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Right to Public Services: A Step Towards SMART Governance

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The Millennium Development Goals (MDGs) and several conventions of the United Nations have set a context across the globe where a number of rights-based citizen entitlements have been demanded, and in many cases acceded to by governments. The movements have seen both the demand side pull and the supply side push. Recent times have also seen a global growth in civil society movements and civil society organizations have played a crucial role in converting some of the rights into concrete policy instruments and laws. SMART Governance (**Spontaneous, Moral, Accountable, Responsible and Transparent**) is always have a dream for all democratic societies especially in third world where political and administrative institutions are in growing stage.

The Government of India has also, in recent years, placed a noticeable emphasis on ensuring basic entitlements for people as evidenced in the passing of various landmark legislations. These initiatives constitute a set of mutually reinforcing measures that are designed to empower and enhance the entitlements of the citizens, especially the poor and the socially excluded. Significant among them are the Right to Information Act (2005), The Right to Education Act (2009), The Right to Employment enshrined in the National Rural Employment Guarantee Act (2005) and the Forests Right Act 2006. A parallel development has been that of a vigorous civil society movement that has contributed, in part, not only to the enactment of several rights based legislations in the country but also kept up the momentum to enhance accountability mechanisms. These, in turn, have helped address, to some extent, the fixing of responsibilities of the duty bearers. With this emphasis on rights has also come the realization of a democratic ethos that requires accountability, transparency and equitability in the delivery of public services.

In keeping with this ethos several State governments, beginning with Madhya Pradesh (and now Bihar, J&K, Delhi, Rajasthan, Uttar Pradesh and others), have enacted laws- hence forth to be referred as Right to Public Services Acts (RTPS Act) - that guarantee time-bound delivery of selected services to the citizen. The Acts are significant as they place the onus of delivery on the service provider with penalties for delays in service provision.

Different Laws in India - at a glance chronologically:-

- The Madhya Pradesh Lok Sewaon Ke Pradan Ki Guarantee Adhiniyam, August 18, 2010.

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- The Uttar Pradesh Janhit Guarantee Adhyadesh, January 13, 2011.
- The Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011, April 28, 2011.
- The Jammu and Kashmir Public Services Guarantee Act, 2011, April 13, 2011.
- Bihar Right to Public Services Act, 2011, August 15, 2011.
- The Rajasthan Guaranteed Delivery of Public Services Act, 2011, September 21, 2011 (wef 14th November, 2011).
- The Uttarakhand Right to Service Act, 2011, October 04, 2011.
- Himachal Pradesh Public Services Guarantee Act, 2011, October 17, 2011.
- The Punjab Right to Service Act, 2011, October 20, 2011.
- The Jharkhand Right to Service Act, 2011, November 15, 2011.
- The Lok Seva Guarantee Act, December 12, 2011.
- Kerala Government Service Assurance Bill, 2011 (Proposed)
- The Karnataka (Right Of Citizens to Time Bound Delivery of Services) Bill 2011, (Proposed)
- The Right to Services Act Orissa (Proposed)
- The Citizens Right to Grievance Redress Bill, 2011, Central Government (Proposed).

Several RTPS Acts are in the pipeline in the country and there is a need to learn from the experiences of those States that are into the implementation phase. While the provisions of the Right to Public Services Acts remain similar across different States, they vary significantly in terms of mechanisms adopted for implementation and the features on penalties and appeals. Not much work has been done so far to study these Acts and provide lessons that could feed into national policy and act as guides to the States that are on the verge of implementation. It must be kept in mind; however, that implementation is in fairly early stages in most of the states.

All States have followed different approaches to RTPS. MP was the first State to pass the RTPS Act in 2010, Rajasthan has the maximum number of services under its RTPS Act, Delhi has been significantly different in its focus on Information Technology (IT) based mechanisms in the implementation while UP has the least number of services under the Act. Bihar has followed the mass awareness mode and a phased IT-backbone to aid in the implementation of the Act.

