

CHAPTER I INTRODUCTION

Building and other construction workers are one of the most numerous and vulnerable segments of unorganised labour in India. Their work is characterised by its casual nature with uncertain working hours, lack of basic amenities, inadequate welfare facilities, temporary relationship between the employer and employee and involves risk to life and limb.

The Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act ((BOCW (RECS) Act) framed in 1996, aims to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures. The Building and other Construction Workers' Welfare Cess Act, 1996 (Cess Act) provides for the levy, assessment and collection of cess, at such rates not exceeding two *per cent* but not less than one *per cent* of the cost of construction incurred by the employer, with a view to augmenting the resources of the Building and Other Construction Workers' Welfare Boards constituted under the BOCW (RECS) Act.

In line with the enactment of the BOCW (RECS) Act by Government of India (GoI), the Government of Kerala (GoK) framed the Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Kerala Rules (Kerala Rules) in 1998. The Cess Act, 1996 and the Building and Other Construction Workers' Welfare Cess Rules, 1998 (Cess Rules) framed by GoI, provided for the levy, assessment and collection of welfare cess which is to be utilised for providing safety, health and welfare measures to the building and other construction workers.

The Labour and Skills Department (the Labour Department) is entrusted with the responsibility of facilitating harmonious industrial relations in the State and enforcing various labour laws aimed at ensuring the welfare of labourers. The aims and objectives of the Labour Department included maintenance of peaceful atmosphere in the labour sector as a whole, providing decent working conditions and improved quality of life to the workers, ensuring co-operation and healthy relation between the employers and the employed, systematic implementation of various labour laws of both Centre and State and enhancing social security coverage of workers through better policies and programmes.

The Kerala Building and Construction Workers' Welfare Board (the Board) was formed in 1990, to provide welfare assistance to the construction workers in the State of Kerala. Welfare schemes executed by the Board include assistance to the workers in the case of accidents, payment of pension to those who completed the age of 60 years, sanctioning of loans and advances for construction of houses, payment of premia for Group Insurance Schemes of beneficiaries, giving financial assistance for the education of children, meeting medical expenses for treatment of major ailments, granting maternity benefits to female

beneficiaries and provision and improvement of such other welfare measures and facilities as may be prescribed.

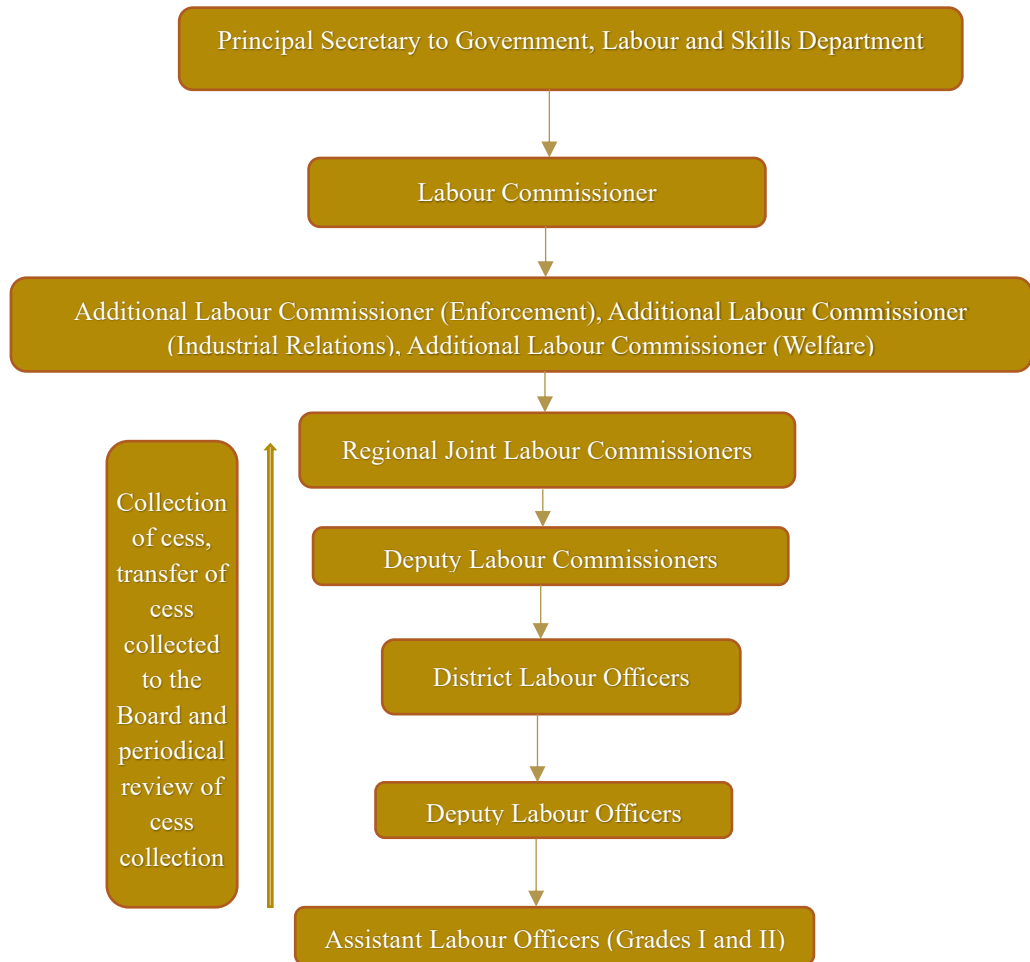
The Performance Audit (PA) on the ‘Welfare of Building and Other Construction Workers’ aimed at assessing the efficacy of activities initiated by the Government/ Board for the welfare of building and other construction workers and effective management of collection, assessment and utilisation of cess for carrying out welfare activities of these workers. The findings of the PA have been grouped under Section I on Realisation of Labour Cess and Section II on Utilisation of Labour Cess.

