

**Chapter 2**  
**Planning and Control**



# 2 Planning and Control

The Board bears overall responsibility for the implementation of the Act, planning of welfare schemes, disbursement of benefits to workers and management of the Welfare Fund. There is a State Advisory Committee<sup>8</sup> (SAC), constituted under Section 4 of the BOCW Act, to advise the State Government on any matters arising out of the administration of the BOCW Act.

Audit noticed deficiencies in planning on the part of the State Government, the Department and the Board, as discussed in the succeeding paragraphs.

## 2.1 Non-implementation of welfare schemes

Section 22 of the BOCW Act lays down the functions<sup>9</sup> of the Board regarding extension of benefits to building workers. The Board may grant loan or subsidy or pay annually, grants-in-aid, to a local authority or an employer, who provides welfare measures and facilities, of the standard specified by the Board, to the building workers and their families.

Audit noticed that GoJ had notified (August 2007) the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Jharkhand Rules, 2006 (the Jharkhand Rules), after 10 years of enactment (August 1996) of the BOCW Act, by GoI. Delay in the notification of the Jharkhand Rules, resulted in delay in creation (July 2008) of the Board and the Welfare Fund, which ultimately delayed disbursement of benefits to building workers.

It was also seen that the Board had neither identified eligible beneficiaries, for providing loans and advances for construction of houses, nor had it framed any schemes, to ensure payment of premiums, against Group Insurance schemes for beneficiaries, as of March 2022. Further, the Board had notified (March 2011)

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<sup>8</sup> Comprising of : (a) Chairperson, to be appointed by the State Government (b) two members of the State Legislature, to be elected from among the State Legislature-members (c) a member to be nominated by the Central Government (d) the Chief Inspector - member, ex-officio (e) Such number of other members, not exceeding eleven, but not less than seven, as the State Government may nominate, to represent the employers, building workers, associations of architects, engineers, accident insurance institutions and any other interests, which, in the opinion of the State Government, ought to be represented on the State Advisory Committee.

<sup>9</sup> (a) immediate assistance to a beneficiary, in case of accident (b) pension to the beneficiaries, after they attain the age of 60 years (c) sanctioning loans and advances to beneficiaries for construction of houses (d) payment of premium, for Group Insurance Scheme of the beneficiaries, as it may deem fit (e) financial assistance, for the education of children of beneficiaries (f) medical expenses, for treatment of major ailments of a beneficiary or his dependents (g) maternity benefits, to female beneficiaries and (h) such other welfare measures and facilities, as may be prescribed.

schemes related to provision of scholarships to the children of beneficiaries, after more than two years of creation of the Welfare Fund.

The Board had also not evolved any mechanism to ensure that the local authorities or the employers provided welfare measures and facilities, to workers and their families.

Thus, the State Government had delayed implementation of the Act for more than 10 years. The Board had also not ensured provision of all benefits to workers or their families, although this had been envisaged under the BOCW Act, even after more than 14 years of its creation (July 2008), as of March 2022.

## 2.2 State Advisory Committee

Rule 11 of the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Jharkhand Rules, 2006 (the Jharkhand Rules) envisages that the State Advisory Committee (SAC) be reconstituted after every three years. It also prescribes the tenure of the Chairperson and every member as being three years<sup>10</sup>. Further, Rule 20 (1) provides that the SAC should meet at least once in six months, or, as and when any matter is referred to it, by the Government, for advice.

GoJ initially constituted the SAC in July 2008, after which, it remained functional for six years, till July 2014, without being reconstituted after every three years. Though, the Government reconstituted the SAC in June 2014, the reconstituted SAC started functioning from August 2014 and remained functional for more than three years, till it was again reconstituted in October 2018. The SAC constituted in October 2018 remained functional for more than four years, till December 2022. Audit observed that SAC had conducted only five<sup>11</sup> meetings, out of the required 27 meetings, between July 2008 and December 2022.

Further, scrutiny of the minutes of the SAC meetings (September 2016, December 2018 and June 2021), revealed that the SAC had evaluated the financial progress of the Board and discussed issues relating to the welfare of workers, such as improvement in the number of workers registered; provision of benefits through the Direct Benefit Transfer (DBT) mode, instead of distribution of benefits in kind; creation of additional welfare schemes; coverage of left out regions; organising workshops for spreading awareness among workers; linking the beneficiaries with the *Ayushman Bharat Yojana*; appointment of *Shramik Mitras* to facilitate the registration of workers and transfer of benefits to them; preparation of workers' registration cards, improvement in the collection of cess *etc.*

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<sup>10</sup> Except members of the State Legislature, who are to hold office for three years, or till they remain members of the Legislative Assembly, whichever is earlier.

