

CHAPTER III

Registration of Establishments and Workers

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3.1 Registration of Establishments

The provisions of the BOCW Act applied 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 work¹⁸. Establishment under the BOCW Act 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.

As per Section 7 of the BOCW Act, every employer¹⁹ in relation to an establishment to which the act is applicable shall make an application within a period of 60 days of commencement of work to the Registering Officer (Assistant Labour Commissioner) of the area in which the building or other construction work is to be carried out for the registration of such establishment. The entire process of submission of application by the employer, payment of fees by the employer and issue of certificate of registration by the Labour Department was carried out through a web-based online system. While making the application for registration of establishment, the employer is required to mention the details such as name and location of establishment where building and other construction work is to be carried out, nature of work, maximum number of building workers proposed to be employed on any day, estimated date of commencement and completion of work *etc.*

3.1.1 Registration of establishments in the State and in selected districts

Registration of establishment brings the employers under the ambit of the BOCW Act and MBOCW Rules, thereby ensuring compliance with the safety, health and welfare measures of workers.

During the years 2017-18 to 2021-22, the number of registered establishments in the State was 9,891, while the number of registered establishments in the six test-checked districts was 6,997 as shown in **Table 3.1**.

¹⁸ 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.

¹⁹ As per Section 2 (1) (i) of the BOCW Act, employer in relation to an establishment, means the owner thereof, and includes (i) in relation to a building or other construction work carried on by or under the authority of any department of the government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the Head of the department; (ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the Chief Executive Officer of that authority or establishment; (iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor.

Table 3.1: Establishments registered during 2017-18 to 2021-22 in the State and six selected districts

Year	State	Selected districts (six)						Total of six selected districts
		Kolhapur	Pune	Thane	Nagpur	Mumbai City	Mumbai Suburban	
2017-18	1,434	10	465	189	47	53	204	968
2018-19	1,805	27	551	213	43	130	373	1,337
2019-20	2,276	5	837	193	58	104	331	1,528
2020-21	1,901	2	827	180	23	46	186	1,264
2021-22	2,475	6	1,160	223	32	124	355	1,900
Total	9,891	50	3,840	998	203	457	1,449	6,997

Source: Information furnished by Commissioner of Labour

As seen from **Table 3.1**, the number of registered establishments in the six test-checked districts was 6,997 (71 *per cent*) of the total number of registered establishments in the State.

Further, in 60 construction works test-checked in audit, 73 *per cent* (44 out of 60) of the establishments were not registered. Audit also noticed that in 19 (51 *per cent*) out of 37 accident cases test-checked, the establishments were not registered.

This indicates that all the establishments were not registered. In reply, the Government stated (July 2024) that the Board had from time-to-time requested Government organisations to provide details of construction works being carried out under their jurisdiction and furnish copies of the work orders/commencement certificates. This shows that the entire process of registration of establishments was solely dependent on self-reporting by the establishments and there is absence of any effective mechanism to locate unregistered establishments for registration under BOCW Act.

In the exit conference (July 2024), the Principal Secretary stated that a new portal was under development, wherein all the projects sanctioned by the Maharashtra Real Estate Regulatory Authority costing above ₹ 50.00 crore would be compulsorily registered.

3.1.2 Non-receipt of copies of approved plans/work orders

Considering that a large number of employers were not registering their establishments under the BOCW Act, the Public Accounts Committee (PAC) had recommended (August 2017) to set-up a mechanism to locate unregistered establishments and strictly enforce penal provisions for non-registration of establishments.

The Department issued (November 2020) a circular to the Urban Development Department, Housing Department and all the Local bodies to ensure that copies of approved plans/ work orders were also provided to the Registering officers to ease the process of registration of establishments and construction workers. Audit observed that in five districts²⁰ viz. Mumbai City, Kolhapur, Mumbai Suburban, Pune and Thane, the Inspectors did not receive approved plans /work orders during 2017-18 to 2021-22.

²⁰ Information was not received from Nagpur District.

In reply, the Government stated (July 2024) that the Board had from time-to-time requested Government organisations to provide details of construction works being carried out under their jurisdiction and furnish copies of the work orders/ commencement certificates. Thus, a mechanism to improve registration of establishments devised by the Department, by directing the local bodies/departments engaged in undertaking and authorizing construction activities to furnish approved plans/work orders to the Registering officers, was not implemented.

3.1.3 Notice of commencement of work

As per Section 46 of the BOCW Act, every employer was required to send a notice of commencement of work to the concerned Inspector of the Labour Department at least thirty days before the commencement of any building or other construction work. Further, as per Section 48 of the BOCW Act, if an employer fails to give notice of commencement of building or other construction work, the employer shall be punishable with imprisonment for a term which may extend to three months or with a fine which may extend to ₹ 2,000 or with both.

