RIGHT TO PUBLIC SERVICES IN INDIA- A NEW LEGAL SCENARIO

Abstract

The index of development of any country is perceived to be the standardized upliftment of the 80-90% of its masses. The international documents as well as the recent United Nations conventions have stressed equally on the civil and political rights, which form the basic human rights of the common man, as well as upon the economic, social and cultural rights, which casts a corresponding duty on the governments to provide those rights to the people. That initiative was followed by rights based legislation in the countries worldwide, particularly in the third world countries. In India, the right to services law is the most recent of that sort of legislation. The paper begins with the legal background and objectives of the public services law in India and its evolution as a right or entitlement of the people. It attempts to examine the parliamentary and governmental initiatives in India towards achieving that right through law making and implementation mechanisms. It has also made an analysis of the state public services guarantee Acts in a comparative perspective. The paper concludes with a critique on the existing laws on the right to public services in India and suggests that the right ought to become the ultimate goal of the administrative system.

Introduction

IN THE neo-liberal era, post globalization, the developing nations have the dubious distinction of emerging at the top ranks as far as corruption is concerned.[1] It is manifested through lack of provisions for basic amenities to the common man. On the other side are strong resistances against aggravated levels of corruption, and insurgencies in the third world countries. The bloodshed and bloodless revolutions against the totalitarian regimes finally led to the protection for group interests resulting in the enactment of individual entitlements guarantees, in the form of right based legislations. The Right to Information Act, 2005; Right to Education Act, 2009; Right to Food Bill, 2011 and Mahatma Gandhi National Rural Employment Guarantee Act, 2005 are some such legislative instances in India.

At the outset of the implementation of the right to information and the *lokpal* and *lokayukta* legislations, the Indian populace started turning their attention to the scope of maladministration in the public services sector. That resulted in the passing

1 "Transnational International" is a NGO that monitors and publicises corporate and political corruption in international development. It publicises an annual Corruption Perception Index (CPI), a comparative listing of corruption worldwide. See, Abantika Ghosh, "Corruption Watchdog hails Bihar, Madhya Pradesh as the best Service Providers" *The Times of India* Apr. 21,2011.

of right to services law in India, for which initiatives came from the side of governments themselves.

Public service law in India–background and objectives

The law relating to public services in India sets out its journey from the "Doctrine of Pleasure". Accordingly, the heads of governments enjoyed discretion in appointing, and terminating the tenure of services of government employees. The employees were given the opportunity to be heard before getting removed from their services. That led to the passing of service rules by the governments concerned. The other authorities, though running with sufficient governmental control, cannot be brought within the purview of service rules.[2]

Despite that, there were no claims provided for aggrieved citizens for services. Since the right to service was not yet a constitutional or legal right, the citizen applicants could not file a writ petition before the judiciary. The only option was to seek redress before the administrative tribunals, which has proved only to have a recommendatory power.

It is of late that the governments in India have embarked on law-making, on right to services at the centre and in some of the states. *The Madhya Pradesh Lok Sewaon Ke Pradan ki Adhiniyam*, 2010, is the first in that category, which has been followed by enactments in the States of Bihar Chhattisgarh, Delhi, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Punjab, Rajasthan, Uttar Pradesh and Uttarakhand.[3] The States of Orissa, Kerala and Haryana, are also at the verge of implementing their Acts. The centre has introduced the Right to Redressal of Grievances Bill, 2011, in the Lok Sabha on the 20th of December 2011.[4] The Union

2 See arts. 309, 310 and 311 of the Constitution of India, 1950; See also, *Sukhdeo Singh* v. *Bhagatram*, AIR 1975 SC 1331.