<sup>11</sup> July 2014, March 2016, September 2016, December 2018 and June 2021

While accepting the facts, the Department stated (October 2023) that the State Advisory Committee had been reconstituted on 4 July 2023 and that a proposal for regular reconstitution of the SAC, and conducting timely meetings, would be placed before the SAC, in their forthcoming meeting.

### 2.3 Lack of manpower

As per Section 19 of the BOCW Act, read with Rule 273 of the Jharkhand Rules, the Board, with the prior concurrence of the State Government, was to appoint such other officers and employees of any other department, as it considered necessary, for the efficient discharge of its functions.

Further, the Hon'ble Supreme Court of India had reviewed the implementation of the BOCW Act and the Cess Act, in connection with a Writ Petition<sup>12</sup> and directed (March 2018) the Ministry of Labour and Employment, GoI, to frame a composite model scheme for the welfare of construction workers. Accordingly, the Ministry had framed (September 2018) a Model Welfare Scheme and Action Plan (MWS&AP) and, with the order of the Hon'ble Supreme Court, forwarded (October 2018) it to the Chief Secretaries of the States, for compliance. The MWS&AP recommended that the State Governments may further delegate the powers of the Cess Collector and the Assessing Officer, to officers at the local/municipal/panchayat level, for the purpose of assessment and collection of cess, in their respective jurisdictions. MWS&AP had also suggested authorising the District Collectors/Magistrates, to administer and facilitate the implementation of the BOCW Act, in their areas.

Audit noticed that the Board was implementing its schemes through the officers of the Labour, Employment, Training and Skill Development Department (the Department). The sanctioned strength (SS) and persons-in-position (PIP), in regard to the Authorities of the Department, responsible for the implementation of the BOCW Act, during FYs 2017-18 to 2021-22, is detailed in **Table 2.1**.

**Table 2.1: Sanctioned strength and men-in-position**

Year	Deputy Labour Commissioner (Sanction of benefits)			Assistant Labour Commissioner (Assessment of Cess)			Labour Superintendent (Sanction of benefits and Registration)			Labour Enforcement Officer (Registration and collection of Cess)		
	SS	PIP	Vacancy (per cent)	SS	PIP	Vacancy (per cent)	SS	PIP	Vacancy (per cent)	SS	PIP	Vacancy (per cent)
2017-18	10	4	6 (60)	14	1	13 (93)	43	27	16 (37)	203	75	128 (63)
2018-19	10	4	6 (60)	14	1	13 (93)	43	22	21 (49)	203	56	147 (72)
2019-20	10	1	9 (90)	14	Nil	14 (100)	43	22	21 (49)	203	42	161 (79)
2020-21	10	1	9 (90)	14	Nil	14 (100)	43	22	21 (49)	203	32	171 (84)
2021-22	10	1	9 (90)	14	Nil	14 (100)	43	20	23 (54)	203	18	185 (91)

(Source: Data provided by the Board)

<sup>12</sup> W.P. No-318/2006 -National Campaign Committee for Central Legislation on Construction Labour Vs. Union of India and Others.

It can be seen from **Table 2.1** that there were significant vacancies, against all posts of officers responsible for the implementation of the BOCW/Cess Act. There had not been any Assessing Officers in the State, since FY 2019-20. Vacancies in the posts of Labour Superintendents and the Labour Enforcement Officers, who were the authorities responsible for registration of beneficiaries and establishments, ranged between 37 and 91 *per cent*.

The Board had not sent any proposal, to the State Government, to delegate powers to officers of other departments, or to authorise the concerned District Collectors, to administer and facilitate the implementation of the BOCW Act, despite the huge shortage of officers in the Department.

Thus, absence of manpower had affected the registration of beneficiaries and establishments; inspection of construction sites; assessment and collection of cess; and distribution of benefits, to a large numbers of beneficiaries, as discussed in **Chapters 4, 5 and 7**.

In reply, the Department stated (October 2023) that the requisition for recruitment of Labour Superintendents and Labour Enforcement Officers has been submitted (February 2023) to the Department of Personnel, Administrative Reforms and Rajbhasha, Jharkhand.

The fact, however, remains that the Department had failed to take action for such a long period of time for appointment of sufficient manpower, which has hampered the efficient functioning of the Board.

**Recommendation 1: State Government may deploy adequate manpower at all levels of responsibility, by delegating relevant powers to officers from the concerned departments while following up on the proposal for recruitment of officers.**

#### **2.4 Lack of awareness among beneficiaries**

As per Section 11 of the BOCW Act, every building worker, registered as a beneficiary, was entitled to the benefits provided by the Board, from its Welfare Fund. As per Rule 277 of the Jharkhand Rules, a beneficiary of the Welfare Fund, has to contribute to the Welfare Fund, on a half yearly or yearly basis. If a beneficiary commits default in the payment of contribution, continuously for a period of one year, he shall cease to be a beneficiary of the Welfare Fund. However, with the permission of the Secretary, or an officer authorised by him, in this behalf, the membership may be resumed, on repayment of arrears of contribution, with fine.

