

ASSAM RIGHT TO PUBLIC SERVICES (AMENDMENT) BILL, 2024.

A
BILL

further to amend the Assam Right to Public Services Act, 2012.

Preamble

Whereas it is expedient to amend the Assam Right to Public Services, Act, 2012, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act No.
IX of 2012

It is hereby enacted in the Seventy-fifth year of the Republic of India as follows:-

Short title,
extent and
commencement

1. (1) This Act may be called the Assam Right to Public Services (Amendment) Act, 2024.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 3

2. In the principal Act, in section 3,
 - (i) for clause (a), the following shall be substituted, namely :-

“(a) “First Appellate Authority” means an officer including one belonging to the Local Authority and Local Self Government and Organization, receiving financial (tangible or intangible) assistance from the State Government, notified as such by the concerned public authority for providing the services under sub-section (3) of section 4 of the Act.”
 - (ii) for clause (c), the following shall be substituted, namely :-

“(c) “Designated Public Servant” means an authority including one belonging to the Local Authority, receiving financial (tangible or intangible) assistance from the State Government, notified as such by the concerned public authority for providing the service under sub-section(2) of section 4.”
 - (iii) in clause (g), in fifth line, for the word “body” appearing in between the words “local” and “which is”, the word “authority” shall be inserted;
 - (iv) in clause (k), in fourth line, after the word and figure “section 4”, appearing at the end, the words “but shall not include the waiting time required for additional information as sought by the applicant;” shall be inserted;

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- (v) in clause (n), for the punctuation mark “.”, appearing at the end, the punctuation mark “;” shall be substituted and thereafter, the following new clauses (o), (p) and (q) shall be inserted, namely :-

“(o) “Second Appellate Authority” means the Head of the Administrative Department as notified under sub-section (3) of section 4 of the Act;

(p) “Local Authority” means any Authority, Universities, Municipal Corporation, Municipal Board, Industrial Township, Planning Authority, Zila Parishad, Gaon Panchayat and other Local Self Governments constituted by law; and also includes development Authorities and other statutory or non- statutory bodies receiving financial (tangible or non-tangible) assistance from the State Government;

(q) “Link Officer” means the officer who shall hold the charge of the duties of the absentee officer for ensuring timely delivery of work.”

Amendment of section 4 3. In the principal Act, in section 4,

- (i) for sub-section (1), the following shall be substituted, namely:-

“(1) The Public Authority from time to time shall notify the public services rendered by it including the fast track service delivery fixed along with user charges and time limit fixed for such services.”

- (ii) after sub-section (1), the following new sub-section shall be inserted, namely:-

“(1A) The Public Authority shall display in the notice board of the office and in the website of the official or department about the notified services rendered by the Public Authority along with the name and designation of the Designated Public Servant, First Appellate Authority and the Second Appellate Authority.”

- (iii) for sub-section (3), the following shall be substituted namely:-

“(3) The Public Authority from time to time shall notify an officer superior in rank than that of the Designated Public Servant to act as the First Appellate Authority and shall also notify another officer superior in rank than that of the First Appellate Authority to act as the Second

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Appellate Authority to hear the first appeal and second appeal and decide following due procedure of law.”

Amendment of section 7

4. In the principal Act, in section 7,

(i) for sub-section (1), the following shall be substituted, namely :-

“(1) The stipulated time limit for providing the service delivery shall start from the next day of the date, on which the application for obtaining a notified public service has been received by the Designated Public Servant or by a person subordinate to him, who is authorized to receive such application on behalf of the Designated Public Servant or by a person authorized in this behalf. On receipt of an application for a public service, the same shall be acknowledged by the Designated Public Servant or by his authorised representation and a unique identification number shall be provided to the applicant physically or generated in the portal itself, specifically designed for the said purpose by the Government in such form as may be prescribed.”

(ii) after sub-section (2), the following new sub-sections shall be inserted, namely:-

“(3) Subject to the legal, technical and financial feasibility, every Designated Public Servant shall provide the notified services within the stipulated time :

Provided that the stipulated time limit may be extended during the period of elections or in the event of natural calamities or any disaster as mentioned under clause (d) of section 2 of the Assam Disaster Management Act, 2005, which shall be as may be notified by the Public Authority in the Official Gazette.

(4) The public authority shall provide Link Officer for temporary absence of the Designated Public Servant for continuous and uninterrupted service delivery in a manner as may be prescribed.”

