



# ADMINISTRATING: PUBLIC SERVICES

***MUHAMMAD MUSHTAQ JADUN  
(PAS)***

Published by Governance and Policy Project-World Bank (Merged Areas)  
Khyber Pakhtunkhwa



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## **RTS COMMISSION PUBLICAION (P3)**

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Peshawar,  
February, 2020

## ***PREFACE***

*Right to Public Services (RTS) Commission established under an Act of Provincial Assembly in 2014. To elaborate the working of RTS Commission, RTS Rules, 2014 have been framed. Strategic Action Plan, along with Communication Strategy, drafted. It was felt that due to large number of designated officers and number of appellate authorities there is need to explain the provisions of RTS Act and Rules. It will not only help building capacity of service providers but also enable the Commission staff to understand the procedures as laid down in RTS Act, Rules and Regulations. Three Regulations pertaining to Service matters, working of Commission and Steering Committees at divisional and district level framed and notified by the Commission. Merger of tribal areas and extension of RTS Act to tribal districts poses new challenges.*

*Educating the public about availing a service and procedure of grievance redressal forum would be a continuous process. There is need to create awareness about the fundamental rights and availing the services as a matter of right and not as a favour.*

*Appellate Authorities for all the notified services have been vested with the powers of civil court under The Code of Civil Procedure, 1908. This document would help the service providers as well as District Monitoring Officers of RTS Commission to understand the procedures.*

*“The cooperation of Governance & Policy Project (Merged Areas) is acknowledged for printing of the manual.”*

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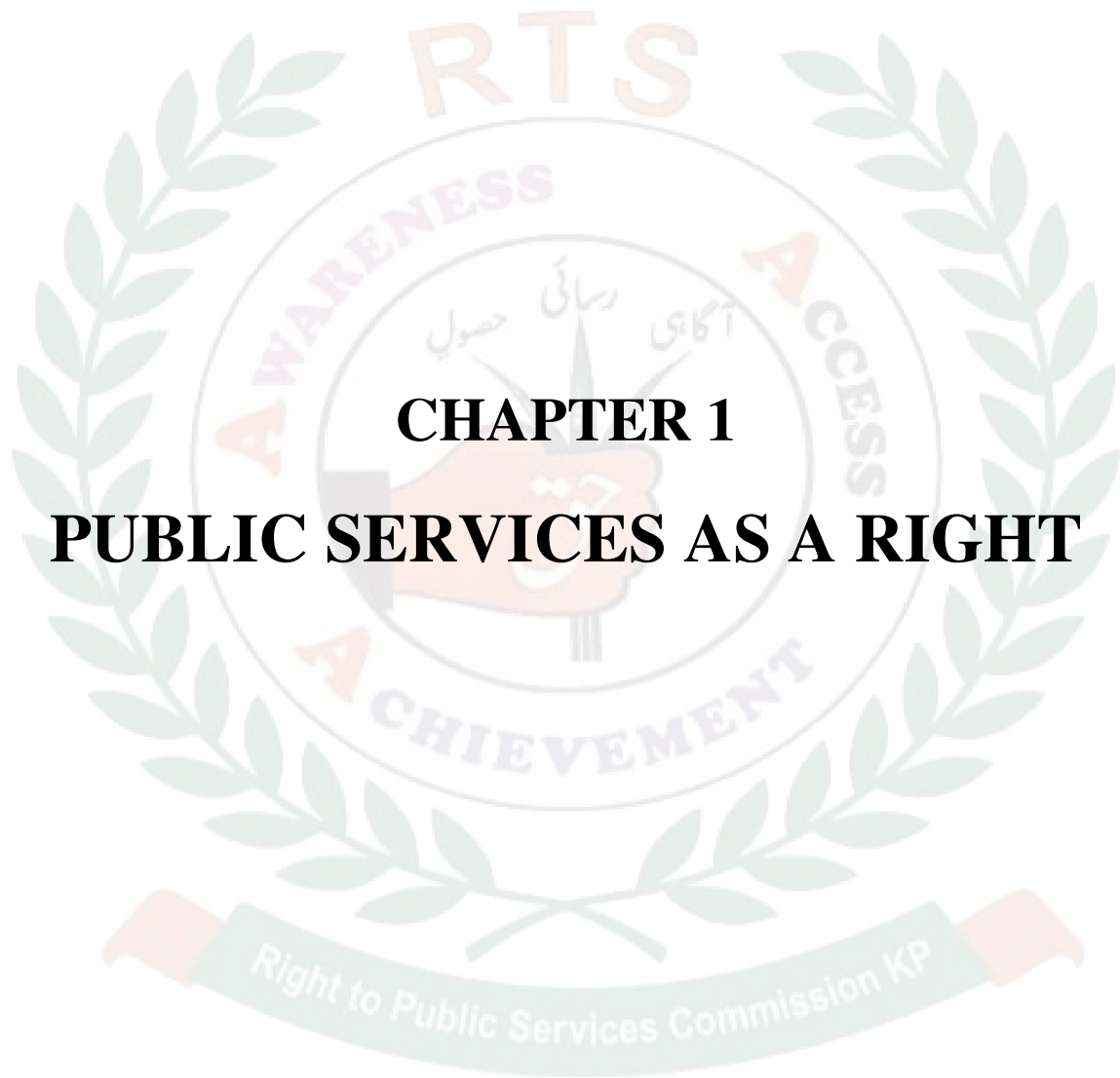
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*Right to Public Services Commission KP*

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# **CHAPTER 1**

## **PUBLIC SERVICES AS A RIGHT**



## **CHAPTER 1**

### **PUBLIC SERVICES AS A RIGHT**

#### **1.1 NATIONAL LEVEL**

One of the basic functions of state is to ensure public welfare and provide services, which the market forces or the private sector cannot, adequately, meet.

Preamble to the Constitution of Pakistan states that principle of social justice, as enunciated by Islam, shall be fully observed. Fundamental rights, including social, and economic justice shall be guaranteed. Same principles enunciated in Objective Resolution (Article 2A); now substantive part of constitution.

Fundamental rights, as contained in articles 8-28 of the constitution, are enforceable rights and any law which is repugnant to the fundamental rights shall be null and void. These rights, inter-alia, include security of person, inviolability of dignity of man, freedom of trade, business and profession, freedom of information, provisions as to property, protection of property rights, equality of citizen, right of education and safeguard against discrimination in services<sup>1</sup>.

#### **1.2 PRINCIPLES OF POLICY.**

##### **{CHAPTER 2 (ARTICLES 29-40 OF THE CONSTITUTION)}**

The principles set out in chapter 2 are responsibility of each organ and authority of the state and each such person performing functions on behalf of an organ or authority of the state to act in accordance with these principles. Each year the Governor of the Province shall cause to lay a report in the Provincial Assembly regarding observance and implementation of the Principles of Policy for discussion. As compared to fundamental rights the provisions contained in the Principles of Policy are non-enforceable (Article 30(2)). The validity of an action or of a law shall not be called in question on the ground that it is not in accordance with the Principles of Policy and no action shall lie against the state, any organ or authority of the state or any person on such ground.

Principles of Policy lay the direction to be followed by each organ of state with regard to Islamic way of life, promotion of local government institutions, discouraging parochial and other Prejudices, full participation of women, protection of family and minorities, promotion of social

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<sup>1</sup> The Constitution of Islamic Republic of Pakistan, 1973

justice and eradication of social evils and promotion of social and economic well-being of the people.

Notified public services such as First Information Report (FIR) pertains to security of citizens, which is a fundamental right. Others like strengthening of local government institutions and women participation are covered under Principles of Policy.

### **1.3 NATIONAL INSTITUTIONS**

Multiple government departments and Commissions have been established to ensure delivery of services regarding human rights and redressal of grievances.

#### **1.3.1 Government Departments**

- Human Rights Directorate Khyber Pakhtunkhwa.
- Law, Parliamentary Affairs and Human Rights Department.
- Ministry of Human Rights Pakistan.
- Directorate of Human Rights Peshawar High Court,
- E-Citizens Grievances Redressal System, Khyber Pakhtunkhwa Social Welfare Department.

#### **1.3.2 National and Provincial Commissions**

- The National Commission for Human Rights.
- National Commission on Status of women.
- National Commission on the Rights of the Child Act.
- Khyber Pakhtunkhwa Provincial Commission on the Status of Women.
- Khyber Pakhtunkhwa Child Protection and Welfare Commission.
- Khyber Pakhtunkhwa Right to Public Services Commission.
- Right to Information Commission, Khyber Pakhtunkhwa.

#### **1.3.3 Provincial, National departments and Commission operate under various Acts and Rules.**

Few are enlisted below.

- i. The Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Rights Act, 2014.
- ii. The Protection against Harassment of Women at work place Act, 2010.
- iii. The Prevention of Anti-women Practices (Criminal Law Amendment) Act, 2008.
- iv. The Anti-Honor Killing (Criminal Amendment) Act, 2016.
- v. The National Commission for Human Rights Act, 2012.

- vi. The Khyber Pakhtunkhwa Right to Information Act, 2013.
- vii. The Khyber Pakhtunkhwa Right to Public Services Act, 2014.
- viii. The Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016.
- ix. The Khyber Pakhtunkhwa Protection of Commercial Properties Act, 2014.
- x. The Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015.
- xi. The Khyber Pakhtunkhwa Senior Citizen Act, 2014.
- xii. The Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015.
- xiii. The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013
- xiv. The Deserving Widows and Special Persons Welfare Foundation Act, 2014.
- xv. The Protection against Harassment of Women at work place (Amendment) Act, 2014

## **1.4 LEGAL FRAMEWORK**

Public Services are administered under score of laws, rules, regulations, manuals, Standing Operating Procedures (SOPs) and policy of government. Legal, economic and financial policies, procedures and laws govern the administrations of public services.

The Khyber Pakhtunkhwa Right to Public Services Act, 2014 is first ever such initiative in Pakistan. It envisages legal obligations of service providers and creation of a body in the form of Right to Public Services Commission (RTPSC), hereinafter to be referred as RTS, with the aim of ensuring transparency, quality and observance of timelines in administering public services.

RTS Act determines the rights of citizen called, “eligible person”, obligations and duties of service provider such as designated officers, power of Appellate Authority within the institution and finally the RTS to monitor the administration of notified public services. Non-observance of provisions of RTS Act, 2014, RTPS Rules, 2014 and RTS Regulations are punishable, both, under the RTS Act and Civil Servants Act, 1973. Delinquent officials may be proceeded against under Efficiency and Discipline Rules as well as Tribunal of Inquiries Ordinance, 1969.

## **1.5 ADMINISTRATIVE STRUCTURE**

In the developed countries, and neighboring India, multiple governance actors include public agencies and private sector. Community Based Organizations (CBOs) have been created to administer public services and monitoring.



One study in India indicates that citizens in low income democracies depend on state for provisions of basic services either due to absence of a market for these services or poverty<sup>2</sup>. Improving awareness of Stakeholders can be cost-effective.

In Indian Punjab Right to Services Act, 2011 passed and Commission created to monitor the delivery of public services. In Pakistan Human Rights Commission created, both, at the federal and provincial levels. Besides Human Rights Cell in the Supreme Court of Pakistan and the High Court's monitor and redress human rights issues including public service delivery. Other includes offices of federal and provincial ombudsman and the Commissions created under various laws.

RTS is headed by Chief Commissioner and assisted by two Commissioners, Secretary, Assistant Registrar, Database Administrator, Data Analyst and other supporting staff.

Commission, under the RTS Act, 2014 has been vested with administrative, judicial and financial powers. Offices in all the districts, headed by District Monitoring Officer and one Assistant, have been established.

In pursuance of Steering Committees Regulations, 2018 and with the approval of provincial government District Steering Committees (DSC), headed by Deputy Commissioners notified, Terms of Reference and Composition at **Annexure A**.

Divisional Steering Committee is headed by Divisional Commissioners and its composition and functions is at **Annexure B**.

Standing Operating Procedures (SOPs) developed for, both, the Khyber Pakhtunkhwa Right to Public Services Commission Steering Committees (amendment) Regulations, 2018 (**Annexure C**).

Deputy Commissioners, as per Regulations, authorized to constitute Sub Divisional Steering Committees, headed by Assistant Commissioners. Constitution of Sub Divisional Steering Committees (SDSC) is under process. Deputy Commissioners, Commissioners, Provincial departments and Institutions Regulations, 2018, Sub Divisional Steering Committees are being established under the Chairmanship of Assistant Commissioners. In all the three categories of Steering Committees heads of departments are members, while the civil society may also be given representation.

