



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

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No.471 Dispur, Thursday, 25th October, 2012, 3rd Kartika, 1934 (S.E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
ADMINISTRATIVE REFORMS AND TRAINING DEPARTMENT
DISPUR, GUWAHATI -6.

NOTIFICATION

The 19th September, 2012

No. AR.69/2011/Pt-II/... :- In exercise of the powers conferred by section 15 of the Assam Right to Public Services Act, 2012, (Assam Act No. IX of 2012), the Governor of Assam is hereby pleased to make the following rules, namely :-

Short title and commencement.

- (1) These rules may be called the Assam Right to Public Services Rules, 2012.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions.

- (1) In these Rules, unless the context otherwise requires,
 - "Act" means the Assam Right to Public Services Act, 2012 (Assam Act IX of 2012);
 - "Department" means the concerned administrative department of the Government of Assam;
 - "Section" means Section of the Act.
- (2) The words and expressions used in these rules and not defined but defined in the Act, shall have the same meanings respectively assigned to them in the Act.

Authorization by designated public servant for receiving application.

- (3) The Designated Public servant may, by order, authorize any subordinate officer or employee of the Department to receive the application made by any eligible person to obtain any notified service under the Act and to issue the acknowledgement therefor to the applicant :

Provided that in case any documents as specified in the application found to have not been annexed with the application, then the same shall be clearly mentioned in the acknowledgement and the stipulated time limits shall not be mentioned in such acknowledgements, but on subsequent submission of all the documents as mentioned in the application, the stipulated time limit shall be mentioned in the acknowledgement :

Provided further that, if all the necessary documents as specified in the application have been annexed with the application and the application is found to be complete in all respects, then the stipulated time limit shall be mentioned in the acknowledgement.

Public holidays shall not be included in the stipulated time limit.

4. While computing the stipulated time limit for providing notified services, the public holidays shall not be counted.

Obligation to display information on Notice Board.

5. The Designated Public Servant shall, for the convenience of common public, cause to display all relevant information relating to notified services including designation of Designated Public Servants, Appellate and Reviewing Authorities, stipulated time limit, user charges, documents required to be enclosed with the application and eligibility criteria as applicable on the office Notice Board.

Penalty.

6. (1) Where the Appellate Authority is of the opinion that the Designated Public Servant has failed to provide the notified service without sufficient and reasonable cause, he may, impose under section 9 (1) (a) of the Act, a lump-sum penalty against the Designated Public Servant to the extent of rupees two thousand only which shall in no case be less than rupees two hundred only.

(2) Where the Appellate Authority is of the that the Designated Public Servant has caused delay in providing the notified service without sufficient and reasonable cause, he may impose penalty under section 9 (1) (b) of the Act on the Designated Public Servant at the rate of rupees fifty per day of delay, with the provision that the total penalty in any one case shall not exceed rupees two thousand only.

(3) Where the Reviewing Authority is of the opinion that the Appellate Authority has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause he may impose a penalty against the Appellate Authority and concerned sub-ordinate staff, as the case may be, to the extent of rupees two thousand to each of them which shall in no case be less than rupees two hundred each.

(4) Where the Appellate Authority or the Reviewing Authority, as the case may be, has decided to impose penalty if any, under sub-rules (1) and (3) of this rule, the proportion of penalty to be imposed on the Designated Public Servants, Appellate Authority or concerned sub-ordinate staff may be determined taking in to account, among other factors, the degree of responsibility and extent of negligence.

Exemption from Appeal Fee.

7. No fee shall be levied for first appeal or second appeal made under the Act.

Procedure for application for first or second appeal.

8. Every first or second appeal petition, as the case may be, shall specify the following information :-

(1) Name and address of applicant or person preferring first/second appeal ;

(2) To the extent possible, name and address of the Designated Public Servant or person or agency or the Appellate Authority against whose action or decision the first/second appeal has been preferred ;

(3) Particulars of the order against which the first/second appeal

has been preferred ;

- (4) Date of application along with name and address of the Designated Public Servant if the appeal is made against non-receipt of acknowledgement of the applications ;
- (5) Ground for first or second appeal ;
- (6) The relief sought for ; and
- (7) Any other related information that may be necessary for determining the first/second appeal.

Documents to be enclosed with first or second appeal.

9. With every first or second appeal, as the case may be, the following documents shall be enclosed :-

- (1) Index of documents enclosed with the first/second Appeal ;
- (2) Copy of the order against which the first/second appeal is being preferred ; and
- (3) Copies of documents mentioned in the application for first/second appeal.

