

Fifteenth Kerala Legislative Assembly

Bill No. 232

**THE KERALA STATE RIGHT TO SERVICE
(AMENDMENT) BILL, 2024**

(GIVEN NOTICE BY DR. N. JAYARAJ, M. L. A.)

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further to amend the Kerala State Right to Service Act, 2012.

Preamble.—WHEREAS, it is expedient further to amend The Kerala State Right to Service Act, 2012 (18 of 2012) for the purposes hereinafter appearing;

BE it enacted in the Seventy - Fifth 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 (Amendment) Act, 2024.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of The Kerala State Right to Service Act, 2012 (18 of 2012) (hereinafter referred to as the principal Act),—

(i) in clause (b), after the letter and word “a person”, the words “or any person authorised by him” shall be added.

(ii) in clause (f), after the letter and word “limit”, the words “as notified under section 3” shall be inserted.

3. *Amendment of section 3.*—In section 3 of the principal Act,—

(i) before the word “Save”, the brackets and number “(1)”

shall be inserted.

(ii) after the word “Institution”, the symbol and the words, “ every State Public Undertaking” shall be inserted.

(iii) the following subsections shall be added, namely:—

“(2) The services rendered in online mode and its requisites shall be notified in the Gazette and modified from time to time as directed by the Government and in accordance with the e-Governance standards.

(3) The services notified and the time limit as under subsection (1) shall be published in the concerned website and also displayed at a noticeable place of the office locally.”.

4. *Amendment of section 5.*—In section 5 of the principal Act,—

(i) In subsection (1),—

(a) after the word “application”, the words “in online or otherwise” shall be inserted;

(b) after the words “intimate it”, the words “in online or otherwise” shall be inserted;

(ii) in subsection (2), after the word “acknowledged”, the words “in the prescribed manner” shall be inserted.

(iii) after subsection (3), the following subsections shall be added, namely:—

“(4) The designated officer or any officer authorized by him, before issuing such acknowledgement mentioned in subsection (2), shall verify and make sure that the application submitted is in proper order and in the prescribed manner.

(5) The designated officer or any officer authorized by him may utilize the e-Governance facility in obtaining the relevant documents from such offices as are needed for processing the application.

(6) The designated officer or any officer authorized by him shall ensure the quality along with timelines in rendering each such service.

(7) For proper utilization of the e-Governance system and its facilities, the officers acting as service providers shall undergo training so frequently that the services delivered are at the required pace and quality.”.

5. *Amendment of section 6.*—In section 6 of the principal Act,—

(i) in subsection (1), the words and symbol “ and on payment of such fee,” after the word “manner” shall be deleted.

(ii) in subsection (2),—

(a) for the words “a specified period”, the words “the stipulated time limit as notified under section 3 of this Act starting from the date of his order” shall be substituted.

(b) after the word “appeal”, the words “after giving an opportunity to the applicant as well as the designated officer for being heard” shall be inserted.

(iii) in subsection (3), after the word “limit”, the words “ as notified under section 3 of this Act” shall be added at the end.

(iv) in subsection (4), after the word “manner”, the words and symbol “and on payment of such fee,” shall be deleted.

(v) in subsection (5),—

(a) for the words, “a specified period”, the words “the stipulated time as under section 3 of this Act starting from the date of his order” shall be substituted.

(b) after the word “appeal”, the words “after giving an opportunity to the applicant as well as the designated officer for being heard” shall be added at the end.

(vi) in subsection (7), after the words “stipulated time limit”, the words “ as notified under section 3 of this Act” shall be added at the end.

(vii) after subsection (9), the following subsection shall be added, namely:—

“(10) Any eligible person whose second appeal is also rejected or is aggrieved of the order issued by the second appellate authority may file a revision before the Public Service Delivery Review Committee constituted under section 8A(1) of this Act, within a period of sixty days from the date of such order.”.

6. *Amendment of section 7.*—In section 7 of the principal Act,—

(i) for the word, “and”, after the words “first appellate authority” the word “or” shall be substituted.

(ii) for the symbol, “,” after the words “second appellate authority”, the words “or the Public Service Delivery Review Committee” shall be substituted.

7. *Amendment of section 8.*—In section 8 of the principal Act,—

(i) the proviso to subsection (1) shall be recast as follows, namely:—

“Provided that such fines shall not be deducted from the salary/honorarium/remuneration of the designated officer before giving him a reasonable opportunity of being heard.”

(ii) the proviso to subsection (2) shall be recast as follows, namely:—

“Provided that such fines shall not be deducted from the salary/honorarium/remuneration of the first appellate authority before giving him a reasonable opportunity of being heard.”

