

Jammu And Kashmir Public Services Guarantee Act, 2011: An Overview

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Abstract: Jammu and Kashmir Public Services Guarantee Act, 2011 is a milestone in a deliberate route taken by the Government of Jammu and Kashmir to provide the delivery of public services by the designated officers to the eligible persons of the state within specific time limit. It is a significant tool to ensure transparency and accountability in most of the government departments in the state. Its proper implementation will ensure good governance and eliminate corruption by empowering the people of the state in enforcing their right to secure different public services in a time bound and hassle free manner. Right to Public Services Act includes access to the public service, receive public service within specified time limits and in a transparent manner, demand performance of duties and functions by designated officers and appellate authorities in accordance to the Act, hold the concerned designated officers accountable for not providing the service, delay in providing the service or any deficiency in the service provided and seek compensation with respect of non-providing of service or deficiency in service. It enables the service seekers to avail the services of the government departments with minimum inconvenience and maximum speed. It makes the service providers aware of their duties to attend to the problems of the concerned citizens within a reasonable time-frame. It reduces the corruption among the government officials and increases transparency and public accountability. The designated officers are now under statutory obligation to provide notified services to the public within stipulated period. The present study will examine some of the key issues and has evaluated the extent for achieving the components of good governance. The aim of this paper is to explain about the importance of Jammu and Kashmir Public Services Guarantee Act, 2011 in various government departments of the state and provisions of the Act.

Keywords: Right to Public Services Act, Citizens' Charter, Transparency, Accountability.

I. INTRODUCTION

According to Mahatma Gandhi, "A Customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. His is not an interruption in our work. He is the purpose of it. He is not an outsider in our business. He is part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us an opportunity to do so".

Now-a-days, the delivery of public services in a time bound, decentralized and citizen-friendly manner has become the major challenge in both the developed as well as developing countries. Developed countries like USA, UK and other states of the world are more concerned with the delivery of quality services to their citizens. In developing countries

like India, citizens are sometimes facing many problems for not getting the hassle free basic public services and information and pay bribes to avail the required public services timely. These problems of public service delivery are related to quality, corruption, time frame, delayed services with lack of transparency, accountability, responsibility, citizen-centricity, accuracy and effectiveness. For strengthening and improving the delivery of public services and to facilitate accountable, efficient and citizen-centric governance, the governments of every country has attempted various measures like: Citizens' Charters; Certification of Processes adopted for ensuring compliance with agreed standards of service delivery-ISO, Charter Mark (UK); Laws: Right to Information, Education, etc; Introduction and Institutionalization of Regulatory Authorities; Adoption of

Results Based Management; Introduction of Outcome Budgets; Promotion of Public-Private Partnerships in Public Service Delivery. Among these, Citizens' Charters and Certification are playing a great role in strengthening and improving public service delivery.

II. RIGHT TO PUBLIC SERVICES ACT

The Right to Public Services Act also known as Public Services Guarantee Act in various states has made some improvements in the delivery of public services by providing the guarantee of public services to the citizens. Right to Public Services Act is an agreement of contract between the citizens and the public servants that contains statutory laws and provisions to ensure competent and time-bound delivery of public services to the citizens of India. It represents the commitment of the particular state towards standard, quality and time frame of service delivery, grievance redress mechanism for punishing the errant public servant who fails to deliver the services within stipulated time frame mentioned under the Act. It enables the service seekers to avail the services of the government departments with minimum inconvenience and maximum speed. It makes the service providers aware of their duties to attend to the problems of the concerned citizens within a reasonable time-frame. It reduces the corruption among the government officials and increases transparency and public accountability. It looks towards addressing the growing demand of citizens for improved public services, reducing corruption through imposing penalties on service providers for defaulting and imposing time frame for delivery of services and aim at universalization of public services.