Central
Act No. 53
of 2005

Amendment of section 8

5. In the principal Act, in section 8,

(i) in sub section (1), in the seventh and eighth line, for the word “Appellate Authority” the word “First Appellate Authority” shall be substituted;

(ii) in sub section (2), in first, sixth and tenth line, for the word “Appellate Authority” the word “First Appellate

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Authority” shall be substituted;

- (iii) in sub-section (3), in the fourth line, in between the words “forty-five days” and “from the”, the words “or within such extended period as notified under sub-section (3) of section 7” shall be inserted;
- (iv) for sub-section (4), the following shall be substituted, namely:-

“(4) The Applicant or Designated Public Servant aggrieved by an order of the First Appellate Authority may make a second appeal before the Second Appellate Authority within sixty days from the date of receipt of the order of the First Appellate Authority:

Provided that the Second Appellate Authority may admit the appeal after the expiry of sixty days if he is satisfied that the appellant was prevented by sufficient cause from filing the second appeal in time.”

- (v) after sub-section (4), the following new sub-sections shall be inserted, namely:-

“(4a) The Second Appellate Authority shall dispose of the appeal within sixty days from the date of filing or within such extended period not exceeding a period of seventy-five days or within such extended period as may be notified under sub-section (3) of section 7 from the date of filing thereof, for reasons to be recorded in writing, as the case may be.

(4b) The applicant or Designated Public Servant or the First Appellate Authority aggrieved by any order of the Second Appellate Authority may prefer a third appeal before the Commission within ninety days from the date of receipt of the order of the Second Appellate Authority:

Provided that the Commission may admit an appeal beyond the period of ninety days, if it is satisfied that the Appellant was prevented by sufficient cause from filing the appeal in time, which in no case shall be beyond the period of hundred twenty days.”

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(vi) for sub-section (5), the following shall be substituted, namely:-

“(5) The Commission shall dispose of the third Appeal by following such procedure as may be prescribed.”

(vii) for section (7), the following shall be substituted, namely:-

“(7) The decision of the Commission in the third appeal shall be binding on the Appellant, the Designated Public Servant, the First Appellate Authority and the Second Appellate Authority.”

(viii) in sub-section (8), for the first paragraph, the following shall be substituted, namely:-

“(8) The First Appellate Authority, Second Appellate Authority and the Commission while deciding the first appeal, second appeal and third appeal as the under this section shall have the same power as vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of any of the matters, namely:-”

Central Act No V of 1908

Amendment of section 8 A

6. In the principal Act, in section 8A,

(i) for sub-section (3), the following shall be substituted, namely: -

“(3) The Chief Commissioner and the Commissioners of the Commission shall be appointed by the Governor on the recommendation of a Committee consisting of the following members, namely: -

- (a) the Chief Minister, who shall be the Chairperson of the Committee;
- (b) the Leader of Opposition in the Legislative Assembly; and
- (c) a Cabinet Minister to be nominated by the Chief Minister.

Explanation:- Where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of the Opposition.”;

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(ii) for sub-section (5), the following shall be substituted, namely: -

"(5) The Chief Commissioner of the Commission shall be appointed from amongst the retired officers of the State Government or Central Government or All India Services Officers who had held a post not below the rank of a Principal Secretary to the Government of Assam having wide range of experience in the field of Public Administration.";

(iii) for sub-section (6), the following shall be substituted, namely: -

"(6) Not less than one Commissioner shall be appointed from amongst the persons who have held a post not below the rank of a Commissioner and Secretary to the Government of Assam. The other Commissioner shall be appointed from persons of eminence in public life with wide knowledge and experience in the field of Law, Science and Technology, Social Science, Management, Journalism and Mass Media.";


(iv) for sub-section (7), the following shall be substituted, namely, -

"(7) The Chief Commissioner and the Commissioners of the Commission shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory or hold any other Office of profit or connected with any political party or carrying on any business or pursuing any profession."

Amendment of
Section 8 B

7. In the principal Act, in section 8 B,

(i) in sub-section (1), in second line, for the word "five" appearing in between the words, "term of" and "years", the word "three" shall be substituted;


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(ii) for sub-section (2), the following shall be substituted, namely:-

“(2) The Chief Commissioner and every Commissioner shall hold office for a term of three years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Commissioner:

Provided that every Commissioner shall be eligible for appointment as the Chief Commissioner of the Commission on vacating office by the Chief Commissioner :

Provided further that when the Commissioner is appointed as the Chief Commissioner of the Commission, his term of office shall not be more than five years in aggregate as the Commissioner and the Chief Commissioner of the Commission:

Provided also that the Chief Commissioner or the Commissioner, who on the date of his appointment to the Commission, if was in the service of Central or State Government, he shall be deemed to have been retired from such service with effect from the date of his appointment as the Chief Commissioner or the Commissioner of the Commission.”