Procedure for deciding first or second appeal.

10. While deciding first or second appeal, as the case may be,

- (1) The relevant documents, public records or their copies shall be examined ;
- (2) The Designated Public Servant or appellant may be summoned at the time of hearing of appeal.

Serving notice of hearing.

11. The notice of hearing of the first or second appeal, as the case may be, shall be served in any one of the following manner :-

- (1) By the party or person himself ;
- (2) By hand delivery through special messenger or process server ; or
- (3) By registered post with due acknowledgement receipt ; or
- (4) Through the department, in case or review.

Individual presence of applicant/Designated Public Servant.

12.(1) In all first or second appeals, the date of hearing shall be communicated to the applicant, the Designated Public Servant and the Appellate, as the case may be, at least seven clear days in advance.

- (2) Where it is clear that circumstances exist due to which an appellant, Designated Public Servant or Appellate Authority as the case may be, is unable to be present in the hearing, in those cases, before taking a final decision, at least one more chance may be given to the appellant, Designated Public Servant and Appellate Authority for appearance or may pass such order as may be deemed fit by the Appellate Authority or the Reviewing Authority, as the case may be.
- (3) If any party remains absent after due service of notice of the fixed date of hearing, then the appeal shall be disposed off in his absence or dismissed due to non-appearance.

Order in First or Second Appeal.

13.(1) The copy of the order passed in the first or the second appeal, as the case may be, shall be communicated to the parties in writing from the Appellate Authority or Reviewing Authority.

- (2) Copies of the order of first appeal shall be given to the appellant

and the Designated Public Servant.

- (3) Copies of the order of second appeal shall be given to the appellant, Designated Public Servant and Appellate Authority.
- (4) In case of imposition of a penalty, the Appellate Authority of Reviewing Authority, as the case may be, shall endorse a copy of the order to the concerned,
 - (i) Drawing and Disbursing Officer, with the direction to recover the amount of penalty from the salary or honorarium or remuneration or contractual payment of the concerned Designated Public Servant, Appellate Authority or person or agency concerned, as the case may be, after final disposal of appeal or expiry of appeal period, as the case may be ;
 - (ii) Treasury Officer, wherever applicable ; and
 - (iii) Department concerned.
- (5) In the event of recommendation for departmental action against the Designated Public Servant or the Appellate Authority, as the case may be, the Appellate Authority or the Reviewing Authority, as the case may be, shall send copies of the orders issued by him to the concerned appointing authority for necessary disciplinary action.
- (6) Where the Reviewing, Authority makes any review or modification in the order of the Appellate Authority then he shall send a copy of such order to the Appellate Authority and officers as specified under sub-rule (4) and (5) of this rule.

Recovery of penalty.

14. Upon receipt of copy of order for imposing penalty under sub-rule (4) rule 13, the Drawing and Disbursing Officer, shall recover the amount of penalty from the salary or honorarium or remuneration or contractual payment of the concerned Designated Public Servant, Appellate Authority or person or agency concerned, as the case may be, after final disposal of appeal or expiry of appeal period, as the case may be and shall deposit it under the concerned Government Head of Account and send a copy of the Treasury challan to the concerned Appellate Authority or Reviewing Authority, as the case may be.

Maintenance of records of all disposed cases under the Act.

15. The Designated Public Servant, Appellate Authority, and Reviewing Authority shall maintain records as may be required under the Act and as per instructions issued by the Government from time to time, for carrying out the provisions of the Act or these rules.

Publication and Dissemination of guidelines.

16. The State Government may, to the extent of availability of financial and other resources and subject to the provisions of the Act and these rules,
 - (1) Compile a guideline containing such information, in an easily comprehensible form and manner, as may reasonable be required by a person who wishes to exercise any right specified under this Act, which shall include,
 - (i) The objects of the Act;
 - (ii) The manner and the form in which request for notified services shall be made to the Designated Public Servant, Appellate Authorities and Reviewing Authorities respectively.

- (iii) All remedies available in the Act regarding a delay or denial of notified service, including the manner of filing appeals; and
 - (iv) Any additional information which may be required for proper implementation of the Act and these rules.
- (2) Update and publish guidelines referred to in sub-rule (1), at regular intervals.

Direction by State Government.

17. Subject to the provisions of the Act and these rules, the State Government may issue directions, from time to time, for effective implementation of the provisions of the Act.

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