

Chapter V: Safety and Health of Workers

This chapter discusses issues related to safety and health of workers.

Brief snapshot of the chapter:

- The compliance of provisions related with safety and health of workers was deficient in the selected districts. The employers failed to submit safety policy to the Chief Inspector and information regarding constitution of safety committee and appointment of Safety officer was not available with Labour Department.
- The inspections conducted during 2017-22 in selected districts for ensuring the compliance to provisions of safety and health of workers were negligible against the registered establishments and there was no standardised format for issuing inspection notes.
- There was no established system for providing workplace accident notice by the employers, leading to lack of investigation in each case of accidents during 2017-22.
- The lack of coordination among the Labour Department authorities hindered both accident inquiries and compensation payment to the deceased/injured workers of many accidental cases.
- Required clauses for ensuring safety and health of workers were not included in agreements executed with contractors for construction works during 2017-22.
- The safety provisions of National Building Code of India 2016 and Indian Standard Safety Code for Scaffolds and Ladders, were not followed for ensuring safety and welfare of workers.

The Act aims to ensure safety, health, and welfare measures for workers. Chapter VII of the Act outlines provisions in this regard, including Section 40 requiring the State Governments to formulate rules concerning safety⁵⁴ and health of workers. These rules are expected to ensure the safety, health, and well-being of workers while they are engaged in their duties. Accordingly, the GoUP enacted comprehensive regulations from Rule 60 to Rule 252 under Rules 2009 to guarantee safety and health of workers at worksites. Besides, Section 44 of the Act and Rule 250 of the Rules 2009, also held employers accountable for safety, health and welfare of engaged workers. Moreover, for effective implementation of these provisions, concept of an adequate enforcement machinery is also provided in the Act and Rules 2009.

Rules 253 to 255 of the Rules 2009 empowers Inspectors for effectively enforcing the provisions of the Act and Rules. The Labour Commissioner of GoUP also made (October 2010) Inspectors of the Director (Factories)⁵⁵ responsible for ensuring safety and health of workers. However, audit observed following shortfalls in observance of provisions in this regard:

⁵⁴ Including provisions for necessary equipment and appliances for the protection of workers during their employment.

⁵⁵ A division of Labour Department of the GoUP.

5.1 Safety Policy not submitted by employers/contractors

Section 40(2)(r) of the Act requires employers and contractors to frame a safety policy outlining the necessary measures for ensuring the safety and health of workers during building or construction operations. Rule 216 of the Rules 2009 further mandates that establishments with fifty or more workers must prepare a written safety and health policy and submit this policy in triplicate to the Chief Inspector, with a copy to relevant Inspector of the area or local authority.

However, audit observed that in none of the selected districts eligible employers and contractors submitted copies of their safety policy to the Inspectors or local labour department authorities. This indicates a failure on their part to formulate such policy. Additionally, it was observed that the issue of not framing of safety policy by the employers was also not brought to the forefront during inspections in the selected districts, with the exception of Lucknow. Thus, not submitting the safety policy by the employers and contractors indicated that the Inspectors failed to enforce required arrangements to ensure safety and health of workers.

In reply, the State Government stated (March 2024) that no safety policies were received in regional offices of Agra, Moradabad and Varanasi districts, but 71 establishments submitted the same in regional offices of G B Nagar, Lucknow and Prayagraj districts. Further, the State Government also stated that instructions have been issued (January 2024) to Assistant Director (Factories) to ensure display of safety policy at construction site, aware employers about submission requirements and to take note of it during inspections.

Reply is not acceptable as the employers are required to submit safety policy directly to the Chief Inspector with a copy to the relevant Inspector. Besides, 71 safety policies received in three selected districts during the period 2017-22 (as intimated by the State Government) lacked significance as these were not submitted to the Chief Inspector, were not authenticated by the employers, and did not address key requirements such as institutional mechanism to implement the policy, stakeholders' responsibilities, risk assessment techniques and methods, training arrangement for all engaged persons *etc.*, as mandated by Rules 2009.

5.2 Deficient role of Inspectors

Rule 254 of the Rules 2009 empowers the Inspectors to issue show cause notice or warning to employers regarding safety, health or welfare of workers. Besides, an Inspector may also direct contractor or employer to arrange medical examinations for engaged workers. Further, Rule 255 of Rules 2009 allows Inspector to issue prohibition order for dangerous building and construction works, until required measures are taken by the employers.

