

FIFTY EIGHTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2019-2021)**

FIFTY EIGHTH REPORT
(Presented on 4th July, 2019)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2019

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

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ON
PUBLIC ACCOUNTS
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FIFTY EIGHTH REPORT

On

**Action Taken by Government on the Recommendations
contained in the 161st Report of the Committee
on Public Accounts (2008-2011)**

CONTENTS

	<i>Page</i>
Composition of the Committee	v
Introduction	vii
Report	1

**COMMITTEE ON PUBLIC ACCOUNTS
(2019-2021)**

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Fifty Eighth Report on Action Taken by Government on the Recommendations contained in the 161st Report of the Committee on Public Accounts. (2008-2011)

The Committee considered and finalised this Report at the meeting held on 1st July, 2019.

Thiruvananthapuram,
1st July, 2019.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the Action Taken by the Government on the recommendations contained in the 161st Report of the Committee on Public Accounts (2008-2011).

The 161st Report of the Committee on Public Accounts (2008-2011) was presented to the House on 23rd February 2011. The Report contained Twenty one recommendations relating to Food, Civil Supplies and Consumer Affairs department. Government was addressed on 24th February, 2011 to furnish the Statements of Action Taken on the recommendations contained in the Report and the final reply was received on 6th March 2018.

The Committee examined the statements of Action Taken in its meeting held on 23-7-2014 and 23-5-2018 and decided not to pursue further action on the recommendations in the light of the replies furnished by the Government. Such recommendations and Government replies are incorporated in this Report.

FOOD CIVIL SUPPLIES & CONSUMER AFFAIRS DEPARTMENT

Recommendation

(Sl. No. 1 Para No. 96)

The Committee expresses utmost concern and displeasure over the piling up of huge number of undisposed cases and petitions in CDRC over a period of time and discards the contention of the Department that paucity of staff was acting as a hurdle for achieving intended results. The Committee simultaneously views the inability of the Administrative Department in sending proposals for additional benches despite recommendation from GoI in the year 2004 itself as a gross negligence in discharge of their basic duties. The Committee recommends that a monitoring mechanism or a system of internal control be put in place to deal with the delay in disposal of cases, implementation of uniform procedure in Districts and setting up of additional benches, courts etc.

Action Taken

In the State Commission from 2/1990 to 30-9-2011, 24, 141 cases were filed and 23, 101 cases were disposed (96%). In 2007 there were 4085 pending cases,

which have been reduced to 1013 as on 1st November, 2011. As on 1st November 2011, the cases filed since inception in the District Fora is 172752 and cases disposed was 165519. Significant number of cases were disposed of between 2008 & 2010 and the disposal rate was approximately double that of filing. The consolidated monthly and quarterly reports regarding the functioning of the District Consumer Fora in the State are being sent to Government of India. As on 30-6-2013, the cases filed since inception in the State Commission is 26348 and number of cases disposed is 24703 (93.76%). The number of cases filed since inception in the District Fora is 183606 and number of cases disposed is 174949 (95.29 %) as on 30-6-2013. The post of Members and Presidents in CDRC and CDRF were left vacant due to some technical and administrative delay and that inturn affected the disposal rate of cases in CDRC and CDRF adversely. At present (as on 1-9-2013) 12 vacancies of Members are existing in various CDRF and urgent action is being taken to fill up the above vacancies. In order to increase the disposal rate of cases in CDRC and CDRF, action is being taken to fill up the vacancies in a time-bound manner. The proposal for creating additional benches is also being examined separately. For constituting an Internal Control committee consisting of Judicial Members necessary amendments have to be made in the Consumer Protection Act. Therefore the same cannot be implemented now.

Recommendation

(Sl. No. 2, Para No. 97)

The Committee recommends that vacancies of Presidents and Members of Consumer Disputes Redressal Agencies and Forums may be filled up immediately so as to ensure their smooth functioning. The Committee understands that the retired judges in the Forums of State Commission were comparatively paid less remuneration and hence recommends that salary of retired Judges be enhanced after the Administrative Department conducts a proper study on all pros and cons.

