

## ***CHAPTER V***

### ***Health and Safety of Workers and Inspection of Establishments***



## **Chapter -V**

### **Health and Safety of Workers and Inspection of Establishments**

#### **5.1 Introduction**

The BOCW Act stipulated provisions for the safety and health of workers engaged in building and other construction works including powers of the State Government to frame rules for the safety and health of building workers. The MBOCW Rules also contained provisions for medical examination of the workers, availability of occupational health centres, ambulances, first-aid boxes for the health of workers.

Scrutiny revealed that the State Government had framed rules (February 2007) for the safety and health of the workers. However, the Department did not ensure adherence to the rules as regards submission of safety and health policy by the employers, obtaining various test certificates and examinations of appliances and equipment used in construction and constitution of safety committee and appointment of Safety officer. Further, inspection of establishments registered under BOCW Act and unregistered establishments was also not done as discussed in the succeeding paragraphs.

#### **5.2 Health and safety policy, safety committee and safety officers**

Rule 66 (1) of MBOCW Rules stipulated that every establishment employing 50 or more building workers had to prepare a written statement of policy in respect of the safety and health of building workers and submit the same for the approval of the Chief Inspector (Commissioner of Labour). The policy was to contain *inter alia* intention and commitment of the establishments regarding health, safety and environment protection of building workers, the responsibility of its implementation at different levels of hierarchy, techniques and methods for assessment of risk to safety, health and environmental and remedial measures, arrangements for training of building workers, trainers, supervisors or other persons engaged in the construction work.

As per the information furnished by the Commissioner of Labour, 3,578 establishments which had employed more than 50 workers had registered under the BOCW Act in the State (2,519 establishments in six selected districts) during the period 2017-18 to 2021-22. However, no policy statements in respect of the safety and health of building workers were received during 2017-18 to 2021-22 for approval by the Commissioner of Labour in the entire State.

In the six selected districts, out of 48 establishments (24 registered and 24 unregistered) jointly inspected by Audit (eight from each district), 16 establishments had employed 50 or more workers. Out of these 16 establishments, 14 establishments had prepared a written statement of policy in respect of safety and health of building workers but the same was not submitted to the Commissioner of Labour.

As per Rule 235 of MBOCW Rules, in every establishment wherein 500 or more building workers are employed, a safety committee shall be constituted

by the employer represented by equal number of representatives of employer and building workers engaged in such establishment. Rule 236 of MBOCW Rules also stipulated that a safety officer should be appointed in such establishments. In the State, 301 establishments which had employed 500 or more workers had registered during 2017-18 to 2021-22, while in the six selected districts, 155 establishments were registered (which had employed 500 or more workers) during the same period. Audit noticed that the Department had not carried out inspections to ensure that these establishments constituted the safety committee and appointed Safety officers.

In reply, the Government accepted (July 2024) the fact that policy statements were not received for approval. In the exit conference (July 2024), the Principal Secretary stated that the statement of policy was not being received as the Labour officials were not insisting on the same but now instructions would be issued and compliance to the provisions of the Act ensured.

### **5.3 Inspection of Establishments**

An establishment registered under BOCW Act had to adhere to various provisions contained in the MBOCW Rules such as:

- Provision of various protective equipment to the workers (Rule 73 of MBOCW Rules);
- Provision of safety belts and safety nets (Rule 205 and 206 of MBOCW Rules);
- Medical examination of workers engaged in the operation of a crane, winch or other lifting appliance, transport equipment or vehicle before employing such operator (Rule 250 of MBOCW Rules);
- Furnishing certificates of initial and periodical tests and examinations of lifting appliances, loose gears, cranes and hoists *etc.* (Rule 101 of MBOCW Rules).

The inspection of the establishments under the BOCW Act was therefore of vital importance to ensure the safety and health of workers. The State Government had notified (August 2011) the Commissioner of Labour as the Chief Inspector of Inspection of Building and Construction work and the Government Labour Officers in the districts as Inspectors under the BOCW Act. Rule 262 of MBOCW Rules stipulated the power of Inspectors to inspect the building and other construction work.

Considering the ease of doing business policy of the Government, the Department vide Government Resolution (GR) resolved (August 2017) to form a Central Inspection System (CIS) to integrate the independent inspection system for all the Labour Legislation enforcing wings of the Labour Department namely Commissioner of Labour, Director of Industrial Safety and Health (DISH), Commissioner, Maharashtra Labour Welfare Board (MLWB) and the inspection system of the Maharashtra Pollution Control Board (MPCB) under the Environment Department. The purpose of adopting CIS was to synchronize multiple inspections and to check the system thoroughly by the inspection schedule. As per the GR, the Inspectors were required to inspect 10 establishments per month, randomly allotted to them through CIS. Further, the Inspectors were required to carry out surprise inspections or inspections based on complaints with specific permission from the Head of the department. For

this purpose, enforcing wings of the department had to send the data of establishments, to be collated into the CIS maintained by MPCB.

