

CHAPTER I
INTRODUCTION

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Performance Audit on Welfare of Building and Other Construction Workers

1.1 Introduction

Unorganised sector in India: According to Economic Survey Report¹ 2021-22, more than 82 *per cent* of the labour force is in the unorganised sector. The unorganised workers suffer from seasonality of employment, lack of formal Employer-Employee relationship, absence of adequate social security protection and other welfare schemes. Construction workers, who are mostly in the unorganised sector, are a major workforce in nation-building.

Labour welfare comes under the Concurrent List of the Constitution of India. Accordingly, both Government of India (GoI) and Government of Tamil Nadu (GoTN) have enacted legislations to regulate the employment of construction workers and to provide for their safety, health and welfare.

GoTN enacted the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 (TNMW Act) and framed the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Rules, 1986 (TNMW Rules) to regulate employment of manual workers, including construction workers. In 1994, GoTN notified Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 (Scheme) and established the Tamil Nadu Construction Workers Welfare Board (TNCWWB).

In 1996, GoI enacted the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act) and the Building and Other Construction Workers' Welfare Cess Act, 1996 (BOCWW Cess Act) along with BOCWW Cess Rules, 1998.

Though the major source of funds for TNCWWB is the Labour Cess collected at the rate of one *per cent* of the estimated value of construction works, GoTN did not implement GoI's BOCWW Cess Act and Rules as the TNMW Act was already in force. However, GoTN framed Tamil Nadu Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 2006 (TNBOCW Rules) incorporating provisions of BOCW Act relating to Registration of Establishments.

1.2 Administration

The Additional Chief Secretary (ACS) to Government, Labour Welfare and Skill Development Department (LW&SDD) heads the Department at Government level. The Directorate of Industrial Safety and Health (DISH) is entrusted with the task of implementation of BOCW Act/TNBOCW Rules *viz.*

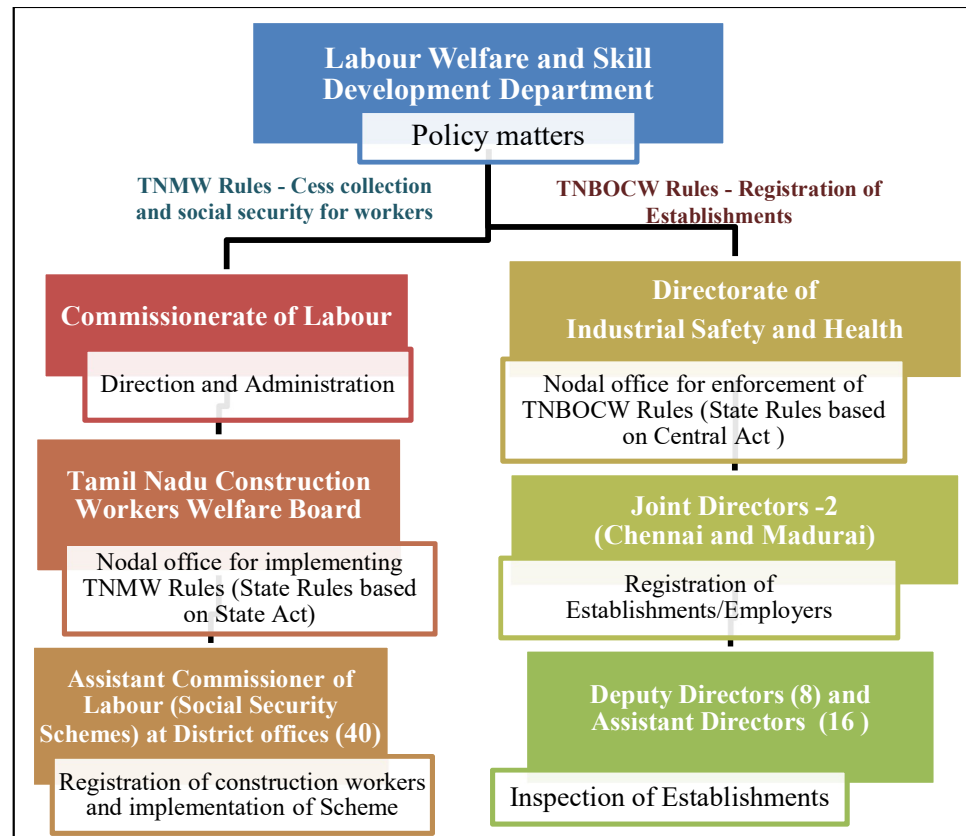
Abbreviations used in this Report are listed in the Glossary at Page 130

¹ By the Department of Economic Affairs, Ministry of Finance, Government of India.



