

CHAPTER - I

Introduction

Chapter I: Introduction

1.1 Introduction

Unorganised sector in India: According to Economic Survey Report 2021-22¹, more than 82 *per cent* of the labour force is in the unorganised sector. The unorganised workers suffer from seasonality of employment, lack of formal employer-employee relationship, absence of adequate social security protection and other welfare schemes. Construction workers, who are mostly in the unorganised sector, are a major workforce in nation-building.

Labour welfare comes under the Concurrent List of the Constitution of India. In Karnataka, the Department of Labour plays a pivotal role in ensuring labour welfare and maintaining smooth industrial relations. It enforces labour laws, promotes industrial peace, and implements social security measures. Its activities align with labour policy to protect workers' rights and interests while fostering industrial growth. By nurturing labour resources, it lays the groundwork for comprehensive development and inclusive industrial relations in the State.

The Labour Department extends welfare measures to building and construction workers through the Karnataka Building and Other Construction Workers' Welfare Board² (KBOCWWB – hereinafter referred to as Board). Further, the Department oversees two advisory Boards namely, the Karnataka State Minimum Wages Advisory Board and the Karnataka State Contract Labour Advisory Board, which provide guidance on relevant subjects.

1.2 Legal framework for creation of Boards

The Boards were created in accordance with the Central and State Acts enacted to provide statutory recognition for the Boards.

Government of India (GoI) enacted (August 1996) the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act) and the Building and Other Construction Workers' Welfare Cess Act, 1996 (Cess Act) to provide safety, health and welfare measures for the benefit of construction workers through levy/ collection of Labour Cess (Cess). The GoI also framed (November 1998) the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Central Rules, 1998 (Rules) and Building and Other Construction Workers' Welfare Cess Rules, 1998 (Cess Rules). The Acts *inter alia* mandated constitution of a Building and Other Construction Workers' Welfare Board and framing of Rules thereof by every State Government in exercise of the powers conferred under the Act.

Based on the above Central Acts, Government of Karnataka (GoK) enacted

¹ By the Department of Economic Affairs, Ministry of Finance, Government of India.

² Established in 2007.

Karnataka Building and Other Construction Workers Rules in 2006 to enforce the provisions of the above Acts. It also constituted the Board in January 2007 and issued instructions to execute their functions for collection of cess.

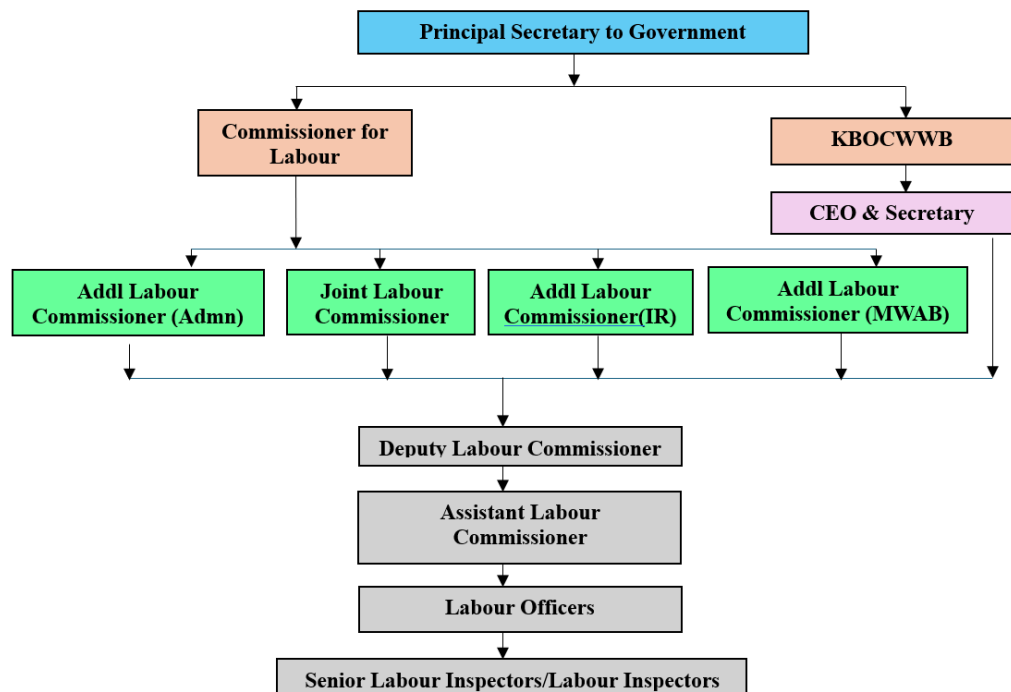
The Board was established with the aim of preventing the exploitation of building and construction workers stemming from their socio-economic status. Its mission extends to securing access to education, healthcare, and a dignified life for both the workers and their families.