Details of the registered beneficiaries, *vis-à-vis* the number of beneficiaries to whom benefits were given, during FYs 2017-18 to 2021-22, is shown in **Table 2.2**.

**Table 2.2: Details of registered beneficiaries, vis-à-vis the number of beneficiaries to whom benefits were given**

Sl. No.	Financial Year	Number of workers registered during the financial year		Number of registered workers, as on 31 March of FY (cumulative)	Number of workers benefited <sup>13</sup> (per cent of total workers)
		New registrations	Renewals (per cent of total registered workers <sup>#</sup> )		
1	2016-17	NA	NA	5,96,178	NA
2	2017-18	1,53,627	52,300 (9%)	7,49,805	4,78,539 (64%)
3	2018-19	1,29,377	92,563 (12%)	8,79,182	9,37,213 (107%)
4	2019-20	89,406	45,787 (5%)	9,68,588	69,146 (7%)
5	2020-21	1,93,531	51,024 (5%)	11,62,119	1,06,568 (9%)
6	2021-22	95,833	56,453 (5%)	12,57,952	2,09,435 (17%)

(Source: Data provided by the Board)

# Registered as on 31 March of the previous financial year

It can be seen from **Table 2.2** that only five to 12 per cent of the beneficiaries had paid their annual contributions during the FYs 2017-18 to 2021-22. Also, only seven to 17 per cent of workers had been provided with any benefits, during any financial year, from FY 2019-20 to FY 2021-22. Further, the beneficiary survey revealed that, out of 400 beneficiaries, 39 (10 per cent) were aware of benefits to be provided to them, from the Welfare Fund.

In reply, the Department stated (October 2023) that the Board had already taken up an extensive awareness campaign which was aimed at promoting registration and the renewal of registration, as well as highlighting the various benefits offered by the BOCW Board, Jharkhand, through its diverse schemes.

The fact, however, remains that only 39 (10 per cent) out of 400 beneficiaries, covered in the beneficiary survey, were aware of benefits being provided from the Welfare Fund.

**Recommendation 2: The Board may undertake awareness activities to disseminate information regarding available welfare schemes to the registered workers.**

## 2.5 Non-assessment of cess

As per Rules 6 and 7 of the Building and Other Construction Workers' Welfare Cess Rules, 1998 (the Cess Rules), every employer, within thirty days of commencement of his work, or payment of cess, as the case may be, had to furnish the details to the Assessing Officer, in Form I<sup>14</sup>. The Assessing Officer, on receipt of the said information, was to undertake a scrutiny of such information and issue an order of assessment, indicating the amount of cess

<sup>13</sup> A beneficiary receiving multiple benefits, has been counted as multiple beneficiaries.

<sup>14</sup> Contains the name of the establishment, name of work, number of workers employed, date of commencement of work, estimated cost of construction, details of payment of cess, date of completion, date of assessment etc.

payable, within a period not exceeding six months from the date of receipt of such information, endorsing the copy to the employer, the Board and the Cess Collector.

Further, to optimise the collection of cess, MWS&AP stipulates that all departments/State undertakings/local bodies, were to forward a copy of the work order, of a construction activity to be carried out, to the relevant registration, cess collection and cess assessment authorities. The State was required to develop a mechanism, for regular monitoring of the construction activities, making use of Geographical Information System (GIS) technology/mapping *etc.*, for this purpose. The establishment registration/labour licence issuing authorities, under different labour laws, were to invariably share a copy of the registration certificate/licence, issued by them, with the cess collection, cess assessment and workers registration authorities.

Audit, however, noticed that employers were not submitting information of construction activities, to the Board. The Board had also failed to collect copies of work orders from the departments of the State, or the Ministries of GoI, that were executing construction works within the State. Further, the Board had not assessed the cess, for any construction work, during FYs 2017-18 to 2021-22. Instead, the executing agencies/local bodies had been collecting cess, at source, during execution of works, or at the time of approval of the construction plans, and transferring the collected amounts to the Board.

Audit further noticed that the Labour Superintendent was the labour licence issuing authority, under the labour laws, and also the establishment registration authority, under the BOCW Act. During FYs 2017-18 to 2021-22, Labour Superintendents had issued 13,872 labour licences, to different employers in the State, but had registered only 1,023 establishments under the BOCW Act. The Labour Superintendents had also not cross-checked labour licences, with the establishment registration data, to assess the liability of cess, on the establishments to whom these licences had been issued.

Thus, the Board had failed to ensure collection of complete information of construction activities carried out in the State, or to pass orders of assessment, during FYs 2017-18 to 2021-22. In addition, the Labour Superintendents had failed to cross-check different documents available with them, to assess the liability of cess.

