



INDIAN NATIONAL BUILDING AND CONSTRUCTION WORKERS FEDERATION

(Affiliated to INTUC, New Delhi)

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To

Honble Prime Minister of India,
New Delhi

Sub: Suggestions of amendment in the Building and other Construction Workers (Regulation of Employment and Condition of Services) Ordinance 1995 and the Building Construction Workers Welfare Cess Ordinance 1995.

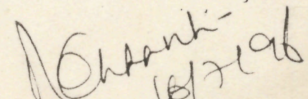
Respected Sir,

We are very much thankful to the Government of India to have proclaimed these above stated two Ordinances for Building Construction Workers after a long time. While welcoming the Ordinance and intention of the Government, we have given some suggestion for amendment of the bill in December 1995. The bill has been introduced in the Parliament to convert these Ordinance into Acts. Some provisions of these Ordinances are not considered beneficial for the construction Workers.

We, once again, on behalf of India National Building Construction Workers Federation, earnestly request you to kindly intervene in the matter and use your good office for the suitable amendment in the bill and for such act of kindness 20 million building Construction Workers, working all over the country will be very much obliged to you.

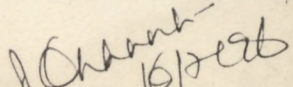
With best regards,
Thanking you,


Yours Sincerely,


(Ramachandra Khuntia)
General Secretary

Copy submitted to:

The President, INTUC, New Delhi/The General
Secretary, INTUC, New Delhi/The Secretary,
Labour, Govt. of India.


(Ramachandra Khuntia)




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NOTES OF INDIAN NATIONAL BUILDING CONSTRUCTION WORKERS FEDERATION, AFFILIATED TO INTUC, NEW DELHI.

The Building and Construction Industry is the second largest sector of economic activity of India, next to Agriculture. In the term of capital and workers employed, this industry is much more larger than any other industries in the country. The capital outlay for construction industry in each Five Year Plan has been increasing and the outlay in the Seventh, Eighth Five Year Plan is 48% of the expenditure in Construction. Around 20 million workers are engaged in Construction activity and 20 millions in Wood and Forest activity. Around 1.5 million workers are regularly employed in corporate sector and big construction companies and around 2.4 million workers in Border Road Organisation and the rest are employed through Contract, sub-contract system and also in the House Building Sector. The activities of this Industry covers construction of roads, buildings, bridges, work in hill tops, sea beds, canals, pipelines, roadlines, demolition of structure, maintenance, services, erection of project, bricklime, stone quarry, marble and stone polishing, handicrafts etc. In construction industry, Central Government and State Government Departments, Public Sector Undertakings are the largest employers. The construction activities involves Departmental, principal contractor the architects, contractor, sub-contractors, who are on adhoc basis and mobile in nature. There is no permanent employer and no permanent employee. The workers have to leave



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: 2 :

for another place in search of work when work is completed. Many construction workers are migrant in nature. Although the construction work is hazardous one, a large number of child labourers are engaged in Construction Industry, specially in bricklime. In Punjab, in a study, it is found that _____ number out of the total work engaged in bricklime are child labour and so also it is same in case of the rest part of the country.

At present, we have Contract Labour Acts, Contract Labour (Regulation and Abolition) Act, Workmen's Compensation Act, Minimum Wages Act, Payment of Wages Act, Provident Fund Act which are theoretically applied to construction workers, but these Acts are never applied and implemented in case of Construction Workers. In July 1965, Government of India constituted the Industrial Committee of Building and Construction Workers under the Chairmanship of the then Labour Minister, Mr. D. Sanikiya. It recommended Comprehensive Labour Legislation for regulation of employment, Condition of Work Services, Safety and Social Security, Welfare and stabilisation of employment. In 1966, the National Commission of Labour where the Governor Sri G. Ramanujam was also a member, constituted a study group which submitted the Report in 1968. The Industrial Committee after 7 years, that is in 1972 recommended for bringing Comprehensive Labour Legislation. In 1981, Lt. Mr. Kalyan Sundaram of the then Rajya Sabha Member brought a private Members Bill. In 1985, there was also a discussion

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in Rajya Sabha when the Bill is withdrawn after the Labour Ministry gave full assurance to bring the official Bill. Then the Government introduced Building and other Construction Workers (Regulation and Employment and Condition of Services) Bill in the year of 1988 in Rajya Sabha. The Petition Committee of the Lok Sabha under the Chairmanship of Mr. Bal Sahib Patil recommended that the Bill pending in the Rajya Sabha be withdrawn and a fresh Comprehensive Bill may be introduced for Building for Building Construction Workers. From 1989, the Indian National Building Construction Workers Federation in Co-operation with Indian National Trade Union Congress have been demanding the implementation of the recommendation of the Ex-II Petition Committee and submitted the Charter of Demand repeatedly to Lt. Prime Minister, Sri Rajiv Gandhi, Ex-Prime Minister, V.P.Singh, Ex-Prime Minister, Sri Chandrasekhar and also to the Ex-Prime Minister, Sri P.V.Narasimha Rao in the year of 1992 and in 1993 in the National Convention of INTUC held at Cuttack, Orissa, Bhubaneswar on 3rd May'1993.