3 The state Acts are the Bihar Right to Public Services Act, 2011; Chhattisgarh Lok Seva Guarantee Adhiniyam, 2011; Delhi Right of Citizen to Time Bound Delivery of Service Act, 2011; Himachal Pradesh Public Service Guarantee Act, 2011; Jammu and Kashmir Public Services Guarantee Act, 2011; Jharkhand Right to Services Act, 2011; Karnataka Right of Citizen to Time Bound Delivery of Services Act, 2012; Madhya Pradesh Lok Sewaon Ke Pradan Ki Guarantee Adhinyam, 2010; Punjab Right to Service Act, 2011; Rajasthan Guaranteed Delivery of Public Services Act, 2011; Uttarakhand Right to Services Act, 2011; Uttar Pradesh Janhit Guarantee Adhyadesh, 2011. The States of Haryana, Orissa and Kerala have their state right to service bills, pending or awaiting assent by Governor.

4 The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011, (hereinafter referred to as the Central Bill 2011). It was introduced in the Lok Sabha, on 20th December 2011. Thereafter it was referred to the Department Related Parliamentary Standing Committee on Personnel, Public grievances, Law and Justice on Jan. 13, 2012, for examination and report on the bill. The committee has submitted its report, and is awaiting the passing of the law.

Cabinet has given nod to a new bill on The Right of Citizens for Time-Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 on 8-03-2013. The bill will then be referred to the Ministries of Law, Home Affairs and Personnel and Training, after which it will go to the Parliament.

Citizens' charter to public service guarantees

The public services law in India owes its origin from the Citizens Charter of UK, promulgated in 1991. Though it is not a legal document in the strict sense of law, being an agreement of contract entered into between the citizens and the public servants, providing for competent and time bound delivery of services. It sought to add consumer rights to those citizens' rights, equipping users with the means of seeking personal redress if the services they received were inadequate. The objective of the charter was to make public services accountable. That idea arose from a simple question in UK that if the public service which people have paid for is not good, why should they not get their money back, as they would have the right to purchase it with any shop or service provider in the private sector. The then Prime Minister of UK, John Major explained the intention of the Citizens' Charter in the following way: [5]

> It will work for quality across the whole range of public services. It will give support to those who use services in seeking better standards. People who depend on public services - patients, passengers, parents, pupils, benefit claimants - all must know where they stand and what service they have a right to expect.

The twelfth report of session 2007-08, of the House of Commons was third on the series of public administration reform in UK. The first of that was the fifth report of session 2007-08, "When Citizens Complain" and the second was the sixth report of the session on "User Involvement in Public Services." Following the sixth report, a volume of oral and written evidence was published as "Public Services: Putting People First."[6]

In the meantime, in 1997, the right to services moved from "Citizens Charter Programme" and its impact on how public services were viewed, to Charter Mark, in 1997, with the inception of the government headed by Tony Blair. The Charter Mark stuck upon quality of services in ensuring that public services focus on the

5 Speech by John Major MP at the Conservative Central Council Annual meeting on Mar.23, 1991, referred in the Twelfth Report of the House of Commons Public Administration Select Committee, *From Citizens Charter to Public Service Guarantees; Entitlements to Public Services United Kingdom*, (2007-08) July 15, 2008 at para 6.

6 *Id.*, para 1.

needs and views of service users, followed by its successor scheme, the Customer Service Excellence Standard. By 2002, that shifted to 'Public Service Guarantees,' which like the national charters introduced under the citizens' charter, was intended to act as a mechanism for setting out the standards of service provision that people can expect from public services utilities.

The Charter Mark Scheme, launched in 1992, in UK and intended to work till 2011, laid down the then most recent criteria as follows:[7]

1. Set standards and perform well.
2. Actively engage with your customers, partners and staff.
3. Be fair and accessible to everyone and promote justice.
4. Continuously develop and improve.
5. Use your resources effectively and imaginatively.
6. Contribute to improving opportunities and quality of life in the communities one serves.

Supplementary to that, the fourth report of the 2007-08 session of the House of Commons, UK added as the base for public services, the "Public Service Entitlements". Accordingly the minimum standards to which provision of public service would conform were: [8]

1. Support policy outcomes.
2. Be precise as to the level of services to be expected (*e.g.* an operation in six months, or a passport in six weeks).
3. Have a clear statement that the service could be delivered by a provider of the user's choice, and
4. Clear arrangements for redressal in the event of failure.

