

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 3 | Issue 3

2020

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Impact of Covid-19 on Migrant Construction Workers

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ABSTRACT

As the second wave of coronavirus has hit India harder than ever, what the future holds remains uncertain. The second largest employment in India is done in the construction industry. With such a scale, the impact of Novel COVID-19 infection was estimated to be equally massive when it first struck the country in February 2020. This article deals with the real-life struggles faced by migrant construction workers due to the lack of infrastructural and economic support by the government. It aims to uncover the reality of failed government policies and provide survey data by various organizations and a self-analysis of the data. It further explains the case of Rakesh Malhotra v Government of National Capital Territory of India and Others which helped streamline the assistance provided to the migrant construction workers who are unregistered and unaware of their own rights under Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. The article also explains the current scenario of the National Capital Territory of Delhi and how the center is assisting migrant construction workers with the second wave of coronavirus that has hit our country and whether it is doing a better job than the first wave.

I. INTRODUCTION

In India, after the agriculture sector, the largest employment is done in the construction sector. Almost 5.1 crore people in India are employed in a construction-related job as per an estimate. With such a scale, the impact of Novel COVID-19 infection was estimated to be equally massive when it first struck the country in February 2020.² The fear was that the migrant construction workers attempted to go back to their hometowns by fleeing the construction sites. The construction industry had to resort on one-third capacity for work which adversely affected their ongoing projects. As India underwent through a strict lockdown, until June 2020, the situation remained grim. The construction work gradually continued after July 2020, when the market partially opened. As everyone expected a revival

¹ Author is a student at National Law University Odisha, India.

² Anirudh Singh Chauhan, 'COVID-19 impact: Construction projects and workers severely hit' <https://www.99acres.com/articles/covid-19-impact-construction-projects-and-workers-severely-hit.html> accessed 10 May 2021

and a return to normal life by the end of 2020, the second wave of the coronavirus disease hit the economy and made matters worse. Yet once more, in a fear of another lockdown, migrant construction workers are again heading home due to which the construction projects are taking a hit. Although, many developers are providing their workers with food and shelter due to which, they feel that these incessant measures have controlled the workers' migration activities and the impact on the construction industry due to migration of workers is hence comparatively lesser than previous year's. Major developers like DLF, Raheja, Brookfield, and Embassy helped their construction workers by providing them with healthcare, accommodation and food.³

The Business environment was badly impacted by the coronavirus crisis. More so for the migrant labourers in the construction industry, who earn their livelihood from the ongoing building projects. In march 2020, the nationwide lockdown led to the halt of construction activities of various residential projects. The migrant construction workers were demotivated heavily due to the fear of getting infected with the disease and no security of the jobs. Within the first month of lockdown, according to an industry estimate, more than thirty percent of the construction workers left for their native homes.

Meanwhile, the brunt of mass exodus was faced by the developer community due to the Covid-19 pandemic. Leaving migrant construction workers slowed down or halted the pace of construction, eventually, the impact was massively seen on the profit margins of the companies.⁴

II. STATISTICAL DATA REGARDING THE EFFECT OF COVID-19 ON MIGRANT CONSTRUCTION WORKERS

A remote survey of ten thousand migrant construction workers was conducted by Neev, to understand the impact of the pandemic lockdown on personal well-being, jobs and lives of the migrant construction workers. The objective of the survey was to understand the changes in vulnerabilities of migrant construction workers because of the pandemic, to help identify loopholes in the existing service delivery and policies regarding the pandemic, and also to inform the implementation of construction worker focused programming for private and public sector stakeholders. As per the survey conducted, seventy percent of the workers who were not working at the time agreed to go back to their job as a construction worker after the

³ Taha Ansari, 'How Will the Covid-19 second wave impact the construction sector?' <https://housing.com/news/how-will-the-covid-19-second-wave-impact-the-construction-sector/> accessed 10 May 2021

⁴ Anirudh Singh Chauhan, 'COVID-19 impact: Construction projects and workers severely hit' <https://www.99acres.com/articles/covid-19-impact-construction-projects-and-workers-severely-hit.html> accessed 10 May 2021

lifting of the lockdown restriction. However, more than half of those said that they wished to work for the same employer they used to work with. Moreover, around one third of the labourers were unsure whether they would migrate to their hometown or not and nearly ten percent of the labourers stated that this year, they were not planning on migrating at all. 6 out of 10 participants stated that in the short term, their top priority would be food, only second to educational and agriculture related needs. Sixty percent of the workers were planning to take loans in the near future to meet their physiological needs, whereas thirty percent stated that they already had taken a loan before the pandemic.⁵