While welcoming the delegates, Mr. Ramachandra Khuntia, the General Secretary of Indian National Building Construction Workers Federation demanded before the Hon'ble Prime Minister for the enactment of comprehensive Labour Legislation for Building Construction and Agriculture Workers. The Ex-Prime Minister, Sri P.V.Narasimha Rao announced in the conference for bringing the legislation for Building Construction and Agriculture workers and the Bill on Pension Scheme for all very soon. The Federation also discussed with the then Labour

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Sj. Venkatswamy took the initiative as a result of which two Ordinances were declared by the Hon'ble President of India on 3rd November 1995 with the apparent objective of regularising employment and working condition of construction workers and also levies to start welfare scheme for the Construction Workers.



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1. The Building and other Construction Workers (Regulation of Employment and Condition of Service Ordinances 1995)
2. The Building and other Construction Workers Welfare Cess Ordinance 1995.

Though the Ordinance is welcomed by all sections, some provisions if not amended 90% of construction workers would be outside of its purview.

INBCWF suggests the following amendments in the Bill :

No. 1(4) The Ordinance is not applicable to most of the establishments particularly those who are in private sectors and of short duration. Contractors will circumvent the provision of law by splitting the workers and they will escape from the liability, hence it is proposed to extend the coverage of establishment which employed or had employed on any day of the preceeding twelve months for twenty or more building areas.

2 (d) The definition of building or other construction workers' need to be extended to certain items of works, i.e. structural engineering works of steel or reinforced concrete structure and construction operations connected with installation of machinery, where ever such installation takes place in establishment or any engineering construction or in Mines and any other operation such as stone breaking, Earth Bricks making or work in Brick Kiln or line kiln. The expression 'But do not include.....Factory Act, 1948 or Mines Act, 52'.

2 (e) The expression "need to be omitted one" who is indirectly involved in any activity ancillary or incidental to the constructin works should be added.

2 (e) ii In view of the rise in the wages of workmen, it is proposed to enhance the limit of exceeding Rs. 1,600/- to Rs. 5,000/-, so that most of construction workers will not be left out form the purview of the Act.

2 (i), iii The word Sub-contractor may be added. After the words "an establishment belonging to a contractor".



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SECTION 5 : Rule to be made by the Expert committee is time consuming affair and unless one is trained, implementation of the ordinance will be very difficult. If at all Expert Committee is to be constituted, trade unions representing construction workers should be fully and actively associated with the process.

12 (i) There should not be any limit for engagement of a worker in any building or other construction works. (90 days is omitted).

12 (3) It may not be possible for a construction worker to submit any document in support of his employment.

13. Identity Card possibilities of manipulation by employer because of construction workers being illiterate and ignorant. it is necessary that the entries should be made authentic by an officer authorised by the employer coupled with frequent verification by the inspecting officers.

14. If the cause of non-engagement is attributed to the circumstances beyond the control of construction worker for the period less than 90 days, such period will not be taken into account so as to debar the workers from the benefits so accrued under the Act and Rules.


15. Every employer shall maintain a registration form as may be prescribed showing the details of employment of beneficiaries including rate of remuneration of over time 100 days actually worked, leave with wages etc.

18 (3) Atleast two members of the Board shall be women or woman construction workers shall have proportionate representation among representatives of workers.

22. Function of the Board :

The following itmes may be added.

(ix) For providing for a minimum guaranteed payment to workers who are available for work in respect of periods during which full employment or even parta payment is not available (minimum benefit during no work period).



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- (x) For training, imparting skills to construction workers.
- (xi) Stabilisation/regularity of employment.
- (xii) Construction workers are remunerated duly in terms of the wages prescribed in different categories of workmen.
- (xiii) A large proportion of construction workers are migrant from different areas, the provisions of housing facilities, assumes great importance "make provision for providing housing facilities sufficient number of hutments with basic civil facilities".
- (xiiii) For construction forums to adjudicate disputes that may arise between construction workers and contractors/Sub-contractors of between construction workers and Board of construction workers.

