

Bill No. XLVIII of 2016

**THE TEA WORKERS' (WELFARE AND SPECIAL PROVISIONS)
BILL, 2016**

A

BILL

to provide for an independent audit committee to examine and scrutinize the available and actually disbursed remuneration and statutory benefits to tea workers, constitution of a fund to promote welfare facilities and other special provisions, reservation for their children in colleges and universities and for overall welfare of tea workers and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Tea Workers' (Welfare and Special Provisions) Act, 2016.

Short title,
extent and
commencement.

5 (2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

10 (a) "auction money" means the money collected by tea companies by auctioning respective tea production;

(b) "Audit Committee" means the Tea Workers' Statutory Benefits Audit Committee constituted under section 3;

(c) "conveyance expenditure" means any expenditure incurred by tea workers for availing statutory benefits defined under Plantations Labour Act, 1951 or any other benefits defined under this Act; 69 of 1951.
5

(d) "employer" means any person or entity or organisation who has the ultimate control over the affairs of the tea plantation, and where the affairs of any tea plantations are entrusted to any other person, such other person shall be deemed to be the employer in relation to that plantation;

(e) "Fund" means Tea Workers' Welfare Fund constituted under section 6 of this Act; 10

(f) "penalty" means any amount collected by the Central Government, from an employer, on account of the delay in the deposit of any fund, by an employer, required to be deposited under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Payment of Gratuity Act, 1972; 15 19 of 1952.
39 of 1972.

(g) "prescribed" means prescribed by rules made under this Act;

(h) "statutory benefits" means welfare facilities defined under Plantations Labour Act, 1951 or any facilities prescribed under this Act; 69 of 1951.

(i) "tea estates" means organised tea estates defined under Plantations Labour Act, 1951; 20

(j) "tea workers" mean any plantation worker, whether permanent or on contract, involved in cultivation of tea in tea estates;

(k) "unemployment wage" means fifty per cent of salary for up to twelve months or until re-employment, whichever is earlier;

(l) "wage" means the minimum wage prescribed by the respective State Government under the Minimum Wages Act, 1948; and 25
1 of 1948.

(m) "welfare provisions" means the welfare and reimbursement facilities specified under this Act.

Tea Workers'
Statutory
Benefits Audit
Committee.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Committee to be known as the Tea Workers' Statutory Benefits Audit Committee to exercise the powers conferred upon and to perform the functions assigned to it, under this Act. 30

(2) The Audit Committee shall consist of,—

(i) a Chairperson to be appointed by the Central Government;

(ii) three Deputy Auditor General, who shall be responsible for the duties as may be prescribed under this act; and 35

(iii) one Additional Deputy Auditor General each for Eastern, Northern, Southern and North-Eastern regions.

(3) The salary and allowances payable to and other terms and conditions of service of the Chairperson and Members of the Audit Committee shall be such as may be prescribed by the Central Government. 40

(4) The Audit Committee may appoint such number of officers and staff as may be required for efficient functioning of the Audit Committee.

(5) A member of the Audit Committee shall not be a full-time employee of any tea Company prior to three years of his appointment in the committee. 45

(6) Save as otherwise expressly provided in this Act, the members of the Audit Committee shall hold office for a term not exceeding three years from the date on which they become member of the Audit Committee:

Provided that notwithstanding the expiry of the term of office of any such member, he shall continue to hold office until the nomination of his successor is notified in the Official Gazette.

4. The Audit Committee shall,—

(a) conduct quarterly audit of statutory benefits, wages and any other welfare provisions mentioned under this Act, which the tea workers are entitled to and actually availed, district-wise and tea farmer-wise in such manner as may be prescribed;

(b) present quarterly audit report to the Tea Board of India and to the Ministry of Agriculture and farmers Welfare; and

(c) make public the audit report at national level through free downloadable electronic format on the web.

5. The Central Government shall, within one month after the presentation of audit report, take such steps, including confiscation and auction of properties of Tea Companies, as are necessary for payment of wages and availing of statutory benefits.

6. (1) The Central Government shall, by notification in the Official Gazette, constitute a fund to be called the Tea Workers' Welfare Fund for the purpose of this act with the initial corpus of one thousand crore to be provided by the Central Government by due appropriation made by Parliament in this behalf.

(2) The Fund shall consist of—

(a) any voluntary donation;

(b) any loan, grant-in-aid or subsidy paid by the Central Government or State Government or any local authority or Tea Board;

(c) any sum contributed by the Central Government and concerned state government to the fund to such extent and in such manner, as may be prescribed.

(3) The Fund shall be utilised for—

(a) institutionalisation and operationalization of extra-curricular activities, sports, education and Life Skill Education Centre within every school premises, which are being considered under Plantations Labour Act, 1951 for providing educational facilities.

(b) disbursement of a minimum unemployment wage to the tea farmers who get unemployed due to shut down of tea estate, till the time the tea estate get auctioned and they get re-employed.

(c) providing all the statutory benefits, as defined under this Act, to the tea farmers who get unemployed due to shut down of tea estate, till the time the Tea Estate get auctioned and they get re-employed.

(d) organising ancillary training and other vocational programmes for tea workers to make them more skilful in cultivation and employable for other occupations.

(e) undertaking such other activities as may be deemed necessary for carrying out the purposes of this Act.

(4) The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf requisite funds for carrying out the purposes of this Act.

