



SUPREME AUDIT INSTITUTION OF INDIA

लोकहितार्थं सत्यनिष्ठा

Dedicated to Truth in Public Interest

**Report of the  
Comptroller and Auditor General of India  
on  
Welfare of Building and Other Construction Workers**



**Government of Uttar Pradesh  
Report No. 4 of 2025  
(Performance Audit-Civil)**



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## **Preface**

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2022 has been prepared for submission to the Governor of Uttar Pradesh under Article 151 of the Constitution of India.

The Report contains the results of the Performance Audit on ‘Welfare of Building and Other Construction Workers’, covering the period 2017-22. The instances mentioned in this Report are those which came to notice in the course of test-audit for the period 2017-22. Instances relating to the period subsequent to 2021-22 have also been included, wherever necessary.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.



# Executive Summary



## Executive Summary

To regulate the employment and conditions of service of the Building and Other construction workers (workers) and to provide for their safety, health and welfare measures, the Government of India (GoI) enacted (August 1996) “the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996” (the Act). The Act requires establishment of the Building and Other Construction Workers Welfare Board (Board) for ensuring safety, health and welfare measures for workers. Additionally, the GoI also enacted (August 1996) “the Building and Other Construction Workers Welfare Cess Act, 1996” (the Cess Act) for levy and collection of a cess on the cost of construction incurred by employers to generate resources for the Board. The Government of Uttar Pradesh (GoUP) subsequently notified (February 2009) “the Uttar Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules 2009” (Rules 2009) to implement the Act within the State.

The aim of this Audit was to ascertain whether the GoUP implemented both Acts as envisaged and if it improved working conditions of the workers. Audit also reviewed implementation of provisions relating to registration of establishments & workers; assessment, collection and transfer of cess to the Board and utilisation of cess.

Audit observed deficiencies in framing of required rules by the GoUP as the Rules 2009 did not address many requirements of the Act such as constitution of Expert Committee, benefits to be provided to workers after turning 60, payment of medical expenses to workers, the terms & service conditions of officers/employees of the Board, required form and timeline for preparation and submission of budget, annual report & annual accounts *etc.* by the Board.

The process of establishment registration was inefficient. The Registering officers had limited role in registration process, there was no system to track changes of registration certificate particulars or verify details submitted by the employer for registration, and employers were not informed of registration conditions. The Board did not establish any mechanism to identify potential employers through consistent monitoring of construction endeavours in the State. The Government departments/autonomous bodies did not register their construction works, and annual targets of establishment registration were not achieved during 2017-22. Besides, not only registration of establishments was delayed but certificates were also issued after prescribed time. The GoUP did not transfer receipts of establishment registration to the Board.

Similarly, process of beneficiary registration was not efficient. The status of registration of beneficiaries had improved in the State during 2020-22, though, count of active beneficiaries remained low. The GoUP allowed registration of ineligible beneficiaries involved in works covered under the

Mines Act, 1952 or the Mahatma Gandhi National Rural Employment Guarantee Act. The format of identity cards for the workers prescribed by the GoUP was not consistent with requirements of the Act.

The system for assessing, collecting and transferring cess to the Board was not effective. The employers did not submit required notice for cess assessment, and the Cess Assessment Officers (except from the Labour department) did not make cess assessment. Even assessments made by the Labour department officers were marginal (ranged between zero and 24 *per cent*) against the registered establishments in selected districts during 2017-22. Assessments were made in respect of only individual employers ignoring construction works of Government departments/local bodies. The Cess Collecting Officers either did not deduct cess from the contractors bills or excluded permissible items. The Development authorities/local authorities either did not impose cess at the time of approval of building plans or levied short cess. No uniform rates were used for calculating construction cost in selected districts. The cess collection from properties, identified under Geographic Information System survey in five districts of the state, was unsatisfactory. The Cess Collecting Officers deducted collection charges without working out actual expenditure on cess collection and also failed to transfer collected cess to the Board in prescribed time. No accounting system was prescribed for cess receipts, and most transactions remained outside the Government Account.

The implementation of safety and health provisions for workers could not be ensured. The employers did not frame Safety policy. Constitution of Safety committee and appointment of Safety Officer by the employers was not ensured. The role of Inspectors in enforcement of related provisions was also deficient. The employers did not report accidents, resulting in not conducting inquiry in all accidental cases during 2017-22. The affected workers were also deprived of compensation under the Workmen Compensation Act.

The system of inspections was also deficient. There was no documented records regarding basis for selecting worksites or planning inspections. Employers of registered establishments did not notify Inspectors regarding work commencement, leading to few inspections in selected districts during 2017-22. The inspection format did not require checking of various potential provisions of the Act and Rules 2009. Besides, there was no monitoring of follow up on inspection observations.

The constitution and functioning of the Board was not proper. The GoUP failed to constitute or reconstitute the Board on time and sanction its posts of the Secretary and other Officers/employees. The GoUP did not include all mandatory functions of the Board, as enshrined in Section 22 of the Act, in the Rules 2009. Number of meetings of the Board was deficient and notice and agenda of the meeting were not served on time. The preparation and submission of budget estimates by the Board was not only delayed but

also not approved by the GoUP. The Board did not prepare its annual reports since inception and annual accounts since inception till the year 2020-21. The State Advisory Committee did not play pivotal role in the matters related with administration of the Act. The management of Welfare fund was also not efficient as large funds were lying unutilised with the Board and even funds were diverted for other than the prescribed purposes. The implementation of schemes for workers benefit was inefficient as many workers did not get assistance despite approval of applications or got assistance with delays. The status of implementation of Model Welfare Schemes of the Government of India was not satisfactory.

### **Recommendations summarised:**

Audit recommends to the State Government:

- *plugging the gaps of Rules 2009 with the requirements of the Act such as constitution of Expert Committee, delineation of benefits to be extended to workers who reach the age of sixty and specifying format and timeline for preparation of the annual report and accounts.*
- *assigning responsibilities to Registering officers for verifying registration certificate and ensuring cent per cent timely registration of establishments and beneficiaries under their area of jurisdiction.*
- *devising a robust mechanism for identifying prospective employers, their registration and issuance of certificate on time.*
- *consider punitive measures against the Government officials for non-compliance of regulatory and statutory requirements under the Act and the Rules.*
- *ensure that only eligible workers are allowed to register with the Board for availability of scheme benefits to only intended beneficiaries.*
- *consider revising the format of identity card according to the provisions of the Act for proper upkeep of details of employments of workers.*
- *introduce a system to monitor submission of required return (Form-I) by the employers and processing of returns within the stipulated time.*
- *ensure that all Cess Assessment Officers assess cess in accordance with the Cess Act and Rules and adopt uniform rates for calculating construction cost across the State.*
- *ensure assessment of cess for works of the Government departments/local bodies along with the individuals.*

- *introduce a system for approval of building plans with levy and realisation of cess at the local government level.*
- *consider developing a mechanism for reconciliation of collected cess.*
- *develop a system to monitor the preparation and submission of Safety Policy, constitution of Safety committee and appointment of Safety Officer by the eligible employers.*
- *consider making Assistant Labour Commissioner/Deputy Labour Commissioner responsible for providing of compensation and Assistant Director (Factories) responsible for inquiry in each case of accident at workplaces.*
- *issue directions for timely submission of notice of commencement and completion of work in Form-4 and may consider taking action against the defaulter employers.*
- *consider fixing of targets of inspections for the inspectors of factory division of Labour department and adopt a transparent system for planning and conducting inspections and introduce a system for monitoring follow up of observations raised during inspections.*
- *ensure reconstitution of the Board on time and timely holding of meetings of the Board.*
- *ensure preparation and approval of budget estimates in time and preparation and submission of annual report and accounts on time.*
- *consider establishing a mechanism for monitoring and supervising the implementation of schemes to ensure timely processing of applications and distribution of benefits.*



# Chapter-I

## Introduction



## Chapter I: Introduction

The enacted statutes by the Government of India (GoI) and Government of Uttar Pradesh (GoUP) for Welfare of Building and Other Construction Workers have been discussed in the present chapter. Audit objectives, criteria, scope and methodology of audit have also been included in this chapter.

### 1.1 Enacted Statutes

The GoI enacted (August 1996) the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (the Act) and the Building and Other Construction Workers Welfare Cess Act, 1996 (the Cess Act) to ensure safety, health and welfare measures for building and other construction workers (referred to as workers) by means of levying and collecting Labour Cess (Cess). In addition, the GoI also framed (March 1998) the Building and Other Construction Workers Welfare Cess Rules, 1998 (the Cess Rules) to implement these Acts.

The Act requires each State Government to constitute a Building and Other Construction Workers Welfare Board (the Board) and formulate rules for exercising the powers conferred by the Act. The Act applies to establishments employing ten or more workers in Building or Other construction work. Furthermore, the Act specifies that any worker between the ages of 18 and 60 with ninety days of service as a construction worker in the State during the preceding twelve months, is eligible for registration as a beneficiary.

### 1.2 Scenario in the Uttar Pradesh

In accordance with the stipulations of the Act, the GoUP introduced (February 2009) the Uttar Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009 (referred to as Rules 2009), after a lapse of more than a decade since the enactment of the Act. Subsequently, in November 2009, the GoUP constituted the Board for executing the welfare programmes outlined in the Act and Rules 2009.

Furthermore, the GoUP initiated implementation of cess of one *per cent* on construction expenses borne by employers, coinciding with the formation of the Board in November 2009. By March 2022, the Board had successfully registered 1.44 crore workers and overseen execution of 25 distinct schemes aimed at the enhancement of welfare of workers.

### 1.3 Organisational set-up

Principal Secretary of the Labour and Employment Department of the GoUP, is chairman of the Board. The Board consists of the Labour Commissioner of the GoUP, who is also the Chief Inspector, and ten other members, both ex-officio and nominated. The Secretary of the Board, who is also its Chief Executive Officer, oversees its operations and activities. The

Secretary receives assistance from two Additional Secretaries, a Finance & Accounts Officer, a Deputy Secretary, and an Assistant Secretary.

At the regional level<sup>1</sup>, responsibilities of assessment and collection of cess and registration of workers & establishments, have been assigned to the Additional Labour Commissioner/Deputy Labour Commissioner (DLC). Similarly, at district level, the Assistant Labour Commissioner (ALC) assumes these responsibilities. Furthermore, district-level authorities from various Government departments and executive agencies involved in project execution, building plan approvals, and urban local body management have been designated as Cess Assessing and Collecting Officers.

Beyond this, role of other Inspector for enforcing Act and Rules 2009 provisions have been bestowed upon officials such as the DLC, ALC and Labour Enforcement Officers (LEOs). Moreover, the District Magistrate, DLC and ALC are entrusted with the responsibility of approving benefits under the Board's schemes for eligible registered beneficiaries. The Board's organizational structure has been given in *Appendix-I*.

#### **1.4 Audit Objectives**

The audit objectives of the Performance audit (PA) were to ascertain whether:

- the Rules 2009 notified by the GoUP under the Act are consistent with the spirit of provisions of the Act;
- there was effective system for registration of establishments and beneficiaries;
- cess assessment, collection, and transfer of collected cess to the Welfare Fund was efficient;
- the GoUP prescribed appropriate health and safety norms and could ensure an environment of compliance to those norms by employers;
- the GoUP implemented transparent and effective system of inspections to check evasion of cess and compliance to health and safety norms by employers; and
- administration and utilisation of Welfare Fund for implementation of welfare schemes by the Board was efficient and effective and as per Act and Rules framed by the GoUP.

#### **1.5 Audit Criteria**

The criteria for the PA were derived from the following sources:

- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (the Act),
- The Uttar Pradesh Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2009 (the Rules, 2009);

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<sup>1</sup> There are 26 regional offices of Labour Department in the State for performing the functions of Board.

- The Building and Other Construction Workers Welfare Cess Act, 1996 (the Cess Act) and the Building and Other Construction Workers Welfare Cess Rules, 1998 (the Cess Rules);
- Resolutions passed by the Board;
- National Building Code of India, 2016 (Part 7 titled ‘Construction Management, Practices and Safety);
- Indian Standard Safety Code for Scaffolds and Ladders Part I & II; and
- Inspection Policy notified by GoUP and State Financial Rules.

## 1.6 Audit scope and methodology

The PA, encompassing period 2017-22, was conducted from January 2023 to July 2023. The records were reviewed at the Board's Headquarters, the Commissioner's office (Labour Department), and six district-level offices of the Labour Department. To facilitate this assessment, three districts each were selected based on benefit disbursement under the welfare schemes and cess contributions. The selected districts were Agra, Gautam Buddha Nagar (G. B. Nagar), Lucknow, Moradabad, Prayagraj and Varanasi. Moreover, two units<sup>2</sup> from construction work execution departments (Public Works and Irrigation), and two units from building plan approval departments (one Development Authority and one Urban Local Body<sup>3</sup>) of these selected districts were also selected for scrutiny of records.

Additionally, 10 out of the 25 schemes implemented by the Board during 2017-22, were selected using stratified random sampling to verify eligibility criteria and timely disbursal of benefits. The details of the selected units and schemes are mentioned in *Appendix-II*.

The audit methodology included requisitioning of records and information, analysis of documents, responses of auditee units to audit queries and observations, and performing joint physical verifications at the sampled establishment sites. An Entry Conference was held on 6 January 2023 with the Additional Chief Secretary of the Labour Department (GoUP). During this conference, the audit methodology, scope, objectives, and criteria were elucidated. Further, an Exit Conference was also held with the Principal Secretary, Labour Department on 31 January 2024, wherein audit observations and conclusions were discussed with the Department. The State Government also submitted detailed replies to the audit observations and conclusion of draft report of PA in month of March 2024. Replies of the State Government, where available, have been suitably incorporated in the relevant paragraphs.

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<sup>2</sup> On the basis of expenditure on construction works.

<sup>3</sup> Having highest population in the district.

## **1.7 Audit Findings**

The audit findings are presented in following chapters:

**Chapter II-** Compliance with the provisions of the Act

**Chapter III-** Registration of establishments and beneficiaries

**Chapter IV-** Assessment, collection and transfer of cess to the Board

**Chapter V-** Health and Safety of Workers

**Chapter VI-** Inspections

**Chapter VII-** Administration and utilisation of Welfare Fund

## Chapter-II

# Compliance with the provisions of the Act





## Chapter II: Compliance with the provisions of the Act

This chapter highlights the shortcomings in framing of required rules by the GoUP.

### Brief snapshot of the chapter:

- Rules 2009 did not have provisions for constitution of Expert Committees, and for providing benefits to beneficiaries after attaining age of 60 years in compliance with the Sections 14(2) and 62(2)(i) of the Act.
- All mandatory functions of the Board, as provided in the Act, have not been included in Rules 2009.
- Required format and timeline for preparation and submission of budget estimates, annual report and annual accounts have not been provided by the GoUP under Rules 2009.

### 2.1 Comparison of State level Rules with requirements of the Act

As per Section 62 of the Act, State Governments were required to frame Rules for the implementation of its various provisions. The formulation of Rules was imperative for registration of establishments and beneficiaries, determination of entitlements for beneficiaries and ensuring safety; health and welfare measures of workers *etc.*

To address this, the GoUP notified Rules 2009 in February 2009, incorporating pertinent provisions that corresponded to requirements of the Act. However, in certain areas, not even provisions of the Rules 2009 but also their implementation was deficient against the requirement of the Act. The details in this regard are given in **Table 2.1** below:

**Table 2.1: Comparison of provisions of the Rules 2009 with the requirements of the Act and their status of implementation**

Requirements as per provisions of the Act	Status of compliance of requirements of the Act under the Rules 2009	Shortfalls against the requirement of the Act or in actual implementation of the Rules 2009
For constitution of State Advisory Committee (SAC), to advise State Governments on matters related to administration of Act, Sections 4(3) and 62(2)(a) requires that the number of nominated members, their term and other details required for functioning of SAC, shall be prescribed by the State Government.	Rules 10 to 22 provided required provisions in respect of constitution and functioning of SAC.	The constitution and functioning of SAC were deficient in the State as discussed in <b>paragraph 7.2.4.</b>
For constitution of Expert Committees (EC), to advise State Governments in framing of rules, Sections 5(2) & 62(2)(b) require that the fees and allowances that may be paid to the members of the EC, shall be prescribed by the State Government.	No rules were framed for constitution and functioning of EC.	To address the deficiencies of Rules 2009 ( <b>paragraphs 3.2.5, 5.3, 6.2 and 7.1.3</b> ), provisions of EC is required under Rules 2009.

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Requirements as per provisions of the Act	Status of compliance of requirements of the Act under the Rules 2009	Shortfalls against the requirement of the Act or in actual implementation of the Rules 2009
For registration of establishments, Sections 7(2)-(3) and 62(2)(c)-(d) require that form of application, registration fee, form of certificate and registration conditions may be prescribed by State Government through rules.	Rules 23 to 28 provided required provisions in this regard.	The conditions of registration certificate were not adhered to ( <i>paragraphs 3.1.3 and 6.4</i> ).
For Registration of workers as beneficiaries, Sections 12(2)-(3) and 62(2)(f)-(g) require that the form for registration of beneficiaries together with the required documents (including certificate of employment) and requisite fee for this, may be prescribed by the State Government through rules.	Rules 27 and 276 provided required provisions in respect of registration of beneficiaries.	Provisions for certificate of employment and identity cards were not as per requirement of Act ( <i>paragraphs 3.2.2 and 3.2.5</i> ).
Sections 14(2) and 62(2)(i) require provisioning of benefits by the State Government for those workers, who had been a beneficiary for at least three years continuously immediately before attaining the age of 60 years.	No provisions were made for providing benefits to beneficiaries as envisaged in related Sections of the Act.	In absence of rules, no action was initiated by the Board in this regard ( <i>paragraph 7.1.3</i> ).
Sections 15 and 62(2)(j) require prescribing of form by the State Governments to maintain Employment register by employers to keep details of employment of beneficiaries employed under their establishment.	Rule 278 provided required format of form in this regard.	Despite prescribing required format, related register was not maintained ( <i>paragraph 6.8</i> ).
For Constitution of the Board, Sections 18(4) and 62(2)(k) require prescribing of terms and conditions of appointment of the Chairman and nominated members, their salaries and other allowances, manner of filling vacancies <i>etc.</i> by the State Government through rules. Besides, Sections 19(3) and 62(2)(l) also require that terms and conditions of services and payment of salaries and allowances to the Secretary, and other officers & employees of the Board shall be prescribed by the State Government through rules.	Rules 256 to 269 provided required details in respect of constitution of the Board. However, there was no provisions for terms and conditions of services and payment of salaries and allowances to the Secretary and the other officers & employees.	Though the GoUP did not make provisions regarding payment of salary to the Secretary and employees of the Board, however, salary was being paid to them from the Welfare Fund by the Board.
Section 62(2)(n) requires prescribing of details for providing financial assistance to beneficiaries for house building loans or advances, education of their children, medical expenses <i>etc.</i> by the State Government. Besides, Sections 22(3) & 62(2)(o) also require provisioning of annual grants-in-aid to local authorities or employers for providing welfare measures and facilities to	Rules 2009 did not have any provisions for payment of medical expenses to the workers or their family members and engagement of local authority or employer for welfare of workers.	Despite no provision in the Rules 2009, the Board had implemented Medical Aid Scheme, Workers Critical Illness scheme <i>etc.</i> for payment of medical expenses to the workers.

Requirements as per provisions of the Act	Status of compliance of requirements of the Act under the Rules 2009	Shortfalls against the requirement of the Act or in actual implementation of the Rules 2009
workers and their family members by the State Governments under rules.		
Sections 25 & 62(2)(p) require prescribing of form and timeline for preparation and submission of annual budget of the Board.	Rules 2009 did not mention required form and timeline in this regard.	Due to lack of provisions, the preparation and submission of budget estimate was delayed ( <i>paragraph 7.2.1</i> ).
Sections 26 & 62(2)(q) require prescribing of form and timeline for preparation and submission of an annual report on activities of the Board. Similarly, Sections 27 & 62(2)(r) require prescribing of form and timeline for preparation and submission of an annual statement of account of the Board.	Rules 2009 did not mention required forms and timelines in this regard.	Due to lack of these provisions, the Board did not prepare annual report and annual statement of accounts ( <i>paragraphs 7.2.2 and 7.2.3</i> ).
Sections 28 & 62(2)(s) require fixing of working hours and provisioning of rest day and payment for work on rest day <i>etc.</i> for workers through framing of rules in this regard.	Rules 35 to 43 provided requisite provisions in this regard.	Due to non-maintenance of prescribed registers, compliance of provisions could not be ensured ( <i>paragraph 6.8</i> ).
Sections 30 and 62(2)(t) to (v) require prescribing of required registers and records, to be maintained by the employer for keeping details of works performed by workers such as working hours, rest day, wages paid to them and receipts thereof. Besides, manner and place for display of required notices and issuance of wage book or slip to workers by the employer are also to be include in rules.	Rules 46 to 51 provided requisite provisions in this regard.	Due to insufficient inspections, compliance of provisions in this regard could not be ensured ( <i>paragraphs 6.5 and 6.8</i> ).
Sections 33, 36, 37 and 62(2)(w) to (y) require provisioning for facilities such as latrines/urinals, first-aid, canteens <i>etc.</i> , for workers at the construction sites by the employers through rules.	Rule 54, 55 and 56 provided requisite provisions in this regard.	Due to insufficient inspections, compliance of provisions could not be ensured ( <i>paragraph 6.5</i> ).
Sections 38 and 62(2)(za) require prescribing of number of representatives of employer and worker for constitution of Safety Committee and appointment of a Safety Officer by deciding qualifications and duties in this regard through rules.	Rule 2009 did not prescribe number of representatives of employer and worker for constitution of Safety committee.	Employers neither constituted Safety Committee nor appointed Safety Officer ( <i>paragraph 5.3 and 5.4</i> ).
Sections 39(1) and 62(2)(zb) require prescribing of format for submission of notice of accident at worksite causing death or bodily injury to workers and timeline for	Rule 251 provided required provisions in this regard.	The employers did not submit required notice to the

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Requirements as per provisions of the Act	Status of compliance of requirements of the Act under the Rules 2009	Shortfalls against the requirement of the Act or in actual implementation of the Rules 2009
submission of such notice by employers through rules.		Inspectors ( <i>paragraph 5.5</i> ).
Sections 40 and 62(2)(zc) require framing of rules by the State Government regarding measures to be taken for safety and health of workers in course of their employment.	Rule 60 to 249 provided required provisions in this regard.	The GoUP could not ensure implementation of these provisions ( <i>paragraph 5.8</i> ).
Sections 43 and 62(2)(zd) require empowering and engaging Inspectors for conducting inspections through rules.	Rules 253 and 254 provided required provisions in this regard.	Sufficient inspections were not conducted by Inspectors during the period 2017-22 ( <i>paragraph 6.5</i> ).
Sections 45(1) and 62(2)(ze) require deciding date of payment of wages to workers by the employer through rules.	Rule 49 provided required provisions in this regard.	Due to non-maintenance of required registers, compliance of provisions could not be ensured ( <i>paragraph 6.8</i> ).

The foregoing table demonstrates that the enacted statutes broadly adhered to the stipulations of the Act. However, it is noteworthy that certain provisions of the Act were yet to be fully addressed by the GoUP.

Furthermore, audit identified inconsistencies within the rules concerning the submission of a notice of work commencement by employers to the Inspector. Section 46 of the Act mandates this submission to occur before 30 days of work commencement. However, Rule 27(3) of the Rules 2009 specifies that employers are required to notify the relevant Inspector 15 days prior to commencing the work. A similar incongruity was noted where some of the works notified as ‘Building and Other Construction Works’ by the GoUP was contrary to the provisions of Section 2(d) of the Act, as discussed in *paragraph 3.2.3*.

Nevertheless, adhering to constitutional provisions through legislation does not inherently ensure proficient execution in practical contexts. The audit has discerned that the legal frameworks lacked resolute enforcement. This situation is particularly pronounced in aspects concerning the constitution of the Board and State Advisory Committee, the registration of establishments and beneficiaries, safeguarding the safety and health of workers, managing service conditions and welfare initiatives, as well as the formulation and submission of budget estimates, annual accounts, and annual reports, all of which are elaborated upon in the subsequent chapters.

The State Government did not offer (March 2024) any comments on the Audit observations.

**To sum up:**

The GoUP has established the requisite Rules in accordance with the provisions outlined in the Act. However, certain issues remain unaddressed which include the formation of Expert Committee, delineation of benefits to be extended to workers who reach the age of sixty and have maintained three years of continuous membership with the Board before their retirement age, stipulations regarding the terms and conditions of service for the Secretary and other Board officials, encompassing the provision for their salary and other allowances, stipulating the mandatory functions to be carried out by the Board, specifying the format and timeline for the preparation of the annual report and accounts, determining the number of members for the Safety Committee, among others. As a result of these gaps, there have been deficiencies in the administration of the relevant provisions of the Act.

***Recommendation 1:*** *The State Government may consider plugging the gaps of Rules 2009 with the requirements of the Act such as constitution of Expert Committee, delineation of benefits to be extended to workers who reach the age of sixty and specifying format and timeline for preparation of the annual report and accounts.*



# Chapter-III

## Registration of Establishments and Beneficiaries





### Chapter III: Registration of Establishments and Beneficiaries

The shortcomings in registration of establishments and beneficiaries have been highlighted in this chapter.

#### **Brief snapshot of the chapter:**

- The role of Registering Officers in the process of registration of establishments was limited. This led to lack of a structured system for documenting the changes in particulars of certificate of registered establishments over the time and validating information and documents submitted by the employers at the time of establishment registration.
- The status of registration of establishments during 2017-22 was deficient as the targets remained unachieved. There was no effective procedure to ensure registration of each project undertaken by the Government departments/autonomous bodies and even by the individuals.
- The conditions, under which certificate of establishment registration issued, were not communicated to the employers. Registration of establishments was delayed, and registration certificates were issued beyond the prescribed time.
- Agreements between works executing agencies of GoUP and the contractors for execution of construction work during 2017-22, lacked clauses for registration of establishment and beneficiaries. Similarly, permission letter for approval of building plan had also no such conditions.
- The GoUP did not transfer registration receipts of ₹ 20.88 crore during 2017-22 to the Board.
- The status of beneficiary registration in the state was low during 2017-20, though, there was a substantial increase (648 *per cent*) in the year 2020-21 on account of waiver of required fee in view of Covid pandemic and implementation (August 2020) of facility of self-certification of days of work by the workers. Only 49.97 *per cent* beneficiaries renewed their membership against the registered 144.19 lakh beneficiaries as of March 2022.
- There was no system to ensure registration of workers employed in works executed by the Government departments/autonomous bodies/individuals.
- 23.33 lakh ineligible beneficiaries, involved in mining, MGNREGS and brick making works, were registered with Board.
- The identity card issued by the Board to registered beneficiaries was not consistent with requirement of the Act and was not being used for entering the details of employment of workers.

The registration of establishments and workers is the most important aspect for implementing the provisions of the Act. Unless a worker is registered under the provisions of the Act and is employed by a registered establishment, that worker will not be entitled to any benefits that may

accrue under the provisions of the Act. However, audit observed following deficiencies in registration of establishments and beneficiaries:

### **3.1 Registration of establishments**

As outlined in Section 7 of the Act, every employer is required to register their establishment within sixty days from the commencement of work. This is done by applying, along with the required fees, to the designated Registration Officer. To facilitate this process, the provisions<sup>4</sup> of the Rules 2009 introduced (August 2017) the concept of online registration via the departmental web portal, allowing employers to apply using Form-I.

During the audit, it was observed that the GoUP had established a protocol<sup>5</sup> for establishment registration but lacked a robust mechanism to ensure that each building or construction work got registered as an establishment under the purview of the Act. The shortcomings in this regard are elaborated upon in succeeding paragraphs.

In reply, the State Government stated (March 2024) that instructions were issued to ensure registration of all establishments and awareness programs are being organized at local level for ensuring the same.

#### **3.1.1 Role of Registering Officers in establishment registration**

As per the provisions of Section 6 of the Act, the State Governments are required to appoint Registering Officers for registration of establishments. Besides, Section 7(4) of the Act and Rule 24(3) of the Rules 2009 mandates that the employers must intimate to the Registering Officer within 30 days of any changes in ownership or management or other particulars of certificate of registration.

Audit observed that the GoUP appointed (September 1999) Labour Commissioner of UP, all Additional/Deputy/Assistant Labour Commissioner of Labour Department as Registering Officer for registration of establishments but established necessary provisions and required procedures only by February 2009<sup>6</sup>, resulting in delay of more than nine years in registration process.

Further, the implementation of online process for registration of establishments reduced the role of Registering officers as certificate of registration was to be issued within a day of application. It is also evident by the fact that in the selected districts, registering authorities had no data regarding cases wherein changes in certificate details such as employer address, maximum number of workers to be employed, probable date of commencement and completion of works, ownership *etc.*, had occurred after registration of establishments during the period 2017-22.

Moreover, provisions of Section 8 of the Act and Rule 24 of the Rules 2009 allows for the cancellation of registration certificates obtained through false

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<sup>4</sup> Under the Rule 24.

<sup>5</sup> Under the Rules 24 to 28 of Rules 2009.

<sup>6</sup> Framework for the registration of establishments were outlined only through Rules 2009.

information or forged documents. However, audit noticed that due to limited role of the DLC/ALC in the process of registration of establishments, no actions were initiated in the selected districts to validate the information and documents submitted by employers. Consequently, neither the accuracy of certificate particulars was ensured, nor were any certificates acquired through false information or forged documents revoked during 2017-22.

In reply, the State Government claimed (March 2024) that individuals could record changes in particulars of certificate through Nivesh Mitra portal. The State Government also stated (March 2024) that provision for cancellation of online applications has now been developed on portal and planned to extend certificate issuance time from one day to seven days.

Reply is not acceptable as *Nivesh Mitra* portal did not have any facility through which individuals could record the changes in particulars of certificate. The portal also did not have facility to validate the information and documents received, though required for ensuring accuracy of certificate particulars.

### 3.1.2 Status of registration of establishments

As outlined by the provisions of Section 7 of the Act, every construction project must be registered as an establishment. However, audit noticed in selected districts that contractors working on Government or autonomous bodies constructions projects failed to register their projects as establishments during 2017-22, violating the provisions of Act and Rules 2009 as detailed in *paragraph 3.1.4*.

Furthermore, there was a lack of an effective procedure to ensure the registration of construction projects undertaken by individuals and large-scale construction endeavours, whose building plans were approved by local authorities. Consequently, the state of establishment registration was notably deficient, leading to inability to fulfil the annual targets set by the Board. A comprehensive breakdown of establishment registration in the State during 2017-22 is provided in **Table 3.1** below:

**Table 3.1: Details of registration of establishments in the State during 2017-22**

Year	Annual targets of registration of establishments	No. of registered establishments in the State	Shortfall in per cent against the targets	Annual increase(+)/ Decrease (-) in per centage
2017-18	42000	25807	38.55	(-)31.64
2018-19	42000	35065	16.51	(+)35.87
2019-20	42000	26199	37.62	(-)25.28
2020-21	42000	30553	27.25	(+)16.61
2021-22	Not fixed	25605	-	(-)16.19

(Source: Information provided by the Secretary of the Board)

The data above indicates that, throughout the period 2017-22, the annual targets for establishment registration were consistently unachieved, with shortfalls ranging from 17 to 39 *per cent*. This discrepancy persisted even though the Board did not revise the annual targets throughout this period, without considering the changing construction landscape within the State.

