

Chapter III: Registration of Establishments and Beneficiaries

The shortcomings in registration of establishments and beneficiaries have been highlighted in this chapter.

Brief snapshot of the chapter:

- The role of Registering Officers in the process of registration of establishments was limited. This led to lack of a structured system for documenting the changes in particulars of certificate of registered establishments over the time and validating information and documents submitted by the employers at the time of establishment registration.
- The status of registration of establishments during 2017-22 was deficient as the targets remained unachieved. There was no effective procedure to ensure registration of each project undertaken by the Government departments/autonomous bodies and even by the individuals.
- The conditions, under which certificate of establishment registration issued, were not communicated to the employers. Registration of establishments was delayed, and registration certificates were issued beyond the prescribed time.
- Agreements between works executing agencies of GoUP and the contractors for execution of construction work during 2017-22, lacked clauses for registration of establishment and beneficiaries. Similarly, permission letter for approval of building plan had also no such conditions.
- The GoUP did not transfer registration receipts of ₹ 20.88 crore during 2017-22 to the Board.
- The status of beneficiary registration in the state was low during 2017-20, though, there was a substantial increase (648 *per cent*) in the year 2020-21 on account of waiver of required fee in view of Covid pandemic and implementation (August 2020) of facility of self-certification of days of work by the workers. Only 49.97 *per cent* beneficiaries renewed their membership against the registered 144.19 lakh beneficiaries as of March 2022.
- There was no system to ensure registration of workers employed in works executed by the Government departments/autonomous bodies/individuals.
- 23.33 lakh ineligible beneficiaries, involved in mining, MGNREGS and brick making works, were registered with Board.
- The identity card issued by the Board to registered beneficiaries was not consistent with requirement of the Act and was not being used for entering the details of employment of workers.

The registration of establishments and workers is the most important aspect for implementing the provisions of the Act. Unless a worker is registered under the provisions of the Act and is employed by a registered establishment, that worker will not be entitled to any benefits that may

accrue under the provisions of the Act. However, audit observed following deficiencies in registration of establishments and beneficiaries:

3.1 Registration of establishments

As outlined in Section 7 of the Act, every employer is required to register their establishment within sixty days from the commencement of work. This is done by applying, along with the required fees, to the designated Registration Officer. To facilitate this process, the provisions⁴ of the Rules 2009 introduced (August 2017) the concept of online registration via the departmental web portal, allowing employers to apply using Form-I.

During the audit, it was observed that the GoUP had established a protocol⁵ for establishment registration but lacked a robust mechanism to ensure that each building or construction work got registered as an establishment under the purview of the Act. The shortcomings in this regard are elaborated upon in succeeding paragraphs.

In reply, the State Government stated (March 2024) that instructions were issued to ensure registration of all establishments and awareness programs are being organized at local level for ensuring the same.

3.1.1 Role of Registering Officers in establishment registration

As per the provisions of Section 6 of the Act, the State Governments are required to appoint Registering Officers for registration of establishments. Besides, Section 7(4) of the Act and Rule 24(3) of the Rules 2009 mandates that the employers must intimate to the Registering Officer within 30 days of any changes in ownership or management or other particulars of certificate of registration.

Audit observed that the GoUP appointed (September 1999) Labour Commissioner of UP, all Additional/Deputy/Assistant Labour Commissioner of Labour Department as Registering Officer for registration of establishments but established necessary provisions and required procedures only by February 2009⁶, resulting in delay of more than nine years in registration process.

Further, the implementation of online process for registration of establishments reduced the role of Registering officers as certificate of registration was to be issued within a day of application. It is also evident by the fact that in the selected districts, registering authorities had no data regarding cases wherein changes in certificate details such as employer address, maximum number of workers to be employed, probable date of commencement and completion of works, ownership *etc.*, had occurred after registration of establishments during the period 2017-22.

Moreover, provisions of Section 8 of the Act and Rule 24 of the Rules 2009 allows for the cancellation of registration certificates obtained through false

⁴ Under the Rule 24.

⁵ Under the Rules 24 to 28 of Rules 2009.

⁶ Framework for the registration of establishments were outlined only through Rules 2009.

information or forged documents. However, audit noticed that due to limited role of the DLC/ALC in the process of registration of establishments, no actions were initiated in the selected districts to validate the information and documents submitted by employers. Consequently, neither the accuracy of certificate particulars was ensured, nor were any certificates acquired through false information or forged documents revoked during 2017-22.

In reply, the State Government claimed (March 2024) that individuals could record changes in particulars of certificate through Nivesh Mitra portal. The State Government also stated (March 2024) that provision for cancellation of online applications has now been developed on portal and planned to extend certificate issuance time from one day to seven days.

Reply is not acceptable as *Nivesh Mitra* portal did not have any facility through which individuals could record the changes in particulars of certificate. The portal also did not have facility to validate the information and documents received, though required for ensuring accuracy of certificate particulars.

