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**State Legislation on Right to Time-Bound Delivery of Service:**

**An Overview**

*Swagata Raha\**

\* swagataraha@gmail.com



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**Accountability Initiative**, Centre for Policy Research, Dharam Marg, Chanakyapuri, New Delhi – 110021  
Tel: +91 11 2611 5273-76, Fax: 2687 2746, Email: [info@accountabilityindia.org](mailto:info@accountabilityindia.org)  
[www.accountabilityindia.in](http://www.accountabilityindia.in)

## State Legislation on Right to Time-Bound Delivery of Service:

### An Overview

#### 1. Introduction

In 2010, the Government of Madhya Pradesh passed the Public Service Guarantee Act or *Lok Sewaon Ke Pradan Ki Guarantee Adhiniyam*. In 2011, eight more States<sup>1</sup> enacted similar legislation guaranteeing citizens the right to public services within a stipulated time frame. Similar legislation is on the anvil in at least eight other states. At the national level, the Department of Administrative Reforms and Public Grievances has circulated a Draft Citizens Right to Grievance Redress Bill, 2011, for comments and suggestions.

These Acts come in the wake of a widespread recognition that public services in India are failing. By clearly articulating citizen entitlements and building internal checks and balances through effective grievance redressal mechanisms, they represent an effort by State governments to build a new model to address service-delivery failures. This model is summarized in the box below.

#### Key Provisions of State Laws on Public Service Delivery

- Right to service within a specified time limit.
- Two-level appeals mechanism to seek relief for denial of or failure to provide service.
- Fining of government officers responsible for causing delay in delivery of service without sufficient and reasonable cause.
- Compensation that *may* be paid to the applicant of the service from the fine.

This brief offers a short summary of the key provisions of these Acts across different states.

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<sup>1</sup> The eight 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*) and Uttarakhand (*Uttarakhand Right to Services Act, 2011*).

## 2. Unpacking the “Right to Service”

### 2.1 Seeking the Right

The right to service has been uniformly defined under the various Acts to mean the “right to obtain the service within the stipulated/given time limit”. The right has thus been confined to *receiving services in a time-bound manner*. Specifically, these Acts entitle citizens to relief in the event that:

- Services are not delivered within the stipulated time frame.
- Services are denied.

The term “service” has been defined to mean a service notified by the State Government under the respective laws. The nature and type of services varies widely across Acts. For instance, the Delhi Government has notified 44 services to be provided by 18 authorities, while the Punjab Government has notified 67 services. These services include: new electricity connection (domestic); sanction of water supply; registration of eating houses; issuance of ration cards, birth certificates, death certificates, income certificates, and driving licenses; passport verification; and booking of parks and community halls.<sup>2</sup>

#### 2.1.1 State Highlights

- **Delhi:** The right guaranteed and the procedure stipulated under the Delhi Act is markedly different from all the other laws. Under the Delhi Act, citizens are entitled to only one right – that of timely service – and are entitled to compensation for delays. However, there are no provisions for compensation in the event of denial or non-provision of service. Interestingly, the Act mandates that compensation be

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<sup>2</sup> Government of National Capital Territory of Delhi, Gazette notification of revised Schedule of citizen services under the Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011, 1<sup>st</sup> November 2011, <<http://www.delhi.gov.in/wps/wcm/connect/457a060048e95a8990009fb2120f29ae/Gazette+Notification+of+revised+Schedule+of+Citizen+Services+w.e.f+01+November%2C+2011.pdf?MOD=AJPERES&lmod=1653824699&CACHEID=457a060048e95a8990009fb2120f29ae&lmod=1653824699&CACHEID=457a060048e95a8990009fb2120f29ae>>. and “Punjab Govt notifies Right to Service Act”, *Punjab Newslite Network*, 26 July 2011, at <<http://www.w3c.org/TR/1999/REC-html401-19991224/loose.dtd>>.

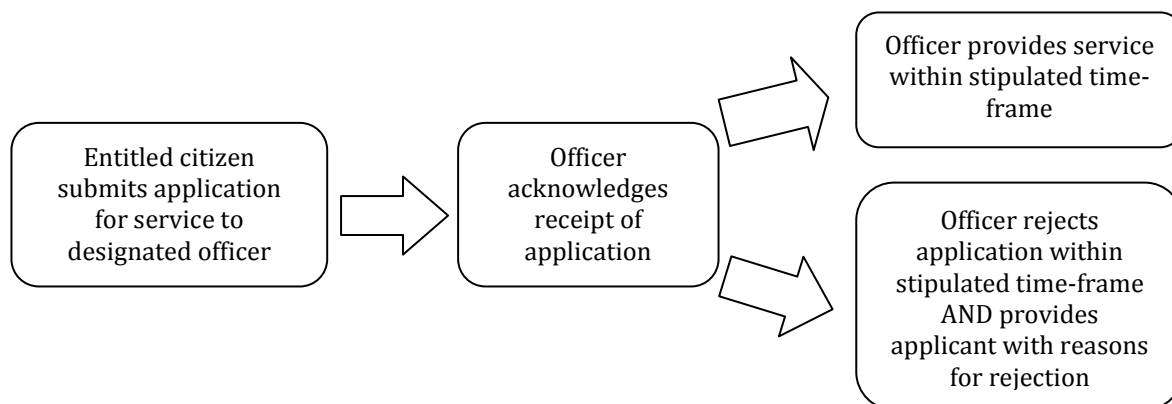
provided on demand. Thereafter, the competent officer (designated authority)<sup>3</sup> is required to identify the officer responsible for delay and undertake an inquiry to determine liability.

