

The

Kolkata



सत्यमेव जयते

Gazette

Extraordinary
Published by Authority

ASVINA 15]

MONDAY, OCTOBER 7, 2013

[SAKA 1935

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
Consumer Affairs Department

NOTIFICATION

No. 2565-CA/Estt./O/4R-2/13 (Pt.-I) dated the 7th day of October, 2013. - In exercise of the power conferred by sub-section (1) of section 15 of the West Bengal Right to Public Services Act, 2013, the Governor is pleased hereby to make the following rules, namely:—

Rules

1. Short title and commencement.— (1) These rules may be called the West Bengal Right to Public Services Rules, 2013.

(2) They shall come into force on the date of their publication in the *Official Gazette*.

2. Definitions.— (1) In these rules, unless the context otherwise requires,—

(a) "Act" means the West Bengal Right to Public Services Act, 2013;

(b) "Authorised Officer" means an officer or staff authorised as such by the Designated Officer under rule 3;

(c) "Form" means the Forms appended to these rules;

(d) "Section" means a section of the Act.

(2) Words and expressions used, but not defined in these rules and defined in the Act, shall have the same meanings, respectively, assigned to them in the Act.

3. Power of Designated Officer to authorise other officer or staff to receive applications.— The Designated Officer shall have the power to authorise, by order, any of his subordinate officer or staff for receiving the applications and giving proper acknowledgement.

4. Issue of acknowledgement to the applicant.— (1) On receipt of an application for service by an eligible person, the designated officer or the authorised officer, as the case may be, shall scrutinize and give acknowledgement to the applicant in Form I. In case any document required for providing the service has not been enclosed with the application, the same shall be clearly mentioned in the acknowledgement and the stipulated time limit for such service shall start from the date of production of the document.

Provided that if necessary documents are annexed with application then the last date of the stipulated time limit shall be mentioned in the acknowledgement.

(2) Complete applications received on each working day, shall be produced before Designated Officer on the same working day for providing the notified services.

5. Public holidays shall be excluded from the stipulated time limit.— Public holidays shall be excluded from the stipulated time limit for providing the services.

6. Display of information on the Website and Notice Board.— The Designated Officer shall, for the convenience of the general public, cause to display all relevant information related to services, stipulated time limit, Designated Officer, Appellate Officer and the Reviewing Officer on the Notice Board of the office. All documents that are required to be enclosed with the application for receiving the service and the Forms appended to these Rules shall also be displayed similarly. The Secretary of the Department concerned shall also cause this information to be available on the website of the Department.

7. Monitoring the status of Applications.— The Department concerned or the authority or body or institution of self government or any other Public Authority, as the case may be, shall maintain the current status of the applications on its website and shall update it on a daily basis.

8. Recovery and remittance of penalty.— In case of dismissal or rejection of appeal or otherwise, the Designated Officer shall deposit the penal amount through treasury challan within seven days of the date of the order. In case of failure to do so, the penalty imposed under section 7 shall be recovered from the salary, honorarium or other remuneration of the Designated Officer and remitted to the appropriate head of Account.

9. Exemption from payment of appeal fee— No fee shall be required for filing the first appeal or second appeal under section 6.

10. Appeal.— (1) An appeal to the Appellate Officer under sub-section (1) of section 6 shall be filed in Form II or in any other format containing the particulars mentioned in the said Form.

(2) An appeal to the Reviewing Officer under sub-section (3) of section 6 shall be filed in Form III or in any other format containing the particulars mentioned in the said Form.

11. Documents to be enclosed with the appeal.— Along with the first or second appeal, the appellant shall enclose the following information / documents, namely:—

- (i) name and complete address of the appellant;
- (ii) brief description of required service;
- (iii) date of the application produced before Designated Officer for providing service;
- (iv) self attested copy of the order against which the first appeal or second appeal is being made;
- (v) copies of the documents relied upon by the appellant and referred to in the first appeal or second appeal.
- (vi) the grounds for appeal;
- (vii) relief sought;
- (viii) any other information necessary for filing appeal. If appeal is against the refusal of acknowledgement of application by the Designated Officer then the date of the application and the name and address of the Designated Officer to whom the application was presented.

12. Service of notice of hearing.— The notice of hearing of application for appeal may be served in any of the following manner—

- (i) by hand delivery (dasti) through special messenger or process server;
- (ii) by the registered post with due acknowledgment;
- (iii) in case of a Government servant, through his controlling officer.