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<sup>2</sup>Governance and Public Service in Indian Farzana Afridi Indian Statistical Institute Economic and Planning Unit. New Delhi India. fafridi@isid.ac.in

## **1.6 ENGAGING THE STAKEHOLDERS**

Stakeholders mapping and analysis carried out under Strategic Action Plan. Communication Strategy developed. Data of all the Local Government Institutions such as Village Councils, Neighborhood Councils, Tehsil Municipal Administration, District Councils and Towns obtained from Local Government department. District offices to keep on updating the district profile.

In Khyber Pakhtunkhwa Union Councils have been further divided into Village Councils. There are some 3500 Councils comprising of about 43000 elected members. It is huge human resource. Data of NGOs (Non-Governmental Organizations), INGOs (International Non-Governmental Organizations) and Community based organizations compiled. Mapping of stakeholders is a continuous exercise.

### **1.6.1 CITIZEN FACILITATION CENTERS (CFC)**

a. Three CFCs, one each, in Mansehra, Lakki Marwat and Mardan established. Citizen Integration Forum (CIF) organized in all the districts. Four more CFCs at Divisional Headquarters are being established, all with the assistance of United States Agency for International Development (USAID)/ World Bank. Integrated Grievance Redressal Unit (Renamed as, “Rasaai”), with free telephone number of 1800, is being established at Peshawar. The number of CFCs would be scaled up to 7 (all Divisional Headquarters) and subsequently to 12.

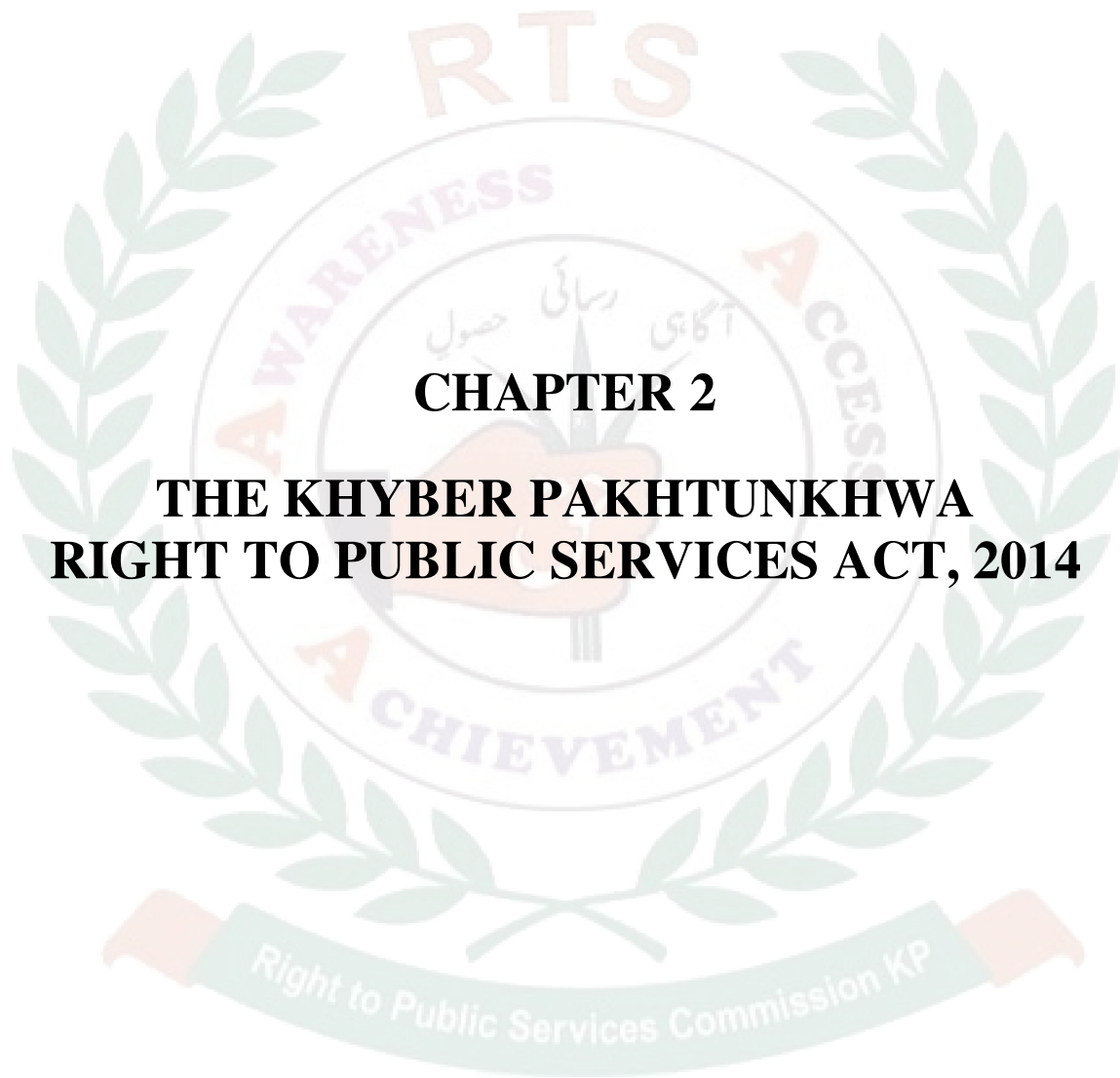
b. District Citizens Integration Forum (Renamed as, “District Rasaai Forum” (DRF)) is a community forum, comprising of elected representatives and other stakeholders. Deputy Commissioner is convener of DCIF. Composition and number of DRF is flexible and may vary from 30-50. Convener may coopt more members on need basis. DRF constituted in all the districts. Meetings held. The purpose of DRF is to ensure community participation in public services, create awareness and enhance capacity building.

c. Sub Divisional Steering Committees being constituted.

d. Provincial Citizens Integration Forum (PCIF): Provincial level, having MPA’s, Local Government representatives and other opinion makers.

e. Proposed Local Government Act envisages abolition of district governments and devolution of administrative, legal and financial powers to the Sub Divisions.

While SDSCs are being constituted the Commission has initiated the constitution of Sub Divisional Citizen Integration Forum (renamed as, “Tehsil Rasaai Forum” (TRF)). The purpose is to provide an administrative (SDSC) and Community Forum (TRF) at the Sub Divisional level as well.



**CHAPTER 2**

**THE KHYBER PAKHTUNKHWA**  
**RIGHT TO PUBLIC SERVICES ACT, 2014**

## **CHAPTER 2**

### **THE KHYBER PAKHTUNKHWA RIGHT TO PUBLIC SERVICES ACT, 2014**

#### **2.1 SECTION 2 OF THE ACT: DEFINITIONS**

##### **2.1.1 Section 2(b) Authority (Section 2(b))**

Authority includes departments, Board, Commission, Body, Council, Local Government, Subordinate courts and any Body, corporation, company owned and controlled by the government. By definition it includes all the other government institutions who are not administering notified public services. Thus the scope of authority is quite comprehensive. As per section 9 of the Act\* every authority is bound to display, on their notice board and website, details of Designated officers, public services and the specified time limit.

##### **2.1.2 Section 2(g) Eligible Person**

Eligible person means a citizen of Pakistan having any accrued right to public services in the Province and shall include Corporations, Companies, firms, businesses and organizations working in the Province.

Any citizen of Pakistan, even from other provinces (if eligible), has a right to public services in the Province of Khyber Pakhtunkhwa. All the citizens of Pakistan have fundamental rights but these rights are subject to law. Under the constitution of Pakistan every citizen can carry on trade or purchase property, entitled to security and lodging of FIR (First Information Report) and, “Fard”, but not entitled to Birth, Death and Domicile certificate as he is not citizen of Khyber Pakhtunkhwa. Every citizen residing in Khyber Pakhtunkhwa and carrying on business is entitled to health, clean drinking water, and sewerage and garbage removal.

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\* Act wherever occurred in this document means, “The Khyber Pakhtunkhwa Right to Public Services Act, 2014”

Eligible person accrued rights are limited to notified public service. Public service means any service or services notified by the Government under section 4 of the Act. So far Twenty Four (24) services have been notified, with the approval of Provincial government.



## **2.2 SECTION 4: NOTIFICATION OF PUBLIC SERVICES AND TIME LIMIT**

- Government may notify any service to be a public service and also specify time limit within which such service shall be provided by the designated officer to the eligible person.
- Government will specify time limit and Designated officer who shall be responsible for providing such service to eligible person. Appellate authority for each category of public service will also be notified.
- Prior to notifying a public service government may invite public opinion. (Section 4(3)).
- While notifying a public service government will specify the
  - a. Type of service
  - b. Time line (days/hours)
  - c. Designated officer and the appellate authority.
- In case of all RTS notified public services, appellate authorities have been declared. In case appellate authority has not been mentioned in the notification, then, as per provisions of Section 3(a), the concerned administrative secretary of the department shall be deemed as appellate authority.
- This is an enabling provision. To ensure devolution the appellate authorities have been notified for all the public services at the district and divisional level.

## **2.3 SECTION 3: RIGHT TO PUBLIC SERVICES**

These rights mentioned in Section 3 accrued to eligible person, who is a legal entity as per Section 3(g), regarding public service, as notified under Section 4.

**2.3.1** Section 3 further elaborates the rights of eligible person to Public Services. The rights conferred on eligible person include: -

- i. Access to the public service
  - Access includes physical, social and economic access. It means no one should be deprived of a public service on the basis of caste, sect, gender, race and language.
  - Transgender and women access to public services such as Domicile, Fard and Birth Certificate etc. is an inalienable right.

ii. **Specified time limit (Section 3 (b))**

- Public Service were otherwise being received by the citizens. RTPS Act has set the timelines for each notified service. Delay beyond notified timeline, unless there are valid reasons, may attract actions as specified in Section 11, 12, 13 and 14, which includes imposition of fine on the Designated officer, appellate authority and disciplinary action under the service rules.
- Under Section 4 and 5 government may specify time lines for the public service as well as specify designated officer and appellate authority.

**2.3.2 Section 3 (c)**

**2.3.2.1 Receive the public service in a transparent manner**

The spirit and core purpose of the RTS Act is;

- a) Ensuring provision of public service to the eligible person(s) within specified time.
- b) An eligible person must get such public service in a transparent manner
  - If a service is provided within specified time but through malpractice such as illegal gratification, then it is infringement on fundamental rights of an eligible person, and may attract any of the action and punishment as mentioned in Section 11, 12, 13 and 14 of RTPS Act.

**2.3.2 Section 3(d) Right to eligible person to demand performance of duties**

- An eligible person may also demand performance of duties and functions from the designated officer in accordance with this Act. It is important that District Monitoring Officers (DMOs) properly understand the functions of officials and processes involved in delivery of a public service.
- It means all rules, regulations framed under RTPS Act and all notifications issued in pursuance of powers vested in the government under RTPS Act are binding on the designated officers.
- Procedures for each service such as domicile, arms, driving license and death and birth certificate have already been laid down.
- Various notified public services are being administered under Acts, rules, regulations (Arms Act, Motor Vehicle Ordinance, Local Government Act,

Criminal laws (FIR) and rules), Standing Operating Procedures (SOPs), guidelines and policy of government.

- Every official of department is bound to follow the laid down procedures.
- Eligible person is entitled to demand performance of duties and functions by the designated officer in accordance with the provisions of this Act.

### 2.3.3 Main provisions of RTS Act (Section 3(d))

This includes:

- (i) Notified services, as per section 4, with time lines.
- (ii) Time lines set under as per section 5.
- (iii) Receipt of service in a transparent manner Section 3(c).
- (iv) Right of appeal in case a service request is rejected or service is deficient, delayed or provided in a non-transparent manner. Such aggrieved person can file an appeal under section 6 to the appellate authority. Appellate authority for all the public services have been notified. Appeal can be filed within 30 days. The appellate authority shall dispose of appeal within 30 days from the date of presentation of appeal (Section 6 (2)). In case of failure to decide the appeal within thirty days the Commission may proceed against the appellate authority.

## 2.4 SECTION 6(3).

The appellate authority may direct the designated officer to provide the public service within such time as it may specify, but not more than the time specified in the notification (as set under Section 4(3)) or remove such deficiency or to pass such order including rejection of appeal as it may deem fit. It means the appellate authority may reject the appeal.

### 2.4.1 Opportunity of hearing

Before passing any order under Section 6(3) the appellate authority shall provide an opportunity of hearing to the appellant as well as to the designated officer.

It is the basic principle of law that, “no body should be condemned unheard”. Appellate authority is bound to share the contents of complaint or appeal with the Designated Officer, and after hearing of both parties, shall pass an order. Such order shall be in writing. Both in case of acceptance, or rejection of appeal, the appellate authority shall give reasons. Providing

opportunity of hearing is fundamental right and this principle is equally applicable to all the proceedings of Commission.

