

# **Executive Summary**





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## ***About the Report:***

Building and Other Construction Workers are the most numerous and vulnerable segments of unorganised labour in India. Their work is characterised by its casual nature, temporary relationship between the employers and employees, uncertain working hours, lack of basic amenities and inadequacy of welfare facilities.

To regulate the wages, working conditions, safety, health and welfare measures, applicable to such workers, the Government of India (GoI) enacted (August 1996) the Building and Other Construction Workers' (Regulation of Employment and Condition of Service) Act (BOCW Act), 1996. The BOCW Act applies to every establishment<sup>1</sup> which employs ten or more building workers. Every such establishment is to be registered, under the Act, within sixty days from the commencement of work. Further, under the Act, every State Government is required to constitute a Building and Other Construction Workers' Welfare Board, to provide benefits to every building worker, registered as a beneficiary under the Act, from its Fund. GoI also enacted (August 1996) the Building and Other Construction Workers' Welfare Cess Act, 1996 (the Cess Act) which envisages levy and collection of cess, for the purpose of the BOCW Act.

The Government of Jharkhand (GoJ) notified (August 2007) the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Jharkhand Rules, 2006 (the Jharkhand Rules) and constituted (July 2008) the Jharkhand Building and Other Construction Workers Welfare Board (the Board). The Board operates a fund, known as the Jharkhand Building and Other Construction Workers' Welfare Fund.

## ***Why did we take up this Report?***

Considering the criticality of achieving the intended objectives of safety, health and welfare, of the building and other construction workers, this performance audit on the "Welfare of Building and Other Construction Workers", covering the period from FY 2017-18 to FY 2021-22, was carried out, between October 2022 and January 2023.

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<sup>1</sup> 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 lakh.

The main objectives of this performance audit were to assess whether: (i) the Rules notified by Government of Jharkhand (GoJ) were consistent with the spirit of the Act (ii) there was an effective system for registration of establishments and beneficiaries (iii) the assessment of cess, as well as its collection and transfer to the Welfare Fund, had been carried out in an efficient manner (iv) GoJ had prescribed appropriate health and safety norms and had been able to ensure an environment of compliance to these norms, by Employers (v) GoJ had implemented a transparent and effective system of inspections, to check evasion of Labour cess and ensure compliance to health and safety norms, by Employers and (vi) the administration and utilisation of funds, on the implementation of welfare schemes by the Board, had been efficient and effective.

***What did we find and what do we recommend?***

***Planning and Control***

GoJ had notified (August 2007) the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Jharkhand Rules, 2006, ten years after the enactment (August 1996) of the BOCW Act by the GoI. This had resulted in delay in creation (July 2008) of the Board and the Welfare Fund. Schemes relating to two benefits, *i.e.* : (i) loans and advances to beneficiaries for construction of houses and (ii) premium of Group Insurance Schemes of beneficiaries, mandated under the BOCW Act, had not been implemented even after more than 10 years of the creation of the Board. The State Advisory Committee, required to advise the State Government on any matter arising out of the administration of the BOCW Act, had not been reconstituted at regular intervals of time. There were a large number of vacancies in the Department, especially in the posts of the officials responsible for implementation of the BOCW Act. There had not been any Cess Assessing Officers, in the State, since FY 2019-20. A large number of beneficiaries were not aware of the benefits available to them, through the Welfare Fund. The Board had also failed to gather information of construction activities carried out in the State and to pass orders of assessment, during FYs 2017-18 to 2021-22. The Board had not revised the plinth area rates, since July 2016, resulting in short levy of cess at source, by the building plan approving authorities. Further, *sarees* and cloth for shirt and pants, valued at ₹ 5.57 crore, purchased for distribution amongst beneficiaries, had remained lying in the district offices, for more than three years after their purchase.