Moreover, while establishment registration in the State witnessed an upswing during the year 2018-19 compared to the levels of 2017-18, subsequent to this period, the registration status of establishments experienced a downward trajectory. The status of registration of establishments in the selected districts with the exception of Agra and G B Nagar, also witnessed a decline during 2017-22, as detailed in **Appendix-III**.

In reply, the State Government stated (March 2024) that the efforts are being made for ensuring *cent per cent* registration of establishments by organising awareness programmes at district level. Further, the State Government also stated that targets for registration of establishments for the year 2023-24 have been allocated on the basis of actual registration figures of the districts and assured that special care would be taken for improvement in establishment registration.

### ***Constraints in registration of establishments***

Several factors could have contributed to the constraints encountered in establishment registration, which are as follows:

- In October 2018, the GoI issued a directive to decentralize the authority of establishment registration to officials below the rank of Deputy/Assistant Labour Commissioner for effective establishment registration. However, audit noted that the GoUP did not initiate any measures for power decentralization.
- The Board failed to establish any mechanism to identify potential employers through consistent monitoring of construction endeavours in the State by application of GIS technology or mapping, in line with the GoI's directives of October 2018. Notably, only five<sup>7</sup> districts within the State underwent GIS property mapping by the Board during 2017-22 and identified 1,17,424 employers, who had not got themselves registered earlier under the Act. Due to not conducting such exercise in other districts, unregistered employers could not be identified.
- In a bid to align with the GoI's directives of October 2018, the GoUP instructed (January 2019 and April 2022) Government departments and local authorities for forwarding the copies of work orders to the district authorities of the Board. This directive aimed to ensure establishment registration. However, despite repeated orders of the GoUP, the Government departments and local authorities of the selected districts did not comply with the same. As a result, registering authorities were deprived from the valuable information sources about imminent construction activities. Consequently, registration of all construction projects carried out under these bodies could not be ensured.
- In addition, the GoI issued a directive in October 2018, for forwarding of registration certificate/license copies by the Central and State Government authorities, operating under various labour laws, to the Board's authorities. This directive aimed to guarantee establishment registration under the Act. However, audit noticed that due to

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<sup>7</sup> G B Nagar, Ghaziabad, Kanpur, Lucknow and Meerut.

insufficient coordination among the concerned Central and State Government authorities, no advancements were made in this area. Consequently, the registration of all construction projects for which information was available with these authorities could not be ensured.

- The GoUP notified (July 2013) 40 works as Building or Other Construction Work, violating the provisions of Section 2(1)(d)<sup>8</sup> of the Act as out of these works, works related with stone quarries work or mining, marble/stone work, lime making, extraction of sand, soil or core sand, brick manufacturing works at brick kilns *etc.* were regulated by the Mines Act 1952 in the State. Despite notification of these works as Building or Other Construction Work, no directives were issued by the GoUP to mandate the registration of these works as establishments under the Act. Consequently, despite the workers of these work categories enjoying membership of the Board (as discussed in **paragraph 3.2.3**), establishments connected with these works, remained unregistered.

Thus, non-compliance of the directives of the GoI and GoUP and provisions of the Act attributed towards not ensuring registration of all eligible establishments in the State.

In reply, the State Government stated (March 2024) that instructions have been issued to the Registering Officers for ensuring *cent per cent* registration of establishments. Further, the State Government also mentioned developing of a Cess portal to identify potential employers and undertaking GIS survey in other districts. Besides, the State Government asserted that brick kilns being a production unit, does not fall under the category of establishment. No comments were offered by the State Government on other issues.

Reply is not acceptable as classification of brick kilns as Building or Other Construction Works was irregular being regulated in the State under the Mines Act 1952. Further, brick kilns could not be registered as establishment in spite of registering their workers as beneficiaries of the Board.

### **3.1.3 Important conditions of the Act/Rules not mentioned in certificate of registration**

As per provisions of Section 7(3) of the Act, certificate for registration of establishment is to be issued under such conditions as may be prescribed by the State Governments in this regard. Accordingly, the GoUP under Rule 27 of the Rules 2009, prescribed specific conditions<sup>9</sup> under which certificates are issued for the registration of establishments. Some noteworthy provisions of these certificates/conditions encompass the prohibition of employing a workforce exceeding the number specified in

<sup>8</sup> Requires notification of such works as Building or Other Construction Work, to which provisions of the Factories Act 1948 or Mines Act 1952 does not apply.

<sup>9</sup> The certificate is non-transferable, fee for registration of establishment is non-refundable, the certificate of registration of an establishment is valid only for the concerned work, a copy of the certificate of registration is to be displayed at a conspicuous place at the premises where the building and other construction work is being carried etc.

the registration certificate, obligatory notification of changes in the employed workforce to the Registering Officer within a seven-day timeframe, the potential revocation of certificates acquired through misrepresentation, concealment of facts, or the use of fraudulent documents, with possible legal actions against the applicant. Additionally, the requirement for submission of a notice to the Inspector at least 15 days before commencing and completing the work is emphasized.

However, audit noticed that certificates issued via the Board's website lacked any printed conditions, despite making reference to an annexure intended for this purpose. As a result, all the important conditions to be complied by the employers were not made part of the certificate of registration.

Consequently, the absence of communication regarding certificate conditions and the omission of instructions related to the adherence of crucial provisions of the Act, hindered the compliance of multiple provisions of both the Act and the Rules 2009.

In reply, the State Government stated (March 2024) that format of registration of certificate has been revised by mentioning provision of Rule 27(1)(c) of Rules 2009 printed on it.

Reply is not acceptable as all potential conditions of the Act and the Rules 2009 were not incorporated in the revised format of certificate.

### **3.1.4 No clause for registration in agreements**

In compliance with the orders<sup>10</sup> of the Hon'ble Supreme Court of India, the GoUP directed (June 2014) to incorporate provisions for registration of establishment and beneficiaries in the agreements of execution of construction works. Besides, the GoUP had also directed (November 2013) to include provisions of registration of beneficiaries in tender documents of construction works.

However, audit observed that out of 12 test-checked units related with work execution, ten<sup>11</sup> units did not incorporate clauses for registration of establishments and beneficiaries in the agreements entered during 2017-22. Consequently, in three<sup>12</sup> units (out of these ten units), only 10 works were registered as establishments against the total 1,410 agreements executed during 2017-22 for execution of works. In the remaining two<sup>13</sup> test-checked units, the agreements included provisions solely for the registration of establishments, neglecting to address the inclusion of beneficiaries.

Similarly, akin to the above test-checked units, none of the 12 units evaluated in relation to building plan approvals, incorporated provisions for the registration of establishments and beneficiaries within the agreements awarded for construction project execution. This led to non-registration of establishment and beneficiaries, with the exception of Development

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<sup>10</sup> Issued during special writ petition no.318/2006.

<sup>11</sup> CD-I (Taj Trapezium) Agra, PD Agra, Head Works Div; Agra Canal (Okhla); G B Nagar, C.D.-I Lucknow, C D-II Lucknow, Madhya Ganga Canal (CD-15) Moradabad, World Bank Division; Moradabad, C D-IV (Kumbh Mela) Prayagraj, CD-I Prayagraj and PD Varanasi.

<sup>12</sup> CD-I (Taj Trapezium) Agra; PD Agra and Madhya Ganga Canal (CD-15) Moradabad.

<sup>13</sup> PD, G B Nagar and CD-III Varanasi.



Authority (DA) Moradabad. Notably, within DA, Moradabad, the inclusion of a provision for the registration of establishments in the tender conditions resulted in the successful registration of establishments.

Additionally, among these 12 test-checked units associated with building plan approvals, nine<sup>14</sup> units that granted building plan approvals during 2017-22 did not include provisions pertaining to the registration of establishments and beneficiaries in the permission letters for approved building plans.

Thus, due to the failure to adhere to the GoUP's directives and the omission of necessary provisions within agreements, tender conditions, and permission letters for approved building plans, the registration of all eligible establishments and beneficiaries could not be ensured.

In reply, the State Government stated (March 2024) that instructions are being issued to the departments related with execution of construction works for incorporating the condition related with registration of beneficiaries in the agreements with the contractors and also to ensure registration of beneficiaries accordingly.

### 3.1.5 Delay in issue of Registration Certificate

As per Section 7 of the Act, certificate of establishment registration is to be issued to the employer within a timeframe specified by the State Government. Accordingly, the Registration Officer is obligated to furnish the certificate to the employer within one day of receiving the application as per provisions of the Rules 2009, assuming that the provided application particulars meet the necessary criteria.

However, an examination of the data from the selected districts for the period 2017-22 revealed instances where the specified timeframe was not adhered to. Details of these instances are given **Table 3.2** below:

**Table 3.2: Delay in issue of registration certificate in selected districts during 2017-22**

Name of district	Total number of registered establishments during 2017-22	Data available <sup>15</sup> in respect of registered establishments during 2017-22	Number of certificates issued with delay ( <i>per cent</i> )	Certificates issued with a delay of		
				up to one month	more than one month and up to six months	more than six months
<b>Agra</b>	2131	1179	677 (57)	477	176	24
<b>G B Nagar</b>	18177	6430	2011 (31)	1196	740	75
<b>Lucknow</b>	3951	1857	1028 (55)	329	585	114
<b>Moradabad</b>	1369	1356	677 (50)	465	167	45
<b>Prayagraj</b>	2464	912	364 (40)	240	113	11
<b>Varanasi</b>	629	623	400 (64)	263	103	34

(Source: Labour department of selected districts)

<sup>14</sup> Development Authorities – Agra, G B Nagar, Lucknow, Moradabad, Prayagraj and Varanasi; Nagar Palika Parishads – Dadri (G B Nagar), Shamsabad (Agra) and Thakurdwara (Moradabad).

<sup>15</sup> Dates of application for registration and issue of certificate of registration were available only for these establishments.

Above table clearly demonstrates that, in comparison to the available records of registered establishments, a significant proportion of certificates, ranging from 31 to 64 *per cent*, were issued after delays in the selected districts<sup>16</sup>. A considerable number of these certificates were issued with delays exceeding six months.

In reply, the State Government stated (March 2024) that to avoid delays in issue of certificates, process of registration has been made fully automated.

Reply is not acceptable as the instances of delay occurred under the online automated system of registration.

### 3.1.6 Delayed registration of establishments

As per Section 7 of the Act, employers are required to submit application for registration of establishments within 60 days of commencement of work. Further, provisions of Rules 2009 require completion of registration process within a day of submission of application. Accordingly, registration of establishments is to be ensured within 61 days of commencement of work. Further, the GoUP directed (January 2014) for imposition of penalty or initiation of legal action against the employers, who did not register their establishment in compliance with the provisions of the Act.

However, scrutiny of data of registration of selected districts during 2017-22 revealed that the establishments were not registered by the employers on time due to delayed submission of application as per details given in the **Table 3.3** below:

**Table 3.3: Delay in establishment registration in selected districts during 2017-22**

Name of district	Total number of registered establishments during 2017-22	Data available <sup>17</sup> in respect of registered establishments during 2017-22	Establishments registered within 61 days of commencement of work	Establishments registered with delays			
				up to one month	more than one month and up to six months	more than six months	Total ( <i>per cent</i> )
Agra	2131	1276	383	120	438	335	893 (70)
G B Nagar	18177	6735	3728	443	1622	942	3007 (45)
Lucknow	3951	1916	324	66	215	1311	1592 (83)
Moradabad	1369	1340	439	119	478	304	901 (67)
Prayagraj	2464	983	249	59	365	310	734 (75)
Varanasi	629	619	199	42	177	201	420 (68)

(Source: The Labour department of selected districts)

It is evident from the above that most of the establishments were registered with delays during 2017-22 as the *percentage* of delayed registration of establishments ranged between 45 and 83 in this regard. Further, it was also observed that due to not registering the establishment within the stipulated time, no action was initiated against the employers in compliance with the directions of the GoUP.

<sup>16</sup> DLCs of G B Nagar and Prayagraj replied that delayed issue of certificate of registration was due to glitches in Board's portal.

<sup>17</sup> Dates of commencement of work and issue of certificate of registration were available only for these establishments.



In reply, the State Government stated (March 2024) that delay in registration of establishments was due to various factors, including a shortage of LEOs, non-compliance of provisions by the contractors of public sector/government departments, approval of building maps by the DA without registration of establishment, inaction by the LEOs, no intervention of Registering Officers in the process of registration of establishments *etc.*

### 3.1.7 Register of establishments not maintained

As per the provisions of Rule 24(2) of the Rules 2009, Registering officer is required to maintain a register in the Form 3 for showing the particulars of establishments in relation to which certificates of registration have been issued.

Audit observed that after implementation of online registration process, register of establishments was not being maintained in any of the Labour Department offices across the selected districts during 2017-22<sup>18</sup>. The register of establishments is an important tool to keep watch on furnishing of various notices by the employers such as dates of commencement and completion of work. However, due to non-maintenance of the register, neither the monitoring of submission of required notices by the employers nor assessment of cess and inspection of registered establishment was ensured by the responsible authorities.

In reply, the State Government stated (March 2024) that the required information of registered establishments has been maintained on the Board portal, which can be viewed online.

Reply is not acceptable as required information on establishment registration has not been made public on Board's portal for ensuring transparency and accountability in this regard. Moreover, Rule 24 (2) of Rules 2009, as amended during August 2017 for introducing the online process of registration, mandates maintenance of aforementioned register keeping in view its importance.

### 3.1.8 Usage of receipts

In compliance with the provisions of Section 7 of the Act, the GoUP decided fee for registration of establishments under Rule 28 of the Rules 2009. The fee ranged from ₹ 1,000 to ₹ 10,000 depending upon the number of workers<sup>19</sup> likely to be employed by the employer on any day of work. However, the provisions of the Act and Rules 2009 are silent about the usages of receipts on account of registration of establishments.

Audit observed that the GoUP did not issue any directions regarding usages of receipts on account of registration of establishments. As a result, proceeds<sup>20</sup> of registration of establishment were also not shared with the

<sup>18</sup> Except Moradabad, where required register was maintained up to the year 2018-19.

<sup>19</sup> ₹ 1000 for up to 100 workers, ₹ 5000 for more than 100 and up to 500 workers and ₹ 10000 for more than 500 workers.

<sup>20</sup> Deposited under the heads of account "0230 (Labour and Employment)-800 (other receipts)-10 (under UPBOCW Rules)-01(receipts from registration).

Board by the GoUP during 2017-22. The details of receipts on account of registration of establishments *vis-à-vis* total number of registered establishments during 2017-22 are given in **Table 3.4** below:

**Table 3.4: Details of receipts for registration of establishments during 2017-22**  
(₹ in lakh)

Year	Amount of registration fee	No. of registered establishments in the State
2017-18	470.81	25807
2018-19	728.28	35065
2019-20	483.74	26199
2020-21	149.92	30553
2021-22	255.14	25605
<b>Total</b>	<b>2087.89</b>	<b>143229</b>

(Source: The Voucher Level Computerisation & Board)

The above receipts amounting to ₹ 20.88 crore during 2017-22 were intended for the well-being of workers but were not disbursed to the Board by the GoUP. Consequently, the Board was deprived of a potential income source.

Besides, receipts on account of registration fee also did not align with the number of registered establishments as number of registered establishments increased in the year 2020-21 with the levels of year 2017-18 and 2019-20 but receipts decreased significantly. Moreover, despite increase in receipts figures during the year 2021-22, number of registered establishments decreased in comparison with the levels of the year 2020-21.

In reply, the State Government stated (March 2024) that the process for making required arrangements in Act for transfer of receipts of registration fee to the Board is under way.

### **3.2 Registration of beneficiaries**

As per Sections 11 and 12 of the Act, every worker aged between 18 and 60 years and engaged in building work for not less than 90 days during the preceding 12 months, is entitled to be registered as beneficiary by the officials of the Board for availing benefits from the Welfare fund.

The provisions of Rule 275 and 276 of the Rules 2009 provided for registration of workers<sup>21</sup> as beneficiaries by making an application in Form-25 to the Registering Officers or through online-mode on departmental website with annual registration fee of ₹ 20. To register, workers needed to submit self-attested copy of Aadhaar card, bank passbook and a certificate of employment from the employer or Inspector of the area concerned that the applicant had worked at least 90 days in preceding 12 months. Besides, as per provisions of Rule 279, a beneficiary is also required to pay annual contribution<sup>22</sup> to the Board until they turned 60 to retain their membership. Further, in case of engagement of beneficiary in building and other construction works for less than 90 days in any year

<sup>21</sup> Not registered as a beneficiary with any other Welfare Fund established under any law for the time being in force.

<sup>22</sup> ₹ 20 *per* year.

or if the worker fails to pay prescribed contribution up to one year, their status as beneficiary is to be ceased.

However, audit observed the provisions of the Act and Rules 2009 were not followed by the Board as discussed in the succeeding paragraphs:

### 3.2.1 Status of registration of beneficiaries

The Board had fixed annual targets for registration of beneficiaries during 2017-21. The status of registration of beneficiaries against the annual targets *vis-à-vis* active beneficiaries (who have renewed their membership) in the State during 2017-22 is given in the **Table 3.5** below:

**Table 3.5: Registration of beneficiaries against the targets *vis-à-vis* active beneficiaries in the State**

Year	Targets for registration of beneficiaries	No. of registered beneficiaries at the beginning of the year	No. of beneficiaries registered during the year	Progressive figures of registered beneficiaries	Active beneficiaries (percentage against total registered beneficiaries at the beginning of the year)
2017-18	8,80,000	31,43,733	7,25,996	38,69,729	2,50,779 (7.98)
2018-19	8,80,000	38,69,729	6,36,366	45,06,095	2,71,185 (7.00)
2019-20	8,80,000	45,06,095	6,00,401	51,06,496	3,47,556 (7.71)
2020-21	24,82,424	51,06,496	44,93,481	95,99,977	22,76,507 (44.58)
2021-22	Not fixed	95,99,977	48,18,823	1,44,18,800	47,97,211(49.97)

(Source: The information provided by the Board)

From the above table, it can be seen that throughout the period 2017-20, the set annual physical targets for beneficiary registration were not met. Also, there was a noticeable decline in beneficiary registrations during this period, even though the targets remained constant. However, there was a substantial 648 *per cent* increase in beneficiary registrations in the year 2020-21 compared to the preceding year, 2019-20. Beneficiary registration further increased by an additional seven *per cent* in the subsequent year 2021-22.

It was also observed that the increase in number of registered beneficiaries during 2020-22 was due to waiver of registration fee by the Board, in view of emergency arising out from the Covid-19 pandemic. Besides, the Board also relaxed (August 2020) the requirement of certificate of employment from the employer or Inspector for the registration of beneficiaries.

Further, despite manifold increase in registered beneficiaries during 2020-22, active registered beneficiaries remained only 50 *per cent* of the total registered beneficiaries at the end of March 2022. This situation remained even though the Board had set targets for renewal of membership of all eligible beneficiaries during the year 2021-22. It was also observed that after recall (March 2022) of free registration/renewal facility after Covid pandemic, many beneficiaries registered during the year 2020-21 could not renew their membership.

In reply, the State Government stated (March 2024) that efforts such as registration of workers for a period of three years at one time, facility of

registration through *Jan Suvidha Kendra*, organising camps for registration of workers *etc.*, have been made to facilitate workers in registration process.

### ***Constraints in registration of beneficiaries***

It was also observed that despite increase in number of beneficiaries, the following areas were overlooked by the Board and other responsible authorities over the years:

- The employers did not provide details of workers eligible for registration as beneficiaries in compliance with the directions (November 2013) of the GoUP.
- The GoUP directed (November 2013) to conduct regular inspections of establishments to ensure registration of each worker. However, due to deficient format of inspection note, this aspect was overlooked by LEOs during the inspections.
- No system was put in place to ensure registration of workers employed under works of the Government departments/autonomous bodies *etc.*
- Due to difficulty in keeping track records of renewals, many workers could not ensure renewal of their membership as there was no system to remind them in this regard, leading to loss of membership and consequent benefits.

In reply, the State Government stated (March 2024) that the Board has issued instructions to executing agencies to provide workers details for registration. The State Government also stated that facility of online self-registration has been provided to workers. Besides, at the instance of audit, facility of Short Message Service (SMS) has been introduced for renewal of membership of workers.

### **3.2.2 Non-compliance with the instructions of the GoI**

In compliance with the directions (March 2018) of the Hon'ble Supreme Court of India, the GoI issued (October 2018) many instructions in respect of registration of beneficiaries, which were not adhered to by the Board completely as per the following details:

- The GoI instructed to allot Unique Identification Number to the registered workers for portability of welfare benefits. For this purpose, complete details of registered workers were to be uploaded on the National BOCW portal. However, the Board partially implemented this instruction as despite initiating process of allotment of Unique Identification Number to the beneficiaries, details of registered workers were not uploaded on the National BOCW portal. Besides, the Board also lacked complete details of registered workers as details uploaded on the Board portal did not contain information about mobile number, description of family, status of renewal *etc.* in respect of all registered workers.
- The GoI also directed the Board to allow self-certification of days of work by the workers containing information such as details of sites of work, name of employer and number of days of work as per ID

card of worker *etc.* However, the Board allowed (August 2020) self-certification of days of work without asking required details from the workers such as details of sites of work, name of employer and number of days of work as per ID card of worker *etc.* Thus, GoI instruction was implemented partially.

- To facilitate registration of migrant workers, the GoI instructed that the source States should try and register them in their home state, give them an ID card/pass book with a unique number and upload these details on their website. They should also create facilitation centres/help desks in the destination districts for the registration of eligible workers and may also take up the matter with destination States to help these workers get registered in the destination states. However, audit observed that no action was initiated by the GoUP or by the Board in this regard.

Thus, due to non-compliance or partial compliance of the GoI instructions, a transparent and effective system for registration of eligible workers could not be implemented.

In reply, the State Government stated (March 2024) that details of only 56 lakh registered workers have been uploaded on National BOCW portal and efforts are underway to obtain mobile number and description of family of workers at the time of renewal of membership and distribution of benefits. The State Government also stated that provisions for filling required details in self-certification of days of work on the Board portal has been initiated. It was also stated by the State Government that there are no separate arrangements for registration of migrant workers, but they do issue migration certificates.

### 3.2.3 Registration of ineligible beneficiaries

The provisions of the Act, applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work but does not include works covered under the Factories Act, 1948 or the Mines Act, 1952. Section 2(1)(d) of the Act, provided an illustrative list<sup>23</sup> of works to be considered as building or other construction work and required the State Government to notify such other works in this regard.

As discussed in *paragraph 3.1.2*, the GoUP notified<sup>24</sup> 40 works including works related with stone quarries or mining, extraction of sand; soil or core sand, *etc.* under Section 2(1)(d) of the Act as Building or other Construction work, which were otherwise covered under the Mines Act 1952 and not to be covered under Building or other construction work as per the provision of the Act. Besides, list of prospective works, issued (July 2013) by GoI for

<sup>23</sup> The construction, alteration, repairs, maintenance or demolition of buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including drainage works), generation, transmission and distribution of power, water works, oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers *etc.*

<sup>24</sup> Vide notification no. 488/36-2-2013 dated 25 July 2013.

notifying additional Building and other construction works under the Act by the State Governments, did not include above works for this purpose.

Audit observed that out of the total 154.81 lakh registered beneficiaries with the Board as of February 2023, 1.66 lakh workers were related with mining activities. Thus, registration of workers covered under the Mines Act, was contrary to the provisions of the Act.

In reply, the State Government stated (March 2024) that notification of 40 works as Building or Other Construction Works has been made in accordance with provisions of the Act, claiming authority to do so. While agreeing with the authority of the State Government, it is important to ensure that works are notified under only one Act and should not be covered under two Acts at the same time, as in this case.

Apart from above the GoUP also issued instructions for registration of other class of ineligible beneficiaries, as discussed in succeeding paragraphs:

### **3.2.3.1 Registration of MGNREGS workers**

The GoI directed (July 2013) to all State Governments to register Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) workers with at least 50 days of work in preceding 12 months as beneficiaries of Board. Accordingly, the GoUP issued (August 2013) directions for registration of MGNREGS workers as beneficiaries of the Board.

Audit observed that the GoI withdrew (February 2017) earlier directions consequent on re-examination of MGNREGS workers as construction workers. However, the State Government did not comply with the revised orders of the GoI.

It was also noted that among the overall count of 154.81 lakh registered beneficiaries under the Board as of February 2023, there were 13.70 lakh workers associated with MGNREGS. However, due to not issuing any instruction by the GoUP, works of MGNREGS were not registered as establishment under the provisions of the Act. The registration of MGNREGS workers as beneficiaries of the Board without registration of their works, violated ruling of the Hon'ble Supreme Court of India. The Hon'ble Court had ruled<sup>25</sup> that only those workers working in registered establishments and/or registerable establishments under the Act will be covered as beneficiaries of the Board.

In reply, the State Government stated (March 2024) that the MGNREGS workers have been registered on the basis of 90 days of work. Further, it was also stated by the State Government that the Board has directed to the Divisional Commissioners/District Magistrates to register construction works being executed under MGNREGS as establishment.

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<sup>25</sup> In the case of National Campaign Committee for Central Legislation on Construction Labour Versus Union of India & Others.



Reply is not acceptable as directions of Board requiring registration of MGNREGS works as establishment was not provided to audit in support of claim made by the Government.

### **3.2.3.2 Registration of brick kiln workers**

The Directorate of Geology and Mining, Uttar Pradesh has classified brick earth as a mineral and also regulates operation of brick kilns in the State, as provisions of the Mines Act 1952 applies on excavation of minerals. Further, provisions of the Act applies to building and other construction works but does not apply to works covered under the Factories Act, 1948 and the Mines Act, 1952.

However, audit observed the GoUP not only classified (July 2013) brick making work at brick kilns as Building or Other construction work but also issued instructions<sup>26</sup> from time to time to register the workers of brick kiln as beneficiaries of Board. Accordingly, the Board had registered 7.97 lakh workers related with brick kiln against the total registered 154.81 lakh beneficiaries as of February 2023.

Thus, classification of brick making work at brick kilns as Building or Other Construction work and registering their workers as beneficiaries of the Board violated the provisions of the Act.

In reply, the State Government stated (March 2024) that brick kilns of the State are covered under the production activities and not related to construction activities.

The reply of the State Government contradicts its order (July 2013) classifying brick making as Building or Other Construction Work.

### **3.2.4 Implementation of Mission Mode Project**

The GoI directed (July 2020) to implement a Mission Mode Project (MMP) to ensure registration of all left-out workers within a period of three months and timely renewal of membership, so that they may avail benefits of welfare schemes of the Board. The GoI estimated (July 2020) 81.52 lakh workers in the State, out of which 56.70 lakh were already registered with the Board and against these registered workers, only 19.19 lakh were live registered workers (who have renewed their membership on time).

Accordingly, under the MMP, not only 24.82 lakh left-out workers were to be registered by the Board, but renewal process was also to be eased for timely renewal of membership of beneficiaries. For this purpose, Board had to incentivise renewals and *Seva-Bandhus*/NGOs/Volunteers/Trade unions were to be engaged for timely renewal and revival of the lapsed registration. Further, for addressing the portability of membership on migration from one State to another, process to issue online Migration Certificate was also to be initiated by the Board within a period of three months under MMP. Besides, a host of technological tools such as Mobile App, Call centre, Missed call

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<sup>26</sup> G.O. no. 39/2016/1462/36-2-2016-7 G/2015 dated 29.9.2016 and 18/2015/1621/36-2-2015-7G/2015 dated 29-12-2015.

with Web links *etc.* were also to be introduced by the Board to ease the process of registration.

However, audit observed that the Board did not take any action to incentivise renewals and did not rope *Seva-Bandhus*/NGOs/Volunteers/Trade unions for timely renewal and revival of the lapsed registration. Besides, neither the process for issue of online Migration Certificate was initiated by the Board nor suggested technological tools were introduced by the Board for aforesaid purposes.

Moreover, though the GoI had anticipated only 81.52 lakh workers in the State as of July 2020, the Board had registered 144.19 lakh workers (more than 90 *per cent* of estimated numbers) up to March 2022. However, live members remained only 47.97 lakh (50 *per cent*<sup>27</sup>). This once again highlights that the measures taken by the Board for renewing or reinstating the memberships of beneficiaries that had lapsed, were not adequate.

Thus, due to not implementing measures of the MMP, timely renewal of membership could not be ensured.

In reply, the State Government stated (March 2024) that online facility for registration/renewal of membership has been provided through the Board portal and *Jan Suvidha Kendra*. Besides, provision for issue of Migration Certificate through the Board portal and SMS facility for renewal of membership have also been introduced at the instance of audit. The State Government also stated that due to these measures, over 90 *per cent* beneficiaries against the targets, have been registered by the Board.

### **3.2.5 Issuance of identity cards**

As per Sections 13 of the Act, an identity card is to be issued to every registered beneficiary by the Board for entering their details of the Building or Other Construction Works. The required details of identity card are to be entered by the employer based on Register of beneficiaries. Section 15 of the Act mandates maintenance of Register of beneficiaries<sup>28</sup> by the employer for keeping details of employment of beneficiaries. Moreover, the GoI also directed (October 2018) to issue identity card in the form of a passbook/employment diary for entering the employment details of workers. In compliance with the provisions of the Act, Rule 277 of the Rules 2009 prescribed Form 27 for issuing identity cards, containing details of worker and their spouse.

However, audit observed that the format prescribed by the GoUP under Rules 2009 for identity card was not consistent with the requirements of the Act as there was no provision for entering details of the building or other construction works performed by the worker. Further, the GoUP also did not initiate any action<sup>29</sup> for providing identity card in the form of a

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<sup>27</sup> Out of 96 lakh registered beneficiaries at the beginning of the year 2021-22.

<sup>28</sup> To be maintained in Form 28 as per the Rule 278 of the Rules 2009.

<sup>29</sup> The Board had passed (January 2020) a resolution for providing Identity Cards in the form of a passbook, no development was made in this regard as of June 2023.



passbook/employment diary to maintain the employment details of workers. As a result, identity cards issued by the Board did not provide any information regarding days of work of beneficiary. Audit further observed that the identity cards issued by the Board were also not compliant with the prescribed format (Form 27) as it lacked details of spouse of the worker.

