**TUR’S CRITIQUE OF THE MEGHLAYA’S RIGHT TO PUBLIC SERVICES ACT, 2020**

* **A call for an open debate**

The Meghalaya Govt. has tabled The Meghalaya Right to Public Services Act 2020.

The Preamble of this law states that it is

*“an Act to provide for the delivery of notified public services to the citizens in the State of Meghalaya within stipulated time limit including liabilities of the government servants, in case of default”*

Thma U Rangli-Juki has been campaigning for THE RIGHT OF CITIZENS FOR GRIEVANCE REDRESS AND SERVICE GUARANTEE IN MEGHALAYA Law, draft of which it had submitted to the government in 2013. Sadly, the law to this effect that was recently tabled, *The Meghalaya Right to Public Services Act 2020 (MRPSA2020)* is a law fraught with the problems of conception and also drafting. A Law which is supposed to bring transparency and accountability of the Public Authorities for the citizens was placed in the Meghalaya Legislative Assembly without any pre-legislative consultation. This lack of consultation is now apparent in the draft bill, which in its drafting is full of legal loopholes and is designed to frustrate citizens in redressing their grievances.

**IDEA OF PEOPLE’S RIGHT TO SERVICE GUARANTEE FROM PUBLIC AUTHORITY**

You apply for a driving license but you don’t know when you’re going to get it or whether you are going to get it or not. You’re entitled to a Scholarship, but are not sure when it shall be disbursed? You want duplicate copies of your marksheet but delay by MBOSE is exasperating... So we look for someone we know or try to grease the palms of someone who can ensure that we get the things out from the govt. department. As citizens, our encounters with Govt departments are full of grievances and frustrations. Much of the petty corruption which occurs happens because as citizens we seem to have no right to get timely and quality services from the Govt. departments.

What if all the Public Authorities proactively told the citizens, the timeline for the delivery of services, and also promised that if the services were not delivered on time, the govt servant responsible for such an act would be penalized and the citizen compensated for the trouble? What if as citizens our Grievances about the functioning of Public authority is acknowledged and heard?

A truly effective, pro citizen law about People’s Right to Public Service delivery would be to set up a legislative framework through which any citizen can have their complaints heard, addressed and redressed in a definite time frame. Any administrative structure requires mechanisms by which complaints and grievances can be registered and responded to. Within a democratic framework, where the Government and its functionaries are supposed to be accountable to the people, the redress of grievances is one of the most important means by which true accountability can be evaluated and deepened.

A citizen-friendly grievance redressal mechanism is an essential component in establishing a rights based framework. In case the citizen is unable to access rights/entitlements/services that he/she is eligible to access, there needs to be a time bound and effective method by which a citizen can file a complaint and have his/her grievance redressed. In such a framework the redress of grievances is a positive intervention to not only give the citizen their entitlement, but also provide information to the administration about shortcomings that may exist in the delivery mechanisms. This need is generic and extends to all branches of the administration. Redressal of grievances also requires support structures which are fairly independent from those implementing the program/s. Therefore, an effective and decentralized method of grievance redress is through a well designed Legislation that ensures citizens grievances are heard, registered, addressed and redressed.

**PROBLEMS OF THE MEGHLAYA’S RIGHT TO PUBLIC SERVICES ACT, 2020**MRPSA2020 conceives of the interface between the public authority and citizens merely as a temporal relationship, as in that Public Authority are only responsible for timely delivery of services. Although timely delivery of services is an important responsibility of public authorities, but time is not the only thing a citizen seeks. Quality of service and respect for legal entitlement promised by laws and schemes are as important as time bound delivery. Citizens’ grievance is not just that she did not get her scholarship, cash transfer in time but also that the scholarship and cash transfer were adequate and proper. Citizens’ RIGHT TO PUBLIC SERVICE DELIVERY is both time and quality of the services delivered.

MRPSA2020 does not talk of the quality and entitlement at all.

