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**STANDING COMMITTEE ON LABOUR**  
**(2016-17)**  
**(SIXTEENTH LOK SABHA)**  
**MINISTRY OF LABOUR & EMPLOYMENT**  
**[CESS FUNDS AND THEIR UTILISATION FOR WORKERS'**  
**WELFARE]**  
**TWENTY EIGHTH REPORT**



**LOK SABHA SECRETARIAT**  
**NEW DELHI**

**August, 2017/Shravana, 1939 (Saka)**

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**(SIXTEENTH LOK SABHA)**

**MINISTRY OF LABOUR & EMPLOYMENT**

**[CESS FUNDS AND THEIR UTILISATION FOR WORKERS'  
WELFARE]**

*Presented to Lok Sabha on 10<sup>th</sup> August, 2017*

*Laid in Rajya Sabha on 10<sup>th</sup> August, 2017*



**LOK SABHA SECRETARIAT**

**NEW DELHI**

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**COMPOSITION OF THE STANDING COMMITTEE ON LABOUR**  
**(2016-17)**

**DR. KIRIT SOMAIYA - CHAIRPERSON**

**MEMBERS**

**Lok Sabha**

2. Shri Udayanraje Pratapsingh Bhonsle
3. Shri Rajesh Kumar Diwakar
4. Shri Ashok Kumar Dohrey
5. Shri Satish Chandra Dubey
6. Shri Devajibhai Govindbhai Fatepara
7. Shri Satish Kumar Gautam
8. Dr. Boora Narsaiah Goud
9. Shri Rama Chandra Hansdah
10. Shri C. N. Jayadevan
11. Shri Bahadur Singh Koli
12. Dr. Arun Kumar
13. Shri Kaushalendra Kumar
14. Shri Hari Manjhi
15. Shri R. Parthipan
16. Shri Dayakar Pasunoori
17. Shri Hariom Singh Rathore
18. Shri Y.S. Avinash Reddy
19. Shri Naba Kumar Sarania (Hira)
20. Shri Kodikunnil Suresh
21. Shri Mulayam Singh Yadav

**Rajya Sabha**

22. Shri Ram Narain Dudi
23. Shri N. Gokulkrishnan
24. Shri Nazir Ahmed Laway
25. Shri P.L. Punia
26. Shri Rajaram
27. Shri Amar Shankar Sable
28. Ms. Dola Sen
29. Shri Tapan Kumar Sen
30. Shri Ravi Prakash Verma
31. \* **Vacant**

**SECRETARIAT**

- |    |                        |   |                 |
|----|------------------------|---|-----------------|
| 1. | Ms. Rhimjhim Prasad    | - | Joint Secretary |
| 2. | Smt. Anita Panda       | - | Director        |
| 2. | Smt. Archana Srivastva | - | Under Secretary |

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\*vacancy occurred *vice* Haji Abdul Salam passed away on 28.2.2017.

## **INTRODUCTION**

I, the Chairperson, Standing Committee on Labour (2016-17) having been authorized by the Committee do present on their behalf this Twenty Eighth Report on 'Cess funds and their utilisation for workers' welfare' pertaining to the Ministry of Labour & Employment.

2. The Committee took evidence of the representatives of the Ministry of Labour and Employment on 20<sup>th</sup> April and 23<sup>rd</sup> May, 2017. The Committee considered and adopted the Draft Report at their sitting held on 3<sup>rd</sup> August, 2017. The Committee wish to express their thanks to the officers of the Ministry of Labour & Employment for tendering oral evidence and placing before them the detailed written notes and post evidence information as desired by the Committee.

3. For ease of reference, the Observations and Recommendations of the Committee have been printed in thick type in the body of the Report.

**New Delhi;**  
**3<sup>rd</sup> August, 2017**  
**12<sup>th</sup> Shravana, 1939 (Saka)**

**DR. KIRIT SOMAIYA**  
**CHAIRPERSON,**  
**STANDING COMMITTEE ON LABOUR**

## **GIST OF OBSERVATIONS/RECOMMENDATIONS AS CONTAINED IN THIS REPORT**

The Building and Other Construction Workers (Regulation Of Employment and Conditions of Service) Act, 1996 and The Building and Other Construction Workers' Welfare Cess, Act, 1996 came into existence in 1996. However, the actual/practical implementation started in 2007.

Concerned with the gross under utilisation of cess funds viz.-a-viz. disproportionate collection of cess, by the Cess Collecting Authorities, the Standing Committee on Labour decided to examine the subject 'Cess Funds and their Utilisation For Workers' Welfare' on priority and accordingly took evidence of the representatives of the Ministry of Labour and Employment and DGLW on 20th April, 2017 and 23rd May, 2017.

### **RECOMMENDATIONS IN BRIEF**

**1. According to the Ministry, till 31.03.2017 ₹ 32,632.96 crore had been collected as Cess against which an amount of ₹ 7516.52 crore had been spent for the purpose and objective of the Act. As per the Act, 1% Cess is to be levied and collected on all types of construction activities. The total construction activities including that of Government of India, State Governments, PSUs and private entities etc. could run into crores of rupees and the Committee feel that the reported figure of Cess collected reflects poorly on the system of collection of Cess.**

**2. The Committee had noted that during the past years, the utilisation of cess is very poor as there was no fool proof system of collection and utilisation developed by the States. Rs. 32,632 crore total Cess collected**

**in more than 10 years, of this only Rs. 7,516 crore spent till 31.03.2017. They had noted with concern that the basic objective of the Act has also been defeated as the construction workers have not been benefitted by the Cess Fund.**

**3. The Committee had noted that the present system of assessment, collection of cess and its transfer to the BOCW Boards, is weak which could result into non-transparency and also leakages. The Committee are astonished to note that no efforts have been made to compare the collected Cess figure with the total construction activities carried out in respective State. Also the Departments/State Governments or BOCW Board have not made any efforts to reconcile those figures. The Committee had desired thorough checking of the collection from each source and the difference, if any, to be collected and deposited with the State Welfare Boards.**

**4. The Hon'ble Supreme Court has also taken serious cognizance of the lack of commitment in implementation, assessment, collection and utilization of the Cess Fund. The Hon'ble Supreme Court had also asked the CAG to undertake an audit. The report is still awaited. The Hon'ble Supreme Court had also passed instructions for healthy execution and implementation of the Act.**

**5. The Committee had recommended for proper integration by the State Welfare Boards with the ESI/EPF and with Labour**

**Commissioners/Labour Offices to have a realistic data about the number of workers.**

**6. Noting that the cess assessing and collecting authorities were not under the direct control of BOCW Boards and there was no proper system of assessment and collection of cess, the Committee had desired to develop a foolproof system of assessment, collection and deposition of cess.**