Besides, format prescribed (April 2014) by the Chief Inspector for issuing inspection note for carrying out inspections of the establishments, did not require checking of maintenance of Register of beneficiaries by the employer. Joint physical verifications of establishments by the audit team confirmed non-maintenance of Register of beneficiaries by the employers. This also suggests that due to the lack of a system to track workers' employment details through their identity cards and the failure to maintain a Register of beneficiaries, there is no basis for issuing certificates for days of work, which is required (minimum 90 workdays) for the registration or renewal of beneficiary memberships.

Moreover, audit observed inconsistencies in format of Form 28 (for Register of beneficiaries) under the Rules 2009, as there was no mention for upkeep of details of employment of workers.

Thus, issuing improper identity cards and not maintaining details of employment of workers through Register of beneficiaries involves risk of registration or renewal of membership of ineligible beneficiaries.

In reply, the State Government stated (March 2024) that provisions for acquiring details of employment have been made at the instance of audit and online data of beneficiaries eliminates need for passbook-style identity cards.

Reply is not acceptable as self-declaration of employment by the workers cannot be verified without upkeep of proper identity card and Register of beneficiaries by the employers.

**To sum up:**

The GoUP failed to establish a system for ensuring registration of each construction work and verifying employer information. Despite constant targets, rate of establishment registration remained low during 2017-22. Important conditions of the Act/Rules were not conveyed to the employers through certificate of registration. Moreover, not only registration of establishments was delayed in the state, but also the issuance of certificates. The GoUP did not transfer the revenue generated from the registration of establishments to the Board, even though it was collected under the framework of the Rules 2009.

Further, the Board also did not establish any effective system for ensuring registration of each worker as a beneficiary. The government departments/local authorities overlooked the provisions of registration of establishment and beneficiaries. Despite increased beneficiary registration during 2020-22 due to rebate on registration fee and certificate of employment, active members remained low.

**Recommendation 2:** *The State Government may consider assigning responsibilities to Registering Officers for verifying registration certificate and ensuring cent per cent registration of establishments and beneficiaries under their area of jurisdiction.*

**Recommendation 3:** *The State Government should devise a robust mechanism for identifying prospective employers, their registration and issuance of certificate on time.*

**Recommendation 4:** *The State Government may consider punitive measures against the Government officials for non-compliance of regulatory and statutory requirements under the Act and the Rules.*

**Recommendation 5:** *Only eligible workers should be allowed to register with the Board for availability of scheme benefits to only intended beneficiaries.*

**Recommendation 6:** *The State Government may consider revising the format of identity card according to the provisions of the Act for proper upkeep of details of employments of workers.*

## Chapter-IV

Assessment, collection and  
transfer of collected cess to  
the Board



## Chapter IV: Assessment, collection and transfer of collected cess to the Board

This chapter highlights shortcomings in assessment, collection and transfer of collected cess to the Board.

### **Brief snapshot of the Chapter:**

- The status of assessment of cess in the State was deficient as either the employers did not submit required return (Form-I) or Assessing Officers did not make assessments based on submitted returns.
- The assessment of cess in selected districts ranged from zero to 24 *per cent* of registered establishments during 2017-22, as assessment was made in respect of only individual employers, ignoring construction works of Government departments/local bodies.
- There was accumulated arrears of ₹ 20.06 crore in four selected districts against the cess assessments made during 2017-22.
- The implementation of GIS survey project for identification and assessment of properties in five cities of the state, was inefficient due to partial serving of bill/notices to the identified properties and non-realisation of cess of ₹ 1,179.95 crore.
- The six test-checked municipalities either did not approve the building plan or approved building plan without collection of cess.
- The Cess Collectors did not consider Goods & Services Tax and Centage Charges as part of construction work costs, resulting in short collection of cess of ₹ 3.66 crore during 2017-22 in selected districts.
- The test-checked Development Authorities also failed to collect cess according to estimated cost of work, resulting in short collection of cess of ₹ 12.99 crore.
- The Board lacked a mechanism for ensuring the timely transfer of collected cess by Cess Collecting Officers to its bank account.
- The lack of a prescribed accounting system for cess receipt and transfer to the Board resulted in non-realisation of ₹ 3.88 crore due to returned cheques/bank drafts by the banks.
- The cess deposited into treasuries and bank account of the Board, did not appear in Public Account of the State, violating Article 266(2) of the constitution.
- The State Government also short transferred ₹ 34.60 crore to the Board against cess deposited into treasuries during 2017-22.

The provisions of the Act, the Cess Act and the Rules 2009 warrant that the lawfully imposable cess should be imposed, collected, and put in the statutory Welfare fund without any delay, so that the benefits may flow to the eligible workers at the earliest.

However, audit observed that there were many shortfalls in the process of assessment, collection and transfer of collected cess to the Board, as discussed in succeeding paragraphs.

## **4.1 Assessment of cess**

Section 3 of the Cess Act requires levy of a cess of at least one *per cent* of the cost of construction incurred by the employer. This is to be collected from employer through deduction at source in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority at the time of approval of such building or other construction work, subject to final assessment in this regard.

However, audit observed following deficiencies in the process of assessment of the cess:

### **4.1.1 Return in Form-I not submitted by the employers**

As per the provisions of Section 4 of the Cess Act and Rule 6 of the Cess Rules, every employer is required to submit prescribed return in Form-I to the Assessing Officer. This is to be submitted within 30 days of commencement of work for assessment of cess, indicating estimated cost of construction. Failure to do so may result in issue of notice by the Assessing Officer for furnishing of required return in a specified period. The GoUP also directed (February 2014) Assessing Officers to issue registered notices to the non-compliant employers for submission of Form-I.

However, audit observed that in none of the six selected districts, any register/record was maintained by the Labour department for Form-I submissions and assessment made there against during the period 2017-22. Besides, in four selected districts<sup>30</sup>, Form-I were not submitted by the employers on their own for assessment of cess, however, ALC/DLC of these districts did not issue required notice to the employers of all registered establishments. Further, in the selected G B Nagar and Moradabad districts, though the employers had submitted a total 7,680 and 1,369 Form-I respectively during the period 2017-22 along with the due amount of cess on the basis of details of Form-I, however, no assessment of cess was made by the ALC/DLC in compliance with the provisions of the Cess Act and Cess Rules.

Besides, it was also observed that in none of the selected districts, required action was initiated against the employers, who failed to submit Form-I, though Rule 15 of the Cess Rules requires sending of such cases to the GoI for deciding the further course of action.

Thus, due of not furnishing of required returns by the employers, assessment of cess could not be ensured in most of the cases.

In reply, the State Government stated (March 2024) that direction has been issued for maintenance of required register for Form I submissions and assessments. Further, in G B Nagar and Moradabad districts, assessment orders are being issued after serving notices to employers, who have

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<sup>30</sup> Agra, Lucknow, Prayagraj and Varanasi.

submitted Form- I. The State Government also stated that directions are being issued for implementation of Rule 15 of Cess Rules. Further, the State Government also intimated that a cess portal (cessupbocw.in) has been developed (February 2023) to streamline the cess collection process, wherein provisions for keeping details of Form I, assessment of cess, notice *etc.* have been made.

#### **4.1.2 Assessment of cess not done by the Cess Assessment Officers other than DLC/ALC**

As per Section 5 of the Cess Act and Rule 7 of the Cess Rules, assessment of cess is to be made by the Assessing Officer within six months of receipt of Form-I. The Assessing Officers are required to issue an assessment order specifying date of payment, amount of cess due, cess already paid by the employer or deducted at source and the balance amount payable by the employer. This order is to be provided to the employer, the Board and to the Cess Collecting Officer within five days of such order.

To execute related provisions, the GoUP appointed (November 2009 and September 2010) all District Magistrates and the officers of 16 Government departments<sup>31</sup> including the ALC/DLC of Labour Department as Cess Assessment Officer and Cess Collectors to make them responsible for assessment and collection of cess. Moreover, ALC/DLC were also assigned to monitor assessment and collection of cess made by these officers. Further, the GoUP also appointed (November 2014) Deputy/Assistant Director (Factories) and Deputy/Assistant/Director (Boiler) of the Labour Department as Cess Assessment Officer and Cess Collector in their respective jurisdictions.

However, audit observed that the Cess Assessment Officers of the test-checked units in all selected districts, except the DLC/ALC, did not carry out assessments of cess by issuing assessment orders in compliance with the provisions of the Cess Act and Rules and were only functioning as Cess Collectors. This led to not communicating of details of due amount and balance amount of cess to the Board officials, when collected cess amount was transferred by these Cess Collecting authorities. Moreover, role of these authorities as the Cess Collecting Officers was also deficient as discussed in succeeding *paragraph no. 4.2.1*.

In reply, the State Government stated (March 2024) that officers from other departments were nominated as Cess Assessment Officer and Cess Collector only to ensure cess collection for works executed by their respective departments.

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<sup>31</sup> The Secretary (Development Authorities), Executive Engineer (Public Works Department), Executive Engineer (Irrigation Department), Executive Engineer (Power Corporation), Secretary (Mandi Parishad), Project Manager (UP Bridge Corporation), Executive Engineer (*Rajkiya Nirman Nigam*), Executive Engineer (*Rajkiya Nalkup Nigam*), Executive Engineer (*UP Jal Nigam*), Executive Engineer (*Samaj Kalyan Nigam*), Executive Engineer (*UP Awas evam Vikas Parishad*), Additional/Deputy/ Municipal Commissioner (*Nagar Nigam*), Executive Officer (Municipalities), Block Development Officer, Assistant/Deputy/Additional Labour Commissioner (Labour Department) and District Basic Education Officer.

Reply is not acceptable as notification (September 2010) of the State Government assigned assessment responsibilities to officers of various Government departments.

#### **4.1.3 Status of assessment of cess**

The GoUP directed (February 2014) ALC/DLC to make assessment orders with help of a specialised committee and after vetting by an Income Tax Evaluator.

Audit observed that in compliance with the provisions of Section 5 of the Cess Act and Rule 7 of the Cess Rules, the ALC/DLC of selected districts made some assessment of cess through assessment orders during the period 2017-22. However, these cases of assessment were minimal compared to the number of registered establishments. It was also observed that in four<sup>32</sup>, out of the six selected districts, no register was maintained by the ALC/DLC in respect of assessment orders made during the period 2017-22, leading to lack of details such as total number of assessment orders made during the period 2017-22, amount of cess assessed and received, balance amount *etc.*

However, based on progress reports and registers from ALC/DLC of two selected districts<sup>33</sup>, the status of cases of assessment of cess *vis-a-vis* the registration of establishments during the period 2017-22 have been detailed in **Table 4.1** below:

**Table 4.1: Cases of assessment and registration of establishments during 2017-22**

Name of district	Total no. of registered establishments during 2017-22	No. of assessment orders made during 2017-22	Percentage of cases of assessments
Agra	2131	467	22
G B Nagar	18177	02	00
Lucknow	3951	No Records Maintained	-
Moradabad	1369	No Records Maintained	-
Prayagraj	2464	95	04
Varanasi	629	154	24

(Source: Information provided by the DLC/ALC of selected districts)

It is evident that the cases of assessment of cess ranged between zero to 24 *per cent* as against the registered establishments, violating the provisions of the Cess Act and Cess Rules requiring assessment of cess in respect of every employer. Further, audit also found that ALC/DLC of selected districts only made assessments during 2017-22 in respect of individual employers and neglected assessment of works of the Government departments/local authorities. Despite this fact, no monitoring mechanism was established by the Board to ensure assessment of each establishment. As a result, audit could not ascertain due and balance amount of cess against the registered establishments during the period of the year 2017-22. Further, it was also observed that neither the assessments were made by the ALC/DLC with the help of specialised committee nor vetted by the Income

<sup>32</sup> Agra, G B Nagar Lucknow and Moradabad.

<sup>33</sup> Prayagraj and Varanasi.



Tax Evaluator in compliance with the direction of the GoUP, leading to deficient assessments as discussed in **paragraph no. 4.1.5**. Thus, despite evolving a mechanism for assessment of cess by appointment of various Assessment Officers, it could not be implemented, resulting in non-assessment of cess in most of the cases.

In reply, the State Government stated (March 2024) that the directions are being issued for maintaining register by the Cess Assessment Officers and monitoring is also being done at different levels to ensure *cent per cent* assessment and collection of cess in respect of all registered establishments. The State Government further claimed that deficiencies indicated in **Table 4.1** has been addressed by the selected districts, but did not submit any documentary evidence in this regard. For Government department works, the State Government intimated that an online system (cessupbocw.in) has been developed (February 2023) for entering assessment details.

#### 4.1.4 Cess not paid

As per the provisions of the Cess Act and Cess Rules, employer is liable to pay cess by the stipulated date of assessment order.

However, audit observed that in selected districts, the employers did not pay due amount of cess against the assessments made during the period 2017-22 as of March 2023. The status of due and received amount of cess against the assessments in the selected districts during the period 2017-22 is given in **Table 4.2** below:

**Table 4.2: Details of received cess against the assessments during 2017-22**

(₹ in lakh)

Name of district	Total amount of assessments during the period 2017-22	Received amount against the assessments	Balance amount
Agra	1659.91	484.66	1175.25
G B Nagar	4.28	4.28	0.00
Lucknow	No Records Maintained	No Records Maintained	No Records Maintained
Moradabad	No Records Maintained	No Records Maintained	No Records Maintained
Prayagraj	972.08	629.96	342.12
Varanasi	1025.12	535.77	489.35
<b>Total</b>	<b>3661.39</b>	<b>1654.67</b>	<b>2006.72</b>

(Source: Information provided by the DLC/ALC of selected districts)

It is evident from the above that accumulated arrears for cess in selected four districts totalled ₹ 20.07 crore, exceeding the received amount. This indicated inefficiency of Labour Department in collecting and monitoring of compliance of assessment orders.

In reply, the State Government stated (March 2024) that in Prayagraj and Varanasi districts, Recovery Certificates for ₹ 724.72 lakh have been issued, but did not provide any documentary evidence in this regard. Besides, the State Government also mentioned initiating Recovery certificate issuance in Agra and Moradabad districts.

#### **4.1.5 Deficiency in assessments**

The Board issued (December 2018) instructions for assessment of cess, based on rates of Central Public Works Department or Public Works Department (PWD).

However, audit observed that the ALC/DLC of selected districts applied incorrect plinth area rates of the PWD schedule for calculating the cost of the construction work, resulting in understatement of the construction cost and consequently less assessment and collection of cess amounting to ₹ 2.95 crore during the period 2017-22, as detailed in **Appendix- IV**.

In reply, the State Government, while accepting the audit observation, stated (March 2024) that notices have been issued for reassessment of cess in Agra district, process for recovery of additional amount of cess is underway in G B Nagar after re-examination of assessments and re-assessment of cess has been done based on revised plinth area rates of PWD schedule in Prayagraj. The State Government also assured that development of a Standard Operation Procedure for assessment of cess is underway.

#### **4.1.6 Implementation of GIS survey**

In accordance with the Board's approval in January 2015, a project was initiated to identify and estimate the cost of constructed properties and buildings in urban and rural areas of Lucknow, Meerut, Ghaziabad, Kanpur, and Noida (including Greater Noida) districts/cities of the State. This identification and cost estimation of properties were to be carried out using a Geographical Information System (GIS) survey, starting from February 2009. Agreements were entered into with four private firms/government enterprises<sup>34</sup> between March 2015 and March 2017 for this purpose, with the aim of generating cess equivalent to one *per cent* of the total cost of construction of properties.

As per provisions of agreements, the contracted firms were to submit cess bills for the properties built after February 2009, based on the survey. Subsequent actions such as issuing notices and assessment orders were to be undertaken by the relevant ALC/DLC for recovery of cess as per these bills. This project was scheduled to be completed within eight months of award of work.

However, audit observed that the contracts were awarded for conducting GIS survey without inviting tenders, violating the provisions of the UP Procurement Manual 2016. Further, none of the nominated firms had completed their assignment within the agreed timeframe<sup>35</sup>. The details of bills generated and amount thereof *vis-à-vis* recovery of cess have been given in the **Table 4.3** below:

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<sup>34</sup> Science and Technology Entrepreneurs Park, Harcourt Butler Technical Institute (March 2015) for Lucknow; M/s Millennium Telecom Ltd. (December 2016) for Meerut and Ghaziabad; Construction Industry Development Council (December 2016) for Kanpur and Indian Telephone Industries Ltd. (March 2017) for Noida and Greater Noida.

<sup>35</sup> The scheduled completion date of project was eight months from the date of work award.

**Table 4.3: Showing status of generated bills and recovery of Cess as of January 2023**  
(₹ in crore)

Name of district	No. of correct bills generated for levy of cess	Amount of correct bills	No. of bills served through notice	Amount of bills served	Amount of cess recovered against notices	Amount of cess recovered through assessment orders against unserved notices	Amount recovered through RC against the outstanding assessment orders	Total amount recovered against the bills (percentage)
Ghaziabad	21438 <sup>36</sup>	341.94	12901	266.49	22.96	49.18	11.18	83.32 (24)
Kanpur	22368 <sup>37</sup>	74.51	15401	47.97	12.51	6.66	4.06	23.23 (31)
Lucknow	41972	160.86	18917	94.48	3.70	22.32	11.98	38.00 (24)
Meerut	14260 <sup>38</sup>	60.74	10737	36.81	6.98	6.59	0.81	14.38 (24)
Noida & G Noida	17386	884.56	14165	695.20	156.60	24.82	2.31	183.73 (21)
<b>Total</b>	<b>117424</b>	<b>1522.61</b>	<b>72121</b>	<b>1140.95</b>	<b>202.75</b>	<b>109.57</b>	<b>30.34</b>	<b>342.66 (23)</b>

(Source: Information provided by the Secretary of the Board)

It is evident from the above that the cess amounting to only ₹ 342.66 crore was recovered as of January 2023 against the amount of bills of ₹ 1,522.61 crore, leaving a shortfall of ₹ 1,179.95 crore (77 per cent). Further, the engaged firms submitted not only erroneous bills<sup>39</sup> but also failed to serve all correct bills to the individuals; resulting in poor recovery of the cess against the assessment.

Thus, due to pending recovery of levied cess, funds for welfare of labourers could not be generated to the desired extent.

In reply, the State Government stated (March 2024) that an amount of ₹ 872.11 crore has been recovered and process for recovery of remaining amount is underway. The State Government also attributed first time implementation of GIS survey and unanticipated practical problems towards delays.

Reply is not acceptable as correction of erroneous bills amounting to ₹ 48.69 lakh and distribution of bills/notices amounting to ₹ 132.29 crore were pending at the level of engaged firms and concerned ALC/DLC as of December 2023 even after seven to nine years of the scheduled completion date of the GIS survey.

## 4.2 Collection of cess

An effective machinery and full compliance of the provisions the Cess Act and Rules are crucial for cess collection. The GoUP appointed various authorities as the Cess Assessment and Collecting Officers to establish and strengthen the collection machinery. However, non-compliance with provisions of the Cess Act and Rules hindered the collection of due cess. The audit findings in this regard are as under:

<sup>36</sup> Out of 23,761 generate bills, only 21,438 bills were found correct.

<sup>37</sup> Out of 22,827 generated bills, only 22,368 bills were found correct.

<sup>38</sup> Out of 16,688 generated bills, only 14,260 bills were found correct.

<sup>39</sup> 5,210 bills in Ghaziabad, Kanpur and Meerut districts.

#### **4.2.1 Delayed or failure to collect cess on approval of building plans**

The GoUP appointed (September 2010/August 2011) the Secretary of Development Authority (DA) and the Executive Officer of Nagar Palika Parishad (NPP)/Nagar Panchayat (NP) of the State as the Cess Assessment and Collection Officer for collecting cess at the time of approval of the building plans.

However, audit noticed that, in disregard of the provisions of the Cess Rules and GoUP orders, the six Development Authorities under examination failed to establish a mechanism for collecting cess based on the estimated cost of construction works when sanctioning building plans, till the GoUP once again directed (March 2016) them to do so.

Further, as per the provisions of the Section 178 to 180 (read with Section 298) of the UP Municipalities Act 1916, NPPs/NPs of the State are empowered to approve building plans after making required bye-laws in this regard. However, audit observed that out of the six NPPs/NPs examined, four<sup>40</sup> of them did not formulate required bye-laws for approving the building plans, leading to non-approval of building plans by three NPPs/NPs<sup>41</sup>. In the case of NPP Dadari in G B Nagar district, eight building plans were approved between September 2020 and February 2023 without formulation of bye-laws and without levy and collection of cess. Moreover, in remaining two NPPs/NPs<sup>42</sup>, where bye-laws were formulated, a total of 422 maps<sup>43</sup> were approved during the years 2017-22 without the levy and collection of cess. This indicated a lack of oversight by designated officers in collecting cess, resulting in a loss of revenue for the Board.

Thus, due to not implementing or delayed implementation of the provisions of the Cess Act and Rules by the authorities responsible for approving building plans, many establishments may have remained outside of cess net.

In reply, the State Government stated (March 2024) that an online portal has been introduced for real time collection of cess from DA. Further, the State Government stated that matter has been referred (January 2024) to the Urban Development Department for ensuring advance cess collection at the time of approval of building maps by the Municipalities of the state.

#### **4.2.2 Shortfalls in collection of cess**

The Cess Collecting Officers did not collect/deduct due cess from the individual employers or bills of contractors, the details of which are discussed below:

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<sup>40</sup> NP (Bakshi ka Talab); Lucknow, NP (Gangapur); Varanasi, NPP (Dadri); G B Nagar, and NP (Lalgopalganj); Prayagraj.

<sup>41</sup> NP (Bakshi ka Talab); Lucknow, NP (Gangapur); Varanasi and NP (Lalgopalganj); Prayagraj.

<sup>42</sup> NPPs Thakurdwara (Moradabad) and Shamshabad (Agra).

<sup>43</sup> NPP Thakurdwara (Moradabad): 199 maps during 2019-22, though no records were maintained for the period 2017-19 and NPP (Shamshabad) Agra: 223 maps during 2017-22.

#### 4.2.2.1 Not including GST and centage charges in the cost of work

The GoUP directed (February 2010) the Government departments/Public Sector Undertaking/Local Authorities to deduct cess from contractors' bills alike Income tax. After implementation (July 2017) of Good and Service Tax (GST), the GoUP reaffirmed this direction and further instructed (November 2017) to deduct cess after adding GST to cost of work. Besides, the Secretary of the Board also decided (October 2011) to include Centage Charges in construction cost for cess calculation.

However, audit observed that the test-checked units did not comply with orders of the GoUP and deducted cess from the contractor's bills without including amount of GST in cost of work. As a result, ₹ 2.49 crore could not be realised on account of cess as detailed in *Appendix-V*.

Besides, out of the 12 test-checked units related with the execution of work, seven units<sup>44</sup> received ₹ 116.53 crore on account of Centage Charges from the other departments or their own works during the period 2017-22. However, these Centage Charges were not included in cost of the works, resulting in non-collection of ₹ 1.17 crores as cess (*Appendix-VI*).

Thus, due to not observance of orders of the GoUP/Board, due amount of cess could not be deducted from contractor's bills.

In reply, the State Government stated (March 2024) that since GST is a tax, imposition of cess on tax does not seem to be proper.

Reply is not acceptable as the GoUP did not issue any order to this effect.

#### 4.2.2.2 Not deducting cess from the contractors bill

In accordance with Section 3 (1) of the Cess Act, the Government departments/local authorities are required to deduct cess equivalent to one *per cent* of the cost of the construction work from the bills of contractors.

However, audit observed that out of the 12 units examined in connection with the execution of works, five units<sup>45</sup> failed to deduct cess amounting to ₹ 2.21 crore from the contractor's bills during the period 2017-22. This omission occurred in relation to 443 vouchers for the payment of construction works totalling ₹ 220.95 crore. Similarly, in three NPPs/NPs<sup>46</sup>, out of six test-checked NPPs/NPs, cess amounting to ₹ 34.85 lakh was not deducted from 223 vouchers for the payment of construction work amounting to ₹ 34.85 crore to the contractors during the period 2017-20. This highlights a lack of oversight in ensuring cess deductions.

The State Government did not offer (March 2024) any comment in this regard.

<sup>44</sup> CD-I (Taj Trapezium) Agra, PD (PWD) Agra, Head works division (Okhala) G B Nagar, World Bank division (PWD) Moradabad, CD (Kumbh Mela), Prayagraj and CD-I (PWD) Prayagraj.

<sup>45</sup> PD (PWD) Varanasi, CD-3(PWD) Varanasi, PD (PWD) Agra, CD-4 (Kumbh Mela), Prayagraj and CD-I (PWD), Prayagraj.

<sup>46</sup> NPP; Dadri (G B Nagar), NPP; Shamshabad (Agra) and NP; Bakshi ka Talab (Lucknow).

#### **4.2.2.3 Less collection of cess**

As per provisions of Rule 4(4) of the Cess Rules, advance cess at the notified rates on the estimated cost of construction is to be collected at the time of approval of a construction work by a local authority.

The GoUP implemented (June 2019) Online Building Plan Approval System (OBPAS) in DA of the State for approval of building plans. Audit observed that in the test-checked five DA<sup>47</sup>, a total 9,825 building plans having estimated construction cost of ₹ 3,515.44 crore were approved during the period 2019-22 through OBPAS. In respect of these approved maps, cess of only ₹ 22.16 crore, as against the due cees of 35.15 crore, was collected by the concerned DA from the employers, resulting in short collection of cess amounting to ₹ 12.99 crore, as detailed in *Appendix-VII*.

In reply, the State Government stated (March 2024) that a proper system has been developed through online portal for cess collection and instructions are being issued to concerned authorities to ensure actual cess collection.

#### **4.2.3 Cost of construction not calculated on uniform rates**

The GoI directed (October 2018) for adoption of a uniform mechanism based on rates of the PWD/Municipal/local authority for calculating construction cost to collect advance cess uniformly at the time of approval of building plans. Accordingly, the Board issued (December 2018) instructions for assessment of cess based on rates of Central Public Works Department (CPWD) or PWD.

However, audit observed that the test-checked DA (except YEIDA<sup>48</sup> of G B Nagar) adopted different rates<sup>49</sup> during the period 2017-22 for this purpose. The rates used by these DA were based on circle area rate of District Magistrate, issued for determining the cost of construction for levy of stamp duty on sale deed of transfer of immovable properties. Additionally, the ALC/DLC of these selected districts made assessments during the period 2017-22 on the basis of plinth area rates of PWD schedule. This resulted in inconsistent assessment of construction cost by DA and Labour department officials.

Moreover, it was also observed that circle rates did not include additional construction cost for internal and external services ranging from 23 to 34.25 *per cent* as provided in plinth area rate of PWD schedule. As a result, there was underestimation of construction cost by the DA.

Thus, not calculating the cost of construction works on uniform rates in the state resulted in less collection of cess.

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<sup>47</sup> Agra, Lucknow, Moradabad, Prayagraj and Varanasi.

<sup>48</sup> Yamuna Expressway Industrial Development Authority, wherein no mechanism was established for collection of advance Cess at the time of approval of buildings plans and employers directly deposited advance Cess to the ALC/DLC prior to the approval of the maps by the DA.

<sup>49</sup> Agra (₹ 14500 per meter<sup>2</sup> for the period 2017-22), Lucknow (₹ 20000 per meter<sup>2</sup>), Moradabad (w.e.f. August 2017; ₹ 13000 per meter<sup>2</sup> and w.e.f. August 2019; ₹ 14000 per meter<sup>2</sup>), Varanasi ((₹ 15635 per meter<sup>2</sup> for the period 2017-22) and Prayagraj (₹ 18000 per meter<sup>2</sup> for the period 2017-22).



In reply, the State Government stated (March 2024) that directions were issued (December 2018) for assessment of cess on the basis of scheduled rates of PWD or CPWD or evaluation report of registered evaluators of Income Tax department.

Reply is not acceptable as there is a lack of uniformity in application of rates.

#### **4.2.4 Deduction of collection charges without working out actual expenditure on collection of cess**

As per Rule 5 of the Cess Rules, the proceeds of cess are required to be transferred by Government departments, PSUs, and local authorities to the Board. They are allowed to deduct actual collection expenses up to one *per cent* of the total collected amount or claim these expenses from the Board.

However, audit observed that neither the GoUP nor the Board issued instructions on deduction of collection expenses from cess proceeds. Further, no system was in place for claiming of collection expenses from the Board. Despite this, four DA<sup>50</sup> that were examined deducted one *per cent* collection expenses amounting to ₹ 105.36 lakh from cess collected by them during 2017-22. These deductions were made in respect of cess proceeds of approval of building plans either by accepting the total amount of cess or one *per cent* of the levied cess into their own bank accounts, and without working out any actual expenditure on cess collection.

Therefore, the deduction of collection expenses, without working out corresponding expenditure, was not as per Rule 5 of the Cess Rules. Moreover, accepting the cess into their own bank accounts by the DA also violates the provisions of the Cess Rules, as these rules require the collection of cess through a crossed bank draft made in favour of the Board.

The State Government replied (March 2024) that a system has been developed to transfer collected cess by the DA directly into the bank account of the Board from OBPAS, eliminating the need for collection charges.

Reply of the State Government is silent regarding deduction of collection charges by some Cess collecting authorities as no directives have been issued to address the issue.

#### **4.3 Transfer of collected cess to the Board**

Section 3 of the Cess Act and Rule 5 of the Cess Rules require cess collecting authorities to transfer collected cess to the Board within 30 days of its collection.

However, audit observed that there was no mechanism in place to ensure timely transfer of collected cess to the Board. Scrutiny of records of test-checked units revealed that collected cess were either not transferred or

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<sup>50</sup> Lucknow (₹ 88.21 lakh), Moradabad (₹ 1.39 lakh), Prayagraj (₹ 10.67 lakh) and Varanasi (₹ 5.09 lakh).

transferred to the Board with delays. The audit findings in this regard are as under:

In reply, the State Government stated (March 2024) that an online system has been developed to avoid delays in this regard.

#### **4.3.1 Collected cess not transferred to the Board**

The GoI directed (October 2018) strict adherence to Section 3 of the Cess Act and Rule 5 of the Cess Rules and recommended taking suitable action against non-compliant cess collectors. Accordingly, the GoUP instructed (January 2019) Cess Collecting Officers to deposit collected cess to the Board on time and provide details of establishments from which cess was collected. Besides, the GoUP also directed initiating legal action against non-compliant Cess Collecting Officers.

Audit observed that the Cess Collecting Officers within the six units<sup>51</sup> under scrutiny failed to transfer cess amounting to ₹ 84.64 crore, collected during 2017-22, to the Board as of March 2023 (as detailed in *Appendix-VIII*). Furthermore, no action was taken by the Board against non-compliant Cess Collecting Officers. This indicates the absence of a system for reconciling cess deductions and collections, as well as the subsequent transfer of these funds to the Board.

It was also observed that the Cess Collecting Officers, except those from the Labour Department, did not provide details of employers such as registration number of establishment, cost of construction work, due and collected amount of cess *etc.* along with the cess transferred to the Board. As a result, officials of the Board could not ensure correctness of cess transferred.

Thus, absence of a reconciliation mechanism raised concerns about potential loss of revenue to Board and diversion of collected cess by the Cess Collecting Officers.