However, audit observed that very few inspections were conducted by the Inspectors of the Director (Factories) against registered establishments in the selected districts during the period 2017-22. As a result, powers conferred to them for enforcing safety and health provisions could not be fully utilised. The details of these inspections are given in **Table 5.1** below:

Table 5.1: Details of inspections in the selected districts during the period 2017-22

| Name of district | No. of registered establishments during the period 2017-22 | No. of establishments inspected by the Inspectors of Director (Factories) during the period 2017-22 | Percentage of inspected establishments |
|------------------|--|---|--|
| Agra | 2131 | 27 | 1.27 |
| G B Nagar | 18177 | 267 | 1.47 |
| Lucknow | 3951 | 28 | 0.71 |
| Moradabad | 1369 | 38 | 2.78 |
| Prayagraj | 2464 | 02 | 0.08 |
| Varanasi | 629 | 00 | 0.00 |

(Source: Information provided by the Assistant Director, Factories of the selected districts)

It is evident from the above that in selected districts, number of inspections conducted by the Inspectors of the Director (Factories) to ensure workers' safety and health was negligible against the registered establishments. In Varanasi district, no inspections were done during 2017-22, indicating a deficient role of Inspectors in enforcing the provisions of the Act and the Rules 2009.

In reply, the State Government stated (March 2024) that inspections were conducted in Lucknow (47) and Varanasi (one) districts during 2017-22 and that the efforts are being made to fill the vacant posts (42.11 *per cent*) in cadre of Assistant Director (Factories) for efficient inspections.

Reply is not acceptable as the Assistant Director (Factories) of Lucknow and Varanasi districts lacked proper records and inflated the inspection numbers by including inquiries/investigations of accidents at worksites and figures from other district(s).

Deficiencies of Inspections

Audit observed following deficiencies in conducting inspections for ensuring safety and health of workers:

- Inspectors issued instructions to employers through inspection notes to ensure workers safety and health in selected districts, where inspections were conducted during 2017-22. However, instance of issuing directions requiring medical examination of workers or issuing prohibitory orders were not available.
- Inspection register was not updated in any of the selected districts for recording status of compliance of inspection notes, imposition of penalties or initiation of prosecution for non-compliance of provisions of the Act and Rules, *etc.* As a result, audit could not ascertain the status of compliance of inspection notes.
- The Chief Inspector did not devise any standardised format for issuing inspection notes by the Inspectors of the Director (Factories) for covering all aspects of workers safety and health, leading to incomplete observations in this regard.

In reply, the State Government stated (March 2024) that directions for medical examination of workers are issued during inspections and Inspectors may also issue prohibitory orders. Further, the State Government also issued instructions to update inspection registers and stated that finalisation of a check list for conducting inspections is under process.

Reply is not acceptable as no documentary evidence in respect of directions for medical examination and prohibitory orders were made available with Government reply.

5.3 Constitution of Safety Committee not ensured

As per Section 38(1) of the Act, establishments with five hundred or more workers are required to establish a safety committee. This committee should consist of a specified number of representatives from both the employer and the workers, as prescribed by the State Government. Accordingly, Rule 218 of the Rules 2009, prescribes the formation of a safety committee, to identify potential causes and address workplace accidents and unsafe practices. This committee is also responsible for recommending corrective actions, including provision of first aid and medical welfare facilities.

Audit observed that though the GoUP had made provisions for constitution of safety committee, but it did not specify actual number of representatives of both employer and workers for constituting the same. Besides, audit also observed that in none of the selected districts, neither the information regarding the constitution of safety committee by the eligible employers was available with the ALC/DLC nor any observation regarding safety committee was found in the inspection note of the Inspector of the Director (Factories). It was also observed that no instructions were issued to eligible employers by the labour department for ensuring the constitution of the safety committee on the basis of information of registration of establishments. As a result, constitution of safety committee by the eligible employers could not be ensured for preventing accident at work site.

In reply, the State Government stated (March 2024) that directions are being issued for better coordination with the Registering Officers of establishments, to ensure availability of information of eligible establishments in this regard to the Assistant Director (Factories). The State Government also added that issue of safety committee constitution has been incorporated into the proposed check list of inspections to ensure strict compliance of provision of the Act and Rules.

