

Gujarat (Right of Citizens to Public Services) Act, 2013

GUJARAT

India

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Act 16 of 2013

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Gujarat (Right of Citizens to Public Services) Act, 2013(Gujarat Act No. 16 of 2013)(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 15th April, 2013).An Act to lay down an obligation upon every public authority to render public services within the prescribed time limit and provide for a grievance redressal mechanism to citizens for non-compliance and for the matters connected therewith or incidental thereto.It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title extent and commencement.

(1)This Act may be called the Gujarat (Right of Citizens to Public Services) Act, 2013.(2)It shall extend to the whole of the State of Gujarat.(3)This section shall come into force at once and the remaining provisions shall come into force on such date as State Government may, by notification in the Official Gazette, appoint may be appointed for different provisions of the Act.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Authority" means a State Appellate Authority constituted under sub-section (1) of section 12;(b)"complaint" means a complaint filed by a citizen regarding any grievance relating to, or arising out of, any failure in rendering of services as notified in section 4 or in the functioning of a public authority, but does not include grievance relating to the service matters of a public servant whether serving or retired;(c)"days" means the working days, referred to as the timeline;(d)"Designated Authority" means such officer, as may be designated by the public authority, who shall be above the rank of the Grievance Redressal Officer

referred to in sub-section (1) of section 6;(e)"Designated Officer" means an officer under section 5 for rendering of services;(f)"Grievance Redressal Officer" means a Grievance Redressal Officer appointed under sub-section (1) of section 6;(g)"member" means a person appointed as a member of the State Appellate Authority under sub-section (2) of section 12;(h)"prescribed" means prescribed by rules made under section 29;(i)"public authority" means any authority or body or institution of Government established or constituted, -(i)by or under the Constitution;(ii)by any other law made by Parliament;(iii)by any law made by the State Legislature;(iv)by notification issued or order made by the State Government, and includes any,-(a)body owned, controlled or substantially financed by funds provided by the State Government;(b)non-Government organization substantially financed Government(c)an organization capacity as an instrumentality of "State" as defined under article 12 of the Constitution and rendering services of public utility in the State of Gujarat;(d)a Government company as defined under section 617 of the Companies Act, 1956, (1 of 1956) which is a State Public Sector Undertaking;(e)any other company which supplies goods or renders services to the State Government in pursuance of an obligation imposed under any Central or State Act or under any licence or authorisation under any law for the time being in force.(v)by an agreement or memorandum of understanding between the State Government and any private entity as Public-Private Partnership or otherwise;(j)"service" means all the goods and services, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority;(k)"State" means the State of Gujarat.

Chapter II

Right to Delivery of Services

3. Right to services.

- Subject to the provisions of this Act, every individual citizen shall have the right to time bound delivery of services and redressal of grievances.

Chapter III

Notification of Services by State Government

4. Notification of services by State Government.

- The State Government may, from time to time, notify the services to which this Act shall apply and the stipulated time-limits within which the services shall be provided.

5. Obligation of Public Authority to publish names of individuals responsible for rendering services.

- A public authority shall, within two months of the notification issued under section 4, publish the names and addresses of Designated Officers responsible for rendering of services notified under section 4.

Chapter IV

Appointment and Obligations of Grievance Redressal Officers

6. Appointment and Obligations of Grievance Redressal Officers.

(1) Every public authority shall, within two months of a notification issued under section 4, designate as many officers as may be necessary as Grievance Redressal Officers in all administrative units or offices at the State, district and taluka levels, municipal corporations, municipalities, notified areas, panchayats and such other offices whereat services are rendered to receive, enquire into and redress any complaints from citizens in the manner as may be prescribed: Provided that the Grievance Redressal Officer so appointed shall be at least one level above, and be deemed to have administrative control on the Designated Officer. (2) Every public authority shall, immediately on appointment of a Grievance Redressal Officer, display at its office or customer care centre or help desk or Jan Seva Kendra and at the sales outlet, if any, website and at the office of the Grievance Redressal Officer, the name of the Grievance Redressal Officer, his address and telephone number, E-mail address, facsimile number and other means, if any, of contacting him, in respect of each area for which the Grievance Redressal Officer has been appointed. (3) Every public authority shall appoint or designate such number of Grievance Redressal Officer under sub-section (1) for such areas, as may be considered by it necessary, for the Grievance Redressal Officer to be easily accessible and available for redressal of grievance of the public. (4) The Grievance Redressal Officer shall provide all necessary assistance to citizens in filing complaints. (5) Where a complainant is unable to make a complaint in writing, the Grievance Redressal Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

7. Acknowledgement of complaint by receipt thereof.

- All complaints shall, within three working days of the making of the complaint, be acknowledged by a receipt, issued in writing or through electronic means or through text message or through any other means as may be prescribed, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the stipulated time frame within which the complaint shall be redressed.