24. All sums including Employees share towards cess and registration fee.

28 (b) If a worker has not completed six days of continuous work, he will not be deprived of getting the benefit of rest day. Instead, if he has worked for 5 days in a week he is entitled to get the proportional weekly holiday wage.

34 (4) Rules may provide for issuance of employment card in a form to be prescribed.

33. Provision - Instead of fifty, it should be less than 20

35. Creche - Instead of fifty, it should be 20

37. Canteen - It should be "not less than 100". Employment to ensure regular and prompt payment of wages. Women workers should not work late at night beyond 6.00 PM and they should not be allowed to do heavy loads of cement bags or any other material exceeding 40 Kg. in weight.

to provide payment to National and Festival holidays observed as closed days.

to provide leave with wages as may be prescribed.



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38. (Safety & Health Measures) - Instead of 500, it should be 20.

40 (2) The proposed rule will clearly spell out the authority and the procedure of dealing with the accidents.

44. Instead of employee, there should be principal employer.

45 (2) The principal employer will be liable to make payment to the concerned workman in case of delayed or less payment and receive of the amount from the contractor, sub-contractor.

46 (+) The number to be specified alongwith female and male.

The Building and other Construction Workers Welfare Cess Ordinance 1995

No. 6 No employer should be exempted from the payment of the cess.

There is confusion about the commencement of ordinance where as the second ordinance comes into force at once the first ordinance shall come into force on the date as fixed by the Central Government and different dates may be appointed for different Governments.

Clause 11 to 17 :

Deals with the registration of Building Construction Workers as beneficiaries where the eligibility for membership is for atleast 90 working days during the last 12 months. This would eliminate large number of daily wage earners and casual workers from the ambit of the Act. Hence the application would have been on the Certificate of employment form.

1. Employers engaged in construction industry for the purpose of trade and business.
2. Government organisations and agencies engaged in Building Construction work.
3. Registered Trade Unions and National Centres and Federations.



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4. Registered Contractors.

The Ordinance which has entitled regularisation of employment does not have any provisions of actual regularisation. Therefore, we demand that the provisions of regularisation is possible only when

- a. All workers in Construction Industries are allowed to register his workers in the Board.
- b. Employment part is done through Board.
- c. Minimum guaranteed work, payment of minimum wages, eradication towards welfare scheme and stabilisation of employment is guaranteed by the Board.
- d. In absence of regularisation of employment through Tripartite Board it would not be practicably possible to regulate the services and there is apprehension of misuse of the Act.

The Clause states that all Legislation that are applicable to the workers and are better than this Act will also apply to the Building Construction workers. This protective Clause should be included in the Act.

There should be a provision in this Act by which the Building Construction Workers will also get EPF, ESIC, Gratuity, Maternity Benefit and Pension Scheme Benefits.

Clause 3 and 4 of the Bill provides for a Central Advisory Board and State Advisory Board. It is suggested that this Clause may also be suitably amended.

- a. The composition of the Board must be at least 1/3rd member representing workers, 1/3rd representing the employers and 1/3rd including the Government, Architect and Engineer.
- b. At the initial stage, the bodies may be nominated by appropriate Govt. The term of first Board be limited to 3 years and the subsequent composition should provide opportunity for employers and workers organisations through National Centres to select their nominees.
- c. There should be provision for ensuring the benefit of Law to the Migrant Construction Workers.



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However, in absence of strong efficient and efficient implementing machinery, no Act can deliver the goods and hence the appropriate Govt. may be asked and given the facility to strengthen the implementation machinery for the proper implementation of this Act. If all the Construction Workers are identified and register their names in the Board, then automatically the migrant workers can be identified and the correct statistics of migrant labour will be available which will make easier to regulate and control the movement of migrant labour.

Under the above circumstances, on behalf of Indian National Building Construction Workers Federation and Indian National Trade Union Congress, we earnestly request to intervene and put your valuable suggestion for suitable amendment of the Bill which will ensure better health, safety and service condition to the Building Construction Workers. We are sure that we will get your support in the process of discussion of Building Construction Workers Bill and we expect your fullest co-operation in this regard. Millions of Building Construction Workers in and around the country are minutely watching the much long watched Bill which is going to be passed in the Parliament. We will be highly obliged, if you kindly participate in the discussion and suggest the above stated amendments in the Bill.

With best regards,

Thanking you,

Yours sincerely,

(Ramachandra Khuntia)
General Secretary
INDIAN NATIONAL BUILDING
CONSTRUCTION WORKERS FEDERATION
&
Vice President
INDIAN NATIONAL TRADE
UNION CONGRESS