3.1.2 Status of registration of establishments

As outlined by the provisions of Section 7 of the Act, every construction project must be registered as an establishment. However, audit noticed in selected districts that contractors working on Government or autonomous bodies constructions projects failed to register their projects as establishments during 2017-22, violating the provisions of Act and Rules 2009 as detailed in *paragraph 3.1.4*.

Furthermore, there was a lack of an effective procedure to ensure the registration of construction projects undertaken by individuals and large-scale construction endeavours, whose building plans were approved by local authorities. Consequently, the state of establishment registration was notably deficient, leading to inability to fulfil the annual targets set by the Board. A comprehensive breakdown of establishment registration in the State during 2017-22 is provided in **Table 3.1** below:

Table 3.1: Details of registration of establishments in the State during 2017-22

Year	Annual targets of registration of establishments	No. of registered establishments in the State	Shortfall in per cent against the targets	Annual increase(+)/ Decrease (-) in per centage
2017-18	42000	25807	38.55	(-)31.64
2018-19	42000	35065	16.51	(+)35.87
2019-20	42000	26199	37.62	(-)25.28
2020-21	42000	30553	27.25	(+)16.61
2021-22	Not fixed	25605	-	(-)16.19

(Source: Information provided by the Secretary of the Board)

The data above indicates that, throughout the period 2017-22, the annual targets for establishment registration were consistently unachieved, with shortfalls ranging from 17 to 39 *per cent*. This discrepancy persisted even though the Board did not revise the annual targets throughout this period, without considering the changing construction landscape within the State.

Moreover, while establishment registration in the State witnessed an upswing during the year 2018-19 compared to the levels of 2017-18, subsequent to this period, the registration status of establishments experienced a downward trajectory. The status of registration of establishments in the selected districts with the exception of Agra and G B Nagar, also witnessed a decline during 2017-22, as detailed in **Appendix-III**.

In reply, the State Government stated (March 2024) that the efforts are being made for ensuring *cent per cent* registration of establishments by organising awareness programmes at district level. Further, the State Government also stated that targets for registration of establishments for the year 2023-24 have been allocated on the basis of actual registration figures of the districts and assured that special care would be taken for improvement in establishment registration.

Constraints in registration of establishments

Several factors could have contributed to the constraints encountered in establishment registration, which are as follows:

- In October 2018, the GoI issued a directive to decentralize the authority of establishment registration to officials below the rank of Deputy/Assistant Labour Commissioner for effective establishment registration. However, audit noted that the GoUP did not initiate any measures for power decentralization.
- The Board failed to establish any mechanism to identify potential employers through consistent monitoring of construction endeavours in the State by application of GIS technology or mapping, in line with the GoI's directives of October 2018. Notably, only five⁷ districts within the State underwent GIS property mapping by the Board during 2017-22 and identified 1,17,424 employers, who had not got themselves registered earlier under the Act. Due to not conducting such exercise in other districts, unregistered employers could not be identified.
- In a bid to align with the GoI's directives of October 2018, the GoUP instructed (January 2019 and April 2022) Government departments and local authorities for forwarding the copies of work orders to the district authorities of the Board. This directive aimed to ensure establishment registration. However, despite repeated orders of the GoUP, the Government departments and local authorities of the selected districts did not comply with the same. As a result, registering authorities were deprived from the valuable information sources about imminent construction activities. Consequently, registration of all construction projects carried out under these bodies could not be ensured.
- In addition, the GoI issued a directive in October 2018, for forwarding of registration certificate/license copies by the Central and State Government authorities, operating under various labour laws, to the Board's authorities. This directive aimed to guarantee establishment registration under the Act. However, audit noticed that due to

⁷ G B Nagar, Ghaziabad, Kanpur, Lucknow and Meerut.

insufficient coordination among the concerned Central and State Government authorities, no advancements were made in this area. Consequently, the registration of all construction projects for which information was available with these authorities could not be ensured.

- The GoUP notified (July 2013) 40 works as Building or Other Construction Work, violating the provisions of Section 2(1)(d)⁸ of the Act as out of these works, works related with stone quarries work or mining, marble/stone work, lime making, extraction of sand, soil or core sand, brick manufacturing works at brick kilns *etc.* were regulated by the Mines Act 1952 in the State. Despite notification of these works as Building or Other Construction Work, no directives were issued by the GoUP to mandate the registration of these works as establishments under the Act. Consequently, despite the workers of these work categories enjoying membership of the Board (as discussed in **paragraph 3.2.3**), establishments connected with these works, remained unregistered.

Thus, non-compliance of the directives of the GoI and GoUP and provisions of the Act attributed towards not ensuring registration of all eligible establishments in the State.

In reply, the State Government stated (March 2024) that instructions have been issued to the Registering Officers for ensuring *cent per cent* registration of establishments. Further, the State Government also mentioned developing of a Cess portal to identify potential employers and undertaking GIS survey in other districts. Besides, the State Government asserted that brick kilns being a production unit, does not fall under the category of establishment. No comments were offered by the State Government on other issues.

