

1456 hours

SHRI A.C. JOS (IDUKKI): I am thankful to you for calling my name.

At the outset itself, may I congratulate the hon. Minister for having moved the twin Bills, one to regulate the service conditions and welfare measures of the workers and the other to levy for collection for the conduct of the welfare measures.

If you believe in horoscope and slightly afraid of, the construction workers Bills were always fatal or most of them are stillborn. It appears to me that it started in 1975, but eight years back at least the Petitions Committee of this House had very elaborately considered the aspects and the problems of the construction workers. In the meanwhile, a Bill was introduced in the Rajya Sabha. Having noted that the Petitions Committee of this House was discussing the same, the Rajya Sabha reverted it to the Lok Sabha. But that also met with the same fate.

Again, in 1995, an Ordinance was passed and before that much water has flown down. Successive Labour Ministers, no less than the hon. Minister of Railways, Shri Ram Vilas Paswan, then Shri S. Venkataswamy and our venerable hon. Speaker, all have touched it and tried to do it but none of them could succeed. Somehow or other, it receded away from the hand. This is the fourth Ordinance that is being put in the form of a Bill in this House. I think, that it is for the first time in the history of India, that one Ordinance has been successfully put in the same year and I hope that is why yesterday I objected to my learned friend Shri George Fernandes when he mentioned that this called for some technical problems. I do believe that there is some technical problem but why I conceded to it is that somehow or other it was let away.

If you look in the history of the Statute Book, in the last 50 years after Independence, there is no dearth of any labour laws. We can be rightly proud of having a plethora of labour laws. Right from 1947, the Industrial Disputes Act a number of labour laws are there, regulating service conditions, giving bonus, giving gratuity and terminal benefits, maternity benefits and

like that. Even though the subject 'labour' is in the Concurrent List, every Government, State Government as well as the Central Government - has enacted enough laws. But very interestingly towards whom are all these laws are directed? They were directed towards very highly paid pilots and very heavily paid bank employees, industrial workers, and for every organised worker who forms ten per cent of the working classes of the country, for whom we have thousand laws. For 10 per cent, we have got everything but unfortunately 80 per cent of our population, that is, 90 per cent of the working force is in the agriculture and construction sectors.

(oo/1500/rs)

Sir, even today, except perhaps the Kerala Government and one or two other State Governments, all the State Governments, in agricultural sector, are still left untouched. Agricultural labourers are still indisciplined. More so, the second largest sector, that is the construction sector is still orphan. When we are celebrating the golden jubilee of our Independence, this year only we have been able to bring in a legislation of that sort.

I do not call it a legislation for the construction workers. In some note I happened to read that the number of construction workers available in this country is 8.7 million. It is not at all correct. How can it be? If you conceive, that construction labour is the second largest section of our workforce, it can never be 8.7 million. Our country has a census about lions, our country knows how many tigers are there, our country knows how many elephants are there, our country has got census about everything, but I am sorry to state that till date the Labour Department does not have a census of construction labourers in the country.

1501 hrs.

(Shri P.M. Sayeed in the Chair)

According to the Planning Commission, the construction labourers will come to about 50 million to 60 million. Construction industry is the biggest industry of this country. 48 per cent of the total allocation of the Eighth Plan has been earmarked for construction activities and 48 per cent of the

Eighth Plan means a huge amount. Perhaps even agricultural sector may not be investing that much of money, but the maximum amount of money invested in a single industry or single activity, if you take, is in the construction industry and about that there are no statistics.

So, my humble submission, before this Bill is passed, is that the hon. Minister should give instructions that there should be a census about construction workers. They are also human beings. If I may repeat it, if you have got census for pet dogs and census for animals, what is your census regarding construction workers?

According to me, 20.7 million workers are directly involved in the construction industry. Are these people who cut woods, not part of construction industry? Are these people who do granite work, not part of the construction industry? So if you take everyone together, the second major part of the rural population consisting of about 60 million to 70 million people are functioning as construction workers. Naturally, when we think about these things, priority should have been given to such Bills.

Even today, I am sorry to say that those who talk about labour, including the central trade union leaders, have not done their best for the construction workers. Pilots bring the planes to a standstill in which the elites travel and the bank employees can stop the banking activities in which the elites alone transact, but there is no protection for construction workers.

So, I am again submitting that this Bill be given priority and should be passed. I do not say that this Bill is above everything but because something will have to come into the Statute Book, that is why I am supporting this Bill.

SHRI N.K. PREMACHANDRAN (QUILON): What would be the fate of Kerala if this Bill is passed?... (Interruptions)

SHRI A.C. JOS (IDUKKI): I am coming to that. Kerala, like in any other field is the forerunner in this field also. Though Tamil Nadu had passed a Bill in 1984, they have still not implemented it.