The common framework of the legislations in various states includes, granting of "**right to public services**", which are to be provided to the public by

the designated official within the stipulated time frame. The public services which are to be granted as a right under the legislations are generally notified separately through Gazette notification. Some of the common public services which are to be provided within the fixed time frame as a right under the Acts, includes issuing caste, birth, marriage and domicile certificates, electric connections, voter's card, ration cards, copies of land records, etc. On failure to provide the service by the designated officer within the given time or rejected to provide the service, the aggrieved person can approach the First Appellate Authority. The First Appellate Authority, after making a hearing, can accept or reject the appeal by making a written order stating the reasons for the order and intimate the same to the applicant, and can order the public servant to provide the service to the applicant.

An appeal can be made from the order of the First Appellate Authority to the Second Appellate Authority, who can either accept or reject the application, by making a written order stating the reasons for the order and intimate the same to the applicant, and can order the public servant to provide the service to the applicant or can impose penalty on the designated officer for deficiency of service without any reasonable cause, which can range from Rs. 500 to Rs. 5000 or may recommend disciplinary proceedings. The applicant may be compensated out of the penalty imposed on the officer. The appellate authorities has been granted certain powers of a Civil Court while trying a suit under Code of Civil Procedure, 1908, like production of documents and issuance of summon to the Designated officers and appellants.

Sakala: Karnataka Guarantee of Services to Citizens Act, 2011:- The Department of Personnel and Administrative Reform (DPAR), Government of Karnataka with the support of National Informatics Centre successfully implemented the **Sakala scheme** under the Karnataka Guarantee of Services to Citizens Act. The Chief Minister of Karnataka D.V. Sadananda Gowda inaugurated Sakala at the podium block in Visvesvaraya Tower, Bangalore on 2nd April, 2012. A total of 151 services in 11 major government departments including Commercial Taxes, Education, Food and Civil Supplies, Health and Family Welfare, Home, Labour, Revenue, Transport and Rural Development and Panchayat Raj, are covered by Sakala. In case of any delay or default in delivering the requested service, the applicant can seek compensation at the rate of 20 per day of delay subject to a maximum of 500 from the officer concerned. The system updates the citizen on the progress of the service request through SMS to the mobile number specified in the application.

Madhya Pradesh Public Service Guarantee Act, 2010:- The Madhya Pradesh

Public Services Guarantee Act or Lok Seva Adhiniyam, 2010 (wef 29th October, 2010) is first of its kind in India. No other state has come up with such a groundbreaking legislation to uproot corruption and facilitate Public services to common man. Shivraj Singh Chauhan led BJP government in M.P indeed deserves extolment. The Act ensures delivery of time bound services to the public. If the officer responsible for the service fails to provide the service in time he will have to pay a fine. The following are the services guaranteed under the Act: Birth Certificate, Caste Certificate, Domicile Certificate, Tap water supply, Electric connections, Khasra copies, Birth and Death Certificates etc.

The Procedure under the MP Public Service Guarantee Act: The applicant shall receive a receipt when he or she submits an application to the officer for desired service. The time begins from the date of submission which is mentioned the receipt. There is a fixed time for every officer to keep a file with him. If the officer in charge fails to provide the service in time the applicant can approach the first and second appellate officers. They would instruct the officer concerned to provide the service. In case of delay, the officer in charge will have to pay a fine to the tune of Rs. 250 per day, maximum of Rs. 5,000. The Appellate officer can also be penalized if he fails to ensure the delivery of service. He shall be fined to the tune of Rs. 500 per day, maximum of Rs. 5,000 if he is unable to give any valid reason for non delivery of services. The Act will be instrumental in curbing corruption on the lower levels bureaucracy. If implemented in good order the Public Service Guarantee Act, 2010 shall make Madhya Pradesh a model state in terms of rendition of public services.