III. RIGHT TO PUBLIC SERVICE ACT- GLOBAL SCENARIO

The idea of Right to Public Services Act in India came from Citizens' Charter that was first originated and implemented in the United Kingdom by the Conservative Government of John Major in 1991 as a National Program. The main objective of the Citizen's Charter was to make the public services accountable and improve their quality for the people of the country so that these services respond to the needs and wishes of the users. It emphasizes on citizens as the customers of the public services. In his "Introduction to the 1991 White Paper", John Major had said:

"to make public services answer better to the wishes of their users, and to raise their quality overall, have been ambition of mine ever since I was a local Councillor in Lambeth over 20 years ago----- I want the Citizens' Charter to be one of the central themes of public life in the 1990s-----".

The six principles of the Citizen's Charter movement as originally framed were: Quality: Improving the quality of services; Choice: Providing Choice wherever possible; Standards: Specify what to expect and how to act if standards are not met; Value: Add Value for the taxpayer's money; Accountability: Be accountable to individuals and organizations; Transparency: Ensure transparency in

Rules/Procedures/Schemes/Grievances. These were elaborated by the Labor Government as following nine principles of Service Delivery (1998): Set Standards of Services; Be Open and provide full Information; Consult and Involve; Encourage access and the promotion of choice; Treat all fairly; Put things right when they go wrong; Use resources effectively; Innovate and Improve; Work with other providers (**DARPG, GOI**). Citizen Charters are introduced by the United Kingdom in the early 1990s and now being used in a wide range of countries-including the United States, Kenya, India, Jamaica, and Mexico-with a purpose of improving the quality of service delivery and enhancing public sector management. The U.K. Model has influenced several countries in adopting variations on the Citizen's Charter: Belgium: Public Service User Charter 1992; France: Service Charter 1993; Canada: Service Standards Initiatives 1995; Australia: Service Charter 1997; Malaysia: Clients Charter 1993; Spain: The Quality Observations 1993; Portugal: The Quality Charter in Public Services.

IV. RIGHT TO PUBLIC SERVICES ACT- INDIAN SCENARIO

The Right to Public Service Act in the form of Citizens' Charter in India was first introduced in 1994 at New Delhi under a meeting held by the Central Consumer Protection Council where the Consumers Rights Activists drafted a Charter for Health Service Providers. In 1997, a Conference of Chief Ministers of various States and Union Territories was held in New Delhi presided over by the then Prime Minister Inder Kumar Gujral where "An Action Plan on Effective and Responsive Government" has been adopted at the Centre and State levels which had discussed the three main areas such as: Making administration more accountable and citizen friendly; Ensuring transparency and Right to Information; Taking measures to clear and motivate Civil Services. At that Conference, a major decision has been taken was the formulation of Citizens' Charter both at the Centre and the State levels beginning with those government departments and agencies having larger public interface, such as the Indian Railways, Department of Posts, Department of Telecommunications and Department of Public Distribution System. These Charters include: Standards of Service; Time Limits for Service Delivery; Avenues for swift grievance Redress; Provision for independent scrutiny through the involvement of citizen and consumer groups. A Handbook on Citizens' Charter has defined certain elements of Citizens' Charters:- Vision and Mission Statements; Details of business transacted by the organization; Details of clients; Details of services provided to each client group; Details of grievance redress mechanism and how to access it; Expectations from the clients. The Government of India has also introduced such a Bill in the Parliament known as "The Right of Citizens for Time Bound Delivery of Goods and Services and Redress of their Grievances Bill, 2011" that intends to prove its commitment for fighting corruption among government officers. The Bill clearly outlines the responsibilities of government departments towards its citizens and also takes action against those who denied providing services of