Action Taken

As per the Notification No. 303/CA1/2011 dated 28-9-2011 the vacancy of President in Consumer Disputes Redressal Forum, Kollam has been filled. The Vacancy of a lady member in CDRC and one member in CDRF, Idukki,

lady members in CDRE, Kollam and Pathanamthitta have been filled. As per Notification No. 1290/CA-1/2012/CAD dated, 19-3-2013, the vacancy of Presidents in CDRE, Alappuzha, Kottayam, Malappuram and Wayanad and the vacancy of Lady members in CDRE, Wayanad and Thrissur have been filled. Steps are in progress for the appointment of a member in CDRC. As per GO(MS) No. 2/2011/CAD dated, 19-1-2011 (Notification SRO No. 50/2011 dated, 19-1-2011) salary and allowances of Members of CDRC & CDRE had been enhanced as follows.

Honorarium	-	Rs. 23,500
Conveyance Allowance	-	Rs. 5,000
Telephone Allowance	-	Rs. 1,000
Purchase of periodicals	-	Rs. 2,500

32,000

Later as per GO(MS) No. 1/2012/CAD dated, 11-1-2012 (Notification SRO No. 37/2012) Honorarium of Members of CDRC has been enhanced and thus the salary and allowances are as follows:

Honorarium	-	Rs. 28,500
Conveyance Allowance	-	RS. 5,000
Telephone Allowance	-	Rs. 1,000
Purchase of periodicals	-	Rs. 2,500

37,000

As per proviso to Rule 26(2) of Consumer Protection Rule, Members having Judicial background, salary, other allowances and the conditions of service shall be the same as applicable to the sitting/retired District Judges appointed on full time basis.

Recommendation

(Sl. No. 3, Para No. 98)

The Committee feels that the necessity of bringing an awareness among public and to eliminate any kind of misconception with regard to filing applications during registration of complaints in consumer forums. The Committee recommends the Department to clearly exhibit the procedure for filing cases in Forums, State Commission, Grama Sabhas, Kudumbasree etc. and also to advertise in media like Television, Radio especially in Doordarshan as to how a complaint could be registered in Consumer Forums. The Committee urges to take measures to promote/generate consumer awareness by setting up of Consumer Protection Councils, District Information Centres etc.

Action Taken

Consumer Awareness classes and Seminars are conducted by the Government for making awareness among public. The State Protection Council under the Chairmanship of Minister (Consumer Affairs) and District Level Council under the Chairmanship of District Collectors are constituted by State Government. The Department has already published and distributed pamphlets among the consumers to make them aware of the procedures and functions of the Consumer Disputes Redressal Agencies. With a view to create awareness among the Consumers, activities such as celebration of World Consumer's Rights Day, and National Consumers' Day, Distribution of annual awards to best performing NGOs, conducting of seminars etc. are being organized by the Department. Government have constituted Consumer Clubs in 100 selected Schools in the State with the assistance of Voluntary Consumer Organizations using the fund provided by the Government of India with a view to make the coming generation aware of the Consumer rights. Government have produced and telecast a documentary on Consumer awareness. Government have also set up Consumer Helpline with the financial assistance from Government of India.

Recommendation

(Sl. No. 4, Para No. 99)

The Committee understands that a clear cut procedure was not drafted from the point of filing a petition to its disposal stage. Deploring the inaction on the part of the officials in making the procedures even though the National Commission insisted the same 10 years back, the Committee urges the officials to do the needful at the earliest.

Action Taken

The State Commission follows the procedure as per the Consumer Protection Act and Rules. Advertisement has been published in the English & Malayalam dailies regarding Confonet. The details from the point of filing a petition to its disposal stage can be obtained from the CONFONET website www.confonet.nic.in.

Recommendation

(Sl. No. 5, Para No. 100)

The Committee is extremely worried to note that the amount collected from persons filing appeals against the judgements of CDRFs & CDRC was deposited in Treasury as Civil Court Deposit (CCD) as against the directions of the National Commission which insists that such amounts shall be deposited in Nationalised Banks as short terms deposits. The Committee ridicules this act of the officials who conducted financial operations at their will and wish thereby making problems for returning the amounts to the successful appellants with interest. What amuses the Committee is the reply from the Department officials that it was the duty of CDRC to keep amount in Banks. The lack of any audit or proper internal control is a pointer to the state of inaction and unpardonable casualness exhibited by the officials in managing an amount of ₹ 21.69 lakh received as deposits which finally got expired without being encashed. The Committee recommends that action be taken against those officials who undermined the directions of Administrative

Department as well as rules of Commissions in handling such important financial operations. The Committee also directs that the complainants should get their compensation within a reasonable period of time.

