

CHAPTER V

FUNCTIONING OF KERALA BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE BOARD

District Labour Offices lacked a system to monitor the receipt of Form IV from employers or to enforce fines as required by regulations. The Board's cash balance steadily declined from ₹910.06 crore in March 2019 to ₹135.16 crore in March 2023. The disbursement of welfare benefits also showed a decreasing trend since 2020-21. This consistent drop in cash reserves over the five-year audit period indicated that annual expenditures had been funded from the Board's cash reserves, leading to significant depletion and necessitating additional loans.

There were delays ranging from 11 to 24 months in submitting the Board's accounts to the Accountant General for audit. Out of the ₹10 crore corpus fund allocated for the Migrant Workers' Welfare Fund, only ₹1.69 crore was spent on workers' welfare between 2018-19 and 2022-23. In the districts test-checked, the Labour Officers did not conduct the prescribed number of monthly inspections as mandated by the Labour Commissioner. Safety norms were not seen adhered to in test-checked construction sites. The grievance redressal mechanism did not function effectively as envisaged.

The Kerala Building and Construction Workers' Welfare Board was formed in 1990, to provide assistance to the construction workers in the State of Kerala. With the enactment of the Cess Rules, the Kerala Building and Other Construction Workers' Welfare Board (Board) was constituted as per Section 18 of the BOCW (RECS) Act. Section 24 (1) of BOCW (RECS) Act and Rule 281 of the Kerala Rules required the Board to constitute the Building and Other Construction Workers' Welfare Fund. All grants, loans or advances made by Government, contribution paid by the beneficiaries and all sums received by the Board from other sources shall be credited to this fund. Further, Rule 5 of the Cess Rules states that the proceeds of cess collected from Government offices, Public Sector Undertakings, local authority or cess collector shall be transferred to the Board. Accordingly, the Board constituted (August 1998) the Kerala Building and Other Construction Workers' Welfare Fund (Fund). The Fund was parked in savings bank and fixed deposit accounts maintained in nationalised banks, treasuries and District Co-operative banks.

As per Section 24 (2) of the BOCW (RECS) Act, the fund shall be utilised for (a) meeting expenses of the Board in discharge of its functions including payment of pension to beneficiaries, maternity benefit to female beneficiaries, sanction of loans and advances to beneficiaries, etc. (b) payment of salaries, allowances and other remuneration of the members, officers and other employees of the Board and (c) incurring expenses on objects and for purposes authorised by this Act. The pension and other welfare benefits sanctioned by the Board are transferred to the respective bank accounts of the beneficiaries through Direct Benefit Transfer.

5.1. Receipts and Payments of the Board

Details of receipts and payment relating to the Fund managed by the Board during the period 2018-19 to 2022-23 are given in **Table 5.1**.

Table 5.1: Details of Receipts and Payments of the Board for the period 2018-19 to 2022-23

(₹ in crore)

Year	Receipts				Payments					Closing balance
	Opening Balance	Cess Collection	Interest	Total Receipts*	Capital expenditure	Welfare Benefits	Administrative Expenses	Miscellaneous	Total Payments**	
2018-19	1069.62	242.23	77.83	1473.34	0.19	435.24	14.55	112.85	563.29	910.05
2019-20	910.05	232.82	67.58	1263.25	0.13	511.60	15.19	5.72	533.35	729.90
2020-21	729.90	247.97	57.59	1087.85	0.12	724.21	13.59	15.22	753.33	334.52
2021-22	334.52	285.11	8.34	837.52	0.39	594.19	18.54	28.80	643.52	194.00
2022-23	194.00	378.18	6.00	639.64	0.29	460.99	15.65	27.55	504.48	135.16

(Source: Annual Accounts of the Board)

*includes workers' contribution and other receipts

** includes refund of workers' contribution

Though the income of the Board remained more or less steady, the expenditure showed an increasing trend till 2020-21. This upward trend in expenditure could be attributed to increased rate of monthly pension²⁷ from ₹1,100 in April 2018 to ₹1,600 in April 2021. The number of pensioners also increased from 2.62 lakh in 2018-19 to 3.24 lakh in 2022-23. It was observed that the increase in pension expenditure in 2020-21 was due to the payment of the backlog for the last quarter of 2019-20²⁸ in April 2020. Audit also noticed that pension due for payment for four months in 2021-22 was paid in 2022-23 only, due to shortage of funds. Pension payments were made only for four months in the year 2022-23 due to which there was a decline in the total expenditure, compared to previous years.