Reply is not acceptable as classification of brick kilns as Building or Other Construction Works was irregular being regulated in the State under the Mines Act 1952. Further, brick kilns could not be registered as establishment in spite of registering their workers as beneficiaries of the Board.

3.1.3 Important conditions of the Act/Rules not mentioned in certificate of registration

As per provisions of Section 7(3) of the Act, certificate for registration of establishment is to be issued under such conditions as may be prescribed by the State Governments in this regard. Accordingly, the GoUP under Rule 27 of the Rules 2009, prescribed specific conditions⁹ under which certificates are issued for the registration of establishments. Some noteworthy provisions of these certificates/conditions encompass the prohibition of employing a workforce exceeding the number specified in

⁸ Requires notification of such works as Building or Other Construction Work, to which provisions of the Factories Act 1948 or Mines Act 1952 does not apply.

⁹ The certificate is non-transferable, fee for registration of establishment is non-refundable, the certificate of registration of an establishment is valid only for the concerned work, a copy of the certificate of registration is to be displayed at a conspicuous place at the premises where the building and other construction work is being carried etc.

the registration certificate, obligatory notification of changes in the employed workforce to the Registering Officer within a seven-day timeframe, the potential revocation of certificates acquired through misrepresentation, concealment of facts, or the use of fraudulent documents, with possible legal actions against the applicant. Additionally, the requirement for submission of a notice to the Inspector at least 15 days before commencing and completing the work is emphasized.

However, audit noticed that certificates issued via the Board's website lacked any printed conditions, despite making reference to an annexure intended for this purpose. As a result, all the important conditions to be complied by the employers were not made part of the certificate of registration.

Consequently, the absence of communication regarding certificate conditions and the omission of instructions related to the adherence of crucial provisions of the Act, hindered the compliance of multiple provisions of both the Act and the Rules 2009.

In reply, the State Government stated (March 2024) that format of registration of certificate has been revised by mentioning provision of Rule 27(1)(c) of Rules 2009 printed on it.

Reply is not acceptable as all potential conditions of the Act and the Rules 2009 were not incorporated in the revised format of certificate.

3.1.4 No clause for registration in agreements

In compliance with the orders¹⁰ of the Hon'ble Supreme Court of India, the GoUP directed (June 2014) to incorporate provisions for registration of establishment and beneficiaries in the agreements of execution of construction works. Besides, the GoUP had also directed (November 2013) to include provisions of registration of beneficiaries in tender documents of construction works.

However, audit observed that out of 12 test-checked units related with work execution, ten¹¹ units did not incorporate clauses for registration of establishments and beneficiaries in the agreements entered during 2017-22. Consequently, in three¹² units (out of these ten units), only 10 works were registered as establishments against the total 1,410 agreements executed during 2017-22 for execution of works. In the remaining two¹³ test-checked units, the agreements included provisions solely for the registration of establishments, neglecting to address the inclusion of beneficiaries.

Similarly, akin to the above test-checked units, none of the 12 units evaluated in relation to building plan approvals, incorporated provisions for the registration of establishments and beneficiaries within the agreements awarded for construction project execution. This led to non-registration of establishment and beneficiaries, with the exception of Development

¹⁰ Issued during special writ petition no.318/2006.

¹¹ CD-I (Taj Trapezium) Agra, PD Agra, Head Works Div; Agra Canal (Okhla); G B Nagar, C.D.-I Lucknow, C D-II Lucknow, Madhya Ganga Canal (CD-15) Moradabad, World Bank Division; Moradabad, C D-IV (Kumbh Mela) Prayagraj, CD-I Prayagraj and PD Varanasi.

¹² CD-I (Taj Trapezium) Agra; PD Agra and Madhya Ganga Canal (CD-15) Moradabad.

¹³ PD, G B Nagar and CD-III Varanasi.

Authority (DA) Moradabad. Notably, within DA, Moradabad, the inclusion of a provision for the registration of establishments in the tender conditions resulted in the successful registration of establishments.

Additionally, among these 12 test-checked units associated with building plan approvals, nine¹⁴ units that granted building plan approvals during 2017-22 did not include provisions pertaining to the registration of establishments and beneficiaries in the permission letters for approved building plans.

Thus, due to the failure to adhere to the GoUP's directives and the omission of necessary provisions within agreements, tender conditions, and permission letters for approved building plans, the registration of all eligible establishments and beneficiaries could not be ensured.

In reply, the State Government stated (March 2024) that instructions are being issued to the departments related with execution of construction works for incorporating the condition related with registration of beneficiaries in the agreements with the contractors and also to ensure registration of beneficiaries accordingly.

3.1.5 Delay in issue of Registration Certificate

As per Section 7 of the Act, certificate of establishment registration is to be issued to the employer within a timeframe specified by the State Government. Accordingly, the Registration Officer is obligated to furnish the certificate to the employer within one day of receiving the application as per provisions of the Rules 2009, assuming that the provided application particulars meet the necessary criteria.