(pp/1505/lh-rjs)

They have got manual labourers' work. They have implemented it only in 1994. But, luckily, Sir, the Kerala State Legislature passed a Bill in 1989 and implemented it forthwith in 1989 itself.

The defect of the present Bill is that though the definition is all pervading, even now the definition does not contain what are all the things that are included. In Kerala, we have a schedule. In that schedule we have included 26 types of workers. I will just list them without taking much time of the House. They are: masons; gravel-breakers; masons who work with local bricks; brick manufacturing workers; carpenters; blacksmiths; fitters; plumbers; painters; saw mill workers; bar-benders; helpers in the construction work; workers who collect sand for construction industry; mosaic workers; tunnel workers; granite workers; electricians; concrete workers; workers who are engaged in thatching roofs of small houses; marble workers; road workers; any other workers connected with the construction work; lime workers; welders connected with the construction industry; and even anti-sea erosion workers.

That is why, I have submitted that this Bill should include a very major section of it. My submission is that, before going into the legalities of it, the hon. Minister should include a clause in this Bill, wherein the State Government should be given enough power to include any type of workers connected with the construction work.

I have mentioned about the legality. Let me ask one question, why should the Government call it as 'Building and other Construction Workers Bill'? I do not understand this. Simply calling it as 'Construction Workers Bill' will do.

If building is a construction work, then it includes construction workers. Firstly, the nomenclature of this Bill should be changed; it should be rechristened as 'Construction Workers Bill'. The hon. Minister's name will go down in the history as a person who has passed the Bill for the entire construction workers.

If I may be permitted to say, bureaucracy is dancing in the words 'Building and other Construction Workers'. They are still not away from it. If there is a worker engaged in the construction of a dam, he is also called a construction worker. If a worker is engaged in the construction of a building, he is also a construction worker. Even if a worker is engaged in the construction of a small building, he is also called a construction worker. Then, what is the meaning of calling it as 'Building and Construction Workers Bill'? I do not find any logic in it. I do not find any implication in it. That is why, we did the same thing and it was named as 'Construction Workers Bill'.

Secondly, I have mentioned about the definition. I say that if this is passed, the State Government should be given enough leeway to include any kind of workers because India is a diverse country and many type of works are there in different States. What is applicable to Kerala may not be applicable to Bihar. So, the State Government should be permitted to include as many categories of workers into the Act as possible.

Here, as my learned friend has suggested, there is a very serious problem in this Bill. Is it legally possible? As per the present Bill, the money has to be collected and has to be put into the Consolidated Fund of India. What will happen to the Kerala State Act? The Kerala Welfare Act is being implemented very well. Sir, you will be surprised to know, you will be amazed to know that within five years, the Kerala State Construction Welfare Board has got a sum of Rs.35 crore as its corpus.

(qq/1510/mmn/msh).

A day will come within the next five years, when the workers in Kerala need not pay and need not collect anything. It will touch Rs.100 crore mark and with that interest, in Kerala, the workers can be easily given pension and other benefits.

Apart from boasting about it, as this Act provides that the money should go to the coffers of the Consolidated Fund of India, my question is,

then what will we do? The money that has been collected now and is going to be collected in Kerala and Tamil Nadu, where the Board is functioning smoothly and with everybody's appreciation, may also have to go to the Consolidated Fund of India.

I suggest a compromise. I do not mind saying that. Why I am saying is that a clause should be added that whichever State Government wants that the money to be collected, earmarked to the Board, that need not go to the coffers of the Consolidated Fund of India. It is a very complex process. You collect the money from the far-most southern tip of the country, send it to the Consolidated Fund of India and again, it sends back the money..

I understand that the Department of Income-tax is doing it. But it is not like that. The construction activity is an activity which takes place in every corner and in every village. So if that money goes to the Consolidated Fund of India - it is going to be a very huge amount - and that fund is to be earmarked on what basis? It is not said here on what basis it is done. Now they say, after the money is brought to the Consolidated Fund of India, the Act says, 'the Board will assemble and some mechanism will be worked out by which that money will be distributed.' What is the basis? For income-tax, there is a basis. For excise duty, there is a basis. The Finance Commission will come in every five years and it will earmark it that the hon. Minister would find. Then what is the basis of distribution?

Suppose the construction activity is maximum in my State or for that matter, the construction work is maximum in the city of Mumbai how do you distribute it? There is no formula at present. Therefore, it will come to a grinding halt.