Audit observed that the cess collected recorded a gradual increase over the five year period from 2018-23. However, the interest received by the Board declined sharply from ₹77.83 crore in 2018-19 to ₹six crore in 2022-23, which is commensurate with the reduction in the cash balance of the Board. The

²⁷ From April 2017: ₹1,100, from April 2019: ₹1,200, from April 2020: ₹1,300, from September 2020: ₹1,400, from January 2021: ₹1,500 and from April 2021: ₹1,600.

²⁸ Three months pension viz January 2020, February 2020 and March 2020.

increasing trend in expenditure, in the absence of proportionate uptick in cess collection has forced the Board to take recourse to loan worth ₹150 crore from Kerala Motor Transport Welfare Fund Board during 2021-22. The Administrative expenses on staff salary and postage expenses in excess of one *per cent* limit (as pointed out in paragraph 3.3), construction of multi-storeyed office complex by utilising cess amount (as pointed out in paragraph 5.6) are all in violation to the provisions of the Act, which coupled with short-assessment, short-collection, non-collection of cess etc., had led to dearth in the cash revenue thereby depriving full extension of benefits to the beneficiaries.

Further, as is evident from **Table 5.1**, the Government had a closing cash balance of ₹135.16 crore at the end of 2022-23 and the pending payments against the major welfare schemes was ₹180.42 crore (as already discussed in paragraph 4.1 and Table 4.1) at the end of March 2023. In view of the unspent balance lying with the Board, the pendency in payments could have been reduced to a large extent. Moreover, Audit also noticed that pending pension payment upto April 2023 was made only in April 2024, on availing further loan amounting to ₹100 crore from Kerala Headload Workers' Welfare Board. It is thus, evident that the Board is heading towards a precarious situation of acute shortage of funds to meet its financial obligations.

Given the constraints in available financial resources to cater to the rising demand in welfare benefits, unless total collection of cess improves, the State will not be in a position to augment resources to fund various welfare assistance schemes for the construction workers. The Government did not furnish any reply till September 2024.

Recommendation 9: The Government should ensure that as the funds for annual expenditure of the Board were being sourced out of its cash reserves, the Board should step up the rate of cess collection on war foot basis so that recourse to borrowings can be avoided.

5.2. Budget of the Board

The Board prepares budget every year. During the audit period, the revenue receipts under the head 'Employers' share (Cess)' varied from 69.15 *per cent* (2018-19) to 56.94 *per cent* (2022-23) of the budgeted figures. The Board's actual revenue during the audit period was always below 70 *per cent* of the budget projections in case of cess collection, which was the largest source of income to the Board. The actual receipts under the head 'Workers' contribution of the Board' varied from 76.77 *per cent* (2018-19) to 46.15 *per cent* (2021-22) of the budgeted figures as shown in **Table 5.2**.

Table 5.2: Budget and Actual figures of the Revenue Receipts*(₹ in crore)*

Year	Employers' share (Cess)			Workers' Contribution		
	Budget	Actual	per cent	Budget	Actual	per cent
2018-19	360	248.95	69.15	80	61.42	76.77
2019-20	410	235.26	57.38	90	55.50	61.67
2020-21	415	248.25	59.82	91	58.82	64.63
2021-22	415	285.60	68.82	90	41.53	46.15
2022-23	650	370.10	56.94	90	46.65	51.83

(Source: Budget documents of the Board)

Scrutiny of records further revealed that in respect of workers' contribution, the budget provision was fixed arbitrarily between ₹80 crore and ₹91 crore during the last five years. As per information furnished by the Board, the number of workers registered during the five-year period ranged between 18.11 lakh and 20.68 lakh²⁹. Considering the monthly subscription of ₹50 (₹600 annually), the workers' contribution required to be budgeted as ₹124.05 crore, whereas the provision was made for just ₹90 crore, which is indicative of the fact that the budget provisions were not formulated on a realistic basis. The Government did not furnish any reply till date.

5.3. Delay in submission of statutory reports

According to Rule 277 (1) of the Kerala Rules, the Board shall be responsible for submission of annual report on its activities to Government and for annual audit of the accounts of the Board in accordance with the provisions of the Act. Rule 311 stipulates that a report on the functioning of the Board during every financial year shall be approved by the Board before the 15th day of June next year and submitted to Government before the 31st day of July in that year.

However, Audit observed that annual reports of the Board pertaining to the period 2018-19 to 2022-23 were yet to be submitted to Government. The last annual report for 2017-18 was submitted only in May 2022, i.e., after a lapse of four years.

