

പതിനാലാം കേരള നിയമസഭ
പതിനാറാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നമിടാത്ത ചോദ്യം നം.2885

06.11.2019-ൽ മറുപടിക്ക്

കേന്ദ്ര സാമൂഹിക സുരക്ഷ ചട്ടത്തിന്റെ കരട്

ചോദ്യം

മറുപടി

ശ്രീ. വി.ടി.ബൽറാം

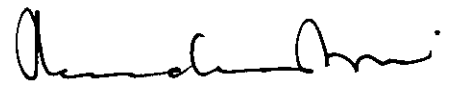
ശ്രീ.ടി.പി.രാമകൃഷ്ണൻ
(തൊഴിലും എക്സൈസും വകുപ്പ് മന്ത്രി)

(എ) അസംഘടിത മേഖലയിലെ (എ) ഉണ്ട്.
തൊഴിലാളികൾക്ക് ദേശീയ സാമൂഹിക സുരക്ഷ ബോർഡ് രൂപീകരിക്കണമെന്നും പി.എഫ്., ഇ.എസ്.ഐ. എന്നിവയ്ക്ക് പ്രത്യേക ഫണ്ട് ഉണ്ടാക്കി പൊതുബോർഡിന് കീഴിലാക്കണമെന്നും നിർദ്ദേശിക്കുന്ന സാമൂഹിക സുരക്ഷ ചട്ടത്തിന്റെ കരട് കേന്ദ്ര സർക്കാർ പ്രസിദ്ധീകരിച്ചത് ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ടോ;

(ബി) പ്രസ്തുത കരട് ചട്ടം തൊഴിലാളികൾക്ക് ഉണപ്രദമാണോ;
(സി) പ്രസ്തുത കരട് ചട്ടത്തിന് സംസ്ഥാന സർക്കാർ ഭേദഗതി നിർദ്ദേശിച്ചിട്ടുണ്ടോ; ഉണ്ടെങ്കിൽ ഏതൊക്കെ ഭേദഗതികളാണ് നിർദ്ദേശിച്ചിട്ടുള്ളതെന്ന് വ്യക്തമാക്കുമോ?

(ബി) കേന്ദ്രസർക്കാർ 2017-ൽ പ്രസിദ്ധീകരിച്ച സാമൂഹ്യസുരക്ഷാ ചട്ടത്തിന്റെ കരടിന്മേൽ (സി) സംസ്ഥാന സർക്കാരിന്റെ അഭിപ്രായം/നിർദ്ദേശം കേന്ദ്ര സർക്കാരിനെ അറിയിച്ചിട്ടുണ്ട്. ആയതിന്റെ പകർപ്പ് അനുബന്ധമായി ചേർത്തിരിക്കുന്നു.

പ്രസ്തുത കരടിൽ മാറ്റംവരുത്തി 'കോഡ് ഓൺ സോഷ്യൽ സെക്യൂരിറ്റി 2019' എന്ന പേരിൽ ഒരു കരട് നിയമം കേന്ദ്ര സർക്കാർ പ്രസിദ്ധീകരിച്ചിട്ടുണ്ട്. പ്രസ്തുത കരട് നിയമം സർക്കാർ പരിശോധിച്ചു വരികയാണ്.



തൊഴിലും എക്സൈസും വകുപ്പ് മന്ത്രി



GOVERNMENT OF KERALA

No. LBRD- B1/102/2017-LBRD

Labour and Skills (B) Department,
Thiruvananthapuram, dated, 20-06-2017.

From
Additional Chief Secretary to Government.

To
The Under Secretary (LRC),
Ministry of Labour and Employment,
Room No. 17,
Shram Sakthi Bhavan,
Rafi Marg,
New Delhi - 110 001.

Sir,

Sub:- The Draft of the Code of Social Security and Welfare - Remarks
forwarding of - Regarding.

Ref:- D.O. Letter No.2-13025/13/2015 LRC dated 8th May, 2017.