**7. The Committee had recommended for wide publicity to the welfare Schemes and benefits thereof for the registered construction workers so that they may be encouraged to come forward for registration. They had also desired that the contractors of big construction sites be encouraged to spread the benefits of registration and also to set up information centres at the district level.**

**8. The Committee had apprehended that the cess collected by the designated authorities might not have been transferred to the BOCW Boards fully and the State Governments had utilized or diverted the collection in other heads/accounts. They had, therefore, desired for auditing of accounts during at least last 2-5 years.**

**9. The Committee had felt that the whole process of collection of cess and its utilisation must be studied as the system varies from State to State. The Committee had opined that a healthy, user friendly and uniform system of assessment, collection, utilisation, etc. be developed**

**with an inbuilt provision of internal check. They had felt that the Ministry may take initiative to co-ordinate with all the States/Departments and State Welfare Boards for implementation of uniform system throughout the Country. Noting that the welfare schemes run under the BOCW Welfare Cess Act differ from State to State, the Committee had desired that the Ministry of Labour & Employment may structure the welfare schemes in such a manner so that a Pan Indian uniformity may be maintained.**

# **REPORT**

## **Chapter-I**

### **INTRODUCTORY**

The construction workers constitute one of the largest categories of workers in the unorganized sector. As per the Fifth Employment Unemployment Survey (2015-16) there are five crore nineteen thousand four hundred and nineteen workers engaged throughout the country in building and other construction works. These workers are one of the most vulnerable segments of the unorganised Labour in India. Their work is of temporary nature, the relationship between employer and the employee is temporary, working hours are uncertain. Basic amenities and welfare facilities provided to these workers are inadequate. Risk to life and limb is also inherent. In the absence of adequate statutory provisions to get the requisite information regarding the number and nature of accidents was quite difficult and due to this, to fix responsibility or to take corrective measures is not an easy job. Although the provisions of certain Central Acts were applicable to the building and other construction workers yet a need was felt for a comprehensive Central Legislation for regulating the safety, welfare and other conditions of service of these workers. In pursuant to the decision of the 41st Labour Ministers Conference held on 18th May, 1995, the Committee of State Labour Ministers had expressed its consensus for the Central Legislation on this subject. In order to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Ordinance, 1995 (Ord. 14 of 1995) was promulgated by the President on 3rd November, 1995 as the Parliament was not in session. To replace this Ordinance a Bill was introduced in the Lok Sabha on 1st December, 1995. Since the Bill could not be taken up for consideration it lapsed. On 5th January, 1996 the President promulgated the

Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Ordinance, 1996 (Ord. 3 of 1996). To replace this Ordinance a Bill was introduced in the Parliament which could not be passed and the President promulgated the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Second Ordinance, 1996 (Ord. 15 of 1996) on 27th March, 1996. As this Ordinance could not be replaced by an Act of Parliament the President promulgated the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Third Ordinance, 1990 (Ord. 25 of 1996) on 20th June, 1996. In order to replace this Ordinance the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Bill was introduced in the Parliament.

1.2 The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Bill having been passed by both the Houses of Parliament received the assent of the President on 19th August, 1996. It came on the Statute Book as THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996 (27 of 1996), an Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measure and for other matter connected therewith or incidental thereto.

### **The Building and Other Construction Workers' Welfare Cess, Act, 1996**

1.3 To provide for the levy and collection of a cess on the cost of construction incurred by employers with a view to augmenting the resources of the Building and Other Construction Workers' Welfare Boards which were to be constituted under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Ordinance, 1995, an Ordinance, namely the Building and Other Construction Workers' Welfare Cess Ordinance, 1995 (Ord 15 of 1995), was promulgated by the President on 3rd November,

1995. In order to replace this Ordinance by an Act of Parliament, a Bill was introduced in the Lok Sabha. Since the Bill could not be taken up for consideration and passing in the Winter Session, 1995 and the Budget Session, 1996 of Lok Sabha, the Building and Other Construction Workers' Welfare Cess Ordinance, 1996 and the Building and Other Construction Workers' Welfare Cess Second Ordinance, 1996 respectively were promulgated on 5th January, 1996 and 27th March, 1996 with a view to give continued effect to the legislative protection. On the dissolution of the Tenth Lok Sabha, the Building and Other Construction Workers' Welfare Cess Bill, 1995 stood lapsed. On 20th June, 1996 another Ordinance namely the Building and Other Construction Workers' Cess Third Ordinance was promulgated by the President. To replace this Ordinance by an Act of Parliament, the Building and Other Construction Workers' Welfare Cess Bill was introduced in the Parliament.

1.4 The Bill was complementary to the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Bill, 1996 proposed to be introduced and considered simultaneously. With a view to provide for the levy and collection of a cess on the cost of construction incurred by the employers for augmenting the resources of the Building and Other Construction Workers' Welfare Boards constituted by the State Governments under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Ordinance, 1995 (Ordinance 14 of 1995), an Ordinance, namely, the Building and Other Construction Workers' Welfare Cess Ordinance, 1995 (Ordinance 15 of 1995), was promulgated by the President on the 3rd November, 1995. The intention was to make over, after due appropriation by Parliament by law, the proceeds of the cess, to the State Building and Other Construction Workers' Welfare Boards and the cost of collection not exceeding one per cent of the cess collected to the State Governments to whom it proposed to delegate the authority to collect the cess. A Bill, namely, the Building and Other Construction Workers' Welfare Cess Bill,

1995 was introduced in Lok Sabha on the 1st December, 1995 to replace the said Ordinance by an Act of Parliament. Since the said Bill could not be taken up for consideration and passing in the Winter Session, 1995 and the Budget Session, 1996 of Lok Sabha, the Building and Other Construction Workers' Welfare Cess Ordinance, 1996 and the Building and Other Construction Workers' Welfare Cess Second Ordinance, 1996 respectively were promulgated on the 5<sup>th</sup> January, 1996 and the 27<sup>th</sup> March, 1996 with a view to give continued effect to the legislative protection. On the dissolution of the Tenth Lok Sabha, the Building and Other Construction Workers' Welfare Cess Bill, 1995 stood lapsed. By virtue of Article 123(2)(a) of the Constitution the Building and Other Construction Workers' Welfare Cess Second Ordinance, 1996 promulgated on the 27<sup>th</sup> March, 1996 would have also ceased to operate with effect from the 4<sup>th</sup> July, 1996. In view of the urgency felt and as the Parliament was not in session, the President was pleased to promulgate the Building and Other Construction Workers' Welfare Cess Third Ordinance, 1996 on 20<sup>th</sup> June, 1996 in order to give continued effect to the legislative protection envisaged in the earlier Ordinance.

1.5 Further, the Building and Other Construction Workers (RECS) Central Rules, 1998 were notified on 19.11.1998.

1.6 The Act is applicable to every establishment which employs 10 or more workers in any building or other construction work. There is also provision of constitution of Central and the State Advisory Committee to advise the appropriate Governments on matters arising out of administration of the law besides constitution of Welfare Boards by the State Governments and registration of beneficiaries under the Act and provision for their identity cards etc.

