

EIGHTEENTH REPORT
COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

MINISTRY OF LABOUR AND EMPLOYMENT

(Presented to Lok Sabha on 21.12.2011)



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CONTENTS

	PAGES
COMPOSITION OF THE COMMITTEE ON PETITIONS	(iii)
1. INTRODUCTION	(v)
2. REPORT	
Representation from Shri H. Mahadevan, Deputy General Secretary, All India Trade Union Congress regarding Violation of the Minimum Wages Act, 1948 and also non-payment of Minimum Wages to the tea garden workers of Assam, Darjeeling and Dooars in Jalpaiguri District.....	1
3. APPENDICES	
I. A list of Public Sector Undertakings and other companies against whom such complaints were received	26
II. Details regarding enforcement of Minimum Wages Act, 1948 during 2006-07.....	27
4. ANNEXURES	
I. Minutes of the Second Sitting of the Committee held on 10.11.2009.....	29
II. Minutes of the Nineteenth Sitting of the Committee held on 21.07.2010.....	31
III. Minutes of the Thirty-Ninth Sitting of the Committee held on 19.12.2011.....	34

COMPOSITION OF THE COMMITTEE ON PETITIONS
(2011-12)

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EIGHTEENTH REPORT OF THE COMMITTEE ON PETITIONS
(FIFTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Eighteenth Report of the Committee to the House on the representation from Shri H. Mahadevan, Deputy General Secretary, All India Trade Union Congress regarding violation of the Minimum Wages Act, 1948 and also non-payment of Minimum Wages to the tea garden workers of Assam, Darjeeling and Dooars in Jalpaiguri District.

2. The Committee considered and adopted the draft Eighteenth Report at their sitting held on 19th December, 2011.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
19 December, 2011
28 Agraphayana, 1933 (Saka)

ANANT GANGARAM GEETE
Chairman,
Committee on Petitions.

REPORT

REPORT ON THE REPRESENTATION FROM SHRI H. MAHADEVAN, DEPUTY GENERAL SECRETARY, ALL INDIA TRADE UNION CONGRESS REGARDING VIOLATION OF THE MINIMUM WAGES ACT, 1948 AND ALSO NON-PAYMENT OF MINIMUM WAGES TO THE TEA GARDEN WORKERS OF ASSAM, DARJEELING AND DOOARS IN JALPAIGURI DISTRICT

Shri Gurudas Das Gupta, MP, Lok Sabha forwarded a representation dated 22 October, 2010 signed by Shri H. Mahadevan, Deputy General Secretary, All India Trade Union Congress (AITUC) regarding Violation of the Minimum Wages Act by the Government of India.

2. In his representation, the petitioner had stated that the Government of India was violating the Minimum Wages Act by not paying the wages regularly to the employees and workers belonging to Central Public Sector Undertakings (CPSUs) in different parts of the country. There had been gross violation of non-payment of wages in Central Inland Waterways Corporation and Rupnarayanpur Cable Factory situated in the West Bengal and many other such instances wherein employees/workers of various sectors of economy were not being paid the wages. The petitioner had therefore, requested the Committee to intervene into the matter for the redressal of the grievances of the workers.

The Hon'ble Member *vide* his letter dated 17 December, 2009 had further stated that he had also received complaints about the non-payment of Minimum Wages to the Tea Garden workers of Assam, Darjeeling and Dooars in Jalpaiguri District.

3. The Committee took up the matter for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the representations were forwarded to the Ministry of Labour and Employment for furnishing their comments on the points raised therein.

4. Explaining the concept of Minimum Wages, its concerned norms/guidelines, the Ministry in their written reply submitted:—

“The Minimum Wages Act, 1948 has neither defined minimum wages nor has it laid down any norms/criteria for fixing the minimum wages. The Committee on Fair Wages (CFW) submitted its Report in 1948 and in its report it examined the pros and cons of different wage concepts *vis-à-vis* workers' living standards and highlighted the important terms corresponding to particular wage levels. The 'minimum wage', 'fair wage' and 'living wage' are the terms that deserve serious attention. Their descriptions are as follows:—

(i) *Living wage*

Living wage should enable the wage earner to provide for himself and his family not merely the bare essentials of food, clothing and shelter but also a

measure of frugal comfort including education of children, protection against ill health, requirements of social needs and a measure of insurance against the more important contingencies like old age.

(ii) *Minimum Wage*

Minimum wage must provide not merely for the bare sustenance of life but for preservation of the efficiency of the worker. For this purpose the minimum wage must also provide for some measure of education, medical requirements and amenities.

(iii) *Fair wage*

The Committee did not define fair wage but it indicated where it would lie in the context of the living and minimum wage. While the lower limit of the fair wage must obviously be the Minimum wage, the upper limit is equality set by what may broadly be called the capacity of the industry to pay.

In the absence of any standard methodology, the norms recommended by the Indian Labour Conference, held in 1957 are taken into account while fixing the Minimum wages. These are:—

- (a) 3 consumption units for one earner.
- (b) Minimum food requirements of 2700 calories per average Indian adult.
- (c) Clothing requirements of 72 yards per annum per family.
- (d) Rent corresponding to the minimum area provided for under Government's Industrial Housing Scheme.
- (e) Fuel, Lighting and other miscellaneous items of expenditure to constitute 20% of the total minimum wage.

There was a judicial pronouncement also in the year 1992 when the Supreme Court delivered a historic judgment in the case of Reptakos & Co. Vs. its workers that the children's education, medical requirement, minimum recreation including festivals/ceremonies, provision for old age, marriage, etc. should further constitute 25% of the Minimum wage and used as a guide in fixation of minimum wages.

The State Governments are requested from time to time to keep the above said norms and judicial pronouncement in view while fixing/revising the minimum wages.”

5. As regards the norms/procedure to fix the Minimum wage for a particular employment, the Ministry in their written reply submitted:—

“The procedure for fixing and revising minimum wages has been prescribed under section 5 of the Minimum Wages Act, 1948, which is as follows:

- (1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum of wages so fixed, the appropriate Government shall either—

- (a) appoint as many Committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or
 - (b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.
- (2) After considering the advice of the Committee or committees appointed under clause (a) of sub-section (1), or as the case may be, all representations received by it before the date specified in the notification under clause (b) of that sub-section, the appropriate Government shall, by notification in the official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (b) of sub-section (1), the appropriate Government shall consult the Advisory Board also.

Further, the Minimum Wages Advisory Boards of respective States/Central Sphere as constituted under Section 7 of the Minimum Wages Act, 1948 meet at regular intervals to fix/revise the minimum rates of wages for scheduled employments keeping in mind the recommendation of the Fair Wages Committee, Norms as suggested by 15th ILC and subsequent decision of the Apex Court. These rates are then notified in the official gazette inviting objections/suggestions from the public within 2 months. Thereafter the minimum rates of wages are finally notified in the official gazette by the appropriate Government. Sometimes sub-committees are also appointed by the Minimum Wages Advisory Board to investigate and recommend the minimum rates of wages to be fixed. Thereafter the Minimum Wages Advisory Board examines the recommendations of the sub-committee and fix the minimum rates of wages.”

6. As regards the detailed provisions contained in the Minimum Wages Act, the Ministry of Labour and Employment in their written reply stated:—

“The Minimum Wages Act was enacted in the year 1948 to safeguard the interests of the workers engaged mostly in unorganized sector who are vulnerable to exploitation due to illiteracy and lack of bargaining power. The Act binds the employers to pay the minimum wages to the workers as fixed for scheduled employments under the statute. Under the provisions of the Act, both the Central Government and the State Governments are the appropriate Governments to fix, revise, review and enforce the payment of minimum wages to workers in respect of scheduled employments under their respective jurisdictions.

The enforcement of the provisions of the Minimum Wages Act, 1948 has been prescribed under provisions of the Act. It is secured at two levels. While in the Central Sphere, the enforcement is secured through the officers of the

Chief Labour Commissioner (Central), the compliance in the State Sphere is ensured through the State enforcement machinery. The officers of these machineries are appointed as Inspectors under the provisions of the Act. They conduct regular inspections and in the event of detection of any case of non-payment or under-payment of minimum wages, they advise the employers to make payment of the shortfall of wages. In case of non-compliance of advices of inspectors, there are the provisions of prosecutions also in the Act against the defaulting employers."

7. In the context of the issue raised by the petitioner in his first representation dated 22 October, 2010, on being asked by the Committee regarding violation of Minimum Wages Act by the Government of India, the Ministry further submitted as follows:—

"As per the Report received from the RLC(C), Asansol and Dy. CLC(C) Kolkata, the required information with regard to the violations of Minimum Wages Act, 1948 by not paying wages to the employees belonging to the Central Inland Water Transport Corporation and Hindustan Cable Factory Rupnarayanpur is as under:

Hindustan Cable, Rupnarayanpur is situated in the Civil district of Burdwan, State of West Bengal. The Government of West Bengal is the appropriate Government under the Payment of Wages Act, 1936 and the Minimum Wages Act, 1948, etc. RLC(C) Asansol inquired into the matter and intimated that Hindustan Cable has been declared as sick industry and referred to BIFR in 2002. The employees of the said organization are not getting regular salaries since September, 2003. All the employees of the organization have received the salary up to the month of March, 2009. The Organization gets salary fund from the Government of India, Department of Heavy Industries as non-plan assistance. Hindustan Cable usually receives non-plan assistance for three months at a time. But this time although a period of more than six months has elapsed, no such assistance has been received.

