

Chapter 4

**Performance Audit on Welfare of
Building and Other Construction
Workers**

Chapter 4

Labour Department

Performance Audit on Welfare of Building and Other Construction Workers

4.1 Introduction

With a view to regulate the employment and conditions of service of building and other construction workers, the State Government of Haryana framed the Haryana Building and Other construction Workers (Regulation of employment and Conditions of Service) Rules 2005 (the Rules) under Section 62 and 40 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service Act, 1996 (the Act) for implementation of the Act. In compliance to the provisions of Section 18 of the Act, the State Government constituted (November 2006) the Haryana Building and Other Construction Workers Welfare Board (the Board) and imposed (January 2007) cess at the rate of one *per cent* in accordance with the requirements of the Building and Other Construction Workers Welfare Cess Act, 1996 (Cess Act). The Board is responsible for registration of construction workers as beneficiaries, formulation of schemes and ultimate disbursement of benefits to the construction workers, administration and investment of funds collected as cess.

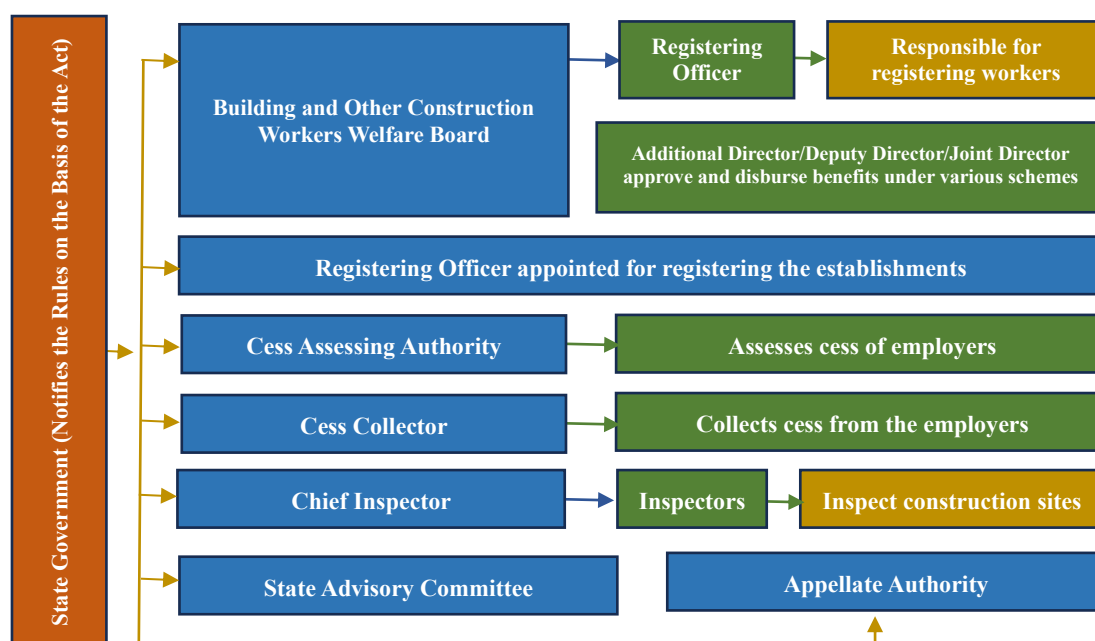
Section 2 (i) of BOCW Act enumerates that in relation to an establishment, the employer is the contractor or owner where the work is being executed directly without a contractor.

Rule 28 (1) of the Rules, 2005 read with Section 12 of the Act provides that every building worker who has completed 18 years of age but has not completed 60 years of age and who is not a member in any other welfare fund established under any law for the time being in force and who has completed 90 days of service as a building worker in the year immediately preceding shall be eligible for membership in the Fund.

4.2 Functional set-up in Haryana

The Functional chart for implementation of the Act and the Cess Act is depicted in the **Chart 4.1**.

Chart 4.1: Functional set-up for implementation of the Act and Cess Act



The State Government had constituted (April 2007) the State Advisory Committee for a term of five years to advise the State Government on matters arising out of the administration of the Fund. The Labour Commissioner is designated as Chief Inspector and other officers of the Labour Department viz. Chief Inspectors of Factories, Additional Director and Assistant Director, Industrial Safety and Health, all Joint Directors, Industrial Safety and Health, etc. are appointed as Inspectors, Registering Officers, Cess Collectors, Assessing Officers, etc. under the Act.

4.3 Audit Objectives

The Performance Audit was undertaken to ascertain:

- i. Whether the Rules notified by the Government under the Acts are consistent with the spirit of Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and Building and Other Construction Workers Welfare Cess Act 1996;
- ii. Whether there was an effective system for registration of establishments and beneficiaries;
- iii. Whether cess assessment, collection and transfer of collected cess to the Fund was efficient;
- iv. Whether the Government prescribed appropriate health and safety norms and implemented transparent and effective system of inspections to check compliance to these norms by employers; and
- v. Whether administration and utilisation of funds on implementation of welfare scheme by the Board was efficient and effective.

4.4 Audit Criteria

The sources of audit criteria for assessing the implementation of various provisions of the Act/Rules were as under:

- Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (the Act);
- Building and Other Construction Workers' Welfare Cess Act, 1996 (Cess Act) and Building and Other Construction Workers Welfare Cess Rules, 1998 (Cess Rules);
- Haryana Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2005 (The Rules, 2005);
- State Financial Rules;
- Inspection Policy notified by State Government;
- Resolutions passed by the Board; and
- Various judgements of Supreme Court on the matter related to the Act and Cess Act.

4.5 Scope of Audit and sampling methodology

The Performance Audit covered the activities of the Board over the period of five years, from 2017-18 to 2021-22. However, the information has been updated for the year 2022-23, at appropriate places. For detailed audit scrutiny, six¹ districts were selected.

To assess whether the benefit was disbursed to eligible beneficiaries, out of 2,506 benefits disbursed in the selected Districts, 1,267 benefits were selected through stratified sampling method. These 1,267 benefits were disbursed to 646 beneficiaries². Further, a survey of 24 beneficiaries from eight villages of each selected District was carried out. Out of which, 10 beneficiaries were selected with highest amount of benefit availed and 14 beneficiaries through random sampling method. Further, in six selected Districts, 60 establishments were also selected for joint inspection.

The information regarding registration of establishments/beneficiaries, benefits availed by beneficiaries, welfare schemes run by the Board, etc. on the portal of the Labour Department was analysed by applying computer-based audit techniques.

Entry Conference was held (18 November 2021) with the Secretary-cum-Labour Commissioner of the Board in which the audit methodology, scope, objectives

¹ (i) Faridabad, (ii) Gurugram, (iii) Hisar, (iv) Jind, (v) Karnal and (vi) Panipat.

² A beneficiary can avail more than one benefit in different schemes.

and criteria were discussed. Exit Conference for the Performance Audit was held (24 June 2024) with the Principal Secretary, Labour Department, Government of Haryana wherein audit findings were discussed. The deliberations of the Exit Conference have been appropriately incorporated in the Report.

4.6 Acknowledgement

Audit acknowledges the co-operation of the Board, the Labour Department and their subordinate offices and other selected departments i.e., Town and Country Planning, Urban Local Bodies, Haryana State Industrial and Infrastructure Development Corporation, Public Works Department (Building and Roads), *etc.* in providing information and records during this Audit exercise.

Audit findings

Administration of the Board and utilisation of the fund

4.7 Receipts and expenditure

The receipts and expenditure of the Board for the period 2017-18 to 2022-23 are given in the **Table 4.1**.

Table 4.1: Receipts and expenditure of the Board for the period 2017-18 to 2022-23

(₹ in crore)							
Year	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23 ³	Total
Opening Balance	2,407.16	2,744.34	2,948.78	3,118.96	3,229.31	3,546.84	
Receipts	Receipts from cess	328.45	288.60	285.15	355.62	422.84	472.45
	Registration, contribution fee and fine	4.21	7.24	3.61	3.26	2.01	1.59
	Interest and other misc. income	159.26	181.85	204.92	139.95	109.62	175.92
	Total receipt	491.92	477.69	493.68	498.83	534.47	649.96
Funds available	2,899.08	3,222.03	3,442.46	3,617.79	3,763.78	4,196.80	
Expenditure	Welfare expenditure	148.31	266.32	314.63	379.21	206.86	341.45
	Administration expenditure (in per cent)	6.43 (4.15)	6.93 (2.53)	8.87 (2.74)	9.27 (2.39)	10.08 (4.65)	15.67 (4.39)
	Total expenditure	154.74	273.25	323.50	388.48	216.94	357.12
Closing Balance	2,744.34	2,948.78	3,118.96	3,229.31	3,546.84	3,839.68	
Percentage of expenditure to funds available	5.34	8.48	9.40	10.74	5.76	8.51	

Source: Balance Sheets of the Board

As seen from **Table 4.1**, the expenditure vis-à-vis the fund available ranged between 5.34 *per cent* and 10.74 *per cent* during 2017-18 to 2022-23. During 2017-18 to 2022-23, the total receipts in the Fund were ₹ 3,146.55 crore. Against this, the Board spent ₹ 1,714.03 crore (including administration charges of ₹ 57.25 crore) on implementation of the schemes. At the end of the year 2022-23, the balance of the Fund was ₹ 3,839.68 crore. Audit observed deficiencies in the management of the Fund which are elaborated in subsequent paragraphs.

³ Balance Sheet for the year 2022-23 is unaudited.

4.7.1 Non-preparation of annual report

Section 26 of the Act and Rule 45 (d) of the Rules provide that the Board shall be responsible to prepare an annual report for each financial year, giving a full account of its activities during the previous financial year and submit a copy thereof to the State Government.