1.3 Administration

1.3.1 Organisational Structure

The Labour Department is headed by the Principal Secretary to GoK and is assisted by the Commissioner of Labour. There are five Regional Officers in the Cadre of Deputy Labour Commissioner, 11 Divisional Offices each headed by the Assistant Labour Commissioner, 41 Sub-Divisional Offices each headed by the Labour Officer and 248 Senior Labour Inspector/Labour Inspector at Taluk level. The organisation structure of the Labour Department is given in Exhibit-1.1.

Exhibit-1.1: Organisational Structure involved in implementing Acts/Rules pertaining to the welfare of construction workers in Karnataka



The functions of the Board are governed by a Governing Committee headed/chaired by the State Labour Minister and the Chief Executive Officer (CEO) and Secretary heads the Board. The Board does not have any field offices and the implementation of Board schemes is carried out by the officers of the

Labour Department - Assistant Labour Commissioners (ALC) at the regional level and Labour Officers (LO) at the district. A list of the schemes implemented by the Board is given in **Appendix 1.1**.

District Offices: The Assistant Labour Commissioners and Labour Officers in the districts are responsible for implementing the provisions of the BOCW Act and other Labour Acts.

State Advisory Committee: As per Rule 12 of the Building and Other Construction Workers' (Regulation of employment and Conditions of Service) Karnataka Rules, 2006, the State Advisory Committee shall meet at such places and at such times as may be decided by the Chairperson of such Committee and it shall meet at least once in six months.

Expert Committee: Section 5 of the BOCW Act empowers the Government to establish one or more Expert Committees comprising individuals with specialized qualifications in building or other construction work. These committees are to advise the Government on the formulation of rules under this Act. Further, the Honourable Supreme Court directed (March 2018) all States to constitute Expert Committees and formulate statutory rules under Section 62 of the BOCW Act.

1.3.2 Procedure for obtaining the benefits

To avail the benefit, beneficiary must apply to the Board. These applications undergo verification by the Labour Inspector or Senior Labour Inspector before being forwarded to the sanctioning authority as per the scheme guidelines. Upon approval, cash benefits are deposited directly into the beneficiary's bank account. A toll-free helpline is available for anyone to know about the schemes. A beneficiary can get assistance for registration and applying for any scheme. Further, trade unions, associations and non-government organisations are also involved in spreading awareness about the schemes.