In respect of Central Inland Water Transport Corporation, the Dy. CLC(C), Kolkata has ascertained and intimated that there are two contractors engaged by the establishment in loading and unloading of cargos and the total number of contract labour employed is 100. The payment of wages is made directly by the contractors at the rate of Rs. 2240/- per month. It may be mentioned that in respect of this establishment, the State of West Bengal is the appropriate Government under the Payment of Wages Act, 1936 and Minimum Wages Act, 1948. But loading and unloading of cargos has not been included as a scheduled employment by the State Government under the MW Act, 1948 and accordingly no minimum rates of wages have been fixed for the said employment under the Act. The minimum rates of wages as fixed by the State of West Bengal for the work of building constructions etc. in Kolkata is Rs. 3492/- per month. It was also ascertained by the Dy. CLC(C), Kolkata that no casual labour has been engaged by the establishment and the total number of permanent employees including the officers is 414. It was reported that the regular employees are being paid salary, etc. regularly.

However, the allegation raised by AITUC that the Government is violating the Minimum Wages Act does not appear to be correct. Delayed payment of wages constitutes violation of Payment of Wages Act, 1936 in respect of the employees who get wages below Rs. 10,000/- per month and not of Minimum Wages Act, 1948. Even then in the case of Hindustan Cable the Government is not the employer in the real sense of the term and, therefore, cannot be accused of committing the violation. It may also be mentioned that in respect of both the Organizations the Central Government is not the appropriate Government either under the Payment of Wages Act, 1936 or under the Minimum Wages Act, 1948/ Industrial Disputes Act, 1947 etc.”

8. On being specifically asked by the Committee to submit the latest status of payment of wages to workers of Hindustan Cables, Rupnarayanpur, the Ministry in their subsequent reply dated 21 July, 2010 submitted:—

“Salary/wages and statutory dues of employees upto the period 31.12.2009 have already been released. The Company has informed that last three months salary (October to December, 2009) was paid in June, 2010.”

9. On being asked by the Committee as to whether the Ministry have received complaints from the employees of the Central Public Sector Undertakings (CPSUs) from various quarters of the country regarding non-payment of their wages as per the extant Guidelines of the Government, the Ministry in their written reply submitted:—

“As in respect of the most of the CPSUs, the State Governments are the appropriate Governments, the Central Government do not receive complaints from the employees of the CPSUs. However, whenever complaints from the employees of the CPSUs, in respect of which Central Government is the appropriate Government, are received the same are investigated and appropriate actions are taken under the law by filing claim applications. The number of claim cases filed in the Central Sphere during the last three years are as follows:—

Year	No. of claim applications filed	No. of claim cases decided
2006-07	3720	2183
2007-08	2966	2272
2008-09	2829	2361

The Ministry further submitted:—

Some complaints regarding non-payment of wages in respect of Public Sector Undertakings has been received through Committee on Petitions, Lok Sabha Secretariat. In addition, some reports regarding non-payment of wages in Public Sector Undertakings have also been received. A list of Public Sector Undertakings and other companies against whom such complaints have been received is at APPENDIX I.”

10. In response to the Hon'ble Member's representation dated 17 December, 2009 on the matter of non-payment of minimum wages to the workers of Tea Gardens of Assam and West Bengal, the Ministry of Labour and Employment *vide* its O.M. Z-13011/13/2009-WC dated 22 January, 2010 submitted:—

“Under the provisions of the Minimum Wages Act, 1948, both Central and State Governments are the appropriate Governments to fix, review and revise minimum wages in the scheduled employments under their respective jurisdictions. Since the Tea Garden Workers falls under the State sphere and the State Governments are the appropriate Governments to fix/revise the rate of minimum wages for such workers, therefore, the requisite information was called for from the State Government of Assam, West Bengal and Office of Chief Labour Commissioner (Central). The factual position as received is stated as below:—

(i) *Office of the Deputy Chief Labour Commissioner (Central), Kolkata*

The Deputy Chief Labour Commissioner (Central), Kolkata has informed that the plantation workers come under the purview of the State Government and the Central Government is not the appropriate Government.

The matter has, however, been discussed with the Labour Commissioner, Governments of West Bengal and Assam. The Labour Commissioner, State of West Bengal submitted that there have been 3 tripartite agreements signed on 24.08.2008 for daily rated workers and staff members. Again other settlement was signed on 02.11.2008 for Other Monthly Rates Employees (OMRE) and it has been implemented and wages has been enhanced. The rate of wages is increased regularly on the basis of increase of price index by way of D.A. The Labour Commissioner, Government of West Bengal further intimated that there is no case of less wages pending before them. However, matter is being referred to the concerned Labour Authority in the State of West Bengal to look into.

The Deputy Labour Commissioner, the State of Assam has intimated that agreed wages is being paid to the daily rated workers from 01.09.2008.

There are no details of isolated cases. However, the Labour Commissioners of both States have been intimated to look into the cases of less payment of wages and take necessary action and has also ensured that reply has been furnished separately.

(ii) *Government of Assam*

It is not a fact that the Tea Garden Workers in Assam are getting less than the minimum rates of wages. In fact the minimum rate as fixed by the State Government in 2003 was Rs. 48.50 per day. However, the present rate of Minimum Wages is Rs. 58.50 per day, as per bilateral agreement between Assam Chah Mazdoor Sangha and the Consultative Committee of Plantation Association. The present agreed wages in respect of Tea Garden Workers in Barak Valley stands at Rs.51.95 per day. Presently the Tea Garden Workers are enjoying the wages at Rs. 58.50 and Rs. 51.95 per day.

Further, it is hereby stated that the State Government has already constituted an Expert Committee to examine the matter of revision of minimum rates of wages for unskilled workers in plantation sector of the State. The Expert Committee has submitted the Report which is under consideration of the State Level Advisory Board on minimum wages of the plantation workers.

(iii) *Government of West Bengal*

The wages of Tea Garden Workers in West Bengal are now governed by tripartite agreements. The rate of minimum wages was last revised under Labour Department Notification No. 4729-LW dated 20.08.1959. A tripartite agreement was reached on 23.08.2008 in the matter of wages daily rated workers of Tea-Gardens in the State. As per the said agreement minimum wage of daily rated workers is Rs. 62.50 per day in cash (as on 01.01.2010). Total wages comes to Rs.101.00 per day including cash value of foodgrain supplied and other benefits allowed. Another Rs. 4.50 will be added to Rs. 62.50 from 01.04.2010 as per the tripartite agreement.”

11. In response to a query by the Committee as regards the machinery available to enforce the priorities of Minimum Wages Act so as to protect the interest of the employees/workers, the Ministry in their written reply stated:—

“The enforcement of the provisions of the Minimum Wages Act, 1948 has been prescribed under provisions of the Act. It is secured at two levels. While in the Central Sphere, the enforcement is secured through the officers of the Central Industrial Relations Machinery (CIRM), the compliance in the State Sphere is ensured through the State enforcement machinery. The officers of these machineries are appointed as Inspectors under the provisions of the Act. They conduct regular inspections and in the event of detection of any case of non-payment of minimum wages, they advise the employers to make payment of the shortfall of wages. In case of non-compliance of advices of inspectors, there are the provisions of prosecutions also in the Act against the defaulting employers.

Regular inspections are carried out by the officers of the Chief Labour Commissioner (Central) organization in the Establishments falling in Central sphere and inspection reports are issued to the defaulting employers for rectification of the irregularities. Wherever irregularities are not rectified, prosecution complaints/claim cases are filed in the appropriate courts of law. A statement of prosecution filed in the central sphere is provided in the table below. The similar information pertaining to the state sphere should be available with the respective States:

Year	No. of Inspections	No. of prosecutions launched	No. of cases disposed of	No. of Convictions
2006-07	19475	5692	4942	3852
2007-08	14039	5716	4722	3176
2008-09	15671	4631	4110	3947

The Central Government has been regularly requesting the State Governments for effective implementation of various provisions under Minimum Wages Act, 1948 so as to ensure that the workers in the scheduled employment are paid wage not lower than the minimum wage fixed and to protect the interest of workers.”

The Ministry further submitted:—

“In addition to this, under Payment of Wages Act, 1936 the Regional Labour Commissioners (C) have been notified/empowered as an authority to hear and decide claims arising out of non-payment of wages.”

12. On being asked about the effectiveness of the existing mechanism and the inability of the Organization/system to check non-payment of wages, the Ministry in their written reply stated:—

“The aforesaid mechanism have been found to be quite satisfactory considering the fact that no case of non-payment of wages in CPSUs falling under the Central sphere has been reported in the last 12 months.”