However, the Board did not prepare any annual report for the period covered in this audit. During the Exit Conference (June 2024), the Board assured for compliance.

4.7.2 Avoidable payment of income tax

A new sub-section 10 (46) was inserted (June 2011) in the Income Tax Act which provided that any specified⁴ income arising to any notified Body/Authority/ Board/Trust/Commission, which had been established or constituted by a Central or a State Government with the object of regulating or administering any activity for the benefit of the general public, was fully exempted from Income Tax.

For getting notified under Section 10 (46), the Board applied in January 2018 and got notified in July 2021. Since notification under Section 10 (46) was applicable from 1 June 2020, income of the Board for the Assessment Years 2008-09 to 2020-21 (up to May 2020) was to be assessed under Section 11 according to which 85 *per cent* income should have been utilised for intended purposes.

The Assessing Officer worked out a taxable income of ₹ 1,969.31⁵ crore and raised demand of ₹ 713.25 crore⁶ during December 2016 to March 2021. Against these assessment orders, the Board filed appeals before Commissioner of Income Tax which were dismissed (March 2023). Thereafter, Board filed appeals before Income Tax Appellate Tribunal which were pending as on date (July 2023).

Audit observed that the Board was required to get itself notified under Section 10 (46) immediately after its insertion in July 2011, as the income of any notified body was fully exempted under this Section. However, the Board belatedly applied on 31 January 2018. Further, it did not pursue the matter and was notified under Section 10 (46) in July 2021.

⁴ Specified income means the income of the nature and to the extent arising to a body or authority or Board/Trust/Commission (by whatever name called) referred to in this clause, which the Central Government may, by notification in the official gazette, specifies in this behalf.

⁵ (₹ 413.93 crore + ₹ 1,555.38 crore) for Assessment Years 2014-15 to 2018-19

⁶ ₹ 713.25 crore = ₹ 130.39 crore (2014-15) + ₹ 123.47 crore (2016-17) + ₹ 209.94 crore (2017-18) + ₹ 249.45 crore (2018-19)

The Board stated (March 2024) that it was not aware of provisions of Section 10 (46) of the Income Tax Act before January 2018 and the professional consultant of the Board had not advised on it. However, at present the Board has been notified under Section 10 (46) with effect from 1 June 2020.

The fact remains that the delayed action of the Board resulted in outstanding tax liability of ₹ 713.25 crore.

4.7.3 Irregular expenditure on financial assistance for purchase of sewing machines

The Board was operating a scheme “Financial assistance for the purchase of sewing machine” since June 2014 where once in lifetime financial assistance up to ₹ 3,500 was provided to registered women construction workers. Reimbursement was made on the basis of an undertaking along with price, trademark, source and date of purchase of sewing machine.

The Board decided (November 2016) to distribute sewing machines (at the rate of ₹ 2,199 per machine) under ‘Swarna Jayanti Year Celebration’ scheme and purchased 43,205 sewing machines costing ₹ 9.50 crore⁷ during the period December 2017 to March 2019. Accordingly, instructions were issued (January 2018) to its field offices to temporarily stop the existing scheme of financial assistance till the existing machines were distributed.

However, Audit found that out of these 43,205 machines, 1,257 machines remained un-distributed and were still lying in the stores of the field offices of the Board (March 2023). During the period, the field offices continued disbursement of financial assistance for purchase of sewing machines whereas machines were lying in stock. This resulted in wasteful expenditure to the tune of ₹ 27.64 lakh (1,257 x ₹ 2,199).

The Board stated (March 2024) that 1,229 sewing machines were lying in the field offices and were not in working condition.

4.8 Shortfall/non-convening State Advisory Committee and Board meetings

(i) State Advisory Committee

Rule 14 of the Haryana Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2005, State Advisory Committee (SAC), constituted under the Act, shall meet at least once in six months.

During the period 2017-18 to 2022-23, no meeting of the State Advisory

⁷ ₹ 9.50 crore = 43,205 machines x ₹ 2,199 per unit

Committee had been convened which defeated the very purpose of constituting the Committee and deprived the State Government of the advisory role of the said committee.

(ii) Board meetings

Rule 36 of the Haryana Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2005 read with Section 20 of the Act stipulates that the Board should ordinarily meet at least once in three months.

During the period 2017-18 to 2022-23, against the required 24 meetings of the Board, only 11 meetings (46 *per cent*) were held. This has resulted in inadequate attention to matters connected with the administration of the Fund *viz* preparation of annual report; collection of cess; co-ordination amongst the various authorities of the State Government in matters of registration of establishments, pending applications for registration of workers, inspection for health and safety of workers as discussed in the succeeding paragraphs.

During the Exit Conference (June 2024), the Board assured to make compliance in future.

4.9 Registration of establishments

Section 7 of the Act mandates employers to register with the prescribed authority within 60 days of establishment getting covered under the provisions of the Act.

As per the Act, an unregistered establishment cannot employ building workers. Rule 17 and 18 of the Rules, 2005 read with Section 7 of the Act provides the manner of making application for registration of establishment as below:



As per data maintained by the Labour Department during 2017-23, total 4,268 construction works were registered as establishments.

4.9.1 Operational construction works without registration

Audit selected 60 construction works (*Appendix 4.1*) in respect of 12 divisions of Public Works Department (PWD) (B&R), Public Health Engineering Department (PHED) and Irrigation Department from the monthly accounts of these divisions submitted to Principal Accountant General (Accounts & Entitlement) to check whether the registration of establishments was being ensured for employment of building workers.

Audit noticed that none of the selected 60 construction works were registered as establishment under the Act. It was found that an expenditure of ₹ 942.37 crore against these 60 works had been booked which indicated that despite the provision (Section 7 of the Act) that no unregistered establishment can employ building and construction workers, these establishments continued to employ these workers.

Audit analysed the reasons for registration anomaly and noticed the following:

(i) Lack of co-ordination amongst various authorities of the State Government

There was a lack of co-ordination amongst the various authorities of the State Government in matters of registration of establishments. For instance, a decision was arrived at in a meeting held on 26 March 2010 as per which the Haryana State Industrial & Infrastructure Development Corporation Limited (HSI IDC) was required to forward a copy of approved Building Plan on monthly basis to the concerned Assistant Director (AD), Industrial Safety and Health (IS&H), Labour Department. The Labour Department/Board was required to use this information for registration of establishments.

Field offices⁸ of Haryana State Industrial and Infrastructure Development Corporation (HSI IDC) issued a total of 1,523 Occupation Certificates⁹ and approved 566 Building Plans¹⁰ during 2017-23. However, as per information supplied by field offices of Labour Department in respect of selected six Districts, only 265 Occupation Certificates¹¹ and one Building Plan (in Faridabad District) were received from HSI IDC during the said period. However, HSI IDC intimated (August 2023) that, the lists of these Occupation Certificates and Building Plans

⁸ (i) Faridabad, (ii) Gurugram, (iii) Hisar, (iv) Jind, (v) Karnal and (vi) Panipat.

⁹ (i) Faridabad: 559, (ii) Gurugram: 791, (iii) Hisar: 4, (iv) Jind: 60, (v) Karnal: 93 and (vi) Panipat: 16.

¹⁰ (i) Faridabad: 284, (ii) Gurugram: 190, (iii) Hisar: 3, (iv) Jind: 66, (v) Karnal: 5 and (vi) Panipat: 18.

¹¹ Faridabad: 173, Gurugram: 88, Hisar: 2, Jind: 2, Karnal: Nil and Panipat: Nil

were also forwarded by the field offices of HSIIDC to Labour Department.

Further, out of 265 Occupation Certificates and one Building Plan received by the Labour Department, the assessment of cess was carried out by the assessing officer in 104 and 25 cases of Faridabad and Gurugram Districts, respectively. No assessment was carried out by the Labour Department in respect of cases of Jind and Hisar Districts.

The Department had neither developed any mechanism to identify the construction sites requiring registration under the Act nor taken any action to register the establishments even when they came to its notice as discussed in **Paragraph 4.9.2.**

The Board replied (March 2024) that being Government Department, it is the responsibility of a Division to ensure that the details of construction sites should be sent to the Labour Department for registration. Further, during the Exit Conference (June 2024), the Board gave assurance regarding issue of instructions to all the Departments concerned to stop release of payment of first running bill without registration of establishments under the Act.

4.9.2 Non-registration of inspected establishments

Audit selected 118 establishments¹² (120 inspection reports¹³), which were inspected by the Labour Department during 2017-18 to 2022-23, for scrutiny and observed that as on 31 March 2023, 84 establishments¹⁴ were not registered with the Labour Department. Notices were served to these unregistered establishments for non-compliance of Section 7 of the Act and the prosecutions were launched against the unregistered establishments in the Court under Section 50 of the Act, 1996. However, even after paying fine for the violations, the establishments were not got registered.

The Board replied (March 2024) that regular inspections were being conducted to ensure compliance with the Act. In case of non-compliance by the employer to get the establishment registered, the Labour Department gets prosecution launched against the employer in the Court.

However, the Board could not specify the reasons for not registering these establishments. Thus, unregistered establishments continued employing workers in contravention of the provisions of the Act.

¹² (i) Faridabad-22, (ii) Gurugram-46, (iii) Hisar-10, (iv) Jind-10, (v) Karnal-16 and (vi) Panipat-14.

¹³ (i) Faridabad-22, (ii) Gurugram-47, (iii) Hisar-10, (iv) Jind-10, (v) Karnal-16 and (vi) Panipat-15. Two establishments in Gurugram and Panipat districts were inspected twice.

¹⁴ 84 Establishments: (i) 2017-18: 2, (ii) 2018-19: 4, (iii) 2019-20: 34, (iv) 2020-21: 5, (v) 2021-22: 29 and (vi) 2022-23: 10.

