4) The Government may, as soon as practicable after the receipt of the report under sub section (3), cause a copy of the report of the Authority to be laid before the State Legislature.
22. **Protection of action taken in good faith.**- No suit, prosecution or any other legal proceedings shall lie against any person for which anything is done or intended to be done in good faith, in pursuance of the provisions of the Act or the Rules made thereunder.

23. **Act to have overriding effect.**- The provisions of the Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.
24. **Bar of jurisdiction of Courts.**- No civil court shall have jurisdiction to entertain any suit, application or other proceedings in respect of any action taken or order made under the Act and no such order shall be called in question otherwise than as provided under the Act.
25. **Power to remove difficulties.**- (1) Where any difficulty arises in giving effect to the provisions of the Act, the Government may, by order, published in the Official Gazette make such provisions not inconsistent with the provisions of the Act as may appear to be necessary for removing the difficulty.

Provided that no such order shall be passed after the expiry of two years from the date of commencement of the Act.

(2) Every order passed under sub section (1) shall be placed before the Legislative Assembly of the State.

26. **Power to make rules.**- (1) The Government may, by notification in the official Gazette, make rules to carry out the provisions of the Act.
- (2) Every rule made under the Act shall be laid as soon as, may before it is made, before the Legislative Assembly while it is in 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 Legislative Assembly makes any modification in the rule or decides 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 the Act.

27. Repeal and Savings.- (1) The Kerala State Right to Service Act, 2012 (Act 18 of 2012) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the Act referred to in sub-section (1) shall be deemed have been done or taken under the provisions of this Act.

STATEMENT OF OBJECT AND REASONS

The Kerala State Right to Service Act 2012 was enacted by the Government of Kerala and it came into force on first of November, 2012. This law was enacted to enable delivery of services to the applicants by the department officials concerned in a time bound and effective manner and also to make government servants liable in cases of default. However the above Act, after a decade of its legislation, has completely failed to achieve its objects and purposes. A detailed study on this subject reveals that several Departments have not even complied with the requirement of notifying all services that will be rendered by each of them. Further, even in cases where notifications were made, several relevant services were not included in the list of notified services. There is no transparency or accountability in the implementation of the above Act. A study conducted by the Institute of Management in Government has disclosed that the implementation of the provisions of the Act is very tardy.

Another major anomaly noticed is regarding the inadequacy of relevant provisions in the present Act. There is no reported case of any penalty having been imposed on any designated officer who failed to deliver service notified under the Act. The appellate authority provided under the Act is a higher officer of the same public authority and the tendency to justify the inaction or denial of service by the designated officer could not be ruled out.

There is no provision for second appeal under the present Act. There is also no provision for electronic service delivery. The penal provisions contained in the present Act also are found to be inadequate. Considering all aspects, a new legislation in the place of the Kerala State Right to Public Services Act was found necessary to achieve the objects and purposes of such a legislation.

After detailed deliberations and also discussions with the Director and other officials of the Institute of Management in Government who conducted a detailed study on this subject, the Law Reforms Commission has proposed a new legislation and recommends to repeal the existing Act. The Kerala Right to Public Service Bill, 2024 contains detailed provisions regarding electronic service delivery. A Second Appellate Authority also is constituted who is the District Collector of the District concerned and an independent Ex-Officio Revisional Authority with Law Secretary as Chairman also has been provided under the present Bill. The proposed Bill also contain elaborate provisions regarding the notification of Public Services, electronic service delivery system, imposition and recovery of penalty, recommendation of disciplinary actions against defaulting officers, monitoring, updation and revision of public services etc. so as to achieve the objects and purposes of such a legislation.

In these circumstances, the Government has decided to enact a new law so as to provide effective and transparent delivery of services to eligible persons.

The Bill seeks to achieve the above objects.