13. When enquired about the need to strengthen the existing mechanism to check the non-payment of wages to workers/contract workers and the initiatives taken by the Government in this regard, the Ministry in their written reply submitted:—

“The existing mechanism is satisfactory. However, the same is being further strengthened by providing needful infrastructure, computers and training to the field officers.”

14. The Committee desired to know the mechanism to inspect periodically the complaints of unorganized sector regarding non-payment of wages to the workers. The Ministry in their written reply stated:—

“Inspectors conduct inspections by contacting the workers engaged in the establishment in their respective allotted jurisdiction. If any irregularities are found including those of non-payment/ short payment of wages, inspection report-cum-show cause notice is issued to the erring employers with direction to rectify the irregularities within stipulated period. If a satisfactory compliance report is received, the Deputy Chief Labour Commissioner (C)/Regional Labour Commissioners (C)/Labour Commissioners order for verification of compliance report. The Inspector again visits the establishment and verifies the compliance report after checking necessary registers/records and also contacting concerned workers. In case no compliance report is received or the compliance report is found to be not satisfactory, a prosecution is filed before the Judicial Magistrate under the relevant labour laws. The Magistrate after hearing the parties may impose fine or imprisonment as per penal provision.

During the course of inspection if any less payment/non payment of wages is detected a claim case is filed before the Authority under Minimum Wages Act, 1948/Payment of Wages Act, 1936 as the case may be. The Authority having quasi-judicial power, summons the parties and decides the claim case by awarding payment as well as compensation.

Regular inspections are conducted by the Inspectors of Chief Labour Commissioner (C) organization in Central Sphere establishments. Special crash programmes/task force are also conducted by the group of Inspectors in remote places/ unorganized sector to ensure compliance of various labour laws such as Minimum Wages Act, Payment of Wages Act, Contract Labour (R&A) Act, Child Labour (P&R) Act, Inter-State Migrant Act, Building and Other Construction Workers (RE&CS) Act, Maternity Benefit Act, Payment of Bonus Act, Payment of Gratuity Act etc.”

15. The Committee wanted to know about the criteria/guidelines followed for fixing/revising the rate of Minimum Wages, the Ministry in their written reply submitted:—

“According to the provisions contained in the Minimum Wages Act, 1948, the appropriate Government will review the Minimum Wages in all the scheduled employments under its jurisdiction at an interval not exceeding five years and revise the minimum rates, if necessary.

Considering five years period too long to check price escalation, the Central Government introduced the concept of Variable Dearness Allowance (VDA) linked to Consumer Price Index (CPI) in 1989. This was based on the recommendations of the Labour Ministers’ Conference held in 1988 to evolve a mechanism to protect the minimum wage against inflation. The VDA is revised twice a year effective 1 April and 1 October depending on the rise in the CPI. The Central Government and twenty-six State Governments/Union Territory Administrations have informed adoption of VDA as a component to raise minimum wage after every six months. The Central Government has been impressing upon the remaining State Governments/U.Ts from time to time to adopt the concept of VDA.”

16. On being enquired by the Committee if the cargo loading and unloading has been included in the schedule within the purview of the Act, the Ministry in their written reply submitted:—

“Under Section 27 read with Section (1-A) of Minimum Wages Act, 1948, the appropriate Government is empowered to include any industry in the schedule within the purview of Minimum Wages Act, 1948 after consulting the Minimum Wage Advisory Board.

As per Notification S.O. 1284(E) dated 20.5.2009 employment in Loading and Unloading in (i) Goods Sheds, Parcel Offices of Railways; (ii) Other Goods Sheds, Godowns, Warehouses, etc., and (iii) Docks and Ports has been included in the schedule.”

17. The Committee categorically desired to know the efforts made by the Government in terms of mitigating regional disparity in rates of Minimum Wages, the Ministry in their written reply stated:—

“The Central Government fixes minimum rates of wages for the scheduled employments carried on in the central sphere and the State Governments fix

minimum rates of wages for the scheduled employments carried on in their respective state sphere. The rates are, therefore, not the same throughout the country. Further, the minimum rates of wages fixed by the Central Government or the State Government are not the same in the country or the state respectively as there are different rates fixed for different places categorized as Class 'A', 'B' and 'C' class towns/ cities depending upon the cost of living.

In order to have a uniform wage structure and to reduce the disparity in minimum wages across the country, concept of National Floor Level Minimum Wage was mooted on the basis of the recommendations of the National Commission on Rural Labour (NCRL) in 1991. Keeping in view the recommendation of NCRL and subsequent rises in price indices, the National Floor Level Minimum Wage was fixed at Rs.35/- per day in 1996. The Central Government raised the National Floor Level Minimum Wage to Rs. 40/- per day in August, 1998 and further to Rs. 45/- w.e.f. 01.12.1999, and Rs. 50/- per day w.e.f. 01.09.2002 keeping in view the rise in consumer price index. Based on the norms suggested by the Working Group and its acceptance by the Central Advisory Board subsequently in its meeting held on 19.12.2003, national floor level minimum wage was revised upwards to Rs. 66/- per day with effect from 01.02.2004.

Recently the national floor level minimum wages has been enhanced to Rs. 80/- per day with effect from 01.09.2007, which applies to all employments including agriculture. Presently, the National Floor level Minimum Wage, however, has no statutory backing. The State Governments are persuaded to fix/revise minimum wages such that in none of the scheduled employments, the minimum wage is less than National Floor Level Minimum Wage. This method has helped in reducing disparity among different rates of minimum wages to some extent.”

18.As regards the complaints received from the workers of Central Inland Waterways Corporation and Hindustan Cables Factory, Rupnarayanpur during the last three years and steps taken by the Government to pursue the matter with the management of these units, the Ministry in their written reply stated:—

“The issue relating to non-payment of wages to employees and workers belonging to Central Inland Water Transport Corporation and Hindustan Cables Factory, Rupnarayanpur, falls under the purview of State Government of West Bengal. The report received from the State Government in this regard is stated as below:

With reference to the above the Office of the Deputy Labour Commissioner, Asansol was contacted. No complaint of non-payment of minimum wages from Hindustan Cables Ltd., Rupnarayanpur appears to have been received in that office. However, the matter is being looked into.

Regarding Central Inland Water Transport Corporation, also it appears that there is no complaint received regarding non-payment of minimum wages from any quarter in that organization. Since receipt of this complaint, necessary instruction has been issued to look into the matter on an urgent basis.

However, a complaint has been received from Hindustan Cables United Contractors Workers' Union (affiliated to CITU) on the subject of non-payment of wages/salary to contract workers. The matter was taken up by the Addl. Labour Commissioner, West Bengal for resolution”.

19. When enquired if the Government has sent any team to look into the grievances of the workers and take remedial measures thereupon to redress their grievances, the Ministry in their written reply stated as under:—

“The Chief Labour Commissioner (Central) has suggested that a team of his officers may be sent to Hindustan Cables Ltd., Rupnarayanpur and Central Inland Water Transport Corporation to assist the State Governments to take suitable measures by conducting inspections etc. It can be considered.”

20. The Ministry further submitted the status as received from the concerned appropriate Government in respect of other Companies where wages were not paid as follows:—

(i) *Hindustan Cable Factory, Rupnarayanpur*

As per the report obtained from the Government of West Bengal, the status is as under:—

“A dispute was raised before Labour Department of Government of West Bengal by the operating trade unions namely (1) Hindustan Cables United Contractors Workers Union (CITU) (2) Hindustan Cables Contractors Ancillary Employees Union (HMS) and (3) Hindustan Cables Contractors Workers Union (INTUC) on various issues including non-payment of regular salary which could not be resolved through conciliation by the Labour Department of Government of West Bengal. A report under Section 12(4) of the ID Act, 1947 was sent to the Government of West Bengal for recommending adjudication with the following reference:—

1. Whether the management was justified in discontinuation of the job contract and thereby rendering contract workmen jobless;
2. If not, what benefits are the contract workmen entitled;
3. Whether the management was justified in denying the workmen regular salary as per agreement dated 25.1.2002; and
4. If not, what benefits are the contact workmen entitled to?

The matter is still pending with the State Government and is yet to be referred to the Industrial Tribunal.”

(ii) *HCL, Cherlapally (A.P.)*

As per the report obtained from the Government of Andhra Pradesh, the status was stated to be as follows:—

“In respect of HCL, Cherlapally, Hyderabad, wages of the employees have not been paid since 1.4.2010 to till date running in crores of rupees. The management of HCL has approached the Supreme Court of India and got relief from the Hon’ble Supreme Court of India because of their bad financial condition.”

(iii) *Central Inland Water Transport Corporation*

As per the report obtained from the Government of West Bengal, the status was stated to be as under:—

“Government of India has taken over M/s. Inland General and River Steam Navigation Company Ltd. in February, 1967 which was already a sick unit and renamed it as M/s. Central Inland Water Transport Corporation Ltd., on 22.9.2005. About 354 workmen are jobless due to change of operation by the management since April, 2005. No dispute is pending with the Labour Department of Government of West Bengal in respect of non-payment of wages to the workman.”