In reply, the State Government stated (March 2024) that requests have been made to concerned DA for transfer of collected cess to the Board and a real time cess collection system has been developed through OBPAS.

#### **4.3.2 Delayed transfer of collected cess to the Board**

The GoI directed (October 2018) State Governments to ensure timely transfer of collected cess to the Board and asserted for initiating penal action in case of non-compliance of prescribed timeline of 30 days.

However, audit observed that among the six DA that were examined, four<sup>52</sup> of them transferred the collected cess amounting to ₹ 29.48 crore during the period 2017-22 to the Board with delays ranging from one to 31 months, as detailed in *Appendix-IX*. This resulted in a loss of accrued interest to the Board.

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<sup>51</sup> Development Authorities of the Agra, Lucknow, Moradabad and Varanasi districts, Yamuna Expressway Industrial Development Authority (G B Nagar) and NP Lalgopalganj (Prayagraj).

<sup>52</sup> Agra, Moradabad, Prayagraj and Varanasi.



Besides, the GoI also directed (October 2018) State Boards to ensure proper cess collection from Indian Railways. However, instances were found in audit that cess collection from Indian Railways was not proper as in selected Prayagraj District, no cess was collected from Indian Railways prior to the period of July 2020. Besides, cess of ₹ 5.11 crore deducted by the Indian Railways within the Prayagraj region, during the period of July 2020 to June 2022, was transferred to the Board with a delay of one to 24 months.

In reply, the State Government stated (March 2024) that communications have been made with concerned authorities in this regard.

Reply is not acceptable as corrective measures have not been taken by the State Government.

#### **4.4 Accounting of cess**

The GoUP or Board did not prescribe proper accounting system for receipts of cess and its transfer to the Board. This is not only important for recording the financial transactions and upkeep of proper records but also for ensuring checks on pilferage and delays in transfer of funds to the Board. The audit observations in this regard are discussed in succeeding paragraphs.

In reply, the State Government stated (March 2024) that Board has decided procedure for receipt and transfer of cess to Board, and maintenance of accounts along with audit of accounts are being ensured in all districts. However, no documentary evidence was provided by the State Government in this regard.

##### **4.4.1 Transactions outside of the Government Account**

Article 266(2) of the Constitution of India states that all other public funds received by or on behalf of the Government of a State should be credited to the Public Account of the State. Additionally, Rule 5 of the Cess Rules specifies that collected cess should be transferred to the head of account of the Board under the State's accounting procedure. Consequently, collected cess should initially appear in the Public Account before being transferred to the Board's bank account.

However, audit noted that the GoUP permitted the opening of a savings bank account for the Board in any nationalized bank's Lucknow Branch in March 2010. Subsequently, the GoUP decided (August 2011) to use heads of account 0230 (Labour & Employment)- 800 (Other receipts)-11 (Receipts under BOCW Act)- 00 (Labour Cess) for depositing collected cess into the treasury. Besides, as per the instructions (December 2012) of the GoUP, deposited amounts under above heads of accounts were to be transferred to the Board's bank account for expenditure on welfare of workers. To facilitate the transfer, the GoUP employed heads of account 2230 (Labour & Employment)-01(Labour receipts)-111(social security of labourers)-04 (refund of amount deposited for the fund of BOCW) under the Grant 76, for making necessary budget provisions.

It is important to note that the heads of account designated by the GoUP for cess transactions were outside the Public Account of the State, which is inconsistent with the provisions of Article 266(2) of the Constitution of India.

However, the GoUP later directed (August 2013 and September 2016) to deposit cess amount directly into the Board's bank account. Despite the fact, many Cess Collecting Officers continued to deposit the cess amount into treasuries, though major portion of cess proceeds during the period 2017-22 (₹ 4,483.63 crore out of ₹ 4,559.09 crore) was directly deposited into the bank account of the Board.

Thus, depositing cess directly to the Board's bank account without bringing it into Government Accounts, violates the provisions of Article 266 of the Constitution and the Cess Rules, 1998. This made it unfeasible to determine the amount of cess collected and transferred to the Board through Government Accounts.

In reply, the State Government stated (March 2024) that the Board has been empowered to open and operate bank account and that the Hon'ble Supreme Court of India has also ordered to deposit cess into the Board's bank account. While agreeing with the authority of the Board, it is required that all public money received by or on behalf of the State Government should be credited with Public Account before being transferred to Board's bank account.

#### **4.4.2 Not transferring of cess deposited into treasuries to the Board**

As discussed in *paragraph 4.4.1* above, the process of transferring deposited cess from treasuries to the Board's bank account involves budget route of the GoUP. This process necessitates the certification of challans by the respective treasuries through which cess amounts were initially deposited and accounted for under the prescribed heads of account.

However, audit noted that either due to insufficient budget provision under Grant 76 for refund of cess amounts to the Board by the GoUP or failure to certify the challans by the treasuries, cess amounts deposited into treasuries during the period 2017-22 could not be transferred to the Board, as detailed in **Table 4.4** below:

**Table 4.4: Transfer of cess amount deposited into treasuries to the Board during 2017-22**

(₹ in lakh)					
Year	Amount of cess with treasuries in the beginning of the FY	Amount of cess received by treasuries during the year	Amount of budget provision for refund of collected cess	Amount transferred to the bank account of the Board	Closing Balance
2017-18	2927.17	769.09	3696.26	3696.26	00.00
2018-19	00.00	1472.34	1000.00	1000.00	472.34
2019-20	472.34	1198.12	1000.00	873.21	797.25
2020-21	797.25	838.77	1000.00	1000.00	636.02
2021-22	636.02	3802.03	1000.00	977.77	3460.29

(Source: Information provided by the Secretary of the Board)

It is evident that due to less provisioning of budget and certification requirements, ₹ 34.60 crore could not be transferred to the Board at the end of March 2022.

In reply, the State Government stated (March 2024) that during the year 2022-23, ₹ 40.10 crore was transferred from treasuries to the Board's bank account and that the repeated orders have been issued for depositing cess directly into the Board's bank account.

Reply is not acceptable as at the end of the financial year 2022-23, cess amounting to ₹ 36.09 crore was pending at the Government level for transfer into the Board's bank account.

#### **4.4.3 Inadequate accounting of receipts of cess**

Audit observed that the Board has not established a system for the proper accounting of cess receipts, both at the district-level offices and at the Board's headquarters. In absence of specific guidelines, a register was maintained in the offices of the ALC/DLC of selected districts (except Prayagraj<sup>53</sup>) to record the details of cheques/demand drafts received from Cess Collecting Officers and individuals during the period 2017-22. However, due to direct online transfers of cess by individuals into Board's bank account, the entries in this register were often incomplete. This occurred because there was no established system to provide real-time notifications of online transactions to the Board authorities. Besides, monthly reconciliation of the register's total with the bank statement was also not done in any of the selected districts.

This situation suggests that the Board relied solely on bank statements for accounting of cess and did not verify the accuracy of collected and deposited amounts. This lack of verification is further evident in the absence of records maintained by Board officials to track due cess amounts, and the amounts deposited by cess collectors/individuals against these dues.

Audit further observed that many cheques/demand drafts received on account of cess and deposited into bank account by the authorities of the Board, were returned by the bank during the period 2017-22. The details of returned cheques/demand drafts and amount recovered there against in the selected districts during the period 2017-22 are given in the **Table 4.5** below:

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<sup>53</sup> No register was maintained for the period 2019-22.

**Table 4.5: Details of returned cheques/demand drafts and amount recovered there against during 2017-22**

(₹ in lakh)

Name of District	No. of cheques/demand drafts returned by the banks during the period of 2017-22	Amount of returned cheques/demand drafts by the banks	No. of cheques/demand draft received back from the employers	Amount of received back cheques/demand drafts	Amount not recovered from the employers
Agra	09	05.60	00	00.00	5.60
G B Nagar	16	299.21	16	299.21	0.00
Lucknow	189	674.78	149	589.94	84.83
Moradabad	18	10.18	02	01.05	09.13
Prayagraj	65	146.08	00	00.00	146.08
Varanasi	55	347.53	06	205.08	142.45
<b>Total</b>	<b>352</b>	<b>1483.38</b>	<b>173</b>	<b>1095.28</b>	<b>388.09</b>

(Source: Information provided by the DLC/ALC of selected districts)

It is evident from the above that ₹ 3.88 crore could not be recovered in the selected districts on account of returned cheques/demand drafts. Besides, audit also found instances of return of cheques/demand drafts by the banks at the headquarters of the Board, but due to non-maintenance of records, amount involved could not be ascertained in audit. This situation suggests that there were potential errors in accounting of cess.

It was also observed that in selected Prayagraj district, 97 cheques of ₹ 262.17 lakh were received in the office of the ALC/DLC between November 2017 and April 2022, though not deposited into the bank account of Board up to the month of September 2022. Due to this delay, these cheques became time barred, and against these time barred cheques only ₹ 145.89 lakh was recovered as of June 2023. Besides, due to non-maintenance of any register in this regard during the period 2019-22, status of deposition of other received cheques/drafts in the bank account of the Board by the officials of the ALC/DLC Prayagraj, could not be ascertained in audit.

Further, as per the directions (October 2018) of the GoI, the Board is required to maintain complete break-up of each source of welfare fund including the amount of penalty received on account of delay or less payment of cess. However, in absence of accounting system, such data was not available at the headquarters of the Board, though required under the directions of the GoI for presenting the true financial position of the Board.

In reply, the State Government stated (March 2024) that Cess Deposit register, which was not maintained during 2019-22 in Prayagraj district, has been maintained and assured that required action would be taken after getting the details of returned cheques/bank drafts.

#### 4.4.4 Data of cess receipts not processed

Audit observed that the Board received cess proceeds in the form of cheques, demand drafts, or through RTGS/NEFT from employers and cess collecting authorities but did not process this data for the purpose of cess

assessment, registration of establishments and the workers employed therein. Further, the Board failed to maintain a comprehensive database of construction works undertaken in the State.

In reply, the State Government stated (March 2024) that system has been developed for recognition of establishments, assessment and collection of cess and that the online database is being prepared through coordination with different Government departments.

**To sum up:**

The GoUP and the Board did not establish a mechanism to ensure the submission of Form-I by employers, hindering the cess assessment process. This led to ineffective performance by the Cess Assessing Officers and limited cess assessments. Besides, lack of proper monitoring prevented the recovery of assessed cess amounts from employers.

The Cess Collecting Officers exhibited a lackadaisical approach to cess collection, either not collecting cess at all or collected insufficient amounts. Additionally, they also did not adhere to the directives issued by the GoUP/Board. Moreover, the absence of a standardized rate for calculating construction cost also contributed to the shortfall in cess realisation.

The Cess Collecting Officers either did not transfer the collected cess to the Board or did so with significant delays. Besides, the GoUP/Board did not prescribe any accounting policies to ensure the proper accounting of cess receipts, and these transactions were not accounted for under the Public Account of the State.

**Recommendation 7:** *The State Government needs to introduce a system to monitor submission of required return (Form-I) by the employers and processing of returns within the stipulated time.*

**Recommendation 8:** *The State Government should ensure that all Cess Assessment Officers assess cess in accordance with the Cess Act and Rules and adopt uniform rates for calculating construction cost across the state.*

**Recommendation 9:** *The State Government should ensure assessment of cess for works of the Government departments/local bodies along with the individuals.*

**Recommendation 10:** *The State Government should introduce a system for approval of building plans with levy and realisation of cess at the local Government level.*

**Recommendation 11:** *The State Government must develop a mechanism for reconciliation of collected cess and ensure that cess receipts are made part of the Public Account of State Government and are transferred to the Board on time.*



# Chapter-V

## Safety and Health of Workers





## Chapter V: Safety and Health of Workers

This chapter discusses issues related to safety and health of workers.

### **Brief snapshot of the chapter:**

- The compliance of provisions related with safety and health of workers was deficient in the selected districts. The employers failed to submit safety policy to the Chief Inspector and information regarding constitution of safety committee and appointment of Safety officer was not available with Labour Department.
- The inspections conducted during 2017-22 in selected districts for ensuring the compliance to provisions of safety and health of workers were negligible against the registered establishments and there was no standardised format for issuing inspection notes.
- There was no established system for providing workplace accident notice by the employers, leading to lack of investigation in each case of accidents during 2017-22.
- The lack of coordination among the Labour Department authorities hindered both accident inquiries and compensation payment to the deceased/injured workers of many accidental cases.
- Required clauses for ensuring safety and health of workers were not included in agreements executed with contractors for construction works during 2017-22.
- The safety provisions of National Building Code of India 2016 and Indian Standard Safety Code for Scaffolds and Ladders, were not followed for ensuring safety and welfare of workers.

The Act aims to ensure safety, health, and welfare measures for workers. Chapter VII of the Act outlines provisions in this regard, including Section 40 requiring the State Governments to formulate rules concerning safety<sup>54</sup> and health of workers. These rules are expected to ensure the safety, health, and well-being of workers while they are engaged in their duties. Accordingly, the GoUP enacted comprehensive regulations from Rule 60 to Rule 252 under Rules 2009 to guarantee safety and health of workers at worksites. Besides, Section 44 of the Act and Rule 250 of the Rules 2009, also held employers accountable for safety, health and welfare of engaged workers. Moreover, for effective implementation of these provisions, concept of an adequate enforcement machinery is also provided in the Act and Rules 2009.

Rules 253 to 255 of the Rules 2009 empowers Inspectors for effectively enforcing the provisions of the Act and Rules. The Labour Commissioner of GoUP also made (October 2010) Inspectors of the Director (Factories)<sup>55</sup> responsible for ensuring safety and health of workers. However, audit observed following shortfalls in observance of provisions in this regard:

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<sup>54</sup> Including provisions for necessary equipment and appliances for the protection of workers during their employment.

<sup>55</sup> A division of Labour Department of the GoUP.

## **5.1 Safety Policy not submitted by employers/contractors**

Section 40(2)(r) of the Act requires employers and contractors to frame a safety policy outlining the necessary measures for ensuring the safety and health of workers during building or construction operations. Rule 216 of the Rules 2009 further mandates that establishments with fifty or more workers must prepare a written safety and health policy and submit this policy in triplicate to the Chief Inspector, with a copy to relevant Inspector of the area or local authority.

However, audit observed that in none of the selected districts eligible employers and contractors submitted copies of their safety policy to the Inspectors or local labour department authorities. This indicates a failure on their part to formulate such policy. Additionally, it was observed that the issue of not framing of safety policy by the employers was also not brought to the forefront during inspections in the selected districts, with the exception of Lucknow. Thus, not submitting the safety policy by the employers and contractors indicated that the Inspectors failed to enforce required arrangements to ensure safety and health of workers.

In reply, the State Government stated (March 2024) that no safety policies were received in regional offices of Agra, Moradabad and Varanasi districts, but 71 establishments submitted the same in regional offices of G B Nagar, Lucknow and Prayagraj districts. Further, the State Government also stated that instructions have been issued (January 2024) to Assistant Director (Factories) to ensure display of safety policy at construction site, aware employers about submission requirements and to take note of it during inspections.

Reply is not acceptable as the employers are required to submit safety policy directly to the Chief Inspector with a copy to the relevant Inspector. Besides, 71 safety policies received in three selected districts during the period 2017-22 (as intimated by the State Government) lacked significance as these were not submitted to the Chief Inspector, were not authenticated by the employers, and did not address key requirements such as institutional mechanism to implement the policy, stakeholders' responsibilities, risk assessment techniques and methods, training arrangement for all engaged persons *etc.*, as mandated by Rules 2009.

## **5.2 Deficient role of Inspectors**

Rule 254 of the Rules 2009 empowers the Inspectors to issue show cause notice or warning to employers regarding safety, health or welfare of workers. Besides, an Inspector may also direct contractor or employer to arrange medical examinations for engaged workers. Further, Rule 255 of Rules 2009 allows Inspector to issue prohibition order for dangerous building and construction works, until required measures are taken by the employers.

However, audit observed that very few inspections were conducted by the Inspectors of the Director (Factories) against registered establishments in the selected districts during the period 2017-22. As a result, powers conferred to them for enforcing safety and health provisions could not be fully utilised. The details of these inspections are given in **Table 5.1** below:

**Table 5.1: Details of inspections in the selected districts during the period 2017-22**

Name of district	No. of registered establishments during the period 2017-22	No. of establishments inspected by the Inspectors of Director (Factories) during the period 2017-22	Percentage of inspected establishments
Agra	2131	27	1.27
G B Nagar	18177	267	1.47
Lucknow	3951	28	0.71
Moradabad	1369	38	2.78
Prayagraj	2464	02	0.08
Varanasi	629	00	0.00

(Source: Information provided by the Assistant Director, Factories of the selected districts)

It is evident from the above that in selected districts, number of inspections conducted by the Inspectors of the Director (Factories) to ensure workers' safety and health was negligible against the registered establishments. In Varanasi district, no inspections were done during 2017-22, indicating a deficient role of Inspectors in enforcing the provisions of the Act and the Rules 2009.

In reply, the State Government stated (March 2024) that inspections were conducted in Lucknow (47) and Varanasi (one) districts during 2017-22 and that the efforts are being made to fill the vacant posts (42.11 *per cent*) in cadre of Assistant Director (Factories) for efficient inspections.

Reply is not acceptable as the Assistant Director (Factories) of Lucknow and Varanasi districts lacked proper records and inflated the inspection numbers by including inquiries/investigations of accidents at worksites and figures from other district(s).

### ***Deficiencies of Inspections***

Audit observed following deficiencies in conducting inspections for ensuring safety and health of workers:

- Inspectors issued instructions to employers through inspection notes to ensure workers safety and health in selected districts, where inspections were conducted during 2017-22. However, instance of issuing directions requiring medical examination of workers or issuing prohibitory orders were not available.
- Inspection register was not updated in any of the selected districts for recording status of compliance of inspection notes, imposition of penalties or initiation of prosecution for non-compliance of provisions of the Act and Rules, *etc.* As a result, audit could not ascertain the status of compliance of inspection notes.
- The Chief Inspector did not devise any standardised format for issuing inspection notes by the Inspectors of the Director (Factories) for covering all aspects of workers safety and health, leading to incomplete observations in this regard.

In reply, the State Government stated (March 2024) that directions for medical examination of workers are issued during inspections and Inspectors may also issue prohibitory orders. Further, the State Government also issued instructions to update inspection registers and stated that finalisation of a check list for conducting inspections is under process.

Reply is not acceptable as no documentary evidence in respect of directions for medical examination and prohibitory orders were made available with Government reply.

### **5.3 Constitution of Safety Committee not ensured**

As per Section 38(1) of the Act, establishments with five hundred or more workers are required to establish a safety committee. This committee should consist of a specified number of representatives from both the employer and the workers, as prescribed by the State Government. Accordingly, Rule 218 of the Rules 2009, prescribes the formation of a safety committee, to identify potential causes and address workplace accidents and unsafe practices. This committee is also responsible for recommending corrective actions, including provision of first aid and medical welfare facilities.

Audit observed that though the GoUP had made provisions for constitution of safety committee, but it did not specify actual number of representatives of both employer and workers for constituting the same. Besides, audit also observed that in none of the selected districts, neither the information regarding the constitution of safety committee by the eligible employers was available with the ALC/DLC nor any observation regarding safety committee was found in the inspection note of the Inspector of the Director (Factories). It was also observed that no instructions were issued to eligible employers by the labour department for ensuring the constitution of the safety committee on the basis of information of registration of establishments. As a result, constitution of safety committee by the eligible employers could not be ensured for preventing accident at work site.

In reply, the State Government stated (March 2024) that directions are being issued for better coordination with the Registering Officers of establishments, to ensure availability of information of eligible establishments in this regard to the Assistant Director (Factories). The State Government also added that issue of safety committee constitution has been incorporated into the proposed check list of inspections to ensure strict compliance of provision of the Act and Rules.

### **5.4 Appointment of Safety Officer not ensured**

As per Section 38(2) of the Act, employers of establishments with 500 or more workers are mandated to designate a Safety Officer, for carrying out duties prescribed by the State Governments in this regard. Rule 219 of the Rules 2009, mandates employers to appoint a Safety Officer. Employers are also required to inform the relevant Inspector of this appointment. Duties of Safety Officer include ensuring a safe working environment at the worksites to prevent worker injuries and investigate accidents or occupational diseases. Besides, as per Rule 219(3) smaller employers may collaborate to appoint a common Safety Officer for their group, with prior permission of the Chief Inspector. Consequently, the appointment of a Safety Officer was made mandatory by the GoUP.

However, audit observed that in selected districts, neither the intimation of appointment of Safety Officer was available with the Inspectors for the period 2017-22 nor status of appointment of Safety Officer was commented upon by

them during the inspections. As a result, appointment of Safety Officer for ensuring the safety and health of workers at work sites, could not be ensured.

In reply, the State Government stated (March 2024) that directions have been issued to Assistant Directors (Factories) to ensure appointment of Safety Officer and that the issue has also been included in proposed check list for inspections.

### 5.5 Reporting of accident cases and inquiry thereof

As per Section 39 of the Act, in case of any accident at worksite causing death or bodily injury<sup>56</sup> to workers, the employer shall give notice immediately thereof to such authority for investigation or inquiry of accident, in such form and within such time as may be prescribed by the State Government in this regard.

Accordingly, Rule 251 of Rules 2009 prescribes that the notice of accident will be provided by the concerned employer in Form 24 to the Chief Inspector, Board, District Magistrate, Inspector and to the in-charge of nearest police station within 12 hours of fatal accidents and 72 hours of other accidents. As per provisions of Rule 252, the Chief Inspector or an officer appointed by him may investigate these cases of accidents. Further, Rule 53 of Rules 2009 also requires employers to submit an annual return to the Registering officer in Form 15 detailing workplace accidents.

However, audit observed that in selected districts, employers did not provide notice of accidents to the Inspectors of the Director (Factories) and to the ALC/DLC being the functionary of the Board, as required under the provisions of the Act and Rules. No action was initiated against the employers, who failed to report accidents. As a result, actual number of cases of accidents at workplaces during 2017-22 in selected districts, was not on records.

Audit further observed that based on complaints or media reports, some cases of accidents at workplaces were investigated by the Inspectors of the Director (Factories) in the selected districts. The status of investigation of these cases has been given in the **Table 5.2** below:

**Table 5.2: Showing details of accident cases and inquiry therein in selected districts during 2017-22**

Name of district	No. of accident cases at work sites during 2017-22 as per the information of the Assistant Director (Factories) of selected districts	No. of cases, wherein notice of accident was provided by the employer	No. of cases taken up for the inquiry
Agra	04	00	04
G B Nagar	35	05	35
Moradabad	00	00	00
Lucknow	04	00	04
Prayagraj	01	00	01
Varanasi	01	01	01

(Source: Information provided by the Assistant Director, Factories of the selected districts)

<sup>56</sup> So that the person injured is prevented from working for a period of forty-eight hours or more.

The above Table shows that as per information of the Assistant Director (Factories) of the selected districts, all available cases of accident at workplaces during 2017-22 were investigated by the Inspectors.

However, audit observed five instances of accidents at workplaces in selected Agra (one case), Moradabad (one case) and Varanasi (three cases) districts during 2017-22, again through media reports, where required inquiry was not conducted by the Inspectors of the Director (Factories). The details of such instances have been given in **Appendix-X**. This indicated that due to lack of attention from the Inspectors of the Director (Factories) and failure of the employers to report accidents, many cases of workplace accidents could not be investigated.

Audit further observed that the employers also did not submit Annual Returns to the ALC/DLC detailing cases of accident at work sites in selected districts during the period 2017-22. Besides, audit also observed lack of co-ordination among the district authorities of the Labour and Factories in respect of exchange of information related with these accidents, which in turn resulted in either non-payment of compensation to the affected workers or not conducting of inquiry as discussed in succeeding **paragraph no. 5.7**.

Thus, there was no proper mechanism for reporting and investigation of accident cases.

In reply, the State Government stated (March 2024) that employers generally do not report accidents to authorities and the instructions have been issued for better information exchange between ALC/DLC and Assistant Director (Factories) in this regard. The State Government further confirmed that in five cases of accidents of Agra, Moradabad and Varanasi districts, inquiry could not be held due to unavailability of information.

Reply is not acceptable as out of above five cases of accidents; two cases were in notice of the concerned ALC/DLC.

## **5.6 Compensation to deceased or injured workers under Workmen's Compensation Act 1923**

Section 58 of the Act mandates that workers are entitled to compensation for work related accidents under the provisions of the Workmen's Compensation Act 1923 (WCA). The Schedule II of the WCA also specifies Building or Other Construction Workers as workmen. The Section 3 of WCA stipulates that employers are liable to pay compensation to employees injured in work related accidents in accordance with the provisions of the WCA.

For implementation of provisions of the WCA, State Governments are required to appoint Commissioners, to whom notice<sup>57</sup> of the accident is to be given by the employee or any other person for claim of compensation. Besides, the Commissioners are also required to address accident notices filed with other authorities. In compliance with the provisions of the WCA, the GoUP appointed

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<sup>57</sup> Detailing the name and address of the persons injured, cause for the injury, date of accident and is to be served on the employer wherein the injured was employed.



(January 2009) various authorities including the Labour Commissioner of UP and all ALC/DLC as Commissioner under their respective area of jurisdiction.

Audit observed that out of the selected districts, in Agra, Lucknow and Prayagraj districts; no process for compensation payment to injured or deceased workers was initiated by the DLC during 2017-22 in nine cases of investigated workplace accidents (as detailed in **Table 5.2**), although the Inspectors of Director (Factories) forwarded these cases to the concerned DLC for initiating compensation payment to the deceased workers. Further, in Agra district, though the DLC had initiated (September 2021) process of compensation payment to the family members of the deceased worker at workplace accident on 14 May 2021 (as mentioned in **Appendix-X**), no final order was made as of June 2023. Besides, in Varanasi district, in one case of accident at workplace on 11 September 2021 (**Appendix-X**), compensation was provided to the family members of deceased worker, though there were many cases of accidents during 2017-22.

It was also observed that in selected Moradabad district, despite having instance of accident at work site (as mentioned in **Appendix-X**), no action was initiated by the DLC for compensation payment to the deceased worker. However, in selected G B Nagar, compensation was provided by the DLC to the workers or their dependants in 58 cases during 2017-22.

Thus, provisions of the Act and WCA could not be adhered to (except in G B Nagar) for providing relief to the affected workers.

In reply, the State Government did not offer (March 2024) any specific comments in this regard.

### **5.7 Not conducting inquiry due to lack of coordination**

Audit observed following instances of lack of coordination between the functionaries of the Labour and Factories regarding workplace accidents, resulting in either no investigation or non-payment of compensation:

➤ In selected Varanasi district, a notice of accident was provided (12 September 2021) by the employer to the DLC, for intimation of an accident occurred on 11 September 2021, causing death of a worker. However, despite compensation payment and acknowledgement of notice of accident, the DLC did not forward the same to the Assistant Director (Factories) for inquiry as required under the provisions of the Act and Rules 2009.

➤ In selected Agra district, the DLC constituted a team of Inspectors (including ALC and two LEOs) for inspection of a construction site to check status of establishment registration and cess deposit, based on media reports of an accident on 14 May 2021 causing death of a worker. However, the DLC did not forward the information to the Assistant Director (Factories) for conducting required inquiry as per the provisions of the Act and Rules 2009 to ascertain the causes of accident.

Thus, lack of coordination among the responsible authorities, resulted in non-compliance of provisions of the Act and Rules.

In reply, the State Government stated (March 2024) that instructions have been issued for improved coordination among the ALC/DLC and Assistant Director (Factories) to address such cases.

### **5.8 Execution of contract without provisioning of compliance to the Rules**

As per Rule 246 of Rules 2009, all employers, contractors and other concerned departments of the Government are required to include compliance of Rules, specially related with the safety, health and welfare of workers as one of the conditions of the contract for execution of building or other construction works.

However, audit observed that in the test-checked units of selected districts, no reference to compliance of the Rules 2009 was made in agreement executed with the contractors. However, clauses related with compliance of applicable labour laws, fair wage payment, supply of wage card, display of wage rates, protection of health and sanitary arrangements, maternity benefit rules for female workers, availability of huts and wholesome of drinking water *etc.*, were included in the agreement. It was further observed that despite including some provision related with the safety, health and welfare of workers in the agreements, no mechanism was put in place to ensure their compliance. As a result, compliance of provisions of the Rules 2009 related with the safety and health of workers could not be ensured.

In reply, the State Government stated (March 2024) that due to unawareness of employers and contractors about provisions of safety and health of workers, instructions are being issued by the regional officers to aware them in this regard and also to incorporate related clauses in agreements.

### **5.9 Not adopting the National Building Code of India 2016**

The National Building Code of India (NBC) is a comprehensive building code to provide guidelines for regulating the building construction activities in India. It serves as a model code for all construction agencies including PWD, local bodies, other Government construction departments, private construction agencies *etc.* The code was first published in the year 1970 and further revised in 1983 and 2005 as NBC 1983 and NBC 2005 respectively.

However, due to significant changes<sup>58</sup> in the building construction activities, NBC was again revised in 2016 as National Building Code of India 2016 (NBC 2016) reflecting the state-of-the-art and applicable contemporary international practices. Under NBC 2016, a new code titled as “Construction management, Practices and Safety” has been introduced to regulate construction project management, construction planning, site management and building construction practices. The code also addresses safety and welfare requirements for workers. Besides, provisions of the Section 40(2)(s) of the Act and Rule 220 of the Rules 2009 requires employer to ensure observance of standards of the Bureau of Indian Standards in respect of the building materials, articles or

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<sup>58</sup> Such as prevalence of high rises and mixed occupancies, development of new/innovative construction materials and technologies, greater need for preservation of environment and recognition of need for planned management of existing buildings and built environment etc.



process used in building or other construction project for which the Indian Standards are available.

Audit noted that the State Government adopted (January 2008) NBC 2005 and directed to all DA/other Government departments related with approval of building plans to include its provisions under their bye-laws. Accordingly, the DA mandated for observance of provisions of NBC 2005 along with other standards in respect of structural safety and natural hazard protection of buildings and required submission of undertaking/certificate in respect of observance of these Code and Standards along with the application of building permission. However, NBC 2016 was not adopted by the State Government and the test-checked DA continued with enforcement of older versions of NBC. As a result, there was a lack of compliance with the provisions of the "Construction Management, Practices, and Safety" code of NBC 2016, while approving building plans/maps for Group Housing Schemes by the selected DA. The commitments made by the builders with application forms for approval of building plans during 2017-22, did not reference these standards, despite being required to adhere to available Indian Standards under the Act and Rules of 2009 to ensure the safety and health of workers.

Thus, due to not adopting the NBC 2016 while executing the construction works related with buildings, accidents at work sites could not be avoided.

In reply, the State Government stated (March 2024) that the Chief Inspector of GoUP has written letter to DA to ensure compliance of provisions of NBC 2016.

