

# NATIONAL CAMPAIGN COMMITTEE

## For Central Legislation on Construction Labour

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**19<sup>th</sup> June, 2014**

### **NCC-CL CIRCULAR for the 8<sup>th</sup> July, 2014 meeting at Delhi**

<p><b>Date-</b> 8<sup>th</sup> July, 2014, <b>Time-</b> 10 a.m. to 5 p.m., <b>Venue-</b> Jawaharlal Nehru National Youth Centre, 219, Deendayal Upadhyay Marg, New Delhi- 110002</p>
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Dear Friend,

In view of the changed political climate and the election of a new government at the Centre, we feel it is vital to hold a meeting of NCC-CL and plan for the future. Accordingly we are calling for a meeting to be held on 8<sup>th</sup> July, 2014 in New Delhi just before the next session of Parliament.

#### **Standing Committee Report**

We are glad to inform you that the 44th Report of the Standing Committee on Labour (2013-2014) of the Fifteenth Lok Sabha on 'The Building & other Construction Workers Related Laws (Amendments) Bill, 2013 of 21<sup>st</sup> February 2014 upholds many of our contentions.

The report definitely can be taken as a 'setback' to the 'premature' amendments tabled by the former government in the Rajya Sabha on 18<sup>th</sup> March 2013.

NCC-CL in its presentation before the Standing Committee had opposed the following four proposals:

- 1) Amendment to authorise the Central government to have the right to revise the limit of Rs 10 lakhs on a residential house to be considered as 'establishment' for the payment of Cess.
- 2) Withdrawal of the conditions of at least 90 days of work during last one year for registration of workers.
- 3) Proposal to kill the concept of the Tripartite Board with equal representation of the state government, employers and the building workers and proposal to accept a team of four officials as a Board.
- 4) Proposal to remove the limit of 5% on the administrative expenses of the Board as a percentage of its total expenses during that financial year (which includes welfare expenses).

We are thankful to the Standing Committee on Labour for accepting all the above mentioned four suggestions submitted by the NCC-CL and rejecting all the amendments. We are thankful to the **Bhartiya Mazdoor Sangh** for opposing the **first amendment** mentioned above and also for opposing other amendments. We are also thankful to **all other Central Trade Unions** who had opposed the above amendments although we did not get any confirmation from them to our several requests to oppose these amendments jointly and forcefully.

### **Gujarat Model for Construction Boards**

Today, on 13<sup>th</sup> June 2014, delegates of several Trade Unions of the CW had a long meeting with the Labour officials of the Delhi Board who told us that since Shri Narendra Modi is now the Prime Minister of the country therefore we must bring the Gujarat Model of the Construction Workers Welfare Board to Delhi. Labour officials of other States and Union Territories may also think like this, therefore it is very important that Trade Unions of the construction workers all over the country should be fully aware of the functioning of the Gujarat B&OCW Welfare Board.

As per the direction of the Supreme Court of India, on the PIL of the NCC-CL (CWP No 318 of 2006), the CAG is auditing the accounts of all State Boards. The NCC-CL is collecting these Audit Reports to prepare for the next court hearing which will consider the latest status report by the individual State/UT. On 21<sup>st</sup> March 13 the Supreme Court has directed to issue notice to show cause as to why contempt proceedings be not initiated against the Chief Secretary, Labour Secretary and the Chief Inspector in every State/UT. So far 22 States have replied to these notices while the important defaulters are **Delhi, Haryana and UP** in North India and **Andhra Pradesh, Karnataka and Tamil Nadu** in South India.

We have received the Audit Report of the Gujarat B&OCW Welfare Board recently and would like to share its highlights with the constituents of NCC-CL so that they are ready to oppose any attempt to import this GUJARAT Board Model in THEIR State. **We are certain that Prime Minister Shri Narendra Modi himself will not like to transfer the weakness of the Gujarat model to the rest of the country, particularly since efforts to remove these weaknesses have already been initiated in Gujarat itself.**

We are enclosing Annexure I to this Circular which has been prepared on the basis of the CAG Report on the Gujarat B&OCW Welfare Board. Please read it carefully along with the Audit report of the B&OCW Welfare Board in your own State. So far, we have received the Audit Report of only ten States/UTs, these are **Delhi, Gujarat, Haryana, Jammu & Kashmir, Karnataka, Nagaland, Odisha, Rajasthan, Sikkim and Tripura**. We will be circulating a summary of these reports along with our circulars one by one.

