

CHAPTER-VIII: MONITORING MECHANISM OF BOCW WELFARE BOARD

8.1 No mechanism to ensure registration of establishments and labourers and non-conduct of inspection for enforcement of safety and other health norms

Section 43 of the Building and Other Construction Workers Act 1996 (read with Section 44) empowers the inspectors to inspect the premises of any establishment where construction work is being carried on to check safety measures and facilities provided to the workers. Further Chapter VI of CG BOCW Rule, 2008 stipulates the measures to be adopted by the employers for the health and safety of Building and Other Construction Workers.

Section 7 of the BOCW Act 1996 stipulates that every employer undertaking construction work would make an application to the registering officer for registration of the establishment within 60 days from the commencement of the work. Section 10 *ibid* stipulates that the employer of an establishment, who has not registered their establishment under section 7 of the Act, shall not employ building workers in the establishment after the expiry of the period of 60 days. Rule 23 of BOCW Rules 2008 specifies the manner for registration of the establishments.

Sections 12 and 13 of the BOCW (Employment and Conditions of Service Regulation) Act, 1996, envisage the registration of building workers as beneficiaries and issuance of identity cards to them.

In compliance of “Ease of Doing Business” policy issued by the Ministry of Commerce and Industry, GoI, the Labour Department, GoCG issued (November 2016), the procedure for inspection and follow up of post inspection processes. According to the said notification, nominated inspectors should inspect the prescribed establishment on prescribed date in prescribed format as per list uploaded in web portal.

Scrutiny of records of selected offices for the period 2017-22 revealed following shortcomings:

- Out of 2830 establishments registered with the BOCW Welfare Board till September 2022, none of the registered establishments was selected for random inspection and none of the registered establishments was inspected during 2017-22.
- However, no mechanism other than inspection exists in the Department for monitoring of construction works. In the absence of any other monitoring mechanism, the registration of establishment as well as all building workers who are working on construction site cannot be ensured by the Department. Further, availability of welfare facilities as well as compliance to the health and safety norms at the construction site could not be ensured.
- Only those establishments which initiated self-registration were registered with the BOCW Welfare Board. Those establishments which did not declare

their construction works were not found registered. Only 2830 establishments were registered with the Board as on September 2022 whereas 6734¹ building permission/work orders were issued by the Government Departments and local Bodies in five test checked districts only during 2021-22.

Thus, there was no mechanism to ensure registration of all establishment carrying out construction activity and construction workers engaged therein despite collection/deduction of labour cess by the Municipality/Town and country planning and other Government Departments on construction works undertaken under their jurisdiction. Enforcement of safety and other health norms by the Labour Department was also not ensured due to non-conduct of inspection.

The State Government replied (April 2024) that letters have been issued to Labour Commissioner to take necessary action in view of audit observation regarding inspection of establishments, registration of establishments and compliance of health and safety of workers. Government further replied that facility of registration of labour through various mode such as online application in portal, CSC, mobile app and Labour Resource Center where labour can register him/herself has been initiated by the Department.

8.2 Result of Joint Physical Verification

During joint physical verification of 50 test checked establishments in five selected districts conducted during October 2022 to April 2023, following shortcomings were noticed:

1. In 50 registered and unregistered establishments, a total of 2224 labourers engaged in various construction works were not found registered with the BOCW welfare Board;
2. Register of workers was not maintained at construction sites in 35 out of 50 establishments as was required under Section 30 of the BOCW Act;
3. No separate toilet facilities were available for male and female labourers at the construction sites in 36 out of 50 establishments. One establishment (District-Bastar) was not having any toilet facilities at construction sites;
4. In 17 out of 30 establishments, in Raipur, Janjgir-Champa and Raigarh, no accommodation facilities at construction sites were provided for workers engaged in construction works. However, in one (Office of the Executive Engineer, PWD, Setu Division, Raigarh) of the projects, arrangement for accommodation of labourers was made in *Muktidham Pratikshalaya* as is evident from following **photograph no.1**.

¹ Number of work building permission/ work order issued by 26 selected works Divisions and five selected local bodies in the selected five district (Bastar, Bilaspur, Janjgir-Champa, Raigarh and Raipur) during the year 2021-22.

