

Suggested Improvements to

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

(Bill No. 131 of 2011)

Submission to

Department Related Parliamentary Standing

Committee on Personnel, Public Grievances, Law and Justice

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The Union Government has introduced the Right to Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 (hereafter referred to as “this Bill”). This Bill complements the Lokpal and Lokayukta Bill 2011. Together they have the potential to result in drastic improvements in the process of governance in this nation.

In the process of examining the bill, we adopted a broader approach in terms of ensuring an efficient and effective service delivery to the public, rather than merely examining this bill for improvements. This approach calls for integrating the interface of citizens and the state to the extent feasible and making this interface as efficient as possible. In this context, **the prime recommendation we propose in this report is that the framework for this bill and Right to Information Act, 2005 be integrated and the key provisions in “The Electronic Delivery of Services Bill, 2011” be appended to this bill so as to create a simple, yet integrated bill for an effective and efficient delivery of public services.** As a result, a few provisions of Right to Information Act would have to be amended and the Electronic Delivery of Services (EDS) Bill could be repealed. The following points present our recommendations in detail.

1 SCOPE OF THE BILL

- 1.1 The bill restricts the scope of legal entitlement to Citizens only. However, there are a number of organizations, namely non-governmental organizations, companies, and even government organizations that would require goods and services from other service providers in the government or organizations authorized by the government. **Therefore, we recommend that the scope of this Bill be enlarged to citizens and**

organizations. Specifically we recommend that

- 1.1.1 Any reference made to “citizen(s)/person(s)” including the title of the bill be replaced with “citizen/person(s) or organization(s).” All recommendations made here after in this report referring to citizens are equally applicable to organizations.
 - 1.1.2 An additional definition of complainant be added before 2 (f), by stating that complainant shall refer to a person or an organization who has filed a complaint.
 - 1.1.3 This bill should have explicit provisions mandating the appropriate public authorities to publish charters related to industries/companies for services like sales tax registration etc.
- 1.2 The bill by the stated definitions of complaint and citizens charter cover a wide range of canvas, which the Grievance Redressal Mechanism will not be able to cope up with. The “complaint” is defined as *“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”*. Similarly “citizens charter” means a *“document declaring the functioning, obligation, 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 as defined in sub-section (1) of section 4.”* These definitions make the process of time-bound grievance redressal quite unwieldy and therefore we recommend specific definitions and corresponding grievance redressal mechanism at the field level as follows:
- 1.2.1 The definition of complaint to be modified to *“a complaint filed by a citizen or an*

organization 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 any violation of any law, rules or order relating to the corresponding public authority but does not include grievance relating to the service matters of a public servant whether serving or retired.”

1.2.2 The definition of citizens charters as well as the description of citizens charters in Section 4 shall reflect the following:

1.2.2.1 Citizens charters shall be specified only for those goods and services where i) there is a universal coverage ii) there are no capacity constraints in the public authority and iii) there are no supply constraints for delivery of the goods and services.

1.2.2.2 All fee paying services shall mandatorily form part of the citizens charters.

1.2.2.3 The form of the citizens charters shall specify the following: i) service/good, ii) the official responsible for delivery it, iii) the process by which a citizen or an organization has to apply for it and the conditions to be fulfilled by the applicants, iv) the timeline by which the applicant will be provided, v) quality standards of the good/service.

1.2.3 The 30 day timeline by which the Grievance Redressal Officers shall resolve the complaints specified in Section 9 of this bill shall be modified as follows: i) 3 days in the case of complaints which have no supply constraints, e.g., issue of a birth certificate, ii) 15 days in the case of complaints related to physical works, e.g., provision of water connection, and iii) 60 days in the case of complaints related to violation of any law or rules or order.

1.3 The section 9 of this bill shall also mandate the Grievance Redressal Officers shall be mandated to accept complaints and direct them to appropriate Grievance Redressal

Officers, in case the complaint does not relate to the public authority where it is submitted.

