

NATIONAL CAMPAIGN COMMITTEE

For Central Legislation on Construction Labour

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To

Shri Narendra D. Modi
Prime Minister of India

Dear Prime Minister,

This letter is further to the earlier several letters of Construction Worker sent to you during June 2019 to December 2019 from different parts of the country.

We are thankful to you that from your office our letters were sent to the Union Labour Secretary, although we have not received any response from the Ministry of Labour & Employment.

Meanwhile, the Occupational Safety, Health and Working Conditions Code (OSHWC) 2019 Bill was tabled in the Lok Sabha on 23-7-2019. The Bill was referred to the Standing Committee and a Report of the Standing Committee was placed before the Lok Sabha on 4-2-2020.

Neither NCC-CL, nor any other organisation of construction workers, who constitute over ten crore workers in the country, got an opportunity to appear before the nineteen sittings of the Standing Committee.

From the statement in para 62 of the Report of the Standing Committee that "since the BOCW Act, 1996 is being amalgamated with the OSHWC Code" it is clear that the Standing Committee is working under an absolutely wrong understanding, as far as the Building and Other Construction Workers are concerned. The fact is that not even a single line out of the BOCW Act 1996 has been amalgamated in the OSHWC Code 2019.

Only seven sections out of the Sixty Two Sections of the Building & Other Construction Workers Act 1996 and six sections out of the fifteen Sections of the Building & Other Construction Workers Welfare Cess Act 1996 have been included in the Social Security Code, 2019(SS Code) which is highly insufficient for the proper functioning of the 37 State and Union Territory BOCW Welfare Boards.

Therefore we, the construction workers of the country, request you once again to please permit the implementation of the Supreme Court Judgment of March 2018 on the NCC-CL Petition (CWP 318 of 2006) and withdraw the proposal to repeal the BOCW Act, 1996 under Section 134 of the OSHWC Code, 2019 because of the following reasons:-

The OSHWC code is not of universal application and excludes the majority of the workers in the unorganized sector including crores of Agricultural workers, Domestic Workers and Home based workers etc. from its scope.

The OSHWC code is largely to be implemented by framing rules and regulations. The coverage and scope of the Rules are not spelt out in the Code, as in the case of BOCW Act Sec.40. The provisions regarding safety, accidents etc. in a hazardous industry (second most hazardous Industry in India and the world after Mines) like Building and Construction, that are present in the BOCW Act are absent in this Code.

(c) In the OSHWC Code there is no provision for Personal Protective Equipment, such as helmets, gloves, masks, shoes and safety belts (Requirements in Building Construction) to be provided by employers for any sector.

(d) The schedules to the OSHWC Code, containing the list of Notifiable Diseases and the list of Occupational Diseases are only 29 in number and have merely been cut and pasted from the old laws such as Factories Act etc. while the List of Occupational Diseases (107) in the ILO Recommendation No. 194 must be the basis. There is an urgent need to update the schedules, taking into consideration the realities of the present day, in the new Code. The provisions for treatment, compensation and rehabilitation are neither provided nor indicated.

Similarly, the existing provisions of various sectoral legislations related to several other unorganized sector workers which are being repealed by the OSHWC Code and the SS Code are not being adequately incorporated in the four Codes.

Therefore, we request you once again not to repeal the existing legislations and allow the continuation of the existing tripartite boards and other mechanisms provided in these sectoral legislations and consult adequately with the trade unions of unorganized sector workers.

Construction workers do not need the kind of social security fund proposed in the Codes. We are already entitled to social security from our Welfare Boards that are adequately funded by a Cess on the building industry and our own registration fees. We get work for barely fifteen days in a month and earn roughly a quarter of the monthly minimum wage. We see no reason why we should be asked to pay between 12.5% to 20% of our monthly wages into a social security fund.

The system of collecting a minimum Cess of 1%-2% of total construction cost from a construction establishment, as per the BOCW Cess Act, 1996 is the best method for funding our social security.

The proposed diversion of the thirty thousand crore Rupees Cess amount and a much larger amount of interest earned on this Cess is absolutely illegal. We request your kind consideration in this matter and the immediate withdrawal of the Codes.

With thanks,
Your Sincerely,
Subhash Bhatnagar