

COMMITTEE ON PETITIONS

(EIGHTH LOK SABHA)

TWELFTH REPORT



[Presented to Lok Sabha on.....1989]

LOK SABHA SECRETARIAT

NEW DELHI

July, 1989/Asadha, 1911 (Saka)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

(1988-89)

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Shri Balasaheb Vikhe Patil

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TWELFTH REPORT OF THE COMMITTEE ON PETITIONS
(EIGHTH LOK SABHA)

INTRODUCTION

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Twelfth Report of the Committee to the House on the following matters :

- (i) Petition regarding Uniformity in Wages, Payment of provident fund Arrears and Provision of House Sites etc. to Beedi Workers and representation regarding Problems of Eatable Tobacco (Jarda) Workers.
- (ii) Representation regarding Grievances and Demands of Construction Workers.

2. The Committee considered the above matters at their sittings held on 28 December, 1988 and 9 February, 1989.

3. The Committee considered the draft Report at their sitting held on 31 May, 1989 and adopted it.

4. In connection with the Petition regarding Uniformity in Wages, Payment of Provident Fund Arrears and Provision of House Sites etc. to Beedi Workers and representation regarding Problems of Eatable Tobacco (Jarda) Workers, the Committee undertook an on-the-spot study visit to Ahmednagar and Pune during September, 1988. During tour, the Committee held informal discussions with the petitioners, the representatives of the State Government of Maharashtra and the representatives of the Central Government.

5. The Committee would like to express their thanks to the officials of the Ministries of Labour and Urban Development for furnishing information to the Committee.

NEW DELHI;

31 May, 1989

10 Jyaishta, 1911 (Saka)

BALASAHEB VIKHE PATIL,

Chairman.

Committee on Petitions.

II

REPRESENTATION REGARDING GRIEVANCES AND DEMANDS OF CONSTRUCTION WORKERS

2.1 Chairman, National Campaign Committee for Central Legislation on Construction Labour, New Delhi and other construction workers submitted a representation on 5 December, 1986 regarding their grievances and demands.

2.2 In their representation, the petitioners, *inter alia* stated as follows:

“That construction activity is the second largest economic activity in our country. It is estimated by authentic studies that about 2 crores of persons are regularly engaged in construction activity. But there is no comprehensive law to govern this industrial activity; no legal protection for security and regulation of employment of these workers.

* * *

The existing welfare legislation such as Maternity Benefit Act, Employees State Insurance Act, the Provident Fund Act, intended to apply to fixed employer-employee situations apart from being inapplicable, are unworkable even if extended to the construction workers as experience from different parts of the country demonstrates. The other legislations such as the Contract Labour (Regulation and Abolition) Act, Inter-State Migrant Labour Act, Minimum Wages Act, Equal Remuneration Act, etc. have no workable inbuilt machinery in the law for their implementation in respect of construction labour.

2.3 The petitioners suggested inclusion of the following points in the proposed Bill on construction workers :

- (1) Constitution of Construction Labour Boards representing the Governments, the Construction Workers and the employer which will regulate all construction activities and employment of construction labour by the principle of registration of employers and contractors and construction labour.
- (2) Those who do construction either by themselves or through contractors, as 'Utilisers of Labour' shall be individually and

ointly liable to meet the various obligations such as construction levy and welfare levies including benefits of provident fund, medical benefits, pension, accident compensation etc. The Construction Labour Board would secure these obligations.

- (3) The Construction Labour Board would be empowered to determine wage structure and provide minimum guarantee wages and be entrusted with management of security and welfare funds.
- (4) The Central and State Governments are the biggest construction employers. The proposed law should cover their cases also.

2.4 The representation was referred to the Ministry of Urban Development on 23 December, 1986 for furnishing their factual comments thereon. The Ministry of Urban Development have furnished their factual comments *vide* their *O.M.* dated 26 November, 1987, as follows :—

“The tripartite constitution of the proposed Labour Boards, will be a highly useful step which will look into the problems of the construction workers, which have been so far remained an unorganised sector. The Construction Labour Board will also exercise its powers for the smooth run of the construction industries and it is considered that although as a machinery to look into the service conditions of the construction workers, it will not be one of the machineries as incorporated in the Industrial Disputes Act, it will have its own independence of functioning and coordinating the affairs of the construction workers.

