

CHAPTER II REGISTRATION OF ESTABLISHMENTS AND ASSESSMENT OF LABOUR CESS

Details of all establishments which employ building workers were not entered in the registration portal LCAS. Only 10,113 establishments across the State were entered in LCAS as of March 2023. The AIIS database system for the beneficiaries was not fully utilised by the Board to keep proper records of the beneficiaries. Of the total 7,312 buildings constructed in the selected LSGIs which were eligible for assessment, the Taluk offices under Revenue Department collected details of 4,294 buildings only. Of these 4,294 buildings, the details of only 679 buildings were seen entered in LCAS. There was delay ranging from one to five years in conducting assessment of cess in 282 cases.

2.1. Registration of establishments

According to Section 7 of BOCW(RECS) Act, every employer shall make an application to the registering officer (District Labour Officer) of that area for the registration of such establishment⁵ within a period of 60 days from the date of commencement of establishment. The application⁶ shall be made in triplicate in Form I⁷ to the registering officer accompanied by the fees for the registration of the establishment. The registering officer, after receiving application shall register the establishment and issue a certificate of registration (Form II) to the applicant within 15 days of receipt of application.

2.1.1. Registration through Labour Commissionerate Automation System (LCAS)

The delivery of services by the Labour Department was being dispensed through a web enabled software application namely “Labour Commissionerate Automation System” (LCAS) which was developed by Kerala State Electronics Development Corporation Limited (KELTRON), the Total Solutions Provider. As part of the phase-wise development and integration of various services such as grant of registration/ licence under the enabling labour legislations, inventory management, dispute redressal, gratuity, call centre monitoring, etc., an agreement for revamping LCAS was entered into (March 2018) with KELTRON by the Labour Department at a cost of ₹10.40 lakh. The Labour

⁵ Establishment belonging to, or under the control of Government, any Body, corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence, the total cost of such construction not being more than ₹10 lakh.

⁶ Rule 25 of the Kerala Rules

⁷ Form I contains Name of Establishment, Registration Number under BOCW(RECS) Act, 1996, Registering Authority, address, name of work, number of workers employed, date of commencement of work, estimated period of work, estimated cost of construction, details of payment of cess (*viz.*, advance, deduction at source, final, etc.), name of employer, etc.

Commissioner issued (December 2018) a Circular directing all units and sub offices of the Labour Department to complete the procedures of registration/ renewal, licence/ renewal and amendments as per all Acts related to the Labour Department through online mode only. All the inspections conducted by the Labour Officers were also to be processed through LCAS.

In Kerala, the Revenue Department was authorised to levy one-time building tax on all categories of buildings except those exempted under Sections 3 and 3A⁸ of the Kerala Building Tax Act, 1975. According to the data pertaining to one-time building tax accessed from the Revenue Department, it was seen that the total number of constructions during the period 2021-23 was 2,57,104. However, only 10,113 establishments were seen registered in LCAS as of March 2023. The comparison of number of constructions in the data obtained from Revenue Department with that of LCAS software of Labour Department is given in **Table 2.1**.

Table 2.1: Comparison of number of constructions in the data obtained from Revenue Department with LCAS software for the selected districts

District	No. of constructions as per Revenue Department	No. of constructions as per LCAS
Kozhikode	24,436	622
Malappuram	35,611	406
Ernakulam	25,809	574
Total	85,856	1,602

(Source: Data obtained from Revenue Department and software of Labour Department)

This points to the significant variance between the actual number of existing establishments as per revenue records *vis-à-vis* those registered under LCAS, thereby establishing the ineffectiveness of online mode of registration. It was also observed that for the purpose of collection of cess, the Labour Department maintained a separate set of data containing 2,82,998 establishments during the last five years which points towards contradiction in the data sets maintained by the Labour Department.

Audit noticed that procedures such as inventory management, dispute redressal, gratuity, call centre monitoring as well as conduct of inspections were not being routed through LCAS.