However, an examination of the data from the selected districts for the period 2017-22 revealed instances where the specified timeframe was not adhered to. Details of these instances are given **Table 3.2** below:

Table 3.2: Delay in issue of registration certificate in selected districts during 2017-22

Name of district	Total number of registered establishments during 2017-22	Data available ¹⁵ in respect of registered establishments during 2017-22	Number of certificates issued with delay (<i>per cent</i>)	Certificates issued with a delay of		
				up to one month	more than one month and up to six months	more than six months
Agra	2131	1179	677 (57)	477	176	24
G B Nagar	18177	6430	2011 (31)	1196	740	75
Lucknow	3951	1857	1028 (55)	329	585	114
Moradabad	1369	1356	677 (50)	465	167	45
Prayagraj	2464	912	364 (40)	240	113	11
Varanasi	629	623	400 (64)	263	103	34

(Source: Labour department of selected districts)

¹⁴ Development Authorities – Agra, G B Nagar, Lucknow, Moradabad, Prayagraj and Varanasi; Nagar Palika Parishads – Dadri (G B Nagar), Shamsabad (Agra) and Thakurdwara (Moradabad).

¹⁵ Dates of application for registration and issue of certificate of registration were available only for these establishments.

Above table clearly demonstrates that, in comparison to the available records of registered establishments, a significant proportion of certificates, ranging from 31 to 64 *per cent*, were issued after delays in the selected districts¹⁶. A considerable number of these certificates were issued with delays exceeding six months.

In reply, the State Government stated (March 2024) that to avoid delays in issue of certificates, process of registration has been made fully automated.

Reply is not acceptable as the instances of delay occurred under the online automated system of registration.

3.1.6 Delayed registration of establishments

As per Section 7 of the Act, employers are required to submit application for registration of establishments within 60 days of commencement of work. Further, provisions of Rules 2009 require completion of registration process within a day of submission of application. Accordingly, registration of establishments is to be ensured within 61 days of commencement of work. Further, the GoUP directed (January 2014) for imposition of penalty or initiation of legal action against the employers, who did not register their establishment in compliance with the provisions of the Act.

However, scrutiny of data of registration of selected districts during 2017-22 revealed that the establishments were not registered by the employers on time due to delayed submission of application as per details given in the **Table 3.3** below:

Table 3.3: Delay in establishment registration in selected districts during 2017-22

Name of district	Total number of registered establishments during 2017-22	Data available ¹⁷ in respect of registered establishments during 2017-22	Establishments registered within 61 days of commencement of work	Establishments registered with delays			
				up to one month	more than one month and up to six months	more than six months	Total (<i>per cent</i>)
Agra	2131	1276	383	120	438	335	893 (70)
G B Nagar	18177	6735	3728	443	1622	942	3007 (45)
Lucknow	3951	1916	324	66	215	1311	1592 (83)
Moradabad	1369	1340	439	119	478	304	901 (67)
Prayagraj	2464	983	249	59	365	310	734 (75)
Varanasi	629	619	199	42	177	201	420 (68)

(Source: The Labour department of selected districts)

It is evident from the above that most of the establishments were registered with delays during 2017-22 as the *percentage* of delayed registration of establishments ranged between 45 and 83 in this regard. Further, it was also observed that due to not registering the establishment within the stipulated time, no action was initiated against the employers in compliance with the directions of the GoUP.

¹⁶ DLCs of G B Nagar and Prayagraj replied that delayed issue of certificate of registration was due to glitches in Board's portal.

¹⁷ Dates of commencement of work and issue of certificate of registration were available only for these establishments.

In reply, the State Government stated (March 2024) that delay in registration of establishments was due to various factors, including a shortage of LEOs, non-compliance of provisions by the contractors of public sector/government departments, approval of building maps by the DA without registration of establishment, inaction by the LEOs, no intervention of Registering Officers in the process of registration of establishments *etc.*

3.1.7 Register of establishments not maintained

As per the provisions of Rule 24(2) of the Rules 2009, Registering officer is required to maintain a register in the Form 3 for showing the particulars of establishments in relation to which certificates of registration have been issued.

Audit observed that after implementation of online registration process, register of establishments was not being maintained in any of the Labour Department offices across the selected districts during 2017-22¹⁸. The register of establishments is an important tool to keep watch on furnishing of various notices by the employers such as dates of commencement and completion of work. However, due to non-maintenance of the register, neither the monitoring of submission of required notices by the employers nor assessment of cess and inspection of registered establishment was ensured by the responsible authorities.

In reply, the State Government stated (March 2024) that the required information of registered establishments has been maintained on the Board portal, which can be viewed online.

Reply is not acceptable as required information on establishment registration has not been made public on Board's portal for ensuring transparency and accountability in this regard. Moreover, Rule 24 (2) of Rules 2009, as amended during August 2017 for introducing the online process of registration, mandates maintenance of aforementioned register keeping in view its importance.