There are several provisions of law which give some protection to the contract labour, such as under Section 21 of the Contract Labour (Regulation and Abolition) Act, 1970 a contractor shall be responsible for payment of wages to each worker employed by him and such wages shall be paid before the expiry of such period as may be prescribed. The wages have to be paid in the presence of the principal employer or his representatives and in case the contractor fails to make the payment of wages within the prescribed period or makes short payment then the principal employer shall be liable to make payment of wages in full for the unpaid balance due, as the case may be, to the contract labour employed by the contractor. The labour has also the protection under the Payment of Wages Act, 1936. Under Section 3 of this Act every employer shall be responsible for the payment to persons

employed by him of all wages required to be paid under the Act. Under the definition "employer" include the legal representatives of the deceased employer and establishment include the work relating to the construction, development or maintenance of buildings, roads, bridges or canals etc. etc. Then there is the Minimum Wages Act, 1948, under section 12 employer has to pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by notification issued under Section 5 of the Act. Under the definition "employee" means any person who is employed whether directly or through another person or on behalf of any other person one or more employees in any scheduled employment. Lastly, under Section 11 of the Industrial Disputes Act a Conciliation Officer or a member of board or court or the presiding officer of a Labour Court, Tribunal or National Tribunal may take cognizance of any industrial dispute after due notice. Under the definition "industry" includes avocation of workman, DDA cannot commit itself to take the contract labour permanently as the nature of work itself is not of a permanent nature.

The subject matter of the petition essentially concerns the Ministry of Labour who are already seized of the problem. A Tripartite working group on Building and Construction Industry has been constituted by that Ministry with the following terms and reference:—

- (a) To identify the specific difficulties being faced by the Building and Construction Industry in complying with the social security legislation viz. Employees Provident Fund and Miscellaneous Provision Act and the schemes framed thereunder, the Gratuity Act etc.; and
- (b) To work out what type of social security measures should be formulated for the workers in the Industry keeping in view the difficulties under (a) above.

A draft legislation is already under finalisation in the Ministry of Labour and a number of meetings have been held by that Ministry with the representatives of all concerned interests to consider the draft.

Provisions already exist pertaining to health, safety, welfare, minimum wages, payment of wages, service conditions of the construction workers, as there are laws to cover these aspects. Anything in the shape of amendments in the existing provisions to provide for better conditions of work and employment would be in order."

2.5 In a supplementary memorandum submitted to the Committee, the petitioner *inter alia* stated, as under :—

“It was expected that the Bill that the Government will introduce will be really a comprehensive one dealing particularly with the most important problem facing the construction workers, namely insecurity of services.

The feature that comes out most clearly when we analyse the situation obtaining in the construction industry *vis-a-vis* the workers is the absence of established and enduring employer-employee relationship between an employer and a set of workmen. This is the position in respect of the vast bulk of the industry and this is the result of a system of contracting and sub-contracting *ad nauseum*, which conveniently enables the principal employer or even his main contractor to escape from the obligations that any employer will have to discharge. In such a situation, even wages are not correctly and promptly paid and the shifting nature of the employment results in the workmen and the work women (women account for over 10 per cent of the work force in this industry; children who work in this industry in large numbers do not altogether figure in official statistics or employers registers) not being in a position to demand even their due wages. The position is so unjust that to think in terms of other benefits, like leave, bonus, maternity benefit, accident compensation, child care and social security sounds like day-dreaming.

What is required is a self-regulating legislation, a legislation that will guarantee and protect the rights of the workmen, not merely those relating to employment and payment of wages but also to social security above all, a legislation that will avoid the perils of implementation by a Governmental agency, by providing for workers' participation in a substantial measure in the implementation of the legislation through tripartite bodies on which workers will have a commanding role.

The schemes to be drafted under the law will provide for regulation of the industry by way of registration of the principal employer or the promoters. A levy calculated at a certain percentage of the capital cost of the project, be it a residential or commercial building, road or canal, will be collected before the Tripartite Board approves the project. This levy will be used for meeting the expenses that will have to be incurred in respect of welfare and social security measures for the workers. The Board will also similarly register the workmen

and so regulate the employment of workers in various categories to ensure that only registered workers are provided employment. The scheme would also provide for a certain minimum guarantee of employment for all registered workers, in addition to providing social security measures like provident fund, medical and health benefits, gratuity and the like. The payment of wages in full and promptly to the workers will also be ensured by the Board by regulating all payments through the Board and its offices.