Audit observed that in five out of six selected districts *i.e.* in Pune, Thane, Kolhapur, Nagpur and Mumbai City, the Inspectors had not received any notice of commencement of building or other construction work from the employers during the period 2017-18 to 2021-22. In Mumbai suburban district only two notices of commencement of work were received during 2017-18 to 2021-22. Action taken if any, for non-compliance with the provisions of the Act was awaited from the Department.

The receipt of notice of commencement of work in addition to the receipt of copies of approved plans/ work orders would have facilitated improvement in the registration of establishments.

3.2 Registration of Workers

Section 12 of the BOCW Act stipulated that every building construction 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 is eligible for registration as beneficiary under BOCW Act.

For registration of construction workers, an application is made by a worker in the prescribed form to the registering officers of the Districts authorised by the Labour Department along with the prescribed documents (proof of age, certificate of engagement in building or construction work and photograph) and a registration fee of ₹ one per year. After registration, the worker is issued an identity card by the Board through the Workers Facilitation Centre in the districts. The Board operationalised (July 2020) a web-based online system *viz.*, Integrated Welfare Board Management System (IWBMS), to enhance labour registration and labour welfare services and provide more effective services to labourers. The IWBMS enabled workers to fill forms (directly or through Workers Facilitation Centres) for registration and renewal, upload scanned documents and submit claims for benefits under various schemes. A worker ceased to be a beneficiary if the registration was not renewed after one year.

3.2.1 Registration of workers in the State

The number of workers registered in the State during 2017-18 to 2021-22 is shown in **Table 3.2**.

Table 3.2: Number of workers registered during 2017-18 to 2021-22

Year	Number of New registrations during the year	Renewals during the year	Total
	(in lakh)		
2017-18	3.55*		3.55
2018-19	6.62*		6.62
2019-20	7.56*		7.56
2020-21	0.79	0.33	1.12
2021-22	8.31	2.50	10.81
	*Separate data of renewal and registration not furnished to Audit		

Source: Information furnished by the Board

As seen from **Table 3.2**, there has been a significant increase in the number of workers registered during 2021-22 as compared to 2017-18. The decline in registrations during 2020-21 could be on account of Covid pandemic and periodic stoppage of all activities including construction works.

The district-wise number of workers registered in the State as of March 2022 is shown in **Appendix 3.1** and summarised in **Table 3.3**.

Table 3.3: District-wise number of workers registered in the State as of March 2022

Sr. No.	Number of workers registered in the district	Number of districts (percentage)
1	Less than 25,000	17 (50)
2	Between 25,000 to 50,000	10 (29)
3	Between 50,000 to 75,000	6 (18)
4	Between 75,000 to 1,00,000	0
5	More than one lakh	1 (3)

Source: Information compiled from IWBMS

As seen from **Table 3.3**, in 17 districts (50 per cent), the workers registered were less than 25,000. In nine districts²¹ (26 per cent) the workers registered were less than 10,000. Kolhapur district had the highest number of registered workers (1.87 lakh) in the State due to registration of 'naka workers'²² though the number of establishments registered during 2017-18 to 2021-22 was only 50.

Joint inspection of 24 registered establishments out of the total 6,997 establishments in selected six districts and 24 unregistered establishments in selected six districts conducted by Audit with the representatives of the Department revealed that out of 1,391 workers employed in these establishments, 894 workers (64 per cent) were not registered with the Board. This clearly indicates non-registration of all eligible workers, which resulted in their non-coverage under various schemes being implemented by the Board.

²¹ Sindhudurg, Raigad, Gondia, Bhandara, Nashik, Hingoli, Ratnagiri, Dharashiv (earlier known as Osmanabad) and Nandurbar.

²² 'Naka' means a junction. Naka workers means those workers who assemble at 'naka' in the morning and wait for work from labour contractors.

3.2.2 Identification of unregistered workers covered under Mid-Day Meal Scheme and Health Check-up Scheme

The Board had executed agreements (February 2019, March 2019 and December 2019) with service providers (as discussed in paragraphs 6.3 and 6.5) for providing mid-day meals and conducting medical examinations of construction workers. The terms and conditions of the agreement required the service providers to carry out the survey of registered and unregistered workers at construction sites in the district and submit survey reports to the Board with information related to the address of construction sites, name and contact details of employers, number of registered and unregistered workers *etc.* Audit observed that the survey report was not submitted by the service providers.

In reply, the Government stated (July 2024) that agencies supplying mid-day meals and health checkup scheme, had been instructed to submit the details of construction/ *naka* site and number of workers to the District offices for approval. Audit is of the view that the Board had lost an opportunity which would have effectively facilitated the registration of workers at the construction/*naka* sites.

3.2.3 Time taken in registration of workers

Audit observed that the Board had not prescribed any timeline for registration of workers as beneficiaries after the applications had been submitted by the construction workers. Audit analysed time taken in registration of workers during the period April 2021 to March 2022 and observed that 48.17 *per cent* of workers were registered after more than 100 days from the date of application as shown in the **Table 3.4**.

