

THE JAMMU AND KASHMIR PUBLIC SERVICES GUARANTEE ACT, 2011

(Act No. IX of 2011)

[9th April, 2011]

An Act to provide for the delivery of public services to the people of the State within the specified time limit and for matters connected therewith and incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Public Services Guarantee Act, 2011.

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

2. *Definition.*—In this Act, unless the context otherwise requires,—

- (a) “Act” means the Jammu and Kashmir Public Services Guarantee Act, 2011 ;
- (b) “designated officer” means an officer notified as such for providing the service under sub-section (2) of section 4 ;
- (c) “eligible person” means person who is eligible for any notified service ;
- (d) “first appellate authority” means an officer who is designated as such under section 8 ;
- (e) “Government” means the Government of Jammu and Kashmir ;
- (f) “prescribed” means prescribed by the rules made under this Act ;
- (g) “service” means any service notified under section 4 ;
- (h) “second appellate authority” means an officer who is designated as such under section 8 ;
- (i) “specified time limit” means the time limit within which the designated officer is required to provide service as specified under sub-section (1) of section 4 ;
- (j) “Special Tribunal” means Special Tribunal constituted under the Jammu and Kashmir Special Tribunal Act, 1988 ;

(k) “State” means the State of Jammu and Kashmir.

3. *Right to public services.*—(1) Subject to provisions of the Act, every eligible person in the State shall have a right to public services.

(2) The right referred to in sub-section (1) shall include the right to—

- (a) have access to the public service ;
- (b) receive public service within the specified time limit ;
- (c) receive public service in a transparent manner ;
- (d) demand performance of duties and functions in accordance with the Act ;
- (e) hold the concerned designated officer accountable for any service deficiency ; and
- (f) seek compensation with respect to non-providing of service or deficiency in service.

4. *Notification of public services and time limit.*—(1) The Government may, from time to time, specify the services to be the public services for purposes of the Act and shall specify the time limit within which such services shall be provided to the eligible persons.

(2) For providing services specified under sub-section (1), the Government may for different areas and for different services designate officers who shall be responsible for providing each of such services to the eligible persons.

5. *Providing of public service within specified time limit.*—(1) It shall be obligatory on the designated officer to provide public services to the eligible person within the time specified in sub-section (1) of section 4.

(2) The specified time limit shall start from the date when an application is submitted by the eligible person for providing of notified service to the designated officer or to a person subordinate to him authorized to receive the application.

(3) All applications received under sub-section (2) by the designated officer or the authorized person shall be duly acknowledged specifying the number, date and time of receipt of such application.

(4) On receipt of application under sub-section (3), the designated officer shall within the specified time limit either provide service or reject the application :

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

6. *First appeal.*—(1) Any person, whose application has been rejected under sub-section (4) of section 5, or who does not receive the public service

within the specified time limit, or where the service received by him is deficient in any manner, may prefer to file an appeal to such officer as may be notified by the Government to be the first appellate authority, within thirty days from the date of such rejection or expiry of the time limit or receipt of deficient service, as the case may be :

Provided that the first appellate authority may admit an appeal after the expiry of the period of thirty 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 forty-five days from the date of presentation of appeal.

(3) The first appellate authority may direct the designated officer to provide the public service within the such time as it may specify or to remove the deficiency in the service provided to the appellant or pass such other order, including rejection of the appeal, as it may deem fit :

Provided that before passing any order under sub-section (3), the appellate authority shall provide an opportunity of being heard to the appellant as well as the designated officer.

7. *Second appeal.*—(1) Any person aggrieved by the order passed by first appellate authority under section 6, may prefer an appeal to the second appellate authority within 60 days from the date on which the order appealed against has been passed :

Provided that the second appellate authority may admit an appeal after the expiry of the period of 60 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The second appellate authority may, within forty-five days from the date of presentation of appeal, pass an order directing the designated officer to provide the public service within such time as it may specify or to remove the deficiency in the service provided to the appellant or may pass such other order including the rejection of appeal, as it may deem fit.

8. *Designation of appellate authorities.*—The Government may by notification in the Government Gazette, designate officers who shall be first appellate authorities and second appellate authorities in respect of each public service.

9. *Powers of appellate authorities.*—The appellate authorities shall, while deciding an appeal under the Act, have the same powers as are vested in Civil Court while trying a suit under the Code of Civil Procedure, in respect of the following matters, namely :—

- (a) requiring the production and inspection of documents ;
 - (b) issuing summons for hearing to the designated officer and appellant ;
- and

(c) any other matter which may be prescribed.

10. *Penalty for non-compliance of orders.*—(1) If the designated officer does not comply with the orders or directions given to him under sub-section (3) of section 6 or sub-section (2) of section 7 the person aggrieved may file an application before the second appellate authority and the second appellate authority shall direct the designated officer to show cause, within specified time, for not complying, with the aforementioned orders or directions.

(2) After considering the cause, if any, shown by the designated officer and if no cause is shown within the time specified in sub-section (1), the second appellate authority, may, if it is of the opinion that the designated officer has not complied with the orders or directions without reasonable cause, impose a fine on such designated officer which shall not be less than Rupees 500 but may extend up to Rupees 5000.

11. *Penalty for not providing the service.*—Where second appellate authority is of the opinion that the designated officer has failed to provide service to the eligible person or has caused delay in providing the service or has provided a service which is deficient in any manner, it may impose a fine on such designated officer,—

(i) of Rupees 250 for each day of such delay or Rupees 5000, whichever is less, in case of non-providing of service or delay in providing services ; and

(ii) of Rupees 2000, in case of deficiency in service :

Provided that before imposing such fine, the designated officer shall be given a reasonable opportunity of being heard.

12. *Penalty for not deciding the appeal within specified time.*—Where the second appellate authority is of the opinion that the first appellate authority has failed to decide the appeal within the time specified in sub-section (2) of section 6 without any sufficient and reasonable cause, it may impose a fine on first appellate authority, which shall not be less than Rupees 500 and not more than Rupees 5000 :

Provided that before imposing such fine the first appellate authority shall be given a reasonable opportunity of being heard.

13. *Compensation.*—On imposition of fine under section 11 or section 12, the second appellate authority may, by order, direct that such portion of the fine imposed under the said section shall be awarded to the appellant, as compensation, as it may deem fit :

Provided that the amount of such compensation awarded shall not exceed the amount of fine imposed under the said section.

14. *Disciplinary action.*—In addition to imposition of fine under sections 10, 11 or 12, the second appellate authority, if it is satisfied that the designated

officer or the first appellate authority, as the case may be, has failed to discharge the duties assigned to him under the Act without sufficient and reasonable cause, may recommend disciplinary action against him under the service rules applicable to him.

15. *Revision.*—If designated officer or first appellate authority is aggrieved by any order of second appellate authority in respect of imposition of fine under the Act, he or it may make an application for revision to the Special Tribunal within a period of 60 days from the date of passing of such order, which shall dispose of the application according to such procedure as may be prescribed.

16. *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 the Act or any rule made thereunder.

17. *Power to make rules.*—The Government may, by notification in the Government Gazette, make rules to carry out the provisions of the Act.

18. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of the Act, the Government may by order, not inconsistent with the provisions of the 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 the Act.