While accepting the facts, the Department stated (October 2023) that the Assessing Officers at the district level, have been notified by the Government of Jharkhand, for assessment of cess in their respective jurisdictions. It was further stated that, the departments/PSUs/Autonomous bodies of the Central and State Government *etc.*, would be requested to share copies of all work orders/contract orders, with the Board, for the construction activities being undertaken in the State.



**Recommendation 3: State Government may develop a standard operating procedure, for departments/other organisations, to share information relating to construction activities, with the Board.**

## 2.6 Non-revision of the plinth area rate of buildings

Rule 4(4) of the Cess Rules provides that, wherever the approval of a construction work, by a local authority, was required, every application, for such approval, was to be accompanied by a crossed demand draft, in favour of the Board, for an amount of cess, at the notified rates, on the estimated cost of construction.

Audit noticed that the Board had approved (August 2008) a minimum rate of ₹ 800 per square feet (sq. ft.), for assessment of cess, on the estimated cost of construction work, on the basis of the plinth area rates published by the Central Public Works Department (CPWD), and after analysing the estimates for the cost of construction of staff quarters, prepared by various departments of the State. The rate was revised (July 2016) to ₹ 1,400 per sq. ft., by the Board, on the recommendation of a committee. The committee, while recommending the minimum rate, had considered the plinth area rate (₹ 14,500 per square meter) published (October 2012) by the CPWD, for construction of residential buildings and also the rate (₹ 1,457 per sq. ft.) for construction of Grade-III staff quarters, in the State.

Audit noticed that the CPWD had published the revised plinth area rates of ₹ 1,542, ₹ 1,561, and ₹ 1,639 per sq. ft., for the FY 2019-20, FY 2020-21 and FY 2021-22 respectively. When compared with the rate (₹ 1,348 per sq. ft.) of October 2012, CPWD had increased its plinth area rate by about 22 per cent (₹ 291 per sq. ft.) in FY 2021-22. However, the Board had not revised its rates (as of March 2023) and the responsible authorities had continued to levy cess, at source, at the rate of ₹ 1,400 per sq. ft.

Audit scrutiny of 670 building plans<sup>15</sup> registered with Jharkhand Real Estate Regulatory Authority<sup>16</sup> (JRERA) from FYs 2019-20 to 2022-23, revealed that the Board incurred loss of ₹ 9.29 crore due to levy of cess at the lower rates.

Thus, the failure of the Board to revise the plinth area rate, approved more than six years back (July 2016), resulted in short levy of cess, at source, by the building plan approving authorities.

<sup>15</sup> 2019-20: 30 Building plans (Total plinth area: 2,86,64,689 sq. feet) @ ₹ 142 per sq. feet; 2020-21: 173 building plans (Total plinth area: 32,95,434 sq. feet) @ ₹ 161 per sq. feet; 2021-22: 209 building plans (Total plinth area: 86,64,783 sq. feet) @ ₹ 239 per sq. feet and 2022-23: 261 building plans (Total plinth area: 1,09,49,116 sq. feet) @ ₹ 239 per sq. feet.

<sup>16</sup> Constituted under Real Estate (Regulation and Development) Act, 2016 for regulation and promotion of the real estate sector in Jharkhand.

While accepting the facts, the Department assured (October 2023) that the proposal for reviewing the rate of estimated cost of construction for the purpose of assessment of cess would be placed in the meeting of the Board.

### 2.7 Short/non-distribution of benefit

The Board decided (June 2019) to provide *sarees*, to all registered female workers, and cloth for shirt and pants, to registered male workers. Based on an open tender (September 2019), the Board placed (September 2019) a purchase order, for supply of 4.97 lakh *sarees* and cloth for 3.89 lakh pair of shirt and pants, to be delivered to the Labour Superintendents in the districts, for distribution among the beneficiaries. The Board also paid (between December 2019 and February 2020) ₹ 46.29 crore, to the vendor concerned, against the supply order.

Audit scrutiny revealed that, out of the purchased 4.97 lakh *sarees* and cloth for 3.89 lakh pairs of shirt and pants, 4.69 lakh *sarees* and cloth for 3.08 lakh pairs of shirt and pants, had been distributed to the beneficiaries, till June 2022. The remaining 26,759 *sarees* and cloth for 80,722 pairs of shirt and pants, valued at ₹ 5.57 crore, had remained lying in the districts, for more than three years after purchase, as of February 2023.

The stockpile of *sarees* and cloth for shirt and pants, kept in the office of the Deputy Labour Commissioner, Bokaro, is shown in **Photographs 1 and 2**.



The Department stated (October 2023) that the Board had already directed the respective Labour Superintendents to distribute the procured items, promptly.