

পঞ্জীভুক্ত নম্বৰ - ৭৬৮ /৯৭

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No. 118 Dispur, Friday, 8th March, 2024, 18th Phalgun, 1945 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 8th March, 2024

No. LGL.06/2023/13.— The following Ordinance of the Assam Legislative Assembly which was promulgated by the Governor of Assam on 7th March, 2024 is hereby published for general information.

ASSAM ORDINANCE NO. II OF 2024

ASSAM RIGHT TO PUBLIC SERVICES

(AMENDMENT) ORDINANCE, 2024

AN

ORDINANCE

further to amend the Assam Right to Public Services Act, 2012.

Preamble

Whereas the Legislative Assembly of the State of Assam is not in session and the Governor of Assam is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Assam Right to Public Services, Act, 2012, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act No.
IX of
2012

Now, therefore in exercise of the powers conferred under clause (1) of Article 213 of the Constitution of India, the Governor of Assam is pleased to promulgate in the Seventy-fifth year of the Republic of India, the following Ordinance, namely:-

Short title,
extent and
commencement

1. (1) This Ordinance may be called the Assam Right to Public Services (Amendment) Ordinance, 2024.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 3

2. In the principal Act, in section 3,
 - (i) for clause (a), the following shall be substituted, namely :-
“(a) “First Appellate Authority” means an officer including one belonging to the Local Authority and Local Self Government and Organization, receiving financial (tangible or intangible) assistance from the State Government, notified as such by the concerned public authority for providing the service under sub-section (3) of section 4 of the Act.”
 - (ii) for clause (c), the following shall be substituted, namely :-
“(c) “Designated Public Servant” means an authority including one belonging to the Local Authority, receiving financial (tangible or intangible) assistance from the State Government, notified as such by the concerned public authority for providing the service under sub-section(2) of section 4.”
 - (iii) in clause (g), in fifth line, for the word “body” appearing in between the words “local” and “which is”, the word “authority” shall be inserted;
 - (iv) in sub-clause (k), in fourth line, after the word and figure “section 4”, appearing at the end, the words “but shall not include the waiting time required for additional information as sought by the applicant.” shall be inserted;
 - (v) in clause (n), for the punctuation mark “.” appearing at the end, the punctuation mark “;” shall be substituted

and thereafter, the following new clauses (o), (p) and (q) shall be inserted, namely :-

“(o) “Second Appellate Authority” means the Head of the Administrative Department as notified under sub-section (3) of section 4 of the Act;

(p) “Local Authority” means any authority, Universities, Municipal Corporation, Municipal Board, Industrial Township, Planning Authority, Zila Parishad, Gaon Panchayat and other Local Self Governments constituted by law; and also includes development Authorities and other statutory or non- statutory bodies receiving financial (tangible or non-tangible) assistance from the State Government;

(q) “Link Officer” means the officer who shall hold the charge of the duties of the absentee officer for ensuring timely delivery of work.”

Amendment of section 4 3. In the principal Act, in section 4,

(i) for sub-section (1), the following shall be substituted, namely:-

“(1) The public authority shall notify the public services rendered by it from time to time including the fast track service delivery within the stipulated time limit to provide such services along with user charges as may be prescribed.”

(ii) after sub-section (1), the following new sub-section shall be inserted, namely:-

“(1A) The Public Authority shall display the notified services in the notice board of the office and also in the Departmental website about the notified services rendered by the Public Authority along with the name and designation of the Designated Public Servant, First Appellate Authority and Second Appellate Authority.”

(iii) for sub-section (3), the following shall be substituted, namely:-

“(3) The public authority shall from time to time notify an officer superior in rank than that of the Designated Public Servant to act as the First Appellate Authority and also shall notify another officer superior in rank than that of the First Appellate Authority, to act as the Second Appellate Authority to hear the appeal and decide following the due procedure in the manner as may be prescribed.”

Amendment of
section 7

4. In the principal Act, in section 7,

(i) for sub-section (1), the following shall be substituted, namely :-

“(1) The stipulated time limit for providing the service delivery shall start from the next day of the date, on which the application for obtaining a notified public service has been received by the Designated Public Servant or by a person subordinate to him who is authorized to receive such application on behalf of the Designated Public Servant or by a person authorized in this behalf. On receipt of an application for a public service it shall be acknowledged and a unique identification number shall be provided to the applicant physically or in the portal itself, specifically designed for the said purpose by the Government in such manner as may be prescribed.”

(ii) after sub-section (2), the following new sub-sections shall be inserted, namely:-

“(3) Subject to the legal, technical and financial feasibility, every Designated Public Servant shall provide the notified services within the stipulated time :

Provided that the stipulated time limit may be extended during the period of elections or in the event of natural calamities or any disaster as mentioned under clause (d) of section 2 of the Assam Disaster Management Act, 2005, in the manner as may be prescribed.

(4) The public authority shall provide Link Officer for temporary absence of the Designated Public Servant for continuous and uninterrupted service delivery in a manner as may be prescribed.”