specified standards to its citizens. According to the Bill, every public authority or government department has to publish its own Citizens' Charter that clearly lists the services that a department provides to its citizens within a reasonable timeframe and also provides for a "Grievance Redress Mechanism for non-compliance of Citizens' Charter." At present, there are 20 states that implement the Right to Service Act and represents the duty of their state towards their citizens by providing them standard, quality, transparency and timely delivery of public services, in addition to an enforceable Grievance Redress Mechanism. Madhya Pradesh became the first state to enact its Lok Sewaon Ke Pradan Ki Guarantee Adhiniyam-2010 on 18 August 2010 and Bihar was the second to enact this Bill on 25 July 2011. Several other states like Delhi, Punjab, Rajasthan, Himachal Pradesh, Kerala, Uttarakhand, Haryana, Uttar Pradesh, Jharkhand, Karnataka, Chhattisgarh, Jammu and Kashmir, Odisha, Assam, Gujarat, West Bengal and Goa have introduced similar legislation for effectuating the right to service to the citizens.

V. JAMMU AND KASHMIR PUBLIC SERVICES GUARANTEE ACT, 2011

Jammu and Kashmir is not much developed in terms of public service delivery, and numerous complaints regarding lack of transparency, accessibility, affordability, effectiveness, accountability, nepotism and malpractices against the officials of different government departments are prevailed in the state. Citizens are not satisfied with the delivery and quality of public services which are provided to them by the service providers. They expect the delivery of services in a particular time frame based on quality, promptness, transparency and customer choice realized through the display of information related to services expected their quality, standards, feedback options and complaint and grievances redress mechanism. Jammu and Kashmir Public Services Guarantee Act, 2011 is an important step taken by the Government of the Jammu and Kashmir to address the problems being experienced by the common people for not getting the basic public services in a time bound and transparent manner and for improving the public service delivery in Jammu and Kashmir.

Jammu and Kashmir State is the second state in India which enacted a law guaranteeing public services to its citizens in a transparent and time bound manner. The Jammu and Kashmir Public Services Guarantee Act, 2011 has been passed by the State Legislature on 9th April 2011 during the budget session and come into effect from 10th August, 2011 in the state. The Act provides for delivery of public services by the designated officers to the eligible persons of the state in a time bound and hassle free manner. It is also helpful in curbing corruption by empowering people of the state in enforcing their right to secure different public services in a time bound and hassle free manner. The designated officers are now under statutory obligation to provide notified services to the public within stipulated time period.

Jammu and Kashmir Public Services Guarantee Act, 2011 is necessary due to the following reasons

- ✓ The Act guarantees the public services to the citizens;
- ✓ It reduces the officials delays in public service delivery;

- ✓ It mentions a stipulated time limit for a particular services;
- ✓ It reduces the gap between administration and people;
- ✓ It makes administration more transparent and accountable to the people;
- ✓ It facilitates better delivery of public services to citizens by public servants;
- ✓ It holds the designated officials accountable for not providing and delay the public services to the citizens;
- ✓ It increases people's participation in administration;
- ✓ It reduces the scope for corruption in public administration;
- ✓ It makes administration more responsive to the requirements of citizens;
- ✓ It makes an obligation on the designated officers and appellate authorities to perform their duties and functions in accordance to the Act;
- ✓ It provides a grievance redress mechanism for punishing the errant public servant who is deficient in providing the services.

Various Provisions and Rules of Jammu and Kashmir Public Services Guarantee Act, 2011 are mentioned below:

Under Section 17 of the Act, the Government of Jammu and Kashmir has notified the rules for the purpose vide SRO 223 of 2011 on 21st July 2011 under Jammu and Kashmir Public Services Guarantee Act, 2011 for improving the delivery of public services in various government departments of the state. These rules are discussed below:

- ✓ It provides authorization by Designated Officer for receiving the application and issuing the acknowledgement to the applicants.
- ✓ It also provides Issuing of Acknowledgement to the applicants.
- ✓ It becomes the duty of the designated officer to communicate to the eligible person the reason for such denial or delay, the period within which an appeal against such denial be preferred and the particulars, including all available contact information of the competent appellate authority under the provisions of the Act.
- ✓ The public holidays shall not be included in computing the stipulated time limit in providing the services to the citizens.
- ✓ It mentions the compulsory display of all relevant information related to the notified services on the notice board of the office in Urdu and in English. If the designated officer does not display such information in the public domain, the competent authority shall initiate appropriate action against the designated officer mentioned under the Rules.
- ✓ It exempts the payment of fees along with an application, appeal or revision, which the eligible person has applied for a particular notified service.
- ✓ It provides for the contents of application for Appeal and Revision:
 - Name and address of the applicant or person filling first appeal, second appeal or revision;
 - The name and address of the designated officer, first appellate authority or second appellate authority against whose decision the appeal or revision is filed;

- Particulars of the order against which the appeal or revision lies;
 - If the appeal is against the refusal of acknowledgement of the application by the designated officer, then the date of application, refusal of information, and the name and address of the designated officer, to whom the application was presented;
 - The ground for appeal or revision;
 - The relief sought;
 - Any other relevant information which is necessary for the disposal of appeal or revision;
- ✓ The applicants are required to attach the following documents with every application for appeal or revision namely:
- Self-attested copy of the order against which the appeal or revision is made;
 - The copies of the documents, if any, mentioned in the application for appeal or revision;
 - The index of the documents annexed with the application for appeal or revision;
 - The proof of depositing penalty, in case of application for revision.
- ✓ The appellate or revision authority shall inspect the relevant documents, public documents or copies, authorize any officer to conduct appropriate inquiry and may hear the designated officer, first appellate authority or the second appellate authority, as the case may be.
- ✓ The notice of hearing of application for appeal or revision shall be by the party itself, by hand delivery (Dasti) through process server, by the registered post with due acknowledgment and through the department.
- ✓ The Appellant or the Revision Authority shall be intimated with the date of hearing, at least seven clear days prior to such date of hearing.
- ✓ It provides for an order of appeal or revision pronounced in open proceedings and in writing by the first appellate authority, second appellate authority or revision authority.
- ✓ There is also a recovery of penalty mentioned under the Jammu and Kashmir Public Service Guarantee Rules, 2011.
- ✓ Under Section 13, the Second Appellate Authority shall make an order of payment of compensation to the applicant within thirty days.
- ✓ There is also maintenance of Record of disposed cases under the Act.
- ✓ The State Government may issue the 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 First Appellant Authority, Second Appellant Authority, Revision Authority and Drawing and Disbursing Officers.
- ✓ The State Government may after every six months review services notified under the Act and may include or exclude any service, for purposes of the Act.
- ✓ It introduces a system for centralized monitoring of the timely delivery of notified services, including service delivery through use of Information and Communication Technologies, and for monitoring various provisions of the Act.
- ✓ If any question of interpretation of these rules arises, the decision of the Government in General Administration Department, in consultation with Department of Law, Justice and Parliamentary Affairs shall be final.
- ✓ It imposes a fine of 250/- for each day of such delay or 5000/- in case of non-providing of service or delay in providing service and 2000/- in case of deficiency in service.
- ✓ It establishes the Public Service Management Cell in the General Administration Department headed by an officer of the level of Additional Secretary/Deputy Secretary.

VI. JAMMU AND KASHMIR PUBLIC SERVICES GUARANTEE ACT 2011 IN VARIOUS GOVERNMENT DEPARTMENTS OF JAMMU AND KASHMIR

Jammu and Kashmir Public Services Guarantee Act, 2011 has completed seven years of implementation in Jammu and Kashmir. It has been universalized and is operational in all the districts of Jammu and Kashmir. It plays an important role in delivering the notified services timely to the citizens and strengthened transparency, accountability, timely delivery of these notified services and redress of their grievances which are the main components of good governance. At present, there are fourteen Departments and ninety-five services have been covered under the Act. These departments include:

- ✓ Consumer Affairs and Public Distribution Department.
- ✓ Power Development Department.
- ✓ Public Health Engineering, Irrigation and Flood Control Department.
- ✓ Revenue Department.
- ✓ Transport Department.
- ✓ Housing and Urban Development Department.
- ✓ Health and Medical Education Department.
- ✓ Industries and Commerce Department.
- ✓ Labor and Employment Department.
- ✓ Public Works Department.
- ✓ Home Department.
- ✓ Forest Department.
- ✓ Finance Department.
- ✓ Horticulture Department.

