

SIXTIETH REPORT

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF LABOUR & EMPLOYMENT

(Presented to Lok Sabha on _____)



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1

ANNEXURE

- (i) Minutes of the 51st sitting of the Committee held on 9.10.2018.

13

(i)

**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2018-2019)**

Shri Bhagat Singh Koshyari - *Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
7. Shri C.P. Joshi
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Shri Arjun Charan Sethi
11. Shri Kodikunnil Suresh
12. Shri Dinesh Trivedi
13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

- | | | |
|----------------------------|---|---------------------|
| 1. Shri Shiv Kumar | - | Joint Secretary |
| 2. Shri Raju Srivastava | - | Director |
| 3. Shri G.C. Dobhal | - | Deputy Secretary |
| 4. Shri Anand Kumar Hansda | - | Executive Assistant |

SIXTIETH REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Sixtieth Action Taken Report (Sixteenth Lok Sabha) of the Committee to the House on the Action Taken by the Government on the recommendations of the Committee on Petitions made in their Twenty-Fourth Report (Sixteenth Lok Sabha) on the Representation received from Shri Sapan Kumar Ghosal regarding amendment to the Contract Labour (Regulation & Abolition) Act, 1970 governing the working conditions of Contract Labourers.

2. The Committee considered and adopted the draft Sixtieth Action Taken Report at their sitting held on 9.10.2018.

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

NEW DELHI;

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions

9 October, 2018

17 Asvina, 1940 (Saka)

REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (SIXTEENTH LOK SABHA) IN THEIR TWENTY-FOURTH REPORT ON THE REPRESENTATION RECEIVED FROM SHRI SAPAN KUMAR GHOSAL REGARDING AMENDMENT TO THE CONTRACT LABOUR (REGULATION & ABOLITION) ACT, 1970 GOVERNING THE WORKING CONDITIONS OF CONTRACT LABOURERS.

The Committee on Petitions (Sixteenth Lok Sabha) in their Twenty-Fourth Report presented to Lok Sabha on 9 December, 2016 dealt with a Representation received from Shri Sapan Kumar Ghosal regarding amendment to the Contract Labour (Regulation & Abolition) Act, 1970 governing the working conditions of Contract Labourers.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Labour & Employment were asked to implement the recommendations and furnish their action taken replies thereon for further consideration of the Committee.

3. Action Taken Replies have been received from the Ministry of Labour & Employment *vide* their Office Memorandum No.H-11016/19/2014-LW(A) dated 29 May, 2018 in respect of all the observations/recommendations contained in the aforesaid Report. The recommendations made by the Committee and the replies furnished thereto by the Ministry of Labour & Employment have been detailed in the succeeding paragraphs.

4. In paras 19 and 20 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that the Contract Labour (Regulation & Abolition) Act, 1970 aims at regulating the employment of Contract Labourers so as to place it at par with the Labourers employed directly with regard to the working conditions and certain other benefits. The Committee also note that Contract Labourers are normally engaged in Agricultural Operations, Plantations, Construction Industry, Ports and Docks, Oil-Fields, Railways, Shipping, Airlines, Road Transport,

Factories, etc. The Committee further note that the interest of Contract Labourers are protected in terms of wages, hours of work, welfare, health and social security. The amenities to be provided to Contract Labourers include Canteen, Rest Rooms, First-Aid, Drinking Water, etc. The liability to ensure payment of wages and other benefits is primarily that of the Contractor, and in case of default, that of the Principal Employer. The Committee have also been given to understand that with a view to further safeguarding the interest of Contract Labourers in terms of wages and social security, a proposal for amendment to the Contract Labour (Regulation & Abolition) Act, 1970 is under consideration of the Government."