3.1.8 Usage of receipts

In compliance with the provisions of Section 7 of the Act, the GoUP decided fee for registration of establishments under Rule 28 of the Rules 2009. The fee ranged from ₹ 1,000 to ₹ 10,000 depending upon the number of workers¹⁹ likely to be employed by the employer on any day of work. However, the provisions of the Act and Rules 2009 are silent about the usages of receipts on account of registration of establishments.

Audit observed that the GoUP did not issue any directions regarding usages of receipts on account of registration of establishments. As a result, proceeds²⁰ of registration of establishment were also not shared with the

¹⁸ Except Moradabad, where required register was maintained up to the year 2018-19.

¹⁹ ₹ 1000 for up to 100 workers, ₹ 5000 for more than 100 and up to 500 workers and ₹ 10000 for more than 500 workers.

²⁰ Deposited under the heads of account "0230 (Labour and Employment)-800 (other receipts)-10 (under UPBOCW Rules)-01(receipts from registration).

Board by the GoUP during 2017-22. The details of receipts on account of registration of establishments *vis-à-vis* total number of registered establishments during 2017-22 are given in **Table 3.4** below:

Table 3.4: Details of receipts for registration of establishments during 2017-22
(₹ in lakh)

Year	Amount of registration fee	No. of registered establishments in the State
2017-18	470.81	25807
2018-19	728.28	35065
2019-20	483.74	26199
2020-21	149.92	30553
2021-22	255.14	25605
Total	2087.89	143229

(Source: The Voucher Level Computerisation & Board)

The above receipts amounting to ₹ 20.88 crore during 2017-22 were intended for the well-being of workers but were not disbursed to the Board by the GoUP. Consequently, the Board was deprived of a potential income source.

Besides, receipts on account of registration fee also did not align with the number of registered establishments as number of registered establishments increased in the year 2020-21 with the levels of year 2017-18 and 2019-20 but receipts decreased significantly. Moreover, despite increase in receipts figures during the year 2021-22, number of registered establishments decreased in comparison with the levels of the year 2020-21.

In reply, the State Government stated (March 2024) that the process for making required arrangements in Act for transfer of receipts of registration fee to the Board is under way.

3.2 Registration of beneficiaries

As per Sections 11 and 12 of the Act, every worker aged between 18 and 60 years and engaged in building work for not less than 90 days during the preceding 12 months, is entitled to be registered as beneficiary by the officials of the Board for availing benefits from the Welfare fund.

The provisions of Rule 275 and 276 of the Rules 2009 provided for registration of workers²¹ as beneficiaries by making an application in Form-25 to the Registering Officers or through online-mode on departmental website with annual registration fee of ₹ 20. To register, workers needed to submit self-attested copy of Aadhaar card, bank passbook and a certificate of employment from the employer or Inspector of the area concerned that the applicant had worked at least 90 days in preceding 12 months. Besides, as per provisions of Rule 279, a beneficiary is also required to pay annual contribution²² to the Board until they turned 60 to retain their membership. Further, in case of engagement of beneficiary in building and other construction works for less than 90 days in any year

²¹ Not registered as a beneficiary with any other Welfare Fund established under any law for the time being in force.

²² ₹ 20 *per* year.

or if the worker fails to pay prescribed contribution up to one year, their status as beneficiary is to be ceased.

However, audit observed the provisions of the Act and Rules 2009 were not followed by the Board as discussed in the succeeding paragraphs:

3.2.1 Status of registration of beneficiaries

The Board had fixed annual targets for registration of beneficiaries during 2017-21. The status of registration of beneficiaries against the annual targets *vis-à-vis* active beneficiaries (who have renewed their membership) in the State during 2017-22 is given in the **Table 3.5** below:

Table 3.5: Registration of beneficiaries against the targets *vis-à-vis* active beneficiaries in the State

Year	Targets for registration of beneficiaries	No. of registered beneficiaries at the beginning of the year	No. of beneficiaries registered during the year	Progressive figures of registered beneficiaries	Active beneficiaries (percentage against total registered beneficiaries at the beginning of the year)
2017-18	8,80,000	31,43,733	7,25,996	38,69,729	2,50,779 (7.98)
2018-19	8,80,000	38,69,729	6,36,366	45,06,095	2,71,185 (7.00)
2019-20	8,80,000	45,06,095	6,00,401	51,06,496	3,47,556 (7.71)
2020-21	24,82,424	51,06,496	44,93,481	95,99,977	22,76,507 (44.58)
2021-22	Not fixed	95,99,977	48,18,823	1,44,18,800	47,97,211(49.97)

(Source: The information provided by the Board)

From the above table, it can be seen that throughout the period 2017-20, the set annual physical targets for beneficiary registration were not met. Also, there was a noticeable decline in beneficiary registrations during this period, even though the targets remained constant. However, there was a substantial 648 *per cent* increase in beneficiary registrations in the year 2020-21 compared to the preceding year, 2019-20. Beneficiary registration further increased by an additional seven *per cent* in the subsequent year 2021-22.

