

RESEARCH DIRECTIONS



An International Multidisciplinary Peer Reviewed Research Journal



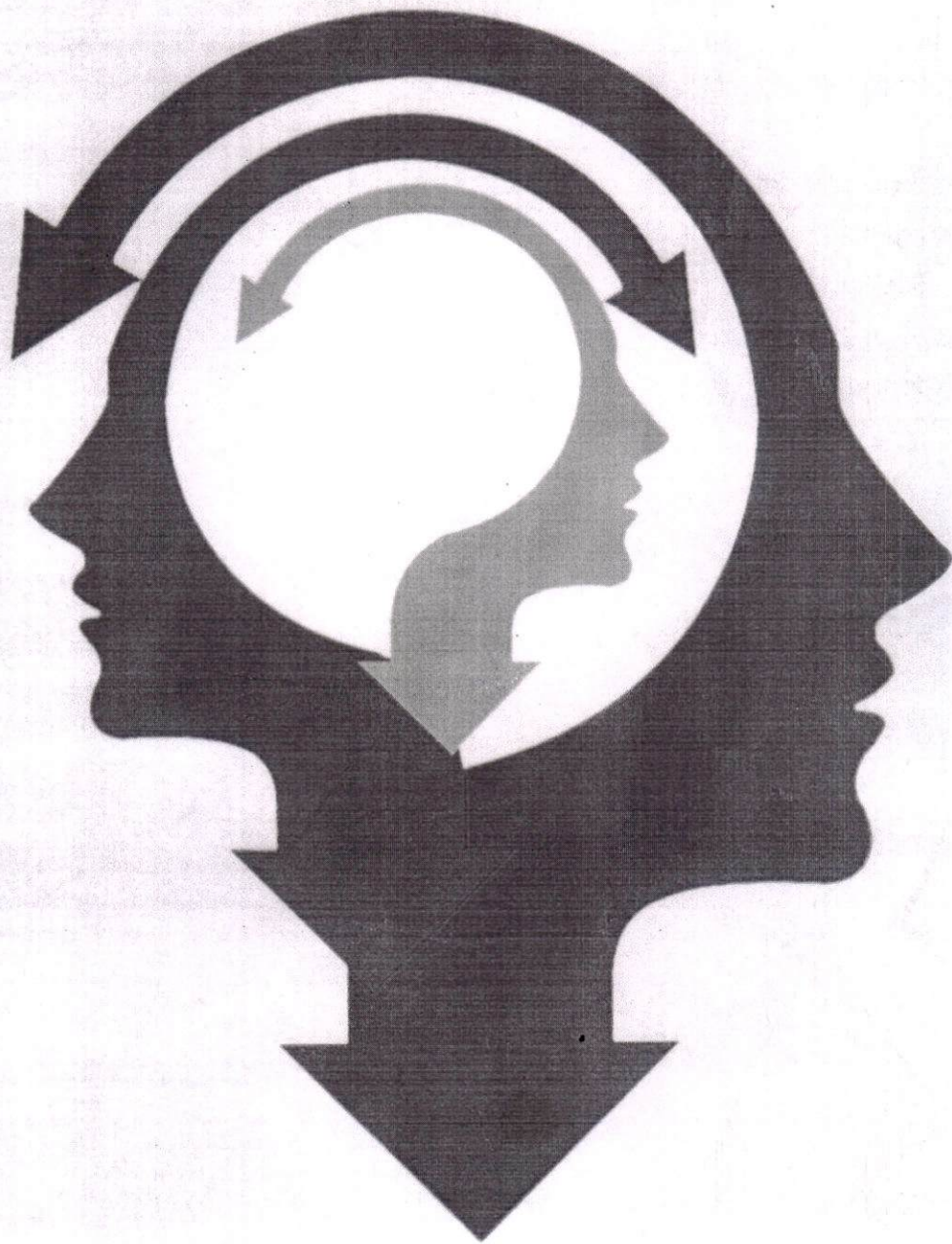
ISSN No. 2321-5488

UGC Sr. No. 45489

Vol. 6 Issue. 5

November 2018

Impact Factor- 5.7 (UIF)



Editor-in-Chief : Dr. Santosh P. Rajguru

website : www.researchdirections.org

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RIGHTS OF CONSTRUCTION WORKERS IN INDIA

Mr. Gajendra Dhamal, Asst. Professor

Introduction:

India is the world's largest democracy. Our total workforce is 48.18 crore. Only 8 percent of workforce is employed in the organized sector while 92 percent works in the unorganized sector. It is around 8.5 million workers in the country are engaged in building and other construction works. Building and other construction workers are one of the most numerous and weak segments of the unorganized labour in India. The building and other construction works are characterized by their inherent risk to the life and limb of the workers. The work is also characterized by its nature of work, provisional relationship between employer and employee, uncertain working hours, lack of basic amenities and insufficiency of welfare facilities.¹

Construction Industry plays an important role for growth of a country. It is one of the fastest developing industries with an annual growth of 10%. It has wide range of activities with employment of a considerable number of workers. They are mainly working in informal or unorganized sector. In our country near about 340 million (92%) workers are in unorganized sector and about 50% of them are in construction industry.