Action Taken

As directed by the National Commission, the fee collected by CDRC and CDRFs are deposited in the Treasury. The amount deposited by appellant for filing appeal before State Commission and the decree amount of CDRFs by virtue of the interim judgements of CDRC are kept in Nationalised Banks as short terms deposit. Necessary directions in this regard has been given to the CDRFs by CDRC.

Additional Information

The Committee expressed its displeasure over the reply furnished by the Government and wanted to know the action taken against the concerned officials. The Committee also wanted to know how the money deposited as CCD was reimbursed after the settlement of appeals.

Action Taken

Show cause notice has been issued to the officials who undermined the directions of Administrative Department as well as rules of Commissions in handling important financial operations. After the disposal of the appeal, the appellant has to file a fresh application for the refund of appeal fee. The application will be numbered as the Interlocutory Application, and the same will be placed before the Commission on a day convenient to the appellant. On getting sufficient order of refund from the Commission, the Secretary & Registrar will forward a recommendation letter to release the amount with the FD receipt to the Bank where the fee was kept as FD in the name of appellant for refund of the same. The Account holder can withdraw the standing amount from the CCD account by furnishing CCD cheque in the Treasury. In the case of lapsed amount in the CCD account, the Drawing and Disbursing Officer shall prepare a refund bill and submit the bill to the Accountant General for verification and after verification,

the Accountant General shall issue orders for refund. On the basis of such orders, lapsed amount in the CCD can be withdrawn by furnishing the bill in the Treasury. Now, the amount remitted by the appellant is deposited in the Nationalised Bank as separate Fixed Deposit.

Recommendation

(Sl. No. 6, Para No. 101)

The Committee is disappointed to note that the construction of own buildings and other infrastructure facilities for CDRC and CDRFs in the State were carried out at snail pace and there were districts where the construction was yet to be completed. The Committee also laments the under utilisation of central funds due to which the construction works got delayed and blocked the receipt of additional funds. The Committee recommends that infrastructure facilities like buildings, communication equipments etc. to be provided to all the consumer courts.

Action Taken

The State Commission and eight CDRFs are now functioning in own buildings. Construction of new buildings for six Fora such as Kollam, Pathanamthitta, Kottayam, Kozhikode, Malappuram and Kannur are partially completed. At Kollam ground floor completed and PWD has submitted an estimate of Rs. 35 lakh for construction of first floor. Pathanamthitta-Almost completed only water connection and some minor works are pending. Action is being taken to provide/sanction the required amount. Kozhikode and Kannur-Water connection required. Action is being taken for the same. Kottayam-Additional fund is required for completion of construction. Malappuram-Building partially completed. The Construction is carried out using 100% Central funds. Government of India allotted a total amount of Rs. 333 lakh in two instalments for the construction of new buildings for 11 District Consumer Fora in the state. The amount has been fully utilized and the utilization certificates were submitted to Government of India.

Recommendation

(Sl. No. 7, Para No. 102)

The Committee stresses the need of computer trained staff for the smooth functioning of CDRC and CDRFs. The Committee recommends that separate cadres and department be created for the staff of CDRC & CDRF and urges to bring special rules for making the same.

Action Taken

Government have created a separate Department for Consumer Affairs by including the Legal Metrology department which was formerly functioning under the Revenue Department and the Consumer Affairs sections which were under the Food & Civil Supplies Department. Periodical trainings are being given to the staff for the smooth functioning of the Redressal Agencies. Almost all the staff of CDRC & CDRF are trained with Confonet project with the help of TSPs. The proposal for separate cadres and Department for the staff of CDRC & CDRFs are being examined in file No. 13230/CA1/2011/CAD.