1.7 These legislations provide for regulating the employment and conditions of service, safety and health and welfare measures for the construction workers

by setting up a Welfare Fund at the State level for crediting thereto contribution made by beneficiaries and collection made out from levy of cess of 1% of the construction cost incurred by an employer on construction works. The Fund is to be used for providing financial assistance to the families of beneficiaries in case of accident, old age pension, housing loans, payment of insurance premia, children's education, medical and maternity benefits etc.

1.8 All State Governments and Union Territories have constituted State Welfare Boards.

1.9 Till 31<sup>st</sup> March, 2017, an amount of approx. ₹ 32,632.96 crore has been collected as Cess by the State Governments and Union Territories and an amount of ₹ 7516.52 crore has been spent by the State Welfare Boards on welfare schemes formulated by them and administrative expenses.

1.10 Central Government has been issuing directions, under Section 60 of the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, to all the State Governments and UT Administrations from time to time for proper implementation of the Act. To monitor the implementation of these directions, specifically with reference to utilization of Cess fund of Welfare Schemes enumerated under Section 22 of the Act, by State Building and Other Construction Workers' Welfare Boards, a Committee under the Chairmanship of Secretary (Labour and Employment) has been constituted. The Monitoring Committee holds its meeting from time to time. In 2016-17, the Monitoring Committee has held meetings on 6<sup>th</sup> April, 2016, 21<sup>st</sup> July, 2016 and 20<sup>th</sup> December, 2016 and in 2017-18 on 9<sup>th</sup> May, 2017 (till date) with the Principal Secretaries/ Secretaries of Labour departments of the State/UTs.

## Chapter-II

### **I. CONSTITUTION OF CENTRAL ADVISORY COMMITTEE AND STATE ADVISORY COMMITTEE/BOARD**

2.1 The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 provides for constitution of Central Advisory Committee/ State Advisory Committee/ Expert Committees/ State Advisory Board. As per the Act the Central Advisory Committee shall meet atleast once in six months, however, there is no frequency prescribed in the Central Rules in respect of the State Advisory Committees.

2.2 As per the information furnished by the Ministry the State-wise information in respect of the meetings of State Advisory Committee held by the respective States so far is awaited from the States.

2.3 As regards constitution of State Advisory Committees/Boards, the Ministry have informed that the State Advisory Committees have been constituted except the State of Karnataka and Telangana.

2.4 During evidence also the representatives of the Ministry stated as under:

"Out of the 26 States including the Union Territories, all the States have notified the rules. they are supposed to notify the rules and all the States have also constituted the boards. The Cess Collection Authority notification has been done by all the States except Manipur. The Advisory Committee has been constituted by all the States except Karnataka and Telangana."

**2.5 The Committee note that after the promulgation of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the implementation of the Act was started after the year 2000 in some States and others followed suit late, i.e. around 2007. The**

**Committee further note that there is no frequency prescribed under the Rules so formulated for meeting of the State Advisory Committees. They feel that in the absence of any set timeline for meeting, the purpose of constitution of State Advisory Committees got defeated. They, therefore, recommend that as prescribed for Central Advisory Committee to meet twice a year, the same should be made mandatory for the State Advisory Committees also so that the agenda before them should be cleared atleast within six months.**

## **II. REGISTRATION OF WORKERS**

2.6 As per Section 10 of BOCW Act, 1996 every building worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act.

2.7 During evidence the representatives of the Ministry informed as under:

"In all, the country has around 4.6 crore building and construction workers. Each of the State is supposed to register these workers and then utilize the money for the welfare of registered these workers and their families. As on date, the State have registered 2.5 crore building and construction workers."

2.8 The Committee while examining the subject, for exemplification, had randomly selected and called the representatives from three States i.e. Haryana, Rajasthan and Maharashtra for assessing progress/implementation of the Act. In the State of Haryana total number of 6,71,276 workers have been registered upto the year 2016-17, in Rajasthan 15,22,659 workers have been

registered upto 31st March, 2017 and in Maharashtra 5,93,413 workers have been registered upto the year 2016-17.

2.9 The Ministry of Labour & Employment while furnishing the State-wise number of workers enrolled under the BOCW Act (**Annexure-I**) informed that the estimation of construction workers made by the NSSO is not based on the eligibility conditions prescribed under Section 12 of the BOCW Act. Under Section 12 of the Act every building worker who is between the age of 18 and 60 years and who has been engaged in any building or other construction work for not less than 90 days during the last 12 months, is eligible for registration as a beneficiary.

**2.10 The Committee note that the primary work relating to registration of workers has not been given the desired priority/seriousness by the Ministry and the BOCW Boards. While tendering evidence before the Committee, Secretary, Labour had also admitted that there are around 4.6 crore construction workers whereas only 2.5 crore workers have been registered. The Committee also opine that the estimated figures are based on the survey conducted by NSSO and not on the eligibility conditions prescribed under Section 12 of the BOCW Act. They, therefore, opine that the number of workers would be much more than the estimated ones. They are not happy with the pace of registration of construction workers by the implementing agencies of the Act. They, therefore, desire that the States may be persuaded to**

**cover/register the estimated number of construction workers in their respective States.**

**2.11 The Committee note that the Ministry are relying upon the figure of estimated number of workers in construction industry based on Fifth Employment-Unemployment Survey (EUS) conducted in the year 2015-16, which shows decline in the number of workers registered in fourth EUS conducted in 2013-14. The Committee are of the view that the construction activities all over the Country have increased considerably during the given period, hence the decline in number of workers could be erroneous. They, therefore, desire that the implementing agencies may be directed to provide realistic figures so that the intended benefits may reach the ultimate beneficiary.**

**2.12 The Committee find that there is no separate mention about the naka workers. As per the provisions of the Act the eligibility criteria to be registered as construction worker is a person who is 18-60 years of age and has been engaged in any building or other construction work for not less than ninety days during the preceding twelve months and he shall be eligible for registration as a beneficiary under this Act. The Committee note that regarding certification of construction workers, guidelines have been issued by**

**the Ministry of Labour and Employment according to which the States shall authorize all Gram Panchayats and Municipalities also to register construction workers under the Act. In addition, Assistant/Junior Engineers of the various Engineering Departments like PWD, Irrigation , Water Supply, Power etc. shall also be given power to register workers under BOCW (RECS) Act. The Committee opine that the naka workers who are not able to prove their days of working and are ignorant of the guidelines issued by the Ministry of Labour and Employment in this regard may be guided by print/electronic media/CBWE to register themselves as construction workers and benefits thereof may also be publicized.**

**2.13 The Committee note that majority of workers engaged in Building and Other Construction activities are migrants. As such they do not possess necessary documents required for registration, leading to less number of registrations. Moreover, either the contractors or the workers do not come forward for their registration. The Committee, therefore, recommend that the BOCW Board may initiate action to contact the State Labour Authorities, who usually visit the construction sites for implementation of labour laws, to have information about the registration of workers at those sites. The Committee also recommend that the Labour I-Cards**

be seeded with Adhaar Cards to avoid duplication of registration of those workers. The Committee further desire that wherever found necessary, Adhaar camps may also be organised for facilitation of issuance of Adhaar Cards for the workers who do not possess the same.

