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Analysis of the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011

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I. Introduction

The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 (henceforth referred to as the GR bill) was introduced in the Lok Sabha in December 2011. The bill, which is currently being debated in a Parliamentary standing committee, seeks to entitle citizens to time bound delivery of goods and provision for services and sets out a mechanism for redressal of grievances. The term ‘service’ has been broadly defined to include “all the goods and services, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority”.¹ At the core of the bill is a mandatory provision that every public authority publish a Citizens’ Charter within six months of the enforcement of the Act.

Highlights of the Bill

- Recognizes citizens’ right to time bound delivery of goods and provision for services and redressal of grievances.
- Imparts a statutory character to Citizens Charters by requiring public authorities to publish Citizens Charter within six months of the Act coming in to force.
- Requires public authorities to establish information and facilitation centres for effective delivery of service, and to appoint Grievance Redress Officers (GROs) at Central, State, district and sub-district levels. GROs are also to be appointed at the local government level (municipalities and Panchayats). These officers are to be appointed within six months of the Act coming in to force.
- Puts in place an appeal system. Accordingly, citizens can place an appeal against the decision of a GRO to a Designated Authority (DA). The appeal must be disposed off within 30 days. To ensure independent adjudication of appeals, the Act also mandates the setting up of public grievance redressal commissions at the State and Central level (SPGRC/CPGRC). Accordingly, an appeal against the decision of the DA can be filed with the SGPRC/CGPRC. The appeal must be disposed off within 60 days. The orders of the SPGRC/CPGRC can be appealed against before the Lokayukta/Lokpal.

¹ Clause 2(o), Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011.

- Introduces a system of penalties. The DA and the Commissions can impose a lump sum penalty against the official responsible for failure to deliver goods and services up to a maximum of Rs 50,000. They can also direct that a portion of the penalty be paid as compensation to the appellant.
- Empowers the DA and the State/Central Public Grievance Redressal Commission to refer matters where this is prima facie evidence of corruption as defined by the Prevention of Corruption Act, 1988 to appropriate authorities.

This bill was tabled in the wake of the public furore and over the Lok Pal Bill in 2011. It forms a critical part of the wider institutional mechanisms being developed to address corruption and is likely to have far reaching consequences on citizens' day to day interactions with government. However, unlike the Lok Pal, this bill has received scant attention and public debate and analysis on the grievance redressal mechanism proposed has been limited. This brief aims to address this gap through an analysis of some of the key features of this bill. This brief is structured as follows: each section begins with a overview of the central features of the Act. This overview is followed by an analysis of the implications and questions that the proposed structure throws up.

2. Scope

2.1. What is a "complaint" under the Bill?

The Bill defines "complaint" to mean "a complaint filed by a citizen regarding any grievance relating to or arising out of, any failure in the delivery of goods or rendering of service pursuant to the Citizens Charter, or in the functioning of a public authority, or any violation of any law, policy, programme, order or scheme but does not include grievance relating to the service matters of a public servant whether serving or retired".

Analysis

- *Broad definition of complaint widens the scope and reach of the bill:* As is evident, complaints can be filed if a service or obligation stated in the Citizens Charter has not been provided. Further, even if a service is not mentioned in the Charter, redress can be sought if the obligation to provide service is contained in any law, policy, programme or scheme.

This definition of a complaint is significantly broader in scope than current laws that have a similar objective to the GR Bill - entitling citizens to time bound delivery of services and grievance redress². The current Bill broadens the definition of a complaint to enable citizens to access the grievance redress mechanism for grievances related to the broad functioning of the public authority.

- Grounds on the basis of which complaints can be rejected not specified: While the bill clearly lays out the scope of a complaint, it does not specify the grounds on which a complaint can be rejected. This is necessary in order to avoid arbitrariness in the admission and rejection of complaints.