"The Committee would like to point out that on the issue of Labour Statutes/ Contract Labourers, the Supreme Court of India, in the Civil Appeal No. 2585 of 2006, had inter alia observed that in order to avoid their liability under various Labour Statutes, the Employers are very often resorting to subterfuge by trying to show that their employees are, in fact, the employees of a Contractor. It is high time that this subterfuge must come to an end. In nutshell, the Committee would like to point out that the Act *ibid* was enacted more than four decades ago and the Committee had also experienced that in practice, the Contract Labourers have often been discriminated vis-a-vis the regular employees not only in terms of wages and various other amenities but also on various social security aspects, viz., continuity in employment, etc. The Committee, therefore, appreciate the intention of the Government to finally amend that Contract Labour (Regulation & Abolition) Act, 1970. The Committee, therefore, desire that while finalising the Act *ibid*, the Government would adhere to the principles of fair play to all the stakeholders, especially, the Contract Labourers and also to ensure the objective of inclusive growth and distributive justice."

5. The Ministry of Labour & Employment, in its action taken reply has submitted as follows:-

"In view of the changing industrial environment and the prevailing economic and employment scenario, the Ministry of Labour & Employment has re-visited the provisions of the Contract Labour (Regulation & Abolition) Act, 1970 and subsequently drafted the Contract Labour (Regulation & Abolition) Amendment Bill, 2018. The proposed amendment aims at removing ambiguity, simplifying procedural requirements and ensuring that welfare facilities are actually granted to the Contract Labourers. Further, the penalties have been enhanced manifold so that it acts as effective deterrent and emphasis placed on digital payment to promote transparency in payments to Contract Labourers by the Contractors."

"Adhering to the laid principles of pre-legislative consultation, the draft of the Contract Labour (Regulation & Abolition) Amendment Bill, 2018 was prepared after consultation with relevant stakeholders and then the draft bill was placed on the website on 28th September, 2017 for seeking comments of stakeholders. Subsequently, the comments were examined in detail and modified draft bill was discussed in Tripartite Consultation on 19th January, 2018. The draft of the Contract Labour (Regulation & Abolition) Amendment Bill, 2018 has been formulated and subsequently modified on the basis of the inputs received from various representatives of Trade Unions and Employers' Associations during this Tripartite Consultation. The amendment has been proposed to bring transparency and ensure better welfare facilities and working conditions for Contract Labourers."

6. In paras 21,22 and 23 of the Report, the Committee had observed/recommended as follows:-

*"The Committee have been informed by the Ministry of Labour & Employment that there has been a constant demand to re-visit the provisions of the Contract Labour (Regulation & Abolition) Act, 1970 and to make it more effective. The issues relating to Contract Workers had been discussed in various fora, including the Parliament, the State Labour Ministers' Conference and the Labour Minister's Conference. The State Labour Ministers' Conference held on 22 January, 2010 unanimously agreed to amend the Act *ibid* to make it more effective. The Committee have also been given to understand that subsequently, it was decided to assess the impact of the proposed amendments on the economy and the financial implications for the Central and State Governments."*

*"Since the Committee are examining the instant Representation *inter alia* regarding amendment to the Contract Labour (Regulation & Abolition) Act, 1970, some of the chronological sequence of events that have a bearing on the functioning of the Ministry of Labour & Employment *vis-a-vis* the aspect of prolonged deliberations needs recapitulation:—*

- On 30 April, 2010, study on assessment of economic impact and financial implications of the proposal to amend the Act was done by the V.V. Giri National Labour Institute, Noida.*
- As per the study Report, the overall financial impact of the proposed amendments would be to the tune of Rs. 16,691 crore (Rs. 11019.33crore for*

Government/Public Sector, Rs. 5509.67 crore for the Private Sector and Rs. 162 crore to the Central Government as additional contribution to the Employees' Provident Fund).