Further, Section 27 of BOCW(RECS) Act stipulates that the Board shall maintain proper accounts and other relevant records to be audited by the CAG of India annually and the Board shall furnish to the State Government, its audited copy of accounts together with the auditor's report. The State Government shall cause the annual report and auditor's report to be laid before the State Legislature.

The details of audit of accounts of the Board presented in **Appendix 5.1** indicated delay ranging from 11 to 24 months in the submission of accounts to the Accountant General for audit. Consequently, the duly approved Separate Audit Reports on these accounts were sent to the State Legislature only after two to three years from the close of the financial year.

²⁹ In 2022-23

Government did not furnish reply in this regard.

5.4. Migrant Workers' Welfare Fund

Government of Kerala issued (March 2010) guidelines for constitution of Migrant Workers' Welfare Fund exclusively for the welfare of migrant workers. The fund was to be managed as a separate fund by the Board and utilised for meeting the expenses related to the death of a beneficiary, transportation of bodily remains to native place, accident relief, medical assistance, terminal benefit and education grant of a migrant worker and his dependants.

As per the scheme guidelines, quantum of funds towards the Migrant Workers' Welfare Fund accrues from three sources (a) contribution from the worker at the rate of ₹30 per year (b) three times the contribution per worker from the Government and (c) three times the contribution per worker from the Board. GoK allocated ₹10 crore to the fund during 2010 as corpus fund.

The Board did not have a comprehensive database on the details of construction workers migrating into the State. The Board stated that 1.65 lakh migrant workers were registered under the corpus fund of the scheme. During the period 2018-19 to 2022-23, the Board had incurred ₹1.69 crore from the Migrant Workers' Welfare Fund towards welfare related expenditure as given in **Table 5.3**.

Table 5.3: Expenses incurred from Migrant Workers' Welfare Fund for welfare activities

Financial Year	Amount (₹ in lakh)
2018-19	15.63
2019-20	31.15
2020-21	41.08
2021-22	33.03
2022-23	48.35
Total	169.24

(Source: Data furnished by the Board)

The Government did not make any further allocation to the fund since 2010 and expenditure on the welfare activities, administrative expenses, etc. were met from the accumulated interest of the initial corpus fund of ₹10 crore.

The guidelines also stipulate that the Annual Accounts of the above fund should be finalised by 30 September of the subsequent year. However, Audit scrutiny revealed that the accounts were prepared only upto the financial year 2018-19. Non-preparation of accounts of Migrant Workers' Welfare Fund for the last five years is indicative of the low priority assigned by Government towards efficient implementation of welfare activities for migrant workers.

Further, the accounts were also not seen examined by an officer of the Labour Department not below the rank of Joint Secretary, which was contrary to that

stipulated in paragraph 21 of the guidelines. The Government did not furnish any reply till September 2024.

5.5. Cheques/ DDs pending for revalidation

According to Rule 5 of the Cess rules, the proceeds of the cess collected shall be transferred by Government offices, Public Sector Undertakings, local authority, or cess collector, to the Board within 30 days of its collection. The Assistant Labour Officer (Grade I)/Deputy Labour Officer assesses the cess amount and the employer submits cheques/DDs collected for the cess amount, to the DLOs. The DLOs forward these cheques/DDs to the Board by post, which in turn submits them to banks for realisation.

Audit noticed that cheques/DDs worth ₹6.72 crore were not received in the Board within one month as mandated, but only after the end of their validity period. Hence, these cheques/DDs were returned to the DLOs who in turn forwarded them to the assessee for revalidation. Of these, cheques/DDs amounting to ₹1.31 crore (March 2023) were not seen revalidated and credited to the Board's account, details of which are as shown in **Table 5.4** below.

Table 5.4: Delay in revalidation of time-barred Demand Drafts and cheques and amount pending realisation

Year	Cheques/ DDs sent for revalidation		Cheques/ DDs revalidated		Cheques/ DDs pending revalidation	
	No. of DDs/ cheques	Amount (₹ in crore)	No. of DDs/ cheques	Amount (₹ in crore)	No. of DDs/ cheques	Amount (₹ in crore)
2018-19	312	2.16	233	2.14	79	0.11
2019-20	175	0.46	133	0.39	42	0.07
2020-21	380	1.23	263	0.71	117	0.52
2021-22	136	0.90	105	0.80	31	0.11
2022-23	289	1.97	182	1.47	107	0.50
Total	1,292	6.72	916	5.51	376	1.31

(Source: Data furnished by the Board)

Scrutiny of the register of cheques/DDs for revalidation maintained by the Board revealed that 1292 cheques/DDs received by the Board amounting to ₹6.72 crore were sent for revalidation during the audit period, due to various reasons as shown in **Table 5.5**.