2.2. Who comes within the purview of the Bill?

The Bill imposes the obligation of time bound delivery of goods and services upon a “public authority” which has been broadly cast to mean:

“any authority or body or institution of self-government established or constituted,-

(i) by or under the Constitution;

(ii) by any other law made by Parliament;

(iii) by any other law made by State Legislature;

(iv) by notification issued or order made by the appropriate Government, and includes any,

(A) body owned, controlled or substantially financed;

² Since 2010 9 States across the country have legislated for what are commonly referred to as right to service laws. These include: Bihar (Bihar Right to Service Act, 2011); Delhi (Delhi [Right of Citizen to Time Bound Delivery of Services] Act, 2011); Himachal Pradesh (Himachal Pradesh Public Services Guarantee Act, 2011); Jammu & Kashmir (Jammu & Kashmir Public Services Guarantee Act, 2011); Punjab (Punjab Right to Service, 2011); Rajasthan (Rajasthan Guaranteed Delivery of Public Services Act, 2011); Uttar Pradesh (The Uttar Pradesh Janhit Guarantee Adhinyam, 2011), Jharkhand (Right to Service Act, 2011), Uttarakhand (Uttarakhand Right to Services Act, 2011), and Karnataka Guarantee of Services to Citizens Bill, 2011.

(B) non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

(C) an organization or body corporate in its capacity as an instrumentality of 'State' as defined under Article 12 of the Constitution and rendering services of public utility in India;

(D) a Government company as defined under section 617 of the Companies Act, 1956;

(E) any other company which supply goods or render services 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 or by the Central or State Government;

(v) by an agreement or memorandum of understanding between the Government and any private entity as Public-Private Partnership or otherwise;

Specific obligations have been placed upon public authorities and their Heads of Department which have been listed in the table below. The Head of the Department has been defined to mean “an officer designated as such by the appropriate government, as the head of a Government Department or public authority”.

Obligations of Public Authority and Head of the Department	
Public Authority	<ul style="list-style-type: none">• Publish Citizens Charter• Establish Information & Facilitation Centre• Appoint or designate Grievance Redress Officers (GROs)• Disseminate details about GROs at its office, Information and Facilitation Centre, call centre, customer care centre, etc.• Ensure that GRO maintains record of complaints and appeals and decisions.• Publish on its website by 15th of every month or at shorter intervals, a report containing details of total complaints received, pending, and disposed.
Head of the Department	<ul style="list-style-type: none">• Update and verify the contents of the Citizens Charter on an annual basis.• Ensure that the Citizens Charter is widely disseminated for free of cost and is also made available on the website of the public authority.• Submit certified copies of the Charter including updated

	<p>or modified versions to appropriate bodies including the Central and State Public Grievance Redress Commissions.</p> <ul style="list-style-type: none"> • Take responsibility for “development, improvement, modernization and reform in service delivery and Redressal of grievance system.”
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Analysis

- *Broad definition of public authority runs the risk of conflating the diversity of roles played by different public authorities:* The Bill brings within its fold all institutions and authorities, irrespective of whether or not they provide “goods” or “services” to citizens. However, there may be public authorities that do not provide any goods or services to citizens, but are engaged in research, development, and policy work. For instance, human rights institutions such as the National Human Rights Commission, State Human Rights Commissions, the National Commission for Women, and the National Commission for Protection of Child Rights, to name a few, will fall within the jurisdiction of this Bill. In these Commissions, Members and Chairpersons discharge several functions ranging from investigating grievances to reviewing legal safeguards, inspecting custodial institutions and so on. Will these functions fall within the ambit of ‘services’ and given their subjective nature how will grievances related to these functions be addressed? The challenge will lie in developing objective norms and standards for these functions, an issue to which we return later in this brief.

Second, how will the Bill apply to quasi-judicial authorities and tribunals that are engaged in various forms of grievance redress? For instance, will the provisions of this Bill apply to Consumer Dispute Redressal Agencies established under the Consumer Protection Act, 1986? Another example are the State Commissions for Protection of Child Rights (SCPCRs) that have been tasked with addressing appeals against the decisions of the local authority under the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act). Will the obligations imposed under the

Bill apply to authorities like the SCPCRs that are discharging grievance redress functions under other laws? And in the event of conflict will the decisions of any one grievance redressal authority override that of another?

Third, will the provisions of the bill apply to the Supreme Court? Can the dispensation of justice by courts be discerned as a service? In the absence of any exceptions grafted in this Bill, the obligations imposed upon public authorities should apply to the judiciary. The implications of this interpretation on the justice delivery system need to be examined. A distinction may have to be made between the administrative and judicial functions performed by courts. While the former are amenable to a specified time-frame the latter are not.

