

COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

NINETEENTH REPORT

MINISTRY OF LABOUR AND EMPLOYMENT



LOK SABHA SECRETARIAT
NEW DELHI

August, 2006/Sravana, 1928 (Saka)

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EMPLOYMENT

(Presented to Lok Sabha on 23.08.2006)



LOK SABHA SECRETARIAT
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CB-1. No. 335 Vol. XIX

Price: Rs. 17.00

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in
Lok Sabha (Eleventh Edition) and printed by the Manager, Government of India Press,
Minto Road, New Delhi.

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Raj Babbar
3. Shri Nandkumar Singh Chauhan
4. Shri N.S.V. Chitthan
5. Shri M. Jagannath
6. Shri Jitin Prasad
7. Shri Baliram Kashyap
8. Adv. Suresh Kurup
9. Smt. Nivedita Mane
10. Mohd. Muqeem
11. Shri Dharmendra Pradhan
12. Shri Jyotiraditya Madhavrao Scindia
13. Shri Damodar Barku Shingada
14. Shri Mansukhbhai D. Vasava
15. Shri Vijoy Krishna

SECRETARIAT

1. Shri P. Sreedharan	—	<i>Joint Secretary</i>
2. Shri A.K. Singh	—	<i>Director</i>
3. Shri U.B.S. Negi	—	<i>Under Secretary</i>
4. Shri V.P. Gupta	—	<i>Committee Officer</i>

NINETEENTH REPORT OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Nineteenth Report (Fourteenth Lok Sabha) of the Committee to the House on the Petition requesting for redressal of the demands of the workers of unorganised sector.

2. The Committee considered and adopted the draft Nineteenth Report at their sitting held on 22nd August, 2006.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
22 August, 2006

31 Sravana, 1928 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

REPORT

PETITION REQUESTING FOR REDRESSAL OF THE DEMANDS OF THE WORKERS OF UNORGANISED SECTOR

1. On 13th May, 2005 Shri M.P. Veerendra Kumar, M.P. presented to Lok Sabha a petition signed by office bearers of Reception Committee, National Campaign Committee for Unorganised Sector Workers, Siddiqui Building, 6122, Bara Hindu Rao, Delhi-110006 and others, requesting for redressal of the demands of the workers of unorganised sector (*Appendix*).

2. The petitioners, in their petition *inter-alia* stated that the unorganised sector workers of India, who number 37 crore and constitute 93% of the total work force of our country, of whom a substantial number are women, need for recognizing their plight as also the dying need for redress through an appropriate law. Their problems and concerns are well known. Successive Commissions and studies have dealt with this. The latest, the Second National Labour Commission, which was asked to work out the details of umbrella legislation for us, did produce a draft law. The Ministry of Labour of the Government of India circulated the draft law and organized in November, 2002 a National Seminar to consider this draft law. The sub group of the National Seminar which examined the legislative proposals was not satisfied and demanded action on specific lines; the conclusions of the sub-group were endorsed and adopted by the seminar. However, even these were ignored by the Government of India as is evident from the succession of drafts that kept coming out of the Ministry of Labour. The latest of such drafts was no different.

3. The petitioners further stated that they were producers of wealth for the country and did not want to be considered mere beneficiaries of State's munificence and treated as such. They wanted to be partners and participants in the process of formulating the law and schemes thereunder; they also wanted to be participants in the implementation of schemes through tripartite bodies at various levels in which we are represented in adequate strength. Regulation of employment, payment of minimum wages based on the conclusions of the 15th Indian Labour Conference and supplemented by the judgement of the Supreme Court of India in the Raptakos Brett case, commitment to a policy on social security as the right of every Indian, provision of appropriate social security measures, and more – the steps that will enable them to live in dignity as socially useful members of our society are matters that should form the provisions of the proposed law. The petitioners have raised the following demands:-

- (a) There must be a separate law for agricultural workers, on the model of the Kerala law. The law can include workers engaged in horticulture, pisciculture, silviculture, poultry farming, animal husbandry, dairying and allied activities;

