For Public Information

Draft of the proposed Maharashtra Guarantee of Public Services Bill, 2015

No.MIS-2014/C.R.-74/18(O&M).- WHEREAS, the Government of Maharashtra with a view to provide transparent, efficient and timely public services to the eligible persons in the State of Maharashtra and for matters connected therewith or incidental thereto proposes to make a comprehensive law;

AND WHEREAS, the Government thinks it appropriate to place the draft Bill in the public domain as part of a pre-legislative consultative process;

NOW, THEREFORE, for the above purposes, the draft of the proposed Maharashtra Guarantee of Public Services Bill, 2015 is hereby published for inviting suggestions from all persons interested therein; and notice is hereby given that the said draft will be taken into consideration by the Government of Maharashtra on or after the 23rd February 2015.

2. Any suggestions which may be received by Additional Chief Secretary (A.R.,O. & M.), General Administration Department, Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk, Mumbai-400 032, from any person with respect to the said draft before the aforesaid date will be taken into consideration by the Government.

DRAFT

A BILL

to provide transparent, efficient and timely public services to the citizens in the State of Maharashtra and for matters connected therewith or incidental thereto.

WHEREAS it is necessary to provide to citizens timely and efficient public services in a transparent manner;

AND WHEREAS it is necessary to bring transparency and accountability in the Departments and agencies of the Government and other Public Authorities which provide public services to the eligible persons;

AND WHEREAS it is expedient to make a comprehensive law to provide transparent, efficient and timely public services to the eligible persons in the State of Maharashtra and for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-sixth Year of Republic of India, as follows:-

Short title, extent, commence-ment and application.

1. *(1)* This Act may be called the Maharashtra Guarantee of Public Services Act, 2015.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

(4) It shall apply to such Public Authorities which provide public services to the eligible persons as per the provisions of any Acts, rules, notifications, orders or any other statutory instruments.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) "Committee" means the State Notified Service Delivery Committee constituted under section 13;

(b) “Department” means a Department of the State Government or of a Public Authority, as the case may be;

(c) “Designated Officer” means an officer who is required to provide citizen related service;

(d) “eligible person” means and includes a legal person desirous of using the service provided by a Public Authority for its own benefit

(e) "First Appellate Authority" means an officer appointed by the Government or the concerned Public Authority under section 8;

(f) “Government” or “State Government|” means the Government of Maharashtra;

(g) “local authority” means any authority, municipal council, municipal corporation, *Nagar Panchayat*, Industrial Township, *Zilla Parishad*, *Panchayat Samiti* and village *Panchayat* and other local self-Governments constituted by law, and includes Development Authorities, Planning Authority or other statutory or non-statutory bodies by whatever name called for the time being invested by law to render essential services of public utility in the State or to control, manage or regulate such services within a specified area;

(h) "notified service” means such services as may be notified by the State Government under section 3;

(i) “prescribed” means prescribed by the rules made under this Act;

(j) “Public Authority” means,-

(a) any Department or authorities of the Government;

(b) any organization or authority or body or institution or a local authority, established or constituted,-

(i) by or under the Constitution of India, in the State;

(ii) by any other law made by the State Legislature;

(iii) by notification issued by the Government;

(c) and includes,-

(i) any body including a Government Company or a authority owned, controlled or substantially financed; or

(ii) any non-Governmental organization substantially financed,

directly or indirectly by the State Government.

(k) "right to service" means right of an eligible person to obtain the notified services within the stipulated time limit as may be specified by the Government by the notification issued under section 3, from time to time;

(l) "Second Appellate Authority" means an officer appointed by Government or the concerned Public Authority under section 8; to whom appeal shall lie against the order of the First Appellate Authority;

(m) "Stipulated time limit" means the maximum time as notified under section 3 within which the notified services to be provided by the Designated Officer.

Notification of services, designated officers and stipulated time limit.