The Board would also take necessary steps for the training of the workers to enable them to acquire and/or to improve their skills. Over a period of time, the Board will be in a position to stabilise employment in this sector so that productivity of the workers is enhanced, construction cost reduced, current abuses and shortcomings in the quality of construction, delays in construction etc. are minimised. The Board will also regulate the inter-state movement of construction workers so that the objectives of Inter-State Migrant Workers Act do not merely remain on paper.

For this purpose, the workers demand that the implementation of the proposed law, more particularly the provisions relating to registration of the employers and of workers, regulation of employment, minimum guaranteed employment, payment of wages, measures for welfare and social security, etc. must be through the Tripartite Labour Boards and their agencies at the appropriate levels. The workers also realised that there may be disagreement and differences between the parties in the actual implementation of law and scheme and therefore they want that the law must provide for an inbuilt machinery for dealing with disputes and differences."

2.6 A bill entitled "Building and other construction workers (Regulation of employment and conditions of service) Bill, 1988 was introduced in Rajya Sabha by the Minister of Labour on 5 December, 1988. According to the statement of objects and reasons given in the Bill, the proposed legislation *inter alia* provides for the following matters, namely :—

- (i) to apply it to every establishment which employs or had employed on any day of the preceding twelve months, fifty or more building workers in any building or other construction work;
- (ii) to define "appropriate Government" in respect of various establishments and also to enable the Central Government to

notify any public sector undertaking which is owned, controlled or managed by the Central Government in respect of which the Central Government will be the appropriate Government;

- (iii) to empower the Central Government and the State Governments, as the case may be, to constitute Advisory Boards to advise on such matters arising out of the administration of the proposed legislation as may be referred to them. Such Advisory Boards shall consist, *inter alia*, of persons representing the employers, building workers, association of architects, engineers, accident insurance institutions and any other interest which in the opinion of the Government ought to be represented on such Boards;
- (iv) to provide for the constitution of one or more expert committees consisting of persons especially qualified in building or other construction work for advising the Government for making rules under the proposed legislation;
- (v) to provide for the registration of certain establishments, as defined in the proposed legislation, carrying on building or other construction work;
- (vi) to enable the appropriate Government to fix hours for normal working day, day of rest, payment of wages for the day of rest, payment of overtime allowance and other welfare measures, such as, facilities regarding drinking water, latrines and urinals, creches, first-aid and canteens in respect of building workers;
- (vii) to make adequate provisions in respect of building workers for their safety and health measures including appointment of safety committees and safety officers therefor;
- (viii) to empower the Central Government to frame model rules for safety measures;
- (ix) to provide for the appointment of appropriate inspecting staff including Director General of Inspection at the Central level and the Chief Inspector of Inspection of Building and Construction at the State level for ensuring effective implementation of the proposed legislation;
- (x) to make special provisions regarding responsibility of employers to ensure compliance of the provisions of the proposed legislation and payment of wages in time to building workers;
- (xi) to provide for deterrent punishment for contravention of provisions of the proposed legislation.

2.7 The Committee held discussions with the representatives of the petitioners in regard to the points raised in the petition. Along a background of the work done by the National Campaign Committee for Central Legislation on Construction Labour, its Chairman (Justice V. R. Krishna Iyer—Retired) deposed before the Committee as under:

"What has happened is all the workers involved in the construction sector in various States have gathered together, held conferences and from them some members were selected as representatives. Then, we drafted the Bill. The Bill was discussed and amendments were suggested. Ultimately, we have reached certain consensus, nation-wide, in what the Bill should be. This is one of those novel processes that is, in a third world country like ours, the workers themselves draft legislations. You may imagine how utterly democratic it is to invite the workers and other categories of people, victims of injustice, to give their ideas about drafting of legislation. They are not draftsmen. They do not have the technical expertise. Some of us have helped them. Anyway, we have ultimately reached a stage where some form of legislative Bill has been formulated."

He added :

"But more relevant and more important, if I may say so, is that the thrust of the whole effort is on implementation. In our country all, or most of the welfare legislations have met their Waterloo at the implementation level. So, some of us thought that in a situation like in India, the most important thing is to focus attention on implementation itself."

2.8 Explaining the broad framework of the legislation prepared by the petitioners, Justice Iyer stated :

"We have a Board. It consists of three agencies including representatives of the employers. It is because, employers are very much involved in the process of amenities for workers, security for workers, wages for workers and things like that. So, the employer is an important partner in the process of enforcement.