Registration of Establishments²/Employers³ and safety of construction workers. The Commissioner of Labour is the administrative head of the LW&SDD Department, administering TNCWWB, one among 18 Boards (**Appendix 1.1**) under it. TNCWWB is entrusted with maintenance of the Cess fund for the implementation of the welfare schemes to the construction workers. The organisations engaged in implementing the Acts/Rules pertaining to the welfare of construction workers in Tamil Nadu, are given in **Exhibit 1.1**.

Exhibit 1.1: Organisations engaged in implementing Acts/Rules pertaining to the welfare of construction workers in Tamil Nadu



(Source: Details furnished by GoTN)

1.2.1 Enforcement of TNBOCW Rules for registration of Establishments

DISH is responsible for enforcement of TNBOCW Rules in matters relating to registration of Establishments/Employers, safety and health of the workers at the worksites. According to BOCW Act, any Establishment which employs or had employed on any day of the preceding 12 months, 10 or more workers in any building or other construction work, should be registered with DISH.

² Establishment means any construction site which employs workers for construction activities.

³ Employer means Government, Local Body, Company or individual who employs construction workers at the construction site.

1.2.2 Shortcomings in the enabling provisions of the Act/Rule

The TNMW Act/Rules of the State and the TNBOCW Rules did not have some of the major provisions of the Central Acts and the Rules made thereunder, viz.,

- No minimum membership period for availing of the benefits by construction workers which is three years under Central Act/Rules,
- No ceiling on the administrative expenditure of TNCWWB, which is pegged at five *per cent* of Annual expenditure in the Central Act/Rules,
- No provision for levy of interest on delay in payment of Cess, and
- No provision for audit by the Comptroller and Auditor General of India (CAG), etc.

1.2.3 Implementation of TNMW Act and TNCWW Scheme

Under the provisions of TNMW Act, GoTN appoints the Chairman and members of TNCWWB. While the Chairman and ex-officio members representing the Government hold office during the pleasure of the Government, the non-official members (Employer and Employee representatives) shall hold office for a period of two years from their appointment. The Board was re-constituted in June 2021.

The Secretary of TNCWWB is the Chief Executive Officer, usually an officer of the rank of Additional Commissioner of Labour, deputed from LW&SDD. The Secretary is assisted by personnel deputed from the LW&SDD and staff of TNCWWB to carry out the Board's functions.

1.2.4 Source and utilisation of funds

TNCWWB collects Labour Cess remitted by Local Bodies/other Agencies and generates interest from fixed deposits (FD) of its surplus funds.

The major expenditure was towards various scheme assistances to the construction workers through district offices and administrative expenses of TNCWWB/district offices.

The receipts and payments of TNCWWB for the period from 2017-22 are given in **Table 1.1**.

Table 1.1: Receipts and payments for the period 2017-22

(₹ in crore)