#### **5.10 Indian Standard Safety Code for Scaffolds and Ladders (IS: 3696)**

The Part 1 of Indian Standard for Scaffolds and Ladders (IS 3696) lays down safety requirements for erection, use and dismantling of scaffolds used in construction work for supporting and safety of workers. Similarly, Part 2 of this standard lays down the safety requirements for ladders used for various jobs in general construction work including their maintenance and demolition. The Section 40(2)(a) of the Act and Rule 60 and Rule 79 of the Rules 2009 also require that the scaffolds and ladders used in building or other construction works should be conforming to the national standards in this regard.

However, audit observed that the test-checked DAs did not incorporate any clause in their bye-laws regarding compliance with IS 3696. Due to this, no undertaking for compliance of provisions of the IS 3696 was obtained from employers of Group Housing Schemes at the time of approval of building plans in the test-checked DAs. As a result, compliance to provisions of the IS 3696 could not be ensured, though required to be observed under the provisions of the Act and the Rules 2009. Audit also found instances of accidents at workplaces involving bodily injury or death of workers due to improper maintenance of scaffolds and ladders.

In reply, the State Government stated (March 2024) that action is being taken by the Chief Inspector of GoUP for compliance of safety and health provisions by the DA.

**To sum up:**

The Employers, Government departments and local authorities did not adhere to safety and health provisions of the Act and the Rules 2009, including submission of safety policies, constituting safety committees, and appointing Safety Officers. The Inspectors of the Director (Factories) conducted limited inspections, and employers failed to report accidents. As a result, investigation of all cases of accidents at workplaces could not be ensured. Furthermore, compensation payment to injured or deceased workers was not made in all cases under the provisions of the Workmen's Compensation Act 1923.

**Recommendation 12:** *The State Government should develop a system to monitor the preparation and submission of safety policy, constitution of safety committee and appointment of Safety Officer by the eligible employers.*

**Recommendation 13:** *The State Government may consider fixing of targets of inspections for the inspectors of factory division of labour department.*

**Recommendation 14:** *The State Government may consider making Assistant Labour Commissioner/Deputy Labour Commissioner responsible for providing of compensation and Assistant Director (Factories) responsible for inquiry in each case of accident at workplaces.*

# Chapter-VI

## Inspections



## Chapter VI: Inspections

This chapter includes issues related to inspections of worksites for enforcing the provisions of the Act<sup>0</sup> and Rules 2009.

### Brief snapshot of the chapter:

- The GoUP appointed (November 2009) Labour Commissioner of UP as Chief Inspector after a lapse of ten years since implementation of the Act.
- The GoUP had made contradictory provisions in Rules 2009 regarding timeline of submission of work commencement notice. Besides, in cases of non-submission of required notice, no penalty was imposed against the non-complaint employers in selected districts.
- Format developed by the Chief Inspector for issuing inspection note, was deficient in checking the status of wage payment compliance with Minimum Wages Act, availability of drinking water facility at worksite, registration of workers with the Board *etc.*
- In selected districts, only 0.31 to 11.76 *per cent* establishments against total registered establishments during 2017-22, were inspected by the Inspectors for enforcing provisions of the Act and Rules 2009.
- 33 *per cent* posts of various inspecting authorities were vacant as of March 2023.
- There was a lack of any system for monitoring compliance of inspection observations, and inspections were conducted during 2017-22 without planning.

The main objectives of the Act are to regulate wages, working conditions, safety, health, and welfare measures of the workers. To achieve these objectives, provisions of the Act and Rules 2009 has laid down process for inspection of building or other construction works. The provisions of Section 43 of the Act (read with Section 44) empower Inspectors to inspect any construction site, to check safety measures and workers facilities. Besides, Section 7 of the Labour Cess Act also empowers Inspectors for conducting inspections of establishments.

Further, Section 46 of the Act requires submission of notice for commencement of works by employers. This information is vital for conducting construction sites inspections for enforcement of various<sup>59</sup> provisions of the Act. Besides, Section 48 of the Act provides for imprisonment or imposition of penalty or both for non-compliant employers in this regard. Moreover, provisions of Section 50 of the Act empower the Chief Inspector to impose penalty for non-compliance of other provisions of the Act and Rules. However, audit observed following shortcomings in implementation of provisions prescribed for inspections:

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<sup>59</sup> Such as Chapter-III (registration of establishment), Chapter-IV (registration of workers), Chapter-VI (hours of work, welfare measures and other conditions of service of building workers), Chapter-VII (safety and health measures) and Chapter-IX (special provisions).

## **6.1 Appointment of the Chief Inspector and other Inspectors**

For exercising the powers conferred under both Acts and enforcing the provisions effectively, the State Governments were required to appoint a Chief Inspector and other Inspectors with their area of jurisdiction as per the Section 42(2) and (3) of the Act. The other Inspectors are required to exercise powers and perform functions in general control and supervision of the Chief Inspector.

In compliance with the provisions of the Acts, the GoUP appointed (September 1999) all LEOs, ALC, DLC and Additional Labour Commissioners of the labour department and the Director and all Deputy/Assistant Directors of the Factories division as other Inspectors under their area of jurisdiction. Despite appointing other Inspectors, the GoUP took further ten years to appoint (November 2009) the Labour Commissioner of UP as Chief Inspector and another five years to decide (November 2014) area of jurisdiction of LEOs within the districts.

Audit also observed that the Chief Inspector assigned (October 2010) Inspectors of the Director (Factories) to enforce provisions mainly related with safety and health of workers, as discussed earlier in the **Chapter-V**. Besides, they were also given responsibility of other provisions of the Act such as responsibilities of various stakeholders, hours of work, wages, welfare measures *etc.* Further, Inspectors of Labour department were made responsible for enforcing the provisions relating to responsibilities of various stakeholders, registration of establishments and beneficiaries, hours of work, wages, welfare measures and other conditions of service of building workers, special provisions *etc.* However, overlapping jurisdiction between both divisions of the labour department and lack of coordination among them affected enforcement of provisions of the Act and Rules 2009 as discussed earlier in **paragraph no 5.7**.

Thus, delay in making required arrangements for inspections and overlapping<sup>60</sup> distribution of responsibilities, attributed towards ineffective enforcement of provisions of the Act and Rules 2009.

In reply, the State Government stated (March 2024) that the distribution of work and coordination within both divisions of labour department are proper, and that the instructions have been issued by the Chief Inspector to field offices for effective implementation of provisions of the Act.

Reply is not acceptable as there were certain overlapping responsibilities between both divisions of labour department and also lack of coordination (as discussed earlier in **Chapter-V**). This is also affirmed by the fact that the Chief Inspector/Labour Commissioner of GoUP directed (9 January 2024) both divisions to work together to address the issues highlighted in audit.

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<sup>60</sup> Since responsibility of enforcement of provisions related with Chapter-II (responsibilities of various stakeholders) and VI (hours of work, wages and welfare measures) of the Rules 2009, were assigned to both divisions.

## 6.2 Contradictory provisions by the GoUP

The submission of a notice to the Inspectors by employers for the commencement of work is a crucial aspect in facilitating inspections. According to Section 46 of the Act, employers are obligated to provide such notice at least 30 days prior to commencing work. The GoUP addressed this requirement in Rule 45 of the Rules 2009. This rule stipulates that employers must send a written notice in Form-4 to the Inspector, informing them of the actual commencement date, the expected completion date, and other relevant details, as mandated by Section 46 of the Act.

However, it is worth noting that Rule 27(3) of the Rules 2009 contradicts this by specifying that employers should submit a written notice to the Inspector fifteen days prior to both the commencement and completion of any building or other construction work using Form-4. Thus, the provisions of both Rules are contradictory and needs to be relooked by the GoUP.

In reply, the State Government stated (March 2024) that a proposal for amending Rule 27(3) and Rule 45 of Rules 2009 to align them with Section 46 of the Act, is under consideration.

## 6.3 Penalty not imposed on employers for failure to submit notice of commencement of work

As per Section 48 of the Act, if any employer fails to provide notice of work commencement within the stipulated time to the Inspector, the concerned employer may attract imposition of penalty or imprisonment or both.

However, audit noted that in none of the selected districts, employers of registered establishments submitted notice of work commencement to concerned Inspectors. Despite this, LEOs pursued cases of Section 46 violations for penalties only when they conducted inspections. Since the *percentage* of inspected establishments by the Inspectors during the period 2017-22 was minimal compared to the total number of registered establishments, as illustrated in **Table 6.1** of **Para 6.5**, a significant majority of Section 46 violations did not result in any penalties being imposed.

In reply, the State Government stated (March 2024) that 338 cases were filed under Section 48 of the Act for violation of provisions of Section 46 in the concerned districts during 2017-22, and a cess portal has been developed (November 2023), to facilitate submission of notice of work commencement.

The reply of the Government confirmed that only a few cases of Section 46 violations were pursued for imposition of penalties, as there were 28,721 registered establishments in selected districts during 2017-22 and practice among the employers to provide required notice lacked completely.

## 6.4 Deficiency in format for issuing Inspection Note

The GoUP directed (February 2014) LEOs to issue inspection notes with details of Form-4 after inspecting building or other construction worksites. In response, the Chief Inspector created (April 2014) a format for inspection

note for inspections conducted by LEOs to enforce the provisions of the Act and Rules 2009. Further instructions for adopting the prescribed format were given by the Chief Inspector in February 2017 and again in September 2020. However, audit observed that the format of inspection note was deficient in many ways:

- The format of inspection note did not inquire about wage payment compliance with the Minimum Wages Act, 1948 (MWA), even though this was one of the most critical conditions of the certificate of establishment registration. The provisions outlined in Form 2 of the Rules 2009 stipulated that employers must ensure that the wages paid to workers are not less than the rates prescribed under the MWA. However, due to absence of any related queries in the format, the inspection notes not only failed to provide information on employers' compliance with the MWA but also rendered inspections ineffective in enforcing the MWA.
- Section 32 of the Act mandates that employers must establish effective arrangements to provide an ample supply of drinking water at work sites. However, the format did not include any inquiries related to this requirement. Consequently, just like the issue of wage payments, the availability of drinking water was also not commented upon during inspections.
- The Chief Inspector assigned (October 2010) responsibility of enforcement of provisions related with registration of beneficiaries, along with other provisions of the Act, to the Inspectors of the labour Department. However, due to not incorporating any query in format regarding status of registration of workers deployed by the employer, enforcement of one of the most important provisions of the Act, was also not covered in the inspection note by the Inspectors.

Thus, due to deficiency of the format of inspection note, inspections failed to enforce many important provisions of the Act and the Rules 2009.

In reply, the State Government stated (March 2024) that format of inspection note is being revised for incorporating the provision related with observance of MWA, availability of drinking water and registration of beneficiaries.

## **6.5 Status of Inspections**

The GoUP directed (February 2014) to conduct inspection of all such construction works, wherein required notice of work commencement were not submitted by the employer. However, audit observed that in selected districts, despite non-submission of required notice by the employer of all registered establishments, only a few establishments were inspected by the inspectors of labour department during the period 2017-22. The details of establishments inspected during the period 2017-22 *vis-à-vis* total registered establishments in the selected districts have been given in **Table 6.1** below:



**Table 6.1: Details of inspections against the registered establishments in selected districts during 2017-22**

Name of district	No. of registered establishment during 2017-22	No. of registered establishments, who provided notice of work commencement	Number of establishments inspected during 2017-22	Percentage of inspected establishments
Agra	2131	00	112	5.26
G B Nagar	18177	00	56	0.31
Lucknow	3951	00	259	6.56
Moradabad	1369	00	25	1.83
Prayagraj	2464	00	19	0.77
Varanasi	629	00	74	11.76

(Source: Information provided by the ALC/DLC of the selected districts)

As evident from the above, the number of inspected establishments during 2017-22 was significantly low compared to the total number of registered establishments. As the employers of these registered establishments failed to submit notices regarding work commencement, it was necessary for Inspectors to conduct inspections of all registered establishments as per the directives issued by the GoUP.

The constraints in carrying out Inspection may include following:

- The GoUP did not create a separate cadre of Inspectors for enforcing the provisions of the Act and Rules 2009 and responsibility in this regard was assigned to the officials of the labour department. However, the LEOs of the labour department were already overburdened with implementing and enforcing 18 Central Labour Acts and four State Labour Act as of July 2017.
- Overall, 33 *per cent* posts of various other inspecting authorities were vacant as of March 2023 as detailed in the **Appendix-XI**. Besides, vacancy against the sanctioned posts of LEOs, mainly responsible for enforcing the provisions among the other inspectors, was up to 39 *per cent*, leading to shortfalls in inspections.
- Inspectors other than the LEOs had rarely conducted any inspections during the period of the year 2017-22 in the selected districts.

Thus, due to insufficient inspections, provisions of the Act and Rules 2009 related with registration of establishment and beneficiaries, hours of work, welfare measures and other conditions of service of workers *etc.* could not be enforced effectively.

In reply, the State Government stated (March 2024) that no targets for inspections were fixed during 2017-22 keeping in view ease of doing business, however, since December 2022 each LEOs has been assigned to conduct five inspections per month. The State Government acknowledged that vacant posts in the cadres of LEO/DLC/ALC affected inspections during 2017-22 and assured that action is being taken on priority basis for filling vacancies. The State Government further intimated that the directions have been issued (January 2024) for ALC/DLC to conduct at least 25 inspections per month, and that the restructuring of cadres of labour

department is also under progress to accommodate increased responsibility and scope of work.

## **6.6 Follow up of Inspection Notes**

The Chief Inspector granted (February 2017 and September 2020) a 15-days period to employers to address and rectify issues raised in inspection note issued by LEOs. However, if issues were not resolved within the stipulated timeframe, the matter was to be escalated to the Chief Inspector. Upon receiving such cases, the Chief Inspector had the authority to issue a show cause notice to the employer. If the employer failed to respond to the notice, the Chief Inspector could act in accordance with the provisions outlined in Section 50 of the Act for imposing penalty. Alternatively, the Chief Inspector could empower the relevant LEO to initiate legal proceedings against the employer in a court of law, if the notice also went unanswered by the employer.

However, audit observed that in selected districts, no registers were maintained for recording the subsequent follow-up actions on observations of inspection notes. Furthermore, there was no established system in place for re-inspections or periodic inspections of the work sites to ensure compliance of inspection note observation. Due to lack of record-keeping and follow-up mechanisms, the number of observations raised during inspections, observations that had been addressed by employers, outstanding objections, and details of actions taken by the Chief Inspector against employers, could not be ascertained in audit.

The audit also noted that, based on authorization from the Chief Inspector, LEOs in the selected districts initiated legal cases against employers in the courts. However, no registers were maintained concerning the prosecution or the imposition of penalties against employers by the court. As a result, the audit was unable to determine the status of compliance with the observations through the court proceedings. This highlights a lack of monitoring of the follow-up actions related to issues raised through inspection notes, and the timely enforcement of punitive measures, thereby diminishing the deterrence value of the established mechanism.

Thus, in absence of any system for monitoring of the compliance of observation of the inspection note, follow-up of observations could not be ensured.

In reply, the State Government stated (March 2024) that required records in respect of inspections and subsequent follow-up action has been maintained in selected districts.

Reply is not acceptable as in Agra district, process for maintaining register for the period 2017-20 was not completed (January 2024), while no separate register for recording details of inspections and follow-up action was maintained in Prayagraj district. Besides, in remaining districts, documents submitted with Government reply in support of maintenance of register,

lacked information on subsequent follow-up action taken on observations of inspection notes.

### **6.7 Planning for inspections**

The GoUP directed (July 2017) to conduct inspections through joint teams, comprising at least two inspecting authorities, including the ALC, LEO, and Assistant Director (Factories). This directive aimed to enhance transparency in the inspection process. The Labour Commissioner of the GoUP directed (November 2019) that prior permission of Deputy/Additional Labour Commissioner would be required for conducting inspections, except in special circumstances where approval may be obtained after inspection.

However, audit observed that the LEOs of the selected districts did not take prior permission and only submitted inspection notes to the ALC or DLC for approval after conducting inspections, resulting in non-documentation of team formation prior to inspections in any of the selected districts except Agra<sup>61</sup>. Further, there was no risk-based criteria for the selection of construction sites by the Inspectors. As a result, there were no documented records regarding the basis for selecting worksites or planning inspections, which further highlighted absence of a structured selection process or planning for inspections.

Thus, due to lack of planning prior to conducting inspections, transparency could not be ensured in execution of inspections.

In reply, the State Government stated (March 2024) that due to manpower deficiencies, joint inspections were not conducted during 2017-22, and that a risk-based Standard Operating Procedure (SOP) for inspections is under development. Besides, it was also stated by the Government that directions are being issued for conducting planned and transparent inspections in view of audit observations.

### **6.8 Maintenance of records by the employers not ensured**

Sections 28 to 30 of the Act empowers the State Government to establish work hours, overtime wages, and the issuance of wage books or slips to workers. Furthermore, Section 30(1) of the Act mandates employers to maintain records and registers, as prescribed by the State Government, to ensure compliance with Sections 28 to 30. Accordingly, the GoUP introduced Rule 47 of the Rules 2009, requiring employers to maintain a Register of workers in Form-6.

Moreover, as specified in Rules 48(A) to 53 of the Rules 2009, various records and registers like the Register of muster roll, Register of wages, Register of deductions or damages or loss, Wage book and Service Certificate, Register of overtime, Register of returns, and others are also required to be maintained by the employer or contractor. These records ensure compliance with work hours, wage payments, worker employment, welfare measures, and other service conditions for building workers.

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<sup>61</sup> Joint teams were constituted by the DLC from the month of January 2020 for conducting inspections.

However, audit revealed that the units involved in construction works in the selected districts did not develop any system to ensure maintenance of necessary records and registers by the employers or contractors either through departmental inspections of worksites or provisioning of related clauses in agreements. This resulted in a lack of assurance regarding the registration of engaged workers as beneficiaries and compliance with other service conditions outlined in the Rules 2009.

In reply, the State Government stated (March 2024) that generally employers remain absent during inspections, hindering the production of records to LEOs and impacting the quality of inspections. The reply is not satisfactory as presence of concerned employers needs to be ensured.

**To sum up:**

The GoUP/Board failed to develop any system for submission of work commencement notice for inspections. The standardised inspection note format was deficient in prescribing observations for many provisions of the Act and Rules. Number of establishments inspected by the authorities was meagre compared to registered establishments and 33 *per cent* posts of various inspecting authorities was vacant.

***Recommendation 15:*** *The State Government should issue directions for timely submission of notice of commencement and completion of work in Form-4 and have proper system and procedure for taking action against the defaulting employers.*

***Recommendation 16:*** *The State Government should adopt a transparent system for planning and conducting inspections and introduce a system for monitoring follow-up of observations raised during inspections.*

## Chapter-VII

# Administration and utilization of Welfare Fund by the Board



## Chapter-VII: Administration and utilization of Welfare Fund by the Board

The issues related with administration and utilization of Welfare Fund by the Board have been discussed in this chapter.

### Brief snapshot of the chapter:

- The constitution of Board was not only delayed but the GoUP also failed to reconstitute the Board on time, leading to administrators taking over its responsibilities.
- Instead of sanctioning the posts of the Secretary and other officers/officials of the Board, GoUP filled these posts with personnel of labour department and other Government departments. The Board had even hired 576 human resources for execution of its function without any sanction of posts.
- The meeting of the Board during 2017-22 was short by 42 *per cent* and notice and agenda of meetings were also not served on time in respect of four out of 15 meetings.
- The GoUP did not include all mandatory functions of the Board, as enshrined in Section 22 of the Act, under Rules 2009; resulting in overlooking of key areas of the Board responsibilities.
- The process of preparation and submission of budget estimates was deficient and submitted to the GoUP and GoI with delays ranging between five to 362 days. The GoUP also did not accord any approval to the budget estimates for the period 2017-22.
- The budget estimates were not based on scientific estimation and set lower targets for collection of cess during 2017-22.
- The Board did not prepare annual reports since its inception and also did not prepare its annual accounts up to the year 2020-21 from beginning.
- The constitution of the State Advisory Committee was delayed, and it was also ineffective in providing recommendations to the GoUP in matters related to administration of the Act.
- The management of Welfare Fund by the Board was not effective, with large funds lying unused and expenditure on workers welfare ranged from three to 22 *per cent* during 2017-22. Administrative expenses exceeded prescribed norms by ₹ 35.07 crore during 2017-19.
- The Board incurred expenditure of ₹ 42.85 crore for purchase of land in violation of Hon'ble Supreme Court and GoI directions.
- Despite setting spending targets lower than budget allocation under schemes, these targets could not be met during 2017-20. The number of beneficiaries under most of the schemes, gradually decreased during 2017-22 with exceptions like Disaster Relief Aid Scheme and Maternity Benefit Scheme.

- Only six to 31 *per cent* of total registered workers with the Board were benefitted by its schemes during 2017-22.
- The Board operated various bank accounts and invested ₹ 5,358.18 crore in fixed deposits with different banks without adopting any investment policy or calling quotations from banks, resulting in varying interest rates between 3.50 to 5.40 *per cent*.
- The Board also failed to implement schemes efficiently, with only 50 *per cent* worker applications for assistance approved and 1.40 lakh beneficiaries not receiving assistance despite approval. Besides, 1.42 lakh applications remained unattended, and disbursement of financial assistance was also delayed.
- The Board did not implement proposed activities of model welfare scheme, formulated by the GoI, or implemented it half-heartedly.
- The social audit of schemes was also not conducted by the Board.

The primary objective of the Act is to safeguard welfare of workers. The provisions of the Act encompass various functions aimed at ensuring that the benefits of this legislation are accessible to all workers. This is to be achieved by establishing the Board and granting it adequate powers to implement welfare measures for workers. One of the Board's significant roles is the establishment of a fund known as the Building and Other Construction Workers Welfare Fund (Welfare Fund), intended for the betterment of workers. To fund the effective implementation of welfare provisions under the Act, resources are generated through the Cess Act and other means.

Audit findings in respect of constitution of the Board and its functioning, administration and utilisation of Welfare Fund *etc.* have been detailed in succeeding paragraphs.

## **7.1 Constitution of the Board**

The Act mandates constitution of a Board in every State to oversee social security schemes and welfare measures for workers. Section 18 of the Act requires constitution of the Board, consisting of a Chairperson and other members, to carry out functions outlined in the Act.

In compliance with the provisions of the Act, Rule 256 and 257 of the Rules 2009 provided for constitution of the Board under the chairmanship of the Principal Secretary, Labour and Employment (GoUP) with other *ex-officio*<sup>62</sup> and nominated<sup>63</sup> members. The tenure of nominated members is three<sup>64</sup>

<sup>62</sup> One member from GoI, Chief Inspector (*i.e.* Labour Commissioner of GoUP) and three official member of special secretary rank of GoUP.

<sup>63</sup> Three members each from representatives of employers and workers.

<sup>64</sup> Which may be extended up to four years in case of not appointment of successor in time.



years, with successors appointed by the GoUP on or before the expiry of their tenure. Besides, in case of non-constitution of Board for any reason, the State Government may appoint an Administrator for up to six months or until the Board is duly constituted, whichever is earlier.

Audit observed that except the provision for appointing an Administrator under the Rules 2009, other provisions of the Rules 2009 regarding constitution of Board were in line with the Act. It was also observed that the Board was constituted intermittently and was last constituted in January 2022. Besides, due to non-existence of a duly constituted Board, the Additional Chief Secretary, Labour and Employment (GoUP) was appointed as Administrator by the GoUP on four<sup>65</sup> occasions for more than 24 months during 2009-22.

Thus, in absence of a duly constituted Board for over 24 months, there was no involvement of representatives of employers and workers in decision making, and in planning of welfare measures.

In reply, the State Government stated (March 2024) that the Rules 2009 allows appointment of Administrator.

Reply is not acceptable as there were no such provisions in the Act and the Board has been conceptualised as body corporate with perpetual succession, not an administrative body.

#### **7.1.1 Functionaries of the Board**

As per Section 19 of the Act, the Board has powers to appoint a Secretary and such other officers and employees, required for effective discharge of its functions. The terms and conditions of their appointment, salary and allowances are to be prescribed by the State Government.

Accordingly, Rule 263 of the Rules 2009 empowers the Board to appoint a Secretary<sup>66</sup> and other officials with prior approval of the GoUP. As per Rule 273, the Secretary serves as the Chief Executive Officer of the Board, responsible for conducting its activities and implementing its decisions. Besides, the Secretary is authorised to issue notice to convene Board meetings with approval of the Chairperson and maintain meeting records.

##### **7.1.1.1 Post of the Secretary not sanctioned**

Audit noted that the GoUP did not sanction post of Secretary for the Board, as mandated by the Act and Rules 2009. Instead, Government officers from the District Labour Commissioner's (DLC) office or of higher ranks were

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<sup>65</sup> Ist time on 20 November 2009 for six months, IInd time on 03 June 2010 for 10 months, IIIrd time on 06 April 2017 for five months and IVth on 16 September 2021 for three months.

<sup>66</sup> An officer of the Government, not below the rank of a Deputy Labour Commissioner.

assigned to serve as the Secretary without consulting the Board. Further, during 2017-22, these officers held regular charge of Secretary's post for only 14 months, with the remaining 46 months being held on additional charge. On 11 occasions, the ALC or DLC of the Lucknow region was assigned this additional charge. Consequently, the Board had no role in appointment of Secretary.

This practice of appointing Government officers on short, temporary terms without regular charges deprived the Board of concentrated attention and carries the risk of adversely affecting its operational efficiency, as discussed in *paragraph 7.2*.

In reply, the State Government stated (March 2024) that appointment of the Secretary was made as per rules and with approval of the Board during 2017-22.

Reply is not acceptable as neither the post of Secretary was sanctioned by the GoUP nor any prior consultation done with the Board before appointment.

#### **7.1.1.2 Appointment of officers of the Board**

The GoUP approved 15 temporary posts in July 2011 to facilitate the Board functioning with intention of filling them through deputation, honorarium, or contract arrangements by the Board.

However, audit found that the Board did not fill these sanctioned positions, and their continuity expired in the year 2013-14. In such a scenario, several officers from the Labour and other Government departments were attached to the Board by the Labour Commissioner or the GoUP to carry out its functions. As of July 2023, five officers were deployed at the Board without officially sanctioned posts.

Thus, the failure to appoint officers against the sanctioned posts, resulted in dependency of the Board on the GoUP for deploying its functionaries.

In reply, the State Government stated (March 2024) that proposals for sanction of posts of Officers and other employees, as submitted by the Board during May 2018 and December 2023, are still pending.

#### **7.1.1.3 Appointment of employees of the Board**

The Secretary of the Board submitted many proposal<sup>67</sup> to the GoUP during 2013-23 to sanction various posts of officers and employees for carrying out

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<sup>67</sup> For 45 posts of Officers and other employees on 13 February 2014, for 900 posts of Officers and other employees on 16 January 2018 & 14 May 2018 and for 13 posts of officers on 24 March 2023.

Board functions. However, the GoUP did not accord any sanction in this regard as of June 2023.

Audit further observed that the Board decided (November 2014) to hire human resources on various posts<sup>68</sup> through outsourcing from the service providers without sanction of posts and prior approval of the GoUP, as required under the provisions of the Rules 2009. As of March 2022, 576 human resources were hired by the Board, against the requirement of 734. Therefore, a significant portion of the Board's functions were being overseen by these outsourced employees, who were even responsible for handling cheques and demand drafts. This situation was against the directions<sup>69</sup> (January 2010) of the Hon'ble Supreme Court, which required for constitution of the Board with adequate full-time staff.

Thus, hiring of human resources by the Board without approval of the GoUP violated the provisions of the Rules 2009.

In reply, the State Government stated (March 2024) that the proposals submitted (March 2014, May 2018 and December 2023) by the Board for posts sanction, are still pending.

### **7.1.2 Meetings of the Board**

As per Section 20 of the Act, the State Governments are required to prescribe the time (periodicity) of Board meetings and procedures for transaction of business in meetings. Accordingly, the Rules 264 and 265 of the Rules 2009 required holding of meetings of the Board once in every three months with 15-days prior notice to members. However, the Hon'ble Supreme Court directed (February 2012)<sup>70</sup> to hold meeting of the Board at least once in every two months for regular review of implementation of schemes.

Audit observed that the Board held only 15 meetings<sup>71</sup> during 2017-22, falling short of the required 26 meeting<sup>72</sup> by 42 *per cent* in accordance with the directions of the Hon'ble Supreme Court. Out of 25 approved schemes, seven schemes<sup>73</sup> were not implemented at all by the Board, which indicates

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<sup>68</sup> Accountant, Assistant Accountant, Computer Operator and Peon for executing the functions of the Board at the district and regional offices of Labour Department, Directorate and Government level along with the headquarter office.

<sup>69</sup> National Campaign Committee for Central Legislation on Construction Labour v. Union of India, (2011) 4 SCC 653.

<sup>70</sup> Civil Writ Petition No. 318 of 2006.

<sup>71</sup> Held on 25 September 2017, 15 February 2018, 28 August 2018, 10 December 2018, 25 February 2019, 6 September 2019, 7 January 2020, 23 March 2020, 7 August 2020, 15 October 2020, 16 December 2020, 27 January 2021, 24 March 2021, 20 May 2021 and 9 July 2021. Out of these, four meetings were urgent.

<sup>72</sup> The Board remained in existence from August 2017 to August 2021 for 49 months and from January 2022 to March 2022 for three months.

<sup>73</sup> Solar Energy Assistance Scheme, *Palana Grih Yojana*, Mid-day meal Scheme, *Khadyan Sahayata Yojana*, Bicycle Assistance Scheme, Toilet Assistance Scheme and *Pradhanmantri Suraksha Bima evam Jeevan Bima Yojana*.

inadequate review of implementation of the schemes. It was also observed that the notice and agenda for four of 15 meetings were sent to the members with a delay ranging from three to nine days.

In reply, the State Government stated (March 2024) that due to non-existence of duly constituted Board in the year 2017-18 and 2021-22, the Covid-19 pandemic and other unavoidable reasons during the year 2018-19 and 2019-20, Board meetings could not be held as per norms. However, five meetings have been held in the year 2023-24 (up to December 2023) in compliance with the Rules 2009 and directions of the Hon'ble Supreme Court. Besides, notice and agenda of some meetings could not be sent on time due to urgent calls for Board meetings.

### **7.1.3 Assigning of functions to the Board**

The Board has to perform various functions for the welfare of workers under Section 22 of the Act. This includes providing immediate assistance in case of accidents, pensions after reaching the age of 60, home loans/advances, payment of premium of Group Insurance Schemes, financial aid for children's education, assistance with medical expenses, maternity benefits for female beneficiaries, and various other welfare measures and facilities. The Board is also authorised to provide loans, subsidies, grants-in-aid, *etc.*, to local authorities or employers for the welfare of workers. Further, the GoI directed (September 2015) the State Governments to ensure that the Board carries out its functions as outlined in Section 22 of the Act.