2 DRAWING SYNERGIES BETWEEN RTI ACT AND THIS BILL

1.4 We recommend that the framework of this bill be integrated with that of the RTI Act for the following reasons:

- 1.4.1 The frameworks adopted by this bill and the RTI Act are almost similar. The RTI Act has a Public Information Officer (PIO), an appellate authority for appeals against the orders of the PIO and the Information Commission as the second appellate authority. Similarly, this bill has a Grievance Redress Officer (GRO), a designate authority as the first appellate authority and the Grievance Redressal Commission as the second appellate authority.
- 1.4.2 Fundamentally, the notion of “information” and “grievance” are interchangeable for all practical purposes to fulfill the goals of grievance redressal. This is reflected by the fact that citizens are increasingly using the RTI Act to redress their grievances by asking the information related to the status of their request. Ideally this should be dealt with, in accordance with the Grievance Redressal Mechanism. It is not inconceivable that citizens would in the future use grievance redressal for not providing information and accordingly approach RTI authorities for grievance redressal and at the same time approach the grievance redressal for RTI queries. Thus, with these two acts, there could be ample confusion for the citizens in exercising their rights.
- 1.4.3 Therefore, in the process of improving the interface between citizens and the state, in order to reduce the hassles to the citizenry, simplify the administrative apparatus by

decreasing layers of bureaucracy and reduce duplication and cross application of RTI and this bill, we strongly recommend the integration of this Bill in the light of the RTI Act framework.

1.5 This synergy between the RTI Act and this bill could be organized in the following manner:

- 1.5.1 The Information Commission and Grievance Redressal Commission (GRC) shall be the same appointed by the manner specified in this Bill, as it has improved the selection process by broadening the selection committee to judiciary, as opposed to merely the political class in RTI Act. A suitable title, including one drawing from these two titles could be adopted for a single commission for both these purposes.
- 1.5.2 The designated authority referred to this bill shall be appointed by the public authority in district/sub-district/city/block level, as it deems fit to act as the first appellate authority for complaints against the Grievance Redressal Officers. The same designate authority could also be the first appellate authority for complaints against the Public Information Officers, as appropriate.
- 1.5.3 The Grievance Redressal Officers and Public Information Officers will stay independent or be integrated as the appropriate public authority deems fit.

1.6 The integration of the operative frameworks can be designed in the following manner:

- 1.6.1 The “Head of the Department” in Section 5 of this bill is made responsible for disseminating the information on citizens’ charters. This bill also has a provision, wherein a citizen is allowed to appeal to the GRC, if the citizens’ charters are not published. However, there are no provisions for penalties for lack of dissemination of

the citizens' charters. There is a similar provision in Section 4 of the RTI Act wherein the public authority has to provide timely information of the details provided. There are widespread complaints that this information dissemination is not timely and inadequate and the citizens are compelled to use RTI provisions for seeking information, despite being entitled to the same free of cost or effort. In view of this, we recommend that the "Head of Department" as mentioned in Section 5 of this bill be made responsible for dissemination of the citizens' charters as well as the information to be disseminated by Section 4 of RTI.

- 1.6.2 We also recommend that any complaint filed against non-provision of this information in Section 5 of this Bill or Section 4 of the RTI Act shall be deemed to be a valid complaint under this Bill. Such complaints shall be made only to the GDC/designated authority, which shall have the power to impose penalty on the "Head of the Department", as the case may be.
- 1.6.3 The provisions for penalty in this bill are very weak, as compared to the provisions for penalty in RTI Act. Therefore, we recommend that the words "may impose penalty" in this bill be replaced with "shall impose penalty". Further the provisions in Section 45(1) of this Act should be amended in accordance with the Section 20(1) of the RTI Act, wherein the "Commission shall impose a penalty of two hundred and fifty rupees each day till the grievance is addressed, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees. As these penalty provisions are only for *mala fide* action, these provisions are justified in this bill as well. The maximum sum of penalty should be revised from time to time, say once in every 5 years.
- 1.6.4 At the same time, the compensation to the aggrieved complainant in this bill also should always be provided. If the compensation is not made mandatory, there could be a large number of poor people who might not be willing to bear the additional costs

to get their grievances addressed despite they being entitled to the public services. Further, when the needy cannot derive benefits out of this legislation, it would be defeating the very purpose of the enactment of this bill.

