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A SPECIAL NOTE :

The State's role to regulate the employment in the unorganized sector has by now been well-recognised. The precedents for legislative intervention in the case of Dock Workers, Beedi and Cigar workers, handloom workers et. al fortify the above concept. Both the legislative and executive approach so far has been to attempt to regulate only the welfare aspect and not the employment aspect, except in the case of dock workers and Mathadi workers in Bombay. What we seek to emphasise is to follow the latter pattern than the former as the field experience reveals that even welfare legislations do not touch the fringe of the problem as they are not designed to proximate with the nature of industry.

A special departure should underline the approach to the problems of construction workers as no amount of lofty welfare proposals has reached them because of the peculiar nature of the industry to be dealt with. Any further move to organise the industry in favour of the capital should not be an isolated effort but be linked to the concept of regulating the employment as that affords equal protection to labour that befits an industry which is possible only through construction Labour Board.

INTRODUCTION

Construction industry employs about 20 million workers. The labour employed by the sector is the second largest and next only to agriculture. In Tamilnadu alone about 2 million workers are involved in this industry.

Construction industry in our country has a cultural tradition and the monuments, Dams, Bridges, Roads, Industrial buildings and houses speak volumes about the dedication of the workers involved in this sector.

On the other hand the need has arisen to place in perspective what the workers involved in this vital sector have received in return, and what is the genuine and effective methods that a welfare state such as ours would have to evolve to protect the workers.

The need has arisen to place in perspective the nature of the industry, the socio-economic background of the workers, the predominant bodies involved in receiving the benefits of the industry and so design a method that WILL DELIVER THE RESULTS. A method without a practical perspective would be both ineffective and lack honesty of purpose.

Socio-economic profile of a construction worker

The construction worker steeped in poverty, illiteracy, cannot read or write, ignorant even about the laws that afford minimum protection, no property to call his own. Works to keep his body and soul together for wages of-ten less than the statutory minimum wages. Once construction is over, has to move out. CONTRACT LABOUR REGULATION AND ABOLITION ACT 37/70 or INTER STATE MIGRANTS ACT, BONDED-LABOUR ABOLITION ACT, may be there on the statute book, but as far he is concerned, they are non-existent - for he has seldom seen the Acts implemented. Seldom seen employers prosecuted. The work is only an opportunity to buy for his family and himself food for the day. He forms the bulk of the slum dwellers and Pavements dwellers population. The woman worker is at the lowest rung in the ladder, and in addition suffers due to lack of child care facilities & maternity benefit. There's neither social security nor medical nor sickness benefit.

The industry is one of the most hazardous, with accidents being frequent. Neither are safety measures enforced, nor is compensation paid to the victims of accidents.

Even basic amenities are not provided at the work-site. In terms of occupational health, the workers are constantly exposed to the dust from materials like cement, lime and sand, which causes long term damages to their lungs and ruins their health. Life expectancy in this industry is well below the national average. The fact that the government and governmental undertakings in the Public sector carry out the majority of construction work that takes place in the country, either directly or through contractors has made little difference to the above situation.

The Supreme Court of India in the Asiad case and in the case of the workmen of Salal Hydro Electric Project case

observed the gross violations in the implementations of the above statutes even by public sector undertakings. The decisions reveal that the minimum benefits for the unorganised are not being implemented. The reasons that have caused the poor implementation in the past necessitates innovative approach to legislation and prosecution of the offender as a legislative method of implementation has proved to be a failure.

NATURE OF INDUSTRY:

The nature of Industry is one that is highly fluctuating. Employer - Employee relationships last at best till that particular phase of construction lasts. Consequent to such non employments worker moves on to fresh site. Thus work sites frequently change and the composition of work force change and employers frequently change.

The frequent moving from site to site, employer to employer and contractor to contractor is necessitated by the very manner in which the labour process is organised in the industry. Different gangs of workers are used for different aspects of construction activity. For example, in building construction, digging of the foundation is done by a separate gange, wall construction by another group, roof laid in a single day by a larger gange, carpentry, plumbing electrical and painting works by different gangs of workers. The maistry/mukhadam brings the workers, supervises the work, and frequently does skilled work himself. Disbursement of wages is done through him to the workers on a daily or weekly basis. Contractors rely on this process and maintain no significant permanent staff or even temporary staff on any payroll. Workers from unskilled to skilled levels are hired on a time basis that ranges from daily hiring at the market place to short stretches (till a certain piece of work is finished) to more extended periods (like in a large project until its completion. No records are maintained at work sites that gives any legal status to workers.

One major consequence of this is that workers of this essential sector have found it difficult to organise themselves and consequently have proved vulnerable for exploitation. The very nature of the industry requires a different type of protection from the state, unlike other sectors.

Because of the frequent changes of work sites and employes, the worker as a class have no social security and any deductions made on ill built social security schemes, have never reached

the workers and only lessened his wages. Welfare, social security, minimal guarantee wages are necessary factors that would have to be considered in a new protection that is visualised. Unless the essential aspects of the industry and the states role to regulate it, is worked out, to divest social Welfare arrangement as separate, would not make any dent in the situation.

In a situation of fluctuating factors such as Employers-work-sites locations, the state cannot do anything meaningful unless some stabilised is the 'Employment' factor, by constituting a CONSTRUCTION WORKERS BOARD. Such a regulation must be entrusted to an autonomous body, statutorily set up and consisting of representatives of workers, govt and contractors.

,. stabilisation is achieved. The only aspect that can be SUGGESTIONS WOULD BE :

1. A Central statute that gives legislative sanction for the constitution of Construction workers Board.
2. The board at the national level for co-ordination and similar Boards to administrate and regulate the employment of construction workers in the state, with sub-Boards at district and taluk level.
3. Registration with the board being made mandatory for employers and workers of construction industry.
4. Advance payment of cess to the Board to get consent for the plan.
5. The method of implementing the statute should be by making statutory consent from the Board a prerequisite for construction work.
6. The method of implementation as visualised in the water Pollution (Prevention and Control) Act 1974 may be taken note of.

The above suggestions are only on certain key issues and not exhaustive. In principle if it is agreed that nothing meaningful can be done unless the State steps in to regulate the employment of construction workers and the method of regulation be through a Board, then on such a consensus definite aspects can be worked out. The attempt of this effort is to focus on the necessity for such an imperative.