- (b) The 1996 law on building and construction workers needs to be amended and made comprehensive on the lines suggested by the National Campaign Committee for construction workers under the Chairmanship of Justice V.R. Krishna Iyer, retired judge of the Supreme Court of India;
- (c) The law for unorganised sector workers should not be merely welfare oriented but also provide for regulation of employment, guaranteed minimum employment earnings, minimum wage as indicated above, fixation of piece rates in a manner that would enable a diligent worker earn after a day's honest work the equivalent of a time rated daily wage, appropriate and adequate provisions for social security including maternity entitlement, pension, ESI, PF, gratuity etc. and safety, child care facilities, housing training and skill formation and upgradation, fixation of wages, resolution of disputes, protection of employment, protection of natural and common property resources – rights, protection of migrant labour and more, all these being implemented through tripartite bodies at various levels in which workers have the decisive say;
- (d) Minimize the role of Central Government to providing leadership, setting standards, co-ordination, funding and general direction, for which it may get advice from a high power tripartite Advisory Committee which will advise, among others, on matters relating to the nature of schemes to be drawn up by various Boards/Funds, the basis for distribution of Central funds among various States and Union Territories/Boards/Funds, implementation of the law and schemes and other allied matters;
- (e) The functions of the State/Union Territory Boards must be specifically spelt out in the law; these must be such as to enable the Boards to function effectively and autonomously, without undue “interference” from the State or Central Government. The composition of the Board and its lower formations must be tripartite in nature and given the pride of place to the workers and their representatives, including adequate representation for women workers;
- (f) The implementation of the law including implementation of schemes must be by the tripartite bodies at the appropriate level. In this scheme of things, there is no place for the Workers Welfare Centres, as they would make the whole process bureaucratic, disempowering the workers and their representatives;
- (g) There must be provision in the law for the appropriate government to set up as many Boards as are necessary for different groups of employments. As conditions vary from place to place and from State to State, the grouping of employments will have to be decided by the appropriate Governments, on the basis of the suggestions made by the representatives of unorganised sector workers;
- (h) The fixation of wages and more particularly, the piece rate wages must be enabled to be fixed by the concerned Board keeping in view the principle that

a diligent piece rated worker must be able to earn a time rated daily wage for eight hours of work; and

- (i) There should be a provision for a Complaints Committee on sexual harassment in the work place for unorganised sector workers.

4. The petitioners, therefore, requested that the National Campaign Committee for Unorganised Sector Workers, which is currently engaged in the preparation of a draft law incorporating the above and other matters may be get ready soon.

5. The Ministry of Labour and Employment were requested to furnish their comments on the issues raised in the petition.

6. In response, the Ministry of Labour and Employment *vide* their communication dated 24th May, 2005 have stated as follows:—

“A proposal regarding comprehensive legislation for the agricultural workers had been under consideration of the Government since 1975. A draft Bill was prepared as early as in 1980 and then in 1997 and comments of the State Governments were invited. The proposal was discussed at various fora including State Labour Ministers’ Conferences, Indian Labour Conference (ILC), All Party Meetings, Parliamentary Committees attached to the Ministry of Labour & Employment. Since there were divergent views of the State Governments on the various provisions of the draft Bill, the proposal could not be processed further.

Presently, the Government is actively considering the proposal for enactment of a comprehensive Central legislation, namely, ‘Unorganised Sector Workers Bill— 2004’ for the workers in the unorganised sector including agricultural workers. The proposal is under consideration with all the stakeholders including State Governments, representatives of the Central Trade Unions, Employer Organisations, NGOs. The draft Bill is being examined by the National Commission for the Enterprises in the Unorganised Sector as well. The proposal is also scheduled to be discussed in the forthcoming 40th session of ILC.

The draft Bill is likely to be modified keeping in view the recommendations of the ILC, the National Commission and the demands of the unorganised workers raised in the Petition under reference.”

7. The Ministry of Labour and Employment *vide* their communication dated 30th August, 2005 informed about the latest position on the issue as under:—

“The proposal of enactment of the ‘Unorganised Sector Workers Bill—2004’ is still under consultations with stakeholders. The Ministry has received a draft Bill namely, ‘the Unorganised Sector Workers Social Security Bill, 2005 from National Advisory Council (NAC). The draft Bill is being examined in the Ministry in consultation with the State Governments, Central Trade Unions, Employers’ Organization and NGOs and copies of the draft Bill have been sent to them. The draft Bill of NAC has also been posted on the website of this Ministry for wider deliberations. In the meantime, the National Commission for Enterprises in the Unorganised Sector has also drafted three Bills, namely, Agricultural Workers (Social Security & Conditions of Work) Bill, 2005; Non-

agricultural Unorganised Sector Workers Social Security Bill, 2005 and Non-Agricultural Unorganised Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2005. The Commission had discussions with the delegation of the Ministry headed by the Secretary (L&E) on 10.08.2005. The representatives of Planning Commission and Life Insurance Corporation of India (LIC) also participated in the meeting. The NCEUS has now revised the Bills and have given two bills i.e. (i) Unorganised Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2005 and (ii) Unorganised Sector Workers Social Security Bill, 2005 in place of earlier three Bills. Further discussions are like to be held shortly. The issue would also be discussed in the forthcoming 40th Session of Indian Labour Conference (ILC)."