**Recommendation 1: State Government may deploy adequate manpower at all levels of responsibility, by delegating relevant powers to officers from the concerned departments.**

**Recommendation 2: The Board may undertake awareness activities to disseminate information regarding available welfare schemes to the registered workers.**

**Recommendation 3: State Government may develop a standard operating procedure, for departments/other organisations, to share information relating to construction activities, with the Board.**

### ***Budget and management of funds***

The Board had not prepared Annual Budgets for FYs 2017-18 to 2021-22. In addition, it had not utilised funds allocated for implementation of welfare schemes, during FYs 2017-18 to 2021-22 and the average expenditure had remained at 50 *per cent* of the allocated funds. The Board had not prepared annual accounts during FYs 2017-18 to 2021-22, as required under the provisions of the BOCW Act. The State Government had also not ensured preparation and audit of annual accounts, for laying them before the State Legislature. In compliance with the orders of the Hon'ble Supreme Court of India, GoI had forwarded (October 2018) a Model Welfare Scheme and Action Plan (MWS&AP), prioritising welfare functions, which were to be given precedence over other benefits. However, instead of prioritising the stated functions, like housing, awareness, skill development and pension, the Board had incurred 42 *per cent* of expenditure on additional benefits, *viz.* bicycle assistance, tool-kits assistance, marriage assistance, sewing machine assistance and distribution of *sarees* and cloth for shirt and pants. The Board had not completed the required formalities to get itself notified as an exempted entity for levy of Income Tax, even after 12 years of its creation, leading to deduction of ₹ 91.15 lakh, as TDS, from its Welfare Fund, by the Bank.

**Recommendation 4: The Board may prioritise implementation of schemes relating to priority functions, including Housing and Awareness.**

### ***Registration of establishments and workers***

The BOCW Act stipulates that establishments have to be registered, under the Act, within 60 days from the commencement of the construction work. However, the Board had failed to ensure registration of such establishments. None of the 1,869 construction works, undertaken by the Building and Road Construction Divisions, in the four test-checked districts, were found to have been registered under the BOCW Act. The Board had not coordinated with the concerned administrative departments/plan approving authorities, for obtaining details of ongoing or approved construction works, to assess the applicable amount of cess. As per the forty-fourth Report of the Parliamentary Standing Committee on construction workers, presented (March 2014) to the Parliament, the estimated number of construction workers, in Jharkhand, as of June 2013, was 16.99 lakh. Against this, there had been 5.96 lakh and 12.57 lakh registered workers, in Jharkhand, as on 31 March 2017 and 31 March 2022, respectively. As such, a large number of workers were yet to be registered under the BOCW Act. The Board had failed to conduct awareness campaigns and set up facilitation centres at prominent places, as required under the Act, for registration of workers. The Board had also failed to ensure allocation of unique identification numbers (UINs) to each beneficiary which had led to instances of the same beneficiaries availing benefits under welfare schemes, more than once. The timelines fixed under the Right to Guaranteed Services Act, 2011, had not been adhered to in ensuring the registration of workers within the prescribed time. The Registering Officers had approved applications of registration, without verifying age or occupation related documents. Instances of registration

of underage and non-BOC workers, were noticed in audit. In the offline mode of registration, instead of UIN, block-wise registration numbers had been assigned to workers. Instances of workers with the same credentials, registered in more than one block, and availing the same benefits more than once, were noticed. For roll out of Direct Benefit Transfer, the required details (*Aadhaar* Number and bank account details) of only 26 *per cent* of workers had been updated. The Board had not reviewed the registration status of workers who had ceased to be registered workers, due to their death or attaining the age of 60 years. Despite a significant decrease in the number of paid members over the years, neither the Board, nor its field offices, had taken any steps to encourage workers to make regular contributions. Identity cards had not been issued in a passbook or employment diary form, which would have ensured recording of the employment details on the cards itself.

