

Chapter I: Introduction

The enacted statutes by the Government of India (GoI) and Government of Uttar Pradesh (GoUP) for Welfare of Building and Other Construction Workers have been discussed in the present chapter. Audit objectives, criteria, scope and methodology of audit have also been included in this chapter.

1.1 Enacted Statutes

The GoI enacted (August 1996) the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (the Act) and the Building and Other Construction Workers Welfare Cess Act, 1996 (the Cess Act) to ensure safety, health and welfare measures for building and other construction workers (referred to as workers) by means of levying and collecting Labour Cess (Cess). In addition, the GoI also framed (March 1998) the Building and Other Construction Workers Welfare Cess Rules, 1998 (the Cess Rules) to implement these Acts.

The Act requires each State Government to constitute a Building and Other Construction Workers Welfare Board (the Board) and formulate rules for exercising the powers conferred by the Act. The Act applies to establishments employing ten or more workers in Building or Other construction work. Furthermore, the Act specifies that any worker between the ages of 18 and 60 with ninety days of service as a construction worker in the State during the preceding twelve months, is eligible for registration as a beneficiary.

1.2 Scenario in the Uttar Pradesh

In accordance with the stipulations of the Act, the GoUP introduced (February 2009) the Uttar Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009 (referred to as Rules 2009), after a lapse of more than a decade since the enactment of the Act. Subsequently, in November 2009, the GoUP constituted the Board for executing the welfare programmes outlined in the Act and Rules 2009.

Furthermore, the GoUP initiated implementation of cess of one *per cent* on construction expenses borne by employers, coinciding with the formation of the Board in November 2009. By March 2022, the Board had successfully registered 1.44 crore workers and overseen execution of 25 distinct schemes aimed at the enhancement of welfare of workers.

1.3 Organisational set-up

Principal Secretary of the Labour and Employment Department of the GoUP, is chairman of the Board. The Board consists of the Labour Commissioner of the GoUP, who is also the Chief Inspector, and ten other members, both ex-officio and nominated. The Secretary of the Board, who is also its Chief Executive Officer, oversees its operations and activities. The

Secretary receives assistance from two Additional Secretaries, a Finance & Accounts Officer, a Deputy Secretary, and an Assistant Secretary.

At the regional level¹, responsibilities of assessment and collection of cess and registration of workers & establishments, have been assigned to the Additional Labour Commissioner/Deputy Labour Commissioner (DLC). Similarly, at district level, the Assistant Labour Commissioner (ALC) assumes these responsibilities. Furthermore, district-level authorities from various Government departments and executive agencies involved in project execution, building plan approvals, and urban local body management have been designated as Cess Assessing and Collecting Officers.

Beyond this, role of other Inspector for enforcing Act and Rules 2009 provisions have been bestowed upon officials such as the DLC, ALC and Labour Enforcement Officers (LEOs). Moreover, the District Magistrate, DLC and ALC are entrusted with the responsibility of approving benefits under the Board's schemes for eligible registered beneficiaries. The Board's organizational structure has been given in *Appendix-I*.

1.4 Audit Objectives

The audit objectives of the Performance audit (PA) were to ascertain whether:

- the Rules 2009 notified by the GoUP under the Act are consistent with the spirit of provisions of the Act;
- there was effective system for registration of establishments and beneficiaries;
- cess assessment, collection, and transfer of collected cess to the Welfare Fund was efficient;
- the GoUP prescribed appropriate health and safety norms and could ensure an environment of compliance to those norms by employers;
- the GoUP implemented transparent and effective system of inspections to check evasion of cess and compliance to health and safety norms by employers; and
- administration and utilisation of Welfare Fund for implementation of welfare schemes by the Board was efficient and effective and as per Act and Rules framed by the GoUP.

1.5 Audit Criteria

The criteria for the PA were derived from the following sources:

- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (the Act),
- The Uttar Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009 (the Rules, 2009);

¹ There are 26 regional offices of Labour Department in the State for performing the functions of Board.

- The Building and Other Construction Workers Welfare Cess Act, 1996 (the Cess Act) and the Building and Other Construction Workers Welfare Cess Rules, 1998 (the Cess Rules);
- Resolutions passed by the Board;
- National Building Code of India, 2016 (Part 7 titled ‘Construction Management, Practices and Safety);
- Indian Standard Safety Code for Scaffolds and Ladders Part I & II; and
- Inspection Policy notified by GoUP and State Financial Rules.

1.6 Audit scope and methodology

The PA, encompassing period 2017-22, was conducted from January 2023 to July 2023. The records were reviewed at the Board's Headquarters, the Commissioner's office (Labour Department), and six district-level offices of the Labour Department. To facilitate this assessment, three districts each were selected based on benefit disbursement under the welfare schemes and cess contributions. The selected districts were Agra, Gautam Buddha Nagar (G. B. Nagar), Lucknow, Moradabad, Prayagraj and Varanasi. Moreover, two units² from construction work execution departments (Public Works and Irrigation), and two units from building plan approval departments (one Development Authority and one Urban Local Body³) of these selected districts were also selected for scrutiny of records.

Additionally, 10 out of the 25 schemes implemented by the Board during 2017-22, were selected using stratified random sampling to verify eligibility criteria and timely disbursal of benefits. The details of the selected units and schemes are mentioned in *Appendix-II*.

The audit methodology included requisitioning of records and information, analysis of documents, responses of auditee units to audit queries and observations, and performing joint physical verifications at the sampled establishment sites. An Entry Conference was held on 6 January 2023 with the Additional Chief Secretary of the Labour Department (GoUP). During this conference, the audit methodology, scope, objectives, and criteria were elucidated. Further, an Exit Conference was also held with the Principal Secretary, Labour Department on 31 January 2024, wherein audit observations and conclusions were discussed with the Department. The State Government also submitted detailed replies to the audit observations and conclusion of draft report of PA in month of March 2024. Replies of the State Government, where available, have been suitably incorporated in the relevant paragraphs.

² On the basis of expenditure on construction works.

³ Having highest population in the district.

1.7 Audit Findings

The audit findings are presented in following chapters:

Chapter II- Compliance with the provisions of the Act

Chapter III- Registration of establishments and beneficiaries

Chapter IV- Assessment, collection and transfer of cess to the Board

Chapter V- Health and Safety of Workers

Chapter VI- Inspections

Chapter VII- Administration and utilisation of Welfare Fund