- **Jammu and Kashmir (J&K):** The J&K Act expands the definition of the Act beyond the denial of service to guarantee service quality. The entitlement guaranteed includes: the transparent provision of services and compensation in the event of non-provision or deficient service delivery.<sup>4</sup>

### 2.1.2 Procedure for Accessing the Right to Service

Figure 1 lays out the broad procedure for accessing the right to service under various State Acts. In case an officer rejects an application for service or delays the provision of the service, citizens are entitled to file an appeal. The mechanism for filing appeals is discussed in Section 2.2 below.

**Figure 1: Procedure to access services as specified in State laws**



<sup>3</sup>According to Section 2 of the Delhi Act, “competent officer” refers to an officer appointed by the Government or local body, who has the power to impose compensatory cost to the government official found to be defaulting or delaying the delivery of services in accordance with [the] Act. Under Section 9 (1) of the Act, the competent officer cannot be below the rank of a Deputy Secretary (or its equivalent in case the officer is appointed from a local body).

<sup>4</sup> An Appellate Authority is an officer or body notified as such by the State government, who is empowered to reject appeals or order the designated officer to provide the service.

## ***2.2 Appeals Mechanism***

### *2.2.1 The First Appeal*

#### *2.2.1.1 Grounds for First Appeal*

Under all the State Acts except the Delhi Act, citizens are entitled to appeal against the government official who delayed or denied the provision of the public service. This appeal must be filed with the First Appellate Authority (FAA) within thirty days of rejection or the expiry of the time-limit, as the case may be (see Table 1). The FAA is an official of the department responsible for providing the service designated to follow up on appeals.

Under the Delhi Act, citizens are compensated without going through an appeal process. However, a government official aggrieved by an order fixing liability on the officer has the right to appeal before an Appellate Authority. The appeal must be filed within thirty days of the receipt of the order.<sup>5</sup>

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<sup>5</sup>*Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011*.Section 11(1).

**Table 1: Grounds for First Appeal**

State	Rejection of application for service	Failure to acknowledge receipt of application	Service not provided within stipulated time	Delay beyond stipulated time-limit	Deficiency in quality of service provided
Bihar	✓		✓	✓	
Himachal Pradesh	✓	✓	✓		
Jammu & Kashmir	✓		✓		✓
Madhya Pradesh	✓	✓	✓		
Punjab	✓		✓		
Rajasthan	✓		✓		
Uttarakhand	✓		✓		
Uttar Pradesh	✓	✓	✓		
Delhi	No reference to appeal by entitled citizen, but Government employee aggrieved by order of competent officer can file an appeal before the AA				

### 2.2.1.2 Functions of First Appellate Authority (FAA)

The FAA is empowered to order the designated officer to provide the service or reject the appeal. The time-limit within which the FAA has to act after receiving the appeal ranges from thirty to forty-five days for most states, but is not specified in the case of Bihar, Madhya Pradesh, and Rajasthan. There are many state variations to the first appeal process (see Table 2).

**Table 2: Action that can be taken by First Appellate Authority**

<b>State</b>	<b>Can order designated officer to provide service</b>	<b>Can order officer to remove deficiency in service</b>	<b>Can impose penalty</b>	<b>Can reject appeal</b>	<b>Can set aside order passed by designated officer</b>	<b>Can remand case back to designated officer</b>	<b>Can pass any other order as she deems fit and proper</b>	<b>Time limit within which FAA has to act after receiving appeal</b>
Bihar	✓		✓	✓				Not mentioned
Himachal Pradesh	✓			✓				30-45 days
Jammu & Kashmir	✓	✓		✓				45 days
Madhya Pradesh	✓			✓				Not mentioned
Punjab	✓			✓				30 days
Rajasthan	✓			✓				Not mentioned
Uttarakhand	✓			✓				30 days
Uttar Pradesh	✓			✓				Not mentioned
Delhi					✓	✓	✓	30 days

### *2.2.1.3 State Highlights*

- **Bihar:** Empowers the FAA to impose a penalty on the official if it deems fit.<sup>6</sup> It also contains a provision through which the State Government can send applications it received pertaining to non-compliance of the Act to the Appellate Authority.
- **Delhi:** The Appellate Authority, or Officer, can set aside the order passed by the competent officer; remand the case back to that officer, and direct that it be decided afresh. The officer is also empowered to pass any other order as he/she deems fit and proper.
- **Jammu & Kashmir:** Provides for the removal of deficiency in service.