Second is the worker. Once in history, he may say that "I will implement the law because it benefits me" and the employer may say "I will also be a party to it because I am the man who is to foot the bill and meet other responsibilities and so on." Over and above this is the Government. It is because in our Welfare State or the Social Justice State, it is

the Government which has got to oversee the functioning. So, the functional contribution to the efficient implementation of this legislation is taken care of by a Board which contains three partners."

He added :

"The implementation is the prime essence of social legislation. That can be taken care of only where the worker himself is an active partner. He should be active in the process of implementation by legislative statutes. So, we have now brought in a Bill which brings in a tripartite arrangement for implementation. This is very significant. More than all these things is the type of legislation which is in existence today for getting minimum wages, for getting maternity benefits, for babies being looked after and so on. All these things have to be enforced through a Court or a Labour Court or something like that. The entire range is not covered by the existing legislation. Various loopholes are there."

2.9 Commenting on the Bill introduced in Parliament, a representative of the petitioners stated before the Committee as under :

"The Bill introduced in Parliament still follows the same pattern of employee-employer relationship as you would find in the Motor Transport Workers Act, for example. But looking at the position of construction labour in India, which means well over 11 million people—of which 10 per cent to 15 per cent are women—the place of work, workers and the employer all the three change, unlike in a factory, where the factory remains at the same place, and where they are all in a constant location. Here all the three change. If that is the feature of the construction industry where the relationship, even temporarily, is of such a short duration, how do we solve the problem of implementation, unless you give the powers of implementation to the total groups of employers, employees and the Government forming themselves into a tripartite board."

He further added :

"I would like to draw the attention of the Committee to what happened 40 years back in the Dock labour industry, where loading and unloading of cargo takes place, where they did not know when the next ship would come. They will not know the number of employees needed to be employed. So, there was a large number of workers waiting for employment. They

were as unorganised at that time as the construction workers are today. Then, we had the Dock Workers Act and the Dock Workers (Regulation of Employment) Act of 1948. This former Act today has enabled a certain regularity of employment and equitable distribution of employment, category-wise. And so, this has enabled the workers to grow in strength, so that the dock workers today are one of the most well-organised people. Following this, we also have got the Matarji workers in Maharashtra and Andhra Pradesh, for whom you can bring in such a Bill, and regulate their employment. We want the same type of an Act here."

2.10 Pointing out the drawbacks in the Bill which had been introduced in Parliament, the representative of the petitioners further stated before the Committee as under:—

"Even if the Bill before Parliament is passed, will it ensure, for example, gratuity to the workers—because it says that it will apply to any establishment having 50 workers per day. But the point is that after the work ceases, the workers and employers go away. How then do we guarantee these facilities including health insurance. So, though this Bill calls itself 'Building and Construction Workers (Regulation of Employment) Bill', there is nothing there by way of regulation of employment of workers. This Bill is directed towards safety and certain conditions of service while they are at work. But the problem with construction workers is not merely related to work. There are questions like payment of wages, welfare etc, about which this Bill is silent. That is why we think that anything short of a tripartite system of management, of administration and even composition of committees will not serve the purpose for which any legislation is made. That is why we think it is necessary to have a legislation of this type recommended by us."

2.11 Giving details of the draft legislation prepared by the petitioners, representation of the petitioners stated before the Committee:—

"The scheme that we have proposed is something like that. When workers are registered for employment, the employer can set aside a portion of the wage, for this purpose. The workers can have a system envisaged on the pattern of the Dock Labour Board system. The employer fixes the wages to be paid and the Board know it; it is the Board which gives the wages to the workers. Otherwise all sorts of pitfalls will be there in the implementation.

Registration within the framework of tripartite registration having a provision for registration, licensing and so on, should be there."

The witness further stated :—

"We cannot implement the whole system overnight throughout the country. It may be made applicable to all the metropolitan cities Delhi, Bombay, Calcutta and Madras or it may be made applicable to major projects where five thousand persons are employed. After that we can go down and implement the whole system at the District level and other levels."

2.12 To a question whether the State Governments should be consulted before making a move in the matter, Justice Iyer replied:—

"There is no doubt that we must consult the State Governments and the implementation part fall on the State Governments. When I talked to the Chief Minister of Karnataka, he told me that he would be very happy to implement this kind of a legislation. But we have not gone into the details. When I was in Madras sometime back I contacted the State Labour Minister in this regard. He did bring a legislation, but unfortunately that fell short of the requirement. I do not think any State Government would not be eager to implement this kind of a legislation. After all the State Governments would be keen to see that social justice is given to the workers."

