

**THE CONTRACT LABOUR (REGULATION AND
ABOLITION) ACT, 1970**

CONTENTS

**CHAPTER I
PRELIMINARY**

1. [Short title, extent, commencement and application.](#)
2. [Definitions.](#)

**CHAPTER II
THE ADVISORY BOARDS**

3. [Central Advisory Board](#)
4. [State Advisory Board](#)
5. [Power to constitute committees](#)

CHAPTER-III

REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

6. [Appointment of registering officers.](#)
7. [Registration of certain establishments](#)
8. [Revocation of registration in certain cases.](#)

- 9. [Effect of non-registration](#)
- 10. [Prohibition of employment of contract labour](#)

CHAPTER-IV

LICENSING OF CONTRACTORS

- 11. [Appointment of licensing officer](#)
- 12. [Licensing of contractors](#)
- 13. [Grant of licences](#)
- 14. [Revocation, suspension and amendment of licences](#)
- 15. [Appeal](#)

CHAPTER-V

WELFARE AND HEALTH OF CONTRACT

- 16. [Canteens](#)
- 17. [Rest Rooms](#)
- 18. [Other facilities](#)
- 19. [First-aid facilities](#)

20. [Liability of principal employer in certain cases](#)

21. [Responsibility for payment of wages](#)

CHAPTER-VI

PENALTIES AND PROCEDURE

22. [Obstructions](#)

23. [Contravention of provisions regarding employment of contract labour](#)

24. [Other offences](#)

25. [Offences by companies](#)

26. [Cognizance of offences](#)

27. [Limitation of prosecution](#)

CHAPTER VII

MISCELLANEOUS

28. [Inspecting staff](#)

29. [Registers and other records to be maintained](#)

- 30. [Effect of laws and agreements inconsistent with this Act](#)
- 31. [Power to exempt in special cases](#)
- 32. [Protection of action taken under this Act](#)
- 33. [Power to give directions](#)
- 34. [Power to remove difficulties](#)
- 35. [Power to make rules](#)

**THE CONTRACT LABOUR (REGULATION AND
ABOLITION) ACT, 1970**

(37 of 1970)

[5th September, 1970]

An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

Be it enacted by Parliament in the Twenty-first year of the Republic of India as follows:

**CHAPTER I
PRELIMINARY**

1. Short title, extent, commencement and application. -

- (1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.
- (4) It applies to-
 - (a) To every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour,
 - (b) To every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen:

Provided that the appropriate Government may, after giving not less than two months notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

- (5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.
- (b) If a question arises whether work performed in an establishment is of intermittent or casual nature, the appropriate Government shall decide that question after consultation with the Central Board or, as the case may be, a State Board and its decision shall be final.

Explanation. -For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature, -

- (i) If it was performed for more than one hundred and twenty days in the preceding twelve months, or
- (ii) If it is of a seasonal character is performed for more than sixty days in a year.

1. W.e.f. 1st February, 1971 Vide G.S.R. 190 dated 1st February, 1971.

2. Definitions. -

- (1) In this Act, unless the context otherwise requires. -

1[(a) “Appropriate Government” means, -

(i) Relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;

(ii) In relation to any other establishment, the Government of the State in which that other establishment is situated];

(b) A workman shall be deemed to be employed as “contract labour” in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

(c) “Contractor” in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture-to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

(d) “Controlled industry,” means any industry the control of which by the Union has been declared by any central Act to be expedient in the public interest;

(e) “Establishment” means-

(i) Any office or department of the Government or a local authority;

or

(ii) Any place where any industry, trade, business, manufacturer or occupation is carried on,

(f) “Prescribed” means prescribed by rule made under this Act.

(g) “Principal employer” means, -

(i) In relation to any office or department of the Government or local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf,

(ii) In a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948, (63 of the 1948), the person so named;

(iii) In a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named;

(iv) In any other establishment, any person responsible for the supervision and control of the establishment.