Government stated (July 2024) that the low rate of registration was primarily due to the fact that the Assistant Labour Officers in the districts were overloaded with an array of tasks and hence could not find sufficient time to register the building and other construction workers. Audit is of the opinion that

⁸ Buildings owned by the Government of Kerala or the Government of India or any local authority and buildings used principally for religious, charitable or educational purposes or as factories or workshops or any such buildings as notified by the Government.

Government should revamp the registration process by collecting data on buildings to be registered, directly from LSGIs.

2.1.2. Advanced Information Interface System

As part of digitalising the data of all workers registered in 19 Welfare Boards under the Commissionerate, KELTRON proposed (July 2019) a project⁹ viz., Upgradation/ enhancement in Advanced Information Interface System (AIIS) for Labour Commissionerate to map the functions of all the Welfare boards under the Labour Department, costing ₹1.39 crore. GoK sanctioned (March 2021) the proposal for ₹1.39 crore and allotted ₹25 lakh from the budget to update AIIS software, as the initial phase of the project. In September 2021, the Labour Department decided to opt for a shortened version of the project consisting of limited functionalities like registration of beneficiaries, nomination management and search facility amongst the registered beneficiaries of all Welfare Boards under the Labour Department at a cost of ₹25 lakh. The software used for the project facilitated capturing of beneficiary details including name, address, Aadhaar number, date of birth, caste status, address of establishment, registration number of establishment, name of Trade Union which recommends the registration of beneficiary, bank details, period of service, etc. Audit observed that the Board had ceased to utilise even the limited version of the software. The benefits were disbursed based on details directly furnished by beneficiaries and not through the details entered in AIIS. The database created using the limited version software was used only for verifying whether a beneficiary who had applied for new membership in the Board was a member of any other Welfare Board under the Labour Department.

Audit analysis of data pertaining to the Board comprising 5,54,294 beneficiaries in the above database revealed that:

- a) In 15,396 cases, same bank account number was entered against more than one beneficiary.
- b) In 127 cases, the Aadhaar numbers entered against the beneficiaries were found to be invalid.
- c) In 83 cases, there was duplication of the beneficiary id.

It is, therefore, evident that the database contained erroneous details and there was no system for validating the data, as a result of which, this shortened version was of no use to the Board and therefore, was discontinued. Since the benefits were being extended based on the information collected from the respective beneficiaries and not through this software on which ₹25 lakh was already spent, the entire expenditure had, thus, become unfruitful. The Government reply was, however, silent on this aspect.

⁹ The project included modules like membership management, nomination management, Identity card generation, subscription management, pension, other welfare benefits management, digital documentation, Government fund management, establishment management and various reporting facilities

Recommendation 1 : The Government should ensure that all establishments are registered and brought under the cess net by the Board, so as to enable broad based assessment of cess.

Recommendation 2 : The Government should ensure that an effective data validation system is enforced thereby making the database self-contained so that details on all cess remitting institutions/ establishments are correctly captured.

2.2. Non-compliance to provisions relating to assessment of cess

According to Rule 6 of the Cess Rules¹⁰, every employer, within 30 days of commencement of his work or payment of cess, shall furnish to the Assessing Officer information *viz.*, name of establishment, number of workers, estimated cost of construction, etc., in Form I. Rule 7(1) of Cess Rules stipulates that on receipt of information in Form I, the Assessing Officer¹¹, on scrutiny of such information and if satisfied, shall make an order of assessment within a period not exceeding six months indicating the amount of cess payable by the employer. Rule 4 stipulates that cess levied can be paid within 30 days of completion of construction or within 30 days on which assessment is finalised, whichever is earlier.

In the course of audit, it was observed that there was no system in place in the Labour Department to monitor the receipt of Form I as per Rule 6 mentioned above. Consequently, the assessing officer could not perform his duties as per Rule 7(1), which in turn contributed to non-compliance with the provisions related to the levy of cess as per Rule 4, by the Labour Department. The LSGIs were authorised to issue occupancy certificates for buildings in their jurisdiction. However, the District Labour Officers (DLOs) of selected districts collected data on completed constructions which were liable for assessment of cess, from the Taluk offices under Revenue Department instead of LSGIs. Audit also observed that the data collected from the Revenue Department was not comprehensive.

