

CHAPTER I

Introduction

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The Government of India (GoI) enacted (August 1996) the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act) to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures.

The BOCW Act *inter alia* mandated the constitution of Building and Other Construction Workers' Welfare Board and framing of rules by every State Government to exercise the powers conferred under the Act. The provisions of the Act applied to 'every establishment'¹ which employs or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work². The BOCW Act stipulated that every building worker in the age group of 18 to 60 years and engaged in any building or other construction work for a period not less than ninety days during the preceding twelve months was eligible for registration as a beneficiary.

To augment the resources of the Building and Other Construction Workers' Welfare Boards, the Government of India (GoI) also enacted (August 1996) the Building and Other Construction Workers' Welfare Cess Act, 1996 (Cess Act) for levy and collection of cess on the cost of construction incurred by the employers. Ministry of Labour, GoI notified (September 1996) the levy of cess at the rate of one *per cent* of the total cost of construction incurred by an employer. GoI also enacted (March 1998) the Building and Other Construction Workers' Welfare Cess Rules, 1998 (Cess Rules) to implement the provisions of the Cess Act.

The Industries, Energy and Labour Department, Government of Maharashtra, in exercise of the powers conferred under the BOCW Act, notified (February 2007) the Maharashtra Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2007 (MBOCW Rules). The Labour Department constituted (August 2007) the Maharashtra Building and Other Construction Workers Welfare Board (Board) to carry out welfare schemes for construction workers. The functions of the Board, *inter alia* included providing immediate assistance to a beneficiary in case of accident, payment of pension to beneficiaries who have completed the age of sixty years, sanction of loans and advances for construction of houses, payment of premia for Group Insurance Scheme of the beneficiaries, financial assistance to the beneficiaries for the education of children, medical expenses for treatment of major ailments and maternity benefit to the female beneficiaries.

¹ Establishment means any establishment belonging to or under the control of Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work and includes an establishment belonging to a contractor.

² Building or other construction work is defined under the BOCW Act as any construction, alteration, repairs, maintenance or demolition of or in relation to buildings, streets, roads, railways, tramways, airfields, irrigation, drainage *etc.* and such other works, as notified by the State Government.

The cess collected on the cost of construction incurred by the employers is credited to the 'Building and Other Construction Workers' Welfare Fund' (Fund) and benefits to the registered beneficiaries under the Act are provided from this Fund. The opening balance of the Fund as on 01 April 2017 was ₹ 5,857.29 crore. The total receipts of the Board from 2017-18 to 2021-22 were ₹ 10,294.53 crore which included cess collection of ₹ 7,689.73 crore, interest on investment of ₹ 2,571.90 crore, registration fees, other receipts and prior year adjustments of ₹ 32.90 crore. The total expenditure of the Board during 2017-18 to 2021-22 was ₹ 4,482.22 crore out of which the expenditure on various schemes implemented by the Board was ₹ 4,253.77 crore while the administrative expenditure was ₹ 228.45 crore. The closing balance under the Fund as of March 2022 was ₹ 11,669.60 crore.

During the years 2017-18 to 2021-22, the Board had implemented 18 schemes for the benefit of the construction workers. The major schemes implemented by the Board were distribution of mid-day meal scheme, distribution of safety and essential kits to workers, financial assistance during the Covid pandemic and direct benefit transfer for education, social, financial and health purposes on which 88 *per cent* of the scheme expenditure was incurred during the years 2017-18 to 2021-22. The Board had 10.81 lakh active registered workers as of March 2022.

1.2 Organisational Setup

As per the BOCW Act, the Board consists of a Chairperson³ and an equal number of members representing the State Government, the employers and the building workers. The Secretary of the Board appointed by the State Government is the Chief Executive Officer (CEO) of the Board. The Board has established 43 Workers Facilitation Centre (WFC) in the State to facilitate the registration of workers, renewal of workers registration and distribution of benefits under various welfare schemes as on 31 March 2022. The Administrative Department of the Board is the Labour Department, Government of Maharashtra (Department) headed by the Principal Secretary.

There are six⁴ divisional offices headed by the Additional Labour Commissioner/Deputy Labour Commissioner of the Department. At the District level, the District Labour Office headed by the Deputy Commissioner of Labour/Assistant Commissioner of Labour of the Department is responsible for the registration of establishments under the BOCW Act. The Additional Labour Commissioner/Deputy Labour Commissioner, Assistant Commissioner of Labour, and other officials of the Labour Department such as Government Labour Officer, Senior Labour Investigator *etc.*, were notified (September 2021) as Registering Officers for Registration of building workers as beneficiaries.

The Commissioner of Labour was notified (August 2011) as the Chief Inspector and was responsible for effectively carrying out the provisions of the BOCW

³ Minister of Labour was appointed in December 2019 as ex-officio Chairperson of the Board by the Labour Department, Government of Maharashtra.