(iii) in sub-section (4), for clause (a), the following shall be substituted, namely:—

“(a) The Chief Commissioner shall be of the rank of the Principal Secretary to the State Government.”

Amendment of section 8 D

8. In the principal Act, in section 8D, in sub-section (1),

(i) for clause (b), the following shall be substituted, namely:-

“(b) recommend departmental inquiry against any Designated Public Servant or First Appellate Authority and Second Appellate Authorities who have failed in due discharge of their duties under the Act.”

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(ii) for clause (c), the following shall be substituted, namely:-

“(c) recommend for improvement in procedures for delivery of public services which shall make the service more transparent and easier.”

(iii) after sub-clause (d), the following new clauses shall be inserted, namely:-

“(e) recommend steps to be taken by the Public Authorities for further improvement in public services delivery;

(f) may issue suo-moto notices or take suo-moto cognizance in matters which are of grave nature;

(g) may suo-moto enquire or visit field for better functioning or implementation of this Act.”

Amendment of section 9

9. In the principal Act, for section 9,-

“9. (1) If the First Appellate Authority is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, shall after recording reasons in writing, impose penalty which shall not be less than rupees hundred and exceed rupees five thousand :

Provided that, the Designated Public Servant shall be given a reasonable opportunity of being heard before any penalty is imposed on him by the First Appellate Authority:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Designated Public Servant.

(2) If the Second Appellate Authority is of the opinion that the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, after recording reasons in writing may vary the decision of the First Appellate Authority and may impose penalty, for not providing the particular notified services, within the stipulated time limit and may impose penalty which shall not be less than rupees hundred and exceed rupees seven thousand :

Provided that the Designated Public Servant and the First Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on him by the Second Appellate

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Authority :

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Designated Public Servant or the First Appellate Authority.

- (3) If the Commission is of the opinion that,-
- (i) the Designated Public Servant has made default in providing the public service within the stipulated time limit without sufficient and reasonable cause, may vary the decision of the Second Appellate Authority after recording reasons in writing and shall impose penalty, for not providing the particular notified services within the stipulated time limit which shall not be less than rupees hundred and shall not exceed rupees ten thousand.
 - (ii) the First Appellate Authority had failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Public Servant, then the Commission shall impose a penalty which shall not be less than five hundred rupees and which may extend up to rupees five thousand.
 - (iii) the Second Appellate Authority had failed to decide the appeal within the stipulated time limit without any sufficient and reasonable cause, or unduly tried to protect the erring Designated Public Servant, then the Commission shall impose a penalty which shall not be less than rupees one thousand and which may extend up to rupees five thousand:

Provided that the Designated Public Servant, First Appellate Authority and Second Appellate Authority shall be given a reasonable opportunity of being heard before any penalty is imposed on them by the Commission:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Designated Public Servant, First Appellate Authority and Second Appellate Authority as the case may be.”

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Amendment of section 10 10. In the principal Act, for section 10, the following shall be substituted, namely :-

“10. The Commission shall communicate to the Designated Public Servant or the First Appellate Authority or the Second Appellate Authority, as well as the concerned Public Authority about the penalty imposed in writing. The Designated Public Servant shall pay the amount of penalty imposed, within a period of 30(thirty) days from the date of receipt of such communication, failing which the Competent Authority shall recover the amount of penalty imposed, from the salary of the concerned Designated Public Servant or the First Appellate Authority or the Second Appellate Authority, as the case may be, in the manner as may be prescribed.”

Insertion of sections 10A, 10B, 10C, 10D and 10E 11. In the principal Act, after section 10, the following new sections shall be inserted, namely:-

“Allocation of Funds 10A. The funds for implementation of the provisions of this Act shall be allocated in the Annual Budget.

Monitoring of service delivery by the Public Authority and Training and Certification 10B. (1) The Public Authority shall take necessary and effective steps for monitoring the status of applications using the Unique Identification Number provided to the applicant and shall monitor the timely updation of the status of applications through digital or paper mode to the applicant who shall be able to monitor the status of his application in the manner as may be prescribed.

