

Executive Summary

To regulate the employment and conditions of service of the Building and Other construction workers (workers) and to provide for their safety, health and welfare measures, the Government of India (GoI) enacted (August 1996) “the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996” (the Act). The Act requires establishment of the Building and Other Construction Workers Welfare Board (Board) for ensuring safety, health and welfare measures for workers. Additionally, the GoI also enacted (August 1996) “the Building and Other Construction Workers Welfare Cess Act, 1996” (the Cess Act) for levy and collection of a cess on the cost of construction incurred by employers to generate resources for the Board. The Government of Uttar Pradesh (GoUP) subsequently notified (February 2009) “the Uttar Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules 2009” (Rules 2009) to implement the Act within the State.

The aim of this Audit was to ascertain whether the GoUP implemented both Acts as envisaged and if it improved working conditions of the workers. Audit also reviewed implementation of provisions relating to registration of establishments & workers; assessment, collection and transfer of cess to the Board and utilisation of cess.

Audit observed deficiencies in framing of required rules by the GoUP as the Rules 2009 did not address many requirements of the Act such as constitution of Expert Committee, benefits to be provided to workers after turning 60, payment of medical expenses to workers, the terms & service conditions of officers/employees of the Board, required form and timeline for preparation and submission of budget, annual report & annual accounts *etc.* by the Board.

The process of establishment registration was inefficient. The Registering officers had limited role in registration process, there was no system to track changes of registration certificate particulars or verify details submitted by the employer for registration, and employers were not informed of registration conditions. The Board did not establish any mechanism to identify potential employers through consistent monitoring of construction endeavours in the State. The Government departments/autonomous bodies did not register their construction works, and annual targets of establishment registration were not achieved during 2017-22. Besides, not only registration of establishments was delayed but certificates were also issued after prescribed time. The GoUP did not transfer receipts of establishment registration to the Board.

Similarly, process of beneficiary registration was not efficient. The status of registration of beneficiaries had improved in the State during 2020-22, though, count of active beneficiaries remained low. The GoUP allowed registration of ineligible beneficiaries involved in works covered under the

Mines Act, 1952 or the Mahatma Gandhi National Rural Employment Guarantee Act. The format of identity cards for the workers prescribed by the GoUP was not consistent with requirements of the Act.

The system for assessing, collecting and transferring cess to the Board was not effective. The employers did not submit required notice for cess assessment, and the Cess Assessment Officers (except from the Labour department) did not make cess assessment. Even assessments made by the Labour department officers were marginal (ranged between zero and 24 *per cent*) against the registered establishments in selected districts during 2017-22. Assessments were made in respect of only individual employers ignoring construction works of Government departments/local bodies. The Cess Collecting Officers either did not deduct cess from the contractors bills or excluded permissible items. The Development authorities/local authorities either did not impose cess at the time of approval of building plans or levied short cess. No uniform rates were used for calculating construction cost in selected districts. The cess collection from properties, identified under Geographic Information System survey in five districts of the state, was unsatisfactory. The Cess Collecting Officers deducted collection charges without working out actual expenditure on cess collection and also failed to transfer collected cess to the Board in prescribed time. No accounting system was prescribed for cess receipts, and most transactions remained outside the Government Account.

The implementation of safety and health provisions for workers could not be ensured. The employers did not frame Safety policy. Constitution of Safety committee and appointment of Safety Officer by the employers was not ensured. The role of Inspectors in enforcement of related provisions was also deficient. The employers did not report accidents, resulting in not conducting inquiry in all accidental cases during 2017-22. The affected workers were also deprived of compensation under the Workmen Compensation Act.

The system of inspections was also deficient. There was no documented records regarding basis for selecting worksites or planning inspections. Employers of registered establishments did not notify Inspectors regarding work commencement, leading to few inspections in selected districts during 2017-22. The inspection format did not require checking of various potential provisions of the Act and Rules 2009. Besides, there was no monitoring of follow up on inspection observations.

The constitution and functioning of the Board was not proper. The GoUP failed to constitute or reconstitute the Board on time and sanction its posts of the Secretary and other Officers/employees. The GoUP did not include all mandatory functions of the Board, as enshrined in Section 22 of the Act, in the Rules 2009. Number of meetings of the Board was deficient and notice and agenda of the meeting were not served on time. The preparation and submission of budget estimates by the Board was not only delayed but

also not approved by the GoUP. The Board did not prepare its annual reports since inception and annual accounts since inception till the year 2020-21. The State Advisory Committee did not play pivotal role in the matters related with administration of the Act. The management of Welfare fund was also not efficient as large funds were lying unutilised with the Board and even funds were diverted for other than the prescribed purposes. The implementation of schemes for workers benefit was inefficient as many workers did not get assistance despite approval of applications or got assistance with delays. The status of implementation of Model Welfare Schemes of the Government of India was not satisfactory.

Recommendations summarised:

Audit recommends to the State Government:

- *plugging the gaps of Rules 2009 with the requirements of the Act such as constitution of Expert Committee, delineation of benefits to be extended to workers who reach the age of sixty and specifying format and timeline for preparation of the annual report and accounts.*
- *assigning responsibilities to Registering officers for verifying registration certificate and ensuring cent per cent timely registration of establishments and beneficiaries under their area of jurisdiction.*
- *devising a robust mechanism for identifying prospective employers, their registration and issuance of certificate on time.*
- *consider punitive measures against the Government officials for non-compliance of regulatory and statutory requirements under the Act and the Rules.*
- *ensure that only eligible workers are allowed to register with the Board for availability of scheme benefits to only intended beneficiaries.*
- *consider revising the format of identity card according to the provisions of the Act for proper upkeep of details of employments of workers.*
- *introduce a system to monitor submission of required return (Form-I) by the employers and processing of returns within the stipulated time.*
- *ensure that all Cess Assessment Officers assess cess in accordance with the Cess Act and Rules and adopt uniform rates for calculating construction cost across the State.*
- *ensure assessment of cess for works of the Government departments/local bodies along with the individuals.*

- *introduce a system for approval of building plans with levy and realisation of cess at the local government level.*
- *consider developing a mechanism for reconciliation of collected cess.*
- *develop a system to monitor the preparation and submission of Safety Policy, constitution of Safety committee and appointment of Safety Officer by the eligible employers.*
- *consider making Assistant Labour Commissioner/Deputy Labour Commissioner responsible for providing of compensation and Assistant Director (Factories) responsible for inquiry in each case of accident at workplaces.*
- *issue directions for timely submission of notice of commencement and completion of work in Form-4 and may consider taking action against the defaulter employers.*
- *consider fixing of targets of inspections for the inspectors of factory division of Labour department and adopt a transparent system for planning and conducting inspections and introduce a system for monitoring follow up of observations raised during inspections.*
- *ensure reconstitution of the Board on time and timely holding of meetings of the Board.*
- *ensure preparation and approval of budget estimates in time and preparation and submission of annual report and accounts on time.*
- *consider establishing a mechanism for monitoring and supervising the implementation of schemes to ensure timely processing of applications and distribution of benefits.*