The Public Service Committee, 2007-08, finally recommended that there should be clear, precise and enforceable statements of people's entitlements to public service. That should be in the form of 'Public Service Guarantees'. The guarantees should specify the minimum standard of service provision that service users can expect, and set out the arrangements for redress, should service providers fail to meet the standard promised.[9]

The scenario was thus shifted from 'Citizens Charter' to 'Public Service Guarantees' in UK. The institution of the guarantees was taken to be a very strong case by the committee to empower users by allowing them to claim their services. It was also clearly indicated that in the provision of public services, it genuinely intended to put "people first".[10]

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7 *Id* , para 20, "Charter Mark Standard Back," Cabinet Office, UK (2004).

8 *Id.,* para 39. Public Administration Select Committee Report, *Choice Voice and Public Services* para 242 (2009).

9 *Id.,* para 45.

10 *Id.*, para 79.

The Citizens Charter of UK aroused interest worldwide leading to establishments of such initiatives in Belgium (Public Service Users Charter, 1992), Canada (Service Standards Initiative, 1995), Australia (Service Charter, 1997), India (Citizens' Charter, 1997) and so on.

The citizens charters were introduced in India in 1997, which was voluntary in character. That was based on the logo "services first" as in UK. The charters gradually spread through central to state ministries and to their local bodies and organisations. In 2002, a website was launched by the Department of Administrative Reforms and Public Grievances (DARPG) towards consolidating the write up on the progresses and improvements resulted out of citizens charters. The instances of implementation of charters by the Regional Transport Office, Hyderabad, the *Jan Seva Kendras* in Ahmedabad and Chennai Metro Water Supply and Sewage Board are noteworthy during 1997-2004. In 2005, the service excellence model "Sevottam" was initiated to give a new thrust to the implementation of the citizens' charter, both at the central and state levels. The Centralised Public Grievance Redress and Monitoring System (CPGRAMS), a web based portal was launched for lodging complaints by the public in 2007. In 2009, the Report of the Administrative Reforms Commission of Citizen Centric Governance recommended for making citizens charters effective through implementing charter for each unit with redress mechanisms and periodic evaluation of charters.[11] It also recommended for holding officers accountable for results. It too suggested for suitable mechanism assuring citizens participation in administration.

In view of the above circumstances, the Government of India and of the states felt it necessary to legislate upon such a contingency. They were to make law on entry 8 of concurrent list, *viz*. actionable wrongs. Public Service Guarantee Acts have been passed by fourteen states till this date.[12] The Central Bill No.131 of 2011, having been introduced in Parliament, the right to service law in India encompasses those central and state legal initiatives.

Right to services law in India–the parliamentary initiatives

The Central Bill, 2011, that has recently been introduced in Parliament, confers on every individual citizen, the right to time bound delivery of goods and services, and for redressal of grievances. It requires every public authority, to publish within six months of the proposed legislation, a citizens charter specifying therein, the category of goods supplied and the kind of services rendered by it. The time within which such goods shall be supplied or services be rendered and the names and

11 *Supra* note 4. See also "Statement of Object and Reasons" to the Central Bill, 2011.

12 The States of Haryana, Kerala and Orissa have passed their right to service bills. The legislatures of Kerala and Orissa are awaiting assent of their respective Governor.

addresses of individuals responsible for the delivery of goods or rendering of services shall also be specified. It requires every public authority to establish an information and facilitation centre which may include establishment of customer care centre, call centre, help desk and people's support centre. It provides for appointment (by every public authority) within six months from the date of implementation of the legislation, officers as grievance redress officers (GRO) in all administrative units or officers at the central, state, district and sub district levels, municipalities, and panchayats. They are duty bound towards supplies of goods or render services, to receive, enquire into and redress any complaints from citizens in the prescribed manner. It was further required to remedy the grievances in a time frame not exceeding thirty days from the date of receipt of the complaint. The aggrieved individual may, if he so desired, within thirty days from the expiry of the period or from the receipt of such decision, prefer an appeal to the designated authority who shall dispose of such appeal within another thirty days from the date of receipt of such appeal.[13]