Explanation. -For the purpose of sub-clause (iii) of this clause, the expressions “mine”, “owner” and “agent” shall have the meaning respectively assigned to them, in Cl (j), Cl.(l), Cl.(c) of Sec.2, of the Mines Act, 1952 (35 of 1952):

(h) “Wages” shall have the meaning assigned to it in Cl. (vi) of Sec. 2 of the Payment of Wages Act, 1936 (4 of 1936);

(i) “Workman” means any work of any establishment to do supervisory, technical or clerical connection with the work of any establishment to do any skilled, semi-skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms or employment be expresses or implied, but does not include any such person-

(a) Who is employed mainly in a managerial or administrative capacity; or

(b) Who, being employed in supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or

(c) Who is an out-worker, that is to say, a person to whom any articles or material are given out by or on behalf of the principal employer to be made up, cleaned, washed, altered, onamented, finished, repaired, adapted or otherwise processed for sale for the purpose of the trade or business of the principal employer an the process is to be carried out either in the home of the out-worker or in some other premises, not being premises, under the control and management of the principal employer.

(2) Any reference in this Act to law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as reference to the corresponding law, if any, in force in that State.

1. Subs. by Act 14 of 1986, Sec. 2 (w.e.f. 28th January, 1986), for Cl. (a).

CHAPTER -II

THE ADVISORY BOARDS

3. Central Advisory Board. -

(1) The Central Government shall, as soon as may be, constitute a Board to be called as the Central Advisory Contract Labour Board hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of-

- (a) Chairman to be appointed by the Central Government;
 - (b) The Chief Labour Commissioner (Central), *ex officio*;
 - (c) Such numbers of the members, not exceeding seventeen but not less than eleven as the Central Government may nominate to represent that Government, the railways, the coal industry, the mining industry., the contractors, the workmen and any other interests which, in the opinion of the Central Government ought to be represented on the Central Board.
- (3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions, by and the manner of filling vacancies among the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employer and the contractors.

4. State Advisory Board. -

- (1) The State Government may constitute a Board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Acts as may be referred to it and to carry out other functions assigned to it under this Act.
- (2) The State Board shall consist of-
- (a) Chairman to be appointed by the State Government;
 - (b) The Labour Commissioner, *ex officio*, or in his absence any other officer nominated by the State Government in that behalf;

(c) Such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as member from each of the Categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in discharge of their functions by, and the manner of filling vacancies among the members of the State Boards shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

5. Power to constitute committees. -

(1) The Central Board or the State Board, as the case may be, constitute such constitute and for such purpose or purposes as it may think fit.

(2) The committees constituted under sub-section (1) shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meeting as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending it is meeting as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government pr of any corporation established by any law for the time being in force.

CHAPTER -III

REGISTRATION OF ESTABLISHMENTS EMPLOYING CONTRACT LABOUR

6. Appointment of registering officers. -The appropriate Government, may, by an order notified in the Official Gazette, -

- (a) Appoint such persons, being gazetted officers of Government, as it thinks fit to be registering officers for the purposes of this chapter; and
- (b) Define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

7. Registration of certain establishments. -

- (1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishment generally or with respect to any class of them make an application to registering officer in the prescribed manner for registration of the establishment:

Provided that the registering officer may entertain any such application for registration after expiry of the period fixed in this behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

- (2) If the application for registration is complete in all respects, the registering officer shall register the establishment and issue to the principal employer of the establishment a certificate of registration containing such particulars as may be prescribed.

8. Revocation of registration in certain cases. -If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact, or that for any other reason the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government, revoke the registration.

9. Effect of non-registration. -No principal employer of an establishment to which this Act applies shall-

- (a) In the case of an establishment required to be registered under Sec. 7, which has not been registered within the time fixed for the purpose under that section,

(b) In the case of an establishment the registration in respect of which has been revoked under Sec. 8, employ contract labour in the establishment after the expiry of the period referred to in Cl. (a) or after the revocation of registration referred to in Cl. (b), as the case may be.

10. Prohibition of employment of contract labour. -

(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or as the case may be, a State Board, prohibit by notification in the Official Gazette, employment of contract labour in any process, operation or other works in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions to work and benefits provided for the contract labour in that establishment and other relevant factors, such as, -

(a) Whether the process, operation or other work is incidental to or necessary for, the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) Whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry trade, business, manufacture or occupation carried on in that establishment;

(c) Whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) Whether it is sufficient to employ considerable manner of whole-time workmen.

Explanation. -If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government therein shall be final.

-

NOTIFICATION

S.O. 145 (E), dated 23rd February, 1996¹. - In exercise of powers conferred by sub-section (1) of Sec. 10 the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), the Central Government,

after consultations with the Central Advisory Board, hereby prohibits the employment of contract labour in the canteen of the Central Bank of India at Chandramukhi Building, Nariman Point, and Mumbai with effect from 22nd May, 1996.