Construction workers contribute a large part of the Indian society. They are in the disadvantageous position. From the ancient times they are exploited and dominated by their respected employers. There are lots of problems relating to pay, promotions, working conditions, fair and equal treatment, etc. facing by them in spite of various International Conventions and legislations, rules, regulations, etc. at national level.²

In the unregulated and unorganized nature of construction industry, the labour moves from one employer to another employer and from one site to another site for seeking job. The majority of workers in this sector work not only with backward technologies but also solely with the aid of muscle power. Works in the construction sector are subject to innumerable hardships. They are forced to work as unskilled workers and opportunities are also denied to them to improve their skills or wages. Due to heavy manual work and exhaustion, the construction workers suffer from frequent illness.

For the protection of rights of construction workers the Government has passed the Building and Other Construction Workers (Regulation of Employment and Conditions of

¹ The Building and other construction workers (Regulation of employment and conditions of service) Act, 1996-By Ketan Thakkar, Snow White Publications

² Legal News & Views, July 2017

Service) Act, 1996³, to regulating the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures.

Rights of construction workers:

Various rights are available to construction workers such are as follows,

Right to entry – This right is given to union officers who may, under certain circumstances, be allowed to enter worksites. These circumstances may be any of the following:

- If there is a break in a workplace law and an inquiry has to be conducted
- When there is a need to hold the meetings with employees
- When union officers exercise their right to conduct a Work Health and Safety checks

Right against the coercion – The employee should not be forced or threatened to do what he or she does not want to do or to execute work that he or she does not want to execute for reasons that will conflict the individual's freedom of choice.

Right to associate or not to associate with a union – Also called the Freedom of Association, employees cannot be threatened, forced or pressured to join (or not to join) or leave a union by their employer or their employees.

Right against the discrimination – Action taken against an employee or prospective employee for discriminatory reasons by an employer is unlawful. Some examples of such contrasting actions are rejecting to hire a prospective employee, firing an employee, changing an employee's job to his or her disadvantage, and withholding an employee's entitlements, among others. It is considered discrimination when these actions are taken against any person in the working place due to such personal attributes like gender, sex, age, religion, marital status, personal responsibilities, pregnancy, national extraction, political views, race etc.⁴

Indian Constitution has stated some important provisions related to protect the rights of the unorganized workers as well as Construction Workers..

Article 21: Protection of Life and Personal Liberty – right to livelihood. "No person shall be deprived of his life and personal liberty except according to procedure established by law."⁵

³The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996- Bare Act

⁴<http://www.whitecardinfo.com.au/rights-and-responsibilities-of-construction-workers/>

⁵M.P.Jain- Indian Constitutional Law

Article 23: Prohibition of traffic in human beings and forced labour.

Article 38: State to secure a social order for the promotion of welfare of the people.

Article 42: Provision for just and human conditions of work and maternity relief.

Article 43: Living wages for workers .

Indian Courts has always been quite proactive in the matter of extending the coverage of social security to eliminate the vulnerability of unorganized workers. Despite various legislations such as Employees' Compensation Act, Employees State Insurance Act, Employees' Provident Funds and Miscellaneous Provisions Act, etc.,⁶

The Judiciary has special responsibility towards the weaker sections of the society and hence it has zealously protected not only the rights of individual but also particularly unorganized workers who are poor, ignorance and illiteracy find it difficult to access the court of justice.

The SC has pointed out in various cases that, the right to livelihood is inherent in the right to life under Article 21 of Indian constitution..

Particularly, in the case of 'Rural Litigation and Entitlement Kendra, Dehradun V. Uttar Pradesh',⁷ the Supreme Court has held that the right to livelihood is inherent in right to life under Article 21.

In a very famous case 'Peoples Union for Democratic Rights v. Union of India' (Asian Games Case),⁸ It was held that taking of labour or service of any person for payment less than the prescribed minimum wages is violation of the fundamental right to such labourer while excising the scope and ambit of Article 23 of Indian Constitution.

Also the Supreme Court in 'Bandhua-Mukti Morcha V. Union of India',⁹ held that when an action is initiated in the court through public interest litigation alleging the existence of bonded labour, it may give the Government opportunity to examine, whether the bonded labour system exists and as well as to take appropriate steps to eradicate that system.

In 'Nceraja Chaudhary V. State of Madya Pradesh'¹⁰, the Supreme Court observed that any failure of action on the part of the State Government in implementing the provisions of the Minimum wages Act was violative of Art. 21 and 23 of the Constitution of India.

⁶S.N. Mishra- Labour and Industrial Laws

⁷AIR 1985 SC 652.

⁸AIR 1982 SC 1473

⁹AIR 1984 SC 802

¹⁰ AIR 1984 SC 1099

The National Commission on Labour Report, 2002:¹¹

On 29th June 2002, Chairman Mr. Ravindra Varma submitted report to the Government of India. Thirteen Recommendations given by Second National Labour Commission (India) for the social security and various rights of organized workers such as minimum wages, working hours, bonus, leave, security of jobs etc.

Conclusion:

The construction industry covers a wide range of activities such as building of dams, houses, bridges, public and private buildings, apartments, railway tracks, docks and roads, spread throughout the length and breadth of the country. Construction is not only important because it provides infrastructure for socio-economic development but also provides employment to millions of people. This is an industry in which workers' employment is permitted and encouraged from the olden times and in modern days the ratio and number have increased phenomenally. Workers in large numbers work on construction sites in appalling condition throughout the country. The unprotected state of construction site calls for serious attention of the planners, government and concerned citizens¹¹

¹¹Ravindra Varma Committee Report (Second National Labour Commission), June 29, 2002