3 INTEGRATION OF EDS BILL AND THIS BILL

- 1.7 The Government of India has introduced the EDS Bill with an appreciable intention of ensuring an efficient delivery of services. However, the mechanism proposed in the bill merely enhances additional layers of bureaucracy without commensurate benefits to the public. Besides, many states have already developed some form of electronic delivery of services like e-seva in Andhra Pradesh. If EDS Bill creates institutions that have supervision merely electronic delivery in addition to those in Grievance Redressal Bill, it is bound to cause confusion.
- 1.8 The crux of the EDS Bill is that there would be Electronic Service Delivery Commissions at the Central and State Levels who would monitor the provision of electronic services being provided by the governments at the respective levels. While the bill makes it mandatory for the governments to publish the list of electronic services in 180 days and implement them in 5-8 years from the commencement of the EDS Act, the final discretion of which service shall be available electronically rests with the respective governments. Although it appears that this discretion defeats the very purpose of the bill, the capacity of electronic delivery of services with the government is a determinant of multiple factors like finances, software availability, availability of adequate trained personnel etc and therefore this policy discretion is justified. Given this context, **we recommend the following changes to the Grievance Redressal Bill which will fulfill the objectives of the EDS Bill as well, yet with a simpler institutional structure:**

- 1.8.1 The Grievance Redressal Commission (GRC) shall also undertake the functions intended by EDS Bill for the Electronic Service Delivery Commission, as mentioned in Section 24 of the EDS Bill. This integration reduces bureaucratic layers as well as smoothens the process of administration of grievance redressal. After all, it is the very services that are covered under this Bill that take electronic form of delivery over time. The time period mentioned in the citizens' charters therefore, will just be a function of the technology and capacity available with the respective governments.
- 1.8.2 The GRC is already responsible for ensuring that citizens' charters are published. Appending a few provisions of the EDS Bill to this Bill could enlarge this responsibility to fulfill the objectives of the EDS Bill. GRC shall make recommendations on the electronic delivery of services annually, and the respective governments shall implement these recommendations or provide in writing, the reasons for inability to implement the electronic form of delivery. Similarly, where feasible, GRC shall give appropriate directions to the public authority to offer multiple services through a single window platform.
- 1.8.3 In addition, the bill should have provisions for preparing an annual report to be tabled in the legislatures, which are currently absent for GRC in the lines of Section 25 in EDS Bill. These provisions are comprehensive enough and could be analogously provided for the non-electronic public services as well. These could supplement the provisions in Section 46 of Grievance Redressal Bill. The cases where the government expresses inability to adopt electronic form of service delivery shall be specifically recorded in the annual report.
- 1.8.4 In sum, the provisions for recommendations to the government, and subsequent recording of reasons for inability of government to adopt the GRC's recommendations comprehensively fulfill the objectives of the EDS Bill.

1.9 The other provisions that are unique to the framework of the EDS Bill which needs to be brought into this bills are:

- 1.9.1 As mentioned in Section 5 of EDS Bill, the power to specify the “Electronic Governance Standards” is given to the Central Government, which shall override the standards of State Government when specified. This provision is included for ensuring inter-operability, harmonization, and security of electronic services. However, it should be noted that this process should have been already undertaken to fulfill the stated objectives. When no standards are specified, state governments would take the freedom to employ softwares depending on the best services they can buy in the market. Once a certain software is adopted for a service, there are huge transaction costs in exporting the data from one format to the other. In view of this, we recommend that the Bill make it mandatory for the Central Government to specify these standards at the earliest, preferably in the next six months.
- 1.9.2 The EDS Bill also has provisions for “assisted access” for citizens to access electronic services, which can be imported into this Bill.
- 1.10 These amendments to this Bill will suffice in ensuring that the objectives of EDS Bill are met, yet at the same time, offer an effective and efficient interface for the citizens to address their grievances.

4 REWARD FOR OUTSTANDING SERVICE DELIVERY

- 1.11 This Bill has provisions for penalties when the respective officials do not discharge their duties as specified in the citizens’ charters. While penalties are important as an instrument to drive performance, it is only just that there is an analogous incentive structure for better delivery of services. **Therefore, we recommend that the Bill have**

provisions which will make it mandatory for the respective governments to design a reward scheme for best performing public authorities and the personnel within.

1.12 The resources for the financial incentives shall come from the penalties in a particular geographic unit as well as a specified percentage of the fee collected by the public authorities in that geographic unit. The respective governments shall frame the rules, by which the financial incentives shall be offered. Such a reward scheme would develop a process which public policy theorists called “yardstick competition”. This competition will eventually enhance the quality of public services delivered in the nation.

5 CONCLUSION

History has taught us the simplification of administration in the economic realm has enhanced the efficiency of the economy. However, it has been a trend off late that a template of National Commission and analogous State Commissions are created for every additional process in governance, which is only enhancing the complexity of the public administration in our country. This Bill has provided an opportunity to reflect back and design a streamlined process of administration. Therefore, we strongly urge this Standing Committee to take this opportunity and provide an efficient and effective public service delivery to the citizenry of this great nation.

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