

EXECUTIVE SUMMARY

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Why we did this Audit?

Unorganised workers constitute about 82 *per cent* of the labour force at the National level. Construction workers, who are among the unorganised workers, are key players in nation-building. But, seasonality of employment, lack of formal employer-employee relationship and absence of adequate social security measures are the major issues faced by the construction workers in the unorganised sector.

With a view to regulate the employment of manual workers and the conditions of their work and social security, Government of Tamil Nadu (GoTN) enacted the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 (TNMW Act). In continuation, in 1994, GoTN notified Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 (TNCWW Scheme), which envisaged provision of maternity, retirement and death benefits to the construction workers and financial assistance to them for their children's education and marriage. These welfare schemes are implemented by the Tamil Nadu Construction Workers Welfare Board (TNCWWB), using the Labour Cess collected at the rate of one *per cent* of the estimated value of construction works. In 1996, Government of India (GoI) enacted the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, and Building and Other Construction Workers' Welfare Cess Act, which are applicable to the whole of India, including Tamil Nadu, which already had a similar legislation. GoTN continues to use its own Act and the welfare schemes framed thereunder.

Collection and utilisation of Labour Cess assumes greater importance as it involves the welfare of 19.30 lakh construction workers in the State. Besides that, collecting, accounting, utilising and investing the annual Cess collection of about ₹800 crore is a challenging task requiring sound financial management system, efficient planning, co-ordination and due diligence. Compliance Audit by the Office of the Principal Accountant General (Audit-I), Tamil Nadu, frequently brought out gaps in the administration of the welfare schemes by TNCWWB. Therefore, considering the people centric characteristics of TNCWW scheme and the significant risks perceived in its implementation, it was decided to conduct a Performance Audit on 'Welfare of Building and Other Construction Workers'.

What we found?

REGISTRATION OF ESTABLISHMENTS AND ASSESSMENT OF LABOUR CESS

TNCWWB did not maintain a database of Cess assessed, collected and remitted and thus lacked a system to ascertain the quantum and timely assessment of Cess. Audit found significant shortcoming in registering Establishments/Employers by the Directorate of Industrial Safety and Health (DISH), which adversely impacted the scope for data sharing with TNCWWB to ensure assessment of Labour Cess. Audit found significant under-valuation of cost of constructions by applicants of building permits, and the Local Bodies who were to collect the Labour Cess at the

time of approving the building permits did not have a system to ensure correctness of the estimated value of the construction.

COLLECTION AND REMITTANCE OF LABOUR CESS

There is no system to estimate the amount of Cess collectable by TNCWWB. Further, in the absence of a system to watch the assessment, collection, and remittance of Labour Cess, TNCWWB did not exercise any control over its sole source of revenue. This resulted in instances of short assessment of Cess at 0.3 *per cent*, instead of the revised rate of one *per cent* of estimated cost of construction, which went unnoticed. Deficiencies in system and non-reconciliation of collection and remittance of Cess amount had resulted in misappropriation, short-remittance, delayed remittance, and wrong remittance of the collected amount. It also resulted in temporary misappropriation of Cess amount by Local Bodies that collected the Cess and retained it in their accounts instead of remitting it to TNCWWB. Detailed investigation of 90 suspected cases of fraudulent short remittance of Labour Cess in Kancheepuram District revealed misappropriation of ₹15.85 lakh in 68 cases.

REGISTRATION OF WORKERS

Despite creation of TNCWWB in 1994, significant shortfalls continued in the registration process of unorganised construction workers. The manual as well as the electronic data of registered workers had significant shortcomings. Inaccuracies in capturing vital data such as Aadhaar number, mobile number and bank account number of the registered workers compromised the quality of the registration database. Deficiency in identification of eligible construction workers through proper survey had resulted in non-registration of significant number of workers. TNCWWB did not initiate effective action to bring the inter-State migrant workers under its fold. None of the estimated 1.45 lakh inter-State migrant construction workers were registered with the TNCWWB.

IMPLEMENTATION OF WELFARE SCHEMES

Implementation of welfare schemes for the benefit of registered workers suffered due to abnormal delays in processing of claims made by registered workers. Lack of clarity on scheme implementation had resulted in extending benefits to potentially ineligible persons. Lack of due diligence had led to non-extending benefits to large number of beneficiaries during COVID-19 pandemic and simultaneously, a significant number of beneficiaries received assistance more than once. Significant shortfalls in achievements under the Mission Mode Project, launched by GoI, contributed to deficiencies in implementation of welfare schemes.