(2) The Public Authority shall, -

- (i) develop organized training and certification programmes for advancement and equipping the Designated Public Servant and the Appellate Authorities with the provisions of the Act and rules made thereunder;
- (ii) to take part in the development and organization of programmes referred in clause (i) above and to undertake such programmes themselves;
- (iii) promote timely and effective dissemination of accurate information by the Designated Public Servant about the notified services and timelines and the processes for applications;

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- (iv) take such digital measures so that if no action or final decision has been taken by the First Appellate Authority and Second Appellate Authority within 30 (thirty) and 60 (sixty) working days respectively from the submission of the application for public services the said authority shall auto escalate the said appeal to the Commission.
- (3) The State Government shall issue directions time to time for effective implementation of the provisions of the Act, superintendence of the cases filed under the Act and for the inspection of the offices of the Concerned Authorities.
- Incentives 10C. (1) To encourage and enhance the efficiency of the Designated Public Servant, the Administrative Head may grant cash incentive of such amount along with a certificate of appreciation in such form as may be prescribed to a Designated Public Servant against whom no default is reported in a year and who is delivering Public services within the stipulated time limit and shall also make a corresponding entry in the service record of the concerned Officer.
- (2) The State Government may give appropriate award to the Public Authorities who perform best in achieving the purposes of this Act.
- Action against eligible person for giving false or frivolous information etc. 10D. If an eligible person deliberately gives false or frivolous information in the application or submits false documents along with the application and obtain the public services under this Act, an action shall be taken against him under the relevant provisions of panel laws in force.
- Sensitization of public service delivery 10E. Provision for a chapter on right to public service in High School text book shall be introduced for sensitizing and developing the culture to deliver public services in the manner, as may be prescribed.”

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STATEMENT OF OBJECTS AND REASONS

The Government of Assam had enacted the Assam Right to Public Service Act, 2012 for ensuring timely delivery of services to the citizens and with a view to achieve transparency, accountability and timelines in the service delivery.

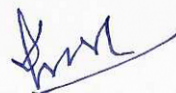
The proposed amendment of the ARTPS Act, 2012 (as amended), will enable the State Government to constitute a Commission for Right to Public Services to exercise the powers and perform the functions assigned under the Act.

The proposed amendment will enable auto appeal provision, extended time limits, penalty, procedure for recovery of penalty, recommendation of Commission, Suo moto cognizance, chapter on RTPS, incentives, Fund allocation, monitoring mechanism, training and certification and repealing of the ordinance.

1. The Assam State Commission for Right to Public Services will exercise the powers conferred on and make suggestions to the State Government for ensuring better delivery of services, disciplinary proceedings, suggestions for improvement in procedures for delivery of public services which will make the delivery more transparent and easier. However, an amendment Bill is required to rectify the discrepancies which appeared in the Act.
2. The Commission will recommend Steps to be taken by the Public Authorities for further improvement in delivery of public services. Further, the Commission will issue Suo-Moto notices or take Suo-Moto cognizance in matters which are of grave nature and suo-moto enquire or visit field for better functioning/implementation of the Act.
3. The provision for auto escalation, Second Appellate Authority will ensure better delivery of services and more transparent and easier delivery of services.
4. The proposed amended Penal provision, Procedures for recovery of Penalty will streamline the process.
5. The proposed amendment in respect of inclusion of a chapter on Right to Public Services in the High School Text Books will benefit students in future.
6. The Auto appeal mechanism will achieve transparency, accountability and timelines in the service delivery.
7. Support digitalization of services.
8. Improving 'Ease of living' for people of Assam.
9. The Administrative Head of the Departments will act as the Second Appellate Authority and the Assam State Commission for Right to Public Services will act as the Third Appellate Authority for redressal of citizens grievances of the State.
10. The proposed amended Incentives Provision will encourage and enhance the efficiency of the Designated Public Servant.
11. The Bill seeks to achieve above objects.



Dr. Himanta Biswa Sarma
(Hon'ble Chief Minister, Assam as Minister-in-Charge,
ARTPPG Department)



Secretary
Assam Legislative Assembly




FINANCIAL MEMORANDUM

1. Sub-section (3) of Section 8 (A) of the Bill provides a provision for constitution of Committees for constitution of the Assam State Commission for Right to Public Services to exercise the powers and perform the functions assigned to it. Sub-section (5) and (6) of Section 8 (A) provides for appointment of a Chief Commissioner, and Commissioners.
2. Sub-section (2) of Section 8 (B) provides for periods of officers of the Commission.
3. Section 10(B) (2) (iv) provides for auto escalation.
4. Sub-section (4) of Section 8 (B) provides for payment of allowances to the Chief Commissioner and Commissioners of the Commission and other employees appointed for the purpose of the Commission.
5. Section 10 (B) (1), 10 (B) (2) and 10 (C) (1) for Monitoring Mechanism, Training and Certification and Incentives respectively.
6. The proposed three- member Assam State Commission for Right to Public Services, would entail an additional financial involvement. The assessment of fund requirement has been worked out and an amount of Rs. 4.5 Crore would be required for salary of the officers & staff along with the other expenses.