5.4 Appointment of Safety Officer not ensured

As per Section 38(2) of the Act, employers of establishments with 500 or more workers are mandated to designate a Safety Officer, for carrying out duties prescribed by the State Governments in this regard. Rule 219 of the Rules 2009, mandates employers to appoint a Safety Officer. Employers are also required to inform the relevant Inspector of this appointment. Duties of Safety Officer include ensuring a safe working environment at the worksites to prevent worker injuries and investigate accidents or occupational diseases. Besides, as per Rule 219(3) smaller employers may collaborate to appoint a common Safety Officer for their group, with prior permission of the Chief Inspector. Consequently, the appointment of a Safety Officer was made mandatory by the GoUP.

However, audit observed that in selected districts, neither the intimation of appointment of Safety Officer was available with the Inspectors for the period 2017-22 nor status of appointment of Safety Officer was commented upon by

them during the inspections. As a result, appointment of Safety Officer for ensuring the safety and health of workers at work sites, could not be ensured.

In reply, the State Government stated (March 2024) that directions have been issued to Assistant Directors (Factories) to ensure appointment of Safety Officer and that the issue has also been included in proposed check list for inspections.

5.5 Reporting of accident cases and inquiry thereof

As per Section 39 of the Act, in case of any accident at worksite causing death or bodily injury⁵⁶ to workers, the employer shall give notice immediately thereof to such authority for investigation or inquiry of accident, in such form and within such time as may be prescribed by the State Government in this regard.

Accordingly, Rule 251 of Rules 2009 prescribes that the notice of accident will be provided by the concerned employer in Form 24 to the Chief Inspector, Board, District Magistrate, Inspector and to the in-charge of nearest police station within 12 hours of fatal accidents and 72 hours of other accidents. As per provisions of Rule 252, the Chief Inspector or an officer appointed by him may investigate these cases of accidents. Further, Rule 53 of Rules 2009 also requires employers to submit an annual return to the Registering officer in Form 15 detailing workplace accidents.

However, audit observed that in selected districts, employers did not provide notice of accidents to the Inspectors of the Director (Factories) and to the ALC/DLC being the functionary of the Board, as required under the provisions of the Act and Rules. No action was initiated against the employers, who failed to report accidents. As a result, actual number of cases of accidents at workplaces during 2017-22 in selected districts, was not on records.

Audit further observed that based on complaints or media reports, some cases of accidents at workplaces were investigated by the Inspectors of the Director (Factories) in the selected districts. The status of investigation of these cases has been given in the **Table 5.2** below:

Table 5.2: Showing details of accident cases and inquiry therein in selected districts during 2017-22

| Name of district | No. of accident cases at work sites during 2017-22 as per the information of the Assistant Director (Factories) of selected districts | No. of cases, wherein notice of accident was provided by the employer | No. of cases taken up for the inquiry |
|------------------|---|---|---------------------------------------|
| Agra | 04 | 00 | 04 |
| G B Nagar | 35 | 05 | 35 |
| Moradabad | 00 | 00 | 00 |
| Lucknow | 04 | 00 | 04 |
| Prayagraj | 01 | 00 | 01 |
| Varanasi | 01 | 01 | 01 |

(Source: Information provided by the Assistant Director, Factories of the selected districts)

⁵⁶ So that the person injured is prevented from working for a period of forty-eight hours or more.

The above Table shows that as per information of the Assistant Director (Factories) of the selected districts, all available cases of accident at workplaces during 2017-22 were investigated by the Inspectors.

However, audit observed five instances of accidents at workplaces in selected Agra (one case), Moradabad (one case) and Varanasi (three cases) districts during 2017-22, again through media reports, where required inquiry was not conducted by the Inspectors of the Director (Factories). The details of such instances have been given in **Appendix-X**. This indicated that due to lack of attention from the Inspectors of the Director (Factories) and failure of the employers to report accidents, many cases of workplace accidents could not be investigated.

Audit further observed that the employers also did not submit Annual Returns to the ALC/DLC detailing cases of accident at work sites in selected districts during the period 2017-22. Besides, audit also observed lack of co-ordination among the district authorities of the Labour and Factories in respect of exchange of information related with these accidents, which in turn resulted in either non-payment of compensation to the affected workers or not conducting of inquiry as discussed in succeeding **paragraph no. 5.7**.

Thus, there was no proper mechanism for reporting and investigation of accident cases.

In reply, the State Government stated (March 2024) that employers generally do not report accidents to authorities and the instructions have been issued for better information exchange between ALC/DLC and Assistant Director (Factories) in this regard. The State Government further confirmed that in five cases of accidents of Agra, Moradabad and Varanasi districts, inquiry could not be held due to unavailability of information.