- The study has, however, not clearly indicated the impact of increase in the wages of Contract Labourers if 20 or more Contract Labourers are engaged by the Principal Employer through a number of Contractors employing less than 20 Contract Labourers. This could not be done as this data was not readily available.
- The Committee of Secretaries (CoS) observed that the assessment of economic impact and financial implications done by the V.V. Giri National Labour Institute could be an under estimation on account of lack of reliable data and limitations inherent in the methodology on the basis of which the assessment had been made.
- A CoS was, accordingly, constituted on 14 December, 2010 to examine the proposal. They desired to collect information regarding the level of enforcement of related legal provisions and also to fine tune projections of financial implications as the same could vary within the range of 15-25%.
- On reference to the V.V. Giri National Labour Institute, the CoS stated that the same constraints are even now prevailing and to conduct this study by collecting the data with rigor and as per the prescribed statistical procedure from across the country would require sizeable trained manpower, infrastructure and other resources which the National Labour Institute is not equipped with.
- The CoS held meetings on 16 February and 3 December, 2012. They noted that while the proposal was legally sound and was desirable in the interest of Contract Workers, there were other considerations of its impact on productivity and the financial implications.
- On 7 March, 2013, a revised draft Cabinet Note was put up, wherein it was decided to consider the proposal from various perspectives. Accordingly, the proposal was reconsidered by the Inter-Ministerial Committee.
- The proposal was considered in the meeting of the Group of Ministers (GoM) held on 8 January, 2014. After detailed discussions, the GoM accorded 'in-principle' approval to the proposal of the Ministry of Labour & Employment to

introduce certain amendments in the Contract Labour (Regulation & Abolition) Act, 1970, inter alia, to bring the Rule position in the Statute and advised the Ministry to bring the amendment proposal for consideration of the Cabinet.

- Subsequently, an Inter-Ministerial Group (IMG) was constituted in the Ministry for undertaking detailed examination of the proposal for amendment to the Act. The said Group held its meeting on 6 January, 2015. The recommendations of the IMG are presently under examination of the Government."

"The above, inter-alia, are some of the chronological sequence of events that the Committee have identified in the wake of the detailed examination of the instant representation. After analysing the prolonged deliberations, spreading over six years, the Committee want to emphasise that there is now an urgent need for amendment to the Contract Labour (Regulation & Abolition) Act, 1970, which should be the guiding force for the protection of rights of a huge work force of Contract Labourers in the country in terms of wages, hours of work, holidays and other conditions of service similar to that of regular employees. It is stating the obvious that the country needs not only the urgent redressal of grievances of the Contract Labourers but also making a workable formulation to induce the Contractors and the Principal Employers to adhere to the various provisions of the Act. The Committee, therefore, recommend the Government to finalise all the deliberations relating to amendment of the Contract Labour (Regulation & Abolition) Act, 1970. The Committee expect and trust that self-contained proposals, in the form of a Bill, shall be introduced in the Parliament by the Government during the Budget Session of 2017."

7. The Ministry of Labour & Employment, in its action taken reply has submitted as follows:-

"There is no financial implications for the Central and State Governments of the proposed amendments in the Contract Labour (Regulation & Abolition) Amendment Bill, 2018."

"In view of the changing economic and employment scenario, new business systems, requirement of flexibility in hiring workers commensurate with fluctuating demand and emergence of human resource placement agencies, the Ministry of Labour & Employment re-visited the provisions of the Contract Labour (Regulation & Abolition) Act, 1970. The draft of the Contract Labour (Regulation & Abolition)

Amendment Bill, 2018 was prepared in this backdrop and subsequently modified on the basis of the inputs received from various representatives of Trade Unions and Employers' Associations during the Tripartite Consultation held in this regard on 19th January, 2018. As a part of inter-ministerial consultation, the Draft Note for the Cabinet to amend the Contract Labour (Regulation & Abolition) Act, 1970 along with a copy of the Contract Labour (Regulation & Abolition) Amendment Bill, 2018 has been circulated to all Ministries/Departments for furnishing their comments."

"In view of the changing economic and employment scenario, new business systems, requirement of flexibility in hiring workers commensurate with fluctuating demand and emergence of human resource placement agencies, the Ministry of Labour & Employment re-visited the provisions of the Contract Labour (Regulation & Abolition) Act, 1970.

