

Chapter I

Introduction

1.1 Introduction

Government of India (GoI) enacted (August 1996) the ‘Building and Other Construction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996’ (BOCW Act) with a view to regulate employment, working conditions, safety, health and welfare of the construction workers. The BOCW Act provides for establishment of Building and Other Construction Workers’ Welfare Board and the framing of rules by every State Government to exercise the powers conferred under the Act. The BOCW Act applies to every establishment employing ten or more workers in any work site¹. The BOCW Act stipulated that every building worker in the age group of eighteen and sixty years who is employed on a building or other construction work for a period of not less than ninety days during the preceding twelve months can register himself as beneficiary with the Board.

To augment the resources of the Building and Other Construction Workers’ Welfare Boards, the GoI also enacted (August 1996) the ‘Building and Other Construction Workers’ Welfare Cess Act, 1996’ (Cess Act) for levy and collection of cess on the cost of construction incurred by the employers. Further, GoI framed (March 1998) ‘Building and Other Construction Workers’ Welfare Cess Rules, 1998’ (Cess Rules) thereunder. GoI notified (September 1996) the levy of cess at the rate of one *per cent* of the cost of construction incurred by the employers.

In exercise of the powers conferred under the BOCW Act, Government of Rajasthan (GoR) framed (April 2009) the Rajasthan Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009 (RBOCW Rules) after a lapse of more than 12 years from the enactment of the BOCW Act. The GoR constituted (July 2009) the Rajasthan Building and Other Construction Workers’ Welfare Board (RBOCW Board) to manage the welfare fund and implement welfare schemes for the construction workers.

The functions of the Board, *inter alia*, included providing immediate assistance to a beneficiary in case of accident, payment of pension to beneficiaries who have completed the age of 60 years, sanction of loans and advances for construction of house, payment of premia for Group Insurance Scheme for the beneficiaries, financial assistance to the beneficiaries for the education of children, medical expenses for treatment of major ailments, and maternity benefits to female beneficiaries.

The GoR adopted the Cess Rules, 1998 in July 2009 to levy cess at the rate of one *per cent* of the total cost of construction. The cess collected is to be credited

¹ Ten or more workers should have been employed on any day in the last 12 months. Workers who come under Factories Act, 1948 or the Mines Act, 1952 are excluded.

to the Building and Other Construction Workers' Welfare Fund (Fund). Benefits to the registered beneficiaries under the Act are provided from this Fund. The major source of funds of the Board is collection of cess from employers.

During the audit period from 2017-18 to 2021-22, there were nine schemes in existence for providing benefits to the BOC Workers. However, one scheme i.e. Health Insurance Scheme for BOC Workers was closed in June 2017. Remaining eight schemes involving *Shiksha and Kaushal Vikas Yojana, Sulabhya Awas Yojana, Jeevan and Bhavishya Suraksha Yojana, Shubh Shakti Yojana, Prasuti Sahayta Yojana*, Natural or Accidental Death/Injury Assistance Scheme, *Silicosis Yojana and Nirman Shramik Tool Kit Yojana* were implemented by the Board for welfare of the beneficiaries. Further, five² more schemes were also implemented from December 2020.

As of March 2022, there were 30.10 lakh construction workers registered as beneficiaries with the Board. Opening balance of Welfare fund lying with the Board was ₹ 946.24 crore as of April 2017. The total receipts of the Board from 2017-18 to 2021-22 were ₹ 1,919.96 crore which included cess collection of ₹ 1,788.99 crore³ and interest on investment and other receipts of ₹ 130.97 crore. The expenditure was ₹ 2,036.93 crore out of which the expenditure on various schemes implemented by the Board was ₹ 1,659.22 crore during 2017-18 to 2021-22 and had a balance of ₹ 829.27 crore as of March 2022.

1.2 Organizational set-up

The Labour department headed by the Secretary, Labour Department GoR is responsible for the implementation of the BOCW Act and Cess Act in the State. Besides, there are seven divisional offices headed by Divisional Joint Labour Commissioners in the department. At the district level, Dy. Labour Commissioners/ Labour officers are designated as Registering Officers for the registration of establishments and as 'Cess Collector' and 'Assessing Officer' for collection and assessment of Labour cess. The Labour Commissioner was also notified (July 2009) as the Chief Inspector for inspection of building and other construction works. At district level, Dy. Labour Commissioners/Labour officers were notified as Inspectors for inspection of any premises or place where building or other construction work is carried out under the Section 43 of the BOCW Act.