2.14 The Committee find that as of now there is no proper mechanism available for giving publicity to the ongoing welfare schemes meant for the construction workers by the BOCW Board. They attribute this as one of the reasons for low registration of workers as most of the workers are migrant, illiterate and ignorant about the benefits of the schemes available for them. The Committee, therefore, recommend that wide publicity be given to the welfare schemes and the benefits of registering as a construction worker so that workers may come forward on their own for registration. They also desire that the contractors of big construction sites be encouraged to publicise the benefits of registration amongst the workers and also try to get each and every construction worker engaged by him/her registered. The Committee further desire that information centers be set up at the district level also.

**2.15 The Committee note that the registration of construction workers is being done manually which is time-consuming and results in low registration. Thus a strong IT platform needs to be developed by the Ministry. Besides these workers are required for renewal of registration after every one or three years as per the requirement of BOCW Board. Hence, doing the work of registration/renewal increases many fold. The Committee found that the system of registration of construction workers followed by Rajasthan was more practical, where the dual system of online and offline registration is available. The Committee, therefore, desire that other States may also follow this system to reduce the dependence on manual registration. Also the registration/renewal should be done for three years.**

### **III. BOCW SCHEMES**

2.16 As per Section 22 of BOCW Act, the functions of the Board is as under:

- "(1) The Board may— (a) provide immediate assistance to a beneficiary in case of accident;
- (b) make payment of pension to the beneficiaries who have completed the age of sixty years;
- (c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;

(d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as may be prescribed;

(e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;

(f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;

(g) make payment of maternity benefit to the female beneficiaries; and

(h) make provision and improvement of such other welfare measures and facilities as may be prescribed.

(2) The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment.

(3) The Board may pay annually grants-in-aid to a local authority or to an employer who provides to the satisfaction of the Board welfare measures and facilities of the standard specified by the Board for the benefit of the building workers and the members of their family, so, however that the amount payable as grants-in-aid to any local authority or employer shall not exceed— (a) the amount spent in providing welfare measures and facilities as determined by the State Government or any person specified by it in this behalf, or (b) such amount as may be prescribed, whichever is less: Provided that no grant-in-aid shall be payable in respect of any such welfare measures and facilities where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf.

2.17 Further the Act provides that "Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the building and other construction workers than those provided for them by or under this Act."

**2.18 The Committee note that the welfare Schemes to be run under the BOCW Welfare Cess Act, 1996, differ from State to State. The Committee desire that the welfare schemes under the Act should be**

structured by the Central Government/Ministry of Labour & Employment who is the custodian of the Act so that a Pan-India uniformity may be maintained.

2.19 The Committee note that as per the Act, State Governments are free to adopt the best of the schemes run under the BOCW Act or by the State Government in general. The Committee opine that this kind of arrangement would result in the inclusion of construction workers with other unorganised workers and the dedicated fund could be utilised by the State Governments for running the Schemes for all unorganised workers. The Committee, therefore, desire that the Schemes meant for construction workers may be separated from the other Schemes run by the State Governments.

## **Chapter-III**

### **COLLECTION OF CESS**

3.1 For the purposes of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, a cess has to be levied and collected at rate not exceeding two per cent but not less than one per cent of the cost of construction incurred by an employer. The cess levied under sub-sec. (1) shall be collected from every employer including 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 where an approval of such building or other construction work by such local authority is required, as may be prescribed. The proceeds of the cess collected under sub-sec. (2) shall be paid by the local authority or the State Government collecting the cess to the Board after deducting the cost of collection of such cess not exceeding one per cent of the amount collected.

3.2 **Time and manner of collection-** The cess levied under Sub-sec. (1) of Sec. 3 of the Act shall be paid by an employer, within thirty days of completion of the construction project or within thirty days of the date on which assessment of cess payable is finalized, whichever is earlier, to the cess collector.

3.3 **Transfer of the proceeds of the cess to the Board:-**The proceeds of the cess collected under Rule 4 shall be transferred by such Government office, Public Sector Undertaking, local authority, or cess collector, to the Board alongwith the form of challan prescribed (and in the head of account of the Board) under the accounting procedures of the State, by whatever name they are known. Such government office of Public Sector Undertaking may deduct from the cess collected, or claim from the Board, as the case may be, actual collection of expenses not exceeding one per cent of the total amount collected.

The amount collected shall be transferred to the Board within thirty days of its collection.

3.4 As per the definition of 'Building or Other Construction Work' the following areas are covered:

"building or other construction work' means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), 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 and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), apply;"

3.5 Further in regard to establishment the Act provides as under:

"establishment' means any establishment belonging to, or under the control of, Government, any body corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building or other construction work; and includes an establishment belonging to a contractor, but does not include an individual who employs such workers in any building or construction work in relation to his own residence the total cost of such construction not being more than rupees ten lakhs;"

3.6 During evidence the representatives of the Ministry of Labour and Employment informed the Committee as under:

"As on date, the State have registered 2.58 crore building and construction workers. they have collected Rs. 32,632.96 and the amount that has been spent is only Rs. 7,516.52 crore. This figure is as on 31.03.2017."

**3.7 The Committee note that except State of Manipur all the States/UTs have notified the Cess Collecting Authorities dating back to the year 1999. However, in some States like Andhra Pradesh, Goa, Jharkhand, Maharashtra, Punjab, etc., the State Welfare Boards were constituted as late as 7-8 years after the notification of Cess Collecting Bodies. The Committee further note that as per the provisions of the BOCW Act the proceeds of cess collected under sub-section (2) shall be paid by the State Cess Collecting Authority to the Board within 30 days of its collection. The Committee apprehend that in the States, where the Welfare Boards were constituted on later dates, the amount of cess collected would not have either been spent for welfare of construction workers or set aside for the specific purpose by the respective State Governments. The Committee, therefore, desire that the Ministry may identify such States where the Welfare Boards were constituted after notification of Cess Collecting Authority. They further desire that each of such States may also be directed to provide details of the cess collected and deposited with them between the period of notification of cess collecting bodies and constitution of the State Welfare Board.**

**3.8 The Committee note from the figures provided by the Ministry that till 31.03.2017 an amount of ₹ 32,632.96 crore had been collected by the States on account of cess from the works as defined in Para 3.4. The Committee are of the opinion that during the 20 years of promulgation of the Act, the figures of the amount collected as given by the Ministry does not match with the construction activities carried out. They also opine that the given amount could alone be of Railways/NHAI/PWD/CPWD. The Committee are of the view that had the cess been collected/deposited fairly, it could run into crores of rupees. They, therefore, desire that collection from each of the above source may thoroughly be checked and difference, if any, be collected and deposited with the State Welfare Boards.**

**3.9 The Committee are concerned to note that there is no proper system of collection of Cess and its transfer to the State Welfare Boards. They further note that all the States are having their own system for assessment/collection of Cess and transferring it to the State Welfare Boards. The Committee opine that in the absence of any proper/fool proof system, there are chances of leakages. They therefore, desire that a fool-proof and uniform system of assessment and collection of Cess and its transfer to State Welfare Boards may**

be developed at the Central Level for implementation by the States. They also recommend that, if need be, a professional agency be consulted for developing a software with an inbuilt provision of internal check at the earliest.

