

# **COMMITTEE ON SUBORDINATE LEGISLATION**

**(EIGHTH LOK SABHA)**

**EIGHTEENTH REPORT**

**15 MAR 1988**

*(Presented on . . . . .)*



**LOK SABHA SECRETARIAT  
NEW DELHI**

*February, 1988/Magha, 1909 (Saka)*

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION  
(1987-88)**

1. Shri Shyam Lal Yadav—*Chairman*
2. Shri K. J. Abbasl
3. Shri G. S. Basavaraju
4. Shri Parasram Bhardwaj
5. Shri Satyendra Chandra Guria
6. Shri A. Jayamohan
7. Shri R. S. Khirhar
8. Shri P. Kolandaivelu
9. Shri R. S. Mane
10. Shri Prakash V. Patil
11. Shri Mullappally Ramachandran
12. Shri M. Raghuma Reddy
13. Shri Kalicharan Sakargayen
14. Shri Syed Shahabuddin
15. Shri Natavarsinh Solanki

**SECRETARIAT**

1. Shri K. C. Rastogi—*Joint Secretary*
2. Shri G. S. Bhasin—*Chief Legislative Committee Officer*
3. Shri Swarn Singh—*Officer on Special Duty*

## INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to present the Report on their behalf, present this their Eighteenth Report.

2. The matters covered by this Report were considered by the Committee (1987-88) at their sitting held on 28 October, 1987.

3. The Report was considered and adopted by the Committee at their sitting held on 5 February, 1988. The Minutes of the sittings relevant to the Report are appended thereto.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix I to the Report.

NEW DELHI;  
5 February, 1988  
16 Magha, 1909 (Saka)

SHYAM LAL YADAV  
Chairman,  
Committee on Subordinate Legislation

## REPORT

### I

#### RULE 1(2) OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

Rule 1(2) of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

“(2) They extend to all the major ports in India.”

2. The Ministry of Transport (Department of Surface Transport) were asked to state the names of the major ports which were to be governed by these rules.

3. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1967, have stated as under:—

“The rules are at present applicable to all the major ports with Dock Labour Boards in India. They are Kandla, Visakhapatnam, Bombay, Calcutta, Cochin, Mormugao and Madras.”

4. The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that the above mentioned rules are applicable to all the major ports with Dock Labour Boards in India viz., Kandla, Visakhapatnam, Bombay, Calcutta, Cochin, Mormugao and Madras. The Committee desire that the names of the above ports be included in the Rules so as to make them self-contained and more informative.

### II

#### RULES 3 AND 4 OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

5. Rules 3 and 4 provide for the composition of a Dock Labour Board and terms of office of members of the Board respectively.

6. The provisions regarding composition and terms of office of members of a Board being substantive in nature, the Ministry of Transport (Department of Surface Transport) were asked why these provisions should not be included in the Act itself rather than in these rules.

7. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1967, have stated as under:—

“Section 8 of the Dock Workers (Regulation of Employment) Act, 1948 empowers the Government to make rules to give effect to the provisions of the Act and such rules may, *inter alia*, provide for the term of office and the manner of filling casual vacancies among the members of the Board. Accordingly the Dock Workers (Regulation of Employment) Rules, 1962, have been framed. This has stood the test of time.”

8. The Committee notes the explanation given by the Ministry that provisions regarding composition and terms of office of Dock Labour Board contained in Rules 3 and 4 of the above Rules have stood the test of time. The Committee, therefore, decide not to pursue the matter any further.

### III

#### RULE 3(3) OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

9. Rule 3(3) of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

“The persons representing respectively the dock workers and the employers shall be appointed after consulting such Associations of persons as appear to the Central Government to be representative of such workers and such employers.”

10. As the words “as appear to the Central Government” appeared to be vague inasmuch as these could be interpreted differently by different persons, the Ministry of Transport (Department of Surface Transport) were requested to spell out in the rules the method of appointment of persons.

11. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1967, have stated as under:—

“Rule 3(3): Neither the Trade Unions Act, 1926 nor the I.D. Act, 1947 contain any provision for determining the representative character of the Unions of dock workers. Hence, the representative character of the Unions of dock workers is determined by the verification of the membership of different Unions conducted by the Ministry of Labour biennially. In this connection there is a provision in the Major Port Trusts Act, 1963 for appointment

of not less than two trustees to represent the labour employees in the port, who in the opinion of the Central Government are capable of representing the labour employed in the port. While making appointments of labour trustees in the Major Port Trusts, the representative character of the Unions is determined by the verification of membership of unions of ports workers conducted biennially. In the absence of any statutory provisions for determination of representative character of the Unions, or even a consensus among the major trade unions on the machinery for such determination, it is considered that the existing provision in Rule 3(3) does not require any elaboration. As regards the representative to employers, the representation is given mainly to the Stevedores Association and shipping companies. In the case of stevedores, the representation is given after consulting the Association of Stevedores, in the respective port. If there are more than one Association of Stevedores, the representation is given to the Association which is representing the majority of employees. For giving representation to shipping companies, consultation is made by the DG Shipping Bombay with the Indian National Shipowners Association and the Overseas Shipping Interests. The words "as appear to the Central Government" in the Rule has the same connotation as the words "in the opinion or judgement of Central Government". No practical difficulty has also arisen due to the existing formulation of the Rule. The existing provision in Rule 3(3) seems to be in order."

12. The Committee feel that even though no practical difficulty is being faced by the Ministry due to the formulation of Rule 3(3) of the above mentioned Rules, yet in order to place the existing practice on statutory footing, the Ministry should suitably amend the Rules. The Committee desire that while amending the Rules precise method of appointment of persons on the Board should be laid down.

#### IV

#### RULE 4(3) OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

13. Rule 4(3) of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

"A member other than a member representing the Central Government may resign his office by a letter under his hand addressed to the Chairman."

14. As the procedure to be followed by a Member representing the Central Government in the Board for tendering his resignation from the Board, had not been specified in the Rules, the Ministry of Transport (Department of Surface Transport) were asked why such a procedure should not be incorporated in the Rules.

15. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1987, have stated as under:—

"The Member representing the Central Government is appointed by designation and such membership becomes part of his official duty. So long as the incumbent holds the office and is appointed as Member of the Board, he continues to remain on the Board. As such the question of resignation of Member representing the Central Government does not arise."

16. In view of the position explained by the Ministry of Transport (Department of Surface Transport) regarding holding of office on the Board by a Member representing the Central Government, the Committee do not wish to pursue the matter further.

## V

### RULE 4(5) (vi) OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

17. Rule 4(5) (vi) of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

"(5) A member shall be deemed to have vacated his office:

- |       |   |   |   |   |
|-------|---|---|---|---|
| (i)   | * | * | * | * |
| (ii)  | * | * | * | * |
| (iii) | * | * | * | * |
| (iv)  | * | * | * | * |
| (v)   | * | * | * | * |

(vi) if, in the opinion of the Central Government, it is for *any other reason not desirable* that he should continue to be a member."

18. As the words "any other reason not desirable" appeared to be vague, the Ministry of Transport (Department of Surface Transport) were asked to lay down some guidelines in this respect. The Ministry were also asked to add a provision in the Rules so as to afford an opportunity to the Member for his defence and also to provide that the reasons for the termination of his membership be recorded in writing.



19. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1987, have stated as under:

"As per Rule 4(5) (vi), now Rule 4(5) (v)—the Central Government shall remove a Member of the Board if in the opinion of the Central Government it is for any other reason not desirable that he should continue to be a Member. This clause is intended to cover reasons which are of a residuary nature not enumerated elsewhere in the Rules. It is not possible to visualise or anticipate all the situations possible under which a Member makes himself ineligible to represent the workers/employers. The suggestion that the Member should be given a reasonable opportunity for his defence and the reasons be recorded in writing is already being followed in all cases covered by Rule 4(5) except where under Rule 4(5) (v) a Union or Association entitled to representation in a Dock Labour Board intimates a change of nominee."

20. The Committee note the explanation given by the Ministry that the practice of affording reasonable opportunity for defence to the Member concerned and of the reasons to be recorded in writing, are already being followed by them in all cases covered by Rule 4(5). The Committee, however, desire that a suitable provision in this regard should appropriately be included in the rules so as to make them self-contained and more informative.

## VI

### RULE 6 OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

21. Rule 6 of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

"There shall be paid to the non-official members of the Board such fees and allowances as may, subject to the approval of the Central Government, be determined by the Board, from time to time."

22. The Ministry of Transport were asked to state whether the fees and allowances which are to be paid to the non-official members of the Board have since been determined.

23. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1987, have stated as under:—

"Fees and allowances which are to be paid to the non-official members of the Board are determined by the respective

Dock Labour Board according to the local conditions. Government have not fixed any fees or allowances in respect of non-official members who attend the Board meetings."

24. In view of the reply of the Ministry that the fees and allowances to be paid to the non-official members of the Board under Rule 6 of the above mentioned Rules are determined by the respective Dock Labour Boards in accordance with the local conditions, the Committee do not wish to pursue the matter any further.

## VII

### RULE 7(2) OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

25. Rule 7(2) of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

"The quorum for and the procedure at meetings, of the Board shall be such as the Board may from time to time determine."

26. As the Act clearly empowers the Central Government and not the Board to frame rules regarding quorum and the procedure of the meetings of the Board, the Ministry of Transport (Department of Surface Transport) were asked if they had any objection to frame rules in this regard and incorporate it in the Rules.

27. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1967, have stated as under:—

"Section 8 of the Dock Workers (Regulation of Employment) Act, 1948 empowers the Government to frame rules to give effect to the provisions of this Act and the rules made *inter-alia* empower the Board to determine the quorum for meetings and the procedure for conduct of business thereat. Rule 7(2) of the Dock Workers (Regulation of Employment) Rules, 1962 has stipulated that the quorum and procedure of meetings of the Board shall be as the Board may determine from time to time. This has stood the test of time and may not therefore, be incorporated in the rules."

28. The Committee note that Section 8(2) (c) of the Dock Workers (Regulation of Employment) Act, 1948, empowers the Government to frame rules regarding the quorum for the meetings of the Board and Advisory Committee and conduct of business thereat. Under the rules framed, this power has been delegated to the Board, which the Committee feel was tantamount of sub-delegation of legislative powers. The Committee, therefore, desire that proper rules might be framed by the Central Government itself in accordance with the provisions of the said Act.

### VIII

#### RULE 8 OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

29. Rule 8 of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

Rule 8: Mode of entering into contracts.—The Chairman may enter into any contract on behalf of the Board and every contract so entered shall be binding on the Board.

Provided that every such contract the subject matter of which exceeds rupees ten thousand in value shall be in writing and signed by the Chairman and shall be sealed with the common seal of the Board.

Provided further that any such contract as is referred to in the preceding proviso which has been approved by the Chairman may be signed by the Deputy Chairman instead of the Chairman."

30. Referring to the second proviso to Rule 8, the Ministry of Transport (Department of Surface Transport) were asked to state that when a contract was approved by the Chairman of the Board, under what authority the Deputy Chairman was given power to sign the contract.

31. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1967, have stated as under:—

"Second proviso to Rule 8.—Section 8(d) of the Dock Workers (Regulation of Employment) Act, 1948 empowers the

Government to make rules to determine the 'conditions subject to which and the mode in which contracts may be entered into by or on behalf of a Board.' Under this provision, the Deputy Chairman of the Board is given power to sign contracts instead of Chairman."

32. In view of the reply of the Ministry, the Committee do not wish to pursue the matter any further.

## IX

### RULE 9 OF THE DOCK WORKERS (REGULATION OF EMPLOYMENT) RULES, 1962

33. Rule 9 of the Dock Workers (Regulation of Employment) Rules, 1962, reads as under:—

"9. Maintenance of accounts of the Board.—The annual statement of accounts shall be prepared in Forms I to IV appended to these rules."

34. As no time-limit has been prescribed for submission of the Annual Statement of Accounts in the Act or in the Rules, the Ministry of Transport (Department of Surface Transport) were asked to lay down in the Act/Rules a time-limit for submission of the Accounts of the Board.

35. The Ministry of Transport (Department of Surface Transport) in their reply dated 10 September, 1987, have stated as under:—

"In order to lay the Annual Reports etc. of the Dock Labour Boards on the Table of both Houses of Parliament within 9 months of close of accounting year as recommended by the Committee on Papers Laid on the Table of the House in its report presented to the Lok Sabha on 14-8-1984, the Dock Labour Boards have been advised to send to the Government Annual Reports and Audited Accounts by end of September following completion of accounts in March of that year. A Bill viz the Dock Workers (Regulation of Employment) Amendment Bill, 1987 has been introduced in the Rajya Sabha on 31-8-1987 to incorporate this provision with a stipulation that the Report shall be laid on the Table of the House within a period of 9 months of the close of the financial year."