(iv) (a) *HMT Watch Factory, Srinagar*

As per the report obtained from the Government of Jammu and Kashmir, the status was submitted as follows:—

“The Deputy CLC (C), Chandigarh reported that salary to the workers in HMT, Chinar Watch Factory, Srinagar has not been paid to 130 workers since 1.1.2010 as the fund support from the Central Government has not been received. The company management informed that they have taken up the matter of release of fund with the Government.”

(b) *HMT Factory, Ranibagh*

As per the report obtained from the Government of Uttarakhand, the status was as under:—

“The Regional Labour Commissioner (C), Dehradun reported that about 565 employees have not been paid salary/wages since January, 2010 which amount to Rs. 9.58 crore due to lack of funds.”

(v) *Indian Telephone Industries*(a) **Indian Telephone Industry, Mankapur**

As per the report obtained from the State Government, the status was as under:—

“Deputy Chief Labour Commissioner (C), Kanpur reported that there are total 2500 regular employees. Regular payment is being made to the employees before 7th of every month. No grievance regarding delayed payment etc. has been received.”

(b) **Indian Telephone Industry, Rai Bareilly**

As per the report obtained from the Government of Uttar Pradesh, the status was as follows:—

“Deputy Chief Labour Commissioner (C), Kanpur reported that there are total

4200 regular employees. Regular payment is being made to the employees before 7th of every month. No grievance regarding delayed payment etc. has been received.”

(c) Indian Telephone Industry, Naini

As per the report obtained from the State Government, the status was as under:—

“Deputy Chief Labour Commissioner (C), Kanpur reported that there are total 2200 regular employees. Regular payment is being made to the employees before 7th of every month. No grievance regarding delayed payment etc. has been received.”

(vi) Hindustan Breakfast Foods

As per the report obtained from the State Government, the status was as follows:—

“Hindustan Breakfast Foods, which is a subsidiary of Hindustan Vegetables Oil Corporation Ltd., employ about 111 workers. 50% of the salary was paid due to orders of the Hon’ble High Court. The remaining 50% of the salary amounting to 18 lakhs is yet to be paid.”

(vii) Scooter India in Uttar Pradesh

As per the report obtained from the Government of Uttar Pradesh, the status was as under:—

“The office of the Regional Labour Commissioner (C), Lucknow informed that there are 1000 permanent employees. The Department of Heavy Industry has been giving non-plan loan support to this unit for payment of outstanding statutory dues, salary/wages etc. The employees have been paid full salary/wages upto December, 2009. For the period January to August, 2010, 90% of salary/wages have been paid. The outstanding salary/wages will be paid as and when the non-plan loan is received from the Department of Heavy Industry.”

(viii) Cement Corporation of India, Adilabad

As per the report obtained from the Government of Andhra Pradesh, the status was as follows:—

“In respect of Adilabad Unit of Cement Corporation of India, the Regional Labour Commissioner(C), Hyderabad has reported that wages to 94 workers to the tune of approximately Rs.55 lakhs has not been paid. The management has approached the Hon’ble High Court of A.P., and got a stay because of their bad financial condition.”

(ix) Hindustan Steel Construction Works

As per the report obtained from the Government of West Bengal, the status was as under:—

“The Regional Labour Commissioner (C), Kolkata informed that at present there are 569 regular workers are working. There is no case of outstanding dues towards wage/salary.”

21. The Committee asked about the steps taken on the complaint received from the Hindustan Cables United Contractors Workers' Union (affiliated to CITU) regarding Non-payment of wages/salary to contract workers. The Ministry in their written reply submitted:—

“The Company has informed that as regards payment of wages to the Contractors' Workers – Wages have been disbursed upto July, 2004 by the concerned Contractors. Thereafter, the Contractors failed to disburse wages from August, 2004. Since the Contractors have not submitted attendance register of Contractors' Workers, HCL, as Principal Employer, started to release Adjustable Advances to the Contractors' Workers directly at the intervention of Deputy Labour Commissioner, Government of West Bengal, Asansol for the wage period of August, 2004 to February, 2007. On various occasions, the release of adjustable advance including P.F. dues has been disbursed by HCL Management amounting to the tune of Rs. 1.00 crore.

HCL has informed that no resolution to the issue has so far been conveyed by the Additional Labour Commissioner, West Bengal. Meanwhile, Hindustan Cables Contractors and Ancillary Industries Employees Union and other have filed a writ petition (WP 8746/2008 and CAN 8190/2009) in the Calcutta High Court. The Hon'ble Court, vide their order dated 19.04.2010 has directed as follows:—

- (a) The Contractors should furnish statement showing the number of days worked by their workers for the period from August, 2004 to February, 2007 before HCL, Rupnarayanpur Unit within 2 weeks from the date of the order.
- (b) HCL should verify the same on the basis of calculation made by the Company for the total amount of Rs. 52,48,791.64 due to the contractors' labourers and to release the outstanding dues within six weeks to the contractors for the payment to the contractors' workers.
- (c) The Department of Heavy Industry is directed to provide the deficit amount to Hindustan Cables.
- (d) The amount which will be paid to the contractors' workers shall be adjusted against the award money to the contractors by HCL as per award of arbitration proceedings.
- (e) However, the Company has decided to appeal in the Division Bench on receipt of certified copy of the aforesaid order which is still awaited.”

22. The Committee desired to know the reasons for non-payment of wages to the contract workers of Hindustan Cables Ltd., Rupnarayanpur, the Ministry in their written reply stated:—

“HCL have informed that the contractors have failed to make payment to their workers. Moreover, some of the contractors have failed to submit the attendance of their workers for calculation of payment. Hence on various occasions, HCL has released adjustable advance including P.F. dues to the tune of Rs.1.00 crore to the contractors' workers.”

23. In response to a query by the Committee whether any contract was signed by the contractor before he was allowed to provide workers to the PSUs, the Ministry in their written reply stated:—

“Government has not signed any contract with the contractors. HCL has signed the contract which includes clauses like completion period, jurisdiction, arbitration, payment terms, benefits to the workmen, etc.”

24. As regards the mechanism available to monitor that the rules made by the Government in respect of payment to contract workers by the contractors are not flouted, the Ministry in their written reply stated:—

“The Government has effective mechanism in place so that workers get their full salary/wages regularly from the contractors by way of enforcing the labour laws rigorously. Wherever Central Government is the appropriate Government the labour laws are enforced meticulously.”

25. When questioned about the specific role of the Ministry of Labour and Employment in respect of fixation of wages across the country as a coordinator, the Ministry in their written reply submitted:—

“The Minimum Wages Act, 1948 was enacted to safeguard the interests of the workers engaged mostly in unorganized sector who are vulnerable to exploitation due to illiteracy and lack of bargaining power. The Act binds the employers to pay the Minimum Wages to the workers as fixed for scheduled employments under the statute. Under the provisions of the Act, both the Central Government and the State Governments are the appropriate Governments to fix, revise, review and enforce the payment of Minimum Wages to workers in respect of Scheduled employments under their respective jurisdictions. Under this Act the appropriate Governments have also been empowered to notify and employment in the schedule where the number of employees is 1000 or more and fix the rates of Minimum Wages.

Further, in order to have a uniform wage structure and to reduce the disparity in Minimum Wages across the country, a concept of National Floor Level Minimum Wage (NFLMW) was mooted. The NFLMW per day has been revised from time to time primarily taking into account the increase in the Consumer Price Index Number for Industrial Workers, which stands at Rs.100/- w.e.f. 01.11.2009. Since the NFLMW is a non-statutory measure, the State Governments are persuaded to fix/revise Minimum Wages in such a way that in none of the scheduled employments including Tea Garden Workers, the minimum wage is less than NFLMW.

There is a proposal to amend the Minimum Wages Act, 1948 *inter-alia*, to make NFLMW statutory as well as to cover all employments under the Act. This would enable all workers in the country to receive atleast the National Floor Level Minimum Wage.

To generate awareness, the latest minimum rates of wages for all the scheduled employments in the State as well as Central sphere have been made available on the Ministry's Website (www.labour.nic.in/wagecell).”

26. The Committee, however, enquired if there is any mechanism to monitor that the workers of tea gardens are getting the minimum wages, the Ministry in their written reply stated:—

“The enforcement of the Minimum Wages Act, 1948 is secured at two levels. While in the Central sphere, the enforcement is secured through the Inspecting Officers of the Chief Labour Commissioner (Central) commonly designated as Central Industrial Relations Machinery (CIRM), the compliance in the State sphere is ensured through the State Enforcement Machinery. They conduct regular inspections and in the event of detection of any case of non-payment or under-payment of Minimum Wages, they advise the employers to make payment of the shortfall of wages. In cases of non-compliance, penal provisions against the defaulting employers are invoked.

The information relating to Enforcement of the Minimum Wages Act, 1948 is not maintained separately for Tea Garden Workers. However, the details regarding enforcement of Minimum Wages Act, 1948 in the Central and the State sphere for the last three years *i.e.*, 2006-07, 2007-08 and 2008-09, as available, is at APPENDIX II.