Right to service- next step after RTI:- The first step towards opening "secret" files maintained by civil servants and public authorities was taken by Parliament through **Freedom of Information Act, 2002**. It was replaced by **Right to Information Act in 2005**. The objective was to give meaning to the word "civil servant". For, the babus had been groomed by the system to hide almost everything from those for whose service they were employed. Attitude is an important aspect of service, which has been sorely lacking in a majority of civil servants. Those who cleared tough competitive examinations to become civil servants behaved like masters. Most of them felt that whatever they did, be it at block, district or state level, people should stay obliged, even though much more was expected of them. They moved around with an air and paraphernalia that people generally referred to them as "uncivil" servants.

With the RTI Act, citizens were empowered to find out where their file was struck. The law made it mandatory for civil servants and public authorities to

give information promptly on the common man's query. Let us assume that RTI Act has been implemented to the T and every citizen now knows about the bottlenecks in completion of a particular work. But how does this knowledge help? He can either write to higher authorities or move court seeking redressal of his grievance. Well, the courts are already deluged with cases and there is little chance of him getting early relief in matters pertaining to digging a tube-well in a village or constructing a school. There is no guarantee that the higher authorities, generally sympathetic towards their peers, would do anything promptly to redress the grievance. In this backdrop, Right to Service Act brings fresh hope of development catching pace in hitherto neglected hinterlands.

Without the right to service, the RTI Act will be rendered meaningless as mere knowledge of what the babu has noted in the files is not enough. It must be supplemented by giving people the right to demand service from civil servants. This alone can make files get dusted out and catch pace and translate decisions to actual work on the ground. Right to service is explained as a key element in the Constitution's Directive Principles of State Policy. The preamble of the Constitution also promised to secure justice "social, economic and political" for the citizens. Directive principles provided guidelines for creation of conditions in which citizens could, in the true sense, enjoy their fundamental rights. The importance of directive principles, embodying the essence of right to service, is explained by the Supreme Court in its judgment **Mohini Jain v/s State of Karnataka** (1992 SCC (3) 666).

Historical Background:- The Right to Service legislation can be traced its roots from British Parliamentary system. The UK began a reform process called "**Public Services: Putting People First**" and had wide consultations. Having received both oral and written views, the House of Commons in 2008 suggested that the country had to move beyond Citizens Charters and Charter Mark. To quote the House: "One of the most important features of the Citizen's Charter was its stated aim of setting out people's entitlements to public services. Charters for individual public services were intended to outline the standards of service that people could expect to receive. In this crucial area, however, the Citizen's Charter programme was rather confused—promises contained in the charters were often vague and aspirational, confounding the aim of defining a tangible set of entitlements to public services that people could readily understand and use."

While there have been piecemeal efforts in the past focusing on improving service delivery, for instance the adoption of the Citizens Charters based on the practices in the United Kingdom, the RTPS Acts aim to converge various

guarantees under a single umbrella at the state level. They look towards addressing the already growing demand of citizens for improved public services, reducing corruption through imposing penalties on service providers for defaulting and imposing a time frame for delivery of services and aim at universalization of public services. In addition, what was under the Citizens' Charters an administrative guarantee has been translated into a legal right, justiceable, under the various RTPS Acts. While the focus on rights and entitlements in public services is unique, actual implementation on the ground has thrown up many challenges. Some of these are explored in the following sections.

In a national consultation on Strengthening Delivery and Accountability Frameworks for Public Service organized by the Government of Madhya Pradesh and UNDP India, the Honorable Chief Minister of Madhya Pradesh explained why and how they decided to go in for legislation on public services. At the time of elections people are the most important. After that the government ignores them. The CM, Ministers, and bureaucrats, all think that they are perfect and wisdom cannot reside outside this group. In the case of MP, we had introduced "**One day Governance**" - Samadhan Ek Din Mein and we had Citizens Charters. But when we listened to the people, we found that no body looked at the Citizens Charters and no body bothered about the details. We wanted, then, to introduce a Citizens Charter Act. There ere a number of doubting Thomases. But the question we asked was if we are giving rights through the Charters why are we scared of fixing responsibility? Thus was born the MP Lok Sewaon Ke Prdhan Ki Guarantee Adhiniyam.