2.3. Standard and norms against which complaints are made

As stated earlier, non-compliance with the Citizens Charter can be the basis of complaints before the authorities under the Bill. Every public authority across all levels of government is expected to develop this charter. According to the Bill, a Citizens Charter has been defined as “a document declaring the functioning, obligations, duties, commitments of a public authority for providing goods and services effectively and efficiently with acceptable levels of standards, time limits and designation of public servants for delivery and grievance redress...” The Bill specifies that the Citizens Charter should contain:

- Information about the goods supplied and the services rendered,
- The name and address of the agency and person responsible for providing it,
- Time frame within which services are provided,
- Conditions for entitlement, quantitative and tangible parameters, and The complaint redressal mechanism.

Importantly, the absence of a Citizens Charter will not hinder a citizen's right to grievance redress. If a citizen has been denied access to the Citizens Charter because it was not created or is inadequate, he or she can approach the SPGRC or the CPGRC directly.

Analysis

- *Variability in setting norms and standards:* By requiring each public authority, across levels of government, to have its own Citizens Charter, the Bill permits flexibility across public authorities that may be delivering the same service. While on the one hand this is important as it ensures that GOI does not interfere with the autonomy of public institutions, at the same time it runs the risk of creating a system riddled with varying norms and standards for the delivery of the same service. The challenge lies in creating a system where Citizen's Charters across public authorities adhere to a set of core minimum standards while at the same time preserving the autonomy and flexibility of public authorities across jurisdictions.

2.4. Applicability vis-à-vis other existing laws

Clause 50 of the Bill states that the provisions in this legislation "are in addition to and not in derogation of, any other law for the time being in force". In other words, the grievance redress system proposed under this Bill will not replace existing systems provided for under other laws. However, they represent an alternative system that is available to citizens should they choose to invoke the mechanisms under this Bill.

Analysis

- *A case of too many laws?:* While in theory, the Grievance Redressal law simply acts as a complement to existing legislation, in practice this is likely to create confusion. For instance, the Electricity Act, 2003 requires distribution licensees to establish a grievance redressal forum for consumers that will function in accordance with

guidelines specified by the State Electricity Regulatory Commission. Further, consumers may approach an Ombudsman appointed or designated by the State Electricity Regulatory Commission if they are aggrieved by non-redressal of their grievances. If the Citizen's Charter of an authority operating and maintaining a distribution system for supplying electricity specifies that grievances related to billing will be resolved within 15 days, in case of delay can one approach either the Grievance Redress Officer under this Bill or the Ombudsman under the Electricity Act? Should a person who has been denied access to information approach a Grievance Redress Officer or an appellate authority under the Right to Information Act, 2005 (RTI Act)?

This problem is compounded when laws relate to matters that fall within the concurrent list. According to Article 254(1) of the Indian Constitution, laws formulated by the Parliament with respect to matters listed in the Concurrent List will override State law if the latter is repugnant or inconsistent with the former. 10 states³ have enacted right to service laws that are quite distinct from the Central Bill. Almost all State laws vest the State Government with the discretion to notify services to which the law will apply. However, in view of Article 254(1), all public authorities in these States will have to comply with the obligations placed upon them under this Bill rendering the state laws somewhat meaningless.

Further, clause 43(2) of the GR Bill, the CPGRC has the original jurisdiction to inquire into a complaint filed by a person who has been refused redress of grievance or in respect of matters relating to the registration and redress of complaints or appeals. A concern that arises is whether the CPGRC can entertain grievances pertaining to services that fall under the jurisdiction of the State Government. While it can only

³ The nine states and their Acts are: Bihar (Bihar Right to Service Act, 2011); Delhi (Delhi [Right of Citizen to Time Bound Delivery of Services] Act, 2011); Himachal Pradesh (Himachal Pradesh Public Services Guarantee Act, 2011); Jammu & Kashmir (Jammu & Kashmir Public Services Guarantee Act, 2011); Punjab (Punjab Right to Service, 2011); Rajasthan (Rajasthan Guaranteed Delivery of Public Services Act, 2011); Uttar Pradesh (The Uttar Pradesh Janhit Guarantee Adhiniyam, 2011), Jharkhand (Right to Service Act, 2011), Uttarakhand (Uttarakhand Right to Services Act, 2011), and Karnataka Guarantee of Services to Citizens Bill, 2011.

hear appeals against decisions of DAs falling within the jurisdiction of the Central Government, is this limitation applicable to its exercise of original jurisdiction under clause 43(2)?

Reconciling these issues is critical if the bill is to meet its objectives.