Scheme of the Act. -The Act as can be seen from the scheme of the Act merely regulates the employment of contract labour in certain establishments and provides for its abolition in certain circumstances. The Act does not provide for total abolition of contract labour but it provides for abolition by the appropriate Governments in the appropriate cases under Sec. 10 of the Act³..

Section 10 (1)-Scope of. -The moment the contract labour system stands prohibited under Sec. 10 (1) of the Contract Labour (Regulation and Abolition) Act, the embargo to continue as a contract labour is put an end to and direct relationship has been provided between the workmen and the principal employer. Thereby, the principal employer directly becomes responsible for taking the services of the workmen hitherto regulated through the contractor and such labour have to be absorbed. Therefore, the petitioners shall become employees of the principal employer subject to the conditions that they are above minimum and below the maximum age and medically fit³.

Applicability. -The Act applies to every establishment in which twenty or more workmen are employed as contract labour. It is the aggregate of the contract labour employed in an establishment, though for different purposes or through different contractors, that has to be taken into account in determining whether the said Act applies. It is for the appropriate Government to prohibit the employment of contract labour⁴.

Section 10 (2) Mandatory. -In Cl.(2), there is a positive mandate. Before issuing the notification, it is incumbent to the Government to consider the relevant factors. It is provided that “the appropriate Government shall have regard to.....” The use of expression ‘may’ in Cl. (1) and ‘shall’ in Cl. (2) indicates that the Legislature clearly intended that the conditions stipulated in Cl. (2) have to be complied with before the Government issues any notification under Cl (1). Cumulatively, it appears that the requirements embodied in Sec. 10 (2) are of mandatory nature. Their non-compliance would vitiate a notification⁵.

Practice of employing labour through contractors by companies. -It is surprising that more than forty years after the independence the practice of employing labour through contractors by big companies including public sector companies is still being accepted as a normal feature of labour-employment. There is no security of service to the workmen and their wages are far below than that of the regular workmen of the company. This Court in standard Vacuum Refining Co. of India Ltd. v. Its Workmen,⁶ and catering Cleaners of Southern Railway v. Union of ⁷, India, has disapproved the system of contract labour holding it to be “archaic”, “primitive” and of 'baneful nature’. The system, which is nothing but an improved version of bonded labour, is sought to be abolished by the Act. The Act is an important

piece of social legislation for the welfare of labourers and has to be liberally constructed⁸.

Who can raise an industrial dispute. -Even after the contract labour system is abolished, the direct employees of the principal employer can raise an industrial dispute for absorption of the ex-contractor's workmen and the adjudicator on the material placed before him can decide as to who and how many of the workmen should be absorbed and on what terms⁹.

Claim for permanent absorption. -With the passage of time and purely with a view to safeguard the interest of workers, many principal employers while renewing the contracts have been insisting that the contractors or new contractor retains the old employees. In fact, such a condition is incorporated in the contract itself. However, such a clause in the contract which is benevolently inserted in the contract to project the continuance of the source of livelihood of the contract labour cannot by itself give rise to a right regularization in the employment of the principal employer¹⁰.

Issue regarding the continuance of service.-Who can decide and grant the relief?. -In the present case the petitioner can raise the issue of industrial dispute for such relief, as he is entitled on the ground that he should be deemed to be the employee of the principal employer and the industrial adjudicator will have jurisdiction to entertain the dispute, consider and grant the necessary relief ¹¹.

Non-payment of minimum wages to employees working in the canteen must be held to be an act of unfair labour practice.- In working in the canteen must the instant case, even this is not workers are the employees of the principal employer, then it is requirement of law that such employer pay the minimum wages to these employees and that too in consonance with the minimum wages paid to the similar employees in same establishment. Therefore, the non-payment of minimum wages to employees working in the canteen must be held to be an act of unfair labour practice.¹²

Employment for cleaning, sweeping and dusting in the building of Airport Authority. -In the facts of the instant case in so far as the work of sweeping, cleaning and dusting in the building owned by the International Airport Authority of India is concerned, the executive or administrative fiat like the letter dated 3rd April, 1992 can have no legal force. At any rate, it cannot override the notification dated 9th December, 1976 duly issued in accordance with the provisions of Sec.10 of the Act.¹³

