
REPORT OF THE SUBJECT COMMITTEE
ON
THE KERALA STATE RIGHT TO SERVICE BILL, 2012
AND
THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

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THE KERALA STATE RIGHT TO SERVICE BILL, 2012

(Report of the Subject Committee)

Subject Committee XIV—Home Affairs to which the Kerala State Right to Service Bill, 2012 was referred, considered the Bill clause by clause and now submits this report with the Bill as reported by the Committee annexed thereto.

2. The Kerala State Right to Service Bill, 2012 was published as Gazette Extraordinary dated June 15, 2012. The Bill was introduced in the Assembly on July 23, 2012 and was referred to the Committee on the same day.

3. The Committee considered the Bill clause by clause at its meeting held on July 23, 2012 and the Committee recommends to adopt the Bill without any modification.

4. The Minutes of dissent is appended.

OOMMEN CHANDY,
Chairman,
Subject Committee XIV.

MINUTES OF DISSENT

We record the following minutes of dissent to the Kerala State Right to Service Bill, 2012:

1. The failure on time bound delivery of basic needs of citizens like drinking water, food, accommodation, medical facilities, education, power, etc. tantamount to nullify the programme/project. The benefit of Five Year Plan/Annual Plan should not be failed to disseminate to the target group owing to failure either of the employees or of the Government. The Government should also ensure that only those programmes are launched for which provision is made in the budget and can be spent during the year. Hollow declarations should be avoided. The Government and the employees have complementary responsibility to implement the programmes/schemes and they should fulfill their responsibilities. There is no enabling provision in this Bill to ensure the said goal.

2. This Bill is bestowing excessive powers to the executive for delegated legislation, rendering the Bill to the inoperative if the rule making process is delayed or omitted. That be so, time limits should have been prescribed for each item of such rule making.

3. Many departments of the Government have already issued Citizen Charters prescribing time limits for the various services rendered by them. These Charters will be rendered ineffective if no protection clause is incorporated in this Bill.

4. Long pendency of files before the Government Secretariat and various other offices is a curse of our State. The best opportunity to address this problem is being left unavailed, by not incorporating adequate stipulations thereto in this Bill.

KODIYERI BALAKRISHNAN, M.L.A. (Sd.)

C. DIVAKARAN, M.L.A. (Sd.)

MATHEW T. THOMAS, M.L.A. (Sd.)

K. SURESH KURUP, M.L.A. (Sd.)

THE KERALA STATE RIGHT TO SERVICE BILL, 2012

(As reported by the Subject Committee)

A

BILL

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

Preamble.—WHEREAS, it is expedient to provide for the delivery of services to the general public within the stipulated time limit ;

BE it enacted in the Sixty-third Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Kerala State Right to Service Act, 2012.

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

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

(a) “designated officer” means an officer designated as such under section 3 for providing the services as per the provisions of this Act;

(b) “eligible person” means a person who is eligible for the services notified under section 3;

(c) “first appellate authority” means an officer notified as such under section 3 ;

(d) “Government” means the Government of Kerala ;

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

(f) “right to service” means the right of an eligible person to obtain a service within the stipulated time limit ;

(g) “service” means any service to be provided under the provisions of any law for the time being in force or as per Government orders issued from time to time, to the general public by or under any Department of the Government or by a Local Self Government Institution or by a State Public Sector Undertaking or by a Statutory Body, as may be notified under section 3;

(h) “second appellate authority” means an officer notified as such under section 3 ;

(i) “stipulated time limit” means the maximum time limit notified under section 3 to provide the service by the designated officer or to dispose of an application for such service;

3. *Power to notify services, stipulated time limit, designated officer etc.*—Save as otherwise provided in any other law for the time being in force, every Department of the Government, every head of Department, every Local Self Government Institution and every statutory body shall within six months of the commencement of this Act, notify in the Gazette the services that will be rendered by each of them, the designated officers the first appellate authority and the second appellate authority and the stipulated time limit for the purposes of this Act.

4. *Right to obtain services.*—Every eligible person shall have the right to obtain the services notified under section 3 within the stipulated time limit.