The bill provides for the constitution of the state public grievance redressal commissions and the Central Public Grievance Redressal Commission consisting of chief commissioner and other commissioners. The person aggrieved by the decision of the designated authority falling under the jurisdiction of the state government may prefer an appeal to the state public grievance redressal commission and any person aggrieved by the designated authority falling under the jurisdiction of the Central Government may prefer an appeal to the Central Public Grievance Redressal Commission.[14]

The bill confers power upon the designated authority, the state and Central Public Grievance Redressal Commissions to impose a lump sum penalty, including compensation to the complainant, against the designated official responsible for delivery of goods and services or GROs for their failure to deliver goods or services to which the applicant is entitled, which may extend upto fifty thousand rupees which shall be recovered from the salary of the official against whom the penalty has been imposed. Such portion of the penalty imposed, shall be awarded as compensation to the appellant, by the appellate authority, as it may deem fit. If found guilty of any offence, disciplinary action shall also be initiated against the public servant. That include punishment and penalty, which the disciplinary authority may decide.[15] In the case of non-redressal of complaint, the burden of proof shall be upon the GRO, who denied the request.[16] If the appellate authorities find the

13 See, the Central Bill No.131 of 2011, for provisions of "stipulated time limit"; "Grievance Redress Officer" (GRO); and "Designated Authority" (DA).

14 *Id.,* ch. VII and VIII.

15 *Id.*, ch. IX.

16 *Id* , ss. 27 & 40.

grievance complained of is a part of corrupt practice that shall be referred to the appropriate competent authority to take action on such corrupt practice, under the Prevention of Corruption Act, 1988.[17]

As the third stage of appeal, the bill provides that any aggrieved person by the decision of the Central Public Grievance Redressal Commission may prefer an appeal to the *lokpal*. Any person aggrieved by the decision of the state public grievance redressal commission, may prefer an appeal to the *lokayukta*, constituted under the Lokpal and Lokayuktas Act, 2011.[18] The jurisdiction of other courts is barred by the bill.[19]

In the dispute provisions for redress mechanisms, the central bill hasn't made clear provisions for imposition of penalty, and compensation. It only entrusts the appellate authorities to impose a lump sum penalty including compensation, and states that on imposition of penalty, the appellate authority may order such portion of it to be awarded as compensation, as it may deem fit, not exceeding the amount of penalty. The norms for appointing designated authority remain vague. The scheme of appeal is complex with the third level, linking the aspects of anti-corruption and delivery of public services in the stipulated time limit.

Implementation of the Public Service Guarantee Acts (PSGAs) – Government of India initiatives

In the wake of the enactment of the right to information, and right to services, globally, as hallmarks of corruption-free and accountable governance, the Government of India set out for administrative reforms initiatives towards complementary capacity building. One such endeavour was the "Pathways for Inclusive Indian Administration(PIIA)" Project in collaboration with United Nations Development Programme (UNDP) aimed at citizen centric administration. As a part of that project, a two day national consultation was convened by the Government of Madhya Pradesh and UNDP on "Strengthening Accountability Framework under Public Service Guarantee Acts" in Bhopal on 8-9 December, 2011.[20]

The purpose of the consultation was to share the progress of the state public service guarantee Acts, (PSGAS) also known as right to services Acts, enacted by various states of India by then, as a key administrative reform. The consultation provided a common platform for interaction among states, for exchange of ideas and for evolving consensus on the key areas of concern in the implementation of

17 *Id.*, ss. 28 & 44.

18 *Id.*, s. 47.

19 *Id.*, s. 48.