#### **2.4.2 Final appeal (Section 6(4))**

The eligible person and the designated officer can file an appeal to the Commission within 15 days of issuance of an order passed by the Appellate Authority.

### **2.5 SECTION 7(1).**

Commission shall decide the appeal within 30 days of receipt of such appeal.

#### **2.5.1 Disposal of appeal and Complaint (Section 7(2))**

Commission may dispose of any other matter or complaint within 60 days from the date of such complaint or entrustment of such matter, as the case may be.

#### **2.5.2 Complaint**

An eligible person may file a complaint direct to the Commission as the language of Section 7(2) indicates

#### **2.5.3 Section 7 (2) Any Other Matter**

Any other matter or complaint, to be adjudicated by the Commission within Sixty days. Such matter has not been explained in the Act, but the language of the section indicates that any such matter may be entrusted to the Commission by the government or receipt of complaint.

### **2.6SECTION 13: COMPENSATION**

Eligible person is also entitled up to 70% of amount of fine as compensation imposed by the appellate authority or the Commission.

### **2.7 SECTION 14: DISCIPLINARY ACTION**

In addition to imposition of fine on the appellate authority (Section 12) the Commission may recommend disciplinary action against the designated officer or appellate authority for their failure to discharge duties assigned to them under the Act without showing sufficient reasons or cause.

Disciplinary action shall be recommended under the disciplinary laws of service applicable to such designated officer or appellate authority. Depending upon grade and level of such official, who failed to perform duties, shall be recommended to the competent authority. Competent



authorities have been defined under Civil Servant Act, Efficiency and Discipline Rules and authorities as specified for the institutions established under special laws.

## **2.8 SECTION 3(E): SERVICE DEFICIENCY**

Eligible person is entitled to hold the concerned designated officer accountable for any service deficiency in the public service. It means that an eligible person will lodge an appeal to the appellate authority and can also send a complaint simultaneously to the Commission. In such a case Commission, as per provisions of Section 24 of RTSC Act, can send the application direct to the appellate authority for taking further action in the matter.

### **2.8.1 Provisions as to of deficient service.**

#### **2.8.1.1 Deficient Service (Section 3 (e))**

- Deficiency in service is a matter of quality. It may include matters like provision of incomplete service.
- Late or partial removal of garbage would be yet another example of deficient service.
- Security of citizens is fundamental right of every citizen. Designated officer may oblige the complainant by registering an FIR but not as per report of complainant (eligible person), as it happens in most of the cases that FIR is lodged under sections carrying less punishment or non-application of relevant sections of law or not fully stating the facts of the case.
- 'Fard' is a revenue paper indicating extent of ownership of a person in the property. If a wrong 'Fard' is given by a Designated Officer (Patwari) or Fard lacking full details; such Fard shall be deemed as deficient service.

#### **2.8.1.2 Non-Compliance of provisions of Act**

Scope of non-compliance of provisions of Act is much broader. Non-compliance of provisions of RTPS Act may include:

- (a) Delayed provision of a service
- (b) Non-provision of service
- (c) Rejection of request of an eligible person by the designated officer or refusal without sufficient cause. Commission on receipt of an application, and

ascertaining the factual position, may declare such rejection appeal or refusal without lawful grounds.

## **2.9SECTION 3(C) TRANSPARENCY**

Transparency is of utmost importance and essence of provisions of RTPS Act.

- Appellate authority has been defined under Section 2(a). It means the concerned administrative Secretary of the department or such other person or authority as notified by the government.
- With a view to devolve the functions the government, vide powers vested in it under Section 4 of the Act, has specified the appellate authorities for various services. It means the Commission will send such applications to the notified appellate authority. If such appellate authority fails to take remedial action the Commission has the following options:-
  - i. To report the matter to concerned Administrative Secretary and ultimately to the government.
  - ii. Commission may review its earlier decision (Section 17(f)) with regards to appeal.
  - iii. Issue directions requiring any authority entrusted with administration to take such steps as may be necessary to secure compliance with the provisions of Act or any other law under which the eligible person is entitled to a right or benefit (Section 19(i)).
  - iv. Commission may order payment of compensation to the eligible person (Section 19(ii))
  - v. Commission may initiate an inquiry and shall have all the powers available to a Tribunal under the Tribunals of Inquiry Act, 1969 (Section 19(2)).
  - vi. Commission may receive complaints alleging non-compliance of provisions of Act. Commission may send such application directly to the appellate authority for taking action in the matter in accordance with the provisions of Act (Section 24).

## **2.10 AUTHORITY**

Section 19(1) states that the Commission shall, upon adjudication of a complaint, have the power to issue directions, requiring an Authority to take such steps.

Authority, as defined under Section 2(b) of Act, includes any department or attached department, any office, Board, Commission, Council, local government Institutions, subordinate courts, Tribunals and state-owned Corporations and companies.

- This definition is quite exhaustive but the role of Commission is defined and restricted to the extent of notified services as per provisions of Section 4 of the Act.
  - Eligible person (Section 2(g)) accrued rights, as far as RTPS Act is concerned, are limited to notified public services (section 2(k)) as prescribed by the government under section 4 of the Act.
  - Section 19(1), however, further broaden the rights accrued to an eligible person as it authorizes the Commission to issue directions to any authority to take such steps as may be necessary to secure compliance with the provisions of this Act or any other law under which the eligible person, is entitled to a right or benefit. The sentence, 'or any other law' further broaden the scope of accrued rights of eligible person under all other laws. Because there are score of other laws vesting rights in all the citizens. Prima facie this provision is in conflict with Section 4 and definition of eligible person (section 2(g)) which limits the role of Commission, and accrued rights of eligible person, to the extent of notified services. With regard to accrued rights of an eligible person under any other law the remedy lies under other statutes.
- Section 7(2) empowers the Commission to adjudicate any other matter or complaint within sixty days, from the receipt of such complaint or entrustment of such matter, as the case maybe. This section empowers the government to entrust or confer any other matter to the Commission.

## **2.11 SECTION 3(F) CLAIM OF COMPENSATION**

An eligible person may claim compensation from the concerned designated officer for his failure to provide or delay in providing public service.

- Compensation can be claimed on two accounts:-
  - a. Non provision or refusal of a service without valid and justifiable grounds and
  - b. Delay in providing a service.
- Delay shall be counted as per timelines prescribed and notified for a public service.

- Eligible person can claim compensation from the designated officer or appellate authority, as the case may be (Section 11, 12, 13).
- Such compensation shall not exceed 70% of fine imposed. Fine shall not be less than one thousand and may extend to twenty five thousands rupees (Section (12)).

## **2.12 SECTION 9: DISPLAY OF PUBLIC SERVICES**

Every authority (which means all government offices) are bound to display on their notice boards the details of designated officers, public services and the time lines thereof. This section also prescribes that, if possible these details shall also be loaded on the website of the Concerned Authority for the information of general public. Government may issue instructions to all the government departments and state-owned institutions, for display of public services.

With regard to concerned and other departments RTPS Commission may prepare one pager for information of general public which should provide details of all the notified services. For specific departments in the districts. Department wise information regarding designated officers, Appellate Authority, time lines and brief procedure of availing a public service may be uploaded on the website as well as displayed on Notice Boards. All the notified departments are bound to display the information pertaining to their institutions.

### **2.12.1 Concerned departments**

In case of concerned departments DMOs, in consultation with the concerned department and Focal Person, should prepare details of designated officers with time lines of services. Such details may be printed leaving empty space for the names and mobile number of designated officers. As the officers keep on changing therefore such details may be amended and updated from time to time.

These district-specific details are to be displayed in every district office. It would not only provide information to general public but also promote the cause of RTPS Commission. Such information to carry name and mobile number of DMO office plus the message that the eligible person can approach DMO and the Commission for redressal of grievances.

### **2.12.2 Display of Services (Section 9)**

Display of services shall be followed as under.

- a. In pursuance of Section 2(b) and Section 9, and with the approval of Competent Authority the Administration department has already issued circular to all the provincial



departments and institutions. All the provincial authorities are bound to display the details of public services. Thus, it is mandatory provision of Act (**Annexure D**).

- b. Display of all service, in all the District, Divisional, Provincial offices and the courts.
- c. District-specific notified services. DMOs, in consultation with the concerned departments and Focal Persons, shall work out a plan.

Leaflet or poster will be of two types.

- i. For District/Sub-Divisional office giving details of all the designated officers. For example in case of FIR name of all the Police Stations with names and telephone numbers of SHOs and Post Incharge.
- ii. Domicile, Driving License, Registration of Vehicle, transfer and renewal is at district level. Thus, comparatively, it is easy to display and disseminate the postal address and names of Designated Officers and appellate authority. But publicity of these services is required at grass root level such as Schools, Village/Neighbourhood Councils, Health units, courts and Sub Divisional level, Police Stations and NGOs.

It should be comprehensive exercise of stakeholder mapping and such mapping is not to be restricted to the notified departments and institutions but all other departments and NGOs.

## **2.13 SECTIONS 11, 12, 13, 14 AND 15:**

### **PUNISHMENT AND REWARD**

Under Section 6, an aggrieved person, for delay, deficiency or refusal by the Designated Officer, can file an appeal within time limit (which is 30 days) to the appellate authority. The appellate authority shall dispose of appeal within 30 days.

Under Section 6(3), Appellate authority may

- (a) Accept the appeal and direct the designated officer to provide the public service.
- (b) Direct the appellant to remove deficiency and resubmit.
- (c) May reject the appeal with cogent reasons.

#### **2.13.1 Hearing**

Before passing an order in appeal, the appellate authority shall provide an opportunity of hearing to both the appellant and the designated officer. The appellate authority is required to give reasons while passing an order in appeal. It is inherent right that prior to passing an order; the parties must be provided an opportunity of hearing.

### **2.13.2 Section 8: Powers of appellate authority**

Appellate authority is vested with the powers of Civil court under The Code of Civil Procedure, 1908 regarding the following matters:-

- a. Production and Inspection of documents and record.
- b. Issuing summons for hearing to the designated officer and the appellant.
- c. Orders production of any public records.
- d. Levying of fine or compensation upon the concerned designated officer to pay compensation to the appellant. (One thousand to Twenty five thousands)(Section 11 Penalties)
- e. Any other matter which may be prescribed by rules.

Thus the proceedings before the appellate authority would be of judicial nature and provisions of the Code of Civil Procedure are to be followed, including giving an opportunity of hearing and defense to the parties.

### **2.13.3 Second appeal**

Appellant can file second appeal before the Commission if he is not satisfied with the decision of appellate authority. Similarly Designated Officer may also file an appeal before the Commission against decision of appellate authority. In an appeal the appellate authority may make any of the decision as specified in Section 6. Based on the facts of the case the appellate authority may impose fine on such designated officer which may extend to twenty five thousands and which shall not be less than rupees five hundred (Section 12(2)). Appellant or eligible person can file an appeal to the Commission if his:

- a. Application (appeal) is rejected by the appellate authority and
- b. Appellant authority has not imposed a fine on the designated officer, despite evidence produced by the eligible person. Or the
- c. Appellate Authority has failed to decide the appeal within prescribed period of 30 days.

Under Section 11(2), it is up to the appellate authority, and based on facts of the case, to impose fine on the designated officer. In case appellant feels aggrieved against decision of appellate authority he can file an appeal to the Commission.

- Appellate authority has been vested with the powers of civil court under The Code of Civil Procedure, 1908 as per section 8 of Act. Hearing of appeal, by the appellate authority, is a judicial function and the appellate authority has been given powers of Civil Court under the RTS Act. Powers of appellate authority, while deciding an appeal, preferred against designated officers, includes levying of fine on designated officer and also directing the designated officer to pay compensation to the eligible person.

## **2.14 SECTION 12: COMMISSION AS APPELLATE AUTHORITY**

Commission is empowered, after giving an opportunity of hearing to the appellate authority, to impose fine on appellate authority which shall not be less than one thousand and which may extend to twenty five thousands rupees for failure to decide the appeal within the time limit specified in Sub Section (2) of Section 6 which is thirty days. It is clear that action against the appellate authority can be initiated for not deciding the appeal within specified period of thirty days (Section 6(2)). The purpose of this section is to impose check on the appellate authority to ensure that all appeals are disposed of within specified time.

Commission while deciding appeals, including other functions under RTS Act, has been vested with the powers of Civil Court under the Code of Civil Procedures (1908). Decision to impose fine on the appellate authority is a judicial decision and is appealable. RTS Act is silent about the right of appeal, by the appellate authority, against the decision of Commission. It means Commission is the ultimate forum of decisions. Under section 17 (f) Commission may review its decisions. Appellate authority may file review before the Commission.