8. Action to be taken by Grievance Redressal Officer.

(1) Upon receipt of a complaint made under section 6, it shall be the duty of the concerned Grievance Redressal Officer to ensure that, (a) the grievance is remedied in the prescribed time frame; (b) the reason for the occurrence of the grievance is identified, the grievance is redressed satisfactorily within the prescribed time frame and the responsibility, if any, of the defaulting person is fixed; (c) where the grievance has occurred as a result of a deficiency, negligence or malfeasance on the part of an individual, then the action is taken in accordance with the applicable rules; (d) where the Grievance Redressal Officer is convinced that the individual responsible for the rendering of the services has wilfully neglected to render the service or there exists prima facie grounds for a case under the Prevention of Corruption Act, 1988, (49 of 1988) the Grievance Redressal Officer shall

make an observation to that effect and in writing refer the same to the appropriate authority.(2)The Grievance Redressal Officer shall ensure that the complainant is informed in writing the manner in which the grievance is redressed.

9. Forwarding of details of non-redressal of complaints to Designated Authority.

(1)The Grievance Redressal Officer shall, within the prescribed time frame, report every complaint which has not been redressed along with the details of the complainant, nature of complaint, and reasons for non-redressal of the complaint to the Designated Authority.(2)Every public authority shall designate such officers as designated authorities as may be necessary in all the administrative units and offices as provided in clause (d) of section 2.

Chapter V

Appeal to Designated Authority

10. Appeal.

(1)Every complaint forwarded along with the details under section 9 shall be deemed to have been filed by way of an appeal to the Designated Authority.(2)Any person aggrieved by a decision of the concerned Grievance Redressal Officer or who has not been informed in writing the manner in which his grievance has been redressed in respect of a complaint filed by him, may, within thirty days from the expiry of such period or from the receipt of such decision, prefer an appeal to the Designated Authority:Provided that the Designated Authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.(3)The receipt of an appeal under sub-section (2) shall be acknowledged by the Designated Authority in writing or through electronic means or through text message or through any other means as may be prescribed, within three working days.(4)Every appeal filed under sub-section (2) or deemed appeal under sub-section (1) shall be disposed of by the Designated Authority within the prescribed time frame.(5)The Designated Authority shall arrange to deliver copies of the decision to the parties concerned within the prescribed time frame.(6)The Designated Authority may, in deciding an appeal, impose penalty, as prescribed in sub-section (1) of section 23, against the concerned officer for acting in a mala fide manner or having failed to discharge his duties without any sufficient and reasonable cause:Provided that the concerned officer of the public authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him.(7)Where it appears to the Designated Authority that the grievance complained of is prima facie indicative or representative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, (49 of 1988) on the part of the individual officer of the public authority complained against, then it shall record in writing such evidence as may be found in support of such conclusion and shall in writing refer the same to the appropriate authority.(8)The Designated Authority shall upon adjudication of a complaint have the powers to issue directions requiring the concerned officers of the public authority to take such steps as may be necessary to render the services in compliance of the notification issued under section 4.

Chapter VI

Appeal to State Appellate Authority

11. Appeal to State Appellate Authority.

(1) Any person who does not receive a decision within the prescribed time frame or is aggrieved by a decision of the Designated Authority may, within thirty days from the expiry of such period or from the receipt of such a decision, prefer an appeal to the State Appellate Authority: Provided that the Authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time. (2) The decision of the State Appellate Authority under this section shall be binding.

12. Constitution of State Appellate Authority.

(1) The State Government shall, by notification in the Official Gazette, constitute one or more State Appellate Authority to exercise the powers conferred on or imposed upon and to perform functions assigned to the Authority under this Act. (2) A State Appellate Authority shall consist of such number of members, not exceeding three, as may be prescribed.