Functions of
Tea Workers'
Statutory
Benefits
Audit
Committee.

Steps to be
taken by
Central
Government
after
presentation
of report.

Constitution
and
Utilisation of
Tea Workers'
Welfare Fund.

Reservation for Tea Workers' Children.	7. (1) There shall be reserved such number of seats, as may be prescribed for tea workers' children for higher education in universities.		
	(2) The minimum eligibility requirement for higher education in universities for tea workers' children shall be that they must have passed the qualifying school or degree examination.	5	
	(3) Where the admission is based on screening or written test, both for under-graduate and post-graduate courses, the tea workers' children shall be required to take the test but their merit list shall be drawn separately.		
	(4) The colleges shall fill all seats reserved for children of tea workers.		
	(5) The relaxation to the extent of ten percent of the minimum eligibility marks prescribed for general category candidates shall be given to the tea workers' children.	10	
	(6) The seats reserved for the tea workers' children may be transferred to the general category, after such period as may be prescribed.		
Payment of due Wages.	8. (1) Upon change of ownership of a tea estate, the new owner shall sign a No-Objection Certificate in such form and in such manner as may be prescribed for making the payment of due wages, statutory benefits and other benefits to the tea workers employed under the earlier owner.	15	
	(2) Tea workers shall have the right over the auction money in case any employer fails to fulfil the terms of No-Objection Certificate.		
Penalty received to be paid to Tea workers.	9. Any penalty received by the Central Government from employers shall be paid to the concerned tea worker either through the bank account or by such other means as may be prescribed.	20	
	Reimbursement of Conveyance Expenditure.	10. (1) Any conveyance expenditure or any loss incurred by tea workers to avail the statutory benefits or any benefits prescribed under this Act, shall be reimbursed by the employer.	25
		(2) The reimbursement shall be made within a month, from the date of submission of the claim.	
	(3) The employers shall be liable to pay such interest and penalty as may be prescribed, for the failure to comply with the provisions of sub-section (2).		
Act to have overriding effect and to supplement other laws.	11. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provision of this Act shall be in addition to and not in derogation of any other law for the time being applicable to any matter dealt under this Act.	30	
Power to make rules.	12. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.	35	
	(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive session aforesaid, both houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.	40	

STATEMENT OF OBJECTS AND REASONS

India is the second largest producer of tea in the world and the tea sector has positioned itself as the second largest employer in the country with 1.12 million workers. Currently, tea workers are covered in a piecemeal fashion under various legislations. They lack comprehensive protection which is needed for their overall development. Some of which are outdated and do not address today's problems. Significant areas like, job security, timely disbursement of salaries and other facilities including development of workers' children, etc., need to be addressed as soon as possible. The proposed Bill aims to address all such issues and also correct the shortcomings of existing laws.

Tea workers supply tea which are sold under various international brands, but individually they don't have even the minimum resources required to fulfil their basic needs. Number of cases have been found where the workers are not actually getting the welfare facilities they are entitled to. In order to address this serious issue, this Bill seeks to introduce an Independent Audit Committee which will have authority to examine whether the entitled benefits reach the workers without any problem and powers to intervene in cases of delay in payments to workers. Shutdown of any operation leads to unemployment as it is not easy for un-skilled tea workers, residing in remote areas, to get another job to sustain their livelihood. Hence, a Workers' Welfare Fund will be constituted, under this Bill, to take care of workers during times of unemployment due to shutdown of tea estates, by providing them unemployment wage and welfare facilities. This is to help them in the interim time till they get re-employed. After the economic reforms of the country, various technological and environmental changes have occurred in every occupation and businesses which have resulted in the need for un-skilled workers to get trained better to ensure greater efficiency in their work. This Bill will enforce mandatory provision for skill enhancement & ancillary training programmes and other vocational training programs for increasing their employability.

The Government of India's flagship programme, *Sarva Shiksha Abhiyan*, envisages a vision of "*Sab Padhe Sab Badhe*", but when we talk about the children of tea workers living in remote areas, they barely have enough facilities to complete even their elementary education. This Bill introduces provisions to provide reservation in colleges, for ensuring a specific standard of schools and institutionalisation of extra-curricular activities centres, sports education & activity cells and life skill education cells within the school premises for the holistic development of their children.

The Government of India allowed one hundred percent FDI in the tea industry fourteen years ago, but it skipped the required initiatives to strengthen its root *i.e.* tea workers. In order to procure a safe and healthy future of tea estate workers, one needs to address their everyday problems. Through this Bill, the common exploitation that the workers face will be kept under check and it also ensures greater access to education for their children. This will lead to a more sustainable life for the tea worker and also cater to the growing aspirations of the next generation.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of an Audit Committee and the salary and allowances payable to the members, officers and staffs of the Committee. Clause 6(1) of the Bill provides for the constitution of Tea Workers' Welfare Fund with the initial corpus of one thousand crore rupees. Clause 6(4) provides for the Central Government to provide requisite funds for carrying out the provisions of the Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

A recurring expenditure of about rupee one thousand crore is likely to be involved. Non-recurring expenditure of about one hundred crore will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to provide for an independent audit committee to examine and scrutinize the available and actually disbursed remuneration and statutory benefits to tea workers, constitution of a fund to promote welfare facilities and other special provisions, reservation for their children in colleges and universities and for overall welfare of tea workers and for matters connected therewith and incidental thereto.

(Shri Vivek Gupta, M.P.)