8. The Committee were also informed by the Ministry of Labour and Employment *vide* their communication dated 04.01.2006, about finalisation of draft Bill on Unorganised Sector Workers, as under:—

"The subject of social security for unorganised sector workers was discussed in the 40th Session of Indian Labour Conference (ILC) held on 9th – 10th December, 2005. The ILC was of the view that enactment of a comprehensive legislation covering social security aspects and the service conditions of the unorganised sector workers should be expedited and a tripartite Working Committee should be set up to prepare one final draft Bill taking into consideration the recommendations/suggestions from all stake holders. The matter is being processed further. The exact time frame to finalise the draft Bill can not be indicated at this state."

Observations/Recommendations

9. It is common knowledge that the workers in the unorganised sector in the country constitute sizeable in number. Their contribution in creation of national wealth is immense. And, yet, their plight remains unmitigated. Successive Commissions/studies made innumerable recommendations. Regretfully, enactment of a comprehensive legislation seeking redressal of their problems still is a distant dream.

10. The Committee note the second National Labour Commission, which was asked to work out the details of umbrella legislation for them, did not produce a draft law. The Ministry of Labour, Government of India circulated the draft law and organised in November, 2002 a National Seminar to consider this draft law. The sub group of the National Seminar which examined the Legislative proposals was not satisfied and demanded action on specific lines.

11. The Committee also note that the unorganised sector workers, in general, want to be partners and participants in the process of formulating the Law and schemes thereunder; they also want to be participants in the implementation of schemes through tripartite bodies at various levels in which they want proper representation. According to them, commitment to a policy on social security as the right of every Indian, provision of appropriate social security measures and more steps will enable them to live in dignity as socially useful members of our society are matters that should form provisions of the proposed Law.

12. The petitioners in their petition under examination have submitted specific proposals which have been mentioned elsewhere in the Report. According to them, there must be a separate Law for agricultural workers on the model of Kerala Law. This can include workers engaged in horticulture, pisciculture, silviculture, poultry farming, animal husbandry, dairying and allied activities. The law for unorganised sector workers should not be merely welfare oriented but also provide for regulation of employment, guaranteed minimum employment earnings, fixture of piece rates in a manner that would enable a diligent worker earn after a days honest work the equivalent of a time rated daily wages. Appropriate and adequate provisions may be made for social security including maternity entitlement, pension, ESI, PF, gratuity, safety, child care facilities, housing training and skilled formation and upgradation, fixation of wages, resolution of disputes protection of employment, protection of natural and common property resources-rights, protection of migrant labour and more. The petitioners further demanded that the role of Central Government should be minimised to provide leadership, setting standards, co-ordination, funding and general direction, for which it may get advice from a high power tripartite Advisory Committee which will advise on the matters. The functions of the State/Union Territory Boards must be specifically spelt out in the law. There must be provision in the Law for the appropriate Government to set up as many Boards are necessary for different groups of employments. Provision may be made for a complaints Committee on sexual harassment in the work place for unorganised sector workers.

13. Responding to the points made by the petitioners, the Ministry of Labour and Employment have informed that the proposal of enactment of the 'Unorganised Sector Workers Bill, 2004' is still under consultations with stakeholders. The Ministry have received a draft Bill namely, 'the Unorganised Sector Workers Social Security Bill, 2005 from National Advisory Council (NAC). The draft Bill is being examined in the Ministry in consultation with the State Governments, central trade unions, employers' organization and NGOs and copies of the draft Bill have been sent to them. The draft Bill of NAC has also been posted on the website of the Ministry for wider deliberations. In the meantime, the National Commission for Enterprises in the Unorganised Sector (NCEUS) has also drafted three bills, namely, Agricultural Workers (Social Security & Conditions of Work) Bill, 2005; Non-agricultural Unorganised Sector Workers Social Security Bill, 2005 and Non-Agricultural Unorganised Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2005. The Commission had discussions with the delegation of the Ministry headed by the Secretary (L&E) on 10.08.2005. The representatives of Planning Commission and Life Insurance Corporation of India (LIC) also participated in the meeting. The NCEUS has now revised the Bills and have given two bills *i.e.* (i) Unorganised Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2005 and (ii) Unorganised Sector Workers Social Security Bill, 2005 in place of earlier three Bills. The Committee have further been informed that the subject of social security for unorganised sector workers was discussed in the 40th Session of Indian Labour Conference (ILC) held on 9th – 10th December, 2005. The ILC was of the view that enactment of a comprehensive legislation covering social security aspects and the service conditions of the unorganised

sector workers should be expedited and a tripartite Working Committee should be set up to prepare one final Draft Bill taking into consideration the recommendations/ suggestions for all stakeholders.