13. Qualifications for appointment as member of State Appellate Authority.

- A person shall not be qualified for appointment as a member of a Authority unless he is or has been an officer of the State Government and is holding or has held a post in the rank of, or equivalent to, Secretary or Principal Secretary or Additional Chief Secretary or Chief Secretary to the State Government.

14. Term of office of member of State Appellate Authority.

- A person appointed as member of a Authority shall hold the office for a term of three years from the date on which he enters upon office or until he attains the age of sixty-five years whichever is earlier: Provided that an officer of the State Government appointed as member of Authority shall hold the office not beyond the time he is an officer of the State Government.

15. Staff, Salary and allowances of State Appellate Authority.

(1) The State Government shall provide to the Authority with such officers and employees as may be necessary for efficient performance of its functions under this Act. (2) The officers and employees so appointed under sub-section (1) shall discharge their functions under the general superintendence of the Authority. (3) The salary and allowances payable to and the other terms and conditions of service of a member of the Authority shall be as may be prescribed: Provided that if a member at the time of his appointment is in receipt of a pension, other than a disability or wound pension in respect of any previous service under the State Government, his salary in respect of the service as

member of State Appellate Authority shall be reduced by the amount of that pension, including any portion of pension, which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent or retirement gratuity: Provided further that where a member, if at the time of his appointment, is in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any State Act or a Government company owned or controlled by the State Government, his salary in respect of the service as a member shall be reduced by the amount of pension equivalent to the retirement benefit: Provided also that neither the salary and allowances nor the other terms and conditions of service of a member of State Appellate Authority shall be varied to his disadvantage after the appointment.

16. Resignation and removal.

(1) Any member of the State Appellate Authority, may, by notice in writing under his hand addressed to the Chief Secretary to the Government, resign his office. (2) Notwithstanding anything contained in sub-section (1), the State Government may by order remove from office a member if the member - (i) is adjudged an insolvent; or (ii) has been convicted of an offence which, in the opinion of the State Government involves moral turpitude; or (iii) engages during his term of office in any paid employment outside the duties of his office; or (iv) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or (v) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member. (3) The State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of a member.

17. Powers of State Appellate Authority and Procedure before it.

(1) The Authority shall, for the purposes of its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) in respect of the following matters, namely: - (i) summoning and enforcing the attendance of any person and examining him on oath; (ii) discovery and production of any document or other material object producible as evidence; (iii) receiving evidence on affidavits; (iv) requisitioning of any public record; (v) issuing commission for the examination of witnesses; (vi) such other matter which may be prescribed. (2) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made there under, the Authority shall have the power to regulate its own procedure.

18. Delivery of copies of decision.

- The Authority shall arrange to deliver copies of the decision to the parties concerned within the prescribed time frame.

19. Staff and officers to be public servants.

- The staff and officers of the Authority shall be deemed to be public servants within the meaning

of section 21 of the Indian Penal Code.

20. Procedure of adjudication by State Appellate Authority.

(1)The Authority shall, upon adjudication of a complaint, have the power to issue directions requiring the public authority to take such steps as may be necessary to render the services in compliance of ' the notification issued under section 4.(2)It shall be the duty of the Authority to receive and inquire into a complaint from any person: -(a)who has been unable to submit an appeal to the Designated Authority;(b)who has been refused redress of grievance under this Act;(c)whose complaint has not been disposed of within the time limit specified;(d)in respect of any other matter relating to registering and redressing of a complaint or appeal under this Act.

21. Burden of proof to be on Grievance Redressal Officer.

- In any appeal proceedings, the burden of proof to establish the non-redressal of complaint, shall be on the Grievance Redressal Officer who denied the request.

22. Where Grievance complained of is a result of corrupt practices.

- Where it appears to the Authority that the grievance complained of is, prima facie, indicative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, (49 of 1988) on the part of the responsible officer of the public authority complained against, then it shall record such evidence as may be found in support of such conclusion and shall refer the same to the appropriate authority.