Commission may impose fine upto fifty thousand on complainant for filing frivolous complaint, provided that Commission shall issue a show cause. Commission, while exercising the powers of Civil Court under the Code of Civil Procedures, 1908 may review its decisions, directions and orders.

Thus an aggrieved person, eligible person, designated officer and appellate authority can file a review to the Commission. Grounds of review under Code of Civil Procedure are limited. An order can be reviewed when there is discovery of some error apparent on the face of record, or some important or new evidence which, despite of due diligence, was not in knowledge of party and so could not be produced at the time of passing of order or on account of some mistake or an

error apparent on face of record (2016 CLC 10). Object of review is to enable the court to correct its own mistake or error to prevent injustice. (2016 CLC 219).

## **2.15 SECTION 15: ACKNOWLEDGMENT OF GOOD PERFORMERS**

- a) Government may, by way of a notification or otherwise, maintain and publish, at least once in a quarter, a roll of honor indicating the names of designated officers and other government officers. Other officers may include appellate authority, focal persons and officials assisting the designated officers or contributing towards delivery of public services.
- b) Government may also prescribe and approve cash rewards for best performers. Such exercise may be undertaken once an improved data collection is in place. Appellate authorities, District and Divisional Steering Committees can be of great help in assessing and measuring the performance for such rewards.

## **2.16 SECTION 19: POWER TO ISSUE DIRECTIONS**

Commission may adjudicate a complaint and can issue the following directions:

- a) Requiring an authority, entrusted with administration of public services, to take such steps as may be necessary to secure compliance with the provisions of this Act and Rules.
- b) Or any other law under which any eligible person is entitled to a right or benefit.
- c) Payment of compensation to the eligible person. Such order shall be made after proper adjudication as laid down in the Act and Rules.
- d) Exercise powers of Tribunal of Inquiry Act, 1969, when there are reasonable grounds to inquire into the matter.

### **Provisions of Act**

Provisions of Act means, all procedure prescribed under the Act, RTS Rules and RTS Regulations. It is much broader and includes administrative efficiency, reporting, display of services and the matters connected therewith and incidental thereto. Provisions of Act described, in detail, elsewhere.

- It also indicates that the Commission, can receive an application directly, other than appeal, and can direct the appellate authority to take further action in accordance with the provisions of this Act.
- Such further action may include:



- i. Ensuring transparency
- ii. Observance of timelines
- iii. Removal of deficiency

In case of violation of any of above the Commission may direct the appellate authority to exercise all or any of the powers vested in it vide Section 8, 11 and 14 of Act.

- Appellate Authority is bound to dispose of such application within thirty days as per Section 7 of the Act.
- While complying with such a direction of Commission the appellate authority shall follow the procedure as laid down for the appeal. It includes giving an opportunity of hearing to the eligible person and designated officer.
- An aggrieved person, is eligible to file an appeal to the Commission. It may include eligible person and designated officer.

#### **Section 24:**

Under Section 19, the Commission may issue directions to any authority. Section 24 is also enabling section and empowers the Commission, on receipt of an application, to:-

- a) Issues directions to Appellate Authority.
- b) For taking further action in the matter.
- c) In accordance with the provisions of this Act.

Scope of Section 24 is quite broad and Appellate Authority may be directed to take such measures in accordance with the provisions of this Act. While under Section 24 the Commission shall adjudicate the complaint and then send it to any authority entrusted with administration of a department or institution. Section 24 envisages sending an application by the Commission to Appellate Authority, or where no appellate authority has been specified the concerned administrative Secretary. It is discretion of Commission as the section empowers the Commission.

Non-implementation of directives issued by the Commission under Section 19 and Section 24, by any authority may attract provisions of Section 14 of the Act and the Commission may recommend disciplinary action against such authority.

## **2.17 SECTIONS 20-29: INCIDENTAL PROVISIONS**

### **2.17.1 Section 20: Punishment for frivolous complaints (Section 20)**

- When appellate authority, in an appeal, is of the view that complaint was false, frivolous or vexatious the matter may be reported to Commission.
- The Commission will examine it, and if found valid, shall issue a show cause notice to the complainant requiring him to submit his reply within 15 days, why he should not be prosecuted for filing a frivolous complaint.
- If Commission after, examination of reply and, hearing the parties (Complainant and the appellate authority) comes to the conclusion that complaint, so filed, was false, it may impose fine on the complaint, for an amount upto fifty thousand rupees.

### **2.17.2 Deposit of fines and fees (Section 21)**

1. All fines, except those in nature of compensation (upto 70% of fine) to the eligible person, shall be deposited in the public account of the province.
2. All authorities shall be bound to implement orders and directions of the Commission.

#### **Section 21(2).**

All authorities (as defined under Section 2(b) of the Act) are bound to implement the orders of Commission (Under Sections 6(4), 7, 8, 12, 13, 16, 17, and 20) and directions (Under Section 14 and 19). This section is equally applicable to orders issued under RTS Rules, 2014, because Rules have been framed under Section 26 of Act. Directions may also be issued under RTS, Regulations.

## **2.18 SECTION 22: PROTECTION OF ACTION TAKEN IN GOOD FAITH**

All the persons implementing provisions of RTPS Act, 2014 are protected against suit, prosecution or any other legal proceedings for anything done in good faith.

## **2.19 SECTION 23: OVERRIDING EFFECT**

RTS Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force.

Since delivery of public services is regulated under scores of laws, rules and regulations but RTPS Commission is first ever effort to streamline the delivery of public services in a transparent way and within given time frame.

New legal entities like eligible person, designated officer, appellate authority and Commission have been created under the Act which prescribes a different procedure for penalties apart from disciplinary action under Civil Servant Act and the laws under which the service provider is being governed. Therefore under this section the RTPS Act has been given overriding effect so as to avoid legal and procedural complications.

## **2.20 SECTION 25: BAR OF JURISDICTION OF COURTS**

Courts, both criminal and civil, have been barred to entertain any suit, application or other proceeding in respect of any order made under this Act. Current notified services such as FIR has legal effect as the accused may be prosecuted due to intervention of Commission. Others such as domicile or birth certificate of a Village or Neighborhood Councils may have legal implications for the other party who may feel aggrieved as these services have nexus with domicile based jobs, and it may impinge upon fundamental rights of another person, therefore courts have been barred to take cognizance when the Commission has taken the cognizance of matter.

## **2.21 SECTION 24: POWER OF COMMISSION TO SEND APPLICATION TO THE APPELLATE AUTHORITY DIRECTLY**

This is an overriding power of the Commission, because the opening paragraph of section 24 states, “Notwithstanding anything contained in this Act”. After this overriding paragraph the provisions of section empowers the Commission to:

- a) Receive an application alleging non-compliance of the provisions of this Act.
  - Since otherwise the laid down procedure for an aggrieved person is that he should file an appeal, within thirty days, to the appellate authority under Section 6. Such person, instead of filing an appeal, may send an application direct to the Commission, or do both the acts simultaneously.
- b) Complaint may allege non-compliance of provisions of this Act. These provisions are time bound delivery, transparency and quality of service or non-disposal of appeal by the appellate authority within thirty days, or non-exercising of powers vested in the appellate authority vide Section 8, or failure to exercise mandatory provisions as contained in Section 6, 7, 11, 12 and 13 of Act.

Similarly non-compliance of provisions of this Act may be alleged by an aggrieved person against the designated officer as well. Eligible person have all the rights conferred on him under section 3 and 5 of the Act.

In case of refusal, rejection, deficiency or delay the designated officer is bound to explain the reasons and the eligible person is entitled under Section 3(d) and (e) to demand performance of duties and functions from the designated officer.

- Eligible person may bypass the forum of appeal, or he may exercise both the options simultaneously, and send the application to the Commission.
- Action by the Commission  
Commission may send such application directly to the appellate authority for taking further action in the matter in accordance with the provisions of this Act. Appellate authority shall take further action under intimation to Commission.
- Commission may direct the appellate authority to:
  - Treat such application as an appeal or
  - If appeal is already pending, dispose it off on priority.
  - Give an opportunity of hearing and decide the appeal accordingly either by accepting or rejecting the same with reasons.
  - For non-compliance of directives issued under section 24 the Commission may recommend disciplinary action against any authority under Section 14 of this Act.

## **2.22 SECTION 26(1): POWER TO MAKE RULES**

- Government shall, within a period of four months, make rules to carry out the provisions of this Act.
- Period of four months was specified to ensure prompt implementation of RTPS Act but it does not prohibit the government to further amend the rules.

## **2.23 SECTION 26(2): FORMS AND FEES FOR APPLICATION**

Government shall have the power to prescribe forms and fees for making applications under this Act.

- The purpose of this subsection is:-
  - a. To generate revenue for the state.
  - b. To formalize the filing of application.
  - c. Forms for various services such as domicile, arms license and driving license have been prescribed. For arms and driving license there is a fee.



Other like FIR can be lodged on verbal statement or on a simple piece of paper. But there are legal issues regarding FIR plus the case law.

- RTPS Commission Headquarter and the District Staff to critically examine the functions and procedures of various departments. There are two distinct features.
  - a. Fee for prescribed form.
  - b. Processing fee and other charges such as taxes.
- Consultation with the departments in all the districts and provincial level is required for formulation of a policy.

There is political side to it as there is possibility of adverse public reaction to prescribing fee for forms and application. But merit of fee and prescribed form is that it would enable the appellate authority and the Commission to monitor the timelines in administering a public service due to better documentation.

## **2.24 SECTION 28: POWER TO REMOVE DIFFICULTIES**

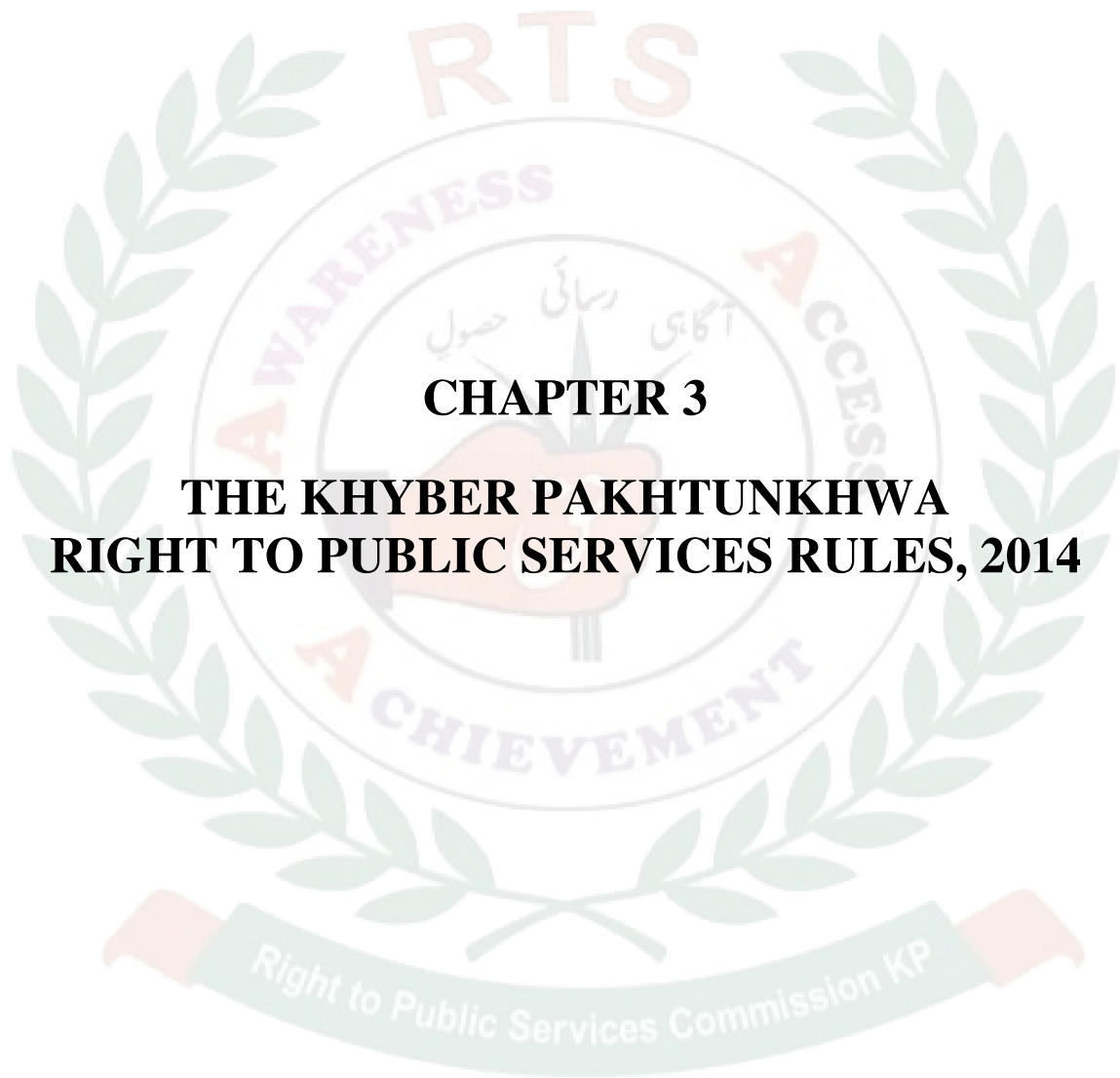
Government may, by order, make such provisions, as appear to it to be necessary or expedient for removal of difficulties.