Also, in the draft of the Contract Labour (Regulation & Abolition) Amendment Bill, 2018, the concept of graded penalty has been introduced proportional to the gravity of the offence. Further, it has been proposed to enhance the amount of fine so that it acts as an effective deterrent. In sync with other Labour Law amendments, the concept of compounding of offence has been incorporated. All these measures would induce transparency and accountability in the enforcement of the Act and would lead to effective regulation of the contract labour in the country.

As a part of inter-ministerial consultation, the Draft Note for the Cabinet to amend the Contract Labour (Regulation & Abolition) Act, 1970 along with a copy of the Contract Labour (Regulation & Abolition) Amendment Bill, 2018 has been circulated to all Ministries/Departments for furnishing their comments."

8. In para 24 of the Report, the Committee had observed/recommended as follows:-

"The Committee find that the first Labour Law was enacted during the British Rule in the year 1923 which was known as Workmen Compensation Act. This Act is now known as Employees' Compensation Act. The Committee also note that apart from the provisions contained in the Contract Labour (Regulation & Abolition) Act, 1970, the rights of Contract Labourers are protected by various Labour Laws, viz., the Industrial Disputes Act of 1947, Employees' Compensation Act of 1923, Employees' Provident Fund and Miscellaneous Provision Act of 1952, Employees State Insurance Act of 1948, Maternity Benefit Act of 1961, Payment of Wages Act of 1936, Minimum Wages Act of 1948, Equal Remuneration Act of 1976, Payment of Gratuity Act of 1972, Payment of Bonus Act of 1965, Mines Act of 1952, Factories Act of 1948, etc. The Committee also find that with the view to protecting the rights

of workers — regular and/or on contract basis — these Acts are amended from time to time. The Committee take note of the initiative now being taken by the Government to amend the Contract Labour (Regulation & Abolition) Act, 1970. However, the Committee would like to point out that the overall welfare and protection of rights of workers could not be effectively achieved by way of making amendments only to the Contract Labour (Regulation & Abolition) Act, 1970 — in view of the fact that other Labour Laws also deal with various aspects connected with their well being in the form of health, safety and social security. The Committee, therefore, recommend that Government should focus on coalescing all the existing Labour Laws into one unified piece of legislation with specific provisions covering Labour—Management relations, wages, social security, safety at workplace, welfare provisions, terms and condition of employment, recognition of trade unions, provisions regarding collective bargaining, and above all, enforcement of International Labour Standards. Such a comprehensive legislative enactment would also serve as a model for the State Governments. The Committee would like to be apprised of the final outcome in this regard within three months of presentation of this Report to the House."

9. The Ministry of Labour & Employment, in its action taken reply has submitted as follows:-

"As part of Labour Law Reforms, the Ministry of Labour & Employment has undertaken the exercise of amalgamation and rationalisation of 35 Labour Acts by framing the following four Labour Codes:

- (i) Code on Wages (4);*
- (ii) Code on Industrial Relations (3);*
- (iii) Code on Social Security (15); and*
- (iv) Code on occupational safety, health and working conditions (13)*

The Code on Wages Bill 2017 has been introduced in Lok Sabha on 10.08.2017 and it subsumes four existing Laws, viz. the Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976. After the enactment of the Code on Wages, all these four Acts will get repealed. The Codification of the Labour Laws will remove the multiplicity of definitions and authorities leading to ease of compliance without compromising wage security and social security to the workers.

At present, the provisions of the Minimum Wages Act and the Payment of Wages Act do not cover substantial number of workers, as the applicability of both these

Acts is restricted to the Scheduled Employments / Establishments. However, the new Code on Wages will ensure minimum wages to one and all and timely payment of wages to all employees irrespective of the sector of employment without any wage ceiling.

A concept of statutory National Minimum Wage for different geographical areas has been introduced. It will ensure that no State Government fixes the minimum wage below the National Minimum Wages for that particular area as notified by the Central Government."