- *A case of too many commissions?:* The Bill places a mandatory obligation upon all State Governments to constitute the SPGRC as it states, “The State Government shall appoint, by notification, a Commission....” The implications of “shall” are that if the State does not establish the SPGRC, the High Court or Supreme Court can be approached for a writ of mandamus. However, there are several State governments that have set up similar commissions mandated by the Right to Service Acts. In this scenario, is a new commission necessary? In many ways the proposed SGPRC is more powerful than the right to service commissions because their orders are enforceable unlike those of the right to service commissions that are merely recommendatory. Does this however, render these latter commissions redundant?

3. Implementation Structure

3.1. Grievance Redress Officer (GRO)

The bill requires all public authorities to appoint a Grievance Redress Officers (GRO) within six months from the date on which the Act comes into force. These officers are to be appointed in every administrative units/ offices at the Central, State, district, and sub-district levels, municipalities and, Panchayats. To ensure fairness, the bill mandates that the GRO be at least one level above and “have administrative control” over the person designated to provide goods or services laid out in the Citizens Charter. Public authorities have the discretion to appoint as many GROs as they consider necessary to make the grievance redress system accessible and available to the public.

The bill also lays out a set of processes related to receiving complaints and responsibilities of the GRO. Accordingly, complaints addressed to the GRO must be acknowledged within two days through a receipt specifying the date, time, place, unique complaint number, details of the person who received the complaint, and the time-frame within which it will be addressed. The complaint must be redressed within 30 days. In the event of a delay, it is incumbent on the GRO to forward the complaint to the Designated Authority (DA) along with details for the reasons for delay and failure to resolve the grievance. All such complaints will be treated as appeals to the DA.

The GRO has to give the complainant an Action Taken Report which should include details on the manner in which the complaint was dealt with. The GRO must also identify the reasons that led to the grievance in the first place and the person or office responsible for the default. The GRO must also ensure that departmental action is taken against the office or individual on account of whose deficiency, negligence, or malfeasance the grievance has arisen.

The GRO can recommend the imposition of penalties on defaulting officers. In addition, he/she can also recommend payment of compensation to the complainant. Finally, if there exists prima facie ground for a case under the Prevention of Corruption Act, 1988," the GRO can also recommend relevant action to the DA.

Duties of Grievance Redress Officer

- Provide necessary assistance to citizens in filing complaints.
- Redress grievance within 30 days
- Forward complaints that have not been redressed within 30 days to DA along with details and reasons for non-disposal.
- Identify reasons for occurrence of grievance and fix responsibility on person or office responsible.
- Ensure action is taken as per conduct rules and departmental procedures against office or individual responsible for deficiency, negligence or malfeasance.

Time-frames specified under the Bill	
Acknowledgment of Complaint	Within two days
Redress of complaints by GRO	Within 30 days from the date of receipt of the complaint
Filing of appeal before Designated Authority	Within 30 days from the receipt of the decision of the GRO or expiry of the period with which ATR was
Disposal of appeals and forwarded complaints by Designated Authority	Within 30 days from its receipt
Urgent Appeals	Within the same day or before the date on which the cause of action may cease to exist, not beyond 30 days.
Delivery of copy of DA's decision to parties	Within five working days from the date of the decision.
Filing of appeals before the DA, SGPRC and CGPRC	Within 30 days from the date of the decision.
Delivery of copy of SPGRCs and CPGRCs decision to parties	Within fifteen days from the date of the decision.
Disposal of appeal before SPGRC and CPGRC	Within 60 days from the date on which the appeal was filed.
Disposal of urgent appeals by SPGRC and CPGRC	Within the same day or before the date on which the cause of action may cease to exist, but not beyond 15 days.

Analysis

- *Identifying the GRO when the service is provided by a senior officer:* In the case of human rights institutions and Information Commissions for instance where the senior most officials i.e. Chairperson, Members, or Commissioners provide the primary 'service' (eg. The Information commissioners take decisions on appeals and hence are the primary service provider), identifying a GRO may prove difficult. One option could be to nominate the Chairperson as the GRO but here too there may be difficulties including the practical challenge of time and availability.

3.2. Information and Facilitation Centres

To facilitate complaint registration, the Bill requires every public authority to establish an Information & Facilitation Centres. The bill proposes a range of mechanisms that the centers can use to enable complaint registration. These include: establishment of customer care centres, call centres, help desks, and a people's support centre.