4.9.3 Non-submission of returns by registered establishments

Rule 30 (2) of the Rules, 2005, requires that every employer shall submit a monthly return in Form IX showing the details of the workers entitled to be registered as well as those who left the service during the preceding month, before the fifteenth day of every month.

Further, as per Rule 89 of the Rules, 2005, every employer of a registered establishment shall submit an annual return relating to such establishment in duplicate in Form –XXXV to the registering officer not later than the fifteenth February following the end of each calendar year with a copy to the Inspector having jurisdiction. The annual return of the establishment includes number of accidents occurred, death, partial or complete disablement of the worker, amount of compensation paid to the worker or his/her nominee in the event of accident, *etc.*

Audit observed in selected Districts that the Board did not maintain any physical record regarding submission of monthly and annual return by registered employers.

Further, scrutiny of inspection reports conducted by the Labour Department of the 118 selected establishments revealed that the Department knew that monthly returns and annual returns were not submitted by 96 establishments and 24 establishments respectively. However, these reports were not acted upon by the Department to strengthen its own internal monitoring mechanism.

These returns could have enabled the Board to assess the number of construction workers entitled to be registered, workers who left the service in the preceding months, number of accidents occurred, death, partial or complete disablement of worker, *etc.*

During Exit Conference, the Board stated (June 2024) that the returns were not maintained by the Board as none of the employers had sent the returns to field offices concerned. Reply of the Board is not satisfactory as compliance to the rules could not be ensured properly. Further, the Board did not point out any violations regarding non-submission of monthly and annual returns by inspected establishments.

4.10 Registration of beneficiaries under the Act

4.10.1 Inconsistency of data of registered and engaged workers

Analysis of data regarding registered establishments obtained (27 May 2023) from the portal of the Labour Department revealed that 4,268 establishments were registered during the period 2017-18 to 2022-23. These establishments had

claimed to have employed 5.97 lakh workers. District-wise live workers¹⁵ as on 31 March 2023 and registered establishments during the period 2017-2023 is depicted in **Table 4.2**.

Table 4.2: District-wise live workers and registered establishments

Sr. No.	Name of District	Number of establishments registered during 2017-2023	Number of workers ¹⁶ intimated as engaged by establishment while applying for registration of the establishment	Live workers registered with the Board as on 31 March 2023
1	Gurugram	2,977	4,37,946	14,828
2	Faridabad	438	46,609	18,231
3	Jhajjar	208	27,222	8,012
4	Rewari	159	13,688	18,821
5	Palwal	109	11,480	14,823
6	Panchkula	26	2,408	4,849
7	Sonipat	60	15,163	18,298
8	Rohtak	53	3,832	23,843
9	Kurukshetra	26	1,428	15,144
10	Karnal	26	4,495	29,950
11	Panipat	31	6,033	37,886
12	Mewat	39	12,855	50,390
13	Sirsa	13	1,106	27,748
14	Hisar	42	1,737	79,970
15	Mahendragarh	10	1,216	18,202
16	Yamuna Nagar	11	728	26,693
17	Ambala	9	2,985	30,333
18	Bhiwani	11	2,881	37,926
19	Fatehabad	6	250	22,297
20	Charkhi Dadri	1	400	6,126
21	Jind	8	2,450	59,840
22	Kaithal	5	345	65,728
	Total	4,268	5,97,257	6,29,938

Source: Portal of the Labour Department

As evident from the above table, there were differences between data of the construction workers engaged in establishments and the data of number of live workers registered with the Board. It can be observed from the above that:

- i. During 2017-23, 0.85 lakh construction workers were reported to be engaged by 645 registered establishments¹⁷ in 19 Districts (other than Faridabad, Gurugram & Jhajjar) while applying for registration of their establishments. However, the Board's data showed 5.89 lakh live workers in these 19 Districts.
- ii. Similarly, in five Districts (Bhiwani, Hisar, Jind, Kaithal and Mewat) where number of live workers (2.94 lakh¹⁸) were highest, there were only

¹⁵ Live workers include (a) those who registered during the current year along with (b) previous members who got their registration renewed during the year.

¹⁶ Maximum number of the workers which can be employed on any day by the employer.

¹⁷ 645 establishments in 19 districts = 4,268 establishments (22 Districts) – 3,623 establishment (Faridabad: 438 + Gurugram: 2,977 + Jhajjar: 208).

¹⁸ 2,93,854 registered workers = (i) Bhiwani: 37,926, (ii) Hisar: 79,970, (iii) Jind: 59,840, (iv) Kaithal: 65,728 and (v) Mewat: 50,390.

105 registered establishments¹⁹ but the reported engagement was of 0.20 lakh²⁰ construction workers as per data available on the portal of Labour Department.

The differences between the data of construction workers engaged in establishments and data of live workers registered with the Board indicate a lack of timely updation mechanism by the establishments.

The Board replied (March 2024) that instructions have been issued to field officers to register/renew the construction workers in accordance with provisions of Section 12 of the Act and Rule 28 of the Rules. During the exit conference, the Board accepted (June 2024) the audit observation and assured future compliance.

4.10.2 Non-registration of eligible beneficiaries

Rule 28 of the Rules, 2005 provides that every building worker eligible to become a beneficiary to the Fund shall apply in prescribed form (Form V) wherein details such as name, address and registration number of the establishment (where the applicant is working) was to be provided by the worker.

The Board changed (December 2020) the system of registration for migrant workers by making registration mandatory through online portal of *Antyodaya SARAL* where Parivar Pehchan Patra (PPP)²¹ of worker was made mandatory for registration of workers by the Labour Department. As per notification of State Government (September 2021), every resident/family residing within the territorial limits of the State of Haryana was entitled to obtain a PPP. For migrant workers, documentary evidence of residence acted as a barrier for getting PPP which was made mandatory for workers registration.

During joint inspection of establishments (between October 2022 and April 2023), Audit surveyed a sample of 125 unregistered construction workers out of which 119 were migrant workers. Audit noted that 65 out of 119 migrant workers were eligible for registration with the Board, but none was registered due to mandatory requirement of PPP and they could not obtain any welfare support from the Board (as discussed in **Paragraph 4.18.2**).

¹⁹ 105 establishments: (i) Bhiwani: 11, (ii) Hisar: 42, (iii) Jind: 8, (iv) Kaithal: 5 and (v) Mewat: 39.

²⁰ 20,268 construction workers= (i) Bhiwani: 2,881, (ii) Hisar: 1,737, (iii) Jind: 2,450, (iv) Kaithal: 345 and (v) Mewat: 12,855.

²¹ Parivar Pehchan Patra is a family identity card introduced by the Government of Haryana. It assigns a unique identification number to each family in the State. It serves as a means of authentication for accessing various benefits provided by the State Government.

The Board replied (March 2024) that the Chief Minister Haryana has accorded exemption (January 2024) under the proviso of the provision to Section 8 of the Haryana Parivar Pehchan Act, 2021 to Haryana Building and Other Construction Workers Welfare Board regarding registration of migrant workers.

4.10.3 Non-registration of workers due to lack of awareness

As per the model scheme (October 2018) of Ministry of Labour and Employment, Government of India, workers' registration authorities were required to hold regular camps/create facilitation centres at prominent labour *chowks* for the purpose of conducting awareness campaigns and facilitating registration of workers.

During the period 2017-18 to 2021-22, only two awareness programmes were organised by the Board in Sonipat and Karnal.

During joint inspection of 17 ongoing construction sites {eight unregistered sites²², seven registered sites²³ and two accident sites (Gurugram)}, it was observed that out of 125 surveyed workers²⁴, 107 workers were not aware about the Board, the registration process, and its welfare schemes. This was indicative that registration authority i.e., Labour Department was not regularly conducting awareness camps and facilitating registration of workers.

Thus, the objective of the Board to provide benefits to the construction workers could not be achieved as the workers unaware of these schemes remained unregistered.

During the Exit Conference (June 2024), the Board assured to create awareness among the construction workers through advertisements and organising camps at construction sites.

4.10.4 Pending applications for registration of workers

As per the timelines prescribed for delivery of services under the Haryana Right to Services Act, 2014, the Board was required to register/renew the membership of construction workers as beneficiaries of the Board within 30 days from the date of receipt of the application from the workers.

Audit analysed the pending applications data of registration of the construction workers and observed that 94,642 applications, received during the period April 2017 to March 2023, were pending for final disposal (17 July 2023). Out of these 94,642 pending applications, not even preliminary action was taken on

²² (i) Faridabad- 2, (ii) Hisar- 2, (iii) Karnal- 1 and (iv) Panipat- 3.

²³ (i) Gurugram- 2, (ii) Hisar- 1, (iii) Jind- 1, (iv) Karnal- 2 and (v) Panipat- 1.

²⁴ (i) Faridabad- 24, (ii) Gurugram- 28, (iii) Hisar- 15, (iv) Jind- 10, (v) Karnal- 19 and (vi) Panipat- 29.

4,838 applications and on the remaining 89,804 applications, objections were raised by the Labour Department. These 4,838 applications were lying pending for periods ranging between three months to 65 months against the prescribed time limit. Of the 89,804 applications where objections were raised, 79,136 applications (88 *per cent*) for the period 2017-22 were pending.

During joint inspection of selected establishments, it was noticed that application for registration of workers were submitted to the Board by the employer of one establishment²⁵ on 29 September 2022. In this regard, Audit extracted the data from the portal and found that 16 applications were submitted by the employer on 29 September 2022 and all these 16 applications were still lying pending as on 6 March 2023. On the issue of non-registration being pointed out (6 March 2023) by the Audit, the Board raised (24 March 2023) objections on these applications mentioning “*upload valid workslips (ws)*” at their portal. However, these work slips had been signed and stamped by Deputy Manager- HR, Tata Projects Limited and uploaded on the portal which indicates lack of due diligence by the Department in scrutinising the applications to register the construction workers.