- Such provision is usually made especially in a law envisaging new reforms and creation of new structures for implementation. RTPS Act is one such effort. The purpose of such delegation of powers is to enable the government to make necessary arrangements which may arise during implementation of statute. Usually such provision is time bound say one year. An indefinite time frame tantamount to delegation of role of legislature to the government for indefinite period.

### **2.24.1 Subsection 2**

Every order made under this section, as soon as, be laid before the provincial legislature.

- It is unique provision. Section 28 enables the government to make an order for removal of difficulties but imposing a constraint on government to lay it before the legislature. The sub section is silent about further course of action. Whether an approval is required? Or just on the pattern of annual report of Public Service Commission which is to be laid before the legislature. Subsection (2) gives the power to the government but simultaneously impose restrictions to seek approval of legislature.



**CHAPTER 3**  
**THE KHYBER PAKHTUNKHWA**  
**RIGHT TO PUBLIC SERVICES RULES, 2014**

## CHAPTER 3

### THE KHYBER PAKHTUNKHWA RIGHT TO PUBLIC SERVICES RULES, 2014

RTPS Rules (herein after referred as, “Rules”), 2014 framed by the government in exercise of powers conferred under section 26 of Khyber Pakhtunkhwa RTS Act, 2014 (herein after referred as, “Act”) and amended in 2018.

#### 3.1 THE 17 RULES:

These are 17 Rules\* prescribing procedure for selection of Chief Commissioner and Commissioners, their terms and condition of service, procedures for availing a public service, appeal, display of information on notice board, recovery of fine, monitoring and training. Portion of rules with regard to operation and procedures is explained.

##### 3.1.1 Rule 4: Procedure for making application, rejection and disposal of appeal

- a. Filing an application on proforma or form if already prescribed
- b. Where no form is prescribed the eligible person may file an application on a simple paper.
- c. Authority concerned shall check list of documents required for availing such service.

For domicile or driving license photos and copy of identity card is required.

\* word, “Rule” wherever occurring in this document means, “The Khyber Pakhtunkhwa Right to Public Services Rules, 2014”

- It means an incomplete application may be rejected or returned.
- Under Section 26 (2), the government shall have the power to prescribe forms and fees for making applications under the Act.
- Form and fee already exists in case of domicile, driving and arms license, Zakat, Drug license, OPD, Health, Hospital emergency and building plan.
- There is need of Consultation with the departments regarding fee and forms. Prescribed form facilitate documentation and measurement of timelines.

### **3.1.2 Rule 5 Power of Designated officer to authorize subordinate officials**

#### **3.1.2.1** This rule follows rule 4.

For the purpose of rule 5 regarding receiving of applications from the eligible person the Designated Officer may either;

- a) receive the application in person,
- b) may authorize any person(s) subordinate to him to receive application
- c) Provided that in case of non-availability of any officer, the other officer/official shall receive application on his behalf.

Provision means that such officer/official may not be subordinate to Designated Officer.

**3.1.2.2** The purpose of Rule 5 is to devolve the powers to lowest possible level. Such receiving officer may process the application and may also identify the shortcomings prior to forwarding the same to the Designated Officer.

**3.1.2.3** These are legal issues in some of the Services like FIR which is to be received and processed by the Police officer of concerned Police Station.

Such devolution of powers depends upon the type of service, number of requests, number and location of designated officers. For example in Mardan District the District Administration has made a formal agreement with the Pakistan Post office. Domicile applications are received in the Branch offices, processed and forward to General Post office at District Headquarter. After approval from the Deputy Commissioner the same are sent back to the Branch Post office for delivering the same to the applicant. This agreement of District Administration is covered under Rule 5 as this rule provides legal cover to such an arrangement.

**3.1.2.4** Medical Services can only be administered by a qualified doctor and at the health facility.

**3.1.2.5** For Services like domicile, building plan, applications for Zakat under various categories, grant of Water Connection designated offices may devolve the powers to their Subordinates or to other officials to receive the applications.

### **3.1.3 Rule 6: Public holidays shall not be included in the stipulated time.**

**3.1.3.1** This rule will be applicable to applications received under Rule 3 by the authorized person and stipulated time shall start the day application received by the designated



officer. Designated officer while authorizing officer to receive the applications on his behalf, must set reasonable time for forwarding such applications by the authorized officer.

### **3.1.4 Rule 7: Receipt and acknowledgement of application.**

**3.1.4.1** An eligible person shall make an application to the designated officer either.

- a) Personally or
- b) Through email or
- c) Through registered post.

If there is a prescribed form then such application shall be submitted on such form

**3.1.4.2** Application must be complete in all respect including attachment of required documents such as Photo, medical certificate or a copy of National Identity Card.

**3.1.4.3** Designated officer may, while acknowledging receipt of application, point out deficiencies in the application and ask the eligible person (applicant) to meet all the same requirements. There is need to lay down procedures for all the public services so as to facilitate documentation and monitoring.

- Designated officer shall raise all the objections in one go by pointing out deficiencies in the application so as to avoid hardships to the eligible person.

### **3.1.5 Rule 8: Rejection of application**

Designated officer is bound to inform the eligible person about:

- a) Denial or delay of service. He will explain the reasons for both.
- b) Designated officer will also inform the eligible person within which an appeal against denial or delay may be preferred. It is upto the eligible person to prefer an appeal, both, against rejection of application and delayed delivery of service.
- c) Eligible person is entitled to be informed about the period of appeal and detail address such as designation, phone, fax number and email of such appellate authority.

### **3.1.6 Rule 9: Display of Information on Notice Board**

**3.1.6.1** The Authority (as defined under Section 2(b) of Act, and as per provisions of Section 9 of Act, includes any department, office, board, Commission, Council, Local Government Institutions, subordinate Courts and Tribunals, any Body which is owned, funded and Controlled by the government and any other body which undertakes public services shall, for the Convenience of public service, display;

- a) All relevant information related to public services.
- b) Specified time limit.
- c) Designated officers.
- d) All the necessary documents required to be enclosed with the application.
- e) Detail procedure for making an appeal.
- f) Documents to be attached with the appeal.
- g) Name, designation, phone and email of appellate authority.

All the above information shall be displayed on notice board of institution so as to facilitate the public.

The authority may initiate appropriate action against the delinquent officer for failure to display above information.

- h) Procedure for filing an appeal and documents to be attached with appeal.

**3.1.6.2** It is mandatory for all the authorities to issue such instruction to all the designated officer and appellate authorities to ensure that all the information related to public services is displayed.

**3.1.6.3** RTPS Commission may move the case for issuance of these instructions by the government to all the authorities and publication of such notification in the official gazette.

**3.1.6.4** Commission, in consultation with the District Monitoring Officer (DMOs), to work out the type of information to be displayed at various levels such as Provincial, Divisional, District and Tehsil officer and the notice boards of designated officers such as Revenue offices, Public Stations and Village / Neighborhood Councils.

**3.1.6.5** The provincial Establishment department may issue instructions to all the public offices. Definition of, "Authority" under Section 2(b) of Act is quite exhaustive and includes all other government institutions as well which are not providing notified public services. Accordingly, notification (**Annexure D**) has been approved by the Administration department and now all the Government Institutions are bound to display the publicity material provided by the Commission.

**3.1.6.6** The purpose of Rule 7 is to ensure publicity of services to create awareness and by implication it may include, apart from notice board, other means of Publications such as website, Facebook and Twitter Account of all the departments.

- Educational Institutions is such a potent forum due to its size and spread and vast public interface.

### **3.1.7 Rule 10: Hearing of Appeal**

**3.1.7.1 Rule 10(1).**Appeal against decision of Designated Officer may be filed within thirty days of decision.

**3.1.7.2 Rule 10(2).**Appellant shall enclose attested copy of the order of Designated Officer.

**3.1.7.3 Rule 10(3).**On receipt of appeal the appellate authority shall send a notice to the parties.

**3.1.7.4 Rule 10(4).**Both the appellant and designated officers will be given an opportunity of hearing. Date of hearing shall be conveyed, at least, seven days in advance.

**3.1.7.5** Adjournment may be allowed by the Commission in case appellant or designated officer are not able to attend the hearing due to sufficient cause. After giving chance to reappear the appellate authority shall take necessary action as it may deem fit.

**3.1.7.6** In case of non-appearance, without valid cause, the appellate authority may take ex-parte action and decide the appeal accordingly.

### **3.1.8 Rule 11**

**3.1.8.1 Rule 11(1).**The appellate authority shall, at least seven days in advance, convey the date of hearing to both the designated officer and the appellant.

**3.1.8.2 Rule 11(3).** In case of non-attendance of any of the party the appellate authority shall provide another opportunity.

**3.1.8.3 Rule 11(4).** In case of continuous absence of either of the party the appellate authority shall decide the appeal ex-parte.

### **3.1.9 Rule 12: Order in appeal by the appellate authority**

Appellate authority shall record the order and will announce the same in open hearing.

**3.1.9.1 Rule 12(2):** Copy of the appeal order shall be given to applicant and designated officer.

➤ Decision in appeal is a judicial order to be announced by the appellate authority while exercising powers of Civil Court. Since order in appeal determines the right of parties (designated officer and eligible person) and may lead to imposition of fine, Compensation (upto 70% of total amount) to the eligible person, rejection of appeal and recommending disciplinary proceedings, therefore appellate authority to record reasons for decision after giving full opportunity of hearing to the parties. Both the parties may adduce evidence in their defense. Commission is empowered to impose fine on the appellate authority for failure to decide the appeal within specified time of 30 days (Section 12 of Act), recommending disciplinary action against the appellate authority or the designated officer, issuing directions (Section 19), sending the applications direct to the appellate authority and deciding the appeals preferred by appellant or the designated officer against the decision of appellate authority (Section 6(4)). Therefore the Commission to exercise caution in deciding the matter. Commission is the final forum of appeal and only review can be filed against its decisions and the grounds for review are quite limited as per provisions of Code of Civil Procedure, and the case law.

### **3.1.10 Rule 13. Recovery of Penalty**

**3.1.10.1** Appellate authority shall send copy of order to the concerned authority with the instructions to deduct the amount from salary etc. of the designated officer.

**3.1.10.2** In this rule omission is regarding similar deduction from the salary of appellate authority when so imposed under section 12 of Act.

**3.1.10.3** The concerned authority shall recover the fine from next salary of designated officer or officers and staff as decided by the appellate authority and shall deposit it under relevant head of account, under intimation to appellate authority.

### **3.1.11 Rule 14: Maintenance of records of all disposed off cases**

Maintenance of records of all disposed cases under the Act.

**3.1.11.1** The designated officer and appellate authority shall maintain records of all cases disposed of.



- Designated officers are maintaining records of cases under various laws, rules, by laws and departmental procedures.

**3.1.11.2** Appellate authority and Commission is creation of Act. Appellate authority for various services vary, most being district officers and in some case Divisional officers such as Commissioner and Regional Police officer.

**3.1.11.3** While Commission maintain record of disposal of appeals, records and returns for appellate authorities at districts and divisional levels have to be devised.

Section 10 of Act prescribes that the government shall endeavor and encourage all the authorities required under this Act to deliver public services within the specified time limit as part of e-Governance

**3.1.11.4** Rule 14 makes a mandatory provision that all the designated officers and appellate authority shall maintain records of all cases disposed off

**3.1.11.5** Currently DMOs and the Commission is not in knowledge of appeal filed against deficient services, non-provision, delayed provision or refusal to provide public services.

**3.1.11.6** Monthly and annual data of RTPS Commission data does indicate the services not provided within stipulated time but no data recording of appeals and disposal.

**3.1.11.7** Commission has obtained approval from the government for returns and record (**Annexure E**) to ensure better data management.