Another survey conducted between March 27 and 29 by the Jan Sahas noted that 9 out of 10 workers did not possess a BOCW card, due to which they were not eligible for any transfer. Moreover, seventeen percent of the participants didn't even possess a bank account and fourteen percent did not have a ration card. The NGO noted that "If our dataset is representative of the 55 million labourers currently employed in the construction sector, then more than 51 million labourers will not have access to any benefits". The NGO also conducted a telephonic interview with 3,196 migrant construction workers residing in central and north India and discovered that there are a large number of unregistered labourers. More than half of the participants of the survey stated that they already had unpaid loans and would find it extremely difficult to pay them off without employment. The NGO made a suggestion that PM cares fund should be used to tackle debt bondages and indebtedness and to grant labourers with income assistance monthly for 3-6 months at least. At least fifty percent of the participants of the survey received around two hundred-four hundred rupees as payment daily to support their family. 4 out of 10 people surveyed mentioned that they had no food left for even a day, let alone for the duration of lockdown. One-third of the labourers were still trapped in the destination city with barely any access to money, water and food. Within first 3 weeks of the lockdown, 9 out of 10 participants had already lost their sources of income. Around forty percent of the migrant construction workers belonged to the Other Backward classes, twenty percent belonged to Scheduled Castes and 18 percent belonged to Scheduled tribes. The mass reverse exodus proved that if unable to work, then there was nothing left for a migrant worker in a city and they did not have social community to fall back on.⁶

Commenting on the general status of migrants in a society, Jan Sahas concluded, "It is also

⁵ 'Understanding the effect of the Covid-19 pandemic on Migrant Construction Workers in India' <https://www.sattva.co.in/publication/understanding-the-effect-of-the-covid-19-pandemic-on-migrant-construction-workers-in-india/> accessed 11 May 2021

⁶ Divya Trivedi, 'Survey finds 94 per cent of construction workers ineligible for funds transfer' <https://frontline.thehindu.com/dispatches/article31286921.ece> accessed 12 May 2021

symptomatic of the exclusion of the migrant population from all social safety mechanisms. It is further unacceptable that the welfare of migrants was not mentioned even once in any of the directives issued by State agencies until it became impossible to avoid the videos and pictures of large groups of migrants walking in deplorable conditions.”⁷

III. SELF-ANALYSIS OF THE DATA

The surveys have shown a certain kind of dissatisfaction among the construction workers in the industry. While only seventy percent of the people wanted to return to their jobs, forty five percent of them did not want to return to the same employer. The main priority of most of the workers surveyed was food, shelter and education. Thirty percent of the workers had also taken a loan for their survival. This brings out a much bigger problem for the second largest industry in India. The construction sector is not as streamlined and not regulated with regards to the construction workers as it should be. These basic needs should be provided as a security to the workers by their employers. Fifty percent of the workers not wanting to return to the same employer also portrays job dissatisfaction among the workers and one can assume that they are not treated in a desirable way by their employer. These issues could have been solved if there was a more streamlined method for the workers to express their views freely and work on inter-work conflicts. Thirty percent of the workers taking a loan for their basic needs shows that some of the workers were not provided with any kind of security and no help was provided to them by their respective employers. These problems have occurred due to the laws not being implemented properly in this large unorganised sector.

This is evident by looking at the results of the survey done by the Jan Sahas NGO. The NGO noted that ninety four percent of the migrant construction workers did not have a BOCW card, making them ineligible to attain the benefits that were being provided by the government. These workers were also in debt as they did not have any money with them and hence needed to take loans for survival of them and their family. In my opinion, the construction workers may be uneducated and may not have knowledge about the existence of BOCW cards, which makes it the duty of the employer to educate them about the cards and assist them in applying for the same. A major concern that arises is that why the employers would not apply for BOCW cards and register the construction workers under the act, a valid theory to this can be that so the construction workers become 100% dependent on the employers for their livelihood and so, if a similar situation arises, ask them for loans with an unreasonable interest rate.

⁷ Prachi Salve, ‘A survey points to what India can do for its migrants, right away’ <https://www.indiaspend.com/a-survey-points-to-what-india-can-do-for-its-migrants-right-away/> accessed 12 May 2021

IV. RAKESH MALHOTRA V GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF INDIA AND ORS⁸

Delhi High court passed an order to provide assistance to all the construction workers, regardless of their registration status. Delhi Building and Other Construction Workers Welfare board was asked by the high court to provide medical assistance to the construction workers without getting into any complicated procedure that may render the order infructuous.⁹

The Two judge bench noted that “The counsel had suggested and we find merit in it that if any construction worker is found COVID-19 positive, he should be provided medical assistance on production of RT-PCR report”¹⁰. The bench was hearing an application by the National Campaign Committee for Central Legislation on Construction Labour which asked for Delhi government and the welfare to provide financial and medical assistance to construction workers who got infected by the coronavirus disease under Section 22(1)(f) of the Building and Other Construction Workers Act and Rule 280 of the Building and Other Construction Workers Rules. Section 22(1)(f) of the act provides that “the board may meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed.”¹¹ According to Rule 280 of Delhi Building and Other Construction Workers Rules, “The Board may sanction financial assistance to the beneficiaries who are hospitalized for five or more days due to accident or any disease. The financial assistance shall be two hundred rupees for the first five days and twenty rupees each for the remaining days, subject to a maximum one thousand rupees. This assistance shall also be given to the beneficiary met with accident and put in plaster at residence. If disability is resulted due to accident, the worker shall be eligible for a financial assistance upto a maximum five thousand rupees depending upon the percentage of disability.”¹²

