

## Chapter - 8

### UNORGANISED LABOUR

8.1 The term ‘unorganised labour’ has been defined as those workers who have not been able to organise themselves in pursuit of their common interests due to certain constraints, like, casual nature of employment, ignorance and illiteracy, small and scattered size of establishments, etc.

8.2 As per the survey carried out by the National Sample Survey Organisation in the year 1999-2000, the total employment in both organized and unorganised sector in the country was of the order of 39.7 crore. Out of this, about 2.8 crore were in the organised sector and the balance 36.9 crore in the unorganised sector. Out of 36.9 crore workers in the unorganised sector, 23.7 crore workers were employed in agriculture sector, 1.7 crore in construction, 4.1 in manufacturing activities and 3.7 crore each in trade and transport, communication & services. The workers in unorganised sector fall in various categories but a large number of them are home based workers which are engaged in occupations like beedi rolling, agarbatti making, papad making, tailoring, jary and embroidery work.

8.3 The unorganised sector workers suffer from cycles of excessive seasonality of employment, no formal employer-employee relationship and lack of social security protection. Several legislations like the Workmen’s Compensation Act, 1923; the Minimum Wages Act, 1948; and the Maternity Benefit Act, 1961; the Contract Labour (Abolition and Prohibition) Act, 1970; Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996 ; the Building and Other Construction Workers Welfare (Cess) Act, 1996 etc. are directly or indirectly applicable to the workers in the unorganised sector also.

8.4 The Central Government through the Ministry of Labour & Employment, also operates, at present, Five Welfare Funds for Beedi workers, Limestone & Dolomite Mine workers, Iron ore, Chrome ore & Manganese ore Mine workers, Mica Mine workers & Cine workers. These Funds are used to provide various kinds of welfare amenities to the workers in the field of Health care, Housing, Educational assistance for children, Drinking water supply etc.

8.5 The Government has launched Group Insurance Schemes, like, Janshree Bima Yojana for people living below or marginally above the poverty line, which also include the workers in the unorganised sector. The Government has also launched the Universal Health Insurance Scheme for Below Poverty Line (BPL under which the premium is highly subsidized. There are some employment oriented schemes, like, Swarnjayanti Gram Swarojgar Yojana, Pradhanmantri Gram Sadak Yojana, Sampoorna Gramin Rojgar Yojana etc.

### CENTRAL LEGISLATION FOR AGRICULTURAL WORKERS

8.6 Agricultural workers constitute a high percentage of the workforce in India. According to the sample survey conducted by the National Sample Survey Organisation in 1999-2000, more than 60% of the workforce in the unorganized sector is engaged in agriculture sector.

8.7 A proposal to enact a comprehensive Central legislation for the agricultural workers had been under consideration of the Ministry since 1975 to enact a uniform Central legislation for the agricultural workers on the pattern of Kerala Agricultural Workers’ Act, 1974. A draft Bill on Central legislation was prepared as early as in 1980. There were

divergent views amongst the State Governments and the matter was left to the State Governments. The matter was again discussed at various fora i.e. many sessions of Indian Labour Ministers' Conference, Standing Labour Committee, Consultative Committees attached to the Ministry of Labour and Employment, All Party Meetings etc. and also at a Conference of the State Labour Ministers held on 18.01.2000. However, there were divergent views of the States on various issues. The main reservation of the State Governments was on the funding pattern. In the absence of consensus amongst the State Governments, the proposal for legislation on agricultural workers could appropriately be left to the State Governments to act upon.

### **COMPREHENSIVE LEGISLATION FOR WORKERS IN UNORGANIZED SECTOR**

8.8 Over the years, the status of unorganized labour in the country has been studied by various Commissions and the Study Groups. All these studies have projected the plight of the workers in the unorganized sector and called for substantial measures to improve their labour protection. The terms of reference of the Second National Labour Commission constituted in 1999, inter-alia, included an umbrella legislation to provide protection to the workers in the unorganised sector. The Commission in its report recommended umbrella legislation for these workers and drafted an indicative Bill also. The proposal of enactment of a comprehensive legislation for the unorganised sector was discussed during 38<sup>th</sup> Session of Indian Labour Conference and other fora. In view of the consultations held at various fora the Ministry of Labour & Employment drafted a comprehensive legislation for the Unorganised sector workers and also drafted Unorganised Sector Workers Social Security Scheme. The Government considered the proposal of enactment of

legislation for the unorganised sector workers and the formulation of Unorganised Sector Workers Social Security Scheme in January 2004.

8.9 Accordingly, the Government launched the 'Unorganised Sector Workers' Social Security Scheme, 2004' on pilot basis, in 50 districts. The scheme envisages three benefits i.e. old age pension, medical insurance and personal accidental insurance. However, the scheme was not found viable as it had no statutory backing, it was voluntary in nature and the contribution from the employers was not forthcoming.

8.10 The National Common Minimum Programme (NCMP) of the present Government highlights the commitment of the Government towards the welfare and well being of all workers, particularly, in the unorganised sector. The Government (Ministry of Small Scale Industries) has also constituted a National Commission for the Enterprises in the Unorganised Sector (NCEUS) under the Chairmanship of Dr. Arjun Sengupta to examine the problems facing enterprises in the unorganised/informal sector and make recommendations to provide technical, marketing and credit support to these enterprises.

