

The draft bill proposed by the Builders Association of India for building and construction industry workers (conditions of employment, service, safety, social security, regulation of relations and welfare) Rules, is apparently founded on the premise that " a separate, special, single and codified legislation which takes care of the interests of both the employers, including the contractors and the sub-contractors, and the workers, can alone satisfactorily work in the industry." The contents of the draft bill however, show that the object is not to regulate the Construction industry as such, but merely to provide for certain norms for better building code including provisions for a safe and secure construction activity. The entire thrust of the bill is to give more powers to the employers which goes to the extent of making the participation in strike or stoppage of work, as an offence punishable which is unknown to the law of Industrial Relationships and are unconstitutional and thus cannot stand a moment's scrutiny.

2. The Bill which is not founded on the concept of regulation of construction industry, but merely designed to interpose an Institution as registering body of all employers in the place of Government machinery, is nothing new and effective. It leaves many questions unanswered which today subject the construction workers to untold misery.

3. The following aspects of the bill show its weak conceptualisation and framework:-

- a) Lack of any obligation or binding on the part of the registered employers to give employment to the workers registered with the Board (See P.5)
- b) No provisions for inter district/inter State transfer and thus regulation of migration

which is one of the most exploitative elements.

- c) No provision for minimum guaranteed employment.
- d) No provision for superannuation, training and for overall improvement of the life situation of construction labour.
- e) The perpetuation of the dual principal employer - immediate employer, the employer for whose benefit a person undertakes to do some work, his own contractor, sub-contractor etc. in matters relating to payment of compensation and welfare measures. This is an existing evil in Workmen's Compensation Act, the Inter-State Migrant Workman Act and the Contract Labour (Regulation and Abolition) Acts.
- f) Non-workable provisions for lay-off, social security, mere duplication of provisions relating to health, safety and welfare from the Contract Labour (Regulation and Abolition) Act.
- g) Non-workable provisions for compulsory gratuity (Section 82 Page 67), who will be the employer in such cases is the question?
- h) Non-workable provisions for leave etc., in the absence of the Board acting as the agent for the employers.
- i) Unconstitutional provisions in regard to employment of women, hours of work for child etc., (which provisions are taken from the Factories Act). No provisions for maternity benefits, housing etc.
- j) Section 74, which empowers the adjudicator to be the executor of his own award after a period of three months, is open to legal challenge.
- k) Section 67 providing for changes in terms of employment without intervention by the Board, equally takes away the autonomous character of the Institution.

- l) Non-workable provisions (Page 56 to 58) regarding provision of drinking water, washing facilities, latrines, urinals, lack of which are the common phenomena at huge construction sites; for example, the case of stone and quarry workers in Faridabad or the construction site near Nehru Stadium where NBCC is the employer.
- m) Unclear provisions about the obligations of the employer in respect of body protection work, safety etc.- no safety machinery provided for immediate action and relief/compensation in cases of accidents involving death. Even in cases of hit and run accidents under the Motor Vehicles Act, the victim is entitled for immediate compensation from the State.
- n) Lack of proper medical insurance scheme at par with the ESI scheme. The workers are left to the mercy of registered medical practitioners.

4. In total, the construction Board as envisaged in the bill, will be a powerless institution and the object of regulating the construction industry with a view to removing the exploitative elements in construction industry cannot be achieved at all. On the contrary, the bill is anti-construction labour and will not only perpetuate their existing miserable conditions but add to their misery. No law which adds to people's miseries can be constitutional.