36. In view of the reply furnished by the Ministry that the Dock Workers (Regulation of Employment) Amendment Bill, 1987 as introduced in Rajya Sabha on 31-8-1987 incorporates a provision that the annual Report of the Board shall be laid before Parliament within a period of 9 months of the close of the financial year, the Committee do not wish to pursue the matter any further.

NEW DELHI;  
5 February, 1988  
16 Magha, 1909 (Saka)

SHYAM LAL YADAV,  
Chairman,  
Committee on Subordinate Legislation.

## APPENDIX I

(Vide Paragraph 4 of Introduction)

### Consolidated Statement of Recommendations/Observations made by the Committee

S No.	Para No.	Recommendations/Observations
1	2	3
1	4	The Committee note from the reply of the Ministry of Transport (Department of Surface Transport) that the Dock Workers (Regulation of Employment) Rules, 1962 are applicable to all the major ports with Dock Labour Boards in India viz., Kandla, Visakhapatnam, Bombay, Calcutta, Cochin, Mormugao and Madras. The Committee desire that the names of the above ports be included in the Rules so as to make them self-contained and more informative.
2	8	The Committee note the explanation given by the Ministry that provisions regarding composition and terms of office of Dock Labour Board contained in Rules 3 and 4 of the Dock Workers (Regulation of Employment) Rules, 1962 have stood the test of time. The Committee therefore, decide not to pursue the matter any further.
3	12	The Committee feel that even though no practical difficulty is being faced by the Ministry due to the formulation of Rule 3(3) of the Dock Workers (Regulation of Employment) Rules, yet in order to place the existing practice on statutory footing, the Ministry should suitably amend the Rules. The Committee desire that while

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amending the Rules precise method of appointment of persons on the Board should be laid down.

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In view of the position explained by the Ministry of Transport (Department of Surface Transport) regarding holding of office on the Board by a Member representing the Central Government, the Committee do not wish to pursue the matter further.

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The Committee note the explanation given by the Ministry that the practice of affording reasonable opportunity for defence to the Member concerned and of the reasons to be recorded in writing, are already being followed by them in all cases covered by Rule 4(5) of the Dock Workers (Regulation of Employment) Rules, 1962. The Committee, however, desire that a suitable provision in this regard should appropriately be included in the rules so as to make them self-contained and more informative.

6

24

In view of the reply of the Ministry that the fees and allowances to be paid to the non-official members of the Board under Rule 6 of the Dock Workers (Regulation of Employment) Rules, 1962, are determined by the respective Dock Labour Boards in accordance with the local conditions, the Committee do not wish to pursue the matter any further.

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28

The Committee note that Section 8(2) (c) of the Dock Workers (Regulation of Employment) Act, 1948, empowers the Government to frame rules regarding the quorum for the meetings of the Board and Advisory Committee and conduct of business thereat. Under the rules framed, this power has been delegated to the Board, which the Committee feel was tantamount to sub-delegation of legislative powers. The Com-

1	2	3
		mittee, therefore, desire that proper rules might be framed by the Central Government itself in accordance with the provisions of the said Act.
8	32	In view of the reply of the Ministry, the Committee do not wish to pursue the matter any further. ,
9	36	In view of the reply furnished by the Ministry that the Dock Workers (Regulation of Employment) Amendment Bill, 1987 as introduced in Rajya Sabha on 31-8-1987 incorporates a provision that the annual Report of the Board shall be laid before Parliament within a period of 9 months of the close of the financial year, the Committee do not wish to pursue the matter any further.



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## MINUTES

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## APPENDIX II

(Vide Paragraph 3 of Introduction)

### LVIII

#### MINUTES OF THE FIFTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA (1987-88))

The Committee sat on Wednesday, 28 October, 1987 from 15.30 to 17.00 hours.

#### PRESENT

Shri Shyam Lal Yadav—*Chairman*

#### MEMBERS

2. Shri K. J. Abbasi
3. Shri Parasram Bhardwaj
4. Shri Satyendra Chandra Guria
5. Shri A. Jayamohan
6. Shri R. S. Khirhar
7. Shri Mullappally Ramachandran
8. Shri M. Raghuma Reddy
9. Shri Kalicharan Sakargayen
10. Shri Syed Shahabuddin

#### SECRETARIAT

Shri K. C. Rastogi—*Joint Secretary*

2. The Committee considered Memoranda Nos. 106 to 114 as under:—

- (1) *The Dock Workers (Regulation of Employment) Rules, 1962 [Rule 1(2)—Memorandum No. 106]*

The Committee noted from the reply furnished by the Ministry of Transport (Department of Surface Transport) that above mentioned rules were applicable to all the major ports with Dock Labour Boards in India viz. Kandla, Vishakhapatnam, Bombay, Calcutta, Cochin, Mormugao and Madras. The Committee desired that the Rules may be suitably amended and the names of the above ports be shown in the Rules so as to make them self-contained and more informative.