3.10 The Committee note that as per the provisions of the Act all such construction activities incurring cost of above ₹ 10 lakh are bound to deposit cess @ 1% of the total construction cost. However, going through the collection, the Committee feel that fair collection of cess from private bodies is not properly done. They opine that due to some reason, collection from small builders/private owners is being ignored. They, therefore, desire that the construction activities be properly monitored so that the proportionate collection of cess may be enhanced.

3.11 The Committee further recommend that the State Welfare Boards may have proper integration with the ESIC/EPFO for extracting the details of contractors engaged in construction activities for organised construction workers, and for unorganised construction workers, they should integrate with Labour Commissioners/Labour Offices to get the realistic data about the number of construction activities/construction workers under their jurisdiction.

**3.12 The Committee, while examining the subject, had noted that the model followed by Government of Rajasthan appeared to be effective in implementation of the BOCW (RECS) Act, 1996 and BOCW Welfare Cess, Act, 1996. They, therefore, desire that the Rajasthan model may be taken as an example and the State Welfare Boards be advised to devise their own models based on the same. The Committee also desire that the Ministry should tabulate the best practices from all the States and circulate it to all the States/UTs.**

**3.13 The Committee note that there are several agencies responsible for assessment, collection and deposition of cess with the BOCW Board. In the given scenario, the Committee opine that there is a wider scope for more collection and less deposition of cess with the BOCW Boards as there is no mechanism to monitor the collecting authorities. The Committee, therefore, desire that a few States may be taken up for auditing their assessment of cess *viz-a-viz* collection and deposition during atleast the last 2 to 5 years.**

**3.14 The Committee note that there are no proper guidelines for keeping the collected cess by the BOCW Boards. The collected cess is either being kept in the form of fixed deposits or securities. The Committee recommend that uniform guidelines from the Ministry**

**may be issued for management of cess fund so that every BOCW Board may keep the money according to the guidelines.**

## **II. UTILIZATION OF CESS**

3.15 As per Section 24(2)(a) of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 mandates the Welfare Board to utilize the BOCW fund for discharging the functions under Section 22, which reads as under:

"(1) The Board may-

- (a) provide immediate assistance to a beneficiary in case of accident;
- (b) make payment of pension to the beneficiaries who have completed the age of sixty years;
- (c) sanction loans and advances to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;
- (d) pay such amount in connection with premia for Group Insurance Scheme of the beneficiaries as it may deem fit;
- (e) give such financial assistance for the education of children of the beneficiaries as may be prescribed;
- (f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed;
- (g) make payment of maternity benefit to the female beneficiaries; and
- (h) make provision and improvement of such other welfare measures and facilities as may be prescribed."

### 3.16 As per Section 24 of BOCW Act

"(1) There shall be constituted by a Board a fund to be called the Building and other Construction Workers' Welfare Fund and there shall be credited thereto-

- (a) any grants and loans made to the Board by the Central Government under section 23;
- (b) all contributions made by the beneficiaries;
- (c) all sums received by the Board from such other sources as may be decided by the Central Government,

(2) The Fund shall be applied for meeting-

- (a) expenses of the Board in the discharge of its functions under section 22; and
- (b) salaries, allowances and other remuneration of the members, officers and other employees for the Board;
- (c) expenses on objects and for purposes authorised by this Act.

(3) No Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding five percent of its total expenses during that financial year."

3.17 Ministry in their Background Note furnished to the Committee have submitted that the implementation of BoCW Act, especially utilization of the cess fund collected under the BOCW Welfare Cess Act, 1996 has been under constant scrutiny of the Hon'ble Supreme Court in a PIL {W.P. (Civil) No. 318/2006} filed before it by National Campaign Committee. The Hon'ble Supreme Court in its order dated 04.09.2015 observed that the expenditure

incurred by some of the State governments/ Union Territories is on advertisements and the Hon'ble Supreme Court directed that amount so spent should be returned to the accounts BOCW Cess Fund.

3.18 The Ministry have also submitted that the directions issued under Section 60 of the Act, have not yielded the desired outcome which is reflected by accumulation of huge amount of cess fund with the Welfare Boards and inadequate provisions for safety, health, welfare and other conditions of service of the BOC workers.

3.19 Considering the above, the Ministry of Labour and Employment issued comprehensive sets of directions, superseding all the directions issued in the past, for utilization of the cess fund. Accordingly directions under Section 60 were issued on 09.09.2015. In order to ensure proper utilization of BOCW Cess fund strictly in terms of the provisions of the Act, directions were given to the State governments/ UT administrations vide para 5 of the order dated 09.09.2015, as reproduced below:

".....Any welfare scheme not in conformity with the provisions of the Act and being undertaken by any State/UT Govt./Welfare Board by way of utilizing BoCW Cess Fund would cease to exist with immediate effect. If any Welfare Board proposes to continue such scheme beyond the date of this Executive order, then the expenditure on the same have to be borne by the State/UT Govt. through its own resources...."

3.20 In addition to the above directions under section 60, further directions were issued to the State Governments/UTs concerned on 23.9.15 by the Ministry of Labour and Employment. The relevant para 1(i) of the Order under section 60 dated 23.09.2015 reads as under:

"...In case any amount of cess fund collected under BOCW Welfare Cess Act, 1996 has been utilized for any purpose other than mandated under Section 22 of the BOCW (RECS) Act, 1996, it shall be the responsibility of the State

Government /UT Administration concerned to recoup such amount into the cess fund on immediate basis and furnish compliance report to this Ministry..”.

