



PRESS RELEASE

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FOURTH REPORT OF THE STANDING COMMITTEE ON LABOUR ON 'THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS (OSHC) CODE, 2019' PERTAINING TO THE MINISTRY OF LABOUR AND EMPLOYMENT

Shri Bhartruhari Mahtab, Chairperson, Standing Committee on Labour presented to Lok Sabha today the Fourth Report on 'The Occupational Safety, Health and Working Conditions (OSHC) Code, 2019' pertaining to the Ministry of Labour and Employment. A copy of the Report is placed below.

Gist of some of the important Observations/Recommendations of the Committee contained in the Report is as under:-

Subject	Recommendation
Suitable amendment of Clause 1(4) of the OSHWC Code in sync with Clause 2(1)(t) and more clarity in the definition of Contract Labour Clause 2(1)(m) – Desired	The Committee has taken note of the assurance of the Ministry that the Contract labours engaged by the Central Government and the State Governments either directly or through the Contractors would be covered under the Code as per Clause 2(1)(t). However, provision contained in Clause 1(4) tends to give an opposite interpretation. The Committee, therefore has desired that Clause 1(4) be suitably amended in sync with Clause 2(1)(t) so as to explicitly bring in the intent. The Committee has

	<p>also desired that the definition of Contract Labour as stipulated in Clause 2(1)(m) needs more clarity and further improvement so as to cover all types of contract workers.</p> <p style="text-align: right;">(Para No.16)</p>
<p>Amendment of Clause 63(1)(a)(ii) so as to provide for an Agreement, also between the contractor and the audio-visual workers – Desired</p>	<p>The Committee has noted that Clause 63 (1)(a)(i) and 63 (1)(a)(ii) prohibits employment of audio-visual workers without formal Agreements between such workers and the Producer and by the Producer with the Contractor if such workers are engaged by the Contractor. Taking into consideration the concerns expressed by the Producers Associations that the Producer should not be deemed to be the employer and held responsible for thousands of fluctuating workers actually engaged by various entities like Art Director, Music Director, etc. the Committee has desired that Clause 63(1)(a)(ii) be amended so as to provide for an Agreement also between the contractor and the audio-visual workers.</p> <p style="text-align: right;">(Para No.51)</p>
<p>Protection of the overall interest of the workers in the Unorganised Sector- Emphasised</p>	<p>Having said that, the Committee are deeply concerned with the state of affairs relating to the safety of workers in the unorganised sector as successive labour laws have not recognised their plight. However, the Ministry's assurance that they would endeavour to work out modalities for providing safety to each and every worker in the Country and notify a vulnerable group in the Code itself is a matter of solace to the Committee. In view of the desirability for proper coverage of the unorganised sector in Indian labour laws, as pronounced by the ILO Convention, the Committee exhort the Ministry to make some explicit provisions in the OSHWC Code to protect the overall</p>

	<p>interest of the workers working in the unorganised sector with special thrust on safety and health related aspects. In this context, requisite attention needs to be paid towards those labours who are working in Railway and Port properties on behalf of other individuals/ firms and are involved with loading/unloading work at Railway/Port Goods Sheds since decades.</p> <p style="text-align: right;">(Para. No.95)</p>
<p>Inclusion of 'Spraying of pesticide/insecticide' in the definition of 'hazardous substance' under Clause 2(1)(z).- Recommended</p>	<p>The Committee has noted that spraying of pesticide/insecticide has not found a place in the definition of 'hazardous substance' under Clause 2(1)(z). Acknowledging the fact that spraying of pesticides/insecticides has led to a number of untimely death of plantation workers and created numerous health hazards especially for the women workers besides polluting the environment, the Committee has recommended that 'spraying pesticide/ insecticide' be included in the definition of hazardous substance.</p> <p style="text-align: right;">(Para No. 103)</p>
<p>Separate Chapter on Migrant Workers- Desired</p>	<p>Taking into account the unanimous views of the Stakeholders including the State Governments and the positive response of the Ministry thereto, the Committee has expressed the firm view that a separate and exclusive Chapter on Migrant Workers be introduced in the Code, notwithstanding the special provisions referred to for such workers in Chapter XI, so that the safety, health and working conditions of the Migrant Workers be clearly spelt out for implementation besides making special provisions for them, as has been done by some State Governments like Kerala and Odisha.</p> <p style="text-align: right;">(Para 121)</p>