3. The Government shall, within a period of three months from the date of commencement of this Act, and thereafter from time to time, by notification in the *Official Gazette*, notify the services, Designated Officers and stipulated time limits within which such services shall be rendered under this Act in respect of every Public Authority under each Department.

Right to obtain service within stipulated time limit.

4. *(1)* Every eligible person shall have right to obtain notified services in the State in accordance with this Act, subject to technical and financial feasibility, within the stipulated time limit specified in the notification issued under section 3.

(2) Subject to technical and financial feasibility, every Designated Officer of the Public Authority shall provide the notified services specified in the notification to the eligible person, within the stipulated time.

(3) The Public Authority shall, display or cause to be displayed on the notice board of the office, the list of the notified services offered by it along with the details of the Designated Officer, First Appellate Authorities and Second Appellate Authorities.

Providing services within stipulated time **limit**.

5. *(1)* The stipulated time shall start from the date when required application, complete in all respects, for the notified service is submitted to the Designated Officer or to a person subordinate to him who is duly authorized to receive the application. Such application shall be duly acknowledged and the applicant shall be intimated in writing or through electronic means, specifying date, time, place, Unique Application Number along with stipulated time limit for the disposal of such application.

(2) The Designated Officer, on receipt of an application under sub-section *(1)* shall within the stipulated time limit either directly provide or sanction the service or reject the application and in case of rejection of the application, shall record the reasons in writing. The Designated Officer shall also communicate in writing to the applicant about the period of making an appeal against the order and the name

and designation of the First Appellate Authority with its official address to whom the first appeal lies.

Monitoring status of application.

6. *(1)* Every eligible person having applied for any notified services shall be provided an unique application number by the concerned Public Authority so that he can monitor status of his application online, where such system is in operation, in accordance with such procedure as may be prescribed.

(2) Every Public Authority shall maintain status of all applications regarding notified services online, where such system is in operation, and shall be duty bound to update the status of the same as per the procedure prescribed under the rules.

Use of Information Technology for delivery of notified services.

7. The Government shall encourage and aspire all the Public Authorities to utilize Information Technology to deliver their respective notified services within the stipulated time.

Appoint-ment of appellate authority.

8. *(1)* The Government or the concerned Public Authority shall appoint by notification an officer not below the rank of Group 'A' or its equivalent rank, who is superior in rank to the Designated Officer, to act as First Appellate Authority to hear and decide the appeal filed by an eligible person against rejection of his application or delay in providing notified services after following due procedure as may be prescribed.

(2) The Government or the concerned Public Authority shall appoint by notification an officer who is superior in rank to the First Appellate Authority to hear and decide the appeal filed by an eligible person against the order of the First Appellate Authority and the application if any filed by the eligible person directly to the said Authority.

9. *(1)* Any eligible person, whose application is rejected under sub-section *(2)* of section 5 or who is not provided the notified service within the stipulated time limit, may file an appeal before the First Appellate Authority within thirty days from the date of receipt of order of rejection of the application or the expiry of the stipulated time limit: Appeal.

Provided that, the First Appellate Authority may admit the appeal even after the expiry of the period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The First Appellate Authority may direct the Designated Officer to provide the service to the eligible person within such period as he may specify in order or he may reject the appeal within the period of ninety days from the date of filing of the appeal. In case of rejection of appeal, he shall record the reasons in writing for such rejection:

Provided that, before deciding the appeal, the First Appellate Authority shall give an opportunity of being heard to the appellant as well as to the Designated Officer.

(3) A second appeal against the order of the First Appellate Authority shall lie to the Second Appellate Authority within thirty days from the date on which the order of the First Appellate Authority is received or after ninety days from filing the first appeal in case where the appellant does not receive any order from the First Appellate Authority.

Provided that, the Second Appellate Authority may admit the appeal even after the expiry of the period of thirty days or ninety days, as the case may be, if he is satisfied that

the appellant was prevented by sufficient cause from filing the appeal in time.

