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MONDAY, MARCH 11, 2013

[SAKA 1934]

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 445-L.—11th March, 2013.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 11 of 2013

**THE WEST BENGAL RIGHT TO PUBLIC SERVICES
BILL, 2013.**

**A
BILL**

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

WHEREAS it is considered necessary and expedient to enact a legislation to provide for the delivery of public services to the people of the State within the stipulated time limit and for matters connected therewith and incidental thereto;

It is hereby enacted in the Sixty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the West Bengal Right to Public Services Act, 2013.
- (2) It extends to whole of the State of West Bengal.

The West Bengal Right to Public Services Bill, 2013.

(Clauses 2-4.)

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different sections.

Definitions.

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

- (a) “Appellate Officer” means an officer appointed or designated by notification by the State Government as Appellate Officer under section 3 of this Act;
- (b) “Commission” means a Commission constituted by the State Government for the purposes of this Act;
- (c) “Designated Officer” means an officer appointed or designated by notification by the State Government as designated officer under section 3 of this Act;
- (d) “eligible person” means a person who is eligible for services notified by the State Government;
- (e) “notification” means a notification published in the *Official Gazette*;
- (f) “prescribed” means prescribed by the rules made under this Act;
- (g) “Public Authority” means any authority or body or institution of self-government established or constituted—
 - (i) by or under the Constitution;
 - (ii) by any other law made by the State Legislature;
 - (iii) by notification issued or order made by the State Government, and includes any—
 - (A) body owned, controlled or substantially financed by the State Government;
 - (B) non-government organisation substantially financed, directly or in-directly by funds provided by the State Government.
- (h) “Reviewing Officer” means an officer appointed or designated by notification by the State Government as Reviewing Officer under section 3 of this Act;
- (i) “right to service” means right to obtain the service within the stipulated time limit as specified in section 4 of this Act;
- (j) “service” means any service notified by the State Government under section 3 of this Act;
- (k) “State Government” means the Government of West Bengal;
- (l) “stipulated time limit” means maximum time to provide the service by the designated officer or to decide the appeal by the appellate authority as notified under section 3.

Right to obtain
Public Services.

3. (1) Every eligible person shall have the right to obtain Public Services in accordance with the provisions of this Act.

(2) The State Government may from time to time, specify the public authority, services, Designated Officers, Appellate Officer, Reviewing Officer and stipulated time limit for service by notification in the *Official Gazette* for the purposes of this Act.

Right to obtain
service within
stipulated time
limit.

4. The Designated Officer shall provide the service notified under section 3 of this Act to the eligible person to obtain the service, within the stipulated time limit.

*The West Bengal Right to Public Services Bill, 2013.**(Clauses 5-7.)*

Providing service in stipulated time limit.

5. (1) Stipulated time limit shall commence from the date when required application for notified service is submitted to the designated officer or to a person subordinate to him authorized to receive the application. Such application shall be duly acknowledged through digital/electronic means or otherwise.

(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 for not providing service in writing and intimate to the applicant.

Appeal and Second Appeal.

6. (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 Appellate Officer within thirty days from the date of rejection of application or the expiry of the stipulated time limit:

Provided that the Appellate Officer may admit the appeal even 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 Appellate Officer may order the Designated Officer to provide the service within the specified period or may reject the appeal.

(3) A second appeal against decision of the Appellate Officer shall lie to the Reviewing Officer within sixty days from the date on which the decision was made:

Provided that the Reviewing Officer may admit the second appeal after the expiry of the period of 60 days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) (a) The Reviewing Officer may order the Designated Officer to provide the service within such period as he may specify or may reject the second appeal.

(b) Along with the order to provide service, the Reviewing Officer may impose penalty according to the provisions of section 7 of this Act.

(5) (a) If the Designated Officer does not comply sub-section (1) of section 5, then the applicant aggrieved from such non-compliance may submit an application directly to the Appellate Officer and the application shall be disposed of in the manner of first appeal.

(b) If the Designated Officer does not comply with the order of providing the service under sub-section (2) of section 6, then the applicant aggrieved from such non-compliance may submit an application directly to the Review Authority and the application shall be disposed of in the manner of second appeal.

(6) The Appellate Officer and Reviewing Officer shall while deciding an appeal under this section, have the same powers as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908 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.

Penalty.

7. (1) (a) Where the Reviewing Officer is of the opinion that the Designated Officer has failed to provide service without sufficient and reasonable cause, then he may impose a penalty which shall not be less than 250 rupees and not more than 1000 rupees.

*The West Bengal Right to Public Services Bill, 2013.**(Clauses 8-11.)*

(b) Where the Reviewing Officer is of the opinion that the Designated Officer has caused delay in providing the service, then he may impose a penalty at the rate of 250 rupees *per day* for such delay on the designated officer, which shall not be more than 1000 rupees:

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

(2) Where the Reviewing Officer is of the opinion that the Appellate Officer has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, then he may impose a penalty on Appellate Officer which shall not be less than 250 rupees and more than 1000 rupees:

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

(3) The Reviewing Officer, if satisfied that the Designated Officer or the Appellate Officer has failed to discharge the duties assigned to him under this Act, without sufficient and reasonable cause, may recommend disciplinary action against him under the service rules applicable to him.

