

National Campaign Committee for Central Legislation on Construction Labour

v.

Union of India & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. K.G. BALAKRISHNAN HON'BLE MR. JUSTICE R.V.
RAVEENDRAN HON'BLE MR. JUSTICE DEEPAK VERMA

National Campaign Committee for Central Legislation on Construction Labour v. Union of India & Others

Writ Petition (Civil) No. 318 Of 2006 | 18-01-2010

1. The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 (for short "the Act") came into force on 1-3-1996. In this petition filed under Article 32, the petitioner National Campaign Committee for Central Legislation on Construction Labour contends that many of the States and Union Territories have not effectively implemented the provisions of the said Act.

2. The object of the Act is to confer various benefits to the construction workers, like fixing hours for normal working days, weekly paid rest day, wages for overtime, basic welfare amenities at site, temporary living accommodation near site, safety and health measures, etc. Every State is required to constitute a State Welfare Board to provide assistance in case of accident, to provide pension, to sanction loans, to provide for group insurance, to provide financial assistance for educating children, medical treatment, etc. Though the Welfare Boards were to be constituted with adequate full-time staff, many States have not constituted the Welfare Boards. In some States, even though the Boards are constituted, they are not provided with necessary staff or facilities. As a result, welfare measures to benefit the workers are not been taken.

3. Section 3 of the Building and Other Construction Workers' Welfare Cess Act, 1996 (for short "the Cess Act"), provides for collection of cess from every employer at the rates prescribed, on the cost of construction incurred by an employer. We are told that many of the State Governments have collected the cess as contemplated under the Cess Act. But these amounts have not been passed on to the Welfare Boards to extend the benefits to the workers as contemplated by the Act. Even the registration of building workers as beneficiaries under the Act is not being taken up. Overall, the implementation of the provisions of the Act is far from satisfactory. There is an urgent need to extend the benefits of the Act to the unorganized section of building workers in a meaningful manner.

4. After hearing the learned counsel, we are of the view that the following measures require to be implemented by the States without further delay:

"1. The Welfare Boards have to be constituted by each State with adequate full-time staff within three months.

2. The Welfare Boards will have to meet at least once in two months or as specified in the rules, to discharge their statutory functions.

3. Awareness should be build up, about the registration of building workers and about the benefits available under the Act. There should be effective use of media, AIR and Doordarshan, for awareness programmes regarding the Act, the benefits available thereunder and procedures for availing the benefits.

4. Each State Government shall appoint registering officers and set up centres in each district to receive and register the applications and issue receipts for the applications.

5. Registered trade unions, legal services authorities and NGOs are to be encouraged to assist the workers to submit applications for registration and for seeking benefits.

6. All contracts with the Governments shall require registration of workers under the Act and extension of benefits to such workers under the Act.

7. Steps to be taken to collect the cess under the Cess Act continuously.

8. The benefits under the Act have to be extended to the registered workers within a stipulated time-frame, preferably within six months.

9. The Member-Secretary of the Welfare Boards and the Labour Secretary shall be responsible for due implementation of the provisions of the Act. The Labour Ministry of each State shall carry out special drives to implement the provisions of the Act.

10. The CAG should audit the entire implementation of the Act and use of the funds.

11. All the Boards shall submit a comprehensive report as required under the Act and the Rules to the respective Government.”

5. The above directions shall be brought to the notice of the Chief Secretaries of all the States by sending copies of this order to ensure effective implementation. Responses and compliance reports shall be filed by the States within a period of twelve weeks. As this Act is enacted by Parliament, the Labour Ministry of the Government of India is also requested to explore the possibility of a national conference for implementation of the provisions of the Act,.

6. List after twelve weeks.