Contract system for employing the workman. -It is well settled that contract system for employing the workman is not illegal by any Act or law. The law enacted, Contract Labour (Regulation and Abolition) Act, 1970 does not declare that all the contracts for labours are *ipso facto* illegal. The contract system of employment of labour can be abolished by application of the law. It is reasonable to conclude that jurisdiction to decide the abolition of contract labour, or to put it differently, of prohibiting the employment of contract, labour is to be done in accordance with Sec 10. Therefore, it is proper that the question whether the contract labour regarding the industry of the appellant is to be abolished or not, is

left to be dealt with by the appropriate Government under this Act.**14**

Section 10 (1) not to substitute Sec. 35.-If there be any contravention of any notification as contemplated under Sec. 10 (1) that will not attract the penal provision of the Act and the remedy for the prosecutor may be elsewhere in a different manner in an administrative way affecting the licence etc. But Sec. 10 (1) of the Act cannot be substituted for Sec. 35 of the Act all.**15**

Notification under Sec. 10 (1) based on irrelevant consideration-Necessity of extraneous consideration. -In J.P. Gupta v. Union of India, **16** the Court observes as follows: “From the record of the case it appears that the Central Government had consultation with Central Board which was a representative body, and after such consultation the impugned notification was issued, nothing has been brought on the record of the case on the basis of which it can be held that the notification in question had been issued on some extraneous considerations or without taking into the account the relevant factors mentioned in sub-section (2) of Sec.10. The Central Government or the Central Board was not required to put on record that they examined the question of prohibition of contract labour in coal-mines after taking into account each fact separately.”

1. Published in the Gazette of India, Extraordinary, Pt. II, Sec. 3 (ii), dated 23rd February, 1996.
2. Deena Nath v. National Fertilizer Ltd., 1992 (1) Recent Services Judgement 508 at p. 516 (S.C.): A.I.R. 1992 S.C. 457 at p. 464 Lab. I.C.75 at p. 82 (S.C.): R.K.Panda v. Steel Authority of India, (1994) 5 S.C.C. 304 at p. 309; Bharat Petroleum Corporation Ltd. v. Mumbai Shramik Sangha. A.I.R. 1998 S.C. 720 at p. 722: IT 1998 (1) S.C. 73 at p. 76:1998 I.L.R. 168:1998 L.L.N. 564
3. Delhi Multi Storeyed Building Employees Congress v. Union of India, 1998 (1) L.L.N. 567 at p. 573 (Delhi), Air India Statutory Corporation v. United Labour Union, A.I.R. 1997 S.C. 645 at p. 680: 1997 (3) S.L.I. 81 (SC); Harishankar Sharma v. Artificial Limbs Manufacturing Corporation of India, 1997 (3) L.L.N. 99 at p. 103 (All.).
4. Philips Workers Union v. State of Maharashtra, (1987) II L.L.I. 91 at p. 92 (H.C.).
5. F.C.I. Class IV Emp. v. Union of F.C.I., 1994 II Labour Law journal 102 at p. 106 (P&H); Bharat Heavy Electrical Limited v. Government of Tamil Nadu, 1997 (3) L.L.N. 495 at p. 500 (Mad.).
6. (1960) 3 S.C.R. 466: A.I.R. S.C. 948.
7. (1987) 1 S.C.C. 700: A.I.R. 1987 S.C.777.
8. Sankar Mukherjee v. Union of India, A.I.R. 1990 S.C. at p. 534: Shashi Kant v. National Thermal Power Corporation, New Delhi 1992 Lab. I.C. 1610 at pp. 1615,1616, (All.); W.S.S.E. Union v. P.O., I Add Lab Court, 1994 Lab I.C. 1270 at p. 1276 (Mad.).
9. Gujarat Electricity Board, Thermal Power Station, Ukai v. Hind Mazdoor Sabha, A.I.R.

1995 S.C. 1983 at p. 1915.

10. Indane Bottling Plant Sramika Congress v. Indian Oil Corporation, 1996 Lab. L.R. 345 at p. 347 (Orissa): Gujarat Electricity Board, Thermal Power Station Ukai v. Hind Mazdoor Sabha, A.I.R. 1995 S.C. 1983 at p. 1911; Ispat Khadan Labour Mazdoor Union v. Union of India, 1998 L.L.R. 171 at p. 177 (M.P.); Y. Chandra Mouli Reddy v. Member, Secretary, A.P.S.E.B, Hyderabad, 1998 L.L.R. 725 at p. 726 (A.P.); Tapan Kumar Chowdhary v. Indian Iron and Steel Company, Ltd., 1997 (4) L.L.N. 177 at V. 181: 1998 F.I.R. 245 (Cal.); Indane Bottling Plant Sarmika Congress v. Indian Oil Corporation, 1996 (1) L.L.N. 665 at p. 658; International Airports Authority Employees Union' v. Airport Authority of India, 1997 (3) L.L.N. 78 at p. 80 (S.C.).