Table 3.4: Time taken for approval of applications during 2021-22 (in percent)

Period	Number of workers registered	Number of days between receipt of application and registration			
		On same day	1-10 days	11-100 days	More than 100 days (101 to 833 days)
01.04.2021 to 31.03.2022	10,81,140	3,654	77,049	4,79,542	5,20,895
		0.34 %	7.13 %	44.35 %	48.18 %

Source: Information compiled from IWBMS

The delay in registration/renewals would deprive the workers the benefit of the schemes implemented by the Board, during the intervening period. In this regard, reply is awaited from the Board (October 2024).

3.2.4 Registration of ineligible workers

Registering Officers at district level are responsible for verifying the documents submitted by workers before approving their application. After implementation of online system IWBMS (Integrated Welfare Board Management System) in the State from July 2020, the workers could fill the form and upload the prescribed documents for registration. Workers were also required to upload their work certificates²³ issued by contractors showing their engagements in any

²³ Includes the name and registration details of the employer, district and taluka of the employer, date of certificate, period of employment of worker with employer, *etc.*

building or other construction work for not less than 90 days during the preceding 12 months.

After verification of all the documents uploaded in IWBMS, the Registering Officers accept or reject the application for registration.

Audit noticed registration of ineligible workers based on doubtful work certificates submitted by the workers as discussed in the succeeding paragraph.

The IWBMS database in respect of WFC Kolhapur (Kolhapur district) showed that work certificates for 90 days were issued by six contractors to 6,178 workers based on which workers were registered during 2020-21 and 2021-22. Since these six contractors had issued a large number of certificates, Audit cross-checked the data in IWBMS with the data of registered establishments available with the Commissioner of Labour and found that none of these six contractors had registered their establishments under the BOCW Act. Audit also sought information about the number of workers to whom work certificates were issued by these six contractors. Information furnished by these six contractors to the Assistant Commissioner of Labour, Kolhapur revealed that they had issued certificates to only 133 workers instead of 6,178 workers.

Similarly, in WFC Ichalkaranji (Kolhapur district) eight contractors had issued work certificates to 1,211 workers. Audit scrutiny revealed that none of these eight contractors had registered their establishments under the BOCW Act. Further, as per the information furnished by the eight contractors, they had issued certificates to only 118 workers instead of 1,211 workers. Thus, the authenticity of 7,138 work certificates (at WFC Kolhapur and Ichalkaranji) based on which the workers were registered, was doubtful.

The registration of workers based on certificates whose authenticity was doubtful indicated lack of checks in the IWBMS system to flag the issue of large number of work certificates issued by one contractor as a potential risk area for reconfirmation before registration. This also indicates inadequate verification by registering authorities before approval of applications submitted by workers. The registration of ineligible workers also results in irregular grant of benefits under the schemes implemented by the Board.

In reply, the Government stated (July 2024) that detailed reports have been called for from Assistant Labour Commissioners of Kolhapur and Ichalkaranji on the issue. In the exit conference (July 2024), the Principal Secretary admitted that the possibility of registration of ineligible workers cannot be ruled out. It was further stated that the IWBMS agency would be directed to check the feasibility of red-flagging cases where a large number of workers are registered based on certificates issued by the same establishment, for verification.

3.2.5 Issue of Identity Cards

As per Section 13 of the BOCW Act, the Board has to issue every beneficiary an identity card with enough space for entering the details of the building or other construction work done. As per Section 13(2) of the Act, every employer was also required to enter in the identity card the details of the building or other construction work done by the beneficiary and authenticate the same and return it to the beneficiary.

Audit observed that the issue of identity cards which contained space for entering the details of the work done by the beneficiary was discontinued by the Board with the introduction of smart cards from July 2020. Though the smart card had the details of the workers such as the name, age, and photograph, it was not possible to capture the details of work done by the beneficiary as required under Section 13(2) of the BOCW Act.

In the exit conference (July 2024), the Principal Secretary stated that the aspect regarding smart card issued not capturing the details of work done as required under the BOCW Act, 1996 would be looked into.

Conclusion

A mechanism to improve the registration of establishments devised by the Department, by directing the local bodies/departments to furnish approved plans/work orders to the Registering officers, was not implemented.

The Board had not prescribed any time limit for disposal of the applications for registration of workers. The authenticity of work certificates based on which the workers were registered was also doubtful in the test-checked districts.

Recommendation 3: The Government may make it mandatory that all Departments and Local bodies adhere to instructions to furnish copies of the work orders/approved plans to the Registering Authorities to strengthen the process of registration of establishments.

Recommendation 4: The Government may ensure that the process of registration of workers is made more robust with appropriate validation checks in the Integrated Welfare Board Management System to prevent registration of workers on the basis of employment certificates whose authenticity is doubtful as well as to ensure better monitoring of services provided to labourers.