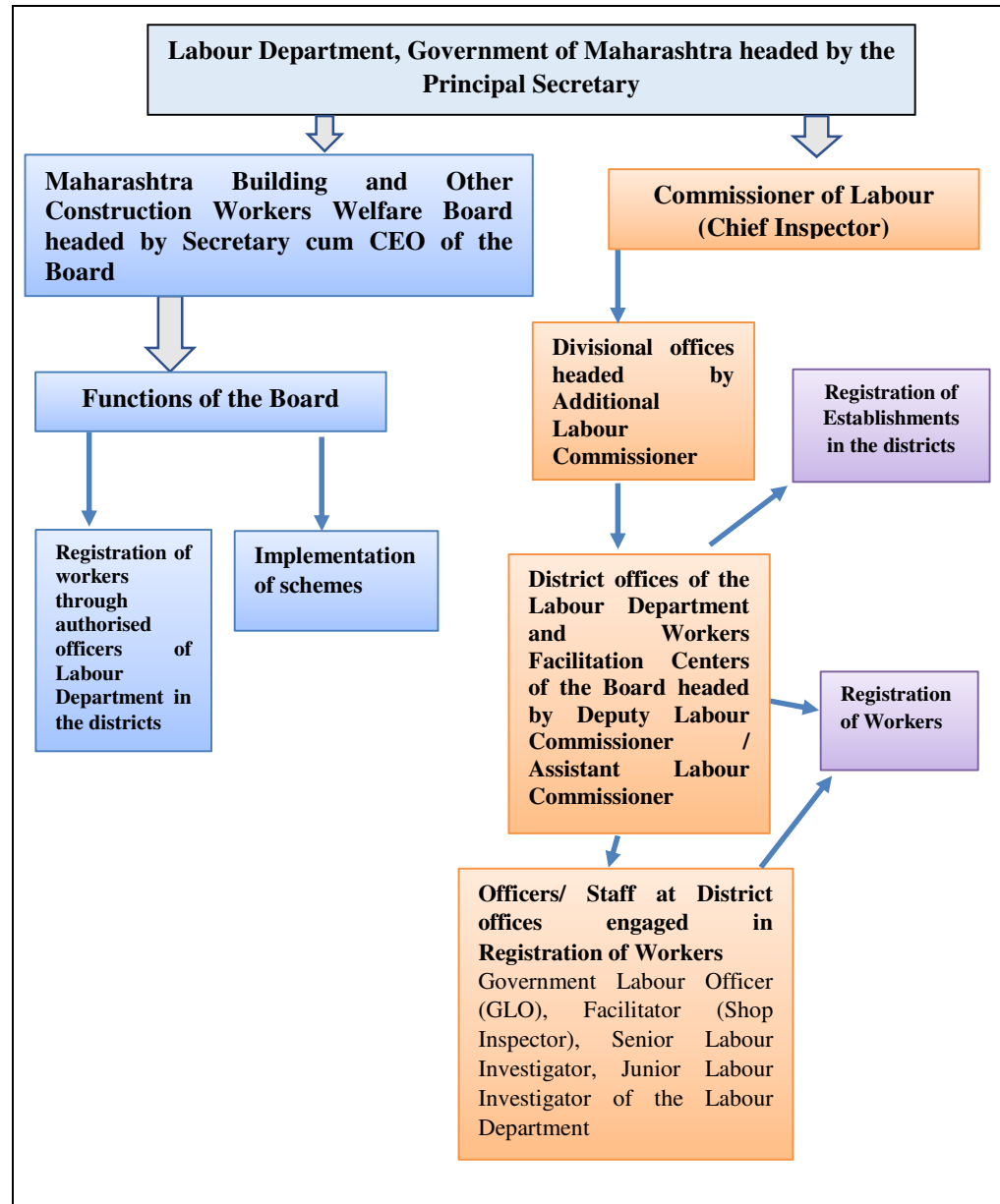
⁴ Divisional Offices at Konkan (Mumbai), Pune, Nashik, Chhatrapati Sambhajinagar (previously known as Aurangabad), Nagpur and Amravati are the Regional heads of the District Labour Offices functioning under them.

Act in the State while the Government Labour Officers in the districts were notified (June 1997) as Inspectors by the Government of Maharashtra under the BOCW Act. Every Inspector appointed under this Act was subject to the control of the Chief Inspector, and was to exercise his powers and perform his functions under this Act subject to the general control and supervision of the Chief Inspector.

The officers of the Public Works Department, Public Sector Undertakings, Urban and Rural Local Bodies and Revenue Department were notified (April 2008) as Cess Collectors, Assessing Officers and Appellate authorities for the development plans approved/ works being executed by them for the purpose of collection of cess, assessment of cess and appeals under the Cess Rules.