The RBOCW Board is responsible for management of the welfare fund, registration of workers as beneficiaries, formulation of welfare schemes and disbursement of benefits to the beneficiaries. The Chairman of the RBOCW Board is Labour Minister, GoR and the Commissioner, Labour Department is the ex-officio Secretary of the Board. The Board consisted of 10 members

² Reimbursement of interest on loan for business, Incentive scheme for BOC Worker or his dependent on passing of Indian/Rajasthan Administrative Services preliminary examination, Reimbursement of tuition fees on admission in IIT/IIM, Reimbursement of expenditure incurred to obtain visa for employment in abroad and Incentive scheme for International Sports Competition.

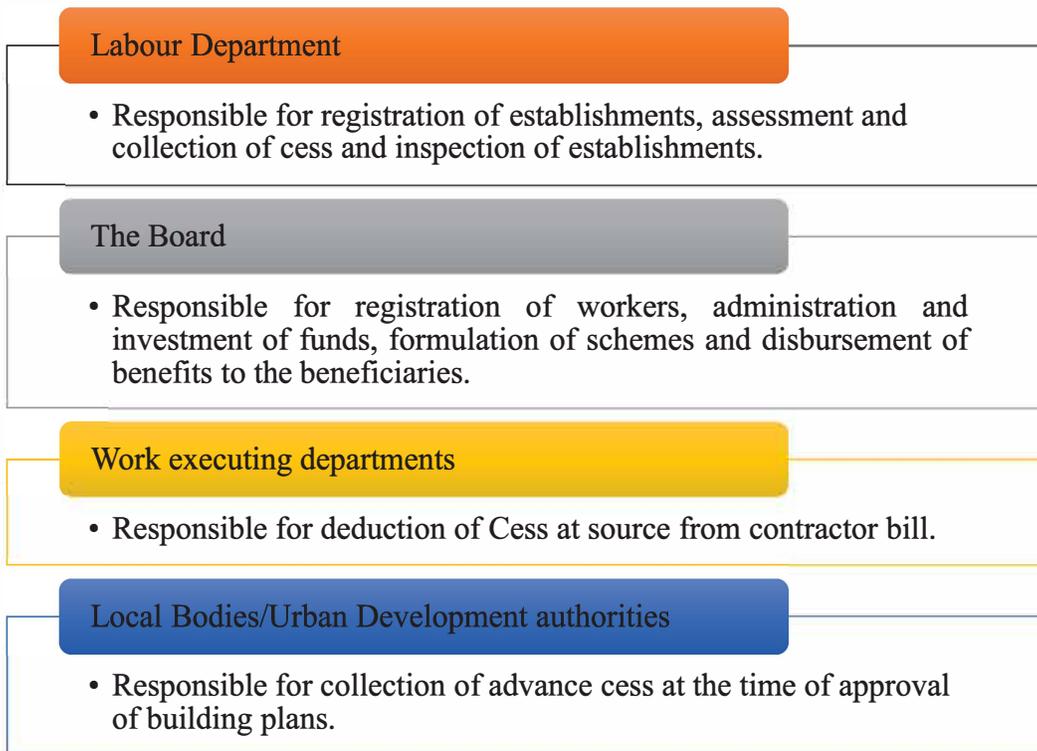
³ Excluding ₹ 55.26 crore deducted by Finance Department on account of expenditure on BOC workers during covid-19 in 2020-21.

including three representatives each of the BOC workers/establishments and two special invitees, one from the Centre for Indian Trade Union (CITU) and a woman from Indian National Trade Union Congress (INTUC). The Board performs its functions of registration of building workers and processing of applications for benefits under welfare schemes at district level through officials of Labour Department.

Further, as per the GoR notification (January 2015), officers of Local Bodies/Urban Development authorities (planning authorities) and works executing departments⁴ are also empowered for collection and assessment of Cess as Assessing Officers.