Audit attempted a comparison of year-wise details of number of constructions available at three different sources, *viz.*, selected LSGIs, Taluk Offices and Labour Commissionerate Automation System (LCAS) of Labour Department for the selected local bodies, the details of which are given in **Table 2.2**.

¹⁰ The Building and other Construction Workers' Welfare Cess Rules, 1998, framed by the Central Government

¹¹ Deputy Labour Officer and Assistant Labour Officer (Grade I)

Table 2.2: Details of number of constructions available at LSGIs, Taluk offices and LCAS software

Year	Number of constructions as per data available at		
	LSGIs	Taluk offices	LCAS software
2018-19	2,828	986	85
2019-20	1,300	967	469
2020-21	1,191	437	124
2021-22	1,240	866	1
2022-23	753	1,038	0
Total	7,312	4,294	679

(Source: Data obtained from LSGIs, Taluk offices and software of Labour Department)

Of the total 7,312 buildings constructed in the above LSGIs which were eligible for assessment, the Taluk offices under Revenue Department collected details of 4,294 buildings only. Of these 4,294 buildings, the details of only 679 buildings were seen entered in LCAS for further assessment.

Thus, a meagre 9.29 per cent of the constructions for which details were available with LSGIs were assessed by the Labour Department.

Audit observed that the Labour Commissioner had directed (October 2020) the DLOs to collect details of all buildings registered under LSGIs concerned in previous months and to record a certificate in this connection in assessment registers. However, the same has not been complied with (December 2023). Thus, laxity on the part of DLOs in obtaining comprehensive details of constructions liable to be assessed for cess from LSGIs resulted in buildings escaping assessment of cess.

The Labour Commissioner stated (June 2024) that the work of collection of cess has been entrusted to LSGIs vide orders dated 14 February 2024. The Government did not offer any remarks in this regard.

Recommendation 3: The Government should ensure that details of all constructions permitted by LSGIs are collected and captured in the LCAS software, so that correct assessment of cess can be made by the Government.

2.3. Delay in assessment of cess

According to Rule 6(1) of the Cess Rules, every employer shall furnish information in Form I within 30 days of commencement of his work or payment of cess, as the case may be. Further according to Rule 7 of the said rules, the Assessing Officer shall make an order of assessment within a period not exceeding six months from the date of receipt of Form I and in case Form I has not been furnished, the assessment shall be made based on available records.

Audit analysed 300 assessment cases in selected districts, and it was seen that Form I was not submitted in any of these cases. Therefore, the Assessing Officer

relied on the data from Taluk and Village offices on completed establishments for calculating the cess amount based on plinth area and year of completion¹².

An analysis of the assessment cases revealed that there was delay ranging from one to five years in conducting assessment of cess in 282 cases as shown in **Table 2.3**.

Table 2.3: Time period between completion of the building and issue of first notice

Sl. No.	Time period between the completion of the building and issue of first notice	No. of instances
1.	Less than 1 year	99
2.	Between 1-3 years	84
3.	Between 3-5 years	51
4.	Five years and above	48
Total		282

(Source: Assessment orders from DLOs)

The BOCW(RECS) Act provided for a time frame of six months for conducting the assessment in cases where the employer has furnished information in Form I. In cases where the employer failed to comply with the above, the Cess Rules empowered the Assessing officer to make assessment on the basis of available records, and other information incidental thereto. However, no time frame was seen fixed in this regard for the assessing officer to make the assessment. Delay in assessment of cess resulted in delay in remittance of cess and consequent delay in disbursement of benefits. The Government did not furnish any reply till September 2024.

2.4. Conclusion

Audit observed that the details of establishments which employed building workers were not entered in the registration portal LCAS. The AIIS database system for the beneficiaries was not fully utilised by the Board. Of the total 7,312 buildings constructed in the selected LSGIs which were eligible for assessment, the Taluk offices under Revenue Department collected details of 4,294 buildings only. Of these, details pertaining to only 679 buildings were entered in LCAS, revealing the slackness in the functioning of the system of registration.

¹² GoK orders dated 14 July 2017