Dr. Himanta Biswa Sarma
(Hon'ble Chief Minister, Assam as Minister-in-Charge,
ARTPPG Department)



MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-section (1), (2), (3) of section 9 of the proposed bill, empowers the concerned Authority to impose penalty for ensuring better delivery of Services.
2. Sub-section (v) (q) of Section 3 of the proposed bill, provides additional human resources in such a way that the delivery of public services will not be hampered for temporary absence of the Designated Public Servant.
3. Section 8 (A) of the Bill empowers the State Government to make rules, inter alia, in respect of matters relating to—
 - a. the constitution of committee for appointment of the Chief Commissioner and Commissioners of the Commission.
 - b. the work experience for the post of 3- members Commission.
4. Section 8 (B) of the Bill empowers the State Government to make rules, inter alia, in respect of matters relating to terms of office and conditions of service (periods of service/salaries/allowances etc.,)
5. Sub-section (2) (iv) of Section 10B provides for auto-escalation for speedy, transparent and efficient delivery of Public Services.
6. Sub-section (1), (2), (3) of Section 9, empowers the Government to impose penalty in the event of failure of delivery of Public Services.
7. Section 10 empowers the Government for recovery of Penalty.
8. Section 8D (i), (ii), (iii) provides for recommendation, suggestion for improvement in procedure of delivery of Public Services.
9. Section 8D (iii) (f) and 8D (iii) (g) provides for Suo Moto Cognizance and enquiry/field visit for better functioning/ implementation of the Act.
10. Section 10E provides for a chapter on RTPS in High School textbooks for sensitizing and developing culture to deliver Public Services.
11. Section 10C (1) empowers the Government for granting incentives to encourage and enhance efficiency of the Designated Public Servant.
12. Section 10A empowers the Government to allocate fund.
13. Section 10B (1), (2), (3) empowers the Government to create mechanism for monitoring in respect of effective implementation of the provision of the Act.

14. Section 10B (2) (i) empowers the government to organise Training and Certification for promoting timely and effective dissemination of accurate information by the Public Authorities.
15. The matters in respect of which rules or regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.
16. The powers delegated are normal and not of an exceptional character



Dr. Himanta Biswa Sarma
(Hon'ble Chief Minister, Assam as Minister-in-Charge,
ARTPPG Department)



**STATEMENT UNDER RULE 69(1) OF THE RULES OF PROCEDURE AND
CONDUCT OF BUSINESS IN ASSAM LEGISLATIVE ASSEMBLY
EXPLAINING THE CIRCUMSTANCES WHICH HAS NECESSITATED
IMMEDIATE LEGISLATIVE BY ORDINANCE**

The proposed Assam State Commission for Right to Public Services (ASCRTPS) will empower the State Government to decide the tenure, salary, allowances and other terms of service of Commissioners of the State, the ASCRTPS will be empowered to recommend for disciplinary action against Designated Public Servant for persistently failing to provide the notified services. The Commission will bring effectiveness in the implementation of the Right to Public Services in the State.

The amendment will enable auto appeal provision, extended time limits, penalty, procedure for recovery of penalty, recommendation of Commission, Suo moto cognizance, chapter on RTPS, incentives, Fund allocation, monitoring mechanism, training and certification and repealing of the ordinance to make the delivery of notified public services more transparent and easier.

Due to paucity of time and also for no sitting of monsoon session of Assam Legislative Assembly, the Bill could not be placed before the Budget Session of the same. Thus for setting up of ASCRTPS immediately, the Ordinance was promulgated by the Hon'ble Governor.



(Dr. Himanta Biswa Sarma)
Chief Minister, Assam
and Minister-in-Charge,
ARTPPG Department

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Lakshman Prasad Acharya

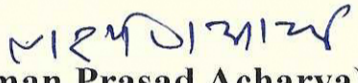


राज्यपाल असम
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August 16, 2024

Under the provision of Article 207 (1) of the Constitution of India, I, Shri Lakshman Prasad Acharya, Governor of Assam, recommend the introduction of the “Assam Right to Public Service (Amendment) Bill, 2024” in the Assam Legislative Assembly.


(Lakshman Prasad Acharya)
Governor of Assam

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Lakshman Prasad Acharya



राज्यपाल असम
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August 16, 2024

Under the provision of Article 207 (3) of the Constitution of India, I, Shri Lakshman Prasad Acharya, Governor of Assam, recommend that the “Assam Right to Public Service (Amendment) Bill, 2024” be taken into consideration by the Assam Legislative Assembly.

लक्ष्मण प्रसाद आचार्य
(Lakshman Prasad Acharya)
Governor of Assam