14. From the facts enumerated above, it is evidently clear that still there is a long way to travel before the much awaited comprehensive legislation on the unorganised sector workers become a reality. The Committee are deeply anguished at the inordinate delay in arriving at a consensus amongst the stakeholders and failure on the part of the Ministry of Labour to perform their function as facilitator in the matter. They are greatly constrained to observe that the problem and concerns of crores of unorganized sector workers are not being properly addressed to with sincerity and commitment. The Committee deplore the inordinate delay in the matter and strongly recommend that the enactment of a comprehensive legislation covering the entire social security aspects and the service conditions of the unorganized sector workers should be expedited to avoid further hardship to the innumerable though faceless producers of wealth for the country. The Committee also desire the Ministry of Labour to chalk out a time frame for completing the consultation process with all concerned.

NEW DELHI;
22 August, 2006
31 Sravana, 1928 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

APPENDIX

(See Para 1 of the Report)

LOK SABHA

PETITION NO. 7

(Presented to Lok Sabha on 13.5.2005)

To

Lok Sabha,

New Delhi.

The humble petition of Prof. Madhu Dandavate, Chairperson-Reception Committee, National Campaign Committee for Unorganized Sector Workers, Siddiqui Building, 6122, Bada Hindu Rao, Delhi-110006 and other workers of unorganized sector.

SHEWETH

We, the unorganized sector workers of India, who number 37 crore and constitute 93% of the total work force of our country, of whom a substantial number are women, need for recognizing their plight as also the crying need for redress through an appropriate law.

Our problems and concerns are well known. Successive commissions and studies have dealt with this. The latest, the Second National Labour Commission, which was asked to work out the details of umbrella legislation for us, did produce a draft law. The Ministry of Labour of the Government of India circulated the draft law and organized in November, 2002 a National Seminar to consider this draft law. The sub-group of the National Seminar which examined the legislative proposals was not satisfied and demanded action on specific lines; the conclusions of the sub-group were endorsed and adopted by the seminar. However even these were ignored into by the Government of India as is evident from the succession of drafts that kept coming out of the Ministry of Labour. The latest of such drafts was no different.

We are producers of wealth for the country and do not want to be considered mere beneficiaries of State's munificence and treated as such. We want to be partners and participants in the process of formulating the law and schemes thereunder; we also want to be participants in the implementation of schemes through tripartite bodies at various levels in which we are represented in adequate strength.

Regulation of employment, payment of minimum wages based on the conclusions of the 15th Indian Labour Conference and supplemented by the judgement of the Supreme Court of India in the Raptakos Brett case, commitment to a policy on social security as the right of every Indian, provision of appropriate social security measures, and more—the steps that will enable us to live in dignity as socially useful members or our society are matters that should inform the provisions of the proposed law.