3.21 State-wise position of number of workers registered, cess collected and amount spent under the BOCW Act, as furnished by the Ministry is placed at **Annexure-I.**

**3.22 The Committee note that against the collection of ₹ 32,632.96 crore an amount of ₹ 7,516.52 crore had been spent by the States/UTs on various welfare Schemes meant for the BOC Workers. The Committee desire to be apprised of the details of expenditure incurred Scheme-wise by the respective State Governments/UTs.**

**3.23 The Committee note that the State Governments/UTs have been able to utilise only 23% of the total cess collection during the last 20 years. The Committee are of the view that if those States whose performance is good in utilisation of cess fund, be segregated from others, the utilisation would be dismal. The Committee desire that the performance of each State/UT be judged independently so that the Ministry may help less performing States/UTs in finding the reasons for abysmal performance and encourage them to utilise the collected funds.**

**3.24 The Committee opine that the amount of ₹ 7,516.52 crore spent so far include 5% expenditure incurred on salaries, allowances and other remuneration of the members, officers and other**

**employees for the Board. The Committee are of the view that after deducting 5%, an amount of ₹ 7140.70 crore has been spent actually on the welfare of BOC Workers. The Committee, therefore, recommend that expenditure on salaries, allowances and other remuneration of the members, officers and other employees for the Board need not be mixed with the expenditure incurred on welfare Schemes so that a real picture of the utilisation of funds may come out.**

**3.25 The Committee observe that as per the Hon'ble Supreme Court Order dated 04.09.2015 some of the State Governments/UTs have incurred expenditure on advertisements from the BOCW Cess fund. The Committee desire that such States/UTs be identified and the amount incurred on advertisements be verified and deposited with respective State Welfare Boards. They also desire that suitable advisory cautioning the State Governments/UTs for such type of misuse of cess fund be issued by the Ministry of Labour and Employment.**

**3.26 The Committee note that the Ministry had issued directions under Section 60 to the States/UTs for deposition of amount utilised for any other purpose than the mandated under Section 22 of the BOCW Act to be recovered from the authorities concerned**

**and deposit the same into the cess fund on immediate basis. The Ministry have also reportedly requested for furnishing the compliance report in this regard. The Committee desire to be furnished with the details of expenditure incurred by the States/UTs on this account alongwith the details of amount recovered and deposited with the State Welfare Boards and also a copy of the compliance report as furnished to the Ministry.**

## Chapter-IV

### APPEALS

4.1 As regards appeals the Ministry in their written reply submitted that Section 11 of the BOCW Welfare Cess Act and Rule 14 of the BOCW Welfare Cess Rules, provide for appeal to the Appellate Authority by an employer aggrieved by an order of the assessment made. As such, the respective State Governments have to appoint an Appellate Authority for the purpose. The details of the Appellate Authority appointed by the states and the cases pending with them are not available as the information is not centrally maintained. The information has been sought from the states and will be furnished as soon as the same is received.

4.2 In this regard, Section 11 of the BOCW Welfare Cess Act reads as under

"Appeals:- (1) Any employer aggrieved by any order of assessment made under section 5 or by an order imposing penalty made under section 9 may, within such time as may be prescribed, appeal to such appellate authority in such form and in such manner as may be prescribed. (2) Every appeal preferred under sub-section (1) shall be accompanied by such fees as may be prescribed. (3) After the receipt of any appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard in the matter dispose of the appeal as expeditiously as possible. (4) Every order passed in appeal under this section shall be final and shall not be called in question in any court of law."

**4.3 The Committee note that as of now the Ministry do not have any data regarding the cases pending with the appellate authorities as the appellate authorities are being appointed by the State Governments. The Committee apprehend that there may be cases**

**where the appellate authority would not have been appointed by the respective State Governments. They, therefore, desire that all the State Governments be persuaded to appoint appellate authorities as early as possible.**

**4.4 The Committee apprehend that there may be under assessment or over assessment of the cess for which cases might have been registered/pending with the various appellate authorities. The Committee desire that such cases with the appellate authorities may be enquired into so that the manipulations of various under/over assessments could be ascertained and the difference in the amount of cess collected may be deposited with the BOCW Board.**

## **II. PENALTY**

4.5 As per Section 8 of the Building And Other Construction Workers' Welfare Cess Act, 1996 "if any employer fails to pay any amount of cess payable under section 3 within the time specified in the order of assessment, such employer shall be liable to pay interest on the amount to be paid at the rate of two per cent, for every month or part of a month comprised in the period from the date on which such payment is due till such amount is actually paid."

4.6 As regards penalty for non-payment of cess within the specified time, the Act reads "if any amount of cess payable by any employer under section 3 is not paid within the date specified in the order of assessment made under

section 5, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after making such inquiry as it deems fit, impose on such employer a penalty not exceeding the amount of cess, provided that, before imposing any such penalty, such employer shall be given a reasonable opportunity of being heard and if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section".

4.7 When asked about the availability of penalty provision in the Act for the Cess Collecting Authority who do not deposit the proceeds with the respective State Welfare Boards within a period of 30 days as prescribed under the Act, the Ministry stated that "there is no penalty provision in the BOCW Welfare Cess Act, 1996 for delay caused in remittance of cess to the Welfare Cess Fund by the authority collecting the Cess".

**4.8 The Committee note that the cess collecting authorities have to transfer the cess collection to the State Welfare Boards within a period of 30 days. The Committee find that though there is a provision in the Act for penalty for non-payment of cess by the employer, however, the BOCW Act is silent about the penalty provision for those cess collecting authorities who do not deposit the cess proceeds with the State Welfare Boards within 30 days. The Committee, therefore, desire that a penalty provision must be spelt out so that the cess proceeds may be deposited with the Welfare Boards within the prescribed time period.**

### **III. ACCOUNTS AND AUDIT**

4.9 As per Section 20 of the BOCW Act "(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor General of India.

(2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and the Auditor-General of India has in connection with the auditing of the Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board under this Act.

(3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor General of India.

(4) The Board shall furnish to the State Government before such date as may be prescribed its audited copy of accounts together with the auditor's report.

(5) The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the State Legislature."

4.10 The Ministry in their Background Note have stated that the Hon'ble Supreme Court vide Order dated 17.02.2017 has involved CAG to assist the Hon'ble court for the purpose of scrutiny of cess collection and expenditure. the Hon'ble Supreme Court vide the last Order dated 8.5.2017 has requested CAG to file a tabular chart containing the following details in respect of each State Government and Union Territory:

- (i) The amount that has been collected under the BOCW Welfare Cess Act, 1996 since the enactment of the Act, i.e., 1996 until 31st March, 2017.
- (ii) The amount collected over the years and which has been transferred to the BOCW Welfare Board should also be indicated as on 31st March, 2017.
- (iii) If there is any amount which has been collected, but not yet transferred to the aforesaid Board shall be transferred within a period of six weeks from today.