Analysis

- *Too many centers resulting in cumbersome processes:* The presence of multiple centers at different levels of government makes it cumbersome for citizens to approach the authority, access the redress mechanism, and track complaints. In fact, many activists, most notably the NCPRI have argued against this system recommending, instead, a single-window facilitation centre to receive complaints and forward them to the appropriate Grievance Redress Officers.⁴ It is imperative to have such a system in place so as to make the right to grievance redress accessible. However, a single window facilitation system may hinder handling of urgent complaints as it adds one more layer of red tape while the complaint makes its way to the relevant GRO.

4. Complaints Process and Appeals Mechanism

The first level of redress for a citizen who has not been provided goods or services in accordance with the Citizen's Charter or has a grievance related to the functioning of the authority is before a Grievance Redress Officer (GRO) within the public authority. Thereafter, the citizen may file an appeal against the decision of the GRO before a Designated Authority (DA) outside of the public authority. Appeals related to the decisions of the DA that fall within the jurisdiction of the Central Government or State Government can be made before the

⁴ NCPRI, "Comparison of clauses- Draft Govt Citizen's Right to Grievance Redress Bill and the NCPRI Draft Grievance Redress Bill", and "NCPRI Note on Draft Citizens Right to Grievance Redress Bill" at <http://righttoinformation.info/ncpri-public-consultations-on-the-lok-pal-bill/public-consultations-on-collective-and-concurrent-lokpal-anti-corruption-and-grievance-redress-measures-by-the-ncpri-nehru-memorial-museum-and-library-and-inclusive-media-4-change-csds/>

CPGRC or the SPGRC, respectively. The Bill provides for a third appeal against the decision of the SPGRC and the CPGRC before the Lokayukta and Lokpal, respectively.

4.1. First appeal before Designated Authority (DA)

A “Designated Authority” who is an officer or authority outside the concerned public authority and is above the rank of the GRO has been vested with the authority to hear an appeal filed by any individual aggrieved by the decision of the GRO or for not having received the Action Taken Report in respect of his/her complaint. Each appeal or forwarded complaint should be disposed by the DA within 30 days of its receipt. However, appeals of an urgent or immediate nature must be addressed “within the same day of the receipt of the appeal or before the date on which the cause of action may cease to exist...” but not beyond 30 days. The bill vests the DA with the powers of a civil court under the Code of Civil Procedure. However, the DA is not bound by the procedure under the Code and is expected to abide by the principles of natural justice when hearing appeals.

The DA can impose penalties and award compensation to the complainant while deciding an appeal against an officer “for acting in a mala fide manner or having failed to discharge their duties without any sufficient and reasonable cause” after giving the officer an opportunity to be heard. The DA can also issue directions to officers of the public authority to take steps to secure compliance with the Citizen’s Charter. In the event that the DA is of the view that the grievance indicates a corrupt practice under the Prevention of Corruption Act, 1988, he/she must record evidence in support of this conclusion and initiate proceedings against the officer concerned or refer it to appropriate authorities for cognizance.

Analysis

- *Risk of impinging on institutional autonomy:* A previous version of the Bill had vested the Head of the Department of the public authority with the task of hearing appeals against the orders of the GRO. This had been challenged by the National Campaign

for People's Right to Information (NCPRI) on grounds that this would lead to an obvious conflict of interest. They made this argument based on the experience of the RTI where the first appellate authority sits within the department and "often endorses the decision of the PIO, irrespective of merit".⁵

While the DA's position has been created in response to the above criticism, it is not clear how this will work with respect to autonomous public institutions or private entities that have entered into a memorandum of understanding with the government. To explain this provision it will allow a designated authority, selected by the executive to interfere with the functioning and working of human rights institutions whose purpose is to monitor the State. How appropriate is this when most of these institutions have been created to monitor government action? Who will be the designated authority for authorities such as the Central and State Information Commissions? In sum, this new provision runs the risk of legitimizing State interference in the working of autonomous institutions that come within the definition of "public authority".

4.2. Central Public Grievance Redressal Commission and State Public Grievance Redressal Commissions

4.2.1. Composition and Appointment

As has been mentioned, the Bill provides for SPGRCs and CPGRC to be established by State Governments and the Central Government, respectively, in order to hear appeals against decisions of the DA; and to look into complaints and pass binding decisions. The SPGRC and CPGRC will be comprised of a Chief Commissioner and a maximum of ten Commissioners.