Rajasthan was also counted as one among the poorest states in India, but has in recent times seen many noteworthy development initiatives. It is also the state where the Right to Information movement had its origin and has seen a lot of success. In keeping with these developments in rights based governance, the Rajasthan Guaranteed Delivery of Public Services Act was passed in September 2011.

Rajasthan Guaranteed Delivery of Public Services Act, 2011:- Rajasthan Government enacted and implemented the Rajasthan Guaranteed Delivery of Public Services (RGDPS) Act, 2011. For establishment of **SMART governance**— **Spontaneous, Moral, Accountable, Responsible and Transparent**, Government guaranteed their services to public in fifteen departments under section 3 of RGDPS Act. The Act came into force from 14th November, 2011. There are 108 services of 15 various departments under the purview of this RGDPS Act, highest coverage in India. Rajasthan also became the first state to implement the **Rajasthan Right to Hearing Act, 2012 (RTH)** from 1st August, 2012.

Methodology and Statistics:- Data on applications in Madhya Pradesh shows that nearly 87 lakh applications have been received under the Act and 86.98 lakh disposed (up to 10th January 2012). Similarly 95 lakh applications were received in Bihar (from 15th August 2011 to 31st January 2012). About 70 lakh applications received and 66 lakhs disposed in Uttar Pradesh (up to November 2011) and 17, 52,560 applications were received and 16,88,294 disposed (from 14th November 2011 to 15th January 2012) in Rajasthan. Data from Delhi shows that by January 2012, Delhi government received 7,03,383 applications from citizens, out of which 6,92,974 applications were disposed and only 10,409 applications were pending, taking the pendency rate to 1.5 percent.

Simplification Process- Some of the challenges in ensuring timely delivery of services are in reducing the number of steps from the application to the receipt of a service by the citizen. Considering that many services are delivered at the Block level and above, efficiency in real terms would be achieved if the number of trips that a citizen must make to the service delivery centre is reduced. This requires process simplification, well informed citizens and minimum step delivery of services. Process simplification also entails measures for transparency, citizen centricity and fixing of accountability for service delivery. Under RTPS, in most of the states, process simplification and reduction in time for delivery of services has been attempted through the use of Information Technology (IT).

The RTPSs envisage the development of ICT systems in three phases: Phase 1: Computerized acceptance of application at the front office and generation of acknowledgement cards; monitoring of service delivery leveraging ICT. Phase 2: Online request/ application for services; physical delivery from front office. Phase 3: Online request/ application and online delivery. The existing call centre "**Jigyasa**" in Bihar has been equipped to cover enquires under RTPS. "**Adhikaar**" is the frontend interface and monitoring application for RTPS in Bihar. It enables issue of acknowledgements along with system generated 18 digit unique identification number.

Conclusion: - The Central Citizens Right to Grievance Redress Bill, 2011 is still pending. All States have different approaches to RTPS. MP was the first State to pass and implement the RTPS Act (18th August, 2010) in 2010, Rajasthan has the maximum number of services (108) under its RTPS Act, Delhi has been significantly different in its focus on Information Technology (IT) based mechanisms in the implementation while Bihar has followed the mass awareness mode and a phased IT-backbone to aid in the implementation of the Act. But the common framework of the legislations in various states includes, granting of right to public services, which are to be provided to the

public by the designated official within the stipulated time frame. The public services which are to be granted as a right under the legislations are generally notified separately through Gazette notifications. The RTPS Acts should be implemented seriously and attentively. Our constitutional Directive Principles of State Policy (DPSP) imposed responsibilities on state to provide appropriate services to citizens. So this will really prove as a tool in the direction of SMART Governance in India undoubtedly.

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