



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্রাপ্ত কর্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 4th September, 2019

No. LGL. 27/2019/9.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on 26th August, 2019 is hereby published for general information.

ASSAM ACT NO. VII OF 2019

(Received the assent of the Governor on 26th August, 2019)

THE ASSAM RIGHT TO PUBLIC SERVICES (AMENDMENT)

ACT, 2019

**AN
ACT**

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

Preamble

Whereas it is expedient further to amend the Assam Right to Public Services Act, 2012, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

**Assam
Act IX of
2012**

It is hereby enacted in the Seventieth Year of the Republic of India as follows :-

Short title, extent and commencement

1. (1) This Act may be called the Assam Right to Public Services (Amendment) Act, 2019.
 (2) It shall have the like extent as the principal Act.
 (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Amendment of section 3

2. In the principal Act, in section 3,-

- (i) after clause (b), the following new clauses (ba), (bb), and (bc), shall be inserted, namely:-

“(ba) “Chief Commissioner” or the “Commissioner” means the Chief Commissioner of the Assam State Commission for Right to Public Services or the Commissioner, Assam State Commission for Right to Public Services, as the case may be, appointed under sub-section (3) of section 8A;

(bb) “Commission” means the Assam State Commission for Right to Public Services constituted under sub-section (1) of section 8A;

(bc) “Competent Authority” means the Disciplinary Authority or the Controlling Officer of the Designated Public Servant;”

- (ii) in clause (f), for the existing provision, the following shall be substituted, namely:-

“(f) “Public Authority” means –

- (i) any Department or authority of the State Government;
- (ii) any organization or authority or body or corporation or institution or a local authority, established or constituted,-

- (a) by or under the Constitution of India in the State, or
- (b) by any other law made by the State Legislature, or
- (c) by notification issued by the State Government

(iii) and shall also include,-

- (a) an institution, a cooperative society, a Government Company or an authority owned, controlled or financed by the State Government; or
- (b) any non-Governmental organization receiving financial assistance from the State Government; ”

(iii) in clause (k), the words “and Reviewing Authority” shall be deleted.

Substitution of section 4

3. In the principal Act, for section 4, the following shall be substituted, namely :-

“Notification of Services, Designated Public Servant, Appellate Authority, User Charges and Stipulated time limit

4. (1) The State Government shall notify the public services rendered by it including provisions for fast track service delivery, along with user charges and stipulated time limit.
- (2) Public Authority shall appoint Designated Public Servants in the administrative units/offices under it, as may be necessary to provide notified services to the persons requesting for the services notified under this Act.
- (3) Public Authority shall also notify an officer superior in rank than that of the Designated Public Servant to act as Appellate Authority to hear and decide the appeal filed by an eligible person against rejection of his application or delay in providing notified Public Services within the stipulated time limit.
- (4) The State Government shall endeavor and encourage the Public Authorities, to deliver notified Public Services electronically within the stipulated time limit.”

Substitution of section 8

4. In the principal Act, for section 8, the following shall be substituted, namely :-

**"Appeal and
Second Appeal"**

8. (1) Any person who, does not get notified service within the stipulated time limit specified under section 4 or is aggrieved by a decision of the Designated Public Servant, may, within 30 days from the expiry of the stipulated period or from the date of receipt of such decision, as the case may be, prefer an appeal to the Appellate Authority notified under sub-section (3) of section 4:

Provided that the Appellate Authority may admit the appeal after the expiry of 30 days if he or she is satisfied that the Appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Appellate Authority may order the Designated Public Servant to provide the notified service within the stipulated time limit as specified in the notification under section 4 for that service or may reject the appeal and in case of rejection of the appeal, the Appellate Authority shall record the reasons in writing for rejection of the appeal in his order:

Provided that, before deciding the appeal, the Appellate Authority shall give reasonable opportunity of being heard to the Appellant as well as the Designated Public Servant.

(3) An appeal under sub-section (1) shall be disposed of within 30 days from the date of filing of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, for reasons to be recorded in writing, as the case may be.