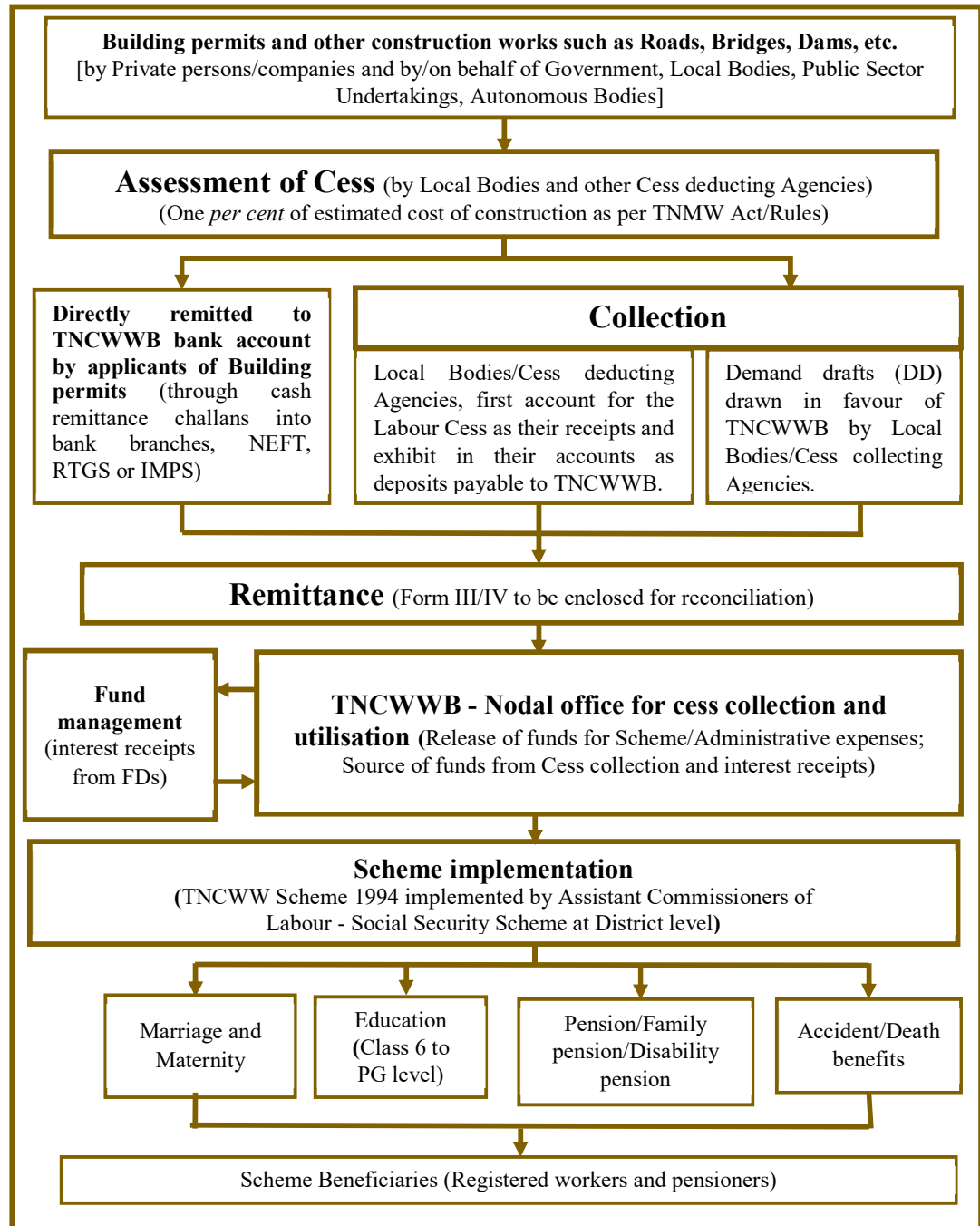
Year	Opening Balance	Receipts			Total Receipts	Payments		Total Payments	FDs made	Closing Balance
		Labour Cess	Interest	Other income		Scheme	Admn. and other expenses			
2017-18	237.73	521.12	149.78	0.36	671.25	90.89	30.40	121.29	554.52	233.18
2018-19	233.18	567.03	181.88	0.45	749.35	123.71	29.13	152.84	546.52	283.17
2019-20	283.17	627.41	235.15	1.18	863.74	148.12	64.67	212.79	646.00	288.12
2020-21	288.12	707.08	171.08	1.51	879.67	549.12	32.00	581.12	458.79	127.89
2021-22	127.89	785.78	130.77	0.03	916.58	177.64	31.46	209.10	599.53	235.84
Total	237.73	3,208.43	868.65	3.52	4,080.60	1,089.48	187.66	1,277.14	2,805.35	235.84

(Source: Data furnished by the TNCWWB)

TNCWWB, as on 31 March 2022, had a FD of ₹4,170 crore, an increase of ₹2,810 crore from an initial FD of ₹1,360 crore on 01 April 2017.

The fund flow for collection and utilisation of cess is given in **Exhibit 1.2**.

Exhibit 1.2: Fund flow for collection and utilisation of cess



(Source: Details furnished by TNCWWB)

District Offices: Assistant Commissioners of Labour-Social Security Scheme (ACL-SSS) in the districts are responsible for implementing the provisions of the TNMW Act e.g. Registration of workers, settlement of claims, etc.

The district-wise details of registered workers and pensioners are given in **Appendix 1.2**.