Table 5.5: Details of cheques/DDs sent for revalidation due to various reasons

Year	Number of cheques/DDs sent for revalidation due to various reasons							Total
	Outdated cheques/ DDs	Variation in payee's name	Signature not matching	Treasury not accepting	Mutilated cheques/ DDs	Technical errors	Reasons not specified	
2018-19	136	0	12	16	0	0	148	312
2019-20	84	29	19	3	2	0	38	175
2020-21	249	1	7	2	0	42	79	380

Year	Number of cheques/DDs sent for revalidation due to various reasons							Total
	Outdated cheques/DDs	Variation in payee's name	Signature not matching	Treasury not accepting	Mutilated cheques/DDs	Technical errors	Reasons not specified	
2021-22	51	10	17	0	2	0	56	136
2022-23	113	49	35	0	5	0	87	289
Total	633	89	90	21	9	42	408	1292

(Source: Data furnished by the Board)

Audit also observed that the Board in its meeting held on 30 September 2014 had decided to implement online payment system of cess directly to the Bank account of the Board. However, the system had not commenced even after nine years. Switching over to online payment would have eliminated delay on the part of the DLOs in transmitting cheques/DDs to the Board, thereby facilitating timely deposit of cess amount in the Board's account.

Government stated (December 2022) that 347 cheques/DDs amounting to ₹71.51 lakh were still pending revalidation and that earnest efforts were being taken to sort out the issue at the earliest.

5.6. Non-utilisation of vacant space in the BOCWWB Ernakulam District office building

Section 22 of the BOCW(RECS) Act specifically mentions about the utilisation of cess fund for welfare measures. Further, Rule 309 read with Rule 310(2) of the Kerala Rules stipulates that the fund shall not be expended for any other purpose without the previous approval of Government and that amounts incurred by the Government for the administration of the fund shall be treated as a loan which shall be repaid from the administrative account of the fund.



Figure 5.1: Floor 2 of BOCWWB Ernakulam District Office building, Edappally not rented out and lying vacant. Photo taken by Audit Party on 11 October 2023



Figure 5.2: Floor 3 of BOCWWB Ernakulam District Office building, Edappally not rented out and lying vacant. Photo taken by Audit Party on 11 October 2023

Government accorded administrative sanction (December 2010) to the Board for construction of a multi-storied office complex, in 18.48 cents of land under its ownership at Edappally in Ernakulam district. Part of the building was proposed to be used for the functioning of the office of the Board and the remaining area to be let out to other Welfare Boards on rent, to earn revenue. The four storied building with a total area of 1,243.84 sq.m was completed at an estimate cost of ₹3.41 crore and inaugurated on 31 May 2014.

Audit observed that the amount spent on construction of the building was not treated as a loan and recouped from the administrative account in violation of Rules. Furthermore, the said building was not fully utilised even after passage of 10 years (July 2024). Only the ground floor and first floor of the building were being utilised³⁰ and the second and third floors of the building were lying vacant and unused, resulting in idle investment amounting to ₹61.92 lakh being the estimated cost of construction of the two floors. Audit also observed that even though the intention of the Board was to rent out the floors of the building to earn revenue, the Board had not obtained separate building numbers for individual floors till June 2022.

Audit further noticed that in April 2022, as per orders of the Secretary of the Board, District Executive Office, Ernakulam forwarded letters to 11 insurance companies/financial institutions and four Welfare Boards seeking their interest to occupy the vacant office space. Though response was received only from one institution³¹, the Board has not been able to rent out the vacant floors so as to earn rental income.

Government had informed (December 2022) Audit that the Board in its meeting held in November 2022, decided to rent out the additional floors to any institution belonging to the Government or Board/private institutions. However, this has not happened till date, as it was stated during the Exit Conference (July 2024) that necessary steps were being taken to hand over the vacant space to other Welfare Boards within a few months.

5.7. Blocking up of funds on land purchased for Kerala Construction Academy

Government of Kerala (GoK) accorded sanction (August 2009) for constructing an Academy under Kerala Building and Other Construction Workers' Welfare Board. The Academy was proposed to facilitate modern training in construction and other related fields to the construction workers, provide technical training as well as various work experience courses, conduct Degree/Master Degree/Diploma Courses in Building Technology, Facility Management and Construction Management etc. Out of the proposed amount of ₹100 crore for construction, 50 per cent was to be borne by Government of India as one time grant and 25 per cent each was to be met by the Board and GoK.

