

[Bihar Act 4, 2011]

BIHAR RIGHT TO PUBLIC SERVICES ACT, 2011

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ACT

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

BE it enacted by the Legislature of the State of Bihar in the sixty-second year of the Republic of India as follows.-

1. *Short title, extent and commencement.*—(1) This Act may be called the Bihar Right to Public Services Act, 2011.

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

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

2. *Definitions.*- In this Act, unless the context otherwise requires:-

(a) "Appellate Authority" means an authority including one belonging to the local self government who is notified as such under Section-3;

(b) "Designated Public Servant" means an authority including one belonging to the local self government and organizations, fully or partially funded by the State Government, notified as such for providing the service under Section-3;

(c) "Eligible Person" means a person who is eligible for the notified service;

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

(e) "Reviewing Authority" means an authority including one belonging to the local self government who is notified as such under Section-3;

(f) "Right to Public Service" means right to obtain the service notified by the government under this Act from time to time within the stipulated time limit as described under Section-4;

(g) "Service" means any service notified as per provisions under Section-3;

(h) "State Government" means the Government of Bihar;

(i) "Stipulated time limit" means maximum time to provide the service by the Designated Public Servant or to decide the appeal by the Appellate Authority and Reviewing Authority as notified under Section-3.

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

4. *Right to obtain service within stipulated time limit.*- The designated public servant shall provide the service notified, under Section-3 to the person eligible to obtain the service, within the stipulated time limit.

5. *Providing services in stipulated time limit.* - (1) Any application being filed for obtaining services notified under the Act will be treated as application under the Act. Stipulated Time Limit, if not explained otherwise in the notification under sec.-3 shall start from the date when required application for notified service is submitted to the Designated Public Servant or to a person subordinate to him/her authorized to receive the application. Such application shall be duly acknowledged.

(2) The Designated Public Servant on receipt of an application under sub-section (1) shall within the Stipulated Time Limit provide service or reject the application and in case of rejection of application, shall record the reasons in writing and intimate to the applicant.

6. *Appeal.* - (1) Any person, whose application is rejected under sub-section (2) of section-5 or who is not provided the service within the stipulated time limit, may file an appeal to the Appellate Authority within thirty days from the date of rejection of application or the expiry of the stipulated time limit. Filing of such appeal shall be duly acknowledged by the Appellate Authority by providing the Appellant signed receipt of the same:

Provided that the Appellate Authority may admit the appeal after the expiry of the period of thirty days if he/she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that in case of delay beyond the time limit stipulated by notification under section-3 the applicant may file an appeal against delay as per the provisions under this Act:

Provided further also that, in case of rejection of an application for a service for which any other law for the time being in force prescribes remedy, the applicant shall

follow the process under such law for the time being in force.

(2) (a) The Appellate Authority may order the Designated Public Servant to provide the service within the specified period or may reject the appeal.

(b) Along with the order to provide service, the Appellate Authority may impose penalty according to the provisions of Section-7 of this Act.

(3) The Designated Public Servant or the Applicant aggrieved by any order of the Appellate Authority, may make a second appeal within 60 (sixty) days from the date of that order to the Reviewing Authority, who shall dispose the appeal according to the prescribed procedure:

Provided that the Reviewing Authority may entertain the second appeal after the expiry of 60 (sixty) days, if he/she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the designated public servant does not comply with provisions of the order for providing the 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. This application shall be disposed of in the manner prescribed for second appeal.

(5) The Appellate Authority and Reviewing Authority 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 (5 of 1908) in respect of the following matters, namely :-

- (a) requiring the production and inspection of documents;
- (b) issuing summons for hearing to the designated public servant and appellant; and
- (c) any other matter which may be prescribed.

(6) In any appeal proceedings, the onus to prove that a delay or denial of service was justified shall be on the Designated Public Servant or the Appellate Authority, as the case may be, who delayed or denied the service.

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

(b) Where the Appellate Authority is of the opinion that the Designated Public

Servant has caused delay in providing the service, then he/she may impose a penalty at the rate specified from time to time and as prescribed in the rules framed under this Act from time to time for such delay on the Designated Public Servant:

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

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

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

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

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

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

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

10. *Power of the State Government to send the applications to Appellate Authority directly.*- Notwithstanding the other provisions of the Act, the State Government, if it gets an application alleging non-compliance of the provisions, may send the same directly to the Appellate Authority for taking further actions as per the Act.

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

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

13. *Powers to make rules.*- (1) The State Government shall, by notification in the official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made under this Act by the State Government shall be laid before the State Legislature.

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

By order of the Governor of Bihar,

OM PRAKASH SINHA,

Joint Secretary to Government.

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