Central
Act No.
53 of
2005

Amendment of
section 8

5. In the principal Act, in section 8,

(i) in sub-sections (1), (2), (3) and (4), for the words “Appellate Authority” wherever they occur, the words “First Appellate Authority” shall be substituted;

(ii) in sub-section (3), in the fourth line, in between the words “forty-five days” and “from the”, the words “or within such extended period as under sub-section (3) of section 7” shall be inserted.

(iii) in sub-section (4), in fourth line, in between the word “the” and “appeal” the word “second” shall be inserted.

(iv) in sub-sections (5), (6), (7) and (8), for the word “Commission” wherever it occurs, the word “Second

Appellate Authority” shall be substituted;

- (v) after sub-section (4), the following new sub-sections shall be inserted, namely: -

“(4a) The Applicant or Designated Public Servant aggrieved by an order of the First Appellate Authority may make a second appeal before the Second Appellate Authority within sixty days from the date of receipt of the order of the First Appellate Authority.

(4b) The second appeal shall be disposed of within sixty days from the date of filing or within such extended period not exceeding a total period of seventy-five days or within such extended period as may be notified under sub-section (3) of section 7 from the date of filing thereof, for reasons to be recorded in writing, as the case may be.”

- (vi) in sub-section (5), the following shall be substituted, namely: -

“(5) The Commission shall dispose of the third Appeal by following such procedure as may be prescribed:

Provided that the Commission may entertain the third appeal after the expiry of ninety days, but in no case beyond the period of hundred twenty days from the date of receipt of the order of the Second Appellate Authority, if Commission is satisfied that the Appellant was prevented by sufficient cause from filing the appeal in time.

Amendment of section 8 A 6. In the principal Act, in section 8A,

- (i) for sub-section (3), the following shall be substituted, namely: -

“(3) The Chief Commissioner and the Commissioners of the Commission shall be appointed by the Governor on the recommendation of a Committee consisting of the following members, namely: -

- (a) the Chief Minister, who shall be the Chairperson of the Committee;
- (b) the Leader of Opposition in the Legislative Assembly; and
- (c) a Cabinet Minister to be nominated by the Chief Minister.

Explanation:- Where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of the Opposition."

- (ii) for sub-section (5), the following shall be substituted, namely: -

"(5) The Chief Commissioner of the Commission shall be appointed from amongst the retired officers of the State Government or Central Government or All India Services Officers who had held a post not below the rank of a Principal Secretary to the Government of Assam having wide range of experience in the field of Public Administration."

- (iii) for sub-section (6), the following shall be substituted, namely: -

"(6) Not less than one Commissioner shall be appointed from amongst the persons who have held a post not below the rank of a Commissioner and Secretary to the Government of Assam. The other Commissioner shall be appointed from persons of eminence in public life with wide knowledge and experience in the field of Law, Science and Technology, Social Service, Management, Journalism and Mass Media."

- (iv) for sub-section (7), the following shall be substituted, namely, -

(7) The Chief Commissioner and the Commissioners of the Commission shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory or hold any other Office of profit or connected with any political party or carrying on any business or pursuing any profession."

Amendment of
Section 8 B

7. In the principal Act, in section 8 B,

- (i) in sub-section (1), in second line, for the word "five" appearing in between the words, "term of" and "years", the word "three" shall be substituted;
- (ii) for sub-section (2), the following shall be substituted, namely:-

"(2) Every Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for re-

appointment as such Commissioner:

Provided that every Commissioner shall be eligible for appointment as the Chief Commissioner of the Commission on vacating office by the Chief Commissioner :

Provided further that when the Commissioner is appointed as the Chief Commissioner of the Commission, his term of office shall not be more than five years in aggregate as the Commissioner and the Chief Commissioner of the Commission:

Provided also that the Chief Commissioner or the Commissioners, who on the date of his appointment to the Commission, if was in the service of Central or State Government, he shall be deemed to have been retired from such service with effect from the date of his appointment as the Chief Commissioner or the Commissioner of the Commission."

- Amendment of section 8 D
8. In the principal Act, in section 8D, in sub-section (1),
- (i) for clause (b), the following shall be substituted, namely:-
“(b) recommend departmental inquiry against any Designated Public Servant or First and Second Appellate Authorities who have failed in due discharge of their duties under the Act.”
 - (ii) for clause (c), the following shall be substituted, namely:-
“(c) recommend for improvement in procedures for delivery of public services which shall make the service more transparent and easier.”
 - (iii) after sub-clause (d), the following new clauses shall be inserted, namely:-
“(e) recommend steps to be taken by the Public Authorities for further improvement in public services delivery;
(f) may issue suo-moto notices or take suo-moto cognizance in matters which are of grave nature;

(g) may suo-moto enquire or visit field for better functioning or implementation of this Act.”