- (ii) *The Dock Workers (Regulation of Employment) Rules*, 1962 [Rules 3 and 4—(Memorandum No. 107)]

The Committee noted the explanation given by the Ministry that provision regarding composition and terms of office of Dock Labour Board contained in Rules 3 and 4 of the above Rules had stood the test of time and decided not to pursue the matter any further.

- (iii) *The Dock Workers (Regulation of Employment) Rules*, 1962 [Rule 3(3)—(Memorandum No. 108)]

The Committee considered that above Memorandum at some length and were of the view that even though no practical difficulty was being faced by the Ministry due to the formulation of rule 3(3) of the above Rules yet in order to place the existing practice on statutory footing the Ministry should amend the existing Rules by laying down therein precisely the method of appointment of persons on the Board.

- (iv) *The Dock Workers (Regulation of Employment) Rules*, 1962 [Rule 4(3)—(Memorandum No. 109)]

In view of the position explained by the Ministry of Transport, the Committee decided not to pursue the matter any further.

- (v) *The Dock Workers (Regulation of Employment) Rules*, 1962 [Rule 4(5)—Memorandum No. 110)]

After considering the reply of the Ministry that the practice of affording reasonable opportunity for defence to the Member concerned and the reasons to be recorded in writing, was already being followed by them in all cases covered by Rule 4(5), the Committee desired the Ministry to amend the relevant Rule by adding a suitable proviso thereto so as to make them self-contained and more informative.

- (vi) *The Dock Workers (Regulation of Employment) Rules*, 1962 [Rule 6—(Memorandum No. 111)]

The Committee considered the reply furnished by the Ministry that fees and allowances to be paid to the non-official members of

the Board under Rule 6 were determined by the respective Dock Labour Boards in accordance with the local conditions, and decided not to pursue the matter any further.

(vii) *The Dock Workers (Regulation of Employment) Rules, 1962 [Rule 7(2)—Memorandum No. 112]*

The Committee noted that Section 8(2) (c) of the Dock Workers (Regulation of Employment) Act, 1948 empowered the Government to frame rules regarding the quorum for the meetings of the Board and Advisory Committee and conduct of business thereat. Under the rules framed, this power had been delegated to the Board, which the Committee felt was tantamount to sub-delegation of legislative powers. The Committee desired that proper rules might be framed by the Central Government itself in accordance with the provisions of the said Act.

(viii) *The Dock Workers (Regulation of Employment) Rules, 1962 [(Rule 8)—(Memorandum No. 113)]*

The Committee considered above Memorandum regarding rule 8 relating to mode of entering into contracts and decided not to pursue the matter any further.

(ix) *The Dock Workers (Regulation of Employment) Rules, 1962 [(Rule 9)—(Memorandum No. 114)]*

In view of the reply furnished by the Ministry that the Dock Workers (Regulation of Employment) Amendment Bill, 1987 as introduced in Rajya Sabha on 31-8-1987 incorporates a provision that the annual Report of the Board shall be laid before Parliament within a period of 9 months of the close of the financial year, the Committee decided not to pursue the matter any further.

*The Committee then adjourned.*

MINUTES OF THE SIXTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (EIGHTH LOK SABHA) (1987-88)

The Committee sat on Friday, 5 February, 1988 from 12.30 to 13.00 hours.

PRESENT

Shri Shyam Lal Yadav—*Chairman*

MEMBERS

2. Shri K. J. Abbasi
3. Shri Satyendra Chandra Guria
4. Shri R. S. Khirhar
5. Shri M. Raghuma Reddy
6. Shri Natavarsinh Solanki

SECRETARIAT

Shri G. S. Bhasin—*Chief Legislative Committee Officer*

2. The Committee considered the draft Eighteenth Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri M. Raghuma Reddy, M.P. to present the Eighteenth Report to the House in the ensuing session.

*The Committee then adjourned.*