The responsibility of various agencies involved in implementation of the BOCW Act and the Cess Act are described in **Chart 1.1**

Chart 1.1



Further, Deputy Chief Inspector/Senior Inspector/Inspector of Factories and Boilers Inspection Department were entrusted (November 2010) with ensuring provisions related to safety and health under BOCW Act as per their jurisdiction.

⁴ Public Works Department, Water Resource Department, Public Health and Engineering Department, Panchayati Raj Department, Ground Water Department and Horticulture Department.

1.3 Audit objectives

This performance audit was conducted to ascertain whether:

1. the rules notified by the State Government under the Act are consistent with the spirit of the BOCW Act and existing set up was adequate for compliance of provisions of the Act?
2. there was an effective system for registration of establishments and beneficiaries?
3. the cess assessment, collection, and transfer of collected cess to the Fund was efficient?
4. the State Government prescribed appropriate health and safety norms and could ensure an environment of compliance to those norms by the Employers?
5. the administration and utilization of fund on implementation of welfare scheme by the Board was efficient and effective and as per Act and rules framed by the State Government?

1.4 Audit Criteria

The audit findings were benchmarked against the following criteria:

- Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996.
- Rajasthan Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009.
- Building and Other Construction Workers' Welfare Cess Act 1996 and Cess Rules, 1998.
- Circulars and orders issued by GoI/GoR and RBOCW Board.
- Model Welfare Scheme based on Supreme Court Judgement in respect of the BOCW Act, Cess Act and Cess Rules.

1.5 Scope of Audit and Sampling Methodology

The performance Audit was conducted from September 2022 to May 2023 covering the period of five years from 2017-18 to 2021-22. Records of the Office of the Commissionerate, Labour Department, the RBOCW Board and selected district offices involved in implementation of the Acts were examined. Further, records of the Factories and Boilers Inspection Department alongwith 55 inspection reports were also scrutinised to assess compliance to health and safety provisions.

For comprehensive and holistic coverage of implementation of both the Acts, five out of 33 districts, having maximum amount of benefits disbursed (three⁵ districts) under welfare schemes as well as having maximum contribution in cess (two⁶ districts) were selected as sample for audit. In each selected district, records of district level office of the Labour Department (for assessing the efficacy of registration of BOC workers and implementation of welfare schemes) were test-checked.

With a view to ascertain assessment, collection and deposit of Cess into the Government Account, records of 10 works executing departments, 10 local bodies and 157 Assessment files pertaining to six Assessing officers of Labour Department were examined in the selected five districts.

To ascertain compliance of norms prescribed under the BOCW Act, 1996 for registration of establishments and workers along with safety and health of BOC workers at worksites, joint physical inspection of 27⁷ establishments in selected five districts was conducted.

For evaluation of welfare schemes, 520 applications⁸ of beneficiaries for the eight welfare schemes were examined in the selected five districts. Audit conducted a survey of 305⁹ workers out of the above 520 beneficiaries to assess the feedback from BOC workers regarding welfare schemes. Also, survey of 447 workers employed in above 27 selected establishments was conducted to assess the extent of awareness among BOC workers regarding welfare schemes.

Details of the number of units examined in selected districts for the performance audit is given in *Appendix 1.1*.

An Entry Conference was held in September 2022 with the Secretary, Labour Department, GoR wherein audit objectives, audit criteria, audit scope and methodology were discussed. Exit conference was held in June 2024 with the Special Secretary, Labour Department, GoR to discuss the audit findings. The views of the department were considered while drafting this Report.

1.6 Acknowledgement

Audit acknowledges the co-operation and assistance extended by the Labour Department, the Board and selected units in providing records, information and clarifications sought from time to time for the smooth conduct of this Performance Audit.

⁵ Jaipur, Dholpur and Karauli.

⁶ Kota and Jodhpur.

⁷ 12 registered and 15 unregistered establishments.

⁸ Dholpur: 105, Jaipur: 105, Jodhpur: 103, Karauli: 103 and Kota: 104.

⁹ All 520 applicants could not be surveyed as some cases pertained to accidental death and death due to silicosis. Additionally, some mobile numbers were also not accessible.