(4)(a) The Second Appellate Authority may direct the Designated Officer to provide the service to the appellant within such period as he may specify in order or he may reject the appeal within the period of ninety days from the date of filing of the appeal. In case of rejection of the appeal, he shall record the reasons in writing for such rejection:

Provided that, before issuing any order, the Second Appellate Authority shall give opportunity of being heard to the Appellant as well as to the Designated Officer or the First Appellate Authority, as the case may be.

(b) Along with the order to provide notified service, the Second Appellate Authority may impose penalty upon the Designated Officer or the First Appellate Authority according to the provisions of section 10.

(5)(a) If the Designated Officer does not provide service or sanction the service as mentioned in sub-section *(2)* of section 5, then the applicant aggrieved by such non-compliance may submit an application directly to the First Appellate Authority. This application shall be disposed of in the manner as if it is the first appeal.

(b) If the Designated Officer does not comply with the order of providing the service under sub-section *(2)*, then the applicant aggrieved by such non-compliance may submit an application directly to the Second Appellate Authority after forty-five days of application made to the Designated Officer. This application shall be disposed of in the manner as if it is the second appeal.

(6) The First Appellate Authority and Second Appellate Authority while deciding an appeal under this section, have the same powers as are vested in civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:- 5 of 1908.

(a) requiring the production and inspection of documents or records;

(b) issuing summons for hearing to the designated officer and appellant; and

(c) any other matter which may be prescribed.

Penalty.

10. *(1)(a)* Where the First Appellate Authority is of the opinion that the Designated Officer has failed to provide notified service without sufficient and reasonable cause, then he shall impose a penalty subject to such maximum amount as may be specified by the State Government from time to time by notification in the *Official Gazette*:

(b) Where the Second Appellate Authority is also of the opinion that the Designated officer has defaulted in providing the notified service within the stipulated time limit without sufficient or reasonable cause, he may confirm or vary the penalty imposed by the First Appellate Authority with reasons in writing:

Provided that, the Designated Officer shall be given a reasonable opportunity of being heard before any penalty is imposed on him.

(2) Where the Second Appellate Authority is of the opinion that the First Appellate Authority has failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Officer then he shall impose

a penalty on First Appellate Authority which shall be subject to such maximum amount as may be specified by the State Government from time to time, by notification in the *Official Gazette*:

Provided that, the Second Appellate Authority shall be given a reasonable opportunity of being heard before any fine or penalty is imposed on him.

Procedure for fixing responsibility on habitual defaulters.

11. *(1)* The Appellate Authority, in case of habitual default by the Designated Officer, shall inform the State Government or the Public Authority, as the case may be, which shall issue a notice against the Designated Officer found responsible for the repeated delays in delivery of notified services, calling upon him as to why disciplinary action should not be taken against him.

(2) The Designated Officer against whom such notice is issued may represent within a period of fifteen days from the date of receipt of such notice. In case no such representation is received by the Second Appellate Authority, within the prescribed period or explanation received is not found satisfactory, the Second Appellate Authority shall be entitled to issue debit note directing such defaulting Designated Officer either to deposit penalty as stipulated in the debit note or directing the Accounts Officer of concerned Public Authority to debit such amount as specified in the debit note, from the salary of the Designated Officer and deposit the same in the treasury:

Provided that, if the Second Appellate Authority finds reasonable and justified grounds in favour of Designated Officer and come to the conclusion that the delay in delivery of services to the eligible person was not attributable to him,

but was attributable to some other Designated Officer, it shall be lawful for the Second Appellate Authority to withdraw the notice against him and issue fresh show cause notice to such other Designated Officer who is found responsible for such delay and the procedure mentioned in sub-sections *(1)* and *(2)* shall be applicable *mutatis mutandis*.

(3) While fixing the responsibility under this Act, the Second Appellate Authority shall follow the principles of natural justice before passing the order in that respect and give reasonable opportunity of being heard to the Designated Officer or the First Appellate Authority, as the case may be.

Revision.