Further, in the Amendment proposals to the Minimum Wages Act, 1948, in order to ensure compliance, the fines/penalties has been proposed to be enhanced as mentioned below:—

- (i) As regards non-payment of minimum rates of wages by the employers, presently there is provision of imprisonment for a term upto six months or fine upto Rs. 500/- or both. It is proposed to extend the provision to imprisonment for a term upto six months or fine upto Rs. 5000/- or both for the first contravention and imprisonment for a term upto one year or fine of Rs. 5000/- to Rs.10000/- or both on subsequent contravention.
- (ii) Presently the penal provision under Section 22A for contravening any provision of the Act like non-maintenance of registers, etc., is fine upto Rs. 500/-. It is proposed to enhance the fine upto Rs.5000/- for the first contravention and Rs. 5000/- to Rs. 10000/- on subsequent contravention.”

27. On being asked by the Committee as to whether wages of the workers working in tea gardens all over the country are being paid by the contractors/State Government in accordance with the Minimum Wages Act, the Ministry in their written reply stated:—

"In the State of Assam, the Commissionerate of Labour along with its field level officers are responsible for ensuring that the workers of tea gardens are paid the minimum wages. As many as 10 Assistant Labour Commissioners, 28 Labour Officers, 77 Labour Inspectors are deployed at the field level to monitor such activities. To facilitate speedy disposal of recovery cases, the Assistant Labour Commissioners have also been appointed as authority as contemplated under Section 20(1) of the Minimum Wages Act, 1948.

In the State of Assam, all payments are made by the Tea Garden Managements only.

In West Bengal, the wages of the plantation workers are paid by the employers as per Tripartite Agreements. All the 3 (three) tripartite agreements in respect of

daily rated workers, Other Monthly Rated Employees (OMRE) and staff members will expire on 31.03.2011. As such no Minimum Wages are fixed by the State Government for the plantation workers."

28. The Committee categorically enquired if any complaints had been received by the Government regarding less payment/non-payment of minimum wages in respect of tea garden workers in the country particularly from Assam, Darjeeling and Dooars in Jalpaiguri District, the Ministry replied in negative.

29. On being asked as to whether the rate of wages is increased regularly on the basis of the price index in respect of tea garden workers in the country, the Ministry in their written reply submitted:—

"In the State of Assam, VDA has been made as a component of minimum wage but not adopted for the Scheduled employment of Tea Plantation. The Deputy Labour Commissioner, Assam has, however, intimated that agreed wages is being paid to the daily rated workers with effect from 01.09.2008.

But in West Bengal, the rate of wages is increased regularly on the basis of increase of price index by way of D.A."

30. When asked whether the Central/State Governments are contemplating any plan to enhance the daily minimum wage rates of tea garden workers in the country on the basis of price index, the Ministry in their written reply stated:—

"The Tea Garden Workers falls under the State sphere and the State Governments are the appropriate Governments to fix/revise the rate of minimum wages for such workers."

The Ministry further stated:—

"In the State of West Bengal, the operating Trade Unions have submitted a representation to the Labour Department for special wage increase due to high rise of prices of essential commodities. In the last agreement, there is a provision for discussion of the issue of Variable Dearness Allowance for amicable settlement. The matter has been taken up and conciliation process is continuing to resolve the issue relating to VDA."

31. As regards the terms and conditions of the tripartite agreements entered among the Central/State Governments and the contractors regarding rate of minimum wages to be paid to the contractual workers of tea gardens in the country by the contractors, the Ministry submitted:—

"No such tripartite agreement is in existence in the State of Assam.

In West Bengal, the wages of the plantation workers are paid by the employers as per tripartite agreement."

32. Regarding the number occasions when rate of Minimum Wages have been revised/enhanced post the agreement signed in 2008, the Ministry submitted:—

"In the State of Assam (Brahmaputra Valley) only the bilateral wage agreement was effected on 04.02.2010 making effective from 01.01.2010 thereby increasing the wage by Rs. 8.00 from the earlier wage of Rs. 58.50. The next increase will be effective from 01.04.2011."

33. On being enquired by the Committee about the recommendations of the Expert Committee set up by the State Government of Assam to look into the matter of minimum wages of unskilled labours in plantation sector. The Ministry in their written reply stated:—

“The Expert Committee meetings were held on 25.08.2008, 05.05.2009 and 12.06.2009 to deliberate upon the fixation of minimum wage for the plantation workers of Assam. The endeavour of the Expert Committee was for a consensus opinion which was not found.

34. The Committee, thereafter, took oral evidence of the representatives of the Ministry of Labour and Employment on 10 November 2009 and 21 July 2010.

35. At the outset, the Additional Secretary, the Ministry of Labour and Employment explained the matter as under:—

“Sir, at the outset I would like to submit that payment of wages to workers of CPSUs are regulated mainly under the provisions of the Payment of Wages Act, Minimum Wages Act and Contract Labour (R&A) Act and the rules framed therein. The Payment of Wages Act is administered by the State Governments except for establishments of Railways, Mines and Air Transport Services for which Central Government has framed separate rules applicable to them. Under Contract Labour (R&A) Act, the definition of appropriate Government is the same as that in Industrial Disputes Act. Accordingly, for industry carried on by or under the authority of the Central Government and for port, dock, ESIC, EPF, Banks Mines, Oilfields, FCI, LIC, AAI etc. Central Government will be the appropriate Government and for the rest of the establishments, State Government will be the appropriate Government. Under the Minimum Wages Act, Central Government is the appropriate Government in relation to any scheduled employment carried on or by the authority of the Central Government or railway administration, mines, oilfield, major port or any Corporation established by a Central Act. For the rest of the establishments State Governments will be the appropriate authority. It is thus evident apart from CPSUs in sectors like Oil, Major Ports, Air Transport Services, Coal, Banking etc. Central Government is the appropriate Government while for majority of the CPSUs State Governments are the appropriate Government. So far this Ministry has received no report to the effect that the workers of the CPSUs under Central sphere have not been paid wages for many months. However, the Ministry will take every possible remedial measure not only to secure unpaid wages of the workers but also to take appropriate legal action against the defaulting employers whenever any specific complaints/report is received from any source.

Sir, so far as M/s Hindustan Cables Limited, Rupnarayanpur is concerned, we would like to submit that because of shortage of time, though we tried our best, we could not get the report from the State Government directly, however we have obtained information from M/s Hindustan Cables Limited as well as from the Department of Heavy Industries and we have furnished the latest updated status position with regard to the payment of wages in the detailed note which have been submitted to the Committee on the questionnaire which has been furnished to us.

Sir, to conclude while the Ministry will continue to pursue the concerns raised by the Hon’ble Members with all stakeholders we would like to seek your further valuable guidance in the matter.”

36. On being questioned by the Committee about the mechanism available with the Government to check/monitor non-payment of wages/minimum wages, the representatives from the Ministry of Labour and Employment submitted:—

“The powers are there either with the Central Government or with the State Governments whosoever may be the appropriate authority under the Act to take action. That holds good also for the contract workers where the principal employer, in case the contractor is not in a position to fulfil the obligations under the labour laws, is held liable for the violation under the labour laws.”

37. When reminded about the fact that according to law, wage has to be paid during the first week of the next month and that the workers of Rupnarayanpur Cable Factory and Central Inland Waterways Corporation have not been paid their wages for the last seven months and four months respectively, the representative from the Ministry stated as under:—

“.....As far as the Central Inland Waterways Corporation is concerned, we were basically guided by the questions which were given to us by the Lok Sabha Secretariat and, therefore, we limited our clarifications and observations to the Hindustan Cables Limited and we did not react to the position and status with regard to CIWTC. However, we will immediately look into that aspect also. The Commissioner is sitting next to me. I have advised him to immediately look into the status of the CIWTC.....”

38. On being questioned by the Committee about the provisions as regards to lodging complaints on behalf of workers, the representative from the Ministry submitted:—

“.....It is not a question of a person having any *locus standi* under the law. In case any law is being violated, then any person leave apart the individual worker or even the union; union always has the inherent power and the jurisdiction, can bring it to our notice any violation of the labour laws. Then, we are supposed to take cognizance and look into it immediately.....”

39. On being pointed out about an outdated and age old criteria being prevalent in fixation of the Minimum Wages and the steps taken if any, to revamp it, the representative from the Ministry responded:—

“Sir you have expressed very rightful apprehensions about the minimum wages, about its quantum, about its revision at regular intervals. As far as the national minimum wage is concerned, we have been revising it quite periodically. In fact, I am speaking from my memory; the last revision was done as late as 2009. We are very conscious of the fact that in view of the various changes and revisions in the parameters on the basis of which the Minimum Wage is fixed, we need to revise it at a periodical level. As far as the national Minimum Wage is concerned, I would like to assure the Hon’ble Members of this august Committee that this Ministry is quite conscious of its duty under the law and will ensure that it is revised on a periodical basis.”