5. Our demands are as under:—

- (a) There must be a separate law for agricultural workers, on the model of the Kerala law. The law can include workers engaged in horticulture, pisciculture, silviculture, poultry farming, animal husbandry, dairying and allied activities;
- (b) The 1996 law on building and construction workers needs to be amended and made comprehensive on the lines suggested by the National Campaign Committee for construction workers under the Chairmanship of Justice V.R. Krishna Iyer, retired judge of the Supreme Court of India;
- (c) The law for unorganised sector workers should not be merely welfare oriented but also provide for regulation of employment, guaranteed minimum employment earnings, minimum wage as indicated above, fixation of piece rates in a manner that would enable a diligent worker earn after a day's honest work the equivalent of a time rated daily wage, appropriate and adequate provisions for social security including maternity entitlement, pension, ESI, PF, gratuity etc. and safety, child care facilities, housing training and skill formation and upgradation, fixation of wages, resolution of disputes, protection of employment, protection of natural and common property resources—rights, protection of migrant labour and more, all these being implemented through tripartite bodies at various levels in which workers have the decisive say;
- (d) Minimize the role of Central Government to providing leadership, setting standards, co-ordination, funding and general direction, for which it may get advice from a high power tripartite Advisory Committee which will advise, among others, on matters relating to the nature of schemes to be drawn up by various Boards/Funds, the basis for distribution of Central funds among various States and Union Territories/Boards/Funds, implementation of the law and schemes and other allied matters;
- (e) The functions of the State/Union Territory Boards must be specifically spelt out in the law; these must be such as to enable the Boards to function effectively and autonomously, without undue "interference" from the State or Central Government. The composition of the Board and its lower formations must be tripartite in nature and given the pride of place to the workers and their representatives, including adequate representation for women workers;
- (f) The implementation of the law including implementation of schemes must be by the tripartite bodies at the appropriate level. In this scheme of things, there is no place for the Workers Welfare Centres, as they would make the whole process bureaucratic, disempowering the workers and their representatives;
- (g) There must be provision in the law for the appropriate Government to set up as many Boards as are necessary for different groups of employments. As conditions vary from place to place and from State to State, the grouping of employments will have to be decided by the appropriate Governments, on the basis of the suggestions made by the representatives of unorganised sector workers;

- (h) The fixation of wages and more particularly, the piece rate wages must be enabled to be fixed by the concerned Board keeping in view the principle that a diligent piece rated worker must be able to earn a time rated daily wage for eight hours of work; and
- (i) There should be a provision for a Complaints Committee on sexual harassment in the work place for unorganized sector workers.

The National Campaign Committee for Unorganized Sector Workers, of which Retired Justice V.R. Krishna Iyer is the President, is currently engaged in the preparation of a draft law incorporating the above and other matters and hopes to get it ready soon.

We, therefore, submit this petition before you with a request that our petition carrying the signatures of millions of workers is sympathetically considered and appropriate action taken thereon.

And your petitioner as in duty bound shall ever pray.

Name	Address	Signature
Prof. Madhu Dandvate	Chairperson-Reception Committee, Sd/- National Campaign Committee for Unorganized Sector Workers, Siddiqui Building, 6122, Bada Hindu Rao, Delhi - 110006.	
Dr. Baba Adhav	Working President, National Campaign Committee for Unorganized Sector Workers, Siddiqui Building, 6122, Bada Hindu Rao, Delhi - 110006.	Sd/-

Countersigned by Shri M.P. Veerendra Kumar, M.P.

ANNEXURE

**MINUTES OF THE FORTY-THIRD SITTING OF THE COMMITTEE ON
PETITIONS (FOURTEENTH LOK SABHA)**

The Committee on Petitions sat on Tuesday, 22nd August, 2006 from 1500 hrs. to 1540 hrs. in Chairman Room No. 45-II, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Adv. Suresh Kurup
3. Smt. Nivedita Mane
4. Mohd. Muqeem
5. Shri Damodar Barku Shingda
6. Shri Vijoy Krishna

SECRETARIAT

1. Shri A. K. Singh — *Director*
2. Shri U. B. S. Negi — *Under Secretary*

2. At the outset, the Committee considered and adopted the Sixteenth, Seventeenth, Eighteenth and Nineteenth Reports with certain amendments as shown in the Appendix-I.

3. The Committee also authorized the Chairman to finalise and present the Reports to the House.

The Committee then adjourned

APPENDIX-I

(See Para-2 of Minutes dated 22 August, 2006)

(A) AMENDMENT MADE BY THE COMMITTEE ON PETITIONS IN THE DRAFT SEVENTEENTH REPORT

- (i) Page 29, Para 3.23, Line 5 from bottom
Delete — the word 'minority'
- (ii) Page 32, Para 3.28, Line 5 from bottom
Delete — 'particularly by the same yardstick as the riots of 1984'
- (iii) Page 32, Para 3.28, Lines 2-3 from bottom
For — 'or at least lessen the burden of'
Substitute — 'the'

(B) AMENDMENT MADE BY THE COMMITTEE ON PETITIONS IN THE DRAFT EIGHTEENTH REPORT

- (i) Insert before the last sentence of the para 23 on page 10 as under:—
"The Committee further desire that the Ministry of Tourism in cooperation with State Government of Bihar should chalk out suitable plan for places like Baikathpur Mahadev Sthan, Birth place of Guru Govind Singh, Chhoti Patan Devi, Badi Patan Devi and Kumhrar in Patna District to bring them on the tourist map and provide wayside amenities on these places considering their religious and historical significance."