Revision.

8. The Designated Officer or Appellate Officer aggrieved by any order of Reviewing Officer in respect of imposing penalty under this Act, may make an application for revision of the order to the officer nominated by the State Government within the period of sixty days from the date of that order, who shall dispose of the application according to the prescribed procedure:

Provided that the officer nominated by the State Government may entertain the application after the expiry of the said period of sixty days if it is satisfied that the application could not be submitted in time for sufficient cause.

Monitoring the status of the application.

9. (1) Every citizen having applied for any citizen related services shall be provided an application number by the department concerned, or local body or public authority as the case may be, and shall be entitled to obtain and monitor status of his application through online means or otherwise in accordance with such procedure as may be prescribed.

(2) The department or the local body or the public authority, as the case may be, shall maintain status of all applications governing citizen related services online and shall be duty bound to update the status of the same as per the procedure as prescribed by rules in this regard.

(3) To encourage and enhance the efficiency of the government servants, it shall be lawful for the competent officer to recommend cash incentive not exceeding one thousand rupees in aggregate in favour of a government servant against whom no default is reported in one year. On such recommendation, the Government or the local body or the public authority concerned, as the case may be, shall be competent to grant such incentive as it deem fit and proper, not exceeding the amount as recommended by competent officer along with certificate of appreciation which shall be duly recorded in his service book.

Deemed service condition.

10. Notwithstanding anything contained in the service condition of Government servants including such servants of local bodies of the Government, subordinate offices, Authorities, Companies and Corporations or public authorities, they shall be bound by the provisions of this Act.

Display of service and given time limit.

11. The Services and the given time limit shall be displayed locally and on website by the Secretary of the Department concerned or public authority for information of the public.

*The West Bengal Right to Public Services Bill, 2013.**(Clauses 12-16.)*Constitution of
right to public
service
commission.

12. (1) The State Government, if considers necessary or expedient to do so, it may, by notification, constitute for the purposes of this Act, a commission to be called the West Bengal Right to Public Service Commission:

Provided that till such time the Commission is not constituted by the State Government, it may, by notification nominate an officer of the State Government, not below the rank of a Secretary to perform the functions and exercise the powers of the Commission under this Act.

(2) The Head Office of the Commission will be at Kolkata or at such place, as the state Government may by notification determine from time to time.

(3) The Commission shall be a body corporate, known by the aforesaid name having perpetual succession and a common seal with power, subject to the provisions of this Act. The Commission may acquire, hold and dispose of property both movable and immovable and to enter in contract and shall, by the said name, sue or be sued.

(4) The powers and functions of the Commission shall be such as may be specified by the State Government by notification in the *Official Gazette*.

(5) The Commission may appoint such officers and employees as it considers necessary for the efficient performance of its function.

(6) The method of recruitment, salary, allowances and the other terms and conditions of service of the officers and employees shall be such as may be prescribed.

Officers to be
public servant.

13. All officers and other persons acting or purporting to act in pursuance of any of the provisions of this act and the rules made there under shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of
action taken in
good faith.

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

Power to make
rules.

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

(2) In particular and without prejudice to the generality foregoing power, such rule may provide for all or any of the following matters; namely:—

- (a) the format to maintain the record of services;
- (b) the procedure of disposing of an application;
- (c) method of recruitment and the terms and conditions of service of the officers and employees of the Commission;
- (d) salaries, allowances etc. of the officers and other employees of the Commission;
- (e) the procedure for implementing the provisions relating to penalties, compensation and cash incentives; and
- (f) any other matter which is required to be or may be prescribed for the purposes of this Act.

(3) All rules made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

Power to give
direction.

16. Notwithstanding anything contained in any other law but subject to the provisions of this Act, the State Government may, in the exercise of its powers and performance of its function under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

*The West Bengal Right to Public Services Bill, 2013.**(Clauses 17, 18.)*

Power to delegate.

17. The State Government may, by notification in the *Official Gazette*, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act as it may deem necessary or expedient, to any officer or other authority.

Power to remove difficulties.

18. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, for the purpose of removing such difficulty, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary or expedient:

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

(2) Every order made under sub-section (1) of this section shall, as soon as may be after it is made, be laid before the State Legislature.

STATEMENT OF OBJECTS AND REASONS.

The matter of delivery of public services to the people of the State within the stipulated time has been under active consideration of the State Government for some time past.

2. In keeping up the objectives, the West Bengal Right to Public Services Bill, 2013 has been framed *inter alia* for delivery of public services to the people of the State within the stipulated time.

3. The Bill has been framed with the above objects in view.

KOLKATA,
The 11th March, 2013.

SADHAN PANDE,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is financial implication involved in giving effect to the provisions of the proposed Bill. Necessary budgetary provision will be made in due course in consultation with the Finance Department to meet the expenditure involved.

KOLKATA,
The 11th March, 2013.

SADHAN PANDE,
Member-in-charge.