(iii) after subsection (3), the following new subsection shall be added, namely:—

“(3) Where the Public Service Delivery Review Committee is satisfied that there are reasonable grounds to prove failure on the part of the designated officer or the first appellate authority or the second appellate authority or any other official who has involvement in the delivery of the service applied, shall impose a fine not less than a sum of twenty five thousand rupees from each of such persons and order a payment up to rupees ten thousand as compensation to the eligible person from the person(s) who has/have defaulted.”.

8. *Addition of new section.*—After section 8 of the principal Act, the following sections shall be added, namely:—

“8A. *Review Committee.*—(1) The State Government, by notification in the Gazette, shall constitute a committee, called Public Service Delivery Review Committee for the purpose of this Act.

(2) The committee shall consist of the Secretary, Personnel and Administrative Reforms Department as the Chairman, the Secretary, Finance Department and the Secretary, General Administration Department as the ex-officio members and the officer of the Personnel and Administrative Reforms Department as the Convenor.

(3) The nodal department for all matters related to this Act shall be Personnel and Administrative Reforms Department.

(4) The periodicity of the meeting, venue, quorum, the procedure for disposal of the revision applications filed under subsection (10) of section 6 of this Act are to be in the prescribed manner.

(5) The Committee shall examine the notifications issued under section 3(1) and suggest to the Government modifications related delivery of public services.

(6) The Committee shall submit a report to the Government not later than three months after the close of a calendar year, related to the applications filed, the necessary enquiries or witness examination conducted, the disposal of cases, the suggestions for modifications on notifications under section 3 of this Act, the meetings held and such

other matters that are relevant in the smooth implementation of the provision of this Act or the rules made there under.

(7) The Government shall cause to lay the report to the Legislative Assembly within two months or when the Assembly is in session whichever is earlier.”.

STATEMENT OF OBJECTS AND REASONS

The Kerala State Right to Service Act, 2012 was envisaged as an enactment to ensure timely public service to the common public. However, the Act failed to gather the desired outcome especially in utilizing the information technology applications while supporting the hapless victims to service. The assessment of service delivery in the newly emerging e-Governance system needed inclusion of new provisions. Receipt of applications seeking service in online mode also is one of such provisions that addressed such shortcomings.

A major amendment is the provision for Public Service Delivery Review Committee. The inclusion of such a committee was a necessity to fill the lacunae in case the second appellant also fails to provide the service or rejects the appeal application. The requirement that the committee has to submit its report every year to the Government and inturn to lay the same in the Legislative Assembly make the body accountable to the executive as well as the legislature.

Also, the stipulation that filing for first appeal and second appeal require an amount to be paid by the applicant or the aggrieved person by way of fee not because of his fault but of the service delivery points is against natural justice. Though it is done away in the Rules, the existence of a contrary provision in the Act

makes the superior legislation illogical. Hence the correction by way of amendment and such other amendments. The present bill seeks to achieve the aforesaid end.

FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. The proposed subsection (2) in section 3 of the principal Act, proposed to be inserted by clause 3(iv) of the Bill, seeks to empower the Government to notify in the Gazette the services rendered in online mode and modify the same time to time.

2. The proposed subsection (3) in section 3 of the principal Act, proposed to be inserted by clause 3(iv) of the Bill, empower the Government to publish in the website of the concerned public entity, the services rendered and the time limit for each of such service.

3. The proposed new subsection (1) of section 8A of the principal Act, proposed to be inserted by clause 8, empowers the Government to constitute through Gazette notification Public Service Delivery Review Committee.

4. The proposed subsection (4) of section 8A of the principal Act, proposed to be inserted by clause 8 empowers the Government to prescribe the manner in which the Public Service Delivery Review Committee has to convene meeting, the quorum required, the venue and the disposal of revision application.

5. The proposed subsection (7) of section 8A of the principal Act,

proposed to be inserted by clause 8A empowers the Government to lay the report of the committee each year in the Legislative Assembly within time.

6. The matters in respect of which the rules may be made or notifications may be issued are matters of procedure and are of routine nature or administrative nature. Further, the rules, after they are made, are subject to the scrutiny of the Legislative Assembly. The delegation of Legislative power is, thus, of a normal character.

DR. N. JAYARAJ

EXTRACT FROM THE RELEVANT PORTIONS OF THE
KERALA STATE RIGHT TO SERVICE ACT, 2012
(18 OF 2012)

** ** ** ** **

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

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

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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, the second appellate authority and the stipulated time limit for the purposes of this Act.

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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.

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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 may reject the appeal.

** ** ** ** *

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

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(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:—

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

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

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

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