OBSERVATIONS/RECOMMENDATIONS

Amendment to the Contract Labour (Regulation & Abolition) Act, 1970.

10. In response to the Committee's recommendation about amending the Contract Labour (Regulation and Abolition) Act, 1970 by adhering to the principles of fair play for all the stakeholders, especially, the Contract Labourers and also to ensure the objective of inclusive growth and distributive justice, the Ministry of Labour and Employment has spelt out that in view of the changing industrial environment and the prevailing economic and employment scenario, the Provisions contained in the Contract Labour (Regulation & Abolition) Act, 1970 have been re-visited and subsequently, the Contract Labour (Regulation & Abolition) Bill, 2018 has been drafted which *inter alia* aims at not only removing the ambiguity and simplifying procedural requirements but also enhancing the penalties and digital payment gateway to promote transparency in payments to Contract Labourers by the Contractors. The Ministry has further submitted that adhering to the laid principles of pre-legislative consultation, the draft Contract Labour (Regulation & Abolition) Amendment Bill was placed on the website on 28 September, 2017 for seeking comments of the stakeholders. Subsequently, the comments were examined in detail and modified draft Bill was discussed in Tripartite Consultation on 19 January, 2018. In this context, the Committee are unhappy to find that the Ministry of Labour and Employment has not given explicit reply to the observations made by the Supreme Court of India in the Civil Appeal No. 2585 of 2006 to the effect that in order to avoid their liability under various Labour Statutes, the Employers are very often resorting to subterfuge by trying to show that their employees are, in fact, the employees of a Contractor. The Committee are, therefore, of considered view that merely spelling out the trajectory and processes followed by the Ministry of Labour

and Employment - while formulating the Contract Labour (Regulation & Abolition) Bill without sharing the finer details of the consultation process and convergence of the objective of inclusive growth and distributive justice to the oft-neglected Contract Labourers, with the Committee is not a welcome step. The Committee expect that the replies of the Ministry of Labour and Employment should be specific, complete and devoid of verbosity. The Committee, therefore, would like the Ministry to take action on their recommendations and apprise the Committee accordingly.

Prolonged deliberations for amendment in the Contract Labour (Regulation and Abolition Act, 1970

11. While observing the sluggish pace of deliberations by the Government, spreading over six years, in regard to undertaking amendment in the Contract Labour (Regulation and Abolition) Act, 1970, the Committee had recommended the Ministry of Labour and Employment to finalise all the discussions and introduce self-contained proposals, in the form of a Bill, in the Parliament by the Government during the Budget Session of 2018. The Ministry of Labour and Employment has, however, informed that in view of the changing economic and employment scenario, new business systems, requirement of flexibility in hiring workers commensurate with fluctuating demand and emergence of human resource placement agencies, the Provisions of Contract Labour (Regulation & Abolition) Act, 1970 were re-visited by them and in this backdrop, the draft of the Contract Labour (Regulation & Abolition) Amendment Bill, 2018 was prepared. Thereafter, the draft Bill was modified on the basis of the inputs received from various representatives of Trade Unions and Employers' Associations during the Tripartite Consultation held on 19 January, 2018. The Ministry of Labour and Employment has further submitted before the Committee that as a part inter-Ministerial consultation, the draft Note for the Cabinet to amend the Contract Labour (Regulation & Abolition) Act, 1970 along with a copy of the

Contract Labour (Regulation & Abolition) Amendment Bill, 2018 has been circulated to all Ministries/Departments for furnishing their comments.