<p>Ministry to evolve a fool proof mechanism to ensure that the concept of 'ultimate control' is not misused- Impressed upon</p>	<p>The Committee has noted that subsequent to the 1987 Bhopal Gas tragedy, the concept of 'ultimate control' was brought in and accordingly the definition of 'Occupier' was changed as stipulated under Clause 2(1)(zo) as it was felt essential to fix liability on the top management with a view to promoting safety. In this context, the Committee has found that the Director concerned is held responsible in the case of a PSU whereas any one of the Directors, so nominated by the Board of Directors, is made responsible in the Private Sector. While appreciating the intent of the Government to hold the proprietor who runs a factory or mine responsible for safety aspects in the Private Sector, the Committee has desired the Ministry to evolve a fool proof mechanism to ensure that the concept of 'ultimate control' is not misused by the person(s) authorised by the proprietor to run and manage the factory/mine/establishment on his behalf. In other words, the authorised person actually involved in the day to day management of the Factory/Mine should also be held equally responsible alongwith the Proprietor/owner for all purposes.</p> <p style="text-align: right;">(Para 143)</p>
<p>Ministry's assurance to protect the interest of the large number of small plantation workers in the Code on Social Security and bringing them under the purview of ESIC –Appreciated</p>	<p>The Committee has drawn consolation from the assurance of the Ministry that the interest of the large number of plantation workers, not coming under the threshold limit admeasuring 5 Hectare of plantation area, would be duly taken care of in the Code on Social Security and they would be brought under the purview of ESIC. The Committee has felt that this is well intended and appropriate steps by the Ministry to safeguard the interest of all plantation workers viz. Tea, Coffee, Rubber, etc. by</p>

	<p>contemplating to extend them all the social security benefits.</p> <p style="text-align: right;">(Para151)</p>
<p>Due care of the apprehension of the Journalists on repealing of the Working Journalist Act - Impressed upon</p>	<p>The Committee has taken note of the assurances made by the Ministry in response to the major demands/suggestions of the Working Journalists. Such assurances include Wage Board for the Working Journalists would be constituted; the definition would be enlarged so as to cover all the journalists working in traditional as well as modern and digital media; the period of five years for payment of gratuity would be relaxed and taken care of in the Social Security Code; notice period of three months for termination of service would be included in the Industrial Relations Code, etc. The Secretary, MoLE's assurance that all the demands of Working Journalists are being taken care of is a matter of great consolation to the Committee so that the apprehensions of the Journalists on repealing of the Working Journalists Acts are duly taken care of and appropriately addressed.</p> <p style="text-align: right;">(Para 161)</p>
<p>Removal of confusion in the definitions of 'Employee' and 'Worker' which has created perplexity and befuddlement in their interpretation - Recommended.</p>	<p>The Committee has expressed their deep concern to observe the utter confusion created in the definitions of 'Employee' and 'Worker', the explanations and clarifications put forward by the Ministry notwithstanding. For example, Chapter V which talks about health and working conditions refers to 'employees' whereas Chapter VI and VII which deal with welfare and working hours etc. refer to 'Workers'. Needless to say, it implies that Chapter V is meant for 'employees' and not for 'workers' while Chapters VI and VII are meant for 'workers' and not for 'employees'. Though the Ministry have</p>

	<p>submitted that the provisions have been made for the workers in line with Factories Act and Mines Act which are being amalgamated with the Code, the Committee has found that the Sales Promotion Employees Act and the Working Journalists Act which are also being made a part of the Code talk about 'employees'. Agreeing that statutory provisions for workers are essential to protect and enforce their rights, the Committee has simultaneously felt that it is equally desirable to safeguard the interests of employees too. The Committee has expressed considered opinion that unwarranted differentiation made between the terms 'employees' and 'workers' in various Labour Laws has led to perplexity and befuddlement in their interpretation. The Committee, has therefore, urged the Ministry to come out with a uniform definition so that all the ambiguities in various Clauses/Sections of the Code are removed and the rights of the employees/workers are genuinely enforced.</p> <p style="text-align: right;">(Para 171)</p>
<p>Making a provision for consultation process with the four State Governments nominated to the National Board for a wider and positive implication – Impressed upon</p>	<p>The Committee has felt that instead of just giving a notification and pre-publication asking for the comments of all the Stakeholders including the State Governments, it would be prudent to make a provision for consultation process with the four State Governments nominated to the National Board on rotation basis as consultation will have a wider and positive implication.</p> <p style="text-align: right;">(Para 198)</p>
<p>Urgent corrective action to remove discrimination in the provision of welfare</p>	<p>The Committee has not been convinced with the reasonings adduced by the Ministry for prescribing different welfare facilities for Employees and</p>

facilities- upon	Called	<p>Workers on the plea of the workers being a subset of Employees. To illustrate, employees may also need Canteen, Ambulance, Rest Room etc. facilities which are exclusively earmarked for the workers as per the extant provisions. Prudence therefore demands that such anomalies have to be removed so as to dispel any impression of misgivings. The Committee has firmly opined that such an incongruity has arisen because of the two different definitions given to 'Employee' and 'Worker', as discussed extensively in the preceeding paragraphs of this Report. While emphasizing the fact that discrimination should not be made in the provision of Welfare facilities, the Committee has impressed upon the Ministry to take requisite and urgent corrective action to do the needful.</p> <p style="text-align: right;">(Para 218)</p>
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