⁵ NCPRI, "Substantive Differences Between The NCPRI And Government Grievance Redress Bill", <http://righttoinformation.info/ncpri-public-consultations-on-the-lok-pal-bill/public-consultations-on-collective-and-concurrent-lokpal-anti-corruption-and-grievance-redress-measures-by-the-ncpri-nehru-memorial-museum-and-library-and-inclusive-media-4-change-csds/>

Among the Commissioners, at least one each should be from amongst Scheduled Castes, Scheduled Tribes, and Women. The Chief Commissioners and Commissioners of the Central Commission and the State Commissions are to be appointed by the President and the Governor, respectively based on the recommendation of a high powered Selection Committee.

	CPGRC	SPGRC
Selection Committee	Prime Minister, Leader of Opposition in the Lok Sabha, and a sitting judge of the Supreme Court nominated by the Chief Justice of India	Chief Minister, Leader of Opposition in the Legislative Assembly, and a sitting judge of the High Court nominated by the Chief Justice of the High Court
Qualification of Commissioners	Should either be or have been: <ul style="list-style-type: none"> • A Secretary rank officer of the Central Government, or • Chief Justice of a High Court or Judge of the Supreme Court, or an eminent person with at least 20 years work experience in the social sector and a post graduate degree in a relevant subject.	Should either be or have been: <ul style="list-style-type: none"> • An officer of the State Government having held the post of Secretary or Principal Secretary to that government, or • A District Judge for at least 10 years, a judge of the High Court of the State, or <ul style="list-style-type: none"> • an eminent person with 15 years work experience in the social sector with a postgraduate degree in a relevant subject

The Selection Committees at the Centre and State will carry out selections based on a list of eligible candidates - five for each vacancy - recommended by a search committee. The Selection Committee has also been empowered to regulate its own procedure.

The salary and allowances of the Chief Commissioner and Commissioners of the Central Commission shall be the same as that of the Chief Election Commissioner and Election

Commissioner, respectively. The salary and allowances of the Chief Commissioner and Commissioners of the State Commission shall be the same as that of the Election Commissioner and Chief Secretary of the State, respectively.

Analysis

- *Composition of the search committee left ambiguous:* The composition of the search committee has not been specified and it is left to the Central Government and State Governments to appoint members to this Committee. Considering the nature of functions to be discharged by these Commissions, it is imperative that the appointment process be non-political, transparent, and fair. Crucially, the executive should not control the appointment process. However, by stating that the Selection Committee can only choose from among the names recommended by a search committee constituted by the government, the reins are in the hands of the executive.
- *Serving officers on the commission can be counter-productive:* These Commissions are meant to function as independent authorities that will decide appeals and also look into complaints filed by citizens. The presence of a serving Central or State level officer in these Commissions could compromise their autonomy and affect public perception of their independence. Serving officers should be excluded from the composition.
- *Limited availability of qualified personnel:* The Bill also provides for the appointment of a Chief Justice of a High Court to the Central Commission. As is known, upon retirement the Chief Justices' of High Courts are invariably appointed as the Chairpersons of State Human Rights Commissions (SHRCs). Despite this, the position of the Chairperson is lying vacant in 9 out of 20 SHRCs due to non-availability. It is better to have a wider pool of judges to choose from and hence the clause should be

revised to provide for any former judge of the High Court instead of confining it to only the Chief Justice of a High Court.

4.2.2. Functions of the Commission

Appeals can be filed on two grounds – against the decision of the DA or if the decision of the GRO has not been received within the stipulated time frame.

Both the Central and State Commissions have been vested with original jurisdiction with respect to complaints filed on the following grounds by a person:

1. Unable to submit an appeal to DA
2. Refused redress of grievance under the Act
3. Whose complaint has not been disposed within specified time limit
4. Denied access to Citizens Charter because it was not created or is inadequate or not widely disseminated.
5. On any other matter relating to registration and redress of complaint or appeal.

Both commissions can take suo motu notice of failure to deliver goods and services in accordance with the provisions of the Bill and can refer it for disposal by the HOD. The HOD must then send an Action Taken Report within 30 days to the Commission.

The Commissions can also take suo motu notice and inquire into a matter if there are reasonable grounds to do so. The Commissions can also refer grievances that indicate a corrupt act or practice in terms of the Prevention of Corruption Act, 1988 to the appropriate authorities. The burden of proof in appeal proceedings related to non-redressal of grievance is upon the GRO who denied the request.