Recommendation

(Sl. No. 8, Para No. 103)

With respect to functioning of laboratories conducting tests related to cases in CDRFs across the State, Committee understands that Department failed to notify the labs as per Consumer Protection Rules. The Department official's response that the lack of prescribed proforma in applying for labs resulted in the rejection of proposals is treated as trivial by the Committee since the issue there was about the notification of the Laboratories. The Committee feels that the observations made by the officials justifying their poor performance reflect a flippant attitude towards their responsibility. The Committee also expresses utmost displeasure over the inordinate delay in starting labs in the 4 districts due to which there was high pendency of 2 to 3 years in analysis of cases. The Committee urges to take action against those who failed to perform their duties in connection with starting of labs. The Committee also exhorts that arrangements be made for starting labs in 4 districts and the notification be made at the earliest even with the help of private labs. The Committee recommends that sufficient fund for equipping laboratories

with modern equipment and necessary inspecting staff for Legal Metrology Department be provided for enforcement of the provisions of PFA Act and standards of Weights and Measures Act.

Action Taken

Action is being taken for notification of the laboratories as per Consumer Protection Act and Rules. This problem will be solved as and when sufficient laboratories are notified as per Consumer Protection Rules.

Recommendation

(Sl. No. 9, Para No. 104)

The Committee understands that there is no provision whatsoever in the Central Act for filling vacancies within a stipulated time frame and for the appointment of President/Members. The Committee demands that a provision or proviso be brought in the Rule or Act such that vacancies are filled within three months time.

Action Taken

In the Resolution adopted in the Conference of Presidents of State Commission & the Secretaries in charge of Consumer Affairs in the State held on 14th & 15th March 2011 at New Delhi, it was resolved that the State Governments should keep ready a panel of selected candidates for filling up the anticipated vacancies of Presidents & Members of State Commission and District Forums to avoid unnecessary delay in filling up of the vacancies. It was also resolved that the recommendation of the Selection Committee be finalized by the State Government within a period of 30 days from the date of receipt of recommendation.

Recommendation

(Sl. No. 10, Para No. 105)

The Committee is vexed to note that the Government failed to adhere to the recommendations put forward by Bagla Committee appointed by the National Commission for the assessment and filling up of staff in CDRS. The Committee emphasises the importance of implementing Bagla Commission report as it gives a

clear picture of vacancy and posting of staff. Lamenting the avoidable and undue delay in posting of staff, the Committee recommends that necessary staff be given for the effective functioning of the Commission.

Action Taken

Creation of Additional posts in CDRC & CDRFs for ensuring the smooth functioning of the Commission & Fora was examined. Since the financial implication involved is very high, the matter is deferred.

Recommendation

(Sl. No. 17, Para No. 106)

The Committee terms as absolutely illegal and as a corrupt method, the act of the Department to collect stamps and registration fees from the complainants itself during registration of complaint. The Committee also feels that the mere issuance of directions not to follow such an act won't suffice, instead necessary funds should also be allotted for the purpose.

Action Taken

The fees are collected from the complainants as per Rule 9 A (1) (2) (3) of the Consumer Protection Rules, 1987. No other fees are collected from the complainants.

Recommendation

(Sl. No. 12, Para No. 107)

The Committee is concerned to note the considerable shortfall in the number of sitting days and office hours of CDRC & CDRFs during the years 2003 & 2004. The hearing of the cases which was supposed to happen on all working days never happened and the fact that even no clear and uniform directions regarding the same were given is all the more worrisome. The Committee remarks that the lack of proper working days in the forums is a clear pointer to the alarming hike in the number of pending cases. Under the circumstances the Committee expresses its reservations over the approval of additional Forums.

Action Taken

The CDRC & District Fora are conducting sitting on all working days. Now all District Foras are having regular sittings on all working days CDRC is conducting camp sitting in the 3rd week of every month at Ernakulam for clearing the pending cases and for the convenience of appellants/complainants in the northern Districts of Kerala.

Recommendation

(Sl. No. 13, Para No. 108)

Though the Committee had demanded the details of number of sitting held, the number of cases disposed, number of cases/petitions received per day across various districts for the previous 5 years, it was not furnished. The Committee had also asked to submit before them the details of disposal of cases in districts based on their size i.e. No of applications received number of disposals, pendency separately in big and small districts and also do a detailed study of the handling of the cases across the State. However the above things were not done. Expressing the utmost resentment at the lackadaisical attitude of the officials, the Committee urges the Department to take action against the delinquents. Simultaneously the Committee recommends for the posting of required staff for handling the huge number of pending cases and their disposal in the Forums.