Thus, due to inaction on the applications and laxity in scrutinising the applications by the department, the workers could not get themselves registered and were consequently deprived of the benefits of the welfare schemes.

The Board replied (March 2024) that pendency of applications was for want of proper documents/replies by the applicants and the pendency of 15,376 applications for the year 2022-23 has been cleared. In its reply, it also mentioned that 6,886 applications are pending. The reply was not acceptable as no action was taken on 4,838 applications by the Board.

4.11 Overview of assessment and collection of cess

4.11.1 Non-adherence of timeline and manner of collection of cess

Rule 4 of Cess Rules provides that the cess levied shall be paid by an employer to the cess collector within 30 days of completion of the construction project or the date on which assessment of cess payable is finalised, whichever is earlier. Rules 6 and 7 of the Cess Rules stipulate that every employer, within 30 days of commencement of his work, shall furnish information in Form-I containing data relating to estimated cost of construction, details of payment of cess deposited, *etc.* to the Assessing Officer (AO) for ensuring that the cess due has been worked out correctly.

²⁵ M/s Tata Projects Limited Heritage site, Sector-59, Gurugram.

Audit noticed that Department had not ensured submission of Form-I by the employers within the prescribed time frame of 30 days for assessment of cess. Audit scrutiny of 123 assessment cases revealed the following:

- i. In 58 cases date of submission was not mentioned in Form-I submitted by the employers. Even the part to be filled-in by the AO was blank. In the absence of date of submission on Form-I, the delay in submission of Form-I as well as delay in assessment of cess could not be ascertained.
- ii. In another 40 cases, there was delay in submission of Form-I ranging between two and 137 months. This led to delayed assessment and consequential delayed realisation of cess amount.

Audit further observed that neither the employers had submitted the Form-I within prescribed time frame nor the Department initiated any action against the employers for delayed submission of Form-I by employers.

During the Exit Conference (June 2024), the Board assured that online system will be developed to curb these discrepancies.

4.11.2 Short/non-deposit of cess by the assessees

As per Rule 4 of Cess Rules, cess shall be paid by an employer to the cess collector, within 30 days of completion of the construction project or within 30 days of the date on which assessment of cess payable is finalised, whichever is earlier. Section 8 of the Cess Act further provides that if any employer fails to pay any amount of cess within the time specified in the assessment order, such employer shall be liable to pay interest on the due amount of cess at the rate of two *per cent* per month.

- In two selected districts (Jind and Faridabad), Audit found that Assessing officers had raised demand of cess in respect of eight employers²⁶ amounting to ₹ 39.25 lakh during 2018 to 2022. However, no amount was deposited by any of the employers. It was further observed that interest liability on non-deposition of cess was not found raised in the demand notices. The Assistant Director, IS&H, Hisar accepted (March 2023) and stated that warning letters had been issued to the two establishments to deposit the cess.

²⁶ (i) M/s Indigo Apparel, Plot No-106, Sec-6, Faridabad, (ii) M/s Bharat Petroleum COP. Limited Piyala installation, Piyala Assoti, (iii) M/s Trident Packings Private Limited Plot no-414, Sector-68, IMT Faridabad, (iv) M/s New Laxmi Engg. Works, Plot no-741, Sector-69, IMT, Faridabad, (v) M/s BPTP Ltd on behalf of M/s Countrywide Promoters Private Limited, the licensee of Discovery Park Sector-80, Faridabad, (vi) M/s Vijay Metal, Plot No-182, Sec-68 IMT Faridabad, (vii) M/s Ekansh Motors Private Limited and (viii) M/s Lekhraj Auto Plaza Private Limited, opposite HPCL Bottling plant Rohtak Road, Jind.

- During the joint inspection (4 January 2023) of one establishment²⁷ at Gurugram District, it was noticed that date of completion (30 June 2019) of the project was already mentioned in Registration Certificate. Further, it was also noticed that the Occupation Certificate in respect of above establishment was issued by Senior Town Planner, Gurugram on 11 January 2021. As per the record made available by the employer, the employer had already paid (July 2017 and January 2021) the cess of ₹ 13.07 lakh. It was observed that the Department did not have a mechanism to keep a track of construction progress.

On being pointed out (January 2023) by Audit, the Department carried out the assessment of establishment in April 2023 and got deposited cess amount of ₹ 35.73 lakh. During the Exit Conference (June 2024), the Board assured that suitable action will be taken under intimation to Audit. Final action was awaited (December 2024).

4.12 Collection of cess

Rule 4 (4) of Cess Rules provides that where the approval of a construction work by a local authority is required, every application for such approval shall be accompanied by a crossed Demand Draft in favour of the Board for an amount of cess payable at the notified rates on the estimated cost of construction.

As per Rule 5 (1) of Cess Rules, the proceeds of the cess collected shall be transferred by such Government office, Public Sector Undertakings, local authority, or cess collector, to the Board along with the form of challan prescribed (and in the head of account of the Board) within 30 days of its collection.

The Local authorities which are authorised to approve building plan collect cess at the time of approving the building plan and Government departments/PSUs which execute construction work deduct cess from the payments to contractors. The authorities who collect and deduct cess deposit the cess proceeds with the Board online or through demand draft after deducting one per cent collection charges.

The shortcomings noticed during scrutiny of records of cess collectors *i.e.*, Town and Country Planning Department (TCPD) and Urban Local Bodies Department (ULB) are discussed in the following sub-paragraphs:

4.12.1 Short collection of advance cess at the time of issuing occupancy certificate

Test check of four completed constructions revealed that only ₹ 3.23 crore was collected against the assessed amount of cess of ₹ 5.81 crore leaving a short

²⁷ M/s Aarvy Healthcare Private Limited, Project “Aarvy Hospital” Sector 90, Gurugram.

recovery of cess of ₹ 2.58 crore as details given in **Table 4.3**.

Table 4.3: Detail of short recovery cases

(₹ in crore)

Sr. No.	Details of Project and Licensee	Amount of cess due	Cess recovered	Short recovery
1	Group Housing Colony area measuring 23.431 acres (Licence No. 21 of 2008 dated 08 February 2008 & Licence No. 28 of 2012 dated 07 April 2012), Sector-112, Gurugram being developed by Experion Developers Private Limited & others	4.39	3.14	1.25
2	Group Housing Colony measuring 43.558 acres (Licence No. 83 of 2008 dated 05 April 2008 & Licence No. 94 of 2011 dated 24 October 2011) in Sector-37D, Gurugram being developed by Super Belts Private Limited & others C/o Countrywide Promoters Private Limited	0.86	0	0.86
3	Commercial Colony measuring 35.3675 acres (Licence No. 51 of 2008 dated 19 March 2008 & Licence No. 76 of 2014 dated 05 August 2014) in Sector-74-A, Gurugram Manesar Urban Complex developed by Abheek Real Estate Private Limited & others in collaboration with DLF Home Developers Limited	0.39	0.09	0.30
4	Group Housing Colony measuring 47.418 acres (Licence No. 2 of 1995 dated 10 March 1995, Licence No. 117-119 of 2004 dated 16 August 2004 & Licence No. 35-37 of 1996 dated 17 April 1996), Sector-48, Gurugram being developed by Sweta Estate Private Limited & others.	0.17	0	0.17
Total		5.81	3.23	2.58

Audit noticed that TCPD failed to recover cess in these four cases, in which Occupation Certificates (OCs) had been granted, also no final assessment of cess was carried out (March 2023).

During the Exit Conference (June 2024), the Board assured that final assessment of these cases would be carried out. Final action was awaited (December 2024).

4.12.2 Arrangements with Urban Local Bodies

Audit selected 11 Municipal Corporations/Councils/ Committees²⁸ of selected Districts to verify the status of cess collections by these bodies as mandated under the Cess Act. The Urban Local Bodies (ULBs) were asked to provide details of cess collected and deposited with the Board. Out of 11 MCs, 10 replied that they were not transferring cess to the Board (Municipal Corporation, Panipat did not provide the information).

It was further intimated (July 2023) by these ULBs that after November 2018, approval of Building Plans and payment (cess, sewerage and water charges, property charges, fire tax, user charges etc.) thereof was being made through Haryana Online Building Plan Approval System (HOBPAS) portal and payment was being received directly in the bank account without any breakup of charges. Due to non-availability of component-wise breakup of payment, cess amount could not be assessed by these ULBs and therefore was not being deposited to the Board.

²⁸ **Municipal Corporation:** (i) Faridabad, (ii) Gurugram, (iii) Hissar, (iv) Karnal, (v) Panipat

Municipal Councils: (vi) Hansi, (vii) Jind, (viii) Narwana

Municipal Committees: (ix) Gharaunda, (x) Pataudi and (xi) Samalkha.

Audit observed that the Board had not adopted any mechanism to check the number of building plans approved by ULBs and labour cess collected during approval of these Building Plans. Due to absence of such mechanism, the Board was not in a position to ask/send notices to ULBs for remitting the labour cess to the Board.

4.12.3 Non-maintenance of cess data by the Board

The Board collected ₹ 2,153.12 crore as cess from April 2017 to March 2023 as per the annual accounts of the Board. Despite the fact that the Board was in existence since 2006, mechanism for capturing employer-wise/establishment-wise details was not available with the Board. The department/agency-wise break-up of information of cess collected was available with the Board only since 2020-21 as it had not compiled such information for the period prior to 2020-21. Details of department/agency, which contributed the cess for the year 2020-21 and 2021-22 is given in **Table 4.4**.