VII. CRITICISM OF THE JAMMU AND KASHMIR PUBLIC SERVICES GUARANTEE ACT, 2011

In Jammu and Kashmir, various government departments under Jammu and Kashmir Public Services Guarantee Act, 2011 are delivering the notified services to the citizens and working in accordance with the Act. These services including supply of Ration Card, Electricity connection, water connection, Permanent Resident Certificate (PRC), Caste Certificate, Police Verification Certificate, Building Permission by Municipal Corporation, Medical Certificates, etc. But it has been observed that still some deficiencies and continuous harassment of public and denial of public services within stipulated time period have defeated the purpose of Jammu and Kashmir Public Services Guarantee Act, 2011.

Citizens are unsatisfied and not getting the delivery of services timely and in a transparent and accountable manner. The Act has not been properly implemented in government departments of the state. Following are the various reasons for poor implementation of the act in the state:

- ✓ Lack of political will and absence of strong civil society movement in Jammu and Kashmir;
- ✓ Lack of awareness about the act;
- ✓ The act has mentioned a stipulated time period for a particular service but majority of the government departments are failed to deliver services within specified time limit and it has made the act redundant and useless;
- ✓ The act has failed in bringing transparency and accountability in the system and corruption still rules the roost;
- ✓ The departments have been receiving hundreds of application under the act but there is shortage of manpower, lack of funds and irrational time frame for delivery of various services;
- ✓ There are unwanted delays in delivery of notified services and the officers don't fear of being penalized;
- ✓ People do not know that they can approach appellate authorities against those officers who deny them service delivery within specified time frame. They are completely unaware about the provisions of this act;
- ✓ Till date no designated officer has either been fined or punished in any case by the government for not taking his duty seriously in terms of delivery under the act;
- ✓ The various government officers not prefer to give wide scale awareness about the act to the people who are continuously facing the problem at various government offices due to poor public delivery system and took months to the people to get water connections, electricity connections, income certificates, PRC's, caste certificates, RBA's, Nakal Girdawari, land documents and others;
- ✓ Various government departments in Jammu and Kashmir are keeping no records of the public service delivery system, hence leaving the act limited to the rule books only and absent on ground;
- ✓ Due to the heavy rush of the applications and scarcity of the staff, it is not becoming possible for various government departments to issue acknowledgements for the applications they receive for various government services;
- ✓ There are also handfuls of departments who have adhered to the guidelines of the act while others preferred to keep the routine order in vogue. No action is being taken against the departments who haven't displayed the required information related to the act on their respective notice boards;
- ✓ There are nearly 2000 files of permanent Resident Certificates are pending to get clearance for few months in government offices. Under the act, the certificate has to be issued within 30 days;
- ✓ The act has failed to provide any relief to the people as the authorities continued to violate the act and ignoring the directions of the state government.

VIII. CONCLUSION

In conclusion, we can say that Jammu and Kashmir Public Services Guarantee Act, 2011 is a tool that provide the time bound delivery of notified services to the citizens, checks corruption, and holds the various government bodies, agencies and departments accountable to the public. In order to make the Act more effective, the government must also create awareness about the act. Action should be initiated against the concerned officers as well as the appellate authorities for not providing the notified services timely to the citizens and they will be penalized. There must not be unwanted delays in the government departments and the notified services should be delivered within stipulated time period and proper grievance redress mechanism.

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