By order of the Governor,

MALAY MARUT BANERJEE,
*Secy. to the Govt. of West Bengal,
Law Department.*

The



Kolkata Gazette

Extraordinary
Published by Authority

SRAVANA 5]

SATURDAY, JULY 27, 2013

[SAKA 1935]

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

WEST BENGAL LEGISLATIVE ASSEMBLY SECRETARIAT

NOTIFICATION

No. 13-LA.-Kolkata, the 27th July, 2013—The following report of the Select Committee on the West Bengal Right to Public Service Bill, 2013 with the Bill embodying amendments recommended by the Committee, is hereby published for general information:—

THE WEST BENGAL RIGHT TO PUBLIC SERVICES BILL, 2013

**COMPOSITION OF THE SELECT COMMITTEE ON THE WEST BENGAL
RIGHT TO PUBLIC SERVICES BILL, 2013**

Chairman

1. Shri Sadhan Pande,
Minister-in-Charge of Consumer Affairs Department.

Members

2. Shri Prabodh Chandra Sinha,
3. Shri Anisur Rahaman,
4. Shri Id. Mohammad,
5. Shri Biswanath Karak, *Opposition Chief Whip,*

6. Shri Anandamay Mandal,
7. Shri Sobhandeb Chattopadhyay, *Chief Govt. Whip*,
8. Shri Jyotirmoy Kar, *Parliamentary Secretary*,
9. Shri Nirmal Ghosh,
10. Shri Tapas Roy, *Parliamentary Secretary*,
11. Shri Kallol Khan,
12. Shri Biplab Roy Chowdhury,
13. Dr. Manas Ranjan Bhunia,
14. Shri Asit Mitra,
15. Dr. Tarun Kanti Naskar,
16. Shri K. P. Singh Deo,
17. Dr. (Smt.) Shashi Panja, *Parliamentary Secretary*,
18. Shri Nasiruddin Ahmed, *Parliamentary Secretary*,
19. Shri Dulal Murmu,
20. Shri Silbhadra Datta,
21. Shri Rathin Ghosh, and
22. Dr. Sukhbilas Barma.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill to provide for the delivery of public services to the people of the State within the stipulated time limit and for matters connected therewith and incidental thereto, cited as the West Bengal Right to Public Services Bill, 2013, published in the *Kolkata Gazette, Extraordinary*, dated the March 11, 2013, was referred, having been authorized by the Committee to submit the Report on its behalf, present this Report with the Bill as amended by the Committee annexed herewith.

2. The Bill was introduced in the West Bengal Legislative Assembly on the 19th March, 2013. A motion for reference of the Bill to a Select Committee was, thereafter, moved by me as the Member-in-Charge of the Bill. The motion was discussed and adopted in the House with one amendment* on the same date.

3. The Committee held five sittings in all, on 02.04.2013, 10.04.2013, 19.04.2013, 08.05.2013 and 27.05.2013 in which this Report has been considered and adopted.

4. The Committee considered the Bill clause by clause and its observations with regard to the principal changes proposed in the Bill are detailed below.

CLAUSE 2

The definition of 'Competent Officer' has been added to clause 2.

CLAUSE 8

The rank and status of the officer nominated by the State Government to whom the application for revision of order of the Reviewing Officer is to be made by the aggrieved officers, has been specified.

NEW CLAUSE 15A

A new clause has been inserted to ensure that all rules made by the State Government under the proposed law are not only laid before the State Legislature without delay for a specified period but the Legislature has also the statutory right of amending and modifying them. It has also been made incumbent upon the State Government to lay every notification to be issued under the Act before the State Legislature as soon as it is made.

Other changes, minor, verbal or by way of removal of patent errors have been made in the body of the Bill and these have been shown in their respective places.

The Select Committee recommends that the Bill, as now amended, be passed.

SADHAN PANDE

Chairman,

Select Committee.

Kolkata:

The 26th June, 2013.

*Dr. Sukhbilas Barma was included in the Select Committee.

NOTE OF DISSENT

1. If Clause 9(3) remains there in the West Bengal Right to Public Services Bill, 2013, it means that the Government would give cash incentive to the Government employees for discharge of routine duty. This is unfair and irregular. A salaried employee cannot be and should not be rewarded cash incentive for discharging regular/routine duty. Rather they may be, if needed, given certificate of appreciation which may be duly recorded in his service book.
2. The Bill should rather contain provision so that an appellant who has been deprived of due services from any Government office is given cash compensation, which shall not exceed the penalty imposed on the default Designated Officer.

DR. TARUN KANTI NASKAR

Dated the 3rd June, 2013.

**THE WEST BENGAL RIGHT TO PUBLIC SERVICES
BILL, 2013.**

(Embodying amendments recommended by the Select Committee)

[Note : Matter omitted by Select Committee has been printed in italics and enclosed in square brackets and new matter inserted has been underlined.]

**A
BILL**

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

WHEREAS it is considered necessary and expedient to enact a legislation to provide for the delivery of public services to the people of the State within the stipulated time limit and for matters connected therewith and incidental thereto;

It is hereby enacted in the Sixty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title, extent and commen-
cement.

1. (1) This Act may be called the West Bengal Right to Public Services Act, 2013.

(2) It extends to whole of the State of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different sections.

Definitions.