13. Personal appearance of the appellant.— (1) In every case the appellant or applicant at revision, as the case may be shall be intimated of the due date of hearing, at least seven clear days prior to such date of hearing.

(2) The appellant or applicant at revision, as the case may be, may present himself in person in the hearing of appeal or revision, or may opt not to be present in the hearing. If any party remains absent after due service of notice of the fixed date of hearing, then the application for appeal may be disposed off in his absence.

(3) If the Appellate Officer or the Reviewing Officer is satisfied that circumstances exist due to which the appellant or applicant at revision has been prevented to be present at the hearing, then before taking the final decision one opportunity of hearing shall be given to the appellant or applicant at revision or any other appropriate action may be taken as deemed fit.

14. Procedure for deciding appeal.— During hearing of appeal signature / thumb impression of both the parties shall be obtained in the order sheet. While deciding the application for appeal the Appellate Officer or the Reviewing Officer shall —

- (i) inspect relevant documents, public documents or copies thereof;
- (ii) hear Designated Officer and the applicant or his authorised representative, as the case may be, at the time of hearing of appeal.

15. Order in first appeal or second appeal.— (1) The order passed in the first appeal or second appeal shall be in writing.

(2) Copy of the order in appeal shall be given to the appellant, Designated Officer or the Appellate Officer, as the case may be.

(3) In the case of imposition of penalty, the reviewing officer shall forward a copy of such order to the authority concerned, with instructions to deduct the amount of fine from the salary/honorarium/remuneration of the Designated Officer or of the Appellate Officer, as the case may be.

(4) In the event of recommendation for disciplinary action against the Designated Officer or the Appellate Officer, as the case may be, the Reviewing Officer shall forward a copy of the order to the appointing authority concerned.

(5) Where the Reviewing Officer makes any amendment in the order of the Appellate Officer, then he shall forward a copy of such order to the Appellate Officer and the Designated Officer and to the appellant.

(6) Where in a revision, the order of the Reviewing Officer is revised or modified, the revising officer shall send the copy of order to the Reviewing Officer and the officers specified in sub-rule (4) and (5).

16. Maintenance of register of cases under the Act.— The Designated Officer, the Appellate Officer and the Reviewing Officer shall maintain a Register of all the cases in Form IV.

17. Liability for furnishing false information to obtain a Public Service.— No person shall submit any application which contain any fact or information, which he knows or has reasons to believe to be false, to obtain any public service, and who furnishes such fact or information may be liable for criminal action under the law for the time being in force.

18. Monitoring and inspection.— The State Government may issue directions from time to time to effective implementation of the provision of the Act, superintendence of the cases filed under the Act and for the inspection of the offices of the Designated Officer, Competent Officer, Appellate Officer, Reviewing Officer and Drawing and Disbursing Officer.

19. Dissemination and training.— The State Government may, to the extent of availability of financial or other resources—

- (i) develop and organize campaigns and programmes to advance the understanding of the public, as to how to exercise the rights contemplated under the Act;
- (ii) encourage public authorities to participate in the development and organization of programmes referred to in clause (i) above and to undertake such programmes themselves;
- (iii) issue guidelines in simple language for employees and members of the public specifying the steps and/or documents required for providing public services, including standard operating procedures.

20. Incentives to employees.— The Competent Authority shall recommend the names of such employees against whom no default is reported in one year to the State Government at the end of a year for awarding cash incentive. The State Government may, by order, determine the criteria for awarding cash incentive.

21. Composition of the Commission.— (1) The West Bengal Right to Public Service Commission constituted by the State Government shall consist of a Chief Commissioner and such other Commissioners as the State Government may decide from time to time.

(2) The Chief Commissioner shall be a retired officer in the rank and status of the Chief or Additional Chief Secretary of the State or Secretary to the Government of India.

(3) The Commissioners shall be retired officers in the rank and status of Secretary of a State or equivalent and or experts in the field of Public Administration or eminent Public figures.

22. Powers of the Chief Commissioner.— (1) The Chief Commissioner shall have powers of general superintendence and direction in the conduct of the affairs of the Commission. The Chief Commissioner shall preside over the meetings of the Commission as well as exercise and discharge the powers and functions of the Commission, as entrusted.