³⁰ Ground floor is being utilised as Reception area and the first floor as the district office of the Board at Ernakulam.

³¹ Kerala Tailoring Workers Welfare Fund Board.

The Board purchased (February 2011) 10 acres of Land³² in Meenad Village in Kollam District for ₹14.95 crore for establishing Kerala Construction Academy (Academy). The Academy was registered under the Travancore Kochi Literary Scientific and Charitable Societies' Act, 1955 and the foundation stone laid in March 2011. However, no progress was made in the construction of the Academy since then.

In January 2017, Government suggested that as the Kerala Academy for Skills Excellence has already come into existence, the Board may consider winding up the project to establish the Academy. However, in the Board meeting held in March 2017, it was decided to proceed with the construction of the proposed Academy in the land purchased. M/s Uralungal Labour Contract Co-operative Society was entrusted (December 2018) with the preparation of DPR of the project, which was submitted (March 2021) to Government for approval. Government approved (March 2022) the DPR, subject to inclusion of a new course, Certificate Programme in Carpentry in the DPR. However, in November 2022, Government directed to stop all activities related to the Academy temporarily, until the financial position of the Board improved.

Audit observed that the Board has not undertaken any activity in the land purchased till date (May 2024). In reply, Secretary (the Board) stated that the financial position of the Board was very strong at the time of mooted of the project which enabled it to purchase 10 acres of land. As the revenue of the Board has now dipped to a level at which it was difficult to disburse pension/other welfare benefits to workers, the Board was not in a position to proceed with the project.

The reply is not acceptable as the Board itself had reiterated its stand in 2017 to proceed with the project. Lack of initiative and timely action by the Government/Board had led to non-realisation of objectives of the project, besides leading to blocking up of amount worth ₹14.95 crore for the last 13 years. Further, an alternative arrangement for imparting training on skill development to construction workers has not yet been devised by the Government/Board till date.

5.8. Loss of ₹20.40 crore towards deduction of income tax due to non-availing of exemption

According to Section 10 (46) of the Income Tax Act, 1961, in computing the total income of a previous year of any person, any income falling within the clause "any specified income arising to a Body or Authority or Board or Trust or Commission, or a class thereof which (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public; (b) is not engaged in any commercial activity; and (c) is notified by the Central

³² 27.5 cents of land from this plot were subsequently acquired for the expansion of NH 66.

Government in the Official Gazette for the purposes of this clause” shall not be included.

As per the above clause, the income of the Board was to be exempted from income tax. However, Audit observed that the banks were deducting income tax on interest earned, since the Board had not submitted the application for exemption in time. The details of deduction of income tax during the audit period 2018-19 to 2022-23 are as shown in **Table 5.6**.

Table 5.6: Details of deduction of income tax during the period 2018-19 to 2022-23

Year	TDS on Interest (₹)
2018-19	7,89,94,917
2019-20	5,67,88,683
2020-21	5,46,15,109
2021-22	77,01,703
2022-23	59,15,529
Total	20,40,15,941

(Source: Annual Accounts of the Board)

Failure on the part of the Board in availing exemption under relevant provisions of the Income Tax Act in time resulted in loss of ₹20.40 crore and subsequent increase in financial deficit of the Board.

Government replied (December 2022) that appeals against all demands were pending disposal before the Commissioner of Income Tax (Appeals) for the assessment year, from 2013-18. It was also stated that application for exemption under Section 10(46) had been moved in December 2015 and the same was pending approval and that the Board was unable to take any further step in this regard in the absence of written response from Income Tax (IT) Department.

Audit noticed that even after lapse of nine years of moving an application for exemption, no serious follow up action was taken by the Board to get approval from the IT Department and to obtain refund of the TDS deducted from the interest income of the Board, resulting in blocking up of ₹20.40 crore of the Board’s funds.

5.9. Functioning of State Advisory Committee and Expert Committee

According to Sections 4 and 5 of the BOCW(RECS) Act, the Government shall constitute the State Advisory Committee and Expert Committee to advise the State Government on such matters arising out of the administration of the Act as may be referred to it. The State Advisory Committee was to be comprised of a chairperson, two members of the State Legislature, a member to be nominated by Central Government, the Chief Inspector and members³³ nominated by State Government representing employers, building workers, accident insurance

³³ not less than seven and not exceeding 11.

institutions, etc. Audit observed that the State Advisory Committee was formed in the State only in November 2015. The members of the Committee included the Minister of Labour and Skills as Chairman, Members representing State Legislature, Central Government nominee, Labour Commissioner and representatives of employers and Building and other construction workers. However, Audit observed that since the expiry of the three-year tenure of the Committee on 09 November 2018, the Committee has not been re-constituted (August 2023).