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

(a) “Appellate Officer” means an officer appointed or designated by notification by the State Government as Appellate Officer under section 3 of this Act;

(b) “Commission” means a commission constituted by the State Government for the purposes of this Act;

(ba) “Competent Officer” means an officer appointed or designated by notification by the State Government;

(c) “Designated Officer” means an officer appointed or designated by notification by the State Government as Designated Officer under section 3 of this Act;

(d) “eligible person” means a person who is eligible for services notified by the State Government;

(e) “notification” means a notification published in the *Official Gazette*;

(f) “prescribed” means prescribed by the rules made under this Act;

(g) “Public Authority” means any authority or body or institution of self-government established or constituted—

(i) by or under the Constitution;

(ii) by any other law made by the State Legislature;

The West Bengal Right to Public Services Bill, 2013.

(Clauses 3-6.)

- (iii) by notification issued or order made by the State Government, and includes any—
 - (A) body owned, controlled or substantially financed by the State Government;
 - (B) non-government organisation substantially financed, directly or in-directly by funds provided by the State Government.
- (h) “Reviewing Officer” means an officer appointed or designated by notification by the State Government as Reviewing Officer under section 3 of this Act;
- (i) “right to service” means right to obtain the service within the stipulated time limit as specified in section 4 of this Act;
- (j) “service” means any service notified by the State Government under section 3 of this Act;
- (k) “State Government” means the Government of West Bengal;
- (l) “stipulated time limit” means maximum time to provide the service by the Designated Officer or to decide the appeal by the Appellate [Authority] Officer as notified under section 3.

Right to obtain
Public Services.

3. (1) Every eligible person shall have the right to obtain Public Services in accordance with the provisions of this Act.

(2) The State Government may from time to time, specify the Public Authority, services to be rendered, Designated Officer, Appellate Officer, Reviewing Officer and stipulated time limit for service by notification in the *Official Gazette* for the purposes of this Act.

Right to obtain
service within
stipulated time
limit.

4. The Designated Officer shall provide the service notified under section 3 of this Act to the eligible person to obtain the service, within the stipulated time limit.

Providing service
in stipulated time
limit.

5. (1) Stipulated time limit shall commence from the date when required application for notified service is submitted to the Designated Officer or to a person subordinate to him authorized to receive the application. Such application shall be duly acknowledged through digital/electronic means or otherwise.

(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 for not providing service in writing and intimate to the applicant.

Appeal and
second appeal.

6. (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 Appellate Officer within thirty days from the date of rejection of application or the expiry of the stipulated time limit:

Provided that the Appellate Officer may admit the appeal even 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 Appellate Officer may order the Designated Officer to provide the service within the specified period or may reject the appeal.

*The West Bengal Right to Public Services Bill, 2013.**(Clause 7.)*

(3) A second appeal against decision of the Appellate Officer shall lie to the Reviewing Officer within sixty days from the date on which the decision was made:

Provided that the Reviewing Officer may admit the second appeal after the expiry of the period of 60 days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) (a) The Reviewing Officer may order the Designated Officer to provide the service within such period as he may specify or may reject the second appeal.

(b) Along with the order to provide service, the Reviewing Officer may impose penalty according to the provisions of section 7 of this Act.

(5) (a) If the Designated Officer does not comply sub-section (1) of section 5, then the applicant aggrieved from such non-compliance may submit an application directly to the Appellate Officer and the application shall be disposed of in the manner of first appeal.

(b) If the Designated Officer does not comply with the order of providing the service under sub-section (2) of section 6, then the applicant aggrieved from such non-compliance may submit an application directly to the Reviewing *[Authority] Officer* and the application shall be disposed of in the manner of second appeal.

(6) The Appellate Officer and the Reviewing Officer shall while deciding an appeal under this section, have the same powers as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908 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.

Penalty.

7. (1) (a) Where the Reviewing Officer is of the opinion that the Designated Officer has failed to provide service without sufficient and reasonable cause, then he may impose a penalty which shall not be less than rupees 250 and not more than rupees 1000.

(b) Where the Reviewing Officer is of the opinion that the Designated Officer has caused delay in providing the service, then he may impose a penalty at the rate of rupees 250 *per* day for such delay on the Designated Officer, which shall not be more than rupees 1000:

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

(2) Where the Reviewing Officer is of the opinion that the Appellate Officer has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, then he may impose a penalty on the Appellate Officer which shall not be less than rupees 250 and not more than rupees 1000:

5 of 1908.

The West Bengal Right to Public Services Bill, 2013.

(Clauses 8-12.)

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

(3) The Reviewing Officer, if satisfied that the Designated Officer or the Appellate Officer has failed to discharge the duties assigned to him under this Act, without sufficient and reasonable cause, may recommend disciplinary action against him under the service rules applicable to him.

Revision.

8. The Designated Officer or the Appellate Officer aggrieved by any order of the Reviewing Officer in respect of imposing penalty under this Act, may make an application for revision of the order to the officer nominated by the State Government who shall be not below the rank of Joint Secretary to the Government or its equivalent rank, within the period of sixty days from the date of that order, who shall dispose of the application according to the prescribed procedure:

Provided that the officer nominated by the State Government may entertain the application after the expiry of the said period of sixty days if it is satisfied that the application could not be submitted in time for sufficient cause.