Reply is not acceptable as out of above five cases of accidents; two cases were in notice of the concerned ALC/DLC.

5.6 Compensation to deceased or injured workers under Workmen's Compensation Act 1923

Section 58 of the Act mandates that workers are entitled to compensation for work related accidents under the provisions of the Workmen's Compensation Act 1923 (WCA). The Schedule II of the WCA also specifies Building or Other Construction Workers as workmen. The Section 3 of WCA stipulates that employers are liable to pay compensation to employees injured in work related accidents in accordance with the provisions of the WCA.

For implementation of provisions of the WCA, State Governments are required to appoint Commissioners, to whom notice⁵⁷ of the accident is to be given by the employee or any other person for claim of compensation. Besides, the Commissioners are also required to address accident notices filed with other authorities. In compliance with the provisions of the WCA, the GoUP appointed

⁵⁷ Detailing the name and address of the persons injured, cause for the injury, date of accident and is to be served on the employer wherein the injured was employed.

(January 2009) various authorities including the Labour Commissioner of UP and all ALC/DLC as Commissioner under their respective area of jurisdiction.

Audit observed that out of the selected districts, in Agra, Lucknow and Prayagraj districts; no process for compensation payment to injured or deceased workers was initiated by the DLC during 2017-22 in nine cases of investigated workplace accidents (as detailed in **Table 5.2**), although the Inspectors of Director (Factories) forwarded these cases to the concerned DLC for initiating compensation payment to the deceased workers. Further, in Agra district, though the DLC had initiated (September 2021) process of compensation payment to the family members of the deceased worker at workplace accident on 14 May 2021 (as mentioned in **Appendix-X**), no final order was made as of June 2023. Besides, in Varanasi district, in one case of accident at workplace on 11 September 2021 (**Appendix-X**), compensation was provided to the family members of deceased worker, though there were many cases of accidents during 2017-22.

It was also observed that in selected Moradabad district, despite having instance of accident at work site (as mentioned in **Appendix-X**), no action was initiated by the DLC for compensation payment to the deceased worker. However, in selected G B Nagar, compensation was provided by the DLC to the workers or their dependants in 58 cases during 2017-22.

Thus, provisions of the Act and WCA could not be adhered to (except in G B Nagar) for providing relief to the affected workers.

In reply, the State Government did not offer (March 2024) any specific comments in this regard.

5.7 Not conducting inquiry due to lack of coordination

Audit observed following instances of lack of coordination between the functionaries of the Labour and Factories regarding workplace accidents, resulting in either no investigation or non-payment of compensation:

➤ In selected Varanasi district, a notice of accident was provided (12 September 2021) by the employer to the DLC, for intimation of an accident occurred on 11 September 2021, causing death of a worker. However, despite compensation payment and acknowledgement of notice of accident, the DLC did not forward the same to the Assistant Director (Factories) for inquiry as required under the provisions of the Act and Rules 2009.

➤ In selected Agra district, the DLC constituted a team of Inspectors (including ALC and two LEOs) for inspection of a construction site to check status of establishment registration and cess deposit, based on media reports of an accident on 14 May 2021 causing death of a worker. However, the DLC did not forward the information to the Assistant Director (Factories) for conducting required inquiry as per the provisions of the Act and Rules 2009 to ascertain the causes of accident.

Thus, lack of coordination among the responsible authorities, resulted in non-compliance of provisions of the Act and Rules.

In reply, the State Government stated (March 2024) that instructions have been issued for improved coordination among the ALC/DLC and Assistant Director (Factories) to address such cases.

5.8 Execution of contract without provisioning of compliance to the Rules

As per Rule 246 of Rules 2009, all employers, contractors and other concerned departments of the Government are required to include compliance of Rules, specially related with the safety, health and welfare of workers as one of the conditions of the contract for execution of building or other construction works.

However, audit observed that in the test-checked units of selected districts, no reference to compliance of the Rules 2009 was made in agreement executed with the contractors. However, clauses related with compliance of applicable labour laws, fair wage payment, supply of wage card, display of wage rates, protection of health and sanitary arrangements, maternity benefit rules for female workers, availability of huts and wholesome of drinking water *etc.*, were included in the agreement. It was further observed that despite including some provision related with the safety, health and welfare of workers in the agreements, no mechanism was put in place to ensure their compliance. As a result, compliance of provisions of the Rules 2009 related with the safety and health of workers could not be ensured.