12. The Committee are dismayed to note that the proposal for amending the Contract Labour (Regulation & Abolition) Act, 1970 was contemplated way back in April, 2010 and since then, the relevant provisions contained in the draft proposal have been continuously changed on the grounds of economic and employment scenario in the country, new business systems, requirement of flexibility in hiring workers commensurate with fluctuating demand and emergence of human resource placement agencies. Even after introduction of the concept of 'Graded Penalty' proportional to the gravity of the offence, 'Compounding of Offence', provision of 'Digital Payment' to promote transparency in payments to Contract Labourers by the Contractors in the draft Amendment Bill, the deliberations have not at all proceeding the way they ought to have been and they are also not moving in the way they should be which is evident from the fact that the Contract Labour (Regulation & Abolition) Amendment Bill is still under circulation to all the Ministries/ Departments for furnishing their comments. The Committee, therefore, without going into the technical anatomy of various factors attributed to the prolonged delay in introducing the amended proposals of the Contract Labour (Regulation & Abolition) Act, 1970, in the form of Contract Labour (Regulation & Abolition) Amendment Bill, in Parliament, would like to reiterate that the Ministry of Labour and Employment should take all necessary steps to ensure that all the deliberations with various stakeholders are completed within three months of presentation of this Report to the House and the Amendment Bill is, thereafter, introduced in Parliament during the ensuing session. The Committee would like to be apprised of the action taken in this regard.

Amendment to other Labour Laws

13. The Committee's main concern in regard to coalescing all the existing Labour Laws into one unified piece of legislation was to ensure the overall welfare and protection of rights of workers - regular and/or on contract basis. The Ministry of Labour and Employment, in their action taken reply, has, however, confined themselves to spelling out the progress made by the Government in regard to Code on Wages Bill, which had been introduced in Lok Sabha on 10 August, 2017 which broadly aims to subsume four existing Laws, viz., the Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976. The Committee are astonished at the fact that the Ministry of Labour and Employment has not given precise information on the Code of Industrial Relations, the Code on Social Security and the Code on Occupational Safety, Health and Working Conditions; which intends to amalgamate and rationalize various Labour Acts, i.e., the probable timeline by which the Code of Industrial Relations Bills, the Code on Social Security Bill and the Code on Occupational Safety, Health and Working Conditions Bill would be introduced in Parliament after completing all the necessary ground work. While re-emphasizing their earlier recommendation, the Committee would like the Ministry of Labour and Employment to come out with some co-ordinated mechanism so that all necessary ground work to formalize the aforementioned Codes is completed within a specified time limit. The Committee would like to be apprised of the progress made in this direction.

New Delhi ;
9 October, 2018

17, Asvina 1940 (Saka)

Bhagat Singh Koshyari,
Chairperson,
Committee on Petitions.

**MINUTES OF THE FIFTY-FIRST SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee met on Tuesday, 9 October, 2018 from 1130 hrs. to 1330 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Jitendra Chaudhury
3. Shri Ram Tahal Choudhary
4. Dr. K. Gopal
5. Shri Chhedi Paswan

SECRETARIAT

1. Shri Raju Srivastava - Director
2. Shri G. C. Dobhal - Deputy Secretary

WITNESSES

- | | | | |
|----|-----|-----|-----|
| | XXX | XXX | XXX |
| 2. | XXX | XXX | XXX |
| 3. | XXX | XXX | XXX |
| 4. | XXX | XXX | XXX |
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| 6. | XXX | XXX | XXX |
| 7. | XXX | XXX | XXX |
| 8. | XXX | XXX | XXX |
| 9. | XXX | XXX | XXX |

10. The Committee, then, took up for consideration of the following Draft Action Taken Reports :-

- (i) Report on the Action Taken by the Government on the recommendations made by the Committee on Petitions (Sixteenth Lok Sabha) in their Twenty-Fourth Report on the Representation of Shri Sapan Kumar Ghosal regarding amendment to the Contract Labour (Regulation & Abolition) Act, 1970 governing the working conditions of Contract Labourers; and

- (ii) XXX XXX XXX

11. After discussing the Draft Action Taken Reports in detail, the Committee adopted the same without any modification(s). The Committee also authorized the Chairperson to finalize the Draft Action Taken Reports and present the same to the House in the next Session.

12. XXX XXX XXX

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

The Committee, then, adjourned.