Monitoring the status of the application.

9. (1) Every citizen having applied for any citizen related services shall be provided an application number by the department concerned, or local body or Public Authority as the case may be, and shall be entitled to obtain and monitor status of his application through online means or otherwise in accordance with such procedure as may be prescribed.

(2) The department or the local body or the Public Authority, as the case may be, shall maintain status of all applications governing citizen related services online and shall be duty bound to update the status of the same as per the procedure as prescribed by rules in this regard.

(3) To encourage and enhance the efficiency of the Government [*servants*] employees, it shall be lawful for the Competent Officer to recommend cash incentive not exceeding one thousand rupees in aggregate in favour of a Government [*servant*] employee against whom no default is reported in one financial year. On such recommendation, the Government or the local body or the Public Authority concerned, as the case may be, shall be competent to grant such incentive as it deem fit and proper, not exceeding the amount as recommended by Competent Officer along with certificate of appreciation which shall be duly recorded in his service book.

Deemed service condition.

10. Notwithstanding anything contained in the service condition of Government [*servants*] employees including such [*servants*] employees of local bodies of the Government, Subordinate Offices, Authorities, Companies and Corporations or Public Authorities, they shall be bound by the provisions of this Act.

Display of service and given time limit.

Constitution of Right to Public Service Commission.

11. The services and the given time limit shall be displayed locally and on website by the Secretary of the Department concerned or Public Authority for information of the public.

12. (1) The State Government, if considers necessary or expedient to do so, [*it*] may, by notification, constitute for the purposes of this Act, a commission to be called the West Bengal Right to Public Service Commission:

Provided that till such time the Commission is not constituted by the State Government, it may, by notification nominate an officer of the State Government, not below the rank of a Secretary to perform the functions and exercise the powers of the Commission under this Act.

The West Bengal Right to Public Services Bill, 2013.

(Clauses 13-15, 15A.)

(2) The Head Office of the Commission will be at Kolkata or at such place, as the State Government may by notification determine from time to time.

(3) The Commission shall be a body corporate, known by the aforesaid name having perpetual succession and a common seal with power, subject to the provisions of this Act. The Commission may acquire, hold and dispose of property both movable and immovable and to enter in contract and shall, by the said name, sue or be sued.

(4) The powers and functions of the Commission shall be such as may be specified by the State Government by notification in the *Official Gazette*.

(5) The Commission may appoint such officers and employees as it considers necessary for the efficient performance of its function.

(6) The method of recruitment, salary, allowances and the other terms and conditions of service of the officers and employees shall be such as may be prescribed.

Officers to be
public servants.

13. All officers and other persons acting or purporting to act in pursuance of any of the provisions of this Act and the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

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

Power to make
rules.

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

(2) In particular and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters; namely:—

- (a) the format to maintain the record of services;
- (b) the procedure of disposing of an application;
- (c) method of recruitment and the terms and conditions of service of the officers and employees of the Commission;
- (d) salaries, allowances etc. of the officers and other employees of the Commission;
- (e) the procedure for implementing the provisions relating to penalties, compensation and cash incentives; and
- (f) any other matter which is required to be or may be prescribed for the purposes of this Act.

[(3) All rules made under this section shall be laid, as soon as may be after it is made, before the State Legislature.]

Rules and
Notifications to be
laid before State
Legislature.

15A. (1) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of 15 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modifications in the rule or the State Legislature 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 amendment shall be without prejudice to the validity of anything previously done under that rule.

*The West Bengal Right to Public Services Bill, 2013.**(Clauses 16-18.)*

(2) Every notification made under this Act shall be laid, as soon as may be, after it is made, before the State Legislature.

Power to give direction.

16. Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of this Act, the State Government may, in the exercise of its powers and performance of its function under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Power to delegate.

17. The State Government may, by notification in the *Official Gazette*, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act as it may deem necessary or expedient, to any officer or other authority.

Power to remove difficulties.

18. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, for the purpose of removing such difficulty, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary or expedient:

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

(2) Every order made under sub-section (1) of this section shall, as soon as may be after it is made, be laid before the State Legislature.

B. MAHANTI,
*Secretary to the
 West Bengal Legislative Assembly.*

WEST BENGAL LEGISLATIVE ASSEMBLY SECRETARIAT

**The West Bengal Right to Public Services
Bill, 2013**

**The Report of the Select Committee
with
the Bill, embodying amendments
recommended by them, annexed.**

(Presented to Hon'ble Speaker on the 26th June, 2013.)

(Laid on the Table on the 27th July, 2013.)