Table 4.4: Details of cess contributed by department/agency during 2020-22

(₹ in crore)

Sr. No.	Department/agencies	2020-21	2021-22	Total
1.	Labour Department	98.43	95.82	194.25
2.	Town & Country Planning Department	83.38	108.94	192.32
3.	Public Works Department (Building & Roads)	24.83	26.31	51.14
4.	Municipal Corporations/Local Bodies	17.92	25.49	43.41
5.	National Highways Authority of India	39.50	30.29	69.79
6.	Haryana Shehri Vikas Pradhikaran	4.35	6.40	10.75
7.	Haryana Rural Roads and Infrastructure Development Agency	1.14	4.43	5.57
8.	Private/Others	24.06	14.63	38.69
9.	Unidentified	38.29	83.31	121.60
10.	Other Department/ agencies	23.77	28.09	51.86
	Total	355.67	423.71	779.38

Source: Information provided by the Board.

As is evident from the above, as on 31 March 2021 out of total cess of ₹ 355.67 crore, ₹ 38.29 crore (10.77 *per cent*) was from unidentified sources (for transactions, source of which could not be identified by the Board). The cess received from unidentified sources further increased to ₹ 83.31 crore (19.66 *per cent*) in 2021-22. The Board had not maintained employer-wise and establishment-wise details of cess received. In the absence of such records, the Board is not even aware of the sources from which ₹ 121.60 crore was received as cess during 2020-22.

The Board replied (March 2024) that matter will be taken up with the cess assessing officers, cess collectors and cess deductors and instructions will be issued to streamline the process of collecting and depositing the cess.

4.12.4 Mismatches between records of the Board and other authorities

Due to lack of reconciliation system, there were mismatches between the figures given by the Board and other Departments as explained in the following sub-paragraphs:

(i) Mismatch of cess collected by TCPD and received by the Board

As per the information supplied by Town and Country Planning Department (TCPD), it had collected and transferred cess proceeds of ₹ 137.61 crore to the Board during 2020-22. However, as per the information supplied by the Board, the Board had collected ₹ 192.32 crore from TCPD for the same period. Thus, there was a difference of ₹ 54.71 crore between cess amount transferred by TCPD and received by the Board. It showed that the Board might have booked other sources of receipts under TCPD. The figures of cess were never reconciled by the Board and TCPD.

(ii) Mismatch of cess collected by Labour Department and received by the Board

As per information supplied by the Board, ₹ 194.25 crore was deposited by field offices of Labour Department during 2020-22 as collected from Government departments/PSUs, etc. Out of ₹ 194.25 crore, ₹ 169 crore were deposited by six selected Districts. District-wise details of Demand Drafts forwarded by field offices of Labour Department to the Board and amount of cess actually received by the Board are given in the *Table 4.5*.

Table 4.5: Demand Drafts forwarded by field offices and amount of cess actually received by the Board

(₹ in crore)

District	Amount of all Demand Drafts forwarded by field offices to Board	Amount received by the Board	Difference
Gurugram	153.33	130.39	22.94
Hisar	2.79	3.11	(-)0.32
Jind	0.35	0	0.35
Karnal	1.88	2.20	(-)0.32
Panipat	2.73	2.91	(-)0.18
Faridabad	Information was not provided	30.38	-

Source: Departmental Records

As can be seen from the above table, there was mismatch between the figures of cess collected by the Labour Department and cess actually received by the Board. Audit observed that there were no consolidated instructions for the field offices of Labour Department on method of collecting the cess and its deposit with the Board.

Labour Department's field offices lacked establishment-specific records of cess payable, collected, and outstanding. They maintained only Demand Draft registers without any correspondence between establishment registration and received Demand Drafts. This absence of mapping would hinder the reconciliation of collected cess by the Labour Department.

Despite having a centralised bank account of the Board, the system of receiving cess amount through Demand Drafts from establishments is continuing, leading to delayed realisation and discrepancies in received amounts. As payment

technologies have advanced, there is a critical need to adapt rules to accommodate new payment methods for seamless integration ensuring accurate and timely transfer of funds.

During the Exit Conference (June 2024), the Board assured to devise a mechanism for cess reconciliation. Final action was awaited (August 2024).







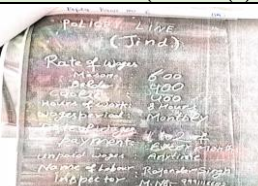
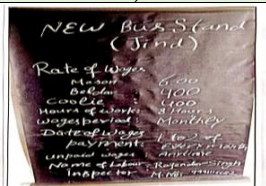
4.13 Inspections of Establishments

Deficiencies noticed during scrutiny of compliance reports of the Inspections

Out of selected 120 inspection reports, in 18 cases the employers were warned by the Chief Inspector to remain vigilant in future; out of these 18 cases, the same photographs were used by six establishments in support of the compliances. These cases have been discussed below:

(i) Two inspections were conducted by the Assistant Director, IS&H, Hisar, at two²⁹ construction sites in Jind on 27 June 2019. Violations of various health and safety norms were noticed at both the sites and show-cause notices were issued to the employers on 28 June 2019. On the basis of compliance report and photographs submitted by the employers of both the establishments, Chief Inspector issued a warning to them on 13 August 2019 advising them to be more vigilant in future.

During scrutiny of inspection records of these two cases, Audit noticed that out of nine photographs, four photographs were the same in both compliance reports of construction site submitted by the employers as depicted below:

DAV Police Public Secondary School	18 Bays Bus Stand and Workshop building	DAV Police Public Secondary School	18 Bays Bus Stand and Workshop building
			
Photo 1 and 2: Left Naked electrical wire joints (Rule 103 under Section 40)		Photo 3 and 4: Non-providing of Fire fighting equipment. (Rule 91(1) under Section 40)	
			
Photo 5 and 6: Non-providing safety belts and safety nets (Rule 244 under Section 40)		Photo 7 and 8: Non-displaying rates of wages, hours of work, etc. (Rule 85 under Section 30)	

It was also observed that the Forms (Form-I, Form-IV, Form-IX and Form-X) were not bearing dates, which could prove the credibility of the information

²⁹ (i) DAV Police Public Secondary School at Police Line, Gohana Road, Jind and
(ii) 18 Bays Bus Stand and Workshop Building, Pandu Pindara (District Jind).

contained. Furthermore, the Form-IX submitted by both employers were also incorrect as the number of workers at the close of previous month, number of workers who left during the month and number of workers at the close of current month were depicted as same. It was further noticed that though the Chief Inspector considered both the compliance cases on the same date but failed to notice these discrepancies before issuing the warning to the employers.

(ii) Similarly, in four other cases, the same photographs of establishments of Karnal and Kaithal as shown in Photographs 9 to 16 were submitted by different employers to whom warnings were issued by the Chief Inspector. In two cases i.e. M/s S.S. Builder, Gharaunda (Karnal) and M/s Diamond Construction Company, Kaithal the Chief Inspector considered both these cases on the same date (15 November 2021) but did not point out these discrepancies.

M/s B B Cerial, Indri, Karnal	M/s Jugnu Chemical, Sector-3, Karnal	M/s B B Cerial, Indri, Karnal	M/s SS Builders, Gharaunda Karnal
Photo 9 and 10: Non-providing of temporary living accommodation with separate cooking place, etc. (Section 40)		Photo 11 and 12: First aid not provided (Rule 119 under Section 36)	
M/s SS Builders, Gharaunda, Karnal	M/s Diamond Construction Company, Kaithal	M/s SS Builders, Gharaunda, Karnal	M/s Diamond Construction Company, Kaithal
Photo 13, 14, 15 and 16: Non-providing suitable hand-gloves to workers which were engaged in handling sharp objects (Rule 102 under Section 40)			

Thus, notices were closed after issuing only warning without ensuring proper compliance. Inadequate scrutiny of evidence, lack of photographic documentation during inspections and absence of follow-up visits have collectively compromised the transparency and robustness of the enforcement process.

The Department stated (March 2024) that the evidence of compliance of violations made by employers were presented to the Chief Inspector's office and as a result warnings were issued to them. Further, it was also stated that certain record was mistakenly enclosed in another file. The reply is not tenable as the same photographs were submitted by the employers with different labelling of sites as shown in photographs no. 7 and 8.

During Exit Conference (June 2024) it was stated that mechanism will be developed for robust enforcement.

4.14 Inspection of Accident cases

In selected six Districts, 45 accidents³⁰ had been reported during 2017-18 to 2021-22. Out of these, 19 accident cases (in 18 establishments³¹) were selected by Audit for scrutiny as details given in *Appendix 4.2*.

In view of majority of accidents happening in the unregistered establishments, it is even more essential to ensure that establishments are registered so that provisions of the Act including provisions related to safety and health of workers are strictly complied with.

On review of these accident cases, three cases are summarised in succeeding paragraphs.

A. Construction site of M/s EMAAR MGF Land Limited

Rule 291 (1) of the Rules 2005 read with Section 43 of the Act stipulates that if it appears to the Inspector that any site or place at which any building or other construction work is being carried on, is in such condition that it is dangerous to life, safety or health of building workers or the general public, he may, serve an order on the employer prohibiting any building or other construction work at such site until measures have been taken to remove the cause of the danger to his satisfaction.

One establishment i.e. M/s EMAAR MGF Land Limited located at Palm Hill Project, Gurugram was registered on 13 March 2012. The establishment was inspected twice on 23 February 2013 and 27 June 2019 by Deputy Director, IS&H, Gurugram and noticed various violations of health and safety violations provisions like unsafe working platform, non-erection of overhead protection along periphery of building, lack of access from one working platform to another platform on the scaffold with suitable, exposure of building workers to the hazard of falling from height, etc. The prosecution was launched on 14 May 2013 and 30 September 2019 respectively. However, the results of prosecution in these two cases were not found on record.