1.1. Organisational setup

The charts below present the organisational setup of the Labour Department and the Board depicting the duties entrusted to the officers responsible for implementing welfare activities for building and other construction workers.

Chart 1.1: Organisational setup

A. Labour and Skills Department - Government of Kerala

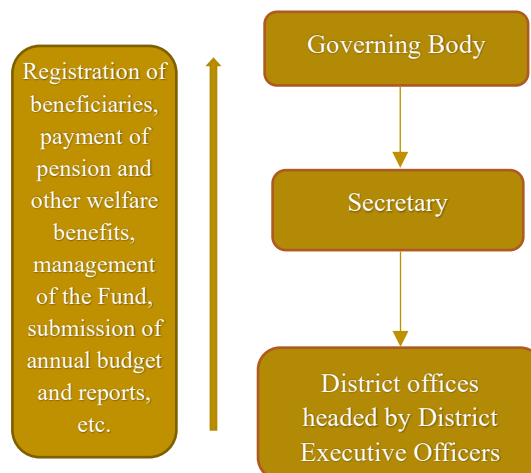


The administrative control of the Labour Department was vested with the Principal Secretary and that of the Labour Commissionerate with the Labour Commissioner. The Additional Labour Commissioner (Industrial Relations) dealt with industrial relations, Additional Labour Commissioner (Enforcement), with the enforcement of Labour Laws and Additional Labour Commissioner (Welfare), with the implementation of various welfare schemes under the different Welfare Boards. However, the Board had autonomy with regard to the implementation of schemes.

Three Regional Offices functioned at Kollam, Ernakulam and Kozhikode under the respective Joint Labour Commissioners. These offices are vested with the responsibility of resolution of labour disputes and other duties on a sectoral basis and coordinating and controlling the work of the Labour Department including enforcement of laws. Eight offices of Deputy Labour Commissioners also functioned at Thiruvananthapuram, Kollam, Ernakulam, Kottayam, Thrissur, Palakkad, Kozhikode and Kannur districts.

The Assistant Labour Officers (Grade I)/ Deputy Labour Officers in the District Labour Offices assessed the cess to be levied on the constructions in each District. The District Labour Officers (Enforcement) were in charge of periodic monitoring of levy, assessment and collection of cess. The District Labour Officers (General) were the Appellate Officers with regard to levy, assessment and collection of cess as per the Kerala Rules.

B. Kerala Building and Other Construction Workers' Welfare Board



The Governing body of the Board¹ consisted of a Chairperson appointed by GoK, a member nominated by GoI, not more than five members representing the building and other construction workers nominated by GoK, not more than five persons from among the employers nominated by GoK and not more than five members representing GoK, of whom one shall be the Chief Inspector of Inspection of Building and Construction, and one representative each of Finance, Law and Labour Departments, as envisaged in Rule 266 of the Kerala

¹ Sections 18 and 19 of the BOCW (RECS) Act.

Rules. The term of office of the Chairperson and that of the members of the Board other than official members is three years.