Audit noticed that the database of establishments under the BOCW Act was not sent by the Commissioner of Labour Department to MPCB for uploading in the CIS to facilitate the selection of establishments for risk-based inspection. Consequently, inspections of none out of 9,891 registered establishments covered under the BOCW Act in the State (6,997 in six selected districts) were conducted during 2017-18 to 2021-22.

The Commissioner of Labour had fixed (May 2016) a monthly target of inspecting 12 unregistered establishments by the Government Labour Officer and six unregistered establishments to be inspected by the Assistant Labour Commissioner under BOCW Act. However, after the introduction of CIS in August 2017, inspections of unregistered establishments under BOCW Act were not done by the Department as CIS covered only establishments registered with the Board.

In reply, the Government while accepting (July 2024) that the related data was not sent, stated that the data has been sent in June 2023 and inspection of establishments received from CIS was conducted. In the exit conference (July 2024), the Principal Secretary stated that the inspections of establishments would be ensured including unregistered establishments. It was however noticed that inspections of unregistered establishments were not being conducted even as of December 2024 through CIS.

Joint inspection of 24 registered and 24 unregistered establishments in the six test-checked districts revealed the following:

- Out of 24 registered establishments, six (29 *per cent*) out of 21<sup>30</sup> establishments did not furnish certificates of initial and periodical tests and examinations of lifting appliances, loose gears, cranes and hoists *etc.*, and nine out of 24 (37 *per cent*) establishments did not conduct medical examination of workers. Further, the register of beneficiaries in Form -VII as per Rule 34 of MBOCW Rules was not maintained in 19 establishments, register of building workers employed in Form IX as per Rule 53 of MBOCW was not maintained in 17 establishments and muster roll in Form X as per Rule 54 (1) (a) was not maintained in 22 establishments.
- Out of 24 unregistered establishments 15 (94 *per cent*) out of 16<sup>31</sup> establishments did not furnish certificates of initial and periodical tests and examinations of lifting appliances, loose gears, cranes and hoists *etc.*, and 19 out of 24 (79 *per cent*) establishments did not conduct medical examination of workers.

In the exit conference (July 2024), the Principal Secretary stated that instructions would be issued to ensure compliance to the provisions of the Act.

---

<sup>30</sup> In three establishments use of lifting appliances, cranes *etc.* was not involved.

<sup>31</sup> In eight unregistered establishments use of lifting appliances, cranes *etc.* was not involved.

#### 5.4 Inspection of Accident Sites

The Inspection of Accident sites/ incident sites was mandated under Section 39 of BOCW Act. As per Section 39 where in any establishment an accident occurs which causes death or which causes any bodily injury due to which the person injured is prevented from working for a period of forty-eight hours or more, the employer should give notice thereof to such Authority<sup>32</sup>, in such form and within such time as may be prescribed. On receipt of such notice, the Authority may make such investigation or inquiry as it considers necessary.

Though the statutory inspection of the establishments through CIS portal was not done as discussed in paragraph 5.3, inspections conducted by the officials of the Labour Department were test-checked in 37 accident cases (37 establishments) out of 56 accident cases involving death of 67 workers during the period 2017-18 to 2021-22 in four<sup>33</sup> out of six selected districts. Audit noticed that only 18 out of the 37 establishments were registered. Stop work orders were issued initially for failure to adhere to safety measures and lack of safety equipment. Thereafter these stop work orders were revoked by the Commissioner of Labour after ensuring that safety measures were in place. Scrutiny of 20 stop work orders which were revoked and made available to Audit (out of 37 cases noticed) revealed that compensation to be paid to the legal heirs of the deceased was deposited with the Commissioner, Workmen Compensation by the Employers of these establishments.

#### Conclusion

The department did not initiate any action to get the safety policy framed by registered establishments in respect of the safety and health of building workers. None of the registered establishments were inspected during 2017-18 to 2021-22 and unregistered establishments remained out of coverage in the Central Inspection System. Joint inspection of registered establishments revealed that safety and health norms were not being followed.

***Recommendation 8: The Government may ensure timely updation of data in Central Inspection System and periodic inspection of registered and unregistered establishments to check the compliance of provisions of BOCW Act.***

***Recommendation 9: The Government may ensure that every establishment is following safety and health norms to mitigate the risk of incidents/accidents in construction sites.***

---

<sup>32</sup> Rule 237 of MBOCW Rules stipulates the Assistant Commissioner of Labour and the Deputy Commissioner of Labour having jurisdiction in the area in which such accident or dangerous occurrence takes place, as the Authority appointed under Section 39 of the BOCW Act.

<sup>33</sup> Pune, Thane, Mumbai City and Mumbai Suburban. No accidents were reported during 2017-18 to 2021-22 in Nagpur and Kolhapur districts.