5. *Duty of the designated officer.*—(1) The designated officer shall on receipt of an application for service by an eligible person, without prejudice to the provisions of any law for the time being in force, provide the service or reject the application within the stipulated time limit. In case of rejection, he shall state the reasons for the same in writing and shall intimate it to the applicant forthwith.

(2) An application received under sub-section (1) shall be duly acknowledged by the designated officer or by the officer authorised by him to receive such application.

(3) The stipulated time limit shall start from the date on which the application is received.

6. *Appeal.*—(1) Any person, who does not receive the required service within the stipulated time or whose application is rejected under sub-section (1) of section 5, may file an appeal to the first appellate authority, within thirty days from the date of rejection of the application or on the expiry of the stipulated time limit, in such manner and on payment of such fee, as may be prescribed:

Provided that the first appellate authority may admit the appeal after the expiry of the period of thirty days if the authority is satisfied that the appellant had sufficient cause for not filing the appeal in time.

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

(3) An appeal under sub-section (1) shall be disposed of within a period equivalent to that of the stipulated time limit.

(4) Any person aggrieved by a decision of the first appellate authority may prefer an appeal to the second appellate authority within sixty days from the date of decision of the first appellate authority, in such manner and on payment of such fee, as may be prescribed :

Provided that the second appellate authority may admit the appeal after the expiry of the period of sixty days if that authority is satisfied that the appellant had sufficient cause for not filing the appeal in time.

(5) The second appellate authority may direct the designated officer to provide the service within a specified period or he may reject the appeal.

(6) Where the second appellate authority finds that there is no sufficient reason for not giving the service within the stipulated time limit he may, along with the direction to provide the service, impose penalty as provided in section 8.

(7) An appeal under sub-section (4) shall be disposed of within a period equivalent to that of the stipulated time limit.

(8) Where the designated officer does not comply with the direction given by the first appellate authority under sub-section (2) of this section, the person aggrieved by such non-compliance may file an application directly to the second appellate authority and such an application shall be disposed of in the same manner in which a second appeal is to be disposed of under this Act.

(9) Where the designated officer does not comply with the direction for providing the service under sub-section (5) of this section, then the person aggrieved by such non-compliance may file an application directly to the second appellate authority and such an application shall be disposed of in the same manner in which a second appeal is to be disposed of under this Act.

7. *Procedure to be followed in appeal.*—The first appellate authority and the second appellate authority, while deciding an appeal under this Act, shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely :—

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

8. *Penalty.*—(1) Where the second appellate authority finds that,—

(a) the designated officer has failed to provide the service without sufficient and reasonable cause, the second appellate authority may by an order in writing, stating the reasons, impose a fine on the designated officer which shall not be less than five hundred rupees and not more than five thousand rupees ;

(b) the designated officer has caused delay in providing the service, the second appellate authority may, by an order in writing, stating the reasons, impose a fine on the designated officer, at the rate of two hundred and fifty rupees per day for each day's delay the sum of which shall not exceed five thousand rupees :

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

(2) Where the second appellate authority finds that the first appellate authority has failed to decide the appeal within the time limit specified in sub-section (3) of section 6 without sufficient and reasonable cause, he may by an order in writing, stating the reasons, impose a penalty on the first appellate authority which shall not be less than five hundred rupees and not more than five thousand rupees :

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

(3) The second appellate authority may, if he is satisfied that the designated officer or the first appellate authority has without sufficient cause, failed to discharge the duties assigned to him under this Act recommend disciplinary action against him under the service rules applicable to him.

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

10. *Bar of jurisdiction of Civil Courts.*—No civil court shall entertain any suit, application or other proceeding in respect of any order issued under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

11. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the provisions of this Act.

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

12. *Power to remove difficulties.*—(1) Where any difficulty arises giving effect to the provisions of this Act, the Government may, by order published in the Gazette, as occasion may require, do anything, which are considered necessary for them and not inconsistent with the provisions of this Act or the rules made thereunder, for the purpose of removing such difficulty:

Provided that no such order shall be issued under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order issued under sub section (1) shall be laid before the Legislative Assembly as soon as may be after it is issued.

Secretariat of the Kerala Legislature,
Thiruvananthapuram,
23rd July, 2012.

P. K. MURALEEDHARAN,
Secretary-in-charge.