The BOCW(RECS) Act further envisaged constitution of an Expert Committee comprising persons specially qualified in building or other construction works, for advising the Government in making rules under the Act. The Expert Committee was constituted in the State on 14 September 2011, with the Secretary, Labour and Rehabilitation Department as Chairman, Additional Secretary, Law Department, the Chief Engineer Building and Works, Labour Commissioner and Secretary, Kerala Building and other Construction Workers' Welfare Board as members.

Scrutiny of records by Audit revealed that the first meeting of the Expert Committee was held on 15 October 2011. The Committee next met, after a prolonged interval of 12 years on 05 July 2023, which was attended by the Labour Commissioner, Additional Law Secretary, Secretary (Board) and Joint Secretary, Labour Department. There was no participation from persons qualified in construction works as envisaged in the Act.

Failure to re-constitute statutory committees and periodically convene these committees as per the composition envisaged in Act/Rules would reflect adversely upon their stature and functioning as advisory bodies to Government. The Government did not furnish any reply till September 2024.

5.10. Lapses in monitoring

Provisions of the Rule 29 (1) of the Kerala Rules, require an employer to submit to the Inspectors³⁴ before 30 days of commencement of construction work, a notice in Form IV, intimating the proposed date of commencement of the work. Further, Section 48 of the BOCW(RECS) Act stipulates imprisonment or fine amounting ₹2,000 or both, in case of non-filing of Form IV. Section 50 (3) of the Act enjoins issue of notice to the employers before imposing penalty.

Audit noticed that there was no system in place to monitor the receipt of Form IV from employers or imposing of fine as stipulated in the rule provisions. As a result, neither the Labour Department nor the Board was aware of the number of constructions proposed to be commenced as well as the quantum of cess leviable on the constructions. The Government did not furnish any reply till September 2024.

³⁴ Regional Joint Labour Commissioners in Ernakulam and Kozhikode and District Labour Officer (Enforcement) in Malappuram

5.11. Shortcomings in inspection of establishments

According to Sections 42(2) and (3) of the BOCW(RECS) Act, the State Government may, by notification, appoint a Gazetted Officer to be the Chief Inspector of Inspection of Building and other Construction and other officers as Inspectors, who shall be responsible for effectively carrying out the provisions of this Act in the State and local limits respectively. Section 43 (a) authorises an inspector to enter any premises or place where building and other construction work was carried on, for the purpose of examining any register, record or notices required to be maintained under this Act and produced for inspection.

A Circular issued (May 2015) by the Labour Commissioner directed that in six districts³⁵ the District Labour Officers must conduct at least 10 inspections per month and in other districts the District Labour Officers must conduct at least five inspections per month and the same was to be reported to Labour Commissioner periodically.

Table 5.7 gives the number of registered establishments, number of inspections to be conducted and actually conducted and number of cases in which penalty was imposed.

Table 5.7: Year-wise details of number of registered establishments, number of inspections to be conducted and actually conducted and penalty imposed in the selected districts

Year	Ernakulam				Kozhikode				Malappuram			
	No. of registered establishments	No. of inspections to be conducted	Actual number of inspections conducted	No. of cases in which penalty was imposed	No. of registered establishments	No. of inspections to be conducted	Actual number of inspections conducted	No. of cases in which penalty was imposed	No. of registered establishments	No. of inspections to be conducted	Actual number of inspections conducted	No. of cases in which penalty was imposed
2018	80	120	50	Nil	48	120	15	Nil	17	60	19	Nil
2019	59	120	39	Nil	244	120	40	Nil	202	60	100	Nil
2020	30	120	6	Nil	89	120	Nil	Nil	20	60	Nil	Nil
2021	48	120	4	Nil	20	120	8	Nil	18	60	Nil	Nil
2022	59	120	1	Nil	21	120	1	Nil	17	60	1	Nil
Total	276	600	100	Nil	422	600	64	Nil	274	300	120	Nil

(Source: Data obtained from Labour and Skills Department)

It was seen that the DLOs in test-checked districts did not comply with the circular issued by Labour Commissioner and failed to conduct the prescribed number of monthly inspections.

Out of the 26 files relating to establishments test-checked by audit in Malappuram district, reply to notices issued after inspection was received only

³⁵ Thiruvananthapuram, Kollam, Ernakulam, Thrissur, Kozhikode and Kannur

from one establishment. In respect of two notices issued after inspection, the notices were returned by the Postal Department as the address given by the Labour Department was incomplete. Audit observed that, in none of the instances a follow up was conducted by DLO to ensure that violations noticed during inspections were rectified, ensuring the safety of workers employed.