1.3.3 Fund Flow of the Board

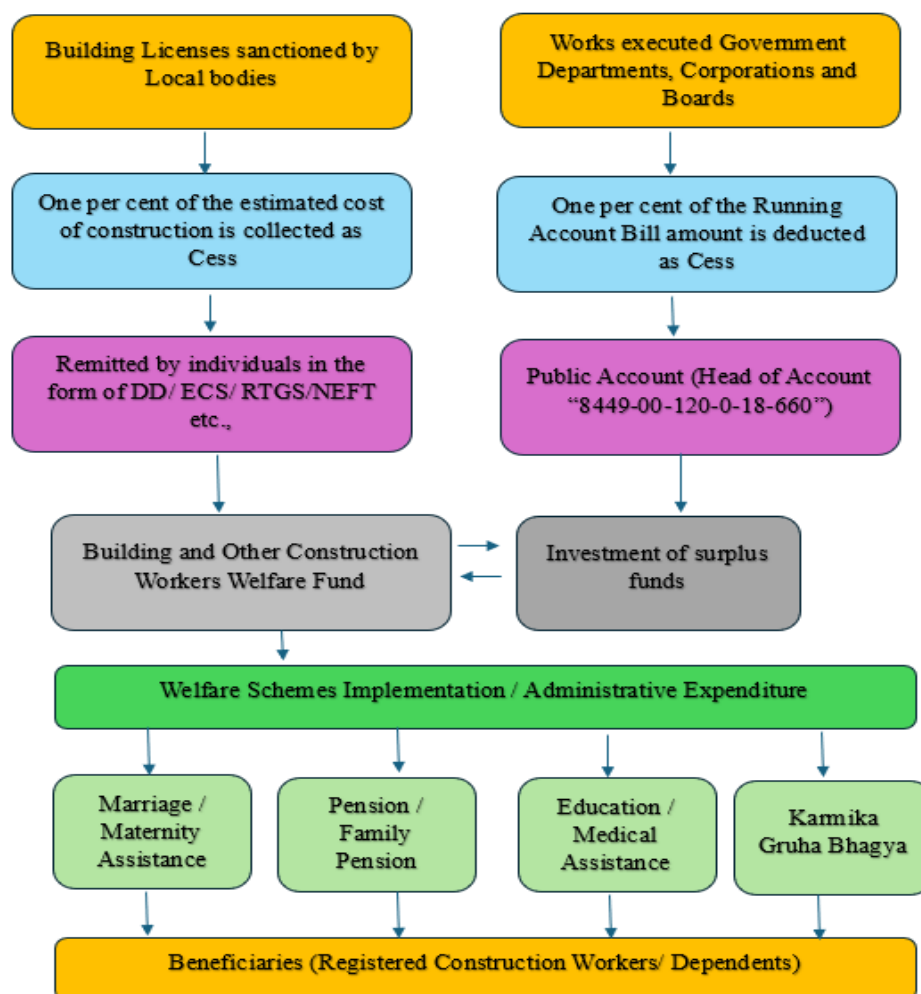
The Act³ prescribes the sources from which the funds are to be obtained to carry out the administrative functions of the Board and for implementation of the schemes. The sources of finance for the Construction Board are discussed below.

- The funds for the Board are collected through a cess levied on the cost of construction incurred by the employers on the building and other construction works provided in the Building and Other Construction Workers' Welfare Cess Act, 1996 (the Cess Act, 1996).

The fund flow for collection and utilisation of cess is given in **Exhibit 1.2**.

³ Section-3 of Karnataka Labour Welfare Fund Act, 1965, Section-4 & 7 of Central Unorganised workers' Social Security Act, 2008, Section-3 of Building and Other Construction Workers' Welfare Cess Act, 1996.

Exhibit 1.2: Fund flow for collection and Utilisation of Cess



1.4 Audit Approach and methodology

This Performance Audit (PA) covering the period 2018-19 to 2022-23 primarily focused on the extent of availability of social security to the labourers with specific reference to registration of establishments and workers, formulation, and implementation of the schemes by the Board established for this purpose.

Audit Objectives:

The Objectives of the PA were to assess whether:

- A mechanism is available for enumeration and registration of all establishments, and for assessment, collection and remittance of cess into the Board's fund; and the fund is managed in an effective, efficient and economical manner.
- Administration and utilization of funds on implementation of welfare schemes by the Boards were efficient and effective and as per the relevant Act and rules framed by the Government of Karnataka and Government of India.

- Government implemented transparent and effective system of monitoring to check evasion of Labour Cess and compliance to health and safety norms by Employers.

Audit Criteria:

The criteria for the PA were derived from:

- (i) Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996.
- (ii) Karnataka Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 2006.
- (iii) Building and Other Construction Workers' Cess Act 1996 and Cess Rules, 1998.
- (iv) Karnataka Financial Code.
- (v) Government orders and Circulars issued in this regard.
- (vi) Karnataka Transparency in Public Procurement Act and Rules and
- (vii) Resolutions passed by the Board.