In reply, the State Government stated (March 2024) that due to unawareness of employers and contractors about provisions of safety and health of workers, instructions are being issued by the regional officers to aware them in this regard and also to incorporate related clauses in agreements.

5.9 Not adopting the National Building Code of India 2016

The National Building Code of India (NBC) is a comprehensive building code to provide guidelines for regulating the building construction activities in India. It serves as a model code for all construction agencies including PWD, local bodies, other Government construction departments, private construction agencies *etc.* The code was first published in the year 1970 and further revised in 1983 and 2005 as NBC 1983 and NBC 2005 respectively.

However, due to significant changes⁵⁸ in the building construction activities, NBC was again revised in 2016 as National Building Code of India 2016 (NBC 2016) reflecting the state-of-the-art and applicable contemporary international practices. Under NBC 2016, a new code titled as “Construction management, Practices and Safety” has been introduced to regulate construction project management, construction planning, site management and building construction practices. The code also addresses safety and welfare requirements for workers. Besides, provisions of the Section 40(2)(s) of the Act and Rule 220 of the Rules 2009 requires employer to ensure observance of standards of the Bureau of Indian Standards in respect of the building materials, articles or

⁵⁸ Such as prevalence of high rises and mixed occupancies, development of new/innovative construction materials and technologies, greater need for preservation of environment and recognition of need for planned management of existing buildings and built environment etc.

process used in building or other construction project for which the Indian Standards are available.

Audit noted that the State Government adopted (January 2008) NBC 2005 and directed to all DA/other Government departments related with approval of building plans to include its provisions under their bye-laws. Accordingly, the DA mandated for observance of provisions of NBC 2005 along with other standards in respect of structural safety and natural hazard protection of buildings and required submission of undertaking/certificate in respect of observance of these Code and Standards along with the application of building permission. However, NBC 2016 was not adopted by the State Government and the test-checked DA continued with enforcement of older versions of NBC. As a result, there was a lack of compliance with the provisions of the "Construction Management, Practices, and Safety" code of NBC 2016, while approving building plans/maps for Group Housing Schemes by the selected DA. The commitments made by the builders with application forms for approval of building plans during 2017-22, did not reference these standards, despite being required to adhere to available Indian Standards under the Act and Rules of 2009 to ensure the safety and health of workers.

Thus, due to not adopting the NBC 2016 while executing the construction works related with buildings, accidents at work sites could not be avoided.

In reply, the State Government stated (March 2024) that the Chief Inspector of GoUP has written letter to DA to ensure compliance of provisions of NBC 2016.

5.10 Indian Standard Safety Code for Scaffolds and Ladders (IS: 3696)

The Part 1 of Indian Standard for Scaffolds and Ladders (IS 3696) lays down safety requirements for erection, use and dismantling of scaffolds used in construction work for supporting and safety of workers. Similarly, Part 2 of this standard lays down the safety requirements for ladders used for various jobs in general construction work including their maintenance and demolition. The Section 40(2)(a) of the Act and Rule 60 and Rule 79 of the Rules 2009 also require that the scaffolds and ladders used in building or other construction works should be conforming to the national standards in this regard.

However, audit observed that the test-checked DAs did not incorporate any clause in their bye-laws regarding compliance with IS 3696. Due to this, no undertaking for compliance of provisions of the IS 3696 was obtained from employers of Group Housing Schemes at the time of approval of building plans in the test-checked DAs. As a result, compliance to provisions of the IS 3696 could not be ensured, though required to be observed under the provisions of the Act and the Rules 2009. Audit also found instances of accidents at workplaces involving bodily injury or death of workers due to improper maintenance of scaffolds and ladders.

In reply, the State Government stated (March 2024) that action is being taken by the Chief Inspector of GoUP for compliance of safety and health provisions by the DA.

To sum up:

The Employers, Government departments and local authorities did not adhere to safety and health provisions of the Act and the Rules 2009, including submission of safety policies, constituting safety committees, and appointing Safety Officers. The Inspectors of the Director (Factories) conducted limited inspections, and employers failed to report accidents. As a result, investigation of all cases of accidents at workplaces could not be ensured. Furthermore, compensation payment to injured or deceased workers was not made in all cases under the provisions of the Workmen's Compensation Act 1923.

Recommendation 12: *The State Government should 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.*

Recommendation 13: *The State Government may consider fixing of targets of inspections for the inspectors of factory division of labour department.*

Recommendation 14: *The State Government may 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.*