However, audit noticed that the GoUP failed to encompass all the mandatory functions under Rule 281 of the Rules 2009. Rule 281 specified only assistance related to home loans/advances and financial aid for the education and marriage of beneficiaries' children. Despite this, the Board implemented many schemes<sup>74</sup> to cover the scope of functions outlined in Section 22 of the Act. However, it did not offer any assistance to beneficiaries in several mandatory areas of operation, including payment of Group Insurance Schemes and loans; subsidies and grants-in-aid to local authorities or employers for the welfare of workers, *etc.*, even though 28 years had passed since the Act was enacted. Moreover, in areas where the Board had initiated relief programs for beneficiaries, there were significant deficiencies in implementation of these schemes, as detailed in *paragraph 7.2.6*.

Besides, as per Sections 14(2) and 62(2)(i) of the Act, if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as

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<sup>74</sup> Assistance in case of accident of beneficiary, payment of Pension to the beneficiaries after attaining the age of 60 years, payment of medical expenses for treatment of major ailments, payment of maternity benefit to the female beneficiaries *etc.*

may be prescribed by the State Government through rules. However, audit observed that the State Government did not establish rules in this regard.

Furthermore, audit identified that, in addition to the outlined functions of the Board, the GoUP under Rule 283 prescribed various activities for the Board to promote general welfare of workers. However, similar to the mandatory functions, the Board did not take action in several areas of activity, including conducting surveys and studies to assess the employment patterns, skills, income, wages, and working conditions of workers, as well as the impact of various Government and Board programmes intended for their welfare. Additionally, the promotion of the small family norm, eradication of social issues like drinking and dowry, organizing sports, cultural and recreational activities for workers, and arranging study tours for groups of beneficiaries *etc.*, were neglected by the Board, though required under Rules 2009.

Thus, due to the State Government's and the Board's inaction in numerous areas of operation, the workers could not get full benefits mandated by the Act and Rules 2009.

In reply, the State Government accepted (March 2024) that no welfare scheme has been framed in many mandatory areas of functioning.

## **7.2 Other responsibilities of the Board**

The Act and Rules 2009 assigned the Board with managing and administering the Welfare Fund. The other responsibilities of the Board included submission of budget to the GoUP for sanction, preparation and submission of annual reports and accounts, collection of contributions from the beneficiaries and other charges, appointment of committees, investment of the available fund *etc.* However, audit observed following deficiencies in discharge of responsibilities of the Board:

### **7.2.1 Preparation of budget estimates**

Section 25 of the Act requires the Board to prepare budget estimates for the next financial year by incorporating estimated receipts and expenditure, in such form and at such a time, as may be prescribed by the State Government and submit them to the State and Central Governments.

However, audit noted that the Act does not specify the roles of both governments in approving the budget estimates. While Rule 272(2)(b) of the Rules 2009 designates the Board with the responsibility of preparing and submitting the budget for approval to the State Government but does not outline required format or timeline for this process.

Further, audit observed that due to lack of defined format and timeline by GoUP, the Board not only failed to include estimated receipts for the upcoming year and actual figures of receipts of the previous year in its budget estimates for the fiscal years 2020-21 and 2021-22 but also delayed the preparation and submission of budget estimates during 2017-22, as detailed in **Table 7.1** below:

**Table 7.1: Details of preparation of budget estimates and submission thereof to the Government**

Year	Date of approval by the Board	Date of submission to Governments	Period of submission after commencement of financial year (in days)	Status of sanction by the GoUP
2017-18	Not approved	28/03/2018	362	Not accorded
2018-19	15/02/2018	28/03/2018	Submitted in time	Not accorded
2019-20	25/02/2019	05/04/2019	05	Not accorded
2020-21	07/08/2020	04/09/2020	157	Not accorded
2021-22	24/03/2021	10/05/2021	40	Not accorded

(Source: Information provided by the Secretary of the Board)

It is evident from the above that, in absence of a set time schedule, budget estimates for the period 2017-22 (except for the year 2018-19) were submitted to the Governments after start of the financial year, with delays ranging from five to 362 days. Additionally, the budget estimates of the year 2017-18 was approved by the Administrator in April 2017 and were forwarded to the Government at the end of the financial year, even though the Second Board remained in office until 5 April 2017 and the third Board resumed office in August 2017. The preparation and submission of budget estimates for the financial year 2020-21 were also delayed due to fewer Board meetings. It was also observed that the GoUP did not provide required sanction for the budget estimates, as mandated by the Rules 2009.

In reply, the State Government stated (March 2024) that after preparing the budget estimates, the Board submitted them to the GoI and GoUP. Further, it was also stated by the State Government that due to outbreak of Covid pandemic, the estimation of receipts and timely preparation of budget estimates could not be ensured during 2020-22.

#### **7.2.1.1 Unrealistic budget estimation**

As per the provisions of the UP Budget Manual (UPBM), budget estimates should be as accurate as possible. However, audit observed that the budget estimates were not based on any scientific estimation, resulting in wide variation between actual and estimated figures. The details of the budget estimates *vis-à-vis* actuals for the period 2017-22 have been given in the **Table 7.2** below:

Table 7.2: Showing variations between budget estimates and actuals during 2017-22  
(₹ in crore)

Year	Budget Estimates		Actuals		Variations of Budget Estimates with Actuals in per cent	
	Receipt	Exp	Receipt	Exp	Receipt	Exp
2017-18	990.00	579.35	1051.65	324.14	06.23	(-)44.05
2018-19	1010.00	711.45	1156.30	193.86	14.49	(-)72.75
2019-20	1142.00	825.97	1261.51	362.67	10.46	(-)56.09
2020-21	Not prepared	1374.21	1258.12	882.49	-	(-)35.78
2021-22	Not prepared	1511.71	1364.13	1639.36	-	8.44

(Source: Information provided by the Secretary of the Board)

It is evident from above that estimation of expenditure was inaccurate and varied widely, indicating randomness in budgeting process. Additionally, new schemes such as Medical Aid Scheme<sup>75</sup>, Disaster Relief Aid Scheme<sup>76</sup> etc. were introduced through reappropriations under revised budget, which was against the provisions contained in UPBM<sup>77</sup>. Moreover, officials of the Board at headquarters, also did not maintain budget control register for keeping watch on utilisation of allocated budget in compliance with the provisions of UPBM, leading to non-utilisation of allocated funds under the schemes as discussed in *paragraph no. 7.2.5.2*.

In reply, the State Government confirmed (March 2024) introduction of new schemes through re-appropriation and stated that budget estimates are based on information received from districts, estimated applications of workers under the schemes and expenditure of previous year. Further, it was also stated by the Government that accurate estimation of expenditure under the schemes is not possible due to their uncertain nature.

Reply is not acceptable as persistent variation between estimated figures and actuals reflected inaccuracy of budget estimation. Besides, adopting reappropriations instead of original/supplementary budget for new expenditure violated provisions of the UPBM.

#### 7.2.1.2 Setting lower targets for collection of cess

Audit further observed that the Board set region-wise annual targets for cess collection without any systematic estimation, such as considering the number of registered establishments or ongoing construction activities in the state. Instead, these targets were based on previous year's receipts as reported by district authorities. However, in absence of proper accounting procedures for cess proceeds (as discussed in *paragraph 4.4.3*), cess collection receipts were underreported by the district authorities. This led to

<sup>75</sup> Introduced in revised budget of the year 2017-18 through reappropriation from the savings of other schemes.

<sup>76</sup> Introduced in revised budget of the year 2019-20 through reappropriation from the savings of other schemes.

<sup>77</sup> As per para 151(iv) of the UPBM, incurring new expenditure through reappropriations is not allowed.



setting targets on erroneous information. Moreover, these targets remained unchanged over the years. The details of annual targets of cess collection and achievements there against are provided in **Table 7.3** below:

**Table 7.3: Details of targets for cess collection and achievement during 2017-22**

(₹ in crore)

Year	Target	Achievement as per the information of districts	Actual receipts on account of cess as per the records of the Board	Percentage of target achievement in respect of information of the	
				Districts	Board
2017-18	970.00	703.21	826.75	72.50	85.23
2018-19	970.00	694.35	901.02	71.58	92.89
2019-20	970.00	683.54	925.18	70.47	95.38
2020-21	1000.00	664.50	888.81	66.45	88.88
2021-22	1000.00	1008.37	1017.33	100.84	101.73

(Source: Information provided by the Secretary of the Board)

It is evident from the above that fixing of targets because of erroneous information of district authorities and without any systematic estimation, led to fixing of lower targets for cess collection.

In reply, the State Government stated (March 2024) that targets for cess collection were fixed on district information until 2019-20 but have been on the basis of receipts of cess bank account since 2020-21. Further, it was also stated by the Government that due to non-achievement of targets, it could not be revised every year.

## **7.2.2 Preparation of Annual Report**

Sections 26 and 62(2)(q) of the Act requires compilation of an annual report of the Board's previous year activities for submitting to both the State Government and the Central Government in a format and within a timeframe specified by the State Government through rules. Under Rule 272(c) of the Rules 2009, the GoUP also mandates the Board to prepare and submit an annual report, although it does not specify the necessary format and timeline for doing so.

However, audit observed that contrary to the provisions of the Act and Rules, the Board did not prepare annual report since its inception. Not disseminating required information through annual report hindered stakeholders understanding about functioning of the Board.

In reply, the State Government stated (March 2024) that preparation of annual report is under process but did not provide any documentary evidence in support of claim.



### 7.2.3 Preparation of Annual Accounts

As per Section 27 and 62(2)(r) of the Act, the Board is required to prepare annual statement of account in such form and at such time during each financial year as may be prescribed by the State Government. The annual account is to be submitted to the State Government together with the auditor's report for laying before the State Legislature. Besides, provisions of the Act also require audit of annual accounts by the Comptroller and Auditor General of India (CAG).

However, audit observed that Rule 272(2)(d) of the Rules 2009 makes the Board responsible for proper maintenance of accounts without mentioning required form and timeline. Besides, related provisions of the Rules 2009 were also silent about the submission of annual account to the State Government. Due to these deficiencies, the Board did not prepare its annual accounts up to the year 2020-21 since beginning, leading to accounts not audited by the CAG. As a result, reliable data of financial position of the Board was not available. However, the Board had prepared (May 2023) its annual accounts for the year 2021-22, though, it was not submitted to the GoUP as of June 2023 for onward submission to the State Legislature.

Moreover, in absence of annual accounts, the Board could not use enabling provisions of the Income Tax Act 1961 for exemption under Section 10 (46), resulting in deduction of income tax at source of ₹ 8.65 lakh and ₹ 38.05 lakh on the investment of the Welfare Fund during the financial year 2020-21 and 2021-22 respectively.

In reply, the State Government stated (March 2024) that process for registering the Board under Section 10 (46) of Income Tax Act 1961 is underway.

### 7.2.4 Constitution of committees

As per the provisions of Section 4 of the Act, the State Government is required to constitute a State Advisory committee (SAC) to advice on administration of the Act. Consequently, the GoUP under Rules 10 to 22 provided for constitution of SAC in every three years from the elected representatives of the State Legislature with other nominated and *ex-officio* members under leadership of a chairperson. The meetings of SAC are to be held at least once in six months or when the GoUP seeks any advice.

However, audit observed that SAC was formed three times by the GoUP after notification of the Rules 2009. The first SAC was formed in November 2013 and lasted until March 2017, exceeding the prescribed term by five months. The second SAC was formed in August 2018 after a gap of 16 months, and the third SAC was formed in September 2021 without delay.

Further, despite the formation of the first SAC in November 2013, no meetings were held until December 2015 due to frequent changes in the positions of the Chairperson and nominated members. During this period, ₹ 8.12 lakh was spent from the Welfare Fund on honorarium and travel allowances for the Chairperson.

Further, it was also observed that between August 2018 and March 2022, only six meetings of the SAC were held, falling short of the prescribed norm of seven meetings. Additionally, the second SAC provided 22 recommendations<sup>78</sup> to the GoUP regarding the Board functioning but the GoUP did not take required action on most of these recommendations<sup>79</sup>. Further, SAC failed to provide recommendations in three meetings held between November 2020 and December 2021. Besides, the GoUP did not refer any matters to SAC for recommendations on administration of the Act or formulating and implementation of welfare schemes. Apart from the SAC, constitution of other committees was also deficient as per details given below:

➤ Section 5(1) of the Act requires that the State Government may constitute one or more expert committees, amongst the people having special qualifications in building or other construction works to advise on framing required Rules under the provisions of the Act. However, audit observed that the GoUP did not frame any rule for constitution of expert committee under Rules 2009, resulting in non-compliance of many of the requirements of the Act under the Rules 2009 (as discussed earlier in *Chapter-II*).

➤ Under Rule 270 of the Rules 2009, the Board is also empowered to form committees for discharge of its duties. However, audit observed that the Board passed (August 2018 and October 2018) a resolution for constitution of three committees for supervising the works related with cess collection, registration and renewal of membership of workers and implementation of schemes, and also constituted the required committees in the month of the December 2018 but for want of No Objection Certificate, from the Finance and Law Department of the GoUP to decide duties and responsibilities of the committees, these committees could not be made functional as of June 2023.

In reply, the State Government did not offer (March 2024) any comments on SAC and expert committees and confirmed constitution of three other committees by the Board without providing any details about their functionality and duties & responsibilities assigned to them.

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<sup>78</sup> During its first three meeting held during the period of August 2018 to January 2020

<sup>79</sup> Some issues were taken up by the Board on their own.

### 7.2.5 Management of Welfare Fund

As per Section 24 of the Act, every Board is required to constitute a Welfare Fund, consisting of loans and grants from the GoI<sup>80</sup>, beneficiary contributions and other funds. Moreover, GoI is also empowered to decide other resources for the Board. Accordingly, provisions for levy of a cess at least one *per cent* of the construction cost have been provided under Section 3 of the Cess Act. Consequently, the GoUP under Rule 274 provided for constitution of “The Uttar Pradesh Building and Other Construction Workers Welfare Fund” (Welfare Fund) for depositing and managing concerned receipts.

Audit observed that the GoUP with the constitution of Board also established (March 2010) the Welfare Fund for implementation of the welfare schemes as provided under Act and Rules. Besides, the GoUP also implemented collection of cess in November 2009. The details of receipts *vis-à-vis* expenditure from the Welfare Fund during the period 2017-22 are given in the **Table 7.4** below:

**Table 7.4: Showing receipts and expenditure from the Welfare Fund during 2017-22**

Year	OB	Cess receipts	Registration fee	Interest receipts	Total available fund	Exp. on schemes (%)	Administrative exp. (%)	Corpus fund	Total Exp	CB
2017-18	3194.99	826.75	10.54	214.36	4246.64	282.56 (6.65)	41.58 (0.98)	-	324.14	3922.50
2018-19	3922.50	901.02	7.42	247.86	5078.80	174.47 (3.44)	19.39 (0.38)	-	193.86	4884.94
2019-20	4884.94	925.18	13.15	323.18	6146.45	347.04 (5.65)	15.63 (0.25)	-	362.67	5783.78
2020-21	5783.78	888.81	9.31	360.00	7041.90	868.88 (12.34)	13.61 (0.19)	-	882.49	6159.41
2021-22	6159.41	1017.33	3.72	343.08	7523.54	1622.56 (21.56)	16.80 (0.22)	1890.00*	3529.36	3994.18
<b>Total</b>	<b>3194.99</b>	<b>4559.09</b>	<b>44.14</b>	<b>1488.48</b>	<b>9286.70</b>	<b>3295.51</b>	<b>107.01</b>	<b>1890.00</b>	<b>5292.52</b>	<b>3994.18</b>

(Source: Information provided by the Secretary of the Board) (\*Appropriated from Welfare Fund for creating a corpus to operate the Atal Residential Schools established in 18 commissionerates of the State.)

It can be seen from the above that large funds were lying in the Welfare Fund and only three to 22 *per cent* of available funds during 2017-22 were used for beneficiary welfare. This was against the Hon’ble Supreme Court and GoI directions<sup>81</sup>, to utilise the Welfare Fund for workers’ welfare. Further, most of the increased expenditure in 2020-22 was due to Disaster Relief Aid<sup>82</sup> and three<sup>83</sup> other schemes. Further, despite having funds, the Board did not follow the GoI directives (July 2017) to provide facilities like

<sup>80</sup> Under Section 23, the GoI may provide loans and grants to the Board with approval of the Parliament.

<sup>81</sup> By Hon’ble Supreme Court of India on 21 August 2015, 16 October 2015 and 19 March 2018 while by the GoI on 9 September 2015 and 6 October 2017.

<sup>82</sup> Expenditure of ₹ 775.24 crore and ₹ 958.87 crore incurred during 2020-21 and 2021-22, respectively.

<sup>83</sup> Maternity Benefit Scheme, Workers Daughter Marriage Scheme and Medical Aid Scheme.

transit accommodation, labour sheds with night shelters, mobile toilets, and mobile crèches for workers. This was important because workers face difficulties due to lack of basic amenities while moving between jobs. It is worth noting that the GoUP also directed (July 2021) the Board to establish transit hostels for workers.

Thus, the Welfare Fund was not optimally utilised for workers' welfare. Besides, due to accumulation of huge sums, instances of spending on other heads of expenditure were also noticed by the audit, which have been discussed in succeeding paragraph.

In reply, the State Government stated (March 2024) that efforts are being made for formation of new policies and schemes to cover more workers, and that the introduction of new schemes for providing facility of labour sheds and night shelters, establishment of technical training centres *etc.*, is under process.

### 7.2.5.1 Application of Welfare Fund

As per Sections 22 and 24 of the Act, the Welfare Fund is designated for covering the costs of welfare schemes for workers and other administrative expenses. Besides, expenditure on administrative expenses is to be limited to five *per cent* of the total expenditure in a given financial year and no expenditure is allowed for other purposes. Further, pursuant to directions (August 2015) of the Hon'ble Supreme Court, the GoI reiterated (June 2016) that Welfare Fund should not be used for any purpose other than workers' welfare and in case of violations, immediate corrective steps should be taken for recoupment of such expenditure to the Welfare Fund.

However, audit observed that provisions of the Act and GoI directions were not adhered to by the Board. The details of expenditure incurred by the Board from the Welfare Fund during the period 2017-22 on the implementation of the schemes and administrative expenses have been given in **Table 7.5** below:

**Table 7.5: Details of exp. on schemes *vis-à-vis* administrative expenses during 2017-22**  
(₹ in crore)

Year	Total Exp.	Exp. on administrative expenses (percentage of total Exp)	Exp. on schemes (percentage of total Exp)	Exp. to be incurred on administrative expenses	Excess exp. on administrative expenses
2017-18	324.14	41.58 (12.83)	282.56 (87.17)	16.21	25.37
2018-19	193.86	19.39 (10.00)	174.47 (90.00)	9.69	09.70
2019-20	362.67	15.63 (4.31)	347.04 (95.69)	18.13	within limit
2020-21	882.49	13.61 (1.54)	868.88 (98.46)	44.12	
2021-22	1639.36*	16.80 (1.02)	1622.56 (98.98)	81.97	within limit

(Source: Information provided by the Secretary of the Board) (\*Excluding ₹ 1890 crore appropriated for creating a corpus to operate the Atal Residential Schools established in 18 Commissionerates of the State.)

It is evident that an excess expenditure of ₹ 35.07 crore was incurred on account of administrative expenses during 2017-19, surpassing the five *per cent* limit specified in the Act. Despite it, the Board did not make any effort to recoup excess expenses to the Welfare Fund in line with the instructions of the GoI. Moreover, an expenditure of ₹ 1890.00 crore was also incurred during the year 2021-22 to create corpus for operation and maintenance of the Atal Residential Schools established<sup>84</sup> in 18 Commissionerates of the State.

In reply, the State Government stated (March 2024) that expenditure has been made in accordance with provisions of the Act, and the provisions of the Act did not require spending of at least 95 *per cent* of Welfare Fund for workers' welfare.

Reply is not acceptable as Section 24(3) of the Act provides that administrative expenses shall not exceed five *per cent* of total expenses during a financial year, meaning thereby that at least 95 *per cent* of the Welfare Fund is to be utilized for the benefit of workers.

#### ***Expenditure on other than specified purposes***

As per ruling (August 2015) of the Hon'ble Supreme Court, constitution of Welfare Fund is intended for the benefit of the construction workers not for the benefit of the Board. However, the Board purchased (March 2016) 1.35 acre of land from Lucknow Development Authority (LDA) by spending ₹ 42.56 crore (including incidental expenses *viz.*, registration fee and stamp duty) for construction of its office<sup>85</sup>. Further, an amount of ₹ 29.32 lakh was also spent (December 2018) for construction of boundary wall at the purchased land. Despite this, construction work of office building could not be initiated as of June 2023 due to the GoI directions (June 2016) prohibiting use of the Welfare Fund for construction of buildings, leading to infructuous expenditure of ₹ 42.85 crore.

In reply, the State Government stated (March 2024) that, to save money in long run, the Board has purchased land for construction of its office building.

Reply is not acceptable as the Welfare Fund is not to be used for construction of buildings.

#### **7.2.5.2 Targets set below the budget**

The Secretary of the Board set region wise annual spending targets under the schemes using previous year's actual expenditures as a basis. However, these

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<sup>84</sup> These residential schools were constructed by the labour department of the GoUP for providing education to the wards of the workers through government grants.

<sup>85</sup> At Gomti Nagar of Lucknow.

spending targets did not consider allocated budget under the schemes. Further, these targets did not encompass any physical targets of beneficiaries, as the Board had not set any annual or long-term targets for covering all workers within the scope of the Board's schemes. The details of year-wise spending targets under the schemes, the allocated budget, and the actual achievements during the period 2017-22 are provided in **Table 7.6** below:

**Table 7.6: Status of achievement of targets of spending under Schemes during 2017-22**  
(₹ in crore)

Year	Approved budget under the Schemes	Target of spending under the schemes	Understatement of targets against the budget allocation (in per cent)	Actual expenditure	Achievement of the targets of spending (in per cent)
2017-18	514.05	514.00	00	282.56	55
2018-19	686.57	514.00	25	174.47	34
2019-20	788.17	514.00	35	347.04	68
2020-21	1336.26	902.64	32	868.88	96
2021-22	1476.11	902.64	39	1622.56	180

(Source: Information provided by the Secretary of the Board)

The table above clearly illustrates that spending targets were set 25 to 39 *per cent* lower than budget allocation during 2018-22. Further, spending targets were also not met during the period 2017-20, with achievements ranging between 34 and 68 *per cent*. While spending target for the year 2020-21 was achieved, the actual expenditure fell short of the allocated budget. However, in the year 2021-22, the actual expenditure exceeded both the spending target and allocated budget.

Thus, the allocated budget was not effectively utilized for the welfare of workers during the period 2017-21.

In reply, the State Government (March 2024) stated that all registered beneficiaries could not benefit under all schemes and there is increasing trend in expenditure under schemes during 2017-22. The Government also replied that expenditure was within budget during 2021-22 due to supplementary budget of ₹ 1400 crore.

Reply is not acceptable as spending targets during 2021-22 again remained lower than budget provision and only 56 *per cent* of total budget (original ₹ 1476.11 crore + supplementary ₹ 1400 crore) could be utilised due to lower targets.

### **7.2.5.3 Limiting the benefit of Welfare Fund to the beneficiaries**

As previously discussed in **Table 7.4**, the Board had enough funds during 2017-22 to support social security schemes and welfare measures for the

registered beneficiaries. The Board implemented 25 schemes to benefit these workers.

However, due to limiting expenditure under schemes by setting spending targets and lack of annual and long-term physical targets for covering beneficiaries, the number of beneficiaries in 20 schemes (out of 24 schemes<sup>86</sup> implemented by the Board) gradually decreased during the period 2017-22 as per details given in **Appendix-XII**. This decline occurred despite a significant increase in the number of registered beneficiaries with the Board over the same period. These 20 schemes covered only 2.82 lakh beneficiaries, which was 1.67 *per cent* of the total scheme beneficiaries. In contrast, beneficiaries increased in the remaining four schemes, benefiting 98.33 *per cent* of the total scheme beneficiaries (**Appendix-XII**). However, it is worth noting that among these four schemes, the Disaster Relief Aid Scheme, which was temporarily implemented during the period 2019-22 to provide cash assistance during the challenging times of the COVID-19 pandemic, contributed to benefiting 90 *per cent* of the scheme beneficiaries. If beneficiaries of Disaster Relief Aid Scheme are excluded, out of the total number of registered beneficiaries with the Board, only a range of six to 31 *per cent* of beneficiaries or their dependents received benefits under the Board's schemes during the period 2017-22.

It was also noted that the Board did not make earnest efforts to educate and aware workers about the various welfare schemes despite introducing *Pt. Deen Dayal Upadhyay Chetna Yojana* in November 2018 for this purpose. Under this scheme, only ₹ 11.96 crore was spent, out of the budget provision of ₹ 45.00 crore, during the period 2019-22.

Thus, due to not fixing any annual or long-term targets for covering all eligible beneficiaries under the schemes, funds available with the Board could not utilised efficiently and coverage of schemes remained limited.

In reply, the State Government stated (March 2024) that similar schemes have been merged, changes have been made for easier benefit access, and schemes involving distribution of kinds have been dropped. The Government also stated that efforts are being made for *cent per cent* utilization of budget and preparation of new schemes is also underway for providing benefits to all registered workers.

#### **7.2.5.4 Investment**

The Hon'ble Supreme Court directed (February 2012) the Boards to invest surplus funds in nationalized banks. The GoUP also allowed (March 2010)

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<sup>86</sup> Except *Pt. Deen Dayal Upadhyay Chetna Yojana* meant for publicity and awareness measures

for opening of saving bank account of the Board in Lucknow Branch of any nationalised bank.

Audit observed that the Board operated two savings bank accounts each for management of registration and renewal fees<sup>87</sup>, transfer of cess proceeds, and spending cess proceeds during 2017-22. Additionally, at the end of March 2022, the Board had four more accounts for depositing cess amounts collected by district authorities and for various other purposes. The closing balances of these bank accounts were ₹ 325.21 crore as of 31 March 2022.

Audit further observed that the Board operated above saving bank accounts related with the receipt of registration fee and cess with auto sweep facility, wherein balances of more than ₹ two crore was automatically invested in fixed deposits. Besides, the Board also invested surplus funds in fixed deposits of other nationalised banks. Consequently, ₹ 5358.18 crore<sup>88</sup> was invested in FDs as of March 2022, out of which receipts were maintained for only ₹ 100 crore. It was also observed that investment in FDs was made without calling for the quotations from the nationalised/scheduled banks, the practice adopted by the Delhi Welfare of Building and Other Construction Workers Board. As a result, rate of interest on FDs varied from 3.50 to 5.40 *per cent* leading to not gaining optimal interest by the Board. Moreover, investments of these surplus funds in FDs were made by the Board without adopting any investment policy. In absence of such policy, other instruments of investments such as Government securities, bonds *etc.* could not be explored, though the Assam Government under the Building and Other Construction Workers (Regulation of Employment and conditions of service) Rules 2007 had made provision for investment in securities.

Audit further observed that due to non-maintenance of financial accounts (as discussed in *paragraph no. 7.2.3*), the Board understated the financial position of Welfare Fund by ₹ 1,689.21 crore as the closing balance of all bank accounts of the Board was ₹ 325.21 crore and an amount of ₹ 5,358.18 crore was also invested in FDs as on 31 March 2022, though, the closing balance of the Welfare Fund was reported only ₹ 3,994.18 crore.

Thus, due to not adopting any investment policy, surplus balances of the Welfare Fund could not be invested prudently.

In reply, the State Government stated (March 2024) that different bank accounts have been operated to deposit registration and cess receipts separately. It was also informed by the Government that FDs with lower

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<sup>87</sup> Both accounts operated in different branches of Allahabad Bank up to the year 2019-20. Subsequently, only one bank account at the Bapu Bhawan branch of Allahabad Bank was used for this purpose.

<sup>88</sup> Due to non-maintenance of fixed deposit receipts for all investments, there was no mechanism for verification of FDs by the officers of the Board.



interest rates, have been revised by the banks to a maximum interest rate of five *per cent* with retrospective dates and an additional interest of ₹ 39.81 crore have been provided by the bank during 2022-23. Besides, the Government assured that efforts are being made for better investment of surplus funds.

However, details of revised FDs were not provided with Government reply and it was also not made clear whether all FDs with lower interest rates were revised.

#### 7.2.6 Inefficiencies in implementation of the schemes

Audit observed that the Board implemented 25 social security schemes for beneficiaries (as detailed in *Appendix-XIII*), however, due to frequent changes in guidelines of the schemes and discontinuations of schemes midway or merger with other schemes, number of implemented schemes remained only 13<sup>89</sup> at the end of the year 2021-22. It indicated that the schemes were formulated without detailed deliberations. It was also affirmed by the fact that there was no role of the SAC in schemes' formulation.

The uncertainty in implementing schemes (as discussed in succeeding paragraph), impacted the approval and release of the financial assistance to workers. The year-wise details of pending applications, approved applications, disbursement of assistance, and pending disbursement during the period 2017-22 (as of June 2023) have been given in the **Table 7.7** below:

**Table 7.7: Details of disbursement of assistance under schemes during 2017-22**

Year	No. of applications pending in the beginning of the year	No. of applications received during the year	No. of cases sanctioned during the year (%)	No. of applications rejected (%)	Cases with disbursement of assistance (%)	Cases with pending disbursement (%)	Applications pending at the end of the year
2017-18	14044	497873	192737 (38)	254551 (50)	178503 (93)	14234 (07)	64629
2018-19	64629	397622	218482 (47)	156410 (34)	208509 (95)	9973 (05)	87359
2019-20	87359	395459	313624 (65)	75666 (16)	309121 (99)	4503 (01)	93528
2020-21	93528	1269661	543723 (40)	695251 (51)	523261 (96)	20462 (04)	124215
2021-22	124215	655762	331714 (43)	305890 (39)	240881 (73)	90833 (27)	142373
<b>Total</b>	<b>14044</b>	<b>3216377</b>	<b>1600280 (50)</b>	<b>1487768 (46)</b>	<b>1460275 (91)</b>	<b>140005 (09)</b>	<b>142373</b>

(Source: Information provided by the Secretary of the Board)

<sup>89</sup> Maternity; Child and Girl Assistance Scheme, Accident Assistance/Death and Disability Aid Scheme, Meritorious Student Reward Scheme, Workers Critical Illness Assistance Scheme, Skill Development, Technology upgradation and Certification Scheme, Death and Funeral Assistance Scheme, Construction Workers Daughter Marriage Assistance Scheme, Housing Assistance Scheme, Pension Scheme, Residential School Assistance Scheme, Sant Ravidas Education Assistance Scheme and Pt. Deen Dayal Upadhyay Chetna Yojana.

It is evident from the above table that out of 32.16 lakh applications received during 2017-22 for assistance under various schemes, only 16.00 lakh (50 *per cent*) was approved. Even among approved applications, 1.40 lakh beneficiaries did not receive assistance despite sanction, resulting in denial of benefits. Further, applications of 1.42 lakh beneficiaries up to the period March 2022 remained unattended<sup>90</sup> by the officials of the Board as of June 2023, though, the Secretary of the Board issued (November 2021) instructions for disposal of pending application within a reasonable time.