12. The Designated Officer or First Appellate Authority aggrieved by any order of Second Appellate Aauthority in respect of imposing of penalty may make an application for revision to such officer as may be nominated by the State Government within the period of sixty days from the date of such order, who shall dispose of the application according to the procedure as may be prescribed:

Provided that, the officer nominated by the State Government may entertain the application after the expiry of the said period of sixty days, if he is satisfied that the application could not be submitted in time for sufficient reasons.

Constitution of State Notified Service Delivery Committee.

13. *(1)* The State Government shall constitute a State Public Service Delivery Committee consisting of Chief Secretary, Additional Chief Secretary (Administrative Reforms), Principal Secretary, Urban Development and Principal Secretary, Rural Development and Principal

Secretary, Information Technology, by notification in the *Official Gazette,* for the purposes of this Act.

(2) The functions of the said Committee for achieving the objectives of the Act shall be as follows:-

(a) the Committee shall recommend steps to be taken by the Public Authorities to efficient delivery of notified services;

(b) the Committee shall monitor working of the guarantee of delivery of notified services by Public Authorities.

Annual Report.

14. *(1)* The State Notified Service Delivery Committee shall, after the end of each year, prepare a report on its working during the preceding year as well on the evaluation of performance of Public Authorities in rendering notified services and present the same to the State Government.

(2) The State Government shall lay the Annual Report presented by the committee before each House of the State Legislature.

Developing culture to deliver services within stipulated time.

15. *(1)* The defaults on the part of Designated Officer to deliver notified services within stipulated time limit shall not be counted towards misconduct as the purpose and the aim is to sensitize the Designated Officers towards the aspirations of the eligible persons and to use information technology and adopt e-governance culture to deliver the notified services to the eligible persons within stipulated time.

(2) In case of any Designated Officer who is a habitual defaulter, the head of the Public Authority concerned shall be competent to take appropriate administrative action after recording a finding to this effect but not before giving a

show cause notice and opportunity of being heard to the defaulting officer.

Explanation.- For the purpose of this sub-section, a Designated Officer shall be deemed to be habitual defaulter if he incurs more than fifty defaults in a year.

(3) All the Designated Officers and Appellate Authorities shall undergo a periodic training to enhance and ensure time bound delivery of the notified services. The State Government shall facilitate the training process to all concerned officers and it may be part of syllabus in foundation course of the officers or employees.

(4) To encourage and enhance the efficiency of the Designated Officer, it shall be lawful for the head of the Public Authority to recommend cash incentive of such amount as may be notified by the Government in favour of a Designated Officer against whom no default is reported in a year and officers who are delivering services before the stipulated time limit. On such recommendation, the Government or the Public Authority concerned, as the case may be, shall be competent to grant such incentive as it deems fit and proper along with Certificate of Appreciation.

Deemed service condition.

16. The provisions of this Act shall be deemed to be the service conditions of the Designated Officer and First Appellate Authority.

Supplement.

17. The provisions of this Act shall be supplemented to the disciplinary and financial rules and such other service rules and regulations as applicable to the employees of the Government or local authority or Public Authority concerned, as the case may be, and not in derogation to such service rules and regulations governing the service

condition and conduct of the Government employees or the employees of the local authority or public authority concerned.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rules or orders made or issued thereunder.

Bar of jurisdiction.

19. No civil court shall have jurisdiction in respect of any matter which the Appellate Authorities are empowered by or under this Act to determine.

Application of other laws not barred.

20. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Power to make rules.

21. *(1)* The Government may, after previous publication, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in any rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette,* the rule shall, from the date of publication of a notification in the *Official Gazette,* of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the

validity of anything previously done or omitted to be done under that rule.

Power to remove difficulties.

22. *(1)* If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under sub-section *(1)* shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

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(Dr. P. S. Meena)
Additional Chief Secretary (A.R.,O. & M.)

The suggestions or objections in respect of Draft of the proposed Maharashtra Guarantee of Public Services Bill, 2015 may also be sent on following E-mails

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