Justice Iyer further stated :—

"The malady is not the State Government or the Central Government, but elsewhere. Of course the State Government must be much more serious than the Central Government in this respect."

Concurrent legislation obviously gives plenary power to the Union to make a legislation. The State Governments are an independent constitutional entity and they are just organs of the Statute and they have got to obey the statute mandates. For that reason we need not consult, I am not against consulting the State Governments. The affected groups must be consulted. In fact the State Government could even bring a legislation.

All that we can say is that when the Parliament enacts a legislation, we expect the State Governments to be vigilant in implementing it."

2.13 Pleading for the formation of Labour Boards for construction workers, a representative of the petitioners stated :—

“The Construction Labour Board can also collect two kinds of levies that we have suggested in our Bill. One is, when the principal employer starts construction and he has to get the plan sanctioned, at that point he has to pay two per cent of the total estimated cost to the Board for welfare purposes. viz., for housing, for education of children and so on. Secondly, while the workers are being employed through the Board, the employer has to pay a certain amount as levy which will go into the social security benefits and various other kinds of benefits, including the expenditure of the Board.”

2.14 During evidence of the representatives of the Ministry of Labour and others, the Committee enquired whether any consultations were held with the labour representatives before introduction of the bill in Rajya Sabha. The Secretary, Ministry of Labour, stated as under :—

“The normal procedure is that before we finalise any legislation in the Labour Ministry, we do undergo a well structured procedure. There is tripartite consultation among the Government, the employers and the workers organisations. This is a fairly long process. In January, 1980, all the State Governments and the Union Territories were consulted on the introduction of a central legislation to regulate the safety of workers engaged in building and construction work. The focus of the consultation was in relation to the Bill that has been introduced in the Rajya Sabha.”

In the 31st session of the State Labour Ministers' Conference it was recommended to bring about a central legislation to regulate the working conditions, improve the payment of wages and to have welfare and other safety measures. These factors have also been incorporated in the Bill which is now before the Rajya Sabha. Also in our process we have consultations with the Central Ministries and Departments.”

2.15 With regard to consultations with the organised labour unions, added :—

“In the national seminar on safety of construction workers, the representatives of recognised trade unions like INTUC and CITU have participated. We have discussed this matter with them. So it has been a long process of consultation and crystallisation of opinion which has gone into the framing of the Bills.”

2.16 Asked whether the National Campaign Committee for Central Legislation Construction Workers were consulted in the matter, the Labour Secretary stated :—

“.....I do recall that Justice Krishna Iyer had forwarded a memorandum to the Labour Minister sometime in 1986. That was examined in detail in the Ministry and a reply was also sent to him.”

He further added:—

“Our structure of tripartite consultation is a fairly well set pattern. We have the formal bodies which are called for consultations. They are recognised also. But the NCC is not a part of the ten recognised national trade unions. In the State Labour Ministers' Conference also this matter has been considered. But somehow the well set practice could not be changed. So in our view we have carried out the consultations. Since NCC is an ad-hoc body we are rather helpless in this respect.”

2.17 The Committee pointed out that after the passage of the legislation, the rules will have to be framed by the Department and in framing such rules, the petitioners' views could be given due consideration. The Labour Secretary stated :—

“.....There is no difficulty in our meeting with the National Campaign Committee members across the table. We are always open to the discussion.”

2.18 With regard to the total number of persons employed in the construction industry, the Labour Secretary stated :—

“The National Commission on Labour has estimated 2 million workers in this industry. There are other estimates, which I understand, will be around 3 to 3.5 million workers. Of course, the Nation Coordination Committee has a very extended definition of building, that is, including workers in, what they call, ancillary operations like brick-kilns and other industries. There are very wide-ranging figures of the total number of workers in this industry. It depends on the definition that one thinks.”

2.19 Commenting on the Bill prepared by the National Campaign Committee, the Labour Secretary state:—

“The subject-matter was, of course, fairly elaborate. Various measures have been contemplated in the scheme. But it is not

a very practicable scheme. It has been stated there should be an administrative body in every place where there are 100 construction workers and more. There has been no lower limit placed on the number of workers who would be covered in any establishment. Therefore, if any person, throughout the length and breadth of the country, employs someone to repair his house which has fallen down due to flood or storm or any other natural calamity, he will come within the ambit of the huge administrative structure that has been proposed. Trying to cover the entire length and breadth of the country by out-law and administrative structure, firstly the cost of administering though such a structure should be taken into consideration."