We are also enclosing two tables giving the ‘**Estimates of the Number of Construction Workers and the Estimated Amount of Annual Cess to be collected submitted by the NCC-CL in WP (C) No. 318 and actual data as per State/UT Affidavits filed in this PIL, as Annexure II and III.** **Labour Ministry’s Ill Advised Moves**

Mr. Arun Kumar Sinha, Additional Secretary Ministry of Labour & Employment, has disclosed at a meeting of the Members of the PHD Chamber of Commerce and Industry that the Labour and Employment Ministry is finalising an Agenda for the New Government. According to a report published in Business Standard on 29<sup>th</sup> April 2014, the Ministry has directed Labour Welfare Boards in all States and Union Territories to release the Rupees 11,000 Crore Cess collected by them. to the real estate developers for the Construction of Buildings for schools and hospitals for Construction workers. Mr. Arun Kumar Sinha is an experienced IAS officer who has studied Civil Engineering/Business Administration and Law. Therefore it is shocking that he has failed to understand the purpose of the Cess (not Tax) being collected by the local authorities which has to be deposited with the State Construction Workers Welfare Boards constituted under The B&OCW (RE& CS) Act, 1996. We need to bring his attention towards the Functions of the Board stipulated in Section 22 of the Main Act. Since many other stakeholders have failed to understand the real purpose of the Cess, including some of the new trade unions mushrooming these days, it is important that we repeat Section 22 of the Main Act here:

**Section 22. Functions of the Board-** (1) The Board may:

- a) Provide **immediate assistance** to a beneficiary **in case of accident**;
- b) Make payment of **pension** to the beneficiaries who have completed the age as may be prescribed;
- c) sanction **loans and advances** to a beneficiary for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed;
- d) pay such amount in connection with **premia for Group Insurance Scheme** of the beneficiaries as it may deem fit;
- e) give such **financial assistance for the education of children of the beneficiaries** as may be prescribed;
- g) make payment of **maternity benefit** to the female beneficiaries; and
- h) make provision and improvement of such other Welfare measures and facilities as may be prescribed.

We would like you to note that many of these functions consist of long-term commitment such as (c), (d), (e), (f) and **the Cess amount collected for these cannot be spent each year**. Therefore it is sheer ignorance to suggest that if this amount is not spent it is surplus and therefore it can be

diverted to “other Welfare measures and facilities as may be prescribed under sub section ‘1 (h)’ of the above section 22 of the Main Act.

In fact we need to take the help of **actuarial science** along with the data of construction workers registered as “beneficiary” which has already crossed the number of **Ten Million**, to “set-aside” a part of the collected Cess for various functions from (a) to (g). It is only after ‘**ear-marking**’ the Cess Funds for each of these functions that we can find out if there is any surplus for the other welfare measures under (h).

### **Domestic Workers Campaign**

Many women Construction Workers, faced with the problem of non availability of construction work, have started working as domestic workers. Therefore, many organizations of construction workers have extended their work and started working with the domestic workers also. The success of enactment of a Comprehensive Legislation for domestic workers which includes the regulation of employment and social security provision through ‘tripartite board mechanism’ is somewhat dependent on the success in the implementation of the **1996 Acts** of Construction Workers. Therefore, this meeting will also discuss the mutual support of the two campaigns of Construction Workers and Domestic Workers. A meeting of the Coordinators of the **National Platform of Domestic Workers** is taking place on 7<sup>th</sup> July, 2014. Therefore, this meeting will be able to plan the follow up action of the 7<sup>th</sup> July, 2014 meeting of NPDW.

### **The New Government**

We are not very sure what the attitude of the new Central Government will be on the issue of proper implementation of the 1996 Acts. **The success of these Acts is critical for replication of similar tripartite Boards for other segments of the Unorganised sector**, for ‘domestic workers, ‘transport workers’ etc. Fresh lobbying with the new Members of Parliament and others in authority may be called for.

Therefore we have decided to call an NCC-CL meeting in which we expect more than one representative of each state to participate with full understanding of the status of implementation of the 1996 Acts in his/her home state.

We are making a special effort to call at least one person from each Central Trade Union who is looking after Construction Workers or the unorganized sector segment. All the Central Trade Unions had played an important role till the enactment of the 1996 Acts. Unfortunately they did not follow up on implementation and did not fight unitedly against the formation of puppet Boards in many States/UTs without proper representation to the active Central Trade Unions in the Construction Industry.

We shall be very thankful if your organization can take care of the travel arrangements. In case you want us to organize the travel expenses you are requested to please give us advance information and take our prior approval as we are still in the process of mobilizing funds for travel and other related expenses for the meetings. A moderate accommodation and lunch will be arranged by the NCC-CL at the meeting place. The venue of the meeting will be confirmed soon.

Please confirm your participation by email and phone both to help us in organizing the arrangements.

Yours Sincerely

Subhash Bhatnagar

Coordinator

NCC CL

Enclosures:

1. Summary of the Audit Report of Gujarat BOCWW Boards by CAG.
2. Punjab-CS's letter
3. CAG report