40. When questioned about the violations of the Minimum Wages Act in different States of the country and the initiatives undertaken by the Ministry/Government to curb them, the representative from the Ministry submitted:—

“.....In so far as the State Governments are concerned, both with regard to the minimum wages and with regard to implementation of the labour laws, it has

been our endeavour to have a constant interaction with the State Governments at a regular interval. As such, we do not have any legal power under the Act by which we can impose anything upon being the Federal set up which we have and labour being a concurrent subject, we do not have any legal authority by which we can legally intervene in the jurisdiction of the State Government. But we have been fulfilling our advisory role at a regular interval. We have had meetings with the State Labour Ministers. Our Hon'ble Minister has started because of all these concerns. In order to ensure that there is attention in a focussed manner, our Hon'ble Minister has started this concept of having the regional meetings. It is because in one national meeting to cover all the issues of all the States of the country it may not be possible in one day or two days. We have now started the concept of having regional meetings with the Regional Ministers on a regular basis. Our endeavour is to have it once in every quarter. We have till now covered the Southern Region, we have covered the Eastern Region and our Minister personally took a meeting in the Western Region. The next meeting which has been fixed is for the North Eastern Region. There we will cover all these issues with regard to implementation of the labour laws. We have written to the State Governments also that they should ensure that these labour laws should be enforced."

41. On being again enquired by the Committee about the non-payment of wages in a few other Central Public Sector Enterprises *viz.* HMT Srinagar, Hindustan Breakfast Foods, Delhi, Cement Corporation of India, Adilabad, HECL, Ranchi, Scooter India, Lucknow. The representative from the Ministry submitted:—

".....Sir you mentioned about a few specific companies. We will definitely look into it. But definitely there is an issue with regard to appropriate authority. Right now my Labour Commissioner was telling me, for example, that ITI and HMT will not come into the Central sphere. This is just an example. I am not able to comment on each and every specific Public Sector Undertaking (PSU) or Corporation which you have mentioned. But if you want, we will give you a written reply on that issue. But just as an example we are saying that though it may appear that ITI and HMT may fall in the Central sphere, I was told by my Additional Labour Commissioner that ITI and HMT do not fall in the Central sphere. The appropriate authorities for them are the concerned State Governments where those units are located. However, we have also called a representative of the Department of Heavy Industries because as far as the CPSUs are concerned, they are the administrative Ministry with regard to payment of wages for all the CPSUs which come under their purview. There are the administrative Ministries for other PSUs also. For example, the Steel Authority of India Limited, it will be the Ministry of Steel. But all the PSUs which are under the Department of Heavy Industries and general policies are also formulated by the Department of Heavy Industries."

42. On being asked about the complaints regarding non-payment of Minimum Wage to labours involved in the construction sites for Commonwealth Games 2010,

the representative from the Ministry submitted:—

“We have taken up the matter with the Labour Commissioner. Then a joint team was also sent on the directions of the Hon’ble High Court to inspect these workers with regard to migrant labours, the Delhi Government has been asked to ensure that all the working conditions and wages are duly respected as under the law.”

43. The Committee undertook on-the-spot study visit to Munnar on 18 September, 2010 to have an informal discussion with the representatives of Ministry of Labour and Employment to gather first hand information on the representation received from Shri Gurudas Das Gupta, MP, Lok Sabha regarding payment of less than the minimum wages to the workers of tea gardens.

44. The Committee paid a visit to the Tea Factory (under Tata group earlier). Amongst other things the condition of tea plantation workers and the wages being paid to them were discussed. The Committee were informed that in this factory, the workers also happened to be the stakeholders and there was no issue regarding payment of less than minimum wages to them as mandated under the Minimum Wages Act, 1948.

45. The Committee also held an informal discussion with the representatives of the Ministry of Labour and Employment, the Regional Labour Office, the State level concerned officers as also the representatives of Tea Manufacturers on the issue of payment of minimum wages and other issues related therewith.

46. The Committee categorically desired to know whether the regular increase in the Minimum wages in respect of tea garden workers based on the price index particularly from Assam and the Darjeeling and Dooar in Jalpaiguri district of the West Bengal was being provided to them. It was submitted before the Committee that in the State of Assam, VDA had been made as a component of minimum wages but not adopted for the scheduled employment of Tea Plantation. It was added that the Deputy Labour Commissioner, Assam had, however, intimated that agreed wages were being paid to the daily rated workers with effect from 01.09.2008.

47. About the specific role of the Ministry of Labour and Employment in respect of fixation of wages across the country, the Committee was informed that the Minimum Wages Act, 1948 was enacted to safeguard the interests of the workers engaged mostly in the unorganized sector who were vulnerable to exploitation due to illiteracy and lack of bargaining power. The Act binds the employers to pay the Minimum Wages to the workers as fixed for scheduled employments under the statute. Under the provisions of the Act, both the Central Government and the State Governments are the appropriate Governments to fix, revise, review and enforce the payment of Minimum Wages to workers in respect of scheduled employments under their respective jurisdictions. Under this Act the appropriate Governments have also been empowered to notify employment, in the schedule where the number of employees is 1,000 or more and fix the rates of Minimum Wages.

48. The Committee were specifically informed by the representatives of the Ministry of Labour and Employment that there was a proposal to amend the Minimum Wages Act, 1948, *inter alia*, to make the National Floor Level Minimum Wages (NFLMW)

statutory and it was also proposed to cover all employments under the Act. Thus this amendment would enable all the workers in the country to receive at least the NFLMW.

49. The Committee asked about the mechanism available to monitor the system in the country to check that the workers of tea gardens get the Minimum Wages. The representatives of the Ministry submitted that the enforcement of the Minimum Wages Act, 1948 was secured at two levels. While in the Central sphere, the enforcement was secured through the Inspecting Officers of the Chief Labour Commissioner (Central) commonly designated as Central Industrial Relations Machinery (CIRM), the compliance in the State sphere was ensured through the State Enforcement Machinery. They conducted regular inspections and in the event of detection of any case of non-payment or under payment of minimum wages, they advised the employers to make payment of the shortfall of wages. In case of non-compliance, penal provisions against the defaulting employers were being invoked.

50. The Committee thereupon categorically asserted that the data regarding violation of the Minimum Wages Act, 1948 be centrally maintained; to which the representatives of the Ministry submitted that the Ministry was in the process of collecting such data through the Regional Labour Commissioners.

Observations/ Recommendations

51. A representation was submitted to the Committee in October 2010 by Shri H. Mahadevan, Deputy General Secretary, All India Trade Union Congress (AITUC) regarding: Violation of the Minimum Wages Act, 1948 by the Government of India. According to the representation, the Central Public Sector Undertakings (CPSUs) were violating the Minimum Wages Act, 1948 by denying their workers the Minimum wages. Some of such CPSUs referred in the representation were Central Inland Waterways Corporation, Rupnarayanpur, Cable Factory, HMT, Breakfast Food India Ltd., Scooters India Ltd., etc. where workers were being paid less than the Minimum Wage. The Hon'ble Member Shri Gurudas Das Gupta, MP, Lok Sabha had also informed the Committee about the complaints received from Tea Garden workers of Assam, Darjeeling and Dooars in Jalpaiguri District regarding the non-payment of Minimum Wages to them.

52. The Committee note from the submissions made by the Ministry of Labour and Employment that the Minimum Wages Act was enacted in the year 1948 to safeguard the interests of the workers engaged mostly in the unorganised sector, who are generally vulnerable to exploitation due to illiteracy and lack of bargaining power. The Act binds the employers to pay the Minimum Wages to the workers as fixed for Scheduled Employments under the statute. Under the provisions of the Act, both the Central Government and the State Governments are the appropriate Governments to fix, revise, review and enforce the payment of minimum wages to the workers in respect of Scheduled Employments under their respective jurisdiction.

53. The Committee were informed by the Ministry that the State Government of West Bengal was the appropriate Government for implementation of the Minimum Wages Act, 1948 for the Hindustan Cables Ltd., Rupnarayanpur and the Central Inland Water Transport Corporation, Kolkata. The employees of the HCL, Rupnarayanpur were not getting regular salary since September 2003 due to the Unit being declared

sick and as such referred to BIFR in 2002. In the Central Inland Water Transport Corporation, there were two contractors engaged by the establishment, who in turn, had engaged 100 contract labours to do loading and unloading of cargo. The contract labours are paid Rs. 2240/- per month for the said work which was less than the minimum wage fixed by the appropriate Government on the premise that loading and unloading does not come under the list of Scheduled Employments under the Act. As regards the basic rates of wages fixed by the Central Government for workers under Scheduled Employments, the Committee, however, note from Ministry's submission that loading and unloading in god shed/parcel offices of Railways comes under the list of the Scheduled Employments, whereas, loading and unloading of cargos at harbours/ports does not feature in the list of Scheduled Employments in West Bengal. The Committee feel that perhaps, there is some kind of ambiguity in the policy of the Government to list various employments under the list of Scheduled Employments across the country. The Committee are, therefore, of the firm opinion that the Government should have uniformity in listing of all the contractual employments across the country for inclusion of work of similar nature at least in the list of Scheduled Employments under the ambit of the Act. *The Committee would, therefore, recommend that for bringing uniformity in listing of contractual work across the country the Government should bring appropriate amendment in the Act. The rate of wage may differ on the basis of cost of living in a particular city, but difference in terms of listing of an employment of same nature cannot be justified.*