**COMPOSITION OF THE SELECT COMMITTEE ON
THE WEST BENGAL RIGHT TO PUBLIC
SERVICES BILL, 2013**

Chairman

1. Shri Sadhan Pande,
Minister-in-Charge of Consumer Affairs Department.

Members

2. Shri Prabodh Chandra Sinha,
3. Shri Anisur Rahaman,
4. Shri Id. Mohammad,
5. Shri Biswanath Karak, *Opposition Chief Whip,*
6. Shri Anandamay Mandal,
7. Shri Sobhandeb Chattopadhyay, *Chief Govt. Whip,*
8. Shri Jyotirmoy Kar, *Parliamentary Secretary,*
9. Shri Nirmal Ghosh,
10. Shri Tapas Roy, *Parliamentary Secretary,*
11. Shri Kallol Khan,
12. Shri Biplap Roy Chowdhury,
13. Dr. Manas Ranjan Bhunia,
14. Shri Asit Mitra,
15. Dr. Tarun Kanti Naskar,
16. Shri K. P. Singh Deo,
17. Dr. (Smt.) Shashi Panja, *Parliamentary Secretary,*
18. Shri Nasiruddin Ahmed, *Parliamentary Secretary,*
19. Shri Dulal Murmu,
20. Shri Silbhadra Datta,
21. Shri Rathin Ghosh, and
22. Dr. Sukhbilas Barma.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill to provide for the delivery of public services to the people of the State within the stipulated time limit and for matters connected therewith and incidental thereto, cited as the West Bengal Right to Public Services Bill, 2013, published in the *Kolkata Gazette, Extraordinary*, dated the March 11, 2013, was referred, having been authorized by the Committee to submit the Report on its behalf, present this Report with the Bill as amended by the Committee annexed herewith.

2. The Bill was introduced in the West Bengal Legislative Assembly on the 19th March, 2013. A motion for reference of the Bill to a Select Committee was, thereafter, moved by me as the Member-in-Charge of the Bill. The motion was discussed and adopted in the House with one amendment* on the same date (Appendix).

3. The Committee held five sittings in all, on 02.04.2013, 10.04.2013, 19.04.2013, 08.05.2013 and 27.05.2013 in which this Report has been considered and adopted.

4. The Committee considered the Bill clause by clause and its observations with regard to the principal changes proposed in the Bill are detailed below.

CLAUSE 2

The definition of 'Competent Officer' has been added to clause 2.

CLAUSE 8

The rank and status of the officer nominated by the State Government to whom the application for revision of order of the Reviewing Officer is to be made by the aggrieved officers, has been specified.

NEW CLAUSE 15A

A new clause has been inserted to ensure that all rules made by the State Government under the proposed law are not only laid before the State Legislature without delay for a specified period but the Legislature has also the statutory right of amending and modifying them. It has also been made incumbent upon the State Government to lay every notification to be issued under the Act before the State Legislature as soon as it is made.

Other changes, minor, verbal or by way of removal of patent errors have been made in the body of the Bill and these have been shown in their respective places.

The Select Committee recommends that the Bill, as now amended, be passed.

SADHAN PANDE
Chairman,
Select Committee.

Kolkata:
The 26th June, 2013.

*Dr. Sukhbilas Barma was included in the Select Committee.

NOTE OF DISSENT

1. If Clause 9(3) remains there in the West Bengal Right to Public Services Bill, 2013, it means that the Government would give cash incentive to the Government employees for discharge of routine duty. This is unfair and irregular. A salaried employee cannot be and should not be rewarded cash incentive for discharging regular/routine duty. Rather they may be, if needed, given certificate of appreciation which may be duly recorded in his service book.
2. The Bill should rather contain provision so that an appellant who has been deprived of due services from any Government office is given cash compensation, which shall not exceed the penalty imposed on the default Designated Officer.

DR. TARUN KANTI NASKAR

Dated the 3rd June, 2013.

**THE WEST BENGAL RIGHT TO PUBLIC SERVICES
BILL, 2013.**

*(Embodying amendments recommended by the Select
Committee)*

*[Note : Matter omitted by Select Committee has been printed
in italics and enclosed in square brackets and new matter
inserted has been underlined.]*

**A
BILL**

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

WHEREAS it is considered necessary and expedient to enact a legislation to provide for the delivery of public services to the people of the State within the stipulated time limit and for matters connected therewith and incidental thereto;

It is hereby enacted in the Sixty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title,
extent and
commen-
cement.

1. (1) This Act may be called the West Bengal Right to Public Services Act, 2013.

(2) It extends to whole of the State of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different sections.

Definitions.

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

(a) “Appellate Officer” means an officer appointed or designated by notification by the State Government as Appellate Officer under section 3 of this Act;

(b) “Commission” means a commission constituted by the State Government for the purposes of this Act;

(ba) “Competent Officer” means an officer appointed or designated by notification by the State Government;

The West Bengal Right to Public Services Bill, 2013.

(Clause 2.)

- (c) “Designated Officer” means an officer appointed or designated by notification by the State Government as Designated Officer under section 3 of this Act;
- (d) “eligible person” means a person who is eligible for services notified by the State Government;
- (e) “notification” means a notification published in the *Official Gazette*;
- (f) “prescribed” means prescribed by the rules made under this Act;
- (g) “Public Authority” means any authority or body or institution of self-government established or constituted—
 - (i) by or under the Constitution;
 - (ii) by any other law made by the State Legislature;
 - (iii) by notification issued or order made by the State Government, and includes any—
 - (A) body owned, controlled or substantially financed by the State Government;
 - (B) non-government organisation substantially financed, directly or in-directly by funds provided by the State Government.
- (h) “Reviewing Officer” means an officer appointed or designated by notification by the State Government as Reviewing Officer under section 3 of this Act;
- (i) “right to service” means right to obtain the service within the stipulated time limit as specified in section 4 of this Act;
- (j) “service” means any service notified by the State Government under section 3 of this Act;
- (k) “State Government” means the Government of West Bengal;

The West Bengal Right to Public Services Bill, 2013.