In Ernakulam District, out of 27 files test-checked, 25 establishments had complied with the direction given in the notices. In Kozhikode District, out of the 29 files test-checked, it was seen that no notices were issued to two establishments despite noticing violations. Further, 21 establishments had not complied with the instructions of DLO regarding safety norms.

Audit observed that no penalty was imposed in cases where safety norms were found to have been violated.

Government stated during the Exit Conference (July 2024) that the number of inspections had been increased and strengthened in the last three months to improve the monitoring system of the Labour Department.

Recommendation 10: The Government should ensure that required number of inspections of establishments are conducted as prescribed in the Act and Rules and that deficiencies in grievance redressal system are rectified.

5.12. Failure to ensure safety at workplaces

The BOCW (RECS) Act has been enacted to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto. Section 40 of the Act re-iterated the power of appropriate Government to make Rules for the safety and health of building workers and listed the provisions which ensured safety of employees under a variety of working conditions³⁶.

Audit conducted joint verification of 12 registered and 12 unregistered establishments in three selected districts. In addition, Audit also visited two incident/accident sites in a selected district, where work was in progress. The extent of compliance of these establishments, to the safety norms envisaged by the Act and Rules is presented in **Appendix 5.2**.

It was seen that barricades/ sign boards were not provided in 20 cases and in 21 cases warning signboards for electrical hazards were not provided. In 18 cases safety nets were not provided and in 14 cases no protection from electric lines was provided. Non-providing of safety helmets in 11 cases and waterproof boots

³⁶ Provision of suitable and sufficient scaffolding at various stages when work cannot be safely done from the ground or from any part of a building or from a ladder or such other means of support; demolition of the whole or any substantial part of a building or other structure under the supervision of a competent person and the avoidance of danger from collapse of any building or other structure while removing any part of the framed building or other structure by shoring or otherwise, the handling or use of explosive under the control of competent persons to avoid exposure to the risk of injury from explosion or from flying material, the erection, installation, use and maintenance of transporting equipment such as locomotives, trucks, wagons, other vehicles and trailers, etc.

in 13 cases also came to notice. In addition to these, non-providing of hand gloves and waterproof coats in 11 cases and equipment against hazards of falling in 13 cases were also seen.

Out of the 26 selected establishments, construction works were executed for Government institutions in eight establishments. Audit noticed that protection from electric lines, safety nets, safety helmets and waterproof boots were not provided in five of these establishments. Four establishments did not provide hand gloves, waterproof coats and equipment against hazards of falling.

The District Labour Officers were responsible for ensuring the safety norms at worksites under their jurisdiction, through inspections. Non-adherence to safety norms in registered establishments as well as in those unregistered establishments where work was in progress needed to be addressed on priority.

Audit also conducted joint verification at the following work sites where accidents of death/injury of workers while on site were reported:

5.12.1. Commercial building for M/s Kalyan Silks, Thodayad Junction, Kozhikode

On 26 September 2021, two migrant workers were crushed to death when concrete slabs crashed on them. Three migrant labourers were also severely injured in the mishap. Though two years had lapsed since the work had commenced, an inspection was conducted by the Labour Department only on the next day after the incident occurred. This was violative of the Government notification (May 2015) wherein 10 inspections were required to be conducted each month, as detailed in **Table 5.7**. Further, the inspection revealed 14 violations regarding adherence to safety measures as stipulated in the Act.

Audit conducted joint physical verification at the above site along with Labour Departmental officers two years later, on 20 September 2023 and observed that the four safety violations pointed out by the Labour Department in September 2021 consequent upon the accident, were not rectified by the establishment even after a lapse of two years.



Figure 5.3 M/s Kalyan Silks building, Thodayad Junction, Kozhikode. Failure to cover or guard suitably and properly every open side, into or through which a building worker, vehicle or lifting appliance may fall. Photo taken by Audit party on 20 September 2023.



Figure 5.4 M/s Kalyan Silks building, Thodayad Junction, Kozhikode. Failure to provide quality safety net to prevent accidents. Photo taken by Audit party on 20 September 2023.

This clearly points to the negligent approach of Government in the enforcement of safety norms by resorting to prompt action as laid down in Acts/Rules to prevent such occurrences in future.