**4.11 The Committee note that as per the mandate of the Act all the BOCW Welfare Boards shall furnish an audited copy of accounts together with the auditor's report to the State Government. However, taking note of the intervention of Hon'ble Supreme Court, the Committee cannot but believe that the State Welfare Boards had not adhered to the provisions of the Act. The Committee, therefore, desire that each and every State/UT be directed to furnish its audited copy of accounts from the year the cess collection started, to the State Government as well as the Central Government for their consideration within three months. They also desire that from now onwards every State/UT be directed to furnish their audited report to the State/Central Government annually.**

**4.12 The Committee note that Hon'ble Supreme Court had passed an order on 8.5.2017 requesting CAG to file a tabular chart, within a period of six weeks from the date of Order, containing (i) the**

amount collected under BOCW Welfare Cess Act since the enactment of the Act i.e., 1996 till 31st March, 2017, (ii) the amount collected and transferred to BOCW Board till 31st March, 2017, and (iii) the amount which has been collected but not yet transferred to the Boards. The Committee desire to be apprised of the current status in this regard. They also desire that the information furnished to the CAG may also be furnished to the Committee for their consideration.

New Delhi;  
3<sup>rd</sup> August, 2017  
12<sup>th</sup> Shrawana, 1939 (Saka)

DR. KIRIT SOMAIYA  
CHAIRPERSON,  
STANDING COMMITTEE ON LABOUR

**Annexure-I**

<b>State-wise position of Number of Workers Registered, Cess Collected and Amount Spent under the Building and Other Construction Workers Acts, 1996</b>				
<b>As on 31.03.2017(Provisional)</b>				
<b>Sl. No.</b>	<b>Name of the States/UTs.</b>	<b>No. of workers registered with the Board</b>	<b>Amount of cess collected (Rs. in Crore)</b>	<b>Amount spent (Rs. in Crore)</b>
1	Andhra Pradesh	1,584,819	1153.61	205.46
2	Arunachal Pradesh	18,443	65.36	51.60
3	Assam	91,000	512.24	12.57
4	Bihar	774,993	921.92	75.23
5	Chhattisgarh	1,045,308	699.61	514.14
6	Goa	1,881	85.68	0.83
7	Gujarat	454,929	1564.64	35.00
8	Haryana	671,276	1847.05	172.07
9	Himachal Pradesh	108,642	335.39	44.49
10	J&K	316,098	566.00	221.00
11	Jharkhand	580,634	291.28	143.46
12	Karnataka	1,074,000	3861.00	240.00
13	Kerala	1,563,204	1474.73	1455.88
14	Madhya Pradesh	2,653,163	1575.62	552.04
15	Maharashtra	593,413	5074.16	255.50
16	Manipur	48,000	21.00	10.99
17	Meghalaya	6,234	94.83	1.09
18	Mizoram	21,865	40.37	21.95
19	Nagaland	4,418	20.06	3.34
20	Odisha	1,783,757	1100.00	361.00
21	Punjab	565,640	921.55	391.61
22	Rajasthan	1,522,659	1600.00	620.00
23	Sikkim	24,638	64.67	20.68
24	Tamil Nadu	2,645,208	1706.00	600.00
25	Telangana	892,991	443.12	98.69
26	Tripura	73,668	129.28	12.36
27	Uttar Pradesh	3,214,555	2943.80	598.90
28	Uttarakhand	163,610	170.41	31.21
29	West Bengal	2,881,225	1149.12	531.42

30	Delhi	364,974	1930.00	174.71
31	A & N Island	13,710	46.42	3.91
32	Chandigarh	17,162	96.09	3.72
33	Dadra & Nagar Haveli	472	3.08	0.00
34	Daman and Diu	919	37.17	0.54
35	Lakshadweep	176	5.66	0.00
36	Puducherry	40,755	82.04	51.13
Total		25,817,780	32632.96	7516.52

**STANDING COMMITTEE ON LABOUR**

**(2016-17)**

**Minutes of the Sixteenth Sitting of the Committee**

The Committee sat on Thursday, the 20<sup>th</sup> April, 2017 from 1500 hrs. to 1620 hrs. in Room No. 53, Parliament House, New Delhi.

**PRESENT**

**Dr. Kirit Somaiya - CHAIRPERSON**

**MEMBERS**

**LOK SABHA**

2. Shri Rajesh Kumar Diwakar
3. Shri Ashok Dohare
4. Shri Satish Kumar Gautam
5. Shri C.N. Jayadevan
6. Shri Bahadur Singh Koli
7. Dr. Arun Kumar
8. Shri Kaushalendra Kumar
9. Shri Hari Manjhi
10. Shri R. Parthipan
11. Shri Hariom Singh Rathore

**RAJYA SABHA**

12. Shri Nazir Ahmed Laway
13. Shri P.L. Punia
14. Shri Rajaram
15. Shri Amar Shankar Sable
16. Ms Dola Sen
17. Shri Tapan Kumar Sen

**SECRETARIAT**

1. Ms. Rimjhim Prasad - Joint Secretary
2. Smt. Anita B. Panda - Director
3. Shri K.C. Pandey - Deputy Secretary

## **Witnesses**

### **Representatives of the Ministry of Labour and Employment**

- |    |                         |   |
|----|-------------------------|---|
| 1. | Shri Heera Lal Samariya | Additional Secretary                        |
| 2. | Shri Arun Goel          | Additional Secretary & Financial<br>Advisor |
| 3. | Shri Anil Kumar Nayak   | CLC(C)                                      |
| 4. | Shri Rajit Punhani      | Joint Secretary                             |

2. At the outset, the Chairperson welcomed the representatives of the Ministry of Labour & Employment (MoLE) to the sitting of the Committee convened to have briefing by the representatives of the Ministry on 'Cess Funds and their utilisation for workers' welfare'. The Chairperson then drew attention of the representatives to Direction 58 of the 'Directions by the Speaker' regarding confidentiality of the proceedings of the Committee during deposition before the Parliamentary Committees. He then asked the representative of Ministry of Labour Employment, to give an overview of subject.

3. The representative of the Ministry, accordingly, briefed the Committee *inter-alia* highlighting the Cess collection (BEEDI/CINE/IOMC/LSDM/MICA/BOCW), rates of Cess that used to be imposed on various items, mechanism of cess collection & accounting before the introduction of the Finance Bill (2016-17), Benefits under the scheme 'financial assistance for education', etc. The representatives of the Ministry also responded to various queries raised by the Members which *inter-alia* included status of Cess funds for Beedi workers after promulgation of GST Bill, number of workers, large gap between the cess collected and expenditure incurred on building/construction

workers, number of workers registered on State Welfare Board, monitoring mechanism in the Ministry of Labour & Employment etc.

4. As some points required detailed reply, the Chairperson asked the representatives of the Ministry of Labour & Employment to furnish written replies thereon and Committee decided to take another meeting on same subject on 23rd May, 2017 with appropriate figures to be supplied by the Ministry of Labour & Employment.

**PART-II**

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(The witnesses then withdrew)

[A copy of the verbatim proceedings was kept on record]

**The Committee then adjourned.**

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XX Does not pertain to this Report.