11. Prabhat Dutt Sharma v. Himachal Gujarat Ambuja Cement Co. Ltd., 1997 (1) Guj. L.C. 271 at p. 274; Ramesh Bhai Shantilal Harijan v. Commissioner of Labour, 1998 LL.R. 976 at p, 978 (Guj); K. Ramakrishna v. Bharat Petroleum Corporation, Ltd., Madras, 1997 (2) L.L.N. at p. 11 92 (Mad).

12. Oswal Petrochemicals v. Government of Maharashtra, 1998 L.L.R. 113 at p. 118:1997 (3) L.L.N. 834 at p. 840, (Bom.)].

13. Indian Airport Employees Union v. International Airport Authority of India, 1996 (72) F.L.R. 582 at pp. 594,595 (Bom.): 1996 Lab. L.R. 467 (Bom).]

14. Shashi Kant Upadhayay v. National Thermal Power Corporation Ltd., (1995) 71 F.L.R. 544 at pp. 547, 550 (All.): Indane Bottling Plant Shramik Congress v. Indian Oil Corporation, 1996 L.L.R. 345 at p. 348 (Orissa).

15. Indian Iron and Steel Co. Ltd. v. State of Bihar, (1987) II L.L.J. 333 at p. 335 (HC).

16. (1981) Lab I.C.641 at p. 645; Steel Authority of India Ltd. v. State of West Bengal, 1998 (4) L.L.N. 232 at p. 238 (cal.): Tapan Kumar Chowdhary v. Indian Iron and Steel Company Ltd., 1997 (4) L.L.N. 177 at p. 183

CHAPTER-IV

LICENSING OF CONTRACTORS

11. Appointment of licensing officer. -*The appropriate Government may by, an order notified in the Official Gazette, -*

(a) Appoint such person, being gazetted officers of Government, as it thinks fit, to be licensing officer for the purpose of this chapter, and

(b) Define the limits, within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

12. Licensing of contractors. -

(1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.

(2) Subject to the provisions of this Act, a license under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under Sec. 35 and shall be issued on payment of such fees and on deposits of such sum, if any as security for the due performance of the conditions, as may be prescribed.

13. Grant of licences. -

(1) Every application for the grant of licence under sub-section (1) of Sec. 2 shall be made in the present form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which contract labour is to be employed and such other particulars as may be prescribed.

(2) The licensing officer may undertake such investigation in respect of the application received under sub-section (1) and in making any such investigation the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under this chapter shall be valid for the period specified therein and may be renewed from time to time for such period and payment of such fees and on such conditions as may be prescribed.

14. Revocation, suspension and amendment of licences. -If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise that-

(a) A licence granted under Sec. 12 has been obtained by misrepresentation or suppression of any material fact, or

(b) The holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder, then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence or forfeit the sum, if any portion thereof deposited as security for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under Sec. 12.

15. Appeal. -

(1) Any person aggrieved by an order made under Sec. 7, Sec. 8, Sec. 12 or Sec. 14 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate authority who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellant an opportunity of being heard dispose of the appeal as expeditiously as possible.

CHAPTER -V

WELFARE AND HEALTH OF CONTRACT LABOUR

16. Canteens. -

(1) The appropriate Government may make rules requiring that in every establishment-

- (a) To which this Act applies,
 - (b) Wherein work requiring employment of contract of labour is likely to continue for such period as may be prescribed, and
 - (c) Wherein contract labour numbering one hundred or more is ordinarily employed by a contractor, one or more canteens shall be provided and maintained by the contractor for the use of such contract labour.
- (2) Without prejudice to the generality of the foregoing powers, such rules may provide for-
- (a) The date by which the canteens shall provided;
 - (b) The number of canteens that shall be provided, and the standards, in respect of construction, accommodation, furniture and other equipments of the canteens; and
 - (c) The foodstuffs which may be served therein and the charges which may be made therefor.