20 See, the Report of National Consultation. *Available at*: http:///wwwundp.org.in/sites/default/files/PIIA Fact sheet.pdf.(last visited on Nov. 28,2012).

the Acts. The challenges identified at the NC were:

i. Defining the scope of the Acts (*i.e.* the number of services covered in a scenario where complaints and grievances were also added).
ii. Demand side sensitisation and awareness among citizens about the provisions of the Acts and its functioning/application.
iii. Supply side sensitisation, awareness and training of service providers.
iv. Addressing capacity related challenges-shortage of manpower and financial resources.
v. Lack of availability of an efficient management information system (MIS) with ready access to government records and data for monitoring and tracking of applications.
vi. Reduction of complexity in procedures and clarification on identification and documentation requirements for a particular service for the purpose of eliminating subjectivity.
vii. Incentives and disincentives for government officials including, but not limited to penalties, impact on performance assessment, promotions, and rewards.
viii. Grievance redressal mechanisms /appeal mechanisms.
ix. Technology options and business models for efficient and timely service delivery/ tracking/ monitoring of service requests.
x. Consistency of the legal framework.
xi. Consistency with the state decentralisation agenda and local self-government responsibilities.[21]

The national consultation evolved consensus on the fact that the PSGAs have gone one step ahead of the UK Public Services Guarantee Reforms through including the provision for time bound delivery of services, failing which the erring public servant would be penalized as well.

Overall, the participants formed a general consensus that the Acts should not be punishment-centric, but motivation-oriented in order to facilitate attitudinal changes and to offer sustained reforms. The need to create awareness among citizens as well as strengthening the capacity of service providers was also highlighted. Further the use of public private partnership (PPP) business models for providing services and use of information and communication technology (ICT) based tools for tracking and monitoring service provisions was also encouraged for bringing about transparency, accountability and efficiency in public services.[22]

Addressing legal concerns, the members of the group accentuated the need to re-examine the legal framework of the right to service Acts. They expressed apprehensions about the varied nomenclatures of the Acts in various states, the scope of those Acts, redressal mechanisms, institutional provisions and control

21 *Id.* Summary of key challenges and recommendations.

22 *Id.,* annexure 111.

mechanisms. As a suggestion, it was advocated that the oversight mechanism for public service guarantee should be internal because a self-corrective, self-disciplining bureaucracy was the need of the hour.[23]

The Government of India's Citizens Right to Grievance Redress Bill, 2011, was looked at by the participants as the overarching framework within which one has to look at the provisions of the state Acts and expressed apprehension at the immense scope to the Act, from the perspective of implementation. The national consultation recommended that the penalty provisions of most states Acts were harsh and could affect the motivation of service providers, which need to be reviewed. There was also a suggestion that the applicants should not be allowed to file a case if the appellate authority under the right to service Act has been approachable, or else there would be a surge of litigation possible. It was further recommended that the states would explore creating a trust fund (*e.g.* Torrens Compensation Fund in Australia) to compensate applicants in case of systemic delays.[24] As highlighted during the closing remarks, by the representatives of the states, Central Government and UNDP, administrative reforms and governance improvements were to be necessitated.

Thus, citizen centric administration has to become citizen participatory as well. Establishing entitlements based approach in public service delivery not only empowers citizens to demand services, but also offers an opportunity to the governments to provide services effectively. The consultation ended with the vision that the move to make public service provision legally binding on the government displayed a political will to make citizens, active agents within administrative processes rather than as mere recipients of services.

The state public services guarantee Acts – a comparison

The state governments have provided for nodal departments for the supervision and monitoring of the implementation of right to public services within states. The only state that has a department for that is Madhya Pradesh, where the Department of Public Services Management (DOPSM), controls and co-ordinates the public service delivery mechanism. The States of Uttar Pradesh, Bihar, Rajasthan and Delhi, respectively has revenue, general administration, administration reforms, and information technology departments as nodal departments.

The officers in the machinery include the designated officers, or their subordinate officers charged with the delivery of services.[25] The appellate authority would be

23 *Id.*, "Addressing Legal Concerns".