The function and functionaries engaged in the implementation of BOCW Act and MBOCW Rules are depicted in **Chart 1.1**.

Chart 1.1: Function and functionaries engaged in the implementation of BOCW Act and MBOCW Rules



1.3 Audit Objectives

The Audit was conducted to ascertain whether:

- the Rules notified by the State Government are consistent with the spirit of the BOCW Act and the existing set up was adequate to ensure compliance with the provisions of Act.
- there was an effective system for the registration of establishments and beneficiaries;
- the cess assessment, collection and transfer of collected cess to the Fund was efficient;
- the State Government prescribed appropriate health and safety norms and could ensure an environment through inspection to comply with those norms by employers; and
- the administration and utilisation of funds on the implementation of welfare scheme by the Board was efficient and effective and as per the Act and Rules framed by the State Government.

1.4 Audit Criteria

The audit findings were benchmarked against the following criteria:

- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
- The Maharashtra Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2007;
- The Building and Other Construction Workers' Welfare Cess Act, 1996;
- The Building and Other Construction Workers' Welfare Cess Rules, 1998;
- Board Resolutions and State Government Resolutions issued from time to time; and
- Supreme Court Judgement in Writ Petition (Civil No. 318/2006) dated 19 March 2018

1.5 Audit Scope and Methodology

A Performance Audit on "Welfare of Building and Other Construction Workers" was conducted from October 2022 to July 2023 covering the period 2017-18 to 2021-22 through a test-check of records at Labour Department, Government of Maharashtra, the Board and Commissioner of Labour.

Six districts (Kolhapur, Mumbai City, Mumbai Suburban, Nagpur, Pune and Thane) out of 36 districts in the State were selected for audit. Kolhapur, Pune and Nagpur districts were selected based on the highest expenditure incurred on the schemes implemented by the Board during 2017-18 to 2021-22, while Thane, Mumbai City and Mumbai Suburban districts were selected as these districts had the highest Gross Domestic Product during 2017-18 to 2021-22. Records in the district offices of the Commissioner of Labour and the Board, in the six selected districts were also test-checked.

Two Local Bodies/Urban Development Authorities (planning units) were also selected from each selected district to assess whether applicable labour cess was

collected while approving the building plan and deposited with the Board. Further, to check the registration of establishment/employers, deduction of labour cess and its timely deposit to the Board, two building construction works executing units were selected from each selected district. Thus, total 20 units (Brihanmumbai Municipal Corporation (BMC) and Mumbai Metropolitan Region Development Authority (MMRDA) which came in selection during sampling of two districts *i.e.* Mumbai city and Mumbai Suburban hence counted as two in place of four units) were selected in the six selected districts as shown in **Appendix 1.1**. In the 10 selected planning units, 169 building plans out of 34,802 building plans approved during 2017-18 to 2021-22 were selected for scrutiny. In the 10 selected works executing units, 60 construction works were selected *i.e.* 10 construction works each in BMC and MMRDA and five construction works each in the remaining eight works executing units with highest expenditure during 2017-18 to 2021-22 were selected for scrutiny.

Ten out of 18 schemes implemented by the Board during 2017-18 to 2021-22 were selected on stratified random sampling basis for scrutiny. 10 applications of beneficiaries from each selected scheme in the selected districts were checked for eligibility conditions and timely disbursement of benefits. Audit also conducted joint inspection of 48 establishments (24 registered and 24 unregistered establishments) and eight establishments/sites where incidents/accidents occurred in the selected districts. Apart from the above said establishments, inspection reports of 37 out of 56 accident cases in the six selected districts were also test-checked in audit. A beneficiary survey of 600 workers⁵ (100 workers in each district) was done jointly with the representatives of the Department.

An Entry Conference was held in September 2022 with the Principal Secretary Labour Department, Government of Maharashtra wherein audit objectives, audit criteria, audit scope and methodology were discussed. An Exit Conference was held in July 2024, with the Principal Secretary, Labour Department to discuss the audit findings. Reply received (July 2024) from Labour Department has been incorporated in the Report.

Audit findings on the Functioning of Maharashtra Building and Other Construction Workers Welfare Board were included in paragraph 3.3 of the Report of the Comptroller and Auditor General of India for the year ended March 2014 on Economic Sector, Government of Maharashtra (Report No. 3 of the year 2015). The Public Accounts Committee in its 23rd Report of 2015-16, submitted its recommendations to the State Legislature in August 2017.

1.6 Acknowledgement

Audit acknowledges the co-operation and assistance extended by the Department, Maharashtra Building and Other Construction Workers Welfare Board, Urban Local Bodies, Mumbai Metropolitan Region Development Authority, and Public Works Divisions in providing records, information and clarifications from time to time for the smooth conduct of audit.

⁵ Registered workers:440; Unregistered workers:160.