### **3.1.12 Rule 16: Monitoring and Implementation**

Under this rule the government has been empowered to devise a system of decentralized monitoring of timely delivery of notified public services through Divisional Commissioners and Deputy Commissioners in their respective districts of the Divisions and Districts respectively.

This rule is inclusive in nature and quite flexible. Based on spirit of this rule the Commission moved a summary, which has been approved by the Provincial government. It envisages Divisional Steering Committee headed by the Commissioners and the District Steering Committee headed by the Deputy Commissioners of respective district. Gazette notifications of District and Divisional Steering Committees is at **Annexure A** and **B** respectively. Terms of reference of Steering Committees has been approved and regulations by the Commission vide powers vested in it under Khyber Pakhtunkhwa Right to Public Services Act, 2014. Gazette

notification of, “Khyber Pakhtunkhwa Right to Public Services Commission Steering Committees (Amendment) Regulations, 2018” is at Annexure C.

Under Section 27 of the Act Commission is competent to frame regulations. Commission has also framed, The Khyber Pakhtunkhwa Right to Public Services Commission Conduct of Business (Amendment) Regulations, 2018.

The Commission may issue directions under Section 19 and Section 24 of the Act for non-compliance as explained under Regulation 7 of Conduct of Business Regulations (**Annexure E**).

### **3.1.13 Rule 17: Dissemination and Training**

Commission may, subject to availability of financial and other resources:

1. Develop and organize Campaigns and programs to:
  - a. Advance the understanding of public
  - b. In particular, of disadvantages groups
  - c. And remote areas
  - d. And have to exercise rights Contemplated under this Act.
2. Train the designated officers, appellate authorities and the Commission staff.

## **3.2 REVIEW**

### **Provisions of Khyber Pakhtunkhwa Right to Public Services Act, 2014**

The purpose of highlighting the provisions of the Act, Rules and Regulations is to work out the non-compliance of provisions as contained in the Act, Rules and Regulations.

For non-compliance of provisions the Commission may recommend disciplinary action under section 14 of the Act, against the delinquent officials. Divisional and District Steering Committees, through Regulations, have also been empowered to recommend disciplinary action for non-observation of provisions of the Act, Rules and Regulations.

### **Provisions of Khyber Pakhtunkhwa Right to Public Services Act, 2014**

(Act, wherever appears in the text means Khyber Pakhtunkhwa Right to Public Services Act, 2014)

- I. It is essential to understand the main provisions of Act so as to develop a fair idea with regard to non-compliance of provisions of Act.
- II. Preamble:

- To Provide for delivering services, to the People of the Province.
- Within stipulated time.
- Including liabilities of government servants in case of default.
- Administrative efficiency and
- Matter connected therewith and incidental thereto.
- What rights are vested in an eligible person (Section 3)?
- What are the duties and powers of designated officer, appellate authority, administrative authority, Commission and the Provincial government?

### III. Section 3 of Act:

- Access
- Time limit

Every eligible person shall have the right to have:

- access to public service
- receive public service within stipulated time and
- in a transparent manner
- demand performance of duties and functions by the designated officer in accordance with the provisions of this Act
- hold the designated officer accountable for any deficiency in the public service
- Claim compensation from the designated officer for his failure to provide, or delay in providing, service.

In addition to imposition of fine on the designated officer or appellate authority, as the case may be, the Commission may recommend disciplinary action against the designated officer or appellate authority for failure to discharge the duties assigned to him (Section 14 of the Act).

Under various provisions of RTS Act, 2014, RTS Rules 2014 and RTS Regulations 2018 powers, roles and duties of institutions, including Commission, have been prescribed. Very preamble of RTS Act, 2014 set the overall frameworks, mandate of authorities and broad purpose of Act.

In case of non-provision or deficient delivery of public services first appeal to Appellate Authority and second appeal to Commission may be filed. There is set procedure and grounds for appeal.

As per preamble of RTS Act, Rules and Regulations the Commission has been empowered to initiate action for redressal of public grievance (Section 14, 19 and 24 of Act)

Rules and Regulation further empowers the Commission to initiate measures.

**vii. Section 5:** It is mandatory for the designated officer to provide service within the time limit.

**viii. Section 6:** Appeal within thirty days to appellate authority (Section 6(1))

**ix. Section 7:** Disposal of appeal within thirty days Appellate Authority may accept or reject the appeal after hearing the parties (Complainant and Designated Officer).

**x. Section 9: Display of Public Services:**

Every authority is bound to display on the (a) Notice Board (b) and on the Website the details of public services, other promotional and informative materials of RTS Commission.

Further elaborated under Rule 7 of RTS Rules, 2014.

For non display the authority may initiate appropriate action against the delinquent officer.

(Circular of Administration Department No. SO (Imp) AD/1-3/RTS/Vol-III dated 5.10.2018 Annexure D).

**xi. Section 11: Penalty:**

Appellate Authority must decide the appeal within 30 days. May accept or reject the appeal.

Section 11 empowers the appellate authority to issue show cause to the designated officer for non-Compliance of provision of this Act. And based on facts of the case, and response of designated officer, the appellate authority may impose fine on designated officer which may extend to twenty-five thousand rupees.

**xii. Section 12:** Commission may impose fine on appellate authority for not deciding appeal within thirty days.

**xiii. Section 17:**

- a. Powers of Commission.
- b. Powers of Civil Court.



**xiv. Section 19: Powers to issue directions**

Commission may adjudicate a complaint and issue directions to any authority entrusted with administration to take such steps to secure compliance with the provisions of this Act.

- a. Requiring Payment of compensation to eligible person
- b. Initiation of inquiry under Tribunal of Inquiries Act, 1969
- c. Non implementation or delayed or non-response to directives issued under Section 19 would be non-compliance of provisions of Act.

**xv. Section 24:**Commission on receipt of application may send such application, alleging non-compliance of provisions of this Act, directly to Appellate Authority for taking action in accordance with the provisions of this Act. Non response and lack of action by the Appellate Authority is non-compliance of Provisions of Act.

**xvi. Section 20:**while rejecting the appeal, appellate authority may issue show cause to the appellant for frivolous complaint asking him to explain, within, 15 days, why he should not be prosecuted for filling a frivolous complaint.

**Section 20(2):**The appellate authority may recommend such case to the Commission. Commission may, after issuing a show cause to the complainant, impose a fine up to Rupees fifty thousand.

**xvii. Section 12:**Section 12 empowers the Commission to proceed against appellate authority for failure to decide the appeal within prescribed period of thirty days.

**xviii. Section 14:** Section 14 is an enabling Section empowering the Commission to recommend disciplinary action against the designated officer or the appellate authority, as the case may be. Language of Section 14 is clear as it states that in addition to imposition of fine under Section 11 (by the appellate authority) and Section 12 (by the Commission) the Commission may, if it is satisfied that the designated officer or the appellate authority, as the case may be, has failed to discharge the duties assigned to him without reasonable cause, recommend disciplinary action against him under the service rules applicable to him.

Commission may initiate such disciplinary proceedings, both, against the designated officer or the appellate authority: -

- a. On its own, when such non-compliance or failure to discharge duties comes into notice of Commission.
- b. On report of appellate authority.
- c. On report of District Monitoring Officer.
- d. On public complaint.
- e. Inquiry and perusal of record of concerned office.
- f. Non-Provision of data or monthly reports sufficient or reasonable cause has to be ascertained after providing an opportunity of hearing or written response.
- g. On report of District and Divisional Steering Committees.
- h. Section 14 envisages initiation of disciplinary proceedings for failure to discharge duties by the designated officer and the appellate authority.

#### **IV. Right to Services Commission Rules (Amendment), 2018**

- a. Rule 7 Records: Designated Officer to receive and acknowledge receipt of application service.
- b. Rules 8: Designated Officer to show reasons for denial or delay.
- c. Rule 9: Display of information on notice board. (Section 2 and Section 9 of Act)  
All authorities to display on notice board or website details related to public service. Summary under Rule 7 approved by the Provincial Government, directives issued for all the departments. Non display means noncompliance.
  - i. Receipt and disposal of appeals within 30 days.
  - ii. Notice to Party.
  - iii. Opportunity of hearing to the Designated Officer.
  - iv. Order in writing by Appellate Authority.
  - v. Copy of approval order to appeal order to applicant and Designated Officer.
- d. Rule 14: Maintenance of record of all disposal of cases.
- e. Rule 16: Monitoring of implementation. In compliance with RTS Rules, Divisional and District Steering Committees, approved by the Government. Their TORs determined through RTS Steering Committees Regulations, 2018. Deputy Commissioners empowered, under the Regulations, to constitute Sub Divisional Steering Committees.

Non fulfillment of provision of Act may attract provisions of Section 14 of RTS Act and the Commission may recommend disciplinary action against the delinquent officials.

## **V. Regulations:**

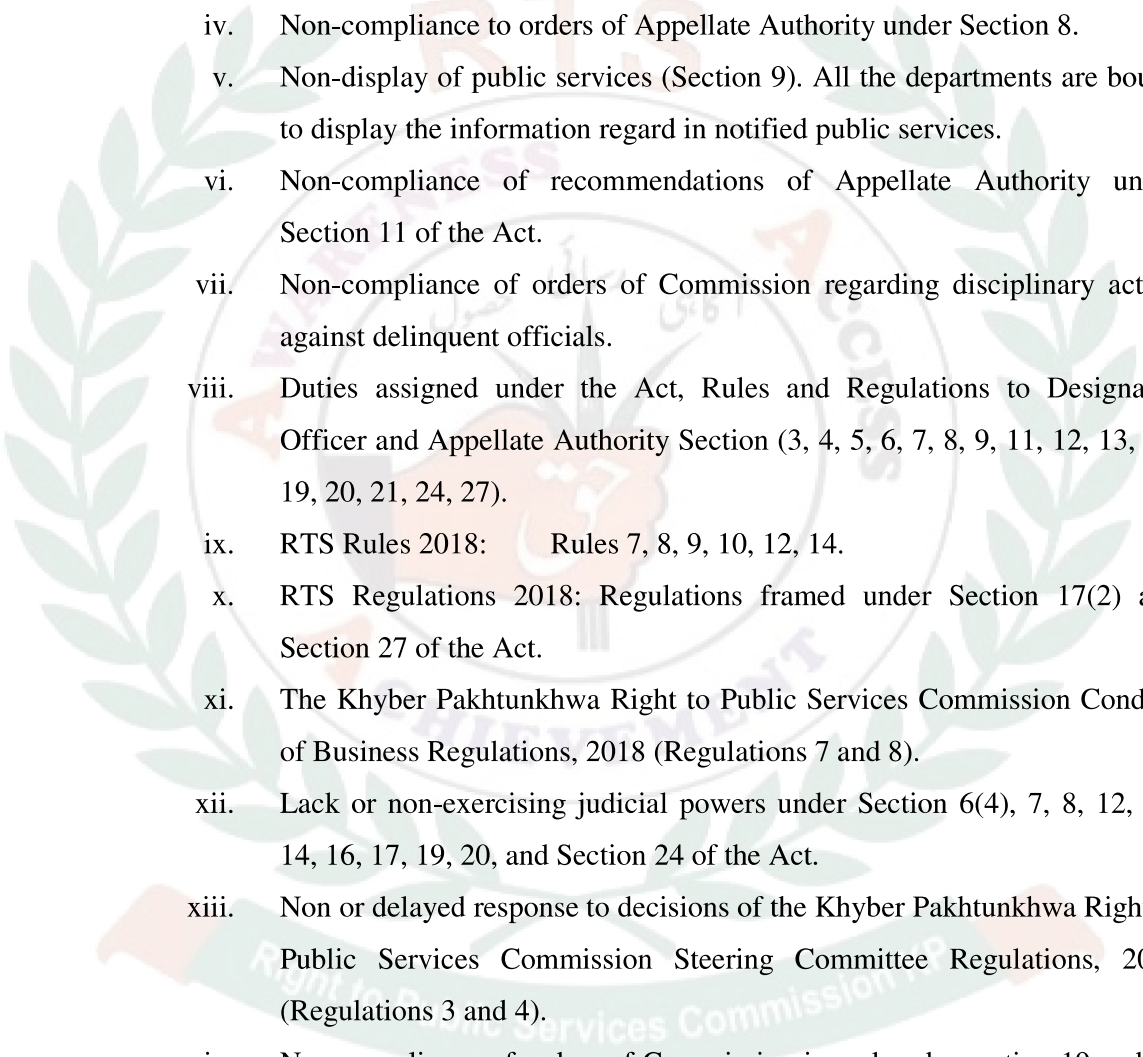
- a. The Khyber Pakhtunkhwa Right to Public Services Commission Steering Committees Regulations, 2018.
- b. Divisional, District and Sub Divisional Steering Committees headed by the Commissioners, Deputy Commissioners and Assistant Commissioners, respectively.
  3. Steering Committees shall hold monthly stock take meetings to review progress with regard to: -
    - Transparency, quality and timely delivering of services.
    - Grievance Redressal mechanism.
    - Reporting and reporting disciplinary action to the Commission, against designated officer.
    - Any other task assigned by the Commission.
    - Direct the departments to maintain reports and record of Public Services as prescribed by the Commission.
  - Monthly meeting of Steering Committees is essential.
  - Response to decisions of Steering Committees is mandatory and delay or non-response means non-compliance of provisions of Act, Rules and Regulations.
  - Khyber Pakhtunkhwa Right to Public Services Commission Conduct of Business Regulations, 2018 Regulations 3, 4, 5, 6, 7 and 8.