**Recommendation 5: State Government may fix responsibility on the officials of Government Departments/PSUs/Local Bodies, who have not shared information of employers with the Board. The State Government may also consider inserting a clause in the bidding documents, relating to all construction works to be undertaken by the State Government/State PSUs/Autonomous Bodies, for ensuring mandatory registration of establishments under the BOCW Act.**

**Recommendation 6: The Board may expedite integration of the offline database in the web portal incorporating all credentials, including *Aadhaar* number and bank accounts mapped with *Aadhaar*.**

**Recommendation 7: The database of the web portal may be periodically updated, in respect of registered workers who had attained pensionable age, died or had ceased to remain BOC workers.**

**Recommendation 8: The Board may ensure issue of identity cards to workers, in passbook or employment diary form, with enough space for employers to record the details of the works carried out by the workers. Provision of benefits to registered workers, may be linked with the details of works recorded in the identity cards.**

#### ***Implementation of welfare schemes***

The Board had not aligned the amount of assistance to be paid to the dependents of the deceased registered workers, with the recommendations of the MWS &AP. In the absence of insurance coverage for the beneficiaries, the Board had paid death assistance of only ₹ one lakh, instead of the recommended ₹ two lakh or ₹ four lakh. The Board had not ensured delivery of all post-death benefits, to all eligible beneficiaries or their dependents. The Board had also not ensured payment of post death benefits to the dependents of the deceased workers within 60 days. In 97 *per cent* of cases, the payment of death assistance had been made with delays up to more than three years, against the prescribed period of 60 days. In the test-checked districts, post-death assistance of ₹ 10.30 lakh had been paid to non-dependents, in 11 cases, whereas ₹ 37 lakh had been paid to ineligible beneficiaries, in 37 cases. Implementation of the pension scheme had remained

ineffective. In the test-checked districts, out of 10,710 registered workers, who had attained the pensionable age of 60 years, during FYs 2017-18 to 2021-22, pension had been sanctioned to only 159 workers (one *per cent*). Disability and orphan pensions had not been paid regularly. Maternity benefits of ₹ 1.23 lakh had been paid on the basis of doubtful documents or without obtaining the required documents. Besides, maternity benefits of ₹ 2.84 lakh had been paid, in excess of entitlement. The Board had paid tool-kit and safety kit assistance of ₹ 0.89 lakh, to 71 ineligible beneficiaries. Bicycle assistance of ₹ 7 lakh was not supported by the required cash receipts and 15 ineligible beneficiaries had been paid ₹ 52,500. The Board had not ensured repayment of benefits to beneficiaries, in cases where banks had returned back the amounts to the account of the sanctioning authority, due to discrepancies in the bank details of the beneficiaries.

**Recommendation 9: The Board may ensure that the minimum coverage, as recommended under the MWS&AP, is provided to registered workers against accidental/natural death. The Board may also ensure that payments of post-death benefits, not less than the amount and within the time frame as recommended under the MWS&AP, are made to the dependents of the registered workers.**

**Recommendation 10: The Board may review the implementation of the pension schemes, to ensure provision of pension coverage to all eligible beneficiaries.**

#### ***Impact Assessment***

The Board had not ensured mandatory registration of employers, inspection of construction sites, provision of protective measures, as well as provision of basic facilities, such as temporary living accommodation, latrines, urinals and first-aid boxes, to construction workers, at the construction sites. Instances of workers working without wearing appropriate protective gear, such as helmets, shoes, jackets *etc.*, were noticed, during Joint Physical Verification of construction sites. It was further seen that the Board had not conducted inspections, of the selected construction sites.

**Recommendation 11: The Board may make annual plans for inspection of construction sites, for identifying violations of the provisions of the BOCW Act and ensuring appropriate action thereon.**

#### ***Collection and deposit of cess***

GoJ had not transferred collected cess, amounting to ₹ 504.67 crore, to the Board, as of March 2022. The Ranchi Regional Development Authority (a local body) had accepted cheques of commercial banks, for realisation of cess in place of crossed demand drafts. This had led to non-realisation of cess, of ₹ 28.79 lakh, as 53 cheques had been dishonoured by the banks. The local bodies had not deposited cess, amounting to ₹ 37.47 crore (collected between FYs 2017-18 and 2021-22), in the account of the Board, though it was required to be deposited within 30 days of collection. The Board had also failed to ensure

follow-up of certificate cases, to recover cess amount of ₹ 75.48 lakh, in respect of 16 applicants.

**Recommendation 12: State Government may ensure transfer of the collected amount of cess to the Board. The Board may co-ordinate with the Local Bodies, to ensure timely deposit of the amount of cess collected, to its account.**