24 For recommendations, *id.*, annexure III.

25 See *supra* note 3. The Acts uniformly provides for Designated Officers (DOs), which ought to be 'notified' by the respective states, for every unit of administration with an organisational state head for overall supervision.

the first appellate authority and the second appellate authority. In some states, designated officers from outside the public authority concerned are appointed as the appellate authority.[26] A notified officer/competent officer or a commission is also appointed by the government for the purpose of implementation of the Acts, as in Chhattisgarh, Karnataka and Punjab. An officer nominated by the government is entrusted with the power of revision upon final order or decision of the second appellate authority.[27]

The designated officer (DO) or the grievance redress officer (GRO) is the lowest in the hierarchy of the state machinery. They are required to provide the service applied for in the 'stipulated time limit' of 30 days. They may reject the application within the time limit with reasons recorded in writing. An eligible person, whose application is either rejected or who is not provided the service within the time limit may file an appeal to the first appellate authority within thirty days from the date of rejection or on the expiry of the given time limit as the case may be. Within the time frame of thirty days, the aggrieved citizen may file a second appeal from the order of first appellate authority, or within 30 days from the date of rejection of his first appeal to the second appellate authority. The second appellate authority may decide the appeal and pass an order either accepting the appeal or directing the DO to provide the service or reject the appeal, within sixty days from the date of receipt of appeal. The second appellate authority also determines the penalty to be imposed on the DO or GRO, or upon the first appellate authority. The person aggrieved by the final order may make an application for revision of the said order to the Commission or an officer nominated in that respect within a period of sixty days from the date of such order. Citizen having applied for such services shall be entitled to seek compensatory cost from the erring officer, say ,the DO or his subordinate public servant, in case of delay or default in the delivery of such services beyond the stipulated time limit. The government shall appoint by notification, a competent officer to impose cost against the failing public servant concerned.[28]

The state Acts contain similar provisions regarding notifying "services" and "stipulated time limit."[29] The "right to service" is defined as the right to obtain

26 *Ibid.* See, the provisions of the Acts for first and second appellate authorities. The Delhi, Karnataka and Chhattisgarh Act provide for "Appellate Authority", to be appointed from outside by the government.

27 For instance, in Rajasthan a nominated officer exercises the power of revision and in Jammu and Kashmir; it is entrusted with a special tribunal.

28 *Supra* note 3. See s. 2 of the Act for definitions of "Designated Officer", "Eligible person", "First Appeal Officer" "Second Appellate Authority", "Service", "State government" "Stipulated time limit", "Right to service", "Public Authority"; See also, definitions clause for "Appellate Authority", "Commission", "Competent Officer", "Citizen related Service", "Designated Public Servant", in the Punjab, Karnataka, Chhattisgarh, Delhi and Bihar Acts, respectively.

29 See s. 3 of the Acts. See also, s. 4 of the Karnataka Act, 2012.

service within the stipulated time limit. Penalty is provided for delay or default in providing service within the time prescribed in the Act. There are similar provisions on appeal, appellate authorities, revision, protection of action taken in good faith, bar of jurisdiction of courts, power to make rules and power to remove difficulties, if any, arising in giving effect to the provisions of the Act, by order by the state government.[30]

Apart from similarities, each Act varies significantly in the number of notified services, in the provisions for compensation, monitoring mechanism and in the use of technological tools in the process of implementation. The individual Acts too differ slightly in setting up the hierarchy of officials entrusted or designated to deliver services, in hearing appeals, for revision and for receiving of orders. The provision for fixing the quantum of penalty imposed on delay or default in delivering services and in deciding appeals, within the stipulated time limit, shows little differences.[31]

Among the state Acts, Karnataka Act covers 151 services from 11 departments; Rajasthan spreads over 124 services from 15 departments including power, police, health and revenue and in Bihar, as many as 50 services in 10 departments, up to the lowest of 15 services in Uttar Pradesh. In Jammu and Kashmir, it covers 45 services from 6 departments and in Jharkhand 54 services from 20 departments. In Madhya Pradesh and Delhi each includes 52 services from 16 and 18 departments respectively. The Government of Kerala has proposed to notify 13 public services, and nine services separately from the police department.[32]