1.2. Audit objectives

The PA was conducted to assess whether;

- an effective mechanism was available for enumeration and registration of all establishments to facilitate assessment of cess and for its collection and remittance into the Board's fund;
- an efficient and effective system was in place for estimation, identification and registration of all construction workers and to ensure that the fund was managed properly; and
- monitoring and internal control mechanisms were effective and all employers in the construction sector fulfil their statutory obligations concerning the utilisation of funds for the welfare of employees.

1.3. Audit criteria

The criteria against which the audit findings were benchmarked, were derived from the following sources;

- Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996²
- Building and Other Construction Workers' (Regulation of Employment and Conditions of Service), Kerala Rules, 1998
- Building and Other Construction Workers' Cess Act 1996 and Cess Rules, 1998
- Model Welfare Scheme for Building and Other Construction Workers and Action Plan for Strengthening Implementation Machinery, 2018
- Part 7 of National Building Code of India, 2016 titled 'Construction Management, Practices and Safety'
- Inspection Policy notified by Government of Kerala, 2015
- Orders of Government of Kerala related to levy, assessment and collection of cess and welfare schemes for the 'Building and other Construction Workers'

² The Occupational Safety, Health and Working Conditions Code, 2020 enacted on 28 September 2020 is an Act to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment employing 10 or more workers. The Act subsumes 13 labour laws and Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 is one among them. Kerala has not yet implemented the Code.

1.4. Audit scope, methodology and sampling

Audit was conducted from July 2022 to January 2023 and from July 2023 to December 2023 covering the period from 2018-19 to 2022-23. Three districts, Ernakulam, Kozhikode and Malappuram were selected based on quantum of cess collection and amount of welfare benefits disbursed. Ten welfare schemes, viz., pension, marriage assistance, death benefit, scholarship and cash award, assistance to fatal disease, maternity allowance, voluntary retirement scheme, minor deposit, house building advance and tool advance were selected based on Stratified Random Sampling for detailed verification.

Audit scrutinised files and documents at the Labour Commissionerate, Board, district offices of Labour Department/ Board, selected Taluk Offices and Local Self Government Institutions (LSGIs). In addition, eight offices³ of Public Works Department (PWD) and six offices⁴ of Kerala Water Authority (KWA) from the test-checked districts were chosen, wherein cess was deducted from the work bills and deposited to the Board's account. Audit verified 300 cases of assessment selected by random sampling, for ascertaining the correctness of assessment. Further, six LSGIs and connected village offices were also selected from the selected districts for cross verifying the electronic data on buildings constructed, uploaded on the Labour Commissionerate Automation System (LCAS). Audit also analysed data obtained from Advanced Information Interface System (AIIS) pertaining to all Welfare Boards, managed by the Labour Commissionerate. Further, survey of beneficiaries and joint physical verification of establishments were also conducted during audit.

The Entry Conference was conducted with the Secretary to Government, the Labour Department on 01 June 2022, wherein the objectives, criteria, sampling and methodology were discussed with and agreed upon. The Exit Conference was conducted on 19 July 2024, in which the audit findings were discussed with the Secretary to Government, the Labour Department.

1.5. Acknowledgement

Audit acknowledges the co-operation extended by the Labour Department, the Labour Commissionerate, Kerala Building and Other Construction Workers' Welfare Board and their subordinate offices at district level and selected Local Self Government Institutions, offices of Kerala Water Authority/ Public Works Department and Taluk Offices in the smooth and timely conduct of audit.

³ Buildings Sub-Division, Roads Division and Electrical Division (Kozhikode); Roads Division (Muvattupuzha), Roads Division (Ernakulam); Buildings Division (Edappally); Roads Division (Manjeri); NH Division (Malappuram)

⁴ PH Division and Project Division (Kozhikode); PH Division (Edappal); PH Division (Malappuram); Project Division (Kochi); Project Division (Perumbavoor)

1.6. Structure of the Report

The Audit findings based on the scrutiny of records at the Head Offices of the Boards and the field offices are given in the following chapters:

Section I: Realisation of Labour Cess

- ❖ Chapter 2 - Registration of Establishments and Assessment of Labour Cess.
- ❖ Chapter 3 - Collection and Remittance of Labour Cess.

Section II: Utilisation of Labour Cess

- ❖ Chapter 4 - Implementation of Welfare Schemes.
- ❖ Chapter 5 - Functioning of Kerala Building and Other Construction Workers' Welfare Board.