(2) In case of absence of the Chief Commissioner or a vacancy in the office of the Chief Commissioner, the State Government may nominate one of the Commissioners to perform the functions and exercise the powers vested in the Chief Commissioner as long as the vacancy or absence continues.

(3) A Commissioner nominated to discharge the functions and powers of the Chief Commissioner under sub-rule (2) shall not be entitled to any compensation, allowance or facility in addition to what he would be entitled to as a Commissioner.

23. Term of office and conditions of service of Chief Commissioner and Commissioners.— (1) The Chief Commissioner and the Commissioners shall hold office for a term of five years from the date on which they enter upon the respective offices, or until they attain the age of sixty five years, whichever is earlier and they will not be entitled for re-appointment.

(2) If a person already holding an office is appointed as the Chief Commissioner or Commissioner, he shall have to resign or seek retirement from that office before joining the Commission.

(3) The Chief Commissioner or a Commissioner shall, before he enters upon his office, make and subscribe before the Governor an oath of affirmation in Form V.

(4) The Chief Commissioner or a Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office. He would also be liable for removal from the office in the manner provided under rule 24 of this rule.

(5) The salaries and allowances payable to and other terms and conditions of service of the Chief Commissioner and the Commissioners shall be the same as those of the State Chief Information Commissioner and the State Information Commissioner respectively as laid down in sub-section (5) of section 16 of the Right to Information Act, 2005. All provision of the aforesaid sub-section shall apply *mutatis mutandis* to the Chief Commissioner and the Commissioners appointed under the Act.

(6) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the Commission under this Act, on deputation on usual terms and conditions.

24. Removal and Suspension of the Chief Commissioner or a Commissioner from office in certain circumstances.— (1) The State Government may remove the Chief Commissioner or any Commissioner from office after complying with the provisions of sub-rule (2), if he has —

- (i) been adjudged insolvent; or
- (ii) been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
- (iii) become physically or mentally incapable; or
- (iv) acquired such financial or other interest as is likely to affect prejudicially his functions in any of the said capacities; or
- (v) so abused his position as to render his continuance in office prejudicial to public interest.

(2) Notwithstanding anything contained in sub-rule (1), the Chief Commissioner or and Commissioner, shall not be removed from his office, unless,—

- (i) a reference is made by the State Government to the Chief Justice of the High Court of Calcutta seeking an enquiry and recommendation on the proposed removal of the Chief Commissioner or the Commissioner along with the grounds for the removal and material supporting such proposal;
- (ii) the reference is duly enquired into by an inquiry committee headed by a retired High Court Judge or any other person appointed by the Chief Justice of the High Court of Calcutta; and
- (iii) the inquiry committee makes recommendation that the Chief Commissioner or the Commissioner ought to be removed on such ground or grounds.

(3) The State Government may suspend the Chief Commissioner or the Commissioner in respect of whom a reference has been made to the Chief Justice of the High Court of Calcutta under sub-rule (2).

25. Powers and functions of the West Bengal Right to Public Service Commission.— (1) It shall be the duty of the Commission to ensure proper implementation of the Act and to make suggestions to the State Government for ensuring better delivery of services. For this purpose, the Commission may, —

- (a) entertain and dispose of revisions under section 8;
- (b) take *suo moto* notice of failure to deliver service in accordance with this Act and refer such cases for disposal as may be appropriate;
- (c) carry out inspections of offices entrusted with the delivery of services and the offices of the Appellate Officer and the Reviewing Officer;
- (d) recommend Departmental action against any officer or employee of the State Government who has failed in due discharge of functions cast on him under this Act.
- (e) recommend charges in proceedings for delivery of services which will make the delivery more transparent and easier:

Provided that before making such a recommendation the Commission shall consult the Secretary of the Department concerned which is to deliver the service;

- (f) recommend for additional notifications to be notified under section 3 and may also suggest modifications in the notifications already issued for better implementation of the Act.

(2) Where the Commission is satisfied that there are reasonable grounds to inquire into a matter arising out of the provisions of this Act, it may, *suo moto*, initiate an inquiry in respect thereof.

(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedures, 1908, in respect of the following matters; namely:—

- (a) summoning and enforcing the attendance of persons, compelling them to give oral or written evidence on oath and producing documents or things;

- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which the Commission deems necessary.

(4) The Commission may formulate its procedure for the conduct of its business and for any such matter, as the Commission may deem fit.

