

[JHARKHAND ACT 25, 2011]

Department of Information Technology

Jharkhand Electronic Service Delivery Act 2011

An

Act

to provide for electronic delivery of public services by the Government to all persons to enhance transparency, efficiency, accountability, accessibility and reliability in delivery of such services and for matters connected therewith or incidental thereto.

Be it enacted by Jharkhand Legislative Assembly in the Sixty-Second year of the Republic of India as follows:

CHAPTER I**PRELIMINARY****1. Short title, extent, commencement and application -**

(1) This Act may be called the Jharkhand Electronic Service Delivery Act, 2011.

(2) It extends to the whole of the state of Jharkhand.

(3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. Definitions. - (1) In this Act, unless the context otherwise requires, —

(a) “access” shall have the meaning assigned to it in section 2(1)(a) of the Information Technology Act, 2000;

(b) “Government” means as respects any matter, - the State Government.

(c) “competent authority” means the Head of every Department of the Government as notified by the Government from time to time and may include,

inter alia, the Secretaries to the Government, the Heads of the Government, and the Heads of Government Organisations and Government Bodies;

- (d) "electronic service delivery" means the delivery of services through electronic mode including, *inter alia*, the receipt of forms and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money;
- (e) "electronic mode" shall include any method, process or application to deliver any service electronically;
- (f) "law" includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under Article 240, Acts enacted as President's Act under sub-clause (a) of clause (1) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;
- (i) "notification" with its grammatical variations and cognate expressions means a notification published in the Official Gazette;
- (j) "person" shall include any company or association or body of individuals, whether incorporated or not;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "public authority" means any authority or body established or constituted by law and includes, *inter alia*, any other body owned and controlled by the Government;
- (m) "public service" means any service provided by the Government either directly or through any service provider; which shall include include, *inter alia*, the receipt of forms and applications, issue or grant of any license, permit or certificate, sanction or approval and the receipt or payment of money by whatever name called in a particular manner;
- (n) "rule" means a rule made by the Government under this Act;
- (o) "service provider" means any individual, agency, company, partnership firm, sole proprietor firm or any such other body or agency which has been authorised by the Government to offer services through electronic mode;
- (p) "State Commission" means the State Electronic Service Delivery Commission established under sub section (1) of section 4;

(q) "State Chief Commissioner" means the Chief Commissioner of the State Electronic Service Delivery Commission appointed under sub-section (2) of section 4;

(r) "State Commissioner" means the Commissioner of the State Electronic Service Delivery Commission appointed under sub-section (2) of section 4.

CHAPTER II

ELECTRONIC SERVICE DELIVERY

3. Duty of the Government to deliver all public services through electronic mode. –

(1) Every competent authority of the Government shall publish as prescribed within one hundred and eighty days from the commencement of this Act -

- (a) the public services which are to be delivered through electronic mode;
- (b) the date by which each such service shall be made available through electronic mode;
- (c) the manner of delivery of such services and their service levels;
- (d) the Grievance Redressal mechanism available to any person aggrieved about the outcome of any request made by him for such service through electronic mode;
- (e) any other information as may be prescribed;

and, thereafter, review and update these publications every year.

(2) Notwithstanding anything stated above, all public services shall be delivered in electronic mode within 5 years from the commencement of this Act;

Provided that this period may, for reasons to be recorded, be extended for a further period not exceeding 3 years by the Government;

Provided further that if it is not feasible to render a public service through electronic mode, then the Government shall issue a notification to that effect.

(3) The competent authority, while introducing electronic services, shall ensure that -

- (a) the processes and forms relating to such services are simplified initially and periodically thereafter ;
- (b) assisted access to such electronic services is also made available.

4. The Government may, from time to time, prescribe electronic governance standards as may be necessary for ensuring interoperability and security.

CHAPTER III

THE STATE ELECTRONIC SERVICE DELIVERY

4. The State Electronic Service Delivery Commission

(1) State Government shall, by notification in the Official Gazette, constitute a body to be known as the Jharkhand Electronic Service Delivery Commission hereinafter referred to as State Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The State Commission shall consist of-

- (a) the State Chief Commissioner; and
- (b) such number of State Commissioners, not exceeding two, as may be deemed necessary.