Thereafter, a fatal accident occurred on 2 August 2022 at the site wherein four construction workers died and one worker got seriously injured. During inspection, District Town Planner (Enforcement), Gurugram observed (2 August 2022) that safety harness/belts were not provided to the labour by the contractor. An FIR was registered on 3 August 2022 against the main

³⁰ (i) Faridabad-4, (ii) Gurugram-22, (iii) Hisar-10, (iv) Jind-2, (v) Karnal-3 and (vi) Panipat-4.

³¹ 19 Accidents occurred in 18 establishments in which four establishments were registered and 14 establishments were unregistered.

contractor, Project Manager, Tower In-Charge and others.

Accident inquiry was conducted between 3 to 5 August 2022 by Assistant Director, IS&H, Gurugram II and it was reported that (i) Working platform was unsafe and inadequate, (ii) Safety and stability of walkway platform between building tower and crane was not ensured, (iii) Safety belts and safety nets were not provided/found at construction site and (iv) There was lack of supervision on the part of employer.

Prohibition order to prohibit construction was issued on 5 August 2022 and a complaint against the employer was lodged on 11 October 2022 in the court of CJM, Gurugram. The matter is still pending in the Court.

Audit observed that the violations pointed out in accident enquiry report were already mentioned in the two inspections conducted (February 2013 and June 2019) but its compliance was not ensured by the Labour Department. Thus, lack of enforcement of the provisions of the Act caused fatal incident which could have been avoided.

The Department stated (March 2024) that there was no imminent danger at the time of inspection in 2013 and 2019. The reply is not tenable as violations pertaining to workers safety had been mentioned in the Inspection Reports of the Department during the inspections in 2013 and 2019.

B. Construction site of M/s Citra Properties, Gurugram

A fatal accident occurred on 28 June 2017, causing death of two labourers on the construction work site of M/s Citra Properties. An enquiry conducted between 29 June 2017 and 28 July 2017, identified violations related to safety and health provisions.

In response to the violations, the employer submitted (16 October 2017) a compliance report and intimated that since the start of this construction site till the accident, lot of physical inspections related to safety and health provisions was conducted at site by different designated authorities under labour laws. Thereafter, a three members committee examined (25 October 2017) the compliance report and concluded that during the previous inspections of this construction site by the departmental officers, no such violation was observed. As a result, the Chief Inspector issued warning (25 October 2017) to the employer with a direction to be more careful and vigilant in the future.

During scrutiny of accident enquiry reports, Audit observed that the said work was started in May 2017, whereas the accident occurred within two months of commencement of work and the establishment was not found in the list of establishments inspected from 2017 to 2022 by the Labour Department. No copy of inspection report of Labour Department was submitted by the employer

in support of their statement. Therefore, it is evident that either inspection of this establishment was not conducted prior to the accident or inspectors who inspected the establishment kept it off the record.

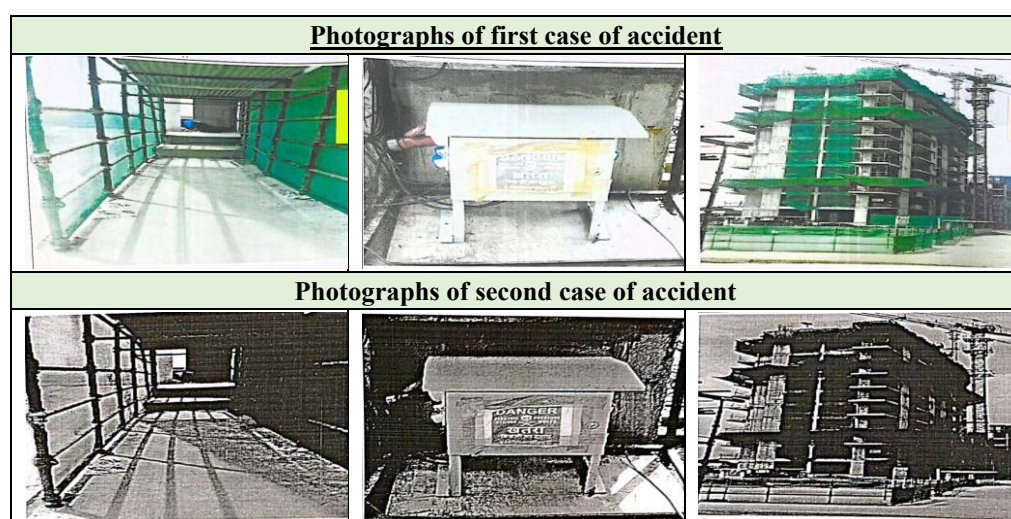
Audit further observed that neither had the Inspector collected photographic or videographic evidence during accident enquiry nor had any such evidence been found in compliance report of the employer. Moreover, the establishment was registered (04 April 2018) after occurrence of accident (28 June 2017). The fact of non-registration was neither reported by the Enquiry Officer nor looked into by the committee before letting the employer off with a warning.

C. Construction site of M/s Simplex Infrastructure Limited, Gurugram

Brief of two fatal accidents at construction site of M/s Simplex Infrastructure Limited for *The Ultima*, Sector- 81, Gurugram are as follows:

First accident: 26 June 2017	Second accident: 22 February 2018
<ul style="list-style-type: none"> One unregistered worker died in the accident. No prior inspection by an inspection officer had taken place. Accident enquiry revealed failures in ensuring worker safety and health, inadequate safety provisions and failure to promptly report the accident. The enquiry committee did not find fault directly of the management, resulting in a warning to the employer after the show-cause notice. 	<ul style="list-style-type: none"> One unregistered worker died in the accident. Fatal accident occurred with similar safety failures which was pointed out during earlier inspection. Accident enquiry identified issues with overhead protection, worker safety and health and inadequate preventive measures. The employer provided written replies to the show-cause notice. The committee reviewed the replies and found no fault in management, again leading to a warning.

During analysis of photographs attached with the compliance reports of the observations made during two accidental enquiry reports (October 2017 and September 2018), Audit noticed that three³² photographs submitted by the employer in compliance report were same in both the accidents.



³²

29 photographs in first investigation and 22 photographs in second investigation.

The genuineness of these photographic evidences for enquiries conducted within a time interval of one year is doubtful.

Audit further observed that the employer was an unregistered establishment (since January 2014) at the time of first accident (June 2017) and got registered in February 2018. In accident enquiry reports, violation of non-registration of construction site was not mentioned by the Inspecting officer.

Both enquiry reports of accidents pointed out that employer failed to ensure the safety and health of the workers, still the Department closed both the cases by issuing only a warning.

The Department stated (March 2024) that the audit observation has been noted for strict future compliance. The fact remains that without assessing the gravity of the case, the case was closed with warning.

4.15 Joint Inspections of selected establishments

Audit conducted 60 joint inspections of establishments with representatives of the Labour Department (*Appendix 4.3*) that included 23 registered establishments, 23 unregistered establishments and 14 accidental establishments to assess whether prescribed safety and health norms were adhered to by the employer. The registered establishments were selected randomly from database of registered establishments. The unregistered establishments were identified by using data of temporary electricity connection with high load taken from DISCOMs. Accidental sites were selected by using the criteria such as number of deaths, repeated accidents, etc. Summary of the key findings is given below:

- Out of 60 establishments selected for joint inspection, only 21 establishments³³ were found incomplete/under-construction and remaining 39 establishments were found completed at site. There was no record available in the Department by which it could be identified whether the construction work had been completed. However, it was mandatory for the employer to give notice of commencement and completion of work. Rule 4 of Cess Rules also provides that the cess levied shall be paid by an employer, within thirty days of completion of the construction project. The date of completion of work was to be reckoned from the notice of completion of work to be submitted by the employer in Form-IV prescribed under sub-rule 3 of Rule 20 of the HBOCW Rules, 2005.

³³

Registered establishments: 7, unregistered establishments: 10 and accident cases: 4.

- Out of the incomplete 21 establishments, four establishments³⁴ (Gurugram: 2, Hisar: 1 and Karnal: 1) were inspected by the Department prior to the joint inspections. In these four establishments, similar health and safety violations were noticed during departmental inspection as well as the joint inspection implying that no compliance was made. These repeated violations included lack of facilities, absence of safety committee/policy, exposure to hazards and non-provision of safety equipment. Continued violations despite inspection undermines the very purpose of inspection and compromises the health and safety of the construction workers.
- In six³⁵ under construction sites, where prior inspection was not done, violations related to health and safety of workers such as absence of safety policy, exposure to hazard of falling from height, lack of suitable barricading, non-formulation of emergency action plan, non-provision of safety equipment and non-maintenance of various registers/returns were noticed. In one of the cases of Gurugram, the records relating to constitution of safety committee and appointment of safety officer was not available with the employer. The presence of multiple violations at sites, where no prior inspections was conducted, underscores gaps in regulatory oversight, suggesting a need for more transparent and robust inspection policy.
- No health and safety violations were identified in remaining nine establishments during the joint inspection.
- Two construction sites were prohibited from construction work due to violations noticed during prior inspection done by the Department.

The above joint inspections highlighted the absence of proper follow-up mechanism which resulted in partial compliances/non-compliances. Consistent and transparent follow-ups could act as a preventive mechanism, minimising the likelihood of violations and hazards.

The Department stated (March 2024) that the audit observation has been noted for strict future compliance.

4.16 Implementation of welfare schemes by the Board

To review the position of the benefits disbursed by the Board under various welfare schemes, Audit extracted the data from the portal of the Labour

³⁴ Registered establishments: 2, unregistered establishments: 1 and accident cases: 1.

³⁵ (i) Registered establishments: 2 (Gurugram and Karnal) and (ii) unregistered establishments: 4 (Panipat: 2 and Karnal: 2).