The high court held that the Centre and Aam Aadmi Party had miserably failed to think about migrant construction workers during the 2020 lockdown and lessons were required to be learnt from it as daily wagers were again going to face the grim reality with the imposition of fresh six-day lockdown in the national capital in the wake of second wave of COVID-19. The high court further added that the Delhi government has announced a lockdown for six days

⁸ [2021] W.P.(C) 3031/2020

⁹ ‘HC asks Delhi govt to provide medical assistance to construction workers infected with COVID-19’ <https://economictimes.indiatimes.com/news/india/hc-asks-delhi-govt-to-provide-medical-assistance-to-construction-workers-infected-with-covid-19/articleshow/82201919.cms> accessed 14 May 2021

¹⁰ [2021] W.P.(C) 3031/2020 [4]

¹¹ The Building and other Construction workers Act 1996, s 22(1)(f)

¹² Delhi Building and Other Construction Workers Rules 2002, 280

from the night of April 19 to April 26 morning, the reports showed that migrant workers are again going back to their native places from here. The bench directed the Delhi government to arrange funds for providing food and other essential items to daily wagers and if need arises, withdraw the amount from the corpus under the Building and Other Construction Workers Welfare Cess Act. It said that the Delhi government shall utilise the services of contractors who used to prepare mid-day meals in schools which are closed now. The high court, on its own, has revived the disposed of petition, noting that the virus has raised its “ugly head” once again and the pandemic is raging with much greater intensity and “it is evident that the healthcare infrastructure is at the stage of imminent collapse”¹³.

V. CURRENT SCENARIO IN DELHI

The Delhi government via Delhi Building and Other Construction Workers Welfare Board, announced assistance of five thousand rupees to all the construction workers registered with the welfare. According to the government, almost all the registered construction workers had received their first instalment of the financial aid. The government understood that the pandemic has been on a rise and the medical situation in the city is still grave and there are construction workers who could not migrate back to their home towns and survive due to their daily wage incomes. The registered construction workers can also reap the benefits of free medical assistance and RT-PCR tests among other things. According to the government, there are more than two lakh construction workers in Delhi that are registered with the welfare and who can avail the benefits. After the order passed was by the Delhi High Court regarding financial assistance for unregistered construction workers, the Delhi government launched a drive for registering workers engaged in construction work in February, 2021.¹⁴

However, the ground reality is very different and remains only “marginally improved”. Many construction workers complained to the officials about not receiving their pending wages and their contractors had ran away. Some sources also stated that there are more than eighty thousand applications pending with the welfare for construction workers to be registered, due to which many of them are unable to receive the aid.¹⁵ Last year, the union ministry of labour and employment asked the states and union territories to use the funds that have been collected over all these years under the construction welfare boards to provide financial aid to

¹³ [2021] W.P.(C) 3031/2020 [1]

¹⁴ ‘Renew registration of over 5 lakh construction workers: HC tells Delhi government’ <https://realty.economictimes.indiatimes.com/news/regulatory/renew-registration-of-over-5-lakh-construction-workers-hc-tells-delhi-government/75864561> accessed 14 May 2021

¹⁵ Damini Nath, ‘An order to remove disorder’ <https://www.thehindu.com/news/cities/Delhi/an-order-to-remove-disorder/article34297977.ece> accessed 14 May 2021

this marginalised section of workers, although, no such directive has been issued this time. Also, another grave problem for the construction workers is the inability of purchasing the ration card as most of them are daily wage workers.¹⁶

VI. CONCLUSION

As the second wave of coronavirus has hit India harder than ever, what the future holds remains uncertain. With many workers struggling to survive while the government is struggling to provide adequate resources to the people in need, India has hit its all-time low of the 21st century. The pandemic has hit the construction sector heavily. The workers, who are supposed to be protected under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, are unaware of their own rights. As revealed in the findings of the survey, even after aid being given by the government, most of the workers are unable to attain the aid which is being provided exclusively for them only. According to the statistical data of the last year, the majority of the workers had to rely on themselves for survival and had to take on personal high interest loans from lenders to provide food for their family.

While the Delhi High Court has directed the Delhi Government to provide aid to the construction workers, the ground reality is very different from what is supposed to happen. As there are many unregistered construction workers who are unable to avail the benefits provided by the welfare, the government has taken steps to register many unregistered workers under the welfare to provide them with assistance. However there are many pending registrations with the welfare and due to which many workers are still waiting to avail the financial assistance from the government.

The migrant construction workers have been heavily hit by the pandemic and while the government has provided them with assistance, the surveys show that a large majority of the workforce is still suffering to attain the aid due to a faulty and broken system. While the government is trying to fix this system and getting its workers registered, many workers are still suffering due to a delay in process and things aren't easy, especially for those not receiving any support.

¹⁶ Ronak Chhabra, 'Covid-19: Unions Press for 2nd Instalment of Aid to Construction Workers in Delhi' <https://www.newsclick.in/COVID-19-Unions-Press-2nd-Instalment-Aid-Construction-Workers-Delhi> accessed 14 May 2021