Action Taken

Reports regarding the functioning of CDRFs & CDRC are being sent to Government of India on monthly and quarterly basis. Government convenes regular meeting with the President of CDRC and CDRFs to review the pendency of cases. Directions are given to all District Fora for reducing the pendency of cases. The proposal for creation of additional posts in CDRC & CDRFs was deferred since the financial implication involved was very high.

Recommendation

(Sl. No. 14, Para No. 109)

The Committee during witness examinations had asked the officials to submit the number of pending cases in the CDRC & CDRFs for the previous 6 months, the number of pending cases related to widows and senior citizens which were

pending for more than 3 months, the number of pending case which were pending for more than 1 year, 2 years and above 3 years separately before them with immediate effect. But nothing seems to be obliged with. Condemning the lackluster approach of the officials, the Committee asks the Department to take action against the guilty.

Action Taken

Monthly & Quarterly reports regarding the disposal of cases in CDRFs & CDRC are being sent to Government of India regularly. Necessary directions have since been issued to the CDRFs for reducing the pendency of cases. It is very difficult to say from the cause title whether one of the parties to the cases is a widow or senior citizens. In all cases the age is not mentioned in the complaint. Only if it is brought to the notice of the Fora it will be possible to dispose of cases of Senior Citizens or widows giving priority.

Additional Information on Para 108 & 109

The Committee was very displeased with the reply furnished by the department and described it as evasive and ridiculing. Since Consumer Disputes Redressal Forum and Consumer Disputes Redressal Commission function under the administrative control of the Department of Consumer Affairs, the Department was bound to provide the details which the committee sought. The Secretary to Department of Consumer Affairs must explain why the department was trying to withhold the information. The Committee warned that the consequence would be severe if the department submits such evasive replies again.

Action Taken

The details of number of cases filed, disposed and pending from 2011 to 2016 with respect to Consumer Disputes Redressal Commission and all District Fora are attached as Annexure-I and the details of pending cases related to Senior citizens and Widows in Consumer Disputes Redressal Commission and Consumer Disputes Redressal Forum are enclosed as Annexure-2. All the details received from the Consumer Disputes Redressal Commission was submitted before the Committee. Therefore, Consumer Affairs Department did not withheld any information.

Recommendation

(Sl. No. 15, Para No. 110)

The Committee finds the act of bringing 'Food Safety' in Prevention of Food Adulteration Act under Health Department as unwise because the dual control of CDRF would act as a hindrance to its functioning. Hence the Committee recommends to remove the Food and Adulteration Wing from Health Department and place it under the Consumer Affairs Department.

Action Taken

The Food Safety Commission functions under Health Department in Government of India. Food Safety Commissionerate constituted in all States for the implementation of Food & Safety Standards Act, 2006 and Food Safety Rules, is also functioning under the Health Departments of concerned States. It is not possible by the State Government to remove the Food & Adulteration Wing from Health Department and place it under the Consumer Affairs Department as it is presently functioning as per the Central Act.

Additional Information

The Committee reiterated its recommendation and directed the department to review the policy.

Action Taken

Food Safety and Standards Authority of India, which is the implementary authority of Food Safety & Standards Act is under the Administrative Control of Ministry of Health & Family Welfare, Government of India. Food Safety Commissioner of the State is also functioning under the Health & Family Welfare Department in all the States. Hence it is not proper to shift the Food Safety Commissionerate to Consumer Affairs Department in Kerala alone. Moreover, it may also be noted that the functions of Consumer Affairs Department does not involve implementation of Food Safety & Standards Act and there is no entanglement in the functioning of Consumer Affairs Department and Commissionerate of Food Safety at present. Under these circumstances, it seems

that the recommendations to bifurcate the Food Safety Department from Health & Family Welfare Department is not quite practical and such move will adversely affect the functioning of Food Safety Commissionerate.

Recommendation

(Sl. No. 16, Para No. 111)

The Committee expresses utmost displeasure over the non functioning of Gold Testing Laboratory set up at Kochi for want of staff. The Committee urges the Department to take necessary action for the full-fledged functioning of the Gold Test Lab.