It was also observed that the increase in number of registered beneficiaries during 2020-22 was due to waiver of registration fee by the Board, in view of emergency arising out from the Covid-19 pandemic. Besides, the Board also relaxed (August 2020) the requirement of certificate of employment from the employer or Inspector for the registration of beneficiaries.

Further, despite manifold increase in registered beneficiaries during 2020-22, active registered beneficiaries remained only 50 *per cent* of the total registered beneficiaries at the end of March 2022. This situation remained even though the Board had set targets for renewal of membership of all eligible beneficiaries during the year 2021-22. It was also observed that after recall (March 2022) of free registration/renewal facility after Covid pandemic, many beneficiaries registered during the year 2020-21 could not renew their membership.

In reply, the State Government stated (March 2024) that efforts such as registration of workers for a period of three years at one time, facility of

registration through *Jan Suvidha Kendra*, organising camps for registration of workers *etc.*, have been made to facilitate workers in registration process.

Constraints in registration of beneficiaries

It was also observed that despite increase in number of beneficiaries, the following areas were overlooked by the Board and other responsible authorities over the years:

- The employers did not provide details of workers eligible for registration as beneficiaries in compliance with the directions (November 2013) of the GoUP.
- The GoUP directed (November 2013) to conduct regular inspections of establishments to ensure registration of each worker. However, due to deficient format of inspection note, this aspect was overlooked by LEOs during the inspections.
- No system was put in place to ensure registration of workers employed under works of the Government departments/autonomous bodies *etc.*
- Due to difficulty in keeping track records of renewals, many workers could not ensure renewal of their membership as there was no system to remind them in this regard, leading to loss of membership and consequent benefits.

In reply, the State Government stated (March 2024) that the Board has issued instructions to executing agencies to provide workers details for registration. The State Government also stated that facility of online self-registration has been provided to workers. Besides, at the instance of audit, facility of Short Message Service (SMS) has been introduced for renewal of membership of workers.

3.2.2 Non-compliance with the instructions of the GoI

In compliance with the directions (March 2018) of the Hon'ble Supreme Court of India, the GoI issued (October 2018) many instructions in respect of registration of beneficiaries, which were not adhered to by the Board completely as per the following details:

- The GoI instructed to allot Unique Identification Number to the registered workers for portability of welfare benefits. For this purpose, complete details of registered workers were to be uploaded on the National BOCW portal. However, the Board partially implemented this instruction as despite initiating process of allotment of Unique Identification Number to the beneficiaries, details of registered workers were not uploaded on the National BOCW portal. Besides, the Board also lacked complete details of registered workers as details uploaded on the Board portal did not contain information about mobile number, description of family, status of renewal *etc.* in respect of all registered workers.
- The GoI also directed the Board to allow self-certification of days of work by the workers containing information such as details of sites of work, name of employer and number of days of work as per ID

card of worker *etc.* However, the Board allowed (August 2020) self-certification of days of work without asking required details from the workers such as details of sites of work, name of employer and number of days of work as per ID card of worker *etc.* Thus, GoI instruction was implemented partially.

- To facilitate registration of migrant workers, the GoI instructed that the source States should try and register them in their home state, give them an ID card/pass book with a unique number and upload these details on their website. They should also create facilitation centres/help desks in the destination districts for the registration of eligible workers and may also take up the matter with destination States to help these workers get registered in the destination states. However, audit observed that no action was initiated by the GoUP or by the Board in this regard.

Thus, due to non-compliance or partial compliance of the GoI instructions, a transparent and effective system for registration of eligible workers could not be implemented.

In reply, the State Government stated (March 2024) that details of only 56 lakh registered workers have been uploaded on National BOCW portal and efforts are underway to obtain mobile number and description of family of workers at the time of renewal of membership and distribution of benefits. The State Government also stated that provisions for filling required details in self-certification of days of work on the Board portal has been initiated. It was also stated by the State Government that there are no separate arrangements for registration of migrant workers, but they do issue migration certificates.

3.2.3 Registration of ineligible beneficiaries

The provisions of the Act, applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work but does not include works covered under the Factories Act, 1948 or the Mines Act, 1952. Section 2(1)(d) of the Act, provided an illustrative list²³ of works to be considered as building or other construction work and required the State Government to notify such other works in this regard.

As discussed in *paragraph 3.1.2*, the GoUP notified²⁴ 40 works including works related with stone quarries or mining, extraction of sand; soil or core sand, *etc.* under Section 2(1)(d) of the Act as Building or other Construction work, which were otherwise covered under the Mines Act 1952 and not to be covered under Building or other construction work as per the provision of the Act. Besides, list of prospective works, issued (July 2013) by GoI for

²³ The construction, alteration, repairs, maintenance or demolition of buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including drainage works), generation, transmission and distribution of power, water works, oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers *etc.*

²⁴ Vide notification no. 488/36-2-2013 dated 25 July 2013.

notifying additional Building and other construction works under the Act by the State Governments, did not include above works for this purpose.

