

A NATIONAL CAMPAIGN COMMTT., C.L. LABOUR

V.

UNION OF INDIA & ORS.

Writ Petition(c) No.318 of 2006

JANUARY 13, 2009

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(K.G. BALAKRISHNAN, CJI, P. SATHASIVAM AND J.M. PANCHAL, JJ)

Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996:

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*Compliance with provisions of the Act – Chief Secretaries and Secretaries (Labour) of States and Union Territories directed to take timely steps as per provisions of the Act - Delhi Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2002 may be taken as a model for the purpose of the Act – Appraisal report to be submitted to Court in first week of May, 2009.*

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CIVIL ORIGINAL JURISDICTION : Writ Petition(c) No.318 of 2006

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UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

Manjit Singh AAG, Haryana (for T.V. George), Amarendra Sharan, ASG., Colin Gonsalves, Alban toppo, Jyoti Mendiratta, Amit Anand Tiwari, S.N.Terdal, Riku Sharma, M. Dutta, (for M/S Corporate law Group), Arun K. Sinha, Anil k. Jha, Manoranjan Kumar Jha, S.M. Imam, Tarbez Ahmad, Anis Suhrawardy, Gopal Singh, Manish Kumar, Rituraj Biswas, Hemantika Wahi, Momta Tushir, Kamini Jaiswal, Naresh K. Sharma, A. Subhashini, Radha Rangaswamy, K.N. Madhusoodhana, R. Sathish, Shrish Kumar Mishra, Tara Chandra Sharma, Neelam Sharma, Aruna Mathur, P. Parameshwaran, (for M/S Arputham, Aruna & Co.), Sunita Sharma, D.S. Mahra, Ranjan Mukherjee, D. Bharathi Reddy, B.S. Banthia, Khwairakpam Nobin Singh, Radha Shyam Jena, Nandini Gore, Anil Shrivastav, Sanjay V. Kharde, Asha

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Gopalan Nair, Jatinder Kumar Bhatia, Edward Belho, Rituraj Biswas, R. Nedumaran, P. Soma Sundaram, V.G. Praqasam, S.L. Aristotle, Prabhu Rama Subramanian, with them for the appearing parties. A

The Order of the Court was delivered by

**K.G. BALAKRISHNAN, CJI,** B

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (for short 'The Act'), was passed by the Parliament and in this writ petition it is alleged that many of the provisions of the enactment are not put in practice and the respective authorities have not complied with the statutory provisions. All the State Governments and Union territories are impleaded as parties in this writ petition. The Act is intended to benefit the unorganized workers in the construction sector. Under Section 6 of the Act, the appropriate Government has to appoint registering officers and under Section 7 of the Act every employer shall register their establishment. The building workers are given various benefits and in order to enable the workers to avail the benefits, each State has to constitute a State Welfare Board. The Board shall consist of a Chairman nominated by the Central Government, and such other Members, not exceeding 15, as may be appointed by the State Government. The Board shall appoint a Secretary as its Chief Executive Officer. C D E

Under Section 22 of the Act, the Board may provide immediate assistance to the beneficiaries in case of accident, and also pay compensation to those workers who had completed the age of sixty years. The Board may also sanction loans and advances to the beneficiaries and also to give financial assistance for the education of children of the beneficiaries and also to give the benefit of group insurance schemes. The Board can also grant maternity benefit to the female beneficiaries. A construction welfare fund has to be constituted and there are other provisions also to regulate the conditions of service of construction workers. There are also provisions to take care of the safety and health conditions of the workers. In order to F G H

A implement the provisions there shall be inspecting staff and certain penal provisions are also in the Act to punish those who act in violation of the provisions of enactment.

B The Parliament has also passed the Building and Other Construction Workers Welfare Cess Act, 1996 for the purpose of levy and collection of cess and Section 3 of the Act envisages that— there shall be levied and collected a cess for the purposes of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, at such rate not exceeding two percent; but not less than one per cent of the cost of construction incurred by an employer, as the Central Government may specify for him to time. Section 62 of the Building and Other Construction Workers Welfare Cess Act says that proper Rules are to be framed by the Government after consultation with the expert committee.

D The learned counsel appearing for the writ petitioners filed a chart before us indicating the steps that had been taken by the various state governments. It says that many of the governments had not taken steps as per the provisions of the Act. Though some of the state governments have collected cess but the benefits have not been fully passed on to the construction workers. Some of the State governments have not constituted either the State Advisory Committee or the expert committee or the Welfare Board as envisaged under the Act. The Delhi Government has framed detailed Rules, namely, the Delhi Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules, 2002. These Rules exclusively deal with the matter and gives various model forms also for compliance of the provisions of the Act. The State Governments and Union Territories which have not framed the rules as per Section 62 of the Act can very well take the Delhi Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Rules 2002, as a model and the same can be adopted for the purpose of this Act. Copy of the same is available on internet and the same can be had from the Government of Delhi.

We direct the Chief Secretary of the respective States and Secretary (Labour) of each State and the Union Territories to take timely steps as per the provisions of the Act, if not already done. We would like to have the appraisal report in the first week of May as to what steps have been taken in this regard. If any of the State Government has not done anything pursuant to the Act, urgent steps are to be taken so that the benefits of this legislation shall not go waste. Otherwise the unorganized workers of the construction sector will be denied the benefit of the Act. A B

Post in the 1<sup>st</sup> week of May, 2009. C

A copy of the order be sent to the Chief Secretary of all the States and Secretary (Labour) of each State and the Union Territories for taking further action in this regard.

R.P.

Matter adjourned.