2.20 Commenting upon the mechanism for implementation of a large number of laws on the statute book, the Secretary, Ministry of Urban Development stated:—

.... "While it is true that a fair portion of the construction labour may be engaged in projects funded by the Central Government or the State Government, I would like to submit that essentially the State or the Centre carry out works through contracts. Therefore, neither the State nor the Centre can be regarded as an employer of the construction labour. They are only engaging contractors for execution of works, but notwithstanding that, so far as welfare measures are concerned, or safety, including fair wages etc. are concerned the Government have devised an extensive procedure and this procedure is included as a part of the contract and the contractor bidding for work is expected to follow the conditions of this contract with regard to various facilities that have to be provided and those are insisted upon. There are provisions for making sure that those rules are followed and compensation to contractors is determined on the basis of their adhering to these contractual conditions."

The Secretary added:—

"The DDA also follows the contractual conditions adopted by the CPWD with some modifications of their own. I would only submit that where a contractor fails to observe the contractual conditions stipulated, DDA have the right to take action against the contractor under the contract. It amounts to breach of contractual conditions. I would respectfully submit that

while the CPWD and the DDA may be regarded as the organisations engaging the contractors, they do not *ipso facto* become the employers."

2.21 To a question whether it was not necessary to set up an organisation which could be approached by the workers for grant of justice to them, the Labour Secretary replied:—

"If a construction labourer has to travel say from Bastar to Bhopal to get justice, I can only say that whatever system that we set up, it will be cumbersome and administratively unworkable."

2.22 When asked to suggest some other workable alternative to provide justice to construction workers, the Labour Secretary deposed before the Committee as under:—

"As far as payment of wages is concerned, we have the Minimum Wages Act. In all the major employing organisations whether governmental or public sector, the construction workers employed have very attractive terms and conditions. But we are talking of a very large number of construction works where these workers are employed. Here I must say that the trade unions must organise these workers and they must exert. There are the contractual laws which are in force. The regulatory and enforcing mechanisms must necessarily be at the State level. And the major employers are certainly covered under our Act. When we come to the generality i.e. building workers who are not covered under the major employing agencies, then we have to fall back upon the State agency for enforcing all the other labour laws."

The Secretary, Ministry of Urban Development added:—

"The approach that is provided for in our own contract conditions is definitely a way out because we have a provision that when a particular number of labourers are employed, there is a Labour Officer who is posted by the Department. For instance, if there is any irregularity noticed in the payment of minimum wages, the Executive Engineer makes the payment direct to the labourers and deducts that amount from the contractor's contract."

2.23. The Committee note that next to agriculture, the construction industry employs the largest number of workers. Being closely connected with the development of the economic and industrial base of the country, the construction activity attracts considerable financial investment also. As in several other areas, the labour engaged in construction activity of any kind is totally unorganised with the result that there is no security of employment for the workers. These workers are generally paid very low wages because they lack the bargaining capacity. At the same time there is no legislation under which these workers may be provided any social security benefits. Some of the labour laws such as Contract Labour (Regulation and Abolition) Act, 1970, Payment of Wages Act, 1936, Minimum Wages Act, 1948 are stated to be applicable to construction workers like other contract labour, but there is no in-built mechanism for ensuring that the benefit of these laws actually accrues to the construction workers. The contract document of Government Departments, public sector undertakings and organisations like CPWD, DDA, etc. which undertake large scale construction activity, do contain some provisions about payment of wages, safety measures etc. but these do not go far enough to look after the welfare of workers and what is worse are not enforced effectively even in the notified areas mentioned therein. Although several Members of Parliament have in the past initiated action in the form of Private Members' Bills, which are introduced in Parliament from time to time, it was only in September, 1988 that the Government of India introduced a Bill in Rajya Sabha aimed at protecting the interests of such a large force of workers. The Committee cannot but emphasise that the proposed legislation should not only be comprehensive enough to cover the entire gamut of the problems and rights of the construction workers but at the same time it should be expedited that it is brought on the statute book without any avoidable delay.