17. Rest-rooms. -

- (1) In every place wherein contract labour is required to halt at night in connection with the work of an establishment-
- (a) To which this Act applies, and
 - (b) In which work requiring employment on contract labour is likely to continue for such period as may be -prescribed,

There shall be provided and maintained by the contractor for the use of the contract labour such number of rest-rooms or such other, suitable alternative accommodation within such time as may be prescribed.

The rest rooms or the alternative accommodation to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.

18. Other facilities. -It shall be the duty of every contractor employing contract labour in connection with the work of an establishment to which this Act applies, to provide and maintain-

- (a) Sufficient supply of wholesome drinking water for the contract labour at convenient places,
- (b) Sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment and
- (c) Washing facilities.

19. First-aid facilities. -There shall be provided and maintained by the contractor so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him.

20. Liability of principal employer in certain cases. -

(1) If any amenity required to be provided under Sec 16, Sec. 17 or Sec. 18 or Sec. 19, for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed therefor, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity maybe recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

21. Responsibility for payment of wages. -

(1) A contractor shall be responsible for payment of wages to each worker employed by him as

contract labour and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes the short payment, then the principal employer shall be liable to make payment of wages in full or the unpaid balance due, as, the case may be, to the contract labour employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

Note- According to this section a contractor shall be responsible for payment of wages to each worker employed by him as contract labour. The payment of wages shall be paid before the expiry of the period as may be of the representative duly authorised and nominated by the principal employer. Representative shall certify the amount paid as wages to the contract labour in a prescribed manner.

The principal employer shall be responsible for the payment of wages in case the contractor fails to make the payment of wages within the prescribed period or makes short payment. The principal employer can recover the amount so paid from the amount payable to the contractor under any contract or as a debt payable by the contractor.

CHAPTER-VI

PENALTIES AND PROCEDURE

22. Obstructions. -

(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom this Act applies, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to three months to five months, or with fine which may extend to five hundred rupees, or with both.

23. Contravention of provisions regarding employment of contract labour. - Whoever contravenes any provision of this Act or any rule made thereunder prohibiting, restricting, or regulating the employment of contract labour, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both, and in case of continuing contravention with an additional fine which may extend to one thousand rupees for every day during which such contravention continues after conviction for the first such contravention.

24. Other offences. - If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

25. Offences by companies. -

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable

to be proceed against and punished accordingly.

Explanation. -For the purpose of this section-

- (a) “Company” means a body corporate and includes a firm or other association of individuals; and
- (b) “Director”, in relation to a firm, means a partner of a firm.

26. Cognizance of offences. -No Court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, the inspector and no Court inferior to that of a Presiding Magistrate of the first class shall try any offence punishable under this Act.

27. Limitation of prosecutions. -No Court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an Inspector:

If where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER -VII

MISCELLANEOUS

28. Inspecting staff. -The appropriate Government may, by notification in the Official Gazette, appoint such person as it thinks fit to be inspectors for the purpose of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, an inspector may, within the local limits for which he is appointed. -

(a) Enter, at all reasonable hours, with such assistance (if any) being persons in the service of the Government or any local or other public authority as he thinks fit, any premises or place where contract labour is employed, for the purpose of examining any register or record or notices required to be kept or

exhibited by or under this Act or rules made thereunder, and require the production thereof for inspection;

- (b) Examine any person whom he finds in any such premises or place and who, he has reasonable cause to believe, is a worker employed therein;
- (c) Require any person giving out work and any workman to give any information, which is in his power to give with respect to the names and addresses of the person to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;
- (d) Seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or contractor; and
- (e) Exercise such powers as may be prescribed.

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of Secs. 175 and 176 of the Indian Penal Code (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898)¹, shall so far as may be, apply to any search or seizure under sub-section (2) as they apply to any search or seizure made under the authority of a warrant issued under Sec. 98 of the Code.²

1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

2. Now Sec. 94, Cr. P.C., 1973.

29. Registers and other records to be maintained. -

(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages to be paid to the contract labour and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labour is employed, notice in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

30. Effect of laws and agreements inconsistent with this Act. -

(1) The provisions of this Act shall have the effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act:

Provided that where under any such agreement, contract of service or standing orders the contract labour employed in the establishment are entitled to benefits in respect of any matter which are more favorable to them than those to which they would be entitled under this Act, the contract labour shall continue to be entitled to the more favorable benefits in respect of that matter, notwithstanding that they receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any such contract labour from entering into an agreement with the principal employer or the contractor, as the case may be, for granting them rights or privilege in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