(Clauses 3-6.)

(I) “stipulated time limit” means maximum time to provide the service by the Designated Officer or to decide the appeal by the Appellate Authority Officer as notified under section 3.

3. (1) Every eligible person shall have the right to obtain Public Services in accordance with the provisions of this Act.

(2) The State Government may from time to time, specify the Public Authority, services to be rendered, Designated Officer, Appellate Officer, Reviewing Officer and stipulated time limit for service by notification in the *Official Gazette* for the purposes of this Act.

4. The Designated Officer shall provide the service notified under section 3 of this Act to the eligible person to obtain the service, within the stipulated time limit.

5. (1) Stipulated time limit shall commence from the date when required application for notified service is submitted to the Designated Officer or to a person subordinate to him authorized to receive the application. Such application shall be duly acknowledged through digital/electronic means or otherwise.

(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 for not providing service in writing and intimate to the applicant.

6. (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 Appellate Officer within thirty days from the date of rejection of application or the expiry of the stipulated time limit:

Provided that the Appellate Officer may admit the appeal even 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.

Right to obtain Public Services.

Right to obtain service within stipulated time limit.

Providing service in stipulated time limit.

Appeal and second appeal.

The West Bengal Right to Public Services Bill, 2013.

(Clause 6.)

(2) The Appellate Officer may order the Designated Officer to provide the service within the specified period or may reject the appeal.

(3) A second appeal against decision of the Appellate Officer shall lie to the Reviewing Officer within sixty days from the date on which the decision was made:

Provided that the Reviewing Officer may admit the second appeal after the expiry of the period of 60 days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) (a) The Reviewing Officer may order the Designated Officer to provide the service within such period as he may specify or may reject the second appeal.

(b) Along with the order to provide service, the Reviewing Officer may impose penalty according to the provisions of section 7 of this Act.

(5) (a) If the Designated Officer does not comply sub-section (1) of section 5, then the applicant aggrieved from such non-compliance may submit an application directly to the Appellate Officer and the application shall be disposed of in the manner of first appeal.

(b) If the Designated Officer does not comply with the order of providing the service under sub-section (2) of section 6, then the applicant aggrieved from such non-compliance may submit an application directly to the Reviewing Authority Officer and the application shall be disposed of in the manner of second appeal.

(6) The Appellate Officer and the Reviewing Officer shall while deciding an appeal under this section, have the same powers as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

5 of 1908.

- (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.

The West Bengal Right to Public Services Bill, 2013.

(Clauses 7, 8.)

Penalty.

7. (1) (a) Where the Reviewing Officer is of the opinion that the Designated Officer has failed to provide service without sufficient and reasonable cause, then he may impose a penalty which shall not be less than rupees 250 and not more than rupees 1000.

(b) Where the Reviewing Officer is of the opinion that the Designated Officer has caused delay in providing the service, then he may impose a penalty at the rate of rupees 250 *per* day for such delay on the Designated Officer, which shall not be more than rupees 1000:

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

(2) Where the Reviewing Officer is of the opinion that the Appellate Officer has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, then he may impose a penalty on the Appellate Officer which shall not be less than rupees 250 and not more than rupees 1000:

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

(3) The Reviewing Officer, if satisfied that the Designated Officer or the Appellate Officer has failed to discharge the duties assigned to him under this Act, without sufficient and reasonable cause, may recommend disciplinary action against him under the service rules applicable to him.

Revision.

8. The Designated Officer or the Appellate Officer aggrieved by any order of the Reviewing Officer in respect of imposing penalty under this Act, may make an application for revision of the order to the officer nominated by the State Government who shall be not below the rank of Joint Secretary to the Government or its equivalent rank, within the period of sixty days from the date of that order, who shall dispose of the application according to the prescribed procedure:

Provided that the officer nominated by the State Government may entertain the application after the expiry of the said period of sixty days if it is satisfied that the application could not be submitted in time for sufficient cause.

The West Bengal Right to Public Services Bill, 2013.

(Clauses 9-12.)

Monitoring
the status of
the
application.

9. (1) Every citizen having applied for any citizen related services shall be provided an application number by the department concerned, or local body or Public Authority as the case may be, and shall be entitled to obtain and monitor status of his application through online means or otherwise in accordance with such procedure as may be prescribed.

(2) The department or the local body or the Public Authority, as the case may be, shall maintain status of all applications governing citizen related services online and shall be duty bound to update the status of the same as per the procedure as prescribed by rules in this regard.

(3) To encourage and enhance the efficiency of the Government [servants] employees, it shall be lawful for the Competent Officer to recommend cash incentive not exceeding one thousand rupees in aggregate in favour of a Government [servant] employee against whom no default is reported in one financial year. On such recommendation, the Government or the local body or the Public Authority concerned, as the case may be, shall be competent to grant such incentive as it deem fit and proper, not exceeding the amount as recommended by Competent Officer along with certificate of appreciation which shall be duly recorded in his service book.