(4) The Applicant aggrieved by any order of the Appellate Authority, may make a Second Appeal within sixty days from the date of receipt of the order of the Appellate Authority in the appeal before the Commission.

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

Provided that the Commission may entertain the Second Appeal after the expiry of said sixty days, but in no case beyond ninety days from the date of receipt of the order of the

Appellate Authority by the Appellant, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (6) In any appeal proceeding, the onus to prove that a denial of a service was justified shall be on the Designated Public Servant, who denied the service.
- (7) The decision of the Commission in a Second Appeal shall be binding on the Appellant and the Designated Public Servant.
- (8) The Appellate Authority and the Commission while deciding an appeal or a Second Appeal, as the case may be, under this section, have the same power as vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of any of the matters, namely :-
 - (a) requiring the production and inspection of documents;
 - (b) issuing summons for hearing to the Designated Public servant;
 - (c) any other matter as may be prescribed."

**Central
Act V of
1908**

**Insertion of new
sections 8A, 8B,
8C, 8D and 8E**

**"Assam State
Commission for
Right to Public
Services**

5. In the principal Act, after section 8, the following new sections shall be inserted, namely: -

8A.(1)The State Government shall, by notification in the Official Gazette, constitute a body to be known as the Assam State Commission for Right to Public Services to exercise the powers conferred on, and to perform the functions assigned to it under this Act:

Provided that till the Commission is constituted, the Assam Administrative Tribunal shall exercise the powers and perform the functions of the Commission under this Act with effect from such date as may be notified by the State Government in this behalf in the Official Gazette.

- (2) The Commission shall consist of the following members, namely :-
 - (a) the Chief Commissioner; and
 - (b) such number of Commissioners not less than two and not exceeding four, as may be decided by the State Government, from time to time .

- (3) The Chief Commissioner and the Commissioners shall be appointed by the State Government.
- (4) The general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Commissioner, who shall be assisted by the Commissioners.
- (5) The Chief Commissioner shall be appointed from amongst the retired officers of the State Government who had held a post not lower in rank than that of an Additional Chief Secretary to the Government of Assam having wide range of experience in the field of Public Administration.
- (6) Not less than two Commissioners shall be appointed from amongst the persons who have held a post in the State Government not lower in rank than that of a Commissioner and Secretary to the Government of Assam and in case it is decided by the State Government to appoint more than two Commissioners, the rest of the Commissioners shall be appointed from persons of eminence in public life with wide knowledge and experience in the field of Law, Science and Technology or Social Services.
- (7) The Chief Commissioner and the Commissioners 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.
- (8) The Head Office of the Commission shall be at Guwahati or at such other place as the State Government may notify, from time to time.
- (9) The Commission shall be a body corporate, known by the name as mentioned in sub-section (1) having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable and to contract and shall, by the said name, sue or be sued.

Provided that no Chief Commissioner shall hold office as such after he has attained the age of sixty-five years.

- (2) Every Commissioner shall hold office for a term of five 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 on vacating office by the Chief Commissioner, in the manner as specified in sub-section (3) of section 8A:

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

- (3) The Chief Commissioner or a Commissioner may, at any time, by writing under his hand resign from his office:

Provided that the Chief Commissioner or a Commissioner may be removed in the manner specified under section 8C.

- (4) The salaries and allowances payable to and other terms and conditions of service of,—
(a) the Chief Commissioner shall be the same as that of the Chief Secretary of the State Government.
(b) the Commissioners shall be the same as that of the Commissioner and Secretary of the State Government:

Provided that if the Chief Commissioner or a Commissioner, as the case may be, 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 rendered by him under the Government of India or the Government of a State, his salary in respect of the service as the Chief

Commissioner or a Commissioner 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 of retirement gratuity :

Provided further that, if the Chief Commissioner or a Commissioner, 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 Central Act or State Act or a Government Company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Commissioner or a Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Commissioner and the Commissioners shall not be varied to their disadvantage after their appointment.