Action Taken

For Gold Testing Laboratory, one post of Assay Master and one post of Junior Assay Master have been created by Government vide G.O.(MS) No. 5/2013/CAD dated, 6-3-2013. Since the posts are newly created, the proposal for fixing the Scale of pay, educational qualifications and mode of appointment are to be finalized for inclusion in the State Service Special Rules of the Legal Metrology Department and it is under processing. An amount of Rs. 40 lakh was allotted for the purchase of XRF machine for Gold Purity Testing in the budget (Plan) 2012-13. Administrative sanction for the purchase of XRF machine is issued vide G.O(Rt.) No. 71/13/CAD dated, 12-9-2013. The Legal Metrology Department is taking necessary steps for the purchase of the XRF machine following due procedural formalities of Stores Purchase Rules.

Recommendation

(Sl. No. 17, Para No. 112)

With respect to the execution of judgements in Consumer Forums, the Committee recommends that one officer from each Police Station be assigned duty for taking care of issuance of warrants on the execution of judgements of Consumer Court and for the submission of a monthly report of the particular station in this matter to the respective Superintendent of Police.

Action Taken

As per the recommendation of the Committee, Home Department has been requested to take immediate action in the matter.

Recommendation

(Sl. No. 18, Para No. 113)

The Committee notes the act of the Department Officials who failed to submit a written statement regarding the number of stays and their current position with respect to cases in CDRC as a disgraceful lapse because it contributed largely to delayed receipt of the compensation by the parties who won the appeal.

Action Taken

Compensation awarded to the deserving complainants within the least possible time.

Recommendation

(Sl. No. 19, Para No. 114)

The Committee is not pleased with the functioning of Consumer Protection Councils as the routine meetings were not convened constructively. The Committee stresses that District Collectors themselves should undertake the process and insist that quarterly meetings presided by Collectors be held without fail.

Action Taken

All the District Collectors have been directed to take necessary step to carry out the recommendation of the Committee.

Recommendation

(Sl. No. 20, Para No. 115)

Regarding consumer awareness the Committee recommends that 'Kudumbasree' or the like should be entrusted with job of creating awareness among villagers as they could carry out the task more effectively. The Committee stresses that stickers giving information about Consumer Help lines be pasted on

all establishments related to Consumer Affairs. The Department should take honest efforts to impart training to all Panchayath/Municipality/Corporation members in conducting the classes for creating awareness so that they in turn would pass on the same to the layman. The Department should also conduct awareness classes in 'Gramasabhas'.

Action Taken

Rs. 1,00,000 per district was sanctioned from the Consumer Welfare Fund for conducting Consumer awareness campaigns exclusively in rural and backward areas of 5 Districts in the State. Proposal have been invited to sanction the amount for conducting the same in other 9 Districts in the State. It is also decided to conduct campaigns/seminars/classes for the consumers in various places of each district, especially in rural and backward areas with the help of Bureau of Indian Standards and also with the active involvement of Local Bodies, Legal Metrology Department, Voluntary Consumer Organizations, Consumer Clubs, President & Members of the CDRE, Kudumbasree Units and the District Information Officers. By conducting campaigns/seminars/classes, the consumers get themselves acquainted with the rights of the Consumers as provided in the Consumer Protection Act and it helps to strengthen the Consumer movement in the Country.

It is also under consideration to conduct the Consumer awareness exhibitions including Public Distribution System (PDS) in various places of the State. This will help to generate public vigilance on the PDS and the quantity and items of food grains allotted to various categories of people, so as to check diversion of rationed articles.

Recommendation

(Sl. No. 21, Para No. 116).

With respect to the performance of Consumer Redressal Agencies, the Committee understand that fee for compensation remains the same as Rs. 100 even if the compensation is Rs. 1000 or Rs. 50,000. The Committee recommends to exempt the entire BPL category from fees for filing complaints, not just the 'Andyodaya Annayojana' (AAY) category.

Action Taken

As per Rule 9 A(3) of the Consumer Protection Rule, 1987 the complainant who are below poverty line are entitled for exemption of payment of fee only on production of an attested copy of the Anthyodaya & Annayojana Card.

V. D. SATHEESAN,

Chairman,

Committee on Public Accounts.

Thiruvananthapuram,
1st July, 2019.

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