FUNCTIONING OF TNCWWB

Non-preparation of budget during 2017-22 impacted the financial management of TNCWWB. Imprudent investment strategy had resulted in short realisation of interest on the investment of surplus funds. Inadmissible expenditure by TNCWWB caused increase in the administrative expenditure, which exceeded the ceiling of five *per cent*.

What we recommend?

We have made 20 recommendations as given below:

REGISTRATION OF ESTABLISHMENTS AND ASSESSMENT OF LABOUR CESS

- In order to broadbase Labour Cess assessment and collection, Government should ensure that DISH centralises the registration process to ensure 100 *per cent* registration of Establishments. Government should also ensure that TNCWWB maintains an updated database of all Cess remitting institutions and Establishments.
- Government should frame guidelines for estimation of construction cost of buildings for which building permits are approved by Local Bodies, and TNCWWB should ensure adherence to the guidelines.
- Government should amend the TNBOCW Rules, 2006 to make it mandatory that unless the contractor is registered with DISH, they cannot be offered/awarded any work.

COLLECTION AND REMITTANCE OF LABOUR CESS

- Government should strictly enforce furnishing of details by Cess remitting Agencies through Form III and Form IV and TNCWWB should put in place a system to check the correctness of the Cess collected and remitted/deducted by Local Bodies and Cess remitting Agencies.
- Government should expedite the implementation of the online Cess collection module including facility for automatic reconciliation of remittance with assessment of Labour Cess at Local Body level. Pending its implementation, Government should instruct Local Bodies to enclose the copies of counterfoil of challan and to provide transaction ID for each cash receipt.
- Government should ensure that responsibility is fixed for misappropriations of Labour Cess by tampering with counterfoils of remittance challans and direct TNCWWB to carry out a State-wide exercise to unearth similar cases of misappropriation. Government should also ensure that action is initiated to recover short collection of ₹61.78 lakh from the 167 cases pointed out by Audit.
- Accountability should be fixed by Government on those officials who were responsible for non-remittance/wrong remittance/short remittance of Cess. Government should amend the TNMW Act to authorise collection of interest by TNCWWB in respect of delayed remittances.

REGISTRATION OF WORKERS

- TNCWWB should coordinate with DISH to ensure coverage of all eligible workers at registered construction sites, including inter-State migrant construction workers.
- Government should order a survey of construction workers and ensure registration of all eligible workers with TNCWWB.

- TNCWWB should ensure integrity of its database of registered members for hassle-free processing of claims.
- In order to provide for general welfare of the workers, Government should amend the TNMW Act, 1982 and TNBOCW Rules, 2006 to make registration of workers with TNCWWB mandatory. A penalty clause to deter those employers/contractors for non-compliance may also be included.

IMPLEMENTATION OF WELFARE SCHEMES

- Government should fix minimum service period for pension eligibility and also consider fixing quantum of pension based on weightage for such service period.
- Maternity Assistance Scheme should be subsumed under Dr. Muthulakshmi Reddy Maternity Benefit Scheme implemented by Health Department and the expenditure incurred by the Department for the registered workers should be reimbursed.
- Government should fix benchmarks for delivery of services by TNCWWB and ensure schemes assistances are disposed of in a time-bound manner.
- Government should popularise the schemes implemented by TNCWWB by using appropriate Information, Education and Communication (IEC) activities for the benefit of the registered workers.
- Government should speed up implementation of Mission Mode Project so that more schemes are framed for the welfare of construction workers and the scheme implementation is streamlined.

FUNCTIONING OF TNCWWB

- Government should direct TNCWWB to collect inputs about the contractors carrying out construction works and estimate the annual Labour Cess collection due to it. This should help TNCWWB to monitor the actual collection with reference to the estimates.
- Government should direct TNCWWB to formalise its investment policy after an in-depth analysis of cash flow.
- Government should immediately stop the practice of making TNCWWB bear the entire administrative cost of all other Boards and ensure adherence to the directions of the Hon'ble Supreme Court to incur only five *per cent* of the total scheme expenditure as administrative cost.
- Government should fix responsibility on the officials responsible for the loss due to delay in presenting of Demand Drafts into TNCWWB's bank account.

Government's response to audit recommendations

GoTN, while responding to the Audit observations assured necessary corrective action wherever required. Government has also directed TNCWWB to initiate corrective actions recommended by Audit.