- Amendment of section 9
9. In the principal Act, for section 9,-

- “9 (1) If the First Appellate Authority is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated

time limit, without sufficient and reasonable cause, for each day of delay after completion of the stipulated time limit or the extended time limit for providing the particular notified services, after recording reasons in writing, shall impose penalty which shall not be less than rupees hundred per day and the total amount may not exceed rupees five thousand in all:

Provided that, the Designated Public Servant shall be given a reasonable opportunity of being heard before any penalty is imposed on him by the First Appellate Authority:

Provided further that the burden of proving that he or she acted reasonably and diligently shall be on the Designated Public Servant.

- (2) If the Second Appellate Authority is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, after recording reasons in writing may vary the decision of the First Appellate Authority and may impose penalty, for not providing the particular notified services, within the stipulated time limit and may impose penalty which shall not be less than rupees hundred per day and the total amount shall not exceed rupees seven thousand in all:

Provided that the Designated Public Servant and the First Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him by the First Appellate Authority or Second Appellate Authority as the case may be:

Provided further that the burden of proving that he or she acted reasonably and diligently shall be on the Designated Public Servant or the First Appellate Authority.”

- (3) If the Commission is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, may vary the decision of the Second Appellate Authority after recording reasons in writing and shall impose penalty, for not providing the particular notified services within the stipulated time limit which shall not be less than rupees hundred per day, and the total amount of such penalty shall not exceed ten thousand rupees in all.

If the Commission is of the opinion that the First Appellate Authority had failed to decide the

appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Public Servant, then the Commission shall impose a penalty which shall not be less than five hundred rupees and may extend up to rupees five thousand.

If the Commission is of the opinion that the Second Appellate Authority had failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Public Servant, then the Commission shall impose a penalty which shall not be less than rupees one thousand and may extend up to rupees five thousand:

Provided that the Designated Public Servant, First Appellate Authority or Second Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on them by the Commission:

Provided further that the burden of proving that he or she acted reasonably and diligently shall be on the Designated Public Servant, First Appellate Authority or Second Appellate Authority as the case may be."

Insertion of sections 10A, 10B, 10C, 10D and 10E

10. In the principal Act, after section 9, the following new sections shall be inserted, namely:-

"Allocation of Funds

10A. The funds for implementation of the provisions of this Act shall be allocated in the Annual Budget.

Monitoring of service delivery by the Public Authority and Training and Certification

10B. (1) The Public Authority shall take necessary and effective steps for monitoring the status of applications using the Unique Identification Number provided to the applicant and for timely updation of the status of applications through digital or paper mode to the applicant who shall be able to monitor the status of his application in the manner as may be prescribed.

(2) The Public Authority shall,

(i) develop organized training and certification programmes for advancement and equipping the Designated Public Servant and the Appellate Authorities with the provisions of the Act and rules made thereunder and their duties in such manner as may be prescribed.

- (ii) to participate in the development and organization of programmes referred to in clause (i) above and to undertake such programmes themselves.
- (iii) promote timely and effective dissemination of accurate information by Public Authorities about the notified services and timelines and the processes for applications.
- (iv) take such digital measures so that if no action or final decision has been taken by the First Appellate Authority and Second Appellate Authority within 30 (thirty) working days from the submission of the application for public services the said authority shall auto escalate the said appeal to the Commission.
- (3) The State Government shall issue directions from time to time for effective implementation of the provisions of the Act, superintendence of the cases filed under the Act and for the inspection of the offices of the Concerned Authorities.
- Incentives 10C. (1) To encourage and enhance the efficiency of the Designated Public Servant, the Administrative Head may grant cash incentive of such amount along with a certificate of appreciation as may be notified by the State Government to a Designated Public Servant against whom no default is reported in a year and who is delivering Public services within the stipulated time limit and also make a corresponding entry in the service record of the concerned Officer.
- (2) The State Government may give appropriate awards to the Public Authorities who perform best in achieving the purposes of this Act.
- Action against eligible person for giving false or frivolous information etc. 10D. If an eligible person deliberately gives false or frivolous information in the application or submits false documents along with the application and obtain the public services under this Act on the basis of such information or documents, in that case an action shall be taken against him under the relevant provisions of panel law in force.

- Sensitization of public service delivery 10E. The Government shall take appropriate action to introduce a chapter on right to public service in High School Text Book and to take such other steps for sensitizing and developing the culture to deliver public services in such manner as may be prescribed.”
- Amendment of section 10 11. In the principal Act, for section 10, the following shall be substituted, namely :-
“10. The Commission shall communicate to the Designated Public Servant, or the First Appellate Authority or the Second Appellate Authority, as well as the concerned Public Authority about the penalty imposed in writing. The Designated Public Servant shall pay the amount of penalty imposed, within a period of 30(thirty) days from the date of receipt of such communication, failing which the competent Authority shall recover the amount of penalty imposed, from the salary of the concerned Designated Public Servant or the First Appellate Authority or the Second Appellate Authority, as the case may be, in the manner as may be prescribed.”

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