The provision for compensatory costs awarded to the citizen applicant is cast on the competent officer nominated by the state government in accordance with the Karnataka, Delhi and Chhattisgarh Acts. It is imposed on the government servant after issue of show cause notice as to why that amount should not be recovered from the officer concerned. In the state Acts of Himachal Pradesh, Jammu and Kashmir and Uttarakhand, the second appellant authority shall award compensation as it may deem fit, out of a penalty imposed on the DO or public servant. In the monitoring mechanism, e-governance has been incorporated in the Delhi and Karnataka Acts. The State of Delhi has implemented it through e-state level agreement-software, *Adhikar*, in the monitoring and tracking of applications system. In Karnataka, the e-governance scheme *Sakala* has come into application since 2nd April, 2012. The online tracking and monitoring system has been in full application in the states of Madhya Pradesh and Bihar as well. In the other states, the complete

30 *Supra* note 3.

31 *Ibid.*

32 *Supra* note 20. Refer the Report on National Consultation, 2011, for notified services in the states. See also, T.K Devasia, "Kerala Introduces Law on Right to Services" *The Hindu* July 25, 2012; Girish Menon, "No fee for plea under Right to Services Act" *The Hindu* Oct. 23,2012.

utilisation of ICT tools has yet to be made.

In the hierarchy of officials notified as DOs, first appellate officer, second appellate authority and nominated officers by state government for revision, the legislations vary considerably. There occurs uniformity as to the DO, who is required to provide "service" to the applicant.[33] In Karnataka, Chhattisgarh and Delhi, there is a nominated officer competent to impose cost on the DO, for default or delay[34] in the delivery of service. The public servant as well as the citizen has the right to go in appeal to a single appellate authority against the order of competent officer.[35] In Bihar, the DO is called the designated public servant.[36] The other state Acts provide for the DO and in appeal to the first and second appellate authorities.[37]

The authorities entrusted with power of revision are either an officer nominated by the state government or by a commission constituted by the state government.[38] The nominated officer exists for all states other than for States of Punjab, and Uttarakhand, where right to services commissions are constituted for exercising the power of revision. In Uttarakhand, an officer nominated shall suffice. A special tribunal is entrusted with the revision power in Jammu and Kashmir.[39] There is no provision for revision in the States of Karnataka, Delhi, and Chhattisgarh, where the competent officer fixes the liability on the erring official.[40] The decision of the appellate authority shall be final in these states. The State of Bihar has a revising authority for modifying the orders of the appellate authority, and to impose penalty upon the appellate authority, if it is of the opinion that the authority has failed to decide the appeal within the stipulated time limit. The receiving authority shall also hear appeals from the decisions of the appellate authority or on an appeal filed by the applicant directly upon non-compliance of order by the DO.[41]

The penalty provisions are fixed by the final appellate authority on the DO and the first appellate authority.[42] In majority of states, the Acts prescribe fixed amount ranging between, INR 500 to INR 5000 for default and between INR 250 to INR 5000 for delay upon the DO. The first appellate officer would be penalised in the range between INR 500 to INR 5000 for failure in deciding the appeal or rejecting

33 See, *supra* note 3. For "Service" see "Definitions" clause in s. 2 of the Acts.

34 See, ss. 10 & 11 of the Karnataka Act, 2012; ss. 9 & 10 of the Delhi Act 2011; and ss. 4 & 5 of the Chhattisgarh Act, 2011.

35 *Id.*, ss. 12 & 13; and 7 of the Acts respectively.

36 Bihar Act, 2011, s. 4.

37 S*upra* note 3.

38 S. 8 of the Act generally. See also, Punjab and Chhattisgarh Acts, s.10.

39 *Ibid.* See also, Jammu & Kashmir Act, 2011, s.15.

40 See, ss.11, 10 & 4 of the Acts respectively.

41 *Supra* note 36, s. 6.