Section 30-Provisions of. -The Provisions of Sec. 30 of the Contract Labour (Regulation and Abolition) Act, 1970, cannot be read as overriding the benefits which were already conferred on the contract labour under a cognate statute like the Bombay Industrial Relations Act. The thrust of Sec. 30 is towards overriding anything inconsistent therewith” contained in any other law. It is not possible to accept as correct the view of the Industrial Court that the benefit of direct employment conferred upon the contract labour by virtue of conjoined effect of Secs. 3 (13) and 3 (14) of the Bombay Industrial Relations Act, 1946, was something “inconsistent” with any of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970. It is not possible to read Sec. 30 of the Contract Labour (Regulation and Abolition) Act, 1970 as taking away better, benefits already enjoyed by contract labour under the provisions of any other law. It is unfortunate that the Industrial Court used Sec. 30 in a benevolent piece of legislation to bring about a result directly contrary to the intendment of the Parliament. It is not in dispute that the concerned workmen were employed on work which was part of the work of the Sugar Mill and that the work being executed by the contractor the description in Cl. (d) of Sec.3 (i4) of the Bombay Industrial Act, 1946.¹

Ambiguous expression. -Courts must find out the literal meaning of the expression in the task of construction. In doing so, if the expressions are ambiguous then the construction that fulfils the object of the legislation must provide the keys to the meaning. Courts must not make mockery of legislation and should take a constructive approach to fulfill the purpose and for that purpose, if necessary, iron out the creases.²

The job of ironing out of the creases is quite different and distinct from the tailoring work. The Court cannot add the material not used by the Legislature while conveying its intention in enacting a particular provision. Interpretive skill has to be applied when there is a genuine ambiguity in the statute in question. The Court cannot assume that a particular intention was sought to be effectuated by the Legislature while enacting the law even though the words needed to effectuate the intention were not used in fact.³

1. **Sakhar Kamgar Union v. Shri Chhatrapati Rajaram Saahakari Sakhar Kharkhana, Ltd., 1996 (1) L.L.N. 357 at p. 360(Bom.).**
2. **H. Shiva Rao, v. Cecilia Pereria, A.I.R. 1987 SC 248 at p. 250.**
3. **Steel Authority of India Ltd. v. Contract Workers Union, Steel Authority of India, 1992 (1) Ker. L.T. 477 at p. 486 (Knt.).**

31. Power to exempt in special cases. -The appropriate Government may, in the case of emergency, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules, made thereunder shall not apply to any establishment or class of establishments or any class of contractors.

32. Protection of action taken under this Act. -

(1) No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other Government servant or against any member of the Central Board or the State Board, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

33. Power to give directions. -The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

34. Power to remove difficulties. -If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty..

35. Power to make rules. -

(1) The appropriate Government may, subject to the conditions of previous publication, make rules for carrying out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) The number of the persons to be appointed as members representing various interests on the Central Board, and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;

(b) The times and places of the meeting of any committee constituted under this Act, the procedure to be followed at such meeting including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee;

(c) The manner in which establishment may be registered under Sec. 7, the levy of the fee therefor and the form of certificate of the registration;

(d) The form of application for the grant or renewal of a licence under Sec.13 and the particulars it may contain;

(e) The manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;

- (f) The form of a licence which may be granted or renewed under Sec. 12, and the conditions subject to which the licence may be granted or renewed, the fees to be levied for the grant or renewal of a licence and the deposit of any sum as security for the performance of such conditions;
 - (g) The circumstances under which licences may be varied or amended under Sec.14;
 - (h) The form and manner in which the appeals may be filed under Sec. 15 and the procedure to be followed by appellate officers in disposing of the appeals;
 - (i) The time within which facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the contractor, by the principal employer;
 - (j) The number and types of canteens, rest rooms, latrines and urinals that should be provided and maintained;
 - (k) The type of equipment that should be provided in the first- aid boxes;
 - (l) The period within which wages payable to contract labours should be paid by the contractor under sub-section (1) of Sec 21;
 - (m) The form of registers and records to be maintained by principal employers and contractor;
 - (n) The submission of returns, forms in which, and the authorities to which, such returns may be submitted;
 - (o) The collection of any information or statistics in relation to contract labour; and
 - (p) Any other matter which has to be, or may be, prescribed under this Act.
- (3) Every rule made by the Central Government 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 successive sessions, and if before the expiry of the session in

which it is so laid or the session immediately following, both Houses of Parliament 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 any thing previously done under that rule.