

National Campaign Committee for Central Legislation on Construction Labour

v.

Union of India & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. S.H. KAPADIA HON'BLE MR. JUSTICE K.S.P.
RADHAKRISHNAN HON'BLE MR. JUSTICE SWATANTER KUMAR

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

Writ Petition (Civil) No. 318 Of 2006 | 10-09-2010

1. Time has come when this Court needs to enforce its orders containing guidelines in the matter of implementation of the provisions of the Building and Others Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996 ("the 1996 Act", for short).

2. Under Section 60 of the 1996 Act, which is quoted hereinbelow, the Central Government is given the power in appropriate cases to issue directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of the Act.

"60. Power of Central Government to give directions. – The Central Government may give directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of this Act."

3. Vide order dated 18-1-2010 (National Campaign Committee for Central Legislation on Construction Labour v. Union of India, (2011) 4 SCC 655), the previous Bench of this Court observed that in several States, Welfare Boards which are required to be constituted under Section 18 of the 1996 Act have not been constituted till date although the Act came into force a decade ago. We quote hereinbelow Section 18 of the 1996 Act:

"18. Constitution of State Welfare Boards. – Every State Government shall, with effect from such date as it may, by notification, appoint, constitute a Board to be known as the (name of the State) Building and Other Construction Workers' Welfare Board to exercise the powers conferred on, and perform the functions assigned to it, under this Act.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be used.

(3) The Board shall consist of Chairperson, a person to be nominated by the Central Government and such number of other members, not exceeding fifteen, as may be appointed to it by the State Government:

Provided that the Board shall include an equal number of members representing the State Government, the employers and the building workers and that at least one member of the Board shall be a woman.

(4) The terms and conditions of appointment and the salaries and other allowances payable to the Chairperson and the other members of the Board, and the manner of filling of causal vacancies of the members of the Board, shall be such as may be prescribed.”

Unfortunately, even the Central Government has not issued directions under Section 60 of the 1996 Act, despite the Court’s order dated 18-1-2010.

4. To provide the statistical information in our order we may also quote a few instances.

5. The petitioner says that in the State of Maharashtra, which has an estimated 30 lakh constructions workers and which has collected, till date, cess amounting to approximately Rs.10.53 crores, has not set up the Board, as required under Section 18 of the 1996 Act and yet the Welfare Board is not set up. In other words, even the preliminary step has not been taken under the provisions of the 1996 Act. We also do not know why the Central Government has not issued directions in that regard under Section 60 of the 1996 Act. There are other States also like Goa which has not taken the steps to set up the Welfare Board under the 1996 Act.

6. The learned amicus curiae, however, states that in each State, the Central Government has to consider whether Boards have been set up or not. That, he is not sure about the allegations of the petitioner.

7. We, accordingly, hereby direct the Central Government to call for the necessary information from the States/Union Territories concerned and to issue appropriate directions for setting up the Welfare Boards in the first instance in terms of this Court’s order dated 18-1-2010. This entire exercise shall be completed within eight weeks from today. As far as subsequent directions are concerned, we will monitor this from time to time.

8. Before concluding, we would also direct the Central Government to furnish the status report of the Central Advisory Committee as to what steps they have taken with regard to implementation of the 1996 Act and the guidelines given by this Court vide order dated 18-1-2010. It is clarified that this Court is only enforcing the statutory provisions of the 1996 Act.

9. The writ petition shall stand over for eight weeks.