Audit also observed that the disbursement of legitimate benefits to workers was also delayed. In four selected districts<sup>91</sup>, disbursement of assistance under the Daughter Marriage Assistance Scheme was provided with delays ranging from two to 20 months during 2020-22. This led to non-adherence of the *Janhit Guarantee Adhiniyam 2011*, which requires social security services to be provided within a prescribed timeline. Moreover, guidelines of selected schemes lacked provision for communicating reasons of rejection to applicants, indicating that process for evaluation, acceptance and rejection of applications was not transparent.

Thus, frequent changes in schemes and delayed distribution of benefits, resulted in ineffective implementation of the schemes.

In reply, the State Government stated (March 2024) that efforts are being made to provide benefits to all eligible workers and implement new schemes. It was also stated by the Government that efforts are being made to ensure timely disposal of applications under the *Janhit Guarantee Adhiniyam 2011*. Further, at the instance of audit, the information of acceptance and rejection of application are being provided (January 2024) through SMS and allowing applicants to view their application status online.

#### **7.2.6.1 Audit findings on schemes**

The Board announced many schemes without proper formulation of these schemes, monitoring their efficacy and supervising their implementation and even some announced schemes remained only on papers. The audit findings on the selected schemes have been discussed in succeeding paragraphs:

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<sup>90</sup> 0.65 lakh applications for more than five years, 0.22 lakhs applications for more than four years, 0.06 lakh applications for more than three years, 0.23 lakh applications for more than two years and 0.19 lakh applications for more than one year.

<sup>91</sup> Agra (148 beneficiaries get assistance with delay of two to five months during the year 2021-22), Moradabad (100 beneficiaries get assistance with delay of 13 to 20 months during the year 2021-22), Prayagraj (21 beneficiaries get assistance with delay of two to twelve months during the year 2020-21 and 2021-22) and Varanasi (243 beneficiaries get assistance with delay of two to 13 months during the year 2021-22).

**Pension scheme**

As per the Section 22 (b) of the Act, the Board is obligated to provide pension to beneficiaries who have completed the age of sixty years. Accordingly, the Board notified (July 2014) a pension scheme for monthly payment of ₹ one thousand to ₹ 1250 to those eligible workers, who were continuously registered with the Board for the last five years before turning 60. However, the Board reduced (April 2016) this eligibility criteria from five to three years and again enhanced (January 2019) it to 10 years. The details of number of beneficiaries and pension disbursement during 2017-22 have been given in **Table 7.8** below:

**Table 7.8: Showing details of beneficiaries and amount of pension during 2017-22**  
(₹ in lakh)

Year	Number of beneficiaries	Amount paid as pension
2017-18	392	27.82
2018-19	410	28.15
2019-20	155	8.59
2020-21	155	41.02 <sup>92</sup>
2021-22	197	4.90

(Source: Information provided by the Secretary of the Board)

It is evident from the above table that over 60 *per cent* beneficiaries of the scheme before 2019-20, were denied pension in 2019-20 due to changes in eligibility criteria. Besides, due to failed transactions on account of non-linking of Aadhar with the bank account, many beneficiaries got their entitled pension with delays ranging from one to 49 months during the period 2017-22.

Further, it was also observed that despite approving 479 applications by March 2022, the Board paid pension to only 197 beneficiaries (less than 58 *per cent* of approved beneficiaries) during 2021-22. Moreover, the Board decided (April 2022) to discontinue the scheme due to unforeseen committed liabilities on account of pension payment to more than 129.63 lakh registered beneficiaries with the Board and submitted (May 2022) a proposal to the GoUP in this regard. However, no action was taken by the GoUP as of June 2023. Due to the GoUP indecision, neither the pensions were paid nor new pensions were approved during 2022-23 despite pending applications.

In reply, the State Government stated (March 2024) that changes in eligibility criteria were aimed to benefit maximum number of beneficiaries.

<sup>92</sup> Includes pension amount of 598 beneficiaries prior to the period of 2020-21 due to regeneration of earlier failed bank transactions for a total 21 months.

Reply is not acceptable as the Board was not in favour of continuing the pension scheme, despite it being a mandatory function.

### ***Palana Grih Yojana***

Section 35 of the Act requires employers to provide facility of crèches in case of employment of more than fifty female workers. However, Section 22 (a to g) does not give the Board any role in providing such facilities.

Audit observed that contrary to provisions of the Act, the Board decided (August 2013) to establish mobile crèches (*Sachal Palana Grih*) in different districts of the State for the use of children of workers. The scheme was notified in December 2013 after approval of the GoUP and implemented through the UP State Social Welfare Board (UPSSWB). Under it, against the requirement of 9,793 mobile crèches, an amount of ₹ 48.92 crore for establishing 3,000 mobile crèches<sup>93</sup> was released (January 2014) by the Board to UPSSWB in first phase. Further, the Board provided ₹ 5.56 crore and ₹ 4.23 crore (April 2014 and May 2014) to the UPSSWB for training of staff and heads of organizations, deputed for running these crèches.

However, due to poor facilities and conditions of the mobile crèches, the Board discontinued (September 2014) the scheme within nine months. It indicated that the scheme was launched by the Board without proper planning and was not well thought out. Besides, against the transferred amount of ₹ 58.71 crore, the UPSSWB refunded (September 2014) only ₹ 7.40 crore to the Board, leaving an ineffective expenditure of ₹ 48.92 crore for the non-mandatory mobile crèche facility.

In reply, the State Government did not offer (March 2024) any comments on audit observations and only stated that the scheme has been suspended.

### ***Construction Workers Girl Child Help Scheme***

The Board introduced (September 2011) the scheme to protect and support girl children of workers and also to promote marriage at an adult age. The scheme involved depositing ₹ 25 thousand<sup>94</sup> as FD in the name of the girl child, with the matured amount transferred to her with the approval of the District Magistrate upon reaching 18 years of age, if she remained unmarried. The scheme guidelines also provided for refund of deposited amount to the Board in case of death of girl child prior to attaining the age of 18. Moreover, the scheme was discontinued in the year 2018-19 and integrated with a new scheme, namely Maternity, Child and Girl Help Scheme<sup>95</sup>.

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<sup>93</sup> ₹ 15.00 crore for recurring expenses and ₹ 33.92 crore for non-recurring cost of crèche.

<sup>94</sup> W.e.f. 12.05.2017.

<sup>95</sup> Notified by the Board on 28 December 2018.

Scrutiny of records at the Board headquarters revealed that ₹ 29.24 crore was deposited for 14,200 girls<sup>96</sup> of workers during 2017-22. However, audit observed that scheme guidelines lacked a mechanism for refunding the deposited amount to the Board. The FD receipts were handed over to the workers, and in the event of any disqualification, such as death or early marriage, the deposited amount might be left with the Banks as it would be not claimed by the workers.

In reply, the State Government stated (March 2024) that amendments are being proposed to ensure that the FD can be refunded to the Board in case of early marriage or death.

### Disaster Relief Aid Scheme

The Board notified (March 2020) Disaster Relief Aid scheme for providing financial aid to all registered beneficiaries to support their livelihood during calamities. Under the scheme, financial aid of ₹ 1000 was to be provided to the beneficiaries on yearly/half yearly/quarterly/monthly basis, depending on the GoI/GoUP/Board decisions.

Audit observed that during 2019-22, ₹ 1,302.12 crore was spent by the Board for providing financial assistance to beneficiaries in the State during the challenging times of the COVID-19 pandemic. However, due to failed bank transactions, many beneficiaries could not be covered under the scheme, as detailed in **Table 7.9** below:

**Table 7.9: Details of beneficiaries provided financial assistance during 2019-22**

Year	Total No. of eligible beneficiaries with the Board (in lakh)	Instalment/ Rate of assistance per beneficiary	No. of beneficiaries for which assistance was released (in lakh)	No. of beneficiaries, received the assistance (in lakh) (%)	No. of beneficiaries deprived from the assistance due to failed transaction (in lakh)	Amount of assistance not credited in account of beneficiaries (₹ in crore)
2019-20	22.77	I <sup>st</sup> / ₹ 1000	17.91	17.91 (100)	00	00.00
2020-21	22.77	II <sup>nd</sup> / ₹ 1000	17.17	16.81 (98)	0.36	03.60
2021-22	47.97	III <sup>rd</sup> / ₹ 1000	23.03	18.10 (79)	4.93	49.30
		IV <sup>th</sup> / ₹ 3000 <sup>97</sup>	6.31	4.47 (71)	1.84	55.20
		V <sup>th</sup> / ₹ 1000	42.59	33.65 (79)	8.94	89.40
		VI <sup>th</sup> / ₹ 500	42.57	34.83 (82)	7.74	38.70
		VII <sup>th</sup> / ₹ 500	42.41	26.97 (64)	15.44	77.20
<b>Total</b>			<b>191.99</b>	<b>152.74 (80)</b>	<b>39.25</b>	<b>313.40</b>

(Source: Information provided by the Secretary of the Board)

<sup>96</sup> During 2017-20 ₹ 16.13 crore for 8,921 girls and during 2020-22 ₹ 13.11 crore for 5,279 girls.

<sup>97</sup> Disbursed in compliance with the orders (November 2021) of the Hon'ble Supreme Court for providing maintenance allowance to the workers of the eight districts of State within the National Capital Region.

It can be seen from the above that all eligible beneficiaries were not selected by the Board for aid under the scheme, with a shortfall ranging between 11 to 52 *per cent* during 2019-22. Besides, due to failed transactions, 39.25 lakh beneficiaries were deprived from the benefit of financial assistance amounting to ₹ 313.40 crore during the period 2020-22. Further, audit observed that funds were transferred to the bank accounts of beneficiaries without verifying and reconciling the details with the beneficiaries' records. This led to not only failed transactions but also resulted in irregularities, including instances of duplicate bank account numbers and funds being held in notional bank accounts. This suggests a lack of proper oversight and monitoring of the transferred funds.

Thus, due to deficiency in beneficiary database management, many eligible beneficiaries could not receive aid during difficult times.

In reply, the State Government stated (March 2024) that beneficiary details were forwarded to banks for assistance transfer after authentication by relevant authorities, and that the data related with failed transactions, were also sent to district/regional office for reconciliation. The Government stated that use of Direct Benefit Transfer mode allowed for identification of genuine workers and transfer of assistance in accounts of real workers. The fact remains that the Government acknowledged that not all registered beneficiaries with the Board, were real workers.

### ***Workers Critical Illness Assistance Scheme***

The scheme was launched in July 2011 to reimburse medical expenses of workers and their family members suffering from serious illness such as heart surgery, kidney transplant, liver transplant, brain surgery, vertebrae surgery, knee transplant, treatment of cancer and HIV disease. In October 2017, it was expanded to cover other diseases.

Audit observed that during 2017-22, only 91 beneficiaries received benefit under the scheme as reimbursement was allowed in case of treatment of illness in the Government hospitals and Employees State Insurance Corporation (ESIC)/Central Government Health Services (CGHS) approved hospitals. Further, ESIC empaneled hospitals were concentrated only in 15 cities<sup>98</sup> of the State, while CGHS facility was also available in 14 cities<sup>99</sup>. Besides, the Government hospitals offered free treatment to the poor.

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<sup>98</sup> Agra, Aligarh, Bareilly, Bulandshahar, G B Nagar, Ghaziabad, Hapur, Kanpur Nagar, Lucknow, Mathura, Meerut, Mirzapur, Moradabad, Prayagraj and Varanasi.

<sup>99</sup> Agra, Aligarh, Bagpat, Bareilly, G B Nagar, Gorakhpur, Ghaziabad, Kanpur Nagar, Lucknow, Meerut, Moradabad, Prayagraj, Saharanpur and Varanasi.

Thus, due to imposition of restrictions, the scheme could provide relief to only 91 beneficiaries.

In reply, the State Government stated (March 2024) that scheme has been revised (October 2017) to cover all diseases included in *Ayushman Bharat Yojana*, however, benefit of scheme is allowed only in special circumstances.

Reply is not acceptable as number of beneficiaries under the scheme decreased even after expansion of scheme coverage.

### ***Residential Schools Scheme***

The scheme notified in February 2015, aimed to provide quality education, from primary to intermediate level, to the children of workers aged between six to 14 years. Under the scheme, 24 residential schools (one each for girls and boys) were operated in rented accommodations in the 12 districts<sup>100</sup> of the State, with a capacity of 100 students each. These schools were to be operated by various organization<sup>101</sup> as nominated by the Board through an agreement with the approval of the GoUP. Besides, the Board also decided (January 2020) to close these schools after operation of the Atal Residential Schools in the State.

Audit observed that the Board nominated *Mahila Samakhya*<sup>102</sup> in the year 2015-16 for operation of these schools. However, due to non-compliance of provisions of the agreement<sup>103</sup>, low enrollment of students and poor management of the schools, the agreement was terminated with the aforesaid organization. Further, *Mahila Samakhya* submitted utilization certificate for only ₹ 40.88 crore, against the transferred amount of ₹ 43.92 crore (during March 2015 to May 2018) and accrued interest of ₹ 37.64 lakh on the transferred funds, leaving ₹ 3.42 crore unaccounted for.

Subsequently, the Board nominated (October 2018) three organisations viz., *Udhaymita Vikas Sansthan* (UVS)<sup>104</sup>, Sociology Department of the Lucknow University (SDLU)<sup>105</sup> and Regional Urban and Environmental Studies Centre Lucknow (RUESC)<sup>106</sup> for operation of these schools in four, two and six districts respectively. However, due to the inability of the

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<sup>100</sup> Agra, Azamgarh, Bahraich, Bhadohi, Etawah, Firozabad, Ghaziabad, Kannauj, Kanpur, Lalitpur, Meerut and Moradabad.

<sup>101</sup> *Mahila Samakhya*/ non-government organisations/ Government Organisations/ Government Institutions/ Universities and other such institutes as nominated by the Board

<sup>102</sup> An organisation of the Department of Women and Child Development, UP.

<sup>103</sup> *Mahila Samakhya* breached clause 25 of the MoU as amount transferred by the Board for operation of schools, was not kept in auto sweep account to have better rate of interest, separate account for recurring and non-recurring expenses was also not opened, procurement of non-perishable items was done without inviting tenders.

<sup>104</sup> For operating the schools of the districts Azamgarh, Moradabad, Kannauj and Etawah.

<sup>105</sup> For operating the schools of the districts Lalitpur and Kanpur Nagar.

<sup>106</sup> For operating the schools of the districts Meerut, Ghaziabad, Bahraich, Agra, Firozabad and Bhadohi.

RUESC in running allotted schools, these schools were also handed over (August 2019) to the SDLU<sup>107</sup> and UVS<sup>108</sup>, despite their own unsatisfactory performance. Additionally, the Board decided (September 2019) to transfer the girl students from residential schools to nearby Kasturba Gandhi Girls Schools, citing better facilities. However, this decision remained unimplemented as of March 2023.

Further, agreements with the above two organizations were extended until 2020-21 due to difficulties in transferring records from one to another organisation. However, in 2021-22, the Public Administration<sup>109</sup> and Sociology Department<sup>110</sup> of Lucknow University were tasked with running schools in six districts each. Moreover, despite the operation of the Atal Residential School from the academic year 2023-24, the Residential Schools remained operational, contrary to the decision of the Board.

Thus, despite the substandard management, these schools remained in existence even after the operation of the Atal Residential Schools.

In reply, the State Government stated (March 2024) that decision has been taken (November 2023) by the Board to discontinue the residential schools in phases, starting from academic session 2024-25 with no fresh admissions, to accommodate class eighth passed students in mainstream schools and operate the residential schools with minimal resources.

### ***Construction Workers Daughter Marriage Assistance Scheme***

The scheme was introduced (September 2011) by the Board to eradicate child marriage and to provide financial assistance to daughters of the workers for their marriage. Under it, financial assistance of ₹ 55 thousand for individual marriages and ₹ 65 thousand for group marriage are to be provided to the beneficiary. As per the provisions, benefit of the scheme is to be provided within 45 days of application.

However, audit observed that in four<sup>111</sup> out of six selected districts, 1,663 beneficiaries did not get benefit of the scheme during 2020-22 despite approval of applications. Besides, disbursement of the benefit was also delayed (as detailed in **paragraph 7.2.6**). Further, in selected G B Nagar district, 13 beneficiaries were paid financial assistance for more than the prescribed amount<sup>112</sup>. Thus, non-payment and delayed payment of benefits, jeopardized the financial conditions of workers.

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<sup>107</sup> Firozabad, Agra and Bahraich.

<sup>108</sup> Meerut, Ghaziabad and Bhadohi

<sup>109</sup> Kannauj, Azamgarh, Moradabad, Ghaziabad, Bhadohi and Meerut.

<sup>110</sup> Kanpur, Lalitpur, Agra, Firozabad, Etawah and Bahraich.

<sup>111</sup> Agra, G B Nagar, Moradabad and Varanasi.

<sup>112</sup> 12 beneficiaries were paid @ ₹ 3.30 lakh *per* beneficiary while one beneficiary was paid ₹ 2.75 lakh.



In reply, the State Government while accepting the audit observations, stated (March 2024) that various factors attributed to delay and non-payment of benefits, including involvement of other government officers in process of payment, verification of beneficiaries, non-updating of Aadhaar, and inactive bank accounts. The Government also stated that directions have been issued to DLC, G B Nagar for fixing the liability in cases related with excess payment of financial assistance and also to recover the amount of excess payment.

#### 7.2.6.2 Implementation of Model Welfare Scheme

In compliance with the orders (March 2018) of the Hon'ble Supreme Court, the GoI framed (October 2018) a Model Scheme for the welfare of workers and directed State Boards for its strict implementation. Besides, the GoI also clarified that social security benefit under Model Welfare Scheme would take precedence over all other existing benefits and after meeting these priority expenses, balance funds would be utilized for additional benefits under the section 22(h) of Act. The details of proposed activities of Model Welfare scheme and their status of implementation in the State are given in *Appendix-XIV* and summarised in the **Table 7.10** below:

**Table 7.10: Status of implementation of proposed activities of the Model Scheme**

Name of activity	Benefits to be provided and their status of implementation
<b>Life and disability cover</b>	<p>The Board is required to provide ₹ four lakhs in case of accidental death and ₹ two lakhs in case of natural death of workers to their family within 60 days of death. The GoI suggested to cover workers under <i>Pradhan Mantri Jeevan Jyoti Bima Yojana</i> (PMJJBY) and <i>Pradhan Mantri Suraksha Bima Yojana</i> (PMSBY) for providing required benefit.</p> <p>The Board implemented its own scheme, Accident/Death and Disability Assistance scheme (ADDAS) instead of PMJJBY and PMSBY, citing higher financial assistance<sup>113</sup> under their scheme. However, audit found that many eligible beneficiaries did not receive benefits under ADDAS during 2017-22 due to delays or non-disbursement. As a result, eligible beneficiaries were deprived from benefits due to non-implementation of PMJJBY and PMSBY.</p>
<b>Health and Maternity cover</b>	<p>The Board is required to provide coverage to maximum workers under <i>Ayushman Bharat Yojana</i> and ensure reimbursement of medical expenses for left-out workers. Further, the Board must provide paid maternity leave and financial assistance to women workers.</p> <p>The Board belatedly executed (February 2021) a Memorandum of Understanding with State Health Agency of the GoUP to implement <i>Ayushman Bharat Yojana</i> and also implemented Maternity Benefit scheme for providing paid maternity leave and financial assistance to</p>

<sup>113</sup> ₹ five lakhs in case of accidental death and ₹ two lakhs in case of natural death.

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

Name of activity	Benefits to be provided and their status of implementation
	<p>women workers. Besides, the GoUP also announced (October 2020) to cover all registered workers under the <i>Ayushman Bharat Yojana</i>. However, audit observed that as of May 2023, only 11.65 lakh workers (less than 10 <i>per cent</i> of the total beneficiaries registered with the Board) had received Ayushman cards. Additionally, the Maternity Benefit Scheme had also low approval and assistance rates. As a result, the Board could not provide Health and Maternity coverage to all workers, in line with the activity of the Model scheme.</p>
<b>Education</b>	<p>The Board is required to provide financial assistance, ranging from ₹ one thousand eight hundred to ₹ ten thousand <i>per annum</i> for education (covering up to graduation courses from class one) to wards of workers.</p> <p>The Board had implemented <i>Sant Ravidas Shiksha Sahayata Yojana</i> for providing financial assistance to wards of workers, ranging from ₹ two thousand to ₹ 24 thousand (from class one to post graduation level). However, audit observed that alike above activities, rate of approval and assistance payment were also low under this activity. As a result, the Board could not fulfil its obligation in respect of concerned activity.</p>
<b>Housing</b>	<p>The Board is required to take proactive steps to facilitate transit accommodation/labour shed cum night shelter, mobile toilets and mobile crèches to BOC workers in the areas of their concentration prior to their finding of work. However, the Board did not initiate any programme in this regard and the concerned activity was not implemented.</p>
<b>Skill development</b>	<p>The Board is required to collaborate with the State/National Skill Development programmes to maximise benefits for workers and provide financial assistance to workers during training.</p> <p>The Board implemented Skill Development, Technology Upgradation and Certification (SDTUC) Scheme to provide training to workers and their family members in various disciplines through the UP Skill Development Mission (SDM). However, audit found that the SDTUC scheme was implemented as a standalone programme, not converged with other existing programmes of the State/Centre. The SDM organised training under the scheme during 2014-19, however, due to non-payment of liabilities, no further training was conducted after 2018-19. Moreover, payment of assistance was also not made by the Board to the participants of above training. Thus, skill development activity was also not implemented after 2018-19.</p>
<b>Awareness programmes</b>	<p>This activity suggests implementation of grass root level awareness programmes for workers such as broadcasting of welfare schemes videos on smartphone, using SMS services for welfare schemes, wall paintings, publicity and awareness initiatives by the employers <i>etc.</i></p> <p>The Board had implemented <i>Pt. Deendayal Upadhyaya Chetna Yojana</i>, however, despite implementing an awareness programme, it failed to execute grass root level awareness programmes such as</p>

Name of activity	Benefits to be provided and their status of implementation
	broadcasting of videos, use of SMS services, wall paintings <i>etc.</i> Thus, this activity was not implemented as envisioned.
<b>Pension</b>	This activity intended to provide pension facility to those workers, who have remained registered with the Board for a minimum ten-year period. The Board implemented Mahatma Gandhi Pension Assistance Scheme for providing pension benefit to the intended beneficiaries, however, decided (April 2022) to discontinue the scheme as discussed in <i>paragraph 7.2.6.1.</i>

(Source: Information provided by the Secretary of the Board)

It is evident that the Board did not implement proposed activities of the Model Scheme as required under the directions of the Hon'ble Supreme Court of India and GoI. Besides, expenditure incurred by the Board on other schemes such as operation of the schools, financial aid for marriage of daughters of workers, financial aid for girl child of workers *etc.* without providing benefit to all eligible beneficiaries under the activities of the Model Scheme was also in violation of the directions of the GoI.

In reply, the State Government stated (March 2024) that the payment process of financial assistance under ADDAS has been streamlined by delegating the powers to ALC/DLC up to ₹ two lakhs. Besides, the State Government confirmed availability of complete data of only 11.65 lakh workers for providing *Ayushman Bharat Yojana* coverage. It was also stated by the Government that pendency of applications under *Sant Ravidas Shiksha Sahayata Yojana* had been cleared and that the process for establishing facilitation centres and amenities at labour *chowks/nakas* is underway. The Government did not offer any comments in respect of skill development component and only stated that process is underway. Moreover, the Government also mentioned improvement in the awareness programme. Under the pension component, the Government accepted the audit observation and stated that action is being taken to provide pension to earlier beneficiaries.

#### 7.2.7 Not conducting social audit of the schemes

In compliance with orders of the Hon'ble Supreme Court, the GoUP decided (June 2018) to conduct social audit of schemes implemented by the Board during 2015-18 and also nominated the Social Audit Directorate of Rural Development Department of the GoUP as executive agency. Accordingly,

nine schemes<sup>114</sup> of the year 2017-18 and 14 schemes of earlier years were to be audited by the Social Audit Directorate.

However, audit observed that the Social Audit Directorate had expertise in conducting social audit of only MGNREGA in rural areas of the State, while the beneficiaries of the Board were both in rural and urban area of the State. Besides, the Social Audit Directorate also demanded one *per cent* of total expenditure of the schemes proposed for audit as audit fee, which was not accepted by the Board. As a result, social audit of selected schemes could not be initiated as of March 2022.

As a result of not conducting the social audit, it was difficult to determine both the anticipated benefits of the Board's schemes and the effectiveness of the Board's operations.

In reply, the State Government stated (March 2024) that the social audit of two schemes (Girl Marriage Assistance Scheme and Maternity & Child and Girl Child Assistance scheme) has been conducted in Mohanlalganj block of Lucknow district as a pilot project in the year 2023-24. Besides, efforts are being made to conduct social audit of all schemes in selected blocks of other districts.

**To sum up:**

The GoUP did not constitute the Board on time, sanction the posts of the Secretary and other officials, approve the Board budget and assign functions to the Board in mandatory areas. Budget preparation was delayed and unrealistic and the management of Welfare Fund was inefficient. The Board did not prepare annual reports and accounts. The State Advisory Committee was ineffective, and many other committees were also not constituted by the GoUP/Board. Only a small portion of registered beneficiaries with the Board could get benefits of the schemes, and many beneficiaries either did not receive financial assistance or experienced delays. The status of implementation of the Model Welfare Scheme was also unsatisfactory.

***Recommendation 17:*** *The State Government may ensure reconstitution of the Board on time and timely holding of meetings of the Board.*

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<sup>114</sup> Death and Disability Assistance Scheme, Children Welfare Scheme, Maternity Welfare Scheme, Construction Workers Daughter Marriage Scheme, Residential School Assistance Scheme, Medical Facility Scheme and others.

**Recommendation 18:** *The State Government may ensure preparation and approval of budget estimates in time and preparation and submission of annual report and accounts on time.*

**Recommendation 19:** *The State Government may consider establishing a mechanism for monitoring and supervising the implementation of schemes to ensure timely processing of applications and distribution of benefits.*



**(RAM HIT)**

Principal Accountant General (Audit-I)  
Uttar Pradesh

PRAYAGRAJ  
THE 11 APR 2025

**COUNTERSIGNED**



**(K. SANJAY MURTHY)**

Comptroller and Auditor General of India

NEW DELHI  
THE 15 APR 2025



# Appendices

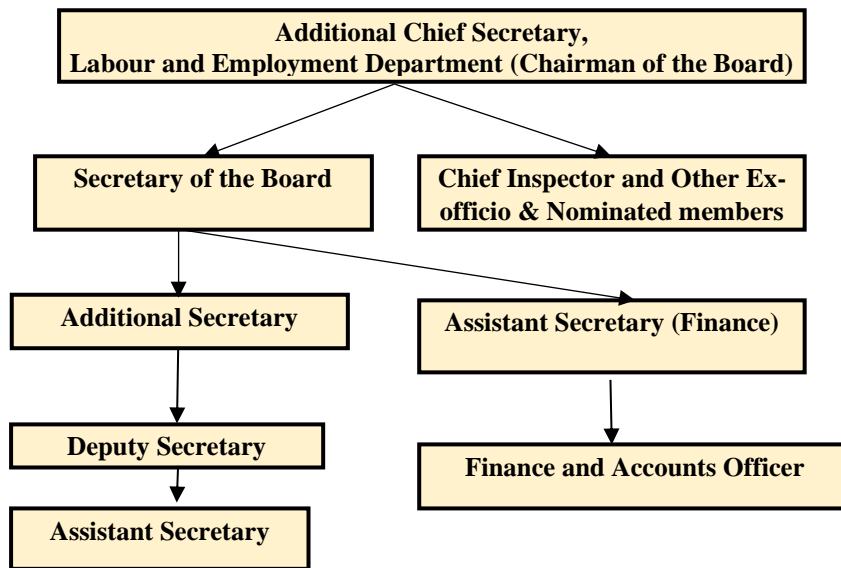




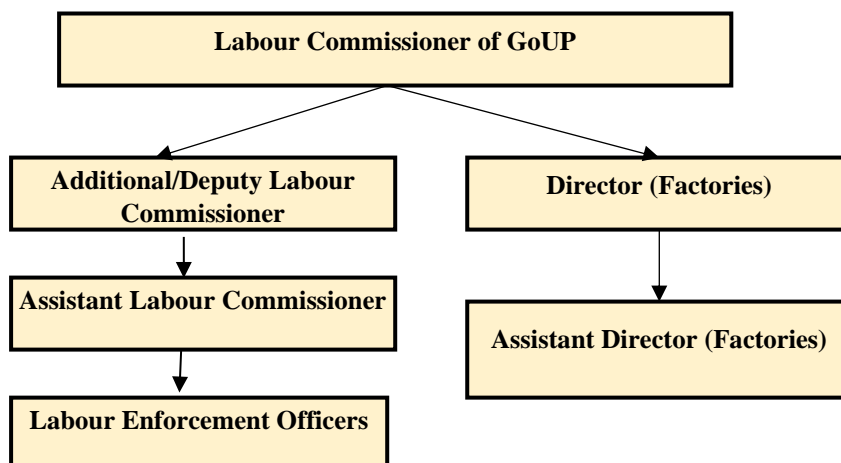
## Appendix-I

(Reference: Paragraph no. 1.3)

### The organisational structure of the Board at the State level



### The organisational structure of the Board at the field level



(Source: The Secretary of Board, Lucknow)

## Appendix-II

(Reference: Paragraph no. 1.6)

### The list of selected districts, units and schemes

#### A-Selected districts and Units

Name of district	Units related with execution of works		Units related with approval of building plans		Units related with Labour Department/Board
<b>Agra</b>	Construction Division-I, PWD (Taj Trapezium)	Provincial Division, PWD	Agra Development Authority	Nagar Palika Parishad, Shamshabad	Deputy Labour Commissioner
<b>G B Nagar</b>	Provincial Division, PWD	Agra Canal, Okhala	Yamuna Expressway Industrial Development Authority	Nagar Palika Parishad, Dadri	do
<b>Lucknow</b>	Construction Division -II, PWD	Construction Division -I, PWD	Lucknow Development Authority	Nagar Panchayat, Baksi Ka Talab	do
<b>Moradabad</b>	PWD (World Bank Division)	Construction Division -15, Madhya Ganga Canal	Moradabad Development Authority	Nagar Palika Parishad, Thakurdwara	do
<b>Prayagraj</b>	Construction Division -IV, PWD (Kumbh Mela)	Construction Division -I, PWD	Prayagraj Development Authority	Nagar Panchayat, Lalgopalganj	do
<b>Varanasi</b>	Provincial Division, PWD	Construction Division -III, PWD	Varanasi Development Authority	Nagar Panchayat, Gangapur	do