Inviting your kind attention to the reference cited, I am to forward the comments/suggestions in the prescribed proforma and the remarks of State of Kerala on the draft Code on Social Security and Welfare for the consideration of Government of India as detailed below:

Section/Sub Section/Clause/ Proviso of the Code	Issue / Problem identified in the clause	Proposed Change/Correction that should be made	Reason for proposed change
2.42	All category of employees such as teachers, designers are not covered	The words "intellectual, mental or physical" to be inserted after 'in connection with the work"	To include all categories of employees such as teachers, artists, designers etc.
2.45	Educational institutions are not specifically mentioned	The term "educational institutions" may be included in the group	A large number of teaching and non- teaching staff in educational institutions will be benefited

3.3 (g)	Trade Unions and employers are not adequately represented	Adequate representation from Central Trade Unions as well as employers is to be maintained.	The Trade Unions represent the collective interest of the workers and employer representatives represent the collective interest of the employer group.
3.3 (proviso)	Inadequate representation of women	At least one person nominated under each class of (g), (h) and (j) shall be a woman	To protect the interest of women workers
11.1	Officer of the Local body is designated as the registering authority	Officer of Labour Department may be designated as to be Registering Authority	Local body organisation have many other priorities such as regulatory and developmental works. Labour Department in Kerala has vast experience and has sufficient infrastructure
14.4	Application for Registration shall be submitted only to the Social Security Commissioner	Provision for submission to any other officer to whom the authority may be delegated	It will facilitate decentralisation of work
20.3	(a) All employees working in scheduled employments shall be given minimum wages under the Minimum Wages Act, 1948	The subsection 20.3 may be deleted which says that in the case of wage or monthly income as the case may be is less than the minimum wage the subscription of employees should be 12.5% of their actual wage and the balance amount of 12.5% of the difference between minimum wages payable and actual wage paid) shall be recovered from the employer by the respective Board	It is the duty of the Government to ensure all employees get minimum wages

Rd 69/102/2017-LBRD

	(b) Establishments employing 1 to 10 workers may have difficulty to pay the prescribed contribution as per the provisions of the Code.	For the categories of the establishments employing workers 1 to 10 may be permitted to remit the 50% of the contribution as per the code.	To reduce the workers as well as employers contribution for the categories of the establishment.
46.4	The term "family members" is too wide	The term "family members" shall be substituted with the words "legal heirs"	This will help to avoid multiplicity of civil suits
47.1	Proposed gratuity calculation is less favourable to the workers	The term 'half of the benefit wages' shall be substituted with 'fifteen days wages' and also include an explanation 'The amount of gratuity shall be calculated as follows:- last drawn wages X 15/26 X total years of service'	The existing provision under Payment of Gratuity Act is more beneficial to workers
47.2	Proposed gratuity calculation is less favourable to the workers	The term "one-fourth of benefit wage" shall be substituted with the term "seven days' wages"	The existing provision under Payment of Gratuity Act is more beneficial to workers
51.7	The term "any other person" is an inclusive terminology which is very wide	The term "any other person" shall be substituted with "any of his legal heirs or any other person with the consent of the employee"	It will enhance the standard of representation of parties
80.2	There is a lack of degree of assertion	The word 'may', after the word "Central Government" may be substituted by the word "shall"	The State Governments will get sufficient financial assistance from the Central Government
83.3	The medical benefit scheme is applicable only in notified area	It may be made applicable to whole State	It is not reasonable to restrict the Scheme to certain area
83.4	It is applicable to notified area only	It may be applicable to whole State	It is not reasonable to restrict the Scheme to certain area
85.1	There is a lack of degree of assertion	The word "may", after the word "Central	The financial burden should be borne by

R4699432/2017(B) LBRD

		Government" may be substituted with the word "shall"	Central Board
116.6	Delegation of power is restricted only to officer of the local body	The words 'Officer of the Local body' may be replaced with the words "the officer of the appropriate state officers not below the rank of Deputy Labour Commissioner"	In Kerala, the Local bodies are already burdened with many activities and implementation of Schemes.
120.1	There is no time limit for filing application for review	After the words "or for any other sufficient reason" the words "application for review shall be filed within one year after finalisation of assessment" may be inserted.	Prescribing a time limit will be beneficial to workers.
129.4	The Tribunal other than Principal Appellate Tribunals consists of two members (Judicial and Administrative members) appointed by the Central Government be set up in every State and shall be appointed by concerned state Government.	(a) There shall be 3 members in Regional / State Tribunals and majority decisions prevails in conflict. (b) Appropriate Social Security State Tribunal shall be set up in every State and shall be appointed by Concerned State Government. (c) One Judicial member and one administrative member shall be from the state.	Majority decision prevails. The State Government also should have power in the appointment of members in Appellate Tribunals
129.7	Enforcement machinery not included	The administrative member of State Appellate Tribunals shall be a person not below the rank of Joint Labour Commissioner of State Government or Deputy Chief Labour Commissioner (Central) having five years of field	To include administrative members having 5 years of experience in implementation of labour laws.