Scope of Audit and Sampling Method:

The offices of the Labour Department at the Divisional level and Sub-Division Level which are responsible for implementation of the schemes of the Board were selected through random sampling method. Three⁴ out of 11 ALC Offices at the Divisional level and six⁵ out of 41 LOs at the Sub-Divisional level were chosen for detailed scrutiny. The Board accounts for 95 *per cent* of the total expenditure among the three Labour Boards in Karnataka.

The schemes implemented by the Board were stratified into three strata based on amount of assistance disbursed of which, 10 welfare schemes⁶ were selected based on Stratified Random Sampling method. A survey of the beneficiaries from each LO was conducted to evaluate the performance of the Board in respect of identification and registration of beneficiaries, scrutiny of their applications, and grievances of the beneficiaries. Further, works related to departments such as PWD, and Urban Local Bodies/Boards/Authorities were also visited for verification of registration of establishment, collection of labour cess and its timely remittance into the Board's account.

Records pertaining to welfare schemes and revenue collection were scrutinized at selected offices, including the Board Head Office and the Commissioner for Labour, Government of Karnataka. Further, data from the portals of *Seva*

⁴ ALC-1 Bengaluru, ALC- Belagavi and ALC-Mangaluru.

⁵ LO-01 Bengaluru, LO-Bidar, LO- Davanagere, LO-Hubballi, LO-Mysuru and LO-2 Belagavi.

⁶ Superannuation Pension, Family Pension, Permanent Disability, Major Medical Assistance, Thayi Magu Sahaya Hasta, Educational Assistance, Tool kit Scheme, Preventive Health Checkup, Karmika Gruha Bhagya, Marriage Assistance.

*Sindhu*⁷, *e-Karmika*⁸ and *e-Shram*⁹ regarding applications, registrations, and beneficiaries was collected and reviewed during Audit.

Audit methodology:

The primary Audit evidence was collected through scrutiny of records, replies to Audit enquiries and copies of documents furnished along with replies by audited entities. Joint Physical Verifications were conducted at construction sites, accident sites and responses were obtained from 324 beneficiaries through questionnaires and from 303 beneficiaries through telephonic survey by calling the beneficiaries' mobile numbers furnished along with the application.

An Entry Conference was held on 07 August 2023 with the Principal Secretary to Government of Karnataka, Labour Department; CEO and Secretary and other officers of the Board to discuss the Audit objectives, scope and methodology. The Exit Conference was held on 01 August 2024 with the Principal Secretary to Government of Karnataka, Labour Department and the CEO and Secretary, Deputy Secretary and Accounts Officer of Board to discuss the Audit findings. The views of the Government have been appropriately included in the draft report.

1.5 Previous Audit Report

A Compliance Audit on Functioning of Karnataka Building and Other Construction Workers' Welfare Board was conducted for the period 2014-15 to 2018-19 and the findings were included in Paragraph 3.1 of the Report of the Comptroller and Auditor General of India (CAG) for the year ended March 2019 (Report No.3 of the year 2020). The para is yet to be discussed by the Public Accounts Committee. The updated status of certain Audit observations that remain unaddressed by the Department are detailed in **Appendix 1.2**.

1.6 Acknowledgment

Audit acknowledges the cooperation extended by the Officers and Staff of Labour Department and the Board during the conduct of this Performance Audit.

⁷ This is an integrated portal developed by the Government of Karnataka. It serves as a one-stop destination for citizens to access various government services and information.

⁸ This portal is developed by Government of Karnataka to enable Registration and Renewal of Establishments under the Karnataka Shops and Commercial Establishments Act, 1961.

⁹ This portal is developed by Ministry of Labour & Employment, Government of India to register and support the unorganised workers by providing them a Universal Account Number (UAN).

1.7 Audit Findings

The Audit findings based on the scrutiny of the records at the Head Office of the Board and the field offices are given in the following chapters:

Section A: Realisation of Labour Cess

- ❖ Chapter 2 – Registration of Establishments and Assessment of Labour Cess.
- ❖ Chapter 3 – Collection and Remittance of Labour Cess.

Section B: Utilisation of Labour Cess

- ❖ Chapter 4: Registration of Workers.
- ❖ Chapter 5: Implementation of Welfare Schemes.
- ❖ Chapter 6: Functioning of KBOCWWB.