Audit observed that out of the total 154.81 lakh registered beneficiaries with the Board as of February 2023, 1.66 lakh workers were related with mining activities. Thus, registration of workers covered under the Mines Act, was contrary to the provisions of the Act.

In reply, the State Government stated (March 2024) that notification of 40 works as Building or Other Construction Works has been made in accordance with provisions of the Act, claiming authority to do so. While agreeing with the authority of the State Government, it is important to ensure that works are notified under only one Act and should not be covered under two Acts at the same time, as in this case.

Apart from above the GoUP also issued instructions for registration of other class of ineligible beneficiaries, as discussed in succeeding paragraphs:

3.2.3.1 Registration of MGNREGS workers

The GoI directed (July 2013) to all State Governments to register Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) workers with at least 50 days of work in preceding 12 months as beneficiaries of Board. Accordingly, the GoUP issued (August 2013) directions for registration of MGNREGS workers as beneficiaries of the Board.

Audit observed that the GoI withdrew (February 2017) earlier directions consequent on re-examination of MGNREGS workers as construction workers. However, the State Government did not comply with the revised orders of the GoI.

It was also noted that among the overall count of 154.81 lakh registered beneficiaries under the Board as of February 2023, there were 13.70 lakh workers associated with MGNREGS. However, due to not issuing any instruction by the GoUP, works of MGNREGS were not registered as establishment under the provisions of the Act. The registration of MGNREGS workers as beneficiaries of the Board without registration of their works, violated ruling of the Hon'ble Supreme Court of India. The Hon'ble Court had ruled²⁵ that only those workers working in registered establishments and/or registerable establishments under the Act will be covered as beneficiaries of the Board.

In reply, the State Government stated (March 2024) that the MGNREGS workers have been registered on the basis of 90 days of work. Further, it was also stated by the State Government that the Board has directed to the Divisional Commissioners/District Magistrates to register construction works being executed under MGNREGS as establishment.

²⁵ In the case of National Campaign Committee for Central Legislation on Construction Labour Versus Union of India & Others.

Reply is not acceptable as directions of Board requiring registration of MGNREGS works as establishment was not provided to audit in support of claim made by the Government.

3.2.3.2 Registration of brick kiln workers

The Directorate of Geology and Mining, Uttar Pradesh has classified brick earth as a mineral and also regulates operation of brick kilns in the State, as provisions of the Mines Act 1952 applies on excavation of minerals. Further, provisions of the Act applies to building and other construction works but does not apply to works covered under the Factories Act, 1948 and the Mines Act, 1952.

However, audit observed the GoUP not only classified (July 2013) brick making work at brick kilns as Building or Other construction work but also issued instructions²⁶ from time to time to register the workers of brick kiln as beneficiaries of Board. Accordingly, the Board had registered 7.97 lakh workers related with brick kiln against the total registered 154.81 lakh beneficiaries as of February 2023.

Thus, classification of brick making work at brick kilns as Building or Other Construction work and registering their workers as beneficiaries of the Board violated the provisions of the Act.

In reply, the State Government stated (March 2024) that brick kilns of the State are covered under the production activities and not related to construction activities.

The reply of the State Government contradicts its order (July 2013) classifying brick making as Building or Other Construction Work.

3.2.4 Implementation of Mission Mode Project

The GoI directed (July 2020) to implement a Mission Mode Project (MMP) to ensure registration of all left-out workers within a period of three months and timely renewal of membership, so that they may avail benefits of welfare schemes of the Board. The GoI estimated (July 2020) 81.52 lakh workers in the State, out of which 56.70 lakh were already registered with the Board and against these registered workers, only 19.19 lakh were live registered workers (who have renewed their membership on time).

Accordingly, under the MMP, not only 24.82 lakh left-out workers were to be registered by the Board, but renewal process was also to be eased for timely renewal of membership of beneficiaries. For this purpose, Board had to incentivise renewals and *Seva-Bandhus*/NGOs/Volunteers/Trade unions were to be engaged for timely renewal and revival of the lapsed registration. Further, for addressing the portability of membership on migration from one State to another, process to issue online Migration Certificate was also to be initiated by the Board within a period of three months under MMP. Besides, a host of technological tools such as Mobile App, Call centre, Missed call

²⁶ G.O. no. 39/2016/1462/36-2-2016-7 G/2015 dated 29.9.2016 and 18/2015/1621/36-2-2015-7G/2015 dated 29-12-2015.

with Web links *etc.* were also to be introduced by the Board to ease the process of registration.

However, audit observed that the Board did not take any action to incentivise renewals and did not rope *Seva-Bandhus*/NGOs/Volunteers/Trade unions for timely renewal and revival of the lapsed registration. Besides, neither the process for issue of online Migration Certificate was initiated by the Board nor suggested technological tools were introduced by the Board for aforesaid purposes.