(3) The State Chief Commissioner and the State Commissioners shall be appointed by the State Government.

(4) The general superintendence, direction and management of the affairs of the State Commission shall vest in the State Chief Commissioner who shall be assisted by State Commissioners.

(5) The State Chief Commissioner and the State Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media, or administration and governance and have worked as Secretary or an equivalent level to Government of India either in the Central Government or in the State Government.

(6) The headquarters of the State Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Commission may, with the previous approval of the State Government, establish officers at other places in the State.

5. Term of Office and conditions of service

(1) The State Chief Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment.

(89)

(2) Every State Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment.

Provided that every State Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Commissioner in the manner specified in sub-section (3) of section 4;

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

(3) The State Chief Commissioner or State Commissioner, may, at any time, by writing under his hand addressed to the Governor, resign from his office;

Provided that the State Chief Commissioner or a State Commissioner may be removed in the manner specified under section 6.

(4) Salary, allowances and other terms and conditions of service of the Chief State Commissioner and State Commissioners. – The salary and allowances payable to, and other terms and conditions of service including pension, gratuity and other retirement benefits of, the Chief State Commissioner and State Commissioners shall be such as may be prescribed by the State Government.

6. Resignation and removal. - (1) The State Chief Commissioner or State Commissioner may, by notice in writing under his hand addressed to the State Government, resign his office:

Provided that the said State Chief Commissioner or State Commissioner shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person, duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earliest.

(2) The State Chief Commissioner or State Commissioner shall not be removed from his office except by an order by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court in which the State Chief Commissioner or the State Commissioner concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

(3) The State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the State Chief Commissioner or such State Commissioner.

7. Orders constituting State Electronic Service Delivery Commission to be final – No order of the State Government appointing any person as the Chief Commissioner or Commissioner of the State Electronic Service Delivery Commission shall be called in question in any manner and no act or proceeding before the State Electronic Service Delivery Commission shall be called in question in any manner on the ground merely of any defect in the constitution of State Electronic Service Delivery Commission.

8. Staff of the State Electronic Service Delivery Commission. –

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

(2) The officers and employees of the State Commission as the case may be shall discharge their functions under the general superintendence of the State Chief Commissioner.

9. Functions of the State Electronic Service Delivery Commission.

(1) The State Commission shall : -

(a) monitor the implementation of this Act on a regular basis which shall include, *inter alia*:-

- (i) the publication of services to be delivered through electronic mode and adherence to the published timelines, manner of delivery and service levels by the Government;
- (ii) the periodic progress made by the Government towards achieving the delivery of all services through electronic mode in accordance with the provisions of this Act;
- (iii) the simplification of processes and forms relating to delivery of electronic services;
- (iv) the effectiveness of public consultation, feedback and Grievance Redressal Mechanisms;
- (v) the periodic progress made by the Government towards compliance with the applicable electronic governance standards; and

(87)

(b) perform any other function with the previous approval of the Government as may be prescribed by the State Government.

10. (1) The State Commission, shall, prepare, in such form and at such time every year, as may be prescribed, an annual report on the implementation of the provisions of this Act during the previous financial year and forward a copy thereof to the Government.

(2) Each Department shall, in relation to the public authorities within their administrative control, collect and provide such information, as may be prescribed, to the State Commission, as the case may be, and comply with the requirements concerning the furnishing of that information. The information shall include -

(a) till such time as all public services offered by the public authorities under their control have been made available through electronic mode, the plan to achieve compliance to the sub-section (2) of section (3) and the implementation status of the plan published as per sub-section (1) of section (3);

(b) in respect of the year to which the report relates, -

(i) the number of electronic service requests and the total service requests in respect of services that have been made available through electronic mode;

(ii) the number of electronic service requests in response to which service was provided in accordance with the applicable service levels and an analysis of the remaining cases;

(iii) the number of grievances pertaining to the provision of electronic services that were received under the Grievance Redressal Mechanism and an analysis of such grievances and their disposal;

(iv) the steps taken by the competent authority to strengthen the delivery of services through electronic mode in conformity with the provisions of this Act;

(v) the steps taken by the competent authority to ensure availability of assisted access.