26. Action by the Government on recommendations of the Commission.— (1) The State Government shall consider the recommendations made by the Commission under clause (d), (e) and (f) of sub-rule (1) of rule 25 and send information to the Commission of action taken within thirty days or such longer time as may be decided in consultation with the Commission. In case the Government decided not to implement any of the recommendations of the Commission, it will communicate the reasons for not acting on the recommendations to the Commission.

(2) The Commission shall prepare an annual report of the recommendations made by it under rule 24 along with the action taken and reasons for not taking action, if any. The State Government shall cause a copy of this report to be laid on the table of the West Bengal Legislative Assembly.

Form I

[see rule 4]

ACKNOWLEDGEMENT

From

.....

..... *(The Designated Officer/ Authorised Officer)*

To

.....

..... *(Name and address of the Applicant)*

Sub. — The West Bengal Right to Public Services Act, 2013 — Acknowledgement of application

Ref.— Your application dated

I hereby acknowledge your application cited. Due date of service to be provided is _____

OR

The following defects in the application may be rectified, urgently:

(Specify defects, if any)

(1)

(2)

Yours faithfully,

Place:

Date:

Designated Officer/Authorised Officer
(Office Seal)

Form II

[see rule 10(1)]

FORM OF APPEAL TO THE APPELLATE OFFICER

Before the (Designation and office address of the Appellate Officer)

.....

..... (Name and address of the Applicant/Appellant)

.....

..... (Name and office address of Designated Officer/Respondent)

- 1. Date of application :
- 2. Date of acknowledgement :
- 3. Date of resubmission of the application after rectifying the defects, if any :
- 4. Details of service required :
- 5. Decision of the designated officer :
- 6. Eligibility for the service :
- 7. Stipulated time limit :
- 8. Grievance (s) :

List of documents enclosed

(1)

(2)

(Please also provide self-attested copy of order of Designated Officer)

Declaration

The particulars given above are true and correct to the best of my knowledge, information and belief.

Dated, this the Day of 20..... (year)

Signature of the Applicant/Appellant.

Form III

[see rule 10(2)]

FORM OF APPEAL TO THE REVIEWING OFFICER

Before the (Designation and office address of the Reviewing Officer)

.....
..... (Name and address of the Applicant/Appellant)

.....
..... (Name and office address of the Designated Officer)

.....
..... (Name and office address of the Appellate Officer)

- 1. Date of application :
- 2. Date of acknowledgement :
- 3. Details of service required :
- 4. Decision of the Designated Officer :
- 5. Decision of the Appellate Officer :
- 6. Eligibility for the service :
- 7. Stipulated time limit :
- 8. Grievance (s) :

List of documents enclosed

- 1.
- 2.

(Please also provide self-attested copy of order of Designated Officer and Appellate Officer)

Declaration

The particulars given above are true and correct to the best of my knowledge, information and belief.

Dated, this the Day of 20..... (year)

Signature of the Applicant/Appellant

Form IV

[see rule 16]

REGISTER OF CASES

A. To be maintained by the Designated Officer

Sl. No.	Date of receipt of application	Name and address of the applicant	Nature of service requested	Date on which application is disposed of. If rejected the reasons there of	Whether service provided in time Yes/No
(1)	(2)	(3)	(4)	(5)	(6)

B. To be maintained by the Appellate Officer

Sl. No.	Date of receipt of first appeal	Date of acknowledgement of first appeal	Name and address of the applicant	Nature of service requested	Date on which appeal is disposed of. Rejection of the appeal and its reasons	Details of fine, if any, imposed / collected
(1)	(2)	(3)	(4)	(5)	(6)	(7)

C. To be maintained by Reviewing Officer

Sl. No.	Date of receipt of Second appeal	Date of acknowledgement of Second appeal	Name and address of the applicant	Nature of service requested	Date on which application is disposed of. Rejection of the appeal and its reasons	Details of fine, if any, imposed / collected
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Form-V

[see rule 23(3)]

Form of oath or affirmation to be made by the Chief Commissioner/Commissioner of the West Bengal Right to Public Service Commission.

"I,, having been appointed Chief Commissioner / Commissioner of the West Bengal Right to Public Service Commission swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

By order of the Governor,

VIVEK BHARADWAJ
Secretary to the Government of West Bengal.