54. The Committee note that according to the provisions contained in the Minimum Wages Act, 1948, the appropriate Government reviews the Minimum Wage at an interval of 5 years. Apart from this the Government has introduced the concept of Variable Dearness Allowance (VDA) linked to Consumer Price Index (CPI) which is also to be taken into account for fixing the minimum wages. The Central Government and twenty-six State Governments/UTs have so far adopted VDA as a component to raise minimum wages after every six months. The Committee further note that the Central Government has been impressing upon the remaining State Governments/UTs from time to time to adopt the concept of VDA. The Committee are, however, surprised to observe that the State Government of Assam has not made VDA a component of fixing minimum wages for the tea plantation workers, whereas VDA forms an integral part of minimum wage for other employments listed under Scheduled Employment in the State. The Committee, therefore, strongly feel that VDA should be made an indispensable and integral part of fixing minimum wage especially when prices of basic commodities have grown so volatile. *The Committee, would therefore, recommend that the Government should take effective steps in co-ordination with the State Government/UT – in order to ensure that the concept of VDA linked to CPI is adopted uniformly especially in the State of Assam where tea plantation workers are being deprived of the same.*

55. The Committee further note from the submissions made by the Ministry that in order to have a uniform wage structure across the country, a concept of National Floor Level Minimum Wage (NFLMW) was mooted. The NFLMW is fixed from time to time primarily taking into account the increase in the Consumer Price

Index Number for industrial workers, which stands at Rs. 100 w.e.f. 01.11.2009. Since the NFLMW is a non-statutory measure, the State Governments are persuaded to fix/revise minimum wages in such a way that in none of the Scheduled Employments including Tea Garden Workers, the minimum wages are less than NFLMW. The Committee are, however, not convinced by only the persuasive attempts made by the Ministry to maintain parity in terms of minimum wages across the country. The Committee feel that the Government cannot abdicate their responsibility by taking recourse to the plea that the concept of NFLMW is non-statutory and therefore, the Central Government can only persuade the State Governments in the matter. *The Committee, therefore, recommend the Ministry to amend the relevant clause of the Act to make the provision of NFLMW statutory and binding, so that the workers across the country get the benefit of NFLMW.*

56. The Committee have been informed that the existing mechanism to check non-payment of wages to workers/contract workers is being further strengthened by providing requisite infrastructure, computers and training to the field officers. In opinion of the Committee the online maintenance/upgradation of Scheduled Employments under the Act, maintenance of data in regard to the employers who have defaulted in terms of payment, prevailing minimum wages in the Central sphere as well as States/UTs alongwith the existing National Floor Level Minimum Wage (NFLMW) would enable the workers/contract labours to claim their wages as per the latest rates. *The Committee feel that it will prove to be of great significance if the Ministry ask all the CPSUs to widely circulate the details of all the above provisions in vernacular language to their workers and also display the same on their notice boards so as to make the workers aware of their legal rights. The Ministry should also publish the aforesaid provisions of the Act in vernacular newspapers and also advertise them through the electronic media from time to time to make workers aware of their rightful dues in terms of wages.*

57. The Committee are surprised to note that majority of the CPSUs have failed to keep check on the contractors, regarding payment of minimum wages to their workers. The Committee are further constrained to note that the Government does not have any effective mechanism to check the erring contractors who fail to pay wages to their workers. The Committee are convinced about the fact that unless the erring contractors are brought to book, the practice of non-payment of wages to contract labours would continue unabated. *The Committee, therefore, recommend that in order to keep check on erring contractors, the Government should bring suitable amendment in the Act so that such contractors are blacklisted and not given any future Government contract(s), if they are found guilty.*

58. The Committee were informed during the course of their study visit to the tea garden/factory at Munnar, that the Ministry was in the process of collecting data regarding violation of the Minimum Wages Act, 1948 to maintain a central record of the same. *The Committee recommend that the Ministry should collect such data in a time bound manner not only for tea garden workers but also pertaining to all the Scheduled Employments so that it could be maintained centrally and may be uploaded on the website, so as to keep a check on violation of Minimum Wages Act, 1948.*

59. The Committee have been informed that the Ministry proposes to bring about amendments to the Minimum Wages Act, 1948 in regard to imposing fines/penalty for infringement of the Act so as to ensure strict compliance of the Act. The proposed amendment seeks to increase/extend the provision of imprisonment for six months or fine upto Rs.5000/- or both for the first contravention and imprisonment for a term upto one year or a fine upto Rs.5000/- to Rs.10000/- or both on subsequent contraventions. Further, the penal provision under Section 22A for any infringement of the Act is proposed to be increased upto Rs.5000/- for the first contravention and Rs.5000/- to Rs.10000/- for the subsequent contraventions. *The Committee, however, recommend that apart from imposing financial penalty/imprisonment, the proposed amendment should also prescribe stringent and exemplary penalty by way of blacklisting, etc. for the defaulting establishment so as to check the violation of Act across the country.*

60. The Committee also note from the submissions made by the Ministry/State Government of West Bengal that the wages of the plantation workers are paid by the employers as per Tripartite Agreements. As such no Minimum Wages are fixed by the State Government for the plantation workers. The Committee feel that the core value behind the enactment of the Minimum Wages Act, 1948 is to protect the vulnerable labour force from the excesses of the contractors in terms of non-payment or under-payment of wages. The Committee deplore the fact that the State Government of West Bengal have failed in the fixation of Minimum Wages for the plantation workers. *The Committee, therefore, would like the Ministry to take up this concern of the Committee with the State Government of West Bengal and impress upon it to fix Minimum Wages for plantation workers in accordance with the latest parameters pertaining to Minimum Wages Act and also in the light of the historic judgement of the Hon'ble Supreme Court in the Reptakos & Co. Vs. its workers, 1992, wherein the Apex Court had pronounced that Minimum Wages should be fixed after considering basic needs of the workers.*

61. The Committee are shocked and dismayed to note that the Minimum Wages Act, 1948 has neither defined Minimum Wages nor has it laid down any norms/criteria for fixing the Minimum Wages. Minimum wage is paid on the norms recommended by the Indian Labour Conference held in 1957 and judgement of the Hon'ble Supreme Court in the case of Reptakos & Co. Vs. its workers, where in, the Apex Court pronounced that minimum wage should be fixed after considering workers basic necessity viz. the children's education, medical requirement, minimum recreation including festivals/ceremonies, provision for old age, marriage, etc. *The Committee, therefore, recommend the Ministry to bring in all the necessary amendments to the Act so that the basic elements, so necessary for fixing Minimum Wage gets legal status. The Committee would like to be apprised of the action taken by the Ministry in this regard within a period of three months' time.*

NEW DELHI;
19 December, 2011
28 Agrahayana, 1933 (Saka)

ANANT GANGARAM GEETE
Chairman,
Committee on Petitions.

APPENDIX I

(Para 9 refers)

**A LIST OF PUBLIC SECTOR UNDERTAKINGS AND OTHER COMPANIES
AGAINST WHOM SUCH COMPLAINTS WERE RECEIVED**

1. Hindustan Cable Factory
2. Central Inland Water Transport Corporation
3. HMT Watch Factory, Srinagar
4. HMT Factory, Ranibagh
5. Indian Telephone Industry
6. Hindustan Breakfast Foods
7. Scooter India in Uttar Pradesh
8. Cement Corporation of India, Adilabad
9. Hindustan Steel Construction Works
10. Oil & Natural Gas Corporation Limited
11. National Textile Corporation
12. Airports Authority of India
13. Bharat Oman Refineries Limited

APPENDIX II
(Para 26 refers)

DETAILS REGARDING ENFORCEMENT OF MINIMUM WAGES ACT, 1948 DURING 2006-07

S.No.	Name of the States/UTs.	Inspections made	Irregularities		Claims		Prosecution cases			Amount of Com-pensation Awarded (Rs. '000)	Amount of Fine (Rs. '000)		
			Detected	Rectified	Filed	Settled	Pending	Filed	Decided		Imposed	Recovered	
1	2	3	4	5	6	7	8	9	10	11	12	13	
	Central Sphere	15147	-	-	1706	1860	-	5692	4942	20421	-	-	
	State Sphere												
1.	Andhra Pradesh	88957	12389	10458	19952	14847	661	389	394	5683	67	51	
2.	Arunachal Pradesh	187	10	6	1	Nil	4	4	Nil	Nil	Nil	Nil	
3.	Assam	9432	6067	5020	59	21	24	58	19	908	16	14	
4.	Bihar	278336	54700	51253	20763	19177	1152	122	35	11738	696	-	
5.	Chhattisgarh*	5214	2678	782	367	337	9394	1222	919	1335	234	300	
6.	Goa	582	2319	513	5	-	13	20	10	-	6	-	
7.	Gujarat	99966	19592	19444	1	69	2210	208	380	-	132	-	
8.	Haryana	2320	389	45	218	277	990	93	155	2090	70	-	
9.	Himachal Pradesh	1331	469	358	-	26	142	55	Nil	Nil	34	Nil	
10.	Jharkhand	69460	9882	9212	1514	1337	1274	25	7	4474	11	10	
11.	Karnataka	35171	12474	9371	2126	1335	621	526	389	14522	337	-	
12.	Kerala	28744	48962	22085	117	42	523	808	794	544	532	532	
13.	Madhya Pradesh	29483	2845	1458	643	414	8711	1387	485	162	314	314	
14.	Maharashtra	64714	54739	45748	3	-	1402	156	90	1677	59	-	
15.	Manipur	319	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	