After having collected it, that money cannot do any good to the construction workers. So my submission is that the very idea of collecting the money and putting it to the Consolidated Fund of India - if I may put it so - will not be practicable at all. That is impossible and if I may say so, it may even be illegal also. You may have to test it and it will attract a plethora

of cases. In a number of cases where we may have to fight for this purpose because the contractors are involved in it.

Now my second suggestion is this. I do not know whether any other technicality is there regarding other States. If you think so, you make a provision by which you can say that whichever State wants to collect it, that can collect it because it is a Concurrent subject, you have enough freedom and you have enough liberty and leeway in it.

Sir, another difficulty is that once the money is sent to the Consolidated Fund of India, it is very difficult to come out. So instead of that, I have moved an amendment that this money should go to the Welfare Board. The Welfare Board will have enough checks and balances. I have suggested an amendment that instead of it coming under the audit of the Auditor and Comptroller General, you can have an independent audit for the Board which we are doing it.

So, as far as possible, I would request the hon. Minister to take it away from the clutches of the bureaucracy and from the clutches of the Government. I have nothing against the bureaucracy but I am saying it because once it goes to the Consolidated Fund of India, the Government may have its own financial difficulties and with that difficulty, the money that has been collected for the purpose of construction workers gets held up there. What will you do? So the money that you are collecting, the cess that you are collecting, should go to the Welfare Board, which according to me, should be autonomous, should be free from the clutches of the Government. That body will manage and administer that district.

(rr/1515/tkd-mkg)

Sir, my friend, Shri Hannan Mollah has mentioned certain things regarding the welfare measures. My suggestion for that is that if you give freedom to the Welfare Board of the States concerned, that Welfare Board can formulate its own welfare measures depending on the conditions obtaining in each State. In my State, Kerala, we need not have insurance because insurance

has got its own inherent defects. So, we have not opted for insurance. If a particular State wants accident insurance, it can do it.

So, my third suggestion is that the Welfare Board should be instituted in which two Members from this august House can be appointed in the Central Advisory Board either by election or by nomination. I leave that option to the hon. Minister. So, also the State Government or the State Legislature can have two representatives in the concerned Board. (Interruptions). Why should you make the registration of the employer, who employs 50 or more workers, compulsory? We are not interested in the registration of the employer at all.

Sir, in Kerala, we permitted individual workers to get themselves registered in a taluk or in the district. My friend, Shri Hannan Mollah has also mentioned about it.

Sir, the International Building and Construction Workers Congress in their memorandum to the hon. Minister have also written that under clauses 11 and 17, the certificate from the registered trade union or central union can be given. As far as an individual worker is concerned, he can renew his registration with whatever conditions you have stipulated like 90 days, etc. He can be a member of the welfare fund.

Now, it is mentioned that a contractor who employs 50 or more workers can be registered. My suggestion is that an individual worker may be permitted to register. If at all you are interested in the contractor to be registered, the employer to be registered also, then the limit should be brought down because in order to circumvent the Bill, in order to get out of the Bill, they may register 20 or 30 people different times. Instead of that, you bring down the number to 15. Any person who employs more than 15 persons will have to register. (Interruptions). The number can be ten also. I agree with you.

Lastly, in the Bill it is mentioned that the cess shall not exceed one per cent. It is a very dangerous clause. It means that it can be 0.5 per cent; it can be 0.25 per cent. That is very dangerous.



I wanted to move an amendment that not less than one per cent should be there. Then the Office of the legislative Wing said that it needs President's concurrence. My colleagues have already mentioned about it. I am contented that it should be definitely one per cent.

MR. CHAIRMAN (SHRI P.M.SAYEED): Please conclude.

SHRI A.C.JOS: Yes, Sir.

Another thing is that no exemption is possible. If there is a clause of exemption, then there may be a lot of pressures and there can be exceptions. So, you have to do away with the exemption, otherwise the case of one per cent will be of no use. By it, you take away teeth from this Bill and the Bill will be of no use.

(ss/1520/krr/jr)

Sir, I am happy that I am making my maiden speech in this august House about the construction workers for whom I have been working for the past two decades. In any case I am happy that it is coming. Till date all the Ordinances and Bills were still-born. Even this Bill is a premature baby, which came out in the seventh month without nails or hair. It is still premature. Luckily it has got life. ...(Interruptions)

MR. CHAIRMAN (SHRI P.M. SAYEED) : Please do not disturb. He is making his maiden speech.

SHRI A.C. JOS : Sir, I am supporting it because I am putting it in the incubator. I do not want to kill it. It is not still-born. It is only a premature baby with life. We have to keep it in the incubator and give it enough nursing, medicine and food and strengthen it. After that it can be made use of. I do not want to kill it. So I support it.

Thank you.

(ends)