The District Labour Officer, Kozhikode stated in reply (November 2023) that as M/s. Kalyan Silks, Kozhikode was a commercial building employing more

than 100 workers, permission³⁷ has been sought from Labour Commissioner for conducting inspections. The reply is not justifiable, as the DLO chose to seek permission only after the violations were pointed out by Audit. Timely inspections by authorities in accordance with the Rules would have enhanced the extent of adherence to safety norms. The Government did not furnish any reply till September 2024.

5.12.2. Hillsinai building, Markaz Knowledge City, Kaithappoyil, Kozhikode

As per Section 47 of the BOCW(RECS) Act, contravention of provisions of any Rules made under Section 40, shall be punishable with imprisonment for a term which may extend to three months, or with fine up to ₹2,000 or both, and in the case of a continuing contravention, with an additional fine up to ₹100 every day.



Figure 5.5: M/s Hillsinai building, Markaz Knowledge City, Kaithappoyil, Kozhikode. Work ongoing in the site even after issuance of stop memo. Photo taken by Audit party on 21 September 2023.

³⁷ As instructed in Circular issued by Labour Commissioner on 20 September 2023.



Figure 5.6: M/s Hillsinai building, Markaz Knowledge City, Kaithappoyil, Kozhikode. Failure to provide safety net of standard. Photo taken by Audit party on 21 September 2023.

On 18 January 2022, the third floor of the building collapsed during concreting, resulting in injury to 21 migrant and two native labourers.

After conducting an enquiry, the Labour Department issued stop memo to the builder on the next day. The Labour Department issued multiple reminders followed by show cause notice on 14 July 2022 for compliance, failing which prosecution formalities could be initiated under the provisions in the Act/Rules. The employer stated that he had rectified five of the eight violations pointed out by the Labour Department and requested that all further proceedings against him be dropped.

Audit conducted joint physical verification (September 2023) of the construction site and noticed that the construction activities were ongoing despite issuance of stop memo and that several violations³⁸ noticed earlier were still persisting at the site as detailed in **Appendix 5.3**.

Thus, the Labour Department could not ensure adherence to safety norms at worksites by the employers, even after accidents/incidents. The extent of inaction and follow-up by Labour Department in the instances mentioned above clearly bring out the lackadaisical attitude of authorities to curb threats to safety of workers at construction sites. The Government did not furnish any reply till September 2024.

³⁸ including three out of the five violations stated to have been rectified

Recommendation 11: The Government should ensure that utmost priority is given to the safety of workers in construction sites. Officials responsible for oversight in the adherence to safety norms by the establishments may be held accountable.

5.13. Lack of effective grievance redressal mechanism

The Labour Department has a system of monitoring complaints received on all labour related issues in the LCAS software. Complaints are received at the call centre set up with a toll-free number and the complaints are recorded by the call centre agent in LCAS module. The DLOs/ALOs were to act upon the complaints received and take steps to resolve them.

Analysis of the module for processing complaints received from workers³⁹ State-wide in the LCAS software as on 09 November 2023 revealed that as against 1180 complaints received, 124 complaints alone were shown as settled. The Board could not furnish the status of settlement of the remaining complaints to Audit.

Audit sought details of complaints received from building and other construction workers at the test-checked District Labour offices and observed that of the 12 complaints received, 10 were pending settlement at Kozhikode and Malappuram. Further, none of the complaints received were seen routed through LCAS. The details of complaints received, and status of action taken, as furnished by DLOs are presented in **Appendix 5.4**.

Lack of effective grievance redressal system would contribute to delay in timely settlement of complaints filed by workers and hence needs to be addressed in priority. The Government did not furnish any reply till September 2024.

5.14. Conclusion

The financial position of the Board presented a grim scenario with the cash balance of the Board declining steadily from ₹910.06 crore in March 2019 to ₹135.16 crore in March 2023. The disbursement of welfare benefits also showed a decreasing trend since 2020-21. The Board submitted its accounts to the Accountant General for audit after delays ranging from 11 to 24 months. Out of the ₹10 crore corpus fund allocated for the Migrant Workers' Welfare Fund, only ₹1.69 crore was spent on workers' welfare between 2018-19 and 2022-23. The Labour Officer did not conduct the prescribed number of monthly

³⁹ Data pertaining to all types of workers were displayed. Audit could not obtain segregated data pertaining to construction workers

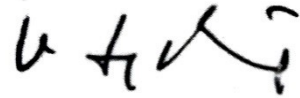
inspections in selected districts. Safety norms were not seen adhered to in test-checked construction sites, even after occurrence of accidents.



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Thiruvananthapuram,
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Countersigned



(K. SANJAY MURTHY)
Comptroller and Auditor General of India

New Delhi,
The 20 February 2025