- (5) The State Government shall provide the Chief Commissioner and the Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed as such for the purpose of this Act shall be such as may be prescribed.

**Removal of the
Chief
Commissioner
and the
Commissioners.**

- 8C. (1) The Chief Commissioner or a Commissioner shall be removed from his office only by order of the State Government on the ground of proved misbehavior or incapacity, if established by an enquiry conducted by a retired Judge of the High Court.
- (2) The State Government may suspend the Chief Commissioner and Commissioners from office, and if deems necessary prohibit them also from attending the office during inquiry.

- (3) Notwithstanding anything contained in sub-section (1), the State Government may by order remove from office the Chief Commissioner or a Commissioner if the Chief Commissioner or a Commissioner, as the case maybe,-
- (a) is adjudged an insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
 - (c) engages during his term of office in any paid employment outside the duties of his office; or
 - (d) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Commissioner or a Commissioner.

**Powers and
functions of the
Commission**

8D.(1) It shall be the duty of the Commission to ensure proper implementation of this Act and to make suggestions to the State Government for ensuring better delivery of services. For this purpose, the Commission may,-

- (a) entertain and dispose of appeal under section 8;
- (b) recommend Departmental action against any officer or employee of the State Government who has failed in due discharge of functions cast on him under this Act;
- (c) recommend changes in procedures for delivery of services which shall make the delivery more transparent and easier:

Provided that before making such a recommendation, the Commission shall consult the Authority of the concerned Administrative Department which is to deliver the services;

- (d) recommend steps to be taken by Public Authority for efficient delivery of Public Services.

(2) Subject to the previous approval of the State Government, the Commission shall frame regulations, not inconsistent with the provisions of this Act and rules made thereunder, for regulating its own procedure and disposal of its business.

(3) The regulations made under sub-section (2) shall be published in the Official Gazette.

Action by the Government on recommendations of the Commission

8E. The State Government shall consider the recommendations made by the Commission under clauses (b)(c) and (d) of sub-section (1) of section 8D and send information to the Commission of action taken within thirty days or such longer time as may be decided in consultation with the Commission. In case the Government decides not to implement any of the recommendations of the Commission, it shall communicate the reasons for not acting on such recommendations to the Commission."

Substitution of section 9

"Penalty

6. In the principal Act, for section 9, the following shall be substituted, namely:-

9 (1) If the Commission is of the opinion that the Designated Public Servant has refused to receive an application for notified services or has failed to provide the notified public services within stipulated time as fixed under the Act or malafidely denied the request for notified Services or obstructed in any manner in providing the notified services without sufficient and reasonable cause, then the Commission shall impose a penalty of two hundred and fifty rupees for each day of delay after completion of the stipulated time limit for providing the particular notified service, provided however, that the total amount of such penalty shall not exceed twenty five thousand rupee in all :

Provided that the Designated Public Servant shall be given a reasonable opportunity of being heard before such penalty is imposed upon him:

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

(2) Where the Commission, at the time of deciding

any appeal is of the opinion that the Designated Public Servant has without any reasonable cause, persistently, failed to receive an application for notified Services or has not provided the service within the stipulated time limit or malafidely denied the request or obstructed in any manner in providing the service for notified services, it shall recommend for disciplinary action against the Designated Public Servant under the service rules applicable to him :

Provided that the Designated Public Servant shall be given a reasonable opportunity of being heard before any penalty is imposed on him."

Substitution of section 10.

"Procedure for recovery of Penalty.

7. In the principal Act, for section 10, the following shall be substituted, namely :-

10. The Commission shall communicate to the concerned Designated Public Servant as well as the Public Authority concerned about the amount of penalty imposed under section 9, in writing. The concerned Designated Public Servant shall pay the amount of penalty within a period of 30 days in the State Government Head of Account as may be specified by the State Government by notification in the Official Gazette in this behalf, failing which the Competent Authority shall recover the amount of penalty from the salary of the concerned Designated Public Servant by issuing necessary order in this regard."

S. M. BUZAR BARUAH,
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