Moreover, though the GoI had anticipated only 81.52 lakh workers in the State as of July 2020, the Board had registered 144.19 lakh workers (more than 90 *per cent* of estimated numbers) up to March 2022. However, live members remained only 47.97 lakh (50 *per cent*²⁷). This once again highlights that the measures taken by the Board for renewing or reinstating the memberships of beneficiaries that had lapsed, were not adequate.

Thus, due to not implementing measures of the MMP, timely renewal of membership could not be ensured.

In reply, the State Government stated (March 2024) that online facility for registration/renewal of membership has been provided through the Board portal and *Jan Suvidha Kendra*. Besides, provision for issue of Migration Certificate through the Board portal and SMS facility for renewal of membership have also been introduced at the instance of audit. The State Government also stated that due to these measures, over 90 *per cent* beneficiaries against the targets, have been registered by the Board.

3.2.5 Issuance of identity cards

As per Sections 13 of the Act, an identity card is to be issued to every registered beneficiary by the Board for entering their details of the Building or Other Construction Works. The required details of identity card are to be entered by the employer based on Register of beneficiaries. Section 15 of the Act mandates maintenance of Register of beneficiaries²⁸ by the employer for keeping details of employment of beneficiaries. Moreover, the GoI also directed (October 2018) to issue identity card in the form of a passbook/employment diary for entering the employment details of workers. In compliance with the provisions of the Act, Rule 277 of the Rules 2009 prescribed Form 27 for issuing identity cards, containing details of worker and their spouse.

However, audit observed that the format prescribed by the GoUP under Rules 2009 for identity card was not consistent with the requirements of the Act as there was no provision for entering details of the building or other construction works performed by the worker. Further, the GoUP also did not initiate any action²⁹ for providing identity card in the form of a

²⁷ Out of 96 lakh registered beneficiaries at the beginning of the year 2021-22.

²⁸ To be maintained in Form 28 as per the Rule 278 of the Rules 2009.

²⁹ The Board had passed (January 2020) a resolution for providing Identity Cards in the form of a passbook, no development was made in this regard as of June 2023.

passbook/employment diary to maintain the employment details of workers. As a result, identity cards issued by the Board did not provide any information regarding days of work of beneficiary. Audit further observed that the identity cards issued by the Board were also not compliant with the prescribed format (Form 27) as it lacked details of spouse of the worker.

Besides, format prescribed (April 2014) by the Chief Inspector for issuing inspection note for carrying out inspections of the establishments, did not require checking of maintenance of Register of beneficiaries by the employer. Joint physical verifications of establishments by the audit team confirmed non-maintenance of Register of beneficiaries by the employers. This also suggests that due to the lack of a system to track workers' employment details through their identity cards and the failure to maintain a Register of beneficiaries, there is no basis for issuing certificates for days of work, which is required (minimum 90 workdays) for the registration or renewal of beneficiary memberships.

Moreover, audit observed inconsistencies in format of Form 28 (for Register of beneficiaries) under the Rules 2009, as there was no mention for upkeep of details of employment of workers.

Thus, issuing improper identity cards and not maintaining details of employment of workers through Register of beneficiaries involves risk of registration or renewal of membership of ineligible beneficiaries.

In reply, the State Government stated (March 2024) that provisions for acquiring details of employment have been made at the instance of audit and online data of beneficiaries eliminates need for passbook-style identity cards.

Reply is not acceptable as self-declaration of employment by the workers cannot be verified without upkeep of proper identity card and Register of beneficiaries by the employers.

To sum up:

The GoUP failed to establish a system for ensuring registration of each construction work and verifying employer information. Despite constant targets, rate of establishment registration remained low during 2017-22. Important conditions of the Act/Rules were not conveyed to the employers through certificate of registration. Moreover, not only registration of establishments was delayed in the state, but also the issuance of certificates. The GoUP did not transfer the revenue generated from the registration of establishments to the Board, even though it was collected under the framework of the Rules 2009.

Further, the Board also did not establish any effective system for ensuring registration of each worker as a beneficiary. The government departments/local authorities overlooked the provisions of registration of establishment and beneficiaries. Despite increased beneficiary registration during 2020-22 due to rebate on registration fee and certificate of employment, active members remained low.

Recommendation 2: *The State Government may consider assigning responsibilities to Registering Officers for verifying registration certificate and ensuring cent per cent registration of establishments and beneficiaries under their area of jurisdiction.*

Recommendation 3: *The State Government should devise a robust mechanism for identifying prospective employers, their registration and issuance of certificate on time.*

Recommendation 4: *The State Government may consider punitive measures against the Government officials for non-compliance of regulatory and statutory requirements under the Act and the Rules.*

Recommendation 5: *Only eligible workers should be allowed to register with the Board for availability of scheme benefits to only intended beneficiaries.*

Recommendation 6: *The State Government may consider revising the format of identity card according to the provisions of the Act for proper upkeep of details of employments of workers.*