Department. During the period 2017-18 to 2022-23, 4,053 establishments³⁶ were registered in which 6,56,497 benefits of ₹ 1,007.56 crore were disbursed to 2,18,901 beneficiaries in State (*Appendix 4.4*).

In six test-checked Districts, Audit selected 1,267 benefits amounting to ₹ 5.34 crore disbursed to 646 beneficiaries³⁷, for scrutiny with respect to the details provided in application forms, work slips, undertakings and other documents uploaded/attached along with the application forms by the beneficiaries. Audit noticed the following:

4.16.1 Lack of co-relation between registered establishments and benefits given

There was no co-relation between number of benefits disbursed with number of establishments registered. In Gurugram, where there were 2,786 registered establishments, 3,408 beneficiaries who availed 8,814 benefits of ₹ 9.94 crore whereas in other district such as Hisar only 42 establishments were registered while 1,68,004 benefits valuing ₹ 243.52 crore were disbursed to 49,148 beneficiaries (*Appendix 4.4*). No attempt was made by the Board to analyse the reasons for such glaring differences.

The Board replied (March 2024) that many migrant workers in Gurugram/ NCR start working at registered establishments but move to other cities or sites before completing the 90 days which is a necessary criteria for registration of construction worker and eligibility to get benefits. The reply is not acceptable as no such study/data was available with the Board which could be used to sustain this fact.

4.16.2 Benefits disbursed to ineligible beneficiaries

In the six test-checked Districts, out of 1,267 benefits of ₹ 5.34 crore, 577 benefits (45.54 *per cent*) of ₹ 2.20 crore³⁸ (41.22 *per cent*) were disbursed to ineligible beneficiaries (due to work slips not uploaded, uploaded but not signed by competent authority, fake death certificate, others) under various schemes. It was observed that the Board officials did not review application details and documents properly, leading to benefits being given to ineligible recipients. Some irregularities are discussed in detail in subsequent sub-paragraphs:

³⁶ To ensure the accurate comparison of data, data of registered establishments was also considered from 29 January 2018. In view of this, the 4,053 establishments were shown registered instead of 4,268 establishments (data of registered establishments used in *Table 4.2* of *Paragraph 4.10.1*).

³⁷ (i) Faridabad: 56, (ii) Gurugram: 96, (iii) Hisar: 169, (iv) Jind: 145, (v) Karnal: 101 and (vi) Panipat: 79.

³⁸ ₹ 219.96 lakh = (i) Faridabad: ₹ 17.79 lakh, (ii) Gurugram: ₹ 28.68 lakh, (iii) Hisar: ₹ 81.20 lakh, (iv) Jind: ₹ 67.54 lakh, (v) Karnal: ₹ 20.28 lakh and (vi) Panipat: ₹ 4.48 lakh.

(i) Non-uploading of work slips

Rule 28 (1) of the Rules, 2005 read with Section 12 of the Act provides that every building worker who has completed 18 years of age but has not completed 60 years of age and who is not a member in any other welfare fund established under any law for the time being in force and who has completed 90 days of service as a building worker in the year immediately preceding shall be eligible for membership in the Fund.

Audit observed that out of 577 cases, in 136 cases, the requisite work slips were not found uploaded by the beneficiaries, however, benefits amounting to ₹ 75.48 lakh³⁹ were disbursed to these ineligible beneficiaries.

The Board stated (March 2024) that the matter will be taken up with the officials of the Labour Department and action will be taken against the ineligible beneficiaries along with recovery of amount.

(ii) Work-slips not signed by competent authority

Rule 28 (3) of the Rules 2005 (along with its amendments in January, April and December 2018) provides that to prove that the applicant is a construction worker, a certificate from the employer or contractor shall be produced along with the application for registration. In case certificate from registered employer was not available, a certificate issued by other authorities⁴⁰ may be considered.

Audit observed that in 43 cases, the work slips were signed by authorities who were not competent to do so. These work slips were signed by persons such as Sarpanch, Accountant, Municipal Councillor, Additional Block Programme Officer, etc. In these cases, benefits amounting to ₹ 11.74 lakh⁴¹ were disbursed to ineligible beneficiaries.

The Board stated (March 2024) that the work slips were verified telephonically. However, the fact remains that the work slips were not signed by the competent authorities.

³⁹ (i) Faridabad: ₹ 16.56 lakh, (ii) Gurugram: ₹ 10.88 lakh, (iii) Hisar: ₹ 17.14 lakh, (iv) Jind: ₹ 19 lakh (Online- ₹ 18.61 lakh and Offline- ₹ 0.39 Lakh), (v) Karnal: ₹ 7.42 lakh and (vi) Panipat: ₹ 4.48 lakh.

⁴⁰ (i) Assistant Director, Industrial Safety and Health; (ii) Assistant Labour Commissioner/ Labour Inspector; (iii) District Development and Panchayat Officer; (iv) Tehsildar/ Naib-Tehsildar; (v) Block Development and Panchayat Officer/Social Education and Panchayat Officer; (vi) Sub Divisional Engineer and Junior Engineer of all the Government Departments/Board/Corporations; (vii) Secretary, Executive Officer, Municipal Engineer, Junior Engineer of the Municipal bodies; (viii) Kanoongo and Patwari; and (ix) Panchayat Secretary/Gram Sachiv.

⁴¹ (i) Gurugram: ₹ 0.13 lakh, (ii) Hisar: ₹ 10.40 lakh and (iii) Jind: ₹ 1.21 lakh.

(iii) Discrepancies noticed in issued Work-slips

In six selected Districts, Audit approached 136 authorities⁴², who were shown to have certified 306 work slips⁴³ and requested them to authenticate their certificates. Out of these 136 authorities, only nine authorities⁴⁴ responded. Of these nine authorities, only three authorities⁴⁵ accepted that the five work slips were signed by them. Six authorities replied that the 25 work slips, which had been shown to be issued by them, were not actually signed by them as discussed below:

- In Municipal Committee (MC), Narnaund (Hisar), an amount of ₹ 6.04 lakh was disbursed for 25 benefits against 16 work slips which were signed by a Secretary⁴⁶. However, current Secretary, MC, Narnaund replied that the Secretary who had signed the work slip had never been a Secretary in that office.

Two authorities⁴⁷ stated that the stamp on two work slips referred to them were not theirs; an amount of ₹ 0.16 lakh was disbursed for two benefits against these two work slips to the beneficiaries. In one case, the person who had purportedly signed the work slip as Secretary, MC Narnaund had not been the Secretary in 2019-20 in that office.

- Two authorities⁴⁸ of MC Barwala stated that signatures on six work slips referred to them were not theirs; an amount of ₹ 8.03 lakh was disbursed against these work slips.

The Board replied (March 2024) that it will suggest the signing authorities to maintain details of workers in a register whose work slips have been signed by the signing authorities. Further, during the Exit Conference (June 2024), the Board stated that recovery notices will be issued to ineligible workers who have availed these benefits.

(iv) Benefit issued on bogus death certificate.

Rule 58 (1) of the Rules, 2005 provides that an entitled nominee of registered worker shall submit an application in Form-XVIII by enclosing a death

⁴² (i) Faridabad: 12, (ii) Gurugram: 18, (iii) Hisar: 32, (iv) Jind: 46, (v) Karnal: 19 and (vi) Panipat: 9.

⁴³ (i) Faridabad: 26, (ii) Gurugram: 48, (iii) Hisar: 100, (iv) Jind: 96, (v) Karnal: 24 and (vi) Panipat: 12.

⁴⁴ (i) Gurugram: 2 and (ii) Hisar: 7.

⁴⁵ (i) Gurugram: 2 and (ii) Hisar: 1.

⁴⁶ Sh. Sandeep Kumar

⁴⁷ Sh. Pankaj and Sh. Rajinder Singh, both were erstwhile Secretary, MC Narnaund.

⁴⁸ Sh. Parveen Kumar and Sh. Dharamvir, both were erstwhile Junior Engineer, Municipal Committee, Barwala.

certificate issued by a Government doctor. As per SOP for Registration & Benefit application, the officials of the Board were required to scan the Quick Response (QR) code in order to check the authenticity of the death certificate submitted by the applicant.

Audit, however, observed that the officials of the Board were not following the SOP in true spirit as a beneficiary in Gurugram District availed benefit of ₹ 2.15 lakh⁴⁹ on the basis of a death certificate, wherein on scanning the QR code by Audit, link of a fake website was opened on verification with the issuing authority. In reply, the Chief Medical Superintendent, District Combined Hospital, Balrampur confirmed (March 2024) that the death certificate was not issued by their office.

4.17 Findings regarding disbursement of benefits

4.17.1 Double payment or payment to ineligible beneficiaries

During review of the system of disbursement of selected 1,267 benefits availed by 646 beneficiaries, following shortcomings were noticed:

(i) Financial assistance under marriage/Kanyadaan scheme

On the occasion of marriage of daughter of a registered worker, a financial assistance of ₹ 50,000 is provided under Marriage scheme and after marriage of daughter, a financial assistance of ₹ 51,000 is provided under *Kanayadaan* scheme.

- In Karnal and Hisar Districts, two applicants⁵⁰ applied under the Marriage/*Kanyadaan* scheme for their daughters⁵¹. The documents attached with the applications were however in the name of their elder daughter⁵² for whom benefit had already been availed. Thus, the benefit was extended to the ineligible beneficiaries without scrutiny of documents diligently.
- In Jind District, a beneficiary⁵³ applied (20 September 2021) under the scheme for the marriage of his daughter⁵⁴ and availed benefit under *Kanyadaan* scheme. Audit, however, noticed that the beneficiary had already availed (29 December 2020) this benefit under the *Mukhya Mantri Vivah Shagun Yojana* of the State Government which is not allowed.