Chapter VII

Penalties and Compensation

23. Penalty and Compensation for mala fide action.

(1)The Designated Authority or the State Appellate Authority may impose a lump sum penalty against a designated officer responsible for rendering of service to which the applicant is entitled, or against a Grievance Redressal Officer, for acting in a mala fide manner or for having failed to discharge his duties without any sufficient and reasonable cause, which shall not be less than one thousand rupees and may extend up to ten thousand rupees, which shall be recovered from the salary of the official against whom penalty has been imposed: Provided that the concerned officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him under this section.(2)On imposition of the penalty under sub-section (1), the State Appellate Authority or the Designated Authority, as the case may be, may, by order, direct that such portion of the penalty imposed under sub-section (1) shall be awarded to the appellant, as compensation, as it may deem fit: Provided that the amount of such compensation awarded shall not exceed the amount of penalty imposed under this section.(3)If any public servant is found guilty under sub-section (1), the

disciplinary authority shall initiate the disciplinary proceedings against such officer of the public authority, who, if proved to be guilty of a mala fide action in respect of any provision of this Act, shall be liable to such punishment as the disciplinary authority may decide.

Chapter VIII

Reporting of Redressal of Grievances by Public Authority

24. Reporting requirements.

(1) Every public authority shall ensure that every Grievance Redressal Officer keeps a record of complaints made to it or appeal therein and the decisions on such complaints and appeals. (2) Every public authority shall publish in the prescribed manner and in the prescribed time frame, a report mentioning therein-(a) the number of appeals and complaints received; (b) the number of appeals and complaints disposed of; (c) the number of appeals and complaints pending; (d) such other particulars, as may be prescribed, for discharge of its functions under this Act.

Chapter IX

Miscellaneous

25. Bar of Jurisdiction of court.

- No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Grievance Redressal Officer or the Designated Authority or the State Appellate Authority.

26. Enforcement of orders by State Appellate Authority.

- Every order made by the State Appellate Authority may be enforced by it in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the Authority to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,-(a) in the case of public authority not falling under clauses (b) and (c), the place at which the main office of such public authority is situated; or (b) in the case of an order against a public authority being a company, the registered office of the company is situated; or (c) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain is situated, and thereupon, the court to which the order is so sent, shall execute the order as if it were a decree or order sent to it for execution.

27. Protection for acts done in good faith.

- No suit, prosecution or other legal proceedings shall lie against any person-(a) for anything which is in good faith done or intended to be done under this Act or any rule made thereunder; or (b) delay

in rendering of service or not being able to render service where such delay or inability is on account of reasonable cause beyond the control of the person responsible for delivery of the service.

28. Provisions to be in addition to existing laws.

- The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

29. Power to make rules and laying of rules.

(1)The State Government may, by notification in the Official Gazette, make rules, not inconsistent with this Act, for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:-(i)the manner to receive, enquire into and redress any complaints under sub-section (1) of section 6;(ii)the manner of acknowledgement of complaints received and particulars of receiver of complaint and time frame for redresses under section 7;(iii)the time frame for redresses of grievances under sub-section (1) of section 8;(iv)the time frame within which the Grievance Redressal Officer shall report to the Designated Authority under section 9;(v)the other means of acknowledgement under sub-section (3) of section 10;(vi)the time frame for disposal of appeal under sub-section (4) of section 10;(vii)the time frame within which the Designated Authority shall deliver copies of the decision to the parties concerned under sub-section (5) of section 10;(viii)the time frame within which an appeal shall be made against the decision of the Designated Authority or has not received the decision within the time under sub-section (1) of section 11.(ix)the number of members of the State Appellate Authority under sub-section (2) of section 12.(x)the salary and allowances payable to and the other terms and conditions of service of a member of the State Appellate Authority under section 15;(xi)to regulate the procedure for the investigation of misbehaviour or incapacity of a member of the State Appellate Authority under sub-section (3) of section 16;(xii)the other matters for which the State Appellate Authority shall have power of civil court under clause (vi) of subsection (1) of section 17;(xiii)the manner and the time frame within which the public authority shall publish a report and other particulars for discharge of functions of the public authority under sub-section (2) of section 24;(xiv)any other matter which is or may be provided by rules under this Act.(3)All rules made under this section shall be laid for not less than thirty days before the State Legislature, as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.(4)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

30. Power to remove difficulties.

(1)If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:Provided that no order shall be made under this section after expiry of two years from the commencement of this Act.(2)Every order

made under this section shall be laid, as soon as may be after it is made, before the State Legislature.