State Advisory Committee: Section 15(1) of the TNMW Act provides for the constitution of a State Advisory Committee headed by the Minister of Labour as Chairman and members consisting of representatives of Government, Members of State Legislature, Employers and Employees to advise the Government on matters arising out of the administration of the Act or the Scheme. Representatives of the Government shall hold office during the pleasure of the Government and other members shall hold office for a period of three years.

Expert Committee: As per Section 5 of BOCW Act, the Government may constitute one or more Expert Committees consisting of persons specially qualified in building or other construction work for advising Government for making rules under this Act. The Hon'ble Supreme Court had also directed (March 2018) all States to constitute Expert Committee and frame statutory Rules under Section 62 of the BOCW Act.

1.3 Audit approach and methodology

Audit objectives

The objectives of this Performance Audit (PA) were to assess whether:

- a mechanism is available for enumeration and registration of all Establishments, and for assessment, collection and remittance of Cess into the Board's fund; and the fund is managed in an effective, efficient and economical manner;
- an efficient system is in place for estimation, identification and registration of all construction workers;
- assistance under the Scheme to the registered workers is adequate, transparent and timely, and other identified schemes are converged; and
- monitoring is done as per the State and Central Acts; and internal control, Information, Education and Communication (IEC) and grievance redressal mechanisms are adequate and effective.

Scope and Coverage

This PA covered the period from April 2017 to March 2022. The field audit was conducted from July to November 2022 through test-check of records at the Secretariat, Commissionerate of Labour, TNCWWB, DISH, 10 sampled district offices⁴ of ACL - SSS and 124 sampled Local Bodies in the above 10 districts. The sample selection process is explained in **Appendix 1.3** and the list of sampled Urban and Rural Local Bodies are given in **Appendices 1.4** and **1.5** respectively.

⁴ Chennai, Cuddalore, Dharmapuri, Dindigul, Kancheepuram, Nagercoil, Salem, Tenkasi, Tiruchirappalli and Tiruvannamalai.

Audit Criteria

The audit criteria for measurement of the performance were derived from:

- TNMW Act, 1982 and the Rules framed thereunder in 1986;
- TNCWW Scheme, 1994;
- BOCW Act, 1996 and the Rules framed thereunder by GoTN;
- BOCWW Cess Act, 1996 and the Rules framed thereunder;
- Tamil Nadu Transparency in Tenders Act 1998 and Rules 2000;
- Orders of Hon'ble Supreme Court and Madras High Court;
- GoI and GoTN instructions; and
- Recommendations of Public Accounts Committee and Committee on Public Undertakings.

Audit methodology

The primary audit evidence was in the form of information gathered during audit through replies to audit enquiries and copies of documents furnished along with replies by audited entities, through Joint Physical Verification and responses to questionnaires collected during beneficiary survey conducted in sampled districts.

An Entry Conference was held on 21 July 2022 with the ACS to Government, LW&SDD to discuss the audit objectives, scope and methodology. An Exit Conference was held on 8 February 2023 with the ACS to Government, LW&SDD and officers of the Department to discuss the audit findings. The views of the Department were considered while drafting this report.

1.4 Previous Audit Reports

The CAG's PA Report No. 4 of 2014 - Government of Tamil Nadu, on the functioning of TNCWWB for the period 2008-13 was discussed by Committee on Public Undertakings (June 2022) and its recommendations are awaited (March 2023).

1.5 Good Practices

The number of registered workers, as of March 2020, was 31.27 lakh. An extensive verification exercise was conducted and TNCWWB removed 19.13 lakh inactive/duplicate members from the registered members' database due to non-renewal and de-duplication. COVID cash assistance of ₹2,000 each, during April-May 2020, were therefore released only to 12.14 lakh active workers. This exercise saved about ₹382 crore of potential payment of ineligible COVID cash assistance.

1.6 Acknowledgement

Audit acknowledges the co-operation extended by the Department and all audited entities in conduct of this PA.

1.7 Audit Findings

The audit findings are grouped into two sections consisting of six chapters:

- ❖ Chapter I : Introduction

Section A: Realisation of Labour Cess

- ❖ Chapter II : Registration of Establishments and Assessment of Labour Cess
- ❖ Chapter III : Collection and remittance of Labour Cess

Section B: Utilisation of Labour Cess

- ❖ Chapter IV : Registration of workers
- ❖ Chapter V : Implementation of Welfare Schemes
- ❖ Chapter VI : Functioning of TNCWWB