

Chapter II

Institutional Arrangements for Implementation of the BOCW Act

2.1 *Enabling provisions of the BOCW Act in RBOCW Rules*

Section 62 of the BOCW Act, 1996 provides that State Government should make rules for carrying out the provisions of the Act. During Audit it has been observed that following provisions of the BOCW Act were not incorporated by the State Government while framing RBOCW Rules:

(i) Section 24(3) of the BOCW Act stipulates that no Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration of its members, officers and other employees and for meeting other administrative expenses exceeding five *per cent* of its total expenses during that financial year. Audit noted that the ceiling limit of five *per cent* for administrative expenses was not incorporated in the RBOCW Rules. Though, administrative expense remained within five *per cent* of the total expenses during audit period, ceiling limit should have been incorporated in RBOCW Rules to ensure compliance in future also.

(ii) Section 46 of the BOCW Act stipulated that an employer shall submit a notice containing eight kinds of information to the jurisdictional Inspector before 30 days of the commencement of work. While framing RBOCW Rules, one such information *viz.* details of number of workers likely to be employed during the various stages of work was not incorporated in RBOCW Rules.

(iii) As per the Section 48 of the BOCW Act, if an employer fails to give notice of the commencement of the building or other construction work under Section 46, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both. It was noticed that no such provision was incorporated in RBOCW Rules.

This was pointed out (November 2024) to the department, however, reply was awaited (February 2025).

Audit is of the view that provisions of the BOCW Act are necessary to create enabling environment for welfare of BOC workers.

2.2 *Institutional Framework*

The State BOCW Board, State Advisory Committee and expert committee are the institutional framework stipulated in the BOCW Act. Audit observations pertaining to manpower, implementation of the decisions taken by the Board and constitution of State Advisory Committee are discussed in the succeeding paragraphs.

2.2.1 Shortage of manpower

The GoR sanctioned 12¹ posts for the RBOCW Board. Out of these, 11 posts were sanctioned in October 2011 and one post of Junior Accountant was sanctioned in April 2016. Audit observed that eight² of the 12 posts were vacant during the entire audit period of 2018-22.

At district level various functions of Board are being performed by Labour Inspectors in addition to their regular duties of implementation and monitoring of various labour Acts. There was shortage against the sanctioned strength at the State level and in selected districts also. The number of Labour Inspectors posted in the Labour Department against the sanctioned strength in the State during 2017-22 is given **Table 2.1** below :

Table 2.1: Position of Labour Inspectors posted against sanctioned strength

Year	State		Jaipur		Dholpur		Karauli		Kota		Jodhpur	
	SS	PIP (in per cent)	SS	PIP (in per cent)	SS	PIP (in per cent)	SS	PIP (in per cent)	SS	PIP (in per cent)	SS	PIP (in per cent)
2017-18	181	95(52)	20	3 (15)	3	2 (67)	3	1 (33)	10	4 (40)	12	4 (33)
2018-19	181	118 (65)	20	20 (100)	3	2 (67)	3	1 (33)	10	6 (60)	12	8 (67)
2019-20	181	111 (61)	20	14 (70)	3	1 (33)	3	1 (33)	10	5(50)	12	8 (67)
2020-21	181	90 (50)	20	17 (85)	3	1 (33)	3	1 (33)	10	4(40)	12	3(25)
2021-22	181	89 (49)	20	19 (95)	3	1(33)	3	1 (33)	10	3(30)	12	7 (58)

SS-Sanctioned strength; PIP-Person in position.

The above table shows shortage of Inspectors in Labour Department in the State ranging between 35 per cent to 51 per cent during 2017-22. Similarly, in the test checked five districts the shortage of inspectors ranged between 5 per cent to 85 per cent during 2017-22 (except Jaipur in 2018-19). This shortage affected inspection of establishments (Refer **Paragraph 5.4.2**) and collection of cess (Refer **Paragraph 4.2**).

2.2.2 Non-implementation of Board's decisions

Rule 40 of the RBOCW Rules stipulates that the Secretary of the Board shall take necessary steps for carrying out the decisions of the Board. Board is empowered to make amendments in the scheme after taking decisions in its meeting and approval of the Hon'ble Labour Minister. Thereafter, the Secretary of the Board was required to issue instructions for implementation of the decision/amendments in the guidelines of the scheme.

Audit observed that during 2017 and 2021, important decisions were taken in the meetings of the Board chaired by Hon'ble Labour Minister as cited in **Table 2.2** below:

¹ Assistant Labour Commissioner:1, Accounts officer:1, Accountant:1, Junior Accountant:1, Labour Inspector:2, Personal Assistant:1, Upper Division Clerk:1, Lower Division Clerk:2 and Group D:2.
² Assistant Labour Commissioner:1, Accountant:1, Personal Assistant:1, Upper Division Clerk:1, Lower Division Clerk:2 (2017-18: 1 post) and Group D:2.

Table 2.2: Decisions of the Board taken in its meetings

Board meeting	Date of meeting	Decisions
26 th	11 August 2017	The amount of assistance given under death or injury assistance scheme in cases where accident disables a BOC worker from doing his work is meagre. Therefore, it was decided that in case the accident results in permanent disability (partial/ complete) of workers, the benefit should be given without adjusting the amount of assistance provided earlier.
31 st	06 July 2021	Assistance under death or injury assistance scheme was being provided in case of permanent disability (partial/complete) due to an accident. The assistance should also be provided in case of permanent disability (partial/complete) due to any illness or other reasons.

However, it was noticed that the Board did not initiate any further action for implementation of its above decisions.

The Secretary, Board replied (October 2024) that implementation of the schemes was done only after approval in the Board meeting and approval of the Hon'ble Labour Minister. Also, amendments are made in the provisions of the scheme as and when required.

The fact remains the same as these decisions were approved by competent authorities during meetings itself, however, no further action was taken by the board to implement the decisions.

2.2.3 Constitution of State Advisory Committee

Section 4 of the BOCW Act provides that the State Government shall constitute a State Advisory Committee (SAC). As per Rule 4 of RBOCW Rules, the SAC shall consist of a chairperson and 13 members³ including representatives of employers and building workers. Rule 5 of the RBOCW Rules also provides that the term of the SAC shall be three years. Rule 14 of the RBOCW Rules provides that SAC shall meet at least once in three months to advise the State Government on such matters arising out of the administration of the Act as per Section 4 of the BOCW Act.

Audit observed that the SAC was last reconstituted in September 2015. Moreover, during 2017-18 to 2021-22, only one meeting of SAC was held (28 April 2017) as against the prescribed 20 meetings, resulting in non-discharge of the mandated functions as contemplated in the Act. The department did not provide any specific reply in this regard.

³ (i) Two Members of the State Legislature; (ii) one member nominated by the Central Government; (iii) Chief Inspector; (iv) four representatives of employers connected with BOC work; (v) four representatives of building workers; (vi) one representative of accident insurance institution.

Conclusion

Audit observed that the State Government did not include some of the major provisions of the BOCW Act while framing RBOCW Rules. Also, there was shortage of manpower at RBOCW Board and Labour Department which affected the inspection of establishments and compliance with the provisions of the Act including registration of BOC workers and collection of cess.

Recommendation 1: The GoR may take effective action to strengthen existing set up by filling up the vacant posts at RBOCW Board and Labour Department on priority to ensure effective implementation of provisions of BOCW Act.