## *2.2.2 The Second Appeal*

### *2.2.2.1 Grounds for Second Appeal and Functions of Second Appellate Authority*

Like the FAA, the Second Appellate Authority (SAA),<sup>7</sup> is an officer notified by the State Government for each service. The appellant or the designated officer may file a second appeal in all states (except Delhi) in the following circumstances:

- A grievance against an order passed by the FAA and
- Non-compliance with the FAA's order by the designated officer.

For most Acts, the second appeal must be filed within sixty days of issuance of the FAA's order, rejection of first appeal, or expiration of the time specified by FAA to delivery service, as the case may be.

As in the first appeal process, there are state variations (see Table 3) and not all states specify a time-limit within which the SAA should take action.

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<sup>6</sup> While in Bihar both the First and Second Appellate Authorities have discretion to impose fines, this is not the case in other states, where only the Second Appellate Authority can do so.

<sup>7</sup> The Bihar Act refers to the Second Appellate Authority as the Reviewing Authority (RA).



**Table 3: Functions of Second Appellate Authority/Reviewing Authority**

State	Can hear appeals by aggrieved persons (applicant/ designated officer) against order/ decision of FAA	Can look into non-compliance with order of FAA to provide service	Can look into non-compliance with order of SAA to provide service	Can impose penalty
Bihar	✓	✓		✓
Himachal Pradesh	✓	✓	✓	✓
Jammu & Kashmir	✓	✓		✓
Madhya Pradesh	✓	✓		✓
Punjab	✓	✓		✓
Rajasthan	✓	✓		✓
Uttarakhand	✓	✓		✓
Uttar Pradesh	✓	✓		✓
Delhi	No such provision			

### 2.2.2.2 State Highlights

- **Bihar, Madhya Pradesh and Rajasthan:** Give discretion to the SAA to impose a penalty on the FAA if the FAA fails to decide an appeal within the stipulated time-limit.
- **J&K:** Along with the discretion clause mentioned above, the J&K Act also stipulates that the SAA must decide the appeal within forty-five days of the appeal being filed.

### 2.2.3 Opportunity of Being Heard

The opportunity to be heard varies widely by State. Jammu and Kashmir, Punjab, and Uttarakhand provide the appellant and the designated officer the opportunity to be heard by the FAA before it passes any order. Punjab and Uttarakhand go a step further by

providing for a hearing to the appellant before the rejection of an appeal by the SAA. In Bihar, the designated officer and FAA must be given a hearing before any penalty is imposed on them.

In Delhi, the government official against whom the order fixing liability is passed has the right to respond to the order within seven days of its receipt.

#### *2.2.4 Burden of Proof*

To justify the delay or denial of service, the Bihar and Himachal Pradesh Acts place the burden of proof either with the designated officer or the AA. There is no mention of a burden of proof in the legislation of other states.

### ***2.3. Right to Service Commission***

The states of Punjab and Uttarakhand have provided for a Right to Service Commission to be constituted by the State Government. The functions of the Commission include ensuring of “proper implementation” of the Act and making “suggestions to the State Government for ensuring better delivery of services.” In furtherance of this, these Commissions have been tasked with the responsibility of entertaining and disposing revisions of orders passed by the SAA and have also been equipped with *suo motu* powers to look into failure to deliver service and refer the matter to authorities under the Act for disposal. Civil court powers of inquiry have been provided to the Commissions to enable them to undertake inquiry. Further, they can inspect offices responsible for delivery of services including the offices of FAA and SAA, recommend departmental action against officers who have failed to discharge their functions and make recommendations for transparent and easier procedures and services that should be notified. Under the Punjab Act, the Commission can also issue instruction that will guide the working of the authorities under the Act.

The State Governments are required to consider recommendations made by the Commission and submit an action taken report within 30 days. If they reject a recommendation, they must indicate the reasons for not implementing it in the report. The Annual Report of the Commission containing its recommendations and action taken report of the Government should be tabled before the Legislative Assembly.

#### ***2.4 Penalties***

All State Acts prescribe penalties for denial or delay in providing services. There are many state variations (see Table 4). All penalties are to be borne by the officers in their personal capacity.