42 *Supra* note 3, see s. 7 of the Acts. See also Punjab Act, 2011, s. 9(1) (a); Jammu and Kashmir Act, 2011, ss. 10, 11 & 12 .

it without reasonable cause. In Jammu and Kashmir, the penalty for delay in delivery of service ranges between INR 250 per day or INR 5000, whichever is less. In case of deficiency in service, the penalty would be INR 2000, lump sum. For defaulting FAA, the quantum of penalty ranges between INR 500 to INR 5000.[43]

In the State of Chhattisgarh, every officer responsible for delivering *loksewa*, fails to do so, shall be liable to pay cost at the rate of one hundred rupees per day up to a maximum of one thousand, recoverable from him towards payment to the applicant citizen.[44] In Karnataka, apart from the compensatory cost at the rate of twenty rupees per day up to a maximum of rupees five hundred per application, imposed by the competent officer,[45] penalty shall be imposed as per the service rules as applicable to the employees of the government or public authority concerned.[46] There is only liability to pay cost by every government servant for failure of delivery of service at the rate of rupees ten per day up to a maximum of two hundred rupees per application in Delhi.[47] In Bihar, the appellate authority imposes penalty upon the designated public servant as notified by government by rules from time to time.[48] The penalty is recoverable from the salary of the defaulting officer in Rajasthan.[49]

Conclusion

To analyse, the States of Delhi, Karnataka Chhattisgarh and Bihar have enacted their right to services Acts, comprehensively by including any public servant of governments, of any department of government, or of its local bodies, or of other public authorities covered by article 12 of the Constitution of India.[50] The public services law of those states are intended to provide the citizen, his right to obtain time bound delivery of service. Consequently, that makes the public servant duty bound to deliver citizen related services notified, within the time limit. The intention is not to penalize the government servants but to sensitize the public servants towards

43 *Ibid.* For quantum of penalty, see the provisions for imposing penalty.

44 Chhattisgarh Act, 2011, s. 4(4). Apart from penalty the Act of Jammu & Kashmir too provides for compensation to be determined by the second appellate authority, as it may deem fit. For details, see Jammu & Kashmir Public Services Guarantee Act, 2011, s. 13. See also, Punjab and Uttarakhand Acts, s. 9(2); Delhi and Karnataka Acts, s. 8 ; Himachal Pradesh Act, 2011, s. 8(2) and Madhya Pradesh and Rajasthan Acts, s. 7(3).

45 Karnataka Act, 2012, s. 9.

46 *Id.,* s. 16.

47 Delhi Act, 2011, s. 6.

48 For details, see, *supra* note 36, s. 7. Such penalty so imposed shall be in addition to that prescribed in any Act, rules, regulations and notifications already existing.

49 Rajasthan Act, 2011, s. 7(1) (c). See also, Karnataka Act, 2012, s. 11(2).

50 *Supra* note 33. For definition of "Public Authority" see, the "Definitions" clause of the state Acts in s. 2.

their duty towards the citizens and to enhance and imbibe in them a culture to deliver services promptly. The state laws are thus opting for reward mechanisms so as to encourage and motivate the public servants in their rendition of services to citizen in the stipulated time period rather than introducing disincentives.

The other state Acts are in essence, mostly punishment-centric to achieve the object of time bound guaranteeing of services to citizens.[51] They provide for penalising the officer or for recovery of compensation from his salary. Thus public servants are punished a second time through disciplinary action in accordance with the service rules.

The states would treat default as an offence only to the extent of assuring the citizens of an accountable and responsive public service. In pursuance of which, the state government shall aim at a more participative democracy through facilitating the direct involvement of citizenry in the administration processes.

To sum up with the remarks of Jawaharlal Nehru on citizen centric administration, as follows:[52]

> Administration is meant to achieve something, and not to exist in some kind of an ivory tower, following certain rules of procedure and, Narcissus-like, looking on itself with satisfaction. The test after all is the human beings and their welfare.

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51 *Ibid.* For details, see the penalty provisions of each Act. These Acts specifically provides for penalising the defaulting public servants. See also *supra* note 44.

52 Address delivered at the Inaugural meeting of *the India Institute of Public Administration* (IIPA) on March 29, (1954). *Available at*: unpan1.un.org/intradoc/groups/public../cgg/upan045780.pdf. (last visited on 12 April, 2013) Feb 12, 2013.

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