#### B-List of selected schemes

Sl. No.	Name of the Scheme
1.	<i>Palana Grih Yojana</i>
2.	Construction Workers Girl Child Help Scheme
3.	Solar Energy Assistance Scheme
4.	Disaster Relief Aid Scheme
5.	Medical Aid Scheme
6.	Workers Critical Illness Assistance Scheme
7.	Residential Schools Scheme
8.	Death and Funeral Assistance Scheme
9.	Construction Workers Daughter Marriage Assistance Scheme
10.	Maternity Benefit Scheme

### Appendix- III

(Reference: Paragraph no. 3.1.2)

#### Details of registration of establishments in test-checked districts during 2017-22

Name of district	Year 2017-18	Year 2018-19	Year 2019-20	Year 2020-21	Year 2021-22	Total
<b>Agra</b>	329	516	184	231	871	2131
<b>Lucknow</b>	1921	738	431	525	336	3951
<b>G B Nagar</b>	3068	3358	3624	3830	4297	18177
<b>Moradabad</b>	244	354	266	272	233	1369
<b>Prayagraj</b>	599	814	357	395	299	2464
<b>Varanasi</b>	292	141	84	53	59	629

(Source: The Labour department of test-checked districts)

## Appendix-IV

(Reference: Paragraph no. 4.1.5)

### Details showing deficient assessment of cess in selected districts

(₹ in lakh)

District	Details of audit observation	Amount of under/short assessment of cess
Moradabad	In case of M/s Pacific Development Corporation Ltd, cess amounting to ₹ 76.47 lakh was assessed vide assessment order no 749 dated 15 February 2019 on the basis of cost of construction work (₹ 76.47 crore) of an ordinary non-residential building (composite structure), while keeping in view covered area of construction and plinth area rates of PWD schedule. However, audit observed that due to not applying plinth area rates of PWD schedule correctly, cost of construction work was underestimated by ₹ 7.79 crore as the actual cost of the work was ₹ 84.27 crore on the basis of scheduled rates. Moreover, the cost of other services (@ 28.25 per cent) were also not considered at the time of assessment of cess. As a result, less assessment of cess amounting to ₹ 31.59 lakh (₹7.79 lakh on account of undervaluation of cost of work + ₹ 23.80 lakh on account of other services) was made by the assessing officer. Despite the fact, on representation (01 April 2019) of the employer, the case was settled (29 April 2019) only for ₹ 36.26 lakh by the assessing officer and that is too without issuing any reassessment order in this regard. As a result, underassessment of cess was made by ₹ 71.80 Lakh (₹ 76.47 lakh + ₹ 31.59 lakh - ₹ 36.26 lakh).	72.55
	In case of M/s S.A. Bras, cess of ₹ 2.64 lakh was assessed in respect of an ordinary non-residential building on the basis of plinth area rates of PWD schedule. However, due to not considering other services charges (@28.25 per cent) for levy of cess on the cost of construction work (₹ 263.46 lakh), underassessment of cess was done (March 2023) by ₹ 0.75 lakh.	
Agra	In case of M/s Riddhi Siddhi Construction, due to wrong arithmetic calculations and applying plinth area rate of composite structure frame instead of RCC structure frame, the construction cost a medium non-residential building was undervalued by ₹ 7.93 crore (cost of construction work as per applicable rates of PWD schedule ₹ 23.93crore- cost as per assessment order ₹ 16.00 crore). Besides, other services charges (@27.00 per cent) were also not considered for assessment of cess. As a result, underassessment of cess was made by ₹ 14.39 lakh (cess due on difference of cost ₹ 7.93 lakh + cess due on other service charges of actual cost ₹ 6.46 lakh) vide assessment order 2967 dated 01 December 2022.	23.66
	Similarly, in case of M/s Riddhi Siddhi Builders Param Eternity, due to wrong arithmetic calculations and not applying plinth area rate of RCC structure frame in respect of a medium non-residential building, cost of construction work was estimated to ₹ 11.64 crore instead of ₹ 12.32 crore. As a result, cess was underassessed by ₹ 9.27 Lakh vide assessment order 2601 dated 20 October 2022.	
G B Nagar	In case of M/s GLD Infra Project Pvt. Ltd., due to not considering revised plinth area rate of PWD schedule for calculating the construction cost of a medium non-residential building (RCC structure frame), the cost was underassessed by ₹ 87.56 crore (construction cost including other service charges as per applicable plinth area rate of PWD schedule ₹ 407.94 crore- construction cost including other service charges as per assessment ₹ 320.38 crore). As a result, underassessment of cess was made by ₹ 87.56 lakh vide assessment order 46-47 dated 04 January 2022.	161.35

District	Details of audit observation	Amount of under/short assessment of cess
	In case of JM Aroma, although the construction work of a residential building having RCC structure frame was completed in the month of August 2015, but no action was initiated by the responsible authorities of the Labour Department for assessment of cess until conductance (February 2019) of the GIS survey. However, on the basis of GIS survey report, bill and notice of cess amounting to ₹ 233.37 lakh was served to employer. However, demand of cess only to ₹ 160.18 lakh, was made through assessment order 6113-14, dated 26 March 2021 as older plinth area rate of RCC structure frame of ₹ 8790 <i>per</i> square meter was applied for calculating the construction cost. Even though rate was revised to ₹ 13300 <i>per</i> square meters ( <i>w.e.f.</i> , 01 August 2013) and construction work over basement area commenced from September 2013. As a result, the levy of cess was short by ₹ 73.19 lakh.	
Lucknow	In the case of M/s Omega developers and builders, under the GIS survey, bill and notice of cess amounting to ₹ 155.00 lakh was served to employer for construction of residential building. However, demand of cess of ₹ 68.85 lakh was issued vide assessment order 10357, dated 03 November 2018 on the basis of valuation report of employer. In assessment order, while calculating the construction cost, 10 <i>per cent</i> less plinth area rates were applied and cost of other services charges (29.5 %) was also not considered. As a result, cess was underassessed by ₹ 30.22 lakh.	31.04
	In the Case of M/s International Public School Sitapur Road <i>Bakshi Ka Talab</i> , cess was assessed (vide order 5937-38, dated 12 May 2023) on the basis of valuation report of employer. However, cost of other service charges was applied @ 16.50 <i>per cent</i> on the construction cost of ₹ 787.68 lakh, instead of applicable 27 <i>per cent</i> . As a result, less cess was levied by ₹ 0.82 lakh.	
Prayagraj	Assessment of cess of ₹ 2.23 lakh was made vide assessment order 2449, dated 10 April 2023 in respect of non-residential building. However, while calculating construction cost, older plinth area rate of ₹ 13430 <i>per</i> square meters were applied instead of ₹ 21650 <i>per</i> square meters ( <i>w.e.f.</i> 01 September 2020). As a result, less assessment of cess was made by ₹ 1.11 lakh. Similarly, assessment of cess of ₹ 38.33 lakh was made vide assessment order 2473, dated 17 April 2023 in respect of residential building having RCC structure frame. However, while calculating construction cost, older plinth area rate of PWD schedule of the year 2018-19 was applied though the construction work commenced in the year 2020-21. Therefor due to not applying revised plinth area rate of the year 2020-21, under assessment of cess was made by ₹ 5.12 lakh.	6.23
<b>TOTAL</b>		<b>294.83</b>

(Source: Information provided by the Labour Department of selected districts)

## Appendix-V

(Reference: Paragraph no. 4.2.2.1)

### Details showing not deducting of cess over the amount of GST in contractors Bills

(₹ in lakh)

Name of units	Total no of vouchers	Amount of GST	Amount of cess not deducted through contractors bills
Nagar Panchayat (Gangapur, Varanasi)	97	95.52	0.95
Construction Division-III, PWD, Varanasi	36	4600.00	46.00
Provincial Division, PWD, Varanasi	326	426.83	4.27
Head Works Division, Okhala	42	839.65	8.39
Madhya Ganga Canal, CD-15, Moradabad	75	549.57	5.50
Word Bank Division, PWD, Moradabad	47	4131.17	41.31
Nagar Palika Parishad, Thakurdwara, Moradabad	19	137.16	1.37
Provincial Division, PWD, Agra	11	277.76	2.78
Construction Division-I, PWD, Prayagraj	09	137.14	1.37
Construction Division-I, PWD, Lucknow	All vouchers	2052.50	20.53
Agra Development Authority	2686	4207.56	42.08
Varanasi Development Authority	721	1761.85	17.62
Yamuna Expressway Industrial Development Authority	855	4243.78	42.44
Moradabad Development Authority	266	1400.74	14.00
<b>Total</b>		<b>24861.23</b>	<b>248.61</b>

(Source: Information provided by the test-checked units)

## Appendix-VI

(Reference: Paragraph no.4.2.2.1)

### Details showing not deducting of cess over the amount of Centage charges

(₹ in lakh)

Name of unit	Amount of Centage charges deposited in treasury during the period of the year 2017-22	Due amount of cess on the Centage charges
Provincial Division, PWD, Varanasi	1803.19	18.03
Construction Division-I (Taj Trapezium) Agra	1007.49	10.07
Provincial Division, PWD, Agra	353.76	3.54
Construction Division, Kumbh Mela, Prayagraj	5581.55	55.82
Construction Division-I, PWD, Prayagraj	2049.53	20.50
Head works division, Okhala	803.55	8.04
World Bank division, PWD, Moradabad	54.00	0.54
<b>Total</b>	<b>11653.07</b>	<b>116.54</b>

(Source: Information provided by the test-checked units)

## Appendix-VII

(Reference: Paragraph no. 4.2.2.3)

### Details showing cess deposited partially against the Maps approved through online system during 2019-22

(₹ in lakh)

Name of Development Authority	Total no of maps approved during 2019-22	Amount of construction work	Due amount of cess	Amount of cess collected	No. of cases, where less amount of cess collected	Amount of less collected cess
Moradabad	808	15351.15	153.51	143.16	273	10.35
Varanasi	364	35914.70	359.15	314.49	52	44.66
Agra	1958	70512.68	705.13	678.03	182	27.10
Lucknow	4873	166210.48	1662.11	613.06	625	1049.05
Prayagraj	785	63555.32	635.55	467.57	747	167.98
<b>Total</b>	<b>8788</b>	<b>351544.33</b>	<b>3515.45</b>	<b>2216.31</b>	<b>1879</b>	<b>1299.14</b>

(Source: Information provided by the test-checked units)

### **Appendix-VIII**

*(Reference: Paragraph no. 4.3.1)*

**Details showing cess collected during the period 2017-22 but not deposited to the Board**  
(₹ in lakh)

<b>Name of Unit</b>	<b>Amount of cess collected</b>	<b>Period of collection</b>
<b>Moradabad Development Authority, Moradabad</b>	489.60	May 2018 to March 2022
<b>Agra Development Authority, Agra</b>	845.82	April 2017 to March 2022
<b>Varanasi Development Authority, Varanasi</b>	332.05	April 2021 to March 2022
<b>Yamuna Expressway Industrial Development Authority, Noida</b>	862.41	November 2019 to March 2022
<b>Lucknow Development Authority, Lucknow</b>	5925.00	July 2016 to March 2022
<b>Nagar Panchayat, Lal Gopalganj, Prayagraj</b>	9.05	April 2017 to March 2022
<b>Total</b>	<b>8463.93</b>	

*(Source: Information provided by the test-checked units)*

### **Appendix-IX**

*(Reference: Paragraph no. 4.3.2)*

**Details showing delay in transfer of collected cess during 2017-22 to the Board**

(₹ in lakh)

<b>Name of Unit</b>	<b>Amount of cess deposited with delays</b>	<b>Period of delay</b>
<b>Agra Development Authority</b>	731.32	One to 31 months
<b>Moradabad Development Authority</b>	130.67	One to three months
<b>Varanasi Development Authority</b>	537.84	One to 30 months
<b>Prayagraj Development Authority</b>	1548.15	Four to 27 months
<b>Total</b>	<b>2947.98</b>	

*(Source: Information provided by the test-checked units)*



### Appendix-X

(Reference: Paragraph no. 5.5 & 5.6)

#### Details of cases of workplace accidents during the period 2017-22, where required inquiry was not conducted by the Inspectors

Name of districts	Details of the workplace accidents
<b>Agra</b>	A construction worker died (14 May 2021) at construction site <sup>115</sup> after falling from the 10 <sup>th</sup> floor of a under construction high rise group housing building while undertaking the construction work. Further, despite taking cognizance of the case by the DLC Agra from media reports, no inquiry was done by the Inspectors of the Director (Factories) as discussed in <i>paragraph no 5.7</i> .
<b>Moradabad</b>	One construction worker died (29 November 2021) while performing construction activities at under construction overbridge <sup>116</sup> due to head injury, caused by an accident at worksite.
<b>Varanasi</b>	Two workers died, and eight workers were injured in a building collapse (31 May 2021) near construction site of shri Vishwanath corridor. Similarly, three workers died (20 April 2017) while undertaking plastering work of a under construction building at Chaubepur. Moreover, one worker also died (11 September 2021) while unloading glass material from a vehicle under project related with the development of shri Kashi Vishwanath Dham, for which notice of accident was provided by the employer to the DLC.

(Source: Information provided by the test-checked units)

### Appendix-XI

(Reference: Paragraph no. 6.5)

#### Details of sanctioned and vacant posts of Inspectors in the State as of March 2023

Name of the post	No. of sanctioned posts	Men in position	Vacant posts	Percentage of vacant posts
<b>Additional Labour Commissioner</b>	10	05	05	50
<b>Deputy Labour Commissioner</b>	26	26	00	00
<b>Assistant Labour Commissioner</b>	71	63	08	11
<b>Labour Enforcement Officer</b>	360	220	140	39
<b>Total</b>	<b>467</b>	<b>314</b>	<b>153</b>	<b>33</b>

(Source: information provided by the Labour Commissioner, GoUP)

<sup>115</sup> Ganpati World-II, Fatehabad Road, Agra.

<sup>116</sup> Situated within limits of Majhola police station.

## Appendix-XII

(Reference: Paragraph no 7.2.5.3)

### Details showing number of beneficiaries under the schemes during the period 2017-22

Name of the scheme	Number of beneficiaries during the year					Total
	2017-18	2018-19	2019-20	2020-21	2021-22	
<b>Schemes with decreasing number of the beneficiaries</b>						
Child Benefit Scheme	51866	31665	25026	00	00	
Accident/Death and Disability Aid Scheme	5079	2230	1996	1996	2324	
Meritorious Student Award Scheme	19510	7612	7295	7728	3060	
Workers Critical Illness Assistance Scheme	67	07	07	10	00	
Skill Development Technology Upgradation and Certification Scheme	2740	338	00	00	00	
Death and Funeral Assistance Scheme	4567	1975	2036	1979	2042	
Construction Workers Girl Child Help Scheme	5081	2242	1598	00	00	
Disability Pension Scheme	15	08	10	00	00	
Solar Energy Assistance Scheme	00	00	00	00	00	
Housing Assistance Scheme	96	1499	523	280	47	
Bicycle Assistance Scheme	00	00	00	00	00	
Pension Scheme	392	410	155	155	197	
<i>Palana Grih Yojana</i>	00	00	00	00	00	
Mid-Day Meal Scheme	00	00	00	00	00	
Education Assistance and Scholarship Scheme	27309	3976	4181	624	00	
Residential School Assistance Scheme	2400	2400	2400	2400	2400	
Toilet Assistance Scheme	00	00	00	01	00	
Sant Ravidas Education Assistance Scheme	00	00	00	00	38194	
<i>Khadyan Sahayata Yojana</i>	00	00	00	00	00	
<i>Pradhanmantri Suraksha Bima evam Jeevan Bima Yojana</i>	00	00	00	00	00	
<b>Total (A)</b>	<b>119122</b>	<b>54362</b>	<b>45227</b>	<b>15173</b>	<b>48264</b>	<b>282148</b>
<b>Schemes with increasing number of the beneficiaries</b>						
Maternity Benefit Scheme	32040	17455	12756	76292	90593	
Medical Aid Scheme	192936	193629	204462	325282	79248	
Disaster Relief Aid Scheme	00	00	1790638	1680929	11801369	<b>15272936</b>
Construction Workers Daughter Marriage Assistance Scheme	3570	6747	15530	33110	52982	
<b>Total (B)</b>	<b>228546</b>	<b>217831</b>	<b>2023386</b>	<b>2115613</b>	<b>12024192</b>	<b>16609568</b>
<b>Grand Total (A+B)</b>	<b>347668</b>	<b>272193</b>	<b>2068613</b>	<b>2130786</b>	<b>12072456</b>	<b>16891716</b>
Number of beneficiaries registered with the Board	3869729	4506095	5106496	9599977	14418798	
<b>Percentage of registered workers benefited with the Schemes of the Board</b>	<b>9</b>	<b>6</b>	<b>41</b>	<b>22</b>	<b>84</b>	

(Source: Information provided by the Secretary of the Board)

**Appendix-XIII**

(Reference: Paragraph no. 7.2.6)

**Details of schemes implemented by the Board during 2017-22**

(₹ in crore)

Sl. No.	Name of the scheme with year of implementation	Period of implementation	Approved budget during the period 2017-22	Expenditure incurred during the period 2017-22
1.	Maternity Benefit Scheme	2017-22	370.00	402.47
2.	Child Benefit Scheme	2017-21	185.00	117.88
3.	Accident Assistance/Death and Disability Aid Scheme	2017-22	370.00	281.56
4.	Meritorious Student Reward Scheme	2017-22	47.00	16.11
5.	Workers Critical Illness Assistance Scheme	2017-22	234.00	67.42
6.	Skill Development, Technology upgradation and Certification Scheme	2017-22	165.00	7.86
7.	Death and Funeral Assistance Scheme	2017-22	72.50	32.41
8.	Construction Workers Girl Child Help Scheme	2017-21	41.00	16.13
9.	Construction Workers Daughter Marriage Assistance Scheme	2017-22	586.00	683.31
10.	Disability Pension Scheme	2017-21	00.63	0.03
11.	Solar Energy Assistance Scheme	2017-22	215.00	0.00
12.	Housing Assistance Scheme	2017-22	162.00	5.36
13.	Bicycle Assistance Scheme	2017-22	53.20	0.96
14.	Pension Scheme	2017-22	139.80	1.11
15.	Mid-day Meal Scheme	2017-22	40.03	0.97
16.	Residential School Assistance Scheme	2017-22	164.00	49.56
17.	Education Assistance and Scholarship Scheme	2017-22	110.00	7.78
18.	<i>Khadyan Sahayata Yojana</i>	2017-19	75.01	0.00
19.	Medical Aid Scheme	2018-22	370.00	291.16
20.	<i>Pradhanmantri Suraksha Bima evam Jeevan Bima Yojana</i>	2018-22	86.00	0.00
21.	Pt. Deen Dayal Upadhyay Chetna Yojana	2019-22	150.00	11.96
22.	Disaster Relief Aid Scheme	2020-21	600.00	1302.12
23.	Toilet Assistance Scheme	2020-22	30.00	0.02
24.	<i>Palana Grih Yojana</i>	2017-18	0.00	(-)0.88
25.	Sant Ravidas Education Assistance Scheme	2021-22	20.00	18.27

(Source: Information provided by the Secretary of the Board)

## Appendix-XIV

(Reference: Paragraph no. 7.2.6.2)

### Details showing status of implementation of proposed activities of the Model Scheme

Name of activity	Benefits to be provided under the activity	Status of implementation of activity	Shortfalls in implementation of activities of the Model Scheme
<b>Life and disability cover</b>	<p>Under the activity, minimum coverage of ₹ four lakhs in case of accidental death and ₹ two lakhs in the event of natural death, is to be provided to the dependents of deceased beneficiary, along with the disability benefits to the injured workers.</p> <p>For implementation of activity, the GoI suggested that the Board may cover workers (aged between 18 and 50 years) under <i>Pradhan Mantri Jeevan Jyoti Bima Yojana</i> (PMJJBY) and <i>Pradhan Mantri Suraksha Bima Yojana</i> (PMSBY), for providing required coverage, by making payment of half of the premium amount of ₹ 171 per worker per annum as remaining premium amount would be borne by the Central Government.</p> <p>Besides, the GoI also directed to ensure disbursement of compensation within 60 days of the death of beneficiary.</p>	<p>For providing the required coverage, the Board implemented Accident/Death and Disability Assistance scheme (ADDAS). The Board<sup>117</sup> did not implement PMJJBY and PMSBY citing higher financial assistance (₹ five lakhs in case of accidental death and ₹ two lakhs in case of natural death) for beneficiaries under their scheme.</p>	<p>Audit observed that under the ADDAS, as against the 25911 total applications for the financial assistance during the period of the year 2017-22, envisaged assistance was provided to only 13625 beneficiaries or their dependents.</p> <p>It was also observed that the District Magistrates was authorised for the sanctioning of the benefits under the ADDAS, which in turn also delayed the approval of financial assistance.</p> <p>Thus, due to non-disbursement of financial assistance in 47 per cent cases during the period of the year 2017-22, legitimate benefits could not be provided to eligible beneficiaries in stipulated time as directed by the GoI.</p> <p>Had the Board provided coverage of PMJJBY and PMSBY to beneficiaries in compliance with the suggestions of the GoI, all eligible beneficiaries could have been benefited from the concerned schemes.</p>
<b>Health and Maternity cover</b>	<p>Under the activity, the Board in close coordination with the State Government is required to provide coverage to the maximum workers under <i>Ayushman Bharat Yojana</i>.</p> <p>For providing coverage to the left-out workers of <i>Ayushman Bharat Yojana</i>, the Board was required to ensure reimbursement of their medical expenses in case of diseases, paid maternity leave to the</p>	<p>For providing coverage to the registered workers under <i>Ayushman Bharat Yojana</i>, the Board belatedly executed (February 2021) a Memorandum of Understanding with the State Health Agency of the GoUP, as it was constituted for implementation of the <i>Pradhan Mantri Jan Mukhya Mantri Jan</i></p>	<p>In line with the activity of the Model Welfare Scheme, the Chief Minister of UP, announced (October 2020) to cover all registered workers under the <i>Ayushman Bharat Yojana/Mukhya Mantri Jan Arogya Yojana</i>. Consequently, the Board also approved a proposal for providing benefit of the <i>Ayushman Bharat Yojana</i> to the beneficiaries through the <i>Mukhya Mantri Jan Arogya Yojana</i>. Accordingly, process for</p>

<sup>117</sup> The Board had approved proposal (February 2018) for implementation of PMJJBY and PMSBY.

Name of activity	Benefits to be provided under the activity	Status of implementation of activity	Shortfalls in implementation of activities of the Model Scheme
	women workers ranging from 90 days to 26 weeks for up to two deliveries and payment of financial assistance of ₹ six thousand <i>per</i> delivery to the wife of worker up to two deliveries.	<p><i>Arogya Yojana</i> in the State.</p> <p>Further, audit observed that though the Board had also approved (December 2011) implementation of Rashtriya Swasthya Bima Yojana<sup>118</sup> for providing health insurance coverage to the beneficiaries, which was discontinued in the year 2020-21 without benefiting any worker within a time span of more than 10 years.</p> <p>Besides, the Board had also implemented Maternity Benefit scheme for providing paid maternity leave to women workers and financial aid to the wife of workers.</p>	<p>covering only 11.65 lakh registered workers along with their families was initiated by the Board during the Month of April 2021, though the Board had data of 38.31 lakh eligible workers and their families. Further, as of May 2023, a total 11.65 lakh Ayushman cards were issued to the workers, which was less than 10 <i>per cent</i> of the total beneficiaries registered with the Board.</p> <p>Although the Board had implemented Maternity Benefit Scheme for the welfare of workers and their family, as against the 518746 total applications under the scheme during 2017-22, only 292523 were approved and in only 229136 cases (44 <i>per cent</i>) envisaged assistance were provided to beneficiaries.</p> <p>Thus, the Board could not provide Health and Maternity coverage to all workers, in line with the activity of the Model scheme.</p>
<b>Education</b>	A minimum financial assistance, ranging from ₹ eighteen hundred to ₹ ten thousand <i>per</i> annum for education (covering up to Graduation courses from class one) of wards of workers should be provided by the Board.	The Board had implemented <i>Sant Ravidas Shiksha Sahayata Yojana</i> for providing financial assistance to the wards of workers.	<p>Under the <i>Sant Ravidas Shiksha Sahayata Yojana</i>, financial assistance ranging from ₹ two thousand to ₹ 24 thousand (from class one to Post Graduation level) are to be provided on annual basis to the wards of the workers.</p> <p>However, audit observed that as against the 193179 total applications under the scheme during 2017-22, only 101123 were approved and in only 74284 cases (38 <i>per cent</i>) envisaged assistance were provided to beneficiaries.</p> <p>Thus, the Board again could not provide envisaged benefit of financial assistance to wards of all eligible workers.</p>

<sup>118</sup> Launched (April 2008) by GoI to provide health insurance coverage for unorganized sector workers belonging to BPL category, which was further subsumed under *Ayushman Bharat Yojana*.

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

Name of activity	Benefits to be provided under the activity	Status of implementation of activity	Shortfalls in implementation of activities of the Model Scheme
<b>Housing</b>	Board may take proactive steps to facilitate transit accommodation/labour shed cum night shelter, mobile toilets and mobile creches to BOC workers in the areas of their concentration prior to their finding work.	Not implemented	The Board did not initiate any programme in this regard.
<b>Skill development</b>	The Board may converge their skill development programmes with alike programmes of the State/Central/National Skill Development Corporation (NSDC) so as to maximise the benefits to workers.	<p>The Board had implemented Skill Development, Technology Upgradation and Certification (SDTUC) Scheme for imparting training to the workers and their family members in various disciplines. Under the scheme provisions were made for providing training to the workers through the UP Skill Development Mission (SDM).</p> <p>Further, the GoI had directed (August 2015) to implement the Recognition Prior Learning (RPL) Scheme for providing training to the workers at the construction sites. Accordingly, the Board had decided to implement the RPL scheme in the month of November 2015.</p>	<p>Audit observed that under the SDTUC Scheme of the Board, a separate programme (without convergence with existing schemes of the State/Central/NSDC) for providing training to workers was organised by the SDM during the period of the year 2014-19. Under the programme, as against the target of providing training to the 63000 workers or their family members, 69454 participants were enrolled and 69488 workers or their family members were provided training by the SDM.</p> <p>For this purpose, the Board had transferred ₹ 12.44 crore to the SDM during the period 2014-18, however, due to non-payment of liabilities amounting to ₹ 95.25 crore on the aforesaid trainings, no further training programme was organised by the SDM under the SDTUC Scheme.</p> <p>Further, it was also observed that there was no role of Board in finalisation of participants and course/disciplines of training programme. As a result, many participants of SDTUC scheme during the period of the year 2014-19 were non-registered workers.</p> <p>Moreover, despite formulating programme for implementation of RPL scheme, the Board did not initiate any action for providing training to workers under the programme.</p> <p>Thus, the Board did not provide any training to workers year after 2018-19, though, as per</p>

Name of activity	Benefits to be provided under the activity	Status of implementation of activity	Shortfalls in implementation of activities of the Model Scheme
			the directions (July 2013) of the GoI, the State Boards were to spend at least 20 per cent proceeds of the cess towards skill development of workers.
	The BOC workers should be given financial assistance in form of the stipend and training expenses during the training period.	Under the SDTUC scheme, provisions were made for payment of wages to the registered workers during the period of training.	Under the training programme organised during period of the year 2014-19, no payment of assistance in the form of stipend, wages <i>etc.</i> were made to participants.
<b>Awareness programmes</b>	Grass root level awareness programmes such as broadcasting of videos of welfare schemes on smartphone of BOC workers, regular use of SMSs services to inform BOC workers regarding welfare schemes, Wall paintings, publicity and awareness initiatives by the employers <i>etc.</i> should adopted for this purpose.	The Board had implemented <i>Pt. Deendayal Upadhyaya Chetna Yojana</i> for the related purposes.	Although the Board had implemented an awareness programme in this regard, however, no activities were executed for grass root level awareness programmes such as broadcasting of videos, use of SMS services, wall paintings <i>etc.</i> for publicity of welfare schemes of the Board. Moreover, audit observed that under the <i>Pt. Deendayal Upadhyaya Chetna Yojana</i> , major expenditure was incurred on organisation of functions to facilitate the workers, which was not proposed as an initiative under the concerned activity.
<b>Pension</b>	This facility should be provided to those BOC workers who have remained registered with the Board for a minimum ten-year period.	The Board had initiated Mahatma Gandhi Pension Assistance Scheme for providing pension benefit to those workers, who have attained 60 years age and remained member of Board since last ten years.	The Board has passed (April 2022) a resolution to discontinue the pension scheme on the basis of unforeseen committed liabilities on pension for more than 129.63 lakh beneficiaries registered with the Board as discussed earlier in <b>paragraph no. 7.2.6.1.</b>

(Source: Information provided by the Board)





# Glossary of Abbreviations



## Glossary of abbreviations used in the report

Abbreviation	Full Form
ADDAS	Accident/Death & Disability Assistance Scheme
ALC	Assistant Labour Commissioner
BOC	Building & Other Construction
BOCW	Building & Other Construction Workers
CD	Construction Division
CGHS	Central Government Health Services
COVID	Corona Virus Diseases
CPWD	Central Public Works Department
DA	Development Authority
DLC	Deputy Labour Commissioner
EC	Expert Committee
ESIC	Employees State Insurance Corporation
FD	Fixed Deposit
GIS	Geographical Information System
GoI	Government of India
GoUP	Government of Uttar Pradesh
GST	Goods & Services Tax
HIV	Human Immunodeficiency Virus
LDA	Lucknow Development Authority
LEO	Labour Enforcement Officer
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MMP	Mission Mode Project
MWA	Minimum Wages Act
NBC	National Building Code
NEFT	National Electronic Funds Transfer
NOC	No Objection Certificate
NP	Nagar Panchayat
NPP	Nagar Palika Parishad
NSDC	National Skill Development Corporation
OBPAS	Online Building Plan Approval System
PA	Performance Audit
PMJJBY	Pradhan Mantri Jiwan Jyoti Bima Yojna
PMSBY	Pradhan Mantri Suraksha Bima Yojna
PWD	Public Works Department
RCC	Reinforced Cement Concrete
RPL	Recognition Prior Learning
RTGS	Real Time Gross Settlement
RUESEC	Regional Urban & Environmental Studies Centre
SAC	State Advisory Committee
SDLU	Sociology Department of Lucknow University
SDM	Skill Development Mission
SDTUC	Skill Development Technology Upgradation and Certification
SMS	Short Message Service
SOP	Standard Operating Procedure
UPBM	Uttar Pradesh Budget Manual
UPBOCW	Uttar Pradesh Building & Other Construction Workers
UPSSWB	Uttar Pradesh State Social Welfare Board
UVS	<i>Udhaymita Vikas Sansthan</i>
WCA	Workmen's Compensation Act, 1923
YEIDA	Yamuna Expressway Industrial Development Authority





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