(vi) an analysis of the feedback received by the competent authority in respect of the implementation of

various provisions of this Act and in respect of services that have been made available through electronic mode, and the action taken by the competent authority in pursuance thereof;

(c) recommendations for further development, improvement, modernisation, and integration of electronic services across departments and the legal and policy interventions that may be required to improve electronic service delivery;

(d) any other information as the State Commission, may require from time to time.

The State Government, as soon as practicable after the end of each year, cause a copy of the report of the State Commission, referred to in sub-section (1) to be laid before House of the State Legislature.

(3) If it appears to the State Commission, that the practice of a Department in relation to the exercise of its functions under this Act does not conform with the provisions of this Act, it may give a recommendation to Government specifying the steps which ought, in its opinion, to be taken for promoting such conformity.

CHAPTER IV

PENALTIES AND APPEAL

11. (1) Any person may file a complaint in the manner as may be prescribed, before the Competent Authority in relation to non-compliance of the Act and in case of failure by the Competent Authority to redress the complaint, file an appeal to the State Commission.

(2) Where any Competent Authority or his subordinate has without any reasonable cause, failed to comply with the provisions of this Act, within the period specified under sub-section (1) and (2) of section 3, or has knowingly given incomplete, false or misleading information, the State Commission may impose a penalty of upto Rupees five thousand, after giving such Competent Authority or his subordinate a reasonable opportunity of being heard.

12. Procedure and powers of State Commission

(1) The State Commission shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules thereunder, the State Commission shall have powers to regulate its own procedure including the place at which it shall hold its sittings.

(85)

(2) The State Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: -

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (g) dismissing an application for default or deciding it ex parte;
- (h) any other matter which may be prescribed.

CHAPTER V

MISCELLANEOUS

13. Act to have overriding effect. - The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

14. Protection of action taken in good faith. - No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

15. Removal of difficulties. (1) If any difficulty arises in giving effect to the provisions of this Act, Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

(2) Every order made under this section shall, as soon as may be after it is made, be laid before State Legislature.

16. Power of Government to make rules. (1) The Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the manner and form in which public services shall be identified, published and delivered through electronic mode under clause (c) of sub-section (1) of section 3.
 - (b) The manner of identification of the designated officer and the roles and responsibilities of concerned officials responsible for delivery of each service under clause (a) of sub-section (1) of section 3;
 - (c) the Grievance Redressal Mechanism for any person aggrieved about the outcome of the public service requested by him under clause (d) of sub-section (1) of section 3;
 - (d) the modalities and the process of extension of period for any service to be delivered electronically under the first proviso of section (2) of section 3;
 - (e) the process by which it would be determined whether a service is feasible for delivery in an electronic mode under the second proviso of sub-section (2) of section 3;
 - (f) the quality of service delivery, including service levels under clause (c) of sub section (1) of section 3;
 - (g) the mechanism for public consultation and feedback on service prioritization, process simplification and user satisfaction;
 - (h) the manner in which assisted access to electronic services shall be provided to specified categories of users under sub section (3) of section 3;
 - (i) the manner of filing of complaint before the Competent Authority under sub-section (1) of section 11;
 - (j) Salary, allowances and other terms and conditions of service of State Chief Commissioners and State Commissioners under sub section (4) of section 5.
 - (k) Staff of the State Commission and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act under section 8; and
 - (l) preparation of an annual report on the implementation of the provisions of this Act in such form under sub-section (1) of section 10.
- (3) Every notification or rule made by a State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.

झारखण्ड राज्यपाल के आदेश से,

पंकज श्रीवास्तव
सरकार के सचिव-सह-विधि परामर्शी
विधि (विधान) विभाग, झारखण्ड, राँची ।

अधीक्षक, झारखण्ड राजकीय मुद्रणालय, राँची द्वारा प्रकाशित एवं मुद्रित,
झारखण्ड गजट (असाधारण) 703--150+600 ।