8.11 In the meanwhile, the Government is also in the process of enactment of a legislation, namely, '**Unorganised Sector Workers Bill, 2004**' for the workers in the unorganised sector,. The proposed legislation, inter-alia, provides for protecting the interests of unorganised workers and setting up of Welfare Boards/Funds by way of contribution of workers, employers and the Government and formulation of social security schemes in the area of health care, insurance cover and old age pension etc. The draft Bill was sent to all stakeholders including National Advisory Council (NAC) and NCEUS. The NCEUS has also drafted

two Bills, namely, the Unorganised Sector Workers' Social Security Bill, 2005 and Unorganised Sector Workers (Conditions of Work & Livelihood Promotion) Bill, 2005. The NAC has forwarded a draft Bill namely, 'the Unorganised Sector Workers Social Security Bill, 2005. All the four draft Bills are being examined. These drafts were also discussed in the 40<sup>th</sup> Session of the Indian Labour Conference (ILC) held on 9<sup>th</sup> -10<sup>th</sup> December, 2005. The draft Bill is likely to be finalized shortly.

8.12 This would be a protective legislation but having emphasis on the welfare and social security for the unorganised sector workers as a whole and which would include, among others, agriculture workers, beedi workers, weavers, handloom workers, fishermen and fisherwomen, toddy tappers, leather workers, plantation workers.

### **THE BUILDING AND OTHER CONSTRUCTION WORKERS**

8.13 The construction workers constitute one of the largest categories of workers in the unorganized sector. According to the Sample Survey conducted by NSSO in 1999-2000, about 1.76 crore workers are employed in the construction activities. The Government have enacted the following two legislations for the construction workers: -

1. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.
2. The Building and Other Construction Workers' Welfare Cess, Act, 1996;

Further, the Building and Other Construction Workers (RECS) Central Rules, 1998 have been notified on 19.11.1998.

8.14 The Act is applicable to every establishment which employs 10 or more workers in any building or other construction work and to the projects cost of which is more than Rs.10 lakh. There is also provision of constitution of Central and the State Advisory Committees to advise the appropriate Governments on matters arising out of administration of the law besides constitution of Welfare Boards by the State Governments and registration of beneficiaries under the Fund and provision for their identity cards etc. These legislations provide for regulating the employment and conditions of service, safety and health and welfare measures for the construction workers by setting up a Welfare Fund at the State level to be financed by contribution made by beneficiaries, levy of cess on all construction works at rates between 1 to 2% of the construction cost incurred by an employer and non-mandatory grants/loans by the State/Central Governments. The Fund is to be used for giving financial assistance to the families of beneficiaries in case of accident, old age pension, housing loans, payment of insurance premia, children's education, medical and maternity benefits, etc.

8.15 So far, the Governments of Kerala, NCT Delhi, Madhya Pradesh, Pondicherry and Gujarat have started implementing the Act. The Government of Tamil Nadu has been implementing its own Act. Most of the States are still in the process of adoption and implementation of these Acts.

### **SPECIAL GROUP**

8.16 In pursuance of the directions given by the Prime Minister's Office, a Special Group under the Chairmanship of Secretary (L&E) with the representatives of DGFASLI, Ministries of Railways and Urban Development, etc. was constituted in September, 2004 to review and monitor

the implementation, inter-alia, of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. Since its constitution, the Group has held six regional meetings with the representatives of State Governments/Union Territories. During the year under report, meetings were held at Kolkata, Shillong, Mussorie, Guwahati, Thiruvananthapuram and Ahmedabad. The meetings at last two places were of national level where all the States were invited.

**MIGRANT WORKERS AND THE INTER-STATE MIGRANT WORKMEN**

8.17 According to the 2001 Census, 314.54 million persons have changed their place of residence within the country and out of this, 29.90 million or 9% have left their place for work. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 was enacted to protect the rights and safeguard the interest, of migrant workers.

8.18 The Act is intended to regulate the employment of inter-state migrant workmen and to provide their conditions of service. It applies to every establishment, and the contractor, who employ five or more inter-state migrant workmen. The Act has provision for issue of Pass-Book to every inter-state migrant workmen with full details, payment of displacement allowance equivalent to 50% of monthly wages or Rs.75/- which ever is higher, payment of journey allowance

including payment of wage during of the period of journey, suitable residential accommodation, medical facilities and protective clothing, payment of wages, equal pay for equal work irrespective of sex etc.

8.19 The main responsibility for enforcement of the provision of the Act lies with the Central and the State Governments / Union Territories in the establishment falling in the Central and State Sphere respectively.

8.20 The problem of migration is sought to be checked through a multi dimensional course of action through rural development, provision of improved infrastructure facilities, equitable dispersal of resources to remove regional disparities, employment generation, land reforms, increased literacy, financial assistance etc. In order to generate better employment opportunities at State level, the Government have launched a number of schemes like Swarnjayanti Gram Swarozgar Yojna (SGSY), Pradhan Mantri Gram Sadak Yojana (PMGSY), Sampoorna Gramin Rozgar Yojana (SGRY), National Food For Work Programme (NFFWP), Indra Awass Yojna (IAY), Integrated Wastelands Development Programme (IWDP), Drought Prone Areas Programme (DPAP), Desert Development Programme (DDP) etc. Further, the Government have recently enacted the National Rural Employment Guarantee Act to provide 100 days guaranteed employment to rural households.

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