⁴⁹ Death Assistance- ₹ 2 lakh and Funeral Assistance- ₹ 0.15 lakh

⁵⁰ (i) Mrs Suman Devi (Reg. No. 60643466) W/o Sh. Shiv Kumar and (ii) Sh. Mahavir Singh (Reg. No. 120629626).

⁵¹ (i) Ms Muskan D/o Shri Shiv Kumar and (ii) Ms Monika D/o Sh. Mahavir Singh.

⁵² (i) Ms Jyoti D/o Shri Shiv Kumar and (ii) Smt. Mamta D/o Sh. Mahavir Singh.

⁵³ Shri Rajesh.

⁵⁴ Ms Rajni D/o Sh. Rajesh.

- In three Districts (Hisar, Faridabad and Karnal), three applicants⁵⁵ applied for availing financial assistance under *Kanyadaan* scheme for daughter's marriage which were rejected. Later these three applicants again applied under this scheme which was then accepted. Audit noticed that payments were released to these three applicants against both applications (including the rejected application). Thus, undue benefit of ₹ 1.53 lakh was given twice to these applicants⁵⁶.

(ii) Financial assistance under Death scheme

As per condition of the said scheme, the nominees/dependents of a member were eligible to get ₹ two lakh in case of death of the member. In Hisar and Yamuna Nagar Districts, nominees of two deceased construction workers applied twice and got benefits twice under the scheme. It was noticed that department did not properly scrutinise the applications with due diligence and undue benefit was extended twice to the nominees of the deceased workers⁵⁷.

(iii) Financial assistance for purchase of bicycle

Board in its 10th meeting (April 2013) approved that an amount of ₹ 3,000 was to be provided once in five years under the scheme. During scrutiny of data for the period April 2017 to March 2023, it was observed that financial assistance of ₹ 0.93 lakh for purchase of bicycle was extended twice to 31 beneficiaries during the period May 2018 to January 2023.

(iv) Financial assistance for purchase of tools

Under the above scheme, an amount of ₹ 8,000 was to be provided to a registered worker once in five years and maximum five times during his working life span. During the period August 2018 to February 2023, a total financial assistance of ₹ four lakh was provided to 25 beneficiaries in the entire State. Audit observed that as per the scheme, assistance was to be provided once in five years. However, financial assistance was extended twice to these 25 beneficiaries within five years. Thus, an amount of ₹ two lakh was given in excess to the beneficiaries in contravention of conditions laid down under the scheme.

4.17.2 Benefits extended to male workers under MMNSSY

Under *Mukhya Mantri Mahila Nirman Shramik Sammaan Yojna* (MMNSSY), a financial assistance of ₹ 5,100 is given every year to a registered female

⁵⁵ (i) Shri Ishwar Singh (Reg. No. 120657294), (ii) Shri Prem Chand (Reg. No. 619058964) and (iii) Mrs Suman Devi (Reg. No. 60643466).

⁵⁶ (i) Shri Ishwar Singh: ₹ 0.51 lakh, (ii) Shri Prem Chand: ₹ 0.51 lakh and (iii) Mrs Suman Devi: ₹ 0.51 lakh.

⁵⁷ (i) Shri Jaipal (Reg. No. 120610728) and (ii) Shri Tilak Raj (Reg. No. 603027085).

worker for the purchase of saree, suit, chappal, sanitary napkins, kitchen utensils, etc.

Audit observed that though the said scheme was exclusively meant for the female workers, benefit of ₹ 0.77 lakh was extended to 15 male workers. It indicates that the Board did not scrutinise the applications with due diligence.

4.17.3 Benefits extended on false certification

In 29 cases (Hisar: 26, Jind: 3), for availing benefits, applicants had submitted work slips signed by Gram Sachiv, J.E, M.C, State General Secretary, Secretary, M.C, etc., claiming to have worked at worksites for specific employers. It was however noticed that these persons had also worked under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) during the same period and submitted work slips shown to be engaged with employer other than MGNREGA. A total benefit of ₹ 11.66 lakh⁵⁸ was extended to these beneficiaries on the basis of above work slips.

During Exit Conference (June 2024), the Board stated that the suitable action would be taken under intimation to Audit. Final action was awaited (December 2024).

4.18 Survey of construction workers

4.18.1 Survey⁵⁹ of registered workers

Beneficiary survey of 799 beneficiaries⁶⁰ (details given in *Appendix 4.5*) was conducted by Audit in six selected Districts to evaluate the performance of the Board in respect of identification of beneficiaries, awareness about various welfare schemes of Board, registration of beneficiaries, scrutiny of applications, providing financial assistance etc. Beneficiaries were selected by Systematic Random Sampling procedure from the consolidated list of beneficiaries (Village wise).

The beneficiaries were surveyed at the address available in the database. Out of 799 beneficiaries, 611 beneficiaries could be reached and remaining 188 beneficiaries could not be contacted despite telephonic calls and visits at the address available in the database of Department. The results of survey of 611 registered workers are given below:

⁵⁸ (i) Hisar: ₹ 10.15 lakh and (ii) Jind: ₹ 1.51 lakh.

⁵⁹ Constraints faced by Audit teams in conducting Beneficiary Survey (a) Despite the intention to interview the beneficiaries independently, often the interviews were carried out in the presence of other members of family, which might have induced certain bias in the responses of the beneficiaries. (b) If the beneficiary was not present, another member of the household was interviewed.

⁶⁰ (i) Faridabad- 86, (ii) Gurugram- 96, (iii) Hisar- 210, (iv) Jind- 201, (v) Karnal- 126 and (vi) Panipat- 80.

- Only two beneficiaries were engaged in construction work in registered establishment. 540 beneficiaries were employed in construction work of individual residential houses/Roads/Parks/Walls *etc.*
- Forty-four beneficiaries⁶¹ were ineligible due to not being involved in building or other construction activity. These beneficiaries responded that they were engaged in other professions such as Anganwadi helper, stitching work, school peon, water supply worker, factory workers, etc.

4.18.2 Survey of unregistered workers

In six selected Districts, 125 unregistered workers⁶² of 17 construction sites⁶³ were interacted/surveyed. As per information elicited through questionnaire (details given in *Appendix 4.6*), it was observed that:

- Out of 125 workers who were unregistered, 119 were migrant workers from States of Bihar, Uttar Pradesh, Madhya Pradesh and Chhattisgarh.
- 107 workers were not aware of the Board, its welfare schemes and registration process.
- 72 workers were engaged in construction work for more than 90 days. Of these, seven workers responded that they were already registered with the Board in their native States. 65 workers had never applied for registration.
- As per Section 34 of the Act, temporary living accommodation to all building workers was to be provided by the employer. However, 11 workers were not provided with temporary living accommodation.
- Five workers responded that drinking water facility had not been provided at the construction site in Gurugram District.

Though the majority of the workers found at construction site were migrant workers, none of them were registered with the Board and thus could not get benefits from the welfare schemes.

⁶¹ (i) Faridabad: 1, (ii) Gurugram: 14, (iii) Hisar: 1, (iv) Jind: 2 and (v) Panipat: 26.

⁶² (i) Faridabad: 24, (ii) Gurugram: 28, (iii) Hisar: 15, (iv) Jind: 10, (v) Karnal: 19 and (vi) Panipat: 29.

⁶³ Unregistered sites- eight, Registered sites- seven, Accident sites- two

4.19 Conclusion

The Cess collection during 2017-18 to 2022-23 was ₹ 2,153.11 crore. The Board utilised only ₹ 1,656.78 crore (29.83 *per cent*) of the total available funds (i.e. ₹ 5,553.71 crore) on implementation of the schemes during 2017-18 to 2022-23. Moreover, the Board did not apply in time for tax exemption under Section 10 (46) of the Income Tax Act, resultantly there was an Income Tax liability of ₹ 713.25 crore. Audit noticed deficiencies in administrative issues such as non-preparation of annual reports, non-convening of meeting of State Advisory Committee and shortfall in Board meetings.

It was observed that a large number of construction works were not registered due to lack of coordination between the Labour Department and other work executing Departments as well between the authorities responsible for Building Plans. The establishments were not got registered, even after inspection and serving notices to the unregistered establishments.

Due to awareness programme not being conducted regularly by the registration authority, the objective of the Board to provide benefits to the construction workers could not be achieved as workers were unaware of these schemes and they remained unregistered. Further, due to inaction of the Department on pending applications potential beneficiaries also could not avail benefits of the welfare schemes.

Instances of short collection of advance cess were noticed in Audit. Further, due to lack of reconciliation system, there were mismatches between the figures given by the Board and other Departments.

The post-inspection process also indicated inadequate scrutiny of compliance reports including absence of proper follow-up on these compliance reports. There was no correlation between number of benefits disbursed with the number of establishments registered. Moreover, the Board officials did not properly verify details given in applications and documents, leading to benefits being given to ineligible recipients.

4.20 Recommendations

The Department/Board may:

1. prepare annual reports regularly for submitting to the State Government and ensure that meetings are regularly held of the State Advisory Committee and the Board;
2. coordinate with work executing departments and building plans approving authorities for registration of construction works and ensure adherence to the prescribed time-frame for registration of workers.;

3. regularly conduct awareness programmes for registration of workers and for spreading awareness about welfare schemes;
4. develop a mechanism to monitor establishment-wise accrual and receipt of cess;
5. devise a mechanism to ensure compliance, by the establishments, of the violations noticed during inspections and consider fixing responsibility of erring officials/officers for not taking appropriate action in respect of deviation noticed in inspection cases; and
6. ensure proper identity/eligibility verification of beneficiaries before releasing benefits to them.