Deemed
service
condition.

10. Notwithstanding anything contained in the service condition of Government [servants] employees including such [servants] employees of local bodies of the Government, Subordinate Offices, Authorities, Companies and Corporations or Public Authorities, they shall be bound by the provisions of this Act.

Display of
service and
given time
limit.

11. The services and the given time limit shall be displayed locally and on website by the Secretary of the Department concerned or Public Authority for information of the public.

Constitution
of Right to
Public
Service
Commission.

12. (1) The State Government, if considers necessary or expedient to do so, [it] may, by notification, constitute for the purposes of this Act, a commission to be called the West Bengal Right to Public Service Commission:

Provided that till such time the Commission is not constituted by the State Government, it may, by notification nominate an

The West Bengal Right to Public Services Bill, 2013.

(*Clauses 13-15.*)

officer of the State Government, not below the rank of a Secretary to perform the functions and exercise the powers of the Commission under this Act.

(2) The Head Office of the Commission will be at Kolkata or at such place, as the State Government may by notification determine from time to time.

(3) The Commission shall be a body corporate, known by the aforesaid name having perpetual succession and a common seal with power, subject to the provisions of this Act. The Commission may acquire, hold and dispose of property both movable and immovable and to enter in contract and shall, by the said name, sue or be sued.

(4) The powers and functions of the Commission shall be such as may be specified by the State Government by notification in the *Official Gazette*.

(5) The Commission may appoint such officers and employees as it considers necessary for the efficient performance of its function.

(6) The method of recruitment, salary, allowances and the other terms and conditions of service of the officers and employees shall be such as may be prescribed.

Officers to
be public
servants.

13. All officers and other persons acting or purporting to act in pursuance of any of the provisions of this Act and the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection
of action
taken in
good faith.

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

Power to
make
rules.

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

(2) In particular and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters; namely:—

(a) the format to maintain the record of services;

The West Bengal Right to Public Services Bill, 2013.

(Clauses 15A, 16.)

- (b) the procedure of disposing of an application;
- (c) method of recruitment and the terms and conditions of service of the officers and employees of the Commission;
- (d) salaries, allowances etc. of the officers and other employees of the Commission;
- (e) the procedure for implementing the provisions relating to penalties, compensation and cash incentives; and
- (f) any other matter which is required to be or may be prescribed for the purposes of this Act.

*[**(3) All rules made under this section shall be laid, as soon as may be after it is made, before the State Legislature.**]*

Rules and Notifications to be laid before State Legislature.

15A. *(1) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of 15 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modifications in the rule or the State Legislature 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 amendment shall be without prejudice to the validity of anything previously done under that rule.*

(2) Every notification made under this Act shall be laid, as soon as may be, after it is made, before the State Legislature.

Power to give direction.

16. Notwithstanding anything contained in any other law for the time being in force but subject to the provisions of this Act, the State Government may, in the exercise of its powers and performance of its function under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

The West Bengal Right to Public Services Bill, 2013.

(Clauses 17, 18.)

Power to
delegate.

17. The State Government may, by notification in the *Official Gazette*, delegate, subject to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act as it may deem necessary or expedient, to any officer or other authority.

Power to
remove
difficulties.

18. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, for the purpose of removing such difficulty, by order published in the *Official Gazette*, make such provisions, not inconsistent with the provisions of this Act, as it may deem necessary or expedient:

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

(2) Every order made under sub-section (1) of this section shall, as soon as may be after it is made, be laid before the State Legislature.

APPENDIX

Motion in the West Bengal Legislative Assembly for reference of the Bill to Select Committee.

(vide Paragraph 2 of the Report)

That the West Bengal Right to Public Services Bill, 2013 be referred to a Select Committee of the House, consisting of the following members:

1. Shri Prabodh Chandra Sinha,
2. Shri Anisur Rahaman,
3. Shri Id. Mohammad,
4. Shri Biswanath Karak, *Opposition Chief Whip*,
5. Shri Anandamay Mandal,
6. Shri Sobhandeb Chattopadhyay, *Chief Govt. Whip*,
7. Shri Jyotirmoy Kar,
8. Shri Nirmal Ghosh,
9. Shri Tapas Roy, *Parliamentary Secretary*,
10. Shri Kallol Khan,
11. Shri Biplab Roy Chowdhury,
12. Dr. Manas Ranjan Bhunia,
13. Shri Asit Mitra,
14. Dr. Tarun Kanti Naskar,
15. Shri K. P. Singh Deo,
16. Dr. (Smt.) Shashi Panja, *Parliamentary Secretary*,
17. Shri Nasiruddin Ahmed, *Parliamentary Secretary*,
18. Shri Dulal Murmu,
19. Shri Silbhadra Datta,
20. Shri Rathin Ghosh,
21. Dr. Sukhbilas Barma, and
22. Shri Sadhan Pande, *Minister-in-Charge of Consumer Affairs Department*

with the instruction to submit its Report by the 30th June, 2013.