R669432/2017(B) LBRD

		experience in implementation of labour laws	
129.1	State Government not included	Word "appropriate Government" may be included	To uphold the federal structure
130.1	State Government not included	Word "appropriate Government" may be included	To uphold the federal structure
130.2	State Government not included	Word "Governor of the State" may be included	To uphold the federal structure
130.3	State Government not included	Word "appropriate Government" should be included	To uphold the federal structure
131.2	State Government not included	Word "appropriate Government" shall be substituted for the word "Central Government"	To uphold the federal structure

No definite mentioning has been made in the code with regard to the schemes that would be formulated and the benefits that would be provided to the workers.

New bodies for the implementation of the labour code including National Social Security Council headed by the Hon'ble Prime Minister of India, Central Board of Social Security and the State Boards of Social Security do not adequately represented by the Trade Unions and Employers.

The existing schemes framed under Employees Provident Fund and Miscellaneous Provisions Act., viz., The Employees Provident Fund Scheme, Employees Deposit Linked Insurance Scheme, Employees Pension Scheme and various Schemes under the Employees State Insurance Act would be scrapped upon the establishment of the new scheme funds visualised under the code. The Welfare Schemes and Welfare Funds set for workers in the informal economy would ceased to be in operation once the new scheme funds are established. The existing organisations administering the schemes would also be phased out consequent upon the establishment of the new funds.

File No.LBRD-B1/102/2017-LBRD
Rd699432/201678B112007(B)1 LBRD
is silent on whether the Government of India and the State Governments would continue to pay their contributions which they have been paying under the Employees Pension Scheme (EPF) and the Employees State Insurance (ESI) Scheme. There is no mention of Government contribution for the workers in the unorganised sector.

The proposal to transfer the responsibility of providing social security benefits from the Centrally controlled social security organisations like EPF, EPS and ESI to the State Boards is a matter of serious concern and the proposal should be dropped. This move will destroy the entire existing social security frame work and the workers will be deprived of whatever benefits that they are getting now.

A serious matter of concern is the proposal to involve private players as intermediary agencies in the administration of the schemes at the State level. This would lead to unnecessary transaction and administrative charges which would have to be borne by the workers.

The claim made about its intention to provide social security to all workers including workers in the unorganised sector and self employed, is also dubious

As per the code, only establishments that employ workers in numbers as per the threshold notified by the Government of India are required to be registered. In addition, the State Governments can exempt any establishment or class of establishments from the application of the code if it is satisfied that the workers are receiving similar or better benefits. The Government can also exempt certain categories of workers that are yet to be specified from coverage under the code. Workers engaged as apprentices under the standing orders of an establishment are also excluded. In fact, in many establishments, such apprentices are engaged in large numbers to perform the same work performed by the permanent workers.

The code does not consider the vast differences in the conditions of the workers in the organised and unorganised sectors and equates them in the matter of payment of contribution to become eligible for social security benefits. It ignores the precarious nature of the work of the unorganised sector and their low wages. Both categories of workers are required to contribute 12.5% of their monthly wages. Self employed are required to contribute 20%. Further the Government of India can exempt any employer or class of employers from the levy of cess; such exemption may be granted even retrospectively. This proposal, which is against the interests of workers is to be dropped.

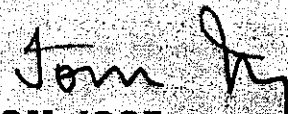
R469412/2017(B) LBRD

The draft code provides for investing the funds not only of Provident Fund but also amounts collected towards Gratuity and various other Welfare Schemes in the share market. It does not specify any limit on such investment. The move for investment of funds in the share market should be dropped.

The organised sector workers who are at present entitled to EPF and ESI will loose heavily in terms of their benefits.

Instead of dismantling EPF and ESI, the coverage under these schemes should widened by lowering the threshold level of employment in establishments. It should be ensured that all the workers who are entitled to these benefits but are yet to be covered, are covered under these Acts.

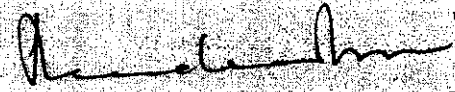
Yours faithfully,



TOM JOSE,

Additional Chief Secretary to Government.

(True copy)



02/02/2018