## **VI. Non-Compliance of provisions of Act.**

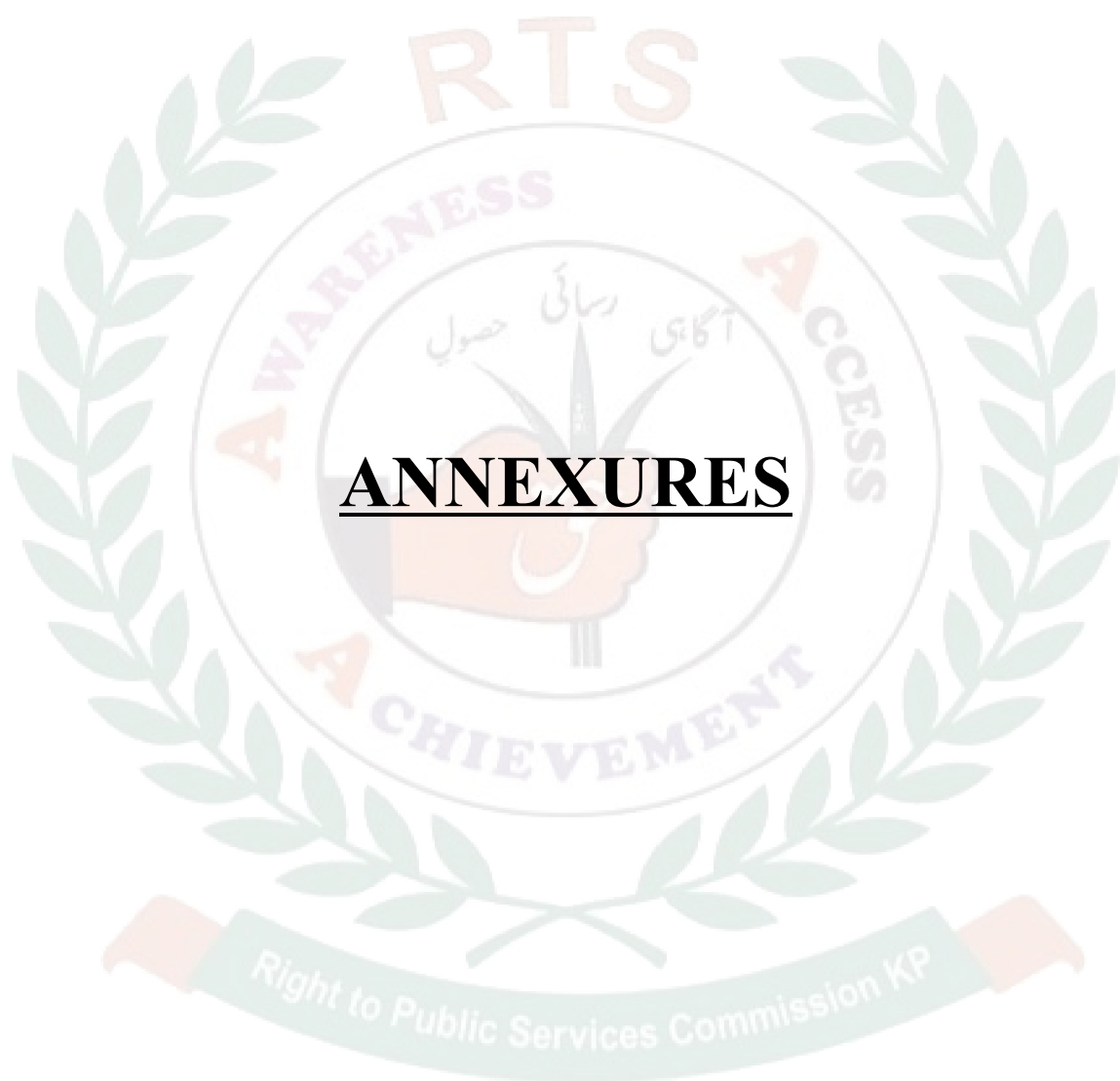
- a. It means not taking measures and steps for redressal of public grievances with the provisions of RTS Act. RTS Rules, 2014 framed under Section 26 of the Act and RTS Regulations framed under Section 27 of the Act.

Non-compliance may include omission and Commission. Following shall constitute non-compliance of provisions of the Act or compliance which is not in accordance with the provisions of this Act. It includes the Rules, Regulations plus any task assigned by the Commission and the government.

- i. Administrative efficiency and the matters connected therewith and incidental there to. It includes late and deficient, reporting, non-reporting of data, none or delayed response to Commission and Steering Committees.

- 
- ii. Failure to ensure rights of eligible persons to public services which includes
    - a. Access
    - b. Not receiving public services within time
    - c. Lack of transparency
    - d. Not meeting any other provisions of Act.
    - e. Claim of compensation for failure or delay in service
  - iii. Appeal disposal within 30 days, acceptance or rejection.
  - iv. Non-compliance to orders of Appellate Authority under Section 8.
  - v. Non-display of public services (Section 9). All the departments are bound to display the information regard in notified public services.
  - vi. Non-compliance of recommendations of Appellate Authority under Section 11 of the Act.
  - vii. Non-compliance of orders of Commission regarding disciplinary action against delinquent officials.
  - viii. Duties assigned under the Act, Rules and Regulations to Designated Officer and Appellate Authority Section (3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 19, 20, 21, 24, 27).
  - ix. RTS Rules 2018: Rules 7, 8, 9, 10, 12, 14.
  - x. RTS Regulations 2018: Regulations framed under Section 17(2) and Section 27 of the Act.
  - xi. The Khyber Pakhtunkhwa Right to Public Services Commission Conduct of Business Regulations, 2018 (Regulations 7 and 8).
  - xii. Lack or non-exercising judicial powers under Section 6(4), 7, 8, 12, 13, 14, 16, 17, 19, 20, and Section 24 of the Act.
  - xiii. Non or delayed response to decisions of the Khyber Pakhtunkhwa Right to Public Services Commission Steering Committee Regulations, 2018 (Regulations 3 and 4).
  - xiv. Non-compliance of orders of Commission issued under section 19 and 24 of the Act.
  - xv. Non-exercise of powers vested in any authority and officials.
  - xvi. Wrong exercise of powers vested under the Act, Rules and Regulations.
  - xvii. Exercise of powers not vested under the Act, Rules and Regulations.
  - xviii. Failure to respond to any task assigned by the Commission.





## ANNEXURES

# ANNEXURE - A: Notification of District Steering Committee

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P.III

G A Z E T T E

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 18<sup>th</sup> APRIL, 2018.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT

### NOTIFICATION

Dated Peshawar, the 10<sup>th</sup> April, 2018.

NO:-SO(Imp)/AD/1-3/RTS/Vol-III --- In pursuance of the provisions contained in Rule 14 of the Khyber Pakhtunkhwa Right to Public Services Rules, 2014, the Government of the Khyber Pakhtunkhwa is pleased to constitute a steering Committee, at the level of each District, within the Province, for the purpose of timely delivery of notified public services, with immediate effect:-

- |   |                      |
|---|----------------------|
| (a) Deputy Commissioner of the district concerned;                    | Chairman             |
| (b) Additional Deputy Commissioner of the district concerned;         | Member               |
| (c) Assistant Commissioner of the district concerned; and             | Member               |
| (d) District Monitoring Officer, Right to Public Services Commission; | Secretary-cum-Member |

2. The Steering Committee may nominate any relevant person as co-opted member.

SECRETARY TO  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT

1518

Printed and published by the Manager,  
Staty. & Ptg. Deptt., Khyber Pakhtunkhwa, Peshawar.

## ANNEXURE - B: Notification of Divisional Steering Committee

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. PIII

G A Z E T T E

### **KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, WEDNESDAY, 18<sup>th</sup> APRIL, 2018.

#### **GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

##### **NOTIFICATION**

Dated Peshawar, the 10<sup>th</sup> April, 2018.

**NO:-SO(Imp)/AD/1-3/RTS/Vol-III ---** In pursuance of the provisions contained in Rule 14 of the Khyber Pakhtunkhwa Right to Public Services Rules, 2014, the Government of the Khyber Pakhtunkhwa is pleased to constitute a steering Committee, at the level of each division, within the Province, for the purpose of timely delivery of notified public services, with immediate effect:-

- |  |                      |
|--|----------------------|
| (a) Commissioner of the division concerned;                                      | Chairman             |
| (b) Deputy Commissioner of the district concerned; and                           | Member               |
| (c) Assistant Director, Local Government at the level of Divisional headquarter; | Secretary-cum-Member |

2. The Steering Committee may nominate any relevant person as co-opted member.

**SECRETARY TO  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT**

1517

Printed and published by the Manager,  
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# ANNEXURE - C: The Khyber Pakhtunkhwa Right to Public Services Commission Steering Committee (amendment) Regulations, 2018

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P.III

GAZETTE

## KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, WEDNESDAY, 02<sup>nd</sup> OCTOBER, 2019.

**RIGHT TO PUBLIC SERVICES COMMISSION (RTPS)  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

### NOTIFICATION

Dated Peshawar, the 13<sup>th</sup> September, 2019.

No. SEC/RTPSC/Rep/02/2018(Amendment). In pursuance of Rule 14 of Khyber Pakhtunkhwa Right to Public Services Rules, 2014, approval of Divisional and District Steering Committees by the Competent Authority, vide the Government of Khyber Pakhtunkhwa Establishment Department notification No. SO(Imp)/AD/1-3/RTS/Vol-III dated April 10, 2018, and in exercise of powers conferred under section 17 sub section 2 and section 27 of the Khyber Pakhtunkhwa Right to Public Services Act, 2014, the Khyber Pakhtunkhwa Right to Public Services Commission is pleased to make the following Regulations namely:-

1. **Short title and commencement.** (1) These regulations may be called, the Khyber Pakhtunkhwa Right to Public Services Commission Steering Committees (amendment) Regulations, 2018.

(2) It shall come into force at once.

2. **Definitions:** (1) In these Regulations, unless the context requires otherwise, the following expressions shall have the meanings hereby respectively assigned to them that is to say:

- a. "Act" means the Khyber Pakhtunkhwa Right to Public Services Act, 2014 (Act IV of 2014), herein after called the Act;
- b. "Appellate Authority" means authority defined under section 2(a) of the Act;
- c. "Rules" means the Khyber Pakhtunkhwa Right to Public Services Rules, 2014, herein after called the Rules;
- d. "Commission" means the Khyber Pakhtunkhwa Right to Public Services Commission, constituted under section 10 of the Khyber Pakhtunkhwa Right to Public Services Act, 2014 (Act IV of 2014);
- e. "Commissioner" means the Commissioner appointed under sub sections 2 and 4 of section 16 of the Act;



- f. "Chief Commissioner" means the Chief Commissioner appointed under sub sections 2 and 3 of section 16 of the Act;
- g. "Division" means a Division as described in section 5 of the <sup>1</sup>[Khyber Pakhtunkhwa] Land Revenue Act, 1967;
- h. "Divisional Commissioner" means the Head of a Division;
- i. "District" means a district as described under section 6 of the <sup>1</sup>[Khyber Pakhtunkhwa] Land Revenue Act, 1967 and the General Clauses Act, 1908;
- j. "Deputy Commissioner" means the Head of a Revenue District as Collector which includes Deputy Commissioner as per provisions of <sup>1</sup>[Khyber Pakhtunkhwa] Land Revenue Act, 1967 and General Clauses Act, 1908;
- k. "Designated Officer" means an officer designated under section 2(e) and section 4 of the Act;
- l. "Assistant Commissioner" means the In-charge of a Sub-Division in a district as described in section 7(3) of the <sup>1</sup>[Khyber Pakhtunkhwa] Land Revenue Act, 1967;
- m. "District Monitoring Officer" means an official of the Commission appointed under section 16 sub section (10) or sub section (11) of the Act and rule 13 of the Rules;
- n. "Divisional Steering Committee" means Divisional Steering Committee as described under Regulation 3 of these Regulations;
- o. "District Steering Committee" means the District Steering Committee established under Regulation 4 of these Regulations;
- p. "Government" means the Government of Khyber Pakhtunkhwa;
- q. "Province" means the Province of Khyber Pakhtunkhwa;
- r. "Regulations" means the Regulations framed under section 17(2) and section 27 of the Act; and

- s. "Sub Divisional Steering Committee" means Sub Divisional Steering Committee constituted under provisions of Regulation 4.5 (f) of these Regulations.

Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011

- (2) Words and expressions used but not defined in these Regulations shall have the same meanings as assigned to them under the Act and the Rules.

### 3. Divisional Steering Committee

#### 3 (1) Composition

Divisional Commissioner ..... Chairperson  
 Deputy Commissioners of the districts; and ..... Members  
 An officer of the Commissioner's office  
 as nominated by the Commissioner ..... Secretary  
 Co-opted member(s) ..... Member(s)

- 3.2 Chairperson may co-opt members, on need basis, from the provincial department(s), other institutions and the community.

- 3.3 Divisional Steering Committee shall hold quarterly meetings to review the performance of the departments with regard to;

- (i) Transparency, quality and timely delivery of public services.
- (ii) Community awareness, engagement and development of linkages with the local government representatives, community and other stakeholders.
- (iii) Grievance redressal mechanism at the district level.
- (iv) Overall review of monthly report(s) of District Steering Committee(s).
- (v) Ranking of departments and districts, based on overall performance and recommendations to the Commission for award.
- (vi) Recommending disciplinary action, to the Commission, against the delinquent officials under section 14 of the Act, Rules and Regulation 5 of these Regulations.

- (vii) Issuing guidelines and directions to District Steering Committees.
- (viii) Any other task assigned by the Chief Commissioner, provincial and the federal Governments.

#### 4. District Steering Committee

##### 4.1 Composition

Deputy Commissioner .....	Chairperson
Additional Deputy Commissioner .....	Member
Assistant Commissioners .....	Member(s)
District Monitoring Officer of Commission .....	Secretary-cum-Member
Co-opted member(s) .....	Member(s)

- 4.2 Chairperson may co-opt members, on need basis, from the departments, institutions and the community.
- 4.3 District Steering Committee shall hold monthly meeting to review the performance of departments and the institutions with regard to:-
  - a. quality, transparency, timely delivery of the public services and compliance of provisions of the Act, Rules and these Regulations framed there under.
  - b. issuance of directions to the departments and institutions for improving public services delivery.
  - c. Chairperson may co-opt members on need basis and may notify the composition of District Steering Committee from time to time.
  - d. direct the departments to maintain reports and record of public services as determined by the Commission and the government, from time to time.
  - e. review District Action Plan(s) regarding awareness, capacity building, communication and engagement of stakeholders.
  - f. District Steering Committee may constitute Sub-Divisional Steering Committees under the Chairmanship of respective Assistant Commissioners. District Steering Committee may issue instructions and guidelines to the Assistant Commissioners, for improving public services delivery.

- g. recommending disciplinary action, under section 14 of the Act, against the delinquent officials as per provisions of the Act, Rules and Regulation 5 of these Regulations.
  - h. directing the Appellate Authorities to take actions for non-compliance of provisions of the Act, Rules and Regulation 5 of these Regulations.
5. Non-compliance of provisions of the Act, Rules and the Regulations framed under section 2(l), 17(2) and 27 of the Act, *inter alia*, shall include:-
- i. non-implementation and delayed implementation of decision(s) of Divisional, District and Sub-Divisional Steering Committees;
  - ii. non-compliance of the tasks assigned by the Commission and the Government.
  - iii. administrative inefficiency and the matters connected therewith and incidental there to. It includes late and deficient reporting, non-reporting of data, non or delayed response to the Commission and the Steering Committees.
  - iv. failure to ensure rights of eligible persons with regard to public services which includes:
    - a. access to public services
    - b. not receiving the public services within time
    - c. lack of transparency
    - d. not following any other provisions of the Act
    - e. non-response to claim of compensation for failure or delay in services.
  - v. non-disposal of appeal within prescribed time.
  - vi. non-compliance of orders of Appellate Authority under section 8 and 11 of the Act.
  - vii. non-display of the public services as per provisions of section 9 of the Act and rule 9 of the Rules.
  - viii. non-compliance of orders of the Commission regarding disciplinary action against delinquent officials.



ix. non-compliance of:

- a. duties assigned under the Act to the Designated Officer and the Appellate Authorities under the Act, the Rules and the Regulations;
  - b. non-exercise of the powers vested in any authority and officials.
  - c. wrong exercise of powers by the officials, vested under the Act, Rules and the Regulations.
  - d. exercise of powers by the officials not vested under the Act, Rules and the Regulations.
  - e. not initiating or recommending disciplinary action, against the official(s) for non-performance, as per provisions of section 14 of the Act.
6. Any other task assigned by the Chief Commissioner, Right to Public Services Commission, provincial and the federal Government.

(SECRETARY)

KHYBER PAKHTUNKHWA RIGHT TO PUBLIC SERVICES COMMISSION  
GOVERNMENT OF KHYBER PAKHTUNKHWA

## ANNEXURE - D: Circular of AD for Display of Notified Services

EXTRAORDINARY  
GOVERNMENT



REGISTERED NO. PIII  
G A Z E T T E

### **KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, WEDNESDAY, 17<sup>th</sup> OCTOBER, 2018.

#### **GOVERNMENT OF KHYBER PAKHTUNKHWA** **ADMINISTRATION DEPARTMENT**

#### **CIRCULAR**

Peshawar dated the October 05, 2018.

No. SO (Imp)/AD/1-3/RTS/Vol-III. In pursuance of the provisions contained in Section-2(b) and Section-9 of the Khyber Pakhtunkhwa Right to Public Services Act, 2014, the Government of Khyber Pakhtunkhwa is pleased to issue the following instructions to all the Authorities, for compliance:-

**“All the Government departments, bodies and institutions shall display the details of the Designated Officers, public services, specified time limit and other awareness material on the notice-boards and website for the information of general public”**

**SECRETARY TO  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT**

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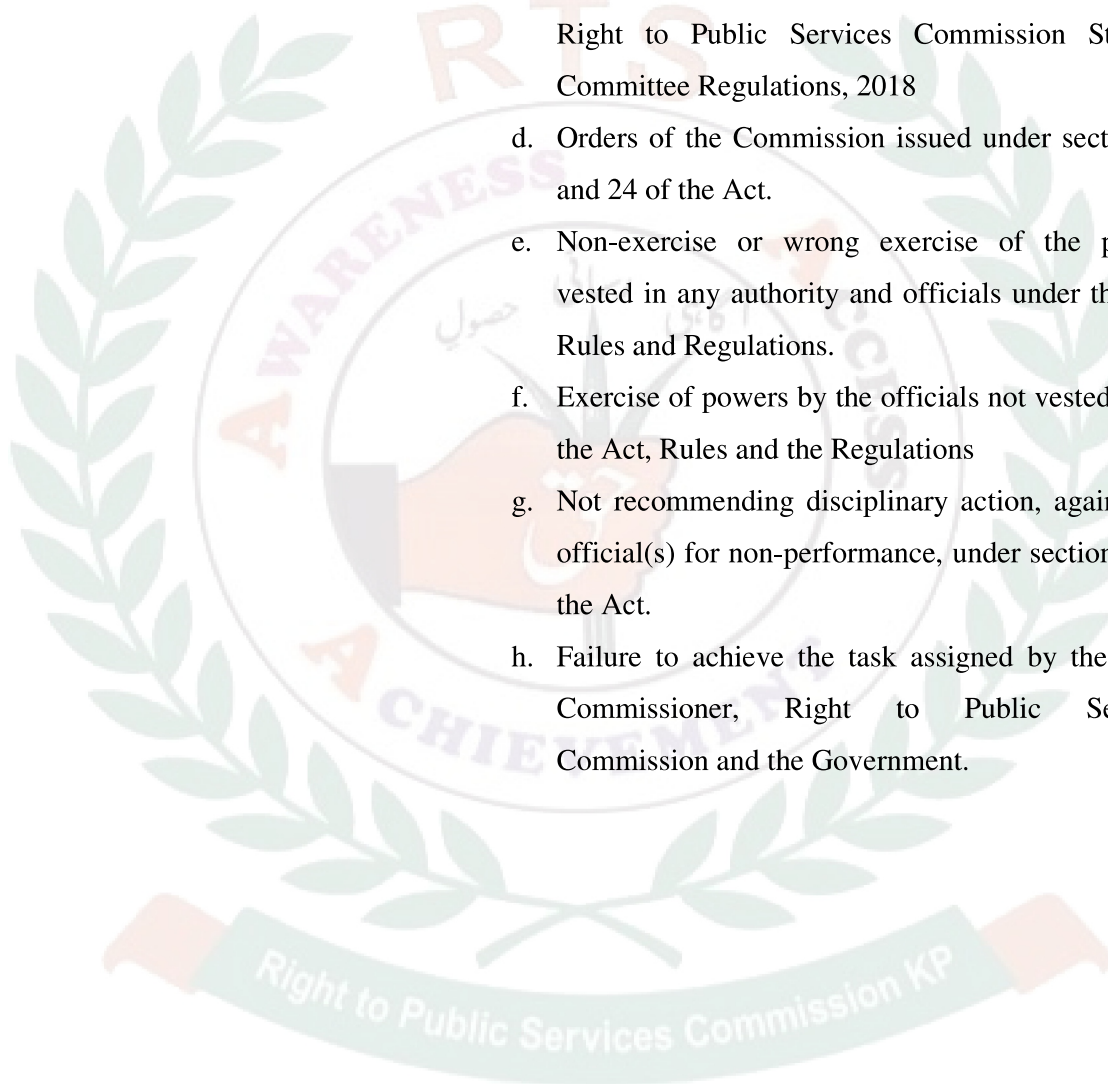
## **ANNEXURE -E: Definition of “Non-Compliance” under Regulation 7 of the Khyber Pakhtunkhwa Conduct of Business (amendments) Regulations, 2018**

### **Regulation No. 7:**

Non-compliance of provisions of the Act, Rules and the Regulations framed under section 2(l), 17(2) and 27 of the Act, *inter alia*, shall include:-

- i. Non-implementation or delayed implementation of decision(s) of Divisional, District and Sub-Divisional Steering Committees;
- ii. Not taking measures and steps for redressal of public grievances in accordance with the provisions of the Act, Rules and the Regulations.
- iii. Non-achievements of the targets set or tasks assigned by the Commission or the Government.
- iv. Administrative inefficiency and the matters connected therewith or incidental there to, including late and deficient reporting, non-reporting of data of services provided, or delayed or no response to the Commission and the Steering Committees.
- v. Failure to ensure rights of eligible persons to public services which includes:
  1. Access to public services
  2. Not provision of the public services within time
  3. Lack of transparency
  4. Not meeting any other provisions of the Act
  5. Failure in payment of compensation for delay in service
- vi. Non-disposal of appeal within 30 days.
- vii. Non-compliance of orders of Appellate Authority under section 8 and 11 of the Act.
- viii. Non-display of the public services as per provisions of section 9 of the Act and rule 9 of Rules.
- ix. Non-compliance of orders of the Commission regarding disciplinary action against delinquent officials.
- x. Non-compliance of:-
  - a. duties assigned under the Act to the Designated Officer and the Appellate Authorities under sections

- 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 19, 20, 21, 24 and 28, Rules 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16 and 17 of the Rules and Regulations framed under sub section (2) of section 17 and section 27 of the Act
- b. Regulation 7 and 8 of the Khyber Pakhtunkhwa Right to Public Services Commission Conduct of Business Regulations, 2018
- c. Regulation 3 and 4 of the Khyber Pakhtunkhwa Right to Public Services Commission Steering Committee Regulations, 2018
- d. Orders of the Commission issued under section 19 and 24 of the Act.
- e. Non-exercise or wrong exercise of the powers vested in any authority and officials under the Act, Rules and Regulations.
- f. Exercise of powers by the officials not vested under the Act, Rules and the Regulations
- g. Not recommending disciplinary action, against the official(s) for non-performance, under section 14 of the Act.
- h. Failure to achieve the task assigned by the Chief Commissioner, Right to Public Services Commission and the Government.







Right to Public Services Commission  
KP, Pakistan



Governance & Policy Project  
(Merged Areas)



Government of Khyber Pakhtunkhwa