

CS/5173/COM/2016
13/6/16

No. Z-20011/08/2014-BL
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

Jaisalmer House, Mansingh Road,
New Delhi-110011, Dated the 7th June, 2016

Order under Section 60 of BOCW (RE&CS) Act, 1996

Subject: Utilization of Building and other Construction Workers' Welfare Cess-Reg

Read: Section 60 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 {BOCW(RE&CS) Act, 1996}.

Ref: Order under Section 60 of BoCW Act, 1996, dated 9.9.15, 23.9.2015 and 08.10.2015

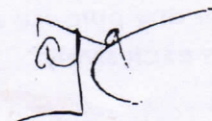
Whereas, The BOCW[RE&CS] Act, 1996 aims at regulating the safety, health, welfare and other conditions of service of BOC Workers through the Welfare Board in every State/UT which are administered by the State Government/UT Administration;

Whereas, Section 24(2)(a) mandates the Welfare Board to utilize the BOCW fund for discharging the functions under section 22 of the said Act;

Whereas Section 60 of the said Act also empowers the Central Government to give directions to the state Government or to a Board as to the carrying into execution of any of the provisions of this Act;

Whereas, the implementation of The BOCW[RE&CS] Act, 1996 and The BOC Workers' Welfare Cess Act, 1996 is under close scrutiny of the Hon'ble Supreme Court in WP (C) No. 318/2006 and vide the orders dated 21.08.2015 and 04.09.2015, the Hon'ble Court was extremely distressed to note that the cess fund is not being utilized for the benefit of persons for whom it is collected, but for other purposes;

In the order dated 21.08.2015, the Hon'ble Court observed:



".....We make it clear that the expenditure incurred by some of the State Governments/ Union Territories, particularly NCT of Delhi on advertisements with the amount collected is not at all appropriate and the amount that has been spent by the NCT of Delhi and other Union Territories/ and States on Advertisements should be returned to the accounts of the construction workers.....";

In the order dated 04.09.2015, the Hon'ble Court also observed:

".....it may perhaps be more appropriate not to collect the money since it is not being utilized for the benefit of the persons for whom it is collected, but for other purposes. We had hoped that this observation will have some salutary effect on the officers of the State Governments/ Union Territories and the Central Government, but obviously it has had absolutely no effect on the concerned officers.

Perhaps, we may have to take steps to devise some way or recording our displeasure, if necessary, in the Annual Confidential Reports (ACRs) of the concerned officers....."

Whereas, it has come to the notice of the Central Government that some of the States by taking convenient interpretation of Section 22 in general or section 22(h) of the BOCW [RE&CS] Act, 1996 in particular, are spending the cess fund for construction of buildings for schools, training centres, labour shed-cum night shelter, waiting hall, hostels etc. which is in violation of the provisions of the Act;

Whereas construction of buildings for schools, hospitals, training centres, labour shed-cum night shelter, waiting hall, hostels etc. are the substantive functions of the respective departments of a State Government, having their own Budget allocation to cater to the needs of the general public of which BOC Worker is a minuscule subset;

Whereas, Section 22(h) does not allow diversion from BOCW Cess fund for any purpose other than for welfare of BOCW workers and their families exclusively;

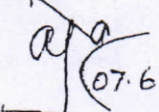


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Whereas, it is felt expedient in the larger public interest to issue directions for utilization of the cess fund;

Now, therefore, in exercise of the powers conferred on the Central Government, the Ministry of Labour & Employment directs all the State Governments and UT Administrations not to spend the cess fund for construction of buildings for schools, hospitals, training centers, labour shed-cum night shelter, waiting hall, hostels etc., or for any purpose other than for welfare of BOCW workers and their family exclusively. In case of any such violation, immediate corrective steps should be taken and the fund so spent should be recouped in the BOC Workers' Welfare Cess Fund with immediate effect under intimation to the Central Government.

By Order and in the name of the President of India, this 7th day of June, 2016,


(07.6.16)
(A.K. Singh)

Under Secretary to the Government of India

Chief Secretaries (All States)/(All UTAs), Labour Secretaries (all States/UTAs)

Copy for information to:

1. Principal Secretary to the Prime Minister
2. Cabinet Secretary
3. Secretary, GoI, Expenditure/MoHF&W/MoC&IT/MoRD