Implementation of MRPSA2020 is left on the whims and fancies of the governmental bureaucratic structure. It does not for instance mandate that all public authorities shall come under its preview. Only certain services which the government notifies from time to time will come under this law. This is dangerous. For instance, will Mining Department come under this law? Or, PWD’s payment of contractor’s bill or Planning Department or the Tourism Department looking after a rural tourism project? The law is intentionally silent about such questions.

Most glaringly MRPSA2020 is silent about the nature of Public Service rights the public authority have to publicly share. In other similar laws which are in operation in the states like Delhi, such citizens rights have to be put in the public domain as Citizen’s Charters. By omitting from the principal act, the overall framework under which such information about the Rights/Citizen’s Charter, MRPSA2020 is a law with minimal application and is open to executive misuse.

If MRPSA2020 was truly a pro-people law it would have made the frameworks of people’s right to public service/Citizens charter part of the principal act. For instance every public authority had to mandatorily publish

(a) the details of all the goods supplied and services rendered by the public authority and the name, designation and contact details of person or agency through which such goods are supplied or services rendered and timings during which such services are supplied or services rendered
(b) the conditions under which a person becomes entitled for goods or services, and the class of persons who are entitled to receive such goods and avail services;
(c) the quantitative and tangible parameters including weight, size, frequency of the goods and services available to the public;
(d) the qualitative standards of the goods and services available to the public;
(e) complaint redressal mechanism including the time within which the complaint be disposed of and the officer of the public authority to whom such complaint may be made;
(f) the name , designation, contact details and addresses of individuals responsible for the delivery of goods or rendering of services
(f) Those matters deemed urgent that shall be redressed immediately upon receipt of the complaint and in any case no later than 24 hours after receipt of the complaint.
(g) Those matters for which mandatory compensation is to be paid.

Even in its limited scope, MRPSA2020 is not serious in penalising the defaulting officer. Maximum penalty is Rs. 5000 for one offence and Rs.20000 for multiple offences. In times where transport licenses or mineral transportation challans can sell for much more than those amounts, the penalty will not deter corrupt officers and government staff from keeping citizens from getting their entitlements.

Moreover, the fine would be imposed by a State Public Service Delivery Commission, a commission made up of people nominated by The Chief Minister and a Minister of the Government nominated by the Chief Minister himself. This is a recipe for non-independence and a pliant body. It is shocking that the selection committee as envisaged by MRPSA2020 does not even attempt to make itself a fair and balanced body. For instance under Meghalaya Lokayukta Act selection is done by The Chief Minister, Leader of the Opposition and Chief Justice of the High Court. Even under the RTI Act, Leader of the Opposition is part of the selection process. Moreover MRPSA20202 does not have any process by which citizens can suggest names to a search and selection committee. State Public Service Delivery Commission is in danger of becoming a space for political appointment or retirement benefit for bureaucrats.

Shockingly, MRPSA2020 does not specify how the Commission members can be removed. It is a glaring drafting error. Even if a Commission member indulges in Corruption or crimes of Moral Turpitude, there is no section or clause in the law which will allow that member to be removed.

By centralising the Commission, MRPSA2020 also makes it difficult for citizens to approach the commission. It would have made more sense if the commission was district based.

MRPSA2020 will have to be amended to rectify its drafting and legal mistakes. But TUR demands that such an amendment should be properly discussed and put in the public domain so as to have a law that

1. Brings all public authorities under its purview.
2. Service delivery should include not only a timeframe but quality of services and entitlement of citizens.
3. Citizens should get a right for timebound redressal of their grievances.
4. Every Public authority by law should be made to publish a citizen’s charter and update it regularly. Failure to publicise the Citizen’s charter and update it should also be penalised.
5. State Public Service Delivery Commission should be constituted transparently through a search and selection committee and final selection should be done by a body which includes Leader of the Opposition as well as the Chief Justice of the High Court or the Accountant General of the State.
6. State Public Service Delivery Commission should be decentralised to the district level.
7. Penalty against the Public official(s) responsible for the delay or disruption of services shall also be entered in the service book.
8. State/District Public Service Delivery Commission can also recommend disciplinary action against the official.
9. Citizens’ whose rights as conceived by this law should also be entitled for compensation from the defaulting officers and public authority.