Analysis

- *Potential duplication of appeals:* The Bill already provides a mechanism according to which the GRO will have to forward complaints that have not been disposed within 30 days to the DA and this will be deemed to be an appeal before the DA. The above provision gives citizens another option whereby they can approach the State Commission or the Central Commission if their complaint is not resolved within the stipulated time limit. In the absence of a clause that advises how overlaps maybe dealt with, it is possible that the same matter may be looked into by the DA as well as the State or Central Commission. Further, in order to avoid confusion and loss of time and resources, the Commission should not entertain a matter that is being looked into by a grievance redress authority established under another Act. An express clause stating that they will not take cognizance if the matter is before any other Commission or grievance redress authority established under any other law should be included.

4.2.3. Directions that can be passed by the Commissions

The Commissions have been empowered to direct a “public authority to take such steps as may be necessary to secure compliance with the provisions of the Citizens Charter” and undertake “timely creation, updation and wide dissemination of the Citizens Charter”. If they come across any instance involving an officer of the public authority that would constitute a corrupt act or practice as per the Prevention of Corruption Act 1988, they can record evidence and refer the matter to appropriate authorities for action. They can also impose a lump-sum penalty against persons who are responsible for failure in delivery of service or Grievance Redress Officers for their malafide action which may extend to Rs 50,000. The penalty is to be recovered from the salary of the official. The appellate authorities can also order that a portion of the penalty be paid as compensation to the appellant. The orders passed by the Commissions are enforceable

by them just like a decree or order made by a court and in case of their inability to execute it can be sent to a court for the purpose of execution.

The proceedings before the Commissions are deemed to be judicial proceedings within the meaning of Sections 193 (Punishment for false evidence) and 228 (Intentional insult or interruption of public servant sitting in judicial proceeding).

Powers available to functionaries under the Bill				
	GRO	DA	SPGRC	CPGRC
Powers of a civil court to carry out functions		✓	✓	✓
Power to direct public authority to take necessary steps to secure compliance with Citizens Charter		✓	✓	✓
Power to direct timely creation, updation, and dissemination of Citizens Charter			✓	✓
Power to impose penalty	Can only recommend penalty to be imposed to the DA	✓	✓	✓
Power to award compensation	Can only recommend to the DA	✓	✓	✓
Referral to DA or appropriate authority if grievance indicates corrupt practice in terms of Prevention of Corruption Act, 1988.	✓		✓	✓

4.3. Third Appeal before the Lokpal and Lokayuktas

According to Clause 47 of the Bill, appeals against the decisions of the SPGRC and the CPGRC will lie before the Lokpal and Lokayukta constituted under the Lokpal and Lokayuktas Act, 2011, respectively. The time frame within which the appeals must be filed will be prescribed by the appropriate government.

Analysis

- *Futility of a third appeal:* This provision could delay the resolution of grievances and also overburden the Lokpal and Lokayuktas whose mandate is very different from that of authorities under this Bill. A third appeal to the Lokpal or Lokayuktas will unnecessarily prolong the redressal of grievance.

5. Conclusion

The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 holds a lot of promise. It has the potential to revolutionize the public service delivery system in India and empower citizens to demand their right to time-bound delivery of services. Unlike most State laws, where the appellate authorities are also within the government, the fact that the Bill provides for an independent Commission, holds out a hope that those who do not comply with the obligations will be held accountable.

However, issues such as the infrastructure and machinery required for implementation of the Act, jurisdictional clarity of the Commissions, implications on States with their own laws on the subject, and the absence of clear definitions of “service” and “public authority” need to be addressed. The link between public authorities and service needs to be drawn as at present the Bill will also apply to authorities who may not be providing any direct services to citizens.

Further, while it makes individual officers responsible for failure in service delivery, it fails to acknowledge the role of higher authorities in providing essential infrastructure and resources that are a pre-requisite for ensuring timely delivery of goods and services. It will be a travesty if those responsible for the overall administration are not held accountable.

Another concern is that given the resources constraints, the obligations placed may result in the authorities spending more time attending to grievances than discharging their functions. A balance is possible only if they are adequately staffed.

The success of the grievance redress mechanism will also depend on its physical and geographical accessibility. This is addressed to an extent by the Bill as it mandates that GROs be appointed at district, sub-district, municipal, and Panchayat levels. However, the absence of a single-window clearance system could complicate the access.

In conclusion, there is a definite need for wider public debate and discussion on the implication of several provisions of this Bill before it is passed in Parliament.