**Table 4: Penalties Imposed in case of Violation of Right to Service**

Penalties in case of:	Quantum	State								
		BH	DL	HP	J&K	MP	PB	RJ	UK	UP
<b>Failure to provide services without sufficient and reasonable cause</b>	Rs. 500-Rs. 5,000					✓	✓	✓	✓	✓
	Rs 250 per day or Rs 5,000, whichever is less				✓					
	Rs. 1,000 – Rs. 5,000			✓						
	Amount not specified	✓								
<b>Delay in providing services</b>	Rs 250 per day or Rs. 5,000, whichever is less				✓	✓	✓	✓	✓	✓
	Amount not specified	✓								
	Rs. 1,000- Rs 5,000			✓						
	Rs. 10 per day for the period of delay subject to maximum of Rs. 200 per application (payable to citizen as compensatory cost)		✓							
<b>Deficiency of Service</b>	Rs 2,000				✓					
<b>Failure to decide appeal within stipulate time limit without sufficient and reasonable cause</b>	Rs. 500–Rs. 5,000					✓		✓		✓
	Amount not specified	✓								

### 2.4.1 State Highlights

- **Bihar, Madhya Pradesh, Rajasthan, and Uttar Pradesh:** Have prescribed penalties in the event that the FAA fails to decide the appeal within the stipulated time-limit.
- **Delhi:** The only penalty under the Delhi Act is for delay in the provision of service. The failure to provide service does not constitute a violation of the right to service.
- **J&K:** Specifies a penalty for deficiency in quality of service.

### 2.4.2 Compensation

Under the Acts, compensation is provided to the aggrieved citizen at the discretion of the appellate authorities. The Delhi Act entitles citizens to seek compensatory cost in the event of delay in delivery of service.<sup>8</sup> Under Section 9(3), the competent officer is duty-bound to pay the compensatory cost to the citizen on demand. Thereafter, within fifteen days of such payment, a preliminary inquiry is to be completed by the competent officer and a notice is to be issued to the responsible government official, asking why the compensatory cost paid should not be recovered from him.<sup>9</sup> The principles of natural justice have to be complied with before any orders imposing financial liability are passed against the government official.

### 2.4.3 Action against Officers

In all States except Delhi and Bihar, the SAA can recommend disciplinary action under applicable service rules. According to the Madhya Pradesh, Uttar Pradesh, and Rajasthan Acts, a similar recommendation can also be against the FAA. Under the Bihar Act, non-compliance with the orders of the Appellate Authority or the Reviewing Authority is considered tantamount to misconduct. These officers are thus liable for disciplinary action.

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<sup>8</sup> Section 8 of the Delhi Act states that at the time of delivery of service, the citizen can claim for compensatory cost if delay in delivery has taken place.

<sup>9</sup> *Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011.*

Under the Delhi Act, administrative action can be taken only against habitual offenders after giving them a show cause and hearing. Emphasizing the objective of the Act, Section 12(1) of the Delhi Act states that defaults in delivering services in a time-bound manner will “not be counted towards misconduct as the purpose and object is to sensitize the public servant towards the citizen and to enhance and imbibe a culture to deliver time bound services to the citizens.”

### ***2.5 Revision of Orders***

Six states have included the matter of the revision of orders in their respective Acts. In Punjab and Uttarakhand, any person aggrieved by an order of the SAA can apply for a revision of the order to the Right to Service Commission or an officer nominated for this purpose. In contrast, only the designated officer or FAA aggrieved by an SAA order can apply for a revision of the order in Jammu and Kashmir, Madhya Pradesh, Uttar Pradesh, and Rajasthan. In particular, in Jammu and Kashmir, when the SAA order imposes a fine, the aggrieved officer or FAA can apply for a revision to a Tribunal constituted under the *Jammu & Kashmir Special Tribunal Act, 1988*; in Madhya Pradesh, Uttar Pradesh, and Rajasthan, they can apply to an officer nominated for the purpose by the Government.

### ***2.4 Bar of Jurisdiction of Courts***

Under the Acts of Bihar, Himachal Pradesh, and Punjab, civil courts do not have the jurisdiction to entertain suits or other proceedings relating to the right of service as covered under the Act.

### 3. Conclusion

By expressly recognizing the rights of citizens as service recipients, these Acts have transformed the equation between the citizen and the State. The implementation of these laws, however, has to be closely monitored. The role of the appellate authorities is critical here. Considering that these authorities are to be notified by the State and are from within Government Departments, their independence is suspect. Except Delhi, none of the other State laws impose penalty for delay unless it is shown that the delay was unjustifiable. In the absence of specified grounds that justify delay, wide discretion has been vested with executive authorities to make this determination. Further, if the appeals process is long-drawn and tedious, citizens may be discouraged from accessing it for grievance redress.

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