**STANDING COMMITTEE ON LABOUR**

**(2016-17)**

**Minutes of the Eighteenth Sitting of the Committee**

The Committee sat on Tuesday, the 23<sup>rd</sup> May, 2017 from 1130 hrs. to 1330 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

**PRESENT**

**Dr. Kirit Somaiya - CHAIRPERSON**

**MEMBERS**

**LOK SABHA**

2. Shri Rajesh Kumar Diwakar
3. Shri Ashok Kumar Dohrey
4. Shri Satish Kumar Gautam
5. Dr. Boora Narsaiah Goud
6. Shri C.N. Jayadevan
7. Shri Bahadur Singh Koli
8. Dr. Arun Kumar
9. Shri Kaushalendra Kumar
10. Shri Hari Manjhi
11. Shri Hariom Singh Rathore
12. Shri Naba Kumar Sarania
13. Shri Kodikunnil Suresh

**RAJYA SABHA**

14. Shri Rama Narayan Dudi
15. Shri Nazir Ahmed Laway
16. Shri P.L. Punia
17. Shri Amar Shankar Sable
18. Ms. Dola Sen
19. Shri Tapan Kumar Sen
20. Shri Ravi Prakash Verma
21. Shri N. Gokulakrishnan

**SECRETARIAT**

1. Ms. Rimjhim Prasad - Joint Secretary
2. Smt. Anita B. Panda - Director
3. Smt. Archana Srivastva - Under Secretary

## WITNESSES

### **REPRESENTATIVES OF MINISTRY OF LABOUR & EMPLOYMENT**

Sl. No.	Name	Designation
1.	Smt. M. Sathiyavathy	Secretary
2.	Shri Arun Goel	Addl. Secretary & Fin. Advisor
3.	Shri Rajit Punhani	Joint Secretary
4.	Shri A Alexander	Additional Labour Commissioner
5.	Shri S.C. Goyal	Addl. CPFC

### **REPRESENTATIVES OF STATE GOVT. OF MAHARASHTRA**

Sl. No.	Name	Designation
1.	Shri Y.E. Kerure	Labour Commissioner
2.	Shri A.P. Vidhale	Joint Secretary
3.	Shri S.C. Shrirangam	CEO

### **REPRESENTATIVES OF STATE GOVT. OF HARYANA**

Sl. No.	Name	Designation
1.	Shri Vijai Vardhan	Add. Chief Secretary
2.	Shri Pankaj Agarwal	Labour Commissioner cum Secy.
3.	Shri Rohit Beri	Assistant Director

### **REPRESENTATIVES OF STATE GOVT. OF RAJASTHAN**

Sl. No.	Name	Designation
1.	Dr. Prithvi Raj	Labour Commissioner

2. At the outset, the Chairperson welcomed the Members of the Committee and the representatives of the Ministry of Labour & Employment and representatives of State Governments of Haryana, Rajasthan and Maharashtra

to the sitting of the Committee, convened to take evidence on the subject on 'Cess Funds and their utilisation for workers' welfare'. The Chairperson then drew attention of the representatives to Direction 58 of the 'Directions by the Speaker' regarding confidentiality of the proceedings of the Committee during deposition before the Parliamentary Committees. He then asked Secretary, MoLE and the representatives of the State Governments of Haryana, Rajasthan and Maharashtra to give an overview of the Subject matter.

3. The Secretary, MoLE accordingly briefed the Committee on various aspects of the subject and Director General, Labour Welfare gave a PowerPoint Presentation which *inter-alia* included provisions of Building and Other Construction Workers' Welfare Cess (BOCW) Act, 1996; Hon'ble Supreme Court's directions dated 16.10.2015 regarding compliance of BOCW Act; State-wise position of number of workers registered, cess collected and amount spent under BOCW Act. The Addl. Chief Secretary, Govt. of Haryana and Labour Commissioner, Govt. of Maharashtra also gave PowerPoint Presentation. Representatives of all the three States briefed the Committee on various aspects which *inter-alia* included constitution of BOCW Welfare Boards in their States; year-wise details of workers registered; year-wise details of cess collection and details of expenditure; systems in place for collection and assessment of cess funds, etc. Thereafter, the Members raised queries on various issues which, *inter-alia*, included reasons for slow pace of utilisation in Haryana; Aadhar linking system for registration of those labours who frequently migrate from Haryana; reasons for low registration in Maharashtra; coverage of unorganised building and construction workers; reasons for low expenditure in Maharashtra; online and offline registration in Rajasthan; status of bank accounts of registered beneficiaries in Rajasthan; etc. On the matter regarding assistance being given for the marriage of daughters of Beedi Workers, which was enhanced to Rs. 25000/- on the recommendation of the Committee, again been shown as Rs. 5000/-, the representative of the Ministry assured to check the same and revert. The representatives of the Ministry of

Labour & Employment and the State Governments responded to other queries of the Members.

4. The Chairperson thanked the witnesses for appearing before the Committee and briefing them on the subject as well as responding to the queries raised. The Chairperson directed the Secretary, MoLE and the representatives of the State Governments to furnish written replies within 10 days in respect of those queries, for which information was not readily available with them during the meeting as well as which required detailed and statistical information.

The witnesses then withdrew.

[A copy of the verbatim proceedings was kept on record]

**The Committee then adjourned.**

**STANDING COMMITTEE ON LABOUR**

**(2016-17)**

**Minutes of the Twenty-Fifth Sitting of the Committee**

The Committee sat on Thursday, the 3<sup>rd</sup> August, 2017 from 1700 hrs. to 1730 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

**PRESENT**

**Dr. Kirit Somaiya - CHAIRPERSON**

**MEMBERS**

**LOK SABHA**

2. Shri Satish Kumar Gautam
3. Shri Hariom Singh Rathore
4. Shri Naba Kumar Sarania

**RAJYA SABHA**

5. Shri Ram Narayan Dudi
6. Shri Nazir Ahmed Laway
7. Shri P.L. Punia
8. Shri Amar Shankar Sable
9. Ms. Dola Sen
10. Shri Tapan Kumar Sen
11. Shri Ravi Prakash Verma

**SECRETARIAT**

1. Ms. Rimjhim Prasad - Joint Secretary
2. Smt. Anita B. Panda - Director
3. Shri K.C. Pandey - Deputy Secretary
4. Smt Archana Srivastva - Under Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee, convened for consideration and adoption of Draft Report on the subject 'Cess Funds and their Utilisation for Workers' Welfare'. Giving an overview of the Recommendations made in the Draft Report, the Chairperson requested the Members to give their suggestions on them, if any.

3. The Committee, then, took up the Draft Report on the subject 'Cess Funds and their Utilitstion for Workers' Welfare' pertaining to the Ministry of Labour and Employment for consideration and adopted the same with minor additions/modifications.

4. The Committee then authorized the Chairperson to present the Report to both the Houses.

**The Committee then adjourned.**