Photograph No.1: Showing arrangement of accommodation of labours in Muktidham Pratikshalaya



5. None of the establishments had displayed information regarding prohibition of Child Labour, rates of Minimum Wages, and Overtime Wages etc.at the construction site.
6. Out of 50 establishments, 41 establishments did not adhere to the prescribed health and safety norm and safety gear such as helmet, boot, and safety belt etc., were not provided to the workers as depicted in following **photos numbers 2 and 3**. Some of the Government works also did not comply with the health and safety norms despite the provision of safety measures in agreement with the constructing agencies. Some of the private builders were however complying with the safety and health norms as depicted in **Photographs number 4 and 5**:

Establishments not complying with Health and Safety norm



O/o the Executive Engineer, PWD, Dn-3, Naya Raipur (Photo No. 2)



O/o the Executive Engineer, PWD, North Bastar Division-1 (Photo No. 3)

Establishments complying with Health and Safety norm



(Photo No. 4) Shree Sai Construction (JSPL), Raigarh



(Photo No. 5) Avinash Woods, Jagdalpur, Bastar

7. Fire tender arrangement was not found in 40 out of 50 establishments.
8. First aid kits at construction sites were not available in 28 establishments.
9. No establishment provided the facilities of ambulance and stretchers at construction sites.

The State Government replied (April 2024) that correspondence has been made with Labour Commissioner to take necessary action in view of audit observations.

8.3 Non Assessment of BOCW Welfare Cess

As per Rule 7 of the Building and Other Construction Workers' Welfare Cess Rules, 1998, Assessing Officer shall make assessment order on final cost of construction indicating the amount of cess payable by employer. Further, GoCG notified (March 2010) that Assistant Labour Commissioner and Labour Officer were appointed as Cess Assessing Officer under BOCW Welfare Cess Act 1996 and again the GoCG notified (May 2018) that Executive Engineer, Works Department, Deputy Director of Municipal Corporation or Council, CEO NRDA/RDA/Housing Board, CMHO etc., were designated as Cess Collector and Assessing Officer under the Building and other Construction Workers Welfare Cess Act 1996.

During scrutiny of records of selected offices, it was noticed that assessment of Cess was not carried out during the period 2017-22 and the relevant assessment orders could not be made available by BOCW Welfare Board to the audit. Non-assessment of cess may result in underpayment of cess by employer.

Further, during audit of 32 works executing departments, five Municipal Corporations and five offices of Town and Country Planning Department, it was noticed that assessment of cess was not carried out by the designated officers.

The State Government replied (April 2024) that letters have been issued to Labour Commissioner to take necessary action in view of Audit observation regarding assessment of BOCW Welfare Cess.

8.4 Non-conduct of Social Audit

The Hon'ble Supreme Court in its judgement (March 2018) directed to conduct Social Audit on the implementation of the BOCW Act for better and more effective and meaningful implementation of the Act. The Supreme Court's judgement (point No-75) requires the State Governments and the Welfare Boards in every State to conduct a social audit on the lines of CAG's guidelines for social audit.

During scrutiny of records of BOCW Welfare Board, Raipur for the period 2017-18 to 2021-22, it was observed that no such social audit was conducted by the BOCW Welfare Board in the State. No effort was taken by the Labour Department to commence social audit on the implementation of the BOCW Act.

The State Government replied (April 2024) that the Labour Department has sent a proposal to the Panchayat and Rural Development Department to conduct social audit.

8.5 Conclusion

Establishments were registered at their own will and effort. There was no mechanism to ensure registration of all the establishments undertaking construction activities despite collection of labour cess by the Municipality/Town and Country Planning and other Government Departments on construction works undertaken under their jurisdiction. Due to lack of inspection/alternate monitoring mechanism, the Department could not ensure the compliance of safety and health norms by the employer. Social audit on the implementation of the BOCW Act was also not conducted.

8.6 Recommendations

- The BOCW Welfare Board and Labour Department should develop a monitoring mechanism to ensure that the prescribed health and safety norms are being complied by the employers at the construction sites.
- Social audit should be given priority for better and more effective implementation of the extant provisions.



Raipur
The: 9 March 2025

(YASHWANT KUMAR)
Principal Accountant General (Audit)
Chhattisgarh

Countersigned

New Delhi
The: 17 March 2025



(K. SANJAY MURTHY)
Comptroller and Auditor General of India