1	2	3	4	5	6	7	8	9	10	11	12	13
16.	Meghalaya	425	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
17.	Mizoram	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
18.	Nagaland	20	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
19.	Orissa	26787	23910	12414	269	27	9144	770	551	Nil	105	-
20.	Punjab	14851	2833	2469	181	278	2563	589	326	130	181	-
21.	Rajasthan	8393	195	42	229	216	864	123	217	5798	68	68
22.	Tamil Nadu	94483	1154	91	1996	1298	4627	713	638	18479	221	221
23.	Tripura	6803	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
24.	Uttarakhand	3238	1337	663	335	255	105	508	351	2888	168	157
25.	Uttar Pradesh	16990	12836	5208	3639	2933	8906	1066	883	96861	188	-
26.	West Bengal	25467	7004	6753	-	-	708	73	68	-	33	33
27.	Andaman & Nicobar Islands	243	972	972	-	-	-	-	-	-	-	-
28.	Chandigarh	277	196	-	123	86	94	84	132	97	111	-
29.	Dadra & Nagar Haveli	13	2	2	-	-	-	-	-	-	-	-
30.	Daman & Diu	511	-	-	-	-	-	-	-	-	-	-
31.	Delhi	8575	7002	6333	451	513	11382	1060	612	1373	459	252
32.	Lakshadweep	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
33.	Puducherry	7138	215	215	Nil	Nil	2	3	1	Nil	0.7	0.7

Note: The Information from Jammu & Kashmir and Sikkim are awaited.

ANNEXURE I

MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON PETITIONS (FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, 10th November, 2009 from 1500 hrs. to 1630 hrs. in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi to take oral evidence of the representatives of the Ministry of Railways (Railway Board) and the Ministry of Labour and Employment, Government of India.

PRESENT

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Rajendra Agrawal
3. Shri Khiladi Lal Bairwa
4. Shri E.T. Mohammed Basheer
5. Shri Gurudas Das Gupta
6. Shri Jagdambika Pal
7. Shri Sarvey Satyanarayana
8. Shri Rakesh Singh
9. Shri Kabir Suman

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri V.R. Ramesh — *Director*
3. Shri U.B.S. Negi — *Additional Director*
4. Shri Hulasi Ram — *Deputy Secretary*
5. Smt. Jagriti Tewatia — *Under Secretary*

WITNESSES

* * * * *

* * * * *

MINISTRY OF LABOUR AND EMPLOYMENT

1.	Shri P.C. Chaturvedi	—	Secretary
2.	Shri S.K. Mukhopadhyay	—	Chief Labour Commissioner (Central)
3.	Shri S.K. Verma	—	Director (Social Security)
4.	Shri Harcharan Singh	—	Deputy Director General
5.	Shri Abhay Kumar Singh	—	FA & CAO, EPFO
6.	Shri S.Pathak	—	Director (Security EPFO)
7.	Shri Kishori Lal	—	Deputy Director
8.	Shri S.D. Xavier	—	Under Secretary
9.	Shri Brij Mohan	—	Assistant Director
10.	Shri V.K. Balayan	—	Section Officer (Social Security)

* * * * *

5. The Chairman welcomed the representatives of the Ministry of Labour and Employment and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings.

6. Thereafter, the Committee undertook the following two representations for oral evidence of the representatives of Ministry of Labour and Employment on:—

(i) * * * * *

(ii) Representation from Shri H. Mahadevan, Deputy General Secretary, All India Trade Union Congress regarding violation of the Minimum Wages Act, 1948 and also non-payment of minimum wages to the tea garden workers of Assam, Darjeeling and Dooars in Jalpaiguri.

7. * * * * *

8. The representation regarding violation of Minimum Wages Act by the Government of India could not be discussed in the meeting and it was decided that same would be listed for discussion in next sitting.

9. The Committee asked the representatives from the Ministry of Railways and Ministry of Labour and Employment to send their replies on points which could not be supplied or readily available with them during the evidence at the earliest.

10. A copy of the verbatim proceedings of the sitting of the Committee was kept on record.

The witnesses then withdrew.

The Committee then adjourned.

ANNEXURE II

MINUTES OF THE NINETEENTH SITTING OF THE COMMITTEE ON PETITIONS (FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Wednesday, 21st July, 2010 from 1500 hrs. to 1630 hrs. in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi. In the absence of the Chairman, the Committee chose Shri Gurudas Das Gupta, to act as Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

PRESENT

Shri Gurudas Das Gupta — *In the Chair*

MEMBERS

2. Shri Rajendra Agrawal
3. Shri Khiladi Lal Bairwa
4. Shri E.T. Mohammed Basheer
5. Shri Devendra Nagpal
6. Shri Jagdambika Pal
7. Prof. Ram Shankar
8. Shri Sarvey Sathyanarayana
9. Dr.Sanjay Sinh
10. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri V.R. Ramesh — *Joint Secretary*
3. Shri U.B.S. Negi — *Additional Director*
4. Shri Hulasi Ram — *Deputy Secretary*
5. Smt. Jagriti Tewatia — *Under Secretary*

MINISTRY OF LABOUR AND EMPLOYMENT

1. Shri S.K. Srivastava — *Additional Secretary*
2. Shri Harbhajan Singh — *JS (Department of Heavy Industry)*
3. Shri Animesh Bharti — *Director*

4. Shri S. Jainendra Kumar — DS (Department of Heavy Industry)
5. Shri N.K. Prasad — Deputy Chief Labour Commissioner
6. Shri V. Ashok — Deputy Director

* * * * *

2. At the outset, the Chairman welcomed the representatives of Ministry of Labour and Employment and drew their attention towards Direction 55 (1) of the Directions by the Speaker regarding confidentiality of the proceedings.

3. Thereafter, the Chairman referred to the representations received from Shri H. Mahadevan regarding non-payment of wages to workers of Central Public Sector Undertakings (CPSUs). Then the representatives from the Ministry of Labour and Employment explained that Central Government is the appropriate authority under the Minimum Wages Act, in relation to any scheduled employment carried on by the authority of the Central Government or Railway administration, mines, oilfields or any corporation established by a Central Act and that the Ministry have not received any complaint of non-payment of wages to workers in CPSUs. The Committee cited many instances of non-payment of wages from various quarters of the country and sought to know as to why the Ministry have failed to check default in payment of wages and whether the Ministry of Labour and Employment have taken up this matter with the nodal Ministries especially Ministry of Finance. The representatives stated that they have started the practice of convening regional meetings with the regional Ministries to check default in terms of payment and till-date have already held meetings in the Southern and Eastern region. The Committee also raised the issue of non-payment of minimum wages, which is not being paid to the contract labourers working on sites of Commonwealth Construction and directed them to look into the matter and inform the Committee.

4. The Committee further sought clarification on issues like Enforcement of Wages Act, penalty for non-payment of wages and number of instances wherein the Ministry have taken action against the defaulter. The representatives of the Ministry explained that apart from responding and taking action on complaints of non-payment, the Office of Chief Labour Commissioner also ensures and monitors the payment of wages. The Committee then sought certain clarifications and directed them to give a written reply on the number of cases wherein wages have not been paid in CPSUs and the status of payment /non-payment of minimum wages to migrant workers working on Commonwealth Construction sites in Delhi.

The witnesses then withdrew.

5. * * * * *

6. * * * * *

7. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The witnesses then withdrew.

The Committee then adjourned.

ANNEXURE III

MINUTES OF THE THIRTY-NINTH SITTING OF THE COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

The Committee on Petitions met on Monday, 19 December, 2011 from 1700 hrs. to 1730 hrs. in Chairman's Room *i.e.* Room No. 014, Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Rajendra Agrawal
3. Dr. Manda Jagannath
4. Shri Narahari Mahato
5. Shri Bhartruhari Mahtab
6. Dr. Sanjeev Ganesh Naik
7. Shri Rakesh Singh
8. Shri P. Venugopal

SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Shri P.K. Grover | — | <i>Additional Secretary</i> |
| 2. Shri Shiv Kumar | — | <i>Director</i> |
| 3. Shri Hulasi Ram | — | <i>Additional Director</i> |
| 4. Smt. Jagriti Tewatia | — | <i>Under Secretary</i> |

2. At the outset, the Chairman welcomed the Members of the Committee. The Committee then considered and adopted draft Eighteenth Report regarding: Violation of the Minimum Wages Act, 1948 and also non-payment of minimum wages to tea garden workers of Assam, Darjeeling and Doars in Jalpaiguri District with slight modifications.

3. The Committee authorized the Chairman to finalize and present this Report to the House.

The Committee then adjourned.