2.24 Presently, the Committee have under consideration a representation given on behalf of the construction workers in the country. This representation has been routed through the National Campaign Committee on Central Legislation on Construction Labour, which is headed by the Chief Justice V. R. Krishna Iyer. The Committee find that this Committee has done considerable useful work at the grassroot level to organise construction workers with a view to enabling them to demand central legislation as a right to provide security of employment and other social welfare measures, to which they should be entitled like workers in the organised sector. This Committee has also formulated a draft legislation,

which if enacted should serve the interest of the construction workers. The draft legislation prepared by the Committee proposed compulsory registration of all employers and the workers, vesting of responsibility for determining and disbursement of wages through an autonomous body and the constitution of Tripartite Labour Boards comprising employers, construction workers and Government agencies for looking into and regulating the service conditions of the construction workers. It also lays extra emphasis on the implementation aspect as the actual implementation of all social legislations in the country leaves much to be desired.

2.25 The Committee have been informed that before a legislative measure affecting the labour class is finalised in the Ministry of Labour, under a well established procedure, tripartite consultations among the Government agencies, employers and workers organisations are held. For consultations with the workers' organisations, only recognised trade unions like INTUC and CITU are invited to participate. Accordingly while formulating the Bill intended for the construction workers only ten recognised national trade unions were consulted and the National Campaign Committee for central legislation on construction workers was not formally consulted. The Committee feel that since this Campaign Committee has done a good deal of pioneering work in this area and formulated certain proposals after in-depth study of the problems faced by construction workers, it would have been appropriate if this Committee had also been invited by the Ministry for consultations and discussions on the proposed legislation. The Committee consider that even now the representatives of the Campaign Committee, which is headed by an eminent person like Justice Krishna Iyer, may be invited for an exchange of views on the scope and objects of the Bill and how these can be best attained.

2.26 Without going into the merits of the schemes proposed by the Campaign Committee, the Committee desire that the Ministry of Labour should take a careful note of the suggestions made by the Campaign Committee and see to what extent these could be incorporated in the Bill already introduced in the Rajya Sabha. Further even after the passage of bill and at the time of framing detailed rules for implementation of the provisions of the bill, the Campaign Committee may be involved in the process of consultations so that the objectives underlying the measure could be implemented in letter of spirit.

2.27 From the statement of objects of the bill introduced in Lok Sabha, the Committee find that the present bill will apply only to establishments which employ or had employed fifty or more building workers in any building or other construction work. Thus all establishments employing less than fifty workers will presumably be beyond the purview of the present

bill. Thus the work employed by private persons and institutions for construction work will not be entitled to any benefit arising from this legislation, if the total work force employed is less than fifty. As against this, the scheme formulated by the Campaign Committee seeks to cover all construction workers wherever they may be employed. The scope of the legislation formulated by the Campaign Committee would thus appear to be more comprehensive and wide-ranging. It is in this context that the Committee desire that the legislation proposed by the Campaign Committee may be examined and considered and all good features thereof may be suitably incorporate in the Government bill.

2.28 A perusal of the scheme of legislation framed by the Campaign Committee shows that the main emphasis is on the creation of a tripartite body on the lines of Dock Workers Board, which will register all construction workers in the country, regulate their employment opportunities in such a way as to ensure that every worker has an equal opportunity of getting work, create and manage a Welfare Fund from which welfare activities for the workers will be financed. The proposed legislation by the Campaign Committee also envisage creation of a machinery on all-India basis for effective implementation of the measures. According to the Campaign Committee what is required is a self-regulating legislation, a legislation that will guarantee and protect the rights of the women.

2.29 The Committee are of the view that there can be no two opinions about the scope and intent of the proposed legislation. The Committee are indeed glad to note that Government are also of the view that the setting of tripartite Construction Labour Boards as suggested by the Campaign Committee will be "a highly useful step". The Committee, therefore, need hardly emphasise that it is for the Government to ensure that the legislation which is finally enacted encompasses all the above features to the extent practicable. The Committee, therefore, recommend that the bill pending in Rajya Sabha be withdrawn and a fresh comprehensive bill be introduced so as to cater to the long felt demands of a hitherto neglected segment of the working class.

NEW DELHI:

May 31, 1989
Jyaistha 10, 1911 (Saka)

BALASAHEB VIKHE PATIL,

Chairman,
Committee on Petitions.

COMPOSITION OF THE COMMITTEE ON PETITIONS

(1987)

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Members

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3. Shri T. T. Krishnamachari

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5. Shri J. Jayaprakash

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